

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

STATE OF MAINE.

1865.

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AUGUSTA:

STEVENS & SAYWARD, PRINTERS TO THE STATE.

1865.

REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF MAINE.

1864.



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## REPORT.

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*To the Honorable Governor and Council of the State of Maine:*

I have the honor to submit a Report relative to the criminal and other business which has been transacted in behalf of the State, by the County Attorneys and Attorney General during the official year of 1864.

I entered upon the duties of this office, upon the adjournment of the Legislature, about the 20th of March, 1864.

The statute passed last winter, regulating the distribution of State aid to the families of volunteers, and containing many new features, taking effect about that time, my attention was immediately called for a construction of its several provisions, by the Governor, and also by applications from town officers from the different sections of the State. Since that time to the present a great many questions and difficulties, and some of a novel and interesting character, have arisen between town officers and parties concerned, which I have examined and solved to the best of my ability. This correspondence has given me an opportunity to form a judgment upon the favorable results of that law which I should not otherwise have possessed. In almost every instance, which has come to my notice, town officers have apparently endeavored to arrive at an exactly correct interpretation and application of the law. Under some of the previous statutes, as is well known to the department, to whom this report is addressed, many gross and reckless errors were committed. To nothing, however, is the State more indebted, for a correction of the errors and abuses, which were incident to former State aid statutes, than the manner and carefulness, with which the bills from towns for sums furnished, have been canvassed and allowed by the Committee upon this branch of business in the Governor's Council.

In many cases of a practical character, presented to me, for consideration, I have conferred with the Honorable Chairman of that

Committee, who has expended great pains in adjusting these matters to the regularity of a system, and has been unremitting and successful in his efforts to give the law a humane, and at the same time, a just application.

There is one respect in which it may be advisable to make a construction of this act more clear and certain by legislation. A decision of our court has lately been announced, and published in the papers, which will at least render doubtful a question which has arisen, or may arise in most towns in the State. The question is this—*Can a town supply as a pauper the family of a soldier, where the amount of aid, reimbursable by the State, is insufficient for their support? That is, can the family be made paupers for the excess of supplies, or can they be made paupers for any sum whatever? The question becomes important for this reason. The family must be aided where they reside at the time the aid is furnished. That may happen to be in a town, where the soldier did not reside when he enlisted, and where the town does not receive the benefit of his enlistment, and where he has no legal settlement. A family may remove from place to place after the soldier's enlistment, and reside where they please. They may reside in one place, though their legal settlement is in another. They may, in the place of such new residence, become so destitute, that the amount of State aid, such as will be paid back, will not afford sufficient relief. Many towns think it a hardship thus to furnish at their own expense, the families of men who have no settlement in their towns, and who did not even enlist upon their quotas. It is maintained that for the excess needed, they should have the right to furnish such families as paupers. There are some cases, and perhaps not a few, where men who have enlisted, could not keep their families from pauperism, if they were at home.*

Under the acts of the years 1861 and 1862, there was no State reimbursement, and towns had the power conferred on them to raise money to be applied for the support of soldiers' families. But the court in the decision referred to, say that the provisions of those acts should be construed as mandatory, and towns were compelled to do so. So under the act of 1864, towns had the power conferred to furnish support to families beyond the amount recoverable back from the State. Are they *compelled* so to do? or can they furnish from the fund provided for paupers? The answer, in view of this decision, is a doubtful one. I think it

should be clearly determined by some legislative act, in order to relieve doubt and embarrassment, and save a good deal of future litigation between towns.

### CAPITAL TRIALS.

In April and May last I was present at the trial of two cases for *murder* in the county of Franklin.

The first case tried was that of *Samuel Richardson*, an old man, and evidently a person of almost an uncontrollable temper. In one of these moods of passion he killed an infirm old man of eighty years, with the blow of an axe. His trial was a short one, and, having been commenced by the County Attorney, before I arrived, was principally conducted by him to its close. The very day on which the defence of this case was opened to the jury, the act of last winter, which allows criminals in all cases to testify as witnesses in their own behalf, became a law. The prisoner was anxious to tell his own story, and testified. He certainly relieved the case of all doubt, if there was any doubt before, and was convicted of murder in the first degree, and sentenced to be hung. In view of his age and peculiarity of disposition, a petition was signed by the presiding judge, the prosecuting officers, and others, for a commutation of sentence, and by his counsel forwarded to the Governor.

