

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 194

S. P. 77

In Senate, January 17, 1973

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Richardson of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**RESOLVE, Authorizing Fred P. Haskell, or his Legal Representatives, to
Bring Civil Action Against State of Maine.**

Fred P. Haskell ; authorized to sue the State of Maine.

Resolved: That Fred P. Haskell of New Gloucester in the County of Cumberland, who suffered damages to his home and personal property, on November 12, 1962, caused by fires and other malicious damage, allegedly performed by inmates of the Pineland Hospital and Training Center, or his legal representative, is authorized to bring an action in the Superior Court for the County of Cumberland, within one year from the effective date of this resolve, at any term thereof against the State of Maine for damages, if any, and the complaint 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 a term of said court by the sheriff or either of his deputies in any county of the State of Maine; and the conduct of said action shall be according to the practice of actions and proceedings between parties in said Superior Court, and the liabilities of the parties and elements of damage, if any, shall be the same as the liabilities and elements of damage between individuals; and the Attorney General is authorized and designated to appear, answer and defend said action. Any judgment that may be recovered in said civil action shall be payable from the State Treasury on final process issued by said Superior Court or, if appealed, the Supreme Judicial Court, and costs may be taxed for the said Fred P. Haskell if he recovers in said action. Any recovery in said action shall not be in excess of \$11,000, including costs. Hearing thereon shall be before 3 Justices, without a jury; said justices to be assigned by the Chief Justice of the Supreme Judicial Court.

STATEMENT OF FACT

The 102nd Maine Legislature by Chapter 28 of the Resolves of 1965 authorized one Fred P. Haskell of New Gloucester to bring a civil action against the State of Maine in an effort to recover damages sustained by him to his home and personal property, which damage was allegedly performed by inmates of the Pineland Hospital and Training Center. Any recovery was limited in amount to \$11,000, including costs.

The Resolve was approved by the Governor on May 20, 1965. Fred P. Haskell died on June 15, 1965 and his legal representative was appointed on July 29, 1965. A complaint dated January 14, 1966 naming Harry W. MacBurnie executor of the estate of Fred P. Haskell, late of New Gloucester, County of Cumberland and State of Maine, as plaintiff and the State of Maine as defendant was thereafter filed. Courtland D. Perry, Esquire, Assistant Attorney General, representing the State of Maine, filed a motion to dismiss the complaint for failure to state a claim against the defendant upon which relief can be granted stating as one of the grounds therefor that the special resolve authorized Fred P. Haskell himself and not his estate to bring the contemplated action. It appearing the clear intent of the Legislature to allow the injured party or, in the event of his death, his estate, to prosecute a civil claim for damages, subject to the statutory limitations, in the same manner as in all similar claims not against the sovereign, a new bill is being introduced seeking to authorize not only the named injured party, Fred P. Haskell, but also his legal representative to sue on the same terms and conditions as otherwise contained in the original Resolve.