

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Ninth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

**REPORT, HEARING TRANSCRIPT AND
RELATED MEMORANDA OF THE JOINT
SELECT COMMITTEE ON INDIAN LAND
CLAIMS**

ROLL CALL

YEA — Ault, Carpenter, Collins, Conley, Cote, Danton, Devoe, Emerson, Farley, Gill, Hichens, Huber, McBreaity, Najarian, O'Leary, Perkins, Pray, Silverman, Sutton, Usher.

NAY — Chapman, Clark, Katz, Minkowsky, Pierce, Redmond, Shute, Teague, Trafton, Trozky.

ABSENT — Lovell, Martin.

20 Senators having voted in the affirmative, and 10 Senators in the negative, with 2 Senators being absent, L. D. 1972 is Passed to be Engrossed, as amended.

Sent down for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, is the Senate in possession of L. D. 2012?

The PRESIDENT: The Chair would answer the Senator in the affirmative, the Bill having been held at his request.

Senator CHAPMAN: Thank you, Mr. President, I now move Reconsideration of our Action whereby this was Passed to be Engrossed.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now moves that the Senate Reconsider its action whereby, Bill, "An Act Increasing the Minimum Handling Fee for Returnable Beverages Containers from 1¢ to 2¢ (H. P. 1973) (L. D. 2012) was Passed to be Engrossed.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, I would oppose the motion and ask for a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, I would urge that the Senate vote Yes for Reconsideration. This bill is the one we discussed this morning with regard to the handling charge on the containers.

I'd like to address one additional point the point at which we left to debate this morning made by the Senator from Hancock, Senator Perkins with regard to the little person, I believe he referred to it, the small Mom and Pop store, and I have had time to reflect on that and I still feel much the same as I did earlier and want to re-emphasize I don't see where this person is helped by this bill.

Bear in mind that they buy the product that they sell from the distributor. The distributor includes in his overhead cost which makes up that cost of the product to the store his overhead. Part of his overhead is that 2¢ that he is going to be called on to give that store when he returns the empty containers. So that the 2¢ is charged to the small store owner when he purchases the product from the distributor and he gets the 2¢ back when he turns back the container. It just goes in a circle.

This doesn't really assist him. He does use that when he puts on his own overhead for the product when he sells it to the consumer of course. But he has a structure available to him that's available to everybody and that's the free market place structure that he can put a mark-up on that product which would be necessary to cover his costs. That mark-up can be anything that he wants that is necessary to make them whole and to cover whatever costs he feels he has.

I feel that if one thing works best for the little person it's the free market place. I hope that the Senate would reaffirm that today.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: I would request that when the vote be taken it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from

Oxford, Senator O'Leary.

Senator O'LEARY: Mr. President, I think that one of the main points of this bill has been overlooked. When we're talking about putting another penny on the bottle, we're talking about how many bottles there are not coming back to the distributor and amounts really to another profit.

Mr. President, the original bottle bill, I think I was one of the leaders in the attempt to kill it, and I was successful at that time. I didn't believe in the bottle bill at that time and I still don't, however, the people have spoken and I respect their opinion.

I'm aware that the State of Vermont has had a Bottle Bill, that was in effect perhaps 2 years ahead of ours. There was a Budweiser Distributor located in Manchester, New Hampshire. I think in that 2 years time the uncollected, unreturned bottles and cans, to just that one distributor was a total of \$300,000.

You double that by putting another penny on there. You're making him that much richer at \$600,000. If there was some way that the State could recover these dollars, then I would support this. I am in favor of the motion made by the good Senator from Sagadahoc, Senator Chapman.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative votes of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, when the vote is taken, I would ask permission to pair my vote with the good Senator from Aroostook, Senator Martin, who if he were here would be voting for the bill and I would be voting against the bill.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President, I move this item be tabled for 1 Legislative Day, pending consideration.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Table L. D. 2012 for 1 Legislative Day, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

14 Senators having voted in the affirmative, and 15 Senators in the negative, the Motion to Table does not prevail.

The PRESIDENT: The Senator from York, Senator Hichens, requests Leave of the Senate to pair his vote with the Senator from Aroostook, Senator Martin, who if he were here would be voting Nay, and the Senator from York, Senator Hichens would be voting Yea.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I would ask permission of the Senate to pair my vote with the Senator from York, Senator Lovell, I would be voting No and he would be voting Yes.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now requests Leave of the Senate to pair his vote with the Senator from York, Senator Lovell, who if he were here would be voting Yes and the Senator from Kennebec, Senator Pierce, would be voting Nay.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, I would urge the Senate to vote Yes on the Motion to Reconsider.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President, I would urge the Senate to vote No on Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by Senator Chapman of Sagadahoc, that the Senate Reconsider its action whereby L. D. 2012 was Passed to be Engrossed.