*Lawrence Doyle*. Doyle, at the same time and place, was tried for the murder of Lura Vellie Libby of the town of Strong, a little girl not ten years old. The case had been most ably tried once before by my predecessor, and the jury had disagreed. This led to the utmost interest and zeal upon both sides to bring all available evidence possible to be had, for a second trial; and considerable additional testimony was put into the case. It was a case of, so called, circumstantial testimony. The County Attorney of Franklin had prepared the case with great research into facts, with great perseverance, and with skill; and Doyle was very ably and eloquently defended by his counsel. The crimes committed by the prisoner were of a most atrocious character, rape and murder. Doyle lived with the little girl's father as a hired man. The circumstances which surrounded the situation of the parties, the plot, the concealment of the body, excited an interest at the time of the discovery, which shook that peaceable community to its centre. It was with difficulty a jury could be empaneled, and the

names of one hundred and ten men were called before a panel was obtained. About eighty witnesses in all were called, the cause was about two weeks on trial, the jury were absent about half an hour in their deliberations, the prisoner was found guilty of murder in the first degree, and on the same day sentenced to be hung.

At this trial the act of 1864, allowing criminals to testify, was put to a test. The counsel for the defence put the responsibility of the step upon the prisoner, who was anxious to accept the privilege accorded him. In this case, at least, the attempt at exculpation was an injurious one. He became entangled in strange stories and inconsistencies; he invented and forged his answers upon cross-examination as he went along; he hesitated; he didn't seem to have a truthful starting point, as a base, with which all the circumstances could connect themselves. His counsel deemed his attempt as worse than abortive, and contended in his argument that the act was not a just one, subjected a prisoner to the torture of a rack, and was an act to be beneficial to the State only, and of no benefit to the accused.

What may be the results of this most important piece of legislation I am not fully prepared to say. It is a step I believe which has not as yet been taken by any other State. It is a great stride in advance of the criminal jurisprudence of all other times. Less than thirty years ago the barbarous rule was law in England, that a criminal should not have even counsel in cases of felony. The same is now the law of some of the continental courts and countries. In the two capital cases which are included in this report, this new rule of evidence worked well for the government, and could be of no real harm to the accused. It undoubtedly coöperated in eliciting the truth. I am inclined to think that it can very rarely aid a guilty person charged with an *extreme* offence. I have no doubt it will be a benefit to an innocent man, no matter what may be the offence. There will probably be more or less shrewd criminals in trials for ordinary offences, where so much may not be at stake as to disturb their self-possession, who will foil the claims of justice. The rule will probably cost a prosecuting officer more circumspection and effort, and possibly a county more expense to meet new issues in evidence. The experiment is now fairly before the State, and we shall soon perceive how much merit there is in it.

In September last I was at Houlton to try John C. Gove for the



murder of Thomas Smith, a deputy sheriff of Oldtown. Smith was stabbed mortally by Gove, in February last, in Madawaska Plantation, while he was arresting Gove as a fugitive from justice. An indictment was found, and the trial was postponed on account of the sickness of the prisoner, who died while in jail, before the adjournment of the Court.

In this case great particularity in the indictment became necessary in order to ensure a certainty of describing the manner in which the murder was committed, there having been a good many wounds inflicted, and in the absence of any reliable surgical examination, it being a matter of doubt which one caused or contributed to the death. This particularity of statement is required by the rules of the common law. But England, from whom we obtained the rule, has abolished it; and provided by statute that in any indictment for murder it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient in every indictment for murder to charge that the defendant did feloniously, wilfully, and of his malice aforethought kill and murder the deceased. Although under our rule it would sometimes require pages of foolscap to describe an offence, the following is now a full and complete precedent of the body of an indictment for murder in all the courts of British jurisprudence :

“The Jurors for our Lady the Queen upon their oath present that A. B., on the — day of —, in the year of our Lord —, feloniously, wilfully, and of his malice aforethought did kill and murder one C. D. ; against the peace of our Lady the Queen, her crown and dignity.”

A similar statute here would save a good deal of technical prolixity, unless to all the parties.

There are now no capital cases in the State pending for trial, or for argument at law. A case has arisen where there probably will be an indictment at the January Term of Court next in Washington county. Two persons are bound over to that Court for shooting at Wesley, last fall, an United States officer.

## CIVIL SUITS PENDING.

In the case of *State vs. Benjamin D. Peck, et als.*, which is a suit upon the State Treasurer's bond for 1858, a trial would probably have been had in October last, but for the prospect of my detention at Houlton in the trial of Gove. This cause is pending in Cumberland county. The principal defence, which will be set up in the case, is an alleged alteration of the bond by affixing seals thereto, subsequently to the signing by the sureties, without their knowledge or assent. There will probably be a trial before the jury upon the issue raised by this allegation, either in January or April and seasonably for the Law Term of July, if any questions of law grow out of it. If this mode of trial is adopted, it will leave the question of damages to be settled afterwards, and probably by some mode full as satisfactory, and much more conveniently, than it would be to wade through an array of figures before a jury.

