

MAINE STATE LEGISLATURE

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Public Documents of Maine:

BEING THE

ANNUAL REPORTS

OF THE VARIOUS

PUBLIC OFFICERS AND INSTITUTIONS

FOR THE YEARS

1871-72.

AUGUSTA:

SPRAGUE, OWEN & NASH, PRINTERS TO THE STATE.

1872.

REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF MAINE.

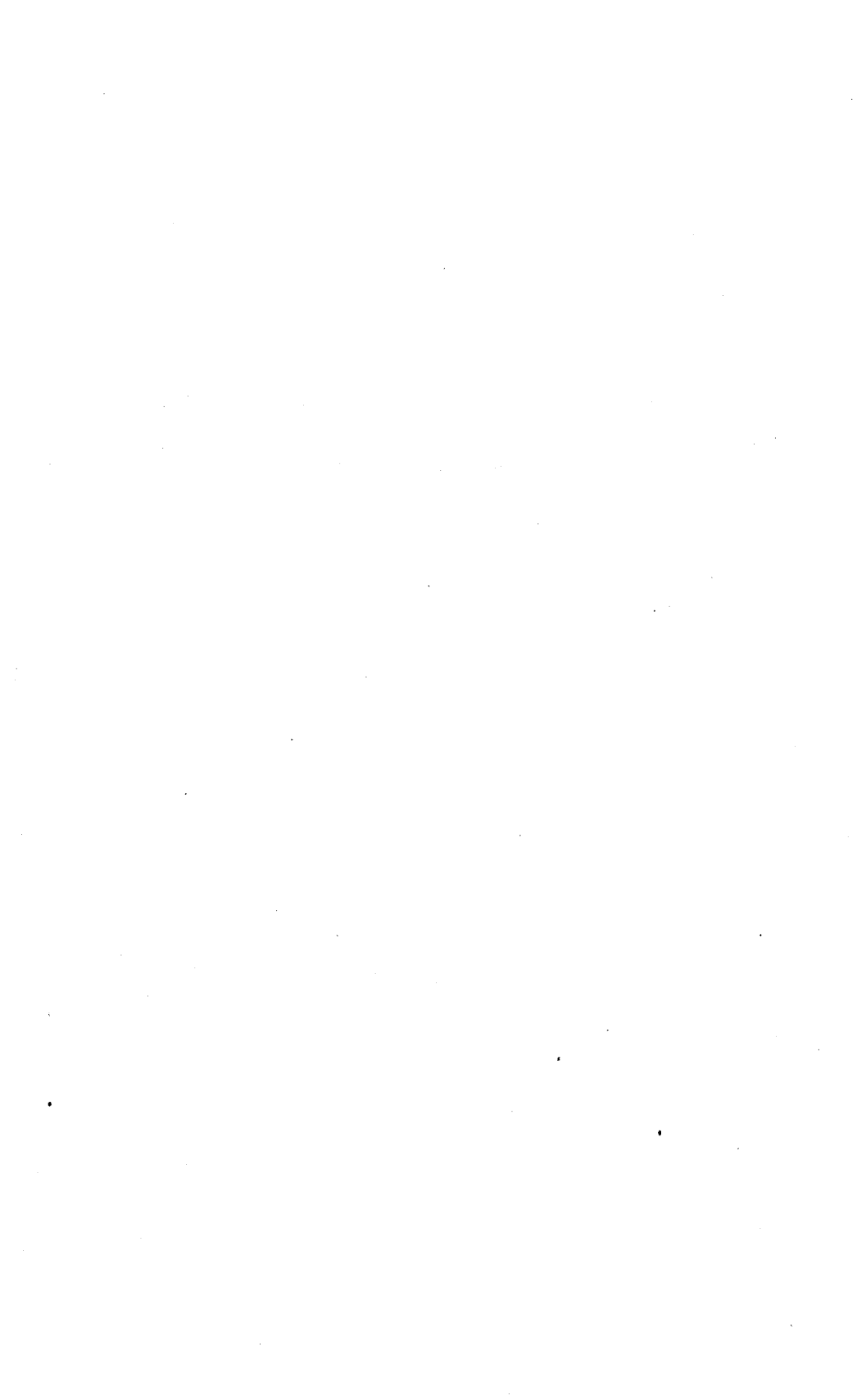
1871.



AUGUSTA:

SPRAGUE, OWEN & NASH, PRINTERS TO THE STATE.

1871.



REPORT.

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

I have the honor to submit the following as my report for the official year ending October 31, 1871.

