

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fifth Legislature
State of Maine

Daily Edition

Second Regular Session
January 4, 2012 to May 31, 2012

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STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
January 26, 2012

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Pastor Cathy Cantin of Bradley Memorial United Methodist Church in Fryeburg.

PASTOR CANTIN: Good morning. I offer you some verse from the Bible, from Proverb 16 3. Commit thy works unto the Lord and thy thoughts should be established. Would you join me.

Holy and Heavenly One, as we pause for a moment of quiet blessing before the business of this session, cause us to take a step back and to rest in You. Allow us to be refreshed with the knowledge that we are the very people who have been chosen by friends and other community members in confidence that those of us who work in this grand room will do the hard work on making those important decisions that cause this great state of Maine to survive and strive. Fill us with Your grace, Heavenly One, to leave at the door all worries, troubles, disagreements. Fill us with the strength to approach each issue presented here today with open eyes, open ears, and open minds. Allow us to make clear and thoughtful and passionate decisions that keep this grant state running. Remind each heart of the fruits of the spirit that You so generously gave us; the fruits of love, joy, peace, patience, kindness, goodness, faithfulness, and self control that guide us through a life. Guide us in showing love for this grand state of Maine and love for all of the constituents. Guide us to bring the joy of serving; that same joy that we experienced when we entered these halls for the first time. Help us to experience the peace of knowing that the decisions and recommendations made here today will create a better founded government by using the fruit of patience to work together and work out differences, working out problems and weighing it against all good. Help us to show kindness towards all, no matter what side of the issue or what party we represent. May we not show a weak willed and mushy kindness, but a strong and practical and feeling kindness, to make decisions with a clear heart. Bless us as we display a sense of goodness, of being fair to all and legislate with a clear and loving heart and allow our faithfulness, the faithfulness when we took that oath to serve, to shine through. Most of all, Heavenly One, please strengthen our self control so that there will be no snap decisions or decisions based on bias made within these walls, but the self control of looking at each issue with open hearts for all sides and weighing out each issue carefully before casting even one single vote. Holy One, You have placed a great deal on each person's plate, but You have not given these tasks lightly. You, in Your infinite wisdom, allowed each person here today because of the strong character You possess. Each person, as they begin their day, remind us that they are ever present and You are ever present to fall back on. Bless them in their wisdom. Guide them through all. Allow each one to open their ears and their hearts, to be able to hear Your right and good

and holy ways so that each decision is based only on the finest qualities of these, Your servants before You. All this we pray in Your heavenly name. Amen.

Pledge of Allegiance led by Senator Barry J. Hobbins of York County.

Reading of the Journal of Tuesday, January 24, 2012.

Doctor of the day, Barbara Moss, DO of Manchester.

The Chair noted the absence of the Senator from Penobscot, Senator **SCHNEIDER** and further excused the same Senator from today's Roll Call votes.

Out of order and under suspension of the Rules, on motion by Senator **COURTNEY** of York, the following Joint Order:
S.P. 620

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 31, 2012, at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Relating to False Claims under the Medicaid Program"

H.P. 1322 L.D. 1796

Presented by Representative GIFFORD of Lincoln. Cosponsored by Senator THOMAS of Somerset and Representatives: BLACK of Wilton, CRAY of Palmyra, LIBBY of Waterboro, McFADDEN of Dennysville, O'CONNOR of Berwick, SIROCKI of Scarborough, TURNER of Burlington. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Comes from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

REFERRED to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Bill "An Act Regarding the Oversight and Safety of Certain Commercial Vessels Operating in Maine Waters"
H.P. 1321 L.D. 1795

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

Comes from the House, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed.

REFERRED to the Committee on **TRANSPORTATION** and ordered printed, in concurrence.

