

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSIONS

A. D. 1851--2.

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**Augusta:**

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1852.

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# THIRTY-FIRST LEGISLATURE.

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No. 35.]

[SENATE.

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## R E P O R T .

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THE minority of the committee on claims, to whom was referred the petition of Valentine Ripley, praying for remuneration for losses sustained on account of malicious prosecutions against him for aiding an officer in the service of a warrant, ask leave to

### R E P O R T :

That the petitioner rests his claim to be indemnified upon the ground, that he was under a legal obligation to render aid to an officer, when called on, in the service of a criminal process; and that all losses and damages he sustained in discharging a duty imposed on him by law, should be paid out of the treasury of the State.

To the minority of the committee, neither of these grounds seem sufficient to warrant the allowance of this claim.

The petitioner did aid an officer in executing a warrant against an individual for violation of a statute of the State. And by reason of rendering such aid, (which the law required him to render,) malicious suits were prosecuted against him, whereby he was subjected to much trouble, expense and pecuniary loss in defending himself.

We have, therefore, after a careful consideration of the facts in the case, and of the principles applicable to the facts, come to the conclusion, that claims of the character of the one here presented, should not be allowed.

The sum claimed by the petitioner amounts to three hundred and twenty-four dollars and sixty-four cents, made up of the following items; and, as the committee understood, of an additional sum for his expenses in prosecuting his claim before the legislature—as follows:

*Cost of witnesses summoned by defendant at Buckfield, in January, 1851, on trial of prosecution against Valentine Ripley.*

Seth Sampson,	4 miles,	32	6 days,	\$3 32
Cyrus Wormell,	20 "	1 60	"	4 60
Allen Tuttle,	1 "	8	"	3 08
America Farrar,	1 "	8	"	3 08
Isaac McDonald,	1 "	8	"	3 08
Nathan Morrill,	3 "	24	"	3 24
Doct. Thomas H. Brown,				6 00
Doct. Cyrus H. Coolidge,				3 00
James S. Buck,	3 miles,	24	6 days,	3 24
Lorenzo Atwood,	1 "	8	"	3 08
Asia Ricker,	5 "	40	"	3 40
George N. Holmes,	2 "	16	"	3 16
Ripley Tuttle,	1 "	8	"	3 08
William Cushman,	5 "	40	"	3 40
Ferdinand A. Warren,	1 "	8	"	3 08
Suton Farrar,	1 "	8	"	3 08
Sullivan Andrews,	1 "	8	"	3 08
Charles Morrill,	1 "	8	"	3 08
V. D. Parris,	1 "	8	"	3 08
Emery H. Allen,	1 "	8	"	3 08
Zadock Long,	1 "	8	"	3 08
Doct. Alonzo Garcelon,				10 00
				<hr/>
				\$80 42
Cost of summoning above witnesses,				10 52
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Total,				\$90 94

## CLAIM OF VALENTINE RIPLEY.

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*Counsel fees, time and expenses of Valentine Ripley, in defending prosecutions against him for his doings as aid to an officer.*

Counsel fees at Buckfield, . . . .	\$25 00
District and supreme court, . . . .	45 00
Six days at Buckfield under arrest, . . . .	9 00
Eight days at Paris supreme court, . . . .	8 00
Expenses at Paris, at 75 cents per day, . . . .	6 00
Expenses at Augusta, including fare to and from, . . . .	12 40
Nine days' time, . . . . .	9 00
Expenses of Cyrus Wormell, &c., . . . .	11 87
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	\$125 27

*Cost of witnesses at the trial in the Supreme Court, in October, 1851. James Murdock vs. Valentine Ripley.*

Cyrus Wormell,	20 miles,	8 days,	9 60
Seth Sampson,	12 " 12 "		9 96
George W. Holmes,	9 " 4 "		4 72
Allen Tuttle,	8 " 4 "		4 64
Ferdinand A. Warren,	8 " 4 "		4 64
Ripley Tuttle,	26 " 4 "		6 08
Asia Ricker,	7 " 2 "		2 56
Doct. Thomas H. Brown,	1 " 4 "		4 08
Doct. Rust,	3 " 4 "		4 24
Stephen Emery,	1 " 1 "		1 08
Dr. Coolidge,	8 " 4 "		4 64
America Farrar,	50 " 2 "		6 00
Nathan Morrill,	10 " 4 "		4 80
Emery H. Allen,	8 " 4 "		4 64
			<hr/>
			71 68
Cost of summoning above witnesses,			6 25
			<hr/>
			\$77 93

The foregoing bills of particulars are correct copies of such as were furnished by the petitioner, and amount to two hundred and ninety-four dollars and fourteen cents.

The petitioner, in the written statement of facts laid by him before the committee, claimed the beforementioned sum of \$324 64, and the majority of the committee directed a resolve to be reported for said sum of \$324 64.

In view of the foregoing, the minority of the committee recommend the indefinite postponement of the resolve the committee are instructed to report by the legislature.

JAMES T. LEAVITT,  
IRA FISH,  
ISAAC M. HOBBS.

