

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
AUGUSTA, MAINE

On motion by Mr. Weeks of Somerset,
Recessed, until 4 o'clock this afternoon.

After Recess

The Senate was called to order by the President.

Bills in First Reading (Out of Order)

An Act relating to measurement of lobsters (S. P. 74, L. D. 188).

Which bill was given its second reading under suspension of the rules and passed to be engrossed.
Sent down for concurrence.

Report of Committee (Out of Order)

The Committee on Legal Affairs presented its final report.

Which report was read and accepted.

Sent down for concurrence.

The PRESIDENT: Is there any further business that any member of the Senate desires to take up before we proceed to the matters that are on the table under Orders of the Day?

The President laid before the Senate, Resolve proposing a repeal of the 26th Amendment to the Constitution relating to the manufacture and sale of intoxicating liquors (L. D. 138), tabled earlier in today's session by Mr. McDonald of Washington pending adoption of Senate Amendment "A"; and the Chair recognized that Senator.

Mr. McDONALD of Washington: Mr. President and lady, members of the Senate, on the 17th of March, 1933, the matter of repeal was gone into at considerable length in this room and a good many of the reasons why repeal, or submission, rather, should be given to the people at this time were gone into at that time. Therefore I will not take very much of your time along that line because you all fully remember. A bill introduced into this Legislature asks for straight repeal of the 26th Amendment and it has been reported favorably by the committee, or at least, seven, I think, in favor and three against. The amendment which is proposed here, in my opinion rather confuses a majority of the members of this Senate. I have asked the opinion of quite a number of the members

here, especially the attorneys, and I find that even they do not agree on the exact meaning of the amendment. Some of them take one view and some another, and if attorneys cannot agree on this matter I do not know how they can expect us who are not of legal mind to interpret the thing correctly; and I sincerely hope that the amendment will not be adopted.

Mr. Weeks of Somerset offered Senate Amendment "A" to Senate Amendment "A" and moved its adoption.

The PRESIDENT: The Senator from Somerset, Senator Weeks, offers Senate Amendment "A" to Senate Amendment "A" and moves its adoption, and the amendment being an amendment to an amendment takes precedence over the motion to adopt. The Secretary will read the amendment.

The Secretary read the amendment:

"Senate Amendment 'A' to Senate Amendment 'A' to Legislative Document 138. Amend Senate Amendment 'A' to Legislative Document 138 by striking out the word 'amend' in the third line of Section 2 and substituting in place thereof the word 'amended'; and further amend the same by striking out the word 'section' in the same line and substituting in place thereof the word 'amendment'."

Mr. WEEKS of Somerset: Mr. President, I understand that this amendment meets with the approval of the person who drew the original amendment and merely clarifies the situation so that the words refer to particular matters as an amendment instead of a section and it is merely nominally changed. I hope it will be adopted.

The PRESIDENT: The Chair will state, what is perhaps unnecessary, that the adoption of this particular amendment does not affect the main question to which the Senator from Washington, Senator McDonald, addressed himself. That question will come subsequently if this is adopted. Is it the pleasure of the Senate that Senate Amendment "A" to Senate Amendment "A" be adopted?

Senate Amendment "A" to Senate Amendment "A" was adopted.

The PRESIDENT: The question now reverts to a motion made by myself before the Senate. Having made the motion it seems better,

perhaps, that I do not declare the result.

(At this point Mr. Holman of Franklin assumed the Chair, the President retiring.)

Mr. WEATHERBEE of Penobscot: Mr. President and members of the Senate, I think the amendment now before this Senate is in very plain terms indeed and there can be no question whatsoever about its meaning. This amendment, if adopted, will leave the 26th Amendment to the Constitution of Maine to read as follows: "The Legislature shall pass no act regulating or permitting the manufacture or sale of beverages containing more than four per cent. of alcohol by volume as an emergency measure within the meaning of Article XXXI of the amendments to the Constitution unless such act contains a provision for its submission to the vote of the electors."

