

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fifteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

her staff make decisions as to who gets into nursing homes and the funding. When decisions aren't made as to who goes into nursing homes and approvals aren't made, it slows down the process. She is not only taking the cuts of the 7 percent balanced with the furlough days, she is a supervisor and has lost 5 percent. As a confidential employee, she has also had a 3 percent cut. She is concerned about the services, the services that her agency delivers.

I just had a call and spoke with someone who works at the AMHI nursing home. She told me about the kinds of patients that these people work with. She wasn't calling for herself, she only works 500 hours, it is 3 days a week, so it doesn't affect her but she told me about the staff and how hard they work. The people that they work with are not easy to deal with, they are sick people and many of them have Alzheimer's. It is very rough work and very hard work. She told me about the decision that had been made to buy new furniture for AMHI when the patients aren't interested in new furniture, they need appropriate equipment like wheelchairs, geri-chairs, and how distressing and demoralizing it is to have furniture bought when that's something that is not necessary.

I have had calls from people who aren't state employees. I had a call from a gentleman who said to me, "Isn't this going to be demoralizing to people who provide our state services?" He said to me, "I would like to see a smile on the face of the people who provide my services."

I hope that you will be thinking about these few instances as you make these decisions.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I will also vote for indefinite postponement. I think that it is unnecessary to hurt good and faithful servants this way. While I commend the Appropriations Committee, I know they have done an outstanding job given the parameters that have been forced upon them, I think that the situation in which we find ourselves is unnecessary and that all it would take to resolve it is a sound, fiscal policy.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than 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 and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Vassalboro, Representative Mitchell, that Senate Amendment "L" (S-748) to Committee Amendment "A" (H-1192) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 417

YEA - Adams, Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Bell, Bennett, Boutilier, Cahill, M.; Carroll, J.; Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farren, Gean, Goodridge, Gould, R. A.; Graham, Gray,

Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichens, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lipman, Look, Lord, Luther, Mahany, Manning, Marsh, Martin, H.; McHenry, McKeen, Melendy, Merrill, Michael, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Powers, Rand, Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth.

NAY - Barth, Butland, Carleton, Carroll, D.; Chonko, Farnum, Foss, Garland, Hepburn, Hichborn, Kutasi, Lebowitz, Libby, MacBride, Macomber, Marsano, Mayo, Michaud, Ott, Parent, Pendexter, Pines, Pouliot, Reed, G.; Rydell, Stevenson, Tupper, Whitcomb.

ABSENT - Bowers, Duplessis, Hanley, Hastings, The Speaker.

Yes, 118; No, 28; Absent, 5; Paired, 0; Excused, 0.

118 having voted in the affirmative and 28 in the negative with 5 being absent, the motion did prevail.

On motion of Representative Gwadosky of Fairfield, tabled pending adoption of Committee Amendment "A" (H-1192) as amended by House Amendments "L" (H-1216), "N" (H-1219), "Q" (H-1222), "T" (H-1228), "U" (H-1230) & "FF" (H-1252) thereto and later today assigned.

The Chair laid before the House the following matter: An Act to Legalize Marijuana for Medicinal Purposes (H.P. 1729) (L.D. 2420) (H. "A" H-1312 to C. "A" H-1281) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I move that we indefinitely postpone this bill and all its accompanying papers.

I know there has been a lot of work put into this bill but I have very strong feelings about the State of Maine going on record legalizing the use of marijuana. The state, as we know from our budget process, now spends over \$15 million in combating substance abuse problems. Our municipalities have extended many resources for the DARE program in our schools to teach our children to avoid the use of drugs like marijuana. I oppose having a legislature condone the use of that drug which we know is an entry level drug for our children and leaves a long-term drug abuse problem. I understand that this is limited to medicinal purposes; however, I think the headlines will read that the legislature approves the use of marijuana and I don't think that is a message that we can send our children.

I do understand, however, that there are legitimate medical needs in this area and that there have been legislators who are concerned about that but I do believe that the federal government through the Federal Drug Administration should handle that issue. I believe that the lobbying effort should be made for that in Washington. I believe very strongly

that we should not be putting our stamp of approval on the use of marijuana in any way.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: I happen to know someone who is very close to one of these situations. I happen to know that it wasn't an easy thing for that individual to be involved with this bill and testify on this bill. I want to assure each and every one of you, that anybody in the State of Maine who might be checking us out on this one, that there are plenty of provisions in this bill for medicinal purposes, for regulated use of the substance for very definite medical reasons. Therefore, I strongly urge you to defeat this motion.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: For twelve years I have spent in Room 436 trying to deal with the social service programs of this state. For twelve years I have looked at the problems that we have for the mentally ill, mentally retarded and many others. I have heard in my twelve years many stories in front of my committee in Room 436 but none were probably as hard to go against this piece of legislation as this one here was. I know that people in this House might have grave misgivings on this piece of legislation but the testimony that the committee and I heard made the Committee on Human Resources decide that we need to deal with this grave problem.

