

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 1913

6 H. P. 1930 House of Representatives, February 2, 1982
7 Approved for introduction by the Legislative Council
pursuant to Joint Rule 26.

8 Referred to the Committee on Legal Affairs sent up for
concurrence and ordered printed.

9 EDWIN H. PERT, Clerk

Presented by Representative McPherson of Eliot.

10 STATE OF MAINE
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 **RESOLVE, Authorizing Ian M. Walker to Bring**
16 **Suit Against the State.**
17

18 **Ian M. Walker; authorized to sue the State of Maine.**
19 **Resolved:** That Ian M. Walker, owner and president of Spinney
20 Creek Oyster Company, Inc., be authorized to bring suit
21 against the State of Maine on behalf of that company. This
22 action shall be to recover damages, if any, resulting from
23 the failure of the Department of Marine Resources to follow
24 the prescribed Maine Administrative Procedure Act regarding
25 adjudicatory proceedings. This failure resulted in the loss
26 by that company of a duly granted aquaculture lease to raise
27 oysters in the York River, York, Maine.

28 This action, if authorized, is to be brought in the
29 Superior Court for the County of York within one year from
30 the passage of this resolve, against the State of Maine for
31 damages, if any, and the conduct of this action shall be ac-
32 cording to the practice of actions or proceedings between
33 parties in the Superior Court. The liabilities of the parties
34 and elements of damage, if any, shall be the same as
35 liabilities and elements of damage as between individuals.
36 In particular, the State waives, for both the State and its
37 employees, immunity for judicial and quasi-judicial acts and

1 discretionary functions or duties. The summons issuing out
2 of the Superior Court under the authority of this resolve
3 and the complaint shall be served on the Secretary of State
4 by attested copy by the sheriff or his deputies in any
5 county of the State. The Attorney General is authorized and
6 designated to appear, answer and defend this action.

7 Any judgment that may be recovered in this civil action
8 shall be payable from the State Treasury on file process
9 issued by the Superior Court, or, if applicable, the Supreme
10 Judicial Court and costs may be taxed for Ian M. Walker and
11 the Spinney Creek Oyster Company, Inc. if he recovers in the
12 action, and his recovery shall not exceed \$300,000, includ-
13 ing costs. Hearing thereon shall be before a justice, with
14 or without jury; the justice to be the regularly scheduled
15 justice presiding in the York County Superior Court when
16 this matter is scheduled for trial.

17 Statement of Fact

18 This resolve authorizes suit against the State to
19 recover damages allegedly caused by the State.