

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1867.

AUGUSTA:
STEVENS & SAYWARD, PRINTERS TO THE STATE.
1867.

REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF MAINE.

1866.



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REPORT.

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

I have the honor to submit my Report for the official year, which commences November 1, 1865, and ends November 1, 1866.

TESTIMONY IN CRIMINAL PROSECUTIONS.

During the period I have occupied the office of Attorney General of this State, the statute, allowing all persons accused of crime to testify in their own behalf, has been in full operation. In 1859 an act was passed, which enabled the respondent, in any criminal suit for libel, nuisance, simple assault and assault and battery, to testify; and in 1864 the provision was extended in favor of the accused in all criminal proceedings whatsoever. This was a revolution in the practice and proceedings of our courts. The act of 1864 was passed, in each branch of the Legislature, with scarcely a dissenting vote. At that time, no other State had taken the same stride in advance of the criminal jurisprudence of all other times. Since then Connecticut has passed, and, after a year's experiment, repealed a similar act. The Commonwealth of Massachusetts in the legislative session of 1866, through the activity and earnestness of friends of the measure, enacted a law containing the same unrestricted and liberal provision as our own.

What may be the results of this new and experimental legislation may not as yet be fully ascertained. Whether more good or evil shall flow from it, is a question which produces a divided opinion with members of both bar and court. I have no idea however that there will ever be a sentiment in this State strong enough to demand its repeal.

Having watched the operation of the law as closely as possible, and desirous of ascertaining the sentiment of those persons in the State who could best test its practical workings, I sent to the County Attorneys, seasonably for an answer accompanying their usual report to this office, a circular, soliciting their opinion as to

the practical value of this act. I had intended to embody the results of the inquiry pretty liberally in this report, as a fair criterion upon which public opinion could be based ; but the returns are not particular enough to render the plan satisfactory. It can be better done at some future time. Some made no answer ; others hardly had an opinion to give ; and upon the whole many very different views and arguments were expressed.

The truth is, there are so many things to favor the principle of the statute, and also such objections to it, that it is doubtful if there ever will be a concentrated public opinion about it. Sometimes in practice it works well, and sometimes ill. One person sees the operation of it in one light, and another person sees and appreciates it differently. It is not strange they should arrive at diverse conclusions. One class of objection alleged is, that the law incites in respondents any amount of perjurious testimony. Another is, that cunning fellows, where the testimony against them is at all assailable, contrive a way to escape conviction. Then, there is an objection urged that the law is often merciless towards the accused ; that if he does not testify he will be found guilty, and if he does testify, inasmuch as he is an alleged criminal, he will not be believed. It is generally, however, admitted that in prosecutions for common offences, such as were covered by the act of 1859, the testimony of the respondent is in most cases important for the attainment of truth.

I am inclined to the conclusion, that upon the whole this new rule of evidence has a tendency to elicit the truth ; for the ascertainment of which all legal tribunals are established ; that evil comes out of it, but more good ; that by it a guilty man occasionally goes free ; that in many cases prisoners add perjury to the crime accused of ; that it costs an attorney more effort and circumspection, and perhaps the county more costs, to secure conviction ; still, that it is occasionally an invaluable boon to an innocent man, whom circumstances may surround with the suspicions of guilt. My personal experience during the three years I have held official commission from the State, has been, according to my own judgment, both ways. In one capital trial, allowing a party to testify, operated injuriously to the State. In all other capital cases the advantage has been the other way. In most cases however, the statements of prisoners neither take from, or add to, the force of the other testimony in a case.

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It may not be out of place here upon my part to assure the public mind of the groundlessness of certain statements which have within the year past found way into the newspapers, alleging doubt as to the guilt of *Lawrence Doyle*, who was convicted in Franklin county in April, 1864, upon a charge which involved the crime of both rape and murder. The articles alluded to had their origin at the time the question was discussed before the Governor and Council, whether Doyle should be reprieved. At that hearing reliance was placed upon what purported to be newly discovered testimony. In my judgment it was most slender and immaterial indeed. After hearing it, and the argument of his able and most persisting counsel, I do not entertain one single doubt of the guilt of the prisoner, who was most fully and fairly tried, and at a time several years after the crime was committed of which he stands convicted. This was the first cause in which a prisoner testified for himself under the act of 1864. I had no desire that Doyle's fate should be different from that of others convicted of the same grade of crime, and such was the conclusion made by Governor Cory and his Executive Council, before whom the question was pending.

CAPITAL TRIALS.

There has been but one trial for a capital offence during the year. This was the case of *James M. Dudley* of Newfield, who was indicted for the *murder* of *Daniel Folsom* of the same town in November, 1865. The defence was that the act was done without malicious intention, and in defence of the chastity of the wife of the accused. Rum probably had much to do with the transaction. The trial was conducted with characteristic perseverance and ability by the Hon. Increase S. Kimball, County Attorney of the county of York. The party was acquitted. From all I learn of it, the verdict as far as the charge of *murder* was concerned, at all events, cannot be complained of.