Let me outline what happened. Back in 1978, this legislature decided to allow marijuana for medicinal purposes and they put a five year sunset on it. In 1983, the legislature put another five year sunset on it. In the meantime, the federal government moved that marijuana should go from a Schedule 2 drug to a Schedule 1 drug. What does that mean? Well, under the old legislation, a doctor had the right to prescribe the Schedule 2 drug, which happens to be right now cocaine. Since then, they have scheduled that to a Schedule 1 drug which does not allow any doctor in this state to prescribe marijuana. The committee, realizing that the previous piece of legislation would not be as effective, sat there and debated on what we should do for those individuals. If you read the legislation, you will see that it is narrow, very narrow. It allows for those individuals who are currently going through chemotherapy and radiation therapy an affirmative defense in court. It also allows those individuals who currently have glaucoma a one year sunset so that the committee can reexamine the glaucoma in a one year period.

The information that our committee got was unbelievable. We had testimony of an individual whose daughter with her first pregnancy was diagnosed with cancer. The young lady, when they operated on her while she was pregnant, had a 25 pound tumor removed. Right after the baby was delivered, the young lady started chemotherapy and the only thing that that young lady felt that kept her alive, quite frankly, was the ability to use marijuana simply because she could not, because of all the drugs that the doctors were prescribing, keep anything down. She decided, along with her family, to go out and illegally buy marijuana. It was a very tough, hard decision for that family to make. She asked her doctor whether or not he would agree with this. The

doctor knowing that marijuana was a Schedule 1 drug said it was up to her. Somebody went out, at this stage of the game we really don't know who went out, and purchased the marijuana.

As I said before, I have been in that committee for 12 years and I have had some wet eyes but boy that day, there wasn't a dry eye in the house. There in front of us was this beautiful young woman and in front of her was this beautiful young boy and I honestly believe if that young lady had not had the opportunity to get that marijuana that some of us might have been going to her funeral about two years ago. I have gone to a few funerals in my day here and it is not nice. We are all family, whether we are Democrats or Republicans. I have gone to as many Republican funerals as I have gone to Democrat funerals but I honestly believe that that young lady probably would have died simply because she could not get the nourishment that she needed and the marijuana allowed her to do it.

We had testimony from an oncologist here in Augusta indicating that he believes that on some occasions marijuana does help during the process when somebody is taking chemotherapy or radiation therapy. He believes that it would help some individuals but he also says that he cannot prescribe it.

The committee decided to put the previous statute back on the books. The committee also decided to make an affirmative defense for that specific individual who is currently being diagnosed as having to go through chemotherapy and radiation therapy or an individual with glaucoma. I am not a lawyer, and I know some of the lawyers have had some problems with this, but I think we have tightened this as tight as we can possibly go. But from what I understand, if an individual is arrested, the individual is booked, the individual would have to have his or her day in court. The defense attorney will have to show that it is an affirmative defense, that the individual had the marijuana only for the reason that they were going through chemotherapy and radiation therapy (or for one year, glaucoma). As I said, the committee felt comfortable going with the one year sunset regarding glaucoma.

I would be willing to bet there isn't a single person in this State House, never mind this House right now, who hasn't had a close friend or a close relative who has struggled through chemotherapy and radiation therapy. We are locked between the federal law and what we might be able to do for those individuals who might be able to use this substance, to be able to get a cup of soup down, to be able to talk to their loved ones, to be able to, hopefully, fulfill a long and existing life like the individual we saw in front of our room.

As I stated before, I have spent 12 years of my life and everyone knows who has been here that I have fought the smoking companies of this world, I have tried to help the mentally ill, I have tried to help the mentally retarded, I have tried to deal with the ills of the world in the Department of Human Services and I know that this is probably one of the toughest things that we have to do. If we can help somebody survive, and from what we understand and I am looking over at my good friend from Lewiston, Representative Aliberti, when he talked about the horrors that his loved one went through when he first got elected if I remember right — the horrors that people go through when they have chemotherapy and radiation therapy.

That is what we are trying to do. Hopefully, this might alert the federal government to take another close look because we have seen the results of it, we have had testimony by doctors saying that in some cases it helps. In some cases where the individual is poor and, as we all know when we are sick and we don't have any money, it is tough getting the medication that the doctor really wants. We actually heard that in some cases, you need to take as many as five or six pills. We asked the question to the oncologist how much these pills cost and he indicated it was \$5 to \$6 a piece. So, if you are taking six pills, that is \$36 a day. In some cases, the pills don't work. We all know what is going to happen, the headlines will say that this place is going to open up the doors to those people who want to grow marijuana. This piece of legislation does not do that. If you would examine it, it basically talks about the individual themselves, it does not give an affirmative defense as the original bill did to the person who wants to grow it. It does not give an affirmative defense to the individual who goes out and buys it for the sick person, it only gives an affirmative defense to the actual person who is suffering from taking chemotherapy and radiation therapy.

