

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

House Document

No. 272

H. P. 846. House of Representatives, Feb. 6, 1929.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Perham of West Paris.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE

RESOLVE, Authorizing Ralph Williams, Michael J. Williams
and Frank Sorrenti to Bring a Suit at Law or in Equity
Against the State of Maine.

Resolved: That Ralph Williams of Revere, Massachusetts,
2 Frank Sorrenti of Boston, Massachusetts, and Michael Wil-
3 liams of Revere, Massachusetts, or the survivor or sur-
4 vivors of them, as individuals or as members of the co-
5 partnership known under the style of Williams & Sorrenti,
6 who were the contractors and builders of a certain portion
7 of state highway leading from the New Hampshire line
8 southerly in the county of Oxford and state of Maine,

9 claiming that said partnership has not been fully and equit-
10 ably compensated for labor, materials, expenditures and
11 services rendered in the construction of said highway, are
12 hereby authorized to bring a suit at law or a bill in equity,
13 or both, in the supreme judicial court, within one year from
14 the first day of August, nineteen hundred twenty-nine, at
15 any term or rule day of said court for the county of Ken-
16 nebec or the county of Oxford, against the state of Maine;
17 and the writ or subpoena issuing out of said supreme judi-
18 cial court under the authority of this resolve shall be served
19 on the secretary of state, by attested copy, at least thirty
20 days before the return day thereof, by the sheriff or either
21 of his deputies of any county of the state of Maine; and
22 the conduct of said suit or proceeding in equity shall be
23 according to the practice of suits and proceedings between
24 parties and suitors in said supreme judicial court except as
25 otherwise provided in this resolve; and the attorney general
26 is hereby authorized and designated to appear in answer
27 to said suit or proceeding in equity. The evidence shall be
28 taken out before a single justice of the supreme judicial
29 court in term time or vacation and the case reported to
30 the law court for final determination, and the liabilities of
31 the parties shall be the same as the liabilities between indi-
32 viduals under the principles of the common law or the
33 principles of equity; and to such amount as may be found
34 due, the law court may add such sum as interest as is just
35 and fair between the parties and the state of Maine, and

36 costs may be taxed for the said plaintiffs, in case of a re-
37 covery by them, the same as in any proceeding in law or
38 in equity. And any judgment that may be recovered in
39 such suit in law or proceeding in equity shall be payable
40 from the treasury of the state of Maine on final process
41 issued by said supreme judicial court, out of any money
42 not otherwise appropriated.

STATEMENT OF FACTS

In the years 1925-1927 the firm of Williams & Sorrenti were engaged under contract with the state of Maine, in the construction of a section of state highway leading from the Maine-New Hampshire line southerly in the Androscoggin valley through Oxford county.

Difficulties, unexpected by the contractors and state engineers alike, arose in the construction, and changes were necessitated in the grades; supply of gravel and sources thereof were subjected to alteration in order to promote the interests of the state, and controversies arose over those matters and others, that have not been susceptible of adjustment within the scope of the powers of the highway department. The contractors produced a good piece of construction for the state, and made a loss of over thirty thousand dollars, well-nigh bankrupting some members of the firm who have had an honorable record in connection with other construction work in the state of Maine. A part of this loss at least is of such a character as should in equity and good conscience be reimbursed to the contractors, but it is difficult to determine that amount either in a legislative hearing, or by negotiations with the highway department, and so, instead of asking for an appropriation at the hands of this legislature, the petitioners request for permission and authority to bring proceedings to have the law court of Maine determine what sum, by equity and good conscience, is due the said contractors.

It is not the purpose of this resolve to provide for the recovery of any profits in the said contract, but merely to provide reimbursement if it can be proved to the court what amount of reimbursement is just, proper and legal.