

State of Maine
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Capital Punishment in Maine

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CAPITAL PUNISHMENT IN MAINE.

In the Code of Statutes enacted by the Legislature of Maine in 1821, the crimes of treason, murder, arson, rape, burglary and robbery were punishable with death. In 1829 the penalty for rape, burglary and robbery was reduced to imprisonment for life. In 1837 the Statutes were so amended that one convicted of a capital crime and sentenced to be hanged, should be confined in the State Prison a year and a day, before execution, and until a full record of the proceedings in the trial of his case had been submitted to the executive and until such further time as the executive should see fit to issue his warrant ordering the execution of the condemned criminal.

In 1844 the law was further modified to meet the apparent unwillingness of the executive to order executions of criminals under sentence of death. It provided that all persons under sentence of death, should suffer solitary confinement and hard labor until warrant of execution was issued.

It will be seen that by the law of 1837, the execution of the death penalty was, in a measure, left to the discretion of the executive, since there was no limit of time within which he was, by law, compelled to issue his warrant of execution. The responsibility thus created, was so great and the sentiment against the death penalty so active and aggressive, that there was no execution in this State for nearly thirty years.

In 1867, the Governor called the attention of the Legislature to the fact that there were ten persons under sentence of death,

confined in the State Prison, one of whom had been there over twenty years. He suggested that the penalty be abolished, or the law so changed as to require the Governor to issue his warrant of execution within a time certain and fixed. In 1869 a law was enacted requiring the Governor and Council to review the findings of the Court in cases of conviction and sentence of death, and commute, pardon, or cause the prisoner to be executed within a certain length of time after the date of the original sentence.

In 1870 and again in 1874 the Governor entered his protest against the law of 1869, declaring his belief that it was unconstitutional, since it imposed judicial functions upon the executive department.

In 1875 the Legislature amended the law of 1869, so that the Governor was required to issue a warrant of execution within fifteen months of the date of sentence. In 1876 the death penalty was abolished altogether. In 1883 the death penalty for murder alone was re-established. In 1885 the Governor, referring to the death penalty remarked that there had been an unusual number of cold-blooded murders within the State during the two years last past, and that the change in the law relating to murder had not afforded the protection anticipated. In 1887 the death penalty was again abolished. The strong minority opposed to the death penalty had much to do with its non-enforcement from 1837 to 1867, and the enforcement of the law from the latter date until 1876 had more to do with its abolition: since the executions during this period awakened discussion and debate upon the subject, and brought the people face to face with their responsibility and duty in the matter. Prof. Upham of Bowdoin College and Rev. Sylvester Judd of Augusta, Me., by their speeches and written arguments against capital punishment, created a deep seated and wide spread sentiment in the minds of the people against this mode of punishment. The Society of Friends within our State, were ever urging in their petitions to the Legislature, for the abolition of the death penalty. The sentiment of our people is now so strongly against capital punishment, that it may be safely assumed that the law will never again be enacted in Maine.

Capital Punishment.

Questions and References.

Is it right to take human life?

Is it right for anyone to offer up his life for any purpose?

Can government demand that its citizens shall die in its defence?

See Declaration of Independence, wherein the signers of that document pledged their fortunes and their lives in defence of their country. It seems to be a fundamental principle of every civilized country that the lives of all its citizens are pledged to the protection and support of its government against its enemies, both within and from without its borders. See Declaration of Rights; Constitutional Debates of Maine, 1819. As to the right to life, Art. 1, Sect. 1.

Whether this right to life may be forfeited by the commission of crime, Pub. Laws of Maine, 1821, Ch. 1, 2, 3, 4, 6 and 7. Penalty for rape, burglary and robbery reduced to imprisonment for life, Me. Pub. Laws, Ch. 430, 1829. A year and a day before execution, Me. Pub. Laws, Ch. 292, 1837. Prisoner to be confined at hard labor until order for execution of death penalty, Me. Pub. Laws, Ch. 106, 1844. See also Revised Statutes, 1841, Ch. 155. Arson, death or imprisonment for life. Indictment for murder simplified, Me. Pub. Laws, Ch. 329, 1865. Review of proceedings in the trial for murder by Governor and Council, and execution or remission of death penalty within a year and a day, Me. Pub. Laws, Ch. 72, 1869.

Governor required to issue his warrant of execution at time fixed by court in sentence, Me. Pub. Laws, Ch. 55, 1875. Challenge of jurors in murder trials, Me. Pub. Laws, Ch. 90, 1879. Presiding justice may grant new trial, Me. Pub. Laws, Ch. 207, 1880.

