

# MAINE STATE LEGISLATURE

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L.D. 2250

(Filing No. S- 377)

STATE OF MAINE  
SENATE  
113TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 862, L.D. 2250,  
"RESOLVE, Authorizing Kenneth and Janice Demuth to  
Bring Civil Action Against the State."

Amend the Resolve by striking out all of the title  
and inserting in its place the following:

'RESOLVE, to Compensate Kenneth and Janice Demuth.'

Further amend the Resolve by striking out  
everything after the title and inserting in its place  
the following:

'Kenneth and Janice Demuth; compensated by the  
State. Resolved: That the Governor of the State of  
Maine is authorized and directed, upon receipt of  
necessary releases, to pay to Kenneth and Janice  
Demuth the sum of \$125,000 from funds to be  
appropriated by the Maine State Legislature as  
compensation for the injury sustained by Kenneth  
Demuth on May 13, 1986. Total compensation authorized  
by this resolve is \$125,000 which is in full  
satisfaction of any and all claims by Kenneth and  
Janice Demuth against the State and its employees for  
the injury which Kenneth Demuth sustained on May 13,  
1986; and be it further

Appropriation. Resolved: That the following  
funds are appropriated from the General Fund to carry

1 out the purposes of this resolve.

2 1988-89

3 FINANCE, DEPARTMENT OF

4 Miscellaneous Acts and Resolves

5 All Other \$125,000

6 These funds represent  
7 full satisfaction of  
8 any and all claims  
9 against the State by  
10 Kenneth and Janice  
11 Demuth.'

12 STATEMENT OF FACT

13 On May 13, 1986, Kenneth Demuth volunteered to  
14 assist 3 State Police officers who were trying to  
15 persuade Ken Mitchell, an individual who had been  
16 firing live ammunition at passersby the day before and  
17 who on the morning of May 13, 1986, was standing in  
18 his house with a rifle, to surrender. As Mr. Demuth  
19 attempted to talk to Mr. Mitchell, he was shot in the  
20 face by Mr. Mitchell at approximately 10:00 a.m.  
21 Kenneth and Janice Demuth allege that the negligence  
22 of the State and its employees in failing to take  
23 appropriate steps to protect Mr. Demuth was the  
24 proximate cause of Kenneth Demuth's injuries and the  
25 resulting injury to Janice Demuth.

26 The Demuths are authorized by law to bring an  
27 action against the state employees involved; recovery  
28 against the individual state employees for their  
29 alleged negligence, however, is limited to \$10,000  
30 each. Because of the unique circumstances of this  
31 case and because the State Police accepted the  
32 assistance Kenneth Demuth volunteered to render, the  
33 Legislature feels that the State has a moral  
34 obligation to compensate Kenneth and Janice Demuth  
35 directly for their injuries. It is in the best  
36 interest of the State and the Demuths to avoid

COMMITTEE AMENDMENT " A " to S.P. 862, L.D. 2250

1 expensive and protracted litigation in this matter.  
2 Settlement of \$125,000 is fair and reasonable, given  
3 the extent of Mr. Demuth's injuries, namely, the total  
4 loss of an eye and his psychological damage and given  
5 the potential liability exposure of state employees  
6 and the State if a bill to authorize waiver of  
7 sovereign immunity were passed. Accordingly, this  
8 amendment authorizes and directs, upon receipt of  
9 necessary releases, the Governor to pay the Demuths a  
10 sum of \$125,000. The payment authorized by this  
11 amendment is in full satisfaction of any claims which  
12 Kenneth and Janet Demuth may have against the State of  
13 Maine and its employees for the injuries sustained by  
14 Mr. Demuth on May 13, 1986. The Demuths will assume  
15 payment of all their legal costs.

16 This amendment also appropriates the funds to pay  
17 for the settlement.

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Reported by Senator Estes for the Committee on Legal  
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(3/31/88)

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