

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2346

H. P. 2299

House of Representatives, April 8, 1976

Reported by Minority from Committee on Judiciary, pursuant to H. P. 2241 and printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

RESOLVE, Authorizing Frederick Gooldrup and Germaine Gooldrup, or their Legal Representatives, to Bring Civil Action Against the State of Maine.

Frederick Gooldrup and Germaine Gooldrup; authorized to sue the State of Maine. Resolved: That Frederick Gooldrup and Germaine Gooldrup, both of Waterville, are authorized to commence a civil action within one year from the effective date of this resolve against the State of Maine for a defect or want of repair of West River Road, Waterville, Maine, for damages for personal injuries and property damage as a result of an accident occurring on said West River Road, Waterville, Maine, on August 2, 1974, but the recovery may not exceed \$4,000 to each plaintiff. If either Plaintiff had notice of the condition of such way previous to the time of the injury, such Plaintiff cannot recover unless previously having notified an agent of the State of Maine of such defect or want of repair of such way. Either Plaintiff or some person in his or her behalf must have, within 14 days of the accident, notified a representative of the State of Maine by letter or otherwise, in writing, setting forth his or her claim for damages specifying the nature and location of the defect which caused such injury. Hearing thereon shall be before a presiding justice of the Superior Court for the County of Kennebec sitting with a jury. 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 before a term of such court by the sheriff or either of his deputies in any county of the State of Maine and, except as otherwise provided by this resolve, the conduct of such action shall be according to the practice of actions and proceedings between parties in said Superior Court and the liabilities and elements of damages between individuals; and the Attorney General is authorized and designated to appear, answer and defend

such action. Any judgment that may be recovered in such action shall be payable from the State Highway Fund on final process issued by such Superior Court, or, if appealed, the Supreme Judicial Court.

STATEMENT OF FACT

Frederick Gooldrup and Germaine Gooldrup were travelling in their 1969 Pontiac automobile in the nighttime of August 2, 1974, on the West River Road in Waterville, when their automobile came upon excavation and construction being undertaken by the State of Maine and fell into this excavation and construction resulting in injuries to their persons and mental and **other suffering and damage** to their automobile. The Gooldrups have been under the care of physicians as a result of this accident. They allege that there were inadequate warning and other devices to warn them of the excavation and construction and that the road was not properly maintained and kept in repair for safe and suitable travel by the public.