

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

highway when everything that came out of the pipe was straight out. It never bothered her. She never had an asthma problem. She had severe asthma. The only time she had a real problem with asthma was during the pollen season. When you say asthma, people with asthma, you have to be specific to people with asthma who are bothered by smoke, not just people with asthma. Thank you.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. I had planned to leave this debate to the experts. I appreciate the comments of Representative Bruno, originally. I had been reserving my remarks. I do have a son with asthma. He has had trouble with asthma since he was a baby. I can remember my wife staying in a hospital bed in the oxygen tent with him. I was a little bit long to fit in there with him myself. She got that duty. It concerns me that because we are going to say that smoking didn't affect one person with asthma, but it is not going to affect another. People with asthma, asthma can be triggered by a number of things. It can be pollen. Pollen is a very common one. My son generally seems to be with exercise. He is allergic to red dyes, which is extremely odd. Everything for children has red dye in it. As it relates to smoking, we try to protect the environment he is in. The restaurants have. It is fairly decent to go in a restaurant these days with the reduced smoke over what was there. My father smokes and when he comes over he smokes outside. We don't have to ask anybody to do that when they come. They recognize that there is somebody in the house that could have a problem. We are not going to take a chance with that.

As another Representative stated, we could be considered part of the transient population. We like to travel the summer throughout Maine. It is nice to go into a restaurant. It would be nice if they were all smokefree, not adjacent to a smoking area, count on good ventilation or having the doors and windows open. I hadn't planned on debating this issue, but I appreciate your time. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Madam Speaker, Men and Women of the House. I am a small business owner of an eating and lodging establishment that is smokefree. The previous owners of my business allowed smoking throughout the establishment, both in the eating areas and the lodging rooms. I bought my business at a real estate foreclosure auction from the federal government. Maybe this gives you some indication of how the previous owners were in the business. My business, I have owned for five years now, has grown every year to a point where it is self-sustaining even without a legislative salary. I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative MACDOUGALL: Madam Speaker, Ladies and Gentlemen of the House. I am a recovering smoker and I have not smoked for over 10 years. That was a choice I made. It was a difficult process as any can tell you. I have listened to the debate today and tried to remain open minded through it all. I honestly didn't know how I was going to vote. I would ask that you would support the Indefinite Postponement and its accompanying papers. I do live on a border town with New Hampshire. Part of my district I share with Representative Wright. There are several restaurants there that are literally a stones throw away from New Hampshire. I think it is a matter here, just like I did 10 years ago, determined that I would not smoke. When my wife and I and family go out to eat, we choose those places where we won't be inundated with smoke. We don't

go to the ones that do. I think businesses should be allowed to make that choice based on what the market tells them they can do. My good colleague from Hallowell, has made a business decision to have a nonsmoking establishment and that is working very well for him. The point is, that was his choice. I would just submit to you, ladies and gentlemen, that the New Hampshire border is a very real matter. My previous colleague that I replaced, Representative Farnum, I think, would concur. Thank you for listening.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone the Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 200

YEA - Ahearne, Barth, Belanger DJ, Berry DP, Bigl, Bouffard, Bragdon, Brooks, Bumps, Bunker, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Cross, Davidson, Driscoll, Dunlap, Farnsworth, Fisher, Fisk, Foster, Gamache, Gerry, Gieringer, Goodwin, Hatch, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, Layton, Lemaire, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, McAlevey, Murphy, Nass, O'Brien, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Poulin, Povich, Rines, Savage, Saxl JW, Shannon, Skoglund, Snowe-Mello, Stanley, Stedman, Taylor, Tobin, Treadwell, True, Tuttle, Underwood, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

NAY - Bagley, Baker JL, Belanger IG, Berry RL, Bolduc, Brennan, Bruno, Bull, Cameron, Colwell, Cowger, Desmond, Dexter, Donnelly, Dutremble, Etnier, Frechette, Fuller, Gagne, Gagnon, Gooley, Green, Jabar, Jones KW, Kane, LaVerdiere, Lemont, Mayo, McElroy, McKee, Meres, Mitchell JE, Morgan, Muse, O'Neil, Pieh, Powers, Quint, Richard, Rowe, Sanborn, Saxl MV, Shiah, Sirois, Spear, Stevens, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wright, Madam Speaker.

ABSENT - Baker CL, Bodwell, Buck, Lemke, Nickerson, Plowman, Samson, Tessier.

Yes, 88; No, 55; Absent, 8; Excused, 0.

88 having voted in the affirmative and 55 voted in the negative, with 8 being absent, the Bill and all accompanying papers were indefinitely postponed in non-concurrence and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-219) on Bill "An Act to Establish the Maine Compassionate Use Act" (S.P. 319) (L.D. 1059)

Signed:

Senators: PARADIS of Aroostook

LONGLEY of Waldo

MITCHELL of Penobscot

Representatives: MITCHELL of Portland

BROOKS of Winterport

FULLER of Manchester

KANE of Saco

PIEH of Bremen

QUINT of Portland

LOVETT of Scarborough

JOYNER of Hollis

SNOWE-MELLO of Poland

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

Signed:

Representative: BRAGDON of Bangor

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-219).

Was read.

