

HOUSE...No. 197.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, April 17, 1847.

The Joint Special Committee on the subject of the Police Court of the city of Lowell, to whom was referred the order of February 5, 1847, directing them to inquire whether there are any moneys, or witness or other fees, in the hands of the county treasurer of the county of Middlesex, or of the present or past justices or clerks of the Police Court aforesaid, which belong to the Commonwealth which ought to have, been accredited to the Commonwealth, and paid over to its treasurer, having attended to that subject—

R E P O R T :

That it has been the practice for several years for the court of common pleas in the county of Middlesex, in making up the general bill of costs in criminal cases, for any term of the court, to direct the county treasurer to pay over to the justice of the Lowell police court the full amount allowed by said court of common pleas on the certified bills of cost, taxed and allowed by said

justice, including the fees of officers and witnesses; and that said justice has received the same, and, from time to time, paid to those officers and witnesses, who called for them, the fees belonging to them. The same is also the practice with regard to justices of the peace throughout the county. It probably grew out of the fact, that it would be more convenient for officers and witnesses to receive their fees from the justice, who generally resides in their neighborhood, than from the county treasurer.

The 12th section of the 141st chapter of the Revised Statutes provides, that—"each county treasurer shall pay over, to the persons entitled thereto, all sums taxed for costs in criminal prosecutions, or allowed by the courts as rewards or compensations to prosecutors, which shall have been duly certified by the clerks, provided such sums shall be demanded within three years after the taxing or allowance thereof; and in his general account transmitted to the governor and council, and also in his account transmitted to the treasurer of the Commonwealth, next after his general account, as before provided, he shall credit to the Commonwealth all such costs and allowances which shall not have been demanded within the said term of three years, and shall not have been credited by him in any former account."

Joseph Locke, late justice of the Lowell police court, being unable to attend upon the Committee on account of ill health, one of the Committee, by direction of the Committee, called upon him at his dwelling-house in Lowell, and received from him in writing, under oath, a statement, of which the following is a copy:—

"I, Joseph Locke, depose and state that, during the term that I held the office of justice of the Lowell police court, I kept an accurate account of all the fees which I received to be paid out to officers and witnesses; and, upon a thorough examination, I find that there remains in my hands the sum of nine hundred and twenty-three dollars and thirty-one cents, received previous to June 1844, which has not been called for; since that time, I have received \$354 21 not called for, making, in the whole, \$1297 52.

The whole amount of fees received, to be paid	
out, is	\$9,400 00
and I claim, as a reasonable compensation for	
paying out in so small sums, 10 per cent.	
commission,	950 00

Which leaves a balance in my hands of	450 00
which I am ready to pay to the County	
Treasurer, or to those to whom it belongs.	

(Signed) JOSEPH LOCKE.

It will be seen that, had said fees remained in the hands of the county treasurer, a large portion of said \$1,297 52 would, under the above provisions of the Revised Statutes, have been paid over to the Commonwealth.

Your Committee are aware, that it must have taken considerable time and attention to disburse \$9,400 in such small payments as are allowed to officers and witnesses; yet, as the justice of the police court received the same without any provisions of law requiring him so to do, and as, by law, the county treasurer is made the disbursing officer, and receives compensation therefor, your Committee cannot see how said justice can be entitled to the commission which he claims.

The county treasurer of Middlesex County appeared before your Committee, and testified, that he had credited to the Commonwealth, in his accounts, all fees which had remained in his hands three years uncalled for, and that the last account was made in December last.

The present justice of the Lowell police court, Nathan Crosby, testified, that he had received, of the county treasurer, fees of officers and witnesses, which had not yet been called for. But, as he entered on the duties of his office in May last, such fees are not yet, according to the provisions of the above section of the Revised Statutes, to be credited to the Commonwealth.

In order fully to secure to the Commonwealth the benefit of

the provisions of said section of the Revised Statutes, your Committee recommend the passage of the accompanying Bill.

The Committee also recommend the passage of the accompanying Resolve.

By order of the Committee,

D. S. RICHARDSON.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Forty-Seven.

AN ACT

To secure the Payment of Fees into the Treasury of the Commonwealth in certain 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. Every justice of the peace, and every
2 justice of any police court, who shall receive from
3 any county treasurer the fees of sheriffs, deputy
4 sheriffs, constables or witnesses, in criminal cases,
5 shall, annually, on the first Monday of January, re-
6 turn, to the county treasurer of his county, all such
7 fees, with a schedule thereof, as shall not have been
8 paid out by him, within three years from the time of
9 the taxing or allowance thereof, to the persons to
10 whom they belong.

1 SECT. 2. Every county treasurer shall credit to
2 the Commonwealth in his accounts, as is provided in
3 the twelfth section of the one hundred and forty-first
4 chapter of the Revised Statutes, all fees which shall
5 be returned to him according to the provisions of
6 this act.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Forty-Seven.

RESOLVE

Directing District Attorneys to audit Accounts of Fees in certain Cases, and cause the same to be paid to the Commonwealth.

Resolved, That the district attorneys of this Commonwealth be, and they hereby are, directed to examine and audit the accounts of such fees of sheriffs, deputy sheriffs, constables and witnesses, as have been received from any county treasurer, by any present or past justice of any police court in their respective districts, and which have not yet been paid out to the persons to whom they belong, and to institute such legal process as may be necessary to secure the payment of such fees into the treasury of the Commonwealth.

