

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1954**

S. P. 758

In Senate, February 15, 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 Najarian of Cumberland.

Cosponsor: Senator Conley of Cumberland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

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**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.**

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**Roland and Lelia Bracy; authorized to sue the State of Maine on behalf of their son, Erwin Grant Bracy. Resolved:** That Erwin Grant Bracy of Portland, County of Cumberland and State of Maine, the minor son of Roland and Lelia 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, through his parents, Roland and Lelia Bracy, 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, of, if applicable, the Supreme Judicial Court and costs may be taxed for Erwin Grant Bracy if he recovers through his parents 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, Erwin 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, Erwin cut off the tip of the ring finger of his right hand. In addition to the suffering and disfigurement this incident caused, Erwin's parents were forced to incur hospital and other medical bills for the care of his hand.

This resolve authorizes his parents, Roland and Lelia Bracy, to bring suit on behalf of their minor son, Erwin G. Bracy, for the damages and expenses caused by the negligence of the Governor Baxter School for the Deaf when it permitted him to use an obviously unsafe table saw located in its vocational shop.