Representative MITCHELL of Portland moved that the House accept the Majority **"Ought to Pass"** as amended Report.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Bragdon.

Representative BRAGDON: Madam Speaker, Ladies and Gentlemen of the House. I think before we vote on this very important bill, I need to carefully explain why I am on the Minority Report by myself and what exactly the Majority Report does.

The Majority Report sets up a provision in the Maine statute to allow the medicinal use of marijuana as an affirmative defense if somebody is caught while possessing marijuana. Current federal law prohibits doctors and pharmacies from prescribing marijuana, in fact, federal law prohibits doctors from even suggesting to their patients that marijuana may be an appropriate treatment for their condition. The Majority Report allows for the medicinal use of marijuana in the case of glaucoma, HIV or chemotherapy. I believe that is it. However, it does not provide for an affirmative defense for the caregiver of these people. Since most of the people suffering from the aforementioned diseases are very sick, even if they were interested in obtaining marijuana, they can't obtain it on their own. If somebody is getting it for them, then that person is in violation of Maine statute.

The other thing that I would like to mention is that there is a pill substitute for marijuana called Marinol. We heard a lot of debate in the public hearing and work session of the effectiveness of Marinol and whether it was being prescribed or even used in Maine. We heard if somebody is nauseous, it is hard for them to take a pill or it is not as successful as smoking marijuana. The Department of Human Services, Bureau of Medicaid, testified that last year, DHS paid for \$69,000 in Marinol prescriptions. Testifying to the fact that, if indeed, THC, the chemical in marijuana that is effective for a person's condition, then they can and indeed they are obtaining prescriptions for Marinol and are successfully treating their ailment. I would urge you to vote against the pending motion, as I think this is an unnecessary piece of legislation.

We also heard from the Attorney General's Office as he contacted District Attorneys' that in the past three years, only one person has been charged with marijuana that has claimed that they were using it as medicinal purposes. This person changed their plea at arraignment to guilty. I would make the case to you that people are currently not being charged for possession of marijuana if they are using it for medicinal purposes and that passing this law will only attract attention to the State of Maine to the federal government. I don't know how many of you have been following the events in California since they passed legislation allowing for the medicinal use of marijuana. If the federal government is cracking down on the distribution of marijuana in California, I believe if we were to vote for the Majority Report, we would unnecessarily be attracting attention to the State of Maine and for people for legitimately, if that is the case, using marijuana for medicinal purposes. I would ask you to vote against the pending motion. Madam Speaker, I would request a roll call.

Representative BRAGDON of Bangor requested a roll call on the motion to accept the Majority **"Ought to Pass"** as amended Report.

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

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Ladies and Gentlemen of the House. The Maine Legislature has already dealt with this a number of years ago. It decriminalized possession of less than an ounce and a half of marijuana. The courts and the Legislature, in its wisdom, felt that if you had less than an ounce and a half, that is what you would have for personal use. They decriminalized that to an infraction. The penalty for that is the same thing as spitting on a sidewalk or littering. In a sense, we have given a break to people who use marijuana and keep it in small amounts. I have done a lot of research on this. As far as medical use of marijuana there is no American Medical Association that has ever come out in support or endorsed the use of medical marijuana, except in the form of Marinol, which is THC. The American Medical Association is against it. The United States Glaucoma Association is against it. The American Oncologists Association is against it. In fact, they have found that in the fight of a person who is fighting an immune deficiency disease, the use of smoking marijuana actually decreases the amount of T cells that are manufactured. I talked to all of the District Attorneys' from Penobscot County to York and not one of them told me that they would bring a charge or prosecute anybody who was legitimately ill and they had less than an ounce and a half of marijuana on them.

It is a dirty business, trafficking in marijuana. When I started as a law officer, you would stop somebody years ago and they would have a pound of dope in their trunk and that dope was valued at about \$250. They would go, hey man, you got me. Take me to jail. Today you stop that same person with a pound of dope in their trunk, it is worth \$4,000 or \$5,000 and they will kill you for it. I told the people coming out of that committee, in the hallway, I have compassion for people who are seriously ill and have side effects from their illness. The majority of people I spoke to previously smoked marijuana prior to their illness. None of them felt that taking the medical version of THC, Marinol, would help them. They wanted to smoke it. I would urge you to go with the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. I am going to stand in front of you with seven years of education in pharmacy and pharmacology and ask you to vote against this bill. We, here in the Legislature, all of a sudden have become clinical pharmacologists. There has never been one clinical study done, a double blind study where marijuana was compared to other drugs for either relief of chemotherapy side effects, AIDS or glaucoma. How can we, in this body, if none of those studies have ever been done, pass a law on anecdotal evidence? It doesn't make sense to me as a pharmacist. I just will not do it. If you pass this law, what you are going to say is, go out and get some marijuana, it is okay to treat your glaucoma that way, but we have invented all kinds of new drugs in the past 10 years that you might not want to use. Those drugs have much less side effects than marijuana ever thought of having. It doesn't make sense to me as a clinician that I would want to do that. The federal government just said that it is time to do clinical studies on marijuana. Legislatures, like ours, are sitting there going, we really feel bad for all these people. Yes, we do feel bad for them, but we are leading them down the wrong path.

