

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Volume II

First Regular Session

June 6, 2007 – June 21, 2007

Second Regular Session

January 2, 2008 - March 31, 2008

Pages 682-1357

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
SECOND REGULAR SESSION
8th Legislative Day
Tuesday, January 22, 2008

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

Prayer by Reverend Gary Akeley, Randolph United Methodist Church and East Pittston United Methodist Church.

National Anthem by Annie Charles, Limestone.

Pledge of Allegiance.

The Journal of Thursday, January 17, 2008 was read and approved.

SENATE PAPERS

Bill "An Act To Provide for the Construction of a Warehouse in Eastport" (EMERGENCY)

(S.P. 806) (L.D. 2116)

Came from the Senate, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in concurrence.

COMMUNICATIONS

The Following Communication: (H.C. 427)

**STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF FINANCIAL INSTITUTIONS
36 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0036**

January 15, 2008

The Honorable Glenn Cummings

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Cummings:

In accordance with Title 9-B MRSA §217, as amended, enclosed please find a copy of the "Annual Report from the Superintendent of the Bureau of Financial Institutions to the Legislature." In addition to the annual statistical information, the Report also includes informational segments which often address issues of current importance to the Legislature, the Executive Branch, and the Maine financial institution community.

If you or your staff have any questions regarding the information contained in this Report, the Bureau would be pleased to respond. This Report will also be available in electronic format on the Bureau of Financial Institution's web site at www.maine.gov/financialinstitutions.

Very truly yours,

S/Lloyd P. LaFountain III

Superintendent

READ and with accompanying papers **ORDERED PLACED ON FILE.**

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Pursuant to Statute

Department of Professional and Financial Regulation
Representative BEAUDETTE for the **Department of Professional and Financial Regulation** pursuant to the Maine

Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation (EMERGENCY)

(H.P. 1536) (L.D. 2162)

Be **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

**Pursuant to Statute
Department of Corrections**

Representative GERZOFKY for the **Department of Corrections** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections (EMERGENCY)

(H.P. 1543) (L.D. 2168)

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

**Pursuant to Statute
Maine Health Data Organization**

Representative PERRY for the **Maine Health Data Organization** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Health Care Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

(H.P. 1537) (L.D. 2163)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

**Pursuant to Statute
Department of Health and Human Services**

Representative PERRY for the **Department of Health and Human Services** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 294: Rules Governing the Qualifications for Local Health Officers, a Major Substantive Rule of the Department of Health and Human Services, Maine Center for Disease Control and Prevention (EMERGENCY)

(H.P. 1541) (L.D. 2166)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.
Sent for concurrence.

**Pursuant to Statute
Maine Health Data Organization**

Representative PERRY for the **Maine Health Data Organization** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

(H.P. 1542) (L.D. 2167)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

**Pursuant to Statute
Department of Environmental Protection**

Representative KOFFMAN for the **Department of Environmental Protection** pursuant to the Maine Revised Statutes, Title 5, section 8072, subsection 2 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 157: CO2 Budget Trading Program Waiver and Suspension, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

(H.P. 1538) (L.D. 2164)

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

**Pursuant to Statute
Department of Transportation**

Representative MARLEY for the **Department of Transportation** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 103: Sensible Transportation Policy Act, a Major Substantive Rule of the Department of Transportation (EMERGENCY)

(H.P. 1539) (L.D. 2165)

Be **REFERRED** to the Committee on **TRANSPORTATION** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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

ORDERS

On motion of Representative BARSTOW of Gorham, the following Joint Order: (H.P. 1540)

ORDERED, the Senate concurring, that the Joint Standing Committee on State and Local Government shall report out, to the House, legislation to amend the Maine Administrative Procedure Act with respect to rulemaking.

READ and **PASSED**.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

Quality Inn & Suites - Maine Evergreen Hotel, of Augusta, and Alec and Julie Rogers, who have received a 2008 President's Award from the Kennebec Valley Chamber of Commerce. Mr. and Mrs. Rogers took over management of the Susse Chalet hotel from Mrs. Rogers' parents in 1995 with the intent of making repairs and then selling it. In 2003 they chose to purchase the hotel instead, and have now completed extensive renovations to great effect. The Quality Inn & Suites team offers a high-quality environment for their guests. We congratulate Mr. and Mrs. Rogers and all the dedicated employees of the Quality Inn & Suites and wish them continued success;

(HLS 956)

Presented by Representative CROCKETT of Augusta.
Cosponsored by Representative SILSBY of Augusta, Representative BROWNE of Vassalboro, Senator MITCHELL of Kennebec, Representative CANAVAN of Waterville, Representative CONOVER of Oakland, Representative COTTA of China, Representative FINCH of Fairfield, Representative FITTS of Pittsfield, Representative FLETCHER of Winslow, Representative FLOOD of Winthrop, Representative JONES of Mount Vernon, Representative HANLEY of Gardiner, Representative KNIGHT of Livermore Falls, Representative MILLER of Somerville, Representative RINES of Wiscasset, Representative SMITH of Monmouth, Representative TREAT of Hallowell, Representative TRINWARD of Waterville, Senator DOW of Lincoln, Senator GOOLEY of Franklin, Senator MARRACHÉ of Kennebec, Senator McCORMICK of Kennebec.

On **OBJECTION** of Representative CROCKETT of Augusta, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative Crockett.

Representative **CROCKETT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Kennebec Valley Chamber President's Award honors small and medium sized businesses that show dedication and good work ethic. Certainly, Alec and Julie Rogers are dedicated and they work hard every day to serve their customers, and they are doing a great job.

In 1995, they decided to place their acting and teaching careers on hold and took over management of Julie's parent's hotel. At that time, they planned to upgrade and sell, but eight years later they purchased the hotel. After many improvements, upgrades and renovating guestrooms, in 2006, they started a major project: a third floor addition of deluxe executive level rooms. This was a huge task, building a three-story hotel over their older two-story hotel. They have now gone from 58 rooms to 76 rooms, with seven whirlpool suites and a conference center.

The new Quality Inn & Suites - Maine Evergreen Hotel, is designated in the state as an environmental leader; they are members of the Green Hotels Association. They have done a wonderful job not only running and improving the business, but also contributing significantly to the community around them.

Alec and Julie, I want to thank you for being a part of Augusta's community.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

the Bread of Life Ministries, of Augusta, and Executive Director John Applin, on their receiving a 2008 Community Service Award from the Kennebec Valley Chamber of Commerce. First a soup kitchen, the Bread of Life Ministries soon offered shelter for the homeless. The soup kitchen now provides some 35,000 meals a year while "bed nights" have risen to 9,000. The Bread of Life Ministries also provides targeted case management, volunteer mentoring and training programs, a car donation service and self-help housing. The Bread of Life Ministries is building a 43-unit affordable housing complex in Augusta in partnership with the Kennebec Valley Community Action Program. We congratulate the Bread of Life Ministries and Mr. Applin on their receiving this honor and thank them for their contributions to the community;

(HLS 957)

Presented by Representative CROCKETT of Augusta.