Jane M. Swett of Kennebunk in York county is now under indictment for the *murder* in September last of her late husband *Charles M. Swett*. The charge is that she put poison in whiskey which he drank. She alleges that she took this means to cure his appetite for drinking, and gave him an over-dose. Two young men of Biddeford are also in jail in the same county upon a charge of *murder*.

In *Cumberland* county there are now pending two cases for

arson of an inhabited dwelling in the night time, the punishment for which is death.

Jesse Wright was convicted of *murder* in 1863, under my predecessor, in Franklin county, and has never been sentenced till 1866. The delay was occasioned by the pending of a question of law, which has been lately decided. It has been, in this case, now fully established that in all criminal cases the jury are *not* the judges of the law, but are *bound* to take the law from the Court. The earlier cases in this State, which gave much latitude to a jury in this respect, are thus overruled.

CIVIL SUITS.

The case of *State vs. Neal Dow*, which has been alluded to in former reports has been decided in favor of the defendant.

The cases of *State vs. Waller Brown* and *vs. John Wyman* are not yet disposed of by the Court. These were cases growing out of transactions of B. D. Peck when connected with the State Treasury.

State vs. B. D. Peck and Bondsmen. This is an action on the State Treasurer's bond of 1858, pending in the county of Cumberland. Peck's bonds for other years, where he was a defaulter, have been settled with the sureties by a legislative committee, created for the purpose of investigating and adjusting his accounts with the State. The sureties of the bond of 1858, made no attempt to settle Peck's delinquencies of that year, upon the ground that they were not legally holden. A trial of the facts before a jury resulted against them, and since my last report, the very important, novel and interesting questions of law, which arose in the case, have been decided averse to them by the Court. The question of damages now remains to be passed upon before a jury, if no other mode shall be adopted by the parties. The features of this controversy were given with some particularity in my report a year ago.

There are but few responsible persons on that bond now, and upon them the result of this case must fall with great severity. One or more is deceased, several have failed, and the bond was a weak one in the beginning.

Inasmuch as the bondsmen, as I learn, desire it, I would recommend that the Legislature should appoint a committee for the purpose of negotiating a settlement with them, or empower the

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Governor and Council to either enter into a reference with the defendants upon the amount of damages, or to make a settlement of the same for such sum as may be deemed just and equitable under all the circumstances of the case. The deficiency under the bond of 1859 was settled liberally by the State with the persons unfortunate enough to have been Peck's sureties for that year.

The State has no other civil cases pending unless actions of scire facias against bail.

LIQUOR CASES.

In the many resorts of respondents in "Maine Law" cases to elude the enforcement of the statute, one was employed early in 1866, which for a period had an effect to embarrass prosecutions. It was, to remove the cases from the State into the United States Courts, where it would be expensive and tedious to maintain them. The invention originated in Massachusetts, and the pretence upon which the right was advocated, was an Act of the United States passed in 1833, when nullification was threatened by South Carolina, intended to take civil suits against Collectors of Revenue commenced by State authority, from State to United States jurisdiction. There is a plausibility in this claim for a removal of liquor cases derived from the general phraseology of the Act of 1833, and many cases were in 1866 removed; and in my judgment wrongfully done. In some cases the removal was allowed, and in some cases resisted, both here and in Massachusetts. The question is now pending, as one of law, both before the Law Court of this State, and before the United States Circuit Court in this District, whether such removal can be legally made. I have no doubt that the issue will be decided in the negative in either tribunal. I used some exertion last spring to have some corrective enactment passed by Congress in relation to it; but finally concluded it was safe enough to wait for a settlement of the question from the Courts. No attempts have been made lately by respondents thus to evade the course of legal proceedings, nor would it probably be again submitted to, if attempted.

A question arose in numerous Liquor cases at the Law Term of the Supreme Judicial Court at Augusta in July 1866, which has not yet been decided, and that is whether a person could be indicted for selling liquors, upon the sales of which he has been required to pay, and has paid the U. S. tax for internal revenue. That point will undoubtedly soon be disposed of. Our Court some

time ago settled the question that a license from the United States to sell, would be no bar to a prosecution under our statute.

The sentences in Liquor cases the past official year have been as follows: In *Aroostook* none; in *Androscoggin* 24; in *Cumberland* 12; in *Franklin* none; in *Hancock* none; in *Knox* 16; in *Kennebec* 9; in *Lincoln* none; in *Oxford* 8; in *Penobscot* 11; in *Piscataquis* none; in *Sagadahoc* 1; in *Somerset* 10; in *Waldo* 4; in *Washington* 11; in *York* 2.

