

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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FIFTH CONFIRMATION SESSION

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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I don't like them, I don't think they are good and I don't think this piece of legislation is going to do what Mr. Carroll wants it to. I talked with him yesterday, I am not talking behind his back. If somebody wants to table it, maybe he can do something with it. Maybe you want to run it as it is, but I will be voting against it for that reason.

Thereupon, on motion of Ms. Benoit of South Portland, tabled pending the motion to reconsider whereby the Majority "Ought Not to Pass" Report was accepted and later today assigned.

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

Unanimous Ought Not to Pass

Representative Connolly from the Committee on Appropriations and Financial Affairs on Bill "An Act to Create a State Funded Jobs Program" (Emergency) (H. P. 1631) (L. D. 2171) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative Beaulieu from the Committee on Labor on Bill "An Act to Improve the Evaluation of Hearing Loss under the Workers' Compensation Act" (H. P. 798) (L. D. 1038) reporting "Leave to Withdraw"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Consent Calendar First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H. P. 1717) (L. D. 2276) Bill "An Act Relating to the Enforcement and Collection of Child Support Obligations" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-654)

There being no objections, under suspension of the rules the above items was given Consent Calendar Second Day notification, passed to be engrossed as amended and sent up for concurrence.

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-650) on Bill "An Act to Amend the Statute Relating to the Sale and Free Distribution of Cigarettes to Children" (H. P. 1694) (L. D. 2249)

Signed:

Senator:

CARPENTER of Aroostook

Representatives:

MANNING of Portland

PINES of Limestone

CARROLL of Gray

SEAVEY of Kennebunkport

MAYBURY of Brewer

RICHARD of Madison

MELENDY of Rockland

WEBSTER of Farmington

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

Signed:

Senator:

BUSTIN of Kennebec

Representatives:

BRODEUR of Auburn

NELSON of Portland

Reports were read.

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

Mrs. NELSON: Mr. Speaker, I move that we accept the Minority "Ought Not to Pass" on this bill and wish to speak to my motion.

The SPEAKER: The gentlewoman from Portland, Mrs. Nelson, moves that the Minority "Ought Not to Pass" Report be accepted.

The gentlewoman may proceed.

Mrs. NELSON: Mr. Speaker, Men and Women

of the House: As you can see by the Report, it is pretty lopsided, and as you can see, those people who have decided that the bill as amended seems pretty good to them, and these are very reasonable and good people, and the reason for the bill being introduced, I suppose, has a lot of merit, although I saw none in it.

Presently, as you know, we have a law on the books that says that no one under the age of 18 can purchase or receive free cigarettes. We passed this just in the 111th, the first half of the session.

This committee amendment says you can sell and give away cigarettes to minors, anyone under 18, if you happen to be a minor that is in a correctional institution, so that if you have broken the law and you have a bad habit, the state will allow you to continue that bad habit if you are in the Youth Center, if you are 18 and in jail, if you are 18 and under and you are in Windham or Thomaston.

We, I thought, the legislative body, made a determination that smoking is bad for you. We did this based on some very, very strong information, and if you will bear with me, I will read some of those statistics, as difficult as they are, because I want you to understand that if you pass this bill what you are saying, you are saying, first of all, you are allowing young people who have been adjudged guilty to continue a very bad habit—it happens to be smoking; it could be drinking—to continue a bad habit in a circumstance, in an environment of stress. But good heavens, if you don't want to change their bad habits now when you have them in custody, when do you plan to do it?

Thirty seven percent of the males and 33 percent of the females 18 years of age or older in Maine are current smokers. Okay, there are a lot of them out there, we know that. A conservative estimate reveals that over 1,800 Maine citizens die each year from the diseases actually attributed to smoking, 1,800 a year die because they smoke. These 1,800 deaths result in the annual loss of over 20 years of potential life of each person who had lived an average life span.

The in-patient hospital claims are inflated at least \$6.6 million each year due to smoking. The state loses at least \$4.5 million as both employer and Medicaid payor. I could go on and on and I won't bore you, it is late, you are hungry. It is an important issue, we should deal with it.

