

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

In Senate Chamber
Tuesday
January 25, 2011

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

Prayer by Chaplain Warren Doersam, Director of Maine Prison Ministries.

CHAPLAIN DOERSAM: Thank you and good morning. It's my honor to be here. I want to thank Senator Thibodeau for inviting me. Just a little bit about myself. I am a Director of Maine Prison Ministries. Some churches send missionaries to foreign lands. Well, I seem to have been sent to a foreign land in prisons in our state and minister there to men and women. If you would join me in prayer please.

Our Father, You who continues to bless us and who watches over us and rules and reigns, You have blessed us with new opportunities in this group of dedicated men and women Senators and Representatives with a new Governor, Paul LePage, to oversee our great state of Maine. This Legislature has much potential to create great opportunities for the future. May You, O Lord, help these Senators, and also the Representatives and Legislative Body, to help this come about. May this group of dedicated Senators seek out what is best for the people of Maine. May they listen intently to their constituents and carry those ideas and thoughts back to the drawing board to help plan for tomorrow so that if each person here today was to give an account one day they would be able to say that he or she had the right motives for their actions and decision making. May these Senators seek wisdom for their proposals and actions. It is a foolish thing to forsake wisdom, for wisdom will protect them. If they love wisdom, wisdom will watch over them. If they are just in their choices and faithful in their service, they will be blessed. I pray that this group of Senators, who have been voted into office by the people, will live up to their calling as elected officials. This is a tall order to uphold. Lord, these folks have a long task ahead of them so I pray that they stay the course and hold on tightly to the earnestness and dedication they have come with for this new term in service to the people of Maine. As leaders in our government, Father, they are given the ability to choose and make wise choices. We need good decisions and good decision makers who think with a good and clean conscience about the outcome of their decisions. May they do what is right so that the truth will prevail and the choices of these Senators will display their character and may they be known as people of quality character and integrity. May these ladies and gentlemen continue to show us, the people, that we can trust them and continue to trust and believe that they will lead our state in new growth and in the best direction possible. I pray that they will live and vote their conscience, for in not doing so they will recognize so by their conscience. As for the new Senators and the rest who have held this position for some time, may they truly decide today who they will choose to serve and serve well and that when all is said and

done that each one of them may be proved a bright shining lamp to us, who they represent. May they have an exciting term in servitude to Maine and may it be all that they want this next year to be as they work together to bring about the best for our great state. May their desire to produce what Maine needs be for the best for all and to put Maine back on top. Father, bless this great group of Senators. I pray this in the name of our Lord. Amen.

Pledge of Allegiance led by Senator Ronald F. Collins of York County.

Reading of the Journal of Thursday, January 20, 2011.

Doctor of the day, Michael Lambke, MD of Skowhegan.

Senate at Ease.

Senate called to order by the President.

COMMUNICATIONS

The Following Communication: S.C. 40

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

January 20, 2011

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 Agriculture, Conservation and Forestry has had under consideration the nomination of William H. Beardsley of Ellsworth, for appointment as the Commissioner of the Department of Conservation.

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	Sherman of Aroostook, Thibodeau of Waldo
	Representatives	10	Edgecomb of Caribou, Black of Wilton, Cray of Palmyra, Dill of Old Town, Foster of Augusta, Gifford of Lincoln, Kent of Woolwich, McCabe of Skowhegan, O'Brien of Lincolnville, Timberlake of Turner
NAYS		0	
ABSENT		1	Sen. Schneider of Penobscot

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 William H. Beardsley of Ellsworth, for appointment as the Commissioner of the Department of Conservation be confirmed.

Signed,

S/Roger L. Sherman
Senate Chair

S/Peter E. Edgecomb
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. 42

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON LABOR, COMMERCE, RESEARCH AND
ECONOMIC DEVELOPMENT**

January 20, 2011

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 Labor, Commerce, Research & Economic Development has had under consideration the nomination of Philip A. Congdon of Round Pond, for appointment as the Commissioner of the Department of Economic and Community Development.