We are saying, you are going to get relief from a drug when we don't know if you are going to get relief from a drug. It doesn't make clinical sense. Fifteen years ago, actually 20 years ago, I worked at New England Medical Center down in Boston. It was one of the most renowned institutions in the world. I worked

on the oncology floor. Yes, we recommended marijuana for people who were having chemotherapy side effects. Fifteen years later, we have invented some new drugs that are so much better that chemotherapy side effects have diminished greatly. Glaucoma, we have drugs that you have to use just once a day now that you don't get side effects with like you used to get when you used to have to use a different drug every three to four hours.

I am asking you as a pharmacologist, who has done research, not on marijuana, but on other things. We do not have the ability in this body to make clinical decisions on a drug that the FDA has no clinical evidence that it works on these diseases. I ask you to vote against the pending motion. Thank you.

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

Representative KANE: Madam Speaker, Ladies and Gentlemen of the House. As you look at the list of voters on the committee before you, it is no accident that the Majority Report has 12 bipartisan members of the committee. It is a 12 to 1 report. This is a committee that was subjected to hours of presentation of research results on the effectiveness of marijuana as well as the other substitute medication. With all due respect to my colleague, Representative Bruno, there is very compelling evidence on research that has been done that demonstrates that in certain selective cases that marijuana represents the only significant relief from the side effects of HIV symptoms.

Maine is a compassionate state. This is a compassionate act. The course that the committee has chosen has to try to facilitate to the extent possible the procurement by family members of necessary doses. The only way we could do that was by providing a positive defense. This is a very minimal effort to assist families who have no where else to turn. Please keep in mind as you vote that there were 12 members of the committee who felt convinced by the compelling evidence presented to us. This was a justifiable need. Please support the "Ought to Pass" Majority Report. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Stevens.

Representative STEVENS: Madam Speaker, Men and Women of the House. I would just like to reinforce some of the points made earlier in that this bill does not legalize marijuana. This bill does not get marijuana into the hands of sick people. This bill does not prevent people apprehended with marijuana from being arrested. What the bill does do is allow a judge a little bit of space in his or her decision regarding the apprehension of this person and how this person will be treated by the court. With viable evidence that a person is sick, this bill, as passed, might give a judge a little bit of room in punishing this person, if you will. I really hope that you will support this bill. There was an editorial in the *Bangor Daily News* a couple of months ago that will be coming around, distributed under my name, which encourages the Maine Legislature to look at this bill this year and, perhaps, to pass it. It is an idea that is long overdue. Similar measures have passed in the Maine House time and time again only to be defeated by either the House or Senate or the Governor, as they were in the last session.

This bill really is something that few people will be affected by, but those people are very, very sick people. Any of us who have known anyone who has cancer, advanced AIDS or painful glaucoma can attest to the fact that any measure of relief from crippling pain would be a welcome relief. Please join the majority of this committee, that studied this issue and vote with the Majority "Ought to Pass" as amended Report. Thank you.

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

Representative QUINT: Madam Speaker, Men and Women of the House. I would just like to remind everybody that this is a 12 to 1 Majority Report. I would also like to remind everybody that this is not about legalizing marijuana. This has nothing to do with condoning the distribution of marijuana. Several people have testified in front of us about their medical conditions. If you have never had Wasting Syndrome or have known anybody who has had Wasting Syndrome from having full blown AIDS and not being able to keep food down and not being able to do the things you need to do to take care of yourself and not knowing what else to do, then I would ask you to think about this. Two people stood before our committee saying that without the use of marijuana, I was unable to keep food down and I was unable to do the basic things I needed to do to take care of myself.

I think the most striking testimony was the veterinarian that came and testified in front of our committee who was a 65 year old veterinarian who had cancer and was going through chemotherapy. He had lost over 60 pounds. He had lost his will to live and he had lost his ability to interact and to take care of himself. What was interesting about his testimony was that part of the argument against this was that people would be hooked and that once their medical condition got better that they would continue to smoke marijuana because they were hooked and because it was addictive and because that is what they thought it was. This gentleman who testified in front of us said that once he started smoking marijuana and he was able to start keeping food down, he started to put weight on. His ability to feel much better about himself and he was allowed to do that. After his cancer was in remission, he stopped smoking marijuana.

It is important to note that there are all sorts of organizations that don't support this because there haven't been any clinical tests. I have to point to an article that was in the *New England Journal of Medicine* in January of this year urging the federal government to reconsider the medicinal benefits of marijuana. I would urge you to accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative LOVETT: Madam Speaker, Ladies and Gentlemen of the House. They say a woman has the right to change her mind. Well, thank you for letting me have that privilege today. I am on the Majority Report and I am going to change my vote to the Minority Report. Let me explain to you why. On Mother's Day, I was very fortunate to be able to celebrate it with my family. I have eight grandchildren, but I have six grandsons. My oldest grandson approached me as he heard me talking about this bill. He was very shocked that his grandmother had voted this way. He just wanted me to share one thing with this body. He thought it was too early to do this and he thought we might be sending the wrong message to our youth. Consequently, I am going to support the "Ought Not to Pass." I hope you will join me.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. At the present time, is there any legal source of marijuana in the State of Maine?