Cosponsored by Representative SILSBY of Augusta, Representative BROWNE of Vassalboro, Senator MITCHELL of Kennebec, Representative CANAVAN of Waterville, Representative CONOVER of Oakland, Representative COTTA of China, Representative FINCH of Fairfield, Representative FITTS of Pittsfield, Representative FLETCHER of Winslow, Representative FLOOD of Winthrop, Representative JONES of Mount Vernon, Representative HANLEY of Gardiner, Representative KNIGHT of Livermore Falls, Representative MILLER of Somerville, Representative RINES of Wiscasset, Representative SMITH of Monmouth, Representative TREAT of Hallowell, Representative TRINWARD of Waterville, Senator DOW of Lincoln, Senator GOOLEY of Franklin, Senator MARRACHÉ of Kennebec, Senator McCORMICK of Kennebec.

On **OBJECTION** of Representative CROCKETT of Augusta, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Crockett.

Representative **CROCKETT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to congratulate Bread of Life Ministries for receiving the Kennebec Valley Chamber Community Service Award this year. Bread of Life Ministries exists to provide food for the hungry, shelter for the homeless and other services that may help to end these circumstances.

In these difficult economic times, Augusta is fortunate to have Bread of Life Ministries provide over 35,000 meals a year and some 9,000 bed nights for citizens in our community. Community members donate over \$125,000 of food yearly and provide 7,500 hours of volunteer time in the kitchen. At a time when the Federal Government has cut services and the Maine Legislature is faced with many proposed cuts in services to our most needy citizens, we are truly fortunate to have Bread of Life Ministries. They welcome family and adults who have no place else to go.

I am very pleased with a project that the Bread of Life Ministries has underway now, in partnership with the Kennebec Valley Community Action Program: They are building a 43 unit affordable housing complex in Augusta. We have with us today the Bread of Life Executive Director John Applin. I would like to say thank you to John for all of his hard work, and

congratulations to Bread of Life Ministries for their dedication to the community. Thank you, Mr. Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, January 17, 2008, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Expression of Legislative Sentiment Recognizing the Honorable Edward C. Kelleher of Scarborough

(HLS 937)

TABLED - January 15, 2008 (Till Later Today) by Representative FISCHER of Presque Isle.

PENDING - **PASSAGE.**

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

Representative **FISCHER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. On my very first day in the State House, I was wandering around trying to orient myself about where various things were and, as I wandered, I saw in the distance a gaggle of people surrounding someone. As I got closer, the group continued to expand and expand and I knew, even though I was young, I knew that it must be someone very important in the center of that group, it must have been some heavy hitter. Maybe it was the Speaker of the House, maybe it was the President of the other body, maybe it was the Chief Executive; I was not sure, but I knew that it was a heavy hitter at the center of that crowd.

As the invisible man spoke, I could tell that everyone around him grew immediately silent as he spoke, and when he paused to take a breath, the crowd would roar with laughter and people would comment about things, and then he would start talking again and it would be silent. By this point, I was right up on the periphery of this circle and I could hear the man's voice; it was distinct, it was a one of a kind voice. I could also hear the words that were being said and shall we say that they were distinct words. I can tell you that I am not alone that I have met Eddie Kelleher around this building. I did not know at that time that that was Eddie Kelleher, but I quickly learned that it was.

I also learned that Eddie Kelleher is somewhat of an institution around this building. He is a person and he is a type of person who can put today's emergency in a much longer view, because he knows the legislative history of Maine and he has been involved in a lot of it.

I am also sure that I am not alone when I tell you that Eddie Kelleher mentored me when I first arrived in this body; he has mentored many new legislators over the years. He taught me the process, he lectured me about the rules of procedure, he introduced me to the people that I needed to know, and he regaled me daily with war stories about his time in the House of Representatives. He told me how it used to be and how it should be, how to get along and how to get my way. He told me about how I could excel here; sometimes I followed his advice and other times I did not. But every time I did not follow his advice, I can tell you that I quickly learned the err of my ways as soon as I walked out those doors.

In this building, it is unfortunate that so often we are in a hurry when we walk through the halls. A lot of times we just say a perfunctory hello, or a quick wave to one another, but I can tell

you that never a day went by in my time here that I have not stopped dead in my tracks to get a free lesson from Eddie Kelleher. Every morning I try to do it.

In closing, I just want to say that maybe one thing that many of you do not know about Eddie Kelleher: You may have guessed it, he is Irish. Several years ago, he and I and several others took a trip across that great pond to the country of Ireland. I was happy because there were a lot of veterans there. I was 23 years old, I was entering my second year in the Legislature, and there was Eddie Kelleher, Gerry Conley and people like John Lisnik, Jack Cashman and Greg Nadeau, people who had served here for decades.

While we were there ostensibly to lie on the beach and go to Mass and do all those things you do when you go to Ireland, I heard a blessing that I thought was really good late one night and I want to leave you with that because I think Eddie will like it. It was: May those who love us, love us; and those who don't love us, may God turn their hearts; and if he doesn't turn their hearts, may he turn their ankles so that we will know them by their limping.

Eddie, thank you very much for being a mentor, and I certainly know there are many people here today who want to speak about their experiences with you, but it has been an honor knowing you for the last several years, and I certainly want to wish you and Nancy and the rest of your family the very best in your retirement.

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

Representative **McDONOUGH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It gives me great pleasure to stand up here this morning and follow Representative Fischer in telling some stories. I could not begin to tell them the way he just did, but he talked about going across the pond with Eddie Kelleher and the boys and girls. It was an experience. I had two or three trips over there and I can tell you that Eddie was a master tour guide, and it just fills my heart to be able to think about Eddie.

I do not know if you all know it or not, but Eddie is a good Bangor boy. I have known him for years, my family knew him, respected him, he was a hard worker. When I first came up to the Legislature, as Representative Fischer said, Eddie was a mentor; you could always depend on him to give you the straight skinny and he would, he never held back. We had a lot of great conversations under the dome on the leather benches. I am going to remember all of those things, probably for the rest of my life. Having said that, Ed, I would like to wish you the very, very best in your retirement, and my very best to Nancy. Thank you, Mr. Speaker.

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

Representative **CAIN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It is my honor to rise today to talk about my friend and my advisor and mentor, Eddie Kelleher. I clearly was not aware that he had so many mentees and I am honored to be one of them.

In my first term, I was introduced to Eddie by the Representative from Presque Isle, Representative Fischer, and the former Representative from Presque Isle, John Lisnik. They said: This is a guy that you have to get to know.

Eddie is an institution within an institution, and his institutional memory extends way back to way before I was born. Eddie's years in this building and in these halls, along with his engaging sense of humor, lead me to seek out Eddie for advice and for perspective when things get very crazy around this building; lately that seems like every single day. When Eddie tells a story,

I listen, and you should, too. He knows how to simultaneously entertain and teach and, as the good Representative from Presque Isle always said, Eddie is always right. Eddie has a gift for understanding people and for seeing the best in them.

I am personally grateful to Eddie for believing in me. In my first term, while many, including many of you, were still asking me which office I worked in, or who I was interning for, Eddie became my friend and helped point me in the right direction, in a path for success. He treated me like I belonged here from day one, and he treated me like I always had something to offer.

