

# HOUSE . . . . No. 652

---

---

By Mr. Smith of Holbrook, petition of George N. Welch and another for legislation relative to providing for proof of wills where subscribing witnesses are unavailable by reason of service in the armed forces of the United States. Legal Affairs.

---

---

## The Commonwealth of Massachusetts

---

In the Year One Thousand Nine Hundred and Forty-Seven.

---

AN ACT PROVIDING FOR THE PROOF OF WILLS WHERE SUBSCRIBING WITNESSES ARE UNAVAILABLE, BY REASON OF SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

*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. When it appears to the court that a  
2 will cannot be proven as otherwise provided by law  
3 because one or more or all of the subscribing witnesses  
4 to the will are, at the time the will is offered for  
5 probate or were at the time of the execution of the  
6 will, serving in or present with the armed forces of  
7 the United States or as merchant seamen, and are  
8 dead or mentally or physically incapable of testifying  
9 or otherwise unavailable, the court may admit the will  
10 to probate upon the testimony in person or by deposi-  
11 tion of at least two credible disinterested witnesses  
12 that the signature to the will is in the handwriting of  
13 the person whose will it purports to be, or upon other

14 sufficient proof of such handwriting. The foregoing  
15 provision shall not preclude the court, in its discretion,  
16 from requiring in addition, the testimony in person or  
17 by disposition of any available subscribing witness, or  
18 proof of such other pertinent facts and circumstances  
19 as the court may deem necessary to admit the will to  
20 probate.

1 SECTION 2. This act shall take effect immediately.