

SENATE No. 826

The Commonwealth of Massachusetts

SENATE, May 4, 1966.

The committee on the Judiciary, to whom was referred the petition (accompanied by bill, Senate, No. 227) of Walter D. Allen and John J. Conte that provision be made for the speedy trial of a misdemeanor by a jury of six in the Central District Court of Worcester, reports the accompanying bill (Senate, No. 826).

For the committee,

JOSEPH D. WARD.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Six.

AN ACT PROVIDING FOR THE SPEEDY TRIAL OF A MISDEMEANOR BY A JURY OF SIX IN THE CENTRAL DISTRICT COURT OF WORCESTER OR IN THE THIRD DISTRICT COURT OF EASTERN MIDDLESEX, RESPECTIVELY.

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

1 Any defendant, in any district court of Worcester County
2 or Middlesex County, respectively, found guilty of a violation
3 of a by-law, order, ordinance, rule or regulation made by a
4 city or town or public officer or of any other misdemeanor,
5 except libel, may appeal and claim a jury of six in the central
6 district court of Worcester or the third district court of
7 eastern Middlesex, respectively. Such claim of appeal shall
8 be in writing and shall constitute a waiver of any claim of
9 appeal to a trial by a jury in the superior court or other
10 disposition in said superior court.

11 Any defendant found guilty in any district court of Worces-
12 ter County or Middlesex County, respectively, of a violation
13 of any of the offenses set forth in the first paragraph who
14 has appealed to the superior court may, at any time before
15 trial on such appeal, claim a trial by a jury of six in the
16 central district court of Worcester or the third district court
17 of eastern Middlesex, respectively. Such claim shall be in
18 writing and shall constitute a waiver of any right to a trial
19 by a jury in the superior court or other disposition in said
20 superior court. When a claim for a trial by a jury of six in
21 the central district court of Worcester or the third district
22 court of eastern Middlesex, respectively, has been made under
23 the provisions of this paragraph, the clerk of the superior
24 court shall forthwith forward to the clerk of the said central
25 district court of Worcester or said third district court of
26 eastern Middlesex, respectively, all the papers in the case
27 which have been filed in the superior court.

28 The justice presiding as such session over a jury of six
29 in said central district court of Worcester or said third dis-
30 trict court of eastern Middlesex, respectively, shall have and
31 exercise all the powers and duties which a justice of the su-
32 perior court has and may exercise in the trial and disposition
33 of such cases.

34 No justice so sitting shall act in a case in which he has
35 either sat or held an inquest in the district court or other-
36 wise has taken part in any proceeding therein.

37 Trials by such juries of six in said central district court
38 of Worcester or said third district court of eastern Middlesex,
39 respectively, shall be held in the courthouse of said court, or
40 if not practicable there, then in the courthouse of the superior
41 court in the city or Worcester or in the city of Cambridge,
42 respectively, and shall proceed in accordance with the provi-
43 sions of law applicable to trials by jury in the superior court,
44 except that the number of peremptory challenges shall be
45 limited to two to each defendant. The commonwealth shall
46 be entitled to as many such challenges as equal the whole
47 number to which all of the defendants in the case are entitled.
48 Jurors shall be drawn from the pool of jurors available for the
49 jury sessions in either civil or criminal sessions in the su-
50 perior court for Worcester County or for Middlesex County,
51 respectively. The district attorney for the middle district or
52 for the northern district, respectively, shall appear for the
53 commonwealth in all cases in Worcester County or in Middle-
54 sex County, respectively. The chief justice of the district
55 courts shall arrange for the jury sessions of the central district
56 court of Worcester and of the third district court of eastern
57 Middlesex, respectively, and shall assign justices and special
58 justices thereto, to the end that speedy trials may be provided
59 for such appeals. In the event of a trial by a jury of six in
60 either of said district courts, review may be had directly by
61 the supreme judicial court, by a bill of exceptions, appeals,
62 report or otherwise in the same manner provided for trials
63 by a jury in the superior court. The defendant may elect to
64 waive a jury of six in the manner provided by section six of
65 chapter two hundred and sixty-three of the General Laws,

66 but such waiver shall not revive any right to a trial by jury
67 or other disposition in the superior court which had been
68 waived under the provisions of the first or second paragraphs.
69 The justice presiding at such session over a jury of six
70 shall, upon the request of the defendant, appoint a stenog-
71 rapher, who shall be sworn, and who shall take stenographic
72 notes of all the testimony given at the trial, and shall pro-
73 vide the parties thereto with a transcript of his notes or any
74 part thereof taken at the trial or hearing for which he shall
75 be paid by the party requesting it at the rate fixed by the
76 chief justice of the district courts; provided, however, that
77 such rate shall not exceed the rate provided by section eighty-
78 eight of chapter two hundred and twenty-one of the General
79 Laws. Said chief justice may make regulations not incon-
80 sistent with the law relative to the assignments, duties, and
81 service of stenographers appointed for any district court, and
82 any other matter relative to such stenographers. The com-
83 pensation and expenses of said stenographers shall be paid by
84 the county.