

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2252

7 H.P. 1698

House of Representatives, March 15, 1984

8 Submitted by the Department of Corrections pursuant to Joint Rule 24.
9 Referred to the Committee on Judiciary. Sent up for concurrence and
ordered printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Hobbins of Saco.

Cosponsor: Representative Hayden of Durham.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Repeal a Statute which has been
18 Declared Unconstitutional.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 17-A MRSA §1255, as enacted by PL 1981, c. 324,
23 §33, is repealed.

1

STATEMENT OF FACT

2 The Revised Statutes, Title 17-A, section 1255
3 authorized the Department of Corrections to evaluate
4 a prisoner's "progress toward a noncriminal way of
5 life." Based on that evaluation the department was
6 authorized to file a petition in the sentencing court
7 asking that court to resentence the prisoner. In
8 State v. Hunter, 447 A.2d 797 (Me. 1982) the Maine
9 Supreme Judicial Court held that this section, as
10 sought to be applied on the basis of a prisoner's
11 "progress toward a noncriminal way of life" was an
12 unconstitutional attempt to invest the judiciary with
13 power expressly and exclusively granted by the Con-
14 stitution of Maine to the Governor. The Revised Stat-
15 utes, Title 17-A, section 1255 has been deemed to be
16 unconstitutional and should be repealed.

17

5934022384