

# HOUSE . . . . No. 906

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By Mr. Dever of Cambridge, petition of John J. Butler relative to jury trials in proceedings involving the probate and allowance of wills. Legal Affairs.

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## The Commonwealth of Massachusetts

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

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An Act to enable Any Heir at Law and Next of Kin of a Testator to have Issues Framed for a Jury Trial in Proceedings Involving the Probate and Allowance of Wills.

*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 of the commonwealth is hereby  
3 amended so as to read as follows:—*Section 16.* A  
4 probate court in any proceeding, upon the application  
5 of a party and in accordance with the practice estab-  
6 lished by the supreme judicial court in like cases, may,  
7 and in any proceeding involving the probate and  
8 allowance of a will upon the application of any heir  
9 at law or next of kin, shall direct that any issues of  
10 fact shall be tried by a jury in the superior court for  
11 the same county, or, if there shall not be any regular  
12 sitting for such trial within three months after such  
13 order, or by consent of the parties, in any other

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