

By Messrs. Mooney of Canton and Ronayne of Canton, petition of John J. Mooney, Maurice E. Ronayne, Jr., and another for legislation to provide for the trial of a misdemeanor by a jury of six in any district court of Norfolk County. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT PROVIDING FOR THE TRIAL OF A MISDEMEANOR BY A JURY OF SIX IN ANY DISTRICT COURT OF NORFOLK COUNTY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Any defendant, in any district court of Norfolk county, found
2 guilty of a violation of a by-law, order, ordinance, rule or regu-
3 lation made by a city or town or public officer or of any other
4 misdemeanor, except libel, may appeal and claim a jury of six
5 in any district court of Norfolk county. Such claim of appeal
6 shall be in writing and shall constitute a waiver of any claim of
7 appeal to a trial by a jury in the superior court or other dis-
8 position in said superior court.

9 Any defendant found guilty in any district court of Norfolk
10 county of a violation of any of the offenses set forth in the first
11 paragraph who has appealed to the superior court may, at any
12 time before trial on such appeal, claim a trial by a jury of six in
13 a district county. Such claim shall be in writing and shall con-
14 stitute a waiver of any right to a trial by a jury in the superior
15 court or other disposition in said superior court. When a claim
16 for a trial by a jury of six in a district court of Norfolk county
17 has been made under the provisions of this paragraph, the clerk
18 of the superior court shall forthwith forward to the clerk of said
19 district court of northern Norfolk all the papers in the case
20 which have been filed in the superior court.

21 The justice presiding at such session over a jury of six in said
22 district court shall have and exercise all the powers and duties
23 which a justice of the superior court has and may exercise in the
24 trial and disposition of such cases.

25 No justice so sitting shall act in a case in which he has either
26 sat or held an inquest in the district court or otherwise has taken
27 part in any proceeding therein.

28 Trials by such juries of six in a district court of northern
29 Norfolk county shall be held in the courthouse of said court, or
30 if not practicable there, then in the courthouse of the superior
31 court in the town of Dedham, and shall proceed in accordance
32 with the provisions of law applicable to trials by jury in the
33 superior court, except that the number of peremptory challenges
34 shall be limited to two to each defendant. The commonwealth
35 shall be entitled to as many such challenges as equal the whole
36 number to which all of the defendants in the case are entitled.
37 Jurors shall be drawn from the pool of jurors available for the
38 jury sessions in either civil or criminal sessions in the superior
39 court for Norfolk county. The district attorney for the Norfolk
40 district shall appear for the commonwealth in all cases. The
41 chief justice of the district courts shall arrange for the jury
42 sessions of the district courts of Norfolk county and shall assign
43 justices and special justices thereto, to the end that speedy
44 trials may be provided for such appeals. In the event of a trial
45 by a jury of six in district court, review may be had directly by
46 the supreme judicial court, by a bill of exceptions, appeal, report
47 or otherwise in the same manner provided for trials by jury in
48 the superior court. The defendant may elect to waive a jury of
49 six in the manner provided by section six of chapter two hundred
50 and sixty-three of the General Laws, but such waiver shall not
51 revive any right to a trial by jury or other disposition in the
52 superior court which had been waived under the provisions of
53 the first or second paragraphs.

54 The justice presiding at such session over a jury of six shall,
55 upon the request of the defendant, appoint a stenographer, who
56 shall be sworn, and who shall take stenographic notes of all the
57 testimony given at the trial, and shall provide the parties thereto
58 with a transcript of his notes or any part thereof taken at the
59 trial or hearing for which he shall be paid by the party requesting
60 it at the rate fixed by the chief justice of the district courts;
61 provided, however, that such rate shall not exceed the rate pro-
62 vided by section eighty-eight of chapter two hundred and
63 twenty-one of the General Laws. Said chief justice may make
64 regulations not inconsistent with law relative to the assign-
65 ments, duties and service of stenographers appointed for any
66 district court, and any other matter relative to such stenogra-
67 phers. The compensation and expenses of said stenographer
68 shall be paid by the county.