

By Mrs. Gray of Framingham, petition of William O'Malley, John A. Businger and others for legislation to provide for cross appeals by the Commonwealth in criminal cases. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Two.

AN ACT PROVIDING FOR CROSS APPEALS BY THE COMMONWEALTH IN CRIMINAL 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 Chapter 278 of the Massachusetts General Laws is hereby fur-
2 ther amended by adding to section 28E, as amended by section 45 of
3 Chapter 344 of the acts of 1979, the following: —

4 An appeal may be taken by and on behalf of the Commonwealth
5 by the Attorney General or a District Attorney in any criminal case
6 after trial and after a verdict of guilty by a jury or a finding of guilty
7 by the court where the defendant has filed a claim of appeal to the
8 Appeals court or to the Supreme Judicial Court. Notice of the
9 appeal by the Commonwealth shall be filed within 30 days of its
10 receipt of the defendants' claim of appeal. In its appeal, the Com-
11 monwealth may argue that error harmful to it was committed in
12 the trial resulting in the conviction from which the defendant has
13 appealed, and that that error should be corrected in the event that
14 the appellate court reverses the guilty verdict or finding and re-
15 mands the case to the trial court. If the case is so reversed and
16 remanded, the appellate court shall rule upon such errors the
17 Commonwealth argued were harmful to it. If the case is affirmed
18 on appeal, the appellate court shall rule upon such errors the
19 Commonwealth argued were harmful to it which either present
20 questions of first impression before the appellate court, or which
21 are likely to reoccur in subsequent trials within the Common-
22 wealth.

23 The provisions of this section shall be liberally construed to
24 accomplish its purpose, or purposes, of insuring that the Common-
25 wealth is able to proceed to trial with all the evidence it is legally
26 entitled to introduce, in view of the limited ability of the Common-
27 wealth to have error reviewed.