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	Rector of Knox, Jackson of Aroostook, Martin of Kennebec
	Representatives	10	Prescott of Topsham, Dow of Waldoboro, Driscoll of Westbrook, Gilbert of Jay, Herbig of Belfast, Hunt of Buxton, Newendyke of Litchfield, Tuttle of Sanford, Volk of Scarborough, Wintle of Garland
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 Philip A. Congdon of Round Pond, for appointment as the Commissioner of the Department of Economic and Community Development be confirmed.

Signed,

S/Christopher W. Rector
Senate Chair

S/Kerri L. Prescott
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. 41

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

January 20, 2011

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 Norman H. Olsen of Cherryfield, 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 Androscogin, Langley of Hancock, Sullivan of York
	Representatives	10	Weaver of York, Beliveau of Kittery, Chapman of Brooksville, Knapp of Gorham, Kruger of Thomaston, Kumieg 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 Norman H. Olsen of Cherryfield, 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. 38

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

January 19, 2011

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 Mary Mayhew of South China for appointment as Commissioner of the Department of Health and Human Services.

Pursuant to Title 22-A, MRSA §204, this nomination will require review by the Joint Standing Committee on Health and Human Services.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 39

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

January 19, 2011

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 Walter E. Whitcomb of Waldo for appointment as Commissioner of the Department of Agriculture.

Pursuant to Title 7, MRSA §1, this nomination will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Resolve, To Require the Department of Agriculture, Food and Rural Resources To Develop Rules for the Moisture Content of Commercial Firewood

S.P. 48 L.D. 155

Presented by Senator CRAVEN of Androscoggin.
Cosponsored by Representative KENT of Woolwich and Senators: JACKSON of Aroostook, PATRICK of Oxford, Representative: McCABE of Skowhegan.

On motion by Senator **SHERMAN** of Aroostook, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

Sent down for concurrence.

Bill "An Act To Change the Classification of the Lower Androscoggin River"

S.P. 47 L.D. 154

Presented by Senator GOODALL of Sagadahoc. Cosponsored by Representative PRESCOTT of Topsham and Senators: CRAVEN of Androscoggin, GERZOFSKY of Cumberland, SAVIELLO of Franklin, Representatives: BERRY of Bowdoinham, BOLDUC of Auburn, CLARKE of Bath, DUCHESNE of Hudson, ROTUNDO of Lewiston.

Bill "An Act To Clarify the Regulation of Impacts to Significant Vernal Pool Habitats under the Natural Resources Protection Act"

S.P. 49 L.D. 156

Presented by Senator RECTOR of Knox. Cosponsored by Representative HAMPER of Oxford and Senators: COURTNEY of York, President RAYE of Washington, ROSEN of Hancock, SAVIELLO of Franklin, TRAHAN of Lincoln, Representatives: MCKANE of Newcastle, MOULTON of York, WEAVER of York.

Bill "An Act To Foster Economic Development by Improving Administration of the Laws Governing Site Location of Development and Storm Water Management"

S.P. 52 L.D. 159

Presented by Senator SAVIELLO of Franklin. Cosponsored by Senators: COLLINS of York, RECTOR of Knox, SNOWE-MELLO of Androscoggin, THIBODEAU of Waldo, THOMAS of Somerset, TRAHAN of Lincoln, Representative: CEBRA of Naples.

On motion by Senator **SAVIELLO** of Franklin, **REFERRED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Encourage Access to Health Care in Maine"

S.P. 50 L.D. 157

Presented by Senator TRAHAN of Lincoln.

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

On motion by Senator **McCORMICK** of Kennebec, **TABLED** until Later in Today's Session, pending **REFERENCE**.

Bill "An Act To Improve Public Understanding in the Rulemaking of Certain Departments"

S.P. 51 L.D. 158

Presented by Senator SAVIELLO of Franklin. Cosponsored by Senators: COLLINS of York, SNOWE-MELLO of Androscoggin, THIBODEAU of Waldo, THOMAS of Somerset, TRAHAN of Lincoln, Representative: CEBRA of Naples.

