

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2406

H.P. 1757 House of Representatives, March 2, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Legal Affairs suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative MICHAUD of East Millinocket.
Cosponsored by President PRAY of Penobscot and
Representative CLARK of Millinocket.

STATE OF MAINE

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

1 RESOLVE, to Permit Christie L. Hayes and
2 Richard E. Shorey, Jr. to Sue the State
3 for Compensation for Personal Injuries
4 Resulting from Negligence on the Part of the
5 Department of Transportation.
6

7 Christie L. Hayes; authorized to sue the
8 State. Resolved: That, notwithstanding any law to
9 the contrary, Christie L. Hayes is authorized to bring
10 suit against the State and its employees for personal

1 injuries arising from a motor vehicle accident caused
2 by the negligence of the Department of Transportation.

3 As a result of the alleged negligence, Christie L.
4 Hayes suffered extensive injuries including altered
5 consciousness, orbital fracture, basilar skull
6 fracture and intracerebral hemorrhages involving the
7 left temporal lobe and pneumocephalus. Christie L.
8 Hayes' recovery was complicated by her developing
9 hemophilus meningitis, hyponatremia and phlebitis.
10 Before Christie L. Hayes is able to proceed with
11 furthering her education, she needs to undergo a full
12 psychometric battery in order to assess her memory,
13 cognition and any personality changes.

14 This action is to be brought in the Superior Court
15 for Penobscot County, within one year from the passage
16 of this resolve, against the State for damages, if
17 any, and the context of this action shall be according
18 to the practice of actions or proceedings between the
19 parties and the Superior Court. The liabilities of
20 the parties and elements of damage, if any, shall be
21 the same as liabilities and elements of damage between
22 individuals. The complaint issuing out of the
23 Superior Court under the authority of this resolve
24 shall be served on the Secretary of State by attested
25 copy by the sheriff or the sheriff's deputies in any
26 county of the State. The Attorney General is
27 authorized and designated to appear, answer and defend
28 this action and none of the statutory limits of
29 recovery existing pursuant to the provisions in the
30 Maine Tort Claims Act, the Maine Revised Statutes,
31 Title 14, chapter 741, shall apply. The Attorney
32 General or the Attorney General's designee is further
33 authorized to enter into a compromised settlement, if
34 agreed to by the parties, which shall be binding on
35 the State.

36 Any judgment that may be recovered in this civil
37 action shall be payable from the State Treasury on
38 final process issued by the Superior Court or, if
39 applicable, the Supreme Judicial Court, and costs may
40 be taxed for Christie L. Hayes, if she recovers in the
41 action. Christie L. Hayes' recovery shall not exceed
42 \$500,000, including costs. A hearing shall be before
43 a Justice of the Superior Court, with or without jury.

1 The justice shall be the regularly scheduled justice
2 presiding in the Penobscot County Superior Court when
3 this matter is scheduled for trial; and be it further

4 Richard E. Shorey, Jr.; authorized to sue the
5 State. Resolved: That, notwithstanding any law to
6 the contrary, Richard E. Shorey, Jr. is authorized to
7 bring suit against the State and its employees for
8 personal injuries arising from a motor vehicle
9 accident caused by the negligence of the Department of
10 Transportation.

11 As a result of the alleged negligence, Richard E.
12 Shorey, Jr. suffered extensive injuries, including a
13 broken left pelvis, collapsed lung and permanent
14 scarring on the left side of his face.

15 This action is to be brought in the Superior Court
16 for Penobscot County, within one year from the passage
17 of this resolve, against the State for damages, if
18 any, and the context of this action shall be according
19 to the practice of actions or proceedings between
20 parties and the Superior Court. The liabilities of
21 the parties and elements of damage, if any, shall be
22 the same as liabilities and elements of damage between
23 individuals. The complaint issuing out of the
24 Superior Court under the authority of this resolve
25 shall be served on the Secretary of State by attested
26 copy by the sheriff or the sheriff's deputies in any
27 county of the State. The Attorney General is
28 authorized and designated to appear, answer and defend
29 this action and none of the statutory limits of
30 recovery existing pursuant to the provisions of the
31 Maine Tort Claims Act, the Maine Revised Statutes,
32 Title 14, chapter 741, shall apply. The Attorney
33 General or the Attorney General's designee is further
34 authorized to enter into a compromised settlement, if
35 agreed to by the parties, which shall be binding on
36 the State.

37 Any judgment that may be recovered in this civil
38 action shall be payable from the State Treasury on
39 final process issued by the Superior Court or, if
40 applicable, the Supreme Judicial Court, and costs may
41 be taxed for Richard E. Shorey, Jr. if he recovers in
42 the action. Richard E. Shorey, Jr.'s recovery shall

1 not exceed \$500,000, including costs. A hearing shall
2 be before a Justice of the Superior Court, with or
3 without jury. The justice shall be the regularly
4 scheduled justice presiding in the Penobscot County
5 Superior Court when this matter is scheduled for trial.

6 STATEMENT OF FACT

7 On February 27, 1987, at approximately 7 p.m.,
8 Richard E. Shorey, Jr. was operating his 1980 Pontiac
9 automobile in an easterly direction on State Highway
10 157 between Millinocket and East Millinocket, Maine.
11 At this time, Christie L. Hayes was riding in the
12 front seat of Richard E. Shorey, Jr.'s vehicle on the
13 passenger side. Proceeding in a westerly direction,
14 along the same stretch of highway, was Russell E.
15 Linscott, in his 1977 Chevrolet pickup truck. Just as
16 Mr. Linscott's vehicle approached Mr. Shorey's, the
17 former's pickup truck suddenly veered into Mr.
18 Shorey's lane of travel and struck the latter's
19 automobile almost head-on. Both Mr. Shorey and Miss
20 Hayes were severely injured in the resulting accident.

21 The section of the roadway upon which the accident
22 occurred has long been known to be extremely
23 dangerous, especially under winter driving
24 conditions. During the period from late winter until
25 early spring, the snow on and along side of the
26 highway melts during the day and gathers in a
27 depression in the westbound lane at the spot where Mr.
28 Linscott's vehicle veered into Mr. Shorey's lane of
29 travel. When the temperature begins to drop late in
30 the day, the water freezes and leaves an extremely
31 slippery patch of ice on the road surface. This
32 condition has been in existence since the stretch of
33 roadway in question was rebuilt by the Department of
34 Transportation in approximately 1957.

35 As a result of the accident, Christie L. Hayes
36 suffered extensive personal injuries and incurred
37 medical expenses of approximately \$200,000. Future
38 medical expenses are expected to be in excess of

1 \$150,000.

2 As a result of the accident Richard E. Shorey, Jr.
3 suffered extensive personal injuries and incurred
4 medical expenses of approximately \$24,000 and lost
5 wages in excess of \$5,000. Future medical expenses
6 are expected to be approximately \$10,000.

7 This resolve is being introduced because the Maine
8 Tort Claims Act, the Maine Revised Statutes, Title 14,
9 chapter 741, provides immunity from suit for the State
10 for "any defect, lack of repair or lack of sufficient
11 railing in any highway" and the statutory limits for
12 recovery imposed by the Maine Tort Claims Act,
13 \$300,000 per incident, are inadequate to compensate
14 Christie L. Hayes and Richard E. Shorey, Jr. for the
15 personal injuries they sustained.

16

4355021188