

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE  
OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
SUPREME COURT BUILDING  
WASHINGTON 25. D. C.

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To Honorable Albert B. Maris, Chairman and Members of the  
Committee on Rules of Practice and Procedure of the Judicial  
Conference of the United States:

The following is a preliminary report of the Advisory  
Committee on Bankruptcy Rules.

1. Following the announcement of the formation of this  
Advisory Committee a meeting was held in Washington attended  
by Judge Maris and Professor James William Moore of your  
Committee; Judge Orie Phillips, Chairman of the Bankruptcy  
Committee of the Judicial Conference; Messrs. Aubrey Gasque,  
Deputy Director and Edwin L. Covey, Chief of the Bankruptcy  
Division of the Administrative Office of the United States  
Courts and the writer; to discuss approaches to the organiza-  
tion of the Committee. Among the many matters canvassed, it was  
determined that the service of a reporter for the Committee was  
an immediate requirement.

2. In May Chief Justice Earl Warren appointed Professor  
Frank R. Kennedy, originally a member of the Committee, as  
reporter. He resigned from the Committee upon his appointment  
as reporter. Professor Kennedy is a member of the faculty of  
the Law School of the State University of Iowa. He is co-author  
of Collier on Bankruptcy (14th Ed.) and a recognized expert on  
bankruptcy legislation. The Committee is most fortunate in his  
acceptance of the reportership.

3. Shortly after the announcement of Professor Kennedy's  
appointment a meeting was held in Philadelphia attended by Judge  
Maris, Messrs. Gasque and Covey, Professor Kennedy and the writer.  
The problems confronting the Committee were reviewed and short  
and long term objectives were discussed.

4. Pursuant to references by the Judicial Conference and Judge Maris, this Committee was charged with the task of formulating recommendations for revision of the General Orders and Official Forms in Bankruptcy which would conform them to recent changes in the Bankruptcy Act. Annexed hereto are such recommendations. They represent the combined efforts of Mr. Covey, who has been diligent and generous in his assistance, and Professor Kennedy. In addition they have been circulated by mail to the members of the Committee, each of whom, with the exception of only one too far out of the country to be reached in time has reviewed and approved them. A number have offered changes many of which are incorporated in the recommended revision.

The changes proposed are of three kinds: (1) those required to bring the General Orders and Official Forms into harmony with recent amendments of the Bankruptcy Act; (2) with current and sound practice; and (3) correcting obvious departures from approved form. Generally speaking, changes of the second and third kinds are proposed only for those Orders and Forms for which changes of the first category are necessary and no substantial controversy is involved in any proposal. The approval of your Committee of this recommended revision is solicited.

5. Since the assemblage of the full Committee would entail travel on the part of its members from all parts of the country, it was felt that such a meeting should take place only after full preparation is made as the basis for meaningful discussions and decisions. Professor Kennedy is compiling an agenda with documentation for such a meeting proposed to be held on December 10 and 11, 1960 in Washington. Committee members and interested parties and organizations already have recommended subjects for consideration and more are being solicited. It is hoped that these may be formulated into recommendations for the approval of your Committee at its next meeting. To this end a further report will be made promptly after the proposed December meeting.

Respectfully submitted,

*Phillip Forman*  
Phillip Forman  
Chairman

Dated August 31, 1960

PROPOSED REVISION OF THE GENERAL ORDERS AND OFFICIAL FORMS IN  
BANKRUPTCY

Changes proposed are indicated by the underlining of new material to be inserted and striking dashes through material to be deleted. To avoid confusion italicization is indicated by footnotes. The version of the general orders and official forms used in preparing the recommended changes is that found in 305 U.S. 677-785, together with the amendments found in 310 U.S. 661, 331 U.S. 871-887, and 355 U.S. 969.

GENERAL ORDERS IN BANKRUPTCY

1

DOCKET

The clerk of the district court shall keep a docket, in which the cases shall be entered and numbered in the order in which they are commenced. It shall contain a memorandum an entry of the filing of the petition and of the action of the ~~court~~ judge or clerk of the district court thereon; of the reference of the case, if any reference is made, to ~~the~~ a referee; ~~of the transmission by the referee to the clerk of all bonds, orders and reports,~~ and of the transmission of the referee's certified record of the proceedings; and of all proceedings in the case except those duly entered on the referee's docket. The clerk's docket shall be arranged in a manner convenient for reference, and shall at all times be open to public inspection. If the proceeding is brought under sections ~~75~~ or 77, or under ~~Chapters~~ chapter IX, X, XI, XII, or XIII, of the Act, the docket shall so indicate.

