

# 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

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**Legislative Document**

**No. 1455**

S. P. 527

In Senate, April 8, 1955

Reference Reconsidered. Referred to the Committee on Judiciary, sent down for concurrence and ordered printed.

CHESTER T. WINSOW, Secretary

Presented by Senator Chapman of Cumberland.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-FIVE

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**RESOLVE, Authorizing Kenneth H. Boyington and Ernestine Y. Boyington of South Portland to Sue the State of Maine.**

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**Kenneth H. Boyington and Ernestine Y. Boyington right to sue state. Resolved:** That Kenneth H. Boyington and his wife, Ernestine Y. Boyington of South Portland, in the county of Cumberland, State of Maine, who suffered on the 3rd of October, 1954, serious personal injuries while operating their automobile in the city of South Portland at the intersection of Main Street and Lincoln Street in said city, due, as they claim, to the negligence of the State of Maine and its failure to use reasonable care to prevent the escape of two boys from the State School for Boys at South Portland, who did appropriate an automobile and while operating the same did, as they claim, negligently run into their automobile at the intersection aforesaid, be and hereby are authorized to bring a suit at law in the Superior Court of the county of Cumberland within one year from the 1st day of August, 1955, at any term thereof against the State of Maine, 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 to answer to said suit to recover the damages sustained by said Kenneth H. Boyington and Ernestine Y. Boyington by reason of the injuries aforesaid and any judgment that may be recovered in such suit at law shall be made payable from the institutional emergency fund of the State of Maine on final process issued by said court in said suit at law, and the costs may be taxed

for the said Kenneth H. Boyington and Ernestine Y. Boyington if they recover in said suit. Any recovery in said suit shall not be in excess of \$25,000. 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; and be it further

**Resolved:** That it is the sole intent of the Legislature to authorize the bringing of the suit and that the passage of this resolve shall not in any way be construed as a finding in respect to facts or liability, and such matters as well as the matter of damages, if any, shall be determined by the tribunal above described.