This summary however fails to show all the prosecutions under this law. Many seizures and complaints never go beyond Trial Justices and Municipal or Police Courts. Many cases of indictment are settled by payment of fines without a trial. The questions raised for impediment and delay have been so far exhausted, and the attention of the Law Court in such cases has been so prompt, that there has been of late years not much motive to carry cases up.

CASES IN THE LAW COURT.

There are no Law Cases, argued or submitted in 1865, which remain undecided now.

The following cases were argued and submitted at the Law Terms of 1866:

EASTERN DISTRICT.

Penobscot County.

State vs. Lavonia W. Mitchell. Indicted for sending a threatening letter. Demurrer to indictment. Argued. Not yet decided.

State vs. David Dresser. Larceny. Demurrer and exceptions. Not yet decided.

State vs. Edward Hayes. Indicted under statute for trespass in carrying off a horse. Verdict of guilty. Exceptions, continued nisi.

State vs. Thomas Kelley.

Same vs. Levi T. Brann.

Same vs. George O. Cram.

Same vs. Wm. H Chase.

Same vs. Daniel C. Hurley.

Same vs. Charles Aldrich.

These were indictments as common sellers. Demurrer to indictment. Demurrers overruled. Judgment for the State.

There were no cases in the Eastern District out of Penobscot county.

MIDDLE DISTRICT.

Somerset County.

State vs. Benjamin F. Bartlett et al. Adultery. Demurrer to indictment. Submitted, and not yet decided.

State vs. Albert Williams. Cheating by false pretences. Demurrer to indictment. Argued; not decided.

State vs. Eliphalet J. Foss. Forgery. Demurrer to indictment. Argued; not yet decided.

State vs. Samuel Ham et als. Riot. On exceptions. Argued; not decided.

State vs. Wm. H. Brown et al.

Same vs. Cephas Dinsmore.

Same vs. Josiah P. Churchill.

Same vs. Wm. R. Gale.

Same vs. Eli S. Walker.

Same vs. Emma Walker.

Common sellers. Exceptions in each case overruled. Judgment for State.

Knox County.

State vs. Aurelius Young et als. Scire facias on bail bond. Argued; not yet decided.

State vs. James C. Case.

State vs. George C. Dow.

State vs. Sandford Delano.

State vs. Wm. E. Currier.

State vs. Peter Loraine.

State vs. Jackson Small.

Common sellers. All depending upon the same question, raised on exceptions. Argued; not decided.

State vs. Daniel Churchill.

Same vs. Thomas W. Johnson.

Same vs. Asa Harrington.

Same vs. Peter Loraine.

Same vs. Ellen Crowley.

Same vs. Daniel Churchill.

Indicted for common selling. Demurrer to indictments. Demurrer overruled. Judgment for State.

Sagadahoc County.

State vs. John E. Leavitt. Larceny. Exceptions overruled.

Kennebec County.

State vs. George W. Sweetsir. Polygamy. Plea in abatement. Overruled. Defendant to answer over.

State vs. William Brown.

State vs. Jarvis Barney.

State vs. Same.

Common sellers. Demurrer to indictment. Judgment for the State.

State vs. Jarvis Barney, Apt.

Same vs. Same, Apt.

Same vs. Same, "

Same vs. Same, "

Single sale. Motion in arrest. Motion overruled. Judgment for the State.

WESTERN DISTRICT.

Androscoggin County.

State vs. James B. Hill.

Same vs. Same, Apt.

Same vs. Same, Apt.

Same vs. Michael J. Ward.

Same vs. Thomas H. Rowan.

Liquor cases. Judgment for the State.

Cumberland County.

State vs. Solomon Elder.

Same vs. Same.

Liquor cases, which were attempted to be removed from State to U. S. Court. In these cases the question whether such removal is authorized by the statute of the United States will be settled by our Court.

State vs. F. O. J. Smith. Demurrer to indictment for adultery. Submitted by State. Defendant's argument to be in writing. Not decided.

State by William B. Irish, Complainant, vs. Intoxicating Liquors claimed by Thomas L. Smith. Argued ; not decided.

State by Compl. vs. G. W. Brown. Liquor case. Judgment for State.

State vs. Mark Sullivan. Compound larceny. Exceptions overruled. Judgment for State.

State vs. Charles G. Innis. Submitted; not decided. Liquor case.

The whole number of criminal law cases in 1866 was *fifty-three*; in 1865 *seventeen* cases; in 1864 *twenty-two* cases. Of the *fifty-three* cases in 1866 *forty-one* were liquor cases. The cases not liquor were a larger proportion than usual.

REPORTS OF COUNTY ATTORNEYS.

In the following tables A and B will be found abstracts of the reports of the County Attorneys. They will exhibit a proximately correct summary of the criminal business conducted by the County Attorneys for the year commencing November 1, 1865, and ending November 1, 1866. The statutes requiring these reports, and regulating the time and manner of them, are section 34, chapter 77, Revised Statutes, and chapter 168 of the Laws of 1863.