You cannot really speak of Eddie without mentioning the one thing that he holds most dear and above all, which is his lovely wife Nancy, because he not only loves her but he admires her, and they are an incredible pair. So, thank you, Eddie. Thank you for believing in me, thank you for your service to Maine, thank you for the stories and advice, and thank you most of all for being my friend. I look forward to many more years of friendship with you. Thank you, Mr. Speaker.

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

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. About 15 years ago, I was writing an article about the neighborhoods of Bangor and nowadays it has somewhat changed or gone out of fashion, but we were proud of ethnic neighborhoods in the history of Bangor. There was a Jewish neighborhood, more than one; an African American neighborhood, Carroll Street neighborhood. It was surprising, even among Irish Americans in Bangor, how few knew the term "The Cumbaree," but Eddie Kelleher knew about it and knew about the Irish neighborhoods of Bangor. He taught me so much about the history of our community in Bangor and taught me so much about this building in three terms on the Judiciary Committee. He did a very professional job in advocating for the Judicial Department, but then after he was done doing that professional service, he always would regale you with a story, a personal story about this or that member, current members, the history of other members.

But one of the things that he did not mention so often, but that I heard from many others who had experience here during that earlier era, is that when Eddie Kelleher got up to speak on the floor of the House, just by virtue of having an opinion, whether it was right or wrong, but by having that opinion he could sway 30 to 40 votes just by one speech without anybody knowing in advance what he was going to do, or what he was going to say; and that everyone, including the then Speaker, listened with trepidation to know what it was he might do or say, because of the power that his voice carried in this House.

I have to say from my first day, when I served back in 1990; I am reminded that today is my father's 80th birthday, actually, and before I hear any of the distinctive language that I might here—I know that Eddie is much younger than my father, I do not want to get myself in trouble there—but if there was someone who I felt that stood for me in the role of something of a father figure for my first day in the Legislature, it was Eddie Kelleher. His style of expression, that I think the Representative from Presque Isle referenced, is distinctive but it is always on point, it is always humorous and there is always a meaning to it, so we are always honored to have him as part of the Men and Women of the House, always. I thank the members of the House.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Simpson.

Representative **SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It is a privilege to stand today in honor of the Honorable Eddie Kelleher on his retirement. I first met him eight years ago, when I first joined the Judiciary

Committee and he was working on behalf of the judicial branch. I could go on and on about all of the great stories he told, but I think the real heart of what he did here in his work for the judicial branch is to make sure that our checks and balances system works. He, quietly through his conversation, even so while we were not paying attention, made sure that the third branch of government was given the respect and honor it deserved and that that balances system could work. By speaking to us from his heart in a friendly and personable manner, he made the system work better for all people in the State of Maine and I thank you for that, Eddie.

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have known Eddie Kelleher about 35 years. Back when I was on staff down at the other end of the hall, he was an honorable Representative here in this body. We spent many hours in the post office having long conversations on policy procedure, how this place works, and how you get things done. I was very happy when I came here as a Representative to see Eddie Kelleher out in the hall, in his favorite position out on one of the couches, giving advice to not only freshmen members like myself but continue giving that kind of advice to people that came into this building.

One of the things that we have lost, especially with term limits, is that institutional knowledge that Eddie so gallantly shared with us all. He has been very gracious with his time in trying to help us. I know that I have gone to him many days and said, "Eddie, I am in a pickle. Can you help me get out of it? How are we going to get this bill passed, or whichever position are we going to take?" He has always been very gracious and tried to help us. When he came back as one of the hired hands for the Judiciary, he was very, very effective—I sat on Judiciary back then—and he came into our committee and he always have the information we needed and accurately. I absolutely commend Eddie for his years of service to the state. I think the state is far better off with him than without him, and I am just tickled today to be here today to say that, Eddie.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative **MILLETT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to comment briefly on that portion of Eddie's state government service that occurred here in this chamber. As you listened to Millie read the sentiment, his career in state government spans 39 years but the first 16 were here in this chamber.

I had the pleasure of meeting Eddie in December of 1968, when the two of us arrived here as freshmen members of the 104th Legislature. Back then, if you were under 30, you were considered young and he and I were among about 10 people who represented the younger generation, if you will. It is hard to believe, I know, but at that time you were automatically referred to as a young Turk if you were under 30, and the average age was about 15 years more than it is today. But Eddie came from Bangor as a freshman minority, Democrat, and landed here with, like with all of us, an appreciation for the importance of the institution we had just been elected to and a little bit of an open mind as to what role we could play.

If you were to look at the back wall on the left as you exit the Chamber, you will see his picture in the 104th Legislature, standing very firm, starch white shirt, bright bow tie, sitting right next to the Honorable Louis Jalbert from Lewiston in seat #101. Now that seat is now occupied by Representative Wagner of Lewiston, but Louis Jalbert, for years, had occupied seat #101. He was the veteran member of the Delegation then, having

served really in the 50's, 60's and 70's, and the ranking Democrat by any stretch of the imagination. Louis was a rather gruff person, extremely knowledgeable about the process, very dedicated to his role here in the House and very abrupt in his speaking style; one might call it gruff, if not intimidating, in style. Eddie, being a freshman sitting next to him, chose not to be intimidated by that presence but to soak up the knowledge and learn from that wily veteran. As referred to by his speaking style, I think by the Representative from Bangor, Representative Faircloth, Eddie had that distinctive speaking style right from the get go. He was quite willing to speak his mind, always was oratorically loud and direct and very clear and persuasive in his arguments.

He later, after the first few years on Public Utilities, now our Utilities and Energy Committee, he ended up on the Appropriations Committee for his last six years. There, he, along with Representative Jalbert, his mentor, formed a tag team that was sometimes called "Intimidators," or actually, later on referred to because of their seating arrangement—Representative Jalbert sitting on the left, near where the Fiscal and Program Review staff sits now; Eddie sitting on the other end of the horseshoe—as "The Bookends". They were the twin examiners and intimidators of anybody that came before them. I watched and remember very vividly, many people go out of that room just shaking their heads after being cross-examined by the two of them in rapid fire.

But in spite of that style and service on Appropriations, I think Eddie has the appreciation that few of us have here in this chamber today. That is, having been here at a time when he was in the minority, later serving in the majority, having benefited by having met so many people in this wonderful cross-section of Maine folks who represent all of our citizenry. He had the ability to reach across the aisle, to befriend people on both stripes, and to become very, very enamored with and very friendly toward each and every one of us. I think if you asked him today about the institution, he would reminisce and think back to those wonderful days when there was really a lack of partisanship and almost the spirit of being one member of the entire team, and the ability to work with people on both sides of the aisle was part of his style.

Thirty-nine years have elapsed since then, and Eddie has served state government very well. He has served with dedication, with honor, and I think as an institutional memory source, he is one of the best. I wish him well in his retirement; I thank him for his dedicated service, both in this Chamber which he loved so much, as well as in the judicial branch and other aspects of state government, over the past 39 years. Best wishes, Eddie.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Eddie was a constituent of mine when I was on the City Council. He is one of the few people I know in the world who has a nun named after him: His sister, Sister Edward Mary.

Also, when I first got here, the first story I heard was there was a long debate in here and people went on and on and on. Then the Honorable Edward Kelleher got up and he said, "I have exactly the same thing to say as the person before me had: Nothing." Thank you.

