

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE

SUMMARY REPORT  
TO THE  
ONE HUNDRED AND SIXTH LEGISLATURE

VOLUME TWO

JANUARY, 1973



STATE OF MAINE

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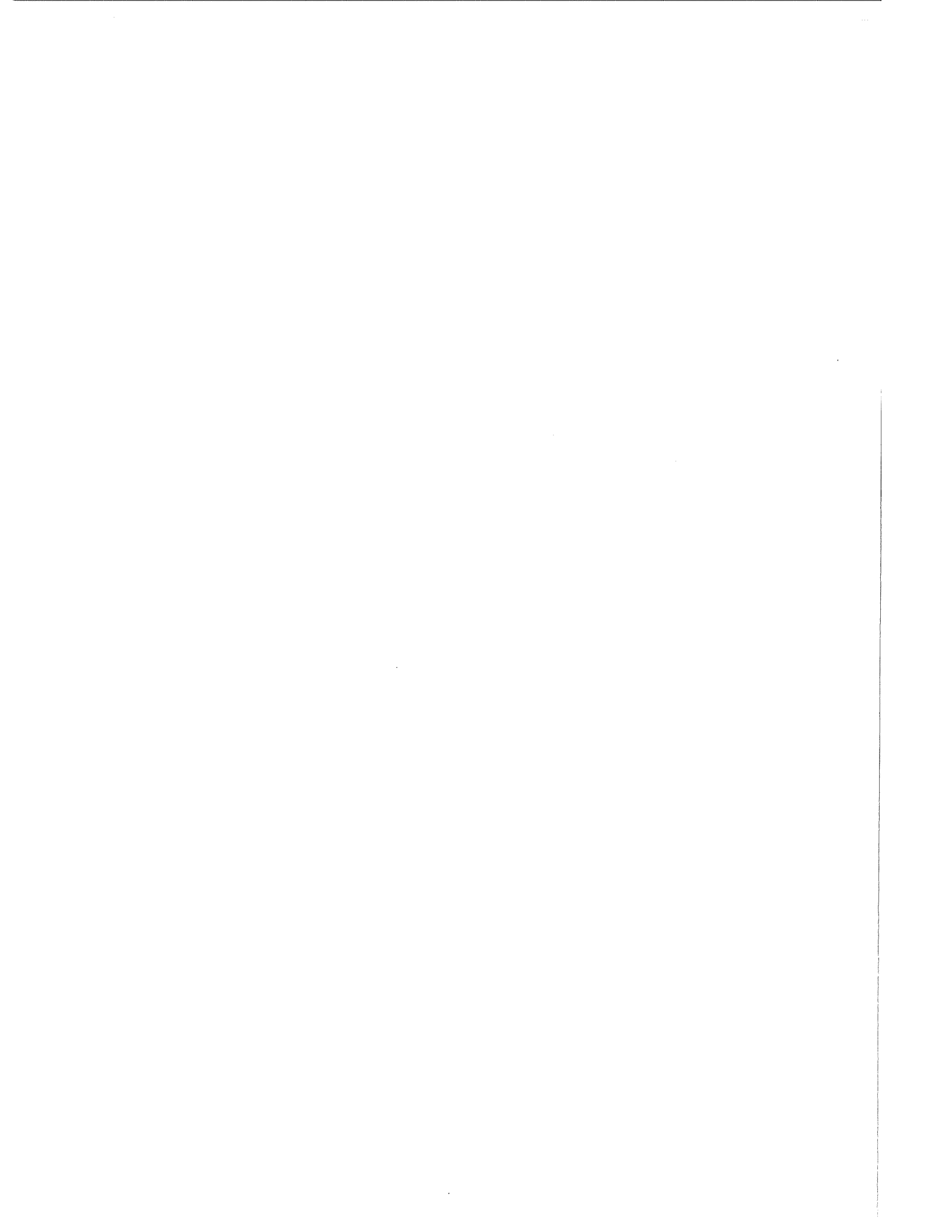
\*\*\*Replaced Representative Gill

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STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE  
STATE HOUSE  
AUGUSTA, MAINE 04330

January 3, 1973

To the Members of the 106th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you Volume II of its report on activities for the past two years.

