

SENATE No. 399

The Commonwealth of Massachusetts

SENATE, April 21, 1937.

The committee on the Judiciary, to which was referred the petition (with accompanying bill, House, No. 982) of A. Lawrence Lowell (chairman of the committee on Judicial Procedure of the Boston Chamber of Commerce) for amendment of the law relative to the rule-making powers of the Supreme Judicial Court and the Superior Court, reports the accompanying bill (Senate, No. 399).

For the committee,

ANGIER L. GOODWIN.

Senator McSWEENEY and Representatives INNES of Boston and WHITE of Boston dissent.

The Commonwealth of Massachusetts

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

An Act relative to the Rule-Making Powers of the Supreme Judicial and Superior Courts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter two hundred and thirteen of the General
2 Laws is hereby amended by inserting after section
3 three, as appearing in the Tercentenary Edition, the
4 following new section:—

5 *Section 3A.* With respect to all matters of pleading
6 and practice arising in the courts, the existing statutes
7 shall hereafter have the effect of rules of such courts,
8 and all such matters may be regulated by rules made
9 and promulgated by the respective courts; provided,
10 that (1) no such rule shall be effective to supersede
11 any rule established by such statute unless it speci-
12 fies by chapter and section as they appear in the
13 General Laws the statutory rule to be superseded;
14 (2) no such rule superseding any rule so established
15 shall be promulgated unless and until the chief jus-
16 tice, or a justice or justices designated for that pur-
17 pose by the chief justice, of the court proposing such
18 rule, shall, after notice, have held a public hearing
19 thereon; (3) no such rule made by the superior court
20 which is in conflict with any such statute shall be of
21 effect unless approved by the supreme judicial court,

22 and that any rule made by either court so conflicting
23 may at any time be set aside by the general court;
24 and (4) whenever a court makes a rule superseding
25 any rule established by statute, the chief justice of
26 the court adopting such rule shall submit a copy
27 thereof to the general court by filing the same with
28 the clerk of the house of representatives, forthwith
29 if the general court is in session or, if the general court
30 is not in session, then promptly after the next session
31 convenes, and that such rule shall become effective
32 sixty days after such copy has been so filed unless
33 within said sixty days, the general court shall vote
34 to disapprove it, in which case it shall be of no effect.
35 The powers enjoyed by the courts under this section
36 shall be taken to be in addition to the powers speci-
37 fied in section three and not in substitution therefor
38 or in limitation thereof; provided, that the powers
39 to make rules as aforesaid shall not be taken to in-
40 clude the establishment of, increase in or addition
41 to any fees for practice or procedure nor as authority
42 to any justice to instruct a jury upon facts.

