

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1739**

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H. P. 1506

House of Representatives, April 29, 1977

Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25. Referred to Committee on Legal Affairs, sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Kany of Waterville.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**RESOLVE, Authorizing Donald LaRochelle as Executor for the Estates of Wilfred and Alice LaRochelle Late of Waterville or his Legal Representatives to Bring Civil Action Against the State of Maine.**

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Donald LaRochelle as executor for the estates of Wilfred and Alice LaRochelle; authorized to sue the State of Maine. Resolved. That Donald LaRochelle as executor of the estates of Wilfred and Alice LaRochelle late of Waterville, County of Kennebec who suffered severe bodily injuries from which they died, while driving along Route 137 in Oakland, Maine, be authorized to bring suit against the State of Maine.

On December 6, 1975, Wilfred and Alice LaRochelle were traveling in an easterly direction along Route 137, Kennedy Memorial Drive in Oakland, Maine, in a 1973 red Dodge. Their car went out of control and plunged into the watercourse alongside the road and bridge, Messalonskee Stream. Donald LaRochelle as executor of the estates claims that this was due to the negligent and improper road design maintained by the Department of Transportation.

The Department of Transportation is under a duty to construct and maintain the roadway and bridge in a proper design and style suitable for safe travel. Donald LaRochelle as executor alleges that the department failed and was negligent in its duties in maintaining the roadway, by neglecting to construct a railing or structure or even an adequate banking or shoulder sufficient to retain vehicles that go off the side of the road, when said roadway is in such close proximity to a watercourse. A railing was installed at the east side of the bridge where it is unlikely that a car could go off the

road, but there was none at the west side of the bridge where the car went over the side. As a result of the alleged negligence, Wilfred LaRochelle's car rolled down the shore and into 10 feet of water and Wilfred LaRochelle drowned and Alice LaRochelle suffered great pain, shock and anxiety and subsequently also died.

This action is to be brought in the Superior Court of the County of Kennebec within one year from the passage of this resolve, against the State of Maine for damages, if any, and the conduct of this action shall be according to the practice of actions or proceedings between parties in said Superior Court. The liabilities of the parties and elements of damage, if any, shall be the same as liabilities and elements of damage as between individuals. 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 by the sheriff or either of his deputies in any county of the State of Maine. 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 State Treasury on file process issued by the said Superior Court, or, if applicable, the Supreme Judicial Court and costs may be taxed for the estates of Alice and Wilfred LaRochelle if Donald LaRochelle as executor recovers in the action, and that recovery shall not exceed \$200,000, including costs. Hearing thereon shall be before a Justice of the Supreme Judicial Court without a jury, the justice to be assigned by the Chief Justice of the Supreme Judicial Court.

#### STATEMENT OF FACT

This resolve authorizes Donald LaRochelle as executor for the estates of Wilfred and Alice LaRochelle late of Waterville or his legal representatives to bring civil action against the State of Maine.