The cases of *State vs. Walter Brown* and *vs. John Wyman* and *vs. Neal Dow* are based upon some transactions growing out of the relations of B. D. Peck with the treasury department, and will soon be submitted as question of law to the Supreme Judicial Court, upon the reported admissions and facts, for final decision.

*George M. Weston* still presents himself at the door of the Treasury, demanding the sum of one thousand dollars, as due him from the State. There was a sum due him, at a time, from Maine, for commissions upon certain State claims recovered at Washington. When it became developed, during the investigation of *Peck's matters* by a Legislative Committee, that Peck had loaned Weston certain funds, which that Committee thought belonged to the State, a resolve was passed by the Legislature, directing the Treasurer to charge off against Weston that sum, to be taken out of commissions due him, which was done. This Mr. Weston claims to be unconstitutional. He, at one time, petitioned Court for a *mandamus* against Nathan Dane, Treasurer, requiring payment of that sum to him. The petition was denied. At the last October Term of the Court in Penobscot county, he entered an action for *money had and received* against Mr. Dane, to try his rights in this form of proceeding. I do not see how the amount can in this form, or any other, be recovered, or how he can have any other remedy than may be afforded him by Legislative action.

## CASES IN THE LAW COURT.

In the *Eastern* and *Western* Districts there were no Law cases, which had been argued or submitted by my predecessor, and which remained undecided until the commencement of my term.

In the *Middle* District, in Kennebec county, there were two cases of that description, one of which was decided at the Law Term in June, 1864 :

*State vs. Frederick A. Chase.* Cheating by false pretences. Exceptions sustained. Indictment quashed.

*State vs. Thomas M. Stevens, Apt.* Search and seizure. Law on exceptions. No decision has yet been certified.

The following cases were argued and submitted at the Law Terms of 1864 :

## EASTERN DISTRICT.

*Aroostook County.*

*State vs. William Day et als.* Assault and battery. Demurrer to the indictment. Demurrer overruled.

*Washington County.*

*State vs. Mary Elliott.* Indictment was for murder by poisoning. Law on exceptions to a refusal to quash the indictment. Exceptions overruled. At the last October Term in that county, she was sentenced to be hung, and now awaits the execution of that sentence in the State Prison, the only female, to my recollection of our criminal annals, ever convicted of the crime of murder in this State.

*Waldo County.*

*State vs. Benjamin F. Cunningham.*

*Same vs. same.* Indicted as a common seller. Verdicts were rendered against respondent. Law on exceptions. Exceptions overruled. Judgment on the verdict.

*Penobscot County.*

*State vs. Charles Clark.* Larceny. On exceptions. Exceptions overruled. Judgment on the verdict against defendant.

*State vs. David S. Libby.* Malicious trespass. On exceptions. Argued, but not yet decided.

*State vs. Joseph Shepley.* Assault and battery. On exceptions. Exceptions overruled.

*State vs. Elbridge Parkhurst.* Aggravated assault.

*Same vs. same.* Tippling shop.

*Same vs. same et ux.* Same offence. All on exceptions. Exceptions overruled.

#### MIDDLE DISTRICT.

##### *Knox County.*

*State vs. D. M. Mitchell.*

*State vs. Joseph Hewett.*

*State vs. George W. Hodges.*

*State vs. Warren F. Mibber.*

*State vs. James Brackett.*

*State vs. David Mitchell.*

These were indictments as common sellers. On exceptions, taken merely for delay. The cases were entered by the Attorney General, the respondents failing to prosecute their exceptions. Exceptions overruled.

#### WESTERN DISTRICT.

##### *Franklin County.*

*State vs. Jesse Wright.* Indicted for murder, and tried in 1863, and convicted. On exceptions. Argued and not yet decided.

*State vs. Orison F. Quimby.* Larceny. On exceptions. Argued and not yet decided.

##### *Androscoggin County.*

*State vs. Billings I. Hood.* Larceny. On exceptions. This case was committed to the charge of the County Attorney. Was to be argued in writing. Not yet decided.

##### *York County.*

*State vs. Fairfield Gray.* This was an assault with intent to commit a rape. On exceptions. Exceptions overruled.

##### *Cumberland County.*

*State vs. Kerswell I. Carter and Greenleaf Chute.* Assault with intent to maim. Exceptions overruled.

*State, by complaint, vs. Thomas Castleton alias Charles Smith.* Receiving stolen goods. Exceptions. Not entered by the accepting party; entered by the State. Exceptions overruled.

There has not been so small a number of criminal law cases entered for many years. In 1860, there were sixty-six cases; in 1861, fifty cases; in 1862, forty-five cases; in 1863, thirty-five cases; in 1864, *twenty-two* cases. The two cases from Franklin and perhaps one in the Penobscot list contained some interesting questions of law. All the others were merely a mode of obtaining a delay, and were all promptly submitted and disposed of by the Court.

