

MAINE STATE LEGISLATURE

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SEVENTY-NINTH LEGISLATURE

SENATE

NO. 136

In Senate, Feb. 28, 1919.

Reported by Mr. Clement from Committee on Claims and
laid on table to be printed under joint rules.

P. F. CRANE, Secretary.

Presented by Mr. Chick of Kennebec.

STATE OF MAINE

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

RESOLVE, in favor of Morrison Libby.

Resolved: That the sum of \$450 be and hereby is ap-
2 propriated for, and that said sum be paid to Morrison Libby
3 of Oakland, Maine, to reimburse him for counsel fees paid
4 by him for legal services in defending his title to office as
5 county commissioner for Kennebec county after the 1914
6 election, said litigation arising from an error on the part of
7 officials in printing and distributing the ballots for said
8 election without any fault on his part or that of the voters at
9 said election.

STATEMENT OF FACTS.

Accompanying Resolve in Favor of Morrison Libby.

One Arthur W. Leonard who had been duly nominated for the office of county commissioner and whose name had been printed on the official ballot died on the 13th day of September, 1914. This was Sunday and the election occurred Sept. 14. Morrison Libby was duly nominated to fill the vacancy and as the time was too short to permit the printing of new ballots, slips were printed under the direction of the secretary of state "and were pasted upon the ballots by the proper election officers before they were delivered to the voters." So carelessly, however, that some of these slips pasted that in a number of instances they did not cover the name of the deceased candidate and in a number of instances they covered the designation of office and in still more instances they extended over the line and covered a portion of the name of the rival candidate. Mr. Libby was given his certificate of election but a petition was brought by Howard Crosby, the opposing candidate, claiming that these ballots were defective and that, therefore, he was elected. This petition was heard before a single justice who dismissed it. An appeal was then taken to the law court and the opinion of the law court in favor of Mr. Libby will be found in 114 Me. pages 35-50 inclusive. The law court found that the rights of the voters and of the candidate did not depend upon the precise location of the slip on the official ballot and that "the slips were as official as the rest of the ticket. They were printed under the direction of the secretary of state; they were affixed by the election officers in the space set apart for the candidate and they thereby became part and parcel of said ballots as if originally printed thereon." Mr. Libby was put to a great deal of trouble and expense in defending his title to the office at the preliminary hearing and in the law court and he asks to be reimbursed for the amount only which he actually paid out as counsel fees. Mr. Libby was in no way to blame for the error. The voters who cast the so-called defective ballots had nothing to do with placing the slips upon them and were not to blame for any error but the fault was wholly that of the election officials.