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. No, there is not. Marijuana is a Schedule 1 drug. All licenses in the State of Maine are for Schedules 2 - 5, which I

hold a license. There is no one in the State of Maine that holds a Schedule 1 license.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. There have been a lot of very good anecdotes on why this ought to be supported. There has been a lot of discussion about our compassion and voting with our hearts, but what are we really doing here? We are sending a very confusing message to the young people of the State of Maine. We are sending a message that smoking marijuana is okay. We are sending a message that it is okay to go buy illegal substances. We are sending a message that the State of Maine isn't sure. That same confusion doesn't exist at the federal level. When other states have looked at this type of proposal or ones more aggressive, the federal government, from our President on down, have told those states that they will enforce the federal statute to the fullest extent of the law. That means if state folks aren't enforcing it, the federal will.

Representative Bruno brought up a very good point that I think is worth re-emphasizing. There is no legal source of marijuana in the State of Maine. You will be endorsing a bill that says the Legislature says it is okay to break the law. That is what this bill does. This bill says it is okay to break the law. Beyond our compassion and how hurtful it is to watch somebody go through the very painful parts of awful diseases that this bill is supposed to give an affirmative defense for. We have to think about what we are doing for general policy. It is absolutely wrong. We are encouraging people to break the law. We are encouraging people to bring down federal law against them. We are encouraging doctors or pharmacists to risk their livelihoods to provide a clean source of an illegal drug. This legislator will never endorse something that will help grow the illegal drug trafficking in Maine. I hope you will join me.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Muse.

Representative MUSE: Madam Speaker, Men and Women of the House. I really had hoped that I wouldn't speak to this issue at all. I would like to first thank the committee, the majority members of the committee, for voting the way that they did. Something that hasn't been mentioned in all of the debate, from anybody that has gotten up and spoken, is that there are people who are suffering excruciating pain who will not use marijuana simply because of the fact that it is illegal. The message that we are sending, by passing this, I beg to differ. The message that we are sending is that Maine is compassionate and that Maine recognizes a problem and that Maine recognizes that there is a solution. My mother suffered with breast cancer and died after a nine year struggle. After nine years of being injected with chemotherapy, different doses, different concoctions and mixtures of chemotherapy, that reduced her to something that wasn't even close to the woman that was my mother. I thank God that the majority of time that she was suffering with this, for some reason, the chemotherapy didn't affect her as adversely as it does many people. She attributed that to a very large glass of Coffee Brandy that she enjoyed on a nightly basis. I think, truth be known, she enjoyed a few of them during the day too.

It was nine years worth of this and as it got closer to the end and the doctors became more and more confused as to how to treat her. The mixtures of chemotherapy became more random. They started to work with experimental mixtures of chemotherapy. She began to get very sick. I asked my mother one time if she would consider marijuana. She was horrified that I would even bring it up. She said, "Chris, it is illegal. I can't do that." That was her reasoning. That was the only reason. If she had said yes, I would happily have taken this badge and put it

anywhere to go wherever I had to go and do whatever I had to do to get that for her to relieve the pain I watched her go through. I would strongly urge everybody to recognize the courage that this committee had to accept this 12 to 1 report and pass this. Thank you.

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

Representative QUINT: Madam Speaker, Men and Women of the House. I need to clarify something here, for my own mind as well as for some of those things that have been said on the floor. This is not about legalizing marijuana. This is not about requiring pharmacists to carry it. It is not about requiring physicians to prescribe it. It is not sending a confusing message, as far as I am concerned. This is about providing an individual who has a diagnosis of AIDS, cancer with chemotherapy and glaucoma with the ability for an affirmative defense, which gives the District Attorney and the judge the option to prosecute. That is it. This is not about legalizing marijuana. This is not about requiring pharmacies to carry it. It is not requiring physicians to prescribe it. It is not sending a confusing message. It is about an affirmative defense, which we were told by the Attorney General's Office was legal, was not in any way in violation of federal guidelines or laws or regulations. It was the only option we had to move forward and allow the federal government to move forward as well, without being in violation of any federal law or any federal guideline. I need to say it one more time. This is not about legalizing marijuana. It has nothing to do with pharmacists. It has nothing to do with physicians prescribing it. It is about affirmative defense, which is an option. Thank you.

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

Representative CLUKEY: Madam Speaker, Ladies and Gentlemen of the House. I apologize for prolonging this debate, but as an ex police officer I have to stand up and oppose this bill. I think it is interesting that we just debated a smoking bill because we are talking about smoking here. We are talking about taking smoke into our lungs with all the side effects that goes along with it. In addition to that, it being a mind altering drug. Over my career, I have seen what this mind altering drug can do to people. We had this bill in the last session in the Criminal Justice Committee. It was called, "An Act to Legalize Marijuana for Medicinal Purposes." It was a straightforward title. This title alone, "An Act to Establish the Maine Compassionate Use Act," is a smoke screen itself. The people that came in to testify in favor of the bill in the last session all admitted to being current marijuana users. One of them was the fella that got arrested on the steps of the Somerset County Court House for smoking marijuana and spent some time in jail. They passed our marijuana seeds to us during the public hearing.