#### REPORTS OF COUNTY ATTORNEYS.

In the following tables, A and B, will be found abstracts of the Reports of the County Attorneys. Some of the returns were not quite clear and definite enough. After a careful examination of them, the following are submitted as a substantially correct summary of the criminal business, conducted by the County Attorneys, for the year. The year's business commences November 1, 1863, and terminates November 1, 1864.

TABLE A.

COUNTIES.	CASES.	CRIMES.																			
		Whole number.	Homicide.	Arson.	Perjury.	Forgery and coun- terfeiting.	Compound larceny.	Larceny.	Burglary.	Robbery.	Rape.	Assault with felo- nious intent.	Assault and battery.	Affrays and riots.	Offences against chas- tity, morality, &c.	Malicious mischief.	Cheating and conspiracies.	Defects in highway.	Nuisances.	Violation of liquor law.	Other offences.
ANDROSCOGGIN.	Indictments pending Nov. 1, 1863,	17	-	-	-	3	2	1	-	-	-	-	-	-	-	-	-	-	-	1	8
	Appealed cases pending Nov. 1, 1863,	36	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	36	-
	Indictments found Jan. T., 1864,	4	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
	Appealed cases entered Jan. T., 1864,	3	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	2	-
	Indictments found April T., 1864,	12	-	-	-	-	-	-	-	-	1	2	-	-	-	-	-	-	-	6	1
	Appealed cases entered April T., 1864,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
	Indictments found Sept. T., 1864,	16	-	-	-	-	1	2	-	-	1	-	-	-	-	-	1	2	-	4	5
Appealed cases entered Sept. T., 1864,	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Indictments pending at end of year,	20	-	-	-	2	1	1	-	-	-	-	-	-	-	-	-	1	3	2	5	5
Appealed cases pending at end of year,	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	1	2
AROOSTOOK.	Indictments pending Nov. 1, 1863,	8	-	-	-	1	-	1	-	-	1	1	-	-	-	-	-	-	1	1	2
	Appealed cases pending Nov. 1, 1863,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found March T., 1864,	4	-	1	-	-	-	-	-	-	1	-	-	-	-	-	1	-	-	-	1
	Indictments found Sept. T., 1864,	6	1	-	-	-	-	-	-	-	-	1	1	-	-	1	1	-	-	-	1
	Appealed cases entered Sept. T., 1864,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
CUMBERLAND.	Indictments pending Nov. 1, 1863,	21	1	2	-	2	2	2	-	-	1	2	-	-	-	-	-	1	-	10	2
	Appealed cases pending Nov. 1, 1863,	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-
	Indictments found Nov. T., 1863,	27	-	-	-	4	2	1	-	-	1	-	-	-	-	-	1	-	4	9	5
	Appealed cases entered Nov. T., 1863,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
	Indictments found March T., 1864,	24	-	-	-	-	3	1	-	-	-	-	-	-	1	-	-	-	-	7	6
	Appealed cases entered Mar. T., 1864,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	1	2
	Indictments found July T., 1864,	26	-	-	-	-	2	9	-	-	2	-	-	-	-	-	-	2	-	7	5
Appealed cases entered July T., 1864,	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

