

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1860.

SIEVENS & SAYWARD, PRINTERS TO THE STATE.

1860.

REPORT
OF THE
ATTORNEY GENERAL

OF THE
STATE OF MAINE.

1859.

AUGUSTA:
STEVENS & SAYWARD, PRINTERS TO THE STATE.
1860.

REPORT.

*To the Hon. Lot M. Morrill, Governor, and
the Honorable Council of the State of Maine:*

In conformity with the requirements of the statute, I transmit herewith, my annual report of the amount and kind of official business done by me during the year 1859, with an abstract of the annual reports made to me by the several county attorneys for the same year.

The statute requires the county attorneys annually in the month of November, to make report to the attorney general of the amount and kind of business officially done by them respectively in the preceding year; the number of persons prosecuted; the offences for which such prosecutions were had; the result thereof; and the punishment awarded in each case. In many instances there has been a failure to comply with the requisitions of the law, in respect to making their reports within the time specified. And often no reports are made until specially reminded of their omission. This creates delay and embarrassment in making the report required of the attorney general, and if possible, should be avoided.

By the blanks which have been provided for the county attorneys, indicating the forms of their reports, they are required to report the costs and expenses of prosecution in each case; the fines or forfeitures imposed; and also the fines and bills of costs paid.

In many cases, no report is made of the costs and expenses of prosecutions, and in some, they are but partially made; so that they furnish imperfect and unsatisfactory information on a matter of great importance in connection with the statistics of crime. It is true, the statute does not expressly require the county attorneys to report the costs of criminal prosecutions; and it may be for that reason, that proper attention is not paid to this subject. I would, therefore respectfully suggest whether, additional legislation may not be necessary, *expressly* requiring the county attorneys to embrace in their reports the costs and expenses in each case,

including the costs of unsuccessful prosecutions before the grand jury.

The reports should show also the *number of prosecutions pending* at the *beginning of the year*; the cases quashed, nol pros'd or dismissed for *informality*; nol pros'd or dismissed on payment of costs or satisfaction by parties accused; or nol pros'd for other causes.

The public are at great expense every year, to pay the costs of unsuccessful prosecutions; yet the returns give no clue whatever to the causes of failure, and therefore afford no assistance in the application of the remedy. The reports of the county attorneys, however full and complete they may be, do not furnish a full statistical exhibit of the state of crime in the State. These reports embrace only a small proportion of that class of cases which are commenced before justices of the peace and police courts, and are carried by appeal to the supreme judicial court.

There seems to be no good reason why the system of criminal statistics should not extend to and embrace *all prosecutions*, in whatever mode commenced, or wherever tried; and yet no suitable provision is made by which the number and results of this class of prosecutions can be satisfactorily ascertained. Without such a provision the information to be derived from the annual reports of county attorneys as to the results of prosecutions, and the increase or diminution and existing state of crime, is manifestly incomplete. Whether this defect ought not to be remedied by providing for reports from justices of the peace and police courts annually, of the number of criminal cases prosecuted before them, and the results, to be made to the secretary of state, or some other officer, must be left for the wisdom of the legislature to determine.

In a former report, I urged the objections to the present arrangement, by which a majority of the justices of the supreme judicial court are required to be present and sit at the trial of capital cases; and requiring further, that *not less than said majority must concur in any ruling or instruction*. Further experience and reflection have confirmed and strengthened the views then entertained and expressed in relation to this matter. It is certainly very difficult to reconcile the necessary delay, inconvenience and unnecessary expense attending this arrangement of capital trials, with the constitutional provision which secures to the accused a "speedy trial," and requires that "right and justice" shall be administered "freely, promptly and without delay."

CASES

Conducted and argued by the Attorney General during the year 1859.

LAW TERMS.

EASTERN DISTRICT.

Aroostook County.

State *v.* inhabitants of Ashland. Defect in highway. Report discharged. Case to stand for trial.

Washington County.

State *v.* Matthew Vickery. Keeping gaming house, Exceptions overruled. Judgment on verdict. Remanded for sentence.

State *v.* James Elwell. Drinking house and tippling shop. Exceptions overruled. Remanded for sentence.

State *v.* William Bucknam. Drinking house and tippling shop. Exceptions overruled. Case remanded for sentence.

State *v.* Crosby Shorey. Drinking house and tippling shop. Exceptions overruled. Case remanded.

State *v.* inhabitants of Calais. Continued to be argued in writing.

Piscataquis County.

State *v.* Leonard R. Hall. Assault and battery. Exceptions overruled. Judgment on verdict.

Hancock County.

State *v.* James R. Pinkham. Breaking store and stealing. Exceptions overruled. Judgment on verdict.

Waldo County.

State *v.* William E. Whitney. Larceny. Exceptions overruled. Judgment on verdict.

State *v.* Elias Jones and al. Larceny. Continued under advisement.