Pursuant to Statute
Department of Environmental Protection

The **Department of Environmental Protection**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 378: Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)
H.P. 1320 L.D. 1794

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

REFERRED to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

Pursuant to Statute
Department of Environmental Protection

The **Department of Environmental Protection**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 305: Permit by Rule, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)
H.P. 1323 L.D. 1797

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

REFERRED to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 670

STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON JUDICIARY

January 24, 2012

The Honorable Kevin L. Raye
President of the Senate of Maine
125th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 125th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Nancy D. Carlson of Dixfield, for appointment as a District Court Judge.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

| | | | |
|--------|-----------------|---|---|
| YEAS | Senators | 2 | Hastings of Oxford, Dill of Cumberland |
| | Representatives | 9 | Nass of Acton, Foster of Augusta, Maloney of Augusta, Monaghan-Derrig of Cape Elizabeth, Moulton of York, Priest of Brunswick, Rochelo of Biddeford, Sarty of Denmark, Waterhouse of Bridgton |
| NAYS | | 0 | |
| ABSENT | | 2 | Rep. Beaulieu of Auburn, Sen. Woodbury of Cumberland |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Nancy D. Carlson of Dixfield, for appointment as a District Court Judge be confirmed.

Signed,

S/David R. Hastings III
Senate Chair

S/Joan M. Nass
House Chair

READ and ORDERED PLACED ON FILE.

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

On motion by Senator **COURTNEY** of York, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication: S.C. 671

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON JUDICIARY**

January 24, 2012

The Honorable Kevin L. Raye
President of the Senate of Maine
125th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 125th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Evert N. Fowle, Jr. of Vassalboro, for appointment as a District Court Judge.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

| | | | |
|------|-----------------|----|---|
| YEAS | Senators | 2 | Hastings of Oxford, Dill of Cumberland |
| | Representatives | 10 | Nass of Acton, Beaulieu of Auburn, Foster of Augusta, Maloney of Augusta, Monaghan-Derrig of Cape Elizabeth, Moulton of York, Priest of Brunswick, Rochelo of Biddeford, Sarty of Denmark, Waterhouse of Bridgton |

NAYS 0

ABSENT 1 Sen. Woodbury of Cumberland

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Evert N. Fowle, Jr. of Vassalboro, for appointment as a District Court Judge be confirmed.

Signed,

S/David R. Hastings III
Senate Chair

S/Joan M. Nass
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **COURTNEY** of York, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication: S.C. 672

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON JUDICIARY**

January 24, 2012

The Honorable Kevin L. Raye
President of the Senate of Maine
125th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 125th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable E. Paul Eggert of Portland, for reappointment as a District Court Judge.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

| | | | |
|------|-----------------|----|---|
| YEAS | Senators | 2 | Hastings of Oxford, Woodbury of Cumberland |
| | Representatives | 10 | Nass of Acton, Beaulieu of Auburn, Foster of Augusta, Maloney of Augusta, Monaghan-Derrig of Cape Elizabeth, Moulton of York, Priest of Brunswick, Rochelo of Biddeford, Sarty of Denmark, Waterhouse of Bridgton |

NAYS 0

ABSENT 1 Sen. Dill of Cumberland

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable E. Paul Eggert of Portland, for reappointment as a District Court Judge be confirmed.

Signed,

S/David R. Hastings III
Senate Chair

S/Joan M. Nass
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **COURTNEY** of York, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication: S.C. 673

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON JUDICIARY**

January 24, 2012

The Honorable Kevin L. Raye
President of the Senate of Maine
125th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 125th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Joseph H. Field of Freeport, for appointment as an Active Retired District Court Judge.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

| | | | |
|------|-----------------|----|---|
| YEAS | Senators | 3 | Hastings of Oxford, Dill of Cumberland, Woodbury of Cumberland |
| | Representatives | 10 | Nass of Acton, Beaulieu of Auburn, Foster of Augusta, Maloney of Augusta, Monaghan-Derrig of Cape Elizabeth, Moulton of York, Priest of Brunswick, Rochelo of Biddeford, Sarty of Denmark, Waterhouse of Bridgton |

NAYS 0

ABSENT 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Joseph H. Field of Freeport, for appointment as an Active Retired District Court Judge be confirmed.