	Indictments pending at end of year,	32	1	-	-	-	2	8	-	-	-	2	-	-	1	-	-	2	4	10	2
	Appealed cases pending at end of year,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
FRANKLIN.	Indictments pending Nov. 1, 1863,	21	3	-	-	-	-	5	-	-	1	1	1	-	1	-	3	2	4	-	
	Appealed cases pending Nov. 1, 1863,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found April T., 1864,	9	2	-	-	-	2	-	-	2	2	-	-	-	-	-	-	-	1	-	
	Appealed cases entered April T., 1864,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found Oct. T., 1864,	6	-	-	-	-	-	-	-	2	-	-	-	-	-	-	2	1	1	-	
	Appealed cases entered Oct. T., 1864,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Indictments pending ending year,	21	1	-	-	-	-	5	-	2	-	1	-	-	-	-	2	3	6	-	
HANCOCK.	Indictments pending Nov. 1, 1863,	15	1	2	-	1	2	2	-	1	-	1	-	-	1	-	3	-	-	1	
	Appealed cases pending Nov. 1, 1863,	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	
	Indictments found Oct. T., 1863,	3	-	-	-	-	-	-	-	1	-	-	1	-	-	-	1	-	-	-	
	Indictments found April T., 1864,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Indictments pending at end of year,	10	1	-	-	1	-	2	-	1	-	1	-	-	-	-	2	-	1	1	
	Appealed cases pending at end of year,	2	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	
KENNEBEC.	Indictments pending Nov. 1, 1863,	14	-	-	-	1	1	-	-	-	3	5	-	1	-	-	-	-	-	2	
	Appealed cases pending Nov. 1, 1863,	24	-	-	-	-	-	1	-	-	2	3	1	-	-	-	-	-	15	2	
	Indictments found Nov. 5, 1863,	7	-	-	-	-	-	-	-	2	2	-	1	-	-	-	-	-	1	-	
	Appealed cases entered Nov. 5, 1863,	7	-	-	-	-	-	-	-	-	3	-	1	-	-	-	-	-	3	-	
	Indictments found March T., 1864,	3	-	-	-	1	-	1	-	1	-	-	-	-	-	-	-	-	2	-	
	Appealed cases entered Mar. T., 1864,	4	-	-	-	-	-	-	-	1	-	1	-	-	-	-	-	-	-	-	
	Indictments found August T., 1864,	14	-	1	-	-	2	4	2	-	-	2	-	1	2	-	-	-	3	-	
	Appealed cases entered Aug. T., 1864,	8	-	-	-	-	-	-	-	4	1	1	-	1	-	-	-	-	3	-	
	Indictments pending end of year,	20	-	1	-	2	3	4	2	1	1	-	1	-	2	-	-	-	-	3	
	Appealed cases pending end of year,	14	-	-	-	-	-	-	-	5	3	-	-	-	-	-	-	-	6	-	
KNOX.	Indictments pending Nov. 1, 1863,	36	-	2	-	2	-	1	-	2	1	-	-	-	3	-	-	3	-	25	
	Appealed cases pending Nov. 1, 1863,	3	-	-	-	-	-	-	-	2	2	-	-	-	-	-	-	-	-	1	
	Indictments found Feb. T., 1864,	20	-	-	-	3	-	-	-	2	-	1	-	-	-	-	-	-	14	-	
	Indictments found April T., 1864,	9	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	8	-	
	Appealed cases entered April T., 1864,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Indictments found Oct. T., 1864,	4	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	
	Appealed cases entered Oct. T., 1864,	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Indictments pending ending year,	36	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Appealed cases pending ending year,	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
LINCOLN.	Indictments pending Nov. 1, 1863,	48	-	1	-	-	10	-	-	9	1	-	-	2	1	4	18	2	1	-	
	Appealed cases pending Nov. 1, 1863,	5	-	-	-	-	1	-	-	3	-	-	-	-	-	-	-	-	1	-	
	Indictments found Jan. T., 1864,	27	-	-	1	1	-	-	-	1	-	1	-	-	1	7	14	1	1	-	
	Appealed cases entered Jan. T., 1864,	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	
	Indictments found May T., 1864,	5	-	-	-	-	1	-	-	-	1	-	-	-	1	1	1	1	1	-	

TABLE A, (CONTINUED.)

COUNTIES.	CASES.	CRIMES.																		
		Whole number.	Homicide.	Arson.	Perjury.	Forgery and counterfeit- ing.	Compound larceny.	Larceny.	Burglary.	Robbery.	Rape.	Assault with felon- ious intent.	Assault and battery.	Affrays and riots.	Offences against chas- tity, morality, &c.	Malignant mischief.	Cheating and conspiracies.	Defects in highway.	Nuisances.	Violation of liquor law.
LINCOLN, (Con.)	Indictments found October T., 1864,	10	-	-	-	-	-	1	-	-	-	1	-	-	-	-	1	1	6	-
	Appealed cases entered Oct. T., 1864,	4	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	2
	Indictments pending ending year,	23	-	1	-	1	-	9	-	-	-	1	2	-	-	-	1	1	5	2
OXFORD.	Appealed cases pending ending year,	2	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	1	1
	Indictments pending Nov. 1, 1863,	16	2	-	-	-	-	2	-	-	1	1	-	1	-	2	3	-	3	-
	Appealed cases pending Nov. 1, 1863,	2	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	1	1
	Indictments found Nov. T., 1863,	9	-	-	-	-	-	3	-	-	2	1	-	-	-	-	1	1	2	-
	Appealed cases entered Nov. T., 1863,	1	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	-
	Indictments found March, 1864,	9	-	-	3	2	-	-	-	-	-	-	-	-	-	-	1	1	2	-
	Appealed cases entered March, 1864,	1	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-
	Indictments found Sept. T., 1864,	10	1	-	-	-	-	1	-	-	-	1	1	1	-	-	2	1	1	1
	Appealed cases entered Sept. T., 1864,	2	-	-	-	-	-	-	-	-	-	1	1	-	-	1	-	-	-	-
	Indictments pending at end year,	34	2	-	3	2	-	5	-	-	-	1	1	1	1	2	9	1	6	1
PENOBSCOT.	Appealed cases pending end year,	5	-	-	-	-	-	-	-	-	3	1	-	-	1	-	1	-	1	-
	Indictments pending Nov. 1, 1863,	55	-	1	1	5	3	8	-	-	8	1	3	3	2	3	6	-	12	2
	Appealed cases pending Nov. 1, 1863,	20	-	-	-	-	-	4	-	-	10	-	2	2	4	-	4	-	4	-
	Indictments found Feb. T., 1864,	20	1	-	-	-	-	4	-	-	3	-	4	1	3	1	-	-	3	-
	Appealed cases entered Feb. T., 1864,	8	-	-	-	-	-	2	-	-	5	-	-	-	-	-	-	-	1	-
	Indictments found Aug. T., 1864,	25	-	-	-	-	2	6	-	1	5	1	4	4	1	1	-	-	3	2
	Appealed cases entered Aug. T., 1864,	20	-	-	-	-	-	5	-	-	11	-	2	2	1	-	-	-	7	4
	Indictments pending end of year,	48	-	-	1	3	3	7	-	-	1	5	6	6	1	1	7	-	2	-
PISCATAQUIS.	Appealed cases pending end of year,	24	-	-	-	-	-	6	-	-	12	-	2	-	-	-	-	-	2	2
	Indictments pending Nov. 1, 1863,	10	-	1	-	-	-	1	-	-	3	-	-	-	-	5	-	-	-	1





