

**HOUSE . . . . . No. 3879**

---

---

**The Commonwealth of Massachusetts**

---

HOUSE OF REPRESENTATIVES, June 28, 1962.

The committee on the Judiciary, to whom was referred so much of the report of the special commission (including members of the General Court) established (under chapter 125 of the Resolves of 1961) to make an investigation and study of the judicial system of the Commonwealth and the establishment of appropriate salary schedules therein, and other related matters (House, No. 3535) as relates to providing for a chief justice of the probate court and making other changes in said court (pages 39-43), report the accompanying bill (House, No. 3879).

For the committee,

SUMNER Z. KAPLAN.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Two.

AN ACT PROVIDING FOR A CHIEF JUSTICE OF THE PROBATE COURT  
AND MAKING OTHER CHANGES IN SAID COURT.

*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. Chapter 217 of the General Laws is hereby  
2 amended by striking out section 3, as most recently amended  
3 by chapter 517 of the acts of 1951, and inserting in place thereof  
4 the following section:—

5 *Section 3.* One of the judges of probate shall, upon the  
6 nomination of the governor and the consent of the council,  
7 also serve as the chief justice of probate. He shall hold office  
8 until his death, resignation, retirement or removal. In case of  
9 a vacancy in the office of chief justice of probate, or of his ill-  
10 ness or absence, his duties shall be performed by the senior  
11 judge present and qualified to act.

1 SECTION 2. Said chapter 217 is hereby further amended by  
2 striking out section 6, as amended by chapter 97 of the acts of  
3 1960, and inserting in place thereof the following section:—

4 *Section 6.* No judge of probate shall be interested in, or  
5 benefited by, the fees or emoluments which may arise in any  
6 matter pending before any probate court or court of insolvency  
7 of this commonwealth, or which may arise in any suit or action  
8 pending in any court of this commonwealth where the subject  
9 matter or cause of action is founded upon or derived from pro-  
10 ceedings begun in any of the probate courts or courts of in-  
11 solvency nor shall he, except as otherwise provided, be appointed  
12 or act as executor, administrator, guardian, conservator, trustee  
13 under a will, commissioner, appraiser or assignee of or upon an  
14 estate within the jurisdiction of any probate court; nor shall  
15 he be interested in the fees or emoluments arising from any of

16 said trusts. Judges of probate, except the judges for Dukes  
17 and Nantucket counties, shall devote their entire time during  
18 ordinary business hours to their duties and shall not, directly  
19 or indirectly, engage in the practice of law. The judges of  
20 probate of Dukes and Nantucket counties shall not be retained  
21 or employed or act as counsel or attorney, either in or out of  
22 court, in any matter which may depend on or in any way relate  
23 to a decision, warrant, order or decree made or passed by any  
24 probate court or court of insolvency; nor for or against an  
25 executor, administrator, guardian, conservator or trustee under  
26 a will appointed within the jurisdiction of any probate court,  
27 in any action or suit in a probate court brought by or against  
28 the executor, administrator, guardian, conservator or trustee  
29 under a will as such; nor in any action or suit relating to the  
30 official conduct of such a party; nor for or against a creditor, or  
31 debtor or assignee, in a cause or matter arising out of or con-  
32 nected with any proceedings before any probate court or court  
33 of insolvency; nor in an appeal in such cause or matter; pro-  
34 vided, that nothing in this section shall prohibit the practice of  
35 law by the judges of probate of Dukes and Nantucket counties,  
36 except as herein provided.

1 SECTION 3. Said chapter 217 is hereby further amended by  
2 striking out section 8, as amended by section 5 of chapter 408  
3 of the acts of 1937, and inserting in place thereof the following  
4 section:—

5 *Section 8.* The chief justice of probate may assign judges of  
6 probate to sit in a county other than the county for which they  
7 were appointed, if a judge of probate is unable to perform his  
8 duties, or any part of them, because of sickness, interest or  
9 other legal disqualification or if, in his opinion, the court re-  
10 quires the assistance of an additional judge or judges or if  
11 there is a vacancy in the office of judge of probate, or if the  
12 judge is absent; provided, that there is no special judge of pro-  
13 bate in said county ready to act.

1 SECTION 4. Said chapter 217 is hereby further amended by  
2 striking out section 34, as most recently amended by section 1  
3 of chapter 736 of the acts of 1960, and inserting in place thereof  
4 the following section:—

5 *Section 34.* The salaries of all judges of probate shall be  
6 paid by the commonwealth and are hereby established as fol-  
7 lows:—

	COUNTY.	Salary.
Group I . . . . .	Suffolk	\$22,000
	Middlesex	22,000
	Norfolk	22,000
Group II . . . . .	Worcester	21,000
	Essex	21,000
Group III . . . . .	Hampden	20,000
	Bristol	20,000
Group IV . . . . .	Barnstable	18,000
	Berkshire	18,000
	Franklin	18,000
	Hampshire	18,000
	Plymouth	18,000
Group V . . . . .	Dukes	7,500
	Nantucket	7,500

8 Notwithstanding the foregoing salary schedule, the judge of  
9 probate serving as the chief justice of probate shall receive a  
10 salary of twenty-one thousand dollars.