This volume, designated as the second summary volume, is a continuation of both, assigned and unassigned matters undertaken by the Committee and contains findings and recommendations pursuant thereto.

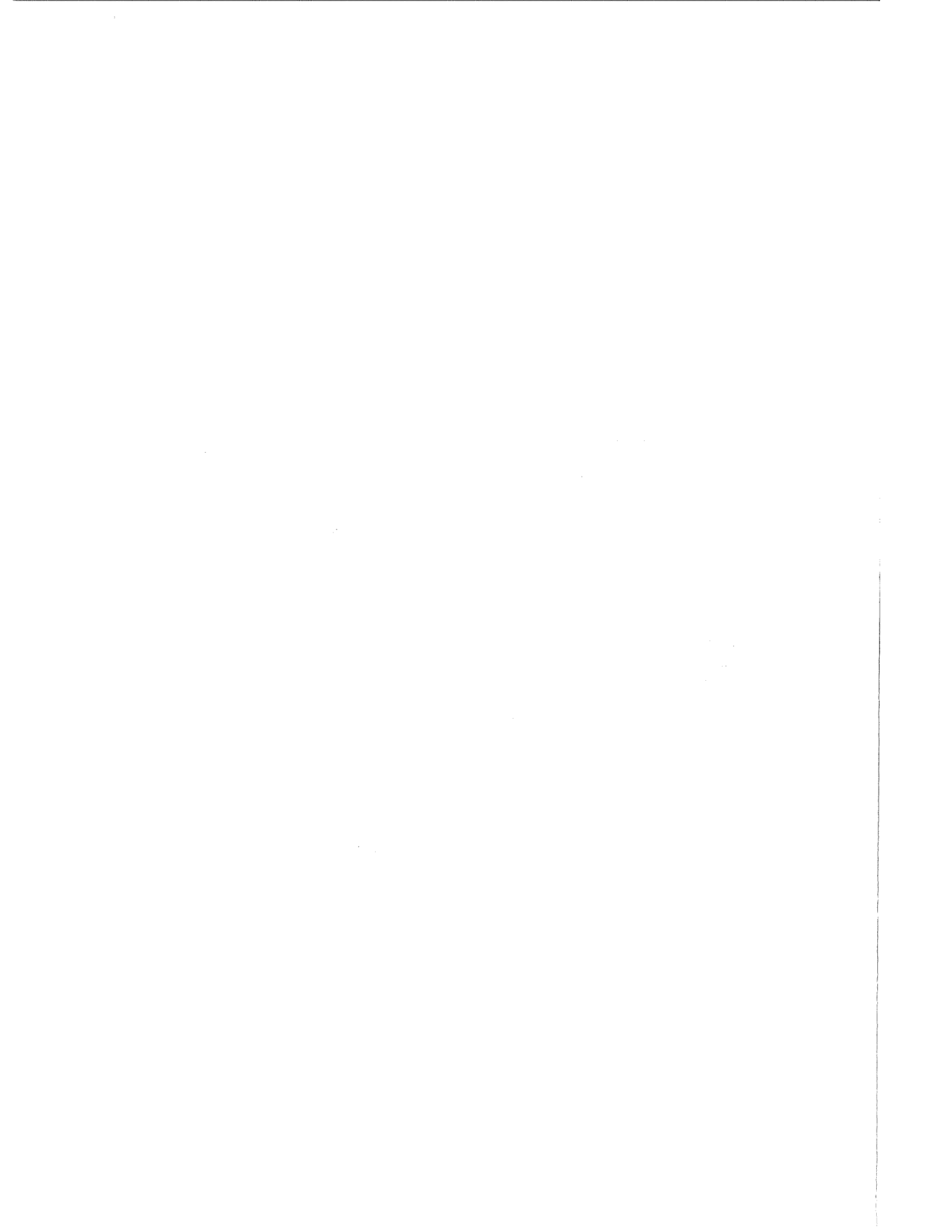
Again, we of the Committee, gratefully acknowledge our indebtedness to the many individuals, organizations and agencies for their valuable contributions to the work of the Committee and it is our hope that the information contained in this report will be of assistance to the members of the 106th Legislature and the people of the State of Maine.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Sewall".

