

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SEVENTY-SECOND LEGISLATURE

HOUSE.

No. III

STATE OF MAINE.

RESOLVE in favor of the town of Phillips.

Resolved, That there be paid by the treasurer of the State
2 of Maine to the town of Phillips the sum of one hundred and
3 seventy-five dollars and sixty-four cents, it being a balance
4 equitably due said town on account of expenses incurred in
5 testing the constitutionality of an act for the better protection
6 of sheep.

STATEMENT OF FACTS.

This is a claim on the part of the town of Phillips for reimbursement for costs and expenses incurred on account of the collection of a tax upon dogs in said town during the year 1893, under provisions of chapter 287 of the Public Laws of 1893, entitled "An Act for the better protection of sheep." This act required assessors of cities, towns and plantations to list all dogs in possession of any inhabitants on the first day of April in each year and to assess and collect a tax thereon, for the primary purpose of reimbursing owners for sheep and other domestic animals killed by dogs.

This act by its express terms took effect March 29, 1893. The assessors of nearly all of the towns of the State listed the dogs therein as of the first day of April following, and collected a tax thereon. The amount of such tax paid into the State treasury for that year was \$40,162.85 and the amount of damages paid to owners of sheep was \$4,286.65. The town of Phillips collected and transmitted to the State treasurer for that year on account of this tax, the sum of \$84.00. After the dogs were listed by the officers of that town, and a large portion of the taxes collected, the owner of one dog refused to pay the tax required, whereupon the assessors caused a warrant to be issued in the form required by this statute, directing the constable of the town to kill the dog. After such warrant was executed, the owner brought suit against said constable for damages. This suit was prosecuted to a decision from the law court and the question of the constitutionality of the law and the time when it should take effect were therein determined. Finally, in July, 1899, a rescript was handed down from the law court giving the opinion that this law did not take effect so that a tax could be assessed as of the first day of April, 1893, as provided therein, and that the constable was liable for costs and damages for killing the dog. The town, therefore, to save said constable from loss on account of the execution of a warrant issued by its officers, paid the costs incurred in such suit. The entire amount paid out by the town on this account was \$175.64, which it is herein claimed should be paid out of the State treasury as an amount justly and equitably due the town of Phillips.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,

Augusta, February 10, 1905.

Reported by Mr. HASTINGS from Committee on Claims and ordered
printed under joint rules.

E. M. THOMPSON, *Clerk.*