

MAINE STATE LEGISLATURE

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(After Deadline)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1136

H.P. 845 House of Representatives, April 7, 1987
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Legal Affairs suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative HANDY of Lewiston.

Cosponsored by Senators BERUBE of Androscoggin, GAUVREAU
of Androscoggin and Representative POULIOT of Lewiston.

STATE OF MAINE

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

1 Resolve, to Permit Jacqueline A. Caron,
2 Personal Representative of the Estate
3 of Alphee Caron, to Sue the State for
4 Wrongful Death and for Personal
5 Injuries on Behalf of Herself and Her
6 Minor Child, Jeffrey Caron, in Excess
7 of Statutory Limits of Recovery.
8

9 Jacqueline A. Caron, individually and as personal
10 representative of the estate of Alphee Caron; autho-
11 rized to sue the State in excess of the statutory
12 limits of recovery imposed by the Maine Revised Stat-
13 utes, Title 14, section 8105. Resolved: That, not-
14 withstanding any law to the contrary, Jacqueline A.
15 Caron, individually and as personal representative of
16 the estate of Alphee Caron, is authorized to bring

1 suit against the State and its employees for personal
2 injuries and wrongful death in an amount to exceed
3 any statutory limits of recovery.

4 Alphee Caron died on the afternoon of July 10,
5 1986, at approximately 3:45 p.m. Mr. Caron, accompa-
6 nied by Mrs. Caron and their son, was driving
7 southbound on Route 135 near the intersection of West
8 Road in Belgrade. A Department of Transportation dump
9 truck, driven by a state employee, was at that time
10 heading in the opposite direction. The Department of
11 Transportation truck carried an unsecured and excess
12 load of sand and rock. As the truck rounded the
13 curb, a heavy rock fell off the back of the truck and
14 bounced off the roadway and up and through the wind-
15 shield of the automobile being driven by Mr. Caron.
16 The rock struck Mr. Caron in the head and then passed
17 through the rear window. Mr. Caron was killed as a
18 result of this accident. Jacqueline A. Caron and
19 Jeffrey Caron witnessed Mr. Caron's gruesome and
20 tragic death and have suffered severe emotional dis-
21 tress as a result. Both Jacqueline Caron and Jeffrey
22 Caron sustained physical injuries as well.

23 Jacqueline A. Caron is Alphee Caron's widow and
24 the personal representative of his estate. They were
25 married for 15 years. She is also the mother of
26 Jeffrey Caron and Tina Marie Caron, ages 12 years and
27 14 years, respectively. She alleges that the negli-
28 gence of the State and its employees was the prox-
29 imate cause of her husband's death and the personal
30 injuries sustained by her and her son.

31 This action is to be brought in the Superior
32 Court for Androscoggin County, within one year from
33 the passage of this resolve, against the State for
34 damages, if any, and the context of this action shall
35 be according to the practice of actions or proceed-
36 ings between parties in the Superior Court. The lia-
37 bilities of the parties and elements of damage, if
38 any, shall be the same as liabilities and elements of
39 damage between individuals. The complaint issuing out
40 of the Superior Court under the authority of this re-
41 solve shall be served on the Secretary of State by
42 attested copy by the sheriff or his deputies in any
43 county of the State. The Attorney General is autho-
44 rized and designated to appear, answer and defend

1 this action and none of the statutory limits of re-
2 recovery existing pursuant to the provisions in the
3 Maine Tort Claims Act, the Maine Revised Statutes,
4 Title 14, chapter 741, shall apply. The Attorney Gen-
5 eral or his designee is further authorized to enter
6 into a compromised settlement, if agreed to by the
7 parties, which shall be binding on the State.

8 Any judgment that may be recovered in this civil
9 action shall be payable from the State Treasury on
10 final process issued by the Superior Court or, if ap-
11 plicable, the Supreme Judicial Court, and costs may
12 be taxed for Jacqueline A. Caron, individually and as
13 personal representative of the estate of Alphee
14 Caron, if she recovers in the action. Her recovery on
15 behalf of all parties shall not exceed \$1,000,000,
16 including costs. A hearing shall be before a justice
17 of the Superior Court, with or without jury. The jus-
18 tice shall be the regularly scheduled justice presid-
19 ing in the Androscoggin County Superior Court when
20 this matter is scheduled for trial.

21

STATEMENT OF FACT

22 Alphee Caron died on July 10, 1986, while he was
23 operating an automobile southbound on Route 135 near
24 the intersection of West Road in Belgrade. A Depart-
25 ment of Transportation dump truck, driven by a state
26 employee, was heading in the opposite direction. That
27 truck carried an unsecured and excess load of sand
28 and rocks. As the truck rounded the curb, a heavy
29 rock fell off the back and bounced off the roadway
30 and then went through the windshield of the Caron au-
31 tomobile on the driver's side. The rock struck Mr.
32 Caron in the head and then passed through the rear
33 window. Mr. Caron was killed as a result of this in-
34 cident. Jacqueline A. Caron and minor child, Jeffrey
35 Caron, were passengers in the automobile at that time
36 and witnessed Mr. Caron's tragic death. The driver of
37 the state vehicle has since pleaded guilty in
38 Waterville District Court to the civil violation of
39 operating with an unsecured load on October 3, 1986.

40 Jacqueline A. Caron is Alphee Caron's widow and
41 personal representative of his estate. She alleges

1 that the negligence of the State and its employees
2 was the proximate cause of her husband's death, as
3 well as the extraordinary emotional injuries sus-
4 tained by her and her minor child, Jeffrey, as a re-
5 sult of witnessing Mr. Caron's death. Jacqueline A.
6 Caron is, as a result of a prior injury, disabled and
7 unable to work. She has been left alone to raise both
8 children.

9 Mr. Caron was 36 years of age at the time of his
10 death. He was employed by Wade and Searway and was
11 earning approximately \$30,000 a year.

12 This resolve is being introduced because the
13 statutory limits for recovery imposed by the Maine
14 Tort Claims Act, \$300,000 per incident, are inade-
15 quate to compensate Jacqueline A. Caron for the
16 wrongful death of her husband, Alphee, and to compen-
17 sate Jacqueline herself and Jeffrey Caron, individu-
18 ally, because of the personal injuries they sus-
19 tained. The State is otherwise properly subject to
20 suit based upon the express exception to immunity
21 contemplated by the Maine Revised Statutes, Title 14,
22 section 8104, subsection 1, paragraph A.

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