The referee, in all cases referred to him shall keep a docket of all proceedings before him substantially in the manner indicated by Form No. 70. Such docket shall at all times be open to public inspection. The original referee's docket ~~or a certified copy thereof~~ shall be transmitted to the clerk of the district court for preservation by him when the case is closed.

#### Explanation

The duty imposed on the referee to transmit all bonds, orders, and reports prior to the closing of the case was eliminated by Public Law 86-49, which repealed Sec. 39a(9). Hence the passage regarding such transmission in the second sentence of this general order should be stricken.

Other changes are clarifying. In view of the definition of "clerk" by section 1(6) as the "clerk of a court of bankruptcy" and the definition of "court" in section 1(9) to include a referee, the duties defined by the first paragraph of this general order appear somewhat ambiguously to fall on a referee's clerk. The intended reference is to the clerk of the district court, and a change is proposed to make the intention explicit. A like change involves the last sentence of the general order. The word "court" in the second sentence is changed to "judge or clerk of the district court" to conform to current procedure. In practice the clerk of the district court does not enter, on the docket he keeps, memoranda of actions on petitions taken by the referee, these appearing rather on the referee's docket.

The deletion of "75 or" is recommended because no new cases under section 75 (Agricultural Compositions and Extensions) have been or can be filed since March 1, 1949. Only nine such cases were pending on December 31, 1959, and it is hoped that all of these will be closed in the near future.

Inasmuch as the clerk of the district court is the permanent custodian of all court records, the original docket sheet and not a certified copy thereof should be transmitted to the clerk for preservation by him.

Other changes are minor and technical.

FORM OF PETITIONS AND OTHER PAPERS

[No change in paragraph (1).]

(2) Petitioners in involuntary proceedings for adjudication, whose claims rest upon assignment or transfer from other persons, shall annex to ~~one~~ each of the triplicate petitions a copy of all instruments of assignment or transfer, and an affidavit setting forth the true consideration paid for the assignment or transfer of such claims and stating that the petitioners are the bona fide holders and legal and beneficial owners thereof and whether or not they were purchased for the purpose of instituting bankruptcy proceedings.

[No change in paragraph (3).]

(4) Proceedings shall be entitled "In Bankruptcy," "~~In Proceedings for a Composition or Extension,~~" "In Proceedings for the Reorganization of a Railroad," "In Proceedings for a Composition by a Public Debtor," "In Proceedings for the Reorganization of a Corporation," "In Proceedings for an Arrangement," "In Proceedings for a Real Property Arrangement," or "In Proceedings for a Wage Earner Plan," as the case may be.

(5) In proceedings under chapter ~~VIII,~~ X, XI, XII, or XIII, of the Act, unless and until the debtor is adjudicated a bankrupt

he shall be referred to as a "debtor." In proceedings under chapter IX, the debtor shall be referred to as the "petitioner."

#### Explanation

The three copies of petitions required to be filed by section 59b should be complete. With the general availability of duplicating equipment it is not conceived that any hardship will be imposed by requiring, in paragraph (2), that each copy of an involuntary petition be accompanied by the papers described in this paragraph.

The deletions in paragraphs (4) and (5) are warranted by the lapse of section 75, as earlier noted.

#### 9

#### LIST OF CREDITORS IN INVOLUNTARY BANKRUPTCY

In all cases of involuntary bankruptcy in which the bankrupt is absent or cannot be found, it shall be the duty of the petitioning creditor or creditors to file, within five days after the date of adjudication or within such additional time as may be allowed by the court, a list of the names and places of residence or business of all the creditors of the bankrupt, according to the best information of the petitioning creditor or creditors.

#### Explanation

Section 7a(8) of the Act as amended in 1952 requires the bankrupt to file a list of creditors "showing their residences or places of business." The insertion of "or business" would conform this general order to the Act. The insertion of "or creditors" at two points simply recognizes that the duty here defined may be imposed on all the petitioning creditors when there are more than one. The reference to "additional time" recognizes that the court should have discretion to extend the time allowed creditors to file a list under this order.

LIST OF PROVED CLAIMS AND INTERESTS

The person with whom proofs of claim or of interest are filed shall maintain open to inspection a list of the claims and interests proved against the estate, with the names and addresses of the owners thereof, as given by them. The list of claims or of interests shall be maintained substantially in the manner indicated by Form No. 71. The original list ~~or a certified copy thereof~~ shall be transmitted to the clerk of the district court for preservation by him when the case is closed.

Explanation

Inasmuch as the clerk of the district court is the permanent custodian of all court records, the original list and not a certified copy thereof should be transmitted to the clerk for preservation by him.

PROCEEDINGS UNDER CHAPTER XI OF THE ACT

[No change in paragraphs (1) and (2).]

