

MAINE STATE LEGISLATURE

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N I N E T Y - S E V E N T H L E G I S L A T U R E

Legislative Document

No. 656

H. P. 600

House of Representatives, February 10, 1955

Referred to the Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Shaw of Bingham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

RESOLVE, Authorizing Alfred Howard, Sr. and Ethel M. Howard of Moscow to Sue the State of Maine.

Alfred Howard, Sr., and Ethel M. Howard given right to sue State. Resolved: That Alfred Howard, Sr. and Ethel M. Howard, of Moscow, in the county of Somerset, State of Maine, who suffered, on the 19th day of November, 1952, serious personal injuries while in an automobile being operated on a Maine highway, to wit, on a road leading onto the state highway in Moscow in said county and State, due, as they claim, to the failure of the State to properly warn travelers on the highway after the State had obstructed the highway, be, and hereby are, authorized to bring a suit at law in the Superior Court for the county of Somerset within 1 year from the 1st day of August, 1955, at any term thereof, against the State of Maine, and the writ issuing out of said Superior Court under the authority of this resolve shall be served on the Secretary of State by attested copy 30 days before the return day thereof by the sheriff or either of his deputies of any county of the State of Maine, and the conduct of said suit shall be according to the practice of suits and proceedings between parties and suitors in said Superior Court and the liabilities of the parties shall be the same as the liabilities between individuals; and the Attorney General is hereby authorized and designated to appear and to answer to said suit to recover the damages sustained by the said Alfred Howard, Sr., and Ethel M. Howard by the reason of injuries aforesaid, and any judgment that may be recovered in such suit of law shall be payable from the general highway fund of the State of Maine on final process issued by said court in said suit at law, and costs may be taxed for the said Alfred Howard, Sr. and Ethel M. Howard, if they recover in said suit. Hearing thereon shall be before 3 Justices of the Superior Court, without a jury; said justices to be assigned by the Chief Justice of the Supreme Judicial Court.

STATEMENT OF FACTS

For some time prior to November 19, 1952, the Howard family, along with several other families, had been using an entrance onto the state highway in Moscow, Maine, to get from their homes to the highway. The Howards claimed a right of way; it would seem that the town was connected in some way. On the morning of November 19, 1952. Mrs. Howard and her husband drove from their home headed toward the highway, intending to use the entrance as usual. There is a slight incline just before the highway is reached. As the Howard car tipped over the top of the incline, directly in front of them were several large holes in the ground which they could not have seen. It seemed the highway department was preparing to put up posts and large rocks in order to block the entrance. There were no warning signs at all. The State, by its employees, wrongfully obstructed the road, gave no warning at all, and Mrs. Howard was injured.