Signed,

S/David R. Hastings III
Senate Chair

S/Joan M. Nass
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **COURTNEY** of York, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication: S.C. 674

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

January 24, 2012

The Honorable Kevin L. Raye
President of the Senate of Maine
125th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 125th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Patrick C. Keliher of South Gardiner, for appointment as the Commissioner of the Department of Marine Resources.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

| | | | |
|--------|-----------------|----|--|
| YEAS | Senators | 3 | Snowe-Mello of Androscoggin, Langley of Hancock, Sullivan of York |
| | Representatives | 10 | Weaver of York, Beliveau of Kittery, Chapman of Brooksville, Knapp of Gorham, Kruger of Thomaston, Kumiega of Deer Isle, MacDonald of Boothbay, Olsen of Phippsburg, Parry of Arundel, Tilton of Harrington |
| NAYS | | 0 | |
| ABSENT | | 0 | |

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Patrick C. Keliher of South Gardiner, for appointment as the Commissioner of the Department of Marine Resources be confirmed.

Signed,

S/Lois A. Snowe-Mello
Senate Chair

S/Windol C. Weaver
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **COURTNEY** of York, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication: S.C. 675

**STATE OF MAINE
OFFICE OF THE GOVERNOR**

January 23, 2012

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Brian H. Noyes of South Freeport for appointment to the Board of Trustees, Maine Public Employees Retirement System.

Pursuant to Title 5, MRSA §17102, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Appropriations and Financial Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 676

**STATE OF MAINE
OFFICE OF THE GOVERNOR**

January 23, 2012

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Vinton E. Cassidy of Calais for appointment to the State Board of Corrections.

Pursuant to Title 34-A, MRSA §1802, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Criminal Justice and Public Safety.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 677

**STATE OF MAINE
OFFICE OF THE GOVERNOR**

January 23, 2012

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Barbara J. Dresser Esq. of Saco for appointment to the Gambling Control Board.

Pursuant to Title 8, MRSA §1002, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Veterans and Legal Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Create Transparency and Accountability in Economic Development Subsidies"

H.P. 1065 L.D. 1451

Reported that the same be **REFERRED** to the Committee on **TAXATION**.

Comes from the House with the Report **READ and ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION**.

Report **READ**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**, in concurrence.

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Establish Flushability Standards for Consumer Products Advertised as Flushable"

H.P. 588 L.D. 781

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

SAVIELLO of Franklin
GOODALL of Sagadahoc
SHERMAN of Aroostook

Representatives:

HAMPER of Oxford
AYOTTE of Caswell
DUCHESNE of Hudson
KNAPP of Gorham
LONG of Sherman
NASS of Acton
PARKER of Veazie

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Representatives:

HARLOW of Portland
INNES of Yarmouth
WELSH of Rockport

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ and ACCEPTED**.

Reports **READ**.

On motion by Senator **SAVIELLO** of Franklin, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House As Amended

Resolve, To Increase the Amount Tagging Agents Receive for Tagging Game

H.P. 467 L.D. 637
(C "B" H-683)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

NOMINATION - of Nancy D. Carlson of Dixfield for appointment as a District Court Judge

Tabled - January 26, 2012, by Senator COURTNEY of York

Pending - **CONSIDERATION**

(In Senate, January 26, 2012, Communication (S.C. 670) from the Committee on **JUDICIARY, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 125th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#345)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: SCHNEIDER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Nancy D. Carlson** of Dixfield for appointment as a District Court Judge was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

NOMINATION - of Evert N. Fowle, Jr. of Vassalboro for appointment as a District Court Judge