Now, that means this, that there could be no emergency liquor legislation passed by a subsequent legislature after the adoption of this proposal that would deny the people the right of voting thereon. The Legislature, if it desires the Act to become effective within ninety days, might do so but it will only do so by submitting all provisions in the Act to the people to pass upon within the ninety days; so the only purpose of the act is to prevent the people having an opportunity to vote upon the legislative act and to record if they so wish their choice in the matter.

Now, it is very plain indeed and I first thought that I was in hearty accord with the amendment. but I really do not see why liquor legislation should be put in a category different from any other legislative act of a Legislature of the State of Maine. I believe in and rely upon the fairness and wisdom of all subsequent Legislatures of Maine. I cannot foresee what emergency in liquor legislation may not sometime arise in the State of Maine. Should we be permitting the sale of liquor for beverage purposes, and of course getting taxes thereon and license fees from dealers, there might be a financial emergency similar to the one we have gone through or even more critical than we have experienced which would require immediate action. And, of course, it can be truly said that you could have your referendum within ninety days but it might be important for you

to have the act go into effect within even a shorter time than ninety or sixty days. I think it is better to rely upon the wisdom of subsequent legislatures. I cannot fairly conceive that there would be a legislature in Maine that would in future enact liquor legislation that they dared not submit to the people. I think they will act wisely upon all the conditions that then confront them and that we had better have straight resubmission without any entanglements at all and permit the next Legislature to have an opportunity to enact any liquor legislation the same as it does all other legislation; and I shall therefore vote against the amendment.

Mr. HARMON of Hancock: Mr. President, this amendment, it seems to me, is virtually the same legislation that was defeated in the Legislature yesterday. I wish to say that I am in favor of straight resubmission of the question to the people of the State of Maine so that they may vote comprehensively upon it; and I am opposed to this amendment.

Mr. WEEKS of Somerset: Mr. President, during my practice of law, I have always had the greatest respect for the Constitution of Maine. I have always had great respect for every Constitution we have had, whether in the State or in the Country. I believe it is a fundamental law of the land, and the law which is used to protect minorities against conditions which we have found existing in the world today. I cannot conceive in any way the legislature of the State of Maine violating that Constitution and doing things which it should not do. I believe in absolute and lawful procedure in such a way that those minorities should be protected, that the welfare of the state of Maine shall always be in the hearts and souls of every one of us.

Now, what is the Democratic position in this matter? You have all been around here and you ought to know it. In the first instance, they have tried to foist upon us, over the Constitution, liquor legislation violating that Constitution, by placing it in the medicinal class when it is nothing but a subterfuge and nothing but a plan to make it a beverage. That is their first position. No doubt but what it is unconstitutional to do that. I think it is clear to every one of you that it is, and that procedure has almost been

abandoned. But what steps does the Democratic Party take next? They attempt next to carry on to the voters in September liquor legislation enacted by this legislature in contradiction to our Constitution, and now that position has had to be abandoned on account of the fact that we have received from the Supreme Court of this State, answers to our questions to that effect. Now, let's go one step further and see what they intend to do.

Immediately this amendment is adopted, if it is, by the people of Maine, they intend either at the special session which may be called, or at the regular session of this legislature, to come down here and enact emergency legislation entirely contrary to the Constitution, so that rum can flow as freely in the State of Maine as it would if we had no Constitution whatsoever.

It is nothing but a violation of our Constitution for the Democratic Party to take that position and I cannot conceive of taking that position which I believe is unlawful, unconstitutional, and a detriment to our great State.

The liquor problem is a serious proposition. Every one of us knows that. It is so serious that in the hearts and souls of every one of us we know that the use of liquor should be abandoned if it possibly can be carried through. We know it is detrimental to everything so far as human beings are concerned, and of no use whatsoever as a beverage.

Now, my position is, and I hope the Republican Party will take this position, that they believe in lawful procedure, in having the Constitution amended in the first instance and then come down here and if people of the State of Maine, by their representatives, wish to enact legislation allowing liquor to be used as a beverage, let them do so but with the privilege,—and this is where I differ from my Democratic friends,—but with the privilege of the people of the State of Maine invoking the referendum so that no minority party can foist upon the voters of the State of Maine something which is unconstitutional and which the Democratic Party wishes to make a beverage.

