

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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Municipalities and Sewer Districts" (S. P. 597) (L. D. 1719) on which the Majority "Ought Not to Pass" Report of the Committee on Judiciary was Read and Accepted in the House on April 6, 1984.

Came from the Senate with that Body having Adhered to its former action whereby the Minority "Ought to Pass" in New Draft under New Title Bill "An Act to Provide Guidelines for Sale of Tax-acquired Property" (S. P. 905) (L. D. 2433) Report of the Committee on Judiciary Read and Accepted and the New Draft Passed to be Engrossed in non-concurrence.

On motion of Representative Soule of Westport, the House voted to adhere.

Non-Concurrent Matter

Joint Resolution Concerning the State Contracting for Medical Services in Competition with Private Enterprise (H. P. 1829) which was Read and Adopted in the House on April 6, 1984.

Came from the Senate Indefinitely Postponed in non-concurrence.

On motion of Representative Webster of Farmington, the House voted to adhere.

Non-Concurrent Matter Later Today Assigned

RESOLVE, to Reimburse David James McDaniel for Damages Suffered as a Result of Wrongful Imprisonment (H. P. 761) (L. D. 992) on which the Minority "Ought to Pass" Report of the Committee on Judiciary was Read and Accepted and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-591) as amended by House Amendment "A" (H-664) thereto in the House on April 6, 1984.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Judiciary was Read and Accepted in non-concurrence.

On motion of Representative Diamond of Bangor, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Statute Relating to the Sale and Free Distribution of Cigarettes to Children" (H. P. 1694) (L. D. 2249) on which the Majority "Ought to Pass" as amended Report of the Committee on Health and Institutional Services was Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-650) in the House on April 6, 1984.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Health and Institutional Services Read and Accepted in non-concurrence.

Representative Nelson of Portland moved that the House recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Gray, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would defeat the motion to recede and concur so that we could stand with the position we took in this House the other day.

We debated this bill hot and heavy with no if's, and's and but's left out in the debate. The folks at the correctional institutions, especially the Youth Center in South Portland, were in front of this committee and they guaranteed us all sorts of educational programs that they could do with these young men and women who are in their institutions.

None of us on the committee like the idea of smoking, we also don't like the idea of problems that could result from not smoking for these children in that institution. I would hope that you would stick with the position that we took before so that we could adhere to our past position.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I will not prolong the debate. We had a good strong vote here. I know what will

happen to this bill in the House, but I will go down fighting.

I will just remind you again that there is no bill of rights for those who break the law of an entitlement to get sick and to smoke and to die. You know, many of these young people who are in the correction institutions never had anybody who cared enough to say to them, stop what you are doing, I care about you, I don't want you to hurt yourself, I don't want you to smoke, I don't want you to die. And now these children, and they are children, are in the hands of the state and perhaps for the first time in their lives the state will have to say no because we care, no, you can't do that because it is wrong, and no, you can't do it because you are behind bars and no, you can't do it if you are out on the streets. You have got to have a law that is fair to those in jail as well as those out of jail.

If they can't smoke at 18 out on the streets when they are free, working hard at a job or whatever, then why should they be allowed to smoke inside a correctional institution when they have already broken the law? Let's care enough about these kids to say no.

I hope you will vote with me on the motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I have got to agree with Representative Nelson from Portland. Maybe if the children of this state realize that they are not going to be able to smoke when they get to jail, maybe they will want to stay out.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I am just going to come right to the point. What you are trying to do with these children has made them go through cold turkey. I hope all of you know what that means. You are going to make them or you are going to break them, and that is just what is going to happen. It is bad enough that they have to be in those places without taking one little thing that they want. Please do it easily. I think this is all wrong. As much as I like Mrs. Nelson, this is all wrong, I think she has got the wrong idea.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often that I agree with the gentlelady from Portland, but on this issue I think she is right on.

