

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Fourth Legislature
State of Maine

Volume III

Second Regular Session

March 24, 2010 - April 12, 2010

Appendix
House Legislative Sentiments
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Pages 1215-1836

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
SECOND REGULAR SESSION
34th Legislative Day
Monday, April 5, 2010

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Mark K. Tanner, Skowhegan Federated Church.

National Anthem by Molly Finn, Lewiston.

Pledge of Allegiance.

The Journal of Friday, April 2, 2010 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

An Act Concerning Statewide Communications Interoperability

(H.P. 1201) (L.D. 1700)

(C. "A" H-775)

FAILED of **PASSAGE TO BE ENACTED** in the House on March 31, 2010.

Came from the Senate **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands and the Department of Inland Fisheries and Wildlife (PUBLIC LAND)

(H.P. 1291) (L.D. 1803)

(C. "A" H-723)

FINALLY PASSED in the House on March 25, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-723) AND SENATE AMENDMENT "B" (S-509)** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles when Operating on Private Property"

(H.P. 1080) (L.D. 1536)

House **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-759)** in the House on March 30, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "C" (S-507)** in **NON-CONCURRENCE**.

On motion of Representative CLARK of Millinocket, the House voted to **INSIST**.

COMMUNICATIONS

The Following Communication: (S.C. 757)

MAINE SENATE

**124TH MAINE LEGISLATURE
OFFICE OF THE SECRETARY**

April 2, 2010

Honorable Hannah M. Pingree

Speaker of the House

2 State House Station

Augusta, ME 04333-0002

Dear Speaker Pingree:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 124th Maine Legislature, please be advised that the Senate today confirmed the following nomination:

Upon the recommendation of the Committee on Judiciary, the nomination of Peter L. Darwin of Portland for appointment as a District Court Judge.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

Representative PENDLETON of Scarborough assumed the Chair.

The House was called to order by the Speaker Pro Tem.

ENACTORS

Emergency Measure

An Act To Implement the Recommendations of the Governor's Ocean Energy Task Force

(S.P. 710) (L.D. 1810)

(C. "A" S-500)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The following item was taken up out of order by unanimous consent:

ENACTORS

Emergency Measure

An Act To Amend the Maine Medical Marijuana Act

(S.P. 719) (L.D. 1811)

(C. "A" S-508)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

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

Representative LEWIN: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I have tremendous concerns about this medical marijuana bill. I actually believe that the people of the great State of Maine were hoodwinked into voting for this bill. They were told that it's a medical marijuana bill and, frankly, having spent nearly eight years here, I can tell you the titles of bills frequently aren't exactly what they really are, and in my judgment this is a bill to legalize the marijuana use. In this particular bill, I believe it was rather like a Swiss cheese, full of holes when it came to us, and that's what the people saw. The people saw and heard about the use of marijuana for people who are suffering with terrible illnesses, who have acute nausea, and acute pain, and being the good and kind and compassionate people that they are, they check the little box for people to be able to use medical marijuana. But I don't think they heard, as Paul Harvey used to say, the rest of the

story. There is a whole lot to this story, and I think the people of Maine need to know what all of that's about.

We already had a medical marijuana bill here and we've had it for the better part of 10 years, and it's not perfect. It did allow prescription of medical marijuana, but it didn't legally allow anyone to go and get it. The fact is there is federal law against the use of growing, distribution, etcetera of marijuana, so it was very, very difficult for people to get it, and I think the national organization that wants to legalize marijuana took great advantage of the fact that we may have had the law but it wasn't the right law at the time.

There are a whole lot of things to talk about in this law. When it came to our committee, it looked to me like a Swiss cheese. It was full of holes. The opportunity for criminal activity is enormous in that bill as it originally came to us. Our committee worked very diligently and very hard on a bill that 70 percent of the people thought was a heck of an idea. We had four or five long, long work sessions on this bill, trying very hard to improve it and to tighten it up, and to make it manageable for the Health and Human Services Department to administer, and to make it manageable for the Agricultural Department to monitor the growth of this stuff. And after a whole lot of partisan caucuses and a whole lot of very long work sessions and a great deal of testimony, we did, with our analyst, Jane Orbeton, the very best that we could do with this bill. Jane did us a side by side of all the reasons for and against and things we needed to look at. There were nearly 50 lines that we had to look at. It was a huge, huge bill. Ultimately, what we agreed to do with all sides of the issue giving a lot, we agreed that there would be eight dispensaries throughout the State of Maine, and that those dispensaries would be operated in the various Health and Human Services regions of the state, that they would have some fairly tight control—in my judgment, nowhere near enough—and perhaps Representative Strang Burgess, my seatmate, will give you some more of the details of some of the bill. But I have to tell you, I have enormous concerns about it, and I believe it honestly is a part of the national effort to legalize marijuana, which is against federal law mind you.

There are two initiatives right now sitting in the Secretary of State's Office. One of those would allow 19 year olds to possess, transport, use and distribute marijuana or hemp products, and it would allow doctors to prescribe it. It would also repeal this initiative for medical marijuana system established by law. The second one repeals the medical marijuana system and enables medical marijuana systems based on much broader a context of various illnesses, and it would remove from DHHS a registry and all of the other things that go with control of it. For me, that's enough to tell me that this is without question a national movement to legalize marijuana, and I don't think that's our job here in Maine, and I don't like that the people of Maine are being used to help move that process along. There is a process to do that and this is not the right place for that. I think that it's really an important thing to live within the law. I make it a policy and a practice to do that. I hope everybody under this dome does exactly the same thing, and I found it extraordinarily difficult to do my duty and work on that bill knowing full well that it is against federal law. I was continually reminded that Eric Holder, the Attorney General of our great country, said he's not going to enforce the law. Frankly, if I told you the absolute truth, I'd tell you I think the guy needs to be fired for not doing his duty. As long as it's the law, it ought to be enforced whether it's in Maine or Hawaii or Kalamazoo, Michigan. The law should be enforced. And if we don't like it, there are vehicles to change it. Frankly, under the guise of medical marijuana, I find it abhorrent that this thing was passed, and it really troubles me deeply that the people

of Maine only heard part of the story. They didn't hear about there are over 13,000 people that we had in substance abuse treatment here last year alone. Over 13,000, folks, and how many people do we all know that aren't getting treatment? Probably a whole lot. We spend in OSA over \$23 million a year, just in the Office of Substance Abuse, to try to do something to help people who have addictions. There are \$214 million reported, things that we know about, in criminal activity in the State of Maine. I think we all ought to think long and hard about that, and while I have no illusions that this bill is not going to pass out of here, because I do believe it will, I think we all ought to be thinking about the law, and we all ought to be true to the things we've sworn to uphold. For me, it's all about not breaking federal law. So we've done what we could do in our committee to make it a better bill, I have no illusions that it's going to do everything it ought to do, and I can tell you I talked to a number of police officers about this, a number of police chiefs. I've talked to people who spent many years in the Maine State Police, who are horrified that this passed, and they're as worried as I am about our future here.

I had, to be distributed to you this morning and I don't know if you've got it at your desk yet, something that came to me two days after we passed this bill out of committee unanimously, and since I'm standing here not the happiest camper discussing it, I'm sure you wonder why I voted to get it out of committee. I did exactly what our people in Appropriations do all the time when they've done the very best they can do and they've worked very hard to try to do the right thing, we said we have to pass it out of here and we got lots of concessions and did what we could do, so I voted for it to get it out of there. Today I am not going to vote for it because I couldn't look in the mirror in the morning if I did that. I think it's a wrong and bad thing, and I think the people that sold the bill the goods and I feel terrible about that. But two days after we voted this out of committee, I was reading my local paper, which never covers much of anything in the happenings of the State of Maine, but I did see an AP article in that paper. And as much as I've been concerned about criminal activity that may come along with this law, I wasn't surprised to see that a gentleman in Washington State was beaten to death, a guy who was a grower. Somebody found out that he was a grower and somebody else wanted the crop, and they thought it was okay to take it by any means. We had a medical marijuana activist who was attacked and exchanged gunfire with intruders at this home. That happened in Kirkland, Washington, a community I've been to many times, very much like a lot of places here in the State of Maine. And in California, a little boy was shot to death in the year 2007, while he invaded a grower's home trying to get his hands on the marijuana that was there. Any one who thinks that this is not going to happen here in Maine is very much mistaken. These awful things will come here and, unhappily, the law enforcement community is going to be left to clean up the mess. So I would urge you all to let your constituents know that this is indeed a national effort to legalize marijuana. It's not just about medical marijuana. And by the way, there is a pill form that one can take of this stuff that will help them with their pain and suffering, and I sympathize and empathize with anyone who's lost someone they love to a terrible illness. I lost a sister-in-law; eight weeks later, my brother, her husband was dead. Both of them from brain tumors, both of them died terrible deaths but they did not resort to doing something other than what the medical community normally subscribes for pain. So I do have familiarity with these things and I have enormous empathy for those who are suffering, but I am absolutely convinced doing things that are illegal by federal law is not the way to resolve our problems. I would hope that we all step up and speak out against doing things that are

against the law because it's not a good thing to do. So I'm hopeful you'll all think long and hard and, truth to tell, the bill that's going to be before you to vote on is far better than that which came to us. We all need to remember it's still against federal law. Thank you.

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

Representative **EVES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The report out of the committee is indeed unanimous, as Representative Lewin has mentioned. The Swiss cheese that was referred to, the initiative bill, there were holes in it and that's why the Chief Executive put together a task force and that task force worked the bill, came to the committee with recommendations, we worked it, and what's before us right now is the Maine Medical Marijuana Act. It was not an act to legalize marijuana. I think it's really important to limit our conversation today to what it actually is, and that is exactly what it is. We went to great lengths to make sure that there were restrictions on the program because the analogies to California, there were many that were made, and the committee took that very seriously. So we did want to start slow with this, and we didn't want the leash to be too long because we know when the toothpaste is out of the tube, it's hard to put back in. So what we did, I think, is a very responsible thing. We followed the will of the people. We are doing this very slowly. There's going to be eight dispensaries with the ability to grow at the dispensaries. There are tight controls on it. There are those that would want much, much looser controls on it, but I think we did the responsible thing with the recommendations that we did.

I think before us what we have is a motion for Enactment and we need an Emergency Measure. If we don't get two-thirds, I just want to be clear about what we will do if we don't get two-thirds. We will, what I think, obstruct the will of the people. They want this implemented as quickly as possible, and that was one of the principles that Senator Brannigan laid out for us in going through this, setting a framework around how will we make these decisions, one of which is to stay close to the initiated bill. So I would ask that you would follow my light on this. We are talking about the Maine Medical Marijuana Act, not legalizing marijuana. In closing, I would ask the Clerk to read the Committee Report. Thank you.

Representative **EVES** of North Berwick **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The **SPEAKER**: The Chair recognizes the Representative from Mount Vernon, Representative Jones.

Representative **JONES**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I just would, as a member of the Health and Human Services Committee who worked very hard on this issue and listened to a lot of testimony, I want to underline two or three points. That is that the people of the State of Maine voted to move forward with this issue of medical marijuana in the November elections. We worked very hard in the committee to put in the particulars of how this will be distributed, how to protect our children, and how we will be growing this product. I think we've done an excellent job at moving this forward in a safe way for Mainers, as they have requested that we do through the referendum. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. After hearing all of this, I was very upset with this bill when it first came in front of the committee, and I requested a meeting with an

attorney general and had that meeting, and I asked the Senate Chair to have the Commissioner of Public Safety appear in front of the committee. I was the only one that questioned them because it was my request that she appear the next day. When I left there for the weekend, certain Representatives were not going to vote for this bill. When I come back Monday, I got my answers and found out and we passed this legislation in the committee one hundred percent, I believe. If the Clerk would read the committee vote, I'd appreciate it. But it passed unanimously as far as I'm concerned. Thank you.

The **SPEAKER**: The Chair would just let the Representative know the Clerk has just read the Committee Report, so that has been done.

Representative **CAMPBELL**: The vote, not the report.

The **SPEAKER**: On the record, the Chair would just let members know that on a unanimous Committee Report, we don't get the vote. So if somebody was absent, we would not know that. As far as we know, it was a unanimous Committee Report of those who had voted.

The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I have to agree with everything that's been said here so far. I will be voting for this. But recently, I had seven captive constituents here. They couldn't get away from me, so they had to listen to me. I asked them if they had voted for this measure. They all said yes. I gave them particulars of what they had voted on, and they were all horrified. So when you say 70 percent of the people voted for this, they really didn't know what they were voting for. I think the committee has done a good job of tightening this up. There's some local control in there where the local governments can determine where these dispensaries can be and how many can be in their communities. Also, instead of having 3,000 dispensaries across the state, which is what the legalization of marijuana people wanted to make it innocuous so that people would say, look, it's on every corner, we might as well make it legal, they got rid of that and have four to eight dispensaries now.

So I believe they've done a fairly good job, the best job they could do to tighten this up. But I do feel sorry for anyone who's going to be on Health and Human Services for the next 50 years, because they're going to get this bill back and have it amended time after time after time, every year, in order to tighten it up and make it right. After talking with pain specialists across the state, including eye surgeons, not one of them said that smoking marijuana was something that they wanted to prescribe. There is Marinol, a pill out there that does the job effectively. In patients with glaucoma, marijuana is not even used anymore, they have better drugs. This is exactly what Representative Lewin said it was, but I think the committee did a great job of fording that effort, put in some tighter controls on it, and still making it available to those who medically need it. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Haskell.

Representative **HASKELL**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I'd like to stand just to remind folks about why this bill is here in front of us. I gave this speech on the floor of this House sitting in the seat that Representative Burns is in right now. That was my seat when I was first here and my daughter had been diagnosed, while she was pregnant for my grandson, with an ovarian cancer. Now to be sure she wasn't a young child, but when you're a mother, it's always your child, and this child had a very serious cancer. It was a tumor, it was bigger than four of the babies, it was huge, and it was very serious. It was probably, when I sat in that

oncologist office, one of the worst days of my life when I heard that my child had this invasive cancer.

Very shortly after that, she began to have more and more difficulty because of the size of the tumor and, on February 26th, she went in for surgery. The child, Joshua, was due on April 15th. This was February 26th. She went in for surgery and the doctor made an incision that was a very large incision, removed that tiny little baby, he was premature at that time, and that large tumor. What ensued after that was a regimen of chemotherapy, which one could only describe as torturous. As soon as that scar healed and barely healed, she was in the hospital five days straight with the drugs running intravenously and, incidentally, some of those drugs couldn't be delivered to her in the little plastic baggies because it would eat the plastic bag. They had to use a glass container in order to put those drugs in. The great thing about it is those were very strong drugs and they were very effective; however, for five days she'd be in the hospital with that IV running. And then she'd be home for 17 days with her premature baby, and then she would be back in the hospital for five days with those drugs running, and that went on for six months.

During that time, I can't describe to you what the symptoms were that she suffered. Her veins, you could feel them. They were hard as ropes because of the chemicals. Because of some of the heavy metals that were in those drugs, she lost feeling in her hands and her feet. She couldn't touch the baby's face and feel whether it was warm or cold. It was a difficult time for her to say the least. The nausea that she had, she was particularly sensitive to it. Maybe more sensitive than others, I don't know. But all I know is that's all she did was suffer from nausea. Many of the drugs that were offered had, as a side affect, diarrhea, and I can tell you that's the last thing a person needs whose barely got strength enough to crawl to the john as it is. Many of the drugs, Marinol is one of them, Marinol only has one of the ingredients that some of the other drugs have. She couldn't keep water down to say nothing about a pill down.

So as a family we made a decision. I was a sitting legislator. I don't think that would have gone over real well if I'd been out on the street buying pot. Her brother was working for a research institute doing research on genetic markers for downs syndrome. He could hardly go and have that kind of research questioned by an arrest for having bought pot. And Sue's husband worked at Bath Iron Works. Well, you can imagine what a record like that would have done to both his job and their health insurance. And so it was her father who decided—he's a self-employed contractor, no job to lose, nothing but an upstanding life and clean record—to go out and get pot on the street for that girl. Representative Treat's heard this speech before. And he did. It didn't miraculously make her healthy and bounding around the room. What it meant was that she could drink a little bit of water. She could keep a little juice down. Maybe she could have a little bit of soup. So that was what helped her stay strong enough to both survive the treatment and the disease that she was facing. I just want to you to understand that there are real people out there for whom this herb has been a valuable resource, has been helpful, has made a difference in people's lives in a very personal way. She's 20 years out now from that. She's in remission and that little grandson is that 6'2" kid who's living in my basement and going to college, and we're so grateful for that. But I'll tell you, without the kind of help that she got from that product during that time period, I don't know whether her recovery would have been the way that it has been. So I urge you all, I've argued for this, I've sat on the task force, I urge you all to Enact this legislation and let's move forward with making this help available to folks who really need it like my daughter did.

Representative THOMAS of Ripley **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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 Farmington, Representative Harvell.

