

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 420**

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S. P. 166

In Senate, January 26, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Perkins of Hancock.

Cosponsor: Representative Perkins of Brooksville.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**RESOLVE, Authorizing James J. McCaffrey to Bring a Civil Action Against the State of Maine.**

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**James J. McCaffrey; authorized to sue the State of Maine.**

RESOLVED: That James J. McCaffrey of Castine, County of Hancock and State of Maine, who incurred legal expenses and court costs allegedly as a consequence of erroneous instructions from the Secretary of State to independent candidates for public office in the 1976 election, is authorized to bring suit against the State of Maine, or in the alternative to assert such claim as he may have in an action now pending in the Superior Court for the County of Kennebec in which James J. McCaffrey is the named plaintiff and Markham L. Gartley, as Secretary of State, is the named defendant.

This action is to be brought, or the appropriate motion filed in a pending action, in the Superior Court for 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 in 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 damages 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 James J. McCaffrey if he recovers in the action. His recovery shall not exceed \$10,000, 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 Kennebec County Superior Court when the matter is scheduled for trial.

#### STATEMENT OF FACT

The purpose of this resolve is to authorize James J. McCaffrey to file suit against the State of Maine.