

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE,

1855.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February  
26, 1840, and March 16, 1842.  
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1855.

RESOLVES

OF THE

STATE OF MAINE.

1855.

Chapter 243.**CHAP. 243.**

Resolve for the repair of the gun house, at Bowdoinham.

Resolved, That there be appropriated and paid out of the state treasury the sum of seventy-five dollars, for the repair of the gun house, situated in Bowdoinham, in the county of Sagadahoc, to be expended under the direction of the acting quarter-master general.

Gun House at
Bowdoinham, for
repair of.

[Approved March 14, 1855.]

Chapter 244.

Resolve in favor of Charles F. A. Johnston, and Charles Kidder.

Resolved, That the land agent be hereby authorized and directed to convey to Charles F. A. Johnston, and Charles Kidder, each a lot of land not exceeding one hundred and sixty acres, in township B., in the first range, in the county of Aroostook; *provided*, the said Johnston and Kidder shall build a good and substantial saw mill and grist mill in said township, within one year; and *provided, further*, that the said Johnston and Kidder shall select said lots, and return to the land agent a certificate of such selection within six months after said township shall have been lotted for settlement.

Charles F. A.
Johnston and
Charles Kidder,
land agent
authorized to
convey certain
lands to.
Proviso.

—further
proviso.

[Approved March 14, 1855.]

STATE OF MAINE.

THE committee on claims, to whom was referred the petition of Valentine Ripley for reimbursement of losses incurred in aiding an officer in the service of a criminal process, have had the same under consideration and ask leave to

REPORT.

This case had its origin in the arrest of an individual for illegal traffic in alcoholic liquors, under the statute of 1846, and as in the opinion of your committee, it involves a principle upon which the efficient execution of our laws depends, and hence also the safety and protection of the community, they feel called upon to go more into detail than is usual in the statement of ordinary claims.

The subject matter of this petition was brought before the legislature in 1852. A statement of the facts, then drawn out before the committee who had the same under consideration, has been politely

CHAP. 245. furnished us by the counsel for Mr. Ripley, and we here transcribe the same.

On the 13th day of January, 1851, Cyrus Wormwell, a deputy sheriff for Oxford county, had in his hands for service, a warrant against one Thomas Bridgham of Buckfield, for illegal traffic in intoxicating liquors. In attempting to arrest said Bridgham, the officer was forcibly resisted, and it became necessary for him to employ aid. Mr. Ripley is a blacksmith, and at the time was busily at work in his shop near by. Wormwell, the officer, formally and in behalf of the state, required and commanded Ripley to aid him in serving said warrant, and read from the revised statutes the penalty of fine and imprisonment if he refused. Bridgham, the person against whom the warrant had been issued, had secreted himself in the house of one James Murdock; and when Ripley arrived at the house, Murdock was standing with one hand hold of the handle of the door, and in the other a club two or three feet long and the size of a man's wrist, and threatening to deal vengeance upon any one who should attempt to enter. The officer told Ripley to assist him in entering the house to arrest Thomas Bridgham, against whom he had a legal warrant. Whereupon the officer and Ripley together succeeded, after considerable scuffling, in removing Murdock from the door. The door was then burst open; the officer entered the house, found Bridgham and arrested him. Others besides Murdock 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 the officer had failed, he threw himself upon the ground, and pretended that Ripley had badly injured him in removing him from the door.

This was in the afternoon, and the same day Murdock caused three prosecutions to be commenced against Ripley, for his acts and doings in aiding the officer as above stated. One for assault and battery, in behalf of the state, and two in his own name. These suits, groundless and malicious as they were, had to be defended. The criminal prosecution against Ripley was made to last six whole days. The civil suit for assault and battery was tried in the supreme court, in October, 1851, and occupied three days in the trial. Mr. Ripley was acquitted in both cases. The action of trespass for breaking into the house, was settled by Mr. Ripley's counsel, as the cheapest way to get rid of it,—Murdock being worthless, and hence irresponsible for cost.