In accordance with the requirements of law, I last year submitted some suggestions of changes and improvements which seemed to me needful for the more effectual administration of criminal justice. As those suggestions have not as yet been incorporated into the statutes, and as they still seem to me, after the experience of another year, essential, I submit them again with additional reasons :

I. ADMISSION OF HUSBAND AND WIFE AS WITNESSES AGAINST EACH OTHER.—The result of the trial of any cause where the facts are disputed, necessarily depends upon the evidence presented. Evidence, for the most part, is derived from individuals cognizant of the facts. If then we know that any individual is cognizant of facts bearing upon the cause, and refuse to inquire of him when there is no sufficient reason for such refusal, we are liable not to get at the truth and consequently to do injustice. The unmistakable tendency of modern legislation has been towards the admission of all classes of persons as witnesses. This has not been always so. For many years the slightest interest, direct or indirect, was sufficient to exclude any witness, however honest and reliable ; and it is only since 1856 that interested witnesses have been allowed to testify in this State. Although there was much opposition to the change at the time, no one now doubts that it was a change for the better. Investigation, both theoretical and practical, have shown that the reason for the exclusion of the interested person, was not sound. A similar investigation will, in my judgment, show that the reason given for the exclusion of husband and wife, is equally unsound. It may be stated as a

general principle that no person should be excluded from testifying, unless there be a reason sufficiently powerful to constrain us deliberately to risk injustice by not resorting to evident sources of knowledge. By the laws of this State the husband and wife of either party may be witnesses with the consent of the other, but not without. Consequently, in practice, they may be witnesses for, but not against, each other. If, therefore, I have transactions with a husband in the presence of his wife, and a lawsuit grows out of them, if she is willing to testify in her husband's favor, he can have the benefit of her testimony; if, on the other hand, she can only testify in my favor, her testimony can be denied me at the pleasure of my opponent. What reason can be given for this? It is not pretended that the testimony of the wife in such case would be suspicious and likely to be untrue. The relation of husband and wife has no more tendency to produce falsehood than the relation of brother and sister. The reason usually given is, that the preservation of domestic harmony requires that each should have the power of closing the other's mouth in a court of justice. What preservation of domestic harmony results from this power is evidently at the expense of the other party to the suit. It ought, therefore, to be in the first place a domestic harmony worth preserving, and in the second place worth preserving at the expense of the other party's rights. In the case supposed, the wife who is willing to testify in my favor will either tell the truth or a lie. If she intends to tell the truth, the husband who exercises his power to prevent her is a rogue. Can a rogue's domestic harmony be worth protecting at the expense of justice? If she means to lie, she is willing deliberately to perjure herself for the sake of injuring her husband. Surely, the refusal of her testimony in such a case would not be the preservation of a living domestic harmony so much as the embalming with mortuary honors of a dead one. By the common law the husband and wife could not testify either for or against each other. While this was all wrong, it nevertheless lacked the element of absurdity which attaches itself to our statute. The relation of husband and wife is such that they are much more likely to deviate from the truth to favor each other than to injure each other. Yet the wisdom of our law admits their testimony when most likely to be untrue and rejects it when most likely to be true.

This is not merely theoretically wrong, but practically wrong. Cases continually arise where gross injustice may be done. In

the trial of Edward H. Hoswell in this State, the deceased was murdered in the presence of Hoswell's wife. She was the only witness. Yet the criminal was allowed to testify himself, and to prevent his wife from testifying.

In a case in Franklin county, a husband and the family physician are now under indictment for procuring an abortion. The only witness is the wife. The question whether she can testify is now pending before the Court. My impression is, that the Court will declare her competent, on the ground that she is the injured party, and likely from the very nature of the case to be the only witness. But the case is a new one, and yet one very likely to occur, if our statutes for the prevention of the murder of offspring are to be of any effect. If the Court should decide otherwise, the practical effect would be this: The statute declares that the crime shall be punished if proved; but the common law rule would interpose and say, it shall not be proved. For this crime is secret, and in the great majority of cases unless the wife can testify, no one can; and if a case so aggravated has occurred, that the wife is willing to testify, the domestic harmony left for preservation is hardly worth the interposition of the Court.

In a case in Massachusetts, the husband came home late at night and found the defendant in the act of adultery with his wife. The defendant was indicted for the crime. The husband alone knew the circumstances. He was offered as a witness, but a majority of the Supreme Court of Massachusetts held that he could not testify against the adulterer, because the testimony would implicate his own wife. Of course this was done to preserve his domestic felicity. It may look like an extreme measure for that purpose, but it was an extreme case. When a man has caught his wife in the act of adultery, his domestic harmony does seem to need all the protection it can get. This was the gratifying result in that State, where a law abiding citizen, instead of shooting the adulterer, as has been the fashion of late years, appealed to the Court for justice. If such should prove to be the law of this State, the imitators of Sickles, Cole and McFarland, will have a nearer approach to a decent excuse for taking the law into their own hands than was ever supposed.

