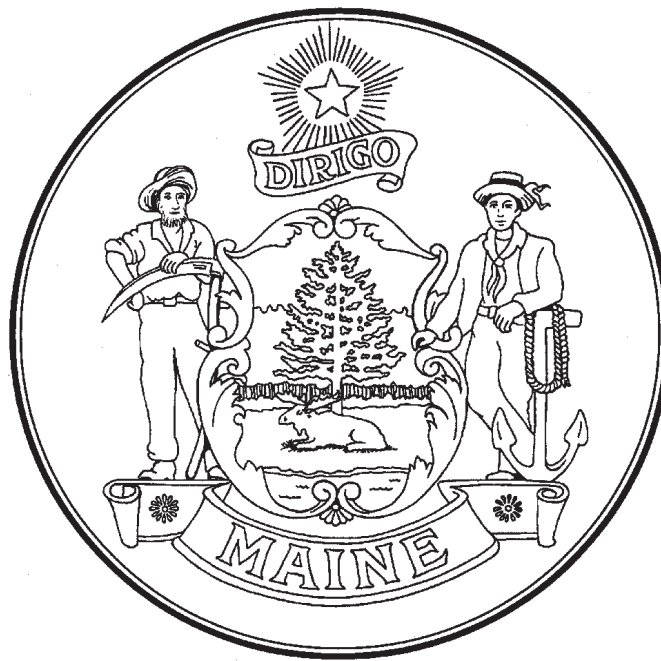


MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING THE SESSION

A. D. 1887.



AUGUSTA:

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1888.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
EIGHTY-SEVEN.

AN ACT to abolish the Death Penalty.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows:*

SECTION 1. Section two of chapter one hundred
2 and eighteen of the Revised Statutes is hereby
3 amended so as to read as follows:

'SECT. 2. When murder is committed with ex-
5 press malice aforethought, or in perpetrating or
6 attempting to perpetrate a crime punishable by
7 imprisonment for life, or for an unlimited term of
8 years, it shall be deemed murder of the first degree
9 and punishable by imprisonment at hard labor for
10 life.'

2

SECT. 2. Section nine of chapter one hundred and
2 thirty-four of the Revised Statutes is hereby
3 amended so as to read as follows:

‘SECT. 9. Any person in prison charged with a
5 crime formerly capital and now punishable by im-
6 prisonment at hard labor for life may be bailed or
7 discharged if he is not indicted at the second term
8 of the court in the county where the crime is alleged
9 to have been committed, when there are two terms
10 there in each year but when there is only one term
11 a year therein and the accused has been in prison
12 six months before the first term and is not then in-
13 dicted, he shall be bailed or discharged.’

SECT. 3. Section twelve of chapter one hundred
2 and thirty-four of the Revised Statutes is hereby
3 amended so as to read as follows:

‘SECT. 12. When a person indicted for an offence
5 formerly capital and punishable by imprisonment at
6 hard labor for life, is put upon his trial, the clerk
7 under the direction of the court, shall place the
8 names of all the traverse jurors summoned and in
9 attendance, in a box, upon separate tickets, and the
10 names, after being mixed, shall be drawn from the
11 box by the clerk, one at a time, for the purpose of
12 constituting a jury of trial. All peremptory chal-
13 lenges, except as herein provided, and all other

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SECT. 4. Section
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14 challenges and objections to the juror drawn, shall
15 be made and determined, and the juror sworn or
16 set aside, before another name is drawn, and so on
17 until the panel is completed. The State *shall not*
18 challenge more than five of the jurors peremptorily,
19 and the person indicted shall not challenge per-
20 emptorily more than twenty of the jurors while
21 the panel is being formed; but he may, before the
22 trial commences, challenge peremptorily, two of
23 the jurors from the panel. The supreme judicial
24 court, may, by general rules, prescribe the mode of
25 exercising the right of challenge from the panel in
26 all criminal cases.'

SECT. 4. Section fourteen of chapter one hundred
2 and thirty-four of the Revised Statutes is hereby
3 amended so as to read as follows:

'SECT. 14. The clerk shall, without charge, furn-
5 ish to *any* person indicted for a crime punishable
6 by imprisonment in the state prison, a copy of the
7 indictment; if *he is indicted for a crime punishable*
8 *by imprisonment in the state prison* for life, he shall
9 furnish a copy of the indictment, a list of the jurors
10 returned, and process to obtain witnesses, to be
11 summoned and paid at the expense of the State, if
12 for a crime punishable by imprisonment for a term
13 of years, witnesses shall be summoned and paid at

14 the expense of the State only at the discretion of
 15 the court. Competent counsel shall be assigned
 16 by the court in cases formerly capital and now
 17 punishable by imprisonment at hard labor for life,
 18 when it appears that the accused has not sufficient
 19 means to employ counsel, and reasonable compen-
 20 sation, not exceeding one hundred and fifty dollars
 21 in all at any one trial shall be allowed by the court
 22 to be paid out of the county treasury.'

