

By Mr. Simons of Montague, petition of Thomas G. Simons, Laurence R. Buxbaum and John S. Ames III, for legislation to phase out the office of special justice of a district court and providing for the appointment of two full-time circuit justices whenever the offices of three special justices become vacant. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT PHASING OUT THE OFFICE OF SPECIAL JUSTICE.

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 218 of the General Laws is hereby
2 amended by inserting after section 6 the following new sec-
3 tion: —

4 *Section 6A.* Any vacancy occurring in an office of special
5 justice of a district court on or after October first, nineteen
6 hunderd and seventy-four shall not be filled; but for every
7 three such vacancies which occur, whether or not such vacan-
8 cies could have been filled prior to the effective date of this
9 act, there shall be created two positions of circuit justice of the
10 district courts which shall be filled in the same manner as any
11 vacancy in a judicial position; provided, however, that one
12 position of circuit justice shall be deemed to have been created
13 when two such vacancies shall have occurred, and the other
14 position of circuit justice shall be deemed to have been created
15 when the third such vacancy shall have occurred.

16 The position of circuit justice shall be designated as such for
17 the purpose of this section and this section only. All laws
18 relating to justices or district court justices shall, so far as
19 applicable, apply to said circuit justices.

20 A circuit justice of the district courts shall devote full time
21 during ordinary business hours to the duties of his office, and
22 shall not engage directly or indirectly in the practice of law. He
23 shall be paid by the commonwealth a salary equal to that paid
24 justices of the district courts who are required to devote full

25 time to their duties, other than the chief justice of the district
26 courts, and the commonwealth shall pay him travel and
27 expense allowances to the same extent as the law provides for
28 other justices of district courts. He shall sit in such district
29 courts and perform such other duties as are assigned him by
30 the chief justice of the district courts, and he shall have the
31 same powers, duties, rights and privileges as a justice of a
32 district court who is required to devote full time to his duties,
33 subject to such limitations as may be prescribed by said chief
34 justice.

35 The chief justice of the district courts may divide the
36 commonwealth into circuits for the assignment of all justices,
37 circuit justices and special justices, on a regional basis. A circuit
38 justice shall not, however, be assigned to sit in a criminal
39 session in a district court if a special justice of that court is
40 available for such sitting. Nothing contained herein shall affect
41 the duties of a first justice or justice as administrative head of
42 any district court.

43 A special justice shall receive in addition to his actual
44 earnings as a special justice during each twelve month period
45 from October first, nineteen hundred and seventy-four and
46 each year thereafter, to September thirtieth of the following
47 year a sum equal to his average yearly earnings as special
48 justice for any three years of service in said office prior to the
49 year nineteen hundred and seventy-three whether consecutive
50 or not, for which such earnings were the highest, after sub-
51 tracting from said average (1) his actual earnings as special
52 justice during said twelve-month period, (2) such additional
53 earnings as he would have received for sittings in his own court
54 which he declined after being requested by the presiding justice
55 so to sit, and (3) such additional earnings as he would have
56 received for sittings in any court which he declined after being
57 requested by the chief justice so to sit. The sum so calculated
58 for each such twelve-month period shall be paid on or before
59 September thirtieth following said twelve-month period; from
60 the same source and in the same manner as the salary of the
61 justice of his court is paid.

1 SECTION 2. This act shall take effect on October one,
2 nineteen hundred seventy-four.