

HOUSE No. 267.

HOUSE OF REPRESENTATIVES, Jan. 25, 1899.

[Introduced on leave by Mr. Carey of Haverhill. Judiciary.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-nine.

AN ACT

To provide for Trial by Jury in Cases of Contempt
of 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. Any person who is sentenced to
2 pay a fine or to be imprisoned for contempt of
3 court shall be entitled to appeal from such sen-
4 tence and to claim a trial by jury. He may make
5 such appeal and claim either verbally to the judge
6 who sentenced him, before adjournment of the
7 court on the day of the sentence, or by filing a
8 motion to the same effect with the clerk of the
9 court (or with the judge, if there be no clerk) at
10 at any time within ten days after such sentence is

11 pronounced. The judge, or the clerk under the
12 direction of the judge, shall thereupon transmit to
13 the court (hereinafter indicated) in which the
14 trial by jury is to be had, a certified copy of such
15 motion, or, if the appeal was taken verbally, a
16 certificate to that effect, together with a written
17 statement in full of the appellant's alleged of-
18 fence, and of the sentence imposed upon him.
19 Upon taking an appeal and claiming a trial by
20 jury as aforesaid, the person sentenced may be
21 admitted to bail as in cases where a like fine or
22 term of imprisonment is imposed for minor of-
23 fences. If the judge who imposed the sentence
24 is of a court inferior to the superior court, or of a
25 probate court, the trial by jury shall be had in the
26 superior court; if the judge is of the superior
27 court, the trial shall be had in the supreme court;
28 if the judge is of the supreme court, the trial shall
29 be had in the superior court. At the said trial
30 by jury, the judge shall be represented by the
31 district attorney, or by his assistant, and the per-
32 son sentenced, by such counsel as he may select,
33 or by counsel assigned by the court in case he is
34 unable to procure counsel. The said statement
35 prepared by the judge who imposed the sentence
36 shall be evidence, and shall be read to the jury,
37 and the testimony of any person who was present
38 at the time when the alleged offence was commit-
39 ted may be introduced on either side. The
40 appellant may testify in his own behalf, but the
41 judge who imposed the sentence appealed from
42 shall not be a witness. The judge who presides

43 at the trial by jury shall, as in other cases, rule
44 upon the admission of evidence and charge the
45 jury; and exceptions may be taken to his rulings
46 or to his charge in respect to points of law; and
47 such exceptions shall be heard and decided by
48 the full bench of the supreme court, who shall
49 order a new trial or not, as they deem just. But
50 no appeal shall lie from the verdict of the jury,
51 and no new trial shall be moved for or granted
52 on the ground that the verdict was against the
53 evidence. A new trial, however, may be granted
54 on proof of corrupt or fraudulent conduct on the
55 part of the jury. When an appeal has been
56 transmitted, as aforesaid, to the supreme court or
57 to the superior court, as the case may be, it shall
58 follow the same course as other appeals from the
59 decision of an inferior court in criminal cases.

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

1 SECTION 3. This act shall take effect upon its
2 passage.