On motion by Senator **THOMAS** of Somerset, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent down for concurrence.

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

ORDERS OF THE DAY

Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (1/12/11) Assigned matter:

Bill "An Act To Repeal the Maine Uniform Building and Energy Code"

H.P. 36 L.D. 43

Tabled - January 12, 2011, by Senator **RECTOR** of Knox

Pending - **REFERENCE**, in concurrence

(In House, January 11, 2011, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.)

On motion by Senator **RECTOR** of Knox, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

NOMINATION - of William H. Beardsley of Ellsworth for appointment as the Commissioner of the Department of Conservation

Tabled - January 25, 2011, by Senator **COURTNEY** of York

Pending - **CONSIDERATION**

(In Senate, January 25, 2011, Communication (S.C. 40) from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY, READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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 (#3)

YEAS: Senators: None

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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **William H. Beardsley** of Ellsworth for appointment as the Commissioner of the Department of Conservation 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 William Beardsley. Would you please step forward and accept the greetings of the Senate.

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

NOMINATION - of Philip A. Congdon of Round Pond for appointment as the Commissioner of the Department of Economic and Community Development

Tabled - January 25, 2011, by Senator **COURTNEY** of York

Pending - **CONSIDERATION**

(In Senate, January 25, 2011, Communication (S.C. 42) from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT, READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** be overridden?"

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

Senator **ALFOND:** Thank you Mr. President. Mr. President and ladies and gentlemen of the Senate, I stand here today to oppose Mr. Congdon's nomination for the Commissioner of the Department of Economic and Community Development. Let the record show that I stand here today not against Mr. Congdon's very impressive qualifications as a businessman or all of his impressive personal successes. Instead I stand here as a business owner myself. I stand here as a business owner myself with deep concerns that Mr. Congdon is not qualified for this job. By his own admission, he doesn't have the experience necessary to lead such a sophisticated department. There are major gaps in his resume. I'll highlight one; tourism. Tourism in the state of Maine is a critical part of our economy. Yet, as I look through his resume and I listen to the questions asked when Mr. Congdon was in front of the Labor, Commerce, Research and Economic Development Committee, I didn't see or hear anything that made me feel comfortable about his tourism experience.

I'm especially uncomfortable and dismayed by his lack of preparation during the hearing, especially around his admission that he hasn't even considered economic development in Aroostook County. A gentleman who has been nominated for this post has not considered economic development in Aroostook County. I'm trying to connect the dots. Governor LePage has stated over and over again that economic development is his top priority. Yet today, and through the committee, they have nominated someone who doesn't have the experience to lead that very department in charge of economic development and labor. We have unique economic development issues here in the state of Maine. I'll bring up one; Brunswick Naval Air Station, a very sophisticated transaction that this state has spent years working in preparation for. Yet we are, today, looking to nominate someone who doesn't have that sophisticated experience to lead this department.

This job is too important to give to someone who will be getting on the job training. I believe there are lots of talented people in the state of Maine that could have been tapped but they weren't. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Ladies and gentlemen of the Senate, I must say that I am a little stunned by my good colleague from Cumberland's objections. Under the circumstances, it seems to me we had a candid, forthright, and wide-ranging discussion with the candidate, Mr. Congdon, as our potential Commissioner for the Department of Economic and Community Development. He brings to us a range of management skills that I think are unquestionable and unexcelled in that role. I would suggest to you that his understanding of the direction that the state needs to take in terms of research and development and the development of new technologies is probably unsurpassed. That candor, I must say, was also particularly refreshing and I think is part of what my good colleague is referring to. When Mr. Congdon was freely speaking about some of the issues that he didn't care to stand and make long comments about but instead wanted to recognize the fact that he was going to be ready to learn the job in the specific areas in a way that reflected both the administration's values, I think, and the values of the people of the state of Maine. As far as tourism goes, being involved in that business myself and having a particular concern that we recognize the value of tourism up and down the coast and in the lakes and mountain regions of the state, I think we have demonstrated our expertise in that area and I know Mr. Congdon is going to bring his new vision to that department and be able to continue the work that we are doing. I will say that it is also the privilege of the Chief Executive, in my view and I have demonstrated this in my committee activity throughout my time here in the legislature, to choose the candidates that he feels most reflects his values and will be able to lead the department most ably in his opinion. I think Mr. Congdon has the full trust of both the committee and the Chief Executive and I know will capably lead the state of Maine forward in the economic development arena. Thank you Mr. President.

