

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1864.



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1864.

FORTY-THIRD LEGISLATURE.

SENATE.

No. 15.

REPORT.

The Committee on the Judiciary, to which was referred the order of the Legislature relating to the expediency of allowing persons accused of crimes and offences to testify, have carefully considered the subject thus submitted to them. The true object of all criminal prosecutions is to determine the guilt or innocence of the party accused. In all the affairs of human life, when information is needed, we inquire of those who know. And those who were the actors in the subject matter of inquiry, know better than all others. To exclude *all* evidence from the consideration of the jury would preclude them from deciding at all. To admit *a part, only*, may lead them to decide wrongly. To reach a safe and just conclusion, every possible source of information should be sought: every person to whom any fact may be known, should be called. And it is only when every means of information is exhausted, that the mind feels an abiding conviction that the result will be as nearly just as the imperfection of everything human will allow. To refuse to hear those who know the whole truth, and to admit only those who know but part, is to exclude the broad light of the sun at noonday, and to seek our object by the uncertain glimmer of the candle. Of all men in the world, the accused, if really innocent, can best explain every fact which casts a shadow against him. If guilty, he will either shrink from the ordeal, or will betray his guilt by his self-contradictions and inconsistencies, under a searching cross-examination. If the *property* of a party, however small may be its value, is claimed by his adversary, he is a competent witness equally with that adversary. But if his *life* is at

stake, his mouth is closed, while his adversary's is open. This should not be.

There can be no possible danger that public justice will suffer when all parties are treated alike; when the accuser and the accused are equally entitled to be heard; and when all the surrounding facts and circumstances are laid before the jury, corroborating the one, and exposing the falsehood of the other. The jury then have every possible means of arriving at a just conclusion; and their good sense may be safely trusted. And this proposed change of the law is the necessary and inevitable result of the onward tendencies of our age. *Twenty years ago*, no State or country where the common law is in force, allowed parties to suits, or persons having the least interest therein, to be heard by the jury. *To-day* that rule is nearly everywhere abolished, and all who know any fact are entitled to be heard. And in the language of the present able and learned Chief Justice of Maine, "the reasons which show the importance of the admission of parties in civil, show still greater necessity for it in criminal causes." The Committee respectfully ask leave to Report the accompanying Bill.

DAVID D. STEWART, *Chairman*.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-FOUR.

AN ACT relating to evidence in criminal prosecutions.

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

SECTION 1. In the trial of all indictments, complaints, and other proceedings against persons charged with the commission of crimes or offences, the person so charged shall, at his own request, but not otherwise, be deemed a competent witness; the credit to be given to his testimony being left solely to the jury, under the instructions of the court.

SECT. 2. Nothing herein contained shall be construed as compelling any such person so to testify.

STATE OF MAINE.

IN SENATE, March 9, 1864.

Reported by Mr. STEWART of Somerset, from the Committee on the Judiciary, and on motion of Mr. SPRING of Cumberland, laid on the table and 350 copies ordered to be printed for the use of the Legislature.

EZRA C. BRETT, *Secretary.*