These instances show at once the practical danger of allowing the law to remain as it is, and the inherent absurdity of the reason given for its maintenance.

II. RECOGNIZANCES.—The manner of taking recognizances in criminal cases is still the subject of complaint on the part of the county attorneys. As the law now stands, any two justices of the peace, chosen by the accused, may admit to bail, and in certain cases even reduce the amount fixed by the court. They may take any sureties that satisfy them. Indeed, they have supreme control over the whole matter. The results are not satisfactory. The complaints are frequent and repeated, and deserve attention. The evil moreover is likely to increase. Since justices of the peace have been deprived of most of their judicial functions by the laws creating trial justices, they have become more numerous and have been appointed with much less care. But it still remains the fact that any two justices thus appointed may exercise the power already spoken of. Inasmuch as the character of these persons as a body has been changed, our system of taking bail, which may have been well enough before the change, ought to be altered to correspond. The operation of the present system is well illustrated by a case which occurred in Penobscot County the past year. The crime charged was of great magnitude, and the Judge of the Police Court having fixed the bail at seven thousand dollars, refused two men as sureties, in open court, because it was evident upon their own showing that they were not worth that sum. Upon reflection the Judge raised the bail to ten thousand dollars, and the prisoner went to jail. That night two justices of the peace, at the jail, accepted as sureties for ten thousand dollars the same men whom the Police Judge had in open court, in the same case, on the same day, rejected for seven. Upon this subject the County Attorney of York County, G. C. Yeaton, Esq., in his report to me, says :

“I would most *earnestly* recommend that *again* the attention of the Legislature be invited to the *necessity* of some change in the present system of taking recognizances after commitment, concerning which there can be no divided opinion, if it is any object to protect the county treasury, as well as otherwise promote public justice.”

Language as emphatic as this has been very common in the reports of County Attorneys for the past few years, and certainly deserves attention.

In my report of last year I made some suggestions on the construction of recognizances, which do not need repetition here ; for

in the draft of a bill embodying the changes which seem to me very necessary for the more prompt and satisfactory administration of criminal justice, I have inserted a section which, if adopted, will in some measure prevent the strict and hostile construction of recognizances which has rendered their enforcement a matter of so much uncertainty.

In this matter of recognizances we ought to have such a system of taking them as will ensure the responsibility of the sureties; and the instruments after they are taken ought to have such a construction that the sureties may not by mere quibbles escape liabilities entered into knowingly and voluntarily. At the end of this report will be found the draft of a bill, the passage of which I respectfully recommend.

CIVIL SUITS.

The Penobscot Indians vs. the Veazie heirs. This suit was commenced by Attorney General Frye, by direction of the Legislature of 1868, (chapter 195, resolves of 1868,) in order to settle the title to the Grassy Islands in Penobscot river. After I entered upon the duties of the office a statement of facts was drawn up upon which the case was submitted to the full Court. It was argued in June, 1870, and this year a decision was rendered in favor of the defendants. The opinion of the Court will be found in the 58 Me. Reports, page 402.

State of Maine vs. B. D. Peck and Bondsmen. This case, as I stated in my last report, was argued before the Law Court in July, 1870. This year a decision was rendered in favor of the State. The opinion of the Court will be found in the 58 Maine Reports, page 123. When the case came up at the October term, judgment was rendered for the State for the penal sum named in the bond, and execution ordered to issue for \$39,231.19, with interest from January 15, 1861, amounting in all to over \$64,000. Exceptions were taken by the defendants and allowed by Judge Tapley. As this result has already received the approval of the full court in the opinion above mentioned, we may reasonably expect the case to end next July.

State vs. Walter Brown.

State vs. John Wyman.

These were actions commenced in 1861, nearly eleven years ago, in compliance with chapter 376, resolves of 1860, to recover of

Brown \$2,832.39, and of Wyman \$1,675, money belonging to the State, which had been obtained of B. D. Peck in payment of private indebtedness. The history of the transactions will be found on the forty-ninth and fiftieth pages of the report of the Investigating Committee of 1860. When the cases came to my knowledge, I found that one defendant was dead, and the other had become well stricken in years. After notice was given to their counsel that the cases must be tried, application was made to the Legislature for leave to compromise. By chapter 276, resolves of 1871, authority was given to the Attorney General to compromise on such terms as would meet the approval of the Governor and Council. Accordingly, in April last I settled the claims for \$3,200 in full for debts and taxable costs, which settlement was approved by the Governor and Council. This compromise was made because the lapse of time had destroyed so much of the evidence necessary to establish the cases that I deemed it for the interest of the State so to act.