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

Representative **CRAVEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I cannot say that Eddie Kelleher was a mentor of mine because our styles are so

different that he scared me a little, but his Irishness certainly attracted me a lot. I was immediately just wired to see him everyday so that he could tell me stories about how to be a good Democrat and, also, if I failed to make it back for vacation in the summertime, he came back with stories from the old country. I want to thank him for his friendship and wish him the best of luck. Thank you, Mr. Speaker.

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

Representative **PIEH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I could not resist. Eddie is just plain irresistible. If you have not had the chance to get to know him, take advantage of it while you can because he is one heck of a treat. Thank you.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Many have talked about Mr. Kelleher's experiences within this body; some have talked about his experiences within the Judicial Department and lobbying on their behalf. There are other bodies of experiences that others have not talked about. Some of those experiences will reside in the memory of the Admiral Byrd House across the river, where Mr. Kelleher resided with several other colleagues during his days in the Legislature, and admired the collections of Admiral Byrd, the penguins and birds from abroad, the Antarctica and Arctic collections.

While Kelleher himself collected stories, histories, information and kept it all up here in his noggin, it is appropriate that he has been lobbying for the Judicial Department because the judges in the Maine Supreme Court and the lower courts know one of their own: He is, in fact, a judge himself.

The other body of experiences that people have not referred to is his experiences as a judge at the track. For many, many decades, Eddie has been one of the leading judges in the harness racing affairs across the State of Maine. He is well known, both at the Bangor track and at the Scarborough track, as one of the hardest judges. If you look at the list of finds that come out in the reports, every other find is opposed by Judge Edward Kelleher—Edward I. Kelleher.

I heard a story about a gentleman who sat next to him, the gentleman being a freshman legislator, someone whom Mr. Kelleher was mentoring in this body, who got up to give his, as it were, maiden speech, who wrote ten pages of notes to be sure that he did not leave anything out. The gentleman got up very nervously and started to give his speech and Mr. Kelleher, then Representative Kelleher, kept tugging on his jacket saying "Speak from the heart, speak from the heart." The gentleman clutched at his notes and kept reading from his notes, reading and reading, and Ed kept tugging on his sleeve saying "No, read from the heart; speak from the heart; give it to them from the heart." Finally, Representative Kelleher tore the pages of notes from the young man's hands and said, "Speak from the heart!" The young man did. He found his voice as they say and spoke from the heart for another two or three minutes and he won the votes on the bill and got the measure passed. That young man has never forgotten that lesson.

That is what Ed does. At the track, he calls it like he sees it; he is accurate; he has the highest integrity. When it comes to debating and lobbying and providing information, he also calls it like he sees it with humor and crispness and integrity, and he speaks from the heart. Thank you.

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

Representative **TUTTLE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Ed Kelleher is more than a mentor to me, Ed is my friend. He has been my friend for the last 30 years. I recall an incident in 1980 that during the Brennan administration, Ed had advised me not to beat the Governor at pool at the Blaine House or my bill would be in jeopardy. The next day, the Governor did veto my bill and Ed told me, "John, you only have yourself to blame."

Ed Kelleher is by far the best speaker I have ever heard on the floor of this House; I have heard some good ones. He could make the hair of the back of your head turn up when he spoke.

I remember during my freshman year, I had a fellow legislator from the Sanford area that wanted to have a study on bald eagles. Ed sent the clerk down to the Law Library and there were 30 studies that were brought back up and put on the young legislator's desk, so it was quite a humbling experience.

So, Mr. Kelleher, they call you the killer. Mr. Kelleher, that is true; sweet and sour through and through. If James Michael himself were with us today to witness our whip on the hill, I am sure he would say "Please, please, Eddie, don't kill my bill."

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

Representative **PENDLETON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I, too, would like to congratulate Mr. Kelleher. I have known him for 18 years. I just want him to know how much I appreciate his calm demeanor, his wonderful advice, his always being able to make things happen, and for showing up before the Judiciary Committee when I had to be, in another life, the Chair of that committee. Thank you, Ed, for being there.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I served with Ed Kelleher and this is not the Ed Kelleher I remember—just kidding, Ed.

When I first came here in 1980, I was a freshman legislator and I remember sitting on the end of my seat, in seat #33, and when Ed Kelleher got up to speak, you listened. Boy, didn't I listen. He got talking and talking and rambling, the vote was taken and I voted with Ed Kelleher. The gavel came down and the Speaker said, "I want to see Ed Kelleher, Herbie Clark and Joe Brannigan right away," so we went into the office. The Speaker said, "Why did you let this freshman vote with you two?" So, the Speaker said to me, "Why did you vote that way?" I said, "How could you vote against Ed Kelleher with a speech like that?"

I can tell you one thing: When Ed Kelleher, when he believes in something, he believes 110 percent, he does not waiver. Ed Kelleher, all the time I served with him, was the sparkplug of this institution.

I will give you another little story, which was said earlier: I remember the first time I got up to speak as a freshman legislator and the Dean of the House at that time was Louis Jalbert. When I got up to speak, I sat back down and a note came right over to me that said: Freshman do not speak, they listen. So you know what we had to deal with back in those days. But I can tell you right now that Ed Kelleher is going to be missed, but I know he is not going very far. He may be retiring but he will be back. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Like many before me, I, too, have learned a great deal from Ed Kelleher. I want to

thank him; however, I probably should not tell you all of the things I have learned from Ed Kelleher.

I have also had suggestions from Eddie Kelleher, recommendations on what I might do and say in this body, much of which I am unwilling to share with you. Mr. Speaker and Madam Clerk, if I have pushed some limits of protocol on occasion, such as saying "If I were allowed to hold up a prop, I would do so; however, I am not allowed to do that," I might say that I learned that from Eddie Kelleher, but I am unwilling to say.

Seriously, in the stress and frustration of this body and dealing with the other body, sometimes I have turned to Eddie Kelleher and had wonderful and meaningful conversations and I will miss those conversations until the next time I see him, and I want to thank him.

Representative PIEH of Bremen **REQUESTED** a roll call on **PASSAGE**.

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 Bangor, Representative Norton.

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I cannot come close to saying all of the nice things, or any of the nice things, that everyone else has said, but I want you all to know that I had the distinct privilege of representing a lot of people that Eddie represented. It would be remiss of me if I did not tell Eddie publicly how many times I have knocked on doors and have had the older people in my district talk to me about Eddie, so I just have the need to let him know that, and to congratulate him on reaching this plateau in his life and wishing him good luck, and to have lots more trips across the pond. Thank you.

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

ROLL CALL NO. 203

YEA - Adams, Annis, Austin, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Blanchard, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carey, Carter, Cebra, Clark, Cleary, Connor, Conover, Cotta, Craven, Cray, Crockett, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Dunn, Duprey, Eaton, Eberle, Edgecomb, Emery, Faircloth, Farrington, Finch, Finley, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Greeley, Grose, Hamper, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jackson, Jacobsen, Johnson, Jones, Joy, Knight, Koffman, Lansley, Lundeen, MacDonald, Makas, Marean, Marley, Mazurek, McDonough, McFadden, McKane, McLeod, Miller, Millett, Mills, Miramant, Moore, Nass, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rand, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Tuttle, Valentino, Vaughan, Wagner, Watson, Weaver, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Ayotte, Blanchette, Casavant, Chase, Kaenrath, Lewin, Muse, Walker.

