

HOUSE No. 141.

[Bill accompanying the petition of James F. Carey for legislation to provide the right of trial by jury for persons sentenced for contempt of court. Joint Judiciary. Jan. 16.]

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and One.

AN ACT

To give to Persons sentenced for Contempt of Court
in Labor Cases a Right to Trial by Jury.

*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. Any person who is sentenced to pay
2 a fine or to be imprisoned for contempt of court
3 in a case arising from a strike, lock-out or other
4 contest between employer and employees, shall
5 be entitled to appeal from such sentence and to
6 claim a trial by jury. He may make such ap-
7 peal and claim either verbally to the judge who
8 sentenced him, before adjournment of the court

9 on the day of the sentence, or by filing a mo-
10 tion to the same effect with the clerk of the
11 court (or with the judge, if there be no clerk) at
12 any time within ten days after such sentence is
13 pronounced. The judge, or the clerk under the
14 direction of the judge, shall thereupon transmit
15 to the court (hereinafter indicated) in which the
16 trial by jury is to be had, a certified copy of such
17 motion, or, if the appeal was taken verbally, a
18 certificate to that effect, together with a written
19 statement in full of the appellant's alleged offence,
20 and of the sentence imposed upon him. If the
21 alleged offence was committed by means of a
22 writing or publication, a copy thereof shall also
23 be transmitted, by the judge or clerk aforesaid,
24 to the court in which the trial by jury is to be had.
25 Upon taking an appeal and claiming a trial by
26 jury as aforesaid, the person sentenced may be
27 admitted to bail as in other cases where a like fine
28 or term of imprisonment is imposed.

1 SECTION 2. If the judge who imposed the
2 sentence is of a court inferior to the supreme
3 court, or of a probate court, the trial by jury shall
4 be had in the superior court; if the judge is of
5 the superior court, the trial shall be had in the
6 supreme court; if the judge is of the supreme
7 court, the trial shall be had in the superior court.
8 At the said trial by jury, the judge shall be repre-
9 sented by the district attorney, or his assistant,
10 and the person sentenced by such counsel as he
11 may select, or by counsel assigned by the court

12 in case he is unable to procure counsel. The
13 said statement prepared by the judge who im-
14 posed the sentence and the said copy of the writ-
15 ing or publication, if the alleged offence was
16 committed by a writing or publication, shall be
17 evidence and shall be read to the jury; and the
18 testimony of any person who was present at the
19 time when the alleged offence was committed, or
20 whose evidence would be admissible according to
21 the rules of evidence, may be introduced on either
22 side. The appellant may testify in his own
23 behalf; but the judge who imposed the sentence
24 appealed from shall not be a witness. The judge
25 who presides at the trial by jury shall, as in other
26 cases, rule upon the admissibility of evidence, and
27 charge the jury. Exceptions may be taken on
28 either side respecting points of law, to his rulings
29 or to the charge; and such exceptions shall be
30 heard and decided by the full bench of the
31 supreme court, who shall order a new trial or not,
32 as they deem right. But no appeal shall lie from
33 the verdict of the jury; and no new trial shall be
34 moved for or granted on the ground that the
35 verdict was against the evidence or the weight of
36 the evidence. A new trial, however, may be
37 granted on proof of corrupt or fraudulent con-
38 duct on the part of the jury. When an appeal
39 has been transmitted, as aforesaid, to the supreme
40 court or to the superior court, as the case may be,
41 it shall follow the same course as other appeals
42 from the decision of an inferior court in criminal
43 cases.

1 SECTION 3. Nothing contained in this act
2 shall affect any present right of appeal from a
3 sentence of fine or imprisonment for contempt
4 of court.

1 SECTION 4. This act shall take effect upon its
2 passage.