Thomas B. Reed, Attorney General, by information vs. the Portland and Kennebec Railroad Company. This was an information in the nature of a writ of *quo warranto*, commenced in obedience to the requirements of chapter 51, section 31 of the Revised Statutes of 1857, (ch. 51, sec. 26 R. S. of 1871,) to test the validity of the so-called consolidation of the Portland and Kennebec Railroad Company with the Maine Central. As there was no dispute as to the facts, the case went to the full court on the pleadings by a special agreement. Last July the case was very fully argued at Portland by Hon. J. H. Drummond and Hon. Artemas Libbey for the defendants, and by myself for the plaintiff. No decision has yet been rendered by the Court.

CAPITAL CASES.

State vs. Edward H. Hoswell. The case was tried in December, 1870, at Augusta. At the trial the killing was admitted, and the defence was, that the deceased was killed by the defendant while in the act of adultery with defendant's wife, and that defendant was at the moment insane. This line of defence which has been so successful in other States, was very ably presented by Messrs. Libbey and Pillsbury, who were counsel for the prisoner. After a trial which continued eight days, the jury rendered a verdict of manslaughter. The case excited much interest on account of its

resemblance to cases elsewhere in which defendants have been acquitted. The result is a subject of congratulation, for it shows that in this State if a man chooses to take the law into his own hands, he must also take the consequences. The prisoner was sentenced to nine years in the State Prison.

State vs. John Daly. The case was tried at Auburn in May, 1871. The deceased, John Kinney, and the defendant, were both Irish. The blow which resulted in Kinney's death was struck early in the morning, but he did not die until two or three hours afterwards, at the mill where he had gone as usual to work. The defendant testified that he struck in self-defence, and apparently the jury believed his testimony, for after being out twenty-six hours they rendered a verdict of not guilty. The trial lasted two days. The prisoner was defended by Hon. Wm. P. Frye.

State vs. Elbridge Reed. Reed was indicted for murder in the first degree, at the August term of the Supreme Court in Penobscot county. The murder was committed at Medway, about seventy-five miles north of Bangor, in a very thinly settled region. An intimacy probably of a criminal nature, had for some time existed between Reed and the wife of John Ray, the deceased, which furnished the powerful motive for the crime. Ray's body was found, after much search, buried on an island in the river near his house. The trial occupied about seven days, and resulted in a verdict of murder in the first degree. The evidence was entirely circumstantial, but amply sufficient in my opinion to justify the verdict of the jury. Hon. Wm. H. McCrillis was counsel for the prisoner, and has since moved for a new trial on the ground that the verdict was against the evidence in the case.

CRIMINAL CASES IN THE LAW COURT.

EASTERN DISTRICT—LAW TERM, 1871.

Piscataquis County.

State vs. Franklin Lawry, appellant. Single sale. Submitted on brief.

Hancock County.

State vs. John G. Bunker, appellant. Search and seizure.

State vs. Joaquin. Common seller.

State vs. Melvin C. Joaquin. Common seller.

Exceptions overruled. Judgment for State.

Penobscot County.

State vs. Joseph Reeves. Wilful trespass. Exceptions overruled.

State vs. Lyman Tyler. Demurrer overruled. Judgment for the State.

State vs. Owen McCann, appellant. Search and seizure. Motion to quash and exceptions. Argued and continued.

State vs. Fields Murray, appellant. Search and seizure. Motion in arrest and exceptions. Argued and continued.

State vs. Charles F. Jordan. Unlawful innholder. Demurrer and exceptions. Exceptions overruled. Judgment for the State.

State vs. Charles F. Jordan et al. Common seller.

State vs. Jesse D. Harriman. Common seller.

State vs. Owen Gillogly. Common seller.

State vs. Elhanan Gardiner. Common seller.

State vs. Same. Nuisance.

Liquor cases. Judgment for the State in all.

MIDDLE DISTRICT—LAW TERM, 1871.

Knox County.

State vs. Charles S. Coombs et al. Contempt of Court. Argued and continued.

State vs. Ellen Cokely. Liquor case. Exceptions. Exceptions overruled. Judgment for the State.

State vs. Dennis Cokely. Liquor case on exceptions. Exceptions overruled. Judgment for the State.

Lincoln County.

State vs. William E. Cunningham et als. Rape. Exceptions overruled. Judgment on the verdict.

Kennebec County.

State, scire facias vs. John Osgood on report. Continued.