Representative Nelson of Portland requested a roll call vote.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to debate this much longer, but I just want you to realize that I don't think there is one member of that committee or one member of that majority report that really like people smoking, but I think we are in a Catch-22 situation. We have debated this, we told you the reasons last week, and I just hope that you would go along with us again today because I think both the sheriffs of the State of Maine and the people at the correctional center do a tremendous job trying to turn these young children around, and they are the ones that we really feel need that help.

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

Mr. BRODEUR: Mr. Speaker and Members of the House: The problem we have here is that we haven't been able to confront these youths for their addiction, and the people who happen to be working in the correctional center, most of them have admitted, or at least this has been offered to the committee in testimony, that most of the people there also have a problem with drug of nicotine. I asked the question, what about a youth that is addicted to alcohol or cocaine or

some other drug and I asked them how they handled that and they said "we did it cold turkey and they can do it." I don't see any reason why we can't do it to this.

There is no evidence to show, as far as I am concerned, that offering a cigarette to somebody who is in counseling is beneficial to that person. If you are in counseling, if a person is too tense or too nervous to deal with the issue, you don't give the person a crutch, you deal with the issue that is causing the problem, and that is the problem of the addiction to the drug.

If we don't deal with addiction to one drug, we are avoiding the problem of addiction to all drugs because there is some sort of commonality in those addictions. I think that ought to be one thing that we deal with when we are doing the treatment, not avoiding their problem.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I believe that if we are going to allow the children to go into these reformatories and jails to smoke, like the former speaker said, if they have a drug problem, are we going to supply them with drugs the next time around? If they have a drinking problem, are we going to supply them with some drinks because they do have a problem? Are we saying this is cruel? I don't believe so.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take any time, but you are trying to tell me that a 17 year old that has been put in jail for rape, for murder, you are going to deny that gentleman a cigarette.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I guess the answer to that question is yes, and the concern, and I think it is an important concern that Representative Martin had from Brunswick regarding quitting cold turkey, there is no emergency on this bill, there is 90 days for the people there to know, for the young people there to know. And for those people who are on the streets and who might think again, as Mr. McCollister has mentioned, maybe if they know they have to go there and won't be able to smoke, maybe that is a deterrent.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me we had a bill here last year which prohibited establishments throughout the state to furnish cigarettes to minors, and that is anyone under 18 years old, without a fine. Here we are debating a bill today, this afternoon, that says it is all right for the State of Maine or the County of Oxford or the County of Cumberland or the county of anywhere, wherever these penal institutions are, to go ahead and provide cigarettes to minors. Where is the continuity in the law that we passed last year?

I further ask, and I hope somebody will be able to answer the question, how much additional money is this going to cost taxpayers of the State of Maine to provide cigarettes to somebody who is smoking in these institutions?

The SPEAKER: The gentleman from Harrison, Mr. Jackson, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: To answer the question that was asked, approximately three and a half packs of cigarettes a week is the maximum amount that a young person can smoke in the Youth Center. It turns out that some of them, if they are, indeed, wards of the state, receive money from the state, canteen money, in which they can purchase those three and a half packs of cigarettes a week. We figured it out, and Representative Brodeur who sits next to me and has a mind like a com-

puter figured out that it costs about \$31,000 a year for the Department of Human Services to pay for the purchase of these cigarettes.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I am glad we are getting back to the cost of this because that is exaggeration, folks. Representative Brodeur added it up and he took 245 people and he multiplied it times \$15. I told you last week that the \$15 comes from those people who are on AFDC. If they are on AFDC and they ended up in the Maine Youth Center, the money is subtracted from the allotment of the AFDC and it is given to the Department of Corrections in their special account down there for each person.

The \$15 goes for many other things besides cigarettes. One, they will not allow them to buy shampoo because if they bring in shampoo they might bring in contraband. Two, they will allow them to have their own toothpaste if they want a different kind and they have to buy it.