JOSEPH SEWALL, Chairman  
Legislative Research Committee





STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON  
NONREFUNDABLE CONTAINERS  
to the  
ONE HUNDRED AND SIXTH LEGISLATURE

JANUARY, 1973  
Legislative Research Committee  
Publication 106-18



## NONREFUNDABLE CONTAINERS

ORDERED, the Senate concurring, that the Legislative Research Committee be authorized and directed to study the subject matter of bills: AN ACT Prohibiting the Use of Certain Nonrefundable Beverage Containers, House Paper 940, Legislative Document No. 1299; AN ACT Relating to Sales of Beverages in Nonreturnable Bottles, House Paper 76, Legislative Document No. 149; and AN ACT Creating the Maine Litter Control Act, Senate Paper 262, Legislative Document No. 768, to determine whether or not the best interests of the State would be served by the adoption of such legislation; and be it further

ORDERED, that the Environmental Improvement, Park and Recreation and State Highway Commissions be directed to provide the Committee with such technical information and other assistance as the Committee deems necessary or desirable to carry out the purposes of this Order; and be it further

ORDERED, that the Committee report the results of its study at the next regular session of the Legislature; and be it further

ORDERED, that copies of this Order be transmitted forthwith to said commissions upon joint passage as notice of the pending study.

HP 1303	House of Representatives	In Senate Chamber
Cote	Read and Passed	Read and Passed
Lewiston	May 5, 1971	June 22, 1971
	Sent up for concurrence	In concurrence

SUBCOMMITTEE ON NONREFUNDABLE CONTAINERS

CHAIRMAN - Kenneth P. MacLeod

VICE CHAIRMAN - Albert E. Cote

John A. Donaghy

Louis Jalbert

Theodore E. Lewin

## NONREFUNDABLE CONTAINERS

The 105th Legislature by Joint Order, House Paper No. 1303, directed the Legislative Research Committee to study the subject matter of the following bills to determine whether or not the best interests of the State would be served by the adoption of such legislation:

House Paper 940, Legislative Document No. 1299, "An Act Prohibiting the Use of Certain Nonrefundable Beverage Containers."

House Paper 76, Legislative Document No. 149, "An Act Relating to the Sales of Beverages in Nonreturnable Bottles."

Senate Paper 262, Legislative Document No. 768, "An Act Creating the Maine Litter Control Act."

Almost simultaneously with the passage of this Legislative Order, the Legislature also passed under chapter 405 of the public laws of 1971, the latter Act mentioned in the Order, "Creating the Maine Litter Control Act." The nature of the problem is clearly set forth in the following purpose of this legislation:

It is declared and recognized that the proliferation and accumulation of litter discarded throughout this State endangers the free utilization and enjoyment of a clean and

healthful environment by the people and constitutes a public health hazard; and recognizing that there has been a collective failure on the part of the government, business and the public to accept, plan for and accomplish effective litter control, there is enacted the "Maine Litter Control Act."

Beyond reviewing this Act, the Committee faced a vexing component of the litter problem, namely the annoying question of whether or not to recommend restrictive legislation on the use of nonreturnable bottles and beverage containers.

The question of returnable versus nonreturnables becomes more intense as an ever-increasing number of people pause to take comprehensive stock of the quality of their surroundings. The issue involves the habits of a nation of consumers who, as the object of a packaging revolution, have been responsive to the modern convenience of the "throw-away" container. Manufacturers, seeking a larger portion of the market, introduced the nonreturnable container and along with it a trend toward discarding which has been recently measured in the manufacture of 43.8 billion throw-away containers in 1969.<sup>1</sup>

Other aspects of the problem can be seen in the composition of containers and opening devices, which being neither biodegradable nor combustible exist until buried, as a hazard to safety and health and the lack of success in recycling programs on a voluntary basis.

It is factors such as these, which cause extensive problems in solid waste disposal and clean-up at tremendous cost to the State that were under consideration by this Committee.

In an effort to obtain the public view as to the extent of the problem in Maine, the Committee called on the sponsors of nonrefundable legislation, appropriate state agencies, industry spokesmen and the public at large, to present their views at a public hearing held on October 19, 1971 at the State Capitol.