State, scire facias vs. J. H. Robinson on demurrer. Argued. Exceptions overruled. Judgment for the State.

State vs. John Dunphy, appellant. Search and seizure. Exceptions overruled. Judgment for the State.

State vs. William R. Ballard, appellant. Search and seizure. Exceptions overruled. Judgment for the State.

State vs. Daniel W. Vinning, appellant. Search and seizure. Exceptions overruled. Judgment for the State.

State vs. same.

State vs. same.

State vs. same.

State vs. same.

Liquor cases. Exceptions overruled. Judgment for the State.

State by Joseph Siphers vs. Intoxicating Liquors. Oliver C. Rollins, claimant. Motion in arrest. Motion denied. Judgment for the State.

State vs. Alexis LaFontaine. Liquor case. On demurrer. Exceptions overruled. Judgment for the State.

State vs. Alexis LaFontaine. Liquor case. On demurrer. Exceptions overruled. Judgment for the State.

State vs. George A. Dingley. Attempt to set fire. Motion in arrest. Argued. Motion denied.

State vs. Judson A. Locke. Liquor case. Exceptions overruled. Judgment for the State.

State vs. Levi Lashers, appellant. Search and seizure. Exceptions overruled. Judgment for the State.

State vs. Albert S. Nickols. Breaking and entering. Exceptions overruled. Judgment for the State.

State vs. Daniel W. Vinning. Common victualler without a license. Exceptions overruled. Judgment for the State.

State vs. Charles H. White, et als. Larceny. Exceptions overruled. Judgment for the State.

State vs. Wilnot E. Hussey. Malicious mischief. Argued. Continued.

Somerset County.

State vs. David H. Carson. Perjury. On exceptions. Argued. Continued.

State vs. Inhabitants of Madison. Defective highway, on report. Argued by J. S. Abbott in behalf of parties in interest for State, and D. D. Stewart for defendants. Continued.

State vs. James Church. Larceny. Exceptions overruled. Judgment for the State.

State vs. Eben Ladd. Common seller. Exceptions overruled. Judgment for the State.

State vs. James H. Fillebrown. Common seller. Exceptions overruled. Judgment for the State.

State vs. Inhabitants of Starks. Defective highway. Exceptions overruled. Judgment for the State.

Sagadahoc County.

State vs. Peter McManus. Search and seizure without warrant. Argued. Continued.

State vs. Mary Monneghan. Liquor case. Exceptions overruled. Judgment for the State.

WESTERN DISTRICT—LAW TERM, 1871.

Franklin County.

State vs. Elizabeth Cleaves. Common seller. Argued and continued.

State vs. Parmenas Dyer and Benjamin F. Morrill. Indictment for causing miscarriage. Argued and continued.

Cumberland County.

State, scire facias vs. David Crowley. Argued last year. Continued.

State vs. G. W. Underwood. Demurrer overruled. Judgment for the State.

State, by scire facias vs. Cyrus Dunn. Argued. Exceptions overruled. Judgment for the State.

State vs. City of Portland. Nuisance. Argued and continued.

State vs. Grand Trunk Railway of Canada. Indictment for obstruction of highway. Argued. Exceptions overruled. Judgment for the State.

State vs. Thomas J. Andrews. Assault with a dangerous weapon with intent to kill. Exceptions overruled. Judgment for the State.

State vs. Horatio B. Pinkham. Drinking house and tippling shop. Exceptions overruled. Judgment for the State.

State vs. Eben Leach, Register of Deeds. Misconduct in office. Argued. Continued.

State vs. James M. Cobb. Gaming house. Exceptions sustained. Judgment arrested.

State vs. Martin Ryan. Search and seizure. Exceptions overruled. Judgment for the State.

State vs. Albenia R. Hackett. Search and seizure. Exceptions overruled. Judgment for the State.

State vs. McAllister. Robbery. Argued. Exceptions overruled Judgment for the State.

State vs. Oliver A. Gould. Libel. Argued. Continued.

On the pages following will be found the tables usually accompanying the Attorney's General Report. No table of expenses and receipts of criminal proceedings has been compiled, because not one-third of the County Treasurers have reported to me.

