

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2347

H. P. 2301

House of Representatives, April 8, 1976

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

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, in the County of Kennebec, who suffered physical injuries, pain, suffering, mental anguish, loss of consortium and damage to their 1969 Pontiac automobile as a result of their automobile accident on August 2, 1974 at the site on the West River Road in Waterville of excavation and construction work being done by the State of Maine, or their legal representatives, are authorized to bring an action in the Superior Court for the County of Kennebec, 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 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 the conduct of such action shall be according to the practice of actions and proceedings between parties in the Superior Court, and the liabilities of the parties and elements of damage, if any, shall be the same as 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 civil action shall be payable from the State Highway Fund on final process issued by the Superior Court or, if appealed, the Supreme Judicial Court, and the costs may be taxed for the said Frederick Gooldrup and Germaine Gooldrup if either, or both, recover in such action. Any recovery in such action shall not be in excess of \$20,000, including interest and costs. Hearing thereon shall be before a presiding justice of the Superior Court sitting without a jury.

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.