

shall be entitled to trial by a jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States.

(June 25, 1948, ch. 645, 62 Stat. 844.)

HISTORICAL AND REVISION NOTES

Based on sections 386, 389 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, §§21, 24, 38 Stat. 738, 739).

The first paragraph of this section is completely rewritten from section 386 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, omitting everything covered and superseded by rules 23 and 42 of the Federal Rules of Criminal Procedure.

The second paragraph of this section is derived from section 389 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, omitting directions as to the trial of other contempts which are now covered by rule 42 of the Federal Rules of Criminal Procedure.

Minor changes were made in phraseology.

§ 3692. Jury trial for contempt in labor dispute cases

In all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the contempt shall have been committed.

This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders or process of the court.

(June 25, 1948, ch. 645, 62 Stat. 844.)

HISTORICAL AND REVISION NOTES

Based on section 111 of Title 29, U.S.C., 1940 ed., Labor (Mar. 23, 1932, ch. 90, §11, 47 Stat. 72).

The phrase "or the District of Columbia arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute" was inserted and the reference to specific sections of the Norris-LaGuardia Act (sections 101-115 of Title 29, U.S.C., 1940 ed.) were eliminated.

TAFT-HARTLEY INJUNCTIONS

Former section 111 of Title 29, Labor, upon which this section is based, as inapplicable to injunctions issued under the Taft-Hartley Act, see section 178 of Title 29.

§ 3693. Summary disposition or jury trial; notice—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Summary punishment; certificate of judge; order; notice; jury trial; bail; disqualification of judge, Rule 42.

(June 25, 1948, ch. 645, 62 Stat. 844.)

CHAPTER 235—APPEAL

Sec.

3731. Appeal by United States.

Sec.

- 3732. Taking of appeal; notice; time—Rule.
- 3733. Assignment of errors—Rule.
- 3734. Bill of exceptions abolished—Rule.
- 3735. Bail on appeal or certiorari—Rule.
- 3736. Certiorari—Rule.
- 3737. Record—Rule.
- 3738. Docketing appeal and record—Rule.
- 3739. Supervision—Rule.
- 3740. Argument—Rule.
- 3741. Harmless error and plain error—Rule.
- 3742. Review of a sentence.

AMENDMENTS

1984—Pub. L. 98-473, title II, §213(b), Oct. 12, 1984, 98 Stat. 2013, added item 3742.

§ 3731. Appeal by United States

In a criminal case an appeal by the United States shall lie to a court of appeals from a decision, judgment, or order of a district court dismissing an indictment or information or granting a new trial after verdict or judgment, as to any one or more counts, or any part thereof, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

An appeal by the United States shall lie to a court of appeals from a decision or order of a district court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding.

An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the release of a person charged with or convicted of an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.

The appeal in all such cases shall be taken within thirty days after the decision, judgment or order has been rendered and shall be diligently prosecuted.

The provisions of this section shall be liberally construed to effectuate its purposes.

(June 25, 1948, ch. 645, 62 Stat. 844; May 24, 1949, ch. 139, §58, 63 Stat. 97; Pub. L. 90-351, title VIII, §1301, June 19, 1968, 82 Stat. 237; Pub. L. 91-644, title III, §14(a), Jan. 2, 1971, 84 Stat. 1890; Pub. L. 98-473, title II, §§205, 1206, Oct. 12, 1984, 98 Stat. 1986, 2153; Pub. L. 99-646, §32, Nov. 10, 1986, 100 Stat. 3598; Pub. L. 103-322, title XXXIII, §330008(4), Sept. 13, 1994, 108 Stat. 2142; Pub. L. 107-273, div. B, title III, §3004, Nov. 2, 2002, 116 Stat. 1805.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §682 (Mar. 2, 1907, ch. 2564, 34 Stat. 1246; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54; May 9, 1942, ch. 295, §1, 56 Stat. 271).

The word "dismissing" was substituted for "sustaining a motion to dismiss" in two places for conciseness and clarity, there being no difference in effect of a deci-