

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**

Came from the Senate with Report "B" "Ought to Pass" in New Draft under New Title (S. P. 799) (L. D. 2003) Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendments "B" (S-496) and "C" (S-497)

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, I move acceptance of Report B "Ought to Pass" in concurrence.

You will notice that a number of us are on the Majority Report "A" but we have discussed this and have chosen to go with Report "B" with the amendments attached thereto. I just wanted to explain that to you.

Thereupon, Report "B" was accepted in concurrence and the Bill read once.

Senate Amendment "B" (S-496) was read by the Clerk and adopted.

Senate Amendment "C" (S-497) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, and passed to be engrossed in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

Non-Concurrent Matter

Bill "An Act Increasing the Minimum Handling Fee for Returnable Beverage Containers from 1¢ to 2¢" (H. P. 1973) (L. D. 2012) on which the Minority "Ought to Pass" Report was read and accepted and the Bill passed to be engrossed in the House on March 19, 1980.

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Howe.

Mr. HOWE: Mr. Speaker, Members of the House: I move that the House recede and concur.

I would like to briefly review some of the arguments against increasing the handling fee that I and others presented the other day. I would like to explain to you how the handling fee fits into the system of deposit containers.

The distributor sells beer and soda to the retailer at cost plus the amount of the deposit. From there, it goes from the retailer to the customer for cost plus deposit, plus the mark up. The customer, presumably, consumes the beverage and then redeems or returns the container to the retailer or in some cases, a redemption center, where the amount of deposit is given from the retailer to the customer. At that point, the retailer is down the amount of the deposit, so when the retailer or redemption center returns the empty container to the distributor, the deposit, plus a one cent handling fee, is then handed back to the retailer.

If distributors must return the deposit plus two cents to retailers, they will obviously raise their wholesale price. Retailers will then mark up that increase, resulting in an increased cost to consumers of more, actually, than one cent per container. Because there are approximately one half a billion redeemed containers in Maine in the course of a year, the total cost to Maine consumers will be \$5 million plus whatever mark up the collective retailers use.

You should support this bill only if you truly believe that retailers are not capable of doing the two following things: The first is that you believe retailers are incapable of raising purchase prices of their products without a law being passed, and I ask you, do you really believe it takes a law to require retailers to mark up their prices? I submit not. In fact, legislation frequently comes before us and is opposed by persons who warn us that its passage will increase the overhead for various types of businesses and they will then have to raise their cost to consumers. Now some of those same people are supporting a bill that will

force consumer costs to be increased.

The second thing I believe, you must believe retailers are incapable of doing in order to support this bill, is that they are incapable of helping redemption centers cover their costs without passage of a law. I submit, as I did the other day to you, that redemption centers were created and exist to serve retailers. That was why that concept was put into the law in the first place, that is why it is there now. It turns out, however, that the majority of retailers in the state appear not to believe that redemption centers are in their overall, all things considered, economic interests, because they fail to support them and rather accept those deposit containers themselves.

There has been debate about — some people have said they don't give a hoot about the big chain stores but it is the Ma and Pa stores that they are concerned about, and certainly I am sure that all our hearts go out to Ma and Pa and to Ma and Pa stores, as they do for small people in the small businesses everywhere, but Ma and Pa stores put price tags on their products just like the big chain stores do and they don't need a passage of a law to tell them to do this.

This is but a very small aspect of the total overhead and total operating expenses of running a business. Virtually, all of those expenses and overhead items are increasing all the time. No law is necessary in order to inform retailers that they must mark up their price in order to cover their costs and the situation is no different today.

I know that grocers have been diligent on the telephones with legislators in the last several days. I suspect, for very good reasons, that most people who buy soda and beer have not been diligent on the telephones and it is probably not necessary to remind legislators that they have far more constituents who buy beer and soda than they do those who sell them. I submit that passage of this law is not necessary and, indeed, what it will do will be to guarantee that the prices to consumers of Maine will go up.

