

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

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the motion of the gentlewoman from Belgrade, Mrs. Damren, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopous, Bordeaux, Boudreau, Bowden, Brown, K. L.; Bunker, Call, Conary, Cunningham, Damren, Davis, Dellert, Dexter, Garsoe, Gavett, Gould, Gray, Hunter, Hutchings, Lancaster, Leighton, Leonard, Lewis, Marshall, Matthews, Morton, Nelson, A.; Payne, Peterson, Rollins, Roope, Sewall, Sherburne, Small, Sprowl, Stover, Studley, Torrey, Wentworth.

NAY — Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Blodgett, Branigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Carrier, Carroll, Carter, F.; Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Fowlie, Gillis, Gwadosky, Hall, Hanson, Hickey, Higgins, Hobbins, Howe, Hughes, Jackson, Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Kiesman, Laffin, LaPlante, Lizotte, Locke, Lougee, Lowe, Lund, MacBride, MacEachern, Mahany, Martin, A.; Masterman, Masterton, Maxwell, McHenry, McKean, McPherson, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Peltier, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Silsby, Simon, Smith, Soulas, Theriault, Tierney, Tozier, Tuttle, Twitchell, Violette, Whittemore, Wood, Wyman, The Speaker.

ABSENT — Berry, Brown, K. C.; Carter, D.; Dudley, Gowen, Huber, Immonen, Jacques, E.; McMahon, Stetson, Strout, Tarbell, Vincent, Vose.

Yes, 39; No, 98; Absent, 14.

The SPEAKER: Thirty-nine having voted in the affirmative and ninety-eight in the negative with fourteen being absent, the motion did not prevail.

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

The Chair laid before the House the third tabled and today assigned matter:

An Act to Establish a Marijuana Therapeutic Research Program (H. P. 523) (L. D. 665) (C. "A" H-332)

Tabled—May 23, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I am going to make a comment that will save a very lengthy debate. When I first spoke on this matter, if you will recall correctly, I practically disassociated myself from being a representative for anyone but myself. I was deadly serious at the time. I had a great many people who spoke to me about this and I was also absent for a day, and while I had a few hours where I couldn't go anywhere and I couldn't see anybody, as a matter of fact, I couldn't talk to anybody, that just about drove me foolish, so I decided to make a few phone calls.

I called some experts in the field of cancer, eye problems, five out-of-state calls. I was amazed at the replies that I got from these people that I knew when I was told very definitely that this type of treatment—as I would say, an occasional weed to help somebody who is troubled with cancer—the therapeutic treatments of glaucoma helped them tremendously.

I decided when I got back to go one step further and went to a friend, who happens to be the Attorney General of the State, and I discussed it with him. He has a contact that is in the same area as mine and I didn't ask him to go too far afield but I wanted to know because it was the place both of us had contacted, and I wanted to see if he got the same reaction, it

probably is one of the best in the country, if not the world, and he wrote me the following, concerning L. D. 665 and he did it as a personal favor. This is from the honorable Richard Cohen, Attorney General of the State, addressed to me.

"You have requested my views on L. D. 665, An Act to Establish a Marijuana Therapeutic Research Program. While it is not necessarily my customary practice to comment on the element of desirability of pending legislation, I feel that it would be appropriate to share some of my thoughts with you." We discussed this since he gave me the letter.

"Although this office by no means conducted an exhaustive investigation on the subject, a member of my staff did seek the opinions of certain medical specialists located at one of the leading hospitals in Boston. Those tests indicated that marijuana was indeed useful in the treatment of both glaucoma and chemotherapy treatment in cancer patients. Since I have high regard for the views of this person who was contacted, I believe that enactment of L. D. 665 might well prove helpful to those people suffering from the ailments covered by the bill.

"Although, I initially had some reservations about the enforceability of the program, I have been informed that the bill is to be amended in a manner which will allow the Attorney General to ascertain illegal conduct on the part of the participant. If that amendment is adopted, I would have no reason to believe that the program would prevent insurmountable enforcement."