Yes, 143; No, 0; Absent, 8; Excused, 0.

143 having voted in the affirmative and 0 voted in the negative, with 8 being absent, and accordingly the Sentiment was **PASSED** and sent for concurrence.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought Not to Pass** on Bill "An Act To Require Transmission Lines To Be Placed Underground near Certain Facilities"

(H.P. 314) (L.D. 398)

Signed:

Senator:

SMITH of Piscataquis

Representatives:

THIBODEAU of Winterport

CURTIS of Madison

RINES of Wiscasset

BLISS of South Portland

FLETCHER of Winslow

FITTS of Pittsfield

HINCK of Portland

BLANCHARD of Old Town

Minority Report of the same Committee reporting **Refer to the Committee on Business, Research and Economic Development** on same Bill.

Signed:

Senators:

BARTLETT of Cumberland

HOBBINS of York

Representatives:

BERRY of Bowdoinham

ADAMS of Portland

READ.

On motion of Representative BLISS of South Portland, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 11) (L.D. 1) Bill "An Act To Increase Reimbursement for Jury Duty" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-401)**

There being no objections, the above item was ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

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

CONSENT CALENDAR

First Day

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

(H.P. 1532) (L.D. 2155) Bill "An Act To Assist Maine's Forest Products Industry" (EMERGENCY) Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-660)**

Emergency Measure

Resolve, To Extend to January 20, 2008 the Reporting Deadline for the Tribal-State Work Group (S.P. 764) (L.D. 1970)

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. 133 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

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

**CONSENT CALENDAR
Second Day**

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

(S.P. 95) (L.D. 280) Bill "An Act To Make a Conviction for a 6th Operating under the Influence Charge a Class B Crime" (C. "B" S-397)

(S.P. 116) (L.D. 372) Bill "An Act To Strengthen the Crime of Gross Sexual Assault as It Pertains to Persons Who Furnish Drugs to Victims" (C. "B" S-398)

(S.P. 579) (L.D. 1674) Bill "An Act To Amend the Habitual Offender and Felony Operating Under the Influence Laws" (C. "B" S-399)

(S.P. 681) (L.D. 1873) Bill "An Act To Amend the Laws Governing Stalking" (C. "B" S-400)

(H.P. 409) (L.D. 531) Bill "An Act To Improve the Method of Taxing Natural Gas for Highway Use" (C. "A" H-653)

(H.P. 421) (L.D. 543) Resolve, To Establish the Maine Tree Growth Tax Law Review Committee (C. "A" H-656)

(H.P. 996) (L.D. 1413) Bill "An Act To Set Fees for Services for Tax-exempt Property in Municipalities" (C. "A" H-655)

(H.P. 1092) (L.D. 1567) Resolve, To Demonstrate Cost Savings by Preventing the Onset of Severe Mental Illness in Youth (EMERGENCY) (C. "B" H-652)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**BILLS IN THE SECOND READING
House as Amended**

Bill "An Act To Exempt from the Sales Tax Water Used in Agricultural Production"

(H.P. 812) (L.D. 1094)
(C. "A" H-654)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

**ENACTORS
Emergency Measure**

An Act To Study the Feasibility of Locating a New Bridge in the St. David Area

(H.P. 394) (L.D. 511)
(C. "B" H-643)

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. 126 voted in favor of the same and 13 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, January 17, 2008, 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 - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-635)** - Committee on **LABOR** on Bill "An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects"

(H.P. 458) (L.D. 591)

TABLED - January 8, 2008 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

Representative TUTTLE of Sanford moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **TUTTLE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The bill before you requires a successful bidder and all subcontractors of the successful bid, entering into a public works contract on or after July 1, 2008 that is worth \$100,000 as the amended portion or more, to certify and provide documentation demonstrating that all employees working on that project have completed a course in construction safety, no shorter than 10 hours.

We heard much testimony on this issue. In the Committee, the proponents were Representative Patrick, of Rumford; the Maine Department of Labor; New England Carpenters; the Maine, New Hampshire and Vermont Labor's District Council; the Maine Building and Construction Trades Council; and the Maine AFL-CIO. They felt that we do not have enough safety training for all Maine workers. There is no one action or program that provides any easy answers for workplace safety. The state and federal statutes make providing a state workplace the responsibly of the employer, but the workers themselves must be involved in order to achieve that. They also said that employers have a moral obligation to ensure their employees are fully trained through the knowledge and management of the construction hazards, which with appropriate safety and health controls. The trend in private contracts is for employers to provide this training; the Department of Transportation requires a 10-hour certification for its field workers, presently.

Now, the opponents of the bill, Mr. Speaker, were R.J. Grondin & Sons, Associated Contractors of Maine, Maine School Management Association, Maine School Boards Association, Maine School Superintendents Association, Maine Municipal Association. They felt the bill duplicates OSHA training already required, the OSHA 10-hour training does not necessarily make

the workers safe, the bill would add unnecessarily to the cost of state-funded construction projects; and enforcement of the bill's provisions would require time, expense, and effort on the part of the Department of Labor; the bill would add another layer of bureaucratic requirements for business to address in order to perform state-funded work; and they were not sure why there was a greater concern for public safety of public work contracts, as opposed to private contracts.

We heard good arguments on both sides. I have been asked by Representative Patrick to do some research. The State of New Hampshire has already enacted a bill of this nature; the State of Vermont presently has two bills before its House and Senate. As I have said before, we have had good arguments on both sides. I would ask you to listen to the debate and vote your conscience. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House, Colleagues and Friends. This is my bill and I put it in because I believe that we have a moral obligation to make sure all workers, or Maine Public Works projects, are trained to at least a minimal standard as proposed in my bill. This bill is not a union bill; it is not a management bill. This is a bill I put in for all workers, construction workers, in the State of Maine.

Others will get up and say that OSHA requires them to train their employees already and that they train their employees to job specific training. I agree with both of these concepts, but there is no written standard in statute that they are to be held accountable for. It is a proven fact that training saves employers money and money spent is an investment. The Beacon Insurance Company, of Rhode Island, has made the OSHA 10-hour construction safety course available to their contractors insured since 1996. Why? Because they know the result can be reduced workers' compensation costs and increased profitability. To me, the more important issue is it can reduce injuries to our workers.

This OSHA 10 training can be done for free by the Department of Labor. We all received an orange folder in our mail and, this spring, for example, there are at least two dates set for OSHA training during the day which are going to be held on February 20 and April 8; and they also have night classes, which will be held on March 25 and April 1. The Department of Labor will train employers to give the classes themselves; they call the course Train the Trainers, and will also go right to the employer's place of business and do the training for free. It is hard to believe but even some of the past opponents to this bill—Associated Builders and Contractors of America, and General Contractors of America—do this training for profit. They typically charge around \$100, the ones that are doing this for profit, per worker. This is a one-time charge; however, this cost is more than offset by savings and workers' compensation premiums, lost time, and productivity. Workers' compensation costs for construction workers can be as much as 50 percent of payroll; in the State of Maine, the Department of Labor will train them for free.

