

SENATE . . . No. 246.

Commonwealth of Massachusetts.

IN SENATE, April 10, 1872.

The Committee on the Judiciary, to whom was recommitted a report on the Order relative to the establishment of a district court in Norfolk County, have considered the same, and report the accompanying Bill.

T. L. WAKEFIELD, *Chairman.*

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy
Two.

AN ACT

To establish the District Court of East Norfolk.

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. A court is hereby established under the
2 name of the District Court of East Norfolk, and
3 the towns of Randolph, Braintree, Cohasset, Wey-
4 mouth, Quincy and Holbrook shall constitute a judi-
5 cial district under the jurisdiction of said court.
6 Said court shall, except as is hereinafter provided,
7 have the same jurisdiction, power and authority, shall
8 perform the same duties and be subject to the same
9 regulations as are provided in respect to existing
10 police courts, except the municipal courts of Boston
11 and Worcester, by chapter one hundred and sixteen of
12 the General Statutes and by all general laws passed
13 in amendment thereof applicable to the several police

14 courts of the Commonwealth; and all provisions of
15 law relating to criminal and civil proceedings, the
16 taxation of costs, the payment of fines, the expenses
17 of court, the accounting and settling with county and
18 town for money paid into court as forfeitures or other-
19 wise, and all other returns and requirements of law
20 applicable to the several police courts of the Com-
21 monwealth, except those before mentioned, shall
22 apply to the District Court of East Norfolk hereby
23 established.

1 SECT. 2. There shall be appointed, commissioned
2 and qualified, agreeably to the constitution, one jus-
3 tice and two special justices of said district court, and
4 one of said special justices shall be appointed, com-
5 missioned and qualified as first special justice, and as
6 vacancies occur they shall be filled by appointment
7 in the same manner. The justice of said court shall
8 receive an annual salary of two thousand dollars, and
9 at the same rate for any part of a year, to be paid
10 monthly from the treasury of the Commonwealth,
11 which shall be in full for all service rendered by him
12 as justice of said court or otherwise, *ex officio*. The
13 first special justice shall officiate in case of the absence
14 or other inability or disability of said justice, or when
15 two or more separate sessions shall be held at the
16 same time, or when there is a vacancy in the office of
17 justice, and in case of the absence, inability or dis-
18 ability of the justice or the first special justice, the
19 second special justice may upon request officiate. The
20 special justices shall be paid by the justice six dollars
21 for each day on which they may hold a session of said
22 court.

1 SECT. 3. •Two or more sessions of said court may
2 be held at the same time, and in such case the justice
3 may retain to his own use from the fees received in
4 said court all sums paid by him to the special justice
5 holding one of said sessions.

1 SECT. 4. A clerk of said court shall be appointed
2 and commissioned by the governor for the term of
3 five years, and shall receive for annual salary and
4 clerk hire the sum of five hundred dollars, to be paid
5 monthly from the treasury of the Commonwealth,
6 and shall faithfully perform all services required by
7 law of the clerks of like courts in the Common-
8 wealth, and shall give bond in the sum of five thou-
9 sand dollars for the faithful performance of the
10 duties of his office.

1 SECT. 5. 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 war-
4 rants issued within said district, and all warrants
5 issued shall be made returnable before said court, and
6 no justice of said court shall receive any compensa-
7 tion besides his regular salary, or allowances for
8 making or issuing, in any capacity, complaints, war-
9 rants, subpœnas or other process which he is by law
10 authorized to issue, or for any service performed by
11 him in the discharge of his official duties in said
12 court.

1 SECT. 6. The said court shall be held for criminal
2 business daily, except on Sundays and legal holidays,
3 in some suitable place in Quincy to be furnished

4 by the county of Norfolk, at nine o'clock in the
5 forenoon, and in the afternoon whenever it appears
6 expedient to the justice thereof.

7 The court shall be held for civil business weekly ;
8 each term shall commence on Monday, and actions
9 therein may be continued to any future day fixed for
10 the sitting of the court ; and the court may adjourn
11 for the trial of any case, civil or criminal, to any
12 place in said district, whenever the public convenience
13 may seem to the justice thereof to render such
14 adjournment expedient.

1 SECT. 7. The justice and clerk shall not be re-
2 tained or employed as counsel or attorney in any
3 writs, complaints or proceedings returnable to or
4 pending in said court, nor in any suit which has been
5 examined or tried therein, nor shall the special jus-
6 tices be retained or employed as aforesaid in any
7 matter tried before them in said district court.

