

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 134

S. P. 61

In Senate, January 20, 1977

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

MAY M. ROSS, Secretary

Presented by Senator O'Leary of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**RESOLVE, Authorizing Robert J. Gilbert of Mexico to Bring Civil Action
Against an Agency of the State of Maine.**

Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the litigation authorized by this resolve should be commenced at the earliest possible time so that the positions of the parties might be determined as soon as possible, in the interest of justice; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Robert J. Gilbert; authorized to sue the State of Maine. Resolved: That Robert J. Gilbert of Mexico, in the County of Oxford and State of Maine, who suffered an injury to his left eye when he was struck by a piece of tile which fell from a shower wall at Maine Maritime Academy into his eye, is authorized to bring an action in the Superior Court for the County of Hancock within one year from the effective date of this resolve, at any term thereof against Maine Maritime Academy, 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 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 Robert J. Gilbert if he recovers in this action. Any recovery in this action shall not be in excess of \$100,000, including costs. Hearing thereon shall be before a justice, without a jury; the justice to be assigned by the Chief Justice of the Supreme Judicial Court.

Emergency clause. In view of the emergency cited in the preamble, this resolve shall take effect when approved.

STATEMENT OF FACT

In July, 1974, Robert J. Gilbert was a participant at Camp Takedown/Touchdown which was located at Maine Maritime Academy. While taking a shower in the dormitory at Maine Maritime Academy, a soap dish, which was loose in the wall of the shower, was pushed back into the wall from which it had come partially out. When it was thus pushed in, a piece of the surrounding tile flew out and struck Gilbert in the eye. At the time, Gilbert was 17 years old and was a senior at Rumford High School where he participated in football and wrestling. He has suffered and continues to suffer serious injury and significant impairment to his left eye.