At this hearing, the Committee learned that the nonreturnable beverage bottles and cans amount to only a small percentage of the total solid waste problem. Statistics based on a 29-state survey by the Highway Research Board indicate that over 80% of the items littered on the nation's highways are other than nonreturnable bottles and cans. As seen in the following chart from that survey, nonrefundable bottles and cans comprise 17.7% of the total composition of roadside litter.

#### COMPOSITION OF ROADSIDE LITTER<sup>2</sup>

Items	Percent of Total	
PAPER	59.5	
TOTAL CANS	16.3	
beer and soft drink cans		14.9
TOTAL GLASS	5.9	
beer and soft drink (returnable)		2.0
beer and soft drink (nonreturnable)		2.8
TOTAL PLASTIC	5.8	
MISCELLANEOUS	12.5	
	<u>100.0</u>	



The Committee also learned that the Maine taxpayers are footing an annual litter clean-up bill of over \$500,000. It cost the Maine Turnpike Authority \$17,900 to keep the 106-mile highway clean in 1969-70.

The Department of Transportation, formerly called the State Highway Commission, has the responsibility for cleaning up litter from the roadsides of about 11,000 miles of state and state-aid highways. During the 1971 fiscal year, the Commission spent over 1/4 million dollars picking up literally tons of roadside trash.

The cost of keeping Maine highways clean has increased during the period of 1961 through 1970 from \$76,000 to \$254,000 as seen in the following table:

1960-61.....	\$ 76,000	1965-66.....	\$214,100
1961-62.....	\$ 87,500	1966-67.....	\$195,200
1962-63.....	\$101,000	1967-68.....	\$249,600
1963-64.....	\$131,300	1968-69.....	\$220,400
1964-65.....	\$171,100	1969-70.....	\$254,000

Part of the increase is attributed to higher wages and equipment cost, as well as the addition of several hundred miles of new highways which must be kept clean. The continual increase in cost, however, gives little comfort in trying to find signs of any trend towards reduction in the amount of litter tossed onto State highways each year by the traveling public.

In 1971, State Highway Commission maintenance crews were provided with plastic bags in which they placed litter as it was picked up. The new system was reputed to provide for more efficient use of men and equipment. Under the new system a man walks down the side of the road filling the bags which he carries with him as he goes. When the bags are full they are

left just off the road shoulder where they stay until a truck comes along late in the afternoon to pick them up. This system leaves the trucks free for other duties during most of the day, where in the past the trucks were tied up all during the litter pickup activities.

The Department does make a number of efforts to reduce littering along the roadside. Signs are erected stating that those who litter may be subjected to a fine of up to \$100. In the nearly 200 rest areas maintained by the Department barrels are available where motorists may leave their travel litter. Barrels are also available in some of the roadside turnouts. The Department would like to add additional barrels along the highways but the addition of barrels along the highways without providing turnout space creates a traffic problem. Other than in rest areas and in certain turnouts where litter containers are needed for picnickers, experience has shown that providing trash barrels at other locations along the highways for travel trash is self-defeating. The barrels soon become the favorite dumping place for household trash of all types from kitchen garbage to old bed springs. The collection of this trash becomes time consuming and costly. For this reason the Department does limit the use of trash barrels generally to rest areas and selected turnouts.

The Department keeps the public informed regarding the litter problem by means of news releases, articles, slide shows and speeches.

Other New England State Highway Department costs include, with miles covered in parenthesis: Connecticut, \$1,100,000 (3,942); Massachusetts, \$750,000 (2,700); New Hampshire, \$200,000 (4,100); Rhode Island, \$120,000 (1,100); Vermont, \$166,000 (2,757).

In summary, the Commission feels that roadside litter is a curse of today's mobile society, brought about by almost universal use of disposable containers and wrappers. Changing the attitude of the public will require much time, effort, money and ingenuity.