I understand the problems of those people who must deal with these young people who are incarcerated. The name of our committee is "Health and Institutional Services." If we don't make a statement and say no, we will not give away cigarettes to you to help you, to calm you, when in fact it turns out that smoking is, indeed, a stimulant, it is an addiction.

The young people are told that they can receive three and a half packs of cigarettes a week. We were told by the officials that they can't smoke that much because they have very restrictive rules as to where and when they can smoke. The Department of Human Services, acting as a guardian for many of the young people who are serving in jails and in the correctional institutions today pay \$31,000 a year so that these young people can buy cigarettes. These cigarettes are also contributed out of the goodness of the hearts of many organizations in our state.

I will not belabor the point. We have, I believe, a very strong obligation to take a look at what this legislation wants us to do, and I hope you will vote with me on the motion to accept the Minority "Ought Not to Pass."

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

Mrs. KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: When I sponsored this bill in the last year, it was to prohibit the sale or free distribution of cigarettes to children. This body put it under the hammer but the other body chose to amend it by changing the whole intent of the bill. This change was to the Maine Criminal Code, the change that said children 16 and under could not purchase cigarettes. This amendment,

which this body adhered to, changed it to 18 and younger that could not purchase cigarettes.

I was told that these kids are tough and they are criminals and they need to smoke to keep them calm. At the age of 10, 11 and 12 and up, they need cigarettes to keep them calm? Would we allow them to continue drugs or alcohol? I think not.

Right now in the nation, 18 million teenagers are smoking. Do we need to continue to feed their habit? Why is it that the Youth Center can't deal with these kids to get them off this terrible habit? If we are trying to help these kids, we must help them wholly.

Mr. Speaker, I would like to pose a question to anyone who would like to answer this—what did the state do before the age was raised to 18? Were they providing cigarettes to these young people?

The SPEAKER: The gentlewoman from Portland, Mrs. Ketover, has posed a question through the Chair to anyone who may care to answer.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: Yes, they were.

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

Mrs. KETOVER: Mr. Speaker, I would like to pose another question. Is there a fiscal note attached to this bill?

The SPEAKER: The Chair would advise the gentlewoman that this bill is not in second reading at this time.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Most people are saying why is he up defending 18 and under the ability to smoke when most of you know that most of my committee last year fought hard to put in some smoking regulations throughout this state. We, the members of hopefully the majority, agree that smoking is very hazardous to one's health, but I think as the Representative from Kennebec said, we are a committee of Health and Institutions but in this case we are a committee of institutions first and health second.

Ladies and gentlemen, there are approximately 240 people at the Maine Youth Center and I don't know how many that are scattered amongst the county jails throughout the system. This was brought in by the Youth Center people but it also affects those county jails and those places where under 18 children are incarcerated.

The ability to rehabilitate those children at the Youth Center, the ability to do that, hinges on the fact that they cooperate while they are there. They are not going to be there for four, five, six, seven years and you can have a program where the National Lung Association or the Maine Lung Association or the Maine Cancer Association can come in and preach to them. Approximately the average stay is six and a half months.

I agree that smoking is hazardous, but I also agree that if they are there, I would hope that we could rehabilitate them so that they are not down at Windham in about three or four years or that they are not down at Thomaston in three or four years and it is costing the state six, seven or eight—well, at Thomaston it is about \$16,000 to \$17,000 a year.

When you get a child who has been smoking for probably the last six or seven years and he is 17 and he is at the Maine Youth Center, I look around here and I look at my colleagues who I am assuming are a lot more intelligent and yet still are smoking—some are smiling at me now—they know the disadvantages of it. We cannot, in all honesty, sit here and expect the people at the Youth Center to say okay, we are going to rehabilitate you but we are also going to rehabilitate you in smoking. Can you imagine if a kid is there for the first time what that is doing to him? His first time in the Youth Center is probably the first time he has had supervision in perhaps four or five years. Some of these kids have been running the streets for a number of years and

they really haven't had any supervision.

