

# MAINE STATE LEGISLATURE

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



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

LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh  
Legislature*

OF THE

STATE OF MAINE

**Volume II**

May 21, 1975 to July 2, 1975

**Index**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

Tabled June 19, 1975 by Senator Speers of Kennebec.

Pending — Passage.

(In the House — Read and Passed.)

Mrs. Cummings of Penobscot then moved the pending question.

Thereupon, the Joint Order received Passage in concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

Joint Order — Relative to Legislative Council study of L. D. 1652. (H. P. 1739)

Tabled — June 19, 1975 by Senator Speers of Kennebec.

Pending — Passage.

(In the House — Read and Passed.)

Thereupon, the Joint Order received Passage in concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matters:

Joint Order — Relative to Legislative Council study of state-regulated casino gambling. (H. P. 1586)

Tabled — May 16, 1975 by Senator Speers of Kennebec.

Pending — Passage.

(In the House — Read and Passed.)

Joint Order — Relative to Legislative Council study need for State Forensic Laboratory. (H. P. 1655)

Tabled — June 3, 1975 by Senator Speers of Kennebec.

Pending — Passage.

(In the House — Read and Passed.)

Joint Order — Relative to Legislative Council study of the Outer Continental off-shore drilling. (H. P. 1668)

Tabled — June 5, 1975 by Senator Speers of Kennebec.

Pending — Passage.

(In the House — Read and Passed.)

On further motion by Mr. Speers of Kennebec, the Joint Orders were Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matters:

Joint Order — Relative to Legislative Council being authorized through the Committee on Local and County Government to study the subject matter of L. D. 124, L. D. 1307, and L. D. 1819. (S. P. 529)

Tabled — May 27, 1975 by Senator Speers of Kennebec.

Pending — Passage.

Joint Order — Relative to Legislative Council, thru the Committee on Judiciary, reviewing and studying decisions pertaining to the areas of patients' rights. (S. P. 559)

Tabled — June 9, 1975 by Senator Speers of Kennebec.

Pending — Passage.

Joint Order — Relative to Legislative Council, thru Committee on State Government study the State Personnel System. (S. P. 578)

Tabled — June 11, 1975 by Senator Speers of Kennebec.

Pending — Passage.

On further motion by Mr. Speers of Kennebec, the Joint Orders were Indefinitely Postponed.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

Joint Order — Relative to Committee on Judiciary to be authorized and directed to

conduct a study of Maine's Statutes on obscenity and pornography. (S. P. 582)

Tabled June 17, 1975 by Senator Speers of Kennebec.

Pending — Passage.

On further motion by Mr. Speers of Kennebec, the Joint Order was Indefinitely Postponed.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

Joint Order — Relative to Legislative Council study of efforts to restore Maine's AAA rating. (H. P. 1718)

Tabled — June 17, 1975 by Senator Speers of Kennebec.

Pending — Passage.

(In the House — Read and Passed.)

Joint Order — Relative to Legislative Council study of management jurisdiction over fisheries resources. (H. P. 1736)

Tabled — June 19, 1975 by Senator Speers of Kennebec.

Pending — Passage.

(In the House — Read and Passed.)

On further motion by Mr. Speers of Kennebec, the Joint Orders were Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

House Reports — from the Committee on Transportation — Bill, "An Act Relating to Snow Removal on Accepted Ways." (H. P. 734) (L. D. 917) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — June 18, 1975 by Senator Speers of Kennebec.

Pending — Acceptance of Either Report.

(In the House — Indefinitely Postponed.)

On motion by Mr. Greeley of Waldo, the Bill was Indefinitely Postponed in concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 480) (L. D. 1760)

Tabled — earlier in today's session by Mr. Conley of Cumberland.

Pending — Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, there are several amendments to be offered to this bill. Some of them I will present and there are others in the hands of other Senators, and it might be an orderly fashion if we proceed in the order in which they are lettered. I will now offer Senate Amendment "A" to L. D. 1760 and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now presents Senate Amendment "A" and moves its adoption. The Secretary will read the amendment.