On cigarettes, \$15 a month, if I am not mistaken and I am not a smoker, I don't think you are going to buy too many packs of cigarettes if you have to buy other things such as candy bars, other things that these children, and don't forget they are children, some of these are children, are going to be using.

Representative Nelson also brought up the point about it is a 90 day warning. Well, ladies and gentlemen, that is true, but if they are in the Maine Youth Center, I don't think they are going to be thinking about this bill; 90 days isn't going to help them.

In committee, we talked about a sunset, sunsetting this out. Well, every six and a half months—not every six and a half months—but the average resident stands to stay there about six and a half months.

Kids who are out on the street and are one day going to end up in the Maine Youth Center aren't going to say, oh my gosh, I have got to quit cold turkey because I am going to end up at the Maine Youth Center. Do you really think that is going to happen? I don't.

I think, as most of my committee has stated before, we don't agree with smoking. Most of you remember last year, it was my amendment that said there shall be a place in any restaurant for nonsmoking, so we don't agree with it; however, I don't want to pick up the Portland Press Herald some day and find out that the previous night they had a fire over at the Maine Youth Center and maybe a child died or maybe an employee died because one of the kids snuck a cigarette when we banned cigarettes completely at the Maine Youth Center. You can't ban them completely because I don't think collective bargaining is going to go along with it. Therefore, the employees are going to be smoking and they are going to get those little butts and they are going to end up smoking them and they are going to end up burning something down, and that is what we are worried about. We are worried about escapes. Do you want the staff over there to be chasing these kids all over Representative Macomber's district? I don't think so.

In the past, they have broken into the area stores and there are about five or six area stores within about a half a mile of the Maine Youth Center. Granted, it is a Catch 22, but I really think the majority has looked at it and really feel that the department needs this, and I would appreciate it if you would go along with this.

The SPEAKER: The Chair recognizes the gentleman from Washburn, Mr. Crouse.

Mr. CROUSE: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to relate to you my own experience. I used to work as a rehabilitation counselor in a county jail. One of the things that I experienced while I worked there as a counselor is when a juvenile first came into the institution, they had the highest anxiety level that you can imagine. They were on the edge, a lot of times, of really having an emotional breakdown. When they first entered the institu-

tion, were locked up for the first time, they had a situation they really couldn't handle.

In prison, in a county jail, for juveniles particularly, where they are not treated in the best ways such as at the Youth Center where they are equipped and they are trained to handle juveniles, the county jail is a little bit different for juveniles entering and cigarettes are used as a management tool. It is used in a situation where the juvenile is unmanageable at times, they have high anxiety, they are very difficult to deal with, and it just creates another conflict in the institution, it makes it very, very difficult for a county sheriff or a turnkey that is sometimes not used to dealing with juveniles when they are entering a county jail, so that is what we have to look at.

As far as whether it is a management tool or whether it is going to create a situation that is more manageable for an institution as opposed to the other side of it, I think that is the key issue. I hope that you look at that issue alone and look at it from a corrections point of view.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Seavey.

Mr. SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important to understand also that it would take more than this legislature to give these kids permission to smoke. You are going to need the written permission of their parents also to allow them to smoke. I don't believe that this legislature should play mother and father, so I hope you defeat the pending motion.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mrs. Melendy.

Mrs. MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: You have heard the saying—I'd do anything for a cigarette. That, my friends, is what I am afraid of. The older inmates will have access to cigarettes, those over 18 years of age, and what I fear is that they will trade cigarettes for sexual or other favors.

