

HOUSE....No. 208.

[Mr. DAVIS, of Plymouth, gives notice of an amendment to the bill concerning Officers' Fees in Criminal Cases, (House Doc. No. 180,) by substituting the following bill.]

Commonwealth of Massachusetts.

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

AN ACT

Concerning Officers' Fees in Criminal Cases.

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 taxed and allowed to
2 deputy-sheriffs, constables, or other officers in criminal
3 cases, and upon warrants for the commitment of
4 lunatics, the following fees, and no others, except such
5 as the court may deem reasonable for services not
6 herein specially provided for :

7 (1.) For service of a warrant or *capias*, for each
8 person on whom the same is served, fifty cents.

9 (2.) For service of a *habeas corpus*, *mittimus*, state
10 prison warrant, *venire*, and notification to jurors, for
11 attendance upon any courts, whether civil or criminal,
12 and for service of all processes issued during the
13 pendency of a prosecution, except *subpœnas*, for each
14 person on whom the same is served, thirty cents.

15 (3.) For travel, time, and expenses in the service
16 of all precepts, except *venires*, if the distance between
17 the place of service and the place of return does not
18 exceed twenty miles, five cents a mile each way, and the
19 actual reasonable expenses necessarily incurred in
20 going or returning with the prisoner, and if the officer
21 uses his own horse or carriage, he shall be allowed not
22 exceeding ten cents a mile for the distance travelled
23 one way, in the charge of expenses necessarily incurred
24 as aforesaid.

25 (4.) If the distance between the place of service and
26 place of return is more than twenty miles, the officer
27 shall be entitled in lieu of mileage to a sum not exceed-
28 ing two dollars; and if he is necessarily absent from
29 his home in the service of any of said precepts more than
30 one day, he shall be entitled to a sum not exceeding
31 two dollars per day for the time necessarily expended
32 in the service, and his actual reasonable expenses
33 necessarily incurred for conveyance and support of
34 himself and prisoner. But in all cases upon the
35 service of a *mittimus*, *habeas corpus*, state prison war-
36 rant, or other process in which a prisoner is already
37 in custody, for all distances exceeding twenty miles and
38 less than sixty miles from the place of service to the
39 place of return, two dollars only, in addition to the

40 necessary and reasonable expenses of the officer actually
41 incurred in conveyance and support of officer and
42 prisoner, shall be allowed.

43 (5.) For travel, for service of venires, and notifica-
44 tions to jurors, five cents a mile from the place of
45 service to the place of return.

1 SECT. 2. When more than one process is served
2 upon the same defendant at the same time, or on the
3 same day, or when two or more prisoners are conveyed
4 at the same time by mittimus, habeas corpus, or state
5 prison warrant, either on one process or on several
6 processes, one travelling fee and one service only shall
7 be allowed, except for the actual reasonable expense
8 necessarily incurred.

1 SECT. 3. No fee shall be allowed for conveyance
2 upon any criminal process except as provided in this
3 act, and no allowance shall be made for aid or
4 assistance in the service of any process, except upon
5 the oath of the officer of the time and service expended
6 by the assistant, and satisfactory proof that the charge
7 is reasonable, and necessary, and assistance required ;
8 and no allowance shall be made for assistance in the
9 service of any mittimus, unless the same is first author-
10 ized in writing by the court issuing the same.

1 SECT. 4. No fee shall be allowed to any officer for
2 any oath made upon his return, and no justice of the
3 peace shall be entitled to any fee for administering the
4 oath to any officer upon his return upon any precept.

1 SECT. 5. For summoning witnesses ten cents each
2 shall be allowed, and for travel five cents a mile each

3 way, computed from the most remote place of service
4 to the place of return, but the court to which the same
5 is returnable shall reduce the fee for travel upon a
6 subpoena to a reasonable amount for the service per-
7 formed, whenever the travel charged has not been
8 actually performed by the officer who made the
9 service.

1 SECT. 6. One travel only shall be allowed for the
2 service of any one precept, and if the same precept be
3 served on more than one person the travel shall be
4 computed to and from the most remote place of
5 service; and where the travel to arrest prisoners and
6 the travel to summon witnesses is in whole or in part
7 the same travel, allowance shall be made for such
8 travel as has been actually performed, and no more.

1 SECT. 7. For a copy of mittimus, warrant, or any
2 other precept required by law, twenty-five cents shall
3 be allowed.