11 A special judge of probate shall receive an amount equal to  
12 the rate by the day of the salary of a judge of probate for each  
13 day he sits at the order of the chief justice of probate. The  
14 judges of probate for Dukes and Nantucket counties shall re-  
15 ceive an amount equal to the difference between their salaries  
16 by the day and the salary by the day of a judge of probate for  
17 each day they sit at the order of the chief justice of probate in  
18 a county other than their respective counties.

19 In computing the rate by the day of the compensation of  
20 judges and registers, Sundays and legal holidays shall not be  
21 included in the days on which the courts are open for business.

1 SECTION 5. Said chapter 217 is hereby further amended by  
2 striking out section 35A, as most recently amended by section 2  
3 of said chapter 736, and inserting in place thereof the following  
4 section:—

5 *Section 35A.* The salaries of registers of probate shall be as  
6 follows:—

COUNTY.	Salary.
Suffolk . . . . .	\$13,500
Middlesex . . . . .	13,500
Norfolk . . . . .	13,500
Worcester . . . . .	12,750
Essex . . . . .	12,750
Hampden . . . . .	12,000
Bristol . . . . .	12,000
Barnstable . . . . .	10,500
Berkshire . . . . .	10,500
Franklin . . . . .	10,500
Hampshire . . . . .	10,500
Plymouth . . . . .	10,500
Dukes . . . . .	4,950
Nantucket . . . . .	4,950

1 SECTION 6. Sections forty and forty-one of said chapter two  
2 hundred and seventeen are hereby repealed.

1 SECTION 7. Section 42 of said chapter 217, as amended by  
2 chapter 575 of the acts of 1957, is hereby further amended by  
3 adding at the end the following sentence: — The traveling ex-  
4 penses necessarily incurred by a judge of probate sitting at the  
5 direction of the chief justice in a county other than the county  
6 for which he was appointed shall be paid by the commonwealth,  
7 upon the certificate of the chief justice of probate.

1 SECTION 8. Chapter 215 of the General Laws is hereby  
2 amended by striking out section 30A, as most recently amended  
3 by chapter 664 of the acts of 1956, and inserting in place thereof  
4 the following section: —

5 *Section 30A.* The chief justice of probate shall be authorized  
6 to visit any probate court, to establish and require uniform  
7 practice and procedure, and to prescribe forms and records and  
8 procedures for the keeping thereof. The chief justice of probate  
9 may require such records to be kept as may generally assist in  
10 the determination of the nature and volume of the work of the  
11 probate courts and the time required to complete such work.  
12 The chief justice of probate shall establish forms for the an-  
13 nual reports of the work of the several probate courts and reg-  
14 isters of probate; and the several registers of probate shall

15 annually, on or before October first, prepare and file with the  
16 chief justice and with the executive secretary of the supreme  
17 judicial court uniform reports of the work of said courts and  
18 registries during the preceding court year.

1 SECTION 9. Said chapter 215 is hereby further amended by  
2 inserting after section 30A the following section: —

3 *Section 30B.* The chief justice of probate may from time to  
4 time call conferences of any or all of the judges of the probate  
5 court, or of other officials connected therewith. The traveling  
6 expenses of such judges or officials for attending such conferences  
7 shall, subject to the approval of the governor and council, be  
8 paid from the state treasury.

1 SECTION 10. Notwithstanding any provisions of this act to  
2 the contrary the provisions of section thirty-four of chapter two  
3 hundred and seventeen of the General Laws in effect immediately  
4 prior to the effective date of this act shall remain in effect and  
5 apply to appointments to offices referred to therein which are  
6 made on or after the effective date of this act.

1 SECTION 11. Sections two, four, five and eleven of this act  
2 shall take effect as of July first, nineteen hundred and sixty-two,  
3 and all other sections shall take effect on January thirty-first,  
4 nineteen hundred and sixty-three.



The first part of the book is devoted to a general survey of the subject, and to a discussion of the various theories which have been advanced to explain the phenomena which are observed.

In the second part, the author discusses the various methods which have been employed for the determination of the constants of the theory, and the results which have been obtained by these methods.

The third part of the book is devoted to a discussion of the various applications of the theory to the phenomena which are observed in nature, and to a comparison of the results which have been obtained by these applications with the results which have been obtained by other methods.