Now, I hope this is the sole and only difference between myself and my friends of the Democratic Party; but I say you are endeavor-

ing in every possible way you can find, to give liquor to the State of Maine contrary to the Constitution which we have, and which we have maintained for years. And I say the Republican Party, of which I am a member, is interested in carrying out the will of the people, but carrying it out lawfully, in a proper and orderly manner.

There is no emergency in this matter. It is such a serious question that we certainly ought to consider it and consider it carefully for the best interests of everyone.

Now, the only purpose of this amendment is to allow the people of the State of Maine to say whether or not any fanatical legislation which the Democratic party may adopt shall be adopted as the law of the State of Maine.

For this amendment I absolutely stand, and I certainly hope that it will be adopted.

Mr. WEATHERBEE of Penobscot: Mr. President, I do not appear here as a Republican in defense of any Democratic conduct whatsoever. I do not look upon this matter today, as we face it here in the Senate, as a partisan matter at all. I believe that a majority of the Republicans of the legislature realize that the people of the State of Maine desire to vote upon the question of the retention of the 26th Amendment to Maine's Constitution, and that with that belief in their mind, they are anxious to afford that privilege.

As I said before, I am not fearful of improper conduct on the part of any future legislature of the State of Maine, and as a Republican, I want to emphatically state that the Democrats will not pass any improper liquor legislation in future legislatures of Maine because I say, as a Republican, that the Democrats are not going to have power in future legislatures to make such enactments. They are going to still be controlled by the Republicans of the State of Maine and you need have no apprehension as to what the Republicans in future legislatures in Maine will do.

Mr. BLAISDELL of Hancock: Mr. President and Members of the Senate, I feel that I have no duty as a member of this Senate, and a Republican member of it, to stand here and support any of the prohibition measures that may be set forth by the Democratic Party. I feel some of the remarks made by

Senator Weeks to the effect that we are trying to do, or there has been tried to be done something in pushing through certain types of legislation relative to setting up the immediate sale of liquor, is certainly beside the issue and is not the point before the Senate.

My argument here, brief although it will be, is to the effect that I feel it my duty to insist and express my conviction so far as I may, that we should present to the people of the State of Maine, a clear cut issue. And I cannot resist the temptation of saying that President Murchie and Senator Weeks are encumbering, tying up, amending, complicating the issue that is before us because of no reason at all except that they fear the result. If they didn't fear the result, why not pass the straight issue?

I regret the necessity of saying that in the masterly address delivered this morning by our President, Senator Murchie, liking him although I do and always shall, I feel he made a masterly effort to write the Prohibition platform of the next Republican State Convention this morning before the Senate. Watch your newspapers and see if Mr. Murchie didn't pretty nearly write the platform for the State Convention.

I have but one question and one suggestion to offer to the Senate in the position I take, and that is this: Submit an outright, straight repeal and if Senator Weeks and Senator Murchie and others of you want to and wish to set up the provision that alcoholic liquor or drinks or beverages of four per cent. or over, must be submitted to the people of the State of Maine when passed as an emergency, set it up as a separate proposition. Why did they tie it in? They tied it in from fear. Set it up as a separate proposition and I will support the gentlemen; but give us two clear-cut issues.

You have gone to the polls and voted. Many of us who have had more or less experience with the legislature know, when we get home, of the type of question submitted when voting on Constitutional amendments and referendum. We understand, who have been here, but how about the hundreds of thousands of people of the State of Maine who are not here?

I am simply saying that these gentlemen are confounding the

question. That is what I mean. They are confounding the question when they send it back to the people as they have it now. If they separate it, and make two distinct things to send back to the people, I will vote for both of them, but the way it stands now I cannot do it.

Mr. BARTLETT of Oxford: Mr. President, I have listened with a great deal of interest to the remarks of the gentleman from Somerset (Senator Weeks). I do not care to enter in controversy with him as to which is the better legislator, whether Republican or Democrat. We are all here to do our duty. The people of Maine speak very plainly, it seems to me. They would like a chance to vote on a straight repeal measure. I hope this amendment of the Senator from Washington (Senator Murchie) will not be adopted. I would like to see a straight repeal vote go through and go to the people. He seems to fear what the vote would be, what we might do if the people repeal this law and we come back after next September, but I wish to remind him that his party would still be in the majority.

