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By Mr. Rotondi, a petition (accompanied by bill, Senate, No. 1921) of Samuel Rotondi, John J. Conte and Philip L. Shea for legislation relative to immunity. The Judiciary.

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## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-one.

### AN ACT RELATING TO IMMUNITY.

*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. Chapter 233 of the general laws is hereby  
2 amended by striking out section 20C, as appearing in chap-  
3 ter 408 of the Acts of 1970, and inserting in place thereof  
4 the following section: —

5 *Section 20C.* In any investigation or proceeding before a  
6 grand jury or in a criminal proceeding in the trial court in-  
7 volving any offense listed in section twenty D, a witness  
8 shall not be excused from testifying or from producing books,  
9 papers, or other evidence on the ground that the testimony  
10 or evidence required of him may tend to incriminate him or  
11 subject him to a penalty or forfeiture, if he has been granted  
12 immunity by a judge of the trial court as in section twenty E.

1 SECTION 2. Section 20D of said chapter 233 is hereby  
2 amended by striking out the words "A witness called to  
3 testify before a grand jury" in line 1, as appearing in chap-  
4 ter 408 of the acts of 1970, and inserting in place thereof the  
5 words: — An individual who is called or may be called to  
6 testify before a grand jury or in a criminal proceeding in the  
7 trial court.

1 SECTION 3. Section 20D of said chapter 233 is hereby  
2 amended by inserting after the word "uttering" in line 17,  
3 as appearing in chapter 408 of the acts of 1970, the words: —  
4 income tax violations, rape.

1 SECTION 4. Chapter 233 of the general laws is hereby fur-  
2 ther amended by striking out Section 20E added by St. 1970,

3 c. 408 and inserting in its place the following section: —

4 *Section 20E.* A justice of the trial court shall at the re-  
5 quest of the attorney general or a district attorney issue an  
6 order to person who is called upon to answer questions or  
7 to produce evidence while under oath in a criminal proceed-  
8 ing including the grand jury, in that court involving an  
9 offense listed in section twenty D, if the court determines  
10 that such person validly refuses to testify or produce such  
11 evidence on the ground that the testimony or evidence re-  
12 quired of him will tend to incriminate him or subject him  
13 to a penalty or a forfeiture.

14 If such application is made by a district attorney he shall  
15 give reasonable notice by any means to the attorney general  
16 and the other district attorneys of the date and time fixed  
17 for the hearing of his application. An affidavit of proof of  
18 service upon each district attorney and the attorney general  
19 shall be filed with the Court. The attorney general and any  
20 such district attorney shall have the right to attend and to  
21 be heard on the question whether there is a valid basis for  
22 the assertion of the privilege.

23 The witness shall be entitled to representation by an attor-  
24 ney at the hearing which shall not be open to the public.  
25 The court may appoint counsel for the witness.

26 The attorney general or a district attorney may apply for  
27 an order under this section when in his judgment the testi-  
28 mony or other evidence which he seeks is necessary, an order  
29 of immunity is in the public interest and the individual has  
30 refused or is likely to refuse to testify or to produce such  
31 evidence on the basis of his privilege against self-incrimina-  
32 tion.

1 SECTION 5. Chapter 233 of the general laws is hereby fur-  
2 ther amended by striking out Section 20F added by St. 1970,  
3 c. 408, and inserting in its place the following section: —

4 *Section 20F.* The testimony or production that is com-  
5 pelled under agrant of immunity as provided in section 20E  
6 and any information derived from the testimony or pro-  
7 duction may not be used in evidence in any criminal or civil  
8 proceeding against the witness in any court of the Common-

9 wealth, except in a prosecution for perjury or contempt com-  
10 mitted while giving testimony or producing evidence under  
11 compulsion pursuant to sections twenty C or twenty E.

12 A transcript of any testimony and a copy of any docu-  
13 ments furnished by a witness who has been granted immunity  
14 shall be maintained by the clerk of court and shall be avail-  
15 able at the request of the attorney general, a district attorney  
16 or the witness.

1 SECTION 6. Chapter 233 of the general laws is hereby fur-  
2 ther amended by striking out section twenty G, added by  
3 St. 1970, c. 408 and inserting in its place the following sec-  
4 tion: —

5 *Section 20G.* If a witness has been granted immunity pur-  
6 suant to the provisions of section twenty E by a justice of  
7 the trial court and thereafter refuses to testify or produce  
8 evidence after being so ordered by such justice, the attorney  
9 general or district attorney shall institute contempt proceed-  
10 ings against such witness in the court where the alleged con-  
11 tempt occurred, and, after hearing or trial, if such witness  
12 is adjudged in contempt of court, he shall be punished by  
13 imprisonment in the house of correction for a term not to  
14 exceed one year or until he complies with the order of the  
15 court, which ever occurs first. The rules of practice and  
16 procedure relative to criminal appeals as provided by the  
17 Massachusetts Rules of Criminal Procedure and the Massa-  
18 chusetts Rules of Appellate Procedure shall apply to appeals  
19 under this section.

1 SECTION 7. Chapter 233 of the general laws is hereby fur-  
2 ther amended by striking out section twenty H, as amended  
3 by St. 1979, c. 344 § 8, and inserting in its place the follow-  
4 ing section: —

5 *Section 20H.* No defendant in any criminal providing shall  
6 be convicted solely on the testimony of, or the evidence  
7 produced by, a person granted immunity under the pro-  
8 visions of section twenty E.

1 SECTION 8. Chapter 233 of the general laws is hereby fur-  
2 ther amended by striking out section twenty I, added by  
3 St. 1970, c. 408.

