

MAINE STATE LEGISLATURE

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SEVENTY-SECOND LEGISLATURE

SENATE.

No. 9

STATE OF MAINE.

RESOLVE in favor of Frank P. Pennell.

Resolved, That the sum of two hundred seventy-six dollars,
2 be, and the same is hereby appropriated out of the State
3 treasury, to be paid to Frank P. Pennell, formerly sheriff and
4 jailer of Somerset county, the same being for moneys paid
5 by him as damages, costs and expenses, by reason of a suit
6 brought against him by Charles W. Mitchell, for false
7 imprisonment under the provisions of chapter 277 of the
8 Public Laws of Maine for the year A. D. 1901.

STATEMENT OF FACTS.

On October 16, A. D. 1901, on complaint of H. P. Thing, a constable of the town of Skowhegan, a warrant issued out of the municipal court of Skowhegan, against Charles W. Mitchell, for peddling without a license, in violation of chapter 277 of Public Laws of Maine for the year A. D. 1901. Said Mitchell was arrested by said H. P. Thing and taken before said court and upon his trial, was convicted and fined fifty dollars and costs, from which conviction and sentence he appealed to the next term of the supreme judicial court to be held in said county and was allowed to go at large by the judge of said municipal court upon his promise to furnish sureties for his appearance to prosecute his appeal. He furnished no sureties, and at said term to which his appeal had been taken, surrendered himself to the judge of said municipal court, who committed him to the county jail in Skowhegan in default of bail. After being in said jail less than one hour, he furnished bail and was discharged from said jail. Said appeal went to the law court, and said act of A. D. 1901, chapter 277 was held to be unconstitutional (see *State vs. Mitchell*, 97 Me. 66). Thereupon, on the 28th day of February, A. D. 1903, said Mitchell sued said Frank P. Pennell, sheriff and jailer during said term of imprisonment, for five thousand dollars damages because of said imprisonment under said unconstitutional act, the action being entered at the March term, 1903, of said supreme judicial court for Somerset county and came on for trial at the next following December term, at which term judgment was rendered for plaintiff Mitchell for \$200 damages, and costs of court taxed at \$24.05. The case was marked for the law court and said Pennell prepared the same for trial; but afterwards on the 21st day of May, A. D. 1904, compromised with said Mitchell and settled said judgment for \$150.

The balance of \$126 represents cash paid out by said Pennell for the fees of his own witnesses in said case and costs paid counsel for time in the preparation of said case for trial, the trial, and preparation of the same for the law court.

STATEMENT OF EXPENDITURES.

To C. W. Farrand, witness 2 days, 20 miles.....	\$4 20
To H. P. Thing, witness 2 days, 4 miles.....	3 24
To O. R. Bacheller, witness 2 days, 4 miles.....	3 24
To paid telephone message.....	32
To paid C. W. Mitchell to compromise judgment....	150 00
To G. W. Gower, attorney, term fees, time and services preparing for trial, trial of case, preparing same for trial before law court.....	115 00
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Total expenses in said case.....	\$276 00

STATE OF MAINE.

IN SENATE, January 18, 1904.

Presented by Mr. BAILEY of Somerset, and on motion by same Senator, laid on table to be printed, pending reference to the Committee on Claims.

KENDALL M. DUNBAR, *Secretary*.