

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Sixth Legislature

OF THE

STATE OF MAINE

Special Session, December 4, 1933

KENNEBEC JOURNAL COMPANY
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SENATE

Thursday, December 7, 1933.

Senate called to order by the President.

Prayer by the Rev. W. P. Bradford of Hallowell.

Journal of yesterday read and approved.

Papers from the House disposed of in concurrence.

The following bills and resolves were received and on recommendation by the committee on reference of bills were referred to the following committees:

Pensions

Mrs. Gay of Lincoln presented "Resolve for a state pension for Charles E. Walsh of Waldoboro." (S. P. 34)

Mr. Harmon of Hancock presented "Resolve providing for a state pension for Emma Carey Bean of Topsfield." (S. P. 35)

Sent down for concurrence.

Temperance

Mr. Murchie of Washington presented "An Act regulating the sale of alcoholic beverages." (S. P. 37)

The same Senator presented "Resolve proposing a modification of the twenty-sixth 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)

The same Senator presented Bill "An Act to amend Chapter one hundred thirty-seven of the Revised Statutes by repealing those portions designed for the enforcement of federal prohibition." (S. P. 39)

(1,500 copies ordered printed.)

Ways and Bridges

Mr. Seavey of Oxford presented Bill "An Act to repeal the Special Road Appropriation." (S. P. 36)

Mr. Murchie of Washington presented Bill "An Act to amend the State Highway Fund law providing assurance to the Federal Government for the repayment of loans." (S. P. 40)

(500 copies ordered printed.)

Sent down for concurrence.

At this point the President retired and Mr. Weeks of Somerset assumed the chair amid the applause of the Senate.

Additional papers from the House, out of order, disposed of in concurrence.

Mr. Murchie of Washington presented the following order and moved its passage:

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 bill was enacted by the Eighty-sixth Legislature amending sections one, three and six of chapter one hundred thirty-seven of the revised statutes of 1930, and

Whereas the amendment to said section one of said chapter one hundred thirty-seven therein contained would strike out the word "fit" in the third line of said section to make the test of the illegal possession of any wort or mash the possession of the same "for distillation", and

Whereas the amendment therein contained to said section three would have the effect of eliminating from the statutes all penalties for the transportation of liquor within the state except where liquor so transported was intended for illegal sale within the state, and

Whereas the amendment therein contained to said section six would repeal all arbitrary definitions of intoxicating liquor, and

Whereas under the provisions of Article XXXI of the Constitution of Maine the operation of said act was suspended and the same will be required by the force of said Constitution to be submitted to the voters of the State of Maine for approval or rejection hereafter, and

Whereas said section six was in effect amended or modified by the enactment of an act entitled "An Act Relating to Malt Beverages and to Derive Revenue from the Manufacture and Sale Thereof" by said Eighty-sixth Legislature, and

Whereas there has been introduced at the present special session of the Eighty-sixth Legislature an act entitled "An Act to Amend Chapter One Hundred Thirty-seven of the Revised Statutes by Repealing Those Portions Designed for the Enforcement of Federal Prohibition", which act is now pending for enactment and seeks to amend said section one, three and six of said chapter;

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:

Question No. 1. Has the legislature the authority while the operation of a law enacted by it is suspended under the provisions of Article XXXI of the Constitution to amend or further amend the same?

Question No. 2. Will the act hereinbefore referred to passed at the regular session of the Eighty-sixth Legislature and suspended through the operation of Article XXXI of the Constitution, have the effect on the date it becomes effective under said Article XXXI, if it is ratified by a majority of the electors, of superseding or amending any change in a section of the statutes affected by said act of superseding the action of the legislature at the present special session?

Question No. 3. Can the requirement of Article XXXI of the Constitution that an act passed by the legislature on which the referendum is invoked or submitted to the people for ratification be set aside by an act to be passed at this session repealing the law in question?

