

SENATE No. 219.

Commonwealth of Massachusetts.

IN SENATE, March 30, 1872.

The Committee on the Judiciary, to whom was committed the Bill to establish the district court of Central Middlesex, report that the Bill ought to pass with the following amendment, to wit: At [A] strike out the words "twelve hundred," and insert in their place the words "one thousand."

ADIN THAYER.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy-
Two.

AN ACT

To establish the District Court of Central Middlesex.

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

1 SECT. 1. The towns of Acton, Sudbury, Bed-
2 ford, Carlisle, Concord, Lincoln, Maynard and Stow,
3 shall constitute a judicial district, under the juris-
4 diction of the court hereby established therein, by
5 the name of the District Court of Central Middlesex.
6 Said court shall, except as is hereinafter provided,
7 have the same jurisdiction, power and authority,
8 shall perform the same duties and be subject to
9 the same regulations as are provided with respect
10 to existing police courts, except the municipal
11 courts of Boston and Worcester, by chapter
12 one hundred and sixteen of the General Statutes

13 and by all general laws passed in amendment
14 thereof applicable to the several police courts of
15 the Commonwealth; and all provisions of law re-
16 lating to criminal and civil proceedings, the taxa-
17 tion of costs, the payment of fines, the expenses of
18 court, the accounting and settling with county and
19 town for money paid into court as forfeitures or
20 otherwise, and all other returns and requirements
21 of law applicable to the several police courts of the
22 Commonwealth, except those before mentioned,
23 shall apply to the District Court of Central
24 Middlesex hereby established.

1 SECT. 2. Said district court shall consist of
2 one standing justice and two special justices, to be
3 appointed, commissioned and qualified, pursuant to
4 the constitution and laws of the Commonwealth.

1 SECT. 3. Either of the justices of said court may
2 issue warrants in all proper cases. No justice of
3 the peace shall hereafter be allowed any fees for
4 warrants issued within said district, and all war-
4 rants so issued shall be made returnable before said
5 court.

1 SECT. 4. Said court shall be held in said Concord,
2 and for criminal business daily, except on Sundays
3 and legal holidays, in some suitable place to be
4 furnished by the county of Middlesex. Said court
5 shall be held for civil business on the first and
6 third Wednesdays of each month, and actions
7 therein may be continued to any future day.

1 SECT. 5. The standing justice of said court shall
2 receive an annual salary of (A) twelve hundred
3 dollars; to be paid from the treasury of the Com-
4 monwealth, the compensation of the special jus-
5 tices shall be determined and paid in the manner
6 now provided by law for special justices of police
7 courts.

1 SECT. 6. Said court shall also have concurrent
2 jurisdiction with the superior court in the county
3 of Middlesex in all personal actions, in which
4 the debt or damages demanded, or property replev-
5 ied does not exceed in amount or value three hun-
6 dred dollars, and on the return day of the writ either
7 party may demand a trial by jury in writing, which
8 shall be granted by said court. If neither party
9 demand a trial by jury, the right to have such trial
10 shall be taken to be waived. The jury trial shall
11 be in accordance with the provisions of chapter
12 one hundred and thirty-two of the General Stat-
13 utes, and the judgment of said court in all actions
14 in which the title to real estate is not put in issue
15 by the pleadings, shall be final, unless appeal is
16 taken therefrom, or exceptions and appeals on
17 matters of law are had as hereinafter provided.

1 SECT. 7. In all cases in said court, except where
2 a jury trial is had, or the value of the property re-
3 plevied, or the judgment of the court, does not
4 exceed the amount of fifty dollars, either party may
5 appeal to the superior court, in the manner now
6 provided by law for taking appeals from the judg-
7 ment of justices of the peace; and in cases where
8 a jury trial is had, exceptions and appeals on mat-

9 ters of law may be had to the supreme judicial
10 court in the manner now provided by law for tak-
11 ing exceptions and appeals from the superior court
12 to the supreme judicial court.

1 SECT. 8. Whenever a jury shall become neces-
2 sary for the trial of any action or proceeding in
3 said district court under the provisions of this act,
4 the justice of said district court is hereby author-
5 ized and required to issue writs of *venire facias*,
6 directed to the sheriff of the county, or either of
7 his deputies, or a constable of any city or town
8 in the district for the summoning of jurors, and
9 the jurors shall be summoned from the towns in
10 the judicial district.

1 SECT. 9. All proceedings duly commenced be-
2 fore any trial justice or justice of the peace for said
3 county, within said district, before this act shall
4 take full effect, shall be prosecuted and deter-
5 mined as if this act had not been passed, and, except
6 as herein provided, the jurisdiction of trial justices
7 and justices of the peace shall be excluded within
8 the judicial district created by this act.

1 SECT. 10. No writ or process issued by said
2 district court in civil actions or proceedings shall
3 run into or be served in any county other than
4 Middlesex County, except as provided in section
5 seven of chapter one hundred and twenty, and in
6 section seventy-seven of chapter one hundred and
7 forty-two of the General Statutes. And in all
8 civil actions in said court, wherein the writ or proc-

9 ess is served upon the defendant in any county
10 other than Middlesex County, except as above
11 provided, if the plaintiff names a sum not exceed-
12 ing twenty dollars for debt or damages, he shall be
13 entitled to no costs, except as provided in the fol-
14 lowing section, but the defendant shall recover the
15 costs to which he would have been entitled had he
16 been the prevailing party.

1 SECT. 11. If the plaintiff's claim in a writ
2 served upon the defendant out of Middlesex
3 County as established on the trial exceeds twenty
4 dollars and is reduced to that amount or less, or
5 overbalanced by set-offs which could not have been
6 proved in payment, it shall be considered for the
7 purposes of the preceding section as having ex-
8 ceeded twenty dollars, and the party who finally
9 recovers judgment in the suit shall be entitled to
10 his costs.

1 SECT. 12. The justice of said district court
2 may retain for his own use from the fees received
3 in said court all sums paid by him for the services
4 of any special justice: *provided*, the sum so re-
5 tained shall not in any one year exceed eight per
6 centum of the annual salary of said justice; but no
7 justice of said court shall receive any compensation
8 besides his regular salary or allowances for making
9 or issuing in any capacity, complaints, warrants,
10 subpœnas or other process which he is by law
11 authorized to issue, or for any service performed
12 by him in the discharge of his official duties in said
13 court.

1 SECT. 13. This act shall take effect, so far as
2 relates to the appointment, commissioning and
3 qualifying the justices of said district court, upon
4 its passage, and it shall take full effect upon the
5 first day of July next.