(3) The clerk of the district court and, in the case of a reference, the referee after such reference, shall forthwith transmit to the ~~Collector~~ District Director of Internal Revenue for the district in which the proceedings are brought a copy of each petition filed under section 321 or 322 of the Act.

[No change in paragraph (4).]

Explanation

The Internal Revenue Department approves the change from "Collector" to "District Director" to conform with the Internal

Revenue Code of 1954. A clarifying change is also made in identifying the clerk of the district court as the person who should transmit the copy of the petition if no reference has been made. If a petition is filed under Section 321 after a reference, the copy should be transmitted by the referee.

PROCEEDINGS UNDER SECTION 77 OF THE ACT

[No change in paragraphs (1), (2), (3), (4), and (5).]

(6) The clerk of the district court in which proceedings under section 77 are brought shall forthwith transmit to the Secretary of the Treasury copies of (a) any petition filed under subsection (a) of section 77; (b) the answer, if any, of the railroad corporation; (c) the order approving or dismissing the petition; (d) any order appointing or removing a trustee; (e) any application by a trustee for authority to issue certificates, and any order authorizing or refusing to authorize such issuance; (f) any order determining the time within which, and the manner in which, claims may be filed or evidenced and allowed, and the division of creditors and stockholders into classes; (g) any plan of reorganization filed with the court; (h) any order approving a plan, or referring the proceedings back to the commission for further action; (i) the order confirming a plan; (j) any application for allowances of compensation and expenses, and any order making or refusing to make such allowances; (k) the order dismissing the proceedings; (l) the final decree; (m) any opinion



of the court, or report of a special master, with respect to the matters above enumerated; and (n) such other papers filed in the proceedings as the Secretary of the Treasury may request or the court may direct to be transmitted to him: Provided,\* That if the Secretary of the Treasury shall determine that the transmission of any such papers is unnecessary, he shall so notify the clerk, whereupon the clerk may dispense with the transmittal of further papers.

The clerk shall also transmit to the ~~Collector~~ District Director of Internal Revenue for the district in which the proceedings are pending a copy of any petition filed under subsection (a) of section 77.

[No changes in paragraphs (7), (8), (9), (10), and (11).]

\* Italicized.

#### Explanation

The substitution of "District Director" for "Collector" conforms to the Internal Revenue Act of 1954.

ANCILLARY RECEIVERSHIPS LIMITED

No ancillary receiver shall be appointed in any district court of the United States in any bankruptcy proceeding pending in any other district of the United States except (1) upon the application of the primary receiver, or (2) upon the application of any party in interest with the consent of the primary receiver, or by leave of a judge of the court of original jurisdiction. No application for the appointment of such ancillary receiver shall be granted unless the ~~petition~~ it contains a detailed statement of the facts showing the necessity for such appointment, ~~which petition~~ . The application shall be ~~verified~~ signed by the party in interest, or the primary receiver, or by an agent of the party in interest or primary receiver specifically authorized in writing for that purpose and having knowledge of the facts. Such authorization shall be attached to the ~~petition~~ application.

Explanation

In view of the amendment to section 18c of the Bankruptcy Act by Public Law 86-293, approved September 21, 1959, eliminating the oath to pleadings, the word "verified" is changed to "signed."

The substitution of "application" for "petition" is dictated by the statutory definition of "petition" in section 1(24) to "mean a document filed in a court of bankruptcy or with a clerk thereof initiating a proceeding under this Act." See 1 Collier, Bankruptcy para. 1.24 (14th ed. rev. 1956).

52

PROCEEDINGS UNDER CHAPTER X OF THE ACT

[No change in paragraphs (1) and (2).]

(3) The clerk of the district court shall forthwith transmit to the ~~Collector~~ District Director of Internal Revenue for the district in which the proceedings are brought a copy of each petition filed under section 127 or 128 of the Act.

[No change in paragraphs (4) and (5).]

Explanation

This change is required by the Internal Revenue Code of 1954.

53

BOND OF DESIGNATED DEPOSITORY UNDER SECTION 61

(1) The bond required of a banking institution designated as a depository shall be given with an authorized fidelity or bonding company as surety, or with approved individual sureties who are residents of the judicial district in which the court of bankruptcy or the banking institution is located, and two of whom are neither officers nor directors of the institution

designated as a depository: *Provided,\** That the judge may, in accordance with the provisions of, and the authority conferred in section 1126 of the Revenue Act of 1926, as amended (~~U.S.C.~~ Title 6, United States Code, section 15), accept the deposit of the securities therein designated, in lieu of a surety or sureties upon such bond.

\*Italicized.