Tabled - January 26, 2012, by Senator COURTNEY of York

Pending - **CONSIDERATION**

(In Senate, January 26, 2012, Communication (S.C. 671) from the Committee on **JUDICIARY, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I rise today in hearty support of the nomination of Evert Fowle as a District Court Judge. In the time I practiced law in Kennebec County, I've been fortunate to deal with three District Attorneys. Joseph Jabar, who is now a Supreme Court Justice; David Crook, who served for many years and I always got great pleasure telling my friends from out-of-state that our District Attorney was named Crook; and now Evert Fowle. Evert has served the counties of Kennebec and Somerset well as District Attorney. He is honest and fair. I always read with disgust stories from around the country about the rogue prosecutor here or there who takes his job a little bit too seriously, to the point of withholding evidence or putting on testimony that he or she knows probably is not so simply in the interest of getting a conviction. That is something that would never happen by Evert Fowle, or anybody's office for that matter. Evert figured out a long time ago that the role of a prosecutor is just not to put people away, but it is also to make sure that the people get a fair shake. I've been on the opposite side on many many cases. Evert was always willing to listen, always willing to change his mind on the rare occasion that we thought he should. I've got to admit in retrospect, looking back, that it was he, and not I, who was usually right. Again, the purpose of the role of the District Attorney is not simply to put people away. Evert's been a leader in the state in moving that principle forward. He was one of the founders of the Kennebec County Co-Occurring Disorders Court, which is a program which takes people who have mental illness and substance abuse problem and puts them on a little bit different track. It allows them to take responsibility for what they did while also giving them a chance to be able to reintegrate themselves into society. I have no doubt that Evert Fowle will make an outstanding District Court Judge and I urge all members of this Body to support his nomination. Thank you. Evert is here with his wife, Lori, this morning.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I want to be very brief on this. As Senator Katz said, the testimony was very strong in favor of District Attorney Fowle. I just want to pass on one comment. Testimony was extensive. Extensive from all areas, not just the prosecutors, but the defense attorneys and the police came. As I commented to the committee, I fully expected a bus from the Kennebec County Jail there with a line-up of prisoners thanking Evert Fowle for the wonderful and fair sentence that he had

recommended for them. I do strongly recommend this Body to support this nomination.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I, too, would like to stand here and endorse this nominee. We've worked on Criminal Justice Committee many years together. Evert was head of the DA's. When it was trying to strengthen the laws on sex offenders, getting them in front of the bar, getting convictions, getting sentences that are more appropriate, Evert was a champion that came in front of the committee and made us understand and to love law and to understand how it effects us all and how it effects the public safety in the state of Maine. No matter what the issue was, when we looked at creating a unified corrections system, when we looked at over crowded facilities, when we looked at, as I said earlier, sex offenders, when we looked at people writing bad checks, no matter what the issue was Evert came to the table and got people that don't have a legal background, like some of the previous speakers, to understand just how it would effect the process from the top to the bottom and how it all interwove into this beautiful quilt that we have. When we talked about sentencing and trying to make sense of it years ago in the Task Force, Mr. Fowle was at the table, trying to help us understand. I can't think of a better nominee. I am so happy to be able to stand up here and speak for him. Sitting on the Committee of Criminal Justice and Public Safety for so many years and having that kind of a relationship, the one thing that I would leave us with is when we're trying to downsize some of our laws and trying to consolidate things, Evert is the only person that ever came to the table and helped me, personally, get rid of a whole page of law out of our book that we hold in front of us. To this day I appreciate that day and that experience. Thank you very much.

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I, too, concur with the remarks that have been made, but I also wanted to rise just briefly and tell everybody in this Chamber, and those who are listening, that Evert Fowle has many times gone above and beyond. If you remember back to Tina's Law, a law that was designed to get people who are continually ignoring the driving habits and becoming serious offenders and ending up killing or injuring people, Evert Fowle was one of the key people in making that legislation come to life and withstand challenges, including an appeal on its very standing. Evert was just a champion there and we could always thank him for that. Beyond that, as Senator Gerzofsky stated, all that was done with the sex offender registry, in its beginning years and all the complications, followed by the challenges and appeals and Constitutional questions, Evert Fowle was always there and he was guiding light for the committee and this Legislature. I, for one, Mr. President, want to extend my congratulations to the Governor for choosing Evert Fowle for this position and I wish him well.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Hill.

Senator **HILL:** Thank you Mr. President. I rise to endorse Evert Fowle as well. I just want to share a little quick story. My first term as a freshman here at the Legislature, which of course was in the House, I served on the Criminal Justice Committee. That's when I came to know Evert Fowle. At times I found him a little scary because I thought he was a little conservative. Nonetheless, we developed a very nice working relationship. In particular, I want to thank him for his work on the admission interlock bill. The committee was about to do away with it and I went up to the then Chairs, Senator Stan Gerzofsky and Senator Diamond, and said to them, "I just feel like there is some merit here. Will you give me a chance to work on the side with it?" They said, "Sure." They put together a little sub-committee and Evert was put on this sub-committee as well. The first e-mail that I received from him said, "I don't know how this is going to work out because I'm a dinosaur." I thought, "Oh my word, what is this going to work out like? How difficult will it be?" He was a champion. In the end, the bill went through committee and went under the hammer in the House and the Senate. I realized he was not a dinosaur. He was a dynamo.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Hobbins.

