

# MAINE STATE LEGISLATURE

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1 (After Deadline)  
2 FIRST REGULAR SESSION  
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4 ONE HUNDRED AND TWELFTH LEGISLATURE  
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6 Legislative Document

No. 1467

8 S.P. 550

In Senate, May 6, 1985

9 Approved for introduction by a majority of the Legislative Council  
10 pursuant to Joint Rule 27.

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

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Bustin of Kennebec.

12 Cosponsored by Representative Hickey of Augusta.

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13 STATE OF MAINE  
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15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FIVE  
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18 **Resolve, Authorizing Colwell Construction**  
19 **Company, Incorporated, to Bring a Civil**  
20 **Action Against the State of Maine.**  
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22 Colwell Construction Company, Incorporated; right  
23 to bring a civil action. Resolved: That Colwell  
24 Construction Company, Incorporated, which has fur-  
25 nished labor, materials, equipment and construction  
26 services to the State through the Military Bureau,  
27 Maine National Guard, with respect to repair of fire  
28 damage at the Pine Tree Inn, Building 346, Bangor In-  
29 ternational Airport, Bangor, Maine, all work being  
30 done pursuant to a letter of intent issued by the  
31 Military Bureau dated April 20, 1982, is authorized  
32 to initiate a complaint in the Superior Court, County  
33 of Kennebec, State of Maine, within one year from the  
34 effective date of this resolve, against the State for  
35 damages, if any, sustained by Colwell Construction  
36 Company, Incorporated, as a result of the State's re-  
37 fusal to pay for the work performed by Colwell Con-  
38 struction Company, Incorporated, and for the reason-

1 able value of the work performed on the project; and  
2 Colwell Construction Company, Incorporated, is autho-  
3 rized to assert any and all causes of action against  
4 the State arising out of that construction project;  
5 and be it further

6       **Resolved:** That any complaint and summons issuing  
7 out of the Superior Court under the authority of this  
8 resolve shall be served on the Secretary of State by  
9 the sheriff of Kennebec County or any of his depu-  
10 ties. The conduct of the action shall be according  
11 to the practice of actions and proceedings between  
12 parties in the Superior Court. The liabilities of  
13 the parties and elements of damage, if any, shall be  
14 the same as the liabilities and elements of damages  
15 between individuals. The Attorney General, or one of  
16 his assistants, is authorized and designated to ap-  
17 pear, answer and defend the action; and be it further

18       **Resolved:** That if the action is brought within  
19 one year from the effective date of this resolve, the  
20 Attorney General, on behalf of the State, shall not  
21 raise any defense based upon the immunity of the  
22 State or based on any claim that Colwell Construction  
23 Company, Incorporated, or the State or any of its  
24 agencies failed to comply with the Maine Revised  
25 Statutes, Title 5, nor shall the Attorney General, on  
26 behalf of the State, raise a defense based on a claim  
27 that Colwell Construction Company, Incorporated, is  
28 legally barred from recovering the reasonable value  
29 of the work performed and the benefit conferred upon  
30 the State; and be it further

31       **Resolved:** That any judgment that may be recov-  
32 ered in this civil action shall be payable from the  
33 State Treasury on final process issued by the Superi-  
34 or Court or, if applicable, the Supreme Judicial  
35 Court, and interests and costs may be taxed for  
36 Colwell Construction Company, Incorporated, if it re-  
37 covers in the action. The recovery shall not exceed  
38 \$300,000, including interest and costs. Hearing  
39 thereon shall be before a Justice of the Superior  
40 Court with or without jury; the justice to be the  
41 regularly scheduled justice presiding in the Superior  
42 Court, Kennebec County, when the matter is scheduled  
43 for trial.

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STATEMENT OF FACT

2 Pursuant to a letter of intent, Colwell Construc-  
3 tion Company, Incorporated, performed construction  
4 work for the Military Bureau. The work included re-  
5 habilitation of the Pine Tree Inn which was damaged  
6 by fire. The Pine Tree Inn is owned by the State.  
7 Colwell Construction Company, Incorporated, has in-  
8 curred substantial costs associated with this  
9 project, but the State has offered to pay only a  
10 small portion of this total. The purpose of this re-  
11 solve is to allow Colwell Construction Company, In-  
12 corporated, to bring a civil suit against the State  
13 to recover its damages with respect to the work per-  
14 formed and to recover the reasonable value of work  
15 performed for the State.

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