TABLE A, (CONTINUED.)

COUNTIES.	CASES.	CRIMES.																			
		Whole number.	Homicide.	Arson.	Perjury.	Forgery and counterfeiting.	Compound larceny.	Larceny.	Burglary.	Robbery.	Rape.	Assault with felonious intent.	Assault and battery.	Affrays and riots.	Offences against chastity, morality, &c.	Malicious mischief.	Cheating and conspiracies.	Defects in highway.	Nuisances.	Violation of liquor law.	Other offences.
YORK, (Con.)	Appealed cases entered May 7, 1864,	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found Sept. T., 1864,	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Appealed cases entered Sept. T., 1864,	14	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments pending end of year,	34	-	-	-	1	-	5	2	-	-	1	1	-	-	-	-	-	-	8	-
	Appealed cases pending end of year,	11	-	-	-	-	-	-	-	-	-	-	-	-	3	-	2	-	-	2	3
TOTAL.	Indictments pending Nov. 1, 1863,	458																			
	Appeals pending Nov. 1, 1863,	144																			
	Indictments found during the year,	492																			
	Appeals entered during the year,	159																			
	Indictments pending Nov. 1, 1864,	391																			
	Appeals pending Nov. 1, 1864,	126																			

TABLE B.

*Disposition of cases during the year, and condition of those not disposed of.*

Counties.	Cases.	Disposition during year ending Nov. 1, 1864.					Condition at end of year.			Sentences.				
		Quashed.	"Not pros'd" on payment of costs.	"Not pros'd" or dismissed.	Conviction and sentence.	Acquitted.	Continued open.	Continued for sentence.	Continued marked "Law."	State Prison.	County Jail and House of Correction.	Reform School.	Fine, &c.	To be hung.
Androscoggin,	Indictments,	-	19	3	5	1	19	3	1	-	3	2	2	-
	Appeals,	-	39	-	2	1	3	-	-	-	-	-	-	-
Aroostook,	Indictments,	-	-	6	-	1	9	-	-	-	-	-	-	-
	Appeals,	-	-	1	-	-	-	-	-	-	-	-	-	-
Cumberland,	Indictments,	-	-	32	31	1	33	36	-	3	12	-	16	-
	Appeals,	3	5	1	1	4	-	-	-	-	-	-	-	-
Franklin,	Indictments,	2	4	9	5	-	18	1	2	1	-	-	2	2
	Appeals,	-	-	-	-	-	-	-	-	-	-	-	-	-
Hancock,	Indictments,	-	-	9	-	-	10	-	-	-	-	-	-	-
	Appeals,	-	-	-	-	-	2	-	-	-	-	-	-	-
Kennebec,	Indictments,	-	-	-	-	-	-	-	-	-	2	-	13	-
	Appeals,	1	5	29	10	1	29	4	1	-	-	-	-	-
Knox,	Indictments,	-	7	11	19	1	14	17	-	-	3	1	5	-
	Appeals,	-	2	4	-	-	2	-	-	-	-	-	-	-
Lincoln,	Indictments,	2	80	42	8	2	17	5	1	-	-	1	3	-
	Appeals,	-	2	14	-	-	2	-	-	-	-	-	-	-
Oxford,	Indictments,	-	4	3	3	-	60	-	2	2	-	-	2	-
	Appeals,	-	-	1	-	-	10	-	-	-	-	-	-	-
Penobscot,	Indictments,	-	14	7	29	2	33	16	5	2	9	1	11	-
	Appeals,	-	4	2	18	-	14	10	-	-	-	-	-	-
Piscataquis,	Indictments,	-	-	4	1	-	-	-	-	-	-	-	1	-
	Appeals,	-	1	-	-	-	7	-	-	-	-	-	-	-
Sagadahoc,	Indictments,	-	-	7	9	-	5	5	-	1	-	-	15	-
	Appeals,	-	-	3	1	-	-	-	-	-	-	-	-	-
Somerset,	Indictments,	-	8	89	8	-	43	-	1	1	-	-	3	-
	Appeals,	-	-	-	-	-	-	-	-	-	-	-	-	-
Waldo,	Indictments,	-	34	4	10	3	27	9	-	-	-	-	20	-
	Appeals,	5	15	5	10	3	7	2	-	-	-	-	-	-
Washington,	Indictments,	-	3	18	15	1	28	12	-	3	1	-	15	1
	Appeals,	1	1	4	4	-	-	-	-	-	-	-	-	-
York,	Indictments,	-	4	35	13	2	27	0	1	3	2	-	-	-
	Appeals,	-	1	30	-	-	11	-	-	-	-	-	1	-
<b>Total,</b>	Indictments,	4	207	209	156	14	349	98	15	-	-	-	-	-
	Appeals,	10	70	98	46	6	91	10	1	-	-	-	-	-
	Sentences in '64,	-	-	-	-	-	-	-	-	10	32	5	109	3
	do. in 1863,	-	-	-	-	-	-	-	-	49	40	5	150	3
	do. in 1862,	-	-	-	-	-	-	-	-	38	36	3	108	2
	do. in 1861,	-	-	-	-	-	-	-	-	65	36	8	85	2
	do. in 1860,	-	-	-	-	-	-	-	-	42	46	4	110	-
Total for 5 years,										210	190	25	562	10