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll Call.

ROLL CALL

YEA — Chapman, Clark, Conley, Cote, Danton, Devoe, Farley, Huber, McBreaity, Minkowsky, O'Leary, Sutton, Trafton, Trozky.

NAY — Ault, Carpenter, Collins, Emerson, Gill, Katz, Najarian, Perkins, Pray, Redmond, Shute, Silverman, Teague, Usher.

ABSENT — None.

Senator Katz of Kennebec was granted permission to change his vote from Nay to Yea.

15 Senators having voted in the affirmative, and 13 Senators in the negative, with No Senators being absent, and 4 Senators having paired their votes, the Motion to Reconsider does prevail.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, I now move this bill and all its accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: I have sat by here in this morning's session and this afternoon's session and in between sessions and watched what has taken place. One of the things that I have marvelled at when the bottle issue first came up a few years ago to sit here and watch the lobby work some issues.

I think it's rather interesting to note that the same people today who are opposed to this attempt were the same people that were opposed to the Returnable Bottle Bill in the first place. The lobby hasn't changed, and the people who were opposed, the distributors who were opposed to the Bottle Bill in the first place hasn't changed a bit.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate: I wish to correct on the Record any impression that the Senator from Penobscot, may have that only people who opposed the Bottle Bill are opposing this bill. I consider myself one of the strongest advocates of the Bottle Bill in this Chamber.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, I would move this item lie on the Table for 1 Legislative Day.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, moves that L. D. 2012 be tabled for 1 Legislative Day.

The Chair recognizes the Senator from Saga-

dahoc, Senator Chapman.

Senator CHAPMAN: I request a Division.
The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion of Senator Carpenter of Aroostook, to Table L. D. 2012, for 1 Legislative Day, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

14 Senators having voted in the affirmative, and 16 Senators in the negative, the Motion to Table does not prevail.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: When the vote is taken, I would ask permission to pair my vote with the good Senator from Aroostook, Senator Martin, who would be against the motion and I would be voting for the motion.

The PRESIDENT: The Senator from York, Senator Hichens, requests Leave of the Senate to pair his vote with the Senator from Aroostook, Senator Martin, who if he were here would be voting Nay and the Senator from York, Senator Hichens, would be voting Yea.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate: I would request permission to pair my vote with the Senator from York, Senator Lovell. If he were here he would be voting Yes and I would be voting No.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, requests Leave of the Senate to pair his vote with the Senator from York, Senator Lovell, who if he were here would be voting Yea and the Senator from York, Senator Pierce, would be voting Nay.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The pending question before the Senate is the motion by Senator Chapman of Sagadahoc, that L. D. 2012 be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Clark, Conley, Cote, Danton, Devoe, Farley, Huber, McBreairey, O'Leary, Sutton, Trafton, Trotzky, Sewall.

NAY — Ault, Carpenter, Collins, Emerson, Gill, Katz, Minkowsky, Najarian, Perkins, Pray, Redmond, Shute, Silverman, Teague, Usher.

ABSENT — None.

Senator Minkowsky was granted permission to change his vote from Nay to Yea.

15 Senators having voted in the affirmative, and 14 Senators in the Negative, with No Senators being absent, with 4 Senators having paired their votes, the Motion to Indefinitely Postpone does prevail.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, I move Reconsideration and urge the Senate to vote against me.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, moves the Senate Reconsider its action whereby L. D. 2012 was Indefinitely Postponed.

Will all those Senators in favor of Reconsideration, please say Yes.

Will all those Senators opposed, please say No.

A Viva Voce vote being had.

The Motion to Reconsider does not prevail.

Sent down for concurrence.

The Chair laid before the Senate the fifth tabled and specially assigned matter:

Bill, "An Act to Empower the Board of Trustees of the Maine Veterans Home to Borrow Funds and to Issue Bonds, Notes and Other Evidence of Indebtedness." (Emergency) (H. P. 1781) (L. D. 1892)

Tabled—March 19, 1980 by Senator Pierce of Kennebec.

Pending—Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate: I've been noticing around here in the Senate, especially these last few days that we all pick and choose which kind of bills we're going to be conservative and cautious on. So I guess this is my bill to be conservative on. I have the reputation for being a liberal spender and I want to puncture that reputation a little bit today.

I want to speak about this Bill because I've had serious concerns about it since the Legislature Enacted it in 1977. I would like to go through a little bit of its history and what we were told at that point and what's happened in the intervening period.

The Appropriations Committee had a hearing on this bill on April 17, 1979. We were told at that time that this Veterans Home would not cost the State anything. There was a Bond Issue in the amount of \$1.2 million and the Federal Government was going to provide \$3.9 million for a total cost of \$6,000,000. Now that was the original Bond Issue. They were going to break ground in July of '79.