Mr. MURCHIE of Washington: Mr. President, I am sorry to have to discuss this matter once more, but I cannot fail to stand before this Senate and admit the Senator from Hancock (Senator Blaisdell) is entirely right. I assumed that in my remarks this morning I had made it perfectly plain that it was fear that produced this amendment, fear that the end to which the Senator from Somerset (Senator Weeks) has referred, represented the well designed plan of the Democracy of the State of Maine and of a faction in the Republican Party. I not only fear that is the fact, but I say to you, Mr. President and Members of the Senate, that I have personally no doubt that if the Twenty-sixth amendment to the Constitution of the State of Maine is eliminated from the fundamental law of the State, that an attempt will undoubtedly be made at the next legislature to enact liquor legislation under an emergency clause. And if any member of this Senate has any doubt of that result, let him stop for a moment and consider what other phases there can be for opposition to this amendment.

My friend, the Senator from Hancock (Senator Blaisdell), and I

have an equal regard for him to that which he has expressed for me, expresses the belief that I have this morning written the platform of the Republican Party for the next campaign. My friend, the Senator from Hancock, knows full well with any other member of this Senate, that there never has been a time in the history of the State of Maine when I was in a position to write a platform or when those who controlled the destinies of the Republican Party would not lean very strongly against any platform that I would seek to write.

The Senator from Hancock (Senator Blaisdell) knows, as do all the Members of this Senate, Democratic as well as Republican, that after a Republican caucus voted by a vote that I will not now make public, by an overwhelming majority, to stand for the submission of modification rather than outright repeal, that the national committeeman of the Republican Party in the State of Maine, the Honorable Joseph W. Simpson came to Augusta, and by virtue of his office in the Republican Party, used pressure to force members of this Republican Party in this legislature to vote contrary to their expressed desires at a caucus.

I do not believe the time will come when such power as that will ever be vested in my hands, but I proclaim to this Senate and the State of Maine, that should I ever hold a major office in a political organization and find myself at variance with the declaration of the Party, before I sought to upset the position of the Party, I would resign my office.

We have confusion among the members of the opposition as to this amendment. The Senator from Washington (Senator MacDonald) and the two senators from Hancock (Senators Blaisdell and Harmon) find that it is confusing. The Senator from Hancock (Senator Blaisdell) suggests that any issue must be confusing which is other than outright repeal. In the name of God, does the Senator not realize that the people in approximately 40 States of this Union had no trouble in understanding a repeal which was expressed in terms of modification and that only two States voted "No" against 37, I think, that voted "Yes". Was there any confusion in the fact that the Congress of the United States, in setting aside

Federal prohibition by a submitted amendment recognized that the liquor issue was one which should not be given absolute freedom, but provided that the Eighteenth Amendment should be repealed only if the States ratified an amendment that reserved to the Federal government some power of control to protect "dry" states?

The issue, Mr. President and members of the Senate, is the fundamental issue of popular government,—Shall the people be given the right to rule? I ask, Mr. President, when the vote is taken, it be taken by "yeas and nays".

Mr. SEAVEY of Oxford: Mr. President and Members of the Senate, I have enjoyed this discussion very much. I never before had the privilege of attending a Republican caucus. I enjoyed this one. I would like to say, being a member of this little band of Democrats (I think there are five) I think we have been paid a high compliment by the gentleman from Somerset (Senator Weeks), to think we should be inclined to handle the legislation of this body.

Mr. WINN of Androscoggin: Mr. President, I am one of those fellows who come under that famous letter "D" and I want to assure you in previous years, in sitting in the legislative body I have had occasion several times to support a Republican governor on issues of importance to the State of Maine, and sometimes I have had uncomplimentary things said, and at other times I have had compliments paid to me. After doing so, I have been returned to the other branch of the legislature and I have come into this branch of the legislature, and I feel it doesn't make me any better as to whether I am branded with "D" or branded with the letter "R", Republican.

