

State of New York

In Assembly

APR 12 1921

Ordered, That the Clerk deliver the bill entitled

AN ACT

To amend the general business law, in relation to fraudulent practices in respect of stocks, bonds and other securities.

to the Senate, and request their concurrence in the same.

By order

FRED W. HAMMOND

Clerk

IN SENATE
Passed Without Amendment

APR 16 1921

By order of the SENATE

Ernest A. Fay
CLERK

Mr. Martin

This bill adds Article 23-A to the General Business Law.

It is provided that whenever it shall appear to the Attorney General upon complaint or otherwise that in the issuance, sale, promotion, advertisement or distribution of any securities, any person, etc. is employing or is about to employ any device or scheme to defraud or for obtaining money or property by means of false pretenses, representation or promise, or that any person, etc. is making or attempting to make in this State fictitious or pretended purchases of securities or is engaged in or about to engage in any practice relating to the purchase or sale of securities which is fraudulent or in violation of the Penal Law, all of which devices are referred to in the statute as fraudulent practices, and the Attorney General believes it to be in the public interest that an investigation be made, he may in his discretion require or permit such person to file with him a statement in writing under oath as to all the facts and circumstances surrounding the said matter, which he believes it to be in the public interest to investigate; and he may prescribe forms upon which such statements shall be made. He is empowered to subpoena witnesses and examine them under oath and require the production of books. Failure to attend shall constitute a misdemeanor. All public officers are requested to furnish all information or assistance in their possession or of any securities, any person, etc. is employing or is about to employ any device or scheme to defraud or for obtaining money or property by means of false pretenses, representation or promise, or that any person, etc. is making or attempting to make in this State fictitious or pretended purchases of securities or is engaged in or about to engage in any practice relating to the purchase or sale of securities which is fraudulent or in violation of the

Penal Law, all of which devices are referred to in the statute as fraudulent practices, and the Attorney General believes it to be in the public interest that an investigation be made, he may in his discretion require or permit such person to file with him a statement in writing under oath as to all the facts and circumstances surrounding the said matter, which he believes it to be in the public interest to investigate; and he may prescribe forms upon which such statements shall be made. He is empowered to subpoena witnesses and examine them under oath and require the production of books. Failure to attend shall constitute a misdemeanor. All public officers are requested to furnish all information or assistance in their possession or within their power.

Whenever the Attorney General believes from evidence satisfactory to him that any person, etc. is about to engage in any fraudulent practice, he may bring an action in the name of and on behalf of the people of the State against such person, to enjoin such person from continuing such practices. Whenever the Attorney General has determined to commence an action under this article, he may present to any justice of the Supreme Court before commencing action, an application for an order directing the person mentioned in the application to appear before the justice to answer such questions or to produce such books and documents as the order may prescribe. The provisions of the Code of Civil Procedure relating to an application for an order for the examination of witnesses before the commencement of an action do not apply except as herein prescribed.

A referee may be appointed to conduct the examination.

Violation of injunction order or of any final judgment in the action is made a misdemeanor and in addition, the person violating the order shall be liable to a civil penalty of one thousand dollars.

The Attorney General may prosecute every person charged with the commission of an indictable offense of the laws of this State applicable to or in respect of transactions referred to in the article as fraudulent practices.

A letter in support of this bill has been filed by the Vice-President of the Equitable Trust Company of New York and states that the Private Bankers Association feel that this is a proper measure. It follows quite closely the Maryland statute.

C. T. Stagg