Representative **HARVELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'm stunned that the implication that there were those that favored more than just medicinal marijuana that were putting this referendum out. I know in Farmington, when the UMF students were there collecting signatures, there didn't appear to be a cancer patient among them. They say that politics makes strange bedfellows, and that it does. While I certainly agree with Representative Lewin that there was a crowd that wants to legalize marijuana, that was pushing this and they probably were pushing it as a first step. But make no mistake, 63 to 64 percent of the people of Maine voted for this, and they did so at a time when Question 1 was on the ballot where the religious right turnout was greater than it would ever be, and I suggest that that number would be proportionately higher in a general election. Trying to keep the contradictions in my own mind from overwhelming me, I also am troubled by finding those that advocate of states' rights that now have no problem saying the Federal Government has made this illegal. Louisiana is the only state in the Union that never has taken a federal dollar for transportation, and they've kept their legal drinking age at 18. That's a federal law.

Just before last year's elections, I spoke to Representative Tardy about this in the parking lot. I was very interested to watch the turnout on this vote because I believe the people of Maine are not only ready for this but they're ready for something far greater. Thank you, Madam Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken

ROLL CALL NO. 352

YEA - Adams, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Cebra, Celli, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Fitts, Flaherty, Flemings, Fletcher, Fossel, Gilbert, Giles, Goode, Greeley, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Knapp, Kruger, Lajoie, Langley, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McKane, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rankin, Richardson D, Robinson, Rotundo, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Browne W, Burns, Chase, Clark T, Edgecomb, Flood, Gifford, Johnson, Joy, Knight, Lewin, McFadden, McLeod, Richardson W, Sykes.

ABSENT - Beaudette, Briggs, Kent, Perry, Rosen, Tuttle.

Yes, 128; No, 17; Absent, 6; Excused, 0.

128 having voted in the affirmative and 17 voted in the negative, with 6 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, Regarding Legislative Review of Portions of Section 10: Stream Crossings within Chapter 305 Permit by Rule Standards, a Major Substantive Rule of the Department of Environmental Protection

(H.P. 1224) (L.D. 1725)

(S. "A" S-493 to C. "B" H-678; S. "A" S-506)

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located at 187-189 State Street, Augusta, Known as the Smith-Merrill House, and at 159 Hogan Road, Bangor, known as the Elizabeth Levinson Center

(H.P. 1311) (L.D. 1825)

(C. "A" H-816)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

ORDERS

On motion of Representative CORNELL du HOUX of Brunswick, the following Joint Resolution: (H.P. 1320) (Cosponsored by Senator MARRACHÉ of Kennebec and Representatives: ADAMS of Portland, AUSTIN of Gray, AYOTTE of Caswell, BEAUDETTE of Biddeford, BEAUDOIN of Biddeford, BEAULIEU of Auburn, BECK of Waterville, BERRY of Bowdoinham, BICKFORD of Auburn, BLANCHARD of Old Town, BLODGETT of Augusta, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BROWNE of Vassalboro, BRYANT of Windham, BURNS of Whiting, BUTTERFIELD of Bangor, CAIN of Orono, CAMPBELL of Newfield, CAREY of Lewiston, CASAVANT of Biddeford, CEBRA of Naples, CELLI of Brewer, CHASE of Wells, CLARK of Millinocket, CLARK of Easton, CLEARY of Houlton, COHEN of Portland, CONNOR of Kennebunk, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, CROCKETT of Augusta, CURTIS of Madison, CUSHING of Hampden, DAVIS of Sangerville, DILL of Cape Elizabeth, DOSTIE of Sabattus, DRISCOLL of Westbrook, DUCHESNE of Hudson, EATON of Sullivan, EBERLE of South Portland, EDGECOMB of Caribou, EVES of North Berwick, FINCH of Fairfield, FITTS of Pittsfield, FLAHERTY of Scarborough, FLEMINGS of Bar Harbor, FLETCHER of Winslow, FLOOD of Winthrop, FOSSEL of Alna, GIFFORD of Lincoln, GILBERT of Jay, GILES of Belfast, GOODE of Bangor, GREELEY of Levant, HAMPER of Oxford, HANLEY of Gardiner, HARLOW of Portland, HARVELL of Farmington, HASKELL of Portland, HAYES of Buckfield, HILL of York, HINCK of Portland, HOGAN of Old Orchard Beach, HUNT of Buxton, WALSH INNES of Yarmouth, JOHNSON of Greenville, JONES of Mount Vernon, JOY of Crystal, KAENRATH of South Portland, KENT of Woolwich, KNAPP of Gorham, KNIGHT of Livermore Falls, KRUGER of Thomaston, LAJOIE of Lewiston, LANGLEY of Ellsworth, LEGG of Kennebunk, LEWIN of Eliot, LOVEJOY of Portland, MacDONALD of Boothbay, MAGNAN of Stockton Springs, MARTIN of Orono, MARTIN of Eagle Lake, MAZUREK of Rockland, McCABE of Skowhegan, McFADDEN of Dennysville, McKANE of Newcastle, McLEOD of Lee, MILLER of Somerville, MILLETT of Waterford, MITCHELL of the Penobscot Nation, MORRISON of South Portland, NASS of Acton, NELSON

of Falmouth, NUTTING of Oakland, O'BRIEN of Lincolnville, PENDLETON of Scarborough, PEOPLES of Westbrook, PERCY of Phippsburg, PERRY of Calais, PETERSON of Rumford, PIEH of Bremen, PILON of Saco, Speaker PINGREE of North Haven, PINKHAM of Lexington Township, PIOTTI of Unity, PLUMMER of Windham, PRATT of Eddington, PRESCOTT of Topsham, PRIEST of Brunswick, RANKIN of Hiram, RICHARDSON of Carmel, RICHARDSON of Warren, ROBINSON of Raymond, ROSEN of Bucksport, ROTUNDO of Lewiston, RUSSELL of Portland, SANBORN of Gorham, SARTY of Denmark, SAVIELLO of Wilton, SCHATZ of Blue Hill, SHAW of Standish, SIROIS of Turner, SMITH of Monmouth, SOCTOMAH of the Passamaquoddy Tribe, STEVENS of Bangor, STRANG BURGESS of Cumberland, STUCKEY of Portland, SUTHERLAND of Chapman, SYKES of Harrison, TARDY of Newport, THERIAULT of Madawaska, THIBODEAU of Winterport, THOMAS of Ripley, TILTON of Harrington, TREAT of Hallowell, TRINWARD of Waterville, TUTTLE of Sanford, VALENTINO of Saco, VAN WIE of New Gloucester, WAGNER of Lyman, WAGNER of Lewiston, WATSON of Bath, WEAVER of York, WEBSTER of Freeport, WELSH of Rockport, WHEELER of Kittery, WILLETTE of Presque Isle, WRIGHT of Berwick, Senators: ALFOND of Cumberland, BARTLETT of Cumberland, BLISS of Cumberland, BOWMAN of York, BRANNIGAN of Cumberland, BRYANT of Oxford, COURTNEY of York, CRAVEN of Androscoggin, DAMON of Hancock, DAVIS of Cumberland, DIAMOND of Cumberland, GERZOFSKY of Cumberland, GOODALL of Sagadahoc, GOOLEY of Franklin, HASTINGS of Oxford, HOBBS of York, JACKSON of Aroostook, McCORMICK of Kennebec, MILLS of Somerset, President MITCHELL of Kennebec, NASS of York, NUTTING of Androscoggin, PERRY of Penobscot, PLOWMAN of Penobscot, RAYE of Washington, RECTOR of Knox, ROSEN of Hancock, SCHNEIDER of Penobscot, SHERMAN of Aroostook, SIMPSON of Androscoggin, SMITH of Piscataquis, SULLIVAN of York, TRAHAN of Lincoln, WESTON of Waldo) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO INCREASE FLEXIBILITY REGARDING PAYMENTS TO MAINE VETERANS' HOMES

WE, your Memorialists, the Members of the One Hundred and Twenty-fourth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the United States Congress as follows:

WHEREAS, the federal Veterans Benefits, Health Care, and Information Technology Act of 2006, Public Law 109-461, requires the United States Department of Veterans Affairs to reimburse Maine Veterans' Homes at a higher rate for the cost of care provided to veterans with a 70% or higher service-connected condition or who require nursing home care for a service-connected reason; and

WHEREAS, the 70 Percent Program was set up to give equal access to veterans with service-connected disabilities who use Maine Veterans' Homes in Augusta, Scarborough, Caribou, Bangor, South Paris and Machias, Maine; and

WHEREAS, although the intent of the United States Department of Veterans Affairs regulations is to provide a higher per diem rate for veterans with service-connected disabilities, the regulations actually result in significantly lower total amounts being paid to many Maine Veterans' Homes providing nursing home care to veterans with service-connected disabilities; and

WHEREAS, as implemented, the 70 Percent Program does not provide to many Maine Veterans' Homes the actual cost of

care for disabled veterans in these homes, despite congressional intent; and

WHEREAS, the continued financial viability of many state veterans' homes systems across the nation is threatened, including the Maine Veterans' Homes; and

WHEREAS, the threat to the continued financial viability of state veterans' homes is particularly acute in the 30 states that have Medicare-certified or Medicaid-certified state veterans' homes, including Maine, and that receive payments for the care of veterans with service-connected disabilities under such programs; and

WHEREAS, several states have refrained from admitting some veterans with service-connected disabilities to state veterans' homes; and

WHEREAS, although the new United States Department of Veterans Affairs per diem program is viable for some states providing nursing home care and domiciliary care to veterans with service-connected disabilities, it is highly problematic for states providing skilled nursing home care to veterans with service-connected disabilities in Medicaid-certified and Medicare-certified state veterans' homes; and

WHEREAS, legislation to rectify this problem is before Congress in H.R. 4241, which would allow for increased flexibility in payments for state veterans' homes; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to urge the United States Congress to support and pass H.R. 4241; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

READ.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Cornell du Houx.

Representative **CORNELL du HOUX**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is a pretty straightforward resolution where we're providing more flexibility for the VA funding coming into the state for our Maine veterans' homes. I want to thank Donald Simoneau, who's up in the gallery with us today, for bringing this matter to my attention. It's actually very important because it provides flexibility in the funding coming to really support our veterans' homes here. I also want to thank the members of VFW who also came today, and our Congressional Delegation who is working hard on this issue.

Subsequently, the Joint Resolution was **ADOPTED**.

Sent for concurrence.

The following item was taken up out of order by unanimous consent:

SENATE PAPERS

The following Joint Resolution: (S.P. 746)

JOINT RESOLUTION MEMORIALIZING THE UNITED STATES DEPARTMENT OF COMMERCE AND THE UNITED STATES INTERNATIONAL TRADE COMMISSION TO ENSURE THAT OUR TRADE LAWS ARE ENFORCED

WE, your Memorialists, the Members of the One Hundred and Twenty-fourth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the United States Department of Commerce and the United States International Trade Commission as follows:

WHEREAS, the economic downturn is having a critical impact on ordinary Americans who are struggling to maintain or find jobs in an increasingly difficult environment; and

WHEREAS, a vibrant manufacturing sector is critical to an immediate economic recovery and to the long-term health of the State of Maine and the United States, and free trade cannot occur unless our trade laws are strictly enforced; and

WHEREAS, over 2,000,000 manufacturing jobs have been lost nationwide since the start of the recession in December of 2007, and well over 5,000,000 jobs and over 50,000 factories have been lost in the last 10 years; and

WHEREAS, in a December 2, 2009 USA Today/Gallup poll, Americans were asked what should be done to create more jobs in this country and the most frequent response was to "keep manufacturing jobs in the United States"; and

WHEREAS, a strong industrial base is important to our Nation's economic and national security, demonstrated by the following:

1. American manufacturing directly employs nearly 12,000,000 Americans and directly supports 8,000,000 additional jobs in other sectors;
2. American manufacturing pays, on average, 20% higher wages than other sectors of the economy;
3. American manufacturers are responsible for 2/3 of research and development investment in the United States; and
4. Nearly 80% of all patents filed come from the manufacturing sector; and

WHEREAS, our coated paper industry is the most efficient in the world and its workers can compete with any foreign competition that does not enjoy the benefit of illegal government assistance; and

WHEREAS, on September 23, 2009, Appleton Coated LLC, NewPage Corporation, Sappi Fine Paper North America and the United Steelworkers of America initiated a trade investigation with respect to certain unfair trade practices, including dumping and subsidization, conducted by Chinese and Indonesian producers of coated paper; and

WHEREAS, dumping occurs when a foreign producer sells into the United States domestic market for less than the price that producer charges in its home market or when its United States prices are below the cost to produce the product, and foreign government subsidization is a form of financial assistance that benefits foreign production, manufacture or exportation of goods; and

WHEREAS, the United States has trade laws that allow domestic industry and its workers to petition for relief from unfair trade practices that create what are considered an unlevel playing field and lead to plant closures and job loss in communities throughout America; and

WHEREAS, the United States International Trade Commission and the United States Department of Commerce are reviewing the trade investigation and will make determinations as to whether dumping and subsidization have occurred and whether domestic producers and the domestic workforce have been materially injured as a result; and

WHEREAS, paper imports from China and Indonesia grew by roughly 40% in the first 6 months of 2009, as compared to the same period in 2008, and domestic shipments dropped by roughly 38%; and

WHEREAS, Chinese and Indonesian producers have captured almost 30% of our market in coated paper products, double the amount from the previous year; and

WHEREAS, since 2002, roughly 60,000 jobs have been lost in the paper sector in America; and

WHEREAS, the trade investigation affects 6,000 workers whose jobs are at risk from unfair trade competition and in a preliminary determination, the United States Department of Commerce has sided favorably with the American paper companies; and

WHEREAS, both the Chinese and Indonesian governments have long-standing policies to encourage the development of their paper industries and have provided a host of illegal subsidies to paper producers to give them an advantage over American-produced goods; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to reaffirm the commitment of the State of Maine to the importance of manufacturing to our local economy and throughout the United States, and we express support for strong enforcement of our trade laws and for the domestic coated paper industry and its workers who have been injured by unfair trade practices by foreign producers; and be it further

RESOLVED: That We, your Memorialists, respectfully urge and request that the United States Department of Commerce and the United States International Trade Commission hold Chinese and Indonesian producers accountable for unfair trade practices that distort markets and devastate production and employment in the United States; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Gary Locke, the Secretary of Commerce, to the 6 Commissioners of the United States International Trade Commission and to each Member of the Maine Congressional Delegation.

Came from the Senate, **READ** and **ADOPTED**.
READ and **ADOPTED** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

Under suspension of the rules, members were allowed to remove their jackets.

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

REPORTS OF COMMITTEE

Refer to the Committee on Criminal Justice and Public Safety Pursuant to Resolve

Report of the **Joint Standing Committee on Criminal Justice and Public Safety** on Bill "An Act To Implement the Recommendations of the Working Group Concerning Domestic Violence and Firearms"

(S.P. 725) (L.D. 1817)

Reporting that it be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** pursuant to Resolve 2009, chapter 86.

Came from the Senate with the Report **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

The report was **READ** and **ACCEPTED**.

The Bill and accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1118) (L.D. 1580) Bill "An Act To Replace the Maine Limited Liability Company Act" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-819)**

(H.P. 1314) (L.D. 1827) Bill "An Act To Amend the Waste Motor Oil Disposal Site Remediation Program" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-822)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH**.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Friday, April 2, 2010, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Report "A" (7) **Ought Not to Pass** - Report "B" (4) **Ought to Pass as Amended by Committee Amendment "A" (H-763)** - Report "C" (2) **Ought to Pass as Amended by Committee Amendment "B" (H-764)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Ensure Humane Treatment for Special Management Prisoners"

(H.P. 1139) (L.D. 1611)

TABLED - March 24, 2010 (Till Later Today) by Representative HASKELL of Portland.

PENDING - ACCEPTANCE OF ANY REPORT.

Representative HASKELL of Portland moved that the House **ACCEPT** Report "B" **Ought to Pass as Amended**.

Representative HANLEY of Gardiner **REQUESTED** a roll call on the motion to **ACCEPT** Report "B" **Ought to Pass as Amended**.

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 Gardiner, Representative Hanley.

Representative **HANLEY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to this pending motion and I hope we can defeat this and move on to another report. This simply is not needed. This is something that is already done. It's done on a daily basis, a weekly basis by the Department of Corrections, the Board of Visitors, and the Board of Corrections. They report back to the Criminal Justice Committee, in essence back to this body, on an annual basis, sometimes on a semiannual basis, whenever we need them. Whenever we have a question or concern, they are always available and have been of great help and a great asset

to us. The system that we're dealing with now has improved immensely over the last 20 years. It has truly become professional. We spend somewhere, I think we're the fifth or sixth highest cost per inmate per day in the country, and that's for good reason because we run very, very good facilities, offer excellent programs, rehabilitation, mental health services, training and transitioning people back into society. In 2006, the Maine Correctional Center gave a rating of a 96.6 percent from the American Correctional Association. In '09, it was 99.6 percent of being in compliance. Those were incredibly high standards that they meet. The Maine State Prison, in '06, received a 98.4 percent compliance and, in January of this year, a 98.5 percent in compliance. The Maine Attorney General's Office has stated that the Department of Corrections meets or exceeds all the requirements for the constitutional rights to protect the inmates. The DOC deserves something better than this. Again, this resolve is unnecessary and unneeded. I would hope that we can respect the hard work, the incredibly dangerous work that our guards, our correction officers do, and move that we defeat this pending motion. Thank you.

