

By Mr. Birmingham of Boston, petition of Leo M. Birmingham that juries be permitted to recommend the form of punishment of persons found guilty of murder in the first degree. The Judiciary (Joint). Jan. 21.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Twenty-Seven.

An Act permitting Juries to recommend the Form of Punishment of Persons found Guilty of Murder in the First Degree.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section one of chapter two hundred
2 and sixty-five of the General Laws is hereby
3 amended by adding at the end thereof the follow-
4 ing:— , who, in the event of a finding of murder
5 in the first degree, may make a recommendation
6 that punishment be imprisonment in the state
7 prison for life. The presiding justice may accept
8 said recommendation,—so as to read as follows:
9 — *Section 1.* Murder committed with deliberately
10 premeditated malice aforethought, or with extreme
11 atrocity or cruelty, or in the commission or at-
12 tempted commission of a crime punishable with
13 death or imprisonment for life, is murder in the
14 first degree. Murder which does not appear to be
15 in the first degree is murder in the second degree.
16 Petit treason shall be prosecuted and punished as

17 murder. The degree of murder shall be found by
18 the jury, who, in the event of a finding of murder
19 in the first degree, may make a recommendation
20 that punishment be imprisonment in the state
21 prison for life. The presiding justice may accept
22 said recommendation.

1 SECTION 2. Section two of said chapter two hun-
2 dred and sixty-five is hereby amended by inserting
3 at the beginning thereof the words:— Except as
4 provided in the preceding section,— so as to read
5 as follows:— *Section 2.* Except as provided in
6 the preceding section, whoever is guilty of murder
7 in the first degree shall suffer the punishment of
8 death, and whoever is guilty of murder in the
9 second degree shall be punished by imprisonment
10 in the state prison for life.