Question No. 4. Can the question required to be submitted to the people under the operation of said Article XXXI of the Constitution be modified by the legislature or by any official of the state so as to change the issue to be presented in accordance with legislative action subsequent to the passage of the original act and intervening before the date of its submission to the people?

Question No. 5. Has the ratification of the Twenty-first Amendment to the Constitution of the United States operated automatically to repeal the legislation heretofore enacted by Congress passed to enforce the provisions of the Eighteenth Amendment to the Constitution?

Question No. 6. If the adoption of the Twenty-first Amendment to the Constitution of the United States has operated to automatically repeal the Volstead Act, has that repeal operated to make the provisions of section three of chapter one hundred thirty-seven of the Revised Statutes of the State of

Maine absolute, or has said section been repealed or modified?

Question No. 7. Has the legislature the power, in the absence of a provision in the Constitution of the United States depriving intoxicating liquor of its status as property, to pass a law which will make it a penal offense to own or to transport intoxicating liquor within the State regardless of the question as to whether or not the same is intended for unlawful sale?

Whereupon the order received a passage and on further motion by the same senator five hundred copies were ordered printed.

Mr. Murchie of Washington presented the following order and moved its passage:

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?

Whereupon the order received a passage and on further motion by the same senator five hundred copies were ordered printed.

On motion by Mr. Murchie of Washington

Recessed, until eleven o'clock.

After Recess

The Senate was called to order by the President.

Orders of the Day

The President laid before the Senate, Order propounding certain questions to the Supreme Judicial Court relative to the constitutionality of An Act to incorporate the town of Orono School District (H. P. 24, L. D. 39) and the emergency clause attached thereto, tabled yesterday by Mr. Blaisdell of Hancock pending passage and today assigned.

Mr. BLAISDELL of Hancock: Mr. President, I feel that there is nothing that I can say relative to this matter at this time. There are seven or eight bills before the Legislature all of which are of extreme importance to the municipalities concerned and there is a point regarding these bills which should be straightened out by the Supreme Judicial Court in order that the Legislature may act with intelligence upon them. I therefore hope that the order has a passage.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Hancock, Senator Blaisdell, that this order receive a passage.

Thereupon, the order received a passage.

The PRESIDENT: Is there any further business to come before the Senate at this time?

On motion by Mr. Holman of Franklin,

Recessed until three o'clock this afternoon.

After Recess

The Senate was called to order by the President.

Additional papers from the House, out of order, disposed of in concurrence.

The following remonstrance and bill were received and on recommendation by the committee on reference of bills were referred to the following committees.

Temperance

Mrs. Gay of Waldoboro presented remonstrance signed by Rev. J. E. Besant and sixteen others against the repeal of the prohibitory law.

Sent down for concurrence.

Appropriations and Financial Affairs

Mr. Fernandez of Penobscot presented bill an act providing flexibility in the handling of state revenues and expenditures during the period of the present state cash stringency. (S. P. 42)

(500 copies ordered printed.)

Sent down for concurrence.

On motion by Mr. Weeks of Somerset

Recessed, until four-thirty o'clock this afternoon.

After Recess

The Senate was called to order by the President.

Additional papers from the House, out of order, disposed of in concurrence.

From the House, out of order, the following order:

Ordered, the Senate concurring, that the controller be authorized to permit subordinate officers and employees of the legislature, on signed statement from the secretary of the Senate and clerk of the House

as to their employment, an advance on their pay in an amount not to exceed \$25.00 for any individual employee; said advance to be deducted from the final payroll for legislative employees.

In the House, read and passed.

In the Senate, on motion by Mr. Weeks of Somerset, the order was laid upon the table pending passage and tomorrow assigned.

The following bill was received, out of order and on recommendation by the committee on reference

of bills was referred to the following committee:

Temperance

Mr. Weatherbee of Penobscot presented bill an act to authorize the sale of intoxicating liquor for medicinal purposes. (S. P. 43)
(1500 copies ordered printed.)

On motion by Mr. Weeks of Somerset,

Adjourned, until tomorrow morning at ten o'clock.