For the expense incurred in defending these suits thus far, Mr. Ripley presented a petition to the legislature of 1852, for indemnity, which was favorably reported upon by the committee on claims, and a resolve passed in his favor.

To the ruling of the judge, however, who tried the case in the supreme court, in October, 1851, Murdock filed exceptions, and the case was thus carried before the full court at Portland, for the purpose, if possible, of obtaining a new trial; and after nearly two years delay, Mr. Ripley was informed that the full court had concluded that another trial must be had, for an error in the charge of the judge who had presided at the trial in October, 1851; consequently Mr. Ripley has again been compelled to defend himself before a jury of his country, and put to the expense of another trial. This last trial took place in August last, and occupied four days. Mr. Ripley was again acquitted, and the action finally disposed of. It is for the expense of this last trial, and balance of what remained not cancelled by the legislature of 1852, and his expense of presenting the same before the legislature, at two sessions, that Mr. Ripley now asks to be indemnified.

Mr. Ripley presents his account in detail, the accuracy of which is satisfactorily avouched for. The reasonableness and justice of his claim are apparent to your committee, and they trust it will be to every member of this legislature. He was called from his useful and honorable occupation of a blacksmith, against his will, by a civil officer of the government, who had authority to command his aid, to assist in the discharge of a most disagreeable and dangerous duty—the arrest of a criminal whose daily traffic was in violation of our laws; a traffic fruitful in its baneful results, in its desolating ruin, beyond all power of language to express, or of mathematical science to estimate; a traffic which has blasted more fair prospects, caused more tears to flow, broken more hearts, made more paupers and criminals, and caused more expense to the state, than all other causes put together. The holy inquisition might in vain tax their ingenuity to its utmost power, to invent a torture equal in agony to that which this traffic has engendered. Mr. Ripley rendered good and efficient aid to the officer, and hence performed a valuable service to the state. Does not true policy, as well as justice, demand that the state render him a full and generous equivalent? In vain do we load our library shelves with good and wholesome laws for the protection of property, of liberty, and of life, and for the promotion of all the intellectual, moral, and social blessings which make life desirable, unless our judicial and executive officers are prompt and vigorous in their execution. And to ensure to the state such promptness and vigor in the execution of its laws, it is essential that every good citizen, both in his individual and corporate capacity, cheerfully and fearlessly render such aid to civil officers, as the exigencies of any particular case may require. And for such service rendered in good faith, in behalf of the state, in the unanimous opinion of your committee, the state should promptly

CHAP. 245. and liberally compensate; else club law and lynch law, instead of statute law, will rule triumphant.

Neither in the records of our state or national legislation, are instances wanting, where indemnification has been made by government, to individuals, for damage sustained while in the service of the state. In the military history of our country has this been particularly the case. Even for slight injuries, sustained at a military training, have men become state pensioners for life. How much more then, should a sovereign state throw her shield of protection around the guardians of our laws.

In this opinion, your committee find ample support in an interesting precedent in the early history of our country, to which their attention has been directed by the counsel for the petitioner. They have selected this in preference to others from its analogy to the one under consideration—both originating from alcoholic spirits, which have ever been a source of trouble to the state and the nation, as well as to individuals, from the earliest period of our history.

“In the early part of what is known in history as the whiskey insurrection in western Pennsylvania, officers of the government were sent out with warrants to arrest certain individuals, for violations of the act of congress in relation to distilled spirits. These officers were resisted, and found it necessary to employ aid. Citizens responded to the call of the officers and came forward to assist them; but were immediately assailed by a riotous populace, and many of them suffered injury in their persons and property.”

President Washington, whose name we all venerate, in his sixth annual message to congress, (November 19, 1794,) calls their attention to the subject, and lays down the principle that sound public policy requires of government to indemnify its citizens for losses occasioned by their efforts to sustain officers in the performance of their duties, and says :

“On future emergencies, the government would be amply repaid by the influence of an example, that he who incurs a loss in its defence, should find a recompense in its liberality.”