I would hope that you would go along with the Majority Report because we feel that it is the ability to rehabilitate that person and to get him back on the street first. Granted, he shouldn't be smoking; granted, a lot of you shouldn't be smoking. But the department has said, if this bill does not go through you are going to have escapes because they will want to smoke. You are going to have the kids grabbing the cigarette butts out of ashtrays, you are going to have the potential of fires, which we know in the past have happened. Commissioner Allen, when he was superintendent down there, indicated that he came out of a building one night and looked over and saw a cottage that housed 40 kids on the second floor start to go up in smoke for the simple reason that some kid snuck a cigarette, put it in his pocket when somebody came, and forgot about it, went upstairs, got ready and went to bed. All of a sudden, the back end of the coat room was on fire. Things like that will happen.

The supervision of smoking is three and a half pages long. These kids aren't smoking 24 hours a day 7 days a week. The appropriate times are spelled out here in the smoking regulations that were updated as late as August of 1983.

There is a question whether there should be an appropriation on this. The \$15 that is given to those children that the Human Services Department provides is the \$15 that if a kid is under the AFDC program, his mother doesn't need the \$15 anymore because she is not taking care of him. Therefore, the \$15 is sent to the Youth Center and is put into his account. The \$15 doesn't go to smoking, it also goes to such things as toothpaste for the children, shampoo, they cannot bring in shampoo. It goes to many other items.

It is virtually impossible for a kid to smoke a pack of cigarettes a day because of these rules and regulations, and I would hope that we would go along with this. Granted, it sounds very strange that those kids that are inside will have more privileges than those kids on the outside, but I would hope what we are looking for is down the road, that those kids would be on the outside for good and not on the inside for the rest of their lives.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Portland, Mrs. Nelson, that the Minority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

17 having voted in the affirmative and 66 having voted in the negative, the motion did not prevail.

Mrs. Nelson of Portland moved that this be tabled for one legislative day.

Representative Manning of Portland requested a vote.

The SPEAKER: All those in favor of this being tabled for one legislative day will vote yes; those opposed will vote no.

A vote of the House was taken.

25 having voted in the affirmative and 64 having voted in the negative, the motion did not prevail.

Representative Manning of Portland moved that the Majority "Ought to Pass" Report be accepted.

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

Mrs. NELSON: Mr. Speaker and Men and Women of the House: I would hope that you would vote against the motion to accept the Majority "Ought to Pass" Report.

I cannot believe that the people in this House believe that those young people who are incarcerated because they have taken away somebody else's rights now have more right to smoke than any other child in the State of Maine. I cannot believe that you believe there is no other way to help out those children who are incarcerated than to give them cigarettes at taxpayers' cost. I cannot believe that you feel that it is more

important because those people who are guarding, who are with these children, can't use any other form of discipline except taking away cigarettes.

Yes, those people are in correctional institutions for a short time and we are talking about rehabilitation—why can't they be rehabilitated to be stronger and healthier? I don't think there is a single smoker in this body who didn't start when they were young and wish today that they could have stopped when they were young.

We have an opportunity to help in many ways these young people and I believe that it is up to us here in the House to make that determination and vote against the motion to accept the Majority "Ought to Pass" Report.

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

Mrs. MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I do not smoke and I don't especially care to have people smoke around me. However, my concern with this bill, if it is not passed, is what will happen to the younger kids who are not allowed to have cigarettes but yet the older ones are. Is this barter money for sexual favors or any other favors? This is my concern within the walls.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Richard.

Mr. RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: Nine members of our committee, along with all the other members of the committee, debated this issue long and hard, and even though those of us who were in the majority, who are not in favor of smoking, figured in the best interest of all concerned this would be the way to go. We urge you to go along with us on this vote.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I ask you, in whose best interest are we indeed voting for? Whose best interest? Those people who we have now in our custody, the state has tried to shorten their life outside of those walls and now you are attempting to shorten their lives inside the walls. To allow them to smoke when other youngsters under 18 can't is truly to shorten their life.