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

Representative **HASKELL**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Quite a number of the things that the prior speaker said I agree with. I agree with the fact that the Department of Corrections here in the State of Maine is doing an extraordinary job given the resources that we've provided for them. The past five years, we have, by our actions, in Appropriations and passing the budget, eliminated 90 positions in the Department of Corrections. That's 90 positions in the Department of Corrections. I know every one of you who sits on another committee goes, well, they did that in my department too. They did that in Marine Resources and they did that in Human Services, but we did that in Corrections as well. The amount of work that these professionals do is extraordinary and the method by which they do it as well is extraordinary, and I continue to commend them for their hard work.

Where I veer slightly from what the prior speaker said is I think we can always look at what it is that we're doing. I think we can always strive to make some improvements. I think we can always have a little more oversight, a little more information. I think in particular of what we've done with our juvenile correction system, for instance, and I think any of you who have watched that over time has seen quite an interesting trajectory. A great amount of that is based on the scientific information, the kind of reports that we get about what works and what doesn't work. We found out that boot camp doesn't work. We found out that strict discipline for very minor crimes creates a worse recidivism rate than matching the kind of supervision that we provide for minor crimes. So in the juvenile system, we've taken that research and we're used to it to develop what has been an extraordinary system. There are people who come from other parts of the country to see how we do it in Maine and what we do in Maine, and we've done that based on research and information and understanding. We've been presented and there's been a significant amount of research done over the last few years around the impact of solitary confinement, and in many cases, when you read the research, you'll notice that they use such words as harsh deprivation, severe restrictions, isolated confinement, inordinate amount of time in segregation, and on and on. Much of the national research is based on some of the more punishment based types of segregation, which go on and have gone on in our country and other places, and it's important to understand what the impact of that segregation and those severe and harsh conditions are. That's not the way we do it in Maine. We've been

reading the research too. We haven't had our heads stuck in the sand. We've been reading the research and we've made improvements.

The initiation of the mental health treatment unit at the facility is a prime example. When the ACA accreditors were here, they said it was one of the finest that they'd seen in the country. This is something that we've done hand in hand with advocates and partners is work towards improvement, and I think we can continue to work towards improvement. I think we can take the research that we've had and very frankly I'll tell you that the amount of interest that people have shown in the conditions that our fellow citizens are in who are in that facility is of great comfort to me. I would be so delighted standing in front of Appropriations Committee and talking about what we're going to do when we lose our jail advocates, which we did two years ago I think, or when we're reducing funding for those folks down there, to know that I've got more people standing up with me saying we have to be careful about how we're managing our resources in that facility. And so for all of the debate and information and lack of information that's gone on around here, what we have raised the level of interest in what's happening with people who are behind bars. Those people are not only in our special management units. There are people just shy of our special management units who have mental illness and who are having difficulty to get along day from day, and there are people in the pods, in general population, and there are people in our jails. There are people who come in and out of our jails. There are people who haven't made it into the criminal justice system yet who still aren't getting all the services that they need out in the community. There are parents who have adult children with mental illness who, when they have a difficult episode, don't know who to call, and they end of calling the cops. We haven't done a good job of providing that family with the kind of resources they need to deal with those folks with mental illness issues, and I think that goes right straight across the board. I'm glad for the light that's being shown on it so that we can begin to move forward and continue with support, hopefully, of the rest of this Legislature.

So what I've proposed in this amendment, in this report is that we take a look at it, that we bring on the Board of Corrections Mental Health Working Group with whom we have charged the responsibility all through our system for taking a look at this, and make sure we understand how are we going to treat the mentally ill all the way up and down our system. Remember there are two types of mentally ill people in the criminal justice system. There are those who have been determined not to have been responsible for their actions, they are not in prison. They are being treating in treatment facilities. Those mentally ill who are in our prison system are those who have been determined to be responsible for their actions. So there is a difference between those two groups of individuals, and I think that's an important one to note because we have never been given either the responsibility at the Department of Corrections or the resources to run a mental health treatment facility. It is a prison, and we have to understand that when folks need treatment, that we have been continually providing that treatment. When folks who are bouncing back and forth between the prisons and Riverview, and that's something that used to happen a lot until we had the mental health unit and we were able to reduce some of those times when people bounced back and forth for treatment. So I think it's important to recognize the huge strides that we've made and to give. We don't have a reluctant department here. We have a willing department here who is willing to work with us and is willing to get the answers and is willing to listen to what our concerns are, and so I'd like to give them a chance to do that.

So I'd encourage you to support this motion to report out Report B Ought to Pass. Thank you very much, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The definition of torture from the Merriam-Webster's Dictionary: something that causes agony or pain; the infliction of intense pain to punish, coerce, or afford sadistic pleasure.

Last week I was talking with one of my colleagues and friends here in the House, and we were talking about this legislation and he said, I'm going to vote for the prisoners. At the time, I said, well, I'm going to vote for the guards. Later that day I got to realize that was the wrong answer. I am voting for the prisoners and the guards, the prisoners who would hurt themselves or others. When you are making the rules, you need to know how the game has been played. I hope all of you or most of you have taken advantage of the announcement I made about going down and visiting these units and seeing what we have. Representative Haskell was quite right in saying that we have the best. We have the best people and we have the best program. Not only are these people taken care of and they don't want them in those SMU units anymore than they need to be. They're there to help them, get them under the right medication or the right treatment plan, and get them back out into the general population. What I find even more remarkable is the system that is set up to get them back into the general population, where they move from the more lock down unit to a unit where they get to interact more with the prisoners that are in that block. They are getting them ready in stages. I think that's very important.

I didn't see any torture while I was there. I did have them strap me into the restraint chair, and it's not like the old wooden chair that had the electricity running through it. That was cruel and unusual punishment. This chair was quite comfortable. As I've said before, I could sit and watch TV in that chair all night. They get to use books. They get to talk to each other. Prisoners were playing chess back and forth by talking through their doors. This is not what you saw in Shawshank Redemption. Now if this is torture then the international courts in The Hague will have to indict most of all parents, daycare providers and teachers. For if what we are doing in their musing mind is torture, then putting all of our children in timeout is also torture. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Let's take a look at exactly what this Report B says. It requires the Department of Corrections Commissioner, along with a mental health focus group from the Board of Corrections to review the due process and other policies for the placement of inmates into the special management unit.

This bill was worked extensively. It was lobbied hard. We had a public hearing that lasted until quarter of 11 at night. We heard testimony from folks inside the state and from afar. It's always interesting to look at how a bill is presented. In my opinion, this bill was presented as a terrible situation at the Maine State Prison. An emergency exists, something must be done. The Legislature needs to jump in and intervene. Terms of solitary confinement; comparison to prisons of 40 and 50 years ago. We even had someone come, a felon, who did time in Angola Prison in Louisiana, 29 or 30 years, to come up to speak with folks. Quite frankly, Ladies and Gentlemen, this is a scare tactic. The descriptions that we heard about the Maine State Prison were simply not true. There were comparisons from other

places a long time ago. Those situations do not exist at the Maine State Prison.

It's also interesting to take a look at the court and how they describe some of these situations, and let me quote from a court description about hardship conditions and whether they would equal torture or would be unacceptable, and I'll quote, "An atypical and significant hardship in relationship to the ordinary incidence of prison life." What are those hardships? Well, they look at three things: Is there an opportunity for exercise? At the Maine State Prison in the SMU unit there is. Secondly, they look at is there an opportunity for out of cell activities? At the Maine State Prison there are those opportunities. Thirdly, do they allow contact with others while in or out of the cell? At the Maine State Prison they do that. So as far as looking at hardship conditions, the Maine State Prison doesn't even come close to qualifying for things that the court has said.

Again, let's look at the Minority Report. Review due process and other policies relative to the placement in the SMU. There are three types of segregation at the Maine State Prison: disciplinary, administrative, and high-risk. DOC policy, when you're talking about due process and other policies, for disciplinary placement into the segregated confinement, the SMU, the Special Management Unit at Warren requires the following: a formal hearing; written notice of the charge; the opportunity of the inmate to be present; the opportunity of the inmate to present evidence; the opportunity for the inmate to call and ask questions of witnesses; the opportunity for the inmate to provide himself with assistance of a staff member or another inmate; a written record of this formal hearing must be presented; and the opportunity to appeal. All of this is done before they're placed in the Special Management Disciplinary Unit. None of this due process is required. That's something, however, that the Attorney General has said goes above and beyond what is required.

Similar to the disciplinary confinement, in the case of administrative and high-risk, there is a similar type of due process, and I won't go through and read all of those but I want to point out one of the things that happen in the situation with an administrative confinement or a high-risk management confinement in SMU. That is on a regular basis, not just once but on a regular basis, if they're confined there for either of these two reasons, there is a review by a unit management team. That unit management team reviews it. It consists of folks from security and folks from caregivers, both medical and mental health folks to review that placement and make sure they're headed in the right direction. In both of those situations, in the administrative and the high-risk management, there is the opportunity to appeal and it's quite extensive if you look at the Department of Corrections policy, quite an extensive due process policy. Many of these issues have been challenged in court and upheld the Department of Corrections' decisions and policies.

Now we've reached the question as to whether or not we want, through this particular amendment, to have some more oversight, to look at policy and review, and so forth. Let's take a look at what the oversight is for the Department of Corrections, in particular at the SMU at Warren. First of all, there is a commissioner, who is a tremendous advocate for best practices. There is a warden, a brand new warden who, quite frankly, is reviewing each and every policy that they have. There is a board of visitors, civilians who come in to the prison on a regular basis, meet with staff, they meet with prisoners. They make recommendations to try and resolve some of these issues. There is a Criminal Justice and Public Safety Committee who has made innumerable visits to the prison, in fact to almost all of the correctional facilities that we have. You've heard from

Representative Hanley about the American Corrections accreditation process. It has done extremely well. It's very difficult to be accredited by the ACA. There is a strategic action plan that the Department of Corrections has which responds to many of these criticisms. It addresses a lot of the improvements that they are trying to make. OPEGA has been involved. They did an audit of the Department of Corrections, and let me read to you, if I may, just a small portion of what OPEGA said the Government Oversight Committee who said to the Department of Corrections. The Government Oversight Committee of action said they want to direct the Department of Corrections to continue the cultural change work it had previously initiated. Continue the work they had already initiated. There is a court system. Inmates make a lot of appeals to the court system. As we went through the public hearing, it was really interesting because each and every time we had a correction officer talk to us, we asked the question, have you ever been involved in or do you get an opportunity to make recommendations for a change in policy? One hundred percent of the time they said, yes we do, and we have. There is tremendous oversight at the SMU in Warren.

I agree with Representative Haskell when she said we need to always strive to improve and, quite frankly, Ladies and Gentlemen of the House, that's exactly what the Department of Corrections does on a regular basis. We don't need to tell them to do it more. They are constantly in that mode of policy review and correction. You know, there's the issue of policy review where a policy is put in place, but there's another issue that's critical as well and that issue is adherence to those policies by the employees. We asked the Department of Corrections to take a look at disciplinary actions for failing to live up to these policies, accountability, and we got a list. Yes, there are some folks that did not live up to those policies. They are no longer with us. Talk about accountability. We may have a couple of cameras in this facility. There are hundreds of cameras in the Maine State Prison, so they are constantly being watched, being held accountable. I worry about what the message that we might send to the Department of Corrections, to those corrections officers if we say, yes, let's pass this resolution. I think the message they're going to get is that something is wrong, you're doing something wrong and we're going to find out. The policies aren't working, you're not living up to what you're supposed to be doing, and we're going to find out. That's not a good message to send to those folks.

At first I was not sure why this bill was presented here in Maine. But then I received, I think we all received, an email message from the National Religious Campaign Against Torture. They even use the word torture. That National Religious Campaign Against Torture said right in the email we want a model bill, model legislation from the State of Maine that we can take to other states and run it up the flagpole. We had expert witnesses come up and talk to us with inaccurate information. We had a number of outside groups from Maine come and tell us what we should be doing here in the State of Maine. Ladies and Gentlemen, this bill, even this resolve, is an insult to the State of Maine, it's a slap in the face to those employees of the Department of Corrections and, in particular, to the men and women, correction officers who, quite frankly, put their lives on the line every shift they put into the prison. Is the Department of Corrections perfect? Absolutely not. Do they constantly strive to improve? Absolutely, and I listed a number of ways in which that oversight and that improvement is taking place. Ladies and Gentlemen of the House, I will not put my name on such an insult. I hope you will not as well. Thank you.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. First of all, I stand up in support of the current motion, primarily so that the stronger amendments might be made following that passage. I am disappointed but not surprised at the different takes on what we've all experienced in our committee. Certainly, and I want to go on record as well, the bill that is focusing on the SMU, the Special Management Unit if you will, is just that. It's not to look at the entire penal system, the correctional system that people have worked so hard to put together. There are many good things that are happening there. There are many incredibly creative and supportive administrators and staff that work there, so this bill or resolve and certainly anything that would come forward after this should not be seen as a condemnation of those hardworking people in this very difficult system.

Going to the ten and a half hour hearing, at least the one I experienced, which sounds a little bit different than maybe what others had experienced, half of the testimony did come from people who experienced life in the SMU, families of those people. There were individuals who are considered experts in the field of corrections, people when I received my master's in correctional administration from the University of Colorado, these are people that were writing textbooks similar to the ones that I read and the background that I received in that field. So I think these were not only creditable, they were very expert witnesses and gave testimony that featured what kind of things happen to people that are subjected to what our prisoners are subject to in the SMU. And indeed, a month and a half ago, when I visited the SMU, there were 120 some people in that confinement. That confinement is a 7 by 12 or 14 foot cell. You're in there 23 hours a day, sometimes 24 hours but mostly 23. One hour out for recreation which takes place in a confined area. You get three showers a week. You get three books a week. You get some writing materials. There's very little opportunity to interact. Your meals are brought to you through a slot in the door. That slot in the door is also used to remove waste matter and other body fluids, not always clean. Now in my mind, if it walks like a duck, quacks like a duck, it's a duck. So this is solitary confinement. It reaches those levels of definition that people who are familiar with solitary confinement would validate as being just that.

We asked for, for the working session, a list of people who were confined at that time, and we did get a list and we got the number of days those individuals had been in solitary confinement. They varied from a few days up to two years. But many of them were over 100 days, so the idea that people go in there, they get a little fixed, a little separation, quiet time in the corner like a child watching TV. By the way, of course there are no TVs or radios or other stimulation as your child might have in their quiet room. So I think that it was clear to some of us that what happens in this segregation is a very personal experience with each one of those inmates. For some people, they may have had mental illness going for them before they went in and certainly after a number of days in there, if they had any tendencies, they would start to surface as well. This is not what we want to have happen in any part of our system. Now again, I'm talking about the Special Management Unit. I'm not talking about people who are in the regular population who take advantage of programs, who seem to be able to have some benefits. These are people that if we don't look at their treatment modes and do something about this and pass a more rigorous bill, then we are creating a public safety issue beyond what we can imagine. Because these people, indeed, do leave the institution and they come back, mostly to Portland, Bangor, the

service center towns, and unless we can work with them inside the institution to make them a safer individual, they're going to come back home and create more problems, and the public safety issue there is magnificent. So please understand that what we're striving for gets to that point, and I would hope that when you vote for this resolve, you be open to other remedies as well, which I think we sorely needed. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative PRATT: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House, fellow workers. I have been thinking a lot about what I was going to say today, and it struck me how this issue and all the dealings and discussions that we've had have affected me more than any other one I've worked on since I've been here. It seems to me, I certainly wasn't expecting that to be the case when we started this either, to be honest with you, but the more I've gotten into it and the more I've talked about it, the more I've spoken about it, the more I've learned about it, it's so much more tangible and human to me than much of what we deal with here. That's why I think we have all the emotion that we have around it, and that's good because we're talking about something significant. We're talking about this idea of solitary confinement and it's a type of control that's been around for a long time. The Quakers tried it back in Philadelphia in the 1600s. They found that the idea of quiet introspection and isolation that they put incarcerated folks through ended up having the opposite effect of what they were looking for. Here we are today with more science and more studies, and great steps have been taken. I absolutely admit that. I'm not going to refute that. But that's no reason to pretend that there's not a problem or to say we can do better.

We have the opportunity to do today something that no one really expects us to do, which is tackle a tough, tough public policy issue and move forward with some guidelines for the future. I ask, if not now, when? We've heard many people don't believe there ever needs to be a "when" apparently. But if not us, who? No one is going to get reelected on running on a platform of prison reform. I know that. No one is going to get reelected going to bat for what some would see as throwaway people, or people who aren't worthy of our time and our consideration. I'm not suggesting the DOC, the Department of Corrections thinks that, and I'm not suggesting that there are many people in this body that think that. But I think there is a pervasive feeling throughout our culture that once you mess up and you get sent away, we get to wipe our hands of you, and I can't do that.

