

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1087

S. P. 328

In Senate, March 23, 1977

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

MAY M. ROSS, Secretary

Presented by Senator Collins of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

RESOLVE, Authorizing Alban E. Cyr, Sr., and Cyr Brothers Meatpacking, Inc., and Cyr Food, Inc., of Caribou 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

Alban E. Cyr, Sr., and Cyr Brothers Meatpacking, Inc., and Cyr Foods, Inc.; authorized to sue the State of Maine. Resolved: That Alban E. Cyr, Sr., Cyr Brothers Meatpacking, Inc. and Cyr Foods, Inc., of Caribou, in the County of Aroostook and State of Maine, who suffered injury caused by the Department of Environmental Protection; are authorized to bring an action in the Superior Court for the County of Aroostook within one year from the effective date of this resolve, at any term thereof, against the Department of Environmental Protection, 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 the 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 Alban E. Cyr, Sr., Cyr Brothers Meatpacking Inc. and Cyr Foods, Inc. if he recovers in this action. 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 reliance upon a letter written to him by the Commissioner of Environmental Protection in August of 1975, Mr. Cyr believed that the deadline for installation of a pretreatment plant had been extended and was no longer to be October 1, 1976. He took action to begin construction of that plant which was calculated to assure completion in the reasonable future, but not before October 1, 1976. The plant is now under construction. However, the deadline had not been extended. Under threat of severe fines on the corporations and Mr. Cyr personally, Mr. Cyr closed down his plant suffering great losses to spoilage of potatoes, lost orders and broken contracts.