

SENATE . . . . . No. 1235

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The Commonwealth of Massachusetts

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SENATE, December 7, 1965.

The committee on Bills in the Third Reading, to whom was referred the House Bill authorizing the attorney general and the district attorneys to subpoena certain corporate books and records (House, No. 4363 amended, reports recommending that the same be amended by substituting therefor a new draft with the same title, (Senate, No. 1235), and that, when so amended, the same will be correctly drawn.

For the committee,

JOHN E. HARRINGTON, JR.

## The Commonwealth of Massachusetts

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

AN ACT AUTHORIZING THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEYS TO SUBPOENA CERTAIN CORPORATE BOOKS AND RECORDS.

*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 in-  
2 serting after section 27 the following section: —

3 *Section 27A.* The attorney general and the district attorneys  
4 may require the attendance and testimony of witnesses and  
5 the production of the books, records, contracts and papers of  
6 any agency, department, board, or commission of the common-  
7 wealth or of any political subdivision thereof, any authority  
8 created by the general court, or any public utility, by making  
9 application for a subpoena to the superior court accompanied  
10 by an affidavit that the production of such records is reason-  
11 ably necessary and relevant to a matter under investigation.

12 The court, after a hearing, which shall not be open to the  
13 public, may order such subpoena to issue, and it shall be  
14 served and enforced in the manner provided by law for the  
15 service and enforcement of subpoenas in a civil action.

16 Any witnesses summoned may petition said court to vacate  
17 or modify a subpoena issued by it. After a hearing, which  
18 shall not be open to the public, the court may grant the  
19 petition, in whole or in part, or dismiss it, if it believes that  
20 the testimony or the books, records, contracts and papers  
21 whose production is required are not reasonably necessary and  
22 relevant to a matter properly under investigation, or that the  
23 subpoena for the attendance of a witness or the production of  
24 books, records, contracts and papers is unreasonable or  
25 oppressive, or has not been issued a reasonable period in ad-  
26 vance of the time when the evidence is requested.

27 Any justice of the superior court who hears such application  
28 for a subpoena or such petition to modify or vacate the sub-

29 poena shall, at the request of the defendant, be disqualified  
30 from serving as the trial justice, at the trial of an indictment  
31 which results from such investigation.

32 All records of any such hearing shall be impounded by the  
33 court. Public disclosure by any person or news media of the  
34 contents of such impounded papers or said proceedings during  
35 the investigation shall be punishable as contempt of the court  
36 having jurisdiction of the matter.

