

MAINE STATE LEGISLATURE

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DECEMBER SPECIAL SESSION

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 102

In Senate, Dec. 7, 1933.

Read and passed. 500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Murchie of Washington.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND
THIRTY-THREE

Whereas, it appears to the Senate of the Eighty-sixth Legislature that the following are important questions of law and the occasion a solemn one, and

Whereas, a Resolve has been introduced into the Senate entitled "Resolve Proposing Modification of the 26th Amendment to the Constitution Relating to Intoxicating Liquors by Repealing the Amendment as it Now Stands and Substituting in Place Thereof a New Amendment," (S. P. 38), proposing a modification of the 26th Amendment to the Constitution of Maine which now prohibits the sale of intoxicating liquors except for certain specified purposes, and

Whereas, the modification so proposed will be submitted to the electors, if said resolve is finally passed, on the second Monday in September next, and

Whereas, said modification, if it becomes a part of the Constitution will permit the sale of certain beverages now prohibited, and

Whereas, in anticipation of the adoption of said Amendment a bill has been introduced into the Senate entitled "An Act Regulating the Sale of Alcoholic Beverages" (S. P. 37), under the terms of which Act machinery is definitely set up to regulate the sale of such presently prohibited beverages, which Act according to its terms is to be submitted to the electors for adoption or rejection concurrently with the aforesaid Resolve:

Ordered: That the Justices of the Supreme Judicial Court are hereby

requested to give to the Senate, according to the provisions of the Constitution on this behalf, their opinion on the following questions, to wit:

FIRST

Is it within the power of the Legislature to pass an act authorizing the sale of beverages contrary to the express provision of the Constitution, as it now stands, to become effective on condition that a change in the Constitution proposed by the Legislature concurrently with the passage of such Act and submitted to the electors for adoption shall be so adopted?

SECOND

If such an enactment is not within the power of the Legislature, is it within the power of the Legislature to pass an enabling act submitting to the electors for their adoption or rejection, concurrently with their adoption or rejection of a Constitutional Amendment which will eliminate the prohibition against such legislation, a similar act to be effective only in case both Act and Amendment are so adopted?