

SENATE No. 128.

Commonwealth of Massachusetts.

IN SENATE, March 19, 1878.

The Committee on the Judiciary, to whom was committed the Bill to abolish the Third District Court of Plymouth, and enlarge the jurisdiction of the Second District Court of Plymouth, also the Order to consider the expediency of re-districting the County of Plymouth, with reference to abolishing one or more of the District Courts in said county, being of opinion that said Bill submitted to them ought not to pass, report the accompanying Bill.

For the Committee,

JONA. WHITE.

Commonwealth of Massachusetts.

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

AN ACT

To abolish the Third and Fourth District Courts of Plymouth, to enlarge the Second District Court of Plymouth, and to establish the District Court of Southern Plymouth.

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. So much of the three hundred and
2 fiftieth chapter of the acts of the year eighteen
3 hundred and seventy-four as relates to the estab-
4 lishment of a judicial district in the county of Plym-
5 outh, comprising the towns of Plymouth, Kings-
6 ton, Plympton, Pembroke, Duxbury, Marshfield, and
7 Scituate, under the jurisdiction of the third district
8 court of Plymouth, and the establishment of a judi-
9 cial district in said county, comprising the towns
10 of Middleborough, Wareham, Lakeville, Marion,
11 Mattapoisett, and Rochester, under the jurisdiction
12 of the fourth district court of Plymouth, and all

13 other acts, or parts of acts, relating to said courts,
14 are hereby repealed.

1 SECT. 2. The judicial district, now under the
2 jurisdiction of the second district court of Plymouth,
3 in said county, is hereby enlarged by including
4 within the jurisdiction of the said second district
5 court of Plymouth the towns of Scituate and Pem-
6 broke in said county.

1 SECT. 3. The towns of Plymouth, Kingston,
2 Plympton, Duxbury, Marshfield, Carver, Middle-
3 borough, Wareham, Lakeville, Marion, Mattapoi-
4 sett, and Rochester, in said county, shall constitute
5 a judicial district, under the jurisdiction of a court
6 hereby established therein, by the name of the Dis-
7 trict Court of Southern Plymouth, which court shall
8 be held in some suitable place to be furnished by
9 the county of Plymouth, in Wareham on Mondays
10 and Thursdays, in Plymouth on Tuesdays and Fri-
11 days, and in Middleborough on Wednesdays and
12 Saturdays, of each week. Said court shall, except
13 as hereinafter provided, have the same jurisdiction,
14 power, and authority, shall perform the same duties,
15 and be subject to the same regulations, as are pro-
16 vided in respect to the said second district court of
17 Plymouth by chapter three hundred and fifty of
18 the acts of the year eighteen hundred and seventy-
19 four, and by all other acts relating to said second
20 district court of Plymouth; and all the provisions of
21 law relating to criminal and civil proceedings, the
22 taxation of costs, the payment of fines, the expenses

23 of court, the accounting and settling with county
24 and town for money paid into court as forfeitures or
25 otherwise, and all other provisions of law applicable
26 to the said second district court of Plymouth, its
27 justices and clerks, shall apply to the court herein
28 created, its justices and clerks, except so far as they
29 are inconsistent with the provisions of this act.

1 SECT. 4. There shall be appointed, commissioned,
2 and qualified, agreeably to the constitution, one
3 justice and three special justices of said district
4 court of Southern Plymouth; and, as vacancies oc-
5 cur, they shall be filled by appointment in the same
6 manner. Such justice shall receive the annual
7 salary hereinafter named, and at the same rate for
8 any part of a year, to be paid monthly from the
9 treasury of the said county of Plymouth, which shall
10 be in full for all services rendered by him as justice
11 of said court. The special justices shall be paid by
12 the justice six dollars for each day on which they
13 may hold a session of the court.

1 SECT. 5. Two or more sessions of said court may
2 be held at the same time; and in such case the
3 justice may retain to his own use, from the fees
4 received in such court, all sums paid by him to the
5 special justice holding one of said sessions, in ad-
6 dition to all sums which he is otherwise entitled to
7 receive.

1 SECT. 6. A clerk of said court shall be appointed
2 and commissioned by the governor for the term of

3 five years, and shall receive the annual salary here-
4 inafter mentioned, in full for services and clerk hire,
5 to be paid monthly from the treasury of the county
6 of Plymouth; and, before entering upon the duties
7 of his office, shall give bond, with sufficient sureties,
8 to be approved by the superior court or some justice
9 thereof, in the sum of one thousand dollars, to the
10 treasurer of the county, to account for and pay over
11 all fines, costs, forfeitures, fees, and moneys which he
12 shall receive in the exercise of his office. A failure
13 to so account or pay over shall be a breach of his
14 bond. A failure to give such bond shall be a suf-
15 ficient cause for his removal from office.

1 SECT. 7. 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 warrants
5 issued shall be made returnable to said court.