In York county there were seven disagreements.

The criminal business has in some respects decreased from former years.

In 1860, there were *forty-two* sentences to the State's Prison. In 1861, *sixty-five*; in 1862, *thirty-eight*; in 1863, *forty-nine*; in 1864, *sixteen*, as follows :

*Cumberland County.* George W. Leavitt, uttering counterfeit bank bills, one year; Calvin Roberts, larceny, one year; John Wall, larceny, one year.

*Franklin County.* Asahel H. Thompson, burglary, twenty years.

*Penobscot County.* John Fernald, larceny, three years; William Newman, robbery, four years.

*Oxford County.* Stephen P. Hart, larceny, one year; Joseph P. Greenlaw, larceny, one year.

*Somerset County.* Hiram Judkins, larceny, one year.

*Sagadahoc County.* Jeremiah Durgan, larceny, one year.

*Washington County.* William Collins, Francis Jones, and William Phillips, conspiracy, &c., three years.

*York County.* Calvin Smith, larceny as a common thief, six years; Alexander Welch, larceny, eighteen months; Fairfield Gray, felonious assault, four years.

In 1860, there were no persons sentenced for capital offences. In 1861, there were *two*; in 1862, there were *two*; in 1863, *three*; in 1864, *three*, as follows :

In *Franklin County*, Samuel Richardson and Lawrence Doyle.

In *Washington County*, Mary Elliott.

There are complaints made by several County Attorneys in their reports about the looseness of magistrates, in official matters; but they are such as are incident to any and all systems, and the fault is more in the men who do the business, than in the manner, imposed by law, of doing it. Legislation would hardly reach the trouble.

There is one matter, perhaps, which should receive legislative attention, if it can thus be mended. The County Attorney of Penobscot county complains of the great recklessness, with which prisoners are bailed out of jail by magistrates, in the vacation of the courts. This has always been a source of prolific abuse in that county, and probably in all the larger counties in the State. Among so many justices it is not a difficult matter to find *two*, who from some cause or motive, will abuse their trust. Formerly a person in jail could be admitted to bail *after* verdict by two mag-

istrates ; and the power was exercised so abusively, that by an act of eighteen hundred and fifty, it was provided that such class of persons should be admitted to bail only by a Justice of the Supreme Judicial Court, or by some magistrate especially appointed by such justice. This has worked justly and well.

The County Attorney suggests that no person, committed for offences triable before the Supreme Judicial Court, and in a jail situated where a justice of that court *resides*, should be admitted to bail by any person except a justice of that court, or some magistrates by them designated for the purpose.

