

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME IV**

**FIRST REGULAR SESSION**

**Senate**

May 2, 1995 to June 16, 1995

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Pending - **ACCEPTANCE** of Either Report

(In House, May 25, 1995, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, earlier in the day, Reports **READ**.)

Senator **PENDEXTER** of Cumberland moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President. I will just speak briefly to this bill. We had tremendous testimony from people who have found the use of marijuana to be beneficial for difficulties that they are experiencing, either through chemotherapy, through having glaucoma, or HIV. I think everybody on the Committee was convinced that there was some useful medicinal purpose to marijuana. We were impressed with all of the testimony. We spent many hours discussing it. The problem was that, because of federal laws, we could not allow a doctor to prescribe this drug, which would be the most sensible way to allow its use and still comply with the law. This bill simply allows an affirmative defense if someone is caught using marijuana for medicinal purposes, they are allowed to use, in a court of law, the defense that it is an appropriate treatment for their disease. I think, because of that, you should vote against the pending motion and allow this particular action to take place. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Pendexter.

Senator **PENDEXTER:** Thank you Mr. President, Men and Women of the Senate. There's no doubt, after having sat through this public hearing, probably for the fifth time since I've been here, that there are some medicinal effects with smoking marijuana, particularly in the area of controlling nausea and vomiting. So, patients who are going through chemotherapy, and also AIDS patients, tend to be the constituents who would be better served if they could legally smoke marijuana. The problem is that marijuana is a Schedule 1 drug. We have no control over that. The DEA dictates that that's what it is going to be, and that is what it is. A Schedule 1 drug is illegal. So, although we can argue all day that perhaps there might be some people who would medicinally be served with this drug, the point of the matter is it can't happen because it is illegal. Even if this bill was to pass, the affirmative defense still would not cover federal law. Under federal law you would still be illegal, for possessing or whatever. The other thing that happens is we create an affirmative defense scenario, it's still illegal to grow, it's still illegal to sell, it's still illegal to traffic, and so I don't know where these patients are supposed to get this marijuana. It's just not going to happen. So, I would ask you to vote against this bill, basically

Under suspension of the Rules, all matters thus acted upon were ordered sent forthwith.

Senator **LAWRENCE** of York was granted unanimous consent to address the Senate off the Record.

Senator **AMERO** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator **LAWRENCE** of York, **RECESSED** until 11:30 o'clock in the morning.

After Recess

Senate called to order by the President.

#### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Legalize the Use of Marijuana for Medical Purposes"

H.P. 678 L.D. 929

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-268)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook

because there is no way we can affect anything guiding marijuana until the feds decide to remove it from the Schedule 1. Thank you.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you Mr. President, Men and Women of the Senate. I hope that you will reject the motion on the floor so we can go on to pass the Majority Ought to Pass Report on this L.D. While it is true that some changes are really necessary on the federal level, when it comes to marijuana, marijuana research, and these sorts of things, it is not quite accurate that we cannot, at the State level, do anything with marijuana. Certainly, in Maine we have passed a law that says that possession of less than one and a half ounces is still a civil offense, but it is not a criminal offense. This very legislation passed both the House and the Senate in the 116th Legislature. It does not make marijuana legal. This continues to have marijuana as an illegal substance. The only thing this Bill would do, as amended, would give the person who is smoking marijuana for relief of horrible nausea and vomiting, or for relief that can be obtained for glaucoma patients, give them an affirmative defense, which means that the judge would look at the situation and realize, with the medical documentation that would be necessary, would realize that this person had a medical reason for using this illegal substance, and would take that into consideration when weighing the decision. I would hope that you would give the motion on the floor a no vote, so that we can go on to pass the Majority Ought to Pass Report. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **PENDEXTER** of Cumberland that the Senate **ACCEPT** the Minority **UGHT NOT TO PASS** Report, in concurrence.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **PENDEXTER** of Cumberland to **ACCEPT** the Minority **UGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Establish the Maine Outdoor Heritage Fund"

I.B. 3 L.D. 717

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-279)** (8 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook

Pending - **ACCEPTANCE** of Either Report

(In House, May 24, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-279)**.)

(In Senate, earlier in the day, Reports **READ**.)

Senator **FERGUSON** of Oxford moved that the Senate **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Stevens.

Senator **STEVENS:** Thank you Mr. President, Men and Women of the Senate. I would be pleased if everyone would go against the motion that has been put on the floor and vote Ought Not to Pass. This is something that came into the Legal Affairs Committee by the signature of 60,000 people. It could go out as a referendum in November and I think that's what should happen to it. The fiscal note on it would be about \$1.2 million to \$1.6 million. One of the things that disturbed me a little on it was that 15% of the money would go to endangered and threatened species. One of the groups who came to testify for the bill was the Maine Wolf Coalition. I think they would like to see the wolf introduced back into the State, and that is something that I would be very definitely against.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **FERGUSON** of Oxford that the Senate **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

22 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.