TABLE A.

COUNTIES.	CASES.	CRIMES.																			
		Whole number.	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, &c.	Malicious mischief.	Cheating and conspiracies.	Defects in highway.	Nuisances.	Violation of liquor law.	Other offences.
ANDROSCOGGIN.	Indictments pending Nov. 1, 1865,	38	-	-	-	2	5	-	-	-	-	1	2	-	-	-	2	2	1	12	11
	Appealed cases pending Nov. 1, 1865,	18	-	-	-	-	-	-	-	-	1	1	1	-	-	-	-	-	1	17	-
	Indictments found Jan. T., 1866,	44	-	-	-	-	2	5	-	-	-	-	1	-	-	-	-	-	1	30	3
	Appealed cases entered Jan. T., 1866,	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8	-
	Indictments found April T., 1866,	26	-	-	-	-	3	-	1	-	-	-	-	1	-	-	-	1	4	5	12
	Appealed cases entered April T., 1866,	19	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	18	-
	Indictments found Sept. T., 1866,	32	-	-	1	-	6	4	-	-	-	1	2	-	2	-	1	-	2	9	4
	Appealed cases entered Sept. T., 1866,	7	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	5	1
	Indictments pending at end of year,	67	-	-	-	1	7	2	-	-	-	-	-	-	-	-	1	3	3	32	18
	Appealed cases pending at end of year,	17	-	-	-	-	-	2	-	-	-	-	1	-	-	-	-	-	-	11	3
AROOSTOOK.	Indictments pending Nov. 1, 1865,	3	-	-	-	-	1	-	-	-	-	1	-	-	-	-	-	-	1	-	-
	Appealed cases pending,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found Feb. T., 1866,	3	-	-	-	-	1	-	-	-	-	-	-	2	-	-	-	-	-	-	-
	Appealed cases entered,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found Sept. T., 1866,	3	-	-	-	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	-
	Appealed cases entered,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
CUMBERLAND.	Appealed cases entered,	5	-	-	-	-	1	-	-	-	-	3	-	1	-	-	-	-	-	-	-
	Indictments pending at end of year,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Appealed cases pending at end of year,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments pending Nov. 1, 1865,	25	-	-	-	1	5	1	-	1	1	1	1	2	-	-	-	-	5	-	7
Indictments found Nov. T., 1865,	39	-	3	-	2	8	5	2	1	-	2	2	-	-	-	-	-	1	6	6	
Appealed cases entered Nov. T., 1865,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	

	Indictments found March T., 1866,	34	-	-	-	-	5	7	1	1	-	1	1	-	3	-	-	-	4	8	3
	Appealed cases entered Mar. T., 1866,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-
	Indictments found July T., 1866,	76	-	1	-	-	9	21	-	-	-	1	4	1	5	-	-	2	13	17	2
	Appealed cases entered July T., 1866,	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	1
	Indictments pending at end of year,	63	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FRANKLIN.	Appealed cases pending at end of year,	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments pending Nov. 1, 1865,	21	1	-	-	-	-	9	-	-	-	-	-	-	1	-	-	2	6	2	-
	Indictments found April T., 1866,	8	-	-	-	-	-	4	-	-	-	-	-	-	-	-	-	-	-	2	2
	Indictments found Oct. T., 1866,	8	-	-	-	-	-	-	-	-	1	3	-	-	4	-	-	-	-	-	-
	Indictments pending at end of year,	13	-	-	-	-	-	2	-	-	-	1	-	-	3	-	-	-	5	1	1
HANCOCK.	Indictments pending Nov. 1, 1865,	1	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	1
	Indictments found Oct. T., 1865,	8	-	-	-	-	-	3	-	-	1	1	-	-	-	-	-	3	-	1	-
	Appealed cases entered Oct. T., 1865,	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-
	Indictments found April T., 1866,	19	-	-	-	-	1	4	-	-	-	3	-	-	-	-	-	4	-	7	-
	Indictments pending at end of year,	18	-	-	-	-	-	1	-	-	-	2	-	-	-	-	-	-	-	8	-
KENNEBEC.	Indictments pending Nov. 1, 1865,	23	-	1	-	1	-	2	-	-	-	3	1	3	2	-	-	7	-	7	-
	Appealed cases pending Nov. 1, 1865,	17	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found Nov. T., 1865,	20	-	1	-	-	-	3	1	1	-	3	1	-	-	-	-	-	-	8	1
	Appealed cases entered Nov. T., 1865,	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found March T., 1866,	31	-	-	-	3	5	3	2	-	1	2	-	-	-	-	-	-	-	12	3
	Appealed cases entered Mar. T., 1866,	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found August T., 1866,	13	-	1	-	-	-	2	-	-	3	1	-	-	-	-	-	2	-	4	-
	Appealed cases entered Aug. T., 1866,	15	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments pending at end of year,	38	-	1	-	1	2	3	-	-	-	2	-	2	1	-	-	2	-	22	2
	Appealed cases pending at end of year,	23	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
KNOX.	Indictments pending Nov. 1, 1865,	75	1	-	-	-	-	1	4	-	2	2	-	-	1	-	-	6	2	54	2
	Appealed cases pending Nov. 1, 1865,	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found April T., 1866,	24	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	-	-	1	20
	Appealed cases entered Apr. T., 1866,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Indictments found Oct. T., 1866,	16	1	-	-	-	-	1	-	-	-	-	-	1	-	-	-	3	-	10	-
	Indictments pending at end of year,	67	1	-	-	-	1	3	-	-	2	2	-	-	-	-	-	6	1	48	2
	Appealed cases pending at end of year,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
LINCOLN.	Indictments pending Nov. 1, 1865,	22	1	-	-	1	7	-	-	1	-	1	-	-	1	-	-	3	6	1	2
	Appealed cases pending Nov. 1, 1865,	3	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-
	Indictments found Jan. T., 1866,	34	-	-	-	2	1	-	-	-	-	-	-	-	-	-	-	1	-	30	-
	Appealed cases entered Jan. T., 1866,	6	-	-	-	-	-	-	-	-	-	4	-	-	-	-	-	-	-	2	-
	Indictments found May T., 1866,	8	-	-	-	-	3	-	-	-	2	-	-	-	-	-	-	-	-	3	-