I urge you to vote to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. D. Dutremble.

Mr. D. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call. I, too, as well as all of you, I am sure, are very concerned about the consumer and the prices they have to pay. I made this decision and I am sure that probably a lot of you made that decision, that regardless of which way we go here, the consumer is going to have to pay more for their product.

When I looked at this, I looked to see which way it would be best for the consumer. If you go with Mr. Howe's approach and leave it at the discretion of the retailer to raise the price whenever he feels necessary to cover his costs, that means you could have a penny increase now, a penny increase in three months, maybe nine months from now they will think they need some more money, so they can raise it again by a penny and they can keep on doing this for as long as they want because the legislature, or what was said in the legislature, said that the retailers should raise their prices whenever they feel they cannot cover the costs of handling their bottles. It seems to me that this could go on and on and on and they could raise their prices and say, well, the legislature told us we could do it.

On the other hand, if we raise a penny here, the charge to the distributor, not to the consumer, which probably would eventually be passed on to the consumer, maybe it will be only a one-shot deal and at no time could a retailer say, well, I can raise my prices because the legislature told us we could; we didn't tell them that. We are telling them that for this one time we are going to give you a penny increase to handle the cost of handling those bottles. At the same time, there is also another good thing

about this bill, it would also help the redemption centers, who also need extra money to handle the bottles. Without this, I would say that a lot of the redemption centers that are there now won't be there next year.

Again, the bottle bill was passed, I voted for it and a lot of people in Maine voted for it. They want it to work, redemption centers is part of the bill, and I think it is our duty here to help them make the bill work as much as possible. I think that two cents, the extra increase by a penny to two cents, passed to the distributor, not to the consumer, is the right way to go. I think you will find if you check prices of beverages today on the market, they are already at the highest point that they can be. I think you will find that they have probably raised them already in anticipation of this bill. Maybe we should check on that.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one-fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: The other day I had a grocer call me and he insisted that there was a state law that said a 6 percent profit was mandated and that everybody had to make 6 percent. I disagreed with him but he felt very strongly that was the way the law was.

I think Mr. Dutremble has really hit this pretty close in the head and I see it a little bit differently. Shall we mandate, shall the Legislature involve itself in the free market system and mandate this penny, this \$5 million penny, or will we let the free market place handle this problem? It is going to be very interesting, it certainly was interesting to me the other day to see the legislature's point of view, which, basically, in my view, said we will mandate that the legislature will step in and involve itself in this problem and will mandate this penny.

The only other point I want to make is, if we mandate this penny, this \$5 million, we are going to be back to mandate another one and another one and another one, because inflation is not going to stop and prices are going to keep going up. This is a problem that should be handled in the market place, free market place, not mandated by government.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker, Members of the House: This is labeled the bottle bill, but actually it has nothing to do with the bottle bill. There are people on both sides of this issue who were on both sides of the bottle bill issue when it was originally debated.

Many of you will remember that I was a passionate spokesman for the bottle bill during its debate, but I did so in a very uncomfortable situation because at that time I worked for a soft drink company and my father worked for a soft drink company and my uncle worked for a soft drink company and my cousin and my other cousin and my brother, and all of them were on the other side of that issue and it caused a great deal of personal disagreement back home, but this is not that kind of issue.

This is an issue between two lobbying groups that are here before us today, the soft drink and beer distributors on one side of the issue and the storeowners and redemption centers on the other side of the issue. If you had to choose between those two lobbies, I suspect it would be pretty easy because there are many more storeowners than there are soft drink distributors and bottlers.

Unfortunately, the area of concern that has no lobby up here on this issue are Maine's consumers, they are not well represented here in

the lobby and I want to call your attention to them because they are the ones for whom a burden will be imposed to meet the needs of either of these two industries. The only lobby for the consumers, the people back home who are going to have to pay the bill, are all 151 of us. I think we all know that and certainly don't need to be reminded of it.

