

HOUSE No. 243.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 22, 1876.

The Committee on the Judiciary, to whom was referred the Order relative to the expediency of a law making and defining uniform costs in police, district and municipal courts, and extending the jurisdiction of such courts, report the accompanying Bill.

For the Committee,

CHARLES L. GARDNER.

Commonwealth of Massachusetts.

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

AN ACT

Concerning Municipal, Police and District Courts, and the Taxation and Costs in Civil and Criminal Cases in said Courts and by Justices of the Peace and Trial Justices.

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. In all civil cases and proceedings in
2 district and municipal courts, except when a jury
3 trial has been demanded, or an agreement for a
4 jury has been filed, or where the value of the
5 property replevied, or the *ad damnum* in the writ
6 does not exceed fifty dollars, appeals shall lie to
7 the superior court for the county in the manner
8 now provided by law for taking appeals from the
9 judgments of justices of the peace.

1 SECT. 2. So much of the first section of chapter
2 three hundred and thirty-six of the laws of the
3 year eighteen hundred and seventy-four, and of

4 all other acts concerning said courts or any of
5 them as is inconsistent with the provisions of the
6 first section of this act, is hereby repealed.

1 SECT. 3. Municipal, district and police courts
2 shall have concurrent jurisdiction with the supe-
3 rior court, of all nuisances and complaints for de-
4 fective highways, and may in such cases punish
5 by fine not exceeding one hundred dollars, or im-
6 prisonment in the jail or house of correction not
7 exceeding one year, or both said punishments.

1 SECT. 4. Executions issued by district, muni-
2 cipal and police courts may be executed and shall
3 be obeyed in every county to which they are
4 directed.

1 SECT. 5. The provisions of chapter thirty-six,
2 and section three of chapter three hundred and
3 thirty-six of the acts of the year eighteen hun-
4 dred and seventy-four, shall apply to municipal
5 courts.

1 SECT. 6. The following fees may be taxed and
2 allowed in criminal cases in municipal, police and
3 district courts, and by justices of the peace and
4 trial justices:—

5 Receiving complaint and issuing warrant, fifty
6 cents;

7 Entering a complaint, rendering judgment and
8 recording same, examining, allowing and taxing
9 costs, and filing papers, seventy-five cents;

10 For a subpoena for one or more witnesses, ten
11 cents;

12 For a trial, or for a hearing or an examination,
13 on a plea of guilty or *nolo contendere*, one dollar;

14 For attendance of an officer on the court, one
15 dollar a day, upon one warrant only, if there be
16 two or more against the same defendant at the
17 same time; but if the trial in any case is continued
18 upon the arraignment without any examination, no
19 fee for officer's attendance upon the day of arraign-
20 ment shall be taxed. Said fee for officer's attend-
21 ance, if collected, shall be paid to the treasurer of
22 the town, city or county as now provided by law,
23 in all said courts in which an officer is in attend-
24 ance upon the court under a salary or a per diem
25 allowance.

26 For taking a recognizance, of principal and
27 sureties, twenty cents; of witnesses, in each case,
28 one fee of twenty cents;

29 For copies upon appeal, or for the grand jury,
30 two dollars;

31 For a mittimus, twenty-five cents;

32 Also, the legal fees of officers and witnesses,
33 the fees now allowed on account of lock-up and
34 such necessary disbursements as may have been
35 made by order of the court or of the district-at-
36 torney. Trial justices and justices of the peace
37 shall be allowed their actual expenses incurred for
38 necessary travel.

1 SECT. 7. Parties recovering costs in civil actions
2 in district, municipal and police courts, and before
3 justices of the peace, shall be allowed as follows:—

4 To the plaintiff or complainant: for writ and
5 declaration, or petition, or complaint, one dollar;

6 For entry of an action, or filing a complaint or

7 petition, including filing of papers, examining,
8 allowing and taxing the bill of costs, entering up
9 judgment and recording the same, one dollar;

10 For an attorney's fee, when there is an appear-
11 ance for defendant, two dollars and fifty cents; in
12 all other cases, one dollar and twenty-five cents;

13 For term fee, excepting before justices of the
14 peace, who shall allow one dollar, one fee of three
15 dollars where an appearance is entered for a
16 defendant or a trustee; where there is no appear-
17 ance, one fee of one dollar;

18 For travel and attendance the same fees now
19 allowed by law;

20 For execution, twenty-five cents;

21 For trial of an issue, one dollar;

22 For such disbursements as are not herein
23 specially provided for, the same as are now allowed
24 by law.

25 To the defendant, costs shall be allowed for
26 travel, attendance, one term fee of three dollars,
27 excepting before justices of the peace, who shall
28 allow one dollar, an attorney's fee of two dollars
29 and a half, twenty-five cents for taxation of costs,
30 and such disbursements as are not herein specially
31 provided for, the same as are now allowed by law.

32 To trustees recovering costs there shall be
33 allowed:—

34 For attorney's fee, two dollars and fifty cents;

35 For answers to interrogatories, such allowance
36 as the court may order;

37 For travel and attendance, the same fees as now
38 provided by law;

39 For taxation of costs, twenty-five cents; and

40 such disbursements not herein specially provided
41 for, as are now allowed by law.

42 To adverse claimants such fees may be allowed
43 as the court may, under the circumstances, deem
44 reasonable.

45 In proceeding under the bastardy laws, the costs
46 shall be the same as in civil cases, and in addition
47 thereto, a fee of fifty cents for receiving complaint
48 and issuing warrant, to be taxed for complainant,
49 and one dollar for each bond given by respondent,
50 to be taxed for respondent.

1 SECT. 8. Said courts shall collect of the plain-
2 tiff or petitioner the said fees for entry, trial and
3 execution; for each order of notice, and rule of
4 reference, fifty cents; in bastardy cases the fee for
5 entering complaint and issuing the warrant, and
6 such fees for copies as are now allowed by law;
7 and no other costs shall be demanded of the
8 plaintiff.

9 Said courts shall collect of the defendant, trus-
10 tee and adverse claimant said fee for taxation of
11 costs and execution, when an execution is taken,
12 and such fees for copies as are now allowed by
13 law, and the fee of one dollar for approving each
14 bond in bastardy cases; and no other costs shall be
15 demanded of them.

1 SECT. 9. All laws inconsistent with the pro-
2 visions of this act are hereby repealed.