

By Mr. Feeney of Boston, petition of S. Thomas Falcone for legislation to provide for reports to the appellate division in small claims procedure. The Judiciary.

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## The Commonwealth of Massachusetts

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

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### AN ACT PROVIDING FOR REPORTS TO THE APPELLATE DIVISION IN SMALL CLAIMS PROCEDURE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 218 of the General Laws is  
2 hereby amended by striking out section 23, as ap-  
3 pearing in the Tercentenary Edition, and inserting  
4 in place thereof the following:—

5 *Section 23.* A plaintiff beginning a cause under  
6 the procedure shall be deemed to have waived a trial  
7 by jury and any right of appeal to the superior court;  
8 but if said cause shall be removed to the superior  
9 court as hereinafter provided, the plaintiff shall  
10 have the same right to claim a trial by jury as if the  
11 cause had been begun in the superior court. No other  
12 party to a cause under the procedure shall be entitled  
13 to an appeal. In lieu thereof, any such party may,  
14 prior to the day upon which he is notified to appear,  
15 file in the court where the cause is pending a claim  
16 of trial by jury, and his affidavit that there are ques-  
17 tions of fact in the cause requiring trial, with speci-

18 fications thereof, and that such trial is intended in  
19 good faith, together with the sum of three dollars  
20 for the entry of the cause in the superior court and a  
21 bond in the penal sum of one hundred dollars, with  
22 such surety or sureties as may be approved by the  
23 plaintiff or the clerk or an assistant clerk of the dis-  
24 trict court, payable to the other party or parties to  
25 the cause, conditioned to satisfy any judgment for  
26 costs which may be entered against him in the superior  
27 court in said cause within thirty days after the entry  
28 thereof; and thereupon the clerk shall forthwith  
29 transmit such original papers or attested copies  
30 thereof as the rules for the procedure may provide,  
31 and the superior court may try the cause as trans-  
32 mitted or may require pleadings as in a cause begun  
33 by writ, but the cause may be marked for trial on  
34 the list of causes advanced for speedy trial by jury.  
35 Sections one hundred and five and one hundred and  
36 seven of chapter two hundred and thirty-one shall  
37 apply in all district courts in causes begun under the  
38 procedure. Any party, in lieu of filing the bond re-  
39 quired by this section, may deposit with the clerk  
40 the sum of one hundred dollars and the provisions  
41 of section one hundred and six of said chapter two  
42 hundred and thirty-one shall apply. Sections one  
43 hundred and eight to one hundred and ten, inclusive,  
44 of chapter two hundred and thirty-one shall apply  
45 in all district courts in causes begun under the  
46 procedure.

1 SECTION 2. Reports to the appellate division  
2 shall be applicable to all causes begun under the small  
3 claims procedure subsequent to January first, nineteen  
4 hundred and forty-six.