

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1836.

AUGUSTA:
SMITH & ROBINSON,.....PRINTERS.

1836.

R E P O R T

OF THE

COMMITTEE OF THE COUNCIL,

ON THE

PETITIONS AND COMMUNICATIONS,

FOR THE

COMMUTATION OF THE SENTENCE

OF

ISAAC SPENCER.

Augusta:

SMITH & ROBINSON.....PRINTERS

1836.

STATE OF MAINE.



IN COUNCIL, FEB. 11, 1836.

The Committee of the whole Council to which were referred the petitions of Daniel Boody and others, Joseph Kelsey and others, Preserved B. Mills and others, J. C. Churchill and others, C. P. Chandler and others, Israel Washburn, Jr. and others, and A. G. Brown and others, also communications from John Shaw, Jacob McGaw, Chas. Ramsdell, Edward Kent and J. P. Rogers, praying for the commutation of the sentence of Isaac Spencer, convicted of the murder of Reuben McPhetress, Report; That, the Committee have carefully sought in the case presented, if any extenuating circumstances placed the object of the petitioners within the reach of *mercy*, without anticipating the course of legislation upon the most solemn subject of capital punishments. By the laws of the State, murder in the first degree embraces crimes widely differing in

moral turpitude. The man who deliberately plans a murder to acquire the property of another, suffers, for the commission of the deed, no greater punishment, than one impelled to the fatal act, by excitement, (however reprehensible) occasioned by the indulgence of a too common vice. In the one case, it is the result of a mind totally depraved, in the other it may arise from weak intellects, degrading ignorance, or evil associations. The instance before the Committee seems clearly to belong to the latter class. The criminal is young, just entering upon manhood, poor, ignorant, and reared without the influences, moral and social, enjoyed by nearly all the people of our happy State. The law, as expounded, defines that malice *may be implied* by the use of a deadly weapon, whether *accidentally* or designedly in the possession of him who commits the crime. However necessary and proper such a rule of law may be, no decision growing out of it can break down the distinctions of grade in crime, interwoven with every fibre of the mind, as man was formed by his Creator. The Legislature, as if aware of the necessity of obviating the difficulties surrounding the law, passed an Act, approved the twenty eighth day of February, one thousand eight

hundred and twenty one, providing for the commutation of the punishment of death, in cases where a full pardon might endanger the peaceful citizen. This Act points with irresistible force to such a case as is presented by the petitioners. The character of the petitions deserve and have received great consideration; they bear upon them the names of men of all parties and religious opinions. They come from many parts of the State, as well as from the vicinity of the tragic deed, and combine a moral and intellectual strength of paramount weight. Opposed to such an array on the side of mercy, not a cry for vengeance has been raised. This speaks well for the safety of our citizens, and the strength and salutary condition of the morals of the community.

While the committee cannot fail to be deeply sensible of the awful nature of the crime, where man sheds his brother's blood, and mars the image of his Maker—they cannot resist the conclusion,—that the ends of justice may be answered,—the humane feelings of many benevolent citizens be gratified,—the poor fallen man be suffered still to breathe the air of heaven, and be spared in mercy to linger out a wretched life, lamenting the fatal consequences,

of a deviation from the path of virtue, and the State suffer no detriment.

They therefore unanimously and earnestly advise, that the prayer of the petitioners be granted, and the punishment of the criminal be commuted to solitary imprisonment for thirty days, and to hard labor for life in the State Prison.