Senator **HOBBS:** Thank you Mr. President. Men and women of the Senate, I, too, rise today in full support of this nomination. Mr. Fowle is a very fortunate individual. About two hours of his nomination committee vote or consideration and public hearing was spent praising Mr. Fowle. So far I think he's broken the record here in the Senate on a nomination for a judgeship of those who have spoken in favor of him. He should understand that this is like he has received an Irish wake, only he's still alive. I mean that with great admiration. As a Senate Chair of the Judiciary Committee, I worked with Mr. Fowle very actively. I can tell you that he was the go to person, whether we was talking about sentencing issues, whether we was talking about restraint and the issues of the criminal justice system, or whether we was talking about rehabilitation of those who had committed crimes against society. He always looked at things very deliberately, and has, I believe, a very very keen interest in the overall picture of the criminal justice system. I know that he will transition well in his position as a District Court Judge in dealing with the civil aspect of our law too. He's a quick read and I admire his public service to Maine. I look forward to seeing him as a District Court Judge and complementing the other judges that presently serve at all of the different levels in the court system. Thank you.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I feel it's my duty to report one weakness that was mentioned by the Governor's Council about District Attorney Fowle, now soon to be Judge Fowle. That is that Mr. Fowle is, in fact, a Democrat. I just wanted to pass along the caution that Dan Billings raised at the committee hearing. Before you cast your vote you should have that one fact. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY**: Thank you Mr. President. Men and women of the Senate, I just suggest that this side of the aisle it would be perfectly willing to overlook that.

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 125th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#346)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOF SKY, GOODALL, HASTINGS, HILL, HOB BINS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: SCHNEIDER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Evert N. Fowle, Jr.** of Vassalboro, for appointment as a District Court Judge was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber the Honorable Evert N. Fowle, Jr., accompanied by his wife, Lori. Would they please rise and accept the greetings and congratulations of the Maine Senate.

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

NOMINATION - of the Honorable E. Paul Eggert of Portland for reappointment as a District Court Judge

Tabled - January 26, 2012, by Senator **COURTNEY** of York

Pending - **CONSIDERATION**

(In Senate, January 26, 2012, Communication (S.C. 672) from the Committee on **JUDICIARY**, **READ** and **ORDERED PLACED ON FILE**.)

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The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 125th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#347)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOF SKY, GOODALL, HASTINGS, HILL, HOB BINS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: SCHNEIDER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **E. Paul Eggert** of Portland for reappointment as a District Court Judge was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

NOMINATION - of the Honorable Joseph H. Field of Freeport for appointment as an Active Retired District Court Judge

Tabled - January 26, 2012, by Senator **COURTNEY** of York

Pending - **CONSIDERATION**

(In Senate, January 26, 2012, Communication (S.C. 673) from the Committee on **JUDICIARY**, **READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 125th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#348)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: SCHNEIDER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Joseph H. Field** of Freeport for appointment as an Active Retired District Court Judge was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

NOMINATION - of Patrick C. Keliher of South Gardiner for appointment as the Commissioner of the Department of Marine Resources

Tabled - January 26, 2012, by Senator **COURTNEY** of York

Pending - **CONSIDERATION**

(In Senate, January 26, 2012, Communication (S.C. 674) from the Committee on **MARINE RESOURCES**, READ and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **MARINE RESOURCES** be overridden?"