1 SECT. 8. The said court shall have original con-
2 current jurisdiction with the superior court, in the
3 county of Norfolk in all civil actions and proceed-
4 ings in which the debt or damages demanded, or
5 property replevied, does not exceed in amount or
6 value three hundred dollars, and the jurisdiction of
7 said court shall, when the plaintiff and defendant
8 both reside in the district, exclude the jurisdiction of
9 municipal and police courts, justices of the peace,
10 and other district courts: *provided*, that where there
11 are two or more plaintiffs or defendants, or one or
12 more trustees, the jurisdiction of the court shall not
13 be exclusive unless all the parties reside in the dis-
14 trict.

1 SECT. 9. When one of several defendants resides
2 within the district, the writ issued by said court may
3 run into any county, and be served on the other
4 defendant or defendants fourteen days, at least, before
5 its return day, in like manner as if issued by the
6 superior court.

1 SECT. 10. On the return day of the writ either
2 party may demand a trial by jury in writing, which
3 shall be granted by said court. If neither party
4 demand a trial by jury, the right to have such trial
5 shall be taken to be waived. The jury trial shall
6 be in accordance with the provisions of chapter one
7 hundred and thirty-two of the General Statutes, and
8 the judgment of said court in all actions in which the
9 title to real estate is not put in issue by the plead-
10 ings, shall be final, unless appeal is taken therefrom,
11 or exceptions and appeals on matters of law are had,
12 as hereinafter provided.

13 And in all civil actions in said court, wherein the
14 writ or process is served upon the defendant in any
15 county other than Norfolk County, except as above
16 provided, if the plaintiff recovers a sum not exceeding
17 twenty dollars for debt and damages, he shall be enti-
18 tled to no costs, except as provided in the following
19 section, but the defendant shall recover the costs to
20 which he would have been entitled had he been the
21 prevailing party.

1 SECT. 11. If the plaintiff's claim in a writ served
2 upon the defendant out of Norfolk County, as estab-
3 lished on the trial, exceeds twenty dollars, and is
4 reduced to that amount or less, or overbalanced by

5 set-offs which could not have been proved in pay-
6 ment, it shall be considered for the purposes of the
7 preceding section as having exceeded twenty dollars,
8 and the party who finally recovers judgment in the
9 suit shall be entitled to his costs.

1 SECT. 12. In all cases in said court, except where
2 a trial by jury is had, or the value of the property
3 replevied, or the judgment of the court does not ex-
4 ceed fifty dollars, either party may appeal to the supe-
5 rior court, in the manner now provided by law for
6 taking appeals from the judgment of justices of the
7 peace; and in cases where a jury trial is had, excep-
8 tions and appeals on matters of law may be had to the
9 supreme judicial court in the manner now provided
10 by law for taking exceptions and appeals from the
11 superior court to the supreme judicial court.

1 SECT. 13. 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. 14. All proceedings duly commenced be-
2 fore any trial justice or justice of the peace for
3 said county within said district, before this act
4 shall 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 established by this act.

1 SECT. 15. When no justice of said district court
2 is present at the time and place appointed for holding
3 a court, whether at the beginning of the time or any
4 adjournment thereof, the sheriff of the county or
5 either of his deputies may adjourn the court from day
6 to day, or from time to time, as circumstances require,
7 or as ordered by any of the justices, and shall give
8 notice of such adjournments by making public pro-
9 clamation in the room where said court is held, and
10 by a notification posted on the door of the court
11 room. In such case, any justice may, by a written
12 order, require the sheriff or his deputy to adjourn the
13 court without day, or to the time expressed in the
14 order, and the officer shall adjourn the court accord-
15 ingly, by public proclamation in the room within
16 which said court is held.

1 SECT. 16. Sections seven, eight, nine, eleven,
2 twelve, twenty-six, forty and seventy eight of chapter
3 one hundred and twenty-nine of the General Statutes,
4 shall apply to civil actions before said court.

1 SECT. 17. The said court shall have power to
2 establish a seal, issue all writs and processes, appoint
3 all officers necessary for the transaction of the busi-
4 ness of the court, and may from time to time make
5 rules for regulating the practice and conducting the
6 business therein in all cases not expressly provided
7 for by law.

1 SECT. 18. This act shall take effect, so far as
2 appointing, commissioning, and qualifying the justice
3 and special justices of said court are concerned, on
4 the first day of May next, and shall take full effect
5 on the first day of June next.