I have always felt that if you are going to err, err on the side of the kids. I cannot believe that you really feel that the only way you can keep fires from breaking out in these institutions is to let the kids smoke. Do you really believe that this is how sexual favors will be offered, through cigarettes? If there aren't any cigarettes there at all, they are going to have to try to use something else aren't they?

The point is that if you are under 18 years of age, and this is what this body said and the other body, then you should not be able to purchase or receive free cigarettes. This bill, if passed, allows those young people in prisons and jails and who are incarcerated that special right that no other child in the State of Maine will have. Is that what you want? I don't think so.

I hope you will vote against the pending motion.

Mr. Connolly of Portland requested a roll call.

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

The SPEAKER: The pending question before the House is on the motion of Mr. Manning of Portland that the Majority "Ought to Pass" Report be accepted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 444

YEA—Ainsworth, Anderson, Beaulieu, Bell, Benoit, Bonney, Brannigan, Brown, D.N.; Cahill, Callahan, Carroll, D.P.; Carter, Cashman, Chonko, Conary, Crouse, Curtis, Daggett, Davis, Day, Dillenback, Drinkwater, Erwin, Gauvreau, Greenlaw, Gwadosky, Hall, Hickey, Higgins, H.C.; Hobbins, Holloway, Ingraham, Jacques, Jalbert, Joyce, Kane, Kelly, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, Locke, MacBride, Macomber, Mahany, Manning, Martin, A.C.;

Martin, H.C.; Masterman, Matthews, K.L.; Maybury, McCollister, McGowan, McPherson, McSweeney, Melendy, Michael, Michaud, Mitchell, J.; Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Norton, Paradis, E.J.; Parent, P.; Perkins, Perry, Pines, Racine, Randall, Reeves, J.W.; Richard, Ridley, Roberts, Robinson, Roderick, Salisbury, Scarpino, Seavey, Small, Smith, C.B.; Smith, C.W.; Soule, Sproul, Swazey, Theriault, Tuttle, Walker, Webster, Wentworth, Weymouth, Zirkilton.

NAY—Allen, Andrews, Armstrong, Baker, Bost, Bott, Brodeur, Brown, A.K.; Carrier, Carroll, G.A.; Clark, Connors, Connolly, Cooper, Cote, Cox, Crowley, Dexter, Diamond, Dudley, Handy, Higgins, L.M.; Joseph, Kelleher, Ketover, Kisman, MacEachern, Masterton, Mayo, McHenry, Mills, Mitchell, E.H.; Nadeau, Nelson, Pouliot, Reeves, P.; Rolde, Rotondi, Sherburne, Soucy, Stevenson, Stover, Strout, Tammara, Vose.

ABSENT—Foster, Hayden, Jackson, Matthews, Z.E.; Paradis, P.E.; Stevens, Telow, Thompson, Willey, The Speaker.

96 having voted in the affirmative and 45 in the negative, with 10 being absent, the motion did prevail.

The Bill was read once.

Committee Amendment "A" (H-650) was read by the Clerk.

Mr. Brodeur of Auburn offered House Amendment "A" to Committee Amendment "A" (H-57) and moved its adoption.

Mr. BRODEUR: Mr. Speaker, Ladies and Gentlemen of the House: Committee Amendment "A" would allow the chief administrative officers of correctional facilities or sheriffs to allow the sale, furnishing or giving away of cigarettes or tobacco to children.

This amendment would eliminate that part of the committee amendment which will allow the sheriffs or correctional facilities to furnish or give away. It will still allow them to sell with the parents' permission. I guess if we are going to allow the sale, we shouldn't be giving out the cigarettes freely to people.

The Department of Corrections says that they will be able for those people who do not have money, the residents will be allowed to work in order to obtain money to purchase cigarettes, but I don't think we ought to encourage the giving away of them even though it seems quite clear that the House is willing to allow the sale of it. I would hope you will adopt this amendment.