All which is respectfully submitted,

T. PILSBURY, Chairman.

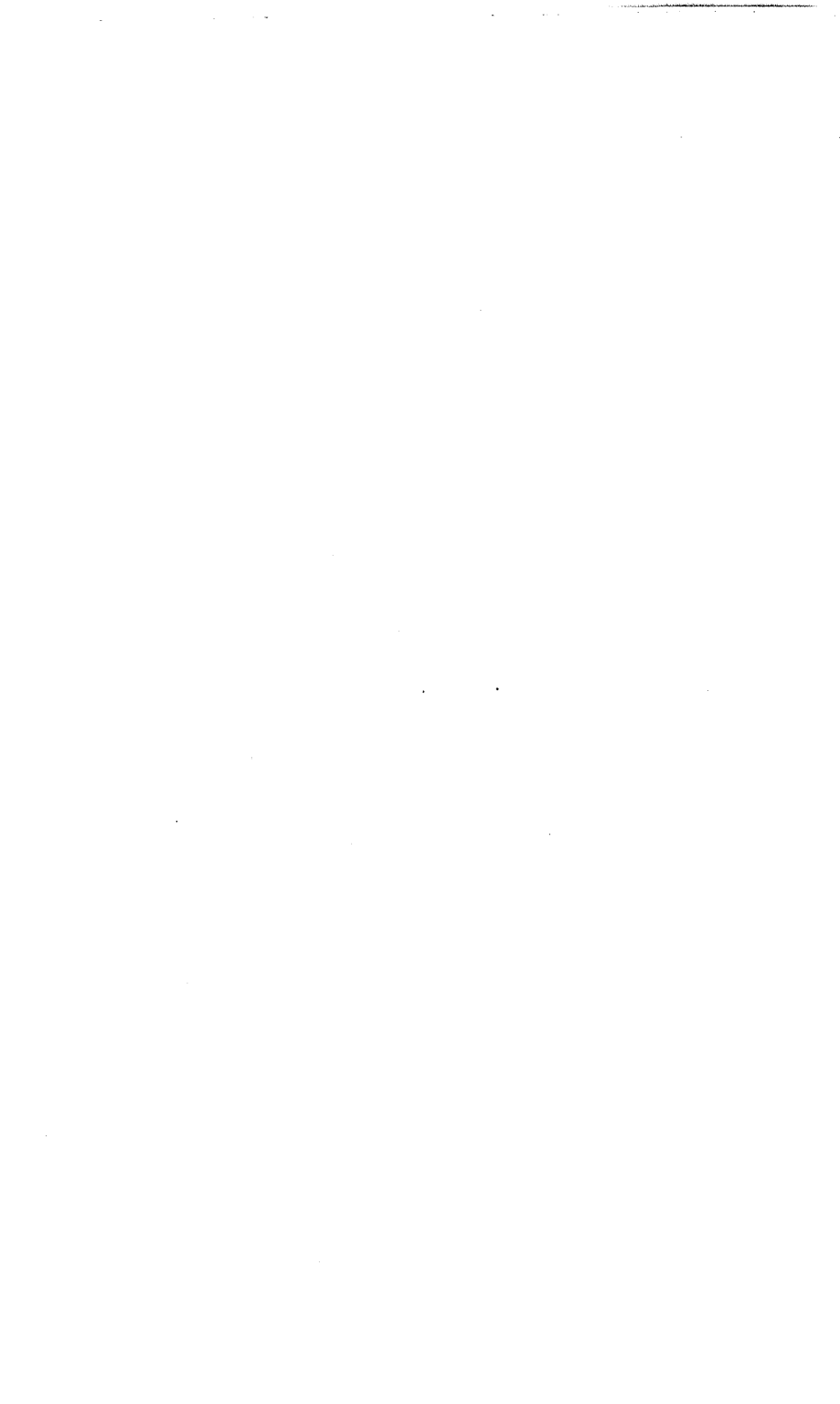
STATE OF MAINE.

IN COUNCIL, FEB. 11, 1836.

This Report on being read was accepted by the Council, and by the Governor approved.

ATTEST:

A. R. NICHOLS, Secretary of State.



STATE OF MAINE.

IN COUNCIL, FEB. 11, 1836.

On motion of Mr. JOHNSON of Kennebec, Ordered, That the Secretary of State cause 2000 copies of the foregoing Report to be printed.

[Extract from the Journal.]

ATTEST: A. R. NICHOLS, Secretary of State.