

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Fifth Legislature

State of Maine

Daily Edition

First Regular Session  
December 1, 2010 to June 29, 2011

Pages 1 - 1494

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

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Off Record Remarks

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Senator **HASTINGS** of Oxford was granted unanimous consent to address the Senate off the Record.

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Off Record Remarks

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Senate at Ease.

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Enhance Enforcement of Civil Orders of Arrest"  
H.P. 306 L.D. 380

Presented by Representative **MOULTON** of York.  
Cosponsored by Senator **SHERMAN** of Aroostook and  
Representatives: **FOSTER** of Augusta, **MALONEY** of Augusta.

Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**  
suggested and ordered printed.

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

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

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Out of order and under suspension of the Rules, the Senate  
considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Allow Foresters, Soil Scientists and Geologists To  
Use Mechanics Liens"

H.P. 268 L.D. 335

Presented by Representative **FLOOD** of Winthrop.  
Cosponsored by Senators: **KATZ** of Kennebec, **ROSEN** of  
Hancock, Representative: **KESCHL** of Belgrade.

Committee on **LABOR, COMMERCE, RESEARCH AND  
ECONOMIC DEVELOPMENT** suggested and ordered printed.

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

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

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Off Record Remarks

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

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Off Record Remarks

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

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**RECESSED** until 4:30 in the afternoon.

After Recess

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate  
considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **APPROPRIATIONS AND FINANCIAL  
AFFAIRS** on Bill "An Act To Make Supplemental Appropriations  
and Allocations for the Expenditures of State Government and To  
Change Certain Provisions of the Law Necessary to the Proper  
Operations of State Government for the Fiscal Year Ending June  
30, 2011" (EMERGENCY)

H.P. 86 L.D. 100

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-2).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-2).**

Report **READ.**

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

Senator **ROSEN:** Thank you Mr. President. I'd like to say a few words about the bill that is before us this evening. Mr. President and colleagues in the Senate, last Friday night the members of the Appropriations and Financial Affairs Committee unanimously voted in favor of the emergency supplemental that is before us. Today we ask for your support. The affirmative vote of at least two-thirds of the Legislature ensures the provisions of this bill become effective as soon as it is signed by the Governor. To bring fiscal year 2011 into balance and to avert an interruption of necessary weekly payments owed to the thousands of providers that deliver critical services to MaineCare recipients quick action is required. We only have two weeks left before dialing back payments become an unwelcomed but necessary reality. Roughly half of this year's \$71.8 million shortfall in the MaineCare account is from greater enrollment and utilization of the services, primarily as a result of the current recession. The remaining portion of the shortfall, about \$32 million, marks the end of the one-time federal stimulus money which was used to help fund MaineCare in this current budget. The money flows to us in the form of an enhanced federal match rate which tapers down until we return to our base rate on June 30<sup>th</sup>.

This emergency supplemental budget funds both the projected growth in the program and back fills with General Fund dollars the withdrawal of the enhanced federal funds for the next five months. This bill also provides \$1.9 million to the Riverview Psychiatric Center in its audit settlement and for Child Development Services \$2 million is appropriated to go towards its current operating shortfall. The Legislature and the Appropriations Committee were alerted to the items that I just mentioned last November. On October 1, 2010 Governor Baldacci initiated a statewide spending curtailment and subsequently to that the Revenue Forecasting Committee revised the December 2010 revenue forecast and, in a reversal of recent fortunes, recognized additional General Fund revenues of \$111 million. That additional revenue is applied here in the supplemental budget. Along with closing the current budget gap the committee endorses two major initiatives proposed by Governor LePage and both are time sensitive and require quick action. First the bill increases settlement payments to hospitals by \$69.5 million from the General Fund, which would generate a total of \$247.5 million when combining State and federal funds. Prompt approval of the budget allows the State to make settlement payments, some dating back to 2006, in time to maximize the temporary enhanced federal rate. As a result, nearly all interim hospital settlements through 2009 will be paid. Addressing the debt owed Maine's hospitals for care provided to MaineCare patients is a long-held and mutual priority shared by members from both sides of the aisle, the previous administration, and, of course, the current administration. This initiative is a continuation of the bi-partisan cooperation exhibited over the last

several years regarding the accelerated payment of outstanding hospital debt.