Respectfully submitted,

THOMAS B. REED, *Attorney General.*

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, 1870,	120	.....	.....	.....	.....	7	7	1	.....	2	4	2	5	.....	2	.....	12	63	15
	Appealed cases pending Nov. 1, 1870,	20	.....	.....	.....	.....	2	2	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	16	.....
	Indictments found January T., 1871,	36	.....	.....	.....	.....	2	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	34	.....
	Appealed cases entered Jan. T., 1871,	7	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	3	.....	.....	.....	.....	3	.....
	Indictments found April T., 1871,	10	1	.....	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	3	.....	3	.....
	Appealed cases entered April T., 1871,	1	1
	Indictments found Sept. T., 1871,	61	.....	.....	.....	.....	.....	1	.....	.....	.....	4	.....	.....	.....	.....	.....	.....	54	2
	Appealed cases entered Sept. T., 1871,	12	.....	.....	.....	.....	.....	1	.....	.....	.....	6	.....	.....	.....	.....	.....	.....	3	2
	Indictments pending at end of year,	97
	Appealed cases pending at end of year,	21
AROOSTOOK....	Indictments pending Nov. 1, 1870,	5	.....	.....	.....	.....	2	2	.....	.....	.....	.....	.....	2	.....	1	.....	.....	.....	.....
	Appealed cases pending Nov. 1, 1870,	4	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	1
	Indictments found February T., 1871,	2	.....	.....	.....	.....	.....	1	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....
	Appealed cases entered Feb. T., 1871,	0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments found Sept. T., 1871,	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	1	.....	.....	.....
	Appealed cases entered Sept. T., 1871,	0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments pending at end of year,	7	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	1	.....	2	.....	2	.....	.....	.....
	Appealed cases pending at end of year,	2	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments pending Nov. 1, 1870,	24	1	2	1	2	2	1	4	6	5
	Appealed cases pending Nov. 1, 1870,	1	1
CUMBERLAND..	Indictments found January T., 1871,	22	.....	2	.....	3	9	.....	1	.....	1	1	.....	.....	.....	.....	1	.....	2	2
	Indictments br't forward Jan. T., 1871,	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....
	Appealed cases entered Jan. T., 1871,	7	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	7	.....
	

	Indictments found May T., 1871,	22	.....	.....	.....	1	3	1	.....	2	1	2	.....	.....	.....	.....	1	3	8
	Appealed cases entered May T., 1871,	10	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10	.....
	Indictments found Sept. T., 1871,	40	.....	.....	.....	2	5	11	.....	3	.....	7	1	.....	1	2	.....	6	2
	Indictments br't forward Sept. T., 1871,	2	.....	.....	.....	1	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Appealed cases entered Sept. T., 1871,	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2
	Indictments pending at end of year,	13	.....	.....	.....	2	1	.....	.....	.....	.....	.....	.....	.....	1	3	.....	3	6
	Appealed cases pending at end of year,	2	1	2	2	14	25	1	1	5	3	12	1	3	5	9	35	27
FRANKLIN	Indictments pending Nov. 1, 1870,	13	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	7	.....	.....	.....	1	4	1
	Appealed cases pending Nov. 1, 1870,	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....
	Indictments found March T., 1871,	6	.....	.....	.....	.....	.....	.....	.....	1	1	1	1	.....	.....	1	1	.....	.....
	Appealed cases entered Mar. T., 1871,	0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments found Sept. T., 1871,	12	.....	.....	.....	.....	1	.....	.....	.....	.....	3	1	1	2	1	3	.....	.....
	Appealed cases entered Sept. T., 1871,	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....
	Indictments pending at end of year,	25	.....	.....	.....	.....	.....	.....	.....	1	4	.....	9	.....	2	2	3	3	.....
	Appealed cases pending at end of year,	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
HANCOCK	Indictments pending Nov. 1, 1870,	32	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Appealed cases pending Nov. 1, 1870,	13	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments found April T., 1871,	7	.....	.....	.....	2	1	.....	.....	2	.....	.....	.....	.....	.....	1	.....	1	.....
	Appealed cases entered April T., 1871,	7	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments found Oct. T., 1871,	12	.....	2	.....	1	2	1	.....	.....	4	1	.....	.....	.....	.....	.....	.....	.....
	Appealed cases entered Oct. T., 1871,	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictment found T., 1871,	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Appealed cases entered T., 1871,	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments pending at end of year,	21	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Appealed cases pending at end of year,	10	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
KENNEBEC	Indictments pending Nov. 1, 1870,	31	1	3	.....	1	2	.....	.....	3	1	.....	3	.....	3	4	3	6	1
	Appealed cases pending Nov. 1, 1870,	37	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments found March T., 1871,	17	1	.....	.....	.....	5	4	.....	.....	.....	.....	1	1	.....	3	.....	34	.....
	Appealed cases entered Mar. T., 1871,	8	.....	.....	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	5	.....
	Indictments found August T., 1871,	20	.....	1	1	.....	2	.....	3	.....	2	.....	.....	.....	3	1	.....	2	.....
	Appealed cases entered Aug. T., 1871,	23	.....	.....	.....	.....	1	.....	.....	.....	.....	2	.....	2	.....	.....	.....	17	1
	Indictments found Oct. T., 1871,	15	1	.....	.....	1	3	1	.....	1	4	1	.....	1	1	.....	.....	.....	1
	Appealed cases entered Oct. T., 1871,	13	.....	.....	.....	.....	1	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	10	.....
	Indictments pending at end of year,	41	1	2	1	2	5	3	1	2	6	1	1	1	2	2	8	1
	Appealed cases pending at end of year,	31	.....	.....	.....	.....	1	.....	.....	.....	.....	5	.....	1	.....	.....	.....	23	1
KNOX	Indictments pending Nov. 1, 1870,	11	1	.....	.....	4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5	1
	Appealed cases pending Nov. 1, 1870,	0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Indictments found Dec. T., 1870,	23	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	2	.....	12	8
	Appealed cases entered Dec. T., 1870,	5	.....	.....	.....	.....	2	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	1	.....