SECT. 5. Section twenty-one of chapter one hun-
 2 dred and thirty-four of the Revised Statutes is
 3 hereby amended so as to read as follows:

'SECT. 21. The following oath shall be admin-
 5 istered to jurors in cases formerly capital and now
 6 punished by imprisonment at hard labor for life:
 7 "You swear, that you will truly try, and true de-
 8 liverance make, between the State and the prisoner
 9 at the bar, whom you shall have in charge, accord-
 10 ing to your evidence. So help you God." In all
 11 other criminal cases, the following: "You swear,
 12 that you will well and truly try the issue between
 13 the State and the defendant, according to your evi-
 14 dence. So help you God." Any juror conscien-
 15 tiously scrupulous of taking an oath may affirm in
 16 the mode described in section three.'

SECT. 6. Section twenty-one of chapter one hundred and thirty-four of the Revised Statutes is hereby amended so as to read as follows:
 SECT. 24. The trial of cases formerly capital and now punishable by imprisonment for life, may, at a future day of the court, be discharged therefrom, and the justice will thereby be promoted.
 SECT. 7. In the case of a person sentenced to imprisonment at hard labor for life, the court may, at its discretion, allow him to be discharged, at the expiration of a term of years, on condition that he shall, at the expiration of the term, find suitable means to procure a copy of the evidence taken at the trial, and he shall correct and true copy of all the evidence taken at the trial.
 SECT. 8. Whenever a person is sentenced to imprisonment at hard labor for life, and is committed after this act shall take effect, to imprisonment at hard labor for life, he may, at any time, apply for a pardon or commutation of his sentence.

SECT. 6. Section twenty-four of chapter one
2 hundred and thirty-four of the Revised Statutes is
3 hereby amended so as to read as follows:

SECT. 24. The trial of any criminal case, except
5 one formerly capital and now punished by impris-
6 onment for life, may be postponed by the court to
7 a future day of the same term, or the jury may be
8 discharged therefrom, and the case continued, if
9 justice will thereby be promoted.'

SECT. 7. In the trial of an indictment for any
2 offence, formerly capital and now punished by im-
3 prisonment at hard labor for life, the judge presid-
4 ing shall, at the expense of the county, employ
5 suitable means to preserve an accurate and full
6 copy of the evidence; and in case of conviction,
7 he shall correct and certify such evidence to be a
8 true copy of all the evidence in the case.

SECT. 8. Whenever any convict sentenced to
2 imprisonment at hard labor for life for an offence
3 committed after this act takes effect, which was
4 formerly capital and is now made punishable by
5 imprisonment at hard labor for life, desires to ob-
6 tain a pardon or a commutation of such sentence,
7 he may present a written request to the justices
8 of the supreme judicial court, in term time or
9 vacation, asking that application therefor be made

10 to the Governor in his behalf, and he shall therein
 11 set forth, specifically, the grounds on which such
 12 application for pardon or commutation of sentence
 13 is requested, and the facts which he expects to
 14 prove in support of the same, together with the
 15 names and residences of the witnesses by whom
 16 he expects to prove such facts; and with such re-
 17 quest he shall present the affidavits of such wit-
 18 nesses, and a copy of all the evidence taken at the
 19 trial in which he was convicted, as provided in the
 20 preceding section.

SECT. 9. If upon examination of said request
 2 and the affidavits therewith presented, said justices
 3 are of *the* opinion that new and material evidence
 4 has been discovered which was not known, and
 5 could not, by the use of due diligence, have been
 6 obtained at the time of the trial, and which would
 7 tend conclusively to show such convict innocent,
 8 notwithstanding the evidence taken at the trial,
 9 they shall appoint a time and place for a hearing
 10 thereon, and order notice to be given to the attor-
 11 ney general and to the county attorney of the
 12 county in which such convict was convicted, that
 13 they may appear in behalf of the State.

SECT. 10. At such hearing no evidence shall be
 2 deemed pertinent except such as has been discovered

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3 since the trial, and such as relates to material facts,
4 tending to show that such convict was wrongfully
5 or erroneously convicted, or that he is innocent.

SECT. 11. If upon all the evidence, said justices
2 are of *the* opinion that such convict was wrongfully
3 convicted, or that he is innocent of the crime of
4 which he was convicted, and that an application
5 should be made for his pardon or for a commutation
6 of his sentence, they shall so order, and thereupon
7 the clerk of said court for the district in which
8 such hearing is had shall make up a record of the
9 proceedings had on such request, and transmit a
10 copy thereof, and of all the papers in the case, to
11 the Governor, together with an application to the
12 Governor made by him in behalf of such person
13 under the order and direction of said justices, for
14 such pardon or commutation of sentence.

SECT. 12. On receipt of such application and
2 not otherwise the Governor may, with *the* advice
3 and consent of *the* Council, grant a pardon or a
4 commutation of sentence, upon such conditions and
5 with such restrictions and limitations as may be
6 deemed proper, and to carry the same into effect
7 may issue his warrant directed to all proper officers
8 who shall serve and obey it.

SECT. 13. All acts and parts of acts inconsistent
2 herewith are hereby repealed.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 9, 1887.

Tabled and ordered printed, pending acceptance of report, on motion
of Mr. POWERS of Houlton.

NICHOLAS FESSENDEN, *Clerk.*