At the request of Senator **PLOWMAN** of Penobscot, Report **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today to speak in opposition of the Governor's nominee for the Department of Labor, Business, Commerce, Research and Economic Development. At the same time this exercise of debating the merits of nominees is worthwhile, is needed, especially in this deliberative Body. For me it's a great concern that this nominee is lacking experience with those small businesses that dot Main Street of all of our districts. His resume is impressive and we owe him a great debt of gratitude for his service to the state in the short time that he has been here and to the economy of this country. Now is not the time to have someone in this position that does not have a plan moving forward and experience in the number one industry, and that is tourism. In years past I may have felt differently about this but the voters of Maine, without a doubt, have concerns about the economy and, most importantly, job creation. For me, and I think many of us would agree, those micro-businesses, especially the small businesses, are what is going to help our economy

rebound. I bring that to this debate and I urge you to join me in opposition. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would like to reiterate a lesson that I learned early in my political career. Having been a fighter and somebody who was willing to come up at any given time and face a challenge and put up a fight, I had some good advice given to me once that goes like this: Dave, don't fight for the sake of fighting, fight for principle. I'm going to speak to you today about a conversation I had with our new Chief Executive just yesterday. When we were discussing a future appointment to another cabinet level position he stressed to me that he wanted to change the direction of the state, he wanted people that were honest, that were tough, and were willing to challenge the status quo. I think the nominee before us is just that type of person. If you ask me if I want to follow the model of the past that has led us to be ranked by the Forbes folks as fiftieth worse place in the nation to do business I would say to you that it's time to change the model. I don't want to use the model of the past. I want to use a model of reformers, of people that want to come to Augusta and change the course of the state. We have that nominee and I ask folks that if you are going to put up a fight put up a fight for principle, not just simply to fight.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Members of the Senate, I don't know if I am putting up so much of a fight but I listened to the nominee for an hour and a half and was struck by how honest and candid he was on a number of questions. He certainly seemed like someone you would enjoy spending time with outside of this institution. As happens many times, you leave this building and go outside of this vacuum. I was sent many e-mails over the weekend from people that are in economic development, particularly in Aroostook County. They are quite concerned with the answers to some of the questions that the nominee was asked. So I'm a bit torn by my vote in committee at this point. I represent Aroostook County and have had a number of people in Aroostook County question the qualifications. Honestly, as I stand here I don't really know which way I'm going to go. I know that Mr. Congdon, I thought, was quite honest in the committee, which was refreshing, but at the same time I'm elected to represent Aroostook County. As I said, I'm torn. It would be nothing personal if I was to change my vote at this point. I don't know if I have actually done that in the past but it certainly would be my prerogative. My biggest reason for standing up is to explain what is going on right now with the people in my district.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I rise today because I had the opportunity to look at the resume of Mr. Congdon when it was presented by the Governor a couple of weeks ago. I've got to tell you that I am a little surprised, after going through the unanimous report, that we are even having this discussion today but each Senator has