PISCATAQUIS.	Indictments pending Nov. 1, 1865,	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
	Indictments found Feb. T., 1866,	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Appealed cases entered Feb. T., 1866,	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
	Indictments found Sept. T., 1866,	4	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
	Appealed cases entered Sept. T., 1866,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
SAGADAHOC.	Indictments pending at end of year,	6	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
	Indictments pending Nov. 1, 1865,	12	-	-	-	-	-	-	2	1	-	-	-	-	-	-	-	-	7
	Indictments found April T., 1866,	6	-	-	-	-	-	1	3	-	-	-	-	-	-	-	-	-	2
	Indictments found August T., 1866,	3	-	-	-	-	-	2	2	-	1	-	-	-	-	-	-	-	-
	Indictments pending at end of year,	13	-	-	-	-	3	2	1	-	-	-	-	-	-	-	-	-	5
SOMERSET.	Indictments pending Nov. 1, 1865,	53	-	2	1	3	-	-	3	-	-	-	3	2	3	1	1	8	1
	Appealed cases pending Nov. 1, 1865,	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	21
	Indictments found Dec. T., 1865,	12	-	1	-	-	-	-	3	-	-	-	-	-	-	-	-	-	1
	Appealed cases entered Dec. T., 1865,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
	Indictments found March T., 1866,	11	-	-	1	1	-	-	2	-	-	-	1	-	-	-	-	-	3
WALDO.	Indictments found Sept. T., 1866,	13	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	-	5
	Indictments pending at end of year,	48	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
	Indictments pending Nov. 1, 1865,	31	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	19
	Appealed cases pending Nov. 1, 1865,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
	Indictments found May T., 1866,	15	-	-	1	-	-	-	5	-	-	-	-	-	-	-	-	-	8
WASHINGTON.	Appealed cases entered May T., 1866,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
	Indictments found Oct. T., 1866,	14	1	-	-	1	1	-	1	-	-	-	1	-	-	-	-	-	9
	Appealed cases entered Oct. T., 1866,	11	-	-	-	-	-	-	-	-	-	-	3	-	-	-	-	-	6
	Indictments pending at end of year,	25	1	-	-	-	1	4	-	-	-	-	-	1	-	1	1	-	16
	Appealed cases pending at end of year,	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
YORK.	Indictments pending Nov. 1, 1865,	43	-	-	-	1	1	1	-	4	1	-	3	1	-	-	-	-	29
	Indictments found Jan. T., 1866,	9	-	-	-	-	3	1	1	-	-	-	-	-	-	-	-	-	3
	Indictments found April T., 1866,	10	1	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	8
	Appealed cases entered Apr. T., 1866,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
	Indictments found Oct. T., 1866,	29	-	-	-	-	3	3	-	1	-	-	2	-	3	-	-	-	15
YORK.	Appealed cases entered Oct. T., 1866,	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
	Indictments pending at end of year,	54	-	-	-	-	2	2	-	3	-	-	5	1	-	5	-	-	34
	Appealed cases pending at end of year,	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
	Indictments pending Nov. 1, 1865,	54	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Appealed cases pending Nov. 1, 1865,	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
YORK.	Indictments found Jan. T., 1866,	7	1	-	-	1	-	2	-	-	-	-	-	-	1	-	-	-	2
	Appealed cases entered Jan. T., 1866,	2	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-
	Indictments found May T., 1866,	14	-	-	-	-	-	5	-	-	-	-	-	-	1	-	-	-	8
	Appealed cases entered May T., 1866,	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Appealed cases entered May T., 1866,	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

TABLE A, (CONTINUED.)

