

HOUSE No. 86.

[Introduced on leave by Mr. KNOWLTON, of New Bedford, and referred to the Committee on the Judiciary.]

Commonwealth of Massachusetts.

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

AN ACT

Relating to Criminal Trials before District Courts,

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 several district courts, in addi-
2 tion to the jurisdiction conferred upon them re-
3 spectively by existing laws, shall, within their
4 districts, have concurrent jurisdiction with the
5 superior court of all offences under the degree of
6 felony, except conspiracies and libels and cases
7 where a prosecution by indictment or information
8 is required by law; and each of said courts may
9 impose the same penalties as may be imposed by

10 the superior court in like cases: *provided, how-*
11 *ever*, that the exclusive jurisdiction of trial justices
12 of juvenile offenders shall be and remain as be-
13 fore.

1 SECT. 2. Whenever a person is arraigned in
2 one of said courts for any offence of which they
3 have jurisdiction to hear, try and determine, if he
4 shall plead guilty or *nolo contendere*, the court
5 may enter judgment and sentence thereon, which
6 shall be final and not subject to appeal.

1 SECT. 3. If the defendant shall plead not
2 guilty he shall be asked if he desires a trial by
3 jury; if he does not he shall be tried by the court,
4 and from its judgment and sentence no appeal
5 shall lie, but exceptions may be taken in matters
6 of law as hereinafter provided.

1 SECT. 4. If the defendant shall elect to be tried
2 by jury the clerk shall place his case upon a jury
3 list, and it shall be continued until it can be so
4 tried.

1 SECT. 5. The justices of the several district
2 courts shall each respectively establish by general
3 rules terms thereof for the trial of criminal causes
4 by jury, which shall be not more than three
5 months apart, and as much oftener as the amount
6 of business shall render expedient. All cases
7 standing on said jury list at the beginning of said
8 term or during its continuance may be tried there-
9 at: *provided, however*, that no defendant shall be
10 put to his trial until seven days have elapsed since

11 his arraignment, if he shall desire postponement to
12 a future term.

1 SECT. 6. The clerks of said courts, and where
2 there is no clerk provided by law, the justice
3 thereof, shall have all the powers, and perform all
4 the duties incident to the issue of venires and the
5 empanelling of jurors which the clerks of the
6 superior court now possess ; and all the provisions
7 of chapter one hundred and thirty-two of the
8 General Statutes and the acts in amendment
9 thereof, shall be applicable to proceedings under
10 this act : *provided, however,* that the jurors shall
11 in all cases be ordered only from the towns and
12 cities in each district respectively.

1 SECT. 7. Where a party is tried, either by a
2 justice of said court or by a jury therein, excep-
3 tions in matters of law to any ruling, opinion,
4 instruction or judgment of said justice shall lie to
5 the superior court for the county, shall be entered
6 at the then existing or next ensuing term of said
7 court, and shall be heard and determined in the
8 manner and at times as prescribed by rules of
9 said court. If the exceptions are sustained, the
10 case shall be forthwith remanded to said district
11 court for a new trial therein, or for such other
12 disposition as said court may carefully make ; if
13 said exceptions are overruled, the defendant may,
14 within ten days after the entry of such determina-
15 tion upon the docket of the superior court, signify
16 his election to further prosecute the same ; if he
17 shall not so elect and cause entry thereof to be
18 made on the docket, the case shall be remanded

19 for sentence or other proper proceedings, to said
20 district court; but if he shall so elect, he may
21 cause such exceptions to be entered, heard and
22 determined in the supreme judicial court under
23 the same conditions, in the same manner, and
24 with the same effect as if said exceptions had
25 originally been taken and allowed in the superior
26 court.

1 SECT. 8. In cases of trial by jury under the
2 provisions of this act, the district attorney within
3 whose district it is had, or his assistant, shall
4 appear and represent the Commonwealth when-
5 ever he deems it advisable. If the Commonwealth
6 is not so represented, the presiding justice at the
7 trial may appoint or permit any suitable person
8 to represent the Commonwealth without compen-
9 sation. But nothing herein provided shall impair
10 the full authority of the district attorney or his
11 assistant to intervene at any stage, and to control
12 and direct the prosecution.

1 SECT. 9. This act shall take effect on the first
2 of July next.