

**The Commonwealth of Massachusetts**

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EXECUTIVE DEPARTMENT,  
STATE HOUSE, BOSTON, May 6, 1938.

*To the Honorable Senate and House of Representatives:*

I am returning herewith for amendment, House Bill 1913, entitled, "AN ACT RELATIVE TO THE POLICE COMMISSIONER FOR THE CITY OF BOSTON AND HIS SECRETARY", with a recommendation that your Honorable Body amend the said Act to make the same operative as of December 1, 1938.

I further recommend that before the bill is returned to me that you seek the opinion of the Justices of the Supreme Court on the question whether the provision of a bill, providing for the removal of said Commissioner by three Justices of the Superior Court, comes within the subsidiary duties which may be exercised by the Justices, without going outside those which pertain to the judicial faculty.

The bill now before me for my consideration provides that the petition for and the removal of said Commissioner be made to and by the Governor and the Executive Council, thus differing in no way from the present law as regards removal.

Inquiry is suggested on the premise that the petition for removal of said Commissioner should be free from the realm of politics and power of removal vested in a non-political agency, such as the courts.

It is my opinion that an ideal administration of police affairs in any city or town can only be had when those in authority are free from political pressure in the exercise of their duty. Query, does not the validity for such

removal rest with judicial determination of the facts surrounding the petition for removal, because of the intimate relation between the duties of this (appointed not elected) officer, and the performance of service essential to the courts?

I am mindful of the recent opinion of the Justices to the Honorable Senate, dated April 18, 1938, in which they set forth that the courts have no inherent power to remove elected or executive officers not intimately connected with the Courts or the administration of justice.

The Court, in that opinion says "officers who perform work in connection with the courts may be removed as an incident to judicial function."

The office of Police Commissioner, in my opinion, has such an intimate connection with the administration of justice and (quoting from the opinion of the Justices, supra) "The work of the Courts in their jurisdiction over crime as to render an inquiry into (his) fitness, upon grounds proper for judicial procedure, an appropriate function of the courts."

I believe that your Honorable Body should have the opinion of the Justices on this matter prior to my final consideration of this legislation.

CHARLES F. HURLEY,

*Governor.*