EASTERN DISTRICT—Waldo County—(*Continued.*)

State v. Moses Young. Assault and battery. Continued under advisement.

State v. Benjamin Barstow. Assault and battery. Continued under advisement.

Penobscot County.

State v. John J. Atkins. Continued under advisement.

State v. Samuel G. Stimpson and al. Continued under advisement.

State v. Merrill S. Buck. Larceny. Exceptions overruled. Judgment on verdict.

State v. John Thomas and al. Breaking into bank with intent to steal. Exceptions overruled. Judgment on verdict.

State v. Merrill S. Buck. Larceny. Exceptions overruled. Judgment on verdict.

State v. same. Store breaking and larceny. Exceptions overruled. Judgment on verdict.

State v. Morris Herring. Continued under advisement.

State v. Thomas Strange. Robbery. Exceptions overruled. Judgment on verdict.

State v. Nathaniel Tibbets. Store breaking, &c. Exceptions overruled. Judgment on verdict.

State v. Charles W. Patten. Larceny. Exceptions overruled. Judgment on verdict.

State v. Edward Tibbetts and al. Violation of liquor laws. Continued under advisement.

State v. David Tenney. Continued under advisement.

State v. John Pooler and als. Common sellers. Exceptions overruled. Judgment on verdict.

State v. Barron E. H. Durrell. Felonious assault. Demurrer. Exceptions overruled.

State v. E. Tibbetts and W. Miller. Liquor law. Continued under advisement.

State v. same, appl'ts. Liquor law.

MIDDLE DISTRICT.

Somerset County.

State v. Albert B. Witham. Forgery. Argued.

State v. John Merrill. Larceny. Continued.

State v. Charles C. Gould. Rescue. Exceptions overruled.
Judgment on verdict.

State v. Edwin Noyes, app't. Violating railroad laws, 1858.
Continued under advisement.

State v. Henry S. Jewett. Selling diseased meat. Exceptions
overruled.

State v. Chandler Hall. Perjury. Exceptions sustained.

Lincoln County.

State v. Alfred Storer. Assault and battery. Exceptions waived.
Judgment on verdict.

State v. inhabitants of Phippsburg. Defect in highway. Exceptions
overruled. Judgment on verdict.

Kennebec County.

State v. David L. Estes. Cheating by false pretences. Under
advisement.

State v. Isaiah Cluff. Larceny. Exceptions overruled.

State v. James A. Jackson. Drinking house and tippling shop.
Exceptions overruled. Judgment.

State v. Patrick Maher. Drinking house and tippling shop.
Exceptions overruled. Judgment.

August Term Criminal Court—at Bangor.

State v. Marshall Potter. Murder. Indictment for the murder
of Oliver Potter. August 23, 24, 25, tried by jury. Verdict,
guilty of murder in the 1st degree. Sentence of death pronounced
by Chief Justice Tenney.

WESTERN DISTRICT.

Franklin County.

State v. Benjamin Learned. Liquor law. Continued for advisement.

State v. Richard Fassett. Common seller. Demurrer overruled. Judgment.

State v. John M. Drury. Common Seller. Demurrer overruled. Judgment.

State v. George D. Hunton. Assault upon an officer. Exceptions overruled. Judgment on verdict.

State v. Alexander Macomber. Common seller. Demurrer overruled. Judgment.

State v. John Pillsbury. Common seller. Demurrer. Continued under advisement.

State v. Thomas Savage. Adultery. Demurrer overruled. Case remanded for trial.

Cumberland County.

State v. Frank Murphy. Assault. Exceptions sustained. New trial ordered.

State v. William Mayberry and al. Cheating by false pretences. Continued under advisement.

State v. Stewart & Boothby. Liquor law. Exceptions overruled.

State v. J. M. Pote and I. McClinchy. Robbery. Exceptions overruled. Judgment on verdict.

State v. John Foley. Liquor law. Continued under advisement.

State v. Richard A. Powers. Liquor law. Exceptions overruled. Judgment on verdict.

State v. Dennis M. Governier. Liquor law. Exceptions overruled. Judgment.

State v. Pitman Morgan. Cheating by false pretences. Exceptions overruled. Judgment on verdict.

State v. James McGlinchy. Liquor law. Demurrer. Exceptions overruled. Judgment.

State v. Richard R. Robinson. Liquor law. Demurrer. Exceptions overruled. Judgment.

State v. Alexander Foss. Drinking house and tipping shop. Demurrer. Exceptions overruled. Judgment.

WESTERN DISTRICT—Cumberland County—(*Continued.*)

State *v.* T. O. Jaques and al. Drinking house and tippling shop. Demurrer. Exceptions over ruled. Judgment.

State *v.* Peter Towle. Drunkenness. Demurrer. Exceptions overruled. Judgment.

