

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
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3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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5 Legislative Document

No. 144

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7 S.P. 51

In Senate, January 10, 1983

8 Reference to the Committee on Legal Affairs. Sent down for concurrence  
9 and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Violette of Aroostook.

Cosponsors: Representative Martin of Eagle Lake and Representative  
McHenry of Madawaska.

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12 STATE OF MAINE  
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14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
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17 RESOLVE, Authorizing Gerald Pelletier  
18 to Bring Civil Action Against the State of  
19 Maine.  
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21 Gerald Pelletier authorized to sue the State of  
22 Maine. Resolved: That Gerald Pelletier of Madawaska,  
23 County of Aroostook and State of Maine, who suffered  
24 permanent personal injuries while crossing a bridge  
25 maintained by the State, be authorized to bring suit  
26 against the State of Maine.

27 On July 25, 1980, Gerald Pelletier of 34 11th  
28 Avenue, Madawaska, Maine, was driving his automobile,  
29 a 1973 Oldsmobile Toronado, in a southerly direction  
30 over the International Bridge connecting Madawaska,  
31 Maine, and Edmundston, New Brunswick. When he was  
32 approximately 300 feet from the American end of the  
33 bridge, he met a pulp truck, owned and operated by  
34 Frederick F. Hafford of St. Francis, Maine, which was  
35 heading in a northerly direction. The truck was

1 loaded with pulp and on top of the load of pulp there  
2 was a spare tire affixed to the load by means of a  
3 chain. As the vehicles met, one of the bridge's  
4 horizontal girders struck the chain, snapped it and  
5 dislodged the spare tire which fell on the roof of  
6 Mr. Pelletier's automobile, right over the driver's  
7 seat. That portion of the roof buckled and col-  
8 lapsed, striking the driver, Gerald Pelletier, and  
9 breaking his neck. Both vehicles were moving at slow  
10 rates of speed. Frederick F. Hafford testified under  
11 oath that his load, including the spare tire, did not  
12 exceed the legal limit of 14 feet. The Madawaska  
13 town police investigated the accident, brought  
14 charges against Mr. Hafford, but subsequently dis-  
15 missed these charges because of lack of evidence that  
16 his load exceeded the legal height and was not se-  
17 curely fastened. Irwin Putnam testified under oath  
18 that he works for the State of Maine, Department of  
19 Transportation, and is in charge of the maintenance  
20 of bridges in Aroostook County, Division One. He  
21 said that approximately a year prior to July of 1980,  
22 he was informed that the beam in question had been  
23 struck by loaded trucks and lowered as a result  
24 thereof. He investigated and measured the distance  
25 from the floor of the bridge to the beam and found  
26 there was a clearance of 13 feet, 11 3/4 inches.  
27 Once he heard of the accident between Mr. Hafford and  
28 Mr. Pelletier, he returned to the bridge, once again  
29 took a measurement of the height from the floor of  
30 the bridge to the beam and found the height again to  
31 be 13 feet, 11 3/4 inches. The bridge had an offi-  
32 cial clearance of 14 feet, 2 inches and there was a  
33 sign at the American end of the bridge so stating.  
34 By statute, the State of Maine, Department of Trans-  
35 portation, is responsible for the maintenance of that  
36 end of the bridge.

37 Mr. Pelletier was attended to at the scene of the  
38 accident by Dr. Fred Harrigan, M.D., of Madawaska,  
39 Maine, and immediately taken to the Regional Hospital  
40 in Edmundston, New Brunswick. On September 28, 1980,  
41 he was transferred from that hospital to the Maine  
42 Medical Center, Portland, Maine, from which he was  
43 discharged on December 19th. As a result of his  
44 injuries, he has lost the use of his legs, arms and  
45 fingers and seriously impaired and compromised other  
46 bodily functions. These functional losses are perma-  
47 nent in nature.

1 Mr. Pelletier contends that the State of Maine  
2 was negligent in regard to the maintenance of the  
3 bridge. The maintenance of bridges is not one of the  
4 exceptions to the state's general immunity provided  
5 for by the Maine Tort Claims Act. Mr. Pelletier  
6 seeks the Legislature's permission and authority to  
7 bring suit against the State in the Superior Court  
8 for a determination of whether or not the State is  
9 liable to him for the damages flowing from its  
10 alleged negligence.

11 Gerald Pelletier was born on June 21, 1945. For  
12 the last 12 to 14 years he has been working at Fraser  
13 Paper Ltd., in Madawaska, Maine. Until his accident,  
14 he was working as a papermaker, earning approximately  
15 \$22,000 per year.

16 This action, if authorized, is to be brought in  
17 the Superior Court for the County of Aroostook within  
18 one year from the passage of this resolve, against  
19 the State of Maine for damages, if any, and the con-  
20 duct of this action shall be according to the prac-  
21 tice of actions or proceedings between parties in the  
22 Superior Court. The liabilities of the parties and  
23 elements of damage, if any, shall be the same as lia-  
24 bilities and elements of damage as between individu-  
25 als. The complaint issuing out of the Superior Court  
26 under the authority of this resolve shall be served  
27 on the Secretary of State by attested copy by the  
28 sheriff or his deputies in any county of the State.  
29 The Attorney General is authorized and designated to  
30 appear, answer and defend this action.

31 Any judgment that may be recovered in this civil  
32 action shall be payable from the State Treasury on  
33 file process issued by the Superior Court, or, if  
34 applicable, the Supreme Judicial Court and costs may  
35 be taxed for Gerald Pelletier if he recovers in the  
36 action, and his recovery shall not exceed \$3,000,000,  
37 including costs. Hearing thereon shall be before a  
38 justice, with or without jury; the justice to be the  
39 regularly scheduled justice presiding in the  
40 Aroostook County Superior Court when this matter is  
41 scheduled for trial.

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STATEMENT OF FACT

The purpose of this resolve is to authorize  
Gerald Pelletier to bring civil action against the  
State of Maine.

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