COUNTIES.	CASES.	CRIMES.																			
		Whole number.	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, &c.	Malicious mischief. 1	Cheating and conspiracies.	Defects in highway.	Nuisances.	Violation of liquor law.	Other offences.
YORK— <i>Con.</i>	Indictments found Sept. T., 1866,	10	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Appealed cases entered Sept. T., 1866,	5	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Indictments pending at end of year,	51	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Appealed cases pending at end of year,	11	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL.	Indictments pending Nov. 1, 1865,	469	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Appeals pending Nov. 1, 1865,	88	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Indictments found during year,	757	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Appeals entered during year,	157	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Indictments pending Nov. 1, 1866,	574	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Appeals pending Nov. 1, 1866,	165	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

TABLE B.

Disposition of cases during 1866, and condition of those not disposed of, and sentences during the year.

Counties.	Cases.	Disposition during year ending Nov. 1, 1866.					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."	Dropped from Docket.	State Prison.	County Jail and House of Correction.	Reform School.	Fine, &c.	To be hung.	Insane Hospital.
Androscoggin	Indictments, Appeals,	-	14	13	27	-	167	3	2	-	17	21	-	18	-	-
Aroostook,	Indictments, Appeals,	-	7	-	15	1	44	-	1	-	1	2	-	-	-	-
Cumberland,	Indictments, Appeals,	-	7	18	68	3	48	12	3	-	36	18	2	26	-	-
Franklin,	Indictments, Appeals,	-	5	4	5	-	13	-	-	-	1	1	-	2	1	-
Hancock,	Indictments, Appeals,	-	-	1	11	-	9	6	-	-	4	4	-	2	-	-
Kennebec,	Indictments, Appeals,	-	11	27	27	4	34	19	10	-	10	17	1	13	-	-
Knox,	Indictments, Appeals,	-	2	4	16	3	24	23	9	-	1	4	-	13	-	-
Lincoln,	Indictments, Appeals,	1	57	30	10	25	3	-	-	-	3	2	-	-	-	-
Oxford,	Indictments, Appeals,	8	6	4	-	8	-	-	-	-	-	-	-	-	-	-
Penobscot,	Indictments, Appeals,	-	15	3	16	-	23	-	1	-	2	2	-	16	-	-
Piscataquis,	Indictments, Appeals,	-	2	4	-	-	6	-	1	-	-	-	-	4	-	1
Sagadahoc,	Indictments, Appeals,	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-
Somerset,	Indictments, Appeals,	1	3	20	20	2	48	3	7	-	5	4	1	8	-	-
Waldo,	Indictments, Appeals,	-	20	9	10	3	13	15	-	-	-	3	-	4	-	-
Washington,	Indictments, Appeals,	-	3	3	4	1	-	-	-	-	-	-	-	-	-	-
York,	Indictments, Appeals,	-	2	1	2	1	1	-	-	-	4	4	2	14	-	-
		-	-	1	5	2	20	5	-	-	-	3	-	4	-	-
		-	-	1	1	4	1	-	-	-	-	-	-	-	-	-
Total,	Indictments, Appeals, Sentences in '66.	1	150	138	256	42	456	94	35	10	-	-	-	-	-	-
	" in 1865,	11	42	49	56	15	94	20	13	-	30	41	10	113	-	-
	" in 1864,	-	-	-	-	-	-	-	-	-	16	32	5	109	3	-
	" in 1863,	-	-	-	-	-	-	-	-	-	49	40	5	150	3	-
	" in 1862,	-	-	-	-	-	-	-	-	-	38	36	3	108	2	-
	" in 1861,	-	-	-	-	-	-	-	-	-	65	36	8	85	2	-
	" in 1860,	-	-	-	-	-	-	-	-	-	42	46	4	110	-	-
Total for 7 years, 344											325	41	825	11	1	

SENTENCES IN 1866.

It will be seen that there were in 1866 *one hundred and four* sentences to the State's Prison, while in 1865 there were *thirty*; in 1864, *sixteen*; in 1863, *forty-nine*; in 1862, *thirty-eight*; in 1861, *sixty-five*; and in 1860, *forty-two*.

In 1866 the sentences to County Jail and House of Correction were *ninety-four*, while the highest number of the same character for any one one year since 1860 inclusive was *forty-six*.

The number of fines imposed in 1866 was 150; the number in 1865 was 113.

In 1866 there was *one* sentence in capital case; in 1865, *none*; in 1864, *three*; in 1863, *three*; in 1862, *two*; in 1861, *two*; in 1860, *none*. In 1866, *one* sentence to Insane Hospital.

