

# MAINE STATE LEGISLATURE

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# SIXTY-FIRST LEGISLATURE.

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SENATE.

No. 75.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND  
EIGHTY-THREE.

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AN ACT to restore the death penalty for murder in  
the first degree.

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

SECTION 1. When murder is committed with  
2 express malice aforethought, or in perpetrating or  
3 attempting to perpetrate a crime punishable by  
4 death, imprisonment for life, or for an unlimited  
5 term of years, it shall be deemed murder of the  
6 first degree and punished with death.

SECT. 2. When any person is convicted of a  
2 crime punishable with death, and sentenced there-  
3 for, the time for the execution of such sentence  
4 shall be fixed by the court, which time shall be not  
5 less than six months nor more than one year from

6 the day on which such sentence is passed, and the  
7 convict shall at the same time be sentenced to con-  
8 finement in the state prison until such punishment  
9 is inflicted.

SECT. 3. The governor shall seasonably issue  
2 his warrant under the great seal of the state,  
3 directed to the sheriff of the county wherein the  
4 state prison is situated, or one of his deputies,  
5 commanding him to carry such sentence into exe-  
6 cution at the time fixed by the court, unless the  
7 governor with advice of council, shall pardon or  
8 reprieve the convict, or commute his sentence.

SECT. 4. Chapter one hundred and fourteen of  
2 the public acts of eighteen hundred and seventy-  
3 six, sections eight and nine of chapter one hun-  
4 dred and thirty-five of the revised statutes, chapter  
5 ninety of the public laws of eighteen hundred and  
6 seventy-nine, as amended by chapter one hundred  
7 and seventy-eight of the public laws of eighteen  
8 hundred and eighty, and chapter two hundred and  
9 seven of the public laws of eighteen hundred and  
10 eighty, and all other acts and parts of acts incon-  
11 sistent with this act, are repealed.

SECT. 5. Sections seven, ten and eleven of chap-  
2 ter one hundred and thirty-five of the revised  
3 statutes are revived.

SECT. 6. Section twelve of chapter one hundred  
2 and thirty-four of the revised statutes is amended  
3 by inserting after the word "ten" in line eleven the  
4 words "nor the state more than five;" also by sub-  
5 stituting for the word "he" in line twelve the  
6 words "such person," so that said section as  
7 amended shall read as follows:

8 *Sect. 12.* When a person indicted for an offence  
9 punishable with death, is put upon his trial, the  
10 clerk under the direction of the court, shall place  
11 the names of all the traverse jurors summoned  
12 and in attendance, in a box, upon separate tickets,  
13 and the names, after being mixed, shall be drawn  
14 from the box by the clerk, one at a time, for the  
15 purpose of constituting a jury of trial. All per-  
16 emptory challenges, except as herein provided, and  
17 all other challenges and objections to the juror  
18 drawn, shall be made and determined, and the  
19 juror sworn or set aside, before another name is  
20 drawn, and so on until the panel is completed.  
21 The person indicted shall not challenge per-  
22 emptorily, more than ten, nor the state more than  
23 five, of the jurors while the panel is being formed;  
24 but such person may, before the trial commences,  
25 challenge peremptorily, one of the jurors from the

26 panel. The supreme judicial court, may, by gen-  
27 eral rules, prescribe the mode of exercising the  
28 latter right of challenge, and said section as  
29 amended is revived.

SECT. 7. Chapter two hundred and thirty-seven  
2 of the public laws of eighteen hundred and  
3 seventy-four is amended by substituting the word  
4 "county" for "state" in line eleven, so that said  
5 section as amended shall read as follows: "The  
6 clerk shall, without charge, furnish to any person  
7 indicted for a crime punishable by imprisonment  
8 in the state prison, a copy of the indictment;  
9 if he is indicted for a crime punishable  
10 by death or imprisonment in the state  
11 prison for life, he shall furnish a copy of  
12 the indictment; a list of the jurors returned and  
13 process to obtain witnesses, to be summoned and  
14 paid at the expense of the state. Competent coun-  
15 sel shall be assigned by the court in capital cases,  
16 and when it appears that the accused has not suffi-  
17 cient means to employ counsel, and reasonable  
18 compensation, not exceeding one hundred and fifty  
19 dollars in all at any one trial, shall be allowed by  
20 the court, to be paid out of the county treasury.

HOUSE AMENDMENTS.

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“ B. ”

Amend section two, line five, by striking out the  
2 word “ six ” and inserting in place thereof the  
3 word “ twelve; ” also in same line by striking out  
4 the words “ one year ” and inserting in place  
5 thereof the words “ fifteen months. ”

“ C. ”

Amend section six, line twenty-two by striking  
2 out the word “ ten ” and inserting in place thereof  
3 the word “ twenty; ” also in line twenty-five, strike  
4 out the word “ one ” and insert the word “ two. ”

“ D. ”

Add the following section:

2 “ If a motion for new trial in a capital case is  
3 denied by the justice before whom the same is  
4 heard, the respondent may appeal from said decis-  
5 ion to the next law term for such district; and the  
6 concurrence of but three justices shall be necessary  
7 to grant such motion. ”

( 6 )

“ E. ”

Add the following:

2 *Sect. 11.* If a person convicted under section  
3 one is, at the time when motion for sentence is  
4 made, found, to the satisfaction of the court, to be  
5 insane, the court may cause such person to be re-  
6 moved to the insane hospital for such a term and  
7 under such limitations as it may direct.

8 *Sect. 12.* If it appears to the satisfaction of  
9 the governor and council that a convict under  
10 sentence of death has become insane, the execu-  
11 tion of said sentence may be respited by the gov-  
12 ernor, with the advice of council, from time to  
13 time for stated periods until they are satisfied that  
14 the convict is no longer insane.

“ F. ”

Add the following:

2 *Sect. 13.* The governor, with the advice of  
3 council, may respite from time to time the execu-  
4 tion of a sentence of death for stated periods so  
5 long as he may deem it necessary, to afford him an  
6 opportunity of exercising his right of pardon and  
7 of investigating and considering the facts of the  
8 case for that purpose.

(7)

"G."

Section seven, line fourteen, after the word "state"  
2 add:

3 "But in all cases where the punishment of the  
4 crime charged in the indictment may be simply for  
5 a term of years, witnesses shall be summoned and  
6 paid at the expense of the state only at the discre-  
7 tion of the court.



STATE OF MAINE.

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IN SENATE, March 3, 1883.

On motion of Mr. YOUNG of Cumberland, laid on the table to be printed with House amendments "B," "C," "D," "E," "F" and "G."

C. W. TILDEN, *Secretary.*