I hope that you take a hard look at this. As I said before, what one of us hasn't gone through seeing a loved one go through the pains of hell because of chemotherapy and radiation therapy.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not pass this bill today for I feel that it is definitely sending the wrong message to the people of the State of Maine. With the drug problems, the serious drug problems that we have in this state, I think that would be most unfortunate. I know that this bill is well-intentioned and is meant to help those suffering with cancer and glaucoma. Believe me, I am most sympathetic with them.

I was on the Human Resources Committee in 1978 when we had this bill. It was my first term and that was one of the hardest votes that I have ever had to make. It was hard for me because I was strongly against drug use or promoting drug use and yet I was very personally aware of the agonies of people suffering with cancer because I had a husband who was doing just that. I thought long and hard about that bill and I finally voted for that bill for it was a much stronger bill than this one. The patient had to have a doctor's prescription and the marijuana had to be obtained from a special federal agency so there were strong safeguards.

As I understand this bill, only the patient can use the marijuana and have the affirmative defense but he or she can grow the marijuana plant. Who is going to safeguard that marijuana plant? Who is going to look after that plant and see that no one prunes it or snips a leaf from it? What is to prevent youngsters or adults or anyone else from taking a few leaves from that plant to use for themselves or to sell? There is no way of putting a growing marijuana plant under lock and key to everyone else.

The bill would help some very ill people, I know that. I would like very much to help those ill people but it would compound our drug problem, I

believe. I think every effort should be directed toward petitioning the federal government so that the marijuana drug can be obtained through a pharmacy with a doctor's prescription or some such method to help those who are ill. I feel that this bill certainly is not the answer.

We have spent hours in this House talking about drug control this year and the best way to eliminate drug usage. On the other hand, we all know there has been considerable publicity in the papers about a few people who want to legalize marijuana. As well-intentioned as this bill is, I think it is wrong to send the message that the legislature has legalized marijuana. Unfortunately, that is what the people would believe, ignoring the part that says for medicinal purposes only. We are talking about a message that is being sent to our kids and our grandkids and I do hope that you will vote to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Hichens.

Representative HICHENS: Mr. Speaker, Members of the House: I have the deepest compassion for people who have taken chemotherapy and radiation therapy but I know a great many people who have gone through these treatments and have never had to use or wanted to use marijuana as a treatment.

I, too, was on the committee in 1978, the Health and Institutional Services Committee, when this first bill was passed. I, too, had reservations but I was also touched by the testimony that was given and I voted in favor of it. It was sunsetted as has already been stated by the good gentleman from Portland. In 1983, it was reinstated and again sunsetted but in those cases, there was no mention of a person being able to grow marijuana as there is in this bill, L.D. 240. "A person may grow or possess marijuana" according to the bill. Possession doesn't bother me but growing does.

As stated by the good Representative MacBride, how acceptable would these plants be to others? What would be the temptation and the pressure that we would put on these people to supply it to someone who wanted it for illegal purposes? I hesitate to make light of a situation as serious as this but probably I am supporting the wrong motion because I am now retiring from the legislature and I have glaucoma in one eye so I could probably do very well in the marijuana business but regardless of that, I would have to support the "Ought Not to Pass" Report or indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I will try not to be emotional. I have accepted that as a responsibility here tonight.

I was relieved a great deal at the consideration of Representative Peggy Pendleton in making available to all of us a communication that she circulated. I don't know how many of you still have it but this gave me a great deal of courage and it also gave me a great deal of responsibility in addressing this legislation in a responsible way.

I introduced my testimony before the committee in this manner and you are probably wondering why a 75 year old man is asking you to legalize marijuana. A fellow member of this House classified me as a member of the "old and restless." Being in that category, I addressed the committee. I was emotional but let me

call to your attention to this letter that was circulated to all of us. "First, let me commend the sponsor, Representative Powers, Larrivee, Aliberti and Senator Conley and Representative Manning and the members of the Human Resources Committee for their consideration of this very sensitive issue. Because this bill is based on the use of illegal substance and because the population affected by this bill is so profoundly ill, emotional responses are difficult to avoid. The care with which the legislature is exploring all aspects of this bill is consistent with the goals of nursing and your efforts have not gone unnoticed. Nursing is defined as the diagnosis and treatment of human responses to actual and potential health problems. Those responses included impaired functioning, self-care limitations and discomfort. Diagnosis and treatment are based on scientific principles and a knowledge base related to physiological and psychosocial theories.

Our platform supports the accessibility to quality health care and the right of individuals to make informed decisions about their own care but we also support strong methods which control illegal trafficking of drugs and herein lies our concern." I concur with that. "We realize that medicine is not an exact science. Society demands the most perfect of outcomes, free from discomfort and inconvenience. Unfortunately, this is not always the case. The human body does not respond in an orderly, predictable manner. Therapeutic modalities carry risk and adverse effects. There are documented cases of marijuana effectiveness in controlling symptoms refracting to more traditional therapies. There has been insufficient research into the efficiency of marijuana for therapeutic purposes."

