

HOUSE No. 875

By Mr. Reinstein of Revere, petition of John J. Butler for the framing of jury issues by probate courts in proceedings involving allowance of wills upon application therefor by an heir-at-law or next of kin. Legal Affairs.

The Commonwealth of Massachusetts

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

An Act providing for the Framing of Jury Issues by the Probate Court in any Proceeding involving the Allowance or Probate of a Will, upon the Application of any Heir-at-Law or Next of Kin.

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 two hundred and fifteen, section sixteen,
2 of the General Laws is hereby amended by inserting
3 after the word "direct" in the third line thereof the
4 words: — and in any proceeding involving the allow-
5 ance or probate of a will, upon the application of any
6 heir-at-law or next of kin, shall direct, — so as to read
7 as follows: — *Section 16.* A probate court in any pro-
8 ceeding, upon the application of a party and in accord-
9 ance with the practice established by the supreme
10 judicial court in like cases, may direct and in any
11 proceeding involving the allowance or probate of a
12 will, upon the application of any heir-at-law or next
13 of kin, shall direct that any issues of fact shall be tried

14 by a jury in the superior court for the same county, or,
15 if there shall not be any regular sitting for such trial
16 within three months after such order, or by consent of
17 the parties, in any other county. The form of such
18 issues shall be settled in the probate court, and certified
19 copies of the issues and other material papers in the
20 case shall be entered by the applicant in the superior
21 court forthwith, or within such time as the probate
22 court may direct, but the same may be entered by any
23 other party; and if the same shall not so be entered,
24 the probate court may discharge the order for trial.
25 On motion of any party in the superior court the issues
26 shall be advanced for a speedy trial. Questions of law
27 arising upon the trial of any such issues may be con-
28 sidered and determined by the supreme judicial court
29 in the same manner and with like effect as in actions
30 at law tried in the superior court.