Mental illness in prisons and in society as a whole is undoubtedly a much larger issue than we can or aim to tackle in this bill. What we can do is work on a specific facet of this issue, and, to me, that's mental illness and its connection with solitary confinement. It goes by a lot of different names. You've heard already some today: segregation, special management unit, isolation, the hole, etcetera. You've already heard some say today that it's not a problem, that we don't have that here in Maine. I will not argue that the Special Management Unit at the Maine State Prison is the same physical construction as the Hanoi Hilton, but I will argue that the psychological affects based on that isolation are in fact relatively the same. Twenty-three to twenty-four hours a day in a 7 by 12 concrete cell with no radio, no TV, and very little interaction with any human contact whatsoever, it's tough for me to not call that solitary confinement. All the science that I've read, the peer reviewed and court cases reviewed by courts, assert that prolonged isolation, regardless of what it's called, at the very least exacerbates preexisting mental illnesses and, at worst, induces mental illness, contributing to

long-term mental health problems for those folks.

I'm sure many would like this issue to go away. I'm sure leadership, probably, on both sides would like this issue to go away. There are so many important and pressing issues before us. I hear people saying, why are we dealing with this? Why are we worrying about these folks in jail, when we've got good hardworking people out there losing their homes? I can respect and I can understand that. But like it or not, these folks that are incarcerated are our citizens, and 95 percent of them will be let back out into our communities. This, to me, is a public safety issue for all citizens. For inmates, for the folks who work in the Special Management Unit and the prisons as a whole, and the general public. Forty-three inmates were released directly from the SMU out into the public over the last two years, and it's possible, I feel, that we're doing more harm than good by doing this. We heard in caucus the other day that that number is going down, and that's great, I'm happy to hear that. I've heard, due to jail consolidation and a lot of the work that the Department of Corrections have been doing, that we've been given some more elbow room, some more spaces to move people around. That's good progress. I'd like to see that result in fewer people in the SMU. But these people are our neighbors and they are your constituents and we've got to find a better way.

I understand the job of corrections is a very difficult job. I don't envy what they have to go in there and do every day, and I know the resources are stretched thin. I have seen in my other job as a firefighter and a paramedic the scars that mental illness has, that we've seen out there on the streets, and I understand what these guards are seeing every day. I have some horror stories as well, but I won't share them with you. In my job, we also have policies. We've heard a lot about policies. I've got a big giant book of policies, some of which seem to get followed every day and some of which seem to get buried. I'm not here to judge or say who's following or not following policies, but I am here to say that one way to make sure it's followed is to come up with statute, to come up with law. It's not my intention to micromanage an executive department, it's not. But it is my intention to create good public policy and a baseline or guidelines that the Department of Corrections can follow, and set a bar that we as policymakers and elected officials are comfortable with, standing ready to assist the Department of Corrections in gaining or readjusting and shifting the resources necessary to reach a common goal of what I hope to see is a safe, humane and restorative criminal justice system.

This resolve, as written, fails to address the bulk of my concerns and the concerns of many of my colleagues in this body, and it's with great trepidation that I rise to urge it's passage and it's solely for the purpose of placing this in this body a position to amend it to better address the issues of solitary confinement in Maine. The crux of the issue to me is does this body condone the placing of preexisting severely mentally ill people in a solitary or isolation type situation, contrary to what I've read in court decisions and consent decrees that find this practice as a potential violation of the Eighth Amendment of the United States Constitution. Let us move forward, absolutely. I'm not known here for my consensus mongering or my incrementalism and I know that, but in this case, I find it, however hard to swallow, imperative that we move forward and pass this resolve. We can and we will do better. It's a painful issue and a tough one. But I think about the words of my friends and fellow musicians, Ethan Miller and Katie Boverman, "the source of my pain is the source of my hope in the vision of what this world could be." We can always do better, we can always do better. I urge us to move forward and thank you for your time.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Last week, we got a little kind of a small book from Janet Mills. It's got some pretty flowers on it but a gravestone. The top of it says "He wants to see me dead", The 8th Report of the Maine Domestic Abuse Homicide Review Panel—January 2010.

Once a year, our judges come into this chamber to meet with us and these same judges, when people commit heinous crimes or any crimes against the people, they decide whether they go across the river to Riverview or up north to one of our hospitals, or they go to jail. If they go to jail, it's for good reasons.

Last week in the *Press Herald*, it shows a mother and father in front of the Legislature in New Hampshire. John Cantin testified before the Legislature Tuesday that two days before his daughter was killed, he showed up at the house, beat his wife, strangled her, threw her down the stairs. He got arrested and got released for \$30 bail. But two days later he came back, shot his mother-in-law in the back and killed his wife. What they were looking for from the Legislature was that if that was a felony, he would have served five to seven years. The Senate Judiciary Committee which heard the testimony recommended passage of the bill, which has already been passed in the House. It would make assault by strangulation a second degree felony and carry a sentence of 3½ to 7 years. The committee members said that they would recommend it become a first degree felony, which carries a sentence of 7½ to 15 years. Now if we can't trust our judges to make a decision to send people that have mental problems to the mental hospital, our people that are real criminals to jail, I don't know who's going to make that decision.

Besides that, I think that we have guards, we have a commissioner that oversees these things. I think our judiciary should make a decision whether we're doing the right thing or the wrong thing. I don't think we should make it a political thing, and I don't think this bill should pass. Thank you.

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

Representative **FLAHERTY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is certainly a tough issue, but I would argue that it is good for this body to have this debate because is it true that we've come a long way from the practices in our prisons from years ago? Absolutely. And do we trust and know that our corrections officers are doing the right thing? Without a doubt. And is it true that the laundry list of organizations and parts of our corrections system that Representative Sykes alluded to are in fact bringing the state in the right direction? I certainly would argue so. But as policymakers, we must also ensure that the laws of our state reflect the values of our society. Nearly 24 hours a day of solitary confinement without radio or television, without any human interaction, for days, weeks, months, and for years on end does not reflect the values of this society.

In an Op-Ed in the *Bangor Daily News*, which appeared February 26th of this year, Terry A. Kupers is a nationally recognized psychiatric expert on mental health affects of prison conditions, and David Moltz, a psychiatrist who practices right here in Brunswick, argued the following: "In solitary confinement, the prisoner is isolated from others in a cell nearly 24 hours per day. In Maine, the cell doors are solid metal, so the prisoner has to shout merely to be heard by staff or residents of adjacent cells. The prisoner eats meals alone in his cell and remains almost entirely idle with no programs to permit him to increase socially desirable skills. This is not "the hole" of yesteryear. Lights are on around the clock and the doors open by remote control. The

isolation and idleness are near total. Staff pass by the cells and slide food trays through slots in the door, but meaningful communication rarely occurs." Moreover, they argue "The isolation and idleness that cause psychiatric symptoms in relatively healthy prisoners cause psychotic breakdowns, severe affective disorders and suicide crises in prisoners with histories of serious mental illness. Stuningly, one half of successful prison suicides today occur among the 3 percent to 10 percent of prisoners in solitary confinement at any time."

Madam Speaker, with that type of insight and the evidence, I would argue that the practice of solitary confinement violates our Eighth Amendment which prohibits cruel and unusual punishment. Specifically, in 1972, the Supreme Court of these United States ruled in *Furman v. Georgia* "there are, then, four principles by which we may determine whether a particular punishment is 'cruel and unusual'." Those four principles, the Supreme Court goes on, are as follows: One, a severe punishment that is obviously inflicted in holy arbitrary fashion. Two, a severe punishment that is patently unnecessary. Three, the essential predicate is that a punishment must not by its severity be degrading to human dignity, especially torture. And four, a severe punishment that is clearly and totally rejected throughout society.

Madam Speaker, I would argue that the practices described in that BDN editorial regarding solitary confinement go far beyond the necessity for safety, and I would further argue that at least two of the principles outlined by the highest court in this country are clearly being violated. First, that many of the manners in which solitary confinement is employed are in fact degrading to human dignity. Moreover, that such punishment would be rejected throughout our society. And the court provides us further insight into this issue. In *Trop v. Dulles*, the court ruled that the Eighth Amendment "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society". In this great country, in this great society have we not evolved in our treatment of human beings well beyond this type of use of solitary confinement? Have we not found better ways to control people? Don't we have more appropriate ways of enforcing our laws and rehabilitating our inmates? What does it say about our society that we can still condone this type of treatment? I would argue that the use of solitary confinement is in direct violation of the Supreme Court's rulings on the Eighth Amendment, and I would argue that our society has in fact matured, and I would further argue that it ought to be the job of this body, of policymakers for our state, to ensure that the laws do indeed reflect the values of our society. This is not an insult to the Department of Corrections. It is not meant to be so, but it is and it should be a statement of our greater conscience and a reflection on our better nature. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Magnan.

Representative **MAGNAN**: Thank you, Madam Speaker. Madam Speaker, Fellow Members of the House. An Act to Ensure Humane Treatment of Prisoners came across the committee's desk awhile ago and, as a committee, we spent countless hours working on this bill. It would be unfair to say that anyone on the committee took the issue lightly or made their decision on their vote without considerable consideration.

The Special Management Unit exists to deal with three specific groups of convicted criminals. There is a disciplinary assignment to this Special Management Unit for people who are disruptive and aggressive and hostile, whatever, and dangerous within the prison or in their unit pods. There is a protective custody component for individuals who need protection from other prisoners or that need to be isolated because they are a

danger to the guards. Then there is a third assignment to the administrative unit and, according to the prisoners, the decisions assigning them there may be targeted or vague or sometimes considered arbitrary, although each prisoner is assigned to the SMU with a written reason for their assignment to the unit and a team to oversee this place. Prisoners end up in the administrative unit for longer periods of time than either of the other two units, generally. There are problems. There are a large number of people in isolation, especially administrative. They are in isolation too long. The mentally ill are often sent there. It is very difficult to deal, especially with this particular issue, because it's so complex, and yet unlike the state hospitals where you can force medication on your mentally ill people who are having psychotic breaks or having other very complex reactions or episodes, in a prison we can't do that. You can't force medications, and so they are withdrawn to isolation and there is a unit for them that fills up, unfortunately, too fast. In the unit, the SMU, the level of isolation is too profound. There is no music, there are very few distractions, it's not good. However, these problems that I've just mentioned are not mentioned as a slap in the face or an insult to the staff and the guards. Many of these problems are leftover pieces of the culture of the prison that have been worked on but haven't been completed in the process of restructuring this whole prison system that's been going on for the past number of years. Its part of the process and it isn't perfect.

So what can we do? There are solutions. Well, I suppose we could eliminate the Special Management Unit, although I would not think that that would be a good idea even though there is some evidence that there are new and internal discipline methods that can be used to manage people in different ways and avoid coming, especially for administrative reasons. However, right now this would be completely unreasonable for the safety of the staff and the other prisoners, the staff especially who work under really stressful conditions and do an heroic job. I suppose we could create legislation to enforce the existing policies and procedures, but they're there. The policies and procedures are there. If we do legislatively press these issues, there is an unfortunate fiscal note that might be part of it where of the insistence of the prisoner of having an advocate to a hearing, it could become very costly. Although in the original amendment, it said they would be paid for by the prisoner but that would be court challenged immediately in court by penurious prisoners who have no way of paying for those kinds of additional support.

So there is a balanced approach that we can take. One part of this would be to allow the new warden a chance to establish a management procedure and style and give her the support of the Criminal Justice and Public Safety Committee and the Department of Corrections and the Board of Corrections, and anyone else to whom she must report. Another way of going about this with a balanced approach would be to provide the prison staff with new behavioral techniques to use with the problems, for the administrative type, especially that gets assigned to these units. They have to understand and buy in because they are the huge resource to this process, and they cannot assume that by looking closely at what they do, that it's any different from what we asked the teachers last week, to think about evaluations in a positive way, to think about them as a way of improvement. The message to corrections about evaluations and about moving the process forward in this area is not as punishment but as a guide for improvement. I think they can understand that, I'm sure.

So the policies and procedures are there. They are sound, they are reasonable. The culture is perhaps a little wonky. But you know what? We haven't even pinpointed what the exact

problem is and that's why I would like to think about supporting this resolution that's listed on the board, where we don't legislate but we insist that the policies and the procedures, which do exist, be scrutinized under the Mental Health Working Group of the Board of Corrections, that the policies and procedures which are existing and followed and understood, and the processes in place, and to give them an opportunity to define specific problems and craft solutions to the problems they identify. It would be critical to the importance of this process that we gain not only the cooperation of the staff but the input and the valuable information that they possess after having experiencing their life through the eyes of corrections. Finally, we need to give the new warden an opportunity to see if she can make the changes in that culture of the prison so that the use of administrative isolation can be reduced greatly, especially in the area of the administrative isolation, but in all areas and perhaps eventually eliminated.

Regardless of the outcome today, the SMU and its concerns have seen the light of day and will be dealt with in a concerned and professional manner, especially by the Department of Corrections, who are thoughtful, and they will take action and they will make changes and they will do their best. It's not the cat with the canary. It's the cat taking charge, I guess you might say, and they will do it in a professional manner, organized, thoughtful, and they work hard. I'd like to thank Representative Schatz for bringing the issue forward because it did bring it to the light of day and for remind us that after the last week, which was a religious holiday for so many of us, to remember that those who are the least among us. So thank you. I will follow my chair's light and vote with Representative Haskell on this issue. Thank you.

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

Representative **MAZUREK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. We've heard a lot of words this afternoon about this bill. Let me tell you something. I've lived in the mid-coast area for a long, long time, well over 30 years. I have had some dealings with the Maine State Prison. I had some people on both sides of the bars unfortunately, on the inside and many on the guard side. But the other day, I was talking to the new warden, Patricia Barnhart, and she made a very good point. She said this is a prison and don't forget that. That's what we're talking about. We're talking about a prison. These people are in there for a reason. Now if you and I do something bad, we commit a crime, we're convicted, we go to jail, we go to prison. When you're in prison and you commit a crime, they put you into the segregation unit because you can't behave normally with the other prisoners, and they have a responsibility, the prison has a responsibility. Number one, they have a responsibility to maintain the safety of the prisoners, from each other and to themselves. There are many prisoners in these units that are on 24 hour watch. They can't be left alone because they're trying to harm themselves. There is a responsibility to the guards. We've heard people talk about the guards today a little bit. Well, I've known guards all of my life who have worked over there for the last 30 years. I've talked them and this last couple of weeks since this bill has surfaced, I've been on a walk down on the boardwalk and I've had people stop me and say, "Coach" or "Ed", and these are guards who work at the prison, "don't support the bill, please." "We're doing the best we can." And you know, when you look at the guard situation, they go into a very, very difficult situation every day. I've seen the wear and tear on what being a prison guard does to a human being. They go in there; they don't get a lot of money. They run a risk of bodily injury. It's a very taxing job and every one of

these guys who have stopped me and I've talked to in the last two weeks have asked me please don't support this bill.

You know, I've heard today that the Maine State Prison has a very good accreditation, and it does. It must have a good reputation, but we're dealing with a prison and these people are in these units because there's a reason. They do have an opportunity to work their way out. They have a unit which is completely where they're alone, but then if they work their way out, they're put in another unit where they begin to socialize and interact with one another, and then they're put back in the general population when they feel they can handle it, when people think they will not injure themselves or someone else.

So I really can't support the bill today. I think that when you really stop and think about it, you want to spend money on prisons, give the guards a decent livable wage. That would be a big step in the right direction. Take some of the money and give them guys a decent wage or these gals a decent wage to live on, so they don't have to have mandatory overtime. How would you like to go to work under those circumstances and 15 minutes before your eight hour or ten hour shift is up, you're told you've got to work another ten hour shift immediately following that because they can't get enough people to work as guards because we don't pay them good salary. So take some of that money we're talking about and let's do it right, start off with the basic people, start off with the prison personnel. I really think that in the long run, the Maine State Prison, they've got a good person, they've got a new warden, give her a chance. I've watched her. I had the opportunity a couple of weeks ago to spend three hours there. I was invited over, I showed up unannounced hoping that I might catch them, but they opened the doors, they took me right through all the units, and I watched this new warden in action. I'll tell you, I was very, very impressed. We've got to give them a chance. Give this gal a chance to do the job she was hired for. So I really hope we don't support this bill. I don't think we need it at this particular time. I think our policies that we have are good. Let's give this person a chance to do her job, and please support the people who work there. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Generally, I agree with the good chair of the Criminal Justice and Public Safety Committee. In fact, I agree with the remarks she made on the floor of the House today. But based on the information that we both heard in a lengthy, lengthy public hearing and several work sessions, we have apparently come to a different conclusion about the need for this resolve.