The second time sensitive initiative is tax conformity. The bill includes \$4.5 million in direct relief to Maine individuals, families, and small businesses by aligning some of the tax provisions with the recent federal action. For instance, some benefits include deductions for medical care benefits for children, employer assistance for employee education costs, student loan interest, \$250 deduction of teacher classroom expenses, enhanced charitable deductions for food, books, and computers, and the earned income tax credit. Prompt action by the Legislature will clarify our tax code for the 2010 filing year so Maine can realize tax relief right away. Quick action also avoids disruption for Mainers who have already filed and utilized many of these provisions for the 2010 calendar year. Many of us hope that this is the first step towards returning Maine to full conformity with the federal tax code.

Several additional items brought forward by the various policy committees are addressed in the bill. They include additional funding to the Maine Dairy Stabilization Fund, increasing the amount distributed to the communities through revenue sharing, funding the State's share of disaster relief for the floods of February and March of 2010, restoring funds for local regional planning grants, increased funding to the indigent legal defense fund, and funding to prevent the School Breakfast Program from running short of money.

The budget challenge of the 2010-2011 bienniums was the result of the deep and long recession which devastated tax revenue. At the worst point in early 2009 State General Fund revenue was down 9% from the previous year. Today we are at about 6.6% below 2008 revenue figures. One-time federal stimulus dollars off-set some of the drop in tax revenue, warding off bigger spending cuts. The gaping budget holes vexing state and local governments across the country, that they are facing this year and last year, are largely the result of the recession but we cannot blame the recession on the challenges facing us in the next biennium, the projected future shortfall of \$840 million. That shortfall won't go away without embracing significant reforms. Going into the recession spending already exceeded the revenue Maine could expect in normal times. When the economy heals state and local revenues will grow again. That won't relieve unsustainable pressures that predate the recession, especially healthcare costs, education costs, and pension and benefit costs. This emergency supplemental budget does not address these larger issues. That discussion and debate is simply postponed for a few weeks.

Finally, successfully advancing a supplemental budget in a very compressed window of time requires the commitment and the support of many people. I would like to take this opportunity, early in the process as we go through the procedures here in the Senate chamber, to offer acknowledgements first to the Senator from York, Senator Hill, and the Senator from Kennebec, Senator Katz. They were thorough, thoughtful, and ready to work from day one. Both made sure the concerns and priorities of all Senate members were heard. It was clear early in the session that all members of leadership were committed to protecting the process and supportive of the work of the committee and I am appreciative of their cooperation. The chairs and leads and members of the Legislature's policy committees approached the budget work diligently and provided us with reports which helped us to improve the original budget proposal. The Appropriations Committee members from the other Body bring a wide-range of

expertise and experience and each member worked collaboratively to improve the bill. Representative Rotundo, the lead from the other chamber, offered solutions and positive energy from the start. I want to recognize my committee co-chair, Representative Flood, for his principled adherence to a team approach and his deep commitment to work for a better future for Maine. This also cannot happen in an accelerated form to have the bill on your desk without the leadership and the work from Grant Pennoyer and the entire staff in the Legislature's Fiscal Office and Pat and all of the OPLA analysis, Suzanne and all of her staff in the Revisor's Office. I also want to congratulate Commissioner Millett for presenting us with a bill that was concise and clear and ready for action. Finally I want to thank our friend Ryan Lowe, the former Commissioner, for stepping in and helping guide us through this process. I hope you all support the supplemental budget. Thank you.

