HOUSE . . . . . No. 3524

By Mr. Sullivan of Norwood, petition of Gregory W. Sullivan for legislation to establish the confidential information act relative to journalism. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT ESTABLISHING THE CONFIDENTIAL INFORMATION ACT RELATIVE TO JOURNALISM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The following definitions shall apply as used in this chapter: —

"Professional journalist," shall mean one who, for gain or livelihood, is engaged in the gathering, preparation, presentation or editing of news for a newspaper, journal, press association, wire service, or radio or television station.

"News," shall mean written, oral or pictorial information or communication concerning local, national or worldwide events or other matters of public concern or public interest or affecting the public welfare.

"Newspaper," shall mean a paper that is printed and distributed ordinarily not less frequently than once a week, and has been so printed and distributed for at least one year, and that has at least a twenty-five per cent yearly average of news-editorial contents such as news, articles of opinion (as editorials), features, advertising or other matter regarded as current interest, and that has a general circulation and that must be formed of printed sheets.

"Journal," shall mean a publication containing news which is published and distributed periodically, and has been so (published and distributed) for at least one year and must be formed of printed sheets.

"Press Association," shall mean an association of newspapers and/or magazines formed to gather and distribute news and journalistic information to its members.

"News Agency," shall mean a commercial organization that collects and supplies news to subscribing newspapers, magazines, periodicals and news broadcasters.

"Wire Service," shall mean a news agency that sends out syndicated news copy by wire to subscribing newspapers, magazines, periodicals or news broadcasters.

SECTION 2. Except as provided in section four, no professional journalist shall be required by any court, grand jury, agency, department, or commission of the Commonwealth of Massachusetts or by either the House of Representatives or the Senate, or by any committee of the General Court to disclose any confidential information received or obtained by him in his capacity as a reporter, editor, commentator, writer, correspondent, announcer, or other person directly engaged in the gathering or presentation of news for any newspaper, journal, press association, news agency, wire service, or radio or television station.

SECTION 3. Except as provided in section four, no professional journalist shall be required by any court, grand jury agency department, or commission of the Commonwealth of Massachusetts or by either the House of Representatives or the Senate, or by any committee of the General Court to disclose the source of any confidential information received or obtained by him in his capacity as a reporter, editor, commentator, writer, correspondent, anouncer, or other person directly engaged in the gathering or presentation of news for any newspaper, journal, press association, news agency, wire service, or radio or television station.

SECTION 4. *(a)* The privilege conferred by section two shall not apply to any information which has at any time been published, broadcast, or otherwise made public by the press claiming the privilege.

5 *(b)* The privilege conferred by section three shall not apply (1) to
6 the source of any allegedly defamatory information in any case
7 where the defendant, in a civil action for defamation, asserts a
8 defense based on the source of such information or (2) to the
9 source of any information concerning the details of any grand jury
10 or other proceeding which was required to be secret under the laws
11 of the Commonwealth.
12 *(c)* In any case where a person claims a privilege conferred by
13 section two or three, the person seeking the information or the
14 source of the information may apply to a superior court of the
15 commonwealth for an order divesting the privilege. Such applica-
16 tion shall be made to the superior court in the district wherein the
17 hearing, action or other proceeding in which the information is
18 sought is pending, except that where the privilege is invoked before
19 a superior court the application shall be made to any other superior
20 court. The order shall be granted only if the court, after hearing the
21 parties, determines that there is substantial evidence that disclo-
22 sure of the information or of the source of the information is clearly
23 required to permit a criminal prosecution for the commission of a
24 specific felony or to prevent a threat to human life. Any such order
25 shall be appealable to the appeals court in accordance with the
26 Massachusetts Rules of Appellate Procedure.