

# MAINE STATE LEGISLATURE

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# FORTY-EIGHTH LEGISLATURE.

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HOUSE.

No. 71.

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## STATE OF MAINE.

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

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AN ACT providing for reviews in criminal cases.

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

SECTION 1. The supreme judicial court held by one  
2 justice, may grant reviews in criminal as well as civil  
3 cases, when in the opinion of said court there is reason-  
4 able doubt of the guilt of any person convicted and  
5 sentenced in any judicial tribunal ; *provided* a petition  
6 therefor is presented within six years after such con-  
7 viction and sentence.

SECT. 2. Such petition may be presented in any  
2 county, and notice be there ordered returnable in the  
3 county where such person was convicted. Such rea-  
4 sonable notice shall be given to the state's attorney for  
5 said county, or to the attorney general, or both, as the  
6 court orders.

SECT. 3. • Whenever a review is granted in a criminal case, if in the opinion of the court there may be difficulty in obtaining a jury of ability and impartiality in the county where the case was previously tried, by reason of prejudice, the formation or expression of opinion in relation to the guilt or innocence of the accused, or for any other reason, the court may order a change of venue to such other county as the court may deem best; and when a change of venue is so ordered, the case shall be transferred to such other county, and shall be there entered and tried in the same manner as if the offence charged had been committed in said county, but the expense incurred by such county shall be refunded by the county from which the case is transferred.

SECT. 4. On the trial of any such review the court shall have power to issue any process necessary to bring such convicted person into court for trial, and if the jury shall by their verdict acquit the prisoner, such verdict shall render null and void the former conviction and sentence, and the accused shall be discharged from custody; but if the jury shall convict the prisoner, upon final judgment, sentence shall be awarded anew according to the requirements of the law and with due regard to any penalty or partial punishment suffered by the convict under the former sentence;

12 and if the jury shall fail to agree upon the first trial,  
13 or such further trial or trials as the court shall order,  
14 the convict shall be returned to prison to serve out or  
15 suffer the sentence awarded under the former convic-  
16 tion.

SECT. 5. Whenever a review is granted in any case  
2 where the offence charged is punishable with death, it  
3 shall be the duty of the chief justice to preside at the  
4 trial, if thereto requested by the accused or his coun-  
5 sel fourteen days prior to the time appointed for said  
6 trial.

SECT. 6. Whenever it shall appear on the trial of  
2, any review in a criminal case, that any witness who  
3 testified in the former trial has deceased, the testimony  
4 of such deceased witness, given at the former trial,  
5 may be proved by either party, and shall be compe-  
6 tent evidence.

SECT. 7. This act shall take effect when approved.

STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES, }  
February 24, 1869. }

Reported from the Committee on the Judiciary, by Mr. GILBERT, and printed under Joint Rule.

S. J. CHADBOURNE, *Clerk.*