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

**Senator HILL:** Thank you Mr. President. Ladies and gentlemen of the Senate, I walked into the Appropriations room last Friday realizing the enormity of the task we had before us. Not only did we face a gap of \$47 million but additionally we had received many requests in the waning days of our work sessions and report backs which created another \$5 million hole. Leaving untouched the federally matched funds for hospitals and Medicaid to the sum of \$141 million, we worked with what was left, what little was left, for funds to address the needs of many. Fourteen hours later, at 11:30 p.m., it was clear to me as I left the Appropriations room we had put Maine first. We found money to fund small milk farms, money to fund the children's breakfast program, regional planning commissions, municipal revenue sharing, constitutionally required indigent legal services, and Gambling Board positions so that we would have the people to process the application for the casino in Oxford. Additionally we were very responsible and set aside \$700,000 for the Maine Stabilization Fund. The Appropriations Committee did all of this thoughtfully, respectfully, and professionally. Senator Rosen, Senator Katz, Representative Flood, and Representative Rotundo were exemplary in their skills and approach to problem solving and helping us address the many issues before the committee. The bar was clearly set for going forward with the 125<sup>th</sup> supplemental budgets and biennial budget. Such leadership resulted in every line, and I repeat, every line of the amended budget being voted on unanimously by the Appropriations Committee. However, this end result we did not achieve alone. I recognize that. Every joint standing committee that came before us was committed to providing information and guidance relative to the department they oversee. The Office of Fiscal Policy and Review re-ran numbers for us, ran models for us, and offered unlimited resources and support for the Appropriations Committee. It is fitting to recognize the Appropriations Committee and its Chairs as well as all the legislative committees and their supporting staff by thanking them for clearly putting Maine first. I urge you, wholeheartedly, to please vote for this emergency supplemental budget. Thank you.

**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 in support of the supplemental budget before us as well. There are so many veterans of budgets past in this room and I personally learned so much from them as I've gone through this process for the first time myself as a member of this Senate and as a member of the Appropriations Committee. Let me just share a few thoughts about how we came to this point. There were thirteen of us on that committee. If left up to each of us individually we probably would have had thirteen separate budgets but there has been excellent leadership on both sides of the aisle. In this Body the Senator from Hancock, Senator Rosen, and the Senator from York, Senator Hill, as well as the Chair and Lead from the other Body worked long and hard to reach consensus and that spirit extended down from them to the rest of the committee. Although I was not around last session I would suspect the spirit of cooperation was in part an extension of the atmosphere which existed last session when the Senator from Cumberland, Senator Diamond, chaired the committee and the Senator from Hancock, Senator Rosen, was their Minority Lead. Just as that was not a partisan budget, neither is this one. Again, we could choose to tweak this budget to shape it more towards our personal liking. Some may think the porridge is too hot. Some may think the porridge is too cold. As a Senate I suggest that we find it's just about right. It pays a long overdue bill to our hospitals by maximizing the federal match. It funds MaineCare programs that are about to run out of dollars. It makes a good faith compromise on the difficult issue of revenue sharing. It gives thousands of Maine families a tax break by bringing our own state code in conformity with the federal tax code in many areas and appropriately puts off until tomorrow some difficult policy discussions which have no impact on this year's budget. If I could make a baseball analogy, it seems to me that the supplemental budget process is a little like Spring training. While getting to know our teammates, we played some exhibition games and now it's almost time for opening day. Opening day will be Thursday, when Governor LePage throws out the first pitch with his budget address. By all accounts, it's going to a difficult season but on this last day of pre-season I urge my colleagues, rookies and veterans alike, to support this supplemental budget as presented by the Appropriations Committee. Thank you Mr. President.

Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-2) **READ.**

On motion by Senator **BLISS** of Cumberland, Senate Amendment "B" (S-2) to Committee Amendment "A" (H-2) **READ.**

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

**Senator BLISS:** Thank you Mr. President. I have to start by complimenting the Appropriations Committee. The job that they did in the time that they had to do it in was really nothing short of amazing. To have a budget document that is unanimously voted is terrific. To have a budget document where every line is unanimously agreed to is well past amazing. I start by offering my great congratulations for the hard work that they did.

