

By Mr. Flaherty of Boston, petition of Samuel E. Zoll and Michael F. Flaherty relative to clarifying the procedure for withdrawals of appeals in criminal cases. The Judiciary.

The Commonwealth of Massachusetts

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

**AN ACT CLARIFYING THE PROCEDURE FOR WITHDRAWALS OF APPEALS
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 General Laws is hereby amended by striking
2 out section 25, as most recently amended by section 305 of chapter
3 478 of the acts of 1978, and inserting in place thereof the following
4 section: —

5 *Section 25.* The appellant may withdraw his appeal by coming
6 personally before the court from whose judgment the appeal was
7 taken and making a request therefor, provided that the case has not
8 yet been transmitted to the jury session. Where the case has been
9 transmitted to the jury session, the appellant may withdraw his
10 appeal by coming personally before the jury session at any time
11 thereafter, but before any action other than a continuance or
12 pretrial conference in the jury session, and making a request there-
13 for. If the appellant has been committed, the officer in charge of the
14 jail, within forty-eight hours after this commitment, shall notify
15 him of his right to withdraw his appeal and shall furnish him with a
16 blank form of withdrawal, which, if signed by him, shall be wit-
17 nessed by said officer; thereupon, or if prior to said notice the
18 appelliant notifies the said officer of his desire to withdraw his
19 appeal, the said officer shall forward the defendant, with the signed
20 form of withdrawal, to the court before whom the appeal is pend-
21 ing. Where the court allows the withdrawal, it may order the
22 appellant to comply with the sentence appealed from in the same

23 manner as if it were then first imposed, or may revise or revoke the
24 same if satisfied that cause for such revision or revocation exists;
25 provided, that the court shall not increase the sentence as first
26 imposed, and if sureties had recognized with the appellant to
27 prosecute his appeal they shall be discharged.