I took the last area that I read to you up with these people and they told me, to my pleasure, that the program was not being mistreated, it was being handled properly, by the proper people, in good course. With all that information, I would be less than honest if I didn't convey it to you people and tell you that I am withdrawing my opposition to this measure and hope the amendment that will be presented will pass and will go on its way and we can get home.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I am deeply appreciative of the remarks of Representative Jalbert and I think they are a tribute to his deep character and honesty.

On motion of Mr. Brodeur of Auburn, the rules were suspended for the purpose of reconsideration.

On motion of Mr. Leighton of Harrison, the House reconsidered its action whereby this Bill was passed to be engrossed.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "B" to Committee Amendment "A" (H-525) was read by the Clerk.

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: We debated this situation extensively before, and unless it is necessary, I won't bore you with that again today.

However, at the final enactment stage before, there were legitimate questions raised by Representative McMahon and Representative Wood with respect to Section 24-8, which involved the confidentiality of that section of the bill, which dictates that circumstances of the doctor-patient relationship. Fears were expressed that there was not sufficient ability for the proper law enforcement for officials to come and inspect the records. It was then moved to table and after that, I went to the Attorney General and asked him to look over that section, if he didn't feel that it was adequate and, number two, to give us his opinion, informally at least, of all of the bill, which has been

done.

We now have a committee amendment that has been adopted that would provide all the safeguards that the Attorney General sees fit to prevent any wrong doing under the program.

I might say, incidentally, that there were three additional states who, over the past weekend, have passed the bill, a similar bill. These states were Oregon, where the vote was unanimous in both the House and the Senate for passage; in Texas and Minnesota, where the vote was 123 to 6, and I assume that must be a unicameral House.

I won't say anymore unless someone has some questions.

The SPEAKER: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I support the amendment from the good gentleman, because I do think that it does clarify the confidentiality section. However, I do have problems and have had problems with other parts of the bill, and because the issue of confidentiality was clarified, perhaps some of the other areas do need to be clarified as well.

I would like to go through some of the other sections of the bill that disturbs me, and if you would take a look at Page 1, number three of the amendment, under "Supply", you will see that it says that "the Commissioner shall contract with local law enforcement agencies for the receipt of marijuana." I don't think that it is clear there that the law enforcement agency can deliver the marijuana to the commissioner, or is it saying that the commissioner then would have to pick up the marijuana? I don't think that has been clarified. I think that might present a problem, because it further does not state that the commissioner or his designee may make such transactions, and because it does not say a designee, then you are putting the burden completely upon the commissioner.

If you will look at Section 3 on Page 3 of the amendment, you will see that it also says "A practitioner may prescribe to only those patients who are undergoing cancer chemotherapy or suffering from glaucoma and are in life-threatening, sense-threatening situations." Well, the word "sense-threatening" bothers me. If it is meant that you are suffering from glaucoma and you are in danger of losing your sight, then why doesn't it state that? Why does it put in the words "sense threatening?"

We all know that we have five senses, and some of us, of course, have six, but with our five senses, we are only talking in this area of the sense of sight. We have not addressed the question of taste, touch or smell. Does it mean then that if you have cancer of the mouth and it would jeopardize your tasting, then you are in a sense-threatening situation? I am not sure that that is clarified.

Under Section 2407, Page 3 of the amendment, it is saying that "The doctor can prescribe, the patient may possess and the state and the private pharmacy may possess and distribute." I am not sure that it is explaining what those limitations are, how much of the marijuana can be possessed, how much cannot.

I think that you ought to be voting for final enactment on this piece of legislation knowing exactly what you are getting into. And I would like you to know by reiterating my ten points of opposition to this bill.

The first one is the fact that we are dealing with a potent drug. There are 67 different chemical compounds that have virtually gone untested, and because they have, we don't know what long-term effects it may have on the body.

Number two of my objections. There were no doctors there at the public hearing complaining about the federal government's red tape in obtaining a quality drug. And because professionals were not present, I do not feel that there is a need to pass such a piece of legislation.