(2) The condition of bonds hereafter given shall be substantially to the effect that the banking institution, so designated, shall well and truly account for and pay over all moneys deposited with it as such depository, and shall pay out such moneys only as provided by the ~~bankruptcy law Act~~ and applicable general orders and court rules, and shall abide by all orders of the court in respect of such moneys, and shall otherwise faithfully perform all duties pertaining to it as such depository, ~~provided, that :~~ *Provided,\** That no security in the form of a bond or otherwise shall be required in the case of such part of the deposits as are insured under section 12B of the ~~Federal Reserve Act~~, as amended Title 12, United States Code, section 1821.

[No change in paragraphs (3), (4), (5), (6), (7), (8), (9), and (10).]  
\*Italicized.

Explanation

These changes will conform the statutory references in the general order to those in section 61 of the Bankruptcy Act as amended in 1952. Other minor changes conform usage to that prevailing elsewhere in the general orders.

54

PROCEEDINGS UNDER CHAPTER XII OF THE ACT

[No change in paragraphs (1) and (2).]

(3) The clerk of the district court shall forthwith transmit to the ~~Collector~~ District Director of Internal Revenue for the district in which the proceedings are brought a copy of each petition filed under section 421 or 422 of the Act.

[No change in paragraph (4).]

Explanation

This change conforms to the Internal Revenue Code of 1954.

55

PROCEEDINGS UNDER CHAPTER XIII OF THE ACT

[No changes in paragraphs (1) and (2).]

~~(3)~~ The clerk shall forthwith transmit to the Collector of Internal Revenue for the district in which the proceedings are brought a copy of each petition filed under section 621 or 622 of the Act.

[Paragraphs (4) and (5) should be renumbered (3) and (4) respectively, but otherwise remain unchanged.]

Explanation

Public Law 86-631, approved July 12, 1960, amended section 678 to eliminate the necessity of sending copies of petitions filed under sections 621 and 622 of the Bankruptcy Act to the Secretary of the Treasury. Paragraph (3) of this general order should accordingly be deleted in furtherance of the legislative purpose to reduce the unnecessary transmission of papers.

RULES BY COURTS OF BANKRUPTCY

Each court of bankruptcy, by action of a majority of the judges thereof, may from time to time make and amend rules governing its practice in proceedings under the Act not inconsistent with the Act or with these general orders. Copies of rules and amendments so made by any court of bankruptcy shall, upon their promulgation, be ~~furnished to the Supreme Court of the United States and the Administrative Office of the United States Courts~~ distributed by the clerk of the district court as follows:

Two copies to the Library of the Supreme Court of the United States, Washington 25, D.C.; two copies to the Director of Libraries, Department of Justice, Washington 25, D.C.; two copies to the Comptroller General, General Accounting Office, Washington 25, D.C.; and four copies to the Administrative Office of the United States Courts, Washington 25, D.C.

Explanation

The change here proposed embodies the order of distribution of local rules of court established at the instance of the Supreme Court and conforms the general order to section 4.54 of the Clerks' Manual issued by the Administrative Office of the United States Courts.

FORMS IN BANKRUPTCY

Form No. 1

DEBTOR'S PETITION

Form No. 4

PARTNERSHIP PETITION

Form No. 5

CREDITOR'S PETITION

Several minor and presumably noncontroversial changes in Official Forms No. 1, 4 and 5 might properly be proposed here: (a) These three forms are all affected by the amendment to section 7a(8) of the Bankruptcy Act in 1952 which permits the list of creditors to show "their residences or places of business." (b) The "Act of Congress relating to bankruptcy" might properly be changed to the "Bankruptcy Act" wherever it appears in these forms, by virtue of 64 Stat. 1113 (1950). (c) The recitals regarding venue might appropriately be made to conform more closely to the statutory language of section 2a(1) of the Bankruptcy Act. It is nevertheless recommended that none of these changes be made at this time. These forms are printed and sold in large quantities by commercial concerns. It is believed that further study by this Committee will disclose other changes which should be made in these forms. While the same observation applies no doubt to the other official forms and the general orders that would be changed by the proposals herein made, it is thought that no other changes would have the effect of rendering obsolete any large inventory of forms or of entailing comparable printing costs. Accordingly, recommendations affecting Forms No. 1, 4 and 5 are postponed pending further study.

Form No. 7

ANSWER OF ALLEGED BANKRUPT

Since the oath is no longer required in connection with this form by virtue of Public Law 86-293, amending section 18c to eliminate the verification requirement as to all pleadings except



petitions for voluntary and involuntary bankruptcy, the form for the oath (being the last eleven lines of Form No. 7 as it is printed in 305 U.S. at 743) should be deleted. The National Bankruptcy Conference has approved this change.