There are those that say this bill is a solution looking for a problem, and there is none. I say to all of you that all you have to do is look at the statistics. In 1995, there were approximately 30,600 construction workers in Maine: 2,723 received recordable injuries; 1,621 missed time because of injury; and 651 were restricted or transferred. Nationally, construction workers makeup 22 percent of all work place fatalities, despite the fact that they only represent 6 percent of the labor force. But this is probably really my impetus behind this bill.

In 1979, 1980, I worked construction myself as a welder on, if you remember, the \$500 million Rumford paper mill expansion

project. I was told when I was hired, because the project was that of such magnitude, that five to six people were likely to die during the construction phase. Well, guess what, Ladies and Gentlemen of the House? They were right. Five of my coworkers, three whom I knew real well and two others who I knew somewhat, died during that project. You know what? I am sure, had I asked my company back then if their employees were trained, they would have said, yes, they are trained up to OSHA Standards. I say bologna. I do not remember any safety training whatsoever in the two and a half years that I worked on that project. I was only 25 years old, impressionable, had a chance to learn safety but my company gave me none. Just two years ago, Ladies and Gentlemen of the House, a welder who was working as a contractor in my mill was electrocuted because his ground clamp was hundreds of feet away and not close to his work, which is something that I learned during my safety class in the welding field. A few years before that in the little Dowel Mill in Rumford, the same thing happened: a person did not ground his work close enough to his workstation and was electrocuted in the same manner. I have been working for the paper mill now for 27 years, and during the early 90's, it was Boise Cascade at the time, was paying around \$11 to \$12 million in workers' compensation premiums—\$11 to \$12 million in workers' compensation premiums. Through a very rigorous safety program that included hundreds of hours of safety training, per employee, they got their costs down below \$2 million. It is hard to believe that since then, we have seen several times, our mill have over 1 million safe work hours. I believe Boise Cascade probably still holds the record in the State of Maine for going over 4 million work hours without a lost time injury and that I am very proud of, and it was mostly in part due to the safety training that they gave our employees. How many of our Maine construction workers will have to die, or be crippled, before we realize like our other New England states, such as Rhode Island, Connecticut, Massachusetts, and New Hampshire. Yes, I did say New Hampshire. They have all enacted this bill into law. Even Vermont at this time is taking the bill up and it is in both of their bodies. I ask you to listen to your heart, Ladies and Gentlemen, and realize that safety training saves injuries and lives, and it saves money. I would ask you to vote against this Ought Not to Pass and follow my light and move on to Ought to Pass. Thank you, Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I urge you to support the pending motion. I do not disagree with a lot of what the Representative from Rumford, Representative Patrick, said; he has a lot of valid points. In private business, I used to work for a construction company for many years, we chased the dollar. We chased the dollar because we want to make a profit. Chasing the dollar means you want to be as safe as possible because employee injuries cost a lot of money. You want to be as safe as possible on the workplace. Employee injuries are one of the most expensive liabilities for a company.

What this bill does is it forces businesses, construction, to require a training class that is 80 to 90 percent unnecessary for that worker for their applicable job. Let's just say that we hire a laborer to dig ditch. Their job may be just digging that trench all day long for 12 hours. There are people who like to do that work. They have to go to this OSHA 10 course under this bill, which requires them to learn two hours on how to run a crane or rigging, scaffolding, ladders, electrical safety, how to use power tools, material handling, energies, a lot of things that do not apply to their specific they are doing at hand.

Is it nice to know information? Absolutely. Do a lot companies send their people to this class anyway? Yes. But to pay somebody, which it is not free because you have to pay that guy \$20 an hour to sit in that class for 10 hours, that is \$200 per person; 50 employees, that is \$10,000. It is going to be put into the bid price; so yes, who is going to end up paying for it, the taxpayers, because it goes into the bid price, which means less construction projects done, which means less road done, less paving done over time. It does add in.

Private business will always chase the dollar, and the dollar is safety in the workplace. That was the biggest thing that they stressed at the company that I worked for: Safety is job one, because an unsafe workplace costs a lot of money. This is an expensive mandate for employers, and I urge you to support the pending motion. Mr. Speaker, I ask for a roll call.

Representative DUPREY of Hampden **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The SPEAKER: The Chair recognizes the Representative from Allagash, Representative Jackson.

Representative **JACKSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As with the previous speaker, Representative Duprey from Hampden, I agree with some of the things that he had to say. The fact that the person actually gets 10 hours of training and some of that training might not actually be something that he has been hired to do; I think it is still something that should be done. I think that most employers in the state would like to have a workforce that can be flexible and move into other areas of the job. A person that has been hired to dig ditches maybe has to help them one day set up a scaffold, but more importantly, maybe he should know that you need to have a trench box; it is a big violation to the employer if there is not a trench box there. Even though it is something that is, I guess, low on the hard scale as digging a trench, there is still a lot of training that needs to be done in that regard to save the employer money, plus to save lives. While I think that it is only a 10-hour class, to have some diversity into it makes a lot of sense because there is no telling on any given day what you might actually be asked to do.

Mr. Speaker, I have been here for six years now, this is my sixth year and I have been on the Labor Committee all that time, and I cannot remember a bill, we have had quite a few, that was in Workers' Comp that would possibly do something to help workers. I cannot remember one that we have passed. I know that people on both sides of the aisle vote against those bills, that is fine, that is the way it is. But if you voted against workers' comp bills because you did not like the cost or how it might affect the employers, then you should vote for this because this bill here would actually save employers money in the end. I do not know how else to say it, I mean it seems like kind of talking on both sides of our face here, but if you were against all of those bills that you thought cost employers money, then you should vote for this because it is going to save you money in the end. The thing is we had people come in there, big employers, and every one of them, we asked: Do you think training saves money? Yes. Do you make your employees go to training? Yes. But they were all against it, and to me the reason why is that it comes down to misclassification of workers, subcontractors; they do not force their subcontractors to train people. To me, that is just not fair.

I mean, I have worked in the logging industry, I have done some construction, and when other people have your life their hands, it is quite a thing. I want to know that the people I am depending on know what they are doing, and you do not always

know that. I mean you go to a job and somebody is new there that day and you are expected to work with them; if you refuse, you are probably going to get fired. Whenever somebody is standing over you, when you are in a ditch, or there is something that is being lifted, you want to know that that person knows what they are doing. I want to come home every night; I have two kids just like many of you in here. That is something that I do think about a lot and I am sure a lot of people in this state do think it.

I can remember when I was in construction, right out of high school I left the metropolis of Allagash and went to New Hampshire to work and we were working in a steel shop, me and a really good friend of mine, and one night when we were working the night shift, the guys told us to load some steel beams on to a truck that was going out the next day. The beams—two of them were 60 feet long and they weighed 12 tons; four of the other ones were 45 feet long and weighted 9 tons—and they were by far the biggest beams I had ever seen. We did not know how to hook them up or anything like that, and I was running the crane and my good friend was running the clamp to hook up the beams, and we hooked them up just like we did all the other ones, even though they were much smaller. My friend was standing in between the two 60-foot beams, right towards the end, and whenever I lifted with the crane, the clamp slipped off, that beam fell over and he was one of the most athletic guys I have ever seen, which was a very good thing: He hopped that second beam and got to those four 45-footers and there was nothing there, if you can imagine that; it would be a lot easier if I could draw this out. But all six of them went down with a tremendous crash and if they all would have been 60 feet long, my friend would have been cut right in half. That just illustrates, for me, I mean, we really did not know what we were doing. Two 18 year old guys just trying to make a living, and did not have a clue how to hook up beams that big.