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you Mr. President. Honorable members of the Senate, I stand here today in full support of

Patrick C. Keliher for Commissioner of the Department of Marine Resources. Indeed, it is my pleasure to do so. I am going to tell you, Acting Commissioner Keliher was asked during the committee by almost every single member of our committee some very tough questions. They consisted of a wide array of a full complement of marine resource issues. Patrick Keliher answered and addressed each question with knowledge and honesty. Mr. Keliher clearly has a passion for marine resource issues. I learned a lot at the hearing of his history and how much love he has for marine resources. Also at the public hearing we had lobstermen, we had clambers, and we had groundfishermen speak about the nomination of Mr. Keliher. It became very evident that they had great respect for this man. What they most liked about him is that he was a great communicator and one of his best skills is that he listens. He listens to them. This is amazing for a Commissioner, a future Commissioner, to be able to do this. As we all know, fishermen can be at odds and quite often disagree with their Commissioner. I know that the folks, our fishermen, really and truly believe that he will be very attentive to them. They might not always agree with him, but I think this is just what we need, a Commissioner that will be able to bring the other fishermen of this state together. I believe that Patrick Keliher has an enormous task ahead of him. I wish him luck and I stand here really thrilled and hope that you will agree. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I also rise in support of Patrick Keliher's nomination to be the Commissioner of Marine Resources. The unique position that I've had is that he's been the Acting Commissioner and so I've had a lot of experience with him kind of out there on the street. What I've seen is that he's got the experience and he's got the skills to communicate well on the docks in Maine where I've heard him talking to fishermen who want to choke out the local marine patrol officer and to the suits in D.C. who only talk science. The depth and breath of skills that it takes to communicate well on both ends of that spectrum, not many people have. In my district, when the fishing community talks about Augusta you might think it's us they talk about. In reality, when they talk about Augusta they mean the Department of Marine Resources. Fishermen have called me over the past few weeks really to let me know that the Commissioner, this Commissioner, is their most important link to Augusta. I can't be more pleased to support this nomination. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. I, too, rise in support of this nomination. Patrick Keliher has done an amazing job in trying to bring together a department that has been under stress; stress financially, stress because it is such a large part of the economy for the state of Maine, and stress within rank and file in the dynamics and the working dynamics of that department. He has managed to do so with humor, and that is a saving grace. Anybody who has taught school knows that you'd better have a sense of humor real quickly to survive. He has taken that same idea to the department. He has a sense of respect that appears to be among his peers, the people who will be working for him now, and the fishermen. Where I'm from lobstering, in particular,

is a large part of our economy. Many people do not realize lobstermen have always strongly believed in what's called "water line legislation". They really don't care, by in large, what we do here. If they feel they are not being spoken for the way they want to be, they create their own legislation, cutting traps or whatever. It has happened in Cape Porpoise and we call it "water line legislation". Every single one that talked to me said, "We like this man. We can talk with him. We don't think he's always right, but we can talk to him." He has strived to bring unity to a group of people that are typical Downeast Mainers. They want to do it their way. We are very fortunate that we have lobstermen that understand. Not only do they want to earn money, they want to keep the supply and conserve so that their children can also follow them. Certainly the Commissioner, I believe, will bring a lot to our economy, a lot due to the fact that Maine seafood is pristine. It has a reputation for being the best. I see a lot of work in being able to export, value added to that. I firmly stand here and I want to congratulate also the Chair. It was a long hearing for a Commissioner and the questions were hard. They went from value added to everything. The Chair did a fine job in running that and I think we've made a great, great unanimous choice and I hope and I know that he will be confirmed here. To Mr. Keliher, you did say you were surprised I did not ask a certain question. I always ask to name me three adjectives that would describe you, sir. I hadn't asked it. Afterwards he came up and he had written the three adjectives. The adjectives were excellent. Sometime you should share them with the committee. Thank you, Deputy or Acting, but soon to be simply Commissioner. Thank you, Mr. President.

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 125th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#349)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: SCHNEIDER

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Patrick C. Keliher** of South Gardiner for appointment as the

Commissioner of the Department of Marine Resources was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

THE PRESIDENT: The Chair is pleased to recognize in rear of the chamber Patrick Keliher. Will he please rise and accept the greetings and congratulations of the Maine Senate.

Senator **RECTOR** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **CRAVEN** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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

All matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **COURTNEY** of York, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, January 31, 2012, at 10:00 in the morning.