So you see this gave me comfort in seeking relief for some of the situations that I have been exposed to. I was deprived of one of my great moments of glory because it came at a time when my loved one was under this treatment. The evening before I was to be sworn in here with my family present, she absolutely could not make herself come to this moment of glory for me. She couldn't do it only because she was under treatment and was scheduled for another treatment in two or three days. That's my point. I can't express to you the suffering, I saw it, but I had no way of knowing how intense it was and this was for three years.

Now, what am I trying to say to you? I am trying to say to you, members of this House, that there is no way that I can justify and say that marijuana would have aided her under these conditions but I am also saying, maybe it would have, and I would have sought any means or method to see that the condition could be treated. Morphine, no problem; no problem, codeine — talk about the use of a drug, an addictive drug. The one thing that I think is indicated here that possibly could have helped her was not made available to her.

I would like to read the conclusion part of this. "However, if this drug is not tightly controlled, there will be the potential for easier access and increase in casual use which could further add to the chemical dependency problem we already face in our society." Nobody can doubt that. "In light of the concerns I have presented, the nursing community wishes to take a neutral position on this piece of legislation with the advice that more thorough research must be done before it is passed. We want to ensure that all treatment options are

available to the public but we also want to prevent further problems to society." That is a great piece of communication. It is valid, objective and it comes from a very professional organization. I wish to just bring that for your perusal in making your decision tonight. You can't make it on an emotional basis but I want you to make it on a real thoughtful analysis of what is presented to you tonight.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I won't make the same promise that Representative Aliberti made about not getting emotional because I may and I will make no apology for that.

The first thing I will say to you tonight is that I have tremendous admiration for the political courage of Representative Powers in pushing to get this bill heard before this House because this is a very difficult position to be taking for anyone who intends to stand for election and for that my hat is off to you Representative Powers.

The next message I would like to send is to the Chair of the Human Resources Committee and that is to thank him for protecting my identity. I will be glad to tell you ladies and gentlemen that that was my daughter he was talking about for the very few of you who might not know it by this time.

I think it is important here for us today to clarify which message we are sending. The message that we are sending is not that we want people to use drugs. The message that we are sending when we pass this piece of humanitarian legislation is that we care about people who are sick, about people who are desperately ill as my daughter was, or the loved ones of many of you who have seen the effects of this disease and its treatment.

I thank God today that my daughter is healthy and she has (as many of you have heard me say) the cutest, best baby ever born, my darling two year old grandson. But, the time that we spent during her treatment, watching her suffer, trying day after day to get her to keep any amount of fluid or liquid down so that she would have strength enough to go back into the hospital again and put up with that treatment one more time until that dreaded disease was gone were dark, black, terrible days. The small amount of help that she was able to get, just enough so that she could keep fluids down to keep her system, we were very grateful for.

I would ask you tonight to vote against this indefinite postponement and to think about the people out there who are in the situation that we were in. We don't want to be lawbreakers. There are way too many things to lose. There are people in my family, a machinist at Bath Iron Works, if he had been caught purchasing marijuana, his insurance would have been gone and hers as well, just like that. My son works in a research center, he is working on a research project to find genetic markers for Down's Syndrome, a project he cares very much about. If he had gone out and bought that and had a record, perhaps the future of that entire project would have been jeopardized.

In my particular job, it doesn't lend itself very well to headlines of that sort. So, we had a terrible decision to make in our family. It would have been easier had a legislature prior to this one set into force the affirmative defense so that we would know if we had stumbled in our purchase that we

would have at least been able to go to the court and say, "Your Honor, it was for Susan." Tonight I stand before you for Susan and ask you to vote against the indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Pfeiffer.

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: When my children were little, they suffered greatly from croup which is a very severe upper respiratory problem. Our pediatrician prescribed a lovely red cough syrup called Cheracol, this was a very effective medication and, as a matter of fact, I think we went through quarts of it every winter. The active ingredient in Cheracol was opium. None of my children became a drug addict, none of them became an opium fiend. I see no reason why the much milder substance which has been used for centuries in many parts of the world should pose any more of a problem when used medically than opium did for my children. I urge you to defeat the present motion.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I also rise to urge you to vote against the indefinite postponement of this bill. I would also repeat that I admire the sponsors, not only for their political courage, but for their kindness to those not as fortunate as those of us who have our health.

I just want to make one very brief point about the part of the bill that allows these folks to grow their own. If they are not allowed to grow their own, they are going to be forced to go where it is sold. Most of the places where it is sold are not very nice places and they are not sold by very nice people. They put themselves at risk having to go to those places. They put themselves at risk being involved, possibly being arrested. There are other drugs probably being sold there. You never know what you are buying from them, is it pure marijuana, has it been laced with something? There is a lot of ifs in going out and purchasing an illegal substance from a criminal. If they are allowed to grow it in the privacy of their own home, the backyard or whatever, then at least they know they have a pure product and are not putting themselves in danger by going to some of these places and dealing with some of these unscrupulous people.

