

SENATE....No. 108.

Commonwealth of Massachusetts.

IN SENATE, April 10, 1855.

The Joint Special Committee on the Division of the Western Criminal District, to whom was committed the Petition of Franklin Ripley, Esq., and nine others, of Franklin County; the Petition of H. Vose, Esq., and twenty-four others, of Hampden County; and also the Petition of D. N. Dewey, Esq., and eight others, of Berkshire County, have considered the same, and submit the following

REPORT

and the accompanying Bill.

The Western Criminal District was first formed in 1832. It comprises the counties of Hampden, Hampshire, Franklin, and Berkshire, and is the largest in territorial extent of any of the criminal districts into which the State is divided.

The office of attorney for this district was filled from 1832 to 1838 by C. A. Dewey. Since 1838 it has been filled successively by Daniel Wells, late Chief Justice of the Court of Common Pleas, William Porter, of Lee, I. Sumner, of Great Barrington, and William G. Bates, of Westfield. The present incumbent is Henry L. Dawes, of North Adams, who received his appointment in January, 1854.

The population of the district has increased considerably since it was first formed. By the census of 1830, the population was 129,229. In 1840 it was 138,820. The aggregate in 1850 was 167,464.

It would seem from these statistics that the actual increase from 1830 to 1850 was 38,235, and that the probable increase from the first till now is upwards of 40,000, or at the rate of 2,000 per annum.

The increase in Hampden County has been 20,000 since the formation of the district, or about 1,000 annually. The other counties have had about the same increase in the aggregate.

Not only has Hampden outstripped the rest of the district in the increase of population, but the records of the courts show that crime has increased in more than a proportionate ratio.

By the Report of the Attorney-General for 1855, it appears that there were, during the year, 814 criminal prosecutions within the district—of which number 333 were in Hampden County, 186 in Berkshire, 186 in Hampshire, and 109 in Franklin.

It appeared from the evidence that there has been an increase of criminal business within the district from year to year, if not from term to term, and that this is especially true of Hampden County, where to attend to the duties of the district-attorney requires service about equal to that performed in all the district besides. The increase in Hampden for the last fifteen years has been at least threefold. In 1838 the district-attorney was not detained more than two days with the grand jury. At the last term of the court in Hampden he was employed nine days with the grand jury. Other services appertaining to the courts have increased to a great extent, if not in an equal proportion.

There are unjust delays in the trial of criminal causes because of accumulating business. In Hampden the criminal docket has not been clear for a length of time. One case, entered in December, 1852, or May, 1853, has, from the number of cases which have taken precedence for trial, been put over from term to term, at an expense of at least \$300 a term to the Commonwealth, and of equal expense to defendants, there being about fifty witnesses on either side. This case should have been disposed of the first term after it was entered. De-

• fendants complain of this delay, and the Commonwealth suffers.

The time for holding the court in Hampshire often interferes with the term in Hampden. Before the attorney can get through with the business in Springfield he is obliged to hasten to Northampton, to be present at the opening of the court there.

To meet the necessity, an assistant counsel has been employed to attend to the interests of the Commonwealth in court while the district-attorney has been engaged with the grand jury, or while he has had to look after the opening of another court. The amount of extra services of this kind is not less than from \$600 to \$700 per annum. It was \$900 for two years in Hampden, or \$450 per year.

To say nothing of the "delay of justice," your Committee are impressed, that, in an economical point of view, there should be a division of the district.

With the district constituted as it now is, and the terms of the courts held as they now are, your Committee can but express their full conviction in the language of one of the petitions, "that the office of district-attorney for that district can no longer be well and completely filled by one person."

It appeared in evidence before your Committee that the compensation of the district-attorney is inadequate for the services performed at present. While the business has increased so largely since 1832, the salary allowed now is the same as at the first—being \$1,000 a year. The necessary expenses in attending the courts amount to from \$300 to \$400 a year. Besides, the district-attorney cannot, at this date, attend to civil business as did some who filled the office in former years when the session of the criminal and civil courts came at the same time. This, taken in connection with the increased expense of living at the present time, would indicate an increased compensation.

In view of these facts, as well as in view of other testimony that appeared in the hearing, your Committee are prepared to adopt the words of one of the petitions, viz.: "We think, therefore, that the district should be divided, and that the division should have reference to the facilities of communication between the counties—the salaries of the officers to be differ-

ent with reference to the unequal amount of business to be expected in each of the proposed new districts." We recommend, "therefore, that the present district be divided, and that Hampshire and Franklin constitute one of the new districts, and Hampden and Berkshire the other."

The division prayed for—uniting Hampshire and Franklin in one, and Hampden and Berkshire in another—is unequal, as the former will have a population of less than 75,000, and the latter of 110,000 at least, showing a disparity of 35,000 at present. By the census of 1850, the population of Hampshire and Franklin was, in the aggregate, 66,583, and that of Hampden and Berkshire 100,881—showing a difference of 34,298. The facilities of communication between the counties seem to indicate this as the most practicable division that can be effected; and hence your Committee have recommended this, though the business will be quite unequal in the districts. It is probable, however, that the smaller will require as much or more service on the part of the district-attorney as was required in the whole western criminal district at the first.

To complete our report, we would submit the accompanying Bill.

A. A. COOK,
A. E. HILDRETH,
Senate.

S. T. FIELD,
J. FREEMAN,
WATSON G. MAYO,
WM. G. WATERMAN,
THOS. RING,
House.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Fifty-
Five.

AN ACT

To establish an additional District for the Administration
of the Criminal Law.

*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. For the administration of the criminal
2 law in this Commonwealth, the counties of Hamp-
3 shire and Franklin shall constitute a separate district,
4 which shall be the North-Western District.

1 SECT. 2. The governor, with the advice and con-
2 sent of the council, shall appoint some suitable per-
3 son who shall reside within the district, who shall
4 perform the like duties therein as are required by law

5 to be performed by the other district-attorneys in
6 their respective districts, and whose tenure of office
7 shall be the same as that of other district-attorneys.

1 SECT. 3. The district-attorney for the north-western
2 district shall receive an annual salary of eight hun-
3 dred dollars; and the district-attorney for the western
4 district shall receive an annual salary of twelve hun-
5 dred dollars, instead of one thousand dollars which
6 he has heretofore received; said sums to be paid to
7 the said district-attorneys out of the treasury of the
8 Commonwealth, in equal quarterly payments, in full
9 for all services rendered by them.

1 SECT. 4. All acts or parts of acts inconsistent
2 herewith are hereby repealed.

1 SECT. 5. This act shall take effect from and after
2 its passage.