

HOUSE No. 190.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, April 6, 1868.

The Committee on the Judiciary, who were instructed by an Order of the House to inquire into the expediency of abolishing the police court in the city of Worcester, and establishing a municipal court in said city, report the accompanying Bill.

Per order,

CHAS. R. TRAIN.

Commonwealth of Massachusetts.

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

AN ACT

To establish the Municipal Court of the City of Worcester.

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. There shall be established a court, to be
2 called the municipal court of the city of Worcester,
3 which shall have the same powers and jurisdiction in
4 all actions and proceedings at law, whether civil or
5 criminal, as the police court of the city of Worcester
6 now has.

1 SECT. 2. All cases pending at the time this act
2 shall take full effect, whether civil or criminal, in the
3 police court of the city of Worcester, shall be trans-
4 ferred to and have day in the proper day and term of
5 the municipal court of the city of Worcester, and all
6 writs, processes, complaints, petitions and proceedings

7 whatever, which are made returnable or to be entered
8 in said police court, shall be returnable to, entered,
9 and have day in the proper day and term of said
10 municipal court; and all judicial writs and processes,
11 and copies founded upon the records of said police
12 court, shall issue under the seal of the said municipal
13 court, in like manner and to the same effect as the
14 same might have issued from the said police court if
15 this act had not passed; and all writs and processes
16 may be made returnable to the several days and terms
17 of said police court, now established by law, till this
18 act shall take full effect, and then all such writs and
19 processes shall be made returnable to the days and
20 terms herein established.

1 SECT. 3. The records of the said police court of
2 the city of Worcester shall remain in the custody of
3 the clerk of the said municipal court of the city of
4 Worcester.

1 SECT. 4. There shall be appointed, commissioned
2 and qualified, agreeably to the constitution, one jus-
3 tice and two special justices of the municipal court
4 of the city of Worcester; and as vacancies occur,
5 they shall be filled by appointment in the same man-
6 ner. The justice of said court shall receive an annual
7 salary of two thousand dollars, and at the same rate
8 for any part of a year, to be paid quarterly from the
9 treasury of the Commonwealth, which shall be in full
10 for all services rendered by him as justice of said
11 court, or otherwise *ex officio*. The special justices
12 shall officiate only in case of the absence or other
13 inability or disability of said justice, and shall be paid

14 by said justice six dollars for each day on which they
15 may hold a session of said court.

1 SECT. 5. The clerk of the police court of the city
2 of Worcester now in office shall be clerk of the
3 municipal court of the city of Worcester until his
4 successor is chosen and qualified; and he shall have
5 the same powers and duties that he now has.

1 SECT. 6. At the annual state election in the year
2 eighteen hundred and seventy-one, and every fifth
3 year thereafter, there shall be elected in the city of
4 Worcester, a clerk of the said municipal court, to
5 hold his office from the first Monday of January fol-
6 lowing, and until his successor is chosen and quali-
7 fied. If a vacancy occurs in the office of clerk, the
8 justice of said court may appoint a clerk, who shall
9 hold the office until another at the next or any suc-
10 ceeding municipal election in said city shall be chosen
11 and qualified for the remainder of the term. The
12 clerk shall receive an annual salary of twelve hundred
13 dollars, and all fines, penalties, forfeitures and costs
14 now paid or accounted for by the officers of said
15 police court, shall be paid over and accounted for to
16 the same officers, and in the same manner, by the
17 officers of said municipal court. The said clerk of
18 said municipal court shall be qualified and give bond
19 in the same manner and amount as is now provided
20 by law for the clerk of said police court.

1 SECT. 7. The justice and clerk of the municipal
2 court hereby established shall not be retained or
3 employed as counsel or attorney in any writ, com-

11 recovers a sum not exceeding twenty dollars, for debt
12 or damages, he shall be entitled to no costs, except as
13 provided in the following section ; but the defendant
14 shall recover the costs to which he would have been
15 entitled if he had been the prevailing party.

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

1 SECT. 12. The said municipal court shall have
2 power to establish a seal for said court, and the same
3 power to issue all writs and processes, and to appoint
4 all officers that may be necessary for the transaction
5 of the business of the court, which the said police
6 court now has ; and said court may from time to time
7 make rules for regulating the practice and conducting
8 the business therein in all cases not expressly pro-
9 vided for by law.

1 SECT. 13. The said municipal court shall be held
2 for criminal business daily, except on Sundays or
3 legal holidays, in the forenoon at nine o'clock, and in
4 the afternoon whenever it appears expedient to the
5 justice thereof. The court shall be held for civil
6 business weekly. Each term shall commence on

7 Saturday, and actions therein may be continued to
8 any future day fixed for the sitting of the court.

1 SECT. 14. A party aggrieved by the judgment of
2 said municipal court may appeal to the superior
3 court; such appeals shall be had, entered, conducted
4 and disposed of in all respects as appeals now are
5 from the police court of the city of Worcester.

1 SECT. 15. All laws establishing the police court
2 of the city of Worcester, or giving jurisdiction to
3 said court, except so far as may be necessary that the
4 same should be supported for the purposes of this
5 act, and all acts and parts of acts inconsistent with
6 the provisions of this act are hereby repealed from
7 the day this act shall take full effect; and if upon
8 said day any term of said police court shall be in
9 session, or shall have been adjourned to a future day,
10 the remainder of said term may be held by the justice
11 of said municipal court.

1 SECT. 16. This act shall take effect so far as the
2 appointing, commissioning and qualifying of the jus-
3 tice and special justices of said municipal court are
4 concerned, on the first day of June next; and it shall
5 take full effect on the first day of July next.

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