Death penalty abolished, Me. Pub. Laws, Ch. 114, 1876; Ch. 132, 1876. Compensation for counsel denied prisoner, Me. Pub. Laws, Ch. 178, 1880. Capital punishment restored in the convictions for murder, Me. Pub. Laws, Ch. 205 and 247, 1883. Hard labor for life in all crimes heretofore capital.

Death penalty abolished, Me. Pub. Laws, Ch. 133, 1887.

See also Report of Joint Select Committee, Public Documents of Maine, 1835; Petition of Friends of Vassalboro, Me.; and bill for abolishing Capital Punishment, M. H. Bovee, N. J., 1869; S. B. Cheever, Boston, 1843; Governors' Messages—Chamberlain, 1867, 1868; Dingley, 1874, 1875; Connor, 1876, 1878; Robie, 1884—Manual of Peace, Prof. Thomas C. Upham, Brunswick, 1836.

Results of abolition:—Report of Social Science Ass'n, 1865.

Opinions of distinguished men of all countries, 41 Law Times 368, 391, 596.

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Against.

Irish Law Times 15, 216: Irish Law Times 14, 294: John Bright's argument against, Irish Law Times 24, 220: Mrs. Surratt's case, Green Bag 8, 195: Kremmler's case, Green Bag 2, 54-107: Green Bag 2, 524: Green Bag 10, 50: Arguments for and against capital punishment, Westminster Rev. 143, 561: Mill's speech against, Westminster Rev. 91, 429 or 200. See Hansard's debates 1868. Practical Result of Partial Abolition of, by Wm. Tolcart, Lond. 1866. Substitute for, see Frederick Hill, Lond. 1866. Westminster Rev. 81, 185 or 398. Defence in capital case, Am. Law Register 34, 321 (N. S.) Criminal Law Mag. 10, 1. Opposition to capital punishment, N. Am. Rev. 116, 138. N. Am. Rev. 62, 40. Punishment by death, its authority and expediency, Rev. Geo. B. Cheever, 2d ed., introduction by Hon. Theodore Frelinghuysen, N. Y., 1843, 12 mo. pp. 156. Report in favor of the abolition of punishment by death, by law, made to the legislature of N. Y., Apr. 14, 1841, by John L. O. Sullivan, 2d ed., 1841, O. p. 168, New York City. Essays on the punishment by death, Chas. Spear, 4th ed., Bost., 1844, p. 237. The Gallows and the Gospel, Democratic Review, 12, 227. Wordsworth on the punishment by death, Democratic Review, 10, 272. Essay on the ground and reason of punishment by death, Taylor Lewis, New York, p. 365. Democratic Review, 19, 90. Report of select committee on Capital Punishment, N. Y. Assembly, May 4, 1846. Democratic Rev. 20, 71. Case against Capital

Punishment, Am. Eclectic 113, 518. Failure or the Death Penalty, Arena 21, 469. The Crime of Capital Punishment, Arena 1, 175. Arena 2, 513. Hansard's Debates, 1st series 19, 652. Memoirs of John Q. Adams, V. 9, 259. Fortnightly Review 2, 319. John A. Andrew address to the Legislature of Mass., Jan. 1861-2. Hansard's Parliamentary Debates, 19, 648. Jeremy Bentham's Principles of Penal Law, v. 1.

See Bibliography of crimes and punishment by N. W. Curtis, 53d Congress, 1st Session, House Reports V. 1. (Report No. 108.) Capital Crimes. This report is recent, valuable and comprehensive. Includes references to state and national Documents. Citing nearly three hundred different works.

Miscellaneous References.

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MAINE STATE LIBRARY, Dec. 1, 1901.

Homicides in Maine.

	No. of Homicides.	No. of Convictions for Murder.
1860.....	10	0
1861.....	14	2
1862.....	18	2
1863.....	24	3
1864.....	22	3
1865.....	11	0
1866.....	14	1
1867.....	14	4
1868.....	7	1
1869.....	7	4
1870.....	11	1
1871.....	17	7
1872.....	10	1
1873.....	10	1
1874.....	19	2
1875.....	11	3
1876.....	8	0

Statement of the Attorney General from 1877 to 1898.

	No. of prosecutions for homicide instituted.	No. of cases in which sentence for homicide was imposed.
1877.....	10	5
1878.....	7	3
1879.....	9	3
1880.....	4	5
1881.....	10	5
1882.....	4	4
1883.....	4	4
1884.....	13	11
1885.....	8	7
1886.....	5	3
1887*.....	—	—
1888*.....	—	—
1889.....	7	2
1890.....	5	7
1891.....	6	1
1892.....	3	4
1893.....	8	4
1894.....	10	5
1895.....	11	5
1896.....	8	6
1897.....	7	3
1898.....	3	4

*No report of Attorney General.