In April 1979 they came in with the bill asking for \$300,000. They said this was to cover their architectural costs. The Appropriations Committee recommended \$165,000 because it was our understanding that that's what they had already spent. We were told at that time again that this would be no cost to the State and would provide 150 jobs for area persons. Fine, we gave them the \$165,000 and this Legislature Enacted it.

Now today we are faced with another request to allow them to borrow up to \$1,000,000, and there is another bill to convey 8.9 acres of State Land to the Maine Veterans Nursing Home. It's my understanding that they need this money in order to get the architectural plans drawn up in order to get the \$3.9 million of Federal Funds.

If we don't give them some money then I guess the project would stop, so in that case, I don't know that we have much choice in the matter. The bill is to allow them to borrow the million dollars, it says that they can borrow \$1,000,000 for any purpose related to the home. That, to me is pretty loose language. They may borrow money from Federal and State Governments and the agencies thereof, and from any other source. I assume that means the General Fund. Given the history of this outfit we wouldn't allow the Fish and Game Department to borrow \$1,000,000 from the General Fund, and the people who have been running this Nursing Home would make the Fish and Game Department look like Pete Marwick & Mitchell.

Now, I want to go on and tell you that we've heard a lot of talk about 'Biennial Mentality' around here and people questioning future costs of things. So in addition to the General Fund, I just don't think that they will be able to borrow \$1,000,000 from any bank, or \$300,000 unless this 8.9 acres of farm land is going to be appraised at \$300,000, because that's all the collateral they have got. So I assume that they will be borrowing from the General Fund or from the Maine Guarantee Authority, for which the State will be totally liable, which in that case makes me wonder why we need to convey the 8.9 acres of land to them.

Second, we can expect in Governor Brennan's next biennial budget in 1982, Fiscal Year 1983, expect to start up, providing all this goes O.K. now this time, to start off right in July I think of 1982 and it probably won't be filled. They probably won't fill it to capacity 200, right

off the bat, but at least the second year of the biennium we can expect to see a \$900,000 line item for the Maine Veterans Home and for every year thereafter will be at least that much.

The reason for that is that this is the most expensive Nursing Home that's ever been built in the State of Maine to date. The cost per patient per day is going to be around \$62. The Federal Government will pay \$12 for each Veteran. Then the remainder is made up of 70% Federal, 30% State. So you take 30% of \$50 per patient per day times 365 days times 200 and you come up to about \$900,000 per year.

Now these 150 jobs that are going to be created nobody told us they were going to be State Employees. So they are all subject to the personnel law. I think we might expect, since this is going to be a grand building because Federal Standards are much higher than the standards for Maine Nursing Home, space wise and everything, a massive run from AMHI to apply for jobs at this Nursing Home once it's built.

Another thing that we didn't notice when we passed this statute that I would like to read to you. It says the Administrator of the Nursing Home shall be encouraged to live on the grounds of the home in quarters owned and maintained by the home, if available, and if so he shall pay telephone and electrical charges attributed to his domicile, but shall not be required to pay rent, heating costs or repairs or renovations. So we're going to provide the housing for the administrator of this nursing home which is something we have never done before to my knowledge.

There's another reason to question the wisdom of a 200 bed nursing facility, because the State Health Plan recommends that no Nursing Home be larger than 120 beds and there is some controversy that even that may be too large because once they get that big they take on an atmosphere of an institution. You lose the individuality and the attention that's given to the patients.

At the same time that we are de-institutionalizing Bangor Mental Health and AMHI and Pineland, all of a sudden we're creating another State Institution. It's generally conceded that people should be as close as possible to their community to their families and to their friends, and here we are taking people from Presque Isle, bringing them down to Augusta, to live with people with whom they have nothing in common, except the war they fought together 25 years ago.

Well, anyway, I just think that these are the long term costs of this nursing home, that we were sold a bill of goods, that we have not seen the end of it, that we probably have no choice but to approve this. As we vote we just know that we're marching to meet the looming disaster that's going to meet us down the road. Anytime Veterans is mentioned around here, everybody seems to go berserk or you mention jobs and everybody does the same. All caution goes out the window. That's what happened in this case, and I guess we're stuck with it.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: I hope the Senate was listening to the remarks made by the good Senator from Cumberland, Senator Najarian. I again would use the phrase that the Majority Floorleader has used a few times this session, the 'Biennial Mentality.' I would like to know, you know the good Senator from Cumberland, Senator Najarian has mentioned what costs are down the road. The strange thing is that I went to the Legislative Finance Office today only to find that there is no way for them to estimate what the future costs are going to be to the State. Yet the Division of Human Services will tell you that in no way can under the pay plan through the Veterans, through Medicaid or Medicare will they ever be able to take in enough money to meet the costs of this facility