It has been said that this is not legalization of marijuana. Ladies and gentlemen, I submit to you that this may not be the legalization of marijuana, but this is the first step in an incremental approach to legalizing marijuana. I hope that you will join me in voting "Ought Not to Pass" on this particular bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Madam Speaker, Ladies and Gentlemen of the House. I, as a woman, am going to not change my mind, with due respect to Representative Lovett. I will remind you that we do make the laws. That is one of the reasons we are here, to represent people and to make laws. The law that we have made with affirmative defense and I am on the 12 to 1 report is simply that, an affirmative defense. It is not about legalizing marijuana. I think we are about the 17th state to take on this kind of legislation or legislation that is even stronger

and does violate federal laws, which we were not willing to do. Marijuana is a Schedule 1 drug. That is absolutely right. Do you know that in the 50s, a man was found not guilty of homicide because of reason of insanity by being in the same room with marijuana? This drug has a pretty fierce myth around it. I would like to see it become a Schedule 2 drug, which I am not in a position to help it do. Were it a Schedule 2 drug, we could take on all kinds of different acts to let people have it that need it and want it for their illness and their pain. I encourage you to support the Majority "Ought to Pass" Report. I will remind you that when we are talking about smoking, we are talking very much about affecting other people that are with us. This is not about that. This could not be used in any kind of a public place. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Ladies and Gentlemen of the House. I will conceive that this is a bill about creating an affirmative defense for having marijuana for medical purposes, but as I had stated earlier, you don't need an affirmative defense. The District Attorneys of this state will not bring a criminal charge against an individual who is legitimately ill and using marijuana. When we hear that the Attorney General's Office has said it is within our purview to create an affirmative defense. They are right, but what about the other eight or nine points that the Attorney General's Report stated why we shouldn't and can't do this. I sat through that hearing with the Deputy Assistant Attorney and I listened to all the compelling evidence that they offered as to why we shouldn't be doing this. If you are going to cite a report, cite all of it.

Where is the individual going to get the marijuana? They have two choices. They go out and they grow it, which is a shame if they are that legitimately ill, they shouldn't have to go to that extent or they are going to have to go and commit a criminal act. A person who sells or gives away or furnishes marijuana is trafficking. We are going to say it is okay for you to have a little bit and we will give you the defense because you are ill, you have to break the law to get it. You didn't fix the other end of it. If you truly want to help the people with medical marijuana, then you need to create an affirmative defense for that drug dealer who makes a pretty good living selling this poison. I am compassionate.

My mother in her last days was prescribed Marinol because she just couldn't eat. It brought back her appetite. Thank goodness for the Maine Department of Human Services, they paid for it with Medicaid. We never told her what she was taking in the pill form, but it works. She didn't need to smoke it to make it work. She obtained it from a pharmacist. If you are going to create an affirmative defense for people having this, then you are going to have to create an affirmative defense for the people that are going to furnish it or sell it to them. It is not going to fall out of the sky. They are going to have to go to an alleged drug dealer, who, by the way, also peddles heroin, cocaine and anything else within his little bag of dope and you are going to have to dirty your hands by that dope. I want to help out people who are ill. I am compassionate. I think we all are. We want to do something to help ease this suffering and this pain. This isn't the road to it. This isn't the right way to do it. I promise you that I won't speak a third time on this.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. I am not sitting here and arguing the legalization of marijuana. That is not what this bill is about. I agree that with the *New England Journal of Medicine*, as a matter of fact, calling on the federal government to finally do some clinical studies on

marijuana. No one has shown me a double blind clinical study that marijuana works. I remember filling prescriptions for Placebo, that people told me that these capsules you gave me, they work great. Guess what? All that was in them was lactose. All we have heard is anecdotal evidence. Until I see a clinical double blind study that marijuana is effective, I cannot support something that the federal government says is illegal. I don't care as a pharmacist that I can't dispense it. It doesn't matter to me. The bill doesn't say that pharmacists have to dispense the stuff. What I am concerned about is that we are depriving people of clinical treatment. We have to look at 1997. This is 1997. I can't tell you how many thousands of drugs have appeared on this market that are so much more beneficial than 15 or 20 years ago. We have done more to alleviate illness and sickness in this country with the research and development that we have done than any country in the whole world.

I don't know how many of you remember the drug that came from peach pits. About 15 years ago, everybody was going to Mexico because there was a drug made from peach pits that was going to cure cancer. I can't tell you how many people died because they went to Mexico. Finally, the FDA said they have to look at this. We have to do a study on this and see if it really is effective. You know what, have you heard about that drug anymore? No. It was proven ineffective. People stopped rushing to Mexico to get it. It was anecdotal evidence that it was curing cancer. Marijuana does nothing for pain. It is not a pain killer. It is not an analgesic at all. Does it help your appetite? Absolutely. That is what Marinol is for, to stop the wasting away in certain diseases like AIDS and cancer. It has not effect on pain at all. As a matter of fact, we have now come out with drugs and patches that can alleviate pain better than any drug ever thought of.