Please vote against the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I will try not to be emotional. I know just what the good Representative from Lewiston is saying and what the gentlelady from Gorham said. Less than three years ago, I went through the same thing. It is a difficult thing to see someone who is a little boy, be he 28 years old, suffering and begging to leave and not a thing you could do about it. Many people said, "John, you've aged quite a bit." I think I have aged a lot, ten years in three. There are some things that never leave you — you sit there and think, what can you do? I had the boy say, "Dad, do something!" There was not a thing I could do, they would not give him any marijuana.

I am not for any drugs or having this on the

streets, but if you could do something as the gentlelady from Gorham said, you have to go through it. Maybe I am very jolly, a laughing guy all the time — I will be honest with you, it is a good front. I have to do it because this comes back to me practically every night. You see, part of you leaves when something leaves — a big part of me left. God knows, I wish there could have been something that I could have done every time I went down to Washington to see that little boy, 28 years old, just wasting away. The suffering was unbelievable. More than once I said to God, why don't you give me some of that suffering? But that was not to be. I hate to say this, that when I heard by telephone that he was gone, I said, "Thank you Lord, his suffering is over with." It is also the ones that have to be around to see it. I am not for any kind of drugs — it happened once before but was not quite as close. I had a 49 year old kid sister. They could not give her anything, she died at 49. I tried to put across to you people that you must experience it as close as I did.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, sympathize with the very few people that have chemotherapy and the conventional treatment doesn't control the nausea they suffer. I, too, feel that there should be a mechanism in place so that they can obtain marijuana for that use. This bill, I feel, goes far beyond and opens the door to legalizing marijuana in this state and to bringing in the unwanted criminal element into this state and allowing or offering people money to grow marijuana. I will tell you why. As a medicine, marijuana may be effective in a very few cases. As far as glaucoma is concerned, I think if you talk to any of your eye doctors, you will find that we have much more effective medication for lowering the pressure in the eye and glaucoma is in here, I feel, to broaden and legalize marijuana.

I want to just fill you in on a few facts about marijuana that hasn't been mentioned here today. One single marijuana plant grown in this state will more than pay your yearly salary here in the legislature, one plant. One plant will produce between two and four pounds, can be raised inside under artificial light in 120 days and sells in New York and Massachusetts for \$3,000 a pound, that is sinsemilla marijuana.

I have talked to two legislators here today that have the early stages of glaucoma, you tell me that that isn't going to be used by the criminal element to raise the marijuana that is so desperately sought after from this state. The State of Maine produces the most potent form of sinsemilla marijuana in the country, that is the reason that it sells for \$3,000 a pound.

If you open that door, we are going to be justifying or given the defense for all of those people that have early stages of glaucoma.

I can't imagine that a person taking chemotherapy would ever be in a position of growing it for a criminal element, but I can see glaucoma patients could.

I know that there are doctors that would issue a statement saying that a person had glaucoma just the same way there are doctors that would give you a prescription for Valium or give you a prescription

for amphetamines or give you a prescription for barbiturates.

I worked for nine years in the Drug Enforcement Administration and we had agents that would go to doctors just to get these illegal prescriptions. Believe it or not, a good friend of mine who was a medical examiner in one of the counties that I worked in was one of the agents that went in there and come out in seven or eight minutes with a prescription for Valium. So, there are doctors out there that don't care.

When you look at the monetary side of marijuana and you look at the effects it has, this isn't a medicine, this is an intoxicating drug. You put that in the hands of people driving vehicles with a possible defense — I think when we open the door for this to be grown, we are opening the door to a lot of unwanted criminal elements. For that reason, I would recommend that you support the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the Representative from Alfred, Representative Gean.

Representative GEAN: Mr. Speaker, Men and Women of the House: Briefly, I would like to point out that this bill, having heard it, having sat through the testimony, having some information about what it is we were doing there, I want you to know this is not a bad bill. This is not something to be afraid of.

The problem here, I think, if we were to call this anything but marijuana, we would not be here, we would have voted and been on with it. You say the word "marijuana" here or in most arenas and everybody gets a real serious look on their face wondering what is this evil that is about to come upon us? You say "Budweiser" or "Bloody Mary," however, and the whole place tends to get kind of a wistful look on their face.

I don't mean to make light of it but this is the point — the good Representative Bailey has pointed out from the law enforcement aspect a problem, a problem that we are all aware of and sympathetic to. I do not believe that this law will encourage all of those bad elements invading the State of Maine. They are probably already here, we simply haven't caught up with them yet.