The Maine Department of Corrections has been accredited by a national corrections organization and, contrary to what a couple of previous speakers have said about the constitutionality of this, the Maine Attorney General determined that all constitutional requirements are being met. DOC, Department of Corrections, employees are asking what is the problem that this legislation is trying to fix. LD 1611 appears to be a solution for a problem that doesn't exist. Prisoners in the Special Management Unit receive mental health services, case planning, phone calls and visits. They are allowed telephone calls and access to books, legal materials, and religious items. They are provided opportunities to progress through the unit and be released back into general population. It would be great if no one had to be taken from society and incarcerated. It would be great if no one who society has chosen to incarcerate ever had to be confined in a cell by themselves. It would be great if no one with a mental illness ever had to be incarcerated or placed in a cell by themselves.

However, none of these scenarios are realistic. We live in a real world which is far from being perfect. We do have prisons and those prisons do have segregation units. If we had the resources to deal with people with mental illness outside of prison, it would be great. The reality is we do not have those resources. In fact, there are times when the staff at Riverview calls to have out of control prisoners removed from that facility and taken to a secure correctional facility. Keep in mind, as has been stated earlier, Riverview does have the right to force medicate their clients. The Department of Corrections does not have that possibility in their tool bag. Corrections officers, during the discussion, the public hearing on this bill, were portrayed as torturous and inhumane. This is not what I have observed during the several work sessions that we had on this bill. I observed corrections officers who are very, very professional. You've observed some of them in the hall. They are people who want to do the right thing. They are people who are going in there every day, striving to do the right things.

Corrections officers have asked the question will this bill, will the passage of this legislation make our jobs safer and provide more protection for staff and inmates? I have concluded that it will not. Please don't gamble on the safety of all concerned in our Maine correctional facilities. This bill, although not as egregious as the original bill, or possibly the amendments that I understand will be introduced if this resolve passes, it is a kick in the teeth to those very professional corrections officers. As the good Representative from Rockland said, please do not support this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to this amendment that's been offered because I think it's going to open the door for various reasons, but it also gives the opportunity to open the door for more egregious assaults to what is going on in our state prison. As we hear over and over again, this is a very important bill. I wish you all could have been in the hearings that we went through in Criminal Justice and Public Safety. I think it would have made a big impact on you and I think it would have made somewhat of a different impact on you from some of the things that I've heard testified to you here today. I couldn't agree more with the good Representative from Rockland, Representative Mazurek, that this is so incredibly important to the people that live and work in that institution down in Warren. People that live there because they have no choice, because they have been sentenced there, some for minor but most for egregious crimes on society. So they're there against their will. People who work there and try to earn a living for their families so that these folks can be taken care of and so they won't be out here in society until their time has been served. These are very important issues.

When the good Representative from Blue Hill brought this bill forward, he spoke to me as he did to many others, a good friend, Representative Schatz, and asked me what I thought of it and I said at the time and I still believe, I think it's always good to shine light on any process that is as important as the one that we are talking about here today. We need to know what's going on. We can't ignore it. We are policymakers and this is what was done after hours and hours of public hearing and work sessions, that's exactly what was done. You have a committee, just like you have education committees and you have transportation committees that are assigned to work through these processes, and that's what we did.

This bill initially would have, I believe, caused irreparable damage to our prison system. I believe the amendment that

we're talking about now, it may be less innocuous but it's still telling the prison system, it's telling the guards that we have commissioned to work there. Something's wrong, we're watching, and there are other people who would actually intimate that we're coming after you.

We heard a lot of testimony in the time that we were there from both sides. We examined all the policies and the procedures, and I have every one of them here with me on my desk, I'm running out of room, but we have all the policies and procedures that are in place at the prison. We went through all of them. We read all of the testimony. We listened to all of the testimony. We heard testimony from experts that were brought in from out of state, so-called experts, that basically make their living going around being involved in lawsuits, testifying against prison systems, offering themselves out, making statements without having visited the facility that they were talking about particularly. I take those testimonies from the ones they come. We were told that from some of these people that testified, these so-called experts, that what was going on down to Warren was torture, inhumane, and was not acceptable any place in the country, saying that the research indicated that SMUs were contrary to public safety and the safety of the prisoners. There is research for anything that you want to find, any case that you want to make. So it is with this, these so-called experts that testified in front of our committee, the research done by the Urban Institute of Justice and Policy Center said just the opposite of what this expert said that came to testify against our prison system. They said that not having SMUs puts the system in jeopardy, puts the people that are incarcerated there in jeopardy, puts the guards and staff in jeopardy. We had other so-called experts that came in and testified before our committee and they've been in the halls, you've all seen them. They, too, have made a career out of attacking our prison systems. They probably know more than I do about them. I've spent over 30 years dealing with the prison system because of my chosen work profession, and for some reason I ended up doing the same thing here in the Legislature and then up on Criminal Justice, and I'm not sure what's a matter with me. But the individuals that I'm talking about, they too go around the country condemning our prison systems, and they come here to Maine and they condemn our prison systems and they condemn the people that are running them. They personally attack, verbally attack the Commissioner of Corrections. I sat there and listened to this until our good chairs finally said, enough is enough. The same people who have spent 18 or 20 years in prison. They know where they're coming from. The same people who were doing time in prison all over the country because they were affiliated with groups, United Freedom Front, and you probably all know who I'm talking about. They did time in prison because they were bombing hydroelectric plants. They were robbing banks. That's why they did time in prison. They were affiliated with groups of whom went to prison for life sentences for killing state troopers.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry, and inquires as to why the Representative rises.

Representative **BERRY**: Point of Order, Madam Speaker.

The SPEAKER: The Representative may proceed.

Representative **BERRY**: Madam Speaker, I believe the issue before us is whether to Accept the pending motion which would have the commissioner consult with some members of the state board, review due process procedures, and set up a timeline for a reporting. I ask whether the current line of debate is germane.

On **POINT OF ORDER**, Representative **BERRY** of Bowdoinham asked the Chair if the remarks of Representative **BURNS** of Whiting were germane to the pending question.

The SPEAKER: The Chair would answer to all of the members that we are debating the Report B. Obviously that report is in opposition to the Ought Not to Pass Report. I would ask everyone to keep that in mind during their debate.

The Chair reminded all members to stay as close as possible to the pending question.

The SPEAKER: The Representative from Whiting, Representative Burns, may proceed.

Representative **BURNS**: Thank you, Madam Speaker. I tried to fair it out, what we could and couldn't say during this debate. I've heard it all over the place this afternoon, so I'm trying to be careful with my words. But the fact is our prison system here in Maine is one of the best in the country and it's under attack. It's easy for us to sit here and pass judgment on it. I wish you all had an opportunity to interact with that prison, with the guards, with the inmates like I have over the years and more recently. I think it would give you a very interesting perspective. And I'm also familiar with what goes on in other states, in other prison systems. So I'll get off the subject about the gentleman who makes a living out of going around condemning our prisons.

Our Department of Corrections commissioner was asked and this goes, I believe, very germane to what we're talking about here, asked to give answers to 33 itemized questions about what goes on in our prison. He did so. He did so in great detail. We all had that to work with. I felt and I think many of my committee members felt they were very satisfactory, very satisfactory answers. So nothing was being hidden.

I believe that SMUs, solitary confinement, whatever you want to call them are an absolute necessity for us in this day and age and the prisons systems that we run in this country. They certainly are a necessity in our facility here in Maine. I don't believe and I think the evidence will bear this out, I don't believe you can run a prison system without special management units anymore than you can run this House of Representatives without rules. If we get out of line, if we don't obey the rules, somebody takes us out of here. You can't maintain the safety of a prison system unless you have, as the Representative from Rockland stated, some place to take those people. They're already in prison, so you have to have an alternative. Without that alternative, it's going to entail chaos and worse. Our prison system has been looked at by the court system, by a national accreditation system, by the Maine's Attorney General Department, and it's passed muster for each one of those. Ladies and Gentlemen, do we know better than they do here? It's easy for us to say things that make us feel better. None of us have to spend five or 10 or 20 years in those facilities, hopefully never will. None of us have to go to work there day in and day out. It's easy to pass judgment sitting here. From what I have seen, my limited experience, we have one of the better systems here in Maine that exists in the country. I think we ought to support that, we ought to reinforce it, and I certainly believe that we ought to do something about the staff level that we have there. I agree with the good Representative from Portland that we've lost over 90 positions. We were already in trouble there before we lost those 90 positions. We can't find people to stand up, come up and take those jobs. They'll work in other parts of the system but they won't apply for a position in Warren because it's a tough job, it's a dangerous job, it's a life threatening job. Not everybody is up to it.

I don't believe there is any such thing as "solitary confinement" in Maine. It's not a place, Special Management Unit is not a place I would want to be sent to. But if I was sent there, I would be sent there for a reason. If I was sent there, I would have a remedy for getting out of there, all those who are available. It is 23 hours a day locked up. You do get out for one

hour a day but you do have other amenities available to you. You are not treated inhumanely, you are not tortured. I guess I would ask you, for those who so vehemently object to this, what is the alternative? How do you run a prison system unless you have some place, some methodology with which to deal with the people who refuse to live in general population and get along with their fellow inmates? I don't know. I've asked the question. I've asked the question to former inmates. I've asked the question to the prison guards. What else can you do?

We had a young man come in and testify a couple of times and I've seen him several times here, a young man who had to go to prison early in his life, unfortunately. He wound up in Special Management Unit. He didn't do as much time as some of them did, but he didn't like it. But he did do his time. He did his time and he got out. I asked him before he was done testifying. He had certainly enough experience to speak from experience. I said, would you be safe in that general population if they didn't have special management units? No. That was his testimony. No, because he knows why those folks are in SMU. When you have people locked up in SMU who tell the guards either you keep me in SMU or I will kill another staff member or I will kill another inmate, what do you do with them? You tell me what's the alternative. Some people are in there because they can't survive in the general population. Some people are in there because they're unwilling to survive in general population. They want to be in SMU and that's where they are.

I hope and there's been many, many things said here today, but I hope we all realize the seriousness of the decision process we are making here. The staff has very little to say about this. They go to work day in and day out. We have a Department of Corrections management that I feel have been scrutinized already. We will continue to scrutinize them. I have been told directly, ask us to report back. We will report back anything that you want us to report back on. Come and see what we're doing. Do whatever is necessary but don't tell us, don't tell us that we are not doing a good job. And that's what this bill, I believe, will say. It will say you're on notice, things are not up to par, we're watching and other people, as I said, want to do more than that, more than just watch. They want to undo what I think is a very, very workable good system in our prisons. If I knew of another solution, I would be the first to jump on board but I'm not aware of any. This is all a matter of stability. We can maintain stability here in the House because we have rules. We can maintain, hopefully, stability out in the streets because, unfortunately, we have rules and we have police officers and other people that enforce those rules. How do you maintain stability inside the walls of the prison? You have to have rules, you have to have alternatives. Those alternatives, some of which include the SMUs, I submit to you are humane, they work, they're not nice places. Nobody is suggesting that they are nice places. I don't think for a second that it makes you a better person to spend six months or a year inside of SMU, but the alternatives are pretty thin. What else can you do? If we did a better job on the outside with mental health issues, there would be a lot less people that have to be subjected to SMUs, a lot less people in our prisons. Most of the folks in there, as you know, have mental health issues. That's just the way it is and, until that changes, we have to live with that.

I would ask you, finally, please support the people that we have put in place to take care of the health and safety of the men and women that we have to put into state prison. I know a lot of them. I know county, I know state at all level. They are good people. They're doing the very best that they can. When there are infractions, when there are abuses, it is taken care of through the discipline process, it's already been testified to today, just like

any other institution that we have in this state. This one there is no room for error. People's lives are at stake. It's not about feeling good; it's about people and their safety when they're inside those institutions. Please do not support this and vote this down. Thank you.

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

Representative **HINCK**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I would like to speak in support of this amendment and urge a vote of yes. I found the risk of delaying awhile to press my button on a debate that I knew would take awhile. In some sense, it seems like its all been said, but I still feel I could contribute a little to this discussion. In fact, by in large, people have stood up here and argued on both sides of this vote but address many of the same issues, many of the same facts reaching opposite conclusions. I don't disagree with the good Representative from Whiting in much that he says about the criminal justice system. I signed on to this original bill and never at any time did I want to see the elimination of the Special Management Unit or segregation as a tool. I think a vote in support of this amendment keeps the discussion alive that is a discussion that belongs in the Legislature. Discussing public policy in general, there was a quote from Martin Luther King. In fact, some of you had it on your desks, maybe all of us in a yellow book on an unrelated subject. The Reverend said, "Cowardice asks the question 'Is it safe?' Expediency asks the question 'Is it politic?' Vanity comes along and asks the question 'Is it popular?' But conscience asks the question 'Is it right?'" You go through that list and I actually don't think it's cowardice that asks the question 'Is it safe?' When we're talking about this subject 'Is it safe?' is an essential question. It is something that we all have to take seriously and we task the Department of Corrections to address and certainly the prison administration and everyone who works inside these facilities. 'Is it safe?' is an essential question. And also, 'Is it politic?', 'Is it popular?' We're legislators; we have to ask that question. I think the people would assume that the next line in that quote is the one I'm referring to, "Conscience asks the question, 'Is it right?'" But it's not so much that issue, though I think it might lead to the same answer that compels my vote. I think the Reverend Martin Luther King left something out in that litany. Reason asks the question 'Is it smart?' I honestly believe from looking at this issue that we could do this smarter, and we could save some resources and we could get the result that we all want. A good way to start that process is to examine it further. I think it's a mistake to urge that the Legislature step aside. I have a great deal of respect for the department and certainly for the prison administration. I met with the warden, Patricia Barnhart, and Ms. Barnhart is impressive to me.

Just a little bit on someone on Utilities and Energy with an unrelated background gets here. I have been looking at these issues broadly for quite a while. A number of years ago, on several occasions I was a jail visitor having engaged in peaceful protests and being arrested with charges like distributing the peace. So I've heard the door close behind me with me on the inside. Later on, I went to law school and did some criminal law work and did an internship with a public defender's office in California and defended criminal defendants, including, in one case, a young man accused of murder. As far as I could tell with the evidence we saw, the young man was guilty of murder. In a subsequent job I worked as a prosecutor and did three criminal cases and sent three defendants to fairly long-term incarceration for, among other things, very serious drug smuggling offenses in the Pacific island nation in which I was working, and the government, it had an American legal system, and I think sending

people to jail was the right thing to do when they violated the law.

Segregation, isolation, or solitary confinement raises different questions, so I took a tour of the facility at Warren with a number of other legislators in February and paid very close attention. I understand what the official said when they testified here, but I didn't hear that when I went through the facility. A number of times, guards were very frank speaking to us that it isn't working quite right. They did ask us to leave it to them to keep working on it. They said it's working better than it used to. In fact, one guard said he was used to coming to work and, as he approached the building, the ventilation system was sending out the smell of human excrement mixed with mace. He says we're doing better than that now. What's interesting about what he said was I see no reason why a system that was running with so much mace and human excrement mixed in would violate the law. People refer to the constitutionality of what we're doing. If the prisons violate someone's constitutional rights and they manage to bring a case and they bring it to court and they get a good trial and they get a good decision and it's a violation of constitutional rights, the judge will say something has to change, but all that says is we're not violating constitutional rights. That's not the standard we necessarily want to operate under. We don't in other areas. Our baseline standard isn't whether or not we're creating cruel and unusual punishment, whether or not we're torturing. I go back to the idea that we need to apply reason and ask whether what we're doing there is smart. The one thing specifically I'm concerned about is the way in which the Special Management Unit is used, I think too frequently allows people to become more mentally unstable than unbalanced when they're there, and that creates more problems for us. I also believe that the prison administration is trying to deal with that. It was very apparent to me that their resources are too thin. It's been mentioned here today by legislators, who support the prison administration and support the prisons, we're possibly running it on too little money and it causes some compromises.

The Representative from Whiting acknowledged that the way that unit works right now, your typical inmate will spend 23 hours a day in isolation in a small I think it's 12 by 7 cell. I went into one of those cells. One thing I was really happy to see from the inmate's perspective there was two windows, one inside and one that they could see outside. If you look out that window, which I did, if I was in there I'd be looking out that window a lot. But you could see all the security in the prison. It wasn't exactly like you got a view of what the rest of us get to enjoy. The reason why I mentioned this again is not for the comfort of the inmate. I was trying to go through my own mind how do you stay reasonably sane if you're spending 23 hours in that little room yourself. They allow inmates, it's been mentioned today, three books a week. To me that would be a lifeline. If I was in there 23 hours a day, those books would be essential. There's almost nothing else. There is the place, the hard thing you sleep on, there's the minimal thing you use as a commode, and then these two windows. That's it. I'm not sure that I would handle it but having the three books a week would help me. It also occurred to me that some of the people that are in there aren't even literate. A lot of people seemed to me, that we met, they're very disorganized mentally. I don't know if they can concentrate to read. Now what are you doing in there for 23 hours a day? We had the experience thanks to the prison administration, and, again, they were demonstrating their openness, we had the experience of having several people who'd served time in the SMU come into a room and address the legislators. I forget, it was about six or seven of us, and they came in and sat at a table in front of us. Here's a few of the things that they said. I apologize to committee members because I read these in

testimony in committee. "There is almost no meaningful stimulation of any kind for hour after hour. Noise is magnified. Once you start to notice noise, it never seems to stop. Everyone in there would be better if they just got some normal sleep, just some good sleep." I remember that inmate was thinking that no one in there was getting any good sleep, including the guards. The atmosphere that that inmate described seemed very jittery, at least to him. It might have been the same fellow who said, "The guy in the cell next to me was mentally deranged. He was sick. When he knew I had problems with sounds, he would sit tapping on the wall. He could keep it up for hours. Not regular tapping, odd irregular tapping. They took everything away from him, but he still had a fingernail and he could keep tapping. I know there needs to be a segregation unit, but it could be better. A person will do anything to make a change. Cutting up seems normal. Prisoners will do the most extreme."