We must stop the anecdotal evidence. We must do a double blind study, just like the National Institute of Health and the federal government will do. Until they do, this body should not change its mind on the status of marijuana in this state. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. It has been very interesting for me to listen to everyone and primarily to listen to those people that made this decision. I want to applaud them for that. However, this type of decision is and was, up until this time, given to the Legal and Veterans Affairs Committee, which I am a member and was a member. We heard the same things then as you are hearing now. I believe my friend, on the other side of the aisle, Representative Gamache, will attest to that. What bothers me and I can assure you that I am sensitive to people suffering, still in my opinion, opens up a little door, another door whereby people who should not have use of this drug, both adults and youths, will use it for other purposes. As has been attested this afternoon, some of those same people are coming to try to get marijuana in one phase or another somewhat legalized so that the watchful eye isn't as close to home as they certainly don't want it to be. I shall vote against this motion. Thank you.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. I have heard very clearly the concerns on the floor today. I want to assure you that our committee considered this very carefully and very thoroughly. We talked to the people who are suffering from these illnesses. They came to us and they told us their stories. They said that they were suffering. They said that this helped. They asked us to do something. That is our job. We also got about 100 page report

from the Attorney General explaining what our options were in this situation. They explained to us very clearly that it was within our jurisdiction to establish an affirmative defense. It does not make the drug legal, but it will prevent people with severe illnesses who are suffering from being prosecuted from trying to treat themselves. That is all we are trying to do.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Vedral.

Representative VEDRAL: Madam Speaker, Men and Women of the House. I could normally be counted on to support an issue such as this, being libertarian minded and all, but until there is a safe and legal method to obtain marijuana, I have to vote against this motion. I urge you to vote against this "Ought to Pass."

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Madam Speaker, Men and Women of the House. When I was first elected to this body, very shortly after that, I had an appointment with my doctor. We were discussing my election and I said to him, sometime when I am in the Legislature, I am going to have to vote on the legalization of marijuana, I know that. How do you feel? My doctor is a young man. He is a learned man who studies his journals every night when he going home from work. He said, there is nothing in marijuana that you can't find in some legal medicine. I made up my mind then, and as much as I respect a 12 to 1 committee report, I cannot agree with those 12.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Stevens.

Representative STEVENS: Madam Speaker, Men and Women of the House. I have to express my personal dismay at my friend, Representative Richard, because three times leaders on the committee have outlined that this bill does not legalize marijuana. I fear that this body risks the danger of becoming a fool in the eye of the public if this body is perceived to think that this bill legalizes marijuana. It doesn't. This is a judicial matter. Marijuana is illegal according to the federal government. The state can't override that. The state can't change that. The people who stand to benefit from this bill are little old gray haired ladies who are smoking marijuana that they grew in their gardens to prolong the time that they may live alone at home, despite their advanced glaucoma. These are people who are dying, the final months of their lives, of cancer hoping to live long enough to see one of their children get married, easing their pain, increasing their sleep, increasing their appetite. I implore this fight, not to hide behind the perceived understanding that this bill legalizes marijuana, because it doesn't. I hope that none of you are ever in a position to regret having voted against this, personally. This bill would help sick people explain why they broke the law to a judge. That is all it does. It does not legalize marijuana. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I would like to pose a question and, unlike most questions that have been posed, I legitimately don't know the answer to this question. Could anybody tell me if any of the people who testified on behalf of this affirmative defense that are ill, had any of them been summonsed or arrested for marijuana use?

The SPEAKER: The Representative from Waterboro, Representative McAlevey has posed a question through the

Chair to anyone who may care to respond. The Chair recognizes the Representative from Freeport, Representative Bull.

Representative BULL: Madam Speaker, Men and Women of the House. I don't rise to answer the good Representative from Waterboro's question. I apologize. I feel that it is necessary that this is somewhat of a hard issue. There are some people out there who would say that we are voting to legalize marijuana. I think it is very important to drive home that point. This is not about legalizing marijuana. We are talking here about a substance that maybe has not been proven beyond all doubts, as the Representative from Raymond has stated, but enough people, I was in the committee hearings for much of that because I had cosponsored a similar bill, which the committee rejected in favor of this bill here. We are talking here about a substance, which has proven relief to people who are sick, be it wasting from AIDS or sick with cancer.

The good Representative from Portland discussed a man in his 60s who had cancer. I know that man because he is a constituent of mine. On the campaign trail, he talked to me about this issue in depth. It is not usual that I go door knocking and start talking to a man in his 60s, who almost breaks down in tears, talking about this issue. This is a man very proud, very strong who always has considered himself a law abiding, truthful, honest individual. When he was diagnosed with cancer, he was contacted by support groups, who asked him how he was feeling and he was reporting that he was very sick and that the medicines that were being prescribed to him to help him with his side effects, simply were not working. It was not subsiding the pain that was making it hard for him to eat. They suggested that he try marijuana. He immediately balked. Again, he was a very proud and law abiding citizen. Only after much consideration did he finally decide to try marijuana. It was not a decision that he made easily or lightly, but he did do it and it did provide him the relief. He was fortunate. His cancer is now in remission and he is no longer having to take chemotherapy. He has, such as it is, smoked marijuana.