Testimony from other state agencies concerned with the problem was received from the Environmental Improvement Commission, State Parks and Recreation and the Keep Maine Scenic Committee. Taken in that order, an Environmental Improvement Commission spokesman stated he expected his agency to become more involved in the area of dumps and incinerators as time goes on. He mentioned the volume of materials as a result of plastics has increased 10 times in the last few years and that the problem of burning dump would have to be controlled in the near future because of toxic fumes. State Parks and Recreation Commission officials estimated an annual cost of \$158,768 to clean up after users and to maintain some 1,492 barrels and cans throughout the State network of public camp areas. It was also brought to the Committee's attention that with the acquisition of land through issuance of bonds, the Commission has noted a significant increase in the litter

problem without the necessary funds to handle the situation. Under the circumstance, crews are spread as far as possible to cope with the situation but that is still less than satisfactory in many instances. The Superintendent of the Allagash Wilderness Waterway reports rangers average 57% of their time on trash operation and have discovered after 5 years of waterway operations that all trash on the waterway is related to the transportation or preparation of food or drink. They have also found that an average camper will not pack his trash out more than 100 feet. In that remote area, enforcement is viewed as a partial but impractical solution for it was estimated it would take five times the present ranger force to deal with the problem.

Another influence on the matter of nonreturnables at the state level can be seen in the activities of the Keep Maine Scenic Division of the State Parks and Recreation Commission. Litter is considered a prime concern of the Keep Maine Scenic Division which will expend approximately \$61,822 in the current biennium to carry on its various interests.

The Keep Maine Scenic Committee, on December 29, 1970, adopted a policy on nonrefundable beverage containers which included the following five action-oriented recommendations:

- 1) Cease promotion of convenience packaging and stock both returnable and nonreturnable containers.
- 2) Phase out packages lacking built-in disposability.
- 3) Submission of plans to a state agency for a program to eliminate litter and solid waste by October 1, 1972.
- 4) Initiate use of returnable containers by October 1, 1972,  
or
- 5) Establish an effective reuse or recycling program for all metal, glass, plastic and other nonreturnable containers by October 1, 1972.

The policy further stated that the Committee felt that government action is necessary if the problems associated with nonrefundable containers are to be eliminated.

The five recommendations to business have not been totally ignored or accepted. Single use packaging is still being advertised. No Deposit, No Return is a part of most beverage advertisements. Some stores do offer both returnables and nonreturnables as they always have.

In keeping with the policy established earlier the Keep Maine Scenic Committee at their September 20, 1972 meeting adopted the following resolution:

Nonreturnable Beverage Containers

Whereas, nonreturnable, carbonated soft drink, beer and other malt liquor beverage containers constitute a significant proportion of Maine's offensive unsightly litter; and

Whereas, the Keep Maine Scenic Committee is responsible to the people of Maine for the conduct of a program designed to eliminate said litter; and

Whereas, the Committee conducts on-going educational programs which aid in reducing this form of visual pollution and recognizes the need for certain legislative controls on non-biodegradable single use beverage containers,

It is resolved, that the Keep Maine Scenic Committee supports and endorses legislation which would place a deposit of not less than five cents on all such containers sold in the State of Maine on and after July 1, 1973.

Other useful information submitted by the Keep Maine Scenic Division for the Committee's consideration included: The actual figures for the State of Maine and the nation resulting from the National Study of the Composition of Roadside Litter, the 1972 spring roadside clean-up report of volunteer groups which, incidently, represents the only available figures on nonreturnable containers since the new litter control act went into effect which shows that roadside litter picked up was 16% paper, 49.3% cans and 26% bottles and the following tabulation of arrests in litter law enforcement by the various state agencies:

YEAR	STATE POLICE	FISH AND GAME WARDENS	SEA & SHORE WARDENS	FOREST WARDENS	LIQUOR INSPECTORS	TOTAL
1964-65	113	54	2	6	1	176
1965-66	95	138	1	3	0	237
1966-67	138	157	7	5	2	309
1967-68	179	207	12	6	1	405
1968-69	222	183	9	8	0	422
1969-70	195	213	10	24	2	444
1970-71	<u>185</u>	<u>191</u>	<u>7</u>	<u>10</u>	<u>3</u>	<u>396</u>
TOTAL	1,127	1,143	48	62	9	2,389

With reference to other testimony, the Committee has placed on file countless arguments and documents, both pro and con, on the nonreturnable issue. In this respect, it is the considered opinion of the Committee that such information is generally well known or easily obtainable and that it would serve no useful purpose to reiterate such views in this report.