I would like to warn you further that the bill

will be back, and it will be back to add the words "other patients" and those other patients could be persons suffering from asthma, backache or what have you.

The next point, the one I made earlier, was the sense threatening concern that I have, and I don't feel that that definition has been clarified.

Next, the department does not have the ability, and they have claimed so, to analyze the drug. They do not have the expertise to do that. It may mean that it will have to be sent to the federal government for analysis, it may mean that the department will have to do it themselves. Either way, there is a question of whether or not we can obtain a quality drug if, indeed, the department does do the analysis.

Another point that I have to make in concern for the bill is the fact that we have young people who will be seeing parents, grandparents, uncles, aunts, or what have you, using this as good medicine for them. I am afraid that through that they can get the wrong impression, that the drug is, indeed, good for them also.

There has been no research done in Maine to determine whether or not there is sufficient need for such a piece of legislation, and we are, I feel, loosening the federal controls on a Schedule 2 drug, and I am afraid that can be dangerous.

We are giving immunity to those people who are involved in the dispensing and the analysis of this drug. I think that is setting a bad precedent.

So far as it can be determined, I feel that this bill was written for one individual and for NORML, which is the National Organization for the Reform of Marijuana Laws, and I am very concerned about that. I just simply want you to know what you are voting on this afternoon when you vote to enact this bill.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: It has been, indeed, a pleasure for me to sit beside the gentledady from Hampden. She is a very nice looking individual, when I think of who I could have been sitting beside during this session, people like Representative Gould. It is too bad he is not here, but I indeed feel pleased to have had such an outstanding seatmate.

However, in this particular instance, I am going to have to disagree with many of the points that she has made. Just let me ask you to consider one thing. If you or a loved one visited a doctor or was in a hospital and a diagnosis was made and a prescription was written for 1.5 milligrams of Delta-9-THC, taken intravenously or taken as drops administered to the eyes, I don't think you would question it, but because we are talking about "marijuana, pot" it becomes a very emotional issue. The item that I just described to you, Delta-9-THC is the active ingredient which is found in marijuana and, quite frankly, it will be offered in many cases by the methods which I have described, intravenously or taken as drops.

I would like to address some of the major points that the Representative from Hampden made. First off, she calls this a "potent drug." I don't quarrel with that, but I would only ask, what about morphine, what about codine, valium, countless others that we rely on from day to day as pain killers and other necessary drugs to alleviate bad situations healthwise?

The good Representative talked about federal government red tape and insinuated that perhaps there really isn't the red tape associated with trying to get this through the federal government, as has originally been pointed out. Let me just tell you that although the process is complicated and bureaucratically fouled up, no physician in Maine and only four physicians in the United States have been able to obtain government approval. The entire approval process takes 9 to 12 months, and it is just too lengthy

and complicated for a private physician with one or two patients who often die before approval is granted.

Representative Prescott talked about young people who will see others using the medicine. Again we are talking about a medicine, this material being used as a medicine, not as a drug, which every teenager or preteenager wishing to be taking off the shelf and saying, let's get our kicks from this. Again I go back to the other kinds of drugs which are currently and very commonly being used.

I would ask anyone to please tell me how this kind of medicine is going to find its way from the doctor's office or from the hospital shelf out to the streets?

Finally, the good Representative made the statement that the bill was written for one individual. Well, I really dispute that. I said before and I will say again that I am very pleased to be a cosponsor of this bill and I have heard many, many people talk about the beneficial effects of marijuana on cancer and on glaucoma. I don't buy the fact that it was written for one individual, it certainly was not. It was written for many individuals who are suffering from these dreaded diseases.

Finally, as Representative Leighton has indicated, I, too, wish to congratulate my good friend from Lewiston, Mr. Jalbert. I just wish that I had the kind of insight that he has and the kind of diligence that he has to take a bill like this that he so vigorously opposed and to do the kind of research which he did to change his mind and, again, I take my hat off to you, Mr. Jalbert.