It is very important to realize that when people are smoking marijuana that they are not smoking enough to really get them to a point where it is being mind altering. They are just smoking enough to quell the pain the their stomach so they can eat. We are talking here about a substance that has been shown to ease the pain and suffering in people who are very sick. I feel that we have a responsibility to do whatever we can to help provide relief from pain and suffering to people in this state. The good Representative from Presque Isle, Representative Donnelly, discussed that we may be sending the wrong message with this bill. I wholeheartedly disagree. It is my understanding that there are many drugs that are legal in prescription form, but are not legal without a prescription. I am not saying that this is being prescribed. I am just using this as a comparison. There are drugs out there that do have a double standard, that are legal in some instances and illegal in others. This is one of those substances.

Please, ladies and gentlemen, you need to look at this as not a legalization issue, but a compassion issue. We have the ability here tonight to provide maybe just a little bit, a little relief in the pain and suffering for people in this state that may be suffering. I ask you to please do the compassionate thing and accept the Majority Report "Ought to Pass" on LD 1059. Thank you.

Representative DONNELLY of Presque Isle moved that the Bill and all accompanying papers be indefinitely postponed.

The same Representative requested a roll call on his motion to indefinitely postpone the Bill and all accompanying papers.

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

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. It seems confusing, almost back to back we just debated why it was unhealthy why it was unhealthy to smoke one substance and healthy to smoke another, that is an illegal substance. We are turning all the arguments on their heads. It is very confusing, the message we are sending out. It is confusing because we are saying that we think this is medicine, that is why we should have an affirmative defense without the regard of the man of science here among us who knows probably more about effective uses of drugs and those that are not, who actually has studied it. He has been involved in studies and says that this is not something that cures or settles the pain. It may get rid of some nausea, but it doesn't help with the pain. There are better and more effective drugs on the market that are legal. The confusing message we are saying, not just to the children of the state, but to the sick people of the state, who go through those difficult times that Representative Bull talked about, but trying to decide if they are going to break the law to cure their pain. If this Legislature says that we believe that we should have an affirmative defense, we are encouraging them to seek out that treatment over the legal and more effective options out there. That is the second confusing message we are sending.

The first one, again, is we are sending it to our children, who we try to discourage from starting the use of illegal and illicit drugs every day, to make drug use in Maine the least profitable in the state, in the union or any country in the world. I hope you will defeat this motion.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. I promise you that this will be my last time up. There are a couple of issues we haven't addressed here. One is registration with the Department of Public Safety. In my over 20 years of being a pharmacist, I can't tell you how many illegal prescriptions I receive. What makes anyone think there will not be illegal registrations with the Department of Public Safety? Schedule 1 drugs, not only is marijuana, LSD, methamphetamine and some people say that helps them too. Why not, with no clinical evidence say, we are compassionate? Let's just say it is okay to possess methamphetamine and LSD, if you think it can affect your symptoms. My mother is in the hospital right now going through a biopsy. God forbid, if she has cancer. I, as a pharmacist with seven years of study, will not say to her, smoke marijuana. I will talk to her physician and say, let's look at some options that we have here to make sure that everything is as comfortable as she can be.

Those are my last points. I am not arguing legalization. No one, yet, has passed me the study I have asked for. All we have heard about is the people suffering. Yes, I have held hands with AIDS patients, cancer patients and I have gone to more funerals than I care to count. As a pharmacist in a small community, you become friends with a lot of people. You hate to see anyone suffer. Don't tell me that I am not compassionate, because I think marijuana is bad clinical judgment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. I have been around a while, as most of you found out yesterday. I would like to think of myself as a compassionate and understanding fellow. I hope I remain that way. I spent 26 years in law enforcement and if I really thought, in my heart, that this bill today would help, it would be the proper thing to do, I would vote for it. You have to vote your heart and

your conscience today, but I would recommend to you all that you vote this down.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Muse.

Representative MUSE: Madam Speaker, Men and Women of the House. Very briefly I would like to attempt to try to clear up some of the confusion the good Representative Donnelly seems to be having making the comparison to the last bill we argued and this bill. Simply stated, tobacco is a known poison that is infecting healthy people. Marijuana is something that we want to give to people who are dying to try to make them a little bit better. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. This seems to repeat itself. I remember debating this in the 115th, 116th, 117th and here we are in the 118th doing the same thing once again. At one time we were allowing three plants of marijuana. This was going to take care of the problems that are seen with this need for compassion. I am as compassionate as anybody else and would not do anything to harm anyone. I will tell you, if we open this up, we are trying to debate an issue that is illegal and allow it to be done. If I was going to do this, to buy for my mother, my friend or what have you, I would have to go on the corner of Front Street and look for a guy that looks a little bit shady and try to buy the product. I don't know where you would buy the product if it wasn't for that. I know I could find it. Ladies and gentlemen, I think that we are really touching on an area that we probably should put to rest and let it come back in the 119th after we find a way of legalizing having the product. Ladies and gentlemen, I urge you to indefinitely Postpone this bill and all its papers. I thank you.

The SPEAKER: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative VOLENIK: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative VOLENIK: Madam Speaker, Ladies and Gentlemen of the House. To anyone who may answer, for a low income person, someone with no health insurance, no prescription drug policy, what would the cost be for a three month supply of Marinol as opposed to the cost of growing a plant in a flower pot?

