

HOUSE No. 3777

By Mr. Carney of Boston, petition of Daniel W. Carney for legislation to authorize special justices in district courts to hear certain cases transferred from the Superior Court. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT AUTHORIZING SPECIAL JUSTICES IN THE DISTRICT COURT TO HEAR CERTAIN CASES TRANSFERRED FROM THE SUPERIOR COURT.

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 40 of chapter 218 of the General Laws,
2 as most recently amended by section 5 of chapter 810 of the
3 acts of 1963, is hereby further amended by striking out the
4 second paragraph and inserting in place thereof the following
5 paragraph:—

6 Except in the municipal court of the city of Boston, the
7 district court of Dukes county and the district court of
8 Nantucket, no special justice, and no justice other than a full
9 time justice, shall hear and determine any civil cases other
10 than supplementary proceedings, summary process, small
11 claims, proceedings relating to juveniles and insane persons
12 and cases transferred from the superior court to the district
13 court under the provisions of section one hundred and two C
14 of chapter two hundred and thirty-one, in any district court
15 without the authorization of the chief justice of the district
16 courts. The chief justice of the district courts shall give such
17 authorization for specified limited periods of time in specified
18 district courts and only as the public convenience may
19 require, and may give such authorization by general rule

20 applicable to the hearing and determination of interlocutory
21 proceedings, or whenever full time justices assigned to hear
22 such civil cases are absent or otherwise unable to sit. No such
23 authorization shall be required for the rehearing of matters of
24 law arising in civil causes by any justice assigned to the
25 appellate division of a district court.

1 SECTION 2. Section 102C of chapter 231 of the General
2 Laws is hereby amended by striking out the second para-
3 graph, as most recently amended by chapter 303 of the acts
4 of 1960, and inserting in place thereof the following para-
5 graph:—

6 Such action shall, unless retransferred as hereinafter
7 provided, be pending in the district court and shall be tried
8 by a special justice or a full-time justice of the district court
9 or by a justice authorized for such service in accordance with
10 section seventy-seven A of chapter two hundred and eigh-
11 teen. The parties shall have the benefits of and be subject to
12 procedural rules of such district courts relative to interroga-
13 tories, specifications, amendments and all other procedural
14 matters regulating cases pending in such district courts. The
15 justice shall file a written decision or finding with the clerk
16 who shall forthwith notify the parties or counsel of record.
17 Any party to the action aggrieved by the finding or decision
18 may as of right have the case retransferred for determination
19 by the superior court. The request for retransfer shall be filed
20 with the clerk of said district court within ten days after
21 notice of the decision or finding. If either party neglects to
22 appear at the time appointed for such trial, or at any
23 adjournment thereof, without just cause, or if at any such
24 time either party refuses to produce in good faith the
25 testimony relied on by him, the justice may close the trial
26 and order that judgment be entered for the adverse party and
27 file a finding or decision to that effect, and if both so fail to
28 appear he may order that the action be dismissed. Judgment
29 shall be entered accordingly at the first judgment day after
30 the expiration of ten days from the filing of such finding or
31 decision or order of dismissal, unless said justice for cause
32 shown otherwise orders.