I must tell you, Mr. President, that, to me, the porridge is almost perfect. I worry a lot about my communities and your communities. I worry about our service centers that struggle to have enough money to keep their roads in good shape and to have police and fire and EMT available when visitors come to do their shopping or to do their sight seeing or do whatever they do at our service centers all over the state. I worry about the small towns all over our state with less than 1,000, less than 500, less than 300 residents who struggle to make their towns work and rely every year, every month, every week on the money they get from us in revenue sharing so they don't have to tax their residents out of their homes by raising property taxes to be able to deal with the expenses of running a municipality. We had some extra money this year, \$111 million give or take. The municipalities made the assumption that they would be getting their share in revenue sharing, just like it was agreed to with the municipalities. It was a surprise to them to discover that they weren't going to get that money. They were \$3 million short. I applaud the Appropriations Committee for working hard, and I know that you did work hard, to find a way to put \$1 million back into this document to try to help those municipalities. It's almost enough. Our municipalities are in trouble and we have to do what we can to help them.

We have, for several years, been returning money diligently that we've owed the hospitals. The last Chief Executive created an agreement with the hospitals that they all bought into that involved returning money on a schedule. We're done a great job in a bi-partisan way of meeting that schedule. This supplemental budget gives the hospitals another \$69.5 million. \$69.5 million, not counting the 3 - 1 match in federal money they are going to get. \$69.5 million. We're giving our municipalities, our 530 plus municipalities, \$1 million. I'm asking you to take \$2 million of those millions, Mr. President, away from the hospitals to give to the municipalities to make the \$3 million in revenue sharing that they expected whole. It's not enough to solve the problem but it's a start. 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 rise to address the issue that the good Senator has brought up. It was an issue that concerned each and every member of the Taxation Committee when we reviewed this policy proposal from the Chief Executive. It was unanimous in the committee that we wanted to restore all of the revenue sharing piece that was proposed to be shifted in the budget. In context, that was a small piece of what had been done previously. There was somewhere around \$35 million that had been moved out of revenue sharing in the past budget and we felt it was very important to send a clear message that we wanted to stop those sorts of transfers. That is why you have the proposal that is before you. Out of the graciousness of the leaders of the Appropriations Committee, it was obvious that our proposal in Taxation originally to shift some money out of the Budget Stabilization Fund to fully fund this was not going to be accepted. The Chief Executive made it very clear that he wanted to pay the hospitals as he had promised in the past. Really the only place that we could go to get this revenue was from two sources and those were the conformity and the Budget Stabilization Fund. It was obvious to us that neither place was going to be acceptable to anyone so we offered up a compromise

in good faith. That is before you today. We agree that we'd love to make the municipalities whole but we needed to get the votes necessary to pass this budget and that is why this compromise is before you. It did not come without much compromise. We all wanted to fulfill this promise but when it came down to cutting that federal money that came along with the match for the hospitals we just could not do it. I do look forward to working with the Senator in the next budget because I think the difficulties in the next budget are going to swamp the difficulties that are before us today. I hope that you will support this budget. Thank you.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-2) to Committee Amendment "A" (H-2).

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

**Senator ROSEN:** Thank you Mr. President. As you just heard from the Senator from Lincoln, Senator Trahan, this issue was discussed by the policy committee, by the Appropriations Committee, and was taken very seriously. At the end of the day we had before us an opportunity to, as I said in my original comments, to maximize the quickly declining federal match that is before us to bring our hospitals up to speed and to pay back debt owed them. If you look at the fiscal note attached to the amendment it gives you a sense of the magnitude of what we're talking about. The \$2 million transfer proposed here generates more than \$5 million of matching federal money. The obligations that are owed the hospitals for services that have already been provided are still due and must still be paid so if we don't maximize the federal match over the next few weeks then that amount of money, particularly the \$588,000 that is isolated in this fiscal note which is specifically attributable to the temporary federal stimulus, would have to be made up with General Fund dollars. This is a compelling argument to move forward with this. A budget document is a complicated accumulation of negotiations, votes, and compromises. It isn't quite that easy to reach in and make a change from one category to another without risking the possibility of the construct of the entire document beginning to come apart. It's pulled together in a careful way. The priorities were vetted and discussed.

