

MAINE STATE LEGISLATURE

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Sixty-Fifth Legislature.

HOUSE.

No. 49.

STATE OF MAINE.

RESOLVE in favor of John E. Kelley.

Resolved, That the Treasurer of State be directed
2 to pay John E. Kelley, formerly Sheriff of Lincoln
3 County, the sum of seven hundred and nine dollars,
4 being the balance of the damage which the said
5 Kelley has suffered on account of a lien attachment
6 of a vessel, made by him under the provisions of the
7 Revised Statutes of Maine, which provisions were
8 subsequently held by the Supreme Court of Maine
9 to be unconstitutional.

STATEMENT OF FACTS.

On July 2, 1886, John E. Kelley, the sheriff of the county of Lincoln, made a lien attachment of the schooner "Corporal Trim" on a writ of James McDougal and another against Parker Robbins, said schooner then being at East Boothbay, Maine.

The suit was to collect pay for labor and materials for repairs on said schooner, and the attachment was made pursuant to the provisions of section 8, chapter 91 of the Revised Statutes of Maine.

In making said attachment, said Kelley followed the provisions of the statute in all particulars. A keeper was put on board the vessel, and the owner thereof abandoned said property and proceeded against said Kelley in an action of trespass, upon the ground that the act authorizing said lien attachment was in contravention of the constitution and laws of the United States.

The owner of the vessel prevailed in said suit and obtained judgment in said action amounting, with interest and costs of court, to the sum of \$1,901.29. Said Kelley was also put to great expense in defending said suit, namely, the sum of \$507.72, amounting in all to the sum of \$2,409.

The vessel, under the decision of the court, became the property of the said Kelley, and he has now sold the same for the sum of \$1,000. The legislature, at its last session, passed a resolve paying the said Kelley the sum of \$700, which, with the sum realized from the sale of said vessel, amounts to the sum of \$1,700, leaving \$709 as the amount of loss which said Kelley has actually sustained in consequence of the unconstitutional act under which he proceeded and to which he looked for protection.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 5, 1891. }

Reported by Mr. CLASON of Gardiner, from the Committee on Judiciary and ordered printed under joint rules.

W. S. COTTON, *Clerk.*