

HOUSE No. 136.

HOUSE OF REPRESENTATIVES, Feb. 5, 1894.

[Introduced on leave by Mr. KNEIL of Westfield. Read and referred to the Joint Committee on the Judiciary.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-four.

AN ACT

Providing for the Abolition of the Death Penalty.

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. Murder committed with deliberately pre-
2 meditated malice aforethought, or in the commission of,
3 or attempt to commit, a crime punishable with imprison-
4 ment for life, or committed with extreme atrocity or
5 cruelty, is murder in the first degree.

1 SECT. 2. Murder not appearing to be in the first
2 degree is murder in the second degree.

1 SECT. 3. The degree of murder shall be fixed by the
2 jury.

1 SECT. 4. Whoever is guilty of murder shall be pun-
2 ished by imprisonment in the state prison for life.

1 SECT. 5. Whenever any convict sentenced for mur-
2 der in the first degree desires to obtain a pardon or a
3 commutation of such sentence, he may present a written
4 request to the justices of the supreme judicial court in
5 term time or vacation, asking that application therefor
6 be made to the governor in his behalf, and he shall
7 therein set forth, specifically, the grounds on which such
8 application for pardon or commutation of sentence is
9 requested, and the facts which he expects to prove in
10 support of the same, together with the names and resi-
11 dences of the witnesses by whom he expects to prove
12 such facts, and with such request he shall present the
13 affidavits of such witnesses and a copy of the evidence
14 taken at the trial in which he was convicted.

1 SECT. 6. If, upon examination of said request and the
2 affidavits therewith presented, said justices are of the opin-
3 ion that new and material evidence has been discovered
4 which would tend conclusively to show such convict was
5 wrongfully or erroneously convicted or that he is inno-
6 cent notwithstanding the evidence taken at the trial, they
7 shall appoint a time and place for a hearing thereon, and
8 order notice to be given to the attorney-general and to
9 the district attorney of the county in which such convict
10 was convicted, that they may appear in behalf of the
11 Commonwealth.

1 SECT. 7. At such hearing, no evidence shall be
2 received except such as tends to show that such convict
3 was wrongfully or erroneously convicted, or that he is
4 innocent.

1 SECT. 8. If, upon all the evidence, said justices are
2 of the opinion that such convict was wrongfully or erro-
3 neously convicted or that he is innocent of the crime of
4 which he was convicted, and that an application should
5 be made for his pardon or for a commutation of his sen-
6 tence, they shall so order, and thereupon the clerk of
7 said court for the county in which such hearing is had
8 shall make up a record of the proceedings had on such
9 request, and transmit a copy thereof, and of all the
10 papers in the case, to the governor, together with an
11 application to the governor, made by him, in behalf of
12 such person, under the order and direction of said jus-
13 tices, for such pardon or commutation of sentence.

1 SECT. 9. On receipt of such application the governor
2 may, with the advice and consent of the council, grant a
3 pardon or a commutation of sentence, upon such con-
4 ditions and with such restrictions and limitations as may
5 be deemed proper, and to carry the same into effect may
6 issue his warrant directed to all proper officers who shall
7 serve and obey it.

1 SECT. 10. Such provisions shall be made for the classi-
2 fication and labor of the convicts in state prison that
3 those convicted of murder in the first degree shall not
4 be employed or in any way associated with those con-
5 victed of other offences.

1 SECT. 11. Section twenty-seven of chapter two hun-
2 dred and thirteen of the Public Statutes is hereby amended
3 by striking out in the second line the words "a crime pun-
4 ishable with death" and inserting in place thereof the
5 words "the crime of murder." Section thirty-one of said
6 chapter is hereby amended by striking out in the first and
7 second lines the words "death or." Section thirty-two

8 of chapter one hundred and seventy of the Public Statutes
9 is hereby amended by striking out in the first and second
10 lines the words "a capital case" and inserting in place
11 thereof the words "an indictment for murder." Section
12 six of chapter two hundred and fourteen of the Public
13 Statutes is hereby amended by striking out in the second
14 line the words "death or." Section eight of chapter two
15 hundred and fourteen of the Public Statutes is hereby
16 amended by striking out in the second line the words
17 "not capital" and inserting in place thereof the words
18 "except murder," and by striking out in the sixth line
19 the word "capital" and inserting in place thereof the
20 word "murder."

1 SECT. 12. Chapter three hundred and seventy-nine
2 of the acts of the year eighteen hundred and ninety-one
3 is hereby amended as follows:—By striking out the
4 words "capital crimes" in the second line of section
5 one, in the second and third lines of section ten, in the
6 fourth and fifth lines of section fifteen, and in the second
7 line of section sixteen; by striking out the words "a
8 capital crime" in the third line of section two and in the
9 second line of section three; by striking out the words
10 "a capital offence" in the first line of section five and in
11 the second line of section six, and inserting in each case
12 in place of the words so stricken out the words "the
13 crime of murder"; also, by striking out in the first line
14 of section two the word "capital" and inserting in place
15 thereof the word "murder."

16 Section one of chapter three hundred and twenty-four
17 of the acts of the year eighteen hundred and ninety-
18 three is hereby amended as follows:—By striking out
19 the words "capital crimes" in the seventh line and in-
20 serting in place thereof the word "murder."

1 SECT. 13. Sections one, two, three, four and eight of
2 chapter two hundred and two, section seven of chapter
3 two hundred and fourteen, and sections thirty-two to
4 thirty-nine inclusive of chapter two hundred and fifteen,
5 of the Public Statutes; also section twelve of chapter
6 three hundred and seventy-nine of the acts of the year
7 eighteen hundred and ninety-one, and all other acts and
8 parts of acts inconsistent herewith, are hereby repealed.

1 SECT. 14. The provisions of this act shall not apply
2 to any case or indictment now pending, nor to any offence
3 committed or sentence awarded before its passage, but
4 the existing provisions of law shall continue applicable
5 thereto as though this act had not been passed.

1 SECT. 15. This act shall take effect upon its passage.

