

By Mr. Dukakis of Brookline, petition of John L. Saltonstall, Jr., for legislation to extend the rule-making power of the Supreme Judicial Court. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT TO EXTEND THE RULE-MAKING POWER OF THE SUPREME JUDICIAL 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. Section 3 of chapter 211 of the General Laws,
2 as most recently amended by chapter 707 of the acts of 1956,
3 is hereby further amended by adding at the end thereof the
4 following five paragraphs:—

5 The supreme judicial court shall have the power to prescribe,
6 by general rules, the forms of process, writs, pleadings and
7 motions, and the rules of pleading, practice and procedure in
8 civil and criminal cases and in all other proceedings in all the
9 courts of the commonwealth.

10 No such rule shall abridge, enlarge or modify any substan-
11 tive right and each shall preserve the rights of all persons as
12 declared by the Constitution of the Commonwealth, including
13 the right of trial by jury as declared in Articles XII and XV
14 thereof.

15 The supreme judicial court shall appoint an advisory com-
16 mittee consisting of representatives of the relevant courts, and
17 at least eight members of the bar of the commonwealth, to
18 assist the court in preparing such rules as it may consider for
19 adoption. Before any such rule is adopted by it, the supreme
20 judicial court shall make public copies of the proposed rule for
21 the consideration of the bench and bar and people of the com-
22 monwealth, and give due consideration to such suggestions as
23 they may submit to it. Any rule adopted pursuant to this

24 section shall become effective on such date, not less than ninety
25 days after its promulgation, as the supreme judicial court may
26 fix.

27 Nothing in this act shall in any way supersede or repeal any
28 rule heretofore prescribed by any court of the commonwealth,
29 or limit the power of any such court to make and amend its
30 rules, except insofar as any such rule or amendment thereof
31 is in conflict with general rules prescribed by the supreme
32 judicial court under this section.

33 All present laws relating to the forms of process, writs, plead-
24 ings and motions, and to pleading, practice and procedure, shall
35 be effective as rules of court until modified or superseded by
36 subsequent rule of the supreme judicial court, and upon the
37 effective date of any rule adopted pursuant to this section such
38 laws, insofar as they are in conflict therewith, shall thereafter
39 be of no further force and in effect.

1 SECTION 2. This act shall not abridge the right of the gen-
2 eral court to enact, modify or repeal any statute, or modify or
3 repeal any rule of the supreme judicial court adopted pursuant
4 thereto.