the right to do that and I respect the we exercise that right. I will say that if you look at his resume it probably is much better than most of us sitting in these seats. You know it's a new day in Augusta. It's a day where we're going to look at things differently than the way that we did before. We're not going to take somebody with a lot of political history or political influence and make them a Commissioner just because they've made a lot of friends around this building for a long time. It's time that we brought people with common sense solutions from the private sector to try to right the ship of state government. It hasn't been working the way it is. Any time you take on a new job there are certain areas that you just have to learn on the job. I believe that if you look at this background of this eminently qualified candidate I think that you will see that he will more than rise to the occasion to save the economy of our state. I would encourage you to vote with me, opposing rejection of the nomination by voting no in support of Phil Congdon. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I've sat in this chamber and I have listened to many debates on confirmations. I remember the person who used to occupy this desk getting up and speaking eloquently opposing some of the nominees in the last year or two, the reappointments. I believe that there are consequences with elections. It's the darnedest thing. People go out, they run for office, they run on a program, they are very lofty in their goals, and when they win the election they win everything that comes with it, for good and for bad. I think that the Chief Executive ran statewide on a very explicit program and was clear in his intention to what he was going to do if he was successful. His nominees come in front of the Senate for confirmation after they go through the committee process and it is our obligation to look at that nominee, look at his qualifications, look at his background, look at his past, and see if there is anything that is glaringly in opposition with the fundamental beliefs of Maine. I haven't seen any of those. I've read the resume but probably less than others. I've been dealing with my own committee. I think it's the Governor's opportunity to name who he feels is going to do the best job. That person is a reflection on the Governor. He is a reflection on the Governor's choice and, for good or bad, the Governor is going to have to live with that decision. If the nominee does a really good job, and really does the things that the Governor talked about, the Governor will get credit or blame, however that is interpreted by the people. I think it's my responsibility, as I didn't run for statewide office and I didn't run to be Governor but I ran to be a Senator, is represent my district. That's the way that I think the Senate is built. We're going to look at these nominees and we're going to understand that the Governor is the one that appoints this person. We're only going to confirm it or not confirm it. We're not making those appointments. It's up to the Governor to pick the right people and when he thinks he has I think it's up to the Body to support that nominee. At the end of the day it's the Governor who is going to rise or fall on his nominations. Thank you very much.

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

Senator **BARTLETT:** Thank you Mr. President. Each and every one of us that is elected to this chamber has a responsibility to evaluate the qualifications of each and every nominee that comes before us. That is our right and our responsibility to vote in accordance to our values, our principles, and what we think is best for our districts and the people of state of Maine. To oppose a nominee because, based on his own admission, his resume on economic development is thin to chair the Department of Economic Development, to me, is not fighting for the sake of fighting, it's not trying to get in the way, it's simply trying to acknowledge the weakness in the qualifications of a particular candidate and to vote according to our own conscience and our own principles. I hope that as we move forward each and every one of us can do that with pride and can respect the competing points of view even when our principles pull us in different directions. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I am, quite frankly, surprised at all this debate given the report that was fully supportive of this nominee and taken a bit off guard by it. I was not privy to the entire debate at the committee hearing. However I did check in with some folks to see how that hearing went. I heard the nominee did rather well and answered as candidly and honestly as he could during the hearing. I think there are always occasions when people don't have all the answers and they don't have all the experience but are still able to proceed and do a very thorough and adequate job. My hope is that this nominee will do that and I'm going to support this nominee. Thank you.

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 (#4)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BRANNIGAN, CRAVEN, GOODALL, HILL, JACKSON, PATRICK

NAYS: Senators: COLLINS, COURTNEY, DIAMOND, FARNHAM, GERZOFSKY, HASTINGS, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

9 Senators having voted in the affirmative and 26 Senators having voted in the negative, and 9 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 **Philip A. Congdon** of Round Pond for appointment as the Commissioner of the Department of Economic and Community Development 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 Philip Congdon. Would you please step forward and accept the greetings of the Senate.

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

NOMINATION - of Norman H. Olsen of Cherryfield for appointment as the Commissioner of the Department of Marine Resources

Tabled - January 25, 2011, by Senator **COURTNEY** of York

Pending - **CONSIDERATION**

(In Senate, January 25, 2011, Communication (S.C. 41) 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?"

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 (#5)

YEAS: Senators: None

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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Norman H. Olsen** of Cherryfield 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.

Off Record Remarks

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

Senator **COURTNEY** of York 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** to Thursday, January 27, 2011, at 10:00 in the morning.