The SPEAKER: The Representative from Brooklin, Representative Volenik has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. Since I am probably the only one who would actually know that question, I will answer it. It is about \$1,200.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. It has been brought to my attention, maybe I confused somebody, but I urge you to vote for Indefinite Postponement.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and All Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 201

YEA - Ahearne, Bagley, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bouffard, Bragdon, Bruno, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cross, Desmond,

Dexter, Donnelly, Dutremble, Fisher, Foster, Frechette, Gagne, Gamache, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Morgan, Murphy, Nass, Nickerson, O'Brien, Ott, Paul, Peavey, Pendleton, Perry, Pinkham RG, Pinkham WD, Povich, Richard, Savage, Sirois, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Thompson, Tobin, Treadwell, True, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

NAY - Berry RL, Bolduc, Brennan, Brooks, Bull, Cowger, Davidson, Driscoll, Dunlap, Etnier, Farnsworth, Fisk, Fuller, Green, Hatch, Jabar, Jones KW, Kane, Kontos, LaVerdiere, Lemaire, McKee, Mitchell JE, Muse, O'Neal, O'Neil, Perkins, Pieh, Powers, Quint, Rines, Rowe, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Townsend, Tripp, Volenik, Watson, Wright, Madam Speaker.

ABSENT - Baker CL, Bodwell, Buck, Gagnon, Plowman, Poulin, Samson.

Yes, 98; No, 46; Absent, 7; Excused, 0.

98 having voted in the affirmative and 46 voted in the negative, with 7 being absent, the Bill and all accompanying papers were indefinitely postponed in non-concurrence and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-206) on Resolve, to Establish a Maine Mobility Fund Task Force (EMERGENCY) (S.P. 429) (L.D. 1377)

Signed:

Senator: O'GARA of Cumberland

Representatives: WINGLASS of Auburn

CLUKEY of Houlton

CHARTRAND of Rockland

DRISCOLL of Calais

BOUFFARD of Lewiston

SAVAGE of Union

WHEELER of Eliot

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

Signed:

Senator: CASSIDY of Washington

Representatives: FISHER of Brewer

JOYCE of Biddeford

LINDAHL of Northport

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-206).

Was read.

Representative DRISCOLL of Calais moved that the House accept the Majority "**Ought to Pass**" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Madam Speaker, Ladies and Gentlemen of the House. This is a task force that proposes to set up a task force to study different funding alternatives for public transportation. I think this bill is unnecessary. We already have many organizations across the state that already work and study these types of issues. The most recent one being the ORTAC, I can't remember what it stands for, but there is eight of them across the state. That is what they do on a full time basis. We also have the state regional transit providers who work with

these issues every single day. I think we can trust them to do their job properly. Since they work in it everyday, they know all the money that is available. I think we should just trust them that they will be getting as much money from the federal government as possible.

During the public hearing, the one thing that became very clear was that the group that wanted to do this, they already have every right and every authority to do this now. I don't see the need for us to pass a bill to authorize them to. I request a division.

Representative JOYCE of Biddeford requested a division on the motion to accept the Majority "**Ought to Pass**" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Madam Speaker, Men and Women of the House. I would urge you to support the Majority Report on this bill. It is not a big deal, but we all know how strapped the Highway Fund is in Maine. We can't even take care of the roads that we have, much less, can we look at any funding at all for other modes of transportation like buses, trains or anything else in the state that does not come out of the Highway Fund. Therefore, we need to look at some options for other modes in the future and even now as each year they come to the Legislature and there is no money available to them. All that this group is going to do is to try to come up with some other solution for funding nonhighway transportation. The groups that are participating, should this pass, cover all spectrums of the transportation picture.

One important facet that is covered is the Department of Human Services whose clients are involved in a lot of transportation, medical services and other important appointments. There hasn't ever really yet been a group that combined people from departments of Transportation and Human Services to really try to work out some solutions to transportation alternatives for people. I think this could actually help save the state money if we try to put together the people in all these agencies and try to see what the easiest and most fundable solutions are to transporting people who have no cars. This will cost the state very little, if anything. The yellow sheets we passed out about the task force have a mistake on it. It says, legislative per diem and staffing from OPLA are the only costs. That is in error. There is no per diem for any legislators who participate in this, only expenses. In fact, one of the missions of this task force would be to try to obtain, wherever possible, some private funding to pay the expenses. I think it is really a no harm done by having these people look at this and report back in the next session on what if any alternatives they have come up with for funding nonhighway transportation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Madam Speaker, Men and Women of the House. I support the "Ought to Pass" as amended report, if only to raise this issue further on the radar screen for us. My towns, Wells and Ogunquit, are intimately involved in multimodal transportation. As you may know, they are in a crowded area of the state. We do have a large tourist population. For about 10 years or perhaps more than 10 years we have had a trolley system in Wells and Ogunquit. It carries more than a half a million people a year. It is self-supporting through advertising through businesses and a small fair. There is underway a plan to connect that trolley system into a parking lot near Exit 2 of the Turnpike, which will also serve as the parking lot and the train station so that businesses to our area, if they wish, can come from other states and take the train, come to the station, take the trolley to their motel, take the trolley to the