The State's Prison sentences in 1866 were as follows:

Androscoggin County. George F. Perkins, George Douglass and George Crummitt, larceny, two years; Thomas McCarty, compound larceny, five years; William Warren, larceny, three years; Joseph Young, larceny, one year; George H. McKeen, burglary, one year; Peter Murray, felonious assault, two years; George Albee and Richard Brophy, larceny, two years; James Shaw and Patrick Foley, larceny, one year; William Holt, compound larceny, two sentences, five years each; Thomas Sullivan, assault with dangerous weapon, two years; Orrin M. Goodwin, compound larceny, eighteen months; William Mullins and Charles Dorsen, burglary, two years.

Aroostook County. Thomas Winship, adultery, one year.

Cumberland County. George Bonney, compound larceny, six years; William Lawless, burglary, two years; William Mackin and George Mackin, compound larceny, two years; Barny Holland, receiving stolen goods, four years; John Cook, larceny, eighteen months; Charles E. Moulton, larceny, one year; Patrick McCafferty, compound larceny, ten years; Edward Roach, counterfeiting, two years; Joseph H. Pollard, compound larceny, seven years; John Robb, common thief, four years; Isaac W. Bowen, larceny, one year; George R. Ray, larceny, three years; James Devine, larceny, five years; John Green, burglary, six years; John Jeffers, larceny, two years; Thomas O'Neil, James Jones and John Maguire, compound larceny, four years; Thomas Mulligan, larceny, three years; Charles F. Reynolds, larceny, two years; Charles H. Miller, adultery, three years; Martha Mason,

adultery, one year ; John Harper, compound larceny, four years ; Charles Brainard, larceny from fire, one year ; Melville Kenniston, compound larceny, eighteen months ; Frank L. Pinkham, larceny, three years ; David R. Carter, adultery, one year ; George Stoddard, compound larceny, five years ; Bernard Murray, larceny, one year ; John Sullivan, adultery, one year ; James O'Brien, larceny, eighteen months.

Franklin County. Jesse Wright, murder, sentenced to be hung ; John W. Frederick, larceny, one year.

Hancock County. George I. Card, larceny, eighteen months ; Nancy A. Whitton, larceny, one year ; Abram Barreo, an Indian, compound larceny, two years ; Oliver Heath, larceny, eighteen months.

Kennebec County. William S. Willia, arson, ten years ; Robert Crawford, burglary, five years ; John West and al, highway robbery, each seven years ; William Burns *alias* William Foss, burglary, five years ; larceny, three years ; and larceny, two years ; Charles D. White, burglary and larceny, two years ; Lucius Rankins, burglary, five years ; also larceny, two years ; Robert Goddard, felonious assault, one year ; David Day, assault with intent to ravish, two years.

Knox County. Franklin C. Richards, store breaking, two years and four months.

Lincoln County. John H. Mink, compound larcenies, two convictions, three years each ; Solomon D. Taylor, larceny, two years.

Oxford County. James B. Polland, larceny in dwelling house, two years ; Edward W. Wells, larceny, two years.

Penobscot County. Cornelius Sullivan, larceny, common thief, fifteen years ; same, burglary, six years ; George H. Leighton, larceny, one year ; Melville A. Nichols, larceny, two years ; Frank Weddington, larceny, two years ; James Dunn, burglary, five years ; Charles Williams, burglary, five years ; Michael Dunn, receiving stolen goods, four years ; James Dunn, attempt to break and enter store, four years ; Charles Williams, attempt to break and enter store, four years ; Andrew Braislin, compound larceny, one year ; Samuel Follerman, compound larceny, one year ; Andrew Braislin, compound larceny, four years ; George Tobin, compound larceny, two years ; John Sears, larceny, five years ; Wm. Willis, larceny, six years ; John E. Daniels, compound larceny, six years ; Archy Young, compound larceny, six years.

Sagadahoc County. George W. Carpenter, larceny, three years ; Jesse D. Webber, rape, for life.

Somerset County. Nathan Tuttle, larceny, one year ; John Hayes, larceny, two years ; Elbridge G. Martin, arson, five years ; Elihu A. Brown, larceny, one year ; James Church, larceny, one year.

Washington County. Thomas Tracey, robbery, fifteen years ; Asa E. Sawyer, larceny, reform school during minority, or State's prison, one year ; Otis Parsons, shop breaking, same punishment ; Andrew Bell, manslaughter, five years ; Simon Reynolds and John Stevens, breaking and entering vessel, each two years.

In Piscataquis, Waldo and York counties there were no sentence to State's Prison. In Piscataquis, Elizabeth H. Leavitt, for arson, was sentenced to Insane Hospital. The State's Prison sentences in 1866 are divided among the counties, as follows :

In Androscoggin, 17 ; Aroostook, 1 ; Cumberland, 36 ; Franklin, 1 ; Hancock, 4 ; Kennebec, 10 ; Knox, 1 ; Lincoln, 3 ; Oxford, 2 ; Penobscot, 18 ; Sagadahoc 2 ; Somerset, 5 ; Washington, 4.

