

By Mr. Sisitsky, a petition (accompanied by bill, Senate, No. 895) of Francis X. Bellotti, Attorney General of the Commonwealth, Alan D. Sisitsky and Michael F. Flaherty for legislation to authorize the Attorney General to administer oaths and summon witnesses. The Judiciary.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-nine.

### AN ACT AUTHORIZING THE ATTORNEY GENERAL TO ADMINISTER OATHS AND SUMMONS WITNESSES.

*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 12 of the General Laws is hereby amended by add-  
2 ing after section 30, the following new sections: —

3 *Section 32. Summons Powers of Attorney General.*

4 In any investigation or inquiry conducted by the Depart-  
5 ment of the Attorney General, the Attorney General may  
6 summon and examine under oath any person who might, in  
7 the opinion of the Attorney General, have knowledge or in-  
8 formation related to the affairs, transactions or occurrences  
9 being investigated. The summons may require the produc-  
10 tion before the Attorney General of books, records, docu-  
11 ments, papers or tangible objects relating to the affairs, trans-  
12 actions or occurrences being investigated.

13 *Section 33. Form of Summons.*

14 The summons authorized by the preceding section shall be  
15 signed by the Attorney General or by an Assistant Attorney  
16 General specifically designated by the Attorney General. It  
17 may require the attendance of the witness at any courthouse  
18 or at any office maintained by the Attorney General within  
19 the Commonwealth. It may require the presence of the wit-  
20 ness at any time during normal business hours. The sum-  
21 mons shall describe with particularity the books, records,  
22 documents, papers or tangible objects to be produced.

23 *Section 34. Service of Summons.*

24 The summons authorized by section 32 shall be served upon  
25 the witness not later than two business days prior to the time

26 at which he is required to appear. The summons may be  
27 served at any place within the Commonwealth and in any  
28 manner authorized by law for the service of summons upon  
29 witnesses in criminal cases. No fees need be tendered at the  
30 time of service.

31 *Section 35. Manner of Examination.*

32 Examination of the witness shall be conducted by the At-  
33 torney General or by an Assistant Attorney General, who  
34 shall first place the witness on oath or affirmation. The per-  
35 son conducting the examination may arrange to have the tes-  
36 timony taken stenographically or recorded by any other means  
37 authorized by law or by rule of court. The witness may have  
38 counsel present to advise him during the examination.

39 *Section 36. Refusal to Answer.*

40 If a witness fails to answer a question propounded, or fails  
41 to submit any document summoned, the Attorney General  
42 may apply to the Superior Court for an order compelling an  
43 answer to the question or the production of the documents  
44 summoned. If it appears that the witness has been properly  
45 summoned and has either refused to answer a question pro-  
46 pounded, or has failed to submit a document summoned, the  
47 Court shall enter the order unless the witness has claimed a  
48 valid privilege or otherwise shows cause why it should not do  
49 so. The Attorney General may either complete or adjourn  
50 examination of the witness before he applies for the order.  
51 If the Court denies the application in whole or in part, it may  
52 make such protective order as is authorized by law.

53 *Section 37. Penalty for Failure to Comply with Summons.*

54 Whoever willfully fails to appear in response to a sum-  
55 mons, or refuses to be sworn or affirmed, or, after being di-  
56 rected to do so by a Justice of the Superior Court, fails or  
57 refuses to answer a question propounded or to supply a  
58 document summoned, shall be guilty of contempt and shall be  
59 punished by a fine of not more than \$5,000 or by imprison-  
60 ment for not more than 6 months or by both such fine and  
61 imprisonment.

62 *Section 38. Protective order.*

63 Upon application by any person upon whom the summons  
64 authorized by section 32 has been served, a Justice of the

65 Superior Court may, for cause shown, order that the sum-  
66 mons be quashed, that the time or place of the examination  
67 be altered, that the examination of the witness be restricted  
68 or that any other appropriate action be taken. Application  
69 for a Protective Order shall not stay the effect of the sum-  
70 mons or excuse the witness from attending and testifying as  
71 ordered.

72 *Section 39. Secrecy of Proceedings.*

73 No person performing an official act in connection with the  
74 proceedings authorized by sections 32-37 shall, except in the  
75 performance of his official duties or unless specifically directed  
76 to do so by a court, disclose that a summons authorized by  
77 section 32 has issued, the nature of the information sought  
78 by means of such summons, or any matter occurring at the  
79 examination of any witness whose presence has been com-  
80 pelled by such summons. The examination of the witness  
81 shall be closed to the public; no person shall be present ex-  
82 cept the Attorney General, such Assistant Attorneys General  
83 as are necessary or convenient to the examination of the wit-  
84 ness, the witness under examination, the witness's counsel,  
85 and such other persons as are necessary or convenient to the  
86 examination of the witness. If a transcript of the testimony  
87 given by any witness is prepared, it shall not be delivered to  
88 any one other than the Attorney General or an Assistant At-  
89 torney General unless a Justice of the Superior Court other-  
90 wise directs; provided, however, that if criminal proceedings  
91 are instituted against any person, the testimony which any  
92 witness in such proceedings has given shall be discoverable in  
93 the same manner as the statements of any other witness.

94 *Section 40. Perjury.*

95 Whoever, having been sworn or affirmed as provided in  
96 section 35, willfully gives testimony which is false in any  
97 matter material to the investigation or inquiry in progress  
98 shall be guilty of perjury and subject to the penalties therefor.