I can tell you, having run a program that dealt with some of the things that we seem to be fearing here, I was a director for some six years of the Methadone Maintenance and Treatment Program in Iowa. This was a program that dealt exclusively with heroin addicts, opiate addicts. We had some 38 of them in the program who were not addicted to anything except street heroin. During this period of time that I was there, everybody was trying to lead everybody else to believe that it was this drug, marijuana, that led inevitably to heroin addiction. We scoured the files of these 38 people on the methadone program at that time trying to identify the drug that they admitted first abusing. You will be interested in knowing that in this not very scientific but absolutely intimate sampling that we did, we found that 70 percent of the people admitted that their first drug of abuse was ethyl alcohol, Budweiser, Bloody Mary's, Tom Collins, cheap wine. The other 30 percent reported prescription drugs, Valium, lithium, Demerol, morphine, drugs that they had gotten legally.

So, don't get sucked into this fear, I know it is real and I do not mean to belittle it. I understand the emotional impact of it but that is what it is and

you need to leave it at that point. This bill is doing nothing but trying to reasonably and humanely comfort a bunch of people who are real, real sick. It is in our power to grant them this little bit of relief.

The other thing I would like to say is that this has been a traumatic experience for everybody involved in this in one way or another but it has been kind of an enlightening period for me in being able to identify one thing, that all of your life, you grow up and collect heroes and heroines along the way and you see people that do extraordinary things that make you think that all things are possible and good is really there. During the hearing with this committee, the mother of that child, the grandmother of that child, just fit right nicely into that too long empty niche as far as I am concerned.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: If you don't think this is going to bring in the criminal element, believe me, when I was working in smuggling activity along the Maine coast, I saw a good many of our local fishermen that were hurting financially succumb to the profits of the greedy and the drug dealers from out of state. A good many of those fishermen were arrested and went down because of marijuana. Marijuana is a big business, not only in this state, but all over the country. If you don't think that by allowing people to grow it here isn't going to invite that element in, you've got another thought coming because it sure is going to.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I don't believe this bill is going to bring in any more criminal element than we already have. From what I hear from different reports and you see signs up in your town office that marijuana is and has been for quite some time our number one cash crop in the State of Maine. Whether we want that to be or don't want that to be, that is a fact. I don't feel that this is going to bring any more criminal element into this state. I doubt very much if a person that is suffering from cancer and going through chemotherapy is thinking about making a profit. The number one thing on their mind is trying to stay alive. We make drugs illegal that hurt people and hurt society but when a drug helps people and helps society, we should use it. If a person is suffering these kinds of diseases, I think it is the least we can do for them.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, I would like to pose a question through the Chair.

As a preface, I would like to say that my father died of cancer in 1986. Part of the treatment at the latter end of that was a prescription for a really potent kind of Tylenol with a cocaine based drug attached to it.

I would like to pose a question to Representative Bailey if he thinks we should make that drug illegal because cocaine use is illegal?

The SPEAKER: Representative Graham of Houlton has posed a question through the Chair to Representative Bailey of Township 27 who may respond if he so desires.

The Chair recognizes that Representative.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I didn't get the full question but as far as making cocaine legal in this state or the cash crop legal in this state, I don't feel that we ought to allow people in this state to grow opium poppies so that they can raise their own morphine. It is the same scenario. I think if you are going to legalize this to be used as a drug, then you are going to have to put more controls in there so that this isn't going to be abused the way it is right now and the way this present law will continue to allow it to be.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I want to indicate that the original bill was fairly broad. I also want to indicate this was a unanimous committee report. I've got to say, for this committee this year to come up with a unanimous committee report, took a lot of hard, hard work. I praise members of my committee who stuck by this and agreed to come down with the small amendment that we have in front of us.

We worked with Representative Bailey, we asked him if he could come up with anything that could narrow this because, quite frankly, there isn't any one of us here who wants to see the marijuana crop of this state continue to grow. That is one of the reasons why on the glaucoma we decided to have a one year sunset to see if it really was going to cause what Representative Bailey had indicated because this legislature next year could be debating whether or not to lift the sunset or to take it off the books completely.

I want to emphasize though that every individual who is caught with this marijuana will have to go through the full force of the law. They (1) will be arrested; (2) will be booked. They will probably have an indictment, and they will have to go in court. In court, they will have to prove with this bill an affirmative defense that shows that before they get caught with the marijuana, they had been diagnosed in need to use chemotherapy or radiation therapy. They will have to prove to a judge and jury that this affirmative defense was there because they are truly, truly sick.

I want to make sure that people understand that because this isn't just absolute pardon. Nobody is going to pardon them. The District Attorney is not going to pardon them. The District Attorney is still going to prosecute that individual. The District Attorney will have to take a hard look after that individual indicates to them through their defense attorney that they had been diagnosed and were currently under chemotherapy. It is the individual who is sick, it is not the mother or father, uncle or anybody else, it is the individual who is sick who has the affirmative defense, nobody else. That individual will still need to go right through the court system as they have in the past. This will only allow them an affirmative defense that basically says because they are sick, they need this.