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.	Cheating and conspiracies.	Defects in highway.	Nuisances.	Violation of liquor law.	Other offences.
KNOX.....	Indictments found March T., 1871,	5						1			2										2
	Appealed cases entered Mar. T., 1871,	1									1										
	Indictments found Sept. T., 1871,	15									1						2			6	3
	Appealed cases entered Sept. T., 1871,	1										1									
	Indictments pending at end of year,	24									1	3					3			14	3
LINCOLN.....	Appealed cases pending at end of year,	1									1										
	Indictments pending Nov. 1, 1870,	26					1	3	2		6	3			2		2		3		3
	Appealed cases pending Nov. 1, 1870,	14						1				5								6	2
	Indictments found April T., 1871,												2								
	Appealed cases entered April T., 1871,	2											2								
OXFORD.....	Indictments found Oct. T., 1871,	1						1													
	Appealed cases entered Oct. T., 1871,	2																			2
	Indictments found T., 1871,																				
	Appealed cases entered T., 1871,																				
	Indictments pending at end of year,	15					1		1		6		1				1			3	2
OXFORD.....	Appealed cases pending at end of year,	2																			2
	Indictments pending Nov. 1, 1870,	13				1					1					3				7	1
	Appealed cases pending Nov. 1, 1870,	2						2													
	Indictments found Dec. T., 1870,	18											1				1	1		15	
	Appealed cases entered Dec. T., 1870,																				
OXFORD.....	Indictments found March T., 1871,	7																		6	1
	Appealed cases entered Mar. T., 1871,																				
	Indictments found Sept. T., 1871,	28	1	2				1								1	1	2	20		

YORK.....	Appealed cases pending at end of year,	1																		1		
	Indictments pending Nov. 1, 1870,	18				3	2			1	1		2		2	3				2	2	
	Appealed cases pending Nov. 1, 1870,	7					1				3									3		
	Indictments found January T., 1871,	18				1				4					1	1	1			5	5	
	Appealed cases entered Jan. T., 1871,																					
	Indictments found May T., 1871,	16				3		2							1	4				2	4	
	Appealed cases entered May T., 1871,	2																			2	
	Indictments found Sept. T., 1871,	36				4				1	2				2	3				20	4	
	Appealed cases entered Sept. T., 1871	2																			1	1
	Indictments pending at end of year,	46				5	1			1	6				5	10				14	5	
Appealed cases pending at end of year,	7																					

TABLE B.

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

COUNTIES.	Indictments and appeals.	Disposition during the year ending Nov. 1, 1871.						Condition at end of year Nov. 1, 1871.		Sentences.			
		Quashed.	"Nol pros'd" on payment of costs.	"Nol pros'd" or dismissed.	Conviction and sentence.	Acquittals.	Not to be brought forward except by order of court.	Continued open.	Continued for sentence.	Continued marked "Law."	State Prison.	County Jail and House of Correction.	Reform School.	Fines.
Androscoggin...	Indictments	19	82	34	4	85	15	3	10	20			
	Appeals	4	7	3		22							
Aroostook	Indictments			1	1	5	2						
	Appeals		1	1		2							
Cumberland	Indictments	1	18	59	3	17	3	1	9	23	26	6	50
	Appeals		3	10	3	2	1	1					
Franklin	Indictments	1	4			17	6	2	1				4
	Appeals			1									
Hancock	Indictments	13	12	9	1	26	3	2	1	5			
	Appeals												
Kennebec	Indictments	11	11	17	3	26	10	5	5	5	19		
	Appeals	2	14	14	18	2	16	8	7				
Knox	Indictments	6	16	5		12	8	4	4	6	6		
	Appeals	5				1							
Lincoln	Indictments	2	7	3					4	2			
	Appeals	1	15										
Oxford	Indictments	28	5	6		19	3	1		2			
	Appeals			2									
Penobscot	Indictments	10	20	38	4	34	13	2	5	9	2	25	
	Appeals	33	26	14		40	7	2					
Piscataquis	Indictments	2	1	2		32	2						2
	Appeals	1							1				
Sagadahoc	Indictments		9	2	4	18	10	2	1				3
	Appeals	1	3	1		8		2					
Somerset	Indictments	1	11	11	3	14	2		2	7			5
	Appeals	1			1		2	3					
Waldo	Indictments	1	29	20	14	3	15	8	1	2	5		9
	Appeals												
Washington	Indictments	10	15	17	2	5	8		2	4	1	12	
	Appeals		4	3		1							
York	Indictments	14	7	18		46	3		6	1	1	14	
	Appeals	1	1			7							