The SPEAKER: Will the Representative please defer. The Chair recognizes the Representative from Harrison, Representative Sykes, and inquires as to why the Representative rises.

Representative **SYKES**: Thank you, Madam Speaker. I question the presence of a quorum.

Representative SYKES of Harrison inquired if a quorum was present.

The SPEAKER: The Representative from Harrison, Representative Sykes, has questioned the presence of a quorum. The Chair would answer that I believe there are 76 members, but if the Representative would like to request a quorum call we could do a quorum call.

Representative **SYKES**: Yes, Madam Speaker. I request a quorum call.

The SPEAKER: Quorum call.

The Chair ordered a quorum call.

The SPEAKER: 127 having voted in the affirmative, the Chair would answer a Quorum is now present.

More than half of the members responding, the Chair declared a Quorum present.

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

Representative **HINCK**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. It's good to have a full quorum here. Before the quorum call, I was talking about an inmate in the SMU who was talking about using the words cutting up, which I had not heard used that often previously. It honestly seems as though it's a big issue with the SMU. I think one of the problems is that these people who are there have made a lot of mistakes to get that far. Some but probably not all of their mistakes are criminal. The people we met, as far as I knew, had committed murder. It might not have been true of each of them. But now they're down to the point where they're put in this 12 by 7 room and they have less and less control, and cutting themselves is a way to get attention. In fact, one inmate said in the cell he was searching every little crack in the walls of the cell hoping to find some kind of blade, so he could cut the artery in this throat and pull the sheet over and bleed out. Look, as I mentioned, I looked at the guy and understood that he was guilty of murder. I'm not necessarily believing everything that these people are saying is true, but I actually believed him. I think that was the honest truth.

Another inmate said, not about himself but others that are in the SMU, that sometimes they get aggressive with guards. Again, they don't have many tools, throwing feces. If they get the opportunity for 12 guards to jump on them, at least they have some interaction. I mean I don't describe this as a suggestion that this is a great place for us to look to salvation. I think that it

is a place where we should be as careful as we can to protect safety and, in any way possible, try and preserve the sanity of the people that end up in there. The Representative from Whiting said that he didn't think that being in the SMU made a person better. I think the thing is we could do it better so that the SMU doesn't make them worse. If that was the last stop, it would be another issue. You send them to the SMU, all contact drops off and that's the last we see of them, but, statistically, that's not true. Although they may spend quite a bit of time there in some instances, one day they're back in the prison population and many of them are back in the general population. Probably the most sympathetic of the people speaking to us seemed incredibly, incredibly insecure about speaking. He volunteered to come and sit in front of seven legislators, and he doubted his own ability to speak to us and said something to the effect that I really don't know if I can still engage in normal human contact and interaction. I said to him, "You're doing a good job here today" and he looked at me like I threw him a lifeline. It's this situation that I think we could improve. I don't hear the prison administration to honestly say that's not possible. I do hear them to say, as has been said here today, leave it to us. But they're also paying guards very, very little, the corrections officers are getting paid very little. They're working under tight pressure most days. It's a bit of a hair trigger environment. I think if we're going to get the right policies in the SMU, it would take some work that the Legislature should do. We are the people that set policy for this state.

I'll just end, I'll add what the rest of the Martin Luther King quote was. "And there comes a time when one must take a position that is neither safe, nor politic, nor popular but he must do it because conscience tells him its right." I say we do it because reason tells us it's smart. Sometimes there comes a time and this may indeed be one of those times for conscience and for doing what is right, but it is always a time to use reason and do what's smart. Let's be smart and use extreme measures like solitary confinement or segregation sparingly, so that in addition to keeping us safe, it does not push people on the edge over the edge and create more problems, more costs than we can shoulder. A vote in favor of the resolve will enable progress toward agreed upon mission of providing safe, secure, and humane facilities that allow for the possibility that some offenders can progress toward being less of a threat, more manageable, and could potentially even return from the facility and be functioning in some cases. I'd say vote for the resolve and let's not take this off the table and wash our hands of it. I think it's partly our job. Thank you, Madam Speaker.

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

Representative **RUSSELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in support of the pending motion, largely so that we can move beyond this motion and look at some of the amendments that we have before us. But before I go in to details, I want to give you a little bit of history. In my young life I used to work for a national nonprofit organization that was devoted to psychiatric and mental health nursing, particularly advanced practice psychiatric nursing. Many of those folks had PhDs, Masters, and a good percentage of those people could prescribe psychotropic medication. I was the marketing and development director for four and a half to five years, and I also managed the conference for the organization. So essentially I was putting together the continuing education programs for PhDs and Masters prepared nurses on issues related to schizophrenia, bipolar disorder, etcetera. In addition to that, I launched with the actual company I was working for because I worked for an association management company

directly. For the company that I worked for I launched a national psychopharmacology for advanced practice psychiatric nurses conference, and what that was, was a conference dedicated exclusively to addressing psychopharmacology issues as it related to the mental health population. So when I look at this prison population, I don't look at it entirely just based through the lens of the criminal justice system. I look at it very specifically through the lens of the mental health industry. Many folks have referenced here today something that I thoroughly agree with, that we have not properly addressed the early interventions. What we're talking about here with the special management units is at the very end of the spectrum of criminal behavior. And had we had been able to intervene at a much earlier rate, particularly with folks who suffer from severe and persistent mental illness, where they may not be able to stay on their medications properly or their medications may not work, they may not have health insurance, there are a number of reasons why people would go off their medications or off their treatment regimens and those are the people who are specifically at risk for criminal behavior. So with that in mind, I wanted to share with you because I like to compare apples to apples, and right now I've been looking through the policies of the criminal justice system and I've also been looking at the policies of our two primary psychiatric facilities, both the Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center, and I think if we're going to be talking about folks who are being subjected to a particular treatment regimen or a disciplinary action that we should be looking at it through the lens of mental health issues. I would like to point out to you, first and foremost, that the Maine Psychological Association in their testimony to the committee wrote: *Conditions of solitary confinement can produce psychopathology in healthy persons, but prisoners with a preexisting mental illness are especially vulnerable to suffering damaging consequences from confinement. Mental health improves when prisoners are moved out of solitary confinement. However, with extended periods of confinement, the likelihood of lasting impact increases.* And this gets to some of the points that folks have already made about what happens when people come out of the prison system and reenter either the general population at the prison or, even more importantly, the population where we are. I don't want to be hanging out in a grocery store or any other place or having someone who lives next door or upstairs from me or downstairs from me, who not only has severe and persistent mental illness, I can deal with that. But when they've been subjected to extended periods of time with the solitary confinement, I have concerns about my personal safety and the safety of my neighbors.

So before I go too far, I think it's important that we look at the seclusion. Now remember that in the criminal justice system, they call it segregation. Some people call it solitary confinement. In the mental health industry, it's called, nationally and locally, it's called seclusion. So I'd like to read to you what the policy is for both Riverview and Dorothea Dix because if we're looking at what the policies should be in the criminal justice system and we can all agree that a lot of these people have severe mental illness, we should very well be looking at the policies set forth, also by state agency, who by people are professionals in the industry that deals with psychology and psychiatry. So policy number for the Riverview Psychiatric Center, policy number PC 12.10, the purpose, Purpose B, to ensure clients are treated with safe practices, with dignity and respect, and to ensure client's rights are protected in regard to the use of Seclusion. Section C, Riverview Psychiatric Center is striving to decrease the use of Seclusion and restraint. Seclusion is considered emergency measure or intervention of last resort to protect clients in imminent danger of harming him/herself or others. The use of

seclusion, here's the important part, the use of seclusion creates significant risk for people with psychiatric disorders and for staff. These risks may include physical injury, including death, and the re-traumatization of people who have a history of trauma, loss of dignity and other psychological harm. Seclusion episodes are considered treatment failures.

I have heard a lot of talk today about all the people that came in from out of state and were paid extensively to be here to talk to the committee to file lawsuits, etcetera. This is a policy that we set forth by one of our own state agencies. These risks may include physical injury, including death, and the re-traumatization of people who have a history of trauma, loss of dignity and other psychological harm. These are not policies that are being brought in from out of state. These are policies that already are in existence in other state agencies, and I would argue that these state agencies are comprised of professionals whose job it is to deal with psychiatric treatment. Our prison guards and our corrections officers, it's like going to the doctor and asking for a care tune-up. We're asking people to do the wrong job and it's unfortunate and they are being tasked with things that are way beyond what they were educated for, and I don't disrespect them at all. I think they're working very hard. We need to be able to set up policies that mimic what's happening in areas that are complimentary.

In the Dorothea Dix Psychiatric Center, policy number 18, each patient has the right to be free from seclusion. Seclusion may only be imposed to ensure the immediate physical safety of the patient, the staff or others. The use of seclusion will be ended as quickly as possible based on assessment and reevaluation of the patient's condition. Seclusion or restraint must never be used as a punishment or for the convenience of the staff. And most important, and this is where we have not done our job, Ladies and Gentlemen of the House and Madam Speaker, number 5, seclusion or restraint must never serve as a substitute for adequate staffing to maintain patient safety. We have failed our criminal justice system by cutting the funding to the point where there are no longer enough staff people to be able to deal with this.

Now back to the Riverview Psychiatric Center. Under procedures, and this is important too, Section B, seclusion orders must be dated, timed and signed. One, not to exceed four hours for seclusion. Four hours is the maximum before those psychiatric staff members have to go in and reevaluate. Two, identify alternative less restrictive measures attempted in the client's response. Three, specify the maximum amount of time limit in seclusion not to exceed limits cited above. That again is four hours. And identify the earliest conditions under which the client may be released. Section C, following placement of the client in seclusion by the registered nurse, the physician, physician assistant, nurse practitioner personally evaluates the client within 30 minutes of initiating the seclusion.

Now let me go over just briefly to the administrative segregation policy. Under Procedure C, Medical Visits and Mental Health Evaluation, Section 2, a licensed mental health staff person must personally interview and prepare a written report on any prisoner who remains on administrative segregation status for more than 30 days. In the other policy, it's around 30 minutes and the maximum you can have someone in that seclusion before being reevaluated is four hours, and here we're talking 30 days. When you go back to what it says in the Riverview Psychiatric Center, the use of seclusion creates significant risk for people with psychiatric disorders and for staff. This is not simply we're opposed to what the staff is doing. I think the staff is doing the best job that they can do. I also think that the policies put forth in the Riverview Psychiatric Center and the

Dorothea Dix Psychiatric Center are also outstanding models by which we should be looking at. If we are looking and dealing with a population of people who have severe and persistent mental illness, we are not talking about ADHD, Ladies and Gentlemen of the House. We are not talking about general anxiety disorder. We are talking about bipolar disorder which requires, for the most part, some serious. Let me pull it up. Pardon me for a moment. What does bipolar require? The DSM for bipolar 1 disorder, the essential feature of bipolar 1 disorder is a clinical course that is characterized by the occurrence of one or more manic episodes or mixed episodes. Ladies and Gentlemen, I would submit that you probably don't even want to know or be around a manic episode or a mixed episode. So we're talking about people who have very, very serious mental health issues.

The final thing that I would point out to you. Again, Representative Campbell pointed out the report that was dropped upon us earlier, "He wants to see me dead", The 8th Report of the Maine Domestic Abuse Homicide Review Panel, I would bring you to page 14 on mental health system, bullet point number 3. The panel observes that suicidal thoughts and/or attempts may be an indicator of future violence towards self and others. The link between suicidality and increased risk of homicide continues to be unrecognized by many clinicians and the public. We're talking about putting people into a small containment center, the special management unit, a small room for extended periods of time. We have already demonstrated by the Riverview Psychiatric Center that the use of seclusion creates significant risk for staff and for prisoners. What happens, Ladies and Gentlemen, when we are providing ample opportunity to want to commit suicide, what happens when we reintroduce those people to the general population? I am terrified for my life at the idea that someone who was released from special management unit could possibly be living next door to me. That terrifies me. I have to walk the streets at midnight after work. What we're doing is creating an environment that makes matters worse. And I don't discredit the folks that are working on this at the prison system. They're doing the best that they can. We need to fund and fully fund our criminal justice system. This is what small government looks like. It means that our state employees do not have the resources they need to do their job properly, and then we have to be in a situation where we're accused of thinking that they're not doing it. They're doing the best they can do. We need to be supporting that, we need to be funding it, and I certainly will stand with Representative Haskell anytime she goes before the Appropriations Committee because I firmly believe this is a public safety issue, and if we're not trusting our psychiatrists, our own state employees and their public policies related to how they treat the same population of people, I think we're doing ourselves a major disservice. So I would ask you to remember that that what you do to the least of me you do to me, and, unfortunately, if we put these folks into bad situations, you know, karma comes back to you and I don't want to be at the butt end of that when someone gets out of prison after not being in a good situation. I don't know what the final answer is, but I really think that we need to, as a Legislature, look further into this and very strongly fund the outcomes that need to happen. This is a public safety issue and it's a human rights issue. That's all I have to say for it. Thank you.

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

Representative LAJOIE: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Much has been said today, positive and some negative. Representative Sykes, as far as I'm concerned, said it the best with regards to the policies and procedures, certainly

Representative Burns and other members of the committee. I respect Representative Haskell tremendously in her decision to move it forward with regards as to a resolve. Although first I signed on a co-sponsor and again, like Representative Burns, I made the statement that it's always a good idea to open up the door, let's check things inside, see if they can be changed, if they're working well, so on and so forth. If not, let's address those situations, and on that basis and that basis only is one of the reasons I signed on as a co-sponsor.

As I went along and I listened to testimony, as I professional I looked at the issue on the basis of policies and procedures, as well as the modern jail conditions that we have today in comparison to years ago, and the efforts that the prison personnel put forward to move in a more positive direction addressing the needs of prisoners and the mentally ill. Like any institution, not all is well all day long. We have to address many issues on a daily basis, as I did in the fire service, that change continuously. I'm not going to debate this very long. However, as we had a caucus last week, I made a number of statements and one of the statements that I had made is that I would support Representative Haskell's amendment. However, since then, I have struggled with this and I have had second thoughts. Today at the caucus really topped everything. I found that the procedure by which other amendments could be added on to the bill was to vote in Representative Haskell's amendment. After that, if the amendment went through, other amendments could be put forward. I don't like either one of those amendments. I don't believe that is the proper direction to take. I believe it's a slap in the face, not only to the Criminal Justice and Public Safety Committee but to the men and women in corrections. I truly believe it's probably a slap in the face in the individuals and many of our constituents. Therefore, I'm not going to support Representative Haskell's amendment. I believe it would only establish a mechanism to allow other amendments, two of them to come in, and being honest with everyone, in my professional career I've been trained to observe and listen. I have been trained to do that based on incidences that we've gone to and to testify. My instinct at this moment tells me that this is not the route to go. Therefore, I just want to let everybody know that as much as I believe there are changes that have to be made in any institution, whether it's the Maine State Prison or any other prison, there's a process by which we must follow and as professionals and quasi military, if you will, we abide by those structures. I thank you very much, Madam Speaker and Ladies and Gentlemen of the House, for allowing me to speak.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you, Madam Speaker. One of my reactions to, if I may indulge in a light moment to this day here in the Legislature, is that it's not only solitary confinement that drives one crazy, but perhaps it's being in the presence of so many ideas and so much debate, because I'm feeling slightly crazier myself after hearing all of this. I just thought that might be a slight aside. But I did want to make a serious point. I do think I do rise in support of Representative Haskell's amendment or report. I do think that it attempts to open a door and have the Legislature take a policy look at this area of government. It is a policy area that we are responsible for. If you will, our legislative house is a house of many rooms. We are asked to look at lobstering laws. We are asked to look at logging rules. We are asked to look at public education. None of us or few of us are experts in any or all of these different areas, and yet as policy leaders, we must take a look. I do believe that Representative Haskell's amendment only asks us to open that door and take a look. I have the utmost respect for people who

work in the correctional system in this state, as I do for teachers who work in the schools or in any other of our institutions. But we have to take a look, as policy leaders, at all of these areas from time to time, and I believe this is a reasonable process that has been put forward, that we take this look, and I urge you to support Representative Haskell's report. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Hanley.

