

MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

HOUSE NO. 489

House of Representatives, Mar. 6, 1917.

Printed under joint rules.

W. R. ROIX, Clerk.

Presented by Mr. Burbank of Chelsea.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVENTEEN

RESOLVE, in favor of Ida E. Heath of Chelsea, Maine.

Resolved: That there be, and hereby is, appropriated, to be
2 paid to Ida E. Heath of Chelsea, Maine, widow of Orrin E.
3 Heath of Chelsea, deceased, the sum of One Thousand
4 Dollars (\$1,000) five hundred dollars payable in the year
5 1917 and five hundred dollars payable in the year 1918 as
6 compensation for the death of her husband, killed Nov. 8th,
7 1916, while working on State aid road in the Town of Chel-
8 sea.

STATEMENT OF FACTS.

Orrin E. Heath of Chelsea was employed during the fall of 1916, assisting in the construction of a section of State aid road being built in the Town of Chelsea. The work was done under the direction of a foreman who was a resident of Chelsea, recommended either by the Road Commissioner of Chelsea, or by some of the town officials, and appointed foreman by the State Highway Department.

On the morning of Nov. 8th, 1916, the foreman and another employee went to the top of the gravel bank in which Heath was then working, to remove a section of fence. In doing so, he dislodged a large stone which struck Heath on the head about 9.30 in the morning, and as a result, Heath died at five o'clock that afternoon.

Mr. Heath was then a man in full strength and vigor, industrious and of temperate habits. He left a widow, Ide E. Heath, and one son who is married and lives with the widow. Heath left practically no estate. The widow, a woman about 49 years old is not in very good health. The son has all he can do to care for his own family.

There is no method open for the widow to recover compensation, except by this petition to the State. The recent case of Ernest E. Graffam vs. the Town of Poland establishes this contention. The rescript in this case has been received by the Clerk of Courts, but it has not yet been printed in the advance sheets. The circumstances in that case were exactly the same as Mr. Heath's, except that in the one case, Graffam was severely injured, and in the other, Heath was killed. The court ruled the town was not liable, as the work was not town work, but under the supervision of the State Highway Department. In other words, the State was the employer. The Attorney General has ruled that the State need not carry Workmen's Compensation Insurance, and there was no insurance to protect these men employed on the Chelsea work. Assuming a suit would determine the liability of the foreman, which is by no means sure, any

judgment would be unenforcable, as the foreman has no property. The widow therefore, has no remedy by legal action and has no other recourse, except to make application to the State for proper compensation.

The amount of compensation asked is the amount of compensation which a jury may assess, but not exceed, as provided in Chapter 89, Section 9 and 10 of the Revised Statutes, for the benefit of the widow of a person whose death results from the wrongful act, neglect or default of another. It seemed fair to use this sum as a basis for presentation of this claim.