

HOUSE No. 423.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, May 27, 1874.

The Committee on the Judiciary, to whom was referred the Bill to establish district courts in Plymouth County, report that the Bill ought to pass with the amendments pending at the time of the reference.

For the Committee,

J. Q. ADAMS.

Commonwealth of Massachusetts.

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

AN ACT

To establish District Courts in the County of
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. The towns of Abington, Rockland,
2 Hingham, Hull, Hanover, South Scituate and Han-
3 son shall constitute a judicial district under the
4 jurisdiction of a court established therein, by the
5 name of the Second District Court of Plymouth,
6 which court shall be held in some suitable place to
7 be furnished by the county of Plymouth, in Abing-
8 ton, on Monday, Wednesday, Thursday and Satur-
9 day, and in Hingham on Tuesday and Friday in
10 each week.

11 The towns of Plymouth, Kingston, Plympton,
12 Pembroke, Duxbury, Marshfield and Scituate shall
13 constitute a judicial district under the jurisdiction
14 of a court hereby established therein, by the name

15 of the Third District Court of Plymouth, which
16 court shall be held in some suitable place to be
17 furnished by the county of Plymouth, in Plymouth
18 on Monday, Wednesday, Thursday and Saturday,
19 and in Scituate on Tuesday and Friday in each
20 week.

21 The towns of Middleborough, Wareham, Lake-
22 ville, Marion, Mattapoisett and Rochester shall
23 constitute a judicial district under the jurisdiction
24 of a court hereby established therein, by the name
25 of the Fourth District Court of Plymouth, which
26 court shall be held in some suitable place to be
27 furnished by the county of Plymouth, in Middle-
28 borough on Tuesdays, Thursdays and Saturdays,
29 and in Wareham on Mondays, Wednesdays and
30 Fridays of each week.

31 Said courts shall, except as hereinafter pro-
32 vided, have the same jurisdiction, power and
33 authority, shall perform the same duties and be
34 subject to the same regulations as are provided in
35 respect to existing police courts, by chapter one
36 hundred and sixteen of the General Statutes, and
37 by all general laws passed in amendment thereof
38 applicable to the several police courts of the Com-
39 monwealth; and all the provisions of law relating
40 to criminal and civil proceedings, the taxation of
41 costs, the payment of fines, the expenses of court,
42 the accounting and settling with county and town
43 for money paid into court as forfeitures or other-
44 wise, and all other provisions of law applicable to
45 the several police courts of the Commonwealth,
46 their justices and clerks, shall apply to the courts

47 herein created, their justices and clerks, except so
48 far as they are inconsistent with the provisions of
49 this act.

1 SECT. 2. There shall be appointed, commis-
2 sioned and qualified, agreeably to the constitution,
3 one justice and two special justices of each of said
4 courts, and as vacancies occur they shall be filled
5 by appointment in the same manner. Such justices
6 shall receive the annual salaries hereinafter named,
7 and at the same rate for any part of a year, to be
8 paid monthly from the treasury of the Common-
9 wealth, which shall be in full for all services ren-
10 dered by them as justices of said courts. The
11 special justices shall be paid by the justice six dol-
12 lars for each day on which they may hold a session
13 of the court.

1 SECT. 3. Two or more sessions of said courts
2 may 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. 4. A clerk of each of said courts shall be
2 appointed and commissioned by the governor, for
3 the term of five years, and shall receive the annual
4 salary hereinafter mentioned, in full for services
5 and clerk hire, to be paid monthly from the treas-
6 ury of the Commonwealth, and shall give bond to

7 the treasurer of the county of Plymouth, in the
8 sum of five thousand dollars, with sureties to be
9 approved by said treasurer, for the faithful per-
10 formance of the duties of his office.

1 SECT. 5. Either of the justices of said courts
2 may issue warrants in all proper cases. No justice
3 of the peace shall hereafter be allowed any fees
4 for warrants issued within said districts, and all
5 warrants issued shall be made returnable to said
6 courts.

1 SECT. 6. Said courts shall be held for criminal
2 business daily, except on Sundays and legal holi-
3 days, and for civil business on the first and third
4 Wednesdays, and the fourth Friday of each month.
5 Said courts may continue any action therein to any
6 future day, and may adjourn for the trial of any
7 case to any place in their respective districts,
8 whenever the public convenience may seem to the
9 justice presiding therein to render such adjourn-
10 ment expedient.

1 SECT. 7. Said courts shall have original con-
2 current jurisdiction with the superior court in the
3 county of Plymouth, 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
7 of each court shall, when the plaintiff and defend-
8 ant both reside in the district, exclude the juris-
9 diction of other district courts: *provided*, that

10 where there are two or more plaintiffs or defend-
11 ants, or one or more trustees, the jurisdiction of
12 the court shall not be exclusive unless all the par-
13 ties reside in the district.