1 SECT. 8. Said court shall be held for criminal
2 business daily, except on Sundays and legal holidays,
3 and for civil business on the first and third Wednes-
4 days, the second and fourth Thursdays, and the first
5 and third Fridays, of each month; and said court
6 may continue any action therein to any future day,
7 and may adjourn for the trial of any case to any
8 place in the district, whenever the public conven-
9 ience may seem to the justice presiding therein to
10 render such adjournment expedient.

1 SECT. 9. Said court shall have original concur-

2 rent jurisdiction, with the superior court in the
3 county of Plymouth, in all civil actions and pro-
4 ceedings in which the debt or damages demanded,
5 or property replevied, does not exceed in amount
6 or value three hundred dollars; and the jurisdiction
7 shall, when the plaintiff and defendant both reside
8 in the district, exclude the jurisdiction of other dis-
9 trict courts: *provided* that, where there are two or
10 more plaintiffs or defendants, or one or more trus-
11 tees, the jurisdiction of the court shall not be ex-
12 clusive unless all the parties reside in the district.

1 SECT. 10. When one of several defendants re-
2 sides within the district, the writ issued by such
3 court may run into any county, and be served on
4 the other defendant, or defendants, fourteen days at
5 least before its return day, in like manner as if
6 issued by the superior court.

1 SECT. 11. When no justice is present at the time
2 and place appointed for holding said court, the
3 sheriff of the county, or either of his deputies, may
4 adjourn the court from day to day, or from time to
5 time, as circumstances require, or as ordered by
6 either of the justices, and shall give notice of such
7 adjournment by making public proclamation in the
8 room where the court is held, and by a notification
9 posted on the door of the court-room.

1 SECT 12. Sections seven, eight, nine, eleven,
2 twenty-six, forty, and seventy-eight, of chapter one
3 hundred and twenty-nine of the General Statutes,

4 shall apply to civil actions before said court. An-
5 swers shall be in writing when the court so orders.

1 SECT. 13. Said court shall have power to estab-
2 lish a seal therefor, issue all writs and processes,
3 appoint all officers necessary for the transaction of
4 the business of the court, and may, from time to
5 time, make rules for regulating the practice and
6 conducting the business therein, in all cases not
7 expressly provided for by law.

1 SECT. 14. The justice of said court may retain
2 for his own use, from the fees received in said court,
3 all sums paid by him for the services of any special
4 justice, *provided* the sum so retained shall not in any
5 one year exceed eight per centum of the annual
6 salary of such justice.

1 SECT. 15. The justice of said court may, in the
2 absence of the judge of probate for the county of
3 Plymouth, commit to the state lunatic hospitals any
4 insane person, who, in his opinion, is a proper sub-
5 ject for their treatment or custody, in accordance
6 with the provisions of chapter two hundred and
7 twenty-three of the acts of the year one thousand
8 eight hundred and sixty-two, and the acts in addition
9 thereto.

1 SECT. 16. In addition to the terms for criminal
2 business fixed by this act, special terms of said
3 court, for criminal business, may be held at either
4 Middleborough, Plymouth, or Wareham, on such

5 days as public convenience may seem to the justice
6 to render such special terms expedient to be held ;
7 and said court may adjourn a stated term thereof
8 for criminal business, from one to another of said
9 towns, whenever the public convenience may seem
10 to the justice presiding therein to render such ad-
11 journment expedient. But the justice shall not be
12 allowed to retain for his own use, from the fees
13 received in said court, any sums paid by him to any
14 special justices for holding such special terms be-
15 yond eight per cent of his annual salary.

1 SECT. 17. All cases pending at the time this act
2 shall take full effect, whether civil or criminal, in
3 the said third and fourth district courts of Plymouth,
4 shall be transferred to, and have day in, the proper
5 day and term of the said district court of Southern
6 Plymouth ; and all writs, processes, complaints, peti-
7 tions, and proceedings whatever, which are made re-
8 turnable to, or to be entered in, said third and fourth
9 district courts of Plymouth, shall be returnable to,
10 entered, and have day in, the proper day and term of
11 said district court of Southern Plymouth ; and all
12 judicial writs and processes, and copies founded upon
13 the records of said third and fourth district courts of
14 Plymouth, shall issue, under the seal of said district
15 court of Southern Plymouth, in like manner and to
16 the same effect as the same might have issued from
17 said third and fourth district courts of Plymouth if
18 this act had not passed ; and all writs and processes
19 may be made returnable to the several days and

20 terms of said third and fourth district court of Plym-
21 outh till this act shall take full effect.

1 SECT. 18. The records of the said third and
2 fourth district courts of Plymouth shall be trans-
3 ferred to and remain in the custody of the clerk
4 of the said district court of Southern Plymouth.

1 SECT. 19. The salary of the justice of said dis-
2 trict court of Southern Plymouth shall be fifteen
3 hundred dollars; and of the clerk thereof, one thou-
4 sand dollars.

1 SECT. 20. This act shall take effect, so far as
2 relates to appointing, commissioning, and qualifying
3 the justice, special justices, and clerk of the court
4 hereby established, on the first day of May next;
5 and shall take full effect on the first day of June
6 next.