I want to explain the other thing. We talked in committee about opening this up even further. We talked about those individuals — by the way the good Representative from Gorham was not the only one who testified — we had perhaps as many as 20 people who testified. Some indicated that they had multiple

sclerosis and were using it and it helped them. Others had AIDS and were using it and it was helping them. The committee decided to narrow those down to just two things, (1) chemotherapy and radiation therapy victims and (2) glaucoma. As you can see on the amendment right now that glaucoma has a sunset for one year. We put the sunset on last night after talking to Representative Bailey who has indicated his thoughts. I concur with a lot of the things he said last night when we talked. Most of us agreed to put a one year sunset on the glaucoma because if his fears are there, then we will then have to deal with it to continue the glaucoma. But, if his fears are not, then we will have to deal with it again next year. This bill will have to be debated if somebody decides to put glaucoma in.

I just want to make sure you understand that this individual who is sick will have to go to court, will have to stand trial, and the defense attorney will have to state to the judge and jury the statute that says it is an affirmative defense if you as an individual was suffering from chemotherapy or radiation therapy. We are not widening this, it is not like the original bill, it is not like the original amendment, it is very narrow. We did that because we knew there were some concerns that people had on the floor of the House when we talked about this.

What the good gentleman from Alfred said about marijuana certainly is true. You can talk about anything in this we have discussed this year but if you talk about marijuana, believe me, it gets the attention of everybody. Most people knew this bill was coming through and we had those concerns so we narrowed it. We narrowed it to just those individuals. Again, repeating, those individuals will need to go to court because no District Attorney is going to pardon them with this, they will take them to court.

One more thing, this again was a unanimous committee report.

The SPEAKER: The Chair recognizes the Representative from West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: Ordinarily I don't speak on Human Resources issues because I really don't have the knowledge. That doesn't mean I am not compassionate but that is not my expertise.

I sat here tonight and I have seen tears shed in this House, tried to relate to the feelings of some of these people and I almost walked out and didn't say anything but I don't want you to come to look at this as a cop's issue or look at this as a partisan issue because I am not speaking from that at all.

Representative Bailey has spoken about his years in his other life when he enforced the drug laws of the State of Maine and I am here to tell you on the Record that there was no one any better than he was. I worked at it at a lower level than he did. I have talked with him about this legislation as it has gone along. Quite frankly, this legislation hasn't ended up where I thought it would. I agree with him when he says that it opens the door to a criminal element coming into this state that this state has no means to combat. He talked about a small rural town on the coast where there was a lot of marijuana that got into the trade there and a lot of enticement. I was there when finally this business was brought to a halt. All those people went through court and, when

those people left that small town to go to federal prison, they brought a bus to put them into. I saw it with my own eyes and that is how far this illicit activity can go.

I will be voting against this bill. I do it with mixed emotions. I would like to see more controls, I think that the controls are there. I know with more controls, I could be voting for it but, if I weigh the good of a few people or a lot of people who may use this for medicinal purposes against the greater public need of what it could do to this state and the problem that it could create, I just can't vote for it.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative SKOGLUND: Mr. Speaker, Ladies and Gentlemen of the House: The problem we are facing seems to be how to do good for people who really need help without allowing an unscrupulous group to take advantage of the good we are trying to do.

Many years ago, this question came up in a philosophical discussion, the teacher was instructing a group upon the necessity and desirability of doing good for others. One of the legalists raised the question, if we try to do good to all, how can we be sure that the wicked won't prosper from what we try to do? The teacher pointed out to them that the sun rises upon the good and upon the evil and the rain has to fall alike upon the just and the unjust. I think the lesson for us is that we can't guarantee that the evil will not prosper from the good that we try to do. But, we should not let that deter us from doing good nevertheless. There will always be unscrupulous and crafty people who will prosper in spite of us.

I think another point that could be learned from this is that even the creator Himself couldn't work out a plan that didn't have administrative problems but that didn't deter Him from going on with His plan.

Our present law is an administrative nightmare. Presently, we deny relief to the suffering and we make criminals of those who try to relieve their suffering by trying to provide a drug for them. What could be worse than the situation that we have now? I am sure we all know what the compassionate thing to do is and I think we should vote not to indefinitely postpone this bill and all its papers.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I have heard my name mentioned a couple of times so I thought I better get up and speak.

I am very sympathetic to the people who have spoken about loved ones and I hope I am understanding. We have been talking about the criminal element. I want to talk about another element. I had the experience of more than ten years of working in a drug program for kids and adults through treatment, aftercare, tracking drugs that they were using. I can tell you some stories about emotions but I don't want to remember them. I try to put them out of my mind. I am talking about kids in the elementary grades, down to second and third grade. I am not going to try to persuade your vote but I want to say, if a grandmother can grow a plant, if a mother can grow a plant, an aunt or an uncle, ladies and gentlemen, you are providing another source. Those kids are smart, they are conniving,

they are innovative and they will get it and they will use it. The proper way to do this is to put it through our pharmacy triggered by a doctor's prescription. I am basing that on more than ten years.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Men and Women of the House: As the previous speaker has mentioned, that is the proper way to do it. Marijuana has been classified as a Class I narcotic and doctors cannot write prescriptions now. This is a federal problem, it isn't a state problem. I think that is where it should be addressed.