Form No. 14

ORDER OF REFERENCE IN JUDGE'S ABSENCE

Since Public Law 86-64 repealed section 18f of the Bankruptcy Act and amended section 22a to provide for reference of all bankruptcy cases unless "the judge or judges direct otherwise," this form is no longer needed and should be deleted. The National Bankruptcy Conference has approved this change.

Form No. 17A

ORDER FOR FIRST MEETING OF CREDITORS

[To be used in cases where the filing fees are to be paid in installments]\*

(Caption as in Form No. 1)

At....., in said district, on the ... day of ....., 19....

It is ordered that the first meeting of creditors herein be held at ..... in the City of ....., County of ....., and State of ....., on ....., 19 ... , at ..... o'clock ... m., ..... time.

It is further ordered that the said (bankrupt) (debtor) be and appear before a referee of this court at the time and place appointed for said first meeting of creditors for the purpose of being examined as provided by the Bankruptcy Act.

\* The bracketed words should be italicized.  
+ Title is italicized.

.....  
Referee in Bankruptcy.+

Explanation

See Explanation infra under Form No. 43B.

Form No. 17B

NOTICE OF FIRST MEETING OF CREDITORS

[To be used in cases where the filing fees are to be paid in installments]\*

(Caption as in Form No. 1)

To the creditors of ..... , of ..... , a bankrupt:

Notice is hereby given that said .....  
has been duly adjudged a bankrupt on a petition filed by [or<sup>+</sup>  
against] him on ..... , 19 ... , and that the first meeting  
of his creditors will be held at ..... , in ..... ,  
on ..... , 19 ... , at .... o'clock ... m., ..... time, at  
which place and time the said creditors may attend, prove their  
claims, appoint a trustee, appoint a committee of creditors,  
examine the bankrupt, and transact such other business as may  
properly come before said meeting.

Dated at ..... , ..... , 19 ... .

.....  
Referee in Bankruptcy.®

\* The bracketed words should be italicized.  
+ Italicized.  
® Title is italicized.

Form No. 42A

ORDER FIXING TIME FOR FILING OBJECTIONS TO DISCHARGE

[To be used in cases where the filing fees have been paid in installments]\*

(Caption as in Form No. 1)

At ..... , in said district on the ..... day of .....  
19 ....

~~It appearing that the above named bankrupt has been duly ad-  
judged a bankrupt and has been duly examined at a meeting of  
creditors as required by the Act of Congress relating to bank-  
ruptcy, (if the bankrupt is a corporation, add + and it further  
appearing that said bankrupt filed its application for a discharge  
on the --- day of ---, 19 --- +)~~

It is ordered that the .... day of ..... , 19 ... , be,  
and it hereby is, fixed as the last day for the filing of objec-  
tions to the discharge of said bankrupt.

.....  
Referee in Bankruptcy.Ⓢ

- \* Words in brackets are italicized.
- + Seven immediately preceding words are italicized.
- Ⓢ Title is italicized.

Explanation

See infra under Form No. 43B.

Form 42B

ORDER FOR FIRST MEETING OF CREDITORS  
AND  
ORDER FIXING TIME FOR FILING OBJECTIONS TO DISCHARGE

[To be used in cases where the filing fees were paid in full at the time of filing]\*

(Caption as in Form No. 1)

At ....., in said district, on the ..... day of .....,  
19 ....

It is ordered that the first meeting of creditors herein be held at ....., in the City of ....., County of ....., and State of ....., on ....., 19 ... , at ..... o'clock ... m., ..... time.

It is further ordered that the above-named bankrupt be and appear before a referee of this court at the time and place appointed for said first meeting of creditors for the purpose of being examined as provided by the Bankruptcy Act.

And it is further ordered that the ..... day of ....., 19 ... , be, and it hereby is, fixed as the last day for the filing of objections to the discharge of said bankrupt.

.....  
Referee in Bankruptcy.+

\* Words in brackets are italicized.  
+ Title is italicized.

Explanation

See infra under Form No. 43B.

Form No. 43A

NOTICE OF ORDER FIXING TIME FOR FILING  
OBJECTIONS TO DISCHARGE

[To be used in cases where the filing fees have been paid in  
installments]\*

(Caption as in Form No. 1)

To the creditors of the above-named bankrupt and other parties  
in interest:

Notice is hereby given that on the ..... day of ..... ,  
19... , an order was made in the above-entitled proceeding, fix-  
ing the .... day of ..... , 19 .... , as the last day for  
the filing of objections to the discharge of said bankrupt.

Dated this ..... day of ..... , 19 .... .

