

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 500

6
7 H.P. 417

House of Representatives, February 1, 1983

8 Received by the Clerk of the House on February 1, 1983. Referred to the
9 Committee on Legal Affairs, and ordered printed pursuant to Joint Rule 14.

10 EDWIN H. PERT, Clerk

Presented by Speaker Martin of Eagle Lake.

Cosponsors: Representative McHenry of Madawaska and Senator Violette
of Aroostook.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 RESOLVE, Authorizing Gerald Pelletier to
18 Bring Civil Action Against the State of Maine.
19

20 Gerald Pelletier; authorized to sue the State of
21 Maine. Resolved: That Gerald Pelletier of Madawaska,
22 County of Aroostook and State of Maine, who suffered
23 permanent personal injuries while crossing a bridge
24 maintained by the State, be authorized to bring suit
25 against the State of Maine.

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

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

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

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

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