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

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be very brief on this. The practical effect of this amendment is that if a counsellor at the Maine Youth Center is talking with an inmate, someone who is incarcerated, not someone who is at summer camp, who is 17 years old and he asks the fellow if he wants a cigarette and the guy says yes and he gives it to him, House Amendment "A" will make that a crime. I think this is one of the most ridiculous amendments that I have ever seen in my time here and I urge you to vote against it.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I also want to bring out another point that the gentleman from Auburn said, he talked about the youth center, but if you remember right when I talked earlier, I indicated that this bill does not only take in the Maine Youth Center but it also takes in those juveniles under 18 who for one reason or another are incarcerated in our county jails. Now the county jails are having a hard enough time right now and I can't imagine a county jail sheriff having a juvenile work while he is in there.

Some of these juveniles are in the county jails for a long period of time, a lot longer than I think we as people in this state realize and the problem is, if they have been smoking, you take a 17 year old kid and he has been smoking for six or seven years, there is a good chance that he is probably smoking maybe two or three packs a day, he

could be, and all of a sudden he goes into the county jail for one reason or another, he might be being held there because he is going to be bound over, this amendment would not allow those correctional officials in the county jails to furnish cigarettes.

I understand the problems, I stated it before and I don't think there is a person in our committee who goes along with this smoking idea, but we talked earlier this morning about stressful jobs and people in prisons, well, I think that is what we are trying to deal with right here. If we don't allow these kids to smoke while they are in the jails, I think there could be some problems for the county sheriffs throughout our state in our county jail systems.

In the county jail systems we know them, we heard from correctional officials that a lot of them are going to be shut down and there is going to be a lot of problems in the county jails and I think this would just add to the problems; therefore, I move indefinite postponement of this amendment.

The SPEAKER: The gentleman from Portland, Mr. Manning, moves the indefinite postponement of House Amendment "A" to Committee Amendment "A."

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I think you know how I stand on this amendment or any amendment to this bill but I think I should clarify one thing.

Children under 18 years of age will be physically removed from the jails as of January 1, 1985, to comply with federal requirements. At present, there are state standards governing their separation from adult offenders while in jail, so if I might say, that is a spurious argument.

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

Mr. MANNING: Mr. Speaker, I would like to pose a question through the Chair to the gentlelady from Portland, Mrs. Nelson. I understand that but where are you going to put those children? The youth center is filled right now and I think that is a problem that this legislature will have to deal with. I think that is clouding the issue. I would like to pose that question.

The SPEAKER: The gentleman from Portland, Mr. Manning, has posed a question through the Chair to the gentlewoman from Portland, Mrs. Nelson, who may respond if she so desires.

The Chair recognizes that gentlewoman.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: We are talking about smoking in these facilities, not where these young people will be. We will be dealing with that with a large appropriation and there are problems because by federal law they must be housed separate from adults.

I believe that the Representative from Portland, Mr. Manning, said this would be difficult because these young people will be in jails with older people. I am saying that they will be removed from the environment of older people as of January 1, 1985.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Portland, Mr. Manning, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

96 having voted in the affirmative and 5 in the negative, the motion did prevail.

Thereupon, Committee Amendment "A" was adopted.

Under suspension of the rules, the Bill was read a Second Time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Strengthen the Public Policy Against Invidious

Discrimination Under the Tax Laws" (H. P. 1705) (L. D. 2232)

Signed:

Senators:

TEAGUE of Somerset
TWITCHELL of Oxford

Representatives:

CASHMAN of Old Town
DAY of Westbrook
INGRAHAM of Houlton
JACKSON of Harrison
KANE of South Portland
KILCOYNE of Gardiner
MASTERMAN of Milo
McCOLLISTER of Canton

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-655) on same Bill.

Signed:

Senator:

WOOD of York

Representatives:

ANDREWS of Portland
HIGGINS of Portland

Reports were read.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: I move the acceptance of the Minority "Ought to Pass" Report.

