

MAINE STATE LEGISLATURE

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N I N E T Y - N I N T H L E G I S L A T U R E

Legislative Document

No. 671

S. P. 258

In Senate, February 12, 1959

Referred to the Committee on Judiciary, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Lessard of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

RESOLVE, Authorizing Arthur W. Bushey and Alice Bushey, John Tibbetts, Archie Leeman, and Oscar Bradstreet, all of Palermo, to Sue the State of Maine.

Certain persons authorized to sue State of Maine. Resolved: That Arthur W. Bushey and Alice Bushey, John Tibbetts, Archie Leeman and Oscar Bradstreet, all of Palermo, who have suffered, still do, and, as they claim, shall continue to suffer flowage damage to their lands and property adjacent to and near Sheepscot Pond, due, as they claim, to the erection, maintenance and existence of a permanent dam for a rearing pool which was constructed and installed by the State in 1949, be, and hereby are, authorized to bring a joint suit at law in the Superior Court for the County of Kennebec within one year from the first day of August, 1959, at any term thereof against the State of Maine, and the writ issuing out of said Superior Court under the authority of this resolve shall be served on the Secretary of State by attested copy 30 days before the return day thereof by the sheriff or either of his deputies in any county of the State of Maine, and the conduct of said suit shall be according to the practices of suits and proceedings between individual parties and suitors in said Superior Court, and the substantive rights and liabilities of the parties shall be the same as the rights and liabilities between individuals; and, in determining damages and injuries, if any, the court shall deem the same to be permanent in nature, taking into consideration, among other lawful matters, loss of rentals and profits; and where relevant, depreciation in value is to be determined as of the time of trial; and the court further may apportion damages, if any be found, among the plaintiffs; yet, however, any recovery in said suit shall not exceed an aggregate sum of \$10,000. The Attorney General is hereby authorized and designated to appear and to answer said suit to recover the damages sustained by the said Arthur W. Bushey, Alice Bushey, John Tibbetts, Archie Leeman and Oscar Bradstreet by

reason of the injuries aforesaid, and any judgment that may be recovered in such suit at law shall be payable from the funds of the Department of Inland Fisheries and Game of the State of Maine on final process issued by said court in said court at law, and costs may be taxed for the said Arthur W. Bushey, Alice Bushey, John Tibbetts, Archie Leeman and Oscar Bradstreet if they recover in said suit. Hearing thereon shall be before 3 Justices of the Superior Court, without a jury; said justices to be assigned by the Chief Justice of the Supreme Judicial Court; and be it further

Resolved: That Resolves, 1957, chapter 68, be and hereby is, repealed, and the suit now pending thereunder is hereby dismissed without prejudice or costs to the parties.