## STATEMENT OF FACTS, ETC.,

*Annexed to the Petition of Valentine Ripley to the Legislature of the State of Maine, for reimbursement.*

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On the thirteenth day of January, A. D. 1851, Cyrus Wormell, Esq., a deputy sheriff for Oxford county, had in his hands for service, a warrant against one Thomas Bridgham of Buckfield, for violations of the license law of 1846. In attempting to serve said warrant, the officer was forcibly resisted; and it became necessary for him to employ aid. Mr. Ripley is a blacksmith, and at that time, was busily at work in his shop but a few rods from the scene of action. Mr. Wormell, the officer, formally, and in the name of the State, required and commanded Mr. Ripley to aid him in executing said warrant; and informed him of the penalty he would incur if he neglected or refused. Bridgham, the person against whom the warrant had been issued, had taken refuge in a building a part of which was occupied by him as a store, and the remainder by one James Murdock and family, with whom he, Bridgham, boarded; and when Mr. Ripley arrived at the scene of action, said Murdock was standing with one hand hold of the handle of the door, and in the other a club two or three feet long, about the size of a man's wrist, and threatening vengeance upon the officer, or any one else who should attempt to enter. Ripley inquired of the officer what he wanted him to do. The officer replied, that he wanted him to assist in entering that building to arrest Thomas Bridgham, against whom he had a legal warrant. Ripley then asked Murdock why he did not let the officer go in peaceably. Using profane language, Murdock replied in substance, that they should not enter so long as he could stand, or unless they passed over his dead body. Ripley then stepped up to Murdock, and warding off a blow with one arm, put the other round Murdock,

and attempted to unloose his hand from the door. He made two or three efforts without effect, when the officer stepped up, and taking hold of Murdock's wrist, wrenched his hand from the door. The moment his hand was unloosed from the door, Murdock (having dropped his club,) clasped Ripley round the body with both his arms, and endeavored to throw him down, and at the same time, in his rage, tried to bite him. Ripley finally got clear of him, and started towards the door, when Murdock clinched Ripley again. With the assistance of the bystanders Ripley again got clear from Murdock, and returning to the door, which was fastened upon the inside, he and the officer burst it open, and went in and found Bridgham, and arrested him. Others were present, both in and out of the house, aiding and abetting Murdock in his resistance to the officer, and some of them have since been indicted, as also Murdock, therefor. As soon as Murdock saw the officer enter the house, and that his efforts to resist him had failed, he threw himself upon the ground, or fell down, and pretended that he was very badly hurt internally. Whether he was injured at all, and if so, whether by his own exertions or Ripley's, and to what extent, are questions in relation to which, the friends of Murdock upon the one side, and several respectable physicians employed to examine his case upon the other, widely differ. But whatever his injury may have been, Murdock very soon got over it, and has survived to do a great deal of damage to Mr. Ripley.

It was in the afternoon that Bridgham was arrested, and the same day, and probably within two or three hours, Murdock caused three prosecutions to be commenced against Ripley; two for assault and battery upon him—one in his own name, and one in behalf of the State—and a third for trespass in breaking into his house. The circumstances under which these suits were commenced—the manner in which they have been conducted, and with a view, it is believed, to make Mr. Ripley the largest amount of cost possible—Murdock being entirely irresponsible for any cost he might make, show a degree of malice and hatred towards an individual for simply aiding an officer in the execution of the duties of his office—



in fact, for doing no more than the laws of our State require that every good citizen should do, seldom to be met with. Groundless and malicious as these suits were, they had to be defended. The criminal prosecution for assault and battery, was tried before three justices of the peace, the magistrate before whom the warrant was returned having associated two others with him, and lasted six whole days. The civil suit for assault and battery was tried in the supreme court in October last, judge Howard presiding, and occupied three days in the trial. Mr. Ripley was acquitted in both cases. The action of trespass was settled by Mr. Ripley's counsel, without trial, as the cheapest way to get rid of it, Murdock being as above stated, worthless, and wholly irresponsible for cost. Murdock instructed his counsel to file exceptions to the charge of judge Howard in the supreme court, and it was done accordingly. Consequently it is not impossible but that Mr. Ripley may again be compelled to defend himself before a jury of his country, and be put to the expense of another trial. The cost of these prosecutions to Mr. Ripley, already accrued, amount to \$324 64; and they are not yet ended.

Mr. Ripley is a man of but moderate means, with a large family dependent upon him for support, and for several years past has had much sickness in his family; and being thus dependent upon his daily earnings for the support of himself and family, he feels severely the loss of time and money occasioned by these prosecutions. Yet he would not urge these considerations in his favor, unless his claim is found to be otherwise just, and in accordance with sound public policy.

The records of our State abound with instances of indemnity for every species of loss, directly or indirectly, growing out of military service; and would it be against public policy to furnish one example of indemnity to an individual for a loss arising directly out of his acts and doings as aid to the civil power of our State? Will any thinking man say that the civil power of our State is of less importance than the military? Life, liberty, property, happiness, and all that we hold dear in this world, depend upon the due and

prompt execution of our laws. Sound public policy, therefore, requires that every good citizen should aid in the execution of those laws, and that he should be encouraged in so doing. But if he thereby subjects himself to the risk of great pecuniary loss, without the hope of indemnity, will he not be discouraged, and the civil power of the State thereby weakened? Most surely; for any one would rather submit to a fine, than run the risk of aiding an officer with no hope of indemnity; and a few worthless and reckless individuals, armed with clubs, may throw themselves in front of our officers of justice, and bid them stop, and they must do it. The bystanders, choosing the less of two evils, would decline to aid them. It seems, therefore, if these views are correct, that, in addition to the justice of his claim, growing out of the peculiar circumstances of his case, Mr. Ripley ought to be indemnified by the State, upon principles of sound public policy. It is not probable that many instances of the kind will occur. In a pecuniary point of view, therefore, it is not important to the State; while as an example of encouragement to those who may be hereafter called upon to aid officers in executing our laws, it is of the utmost importance.

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## STATE OF MAINE.



IN SENATE, March 24, 1852.

*Ordered*, That 350 copies of the foregoing Report, together with the Statement of Facts accompanying the same, be printed for the use of the Legislature.

ALBERT H. SMALL, *Secretary*.