1 SECT. 8. 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
5 at least before its return day, in like manner as if
6 issued by the superior court.

1 SECT. 9. On the return day of the writ either
2 party may demand a trial by jury in writing, which
3 shall be granted by the court. If neither party
4 demand a trial by jury, the right to have such
5 trial shall be taken to be waived. The jury trial
6 shall be in accordance with the provisions of chap-
7 ter one hundred and thirty-two of the General
8 Statutes, and the judgment of the court, in all
9 cases, shall be final, unless appeal be taken there-
10 from, or exceptions and appeals on matters of law
11 are had, as hereinafter provided.

1 SECT. 10. Where a jury shall become necessary
2 for the trial of any actions or proceedings in said
3 courts, the clerk of such court is hereby author-
4 ized and required to issue writs of *venire facias*,
5 directed to the sheriff of the county, or either of
6 his deputies, or a constable of any city or town in
7 such district, for the summoning of jurors, and the

8 jurors shall be summoned from the towns in the
9 judicial district.

1 SECT. 11. In all cases in said courts, except
2 where a jury trial is had, or the value of the prop-
3 erty replevied, or the amount claimed in the writ,
4 does not exceed fifty dollars, either party may
5 appeal to the superior court in the manner now
6 provided by law for taking appeals from the judg-
7 ment of justices of the peace; and in cases where
8 a jury trial is had, exceptions and appeals on mat-
9 ters of law may be had to the superior court for
10 the county, and shall be entered at the then exist-
11 ing or next ensuing term of said court, and shall
12 be heard and determined in the manner, and at
13 times, to be prescribed by general rules of said
14 superior court. Any party deeming himself ag-
15 grieved by such determination may cause such
16 exceptions to be entered, heard and determined in
17 the supreme judicial court, under the same con-
18 ditions, in the same manner, and with the same
19 effect, as if said exceptions had originally been
20 taken and allowed in the superior court: *provided,*
21 *however,* that where such exceptions are sustained
22 by the superior court, the cause shall be at once
23 remanded to the district court for a new trial; and
24 *provided, further,* that in all cases of exceptions or
25 appeals on matters of law, if the judgment or rul-
26 ings of the district court, being affirmed by the
27 superior court, are also affirmed by the supreme
28 judicial court, the prevailing party shall recover

29 double costs unless the supreme judicial court
30 shall otherwise order.

1 SECT. 12. When no justice is present at the
2 time and place appointed for holding a 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. 13. 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 courts.
5 Answers shall be in writing when the court so
6 orders.

1 SECT. 14. Said courts shall severally have
2 power to establish a seal therefor, issue all writs
3 and processes, appoint all officers necessary for the
4 transaction of the business of the court, and may
5 from time to time make rules for regulating the
6 practice and conducting the business therein in all
7 cases not expressly provided for by law.

1 SECT. 15. The justices of said courts may
2 retain for their own use, from the fees received in
3 said courts, all sums paid by them for the services
4 of any special justice: *provided*, the sum so re-

5 tained shall not in any one year exceed eight per
6 centum of the annual salary of such justice.

1 SECT. 16. The justice of either of said courts
2 may, in the absence of the judge of probate for
3 the county of Plymouth, commit to the state luna-
4 tic hospitals any insane person, who, in his opinion,
5 is a proper subject for their treatment or custody,
6 in accordance with the provisions of chapter two
7 hundred and twenty-three of the acts of the year
8 one thousand eight hundred and sixty-two, and
9 the acts in addition thereto.

1 SECT. 17. All proceedings duly commenced be-
2 fore any trial justice or justice of the peace for
3 said county, within said districts, before this act
4 takes full effect, shall be prosecuted and determined
5 as if this act had not been passed, and except as
6 herein provided, the jurisdiction of trial justices
7 and justices of the peace shall be excluded within
8 the judicial districts created by this act.

1 SECT. 18. The salaries of the justices and
2 clerks of said district courts shall be as follows:
3 For the justices, fourteen hundred dollars each;
4 for the clerks, eight hundred dollars each. The
5 salary of the justice of the fourth district court
6 shall be twelve hundred dollars, and of the clerk,
7 seven hundred dollars.

1 SECT. 19. This act shall take effect, so far as
2 relates to appointing, commissioning and qualifying

3 the justices, special justices and clerks of said
4 courts, on its passage; and shall take full effect on
5 the first day of September next.

HOUSE OF REPRESENTATIVES, May 27, 1874.

Passed to be engrossed.

Sent up for concurrence.

GEO. A. MARDEN, *Clerk.*