

HOUSE No. 571

Bill accompanying the petition of John F. Duffy and others for the relief of the present congestion of business in the civil sessions of the Superior Court for the county of Suffolk, and in the municipal court of the city of Boston. Joint Judiciary. January 11.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Seventeen.

AN ACT

To amend the Law relative to the Jurisdiction and Procedure in Civil Actions in the Municipal Court of the City of Boston.

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 three of chapter six hundred and forty-nine
2 of the acts of the year nineteen hundred and twelve is
3 hereby amended by adding at the end thereof the follow-
4 ing:— and furthermore, parties not desiring to choose
5 either of the above modes of procedure, shall be en-
6 titled to a third mode as provided in the following
7 sections, which sections shall be known as Part II of
8 said act:—

PART II.

9 Section A. The plaintiff shall have until the closing
10 time of the clerk's office of the municipal court for

11 civil business on Tuesday, following the return day of
12 his writ, to file in said court a claim of trial by jury;
13 the defendant shall have until closing time on Thursday
14 following the return day of the writ to file a claim for
15 a trial by jury.

16 Section B. There shall be two sessions held for the
17 transaction of civil business, wherein cases shall be tried
18 that have claimed the right of jury trial; and the chief
19 justice may order more sessions than prescribed in this
20 section, if necessity arise.

21 Section C. The chief justice of said court shall from
22 time to time make such assignments for the attendance
23 of justices at the several times and places appointed
24 for holding said courts under this amendment.

JURORS.

25 Section D. Jurors to serve on these petit juries shall
26 be chosen and qualified according to the provisions of
27 chapter one hundred and seventy-six of the Revised
28 Laws relating to jurors.

29 Section E. Where the words "clerk of any court"
30 appear for the purposes of this amendment the words
31 "clerk of the municipal court of the city of Boston"
32 shall be substituted.

33 Section F. The municipal court of the city of Boston
34 may issue venires for additional jurors when necessary
35 for the convenient dispatch of its business. They shall
36 be served and returned, and the jurors required to
37 attend on such days as the court orders.

38 Section G. The cost of travel and attendance of the
39 jurors shall be paid from the funds of Suffolk county.

40 Section H. A person shall not sit as a traverse juror
41 more than two weeks of court days at any sitting of

42 said courts, except to finish a case commenced within
43 that time.

44 Section I. The jury herein provided shall consist of
45 six jurors; when a case is committed to them to return
46 a verdict, four members, a majority of said six jurors,
47 shall be qualified to return a verdict.

48 Section J. In civil jury cases each party shall be
49 entitled to challenge two jurors. Challenges shall be
50 made before commencement of the trial.

ASSESSMENT OF DAMAGES.

51 Section K. In a case where the only question is the
52 assessment of damages, the case shall be referred to a
53 jury, unless an agreement in writing is entered into by
54 both parties waiving such right.

STENOGRAPHERS.

55 Section L. The clerk of the municipal court of the
56 city of Boston for civil business shall employ steno-
57 graphic service for the use of the trial juries of said
58 court; who shall each receive a salary of twelve hundred
59 dollars, to be paid by the county of Suffolk.

60 Section M. The stenographers appointed under the
61 preceding section shall be governed by sections eighty-
62 one, eighty-two and eighty-five of chapter one hundred
63 and sixty-five of the Revised Laws, concerning assistants
64 and the duties of stenographers.

EXCEPTIONS.

Appeal.

65 Section N. Any party to a cause brought under the
66 provisions of this amendment, who in the trial of his

67 case, is aggrieved by an opinion, direction, ruling or
68 judgment; or by the admission or exclusion of evidence,
69 by a single justice, may, as a matter of right, have the
70 opinion, direction, ruling, judgment, admission or ex-
71 clusion of evidence reported to the equity session of the
72 Suffolk superior court for civil business.

73 Section O. An exception mentioned in the preceding
74 section shall be taken before the ending of the trial.
75 The request for a report shall be filed in the clerk's office
76 of said court within five days of the date of the verdict
77 in the case. The appeal shall not remove the case but
78 only the question or questions to be determined. At
79 the expiration of the five days mentioned in this sec-
80 tion the appealing party shall have five days more to
81 file with the clerk of said court his report.

REPORT.

82 Section P. The report mentioned in the preceding
83 section shall set forth in clear and concise terms the
84 rulings to which he has excepted, the stage of the case
85 at which, and the manner in which the same arose,
86 and how the party claims to be prejudiced, and any
87 other facts essential to a full understanding of the ques-
88 tion.

89 Section Q. The report, with such necessary papers
90 as will help shall be transmitted by the clerk of said
91 municipal court to the Suffolk superior court for civil
92 business and entered on the docket of said superior
93 court within five days of the filing of the report, and
94 the clerk shall notify the opposing party of such trans-
95 mission.

96 Section R. A day a week shall be set aside in the
97 equity motion session of the Suffolk superior court for

98 civil business for hearing appeals provided for in this
99 amendment.

100 Section S. If the appellant fail to perfect his appeal
101 or to have the same entered, the presiding justice who
102 sat on the case upon application by the adverse party
103 and after notice to parties interested, may order the
104 appeal vacated and the decision appealed from affirmed.

105 Section T. The chief justice of said municipal court
106 may, if the conditions warrant, ask the governor for
107 more justices and clerks to carry out this amendment;
108 and the governor shall have the power of such appoint-
109 ments.

110 Section U. The provisions of this amendment shall
111 take effect on the first day of September in the year
112 nineteen hundred and seventeen.