#### COUNTY TREASURER'S REPORTS.

My predecessor, Mr. Drummond, for a year or two past, made an attempt to inaugurate a system of reports from the County Attorneys to the Attorney General, from which could be ascertained, at least, the proximate expenses of the criminal department of the State. In accordance with that design, the act of 1863, chap. 169 was passed, requiring returns upon certain specific points. That act is not so clear in its requisitions as to escape misconstruction by some of the Treasurers. Some of the Treasurers have made no returns ; and others have not made them seasonably. The Treasurers being annually elected, and some of them not long in office, and the act referred to having been passed subsequently to the Revised Statutes, the duty devolving upon that officer has not in every instance been noticed by him. I have made considerable exertion to procure these reports, and would have had them all, had I been able to anticipate the delays in relation to them.

The following Table will show the substance of the Treasurers' Reports.

Reports from County Treasurers.

Counties.	Amount actually paid for costs in the S. J. Court.	Amount actually paid on costs allowed by the county commissioners.	Amount actually paid for support of prisoners in jail, &c.	Amount paid jurors.	Amount received from clerk of courts.	Amount received from judges of municipal courts and magistrates.	Amount received from jailers, &c.	Total expenses.	Total receipts.
Androscoggin, . . . . .	1,188 04	1,054 51	604 82	263 94	1,017 99	248 12	103 43	3,111 31	1,369 54
Aroostook, (no returns.) .	-	-	-	-	-	-	-	-	-
Cumberland, . . . . .	†1,689 04	†-	2,039 39	*2,186 31	1,368 23	2,069 80	395 81	5,914 74	3,833 84
Franklin, . . . . .	2,252 82	65 73	250 75	220 08	210 36	10 00	-	2,880 38	220 36
Hancock, . . . . .	261 87	288 03	109 31	212 56	-	105 00	-	871 77	105 00
Kennebec, . . . . .	935 04	3,454 87	4,500 69	381 69	751 91	532 46	870 80	9,272 29	2,154 17
Knox, . . . . .	3,474 23	-	231 42	-	-	2,217 34	-	3,705 65	2,217 34
Lincoln, . . . . .	1,581 24	386 04	201 71	426 29	1,258 87	3 00	-	2,595 28	1,261 87
Oxford, . . . . .	660 26	340 07	103 39	470 66	572 05	42 00	21 23	1,574 98	635 28
Penobscot, . . . . .	2,293 63	1,342 17	2,823 23	*1,690 38	1,771 71	521 37	299 38	8,149 41	2,592 46
Piscataquis, . . . . .	296 12	-	22 19	186 87	80 50	58 03	-	505 18	138 53
Sagadahoc, . . . . .	606 96	272 75	434 48	620 92	878 93	104 52	9 81	1,935 11	993 26
Somerset, (no returns.) .	-	-	-	-	-	-	-	-	-
Waldo, . . . . .	1,070 05	404 45	-	456 19	1,736 09	-	-	3,007 63	1,736 00
Washington, . . . . .	1,379 75	877 60	1,244 48	470 58	1,327 20	274 78	§-	5,385 85	1,002 04
York, (no returns.) . . .	-	-	-	-	-	-	-	-	-
	17,689 05	8,586 80	11,565 86	7,586 43	10,973 81	6,186 42	1,700 46	46,428 16	18,860 69

\* These items include amounts paid *traverse jurors*; and for sheriffs' attendance, serving venire, &c. No terms held in other counties exclusively for the trial of criminal causes.

† This item includes expenses in municipal and trial justices courts.

‡ Included in next item.

§ Included in preceding item.

There is no report from Aroostook. The total criminal expenses of that county for 1863, were \$516.29; total receipts were \$143.77. The expenses of 1864 must be considerably more than in 1863, on account of the case of *John C. Gove*, who was about to be tried for murder, and died in jail.

There is no report from Somerset. The expenses there in 1863, were \$1,624.02; the receipts were \$177.66.

No report from York. The expenses there in 1863, were \$4,712.93, and the receipts \$195.73.

The items given in the foregoing table will not show *all* the burdens of the criminal department. The expenses of a *traverse* jury, in counties where the civil and criminal business is done at the same term, are not given. These are very large sometimes, as they were in Franklin county the last year, on account of the trial of a number of murderers.

The total criminal expenses of 1864 will not vary much from the amount of expenses of the year before; while the receipts from various sources will considerably exceed the receipts of that year.

An increasing attention has been paid, for the last one or two years, to the collection of forfeited recognizances and fines. County Attorneys, are many of them, more vigilant in this, if not in other respects, since criminal expenses are borne by the counties instead of the State. I have no doubt, that the burdens, which crime assesses upon us, are less under the present than the former system.

Probably the expenses, for the same amount of business could be made less. Much depends upon the fidelity and good judgment of the County Attorneys.

Upon the whole I cannot perceive that the department has not been well and faithfully managed by those officers throughout the State.

All which is respectfully submitted.

JOHN A. PETERS, *Attorney General.*