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

ROLL CALL NO. 455

YEA—Allen, Baker, Bonney, Bott, Brodeur, Callahan, Carroll, G.A.; Cooper, Cote, Cox, Crowley, Davis, Dexter, Diamond, Dillenback, Drinkwater, Dudley, Greenlaw, Handy, Hayden, Hickey, Higgins, L.M.; Jackson, Jacques, Joseph, Ketover, Kiesman, Lehoux, MacEachern, Mahany, Masterman, Masterton, Matthews, Z.E.; Mayo, McCollister, McHenry, Mills, Mitchell, E.H.; Mitchell, J.; Nelson, Paradis, P.E.; Parent, Pouliot, Randall, Reeves, P.; Rolde, Rotondi, Steven, Stevenson, Stover, Strout, Swazey, Tammaro, TAompson, Tuttle, Vose, Weymouth.

NAY—Ainsworth, Anderson, Armstrong, Beaulieu, Bell, Benoit, Bost, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Carroll, D.P.; Cashman, Chonko, Clark, Conary, Connors, Crouse, Curtis, Daggett, Day, Erwin, Foster, Gauvreau, Gwadosky, Hall, Higgins, H.C.; Hobbins, Holloway, Ingraham, Jalbert, Kane, Kelleher, Kelly, Kilcoyne, LaPlante, Lebowitz, Lisnik, Livesay, Locke, MacBride, Macomber, Manning, Martin, A.C.; Matthews, K.L.; Maybury, McGowan, McPherson, McSweeney, Melendy, Michael, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, Norton, Paradis, E.J.; Paul, Perkins, Perry, Pines, Racine, Reeves, J.W.; Richard, Ridley, Roberts, Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Soule, Sproul, Theriault, Walker, Webster, Wentworth, Willey, Zirkilton.

ABSENT—Andrews, Carrier, Carter, Connolly, Joyce, Martin, H.C.; Telow, The Speaker.

57 having voted in the affirmative and 86 in the negative, with 8 being absent, the motion did not prevail.

Thereupon, the House voted to adhere.

The following Communication:
STATE OF MAINE

Executive Department
Division of Community Services
State House Station 73
Augusta, Maine 04333

April 5, 1984

The Honorable John L. Martin
Speaker of the House
State House Station 2
Augusta, ME 04333

Dear John:

Enclosed please find the Maine Community Action Annual Report for the period, October 1, 1982 to September 30, 1983.

I'm sure you will find the information to be of assistance to you. If you have questions or would like additional copies, please feel free to contact me.

Sincerely,
S/Nancy A. Boothby
Director

Was read and with accompanying report ordered placed on file.

Petitions, Bills and Resolves Requiring Reference

Bill "An Act to Provide for Conformity with the United States Internal Revenue Code" (H. P. 1853) (Presented by Representative Higgins of Portland) (Cosponsors: Representatives Mitchell of Vassalboro, Higgins of Scarborough and Senator Wood of York) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

Committee on Taxation was suggested.

Under suspension of the rules and without reference to a Committee, the bill was read twice.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, I would like to pose a question through the Chair to the Taxation Committee. Does this bring full conformity to the tax code in regards to what the federal government did a year ago?

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: This bill provides that the date of reference to the United States Internal Revenue Code would be changed to January 31, 1983.

Thereupon, the Bill was passed to be engrossed and sent up for concurrence.

By unanimous consent, all matters acted upon requiring Senate concurrence were ordered sent forthwith.

Second Reader

Later Today Assigned

Bill "An Act to Limit the Authority of the Public Utilities Commission to Award Compensation to Intervenor" (S. P. 763) (L. D. 2071) (C. "A" S-370)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Representative Vose of Eastport, tabled pending passage to be engrossed in concurrence and later today assigned.

The following papers were taken up out of order by unanimous consent:

House Reports of Committees Divided Report

Majority Report of the Committee on Business Legislation on Bill "An Act to Require Maintenance of Financial Responsibility by All Motorists" (H. P. 1575) (L. D. 2085) reporting "Ought to Pass" in New Draft (H. P. 1843) (L. D. 2447)

Signed:

Senators:

CLARK of Cumberland
CHARETTE of Androscoggin

Representatives:

MURRAY of Bangor
PERKINS of Brooksville
BRANNIGAN of Portland