

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1836

S. P. 700

In Senate, January 18, 1980

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Redmond of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

RESOLVE, Authorizing the Town of Strong to Sue the State of Maine.

Town of Strong; authorized to sue the State of Maine. Resolved: That the Town of Strong, in the County of Franklin, which suffered damages caused by the Department of Transportation construction of certain bridges over Mill Stream and Valley Brook, or its legal representatives, is authorized to bring an action in the Superior Court, County of Franklin, within one year from the effective date of this resolve, 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 from the date of filing the complaint by the sheriff or either of his deputies in any county of the State of Maine. The conduct of this action shall be according to the practice of action or proceedings between parties in the Superior Court. The liabilities of the parties and elements of damage, if any, shall be the same as the liabilities and elements of damage between individuals. 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 final process issued by the Superior Court or, if appealed, the Supreme Judicial Court, and costs may be taxed for the Town of Strong if it recovers in this action. Hearing thereon shall be before a justice, with or without jury; the justice to be the regularly scheduled justice presiding in the Franklin County Superior Court when this matter is scheduled for trial.

STATEMENT OF FACT

In 1946, 2 bridges were constructed over the Mill Stream and Valley Brook in the Town of Strong. About October, 1952, channel clearing downstream of the 2nd bridge, the overflow bridge, was done with a bulldozer as a result of a complaint from an adjoining landowner concerning overflowing channel banks. In 1953, the brook overflowed and cut a new channel on the north side of the original. In 1954, one bridge washed out, was replaced and the abutment angles were changed. Since then, the stream has been eroding the north bank, continuing approximately 50 feet into the local cemetery, has washed out access to a major gravel pit, and has washed out the access road to a private landowners back acreage.

The bridge construction and resulting cutting of the new channel is thought to be the major cause of the erosion.