You are all here in this honorable body, and I assure you I deem it an honor to come in here; but we are here to legislate for the citizens of the State of Maine, and I believe the citizens of the State of Maine are in favor of an outright proposition to vote upon the Twenty-sixth Amendment and I deem it a duty to support that. And I trust that future legislators will be here and will have the same ability and the confidence of the people, and they will want to do things as they see it for the betterment of the State of Maine and I have absolute confidence in future legislatures.

The PRESIDENT pro tem: Are you ready for the question? The pending question is that Senate Amendment "A" to Legislative Document 138 as amended by Senate Amendment "A" to Senate Amendment "A" be adopted. The yeas and nays have been called. Those in favor of taking the yeas and nays will rise and stand until counted. Those opposed will then rise and stand until counted.

A sufficient number have risen the yeas and nays were ordered, and the Secretary pro tem called the roll:

YEA—Abbott, Angell, Farnsworth, Gay, Jackson, Andrew, Kitchen, Littlefield, McLoon, Murchie, Page, Robie, Story, Weeks—13.

NAY—Bartlett, Bissett, Blaisdell, Cooper, Fernandez, Harmon, Hathaway, Holman, Jackson, McDonald, Pillsbury, Schnurle, Seavey, Towle, Viles, Weatherbee, Weymouth, Winn—18.

Thirteen having voted in the affirmative and eighteen in the negative the motion to adopt Senate Amendment "A" as amended by Senate Amendment "A" to Senate Amendment "A" did not prevail.

(At this point the President resumed the Chair, Mr. Holman retiring amidst the applause of the Senate.)

Thereupon, on motion by Mr. McDonald of Washington, the resolve was passed to be engrossed in concurrence.

The President laid before the Senate, bill, An Act to incorporate the Atlantic Seaboard Association (S. P. 9, L. D. 14) tabled earlier in today's session by Mr. Blaisdell of Hancock pending assignment for second reading and assigned for consideration at the end of the calendar.

Thereupon, Mr. Blaisdell of Hancock offered the following amendment and moved its adoption:

"Senate Amendment 'A' to Senate Paper 9, Legislative Document 14, entitled An Act to incorporate the Atlantic Seaboard Association. Amend said bill by striking out subsection A in Section 1 and lettering Section B, A and Section C, B and Section D. C. Further amend said bill by striking out in Section 5 thereof the second and third sentences.

The PRESIDENT: The Senator from Hancock, Senator Blaisdell,

moves that the rules be suspended and that the bill be given its second reading at this time.

Thereupon, the rules were suspended and the bill received its second reading.

The PRESIDENT: The question now before the Senate is on the motion of the Senator from Hancock, Senator Blaisdell, that Senate Amendment "A" be adopted.

Senate Amendment "A" was adopted and the bill as amended by Senate Amendment "A" was passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Weeks of Somerset, the Senate voted to take from the table Report of the Committee on Temperance, "ought not to pass", on bill, An Act to amend Chapter 137 of the Revised Statutes by repealing those portions designed for the enforcement of Federal prohibition (L. D. 107), tabled by that Senator earlier in today's session pending acceptance.

Thereupon, on motion by the same Senator the bill was substituted for the report and was given its first reading.

The same Senator then offered Senate Amendment "A" and moved its adoption:

"Senate Amendment 'A' to Legislative Document 107, Senate Paper 79, Amend Legislative Document 107, Senate Paper 79, by striking out Sections 9, 11 and 13 and adding thereto the following: 'Sec. 17. Validity of Act. If for any reason any sections, sub-section, sentence, clause or phrase of the foregoing section of this act shall be held unconstitutional, such decision shall not affect the validity of any other portion. It is hereby declared to be the legislative intent that said sections would have been adopted had such void and ineffective article, section, sub-section, sentence, clause or phrase not been included therein.'"

Thereupon, Senate Amendment "A" was adopted, and on further motion by the same Senator the rules were suspended and the bill was given its second reading and passed to be engrossed as amended by Senate Amendment "A".

Sent down for concurrence.

On motion by Mr. Weeks of Somerset,

Recessed, until 5:30 o'clock this afternoon.