

production of documents filed by the contestee in compliance with the Corrupt Practices Act. The Clerk transmitted the subpoena, along with his reply refusing to comply with it, to the Speaker, who referred it to the Committee on the Judiciary. The 73d Congress did not authorize the Clerk to respond to the subpoena.⁽¹⁶⁾

Noncompliance With Subpena

§ 30.2 Although the election contest statute authorized the use of subpoenas, there were instances of refusals to testify as well as ignoring of subpoenas by witnesses; for this reason, a House elections committee recommended that the laws be amended and some practical procedure be adopted by which witnesses could be required to obey process and give testimony.

See *Lanzetta v Marcantonio* (§ 48.1, *infra*), a 1936 New York contest, wherein various witnesses refused to testify or could not be found or failed to obey the sub-

¹⁶. See 3 Hinds' Precedents § 2663.

pena or refused to sign testimony which might have been incriminating; it also appeared that contestee's law partner, the campaign fund treasurer, refused to testify. The law now provides for fine or imprisonment for non-compliance.⁽¹⁷⁾

§ 31. Affidavits

Under the Federal Contested Elections Act, the testimony of a witness may be presented in the form of an affidavit. The act provides that by written stipulation of the parties, the testimony of any witness may be filed in the form of an affidavit; or the parties may agree as to what a particular witness would testify to if his deposition were taken. Such affidavits or stipulations are to be filed within the time prescribed by the act.⁽¹⁸⁾

¹⁷. Under the present statute, 2 USC § 390, noncompliance is a misdemeanor punishable by a fine of not more than \$1,000 nor less than \$100, or imprisonment for not less than one month nor more than 12 months.

¹⁸. 2 USC § 387(c).