.....  
Refer to in Bankruptcy+

\* The bracketed words should be italicized.  
+ Title is italicized.

Explanation

See infra under Form No. 43B.

Form No. 43B

NOTICE OF FIRST MEETING OF CREDITORS  
AND  
NOTICE OF ORDER FIXING TIME FOR FILING OBJECTIONS TO DISCHARGE

[To be used in cases where the filing fees were paid in full at  
the time of filing]\*

(Caption as in Form No. 1)

To the creditors and other parties in interest of .....  
of ....., in the County of ....., and district aforesaid,  
a bankrupt:

Notice is hereby given that said ..... has been  
duly adjudged a bankrupt on a petition filed by [or<sup>+</sup> against] him  
on ....., 19 ... , and that the first meeting of his  
creditors will be held at ....., in ....., on the  
.... day of .... at ..... o'clock ... m., .... time, at which  
place and time the said creditors may attend, prove their claims,  
appoint a trustee, appoint a committee of creditors, examine the  
bankrupt, and transact such other business as may properly come  
before said meeting.

Notice is also hereby given that on the ... day of .....,  
19 ... , an order was made in the above-entitled proceeding,  
fixing the .... day of ....., 19 ... , as the last day for  
the filing of objections to the discharge of said bankrupt.

Dated this .... day of ....., 19 ... .

\* The bracketed words  
should be italicized.  
+ Italicized.  
⊙ The title is italicized.

.....  
Referee in Bankruptcy.⊙

Explanation

(Respecting Forms No. 17A, 17B, 42A, 42B, 43A, and 43B)

Amendment of section 14b of the Bankruptcy Act by Public Law No. 82-275 in 1957 calls for changes in Forms No. 17, 42, and 43, and the proposals affecting these forms are accordingly considered together. Prior to the amendment, at least two separate notices were required to be given in every case. The first was the ten-day notice of the first meeting of creditors required by section 58a(3), and the second was the thirty-day notice of the last day fixed by the court pursuant to section 58b for the filing of objections to a bankrupt's discharge. Prior to the amendment this second notice could not ordinarily be combined with the first because the order fixing the last day for filing objections could not be entered until after the debtor's examination, which was typically held at the first meeting at least ten days after the first notice.

The 1957 amendment of section 14b permits the two notices to be combined in approximately two-thirds of all ordinary bankruptcy cases, where the costs are fully paid at the time of filing. This legislation was requested by the Administrative Office of the United States Courts to effect a substantial saving in expenditures for postage, clerical help, supplies, and equipment. Since the amendment the Administrative Office has prepared and provided printed forms for the use of referees in this most numerous class of cases, which combine the essential features of Official Forms No. 17 and 43. This form is designated as No. 43B.

The Administrative Office has also found it advantageous to prepare a combined "Order for First Meeting of Creditors and Order Fixing Time for Filing Objections to Discharge" for use by referees in cases where the filing fees have been paid in full at the time of filing. Since there has been no official form for the order fixing the date of the first meeting, the combined form adds appropriate new language to Form No. 42, the official form for the order fixing the time for filing objections to the discharge. This combined form has been revised slightly and is proposed as Official Form No. 42B.

The 1957 amendment of section 14b provides that the court shall fix the time for the filing of objections to the

bankrupt's discharge after the filing fees required by the Act have been paid in full. The order fixing the time for the first meeting of creditors must nonetheless be held within the time limits prescribed by section 55a. Accordingly it is sometimes necessary to separate the orders and notices dealing with the first meeting and the deadline for filing objections to the discharge.

The official forms now contain no form for an order for the first meeting of creditors. The Administrative Office of the United States Courts has prepared and provided such a form for use of referees, and the proposed Form No. 17A is an adaptation of that form for use in cases where the filing fees are to be paid in installments. Proposed Form No. 17B is an adaptation of present Form No. 17 for use in giving notice of the first meeting of creditors in such cases.

Form No. 42 for the order fixing the time for filing objections to the discharge is proposed to be renumbered Form No. 42A and, as revised, reserved for use in the cases where the filing fees have been paid in installments. Form No. 42 now contains a recital that the debtor has been duly examined at a meeting of creditors as required by the Act. The 1957 amendment of section 14b eliminates the examination as a prerequisite to the entry of an order fixing the last date for the filing of objections to the discharge. The recital that the bankrupt has been duly adjudged bankrupt or, if the bankrupt is a corporation, that a timely application for a discharge has been filed, does not appear to be a jurisdictional requirement of an order fixing the time for filing objections. (This is not to say of course that the necessity of an adjudication, or a timely application by a corporate bankrupt, can ever be dispensed with.) The instances when a corporation applies for a discharge are quite rare. The recitals therein being nonessential, it is recommended that the first paragraph of Form No. 42 be omitted from both the separate Form No. 42A and the combined Form No. 42B.