Originating from this suggestion of the father of our country, we find in the printed annals of congress, now in our library, the following debate :

“In house of representatives, December 16, 1794. The committee of the whole on that part of the president’s message recommending compensation to those aiding the officers of government, who had sustained damage in their property by reason thereof, Mr. Findlay said that sound public policy required an indemnity to the sufferers.

Mr. Hillhouse observed that the whole of the select committee were of one mind upon the subject, and agreed in considering the citizens

who aided the officers as equally entitled to indemnification with the officers themselves. CHAP. 245.

Mr. Smith agreed that these were pressing cases, and that it would be highly impolitic not to protect such people.

Mr. Gilbert hoped that there would be no discrimination, but that all the sufferers, officers and aids, would be alike reimbursed.

Mr. Sedgewick said, that when a private citizen, at the risk of his property and his life, comes forward to support the execution of our laws, his services were much more meritorious than those of an officer who was paid for his share of the business, and that the sufferers should all be equally indemnified.

Mr. Dexter said the claim for compensation was complete, and we should do injustice if they did not receive full satisfaction.

Mr. Scott said, that if a scheme were to be desired on purpose to weaken the hands of government, no one thing could do it so completely as a refusal to reimburse those who had suffered in consequence of aiding and assisting their officers. If gentlemen would only reflect a moment, he would ask them how officers were ever to obtain aid, if it be told to the world that individuals do it at their own hazard, and cannot look to government for compensation? That the attention of congress had been called to it by the president, and that a refusal to comply with the recommendation would be the most impolitic step that could possibly be thought of."

And the question being put, the house agreed to a resolution that the officers and those who aided them should be indemnified. The senate concurred, and they were indemnified accordingly.

With a deep sense of reverential love and gratitude, have we thus quoted the sentiments and language of these early legislators of our country, which had then but recently passed its chrysalis state, and had but just become moulded into symmetrical strength and beauty. May God be praised for the wise counsellors that then controlled the destinies of our infant republic! Your committee have not the presumption to add comments of their own to the above. It was in evidence before your committee that Mr. Ripley possesses but a small property, and that for some years past he has had much sickness in his family. He is dependent upon his daily labor for the support of himself and family, and feels severely the loss of time and money occasioned by these prosecutions. He does not, however, appeal to the sympathy of this legislature, "but rests his claim to be indemnified upon the ground that he was under a legal obligation to render aid to an officer, when called upon, 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."

"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

CHAP. 245. 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."

"Law," said an ancient jurist, "is justice enacted into a statute ;" thus defined, how sacred is law ; and with what vigilance and bulwark of moral power should its outposts and citadel be guarded.

"Your committee 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 be allowed. And adopting the sentiment so beautifully expressed by the venerated father of our country, that "on future emergencies the government would be amply repaid by the influence of an example, that he who incurs a loss in its defense, should find a recompense in its liberality," we offer a resolve which is herewith submitted.

T. CUSHING, }
A. CURRIER, } *Committee of the Senate.*

CHARLES DURELL, }
EBEN. WOODBURY, }
ANSEL MERRILL, } *Committee of the House.*
SETH PATTERSON, }
JOSIAH HOBBS, }
A. K. WALKER, }
WM. S. PEAVEY, }

Chapter 245.

Resolve in favor of Valentine Ripley.

Valentine Ripley,
in favor of.

Resolved, That there be paid from the state treasury to Valentine Ripley, the sum of three hundred and sixty-six dollars and eleven cents, for losses incurred in defending malicious prosecutions brought against him for aid rendered an officer in serving a criminal process, against a violator of the liquor law of eighteen hundred and forty-six.

[Approved March 15, 1855.]

Chapter 246.

Resolves making appropriations to be expended on roads in Kingsbury, Blanchard, and Shirley.

Certain roads in
Kingsbury,
Blanchard and
Shirley, in aid of.

Resolved, That the land agent be authorized to expend the sum of two hundred dollars on the road leading from Kingsbury to Blanchard ; two hundred dollars on the same road in Blanchard leading