After that happened, of course, we looked around with a red face. My friend was quite happy to still be in one piece, and a guy came over that had been working there a long time and showed us how to do it, but would it not have been for that, then just blind luck, they would have had a fatality that night. Stuff like that, to me, can happen all of the time. I have a son now that is 17 years old and people call him to go and do things for them, work and stuff like that, to go up and shovel off the roof and people just expect him to know how to do that. Whenever you are young like that, you are willing to do anything and that is when people get hurt. I really think that if you want to help employers out, even though maybe some of them really do not help them understand it, I think you should support this bill. So, that is what I am asking you to do: Vote against the pending motion, and let's move on to Representative Patrick's motion.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House, Colleagues and Friends. I rise to give a little bit more information on things that I forgot to bring up. One of the factors of this bill that I keep forgetting to bring up is the Department of Labor has already stated, basically, that around 65 or 70 percent of all of our contractors in the State of Maine are already OSHA 10 compliant. A lot of them even have the OSHA 30 training, such as myself; I happen to be fortunate enough to have both OSHA 10 and OSHA 30 training.

One of my biggest supporters of this bill was Mr. Grondin. Mr. Grondin employs over 160 construction workers, he is from Gorham. If you read his written testimony, his written testimony is the typical boilerplate stuff that he is totally against the bill, but one of the things about going to the Committee is listening to the

questions that we asked Mr. Grondin. Mr. Grondin has 160 workers, and his two major complaints were that it would be duplicate because his workers already have OSHA 30 training; and most, if not all of them, have OSHA 10 training. One thing he did say when questioned is that training saves lives and controls costs. He says he consistently trains his 160 employees, but the second problem was that would add up to the cost, would be: What about those less skilled, less trained, lower priced subcontractors? They would have to be required to get this training, also, and that would drive costs up.

Mr. Grondin was asked the question: If you were to hire new people and all things were equal, if one of them was OSHA 10 trained and the other was not, who would you hire? Mr. Grondin never quibbled a bit. He instantly said, "I would hire the OSHA 10 trained person." To me, in Mr. Grondin's testimony, he is right: Maybe it will initially cost a little bit to get those subcontractors trained, but once the 30 percent of the rest of the construction workers in Maine is trained, you do not need to be trained again on OSHA 10 training. But like Mr. Grondin, you are going to be wanted to be trained consistently, time and time again, because you cannot get enough training and he even stated that himself that he always trains his employees.

The curriculum has three hours of mandatory topics; three hours of optional topics that can be chosen from a list of seven; the additional four hours can be used to expand on any of the areas, or can be used for additional topics suitable to the industry or trade of the student. I would say in difference to the good Representative from Hampden that yes, people do like digging ditches but the one thing I knew about construction, I worked construction, I even dug ditches, I worked nine months without a day off, I did every job in the plant except for electrical and instrumentation. You know, Mr. Speaker, Men and Women of the House, it is awful funny that a kid that is digging in a ditch, who does not know the safety rules, does not know the OSHA rules, is not trained, is setting himself up for the collapse of the walls of the ditch because a lot times in order to get the project done, they hurry up. At times, if they are laying pipe in a ditch which happens quite often, the guy might be just a laborer, he might be a ditch digger, but he is going to have to rig up pipe. Well, if I was a contractor, I would want to have that lowly laborer do more things that just dig ditches, because there is more to do and his job description is going to expand. If he does not have the training on rigging, such as the good Representative from the Allagash was talking about, he can be killed doing that. Safety training in all aspects is important, Ladies and Gentlemen of the House. If my compelling testimony on five people dying in one project in my mill going from \$12 million in workers' comp costs, lowering it down to \$2 million, does not move you, I would ask you to just the vote the bill out any way you want to. But I would ask, Mr. Speaker, that you would vote this bill down and follow my light and move on to Ought to Pass.

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

Representative SYKES: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative SYKES: Thank you, Mr. Speaker. Since this bill increases costs to our construction companies by mandating training, even if the employee does not do that particular job, my question is: If this bill were to pass, will this be the final nail in the coffin of business in Maine, or will there still be room for additional nails?

The SPEAKER: The Representative from Harrison, Representative Sykes has posed a question through the Chair to

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

Representative WEBSTER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be brief. In my younger years, I worked to supplement my income in the Stagehands Union. The Stagehands Union, I am sure you know rigs and brings in and out performances to the civic centers and theatres. Five or six tractor-trailers would show up full of a thousand pound trusses, large cases, speakers, amps, and we would go to work. We would usually start in the middle of the afternoon, have the show ready to go by 7 pm; then when the show was finished, come back from about midnight or 11 pm and work until 3 or 4 in the morning, getting them ready to go to the next location.

The Stagehands Union was made up of riggers, electrician, carpenters, and grips, and you rely on each other. The problem is that there are also people who work on permit—newcomers, young strong guys—they are really nice to have around, but when you are carrying a one thousand pound truss and you have ten people on that truss, in order to move it onto the stage to get it lifted 30 feet in the air and you go to set it down, if you do not know the way to do it, you can get hurt. When you have a 60 foot ramp that is folded in half and you have to maneuver it in a tight space in order to get the ramp opened up to its full extension, and you do not know how to do that safely and you do not understand the commands because you do not have the experience, somebody can get hurt. Well, I did get hurt. I got hurt with a truss once, and I crushed my thumb under that ramp because someone dropped it too quickly, a half second—a half second—earlier than everyone else did, because they did not know how to do it.

Mr. Speaker, thank you very much. I will wrap up by simply saying that you have to rely on your fellow workers. They have to know what they are doing, you need to recognize what you are supposed to do to be safe and you also need to recognize when other people are not being safe, and there is a system in place in order to discretely and carefully help people who are not being safe to learn the right way to do it. The training that is being proposed would help people to be smarter and safer on the job. I am no longer in the Stagehands Union because I have been hurt and I did not want to keep going back. I did not get hurt so that I could not work; I got hurt enough that I did not want to go back to work anymore; I found another way to make a living. I would like to have you vote against this pending motion, and move on to support safety and training for workers in Maine.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative FITTS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It has been a very interesting debate, it is one that we have had a few times now, and if you had heard or listened to the good Representative from Hampden, Representative Duprey, part of this bill is about money and it is going to cost money to implement it. The fact of the matter is, this training that is very specific, OSHA 10 training has a certain agenda and a certain targeted audience, is not necessarily going to make any difference when there is a new laborer who is brought on to a job site, has this training or not, it will not make any difference as to the tasks that he has to perform.