Sentences from 1862 to 1871 inclusive.

YEARS.	State Prison.	County Jail.	Reform School.	Fine, &c.	To be hung.	Insane Asylum.
1871.....	59	83	10	169	.....	2
1870.....	54	93	3	174	1	.....
1869.....	87	96	6	148	2	2
1868.....	43	62	9	78	1	.....
1867.....	60	88	9	143	3	1
1866.....	104	94	6	150	1	1
1865.....	30	41	10	113	.....	.....
1864.....	60	32	5	109	3	.....
1863.....	49	40	5	150	3	.....
1862.....	38	36	3	108	2	.....
Total for ten years.....	584	665	66	1,342	16	6

Liquor cases disposed of in the Supreme Court.

COUNTIES.	No. of cases.	Fines, &c., collected.	Committees
Androscoggin.....	23	\$3,325 00	2
Aroostook.....	.....	.....	.....
Cumberland—Superior Court.....	35	1,456 67	4
Franklin.....	1	.....	.....
Hancock.....	.....	.....	.....
Kennebec.....	45	754 00	.....
Knox.....	10	.....	5
Lincoln.....	.....	.....	.....
Oxford.....	36	500 00	.....
Penobscot.....	21	1,300 00	2
Piscataquis.....	.....	.....	.....
Sagadahoc.....	10	247 40	.....
Somerset.....	6	353 33	3
Waldo.....	20	705 30	2
Washington.....	32	1,090 63	4
York.....	19	1,320 72	.....
Total for 1871.....	258	\$11,053 05	22
Total for 1870.....	174	15,938 11	31

AN ACT RELATING TO RECOGNIZANCES AND TESTIMONY, AND TO CHALLENGES IN CAPITAL CASES.

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

SECTION 1. The supreme judicial court in session in each county shall appoint from the number of justices of the peace for that county, one or more commissioners whose duties and powers shall be as prescribed in the following section, and who shall hold office at the pleasure of the court.

SECT. 2. When a person is confined in a jail for a bailable offence or for not finding sureties on a recognizance, any commissioner appointed under this act on application may inquire into the case and admit any such person to bail, and exercise the same power as any justice of the supreme judicial court can, and may issue a writ of habeas corpus and cause such person to be brought before them for this purpose, and may take such recognizance.

SECT. 3. Section thirty-four of chapter ninety-nine of the revised statutes is hereby repealed, but such repeal shall not take effect in any county until a commissioner or commissioners have been appointed under this act.

SECT. 4. Section twenty-one, chapter one hundred and thirty-three of the revised statutes, is amended, by striking from the seventh line the word "twice"; also by striking from the eighth line the word "third," and inserting instead thereof the word 'second.'

SECT. 5. Where by reason of mistake or other cause, any recognizance contains conditions unauthorized by law, the recognizance shall not thereby be avoided, but all its lawful conditions shall be held good and enforced.

SECT. 6. Entering into a recognizance for the appearance of an accused person in a criminal case shall create a lien on the real estate of the principal and sureties, but such lien shall not be valid unless within five days after such recognizance is taken, the magistrate before whom, or the clerk or recorder of the court before which, the recognizance is taken, shall file in the office of the registry of deeds, a certificate setting forth the names of the parties

to the recognizance, the amount and date, and a record shall be made thereof in the book of attachments.

SECT. 7. Section eighty-two, chapter eighty-two of the revised statutes is hereby amended by striking out all after the word "witness" in the sixth line, so that the last clause of said section as amended shall read, "and the husband and wife of either party may be a witness."

SECT. 8. In capital trials the state is allowed five peremptory challenges, and each respondent is allowed six, and no more.