Proposed Form No. 43A is substantially present Form No. 43 but designated for use in the cases where the filing fees have been paid in installments.



Form No. 20

ORDER APPROVING APPOINTMENT OF TRUSTEE  
OR  
APPOINTMENT OF TRUSTEE BY REFEREE

(Caption as in Form No. 1)

At .... , in said district, on the ... day of .... , 19 ... .

[If the creditors elect a trustee, use paragraph (1) and strike paragraph (2); if the creditors fail to elect a trustee, use paragraph (2) and strike paragraph (1).]\*

(1) ..... , of ..... , having been appointed trustee of the estate of the above-named bankrupt by his creditors, as provided in the Bankruptcy Act, ef-Congress-relating-to-bankruptcy. ~~It~~ It is ordered that the appointment of said ..... , as trustee be, and it hereby is, approved, and the amount of his bond is fixed at ..... dollars.

(2) The creditors of the above-named bankrupt having failed to appoint a trustee as provided in the Bankruptcy Act, ef-Congress relating-to-bankruptcy, I hereby appoint ..... , of ..... , trustee of the his estate ~~ef-said-bankrupte~~, and fix the amount of his bond at ..... dollars.

.....  
Referee in Bankruptcy.+

\* The bracketed word should all be italicized.

+ Title is italicized.

Explanation

The proposed form is a consolidation of Form No. 20 and Form No. 21. The proposal carries out in part a recommendation approved by the Judicial Conference of the United States (see Conference Report, Sept. 1958, p. 29) that Official Forms No. 20, 21, and 24 be combined. Since Form No. 24 frequently cannot be executed until an interval after either Form No. 20 or Form No. 21 has been completed, it does not appear to be wise to attempt a consolidation of all three forms. Convenience and economy would be achieved nevertheless by providing a single form for the appointment of a trustee with mutually exclusive paragraphs applicable to the alternative modes of selecting a trustee. The Administrative Office of the United States Courts believes that, in the light of an expected increase in the appointment and use of trustees by virtue of the recent doubling of the trustee's fee pursuant to Public Law 86-504, approved June 11, 1960, the advantages of the single form will be substantial.

Form No. 21

APPOINTMENT OF TRUSTEE BY REFEREE

It is recommended that this form be consolidated with Form No. 20, as noted above.

Form No. 22

NOTICE TO TRUSTEE OF HIS APPOINTMENT

[To be used in cases where the time for filing objections to the bankrupt's discharge has not been fixed]\*

(Caption as in Form No. 1)

To ..... , of ..... :

I hereby notify you that you were duly appointed trustee

[or+ one of the trustees] of the estate of the above-named

bankrupt at the first meeting of creditors, on the ..... day of

\* The bracketed words should all be italicized.

+ Italicized.

..... , 19 ... , and I have approved said appointment. The amount of your bond as such trustee has been fixed at .... dollars. You are required to notify me forthwith of your acceptance or rejection of the trust.

Dated at ..... , the ..... day of ..... , 19 ... .

.....  
Referee in Bankruptcy. Ⓢ

Ⓢ Title is italicized.

Form No. 22A

NOTICE TO TRUSTEE OF HIS APPOINTMENT AND  
NOTICE OF TIME FIXED FOR FILING OBJECTIONS TO DISCHARGE

[To be used in cases where the time for filing objections to the  
bankrupt's discharge has been fixed]\*

(Caption as in Form No. 1)

To .... , of .....

I hereby notify you that you were duly appointed trustee [or<sup>x</sup> one of the trustees] of the estate of the above-named bankrupt at the first meeting of creditors, on the .... day of ....., 19 ... , and I have approved said appointment. The amount of your bond as such trustee has been fixed at .... dollars. You are required to notify me forthwith of your acceptance or rejection of the trust.

You are further notified that the ..... day of ..... ,  
19 ... , has been fixed as the last day for the filing of

\* The bracketed words should all be italicized.  
x Italicized.

objections to the discharge of said bankrupt.

Dated at ..... , the .... day of ..... , 19 ... .

.....  
Referee in Bankruptcy.®

® Title is italicized.

#### Explanation

On February 28, 1958, General Order 16 was amended to read as follows:

"It shall be the duty of the referee, immediately upon the appointment and approval of the trustee, to notify him in person or by mail of his appointment and of the time fixed for the filing of objections to the bankrupt's discharge if such time has been fixed; and the notice shall require the trustee forthwith to notify the referee of his acceptance or rejection of the trust, and shall contain a statement of the penal sum of the trustee's bond." (The underlined words were inserted by the amendment.)

