

REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF MAINE

1897-8.

AUGUSTA

KENNEBEC JOURNAL PRINT

1899

DETECTIVE WORK.

My attention has been called in several instances during the past two years to the matter of detective work, particularly in cases of homicide; and without casting any reflections upon any one whether in an official or private capacity, I have been led to the conclusion that it would be much better if a fund could be placed at the disposal of the attorney general with authority to employ detectives in such cases as in his judgment he deems expedient. Detective work ordinarily, should enjoin secrecy. Under the present system of employment of detectives, especially when done by private parties or upon offers of reward, or by citizens' committees, the work is made practically worthless for lack of secrecy. In some instances, I have noticed that the public, by means of the newspapers, has been as fully informed of what was going on as were the officers of the law. This was no more the fault of the detectives employed, than it was the fault of those employing them, and I should not say that it was anybody's fault, only the fault of the system. But I most earnestly recommend that the legislature make an appropriation to be at the disposal of the attorney general for the purpose of employing detectives, or in any other way obtaining evidence for the detection of crime. This would relieve the several county treasuries of some expense which they are now bearing, and on the whole, will not add anything to the general burden of the taxpayer. It will simply be a different method or system of expending money for detective work, which I think will produce better results. The attorney general, in the expenditure of this money, will naturally consult the county attorney, who will be interested in the case in which it is to be expended, so there will be no possible chance for friction to arise between the State's prosecuting officers in the county and the attorney general's office.

CAPITAL PUNISHMENT.

During the past two years I have had frequent inquiries as to the effect of the repeal of the law of capital punishment on the amount of homicide in this State. This has led me to make some investigations, the result of which I think it is proper for me to make a part of this report, as many of these inquiries are from our own citizens.

When Maine became a state, the crimes of treason, murder, arson, rape, burglary and robbery from the person by violence, were punishable with death by hanging. In 1829, the penalty for burglary, rape and robbery was reduced to imprisonment for life. In 1837, the law was changed so that murderers convicted and sentenced to be hung, should be confined in State's prison a year and a day before execution, and the executive was to issue his warrant ordering the execution, but not until a full record of the proceedings had been submitted to him. In 1844, the law was again changed, requiring that all persons under sentence of death should be confined at hard labor in the State's prison until the sentence was carried into effect. The discretion left with the executive by the law of 1837, was followed by a strong public sentiment against the death penalty, and there was no execution in this State for nearly thirty years. This condition of affairs led the Governor, in 1867, in his annual message, to suggest the abolition of the death penalty, or a change of the law so that the governor should be obliged to issue his warrant within some fixed time. In 1869, the law was passed requiring the governor and council to review the findings of the court in case of conviction and sentence of death and commute pardon or cause the prisoner to be executed after a certain length of time from the date of the original sentence. In 1870 and 1874, the governor entered another protest against this law of 1869, claiming it to be unconstitutional as it imposed judicial functions upon the executive department. In 1875, the law of 1869 was amended requiring the governor to issue his warrant within fifteen months from date of sentence. In 1876, the death penalty was altogether abolished. In 1883, the death penalty for murder alone was re-established. In 1885, it being evident by the unusual number of cold-blooded murders during the two years previous, that the re-establishment of the death penalty had not afforded the protection anticipated, the governor in his message recommended its abolishment. This became a matter of contention before the legislature, and it remained a matter of general discussion in the State until 1887, when the death penalty was again abolished; and I think it may now safely be said that the sentiment in favor of the abolition of capital punishment in Maine is such that it is not likely again to be re-established.

I have made a careful examination of the reports of the attorney generals relative to the crime of homicide for a period of a quarter of a century past with the following result, which it seems to me may be as good an answer to this general inquiry as can be ascertained from statistics. These statistics show, what I have found to be a fact by a further examination of the attorney generals' reports, and what I think will be found from a careful investigation of the crime of homicide within our State from earliest times, that the commission of this crime is not very much affected by the law providing the punishment for it. In some years there will be very few cases, and in other years many, as will be noticed from the statistics given below. If there is any argument to be deduced from this investigation, to my mind it sustains the position that when a person commits the crime of homicide, either premeditated or in the heat of passion, and especially as the result of an attempt to commit another crime, the question of the results of such acts is but little thought of, and the murderer little expects being brought to justice and sentence when the crime is committed.

Year.	Number of prosecutions for homicide instituted.	Number 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.

On the pages following will be found the tables usually accompanying the Attorney General's report.

Respectfully submitted,

WILLIAM T. HAINES,

Attorney General.