I am under the impression that the purchase of marijuana seeds is an illegal purchase. I am not satisfied with the controls in this bill. Since I have been in this legislature, I have had correspondence from people who are promoting any form of legislation that they can to encourage the use of marijuana. In fact, each of us one year were sent a so-called joint in an envelope. That envelope had an address of one of my constituents, a legal address and the use of a name that was not given with his permission. I checked it out, I took it home, took it to his home and checked it. These are some of the tricks that have been played on this legislature.

As far as the use of Budweiser and that nice look that comes on your face, that is not anything that we should be proud of. I have no idea why we want to add another evil to the list of the addictive drugs that we have a big problem dealing with now and can't afford.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than 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 and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Foss of Yarmouth that this bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 418

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Butland, Carleton, Carroll, D.; Carroll, J.; Chonko, Clark, H.; Donnelly, Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Hanley, Heino, Hichens, Hussey, Kutasi, Lawrence, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Marsh, Mayo, McHenry, Merrill, Michaud, Murphy, Nash, Norton, O'Gara, Paradis, P.; Paul, Pines, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Strout, Tammaro, Tupper, Vigue, Waterman, Whitcomb.

NAY - Adams, Aliberti, Anthony, Bell, Cahill, M.; Cashman, Cathcart, Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hepburn, Hichborn, Hogle, Holt, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lipman, Luther,

Mahany, Manning, Marsano, Martin, H.; McKeen, Melendy, Michael, Mitchell, E.; Mitchell, J.; Nadeau, Nutting, O'Dea, Oliver, Ott, Paradis, J.; Pendexter, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Powers, Rand, Richardson, Rotondi, Ruhlman, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Swazey, Tardy, Townsend, Tracy, Treat, Wentworth, The Speaker.

ABSENT - Bowers, Hastings, Morrison, Parent.
Yes, 62; No, 85; Absent, 4; Paired, 0;
Excused, 0.

62 having voted in the affirmative and 85 in the negative with 4 absent, the motion did not prevail.

Subsequently, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

The following item appearing on Supplement No. 17 was taken up out of order by unanimous consent:

SENATE PAPER

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "B" (S-745) on Bill "An Act Concerning the Regulation of Electronic Video Credit Machines by the State Police" (S.P. 423) (L.D. 1135)

Signed:

Senators: BRANNIGAN of Cumberland
PEARSON of Penobscot

Representatives: HICHBORN of Howland
PARADIS of Frenchville
CARROLL of Gray
RYDELL of Brunswick
POULIOT of Lewiston
MICHAUD of East Millinocket

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: FOSTER of Hancock

Representatives: FOSS of Yarmouth
MacBRIDE of Presque Isle
REED of Falmouth
CHONKO of Topsham

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the

Bill failing of passage to be engrossed as amended by Committee Amendment "B" (S-745) as amended by Senate Amendment "A" (S-746) thereto.

Reports were read.

Representative Michaud of East Millinocket moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I request a roll call and hope you will not accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope we will not vote for video gambling tonight. Video gambling clearly will bring significant dollars into the state's General Fund, there is no question about that, but it will also bring a very big price for Mainer's to have to pay in return.

A recent daily newspaper ran an article and it says, "Reject the Siren Song of Video Gambling." It would have to cruelly exploit Mainer's to deliver on its promise to raise millions of dollars for the state. Under the way the much touted gambling bill would be set up, Mainer's would have to pump an estimated \$300 million a year into the machines to generate a \$22 million take for the state. That is \$300 million, close to a million dollars a day, and it is supposed to come from people in a largely rural state where thousands of men and women who want work can't find any and those who have jobs earn among the lowest incomes in the nation.

In 1986, the State of Montana voted in video gambling. The person who was responsible for implementing video gambling in that state has said, "We thought we could control video gambling in Montana. We envisioned a relatively harmless cash cow that could painlessly bail us out of a difficult fiscal situation. We found instead that an industry which pulls a quarter of a billion dollars of cash through it annually cannot be effectively enforced no matter how good intentions may be."

Their experience in Montana was that the machine owners were always a jump ahead of the illegal machines and the judges were reluctant to impose meaningful penalties. Video gambling jumped in Montana by leaps and bounds but the towns and cities changed with video gambling. The family restaurants turned into casinos, the drug market increased, crime was running rampant. Money that was put into the gambling machines was not available for business investment.

Some of the figures that were used in Montana have been proportioned to what would be spent in Maine. It is said that we could expect to lose probably \$30 million annually from the sales tax and additional lottery revenues as well. In addition, small businessmen, already hard pressed to find dependable long term credit, will find much of the small business credit tied up with gambling machines.

I think we are all very proud of our State of Maine. I am sure that you find as I do when I go anywhere and I say I am from Maine, people's faces light up. You never hear anyone say they don't like