It is important to realize that we are talking about a bill with a price tag of about \$6.25 million, and that is a conservative estimate, to accomplish several things. Part of it is to accomplish a subsidy to redemption centers so that the 27 which exist in the State of Maine may stay in business for another year.

You have to think about what you have to think about redemption centers and how much you want to inconvenience and cost the consumer of the State of Maine to keep those 27 redemption centers in business.

There is an alternative way to keep them in business, and if they are meeting a need and if they are meeting a need to the stores they serve, not the customers they serve but the stores they serve, then those stores ought to be able to make their own decisions about whether they want to contribute a monthly fee to keep those redemption centers in operation. That is the way some of them work now. It is the only way, in the long run and, in my opinion, redemption centers are going to stay viable. They are going to have to meet the needs of the stores they serve. To the extent they do that, they will be supported; to the extent they don't do that, they will fail as do hundreds of Maine businesses every single year who don't meet legitimate needs.

The other area of our concern are the stores who will benefit by this mandated price increase to the Maine consumer. About \$6.25 million was split down roughly this way — about half of that \$6.25 million will go to supermarket chains, and I have seen no evidence and I have attended every work session and every hearing on this bill before the Business Legislation Committee, I see no evidence that they aren't making a go of it even at one cent, but certainly no evidence that they need a 100 percent increase to make a go of it for the handling charge.

If you think that is reasonable, think about that for awhile, do they need \$3 million more than they are getting now to handle their bottles? My experience tells me no, they do not.

I wish, for the first time in my life, that I was on the same side as my father's company, but he retired. I left the company, my uncle has passed away, another cousin has left the company, so we are all out of it now and I have finally come around and I am agreeing with my former employer on an issue.

There are other remedies, as I have stated. I want to give you some idea of the history of the bottle bill in other states, because Maine was unique in putting in this one cent handling charge in the first place. It was done by the sponsor at the time, who was the Republican minority leader in this body. It seemed to be a way to ameliorate some of the concerns of people who were opposed to the bottle bill, and it was put in. But this handling charge idea has never been a major feature in Oregon, it has never been a major feature in Vermont; Maine is unique in that respect, and it seemed to the majority of the Committee on Business Legislation, voting about 8 to 4 or 9 to 4, if my memory serves me correctly, and we ought to get out of the business of legislating that idea too. If we are not going to take away the one cent that is already there, we at least ought not to add to it, and to continue that process of price setting here in Augusta, telling people what they have got to charge for a service, for a cost of doing business.

If we are going to pass this kind of bill, meddling in the affairs of hundreds of small businesses all across the state and not subjecting them to the competitive factors, then we ought

to do some changing, at least in our Joint Rules, we are going to need a Joint Committee on Price Fixing which will have the time and the mandate to look into ledgers to decide how much, indeed, it costs to handle bottles, how much space is needed, how many people you have to hire, how many hours they have to work, so that when industries come to us, we can make a fair judgment on that matter. But to make the kind of gross generalization that has been made in this bill to give a hundred percent increase in one year for a service about which we have so little information, it seems to be unwise policy. I don't think that kind of change is necessary, because I think we all understand that we are the lobbyists for the common man. The common man is going to have to pay, for a family of four, about \$25 a year more if this bill passes, and that is across the board.

I think some of us, especially those who represent working area districts, understand that it is in working class communities where they buy more beer, more soft drinks; that may be unpleasant but it is true. They don't drink liquor as a rule, they drink beer. They drink a lot of soft drinks. So in a town like my own town, it is going to hit even more hard on the working person.