Representative **HANLEY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I just quickly want to take and respond to a couple of early speakers. One said that he had requested a list from the Department of Corrections as to how many people were confined and how long in special management units. Well, I also got some information, a list from the Department of Corrections. It was a little bit different. It was list of what people had committed for crimes that were in prison, the crimes that they were convicted of to get to prison. I'm not going to read all of them because there are pages and pages of them, but there's murder; illegal possession of firearms; forgery; assault on an officer; criminal threatening; murder; murder; possession of explicit material for minors under the age 12; visual sexual aggression against a child; burglary; murder; eluding a police officer; unlawful sexual touching; unlawful sexual contact; violating conditions of release; and on and on and on. That was just to get them in prison. Now once they're there, what do they do to get into special management units, kind of a prison within a prison? Assault on another prisoner; left place of work while on the community release; assault; threaten of staff; fighting; forced sexual activities with a roommate; phone scamming operation; trafficking prison contraband; threatening/strong-arming other prisoners; assault; starting a fire in their cell; assaulting another prisoner; special interest in prisoner's death; assaulting several staff members; assault staff members with weapons; and again, on and on and on.

There's one other thing, actually, two other things. There was something that we never heard in our public hearing and I was struck by it. We went to 10:30 that night listening and the bulk of the people that spoke were people who were speaking in favor of the legislation. Not one person mentioned the victims, the victims that were laid to rest by all these people who are in prison. Not a word was mentioned about victims. They're the ones who are truly in solitary confinement and were treated inhumanely.

Lastly, and I'm sure that one of the previous speakers did not mean to compare the members of our military who were prisoners of war in Vietnam in the same sentence with child molesters, murderers, rapists, arsonists in special management units. I'm sure that he didn't mean that. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I've heard a lot of conversation this afternoon. One of the things that I've heard is that we need to support this resolve to get in a position for amendments. I've heard some conversation about the fact that maybe if this resolve passes, we would do an investigation into who gets placed into the SMU and, likely, those people with a mental health diagnosis should not be placed in the SMU. I heard the good Representative from Windham, Representative Plummer talk about the real world. Let me give you an example of the real world. Last Thursday, in the cafeteria at the Maine State Prison, in Warren, an inmate with a mental health diagnosis took a razorblade type instrument that he had constructed, walked around the table and slit the throat of another inmate.

If we are headed in the direction of someone who cannot be placed in SMU because of a mental health diagnosis, what in the world are we about to do? Thank you.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **CELLI**: Is it possible to see a show of hands of the Representatives who have actually visited these SMU units in the last two years?

The SPEAKER: The Chair would answer in the negative.

Representative **CELLI**: Okay, it probably can be found out through the Right to Know Act. I have heard that we need to have our psychiatric centers, we need to pattern our prisons after our psychiatric centers, other state agencies. These people that are in Warren committed violent crimes. They're not just in a psychiatric center. Don't confuse things. They are not in that SMU just because they are mentally ill. They are in that SMU because they are mentally ill and they hurt themselves or another prisoner, and to keep them in the population, they would hurt themselves, another prisoner or a guard. So let's talk about karma. You vote for this today and what's the karma going to be when another prisoner that we want to protect, or his cellmate that we want to protect, or that guard that does such a great job gets his throat slit and bleeds to death there on the floor, then what about that karma? Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I appreciate the indulgence of letting me rise one more time. I will be very brief. I did need to respond to a couple of things that were said, I think, anyway. We heard testimony about the Maine Psychological Association. We had the testimony from a PhD psychologist who worked 40 years in the correction facility, who reviewed this law, and her response to this was that it would put inmates and guards at great risk, and, in fact, to diminish the use of SMUs would be inhumane in itself. I suggest that a lot of these good meaning folks from the Maine Psychological Association have done case studies. They have not spent 40 years inside the correctional facility.

Another thing that was mentioned was about we need to have the door open so that this can be scrutinized. I suggest to you the door is already open. You have a Criminal Justice and Public Safety Committee who has oversight over the Department of Corrections. The offer has been made and I believe the committee, no matter who is serving there, fully intends to scrutinize and continue to scrutinize the on goings at the Maine State Prison. I take great solace in that.

The last thing I will mention, I think we need to remember that the people and it's been stated here before several times, the people that are in prison, and especially in SMUs, are in there for some very important reasons. A lot of these people are in there for the crimes of rape, torture, murder of young kids; for the beatings and murders of young women, their spouses, their girlfriends. These are all real, real situations. These people unfortunately have to be managed. They can't survive in society. When they go to an institution, they can't survive in the institution and, in order to protect them and protect the other people that we commit against their will, we have to have some safeguards. We have some of the best safeguards available. Please don't tamper with them. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I guess it's round two and I will try to be brief as well. I'm very concerned that a lot of the discussion would say that those in favor of the resolve, or other amendments if you will, don't respect and for some reason don't have confidence in the staff or the Department of Corrections, which is absolutely not true. I think you can see, by the discussion here and the ambiguity over some of the topics and the different perceptions of what we see that this indeed is a topic that needs to be looked into at the legislative level. It should be in statute. It should be a resolve. It is a complicated issue and it won't be resolved by just burying it inside one of our agencies, no matter how capable they are. We already have determined they're underfunded, they're probably understaffed, and they probably don't have the kind of resources to reach out and involve experts to help them out. We owe them this support. It is not a punishment, and I think that that's so important for us to understand and to vote in that direction where we can get them that kind of support. I feel uncomfortable. I mean I've walked in the halls and I see the staff there who were upset about the bill, and I'm sure they hold me responsible and send me emails telling me that, and I appreciate their concern about their job. But this is not about their jobs. This is about our responsibility for the people we serve, both in our communities who receive the inmates as they come out, and for the inmates who are inside the institutions. This is our responsibility. We cannot abdicate it to staff and commissioners and deputy commissioners, it's our job. Thank you, Madam Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of Report "B" Ought to Pass as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 353

YEA - Adams, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Cain, Carey, Casavant, Cohen, Connor, Cornell du Houx, Crockett P, Dostie, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Goode, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kent, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, McCabe, Miller, Morrison, Nelson, O'Brien, Peoples, Percy, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaudoin, Beaulieu, Browne W, Bryant, Burns, Butterfield, Campbell, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Driscoll, Edgecomb, Finch, Fitts, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Hamper, Hanley, Harvell, Johnson, Joy, Kaenrath, Knapp, Knight, Kruger, Lajoie, Langley, Lewin, Mazurek, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pendleton, Peterson, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Sarty, Saviello, Shaw, Strang Burgess, Sykes, Thibodeau, Thomas, Tilton, Weaver, Willette.

ABSENT - Beaudette, Bickford, Briggs, Cotta, Dill, Greeley, Perry, Rosen, Tardy.

Yes, 74; No, 68; Absent, 9; Excused, 0.

74 having voted in the affirmative and 68 voted in the negative, with 9 being absent, and accordingly Report "B" **Ought to Pass as Amended was ACCEPTED.**

The Bill was **READ ONCE**. **Committee Amendment "A" (H-763) was READ** by the Clerk.

Representative **SCHATZ** of Blue Hill **PRESENTED House Amendment "A" (H-820) to Committee Amendment "A" (H-763)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I won't take long with this, I know you're grateful. This amendment really is a stripped down version of the original bill, LD 1611. I'll tell you what it does not do so that there will be some comfort in that for some. It does not remove the tool of short-term segregation from the Department of Corrections. It does not remove the tool of long-term segregation from the Department of Corrections. It does not remove or limit the use of tools or restraint from the Department of Corrections. And it does not impact prisoners who are now in the Mental Health Stabilization Unit. And it does not impact prisoners who have a protective custody status. What it does do is defines the mental health conditions which will be watched over and people who have those conditions will not be sent to the SMU, and it's a narrowed down version of the types of mental health conditions. It also installs and places due process standards, it puts those into place so that the people who are in the SMU will be monitored appropriately and assessed in ways so that if they do start demonstrating behaviors that portray a mental health condition that needs to be treated, they will be indeed treated.

I looked at the fiscal note associated with this, which seems awesome, but, in essence, these conditions that are left in the bill really mirror what are in the department's policies so that once we're assured and we have some tracking of those policies, I don't see how the additional costs will be as substantial as the fiscal note would portray. So this is the essence of the amendment and I would hope that you follow my light. Thank you, Madam Speaker.

Representative **HASKELL** of Portland moved that **House Amendment "A" (H-820) to Committee Amendment "A" (H-763) be INDEFINITELY POSTPONED.**

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

Representative **HASKELL**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I applaud the efforts of the good Representative from Blue Hill in making an effort to cut down some of the very strict restrictions that were placed in the original bill. However, this amendment still continues to affect probably about half of the population of the prison system, so it is a significant number of people. Basically, without going in to great detail, what it would do would be to ask the Department of Corrections to create a separate mental health treatment facility for these individuals because of the fact that they have a diagnosis and not based on the placement in housing based on their actions. So it does have significant impact on what the role of the Department of Corrections is, and I think it would be inappropriate to place the department in a position of having to recreate a separate mental health treatment facility within the Department of Corrections. So I urge your support of the Indefinite Postponement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mount Vernon, Representative Jones.

Representative **JONES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in support of Representative Schatz's amendment. I have heard long speeches here this afternoon, most of them about how we need to protect our prison guards. I need to speak to you a moment about other people we need to think about protecting. I have recently been contacted by a mother in my district who lost her son three and a half years ago at our state prison. He was 26 years old, he had mental illness, and he was put, what I feel was inappropriately, in solitary confinement, and he took his life

there. She has contacted me and begged me to work as hard as I could to move this issue forward so that no other mother or father would ever have this happen to their child. I have also been contacted by a recent worker at the Maine State Prison who used to be a member of this body and is well respected in my communities. He has a great deal of concern about everyone's safety currently at the Maine State Prison. He left there within the last year. I've tried to work with other members of this body on coming to some kind of conclusion to move this issue ahead. I have to say to the mother that has contacted me that I feel that I have failed her. I feel that we have not made any substantive movement forward to assure protection of the prisoners there. I have heard that we have a new superintendent who's going to do great things, that we have new services, that it is improving. And that may be the case, but I still feel that we have miles to go to improve this situation. I feel very badly that anyone with mental illness is put into such an institution and is not receiving the adequate mental health services that they need.

It has also been said in some of the information that we've been gathering, that we may be using in this state as much as \$15 million a year for psychotropic drugs for the inmates in our corrections facility. I really wish that kind of money could be redirected in a new area to help them in other ways. Some of the suggestions I made to the people serving on the corrections committee was that perhaps those of us on Health and Human Services, and Corrections, can work more closely together in the future to share what things we put in place to protect our patients with mental illness, and what we have learned from that.

In summary, I want to say I do know that the citizens of Maine do not want an Abu Ghraib Prison here in Maine, that they want some basic human treatment for these prisoners, and, yes, they do want to assure the safety of the workers and the other prisoners who are there. They definitely want humane, decent treatment. I feel that I have failed this mother. I feel like a bug that's turned upside down with my legs flailing and I'm not able to get any traction on this, but I do promise her that I will continue next session to work with everyone concerned to do the best I can to move this forward in a more substantive way. In summary, I want to say that I think the amendment on the floor, the Schatz amendment, does the best that we can at this time to help move forward that protection for our prisoners. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The good Representative from Blue Hill, Representative Schatz, has told us what this bill does not do. Let me tell you what this bill will do. The department shall divert or remove an inmate with a serious mental illness from confinement in a special management unit when such confinement could last for a period in excess of one week. The example, the real world example about last Thursday that I presented to the House previously, you mean to say that person can only go into a special management unit for one week and then back in the general population to do the same thing all over again? I support this Indefinite Postponement, quite frankly, for the safety of other inmates and our corrections officers.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I have heard some really outrageous things today, things that I didn't know and things I still don't believe. I really take offense at comparing the great people that work at that prison, that I have been at and watched them do their job, and compare them to what happened at Abu Ghraib. I think someone needs to

apologize. Thank you.

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

Representative **BOLAND**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I, too, rise in support of the Schatz amendment. It seems like a reasonable thing. I was just stunned to hear that half of the people in the Special Management Unit have such serious mental illness and certainly, at the very least, that deserves some attention I would say. I also wanted to point out that all these prisoners do have their own cells, so they can be locked up in their own cells rather than the Special Management Unit, which seems like a reasonable thing to do. I'd also like to suggest that some of the people who are supporting this amendment are also constituents and represent many of our constituents and just some of the organizations on the list—Amnesty International, Bangor Theological Seminary, the Human Rights Watch, Maine Association of Psychiatric Physicians, Maine Council of Churches, Maine People's Alliance, Maine Psychological Associates, National Alliance on Mental Illness, National Association of Social Workers, National Religious Campaign Against Torture, Preble Street Resource Center, Veterans for Peace—just some of the organizations where people are not being paid big money to lobby or anything like that, they're actually going in and working with people. So I would just suggest that there are other options. The people can be locked in their regular cells if people are concerned about them and get the treatment that they need and get the oversight and cost us a whole lot less financially and also psychologically. Thank you.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'm sorry to rise again, but I think we're missing something here. I, too, take great offense to the men and women that protect us, protect the folks that are incarcerated, being referred to and equated with things that went on in Abu Ghraib. I, too, think there should be an apology forthcoming. I think it's reprehensible. What we are about to do, if you support this amendment and don't support the postponing of it, it's going to put a lot of men and women, prisoners and staff, in great jeopardy. I think about the other mothers of the folks that we would put in jeopardy, when they're harmed, when they're hurt, when their throat is cut. Who's going to apologize to them? I think it's naïve for us to sit here and think that we can pass judgment on something we know nothing about, any more than I could run a college. We can't sit here and run this prison. We have people in place to do that. Please take this seriously. Thank you.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. First of all, I would make that apology. I'm sure that was not meant to come out that way. As I have said in my statements, I have nothing but the highest respect and regard for the staff and I'm sure it was not meant to be said in that vain. That said, one, I would like to ask for a roll call, and number two, I would just like to complete the sentence. I know that Representative Sykes was scrutinizing the summary and the last part of that sentence indicated excess of one week and states that this provision may not prevent the disciplinary process from proceeding in accordance with department rules for disciplinary hearings. So I think that the point is in this event that was pointed out from last week, that that's such an offense, that that would not put this person out of a SMU setting because one week had transpired. Indeed this

violation would probably keep them in there for much longer than that until whatever due process took place. But again, I make my point that this amendment has been stripped down significantly and really, I think, again provides support that does not take back any of the assurances and tools that the staff needs to do their job on a day to day basis, and I think adds some construct to how we need to go forward in developing policies for the SMU in our state prison. Thank you, Madam Speaker.

Representative **SCHATZ** of Blue Hill **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-820) to Committee Amendment "A" (H-763)**.

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 Eddington, Representative Pratt.

Representative **PRATT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Nothing in this amendment gets rid of the SMUs. Nothing in this amendment suggests taking away the SMU as a tool. What it does is ask to bring us in line with a 1973 consent decree and with the *Madrid v. Gomez* case that says putting people with severe significant preexisting mental illness into solitary confinement is a problem. You don't need to get them out of the unit, per se; you need to change the conditions of the confinement. The room itself is not the problem. The problem is how the room is used. If you can get out for more than one hour a day, possibly, and you can have a radio or you can get some of these things that other prisoners have, then it's not solitary confinement. I think that's reasonable, I think that's approachable and can happen through this amendment. I would urge you all to vote in favor of its passage and against the Indefinite Postponement.

I, too, am frustrated with a lot of the rhetoric flying around all over the place. If somebody wants an apology out of me, they can get it. I'm not here to tell you how to vote, but I am here to tell you it shouldn't matter, in terms of the illness that is put upon you potentially by the terms of your imprisonment, whether you were a downed fighter pilot or whether you were a murderer or some of these horrible people that we're talking about. The condition itself creates potentially some bad, bad things and some mental illness, and, to me, we shouldn't be doing that to anybody. We certainly shouldn't be doing it to our military or somebody else's military, and we shouldn't be doing it to prisoners in the SMU. That's all we're saying. That's all I'm saying. Thank you.

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

Representative **VALENTINO**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **VALENTINO**: Thank you very, Madam Speaker. Ladies and Gentlemen of the House. I voted for the previous question. Am I correct though in my reasoning that the current posture of the bill does not contain a fiscal note but the amendment does, so if we vote for the amendment, we put it in jeopardy of going to the Appropriations table? Could anyone answer that question please?

The SPEAKER: The Representative from Saco, Representative Valentino has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you, Madam Speaker. My understanding is that the amendment as you see it now, it does have a fiscal note. I challenge that fiscal note, but indeed it has one and I think it should be attached.

The SPEAKER: The Chair recognizes the Representative from Mount Vernon, Representative Jones.

Representative JONES: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I just want to respond to the concern about my quote about Abu Ghraib. It was not an accusation about our current corrections system. It was a concern that was shared to me by my constituents, that we not ever have an institution that does that. It was not an accusation.

