

HOUSE No. 1570

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 31, 1934.

The joint committee on the Judiciary, to whom were referred so much of the annual report of the Judicial Council (Pub. Doc. No. 144) as relates to increasing the entry fee in the Superior Court with authority in the court to waive the higher fee for cause shown (page 18) and so much as relates to imposing a fee for trial by jury (page 18), and so much of the report of the special commission directed to study the general subject of public expenditures of the Commonwealth, counties, cities, towns and districts and the advisability of requiring justices of district courts to give their entire time to the discharge of the judicial duties (Senate, No. 250) as relates to increasing entry fees in the Supreme Judicial and Superior Courts and establishing a jury fee (app. V.), report (in part) the accompanying bill (House, No. 1570).

For the committee,

HORACE T. CAHILL.

Representatives LANE of Lawrence and SOBLE of Boston dissenting.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Four.

An Act increasing Entry Fees in the Supreme Judicial and Superior Courts.

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. Section four of chapter two hundred
2 and sixty-two of the General Laws, as appearing in
3 the Tercentenary edition thereof, is hereby amended
4 by striking out the paragraph included in lines eight
5 to fifteen, inclusive, and inserting in place thereof the
6 following:—

7 For entry of an action or suit, or of a petition in
8 the supreme judicial or superior court, five dollars;
9 for entry in the superior court of a libel for divorce
10 or for affirming or annulling marriage, five dollars;
11 and for filing a petition to the county commissioners,
12 three dollars, each of which fees shall be paid by the
13 party entering the same, and no other fee shall be
14 charged for taxing costs, for issuing any subpœna,
15 injunction or execution, or for issuing any order of
16 notice or other mesne, interlocutory or final order,
17 rule, decree or process authorized by law.

1 SECTION 2. Section twenty-three of chapter two
2 hundred and eighteen of the General Laws, as appear-

3 ing in the Tercentenary edition thereof, is hereby
4 amended by striking out, in the twelfth line, the word
5 "three" and inserting in place thereof the word: —
6 five, — so as to read as follows: — *Section 23.* A plain-
7 tiff beginning a cause under the procedure shall be
8 deemed to have waived a trial by jury and any right
9 of appeal to the superior court and any right to a re-
10 port to an appellate division; but if said cause shall
11 be removed to the superior court as hereinafter pro-
12 vided, the plaintiff shall have the same right to claim
13 a trial by jury as if the cause had been begun in the
14 superior court. No other party to a cause under the
15 procedure shall be entitled to an appeal or report.
16 In lieu thereof, any such party may, prior to the day
17 upon which he is notified to appear, file in the court
18 where the cause is pending a claim of trial by jury,
19 and his affidavit that there are questions of fact in the
20 cause requiring trial, with specifications thereof, and
21 that such trial is intended in good faith, together with
22 the sum of five dollars for the entry of the cause in
23 the superior court and a bond in the penal sum of
24 one hundred dollars, with such surety or sureties as
25 may be approved by the plaintiff or the clerk or an
26 assistant clerk of the district court, payable to the
27 other party or parties to the cause, conditioned to
28 satisfy any judgment for costs which may be entered
29 against him in the superior court in said cause within
30 thirty days after the entry thereof; and thereupon
31 the clerk shall forthwith transmit such original papers
32 or attested copies thereof as the rules for the procedure
33 may provide, and the superior court may try the
34 cause as transmitted or may require pleadings as in a
35 cause begun by writ, but the cause may be marked for
36 trial on the list of causes advanced for speedy trial by

37 jury. Sections one hundred and five and one hun-
38 dred and seven of chapter two hundred and thirty-one
39 shall apply in all district courts in causes begun under
40 the procedure. Any party, in lieu of filing the bond
41 required by this section, may deposit with the clerk
42 the sum of one hundred dollars and the provisions of
43 section one hundred and six of said chapter two hun-
44 dred and thirty-one shall apply.

1 SECTION 3. Section one hundred and four of chap-
2 ter two hundred and thirty-one of the General Laws,
3 as so appearing, is hereby amended by striking out,
4 in the eleventh and in the twenty-fourth lines, the
5 word "three" and inserting in place thereof, in each
6 instance, the word: — five, — so as to read as follows:
7 — *Section 104.* No other party to such action shall
8 be entitled to an appeal. In lieu thereof, in case such
9 action is an action of contract, tort or replevin in
10 which the debt or damages demanded or the value
11 of the property detained exceeds the jurisdictional
12 limit of said district court effective immediately prior
13 to September first, nineteen hundred and twenty-nine,
14 any such other party may, within two days after the
15 time allowed for entering his appearance, file in said
16 court a claim of trial by the superior court, with or
17 without jury, and an affidavit by his counsel of record,
18 if any, and if none, the affidavit of such party, that
19 in his opinion there is an issue of fact or law requiring
20 trial in the cause, and that such trial is in good faith
21 intended, together with the sum of five dollars for
22 the entry of the cause in the superior court, and a
23 bond in the penal sum of one hundred dollars, with
24 such surety or sureties as may be approved by the
25 plaintiff or the clerk or an assistant clerk of said dis-

26 triet court, payable to the other party or parties to
27 the cause, conditioned to satisfy any judgment for
28 costs which may be entered against him in the su-
29 perior court in said cause within thirty days after the
30 entry thereof; and, in lieu of such an appeal n case
31 such action is not an action of contract, tort or re-
32 plevin as aforesaid, any such other party may, within
33 two days after the time allowed for entering his ap-
34 pearance, file in said court a claim of trial by jury,
35 and an affidavit by his counsel of record, if any, and
36 if none, the affidavit of such party, that in his opinion
37 there is an issue of fact requiring trial in the cause,
38 and that such trial is in good faith intended, together
39 with the sum of five dollars for the entry of the cause
40 in the superior court, and a bond as hereinbefore
41 provided. The clerk shall forthwith transmit the
42 papers and entry fee in the cause to the clerk of the
43 superior court, and the same shall proceed as though
44 then originally entered there, but, if a trial by jury is
45 claimed, may be marked for trial upon the lists of
46 causes advanced for speedy trial by jury.

1 SECTION 4. This act shall take effect on the first
2 day of October in the current year.