1 SECT. 8. For attending court before a justice of the
2 peace, or police court, and keeping prisoner, one
3 dollar may be taxed, upon one warrant only if there
4 be two or more against the same defendant at the
5 same time, but if the trial or hearing is continued
6 more than two days, an additional fee of one dollar
7 for each day after the second continuance may be
3 taxed.

1 SECT. 9. No fee shall be allowed to any deputy-
2 sheriff, or other officer in attendance upon the terms
3 of the superior court, or the supreme judicial court,
4 nor to any officer in attendance upon any police court,

5 under a salary, or per diem allowance, for removing
6 any prisoner, upon any precept or order from any one
7 of said courts to the jail in the same town in which the
8 court is then held, nor from the jail to any one of said
9 courts in the same town in which the jail is situated,
10 before which the prisoner may be brought for arraign-
11 ment, hearing, trial, or sentence, except for reasonable
12 expenses actually incurred for the conveyance of the
13 prisoner.

1 SECT. 10. No fees shall be allowed upon the return
2 of any officer upon any precept, unless every item of
3 expense incurred is set forth in the return, under oath,
4 with the name of the person or party to whom the
5 several sums have been paid; and no item of expense
6 which may be deemed unreasonable, shall be allowed by
7 the justice of the peace, police, superior, or other court,
8 without satisfactory proof that the expense was neces-
9 sarily incurred and the amount reasonable. But for
10 any meritorious service upon which the fees allowed
11 by law may be manifestly inadequate, the superior
12 court in its discretion, upon the petition of the officer
13 and the approval in writing of the district-attorney, if
14 the process was returnable to the superior court, or of
15 the justice of the peace, or police justice before whom
16 the process was returned, may allow such larger sum
17 as may be deemed proper.

1 SECT. 11. The justices of the police court in
2 Boston shall designate not more than six constables,
3 appointed by said city, to attend the criminal sessions
4 of said court, and to serve such warrants, precepts,
5 orders, and processes issuing therefrom as shall be
6 committed to them by said justices, or either of

7 them ; and said constables shall severally receive
8 from the treasurer of said city an annual salary, to
9 be determined by the city council thereof, not exceed-
10 ing twelve hundred dollars.

1 SECT. 12. Whenever the justice of a police court
2 held in any town, or a justice of the peace, desig-
3 nated as a trial justice, shall be of opinion that the
4 cost of criminal proceedings, before said court or jus-
5 tice, may be reduced by the designation of one or
6 more officers to attend the sittings of said court or
7 justice, and to serve such processes, precepts, and
8 orders as may be committed to them ; the said court
9 or justice may designate one or more constables or
10 police officers for the purposes aforesaid ; and the
11 selectmen of the town in which said court sits, or
12 said justice resides, may determine the salaries of
13 such officers so designated.

1 SECT. 13. No sheriff, deputy-sheriff, jailer, consta-
2 ble, city marshal, or other officer, who receives a
3 salary from any county, city, or town, for his official
4 services, shall be allowed or paid any fees, or extra
5 compensation whatever, for any official services in any
6 criminal case rendered or performed whilst such
7 officer is entitled to a salary as aforesaid ; but all fees
8 of such officers, for services in criminal cases, shall be
9 allowed and taxed as in behalf of other officers, and
10 shall be paid to the city, town, or county, from which
11 such officer receives his salary. The expenses of such
12 officer, necessarily and reasonably incurred, and actu-
13 ally disbursed, in the service of any precept, shall be
14 allowed and paid to him.

1 SECT. 14. Every town containing more than six
2 thousand inhabitants shall, and every town may,
3 keep and maintain a secure and convenient lock-up,
4 or place of security, for such persons as may be ar-
5 rested or detained by an officer without a warrant ;
6 and a police court, or justice of the peace, may com-
7 mit, upon continuation for further examination, any
8 prisoner charged with a misdemeanor or lesser of-
9 fences, and not recognizing, to the lock-up in the
10 town in which the court is held, whenever in his
11 opinion it may be deemed safe and commodious, and
12 costs may be saved thereby.

1 SECT. 15. The fifth division of the first section,
2 and the second, third, fourth, and fifth sections of
3 chapter one hundred and ninety-one of the laws of
4 eighteen hundred and sixty, the one hundred and
5 forty-sixth chapter of the laws of eighteen hundred
6 and sixty-one, and all laws inconsistent with the pro-
7 visions of this act, are hereby repealed.

1 SECT. 16. This act shall take effect on and after
2 the first day of June next.