Beyond this, the Committee reviewed action taken by other states, many of whom are conducting similar studies of the problem. The Committee noted with interest that both the State of Vermont and the State of Oregon have pioneered in the area of beverage container legislation:

The State of Vermont enacted legislation placing a ban on nonreturnable beer and ale bottles as early as 1953 and later revised the law in 1955. Apparently, this early law and later revisions of it were successful in reducing highway litter in the form of discarded bottles in areas other than along the State's borders, but the

overall quantity of litter and solid waste was not decreased to any great extent because the legislation excluded glass and metal soft drink containers and beer and ale cans.<sup>3</sup>

Along with the technicalities of drafting beverage container legislation it is significant to note that the constitutionality of the Vermont statutes has been upheld,<sup>4</sup> but, the 1956 Report of the Vermont State Litter Commission to the Governor concluded with the following recommendation:

"That the ban on nonreturnable glass (beer) containers should not be reenacted. However, if the Legislature feels the legislation against nonreturnable containers is an effective means of combatting the litter problem, then all nonreturnable containers should be banned, rather than a small portion thereof."<sup>5</sup>

More recently in 1972, the State of Vermont enacted a new bill to make glass beverage containers returnable and to tax certain other beverage containers and to create a fund to be used for the removal of trash from public places.

The Committee also followed with interest action of the 1971 Oregon Legislature Assembly as it adopted legislation requiring beer and soft drinks to be purchased in returnable



containers. This law placed a five cent deposit on such containers and outlawed the use of metal tabs.

In reaching a conclusion based on all the testimony presented, the Committee feels it should first be pointed out that with the recent passage of the Maine Litter Control Act a fine of \$100 for each violation can be imposed for discarding nonreturnables or other litter upon any public or private property of the State. Not only that, drivers are responsible for litter of their passengers, they may lose points and their license to drive up to 30 days, and the Judge can direct a violator to pick up and remove his litter. Further, the law requires appropriately marked litter receptacles be provided and maintained on the premises of each establishment serving the public and that every law enforcement official of the State (approximately 3,000) including, but not limited to State Police, county sheriffs and their deputies, municipal police, wardens of the Fish and Game and Sea and Shore Fisheries Departments, foresters and wardens of the Forestry Department and liquor inspectors of the State Liquor Commission are charged with enforcement of this law. Also, under the Act, municipalities of the State are permitted to adopt more stringent ordinance laws or regulations in dealing with litter control in their own particular area.

It is also significant to note that the Litter Control Act became effective in September of 1971 and has not been operative long enough to fully assess its true effectiveness.

With these considerations in mind, coupled with the discriminating nature of nonrefundable legislation, some members of the Committee felt that it would serve no useful purpose at this time to go beyond this new law as proposed by the legislation under study. On the other hand, some merit was seen in advancing a list of reasonable alternatives to the problem for legislative consideration.

Therefore, the Committee respectfully submits the following approaches to the nonreturnable problem without specific recommendation:

1. Enforce existing law.
2. Increase fines and penalties.
3. Mandate a minimum deposit or redemption bounty.
4. Levy a tax on nonreturnable or non-biodegradeable containers.
5. Require recycling or biodegradability.
6. Outlaw metal tabs.
7. Outright prohibition of nonrefundable containers.
8. Fund additional educational effort.
9. Direct the appropriate agency to study the problem further.

This list is by no means intended to be complete but only to serve as a guide to prevailing forms of legislation being offered throughout the states.

## FOOTNOTES

1. Council of State Governments. Environmental Quality and State Government. Kentucky. (1970), p. 36.
2. National Academy of Science - National Academy of Engineering Highway Research Board (1969), "A National Study of Roadside Litter." Summary available from Keep America Beautiful, Inc.
3. McMillan, Ian R. "Beverage Container Legislation" Yale Legislative Services (1971), p. 8.
4. Anchor Hocking Glass Corp. v. Barber, 118 Vt. 207, 105 A. 2d 271 (1954).
5. Report of the Vermont State Litter Commission to Governor Joseph B. Johnson (December 15, 1956), at page 16.  
See also, Report of the Governor's Commission on Non-Returnable Containers (December 1, 1970), Montpelier, Vermont.