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

Representative HARLOW: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative HARLOW: I've heard how many policemen are going to be killed in correction centers. How many have been killed in the correction centers so far in the State of Maine? In my investigation I found none.

The SPEAKER: The Representative from Portland, Representative Harlow has posed a question through the Chair to anyone who may care to respond. Seeing none, a roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-820) to Committee Amendment "A" (H-763). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 354

YEA - Austin, Ayotte, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Browne W, Bryant, Burns, Cain, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cohen, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Driscoll, Duchesne, Eberle, Edgecomb, Finch, Fitts, Flood, Fossel, Gifford, Gilbert, Giles, Hamper, Hanley, Harvell, Haskell, Hayes, Hogan, Hunt, Johnson, Joy, Kaenrath, Knapp, Knight, Kruger, Lajoie, Langley, Lewin, Magnan, Mazurek, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, Percy, Peterson, Pieh, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Sanborn, Sarty, Saviello, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sutherland, Sykes, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Willette, Madam Speaker.

NAY - Adams, Boland, Bolduc, Connor, Dostie, Eaton, Eves, Flaherty, Flemings, Goode, Harlow, Hill, Hinck, Innes Walsh, Jones, Kent, Legg, Lovejoy, MacDonald, Martin JR, Martin JL, McCabe, O'Brien, Peoples, Pilon, Pratt, Rotundo, Russell, Schatz, Stuckey, Tardy, Tuttle, Wright.

ABSENT - Beaudette, Briggs, Butterfield, Dill, Fletcher, Greeley, Pendleton, Perry, Rosen.

Yes, 109; No, 33; Absent, 9; Excused, 0.

109 having voted in the affirmative and 33 voted in the negative, with 9 being absent, and accordingly **House Amendment "A" (H-820) to Committee Amendment "A" (H-763) was INDEFINITELY POSTPONED.**

Representative TREAT of Hallowell **PRESENTED House Amendment "B" (H-823) to Committee Amendment "A" (H-763)**, which was **READ** by the Clerk.

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

Representative TREAT: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I know we've had a long debate on this and I will try to keep my comments very focused on the amendment that is before you. I was not one of the members of this House that did sign on to the original bill, and I must say that I came to the caucuses that we had on this with an open mind, trying to learn everything I could on all sides of this

issue. I think that I have continued to learn, as I have here today, from many of the members who spoke very much from the heart on all sides of these issues. I found myself in the position of being uncomfortable with the choices put before me, and I say this with the greatest of respect for the committee and particularly the chair of the committee, Representative Haskell, of Portland. In fact, that respect has really grown after seeing the level of the fear, I guess I would almost say, that I've heard about the resolve that we have already, the report that we have already voted in favor of, which merely asks the commissioner to look at the policies of his or her own department and come back to the Legislature in two years with a report. That's all it does. That's all it does. You know, I had a concern about that because I feel, particularly from the point of view of someone who has had a good deal of contact with persons with mental illness starting many years ago when I chaired the Health and Human Services Committee and we went through the AMHI Consent Decree, and continuing on to this day, a real concern about the treatment of people who are mentally ill and whether or not our policies are sufficiently focused on their needs as well as and I certainly share the concern, as well as the safety of everyone in that facility, in our prison facility. And so I also come to this after being asked the question by an advocate for the union that represents the workers at those prisons saying, well and what is your policy about where those prisoners are supposed to go if you pass this, and I did not have a good answer to that question. So this amendment is an attempt to get the answers to those questions, both on the one side which is whether or not our policies and the implementation of those policies are sufficient and appropriate for persons with mental illness and for others, and on the other side, if we decide that there are needs there, what are we going to do about it. So I just want to walk through what's in my amendment so that you know what actually is in it.

First of all, and I thank the good Representative from Portland, Representative Hinck, for his work on Section I, which is drawn from the mission statement of the Corrections Department, the mission statement on their website. It is drawn from that but focuses on the particular policies of segregation and how those are carried out, and simply says it's a humane policy which focuses both on the inmate and on the corrections system and on the guard. On both, okay? A humane policy and I truly believe that in this state that's what we have is a policy that is humane. But I have also heard that the implementation of that policy may or may not be consistently applied all across this state and throughout time, and that is a message that has come across quite clearly.

The other concerns I have and we talked about this at length in our caucus and I know it has come up here on the floor of the House, do we have issues about appropriate pay for the guards? It sounds to me like we do. What is the cost if we were to come up with a better policy, what is the cost of that and do we have the money to pay for that? A good question. Data. I heard repeatedly in our caucus and I've heard here today, well, we had statistics coming from other states, or I was given these statistics, somebody else was given those statistics. So part of this amendment is to say, well let's just get the data so that we do know what's going on here and so that we have a common base to work from. So that is what is in this amendment as well.

Now I made a decision to move this study to OPEGA because I think it is a place that is neutral, and I am concerned that the Department of Corrections is opposing the resolve, the Report B from the chair of the committee, opposing it, opposing having themselves look at this issue themselves. They're opposing that and that concerns me, and I think that if we are to get something out of that study that has buy in from the general

public, from the department itself, from the people who work for the department, from those advocates and others who have raised these concerns, then I think it has to be done through a more neutral process. And it turns out that OPEGA has already looked at the Department of Corrections and is willing to do this, to convene a workgroup, to look at the specific questions that I have outlined here which, again, come directly from the testimony from the caucus discussion and from here today, the exact same issues that I am hearing from everyone here today.

My last concern about the report that I asked you to amend with this Amendment B is that the report back from the commissioner isn't until January 2011. I would like to see something, particularly the data, so that we can have good information here in the Legislature. I would like to see something come back before then as an interim report and so if you look at my amendment you will see that it asks for that information, specially the data to come back to the committee and to the Legislature before the next session, and then a final report in January 2011. So there it is. I hope you will support it because I think it just lays out in a little more detail what I think is a good idea, which is to have some review of this to keep legislators in the loop thinking about this, to keep the department thinking about this. It does not in any way overrule or override the judgment of the department or make judgments about the department. If you read it, it is very carefully worded not to make judgments but to say, let's get the answers and then decide if or what we might need to do from there. So I encourage you to support this amendment. Thank you.

Representative HASKELL of Portland moved that **House Amendment "B" (H-823) to Committee Amendment "A" (H-763) be INDEFINITELY POSTPONED.**

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

Representative HASKELL: Thank you very much, Madam Speaker. Madam Speaker, Men and Women of the House. The work process that's set out in this amendment looks an awful lot like what the daily agenda of the committee is, the Criminal Justice and Public Safety Committee on a fairly regular basis, both through the series of bills that we receive, as well as the number of times that we interact with the department, not just at the beginning of the session, during the dog and pony show, if you will, but throughout all of our interactions with the department. The significant amount of information that's being asked for here is, frankly in a very straightforward way, the responsibility of the committee to get and to provide. We have a significant amount of information which we already have in front of us and for any of those of you who have asked me about this bill in the halls, you know that I probably cornered you and talked to you until you were blue in the face trying to provide the type of information that we received, both during the hearing and during the number of weeks that we're here in session, as well as whatever we hope may be available to us from the presiding officers for work during this summer in order to continue to be sure that we do stay in touch with what goes on in the department. I am not a supporter of the process by which OPEGA's work is dictated by actions of the House. There is a committee for that work and I think that this circumvents that. That's the choice of the maker of the motion, and I certainly can understand that. But don't feel that that working group would be any more effective than the current Committee on Criminal Justice and Public Safety, asking those same individuals to come in front of us and provide that information. I would dearly love to have the kind of data that the good Representative asks for. In order to do that, however, I think that the extensive amount of work that would need to be done, both to go backwards and

forwards with the kind of a system that could track inmates through our jail and prison system, I think it would be extraordinarily valuable. But I think that it would be a significant expense in order to understand and have the kind of broad data collection, if you think about the number of points of information that would have to be put together in order to determine what the impact on any particular prisoner because, like the kids who come into many of our systems, these inmates refuse to continue to come with either one diagnosis, one treatment plan or, frankly, even one crime. One of the problems that we have in determining data within our correctional system is the fact that people have multiple interactions at different times, with multiple outcomes, and in order to be able to track that and then find a rational nexus between what you know about whether they spent three years in jail when they were 21 and a year and a half in prison and two years on probation for a number of different crimes, would be very extensive database and expensive. I think it would be wonderful to have, but I think that the kind of information that you are looking for is going to be difficult to obtain and, at the very least, extraordinarily expensive. So I would encourage you to reject this amendment and let us move forward with a process rather than lose the potential for making a positive impact with this bill. Thank you.

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

Representative WAGNER: Thank you, Madam Speaker. Madam Speaker, Colleagues of the House. I rise in support of the amendment that is being presented to us by Representative Treat and, therefore, against the Indefinite Postponement. We've heard arguments, information, data, stories on all sides of this issue of whether or not inmates at Warren, or in our prison system in general, are being handled correctly, especially those with mental health problems. We need to really know what is going on. We need to know whether or not they are being treated appropriately. Maybe they are. I don't know and I don't think anybody in here really knows for sure. Representative Treat's proposal is exactly what we need. Look at the people who are on this proposed working group: A member who advocates for inmate rights, a person with an advanced degree in psychology who studied the long-term effects of solitary confinement, an attorney who has expertise in due process procedures and in inmate rights, a former inmate. Now those are all loaded on one side, perhaps, but then we have a member of a union representing guards and other prison employees, the commissioner of Corrections and up to two employees of the Department of Corrections, and the director of OPEGA. This gives us a diverse group of people, many who have stake perhaps on both sides of the argument, and if they come up with some suggestions for possible changes, one of the real advantages kind of a group is that because there are representatives from the correctional system and from the guards. They may be able to buy into whatever changes are necessary and they will have a much more positive effect. I've been a mediator for the State of Maine court system for 30 years and one of the great principles that all mediators operate under in terms of being successful is to get people who disagree about things, to buy into whatever agreement they ultimately reach through mediation. That's if they all have a chance to be heard, and this is an opportunity for that so I strongly encourage us to vote down the Indefinite Postponement and then to vote up the amendment. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative SCHATZ: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I, too, rise in

opposition to the Indefinite Postponement, and I feel this resolve does meet the standard that we need to reach for. It gives some objectivity to a working group. You can see from our committee, which is filled with not only well-meaning but very capable people, but we have three reports. We sat through ten and a half hours of testimony and we all came up with maybe a different picture and we're all probably right in one way or another. But I think what we have done as a committee is exposed the need to look at this in more depth and maybe from a more objective point of view so it can be brought back to us as a committee, so we can review it and look at it as a committee and work with the agency that we work with so well and makes things happen. So I, again, hope you will defeat the Indefinite Postponement. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I support Representative Haskell's motion to Indefinite Postpone. If you're going to do this, leave it under the purview of the Criminal Justice and Public Safety Committee with a report back from DOC. I can tell you from a lot of experience that the Criminal Justice and Public Safety Committee has been very diligent in its digging and research, has never given either the Department of Public Safety or the Department of Corrections a pass. They will look at this very, very carefully. Support the Indefinite Postponement motion.

Representative TREAT of Hallowell **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-823) to Committee Amendment "A" (H-763)**.

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 Lewiston, Representative Lajoie.

Representative **LAJOIE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Previously I expressed my concerns and we are at those concerns at this time. Again, in my opinion, as a professional in fire service, as a member of the negotiating team for the local union, as a member of the negotiating team for management, what we tried to find was a happy medium and to get both sides to the table. This amendment, in my opinion, probably should have read and you can either use one or the other as the first, state board of correction and OPEGA shall convene a working group. The director and/or chair of the State Board of Corrections and the director of OPEGA shall, as co-chairs, co-chair the first meeting. At that meeting, the membership shall take a vote and elect co-chairs representing both OPEGA and State Board of Corrections. That, Ladies and Gentlemen, should have been the proper way to bring this forward. My instinct, I believe this motion may go through. I really hate to see that, Ladies and Gentlemen, because, in all essence, I really do favor Representative Haskell's amendment. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-823) to Committee Amendment "A" (H-763). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 355

YEA - Austin, Ayotte, Beaudoin, Beaulieu, Bickford, Blanchard, Browne W, Bryant, Burns, Cain, Campbell, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Driscoll, Duchesne, Eberle, Edgecomb, Finch, Fitts, Flood, Fossel, Gifford, Gilbert, Giles, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hogan, Hunt, Johnson, Joy, Kaenrath, Knapp,

Knight, Kruger, Lajoie, Langley, Lewin, Lovejoy, Magnan, Mazurek, McFadden, McKane, McLeod, Millett, Nass, Nelson, Nutting, Peterson, Pieh, Pinkham, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Sanborn, Sarty, Saviello, Smith, Strang Burgess, Sutherland, Sykes, Theriault, Thibodeau, Thomas, Tilton, Valentino, Watson, Weaver, Webster, Wheeler, Willette.

NAY - Adams, Beck, Berry, Blodgett, Boland, Bolduc, Carey, Connor, Dostie, Eaton, Eves, Flaherty, Flemings, Goode, Hill, Hinck, Innes Walsh, Jones, Kent, Legg, MacDonald, Martin JR, Martin JL, McCabe, Miller, Morrison, O'Brien, Percy, Pilon, Piotti, Pratt, Rotundo, Russell, Schatz, Sirois, Stevens, Stuckey, Treat, Trinward, Tuttle, Van Wie, Wagner J, Wagner R, Welsh, Wright, Madam Speaker.

ABSENT - Beaudette, Briggs, Butterfield, Cohen, Dill, Fletcher, Greeley, Pendleton, Peoples, Perry, Rosen, Shaw, Tardy.

Yes, 92; No, 46; Absent, 13; Excused, 0.

92 having voted in the affirmative and 46 voted in the negative, with 13 being absent, and accordingly **House Amendment "B" (H-823) to Committee Amendment "A" (H-763) was INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (H-763) was ADOPTED**.

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Representative CAMPBELL of Newfield moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

Representative HASKELL of Portland **REQUESTED** a roll call on the 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: 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. 356

YEA - Austin, Ayotte, Beaulieu, Bickford, Browne W, Burns, Campbell, Carey, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Driscoll, Edgecomb, Finch, Fitts, Fossel, Gifford, Gilbert, Giles, Hamper, Hanley, Harvell, Johnson, Joy, Kaenrath, Knapp, Knight, Kruger, Langley, Lewin, Mazurek, McFadden, McKane, McLeod, Millett, Nass, Nutting, Peterson, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Sarty, Saviello, Sykes, Thibodeau, Thomas, Tilton, Weaver, Willette.

NAY - Adams, Beaudoin, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Bryant, Cain, Casavant, Connor, Cornell du Houx, Crockett P, Dostie, Duchesne, Eaton, Eberle, Eves, Flaherty, Flemings, Flood, Goode, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kent, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, McCabe, Miller, Morrison, Nelson, O'Brien, Percy, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Wright, Madam Speaker.

ABSENT - Beaudette, Briggs, Butterfield, Cohen, Dill, Fletcher, Greeley, Pendleton, Peoples, Perry, Rosen, Shaw, Tardy.

Yes, 62; No, 76; Absent, 13; Excused, 0.

62 having voted in the affirmative and 76 voted in the negative, with 13 being absent, and accordingly the motion to

INDEFINITELY POSTPONE the Bill and all accompanying papers **FAILED**.

Subsequently, under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-763)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

On motion of Representative HAYES of Buckfield, the House adjourned at 5:47 p.m., until 9:00 a.m., Tuesday, April 6, 2010.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Amend the Laws Pertaining to High-stakes Beano"

(H.P. 1322) (L.D. 1831)

Sponsored by Representative MITCHELL of the Penobscot Nation.

Cosponsored by President MITCHELL of Kennebec and Representatives: BERRY of Bowdoinham, Speaker PINGREE of North Haven, PIOTTI of Unity.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **LEGAL AND VETERANS AFFAIRS** suggested and ordered printed.

On motion of Representative TRINWARD of Waterville, the Bill and all accompanying papers were **INDEFINITELY POSTPONED**. Sent for concurrence.

ENACTORS Resolves

Resolve, To Establish the Commission To Study the Rule-making Process under the Maine Administrative Procedure Act

(H.P. 1272) (L.D. 1784)

(H. "A" H-808 and H. "B" H-818 to C. "A" H-777)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

On motion of Representative BERRY of Bowdoinham, the House **RECONSIDERED** its action whereby the House voted to **RECEDE AND CONCUR** on Resolve " Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands and the Department of Inland Fisheries and Wildlife (PUBLIC LAND)"

(H.P. 1291) (L.D. 1803)

(C. "A" H-723)

(S. "B" S-509)

On motion of Representative FLAHERTY of Scarborough, the House voted to **RECEDE**.

The same Representative **PRESENTED House Amendment "A" (H-824)**, which was **READ** by the Clerk and **ADOPTED**.

Subsequently, The Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-723)**, House Amendment "A" (H-824) and Senate Amendment "B" (S-509), in **NON-CONCURRENCE** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.