Ladies and gentlemen, let's not let emotions get in the way of passing this very valuable piece of legislation. I urge you to please vote for enactment of this bill.

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

Mr. LEIGHTON: Mr. Speaker and Members of the House: I won't prolong the debate. It seems to me that the gentledady from Hampden has told us that marijuana is stigmatized because of illegal social use. I think we need to remember that it also has a constructive use. Fire burns, it also can cook our food and warm our bodies.

She speaks of marijuana being available through the federal government. Well, the fact is that technically it is but the procedure is so cumbersome and complex that as of now there is not one single physician in the State of Maine who has ever gotten any marijuana from the federal government. Yet, I know and I think many of you know that many physicians have suggested to their patients that marijuana might be good in their situation. I think many of us know that chemotherapy patients are, in fact, using marijuana.

The good gentledady from Hampden talks about controls. This bill, as far as I am concerned, introduces controls that heretofore have not existed. For example, now that patient who is getting the marijuana is buying it from a gangster on the street at black market prices in a possibly impure and dangerous strength.

I believe this bill is far from opening things up; it actually closes things up and ensures that marijuana will be used in a constructive way, legally.

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

Mr. GRAY: Mr. Speaker, I just have one question I would like to pose through the Chair that I haven't had addressed yet. What would be the source of supply?

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

The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker and Members of the House: In response to Mr. Gray's question, I have a memo before me from Michael D.

Fulton, Director of the Office of Alcoholism and Drug Abuse Prevention here in the State of Maine, in which it says the National Institute of Drug Abuse has assured us that they would be able to supply the needs of a state the size of Maine and therefore we don't anticipate having to resort to confiscated marijuana, as provided in Section 2404 of Subsection 3. So I don't think we have any problem of where we are going to get it. The federal government has already indicated they are willing to supply us an adequate amount from their plantation in Mississippi that meets all of the specifications. It has been analyzed. It has been found to be pure, there are no impurities involved in it. So I don't think we have to worry about that.

I would also suggest that if anybody as conservative as Mr. Leighton or as liberal as I can support this bill, anybody in between can support this bill.

Mr. Joyce of Portland requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those in favor of a roll call 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 pending question is on the motion of the gentleman from Harrison, Mr. Leighton, that House Amendment "B" to Committee Amendment "A" be adopted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Bordeaux, Boudreau, Bowden, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Call, Carroll, Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Cunningham, Damren, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dow, Drinkwater, Dudley, Dutremble, D.; Dutremble, L.; Fenslon, Fillmore, Fowlie, Garsoe, Gavett, Gillis, Gould, Gowen, Gray, Gwadosky, Hall, Hanson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Jackson, Jacques, P.; Jalbert, Kane, Kany, Kelleher, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Masterman, Masterton, Matthews, Maxwell, McHenry, McKean, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Norris, Paradis, Payne, Pearson, Peltier, Peterson, Post, Reeves, J.; Reeves, P.; Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Simon, Small, Soulas, Sproll, Stetson, Stover, Studley, Theriault, Tierney, Torrey, Tozier, Twitchell, Violette, Wentworth, Whittemore, Wood, Wyman.

NAY—Blodgett, Carrier, Carter, D.; Curtis, Joyce, Laffin, LaPlante, Martin, A.; Nelson, N.; Paul, Prescott, Smith, Tuttle.

ABSENT—Berry, Brown, K.C.; Elias, Immonen, Jacques, E.; McMahon, Strout, Tarbell, Vincent, Vose.

Yes, 127; No, 13; Absent, 10.

The SPEAKER: One hundred twenty-seven having voted in the affirmative and thirteen in the negative, with ten being absent, the motion does prevail.

Thereupon, Committee Amendment "A" as amended by House Amendment "B" thereto was adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (9) "Ought Not to Pass" — Minority (4) "Ought to Pass" as Amended by Committee Amendment "A" (H-491) — Committee on Judiciary on Bill,