

MAINE STATE LEGISLATURE

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D. O. E. R.

L.D. 1954

STATE OF MAINE
SENATE
109TH LEGISLATURE
SECOND REGULAR SESSION

(Filing No. S-455)

COMMITTEE AMENDMENT " A " to S.P. 758, L.D. 1954, Resolve,
Authorizing Roland and Lelia Bracy of Portland to Bring a Civil
Action against the State of Maine on Behalf of Their Son, Erwin G.
Bracy.

Amend the ~~Resolve~~ by striking out all of the title and inserting
in its place the following: 'Resolve, Authorizing Ervin Grant
Bracy of Portland to Bring a Civil Action against the State of Maine.'

Further amend the Resolve by striking out everything after
the title and inserting in its place the following:

'Ervin Grant Bracy; authorized to sue the State of Maine.
Resolved: That Ervin Grant Bracy of Portland, County of Cumberland
and State of Maine, who suffered the loss of the tip of the ring
finger of his right hand while using an unguarded table saw in
the vocational shop at the Governor Baxter School for the Deaf at
Portland, Maine, is authorized to bring suit against the State of
Maine.

This action is to be brought in the Superior Court for the
County of Cumberland 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 the Superior Court. The liabilities
of the parties and elements of damages, if any, shall be the same
as liabilities and elements of damage as between individuals.
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 by the sheriff or his deputies in any county in 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 Superior Court, or, if applicable, the Supreme Judicial Court and costs may be taxed for Ervin Grant Bracy if he recovers in the action. His recovery shall not exceed \$50,000, including costs. Hearing thereon shall be before a justice of the Superior Court with or without jury; the justice to be the regularly scheduled justice presiding in the Cumberland County Superior Court when the matter is scheduled for trial.'

Statement of Fact

On or about September 14, 1976, Ervin G. Bracy, a student at the Governor Baxter School for the Deaf in Portland, was cutting wood with a table saw located in the school's vocational shop. The saw, unfortunately, did not have a guard over its cutting edge, even though safety requires it to have a guard. As a result of his use of this saw, Ervin cut off the end of the ring finger of his right hand. In addition to the suffering and disfigurement this incident caused, Ervin's parents were forced to incur hospital and other medical bills for the care of his hand.

This amendment to the resolve authorizes Ervin G. Bracy to bring suit for the damages and expenses caused by the negligence of the Baxter School for the Deaf when it permitted him to use an obviously unsafe table saw located in its vocational shop.

Reported by the Committee on Legal Affairs.

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