State *v.* Ficket and al. Scire facias on recognizance. Continued under advisement.

State *v.* Hugh Kelley. Receiving stolen goods. Motion in arrest. Exceptions overruled. Judgment on verdict.

State compl't *v.* Joseph Martin. Drinking house. Demurrer. Judgment affirmed.

State *v.* John Rogers. Keeping intoxicating liquors with intent to sell. Demurrer. Exceptions overruled. Judgment.

All which is respectfully submitted.

NATHAN D. APPLETON,
Attorney General.

ABSTRACT OF THE REPORTS OF THE COUNTY ATTORNEYS.

COUNTIES.	Indictments.	Appealed Cases.	Homicide.	Arson.	Perjury, &c.	Forgery and Counterfeiting.	Compound Larceny.	Larceny.	Burglary.	Robbery.	Rape.	Assault with felonious intent.	Assault and Battery.	Affrays and Riots.	Offences against Chastity, Morality and Decency.	Malicious Mischief.	Cheating and Conspiracies.	Defects in Highways.	Nuisances.	Violation of Act suppressing Drinking houses, &c.	Other offences not before named.
Androscoggin,	56	12			1		6	12		1		1	10		3	1	1	4	2	20	4
Aroostook,	10	3	1					1					1	1				4			2
Cumberland,	32	5		1		1	2	5	1	1		2	1					2		16	3
Franklin,	32	5						8					3					2		10	7
Hancock,	8	7						3	2						6	1	1	1		1	
Kennebec,	37	45			2	3		8				1	5		1	1	1	4		56	
Lincoln,	100	10				2	16	2			3	1	9		1	1	1	8		61	
Oxford,	19	1					2	2				7	7			3	3	1		6	
Penobscot,	72	35	5			3	10	14	1	4	1	2	1	1	4	1	2	5	2	15	† 1
Piscataquis,	31	10			2			5					14		2	2	2		5	4	7
Sagadahoc,	8	1				1		3	1				1					1		1	† 1
Somerset,	17	1						1				2	3	1	3		1	2		4	1
Waldo,	19	11					3	1	4			1	3		1	1	1	3		18	
Washington,	37	10	1	1		4	1	2		1	1	1	3	9	3	3	1	1		8	3
York,*	58	18		1				2	1	1			10		2	4	1	9	4	28	3
	536	174	7	3	5	14	40	68	10	7	5	11	71	12	19	12	12	50	15	248	32

* 18 Indictments and 4 appeals pending at beginning of the year. † Sentenced to death. ‡ Libel.

ABSTRACT OF THE REPORTS OF THE COUNTY ATTORNEYS, (*Continued.*)

COUNTIES.	This Table shows the number of Sentences to Fine and Imprisonment in the several Counties during the year.				Cost and Expenses of Prosecution.	Fines or Forfeitures imposed.	Fines, Forfeitures or Bills of Cost collected.	To whom and when paid.	REMARKS.
	Sentences.	State Prison.	County Jail.	Fines.					
Androscoggin,	12	4	5	3	1,069 58	100 00	274 48	In all cases paid Clerk except when stated as paid Treasurer.	This Report very perfect. Incomplete—no account of four cases. Embraces but <i>one Term</i> , being the first after Mr. Butler's appointment. Very correct. Deficient—omits to state the offences in appealed cases. No costs reported. Costs paid Clerk in five cases, but no costs or expenses of prosecutions reported. The whole criminal costs are stated to be about one-third as large as the previous year. Costs reported in gross. No report of fines and costs collected. Costs and Expenses partially reported. \$70 paid County Treasurer. No report of Costs. Report defective. Costs Reported in part. Amount paid not reported. Report defective and unsatisfactory. Report very complete. Report does not follow the prescribed form.
Aroostook,	-	-	-	-	202 43	-	-		
Cumberland,	24	9	5	10	308 95	620 00	1,086 25		
Franklin,	17	-	1	16	899 80	2,295 00	642 82		
Hancock,	4	3	1	-	497 27	-	-		
Kennebec,	11	4	1	6	1,815 00	304 83	303 68		
Lincoln,	9	4	-	5	-	-	322 00		
Oxford,	2	-	1	1	-	-	-		
Penobscot,	38	9	9	20	4,787 58	-	-		
Piscataquis,	5	-	-	5	431 19	17 44	644 24		
Sagadahoc,	2	1	-	1	-	-	-		
Somerset,	3	2	1	-	487 85	-	-		
Waldo,	11	5	3	3	1,162 18	-	19 80		
Washington,	16	7	6	3	2,748 23	205 00	247 04		
York,	12	5	4	-	2,689 47	36 00	572 33		
	166	53	37	73	17,091 55	3,578 27	4,112 64		

ATTORNEY GENERAL'S REPORT.

NATHAN D. APPLETON, *Attorney General.*