

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1798

S. P. 511

In Senate, May 23, 1977

Reported by Senator Curtis of Penobscot from the Committee on Judiciary and printed under Joint Rules No. 2.

MAY M. ROSS, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

RESOLVE, Authorizing Alban E. Cyr, Sr., and Cyr Brothers Meatpacking, Inc., and Cyr Food, Inc., of Caribou to Bring Civil Action Against an Agency of the State of Maine.

Sec. 1. Alban E. Cyr, Sr., and Cyr Brothers Meatpacking, Inc., and Cyr Food, Inc., of Caribou; authorized to sue the State of Maine. Resolved: That Alban E. Cyr, Sr., Cyr Brothers Meatpacking, Inc. and Cyr Foods, Inc. of Caribou, in the County of Aroostook and State of Maine, who suffered injury caused by the Department of Environmental Protection, are authorized to bring an action in the Superior Court for the County of Aroostook within one year from the effective date of this resolve against the Department of Environmental Protection, an agency of the State of Maine, for damages, if any, and the complaint issuing out of the Superior Court under the authority of this resolve shall be served on the Secretary of State by attested copy 30 days after issue by the sheriff or either of his deputies in any county of the State of Maine; and the conduct of the action shall be according to the practice of actions and proceedings between the parties in the Superior Court; and the liabilities of the parties and elements of damage, if any, shall be the same as the liabilities of the parties and elements of damage between individuals; and the Attorney General is authorized and designated to appear, answer and defend this action. Any judgment that may be recovered in this civil action shall be payable from the General Fund on final process issued by the Superior Court or, if appealed, the Supreme Judicial Court, and costs may be taxed for Alban E. Cyr, Sr., Cyr Brothers Meatpacking, Inc. and Cyr Foods, Inc. if they recover in this action. Any recovery in this action shall not be in excess of \$300,000, including costs. Hearing thereon shall be before a Justice of the Superior Court or a Justice of the Supreme Judicial Court, sitting in the Superior Court, without a jury; the justice shall be assigned by the Chief Justice of the Supreme Judicial Court.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Department of the Attorney General the sum of \$3,000 for payment of costs and expenses for the defense of this action. The breakdown shall be as follows :

	1977-78
ATTORNEY GENERAL, DEPARTMENT OF	
All Other	\$3,000

STATEMENT OF FACT

The basis for the claim is as follows :

In reliance upon a letter written to him by the Commissioner of Environmental Protection in August of 1975, Mr. Cyr believed that the deadline for installation of a pretreatment plant had been extended and was no longer to be October 1, 1976. He took action to begin construction of that plant which was calculated to assure completion in the reasonable future, but not before October 1, 1976. The plant is now under construction. However, the deadline had not been extended. Under threat of severe fines on the corporations and Mr. Cyr personally, Mr. Cyr closed down his plant suffering great losses to spoilage of potatoes, lost orders and broken contracts.

The new draft makes 4 changes in the resolve.

The emergency preamble and the emergency clause are removed.

A limit on recovery of \$300,000, including costs, is placed in the bill. This is the same limit as in the Maine Tort Claims Act. There is no limit in the resolve.

The new draft provides that the case can be heard before either a Justice of the Superior Court or a Justice of the Supreme Judicial Court, sitting in the Superior Court. This will provide for more flexibility in the court system in assigning the case.

The new draft also adds an appropriation to the Attorney General for the costs of defending the action.