In 1866, there were 757 indictments found. In 1865, there were 438 indictments found. Appeals entered in 1866, were 157. In 1865, there were 134.

The criminal business of the last year has been greater than for any preceding year that has come under my examination. The County Treasurers' Reports will show a corresponding increase in the expenses of the criminal department.

There are many other details in the returns of County Attorneys, which cannot be embraced in this report. I would call attention, however, to a suggestion made on the part of some of them, that we should have an act here, as has been done in Massachusetts, authorizing bail in criminal cases to surrender their principal in vacation to the jailer with the same effect, as may be done to the proper officer during a session of court.

The following table will show the substance of the

COUNTY 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 Co. Commissioners.	Costs allowed by Trial Justices, Magistrates, &c.	Amount actually paid for support of prisoners in jail, &c.	Amount paid Jurors, Sheriffs' attendance, &c.	Amount received from Clerk of Courts.	Amount received from Judges of Municipal Courts and Magistrates.	Amount received from Jailers, &c.	Total Expense.	Total Receipts.
Androscoggin,	\$2,988 37	\$1,131 55	-	\$2,141 27	\$430 40	\$1,669 49	\$506 01	\$263 40	\$6,691 59	\$2,438 90
Aroostook,	414 18	144 93	-	455 99	-	-	28 00	-	1,015 10	28 00
Cumberland,	*3,935 23	-	\$479 93	7,194 76	3,274 95	2,495 78	3,550 68	560 18	14,884 87	6,606 64
Franklin,	444 03	-	83 77	168 26	364 24	6293 44	-	-	1,066 30	-
Hancock,	1,240 27	213 11	-	390 87	1,007 49	68 00	-	-	2,851 74	68 00
Kennebec,	2,595 67	2,944 91	-	5,678 52	-	856 32	257 21	689 57	11,219 10	1,803 10
Knox,	2,090 88	-	-	526 01	-	2,426 64	-	-	-	2,426 64
Lincoln,	1,621 04	244 43	-	536 16	1,083 52	1,089 78	35 00	-	3,655 15	1,124 78
Oxford,	2,155 50	-	-	274 03	707 68	2,073 55	31 00	-	3,137 21	2,104 55
Penobscot,	2,795 18	945 88	-	†4,539 93	*2,531 72	2,014 14	839 26	‡255 84	10,812 71	3,107 24
Piscataquis,	342 57	21 01	-	246 80	-	680 65	-	-	610 38	80 65
Sagadahoc,	1,200 04	288 87	-	232 09	794 07	253 67	37 00	-	2,515 07	290 67
Somerset,	2,194 92	941 93	-	707 27	721 22	1,543 61	108 00	-	4,565 34	1,651 61
Waldo,	1,846 59	-	-	944 08	2,457 75	926 37	-	-	5,248 82	926 37
Washington,	2,177 73	1,315 94	-	1,594 63	a 2,988 50	1,373 66	391 00	30 00	8,076 80	1,794 66
York,	2,290 91	4,419 91	-	-	1,182 43	1,073 88	-	-	7,893 25	1,073 88
Total,	-	-	-	-	-	-	-	-	\$84,243 43	\$25,525 69

* These items include service venires at Criminal Terms Supreme Judicial Court.
 || This item includes amount received from Magistrates, Jailers and other officers.
 † This item includes \$715.30 for support of prisoners in House of Correction.
 ‡ This item includes \$62.42 received from master of House of Correction.
 a This item includes amounts paid Jurors for both civil and criminal terms.
 b These items include amounts received from Magistrates, Jailers and other officers.

The items in Franklin County date from February 8, 1866, time of present incumbent's appointment.

These returns will show only an approximate correctness. The act of 1863, chapter 169, which requires details from the Treasurers, is somewhat obscure in its provisions, and is occasionally, by a treasurer, misunderstood. In most counties, as there is no separate terms for criminal business, a portion of the expenses cannot be accurately ascertained.

The total expenses of the year 1866, were \$84,243.43. In 1865, the same were \$46,449.97. This shows a very large increase of expenses. In 1864 the expenses were nearly the same as in 1865. In 1863 they were more than in 1864. The total receipts, denominated criminal, of 1866, were \$25,525.69. In 1865, the same were \$21,918.31. In 1864 they were \$18,860.69. In 1863 they were 13,408.88. The receipts from fines and forfeited recognizances have not increased in the same ratio as the expenses of business done. This is because the increase of cases has been principally in the higher grades of crime, where the payment of fines and costs does not occur.

The business of the criminal department is evidently increasing, and it behooves the County Attorneys to conduct it with as reasonable expenses as possible. There is no doubt that there always has been and always will be more or less waste. Upon the Attorneys everything depends for a just and economic administration.

All which is respectfully submitted.

JOHN A. PETERS, *Attorney General.*