

By Mr. Ames, a petition of Elliot L. Richardson and Oliver F. Ames for legislation to provide for the removal of public officials who refuse to testify concerning their official conduct on the grounds of self-incrimination. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Seven.

AN ACT PROVIDING FOR THE REMOVAL OF PUBLIC OFFICIALS WHO REFUSE TO TESTIFY CONCERNING THEIR OFFICIAL CONDUCT ON THE GROUNDS OF SELF-INCRIMINATION.

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 30 of the General Laws is hereby amended by insert-
2 ing after section 59 the following section: —

3 *Section 60. Removal of Employees for Refusal to Testify*
4 *upon Matters relating to their Employment.* — (a) An officer
5 or employee of the commonwealth, or of any department,
6 board, commission or agency thereof, or of any authority
7 created by the general court, who upon being called to testify
8 before any grand jury or special grand jury, upon matters
9 solely relating to his conduct in any public office or employ-
10 ment held by him within the six years next prior to so testi-
11 fying, refuses to answer any relevant question concerning such
12 matters on the ground that his answer might tend to incrimi-
13 nate him, may, if he was appointed by the governor, be re-
14 moved by the governor, whether or not such appointment was
15 subject to the advice or consent of the council or, if he was ap-
16 pointed by some other appointing authority, be removed by
17 such authority; provided, however, refusal to answer questions
18 concerning his political or religious beliefs or associations shall
19 not be grounds for such removal. Such removal shall be
20 deemed to constitute "cause" with the meaning of General
21 Laws, chapter thirty, sections nine, nine B and chapter thirty-
22 one, section forty-three.

23 (b) It shall be the duty of the judge or presiding officer in
24 any proceeding referred to in paragraph (a) immediately to
25 notify the appointing authority and the attorney general of any
26 such refusal to testify.

27 (c) The removal of any person holding office or employment
28 under permanent appointment in the official or labor service of
29 the commonwealth, or of any county, city or town thereof, to
30 whom the provisions of paragraph (a) hereof become applicable
31 shall be subject to the provisions of General Laws, chapter
32 thirty-one, section forty-three (a)—(d).

33 (d) Any person other than those referred to in paragraph
34 (c), to whom the provisions of paragraph (a) hereof become
35 applicable may, within five days after receiving written notice
36 of the intention of the appointing authority to remove him, re-
37 quest in writing a hearing before such authority in which he
38 may set forth any reason why he should not be removed as
39 aforesaid, and offer evidence and argument in support thereof.
40 Such notice of intention to remove shall state the date upon
41 which said removal shall become effective, which date shall not
42 be less than seven days following the date of the receipt of said
43 notice. Said hearing shall be commenced in not less than three
44 nor more than ten days, and shall be completed within thirty
45 days, after the filing of the request, unless, in either case, the
46 employee shall otherwise agree in writing. At such hearing the
47 employee, and the appointing authority, or the person presid-
48 ing at such hearing on his own motion may summon, examine
49 and cross-examine witnesses, and may be represented by coun-
50 sel. The decision of the appointing authority shall be in writ-
51 ing, and notice thereof shall be sent to all parties in interest
52 within ten days after completion of the hearing. Removal shall
53 not become effective until after the hearing and adverse deci-
54 sion by the appointing authority.

55 (e) Any person who is finally removed from his office or dis-
56 charged from his employment pursuant to this section shall
57 be disqualified from holding any appointive public office or em-
58 ployment for a period of three years from the date of such dis-
59 charge.

60 (f) Nothing herein shall be so construed as to grant im-

61 munity from prosecution for any testimony given in the pro-
62 ceeding described in paragraph (a) hereof, nor shall such im-
63 munity be implied or inferred unless specifically provided for in
64 a general law or special act of the legislature relating to the
65 subject matter of said testimony.