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves that the House accept the Minority "Ought to Pass" Report.

The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: This bill is a result of a review of the property tax exemptions granted by the state. This bill provides specific organizations which are eligible for property tax exemptions. These exemptions may not be granted if these organizations discriminate on the basis of race, sex, national origin or handicap.

Some federal courts have held that states may not constitutionally permit property tax exemptions for organizations which discriminate contrary to the established public policies.

This bill ensures that the state is not participating in any invidious discrimination by granting property tax exemptions to organizations which violate this established public policy.

I hope that you will support the Minority "Ought to Pass" Report.

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

Mr. KANE: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Portland, Mr. Higgins.

What effect, if this bill were to pass, have upon the Elks, the Moose, the Knights of Columbus and the Sons of Pulaski?

The SPEAKER: The gentleman from South Portland, Mr. Kane, has posed a question through the Chair to the gentleman from Portland, Mr. Higgins, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that this would be left to the courts. If this law were passed, the courts would probably interpret it that if they discriminated on the basis of race, sex, national origin or handicap that their property tax exemptions would not be granted.

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

Mr. KANE: Mr. Speaker, I would like to pose an additional question through the Chair. It doesn't seem to me that saying that we are going to leave it up to the courts is a very good answer. What is your understanding, Mr. Higgins, of what effect this would have on organizations like the Knights of Columbus, the Elks, the Moose and like the ancient Sons of Hibernia?

The SPEAKER: The gentleman from South Portland, Mr. Kane, has posed a question through the Chair to the gentleman from Portland, Mr. Higgins, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentle-

men of the House: In the event that they do not discriminate on the basis of race, sex, national origin or handicap, it would have no effect.

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

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: Since I can't seem to get a straight answer out of the Chairman of the committee, I will just tell you what my impression is. If this bill were to be enacted, it would be to remove the property tax exemption from all those groups that I previously mentioned and a lot of others.

I told the gentleman from Portland, Mr. Higgins, and our Senate Chairman, Senator Frank Wood, that only those two could make me come out for invidious discrimination but I am afraid it has happened.

I urge you to oppose this.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Portland, Mr. Higgins, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

19 having voted in the affirmative and 90 in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from South Portland, Mr. Kane.

Representative Kane, are you suggesting that we should approve of the Elks, the Sons of Hibernia, Sons of Alaska, etc., of discrimination against the handicap, etc.?

The SPEAKER: The gentlewoman from South Portland, Ms. Benoit, has posed a question through the Chair to the gentleman from South Portland, Mr. Kane, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House and especially my "dear" Ms. Benoit: The Sad Sons of Alaska—this doesn't say anything about state origin, it is Sons of Pulaski, Poland, I am glad that we got that out of the way. You may have noticed that in the bill it said sex—a lot of these institutions that we have been discussing do, in fact, discriminate on the basis of sex and they do have property tax exemptions and our predecessors in this legislature have granted these property tax exemptions, and I am willing to support them now.

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

Mr. BAKER: I would request a roll call on the motion to accept the "Ought Not to Pass" Report. A roll call has been requested.

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

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

Mr. ANDREWS: Mr. Speaker, Ladies and Gentlemen of the House: I have no illusions about where this bill is going but I would just like to make a few comments for the record.

This bill does not make past judgment on any of those organizations that discriminate on the basis of sex, handicap or national origin. It simply says that if you choose as a private organization to discriminate on the basis of any of these factors, then you certainly should not be allowed a tax exemption or a tax subsidy from government.

Every time you grant a tax exemption, you are granting a subsidy, and every time you grant a subsidy, you are asking for a group of taxpayers to take money out of their pocket to pay for that subsidy.

The basis of this bill is simply to say that if you discriminate against me, then I should not have to pay a subsidy to your organization. It doesn't say you can't discriminate, it just says that you can't receive a handout from taxpayers who can't participate in your organization because you discriminate against those taxpayers.

The SPEAKER: The Chair recognizes the gen-