

# HOUSE . . . . . No. 1016

By Messrs. Sennott of Cambridge and Campbell of Cambridge, petition of John J. Droney, John R. Sennott, Jr., and John J. Campbell relative to authorizing the granting of immunity to witnesses in certain criminal cases under certain conditions. The Judiciary.

## The Commonwealth of Massachusetts

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

### AN ACT AUTHORIZING THE GRANTING OF IMMUNITY TO WITNESSES UNDER CERTAIN CONDITIONS.

*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 277 of the General Laws is hereby amended by insert-  
2 ing after section 79 the following three sections:—

3 *Section 80.* In any investigation or proceeding before a com-  
4 petent authority, as defined in subsection (a), relating to criminal  
5 offenses defined in sections nineteen and twenty of chapter two  
6 hundred and seventy-two, sections one and ten of chapter two  
7 hundred and sixty-six, section seven to fourteen, inclusive, of  
8 chapter two hundred and sixty-eight, section twenty-six of chap-  
9 ter two hundred and sixty-five, section one to forty-two, inclu-  
10 sive, of chapter twenty-seven, section one to seven, inclusive, of  
11 chapter one hundred and thirty-seven, section one hundred and  
12 ninety-seven to two hundred and seventeen D, inclusive, of chap-  
13 ter ninety-four, section one to seven, inclusive, of chapter two  
14 hundred and sixty-nine, “affray”, as defined in section thirty-  
15 nine of chapter two hundred and seventy-seven, section one to  
16 fifty-six of chapter fifty-six and criminal conspiracy, if a person  
17 refuses to answer a question or produce evidence of any kind on  
18 the ground that he may be incriminated thereby, and, notwith-  
19 standing such refusal, an order is made by such competent au-  
20 thority that such person answer the question or produce the  
21 evidence, such person shall comply with the order. If such per-

22 son complies with the order, and if, but for this section, he would  
23 have been privileged to withhold the answer given or the evi-  
24 dence produced by him, then immunity shall be conferred upon  
25 him, as provided in subsection (b).

26 (a) "Competent authority", as used in this section means:

27 (1) The court before whom a person is called to answer ques-  
28 tions or produce evidence in a criminal proceeding other than a  
29 proceeding before a grand jury, when such court is expressly re-  
30 quested by the district attorney or the attorney general to order  
31 such person to give answer or produce evidence; or

32 (2) The grand jury before which a person is called to answer  
33 questions or produce evidence, when such grand jury is expressly  
34 requested by the district attorney or the attorney general to  
35 order such person to give answer or produce evidence.

36 (b) "Immunity", as used in this section means that such per-  
37 son shall not be prosecuted or subjected to any penalty or for-  
38 feiture for or on account of any transaction, matter or thing  
39 concerning which, in accordance with the order by competent  
40 authority, he gave answer or produced evidence, and that no  
41 such answer given or evidence produced shall be received against  
42 him upon any criminal proceeding. But he may nevertheless  
43 be prosecuted or subjected to penalty or forfeiture for any per-  
44 jury or contempt committed in answering, or failing to answer,  
45 or in producing or failing to produce evidence, in accordance  
46 with the order, and any such answer given or evidence produced  
47 shall be admissible against him upon any criminal proceeding  
48 concerning such perjury or contempt.

49 *Section 81.* If, after compliance with the provisions of sec-  
50 tion eighty, or any other similar provision of law, a person is  
51 ordered to answer a question or produce evidence of any other  
52 kind and complies with such order, and it is thereafter deter-  
53 mined that the appropriate district attorney or the attorney gen-  
54 eral having an official interest therein was not notified, such  
55 failure or neglect shall not deprive such person of any immunity  
56 otherwise properly conferred upon him.

57 *Section 82.* Any person to whom immunity has been granted  
58 in accordance with section eighty, may, if he shall so elect, at  
59 any time waive such immunity by signing a written waiver  
60 thereof and filing the same with the appropriate clerk of the  
61 court, whereupon such immunity shall thereafter be of no effect.