You are talking \$25 a year per family, and you ought to ask yourself, are we buying a service, are we buying a service for those consumers that they want and need for that \$25. If you have seen enough evidence to justify that, fine, vote for the bill; if not, I ask you to vote to recede and concur, to join the other body in indefinitely postponing this bill.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from South Portland, Mr. Howe, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Bachrach, Baker, Benoit, Birt, Brannigan, Brodeur, Brown, A.; Brown, K. L.; Brown, K. C.; Call, Carter, D.; Carter, F.; Conary, Connolly, Davies, Davis, Dellert, Diamond, Doukas, Drinkwater, Fillmore, Gavett, Gowen, Gray, Gwadosky, Hanson, Hickey, Howe, Huber, Hughes, Jackson, Kane, Kelleher, Lancaster, Leighton, Lewis, Marshall, Masterton, McHenry, McKean, McPherson, Michael, Nadeau, Nelson, M.; Paradis, E.; Payne, Prescott, Reeves, J.; Reeves, P.; Sewall, Simon, Small, Smith, Soulas, Stover, Studley, Tarbell, Theriault, Torrey, Vincent, Whittmore.

NAY — Austin, Barry, Beaulieu, Berube, Blodgett, Bordeaux, Bowden, Brenerman, Brown, D.; Bunker, Carrier, Carroll, Chonko, Churchill, Cloutier, Cox, Cunningham, Curtis, Damren, Dexter, Dow, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fowlie, Garsoe, Gillis, Hall, Higgins, Hobbins, Hunter, Hutchings, Immonen, Jacques, E.; Jacques, P.; Kany, Kiesman, LaPlante, Locke, Lougee, Lowe, MacBride, MacEachern, Mahany, Martin, A.; Masterman, Matthews, Maxwell, McSweeney, Mitchell, Morton, Nelson, A.; Nelson, N.; Norris, Paradis, P.; Paul, Pearson, Peltier, Peterson, Post, Rolde, Rollins, Roope, Sherburne, Sprowl, Strout, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Wood, Wyman, The Speaker.

ABSENT — Berry, Boudreau, Dudley, Jalbert, Joyce, Laffin, Leonard, Lizotte, Lund, McMahon, Silsby, Stetson, Tierney.

Yes, 62; No, 76; Absent, 13.

The SPEAKER: Sixty-two having voted in the affirmative and seventy-six in the negative, with thirteen being absent, the motion does not prevail.

Thereupon, the House voted to adhere.

Bill "An Act to Amend the Charter of the Limestone Water and Sewer District" (H. P. 1960) (L. D. 2008) which was passed to be engrossed without reference to a Committee in

the House on March 14, 1980.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-494) without reference to a Committee in non-concurrence.

In the House: The House voted to recede and concur.

The following paper from the Senate appearing on Supplement No. 6 was taken up out of order by unanimous consent:

Ought to Pass

Report of the Committee on Education reporting "Ought to Pass" on Bill "An Act to Clarify the Status of a Certain School Renovation Project in the City of Waterville under the Education Laws and to Validate Proceedings Authorizing the Issuance of Bonds or Notes by that City" (Emergency) (S. P. 790) (L. D. 1989)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the Bill read once. Under suspension of the rules, the bill was read the second time, and passed to be engrossed in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

The following Communication appearing on Supplement No 2 was taken up out of order by unanimous consent:

The following Communication:

March 20, 1980

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it accepted the Minority Ought Not to Pass report on Bill, "An Act to Revise the Administration of the Election Laws" (Emergency) (H. P. 1641) (L. D. 1750)

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The following papers appearing on Supplement No. 5 were taken up out of order by unanimous consent:

Ought Not to Pass

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Establish a Program of Funded Self-insurance for Public Schools" (S. P. 787) (L. D. 1987)

Pursuant to Joint Rule 22, was placed in the legislative files without further legislative action in concurrence.

Non-Concurrent Matter

Bill "An Act to Amend the Laws Relating to Ambulance Service" (Emergency) (H. P. 1869) (L. D. 1959) which was passed to be engrossed as amended by Committee Amendment "A" (H-906) in the House on March 17, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-906) as amended by Senate Amendment "B" (S-478) thereto in non-concurrence.

In the House: The House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

The following paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

Consent Calendar

First Day

(S. P. 722) (L. D. 1874) Bill "An Act Creating