Senate Amendment "A", Filing No. S-352, was Read and Adopted.

Mr. Corson of Somerset then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-353, was Read and Adopted.

Mr. Collins of Knox then presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-356, was Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: I would just like to make one comment about Senate Amendment "C". This amends the gasoline franchises bill that we debated and passed last week. In a very minor sense it might be considered substantive, but it was presented and approved by our committee. It was received too late to get into the printed committee amendment. It is a very minor rewording of a sentence and was approved by both sides of the debate with respect to that bill.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "C"?

The motion prevailed.

Mr. Conley of Cumberland then presented Senate Amendment "D" and moved its Adoption.

Senate Amendment "D", Filing No. S-360, was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, so that there will be no misunderstanding relative to this particular amendment, I did speak with the Chairman of the Judiciary Committee earlier this morning and also have been in contact with the Attorney General's Office today.

Some weeks ago I received a communication from one of our state television and broadcasting stations concerning this particular bill, that is regarding drug advertising, and I would quote from that letter. It says, "Title 21, U.S. Code Section 843, prohibits the advertising anywhere of illegal controlled substance drugs. There is nothing in any regulation which prohibits the advertising, including price, on legally prescribed drugs." In my discussion with this gentleman also on the telephone, he found through research by his attorneys that the bill, as it presently reads, is unconstitutional relative to this particular section.

I just came from talking with Mr. John Benoit of the Attorney General's Office, who has also apparently written a letter to another member of the Legislature who inquired of this particular section within the bill, and it is also his opinion that he considers it to be unconstitutional. Therefore, the reason for this particular amendment.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "D"?

The motion prevailed.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, these are all of the amendments to the bill itself of which I have knowledge coming into the Senate. There are now several amendments to Committee Amendment "A" to the bill. In the same manner, I think it would be orderly if the sponsor of Senate Amendment "A" to Committee Amendment "A" would proceed and then we will follow along.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

On motion by Mr. Curtis of Penobscot, the Senate voted to reconsider its former action whereby Committee Amendment "A" was Adopted.

The same Senator then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-355, to Committee Amendment "A" was Read and Adopted.

Mr. Johnston of Aroostook then presented Senate Amendment "B" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "B", Filing No. S-362, to Committee Amendment "A" was Read and Adopted.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I have not found in our books as yet any Senate Amendments "C" or "D" to Committee Amendment "A", so perhaps they have not been brought forward. I will therefore proceed with Senate Amendment "E" to Committee Amendment "A" and move its Adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "E" to Committee Amendment "A" and moves its adoption.

The Secretary will read the amendment. Senate Amendment "E", Filing No. S-361, to Committee Amendment "A" was Read and Adopted.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, there is one further amendment just handed to me which is not printed. This forthcoming amendment may be with us before I finish talking, but if not, I hope someone will table this matter for a few more minutes so that we can bring it all to a conclusion.

I would just like to comment on two or three things in this errors and inconsistencies bill. Our committee tried to stay within the parameters of those words, "errors and inconsistencies". Sometimes there is a little disagreement about how big those words are, and in two or three instances I feel that I should call to your attention areas where there could be some dispute as to whether we are within those parameters.

The first item I would mention is that we have included a provision which would extend the life of the Criminal Law Revision Commission. This is the commission that produced the original draft of the Maine Criminal Code that we have adopted and which has now been signed into law. That code becomes effective next March 1st. Even as we were finishing our work on that bill, the Supreme Court of the United States announced a decision that has some bearing on the definitional material in that act concerning manslaughter. There has also been some new definitional material with respect to the identification of different types of marijuana. It was felt that these new problems in our criminal law should not be hastily attacked, that they should be carefully studied and then that our law should be corrected. Fortunately, the commission still has a little money left, federal money, that it can use to study those two questions and also a few other questions about the application of the code in other areas of our criminal law that are not touched by the general code. For this reason, we felt it appropriate to continue the life of this commission until next March 1st so that it might work on these inconsistencies for us and, hopefully, submit to the special session those remedies that would bring the code up to its very best position.