Finally, I just want to clarify that the impact to the communities does not result in a loss of any funds that were expected in the biennium. Last March we had a revenue forecast. The budget that we're operating under now is designed and crafted around that forecast. The amount of money that was expected to flow to the communities in revenue sharing will still go forward as it was originally budgeted. Local town meetings and budget discussions and budget votes and selectmen and counselors based on what was expected will not be impacted. In addition there is an additional \$1 million that was not expected that will flow as a result of the compromise amendment that is before you. I would ask you to support the Indefinite Postponement motion that is before you and go on to accept the committee amendment.

On motion by Senator **ROSEN** of Hancock, Senate Amendment "B" (S-2) to Committee Amendment "A" (H-2) **INDEFINITELY POSTPONED**.

On motion by Senator **PATRICK** of Oxford, Senate Amendment "A" (S-1) to Committee Amendment "A" (H-2) **READ**.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I would like to start off as well thanking the Appropriations Committee for all of their diligent work. It's just unbelievable and normally I would not rise to offer an amendment but I would be remiss if I did not fulfill the obligation that I told my citizens in my district that called me. Forty people had called me on this issue. I said that I would stick up for them 100%. What this amendment does is appropriates \$358,865 in fiscal year 2010-2011 to restore funding for the transportation services provided by the Purchased Social Services Program in the Department of Health and Human Services. This appropriation is off-set by a de-appropriation of \$358,865 from the hospital settlement payments provided by the MaineCare program and the Department of Health and Human Services. I know the good Senator from Hancock, Senator Rosen, will clarify the extreme cost to this. The forty people that called me up are people in my area, which is the river valley area or service center area, that take people to hospitals, doctors appointments, and such. Out of the forty people that contacted me I know that there are thousands of visits that these people bring their constituents to. Why is it important to them? A lot of the people I know personally. One lady has a 1998 Plymouth van and it's got 258,000 miles on it. What does that have to do with this? They used use to get 44¢ a mile, now they get 41¢ a mile. We say, "Wow, that seems to be a lot." It really isn't when you have to factor in the tune ups, the tires, the oil changes, and just the wear and tear on the vehicles and stuff and the value that these people bring. I'm speaking of the forty people that contacted me and I know there are hundreds, if not several thousand, people throughout the great state of Maine that provide this service to the people. I know I don't have any expectations of grander that this will pass but I would be remiss if I didn't follow through because most of the people that sent me letters. Out of my nine years in the legislature I have never gotten more than thirteen calls from constituents and that actually happened to be on one of the nominees for Commissioner. I had forty people in my district. I answered every letter and telephone call. They asked me, "Would you go to bat for us?" I said, "Absolutely." With that, Mr. President, I would request a roll call. Thank you.

On motion by Senator **PATRICK** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-1) to Committee Amendment "A" (H-2).

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

Senator **ROSEN:** Thank you Mr. President. I do very much respect the sentiment that was expressed by the Senator from Oxford, Senator Patrick, and the importance of these transportation services. They are a direct aid to citizens across the state and they are important. I do need to describe once

again the impact of this proposal on the budget agreement that we have crafted. As you will see, because of the source of revenue there is also a matching funds impact and that amounts to almost \$1 million. In addition to the \$358,865 there is another \$900,000 plus that will have to be made up because of the lack of the federal funds.

I'd like to give you a little bit of background on this program just to give you some context. Currently there are ten transportation contract providers in the state of Maine. The program was originally funded for this year at \$3 million and this de-appropriation would reduce it from \$3 million to \$2,658,000, just to give you a context of the level of funding. The reduction comes to us as a result of a curtailment order from the previous Executive that was initiated on October 1<sup>st</sup> when we were all aware that we were facing a potential shortfall in the MaineCare account. There were several of these curtailments that were initiated then that the Appropriations Committee and the current Chief Executive chose to utilize as components of bringing this budget back into balance. This was one of them. For all those reasons, I encourage you to support the motion to Indefinitely Postpone this amendment. Thank you.

On motion by Senator **PATRICK** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#10)

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

**NAYS:** Senators: BLISS, CRAVEN, GERZOFKY, JACKSON, PATRICK

**EXCUSED:** Senator: WHITEMORE

29 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **ROSEN** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-1) to Committee Amendment "A" (H-2), **PREVAILED**.

Committee Amendment "A" (H-2) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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