My son worked for Grondin Construction last summer, he did not have OSHA 10 training but every task that he was asked to do he was trained, because OSHA requires that he is trained for every one of those tasks. The days of five people dying and that being accepted as a typical event on a job site is long gone. Federal laws have been passed to prevent those things from

happening, or at least make the best effort from happening, because nothing is a guarantee in this world. But the fact is OSHA 10 training is more inclined to be targeted at management, at people who are supervising when they first come onto a job site, because it covers a variety of tasks and is not job specific. But OSHA does require that if you are going to be doing a job on a job site, that you are required to be trained in that task. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Allagash, Representative Jackson.

Representative **JACKSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I believe OSHA 10, the Department of Labor, will work with any contractor to decide how they would like to have training done, and I cannot believe anyone would say that that was not a good thing, to have workers as flexible as possible, because anyone that has worked manual labor knows that you are all over the place—they might need you here one day; here the next—so I just wanted to clear that up.

The other thing, too, is it is free to the contractor, Yes, the time spent, those 10 hours, I imagine most people would have to be paid for that but I would think that even some employees might want to go to have it done anyways. The other thing, too, is if you have comparable training, it does not have to be OSHA 10, you just have to have comparable training and if someone worked for Mr. Grondin and did not have training, that would be a surprise to me because he did stand before us and say that everyone he had working for him had training. So, he was taking care of anyways, so that would kind of be a shock to me. But everyone that we heard from said that they wanted training, they had their employees take training, so everyone who came before the Committee was already set in this regard. The thing that I am sure of is it is the subcontractors that work for them that may or may not have this training that people are worried about, but if it is paid for it basically just the time to go and do it.

The answer to the question, I am not sure how this would actually put the final nail in the coffin for business, but apparently it does not make a difference how many nails we put in a worker's coffin.

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

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to attempt to answer the rhetorical question about the nails in the coffin. The marketplace is not an inanimate object; it lives and breathes. It is you, it is me, it is the people that I work with, it is my family, my children, my mother, my father, my aunts, my uncles. The marketplace is alive. It does not just belong to the business community, it belongs to all of us, and we all need to care about it, because it is the foundation of everything else, it is the foundation of my social structure, of my political system. So, the answer to the question, is this another nail in the coffin of business, the answer is no. If we fail to do this, is this a nail in the coffin? The answer is yes.

I, as I revealed recently in Democratic caucus, worked not for union companies but for nonunion companies. We had safety training because the companies that we were contracted to work for were required to ensure that we had safety training. We went through the motions. We were instructed by our employers to indicate that we had safety training. We even had documentation to prove that we were trained. But we were also encouraged to get in there, get the job done, and get out so my employer could make his profit off my labor. More power to him, I am grateful for the opportunity to have worked but I also worked along people who are no longer with us, so the days are long gone where

workers died on jobs is a fallacy and I urge you not to believe that. Workers still die on jobs right here in Maine. Please, go to the Archives and do the research and you will find that what I am telling you is so, so I urge you to vote against this motion to kill this bill and support the marketplace and the people who work in it by making it a safe place to work and produce the commodities and services that you wish to purchase from it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Hopefully, I will be brief so that we can get to a vote here. This is my fourth and final, thank goodness, final term in the Legislature, but what is unique about this bill is I think this is the fourth time I have seen this come before us, I think it has been in every Legislature since.

The way the Labor Committee used to be before the last four years, it used to be it was us versus them, Republicans versus Democrats. We would be in the trenches whether we kind of liked the other side's principles or not, it was a party line vote on everything and everything was contentious and everything was always party lines. But the Representative from Sanford, Representative Tuttle, and I, started working together, and the Senator from Cumberland, Senator Strimling, and we have forged a lot of good bipartisan legislation, the Labor Committee, in the last three years or four years that I have been on it. By doing so, this whole session we have had only one party line vote on over 100 bills, this has never happened before on the Labor Committee. But what is different about this bill that you are seeing before us is this is the first time I have ever seen a bipartisan vote, Ought Not to Pass. Both sides looked at the bill, looked at the pros and cons in an objective way that we maybe have never looked at it before. It came to the floor of the House in the First Regular Session as an 11-2 Report. We kicked it back over the summer, a lot of lobbying from special interest groups, got a couple of people to change their vote, but it is still an 8-4 Report, totally bipartisan.

I agree with a lot of things both sides have said here today, but the bottom line is construction companies want safety, we think this bill is totally unnecessary, it will make less construction projects done at the end of the day, a bipartisan group of each party thought the same thing and I urge you to support the pending motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 204

YEA - Annis, Austin, Ayotte, Barstow, Beaudette, Beaulieu, Berube, Browne W, Casavant, Cebra, Cleary, Cotta, Cray, Crosthwaite, Curtis, Driscoll, Duchesne, Duprey, Eaton, Edgcomb, Emery, Farrington, Finch, Finley, Fischer, Fisher, Fitts, Fletcher, Gifford, Giles, Gould, Greeley, Grose, Hamper, Hanley S, Haskell, Hayes, Hill, Hinck, Jacobsen, Johnson, Joy, Knight, Lansley, Lundeen, MacDonald, Marean, McDonough, McFadden, McKane, McLeod, Millett, Moore, Nass, Pendleton, Peoples, Perry, Pieh, Pilon, Pinkham, Plummer, Prescott, Rector, Richardson D, Richardson W, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Smith N, Strang Burgess, Sutherland, Sykes, Tardy, Thibodeau, Thomas, Tibbetts, Tuttle, Vaughan, Weaver, Woodbury.

NAY - Adams, Babbidge, Beaudoin, Berry, Blanchard, Bliss, Boland, Brautigam, Briggs, Bryant, Burns, Cain, Campbell, Canavan, Carey, Carter, Clark, Connor, Conover, Craven, Crockett, Dill, Dunn, Eberle, Faircloth, Gerzofsky, Harlow, Hogan, Jackson, Jones, Koffman, Makas, Marley, Mazurek, Miller, Mills,

Miramant, Norton, Patrick, Percy, Pingree, Piotti, Pratt, Priest, Rand, Rines, Simpson, Sirois, Theriault, Treat, Trinward, Valentino, Wagner, Watson, Webster, Weddell, Wheeler, Mr. Speaker.

ABSENT - Blanchette, Chase, Flood, Kaenrath, Lewin, Muse, Pineau, Walker.

Yes, 85; No, 58; Absent, 8; Excused, 0.

85 having voted in the affirmative and 58 voted in the negative, with 8 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

ENACTORS
Emergency Measure

Resolve, To Assist Maine's Forest Products Industry

(H.P. 1532) (L.D. 2155)

(C. "A" H-660)

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. 138 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

SENATE PAPERS

The following Joint Order: (S.P. 829)

ORDERED, the House concurring, that the Joint Standing Committee on Health and Human Services shall report out, to the Senate, a bill regarding the process and procedures for treating a patient who has been involuntarily committed to a psychiatric hospital, absent the informed consent of the patient to the treatment.

Came from the Senate, **READ** and **PASSED**.

READ and **PASSED** in concurrence.

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

On motion of Representative CLARK of Millinocket, the House adjourned at 12:13 p.m., until 10:00 a.m., Thursday, January 24, 2008 in honor and lasting tribute to Ray F. Brown, of Medway and Fernande M. "Fern" Gagnon, of Millinocket.