On the first page of Committee Amendment "A" which appears in your notebooks, the filing number I think is S-351, there is a rewriting of certain sections of L. D. 1035 which had to do with public records and confidentiality. The first two paragraphs of that section do not change the meaning of it at all, as we understood it. The second and third provisions, however, were inserted at the request of the Attorney General's Office, and the justification of inserting those sections was that there are certain constitutional problems with regard to the lawyer's work product, particularly in criminal prosecution. There are certain papers that a lawyer works with in preparing the prosecution of a criminal case which may be discovered by the opposing party, the defendant accused of a crime. The Supreme Court of United States has developed a body of law indicating what papers may be reached and what may not be reached, and it is my understanding that the Attorney General's Office has attempted here to describe those papers that may not be reached under federal constitutional law. I do not claim to have the scholarship or to have spent the time to substantiate that, but that is in general what the Attorney General's Office thought.

The very last provision was changed so that the confidentiality of inter-intraoffice memoranda would not include public officials involved in the legislative process. This would mean that in the future, for example, if you file a bill for drafting, that it is not secret and confidential until you extract it from the files. It is a public record. I think that should be brought to your attention.

Section 44-A of the bill has to do with a minor adjustment regarding farm motor truck fees from September into October. I think is the way it works. I guess you would call that an Aroostook County type of correction.

Section 44-B has to do with pole carriers, tag-along vehicles. This is an area I know very little about. We did accept it as a committee item that we could recommend.

Section 51-K will probably receive considerable debate in the other body.

Section 80 was delayed until March 1st, again because of a constitutional question which arose after the adoption of what we call the long arm statute which gives our authorities greater scope in prosecution of cases. We felt justified in including this because we would not intend to pass something that might be unconstitutional and we did not realize that it was. It was only subsequent developments that have raised that question. And by postponing the effective date, we will have an opportunity to make a correction if one is required. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I have an amendment which has been typed and is being reproduced. I believe it is an amendment to Committee Amendment "A". I would appreciate it if someone would table this for later in today's session.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Adoption of Committee Amendment "A".

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

An Act Relating to Personnel Classification and Functions of the Review and Evaluation and Fraud Investigation Division of the Department of Audit. (H. P. 1122) (L. D. 1409)

Tabled — Earlier in Today's session by Mr. Conley of Cumberland.

Pending — Motion by Mr. Speers of Kennebec to Suspend the Rules for purpose of Reconsideration.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, there is an amendment that is needed to this particular item and I now move the pending question.

The PRESIDENT: Is the Senate ready for the question?

Thereupon, under suspension of the rules, the Senate voted to reconsider its former action whereby the Bill was Passed to be Enacted. Subsequently, under further suspension of the rules, the Senate voted to reconsider its action whereby the Bill was Passed to be Engrossed.

Mr. Berry of Cumberland then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-354, was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and members of the Senate: This Senate Amendment "A" takes out of the bill any reference to the classified service provisions in the bill itself, and leaves only a schematic arrangement showing the relationship between the Bureau of Audit, the Legislature, the Legislative Council, and the Performance Audit Committee for the future conduct of the business of the Bureau and those three respective other entities.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The motion prevailed.

Thereupon, the Bill, as Amended, was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

The Committee of Conference Report: Resolution, Proposing an Amendment to the Constitution to Abolish the Executive Council and Reassign its Constitutional Powers to the Governor. (H. P. 16) (L. D. 24)

Tabled — Earlier in today's session by Mr. Speers of Kennebec.

Pending — the motion by Mr. Curtis of Penobscot to reject the Committee of Conference Report.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I want to speak against the motion of the Senator from Penobscot, Senator Curtis, to reject the Committee of Conference Report.

It has taken a long time to get this matter to a position where it has the remotest chance of passage. I think that probably describes the posture of the bill at the moment. I think we are fooling ourselves if we are going to try to settle for much else than we are going to vote on