This change was made necessary by the amendment of section 14b of the Bankruptcy Act in 1957 (discussed above in connection with proposed changes in Forms No. 17, 42, and 43).

No change is required in Form No. 22 when the time for filing objections to the discharge has not been fixed, but it is proposed that it be indicated on the form following its title that it is to be used only in cases where the time for filing objections to the bankrupt's discharge has not been fixed.

In cases where the time for filing objections to the discharge has been fixed at the time notice is given to the trustee of his appointment, a new form is needed to comply with General Order 16. The Administrative Office has been providing referees a form for this purpose, which is recommended for adoption as Form No. 22A.

Form No. 28

PROOF OF CLAIM BY INDIVIDUAL

Form No. 29

PROOF OF CLAIM BY CORPORATION

Form No. 30

PROOF OF CLAIM BY PARTNERSHIP

Form No. 31

PROOF OF CLAIM BY AGENT OR ATTORNEY

The provision for the oath at the foot of each of these forms should be deleted by virtue of the elimination of the verification requirement for a proof of claim by Public Law 86-519, approved June 12, 1960. It is recommended, however, that the following note be added at the end of each proof of claim:

PENALTY FOR PRESENTING FRAUDULENT CLAIM.-Fine of not more than \$5,000 or imprisonment for not more than five years or both - Title 18, U.S.C., §152.

These forms require further study and possible revision. Consideration of other changes is postponed for the present.

Form No. 35

PETITION FOR SALE OF REAL ESTATE

Form No. 37

PETITION FOR REDEMPTION OF PROPERTY

Form No. 40

REPORT OF TRUSTEE IN NO ASSET CASE

Form No. 41

PETITION FOR DISCHARGE

Form No. 44

SPECIFICATION OF OBJECTIONS TO DISCHARGE

Form No. 50

APPLICATION FOR CONFIRMATION OF AN  
ARRANGEMENT UNDER CHAPTER XI

Form No. 55

APPLICATION FOR CONFIRMATION OF AN  
ARRANGEMENT UNDER CHAPTER XII

Form No. 60

APPLICATION FOR CONFIRMATION OF AN  
ARRANGEMENT UNDER CHAPTER XIII

The oath should be stricken from these forms pursuant to Public Law 86-293. The National Bankruptcy Conference has approved these changes. Other possible changes in these forms (such as the substitution of "application" for "petition" in a number of instances) are postponed for later consideration.

Form No. 48

ORIGINAL PETITION IN PROCEEDINGS UNDER CHAPTER XI

(Caption as in Form No. 1)

[No change in opening.]

1. Your petitioner has had his principal place of business [or\* has resided, or\* has had his domicile] at ..... , within the above judicial district for the six months [or\* for a longer portion of the six months] immediately preceding the filing of this petition than in any other judicial district.

[No change in paragraph 2.]

3. Your petitioner is insolvent [or\* unable to pay his debts as they mature], and proposes the following arrangement with his unsecured creditors: .....

.....  
[or\* intends to propose an arrangement pursuant to the provisions of Chapter XI of the Bankruptcy Act.]

[No changes in paragraphs 4, 5, 6, and 7.]

Wherefore your petitioner prays that proceedings may be had upon this petition in accordance with the provisions of chapter XI of the Bankruptcy Act of Congress relating to bankruptcy.

.....,  
Petitioner.\*

....., Attorney.\*

[No change in verification.]

\* Italicized.

Explanation

The change in the first paragraph conforms the language of the form more closely to that in section 2a(1) of the Bankruptcy Act.

The principal change is that in paragraph 3 to accommodate a petition not accompanied by the proposed arrangement, as permitted by the amendment of section 323 in 1958.

The change in the concluding paragraph simply employs the official short title of the Act.

These changes are all recommended by the National Bankruptcy Conference.

Form No. 49

NOTICE OF MEETING OF CREDITORS IN PROCEEDINGS UNDER  
CHAPTER XI

(Caption as in Form No. 1)

To the creditors of ..... , of ..... , in the County of ..... , and district aforesaid:

Notice is hereby given that on the ..... day of ..... , 19... , the said ..... filed a petition in this court proposing [or\* stating that he intended to propose] an arrangement with his unsecured creditors under the provisions of chapter XI of the Bankruptcy Act of Congress relating to bankruptcy, and that a meeting of his creditors will be held at ..... , in ..... , on the .... day of .... , 19 ... , at .... o'clock ~~in the-noon~~ , ... M., ..... time, at which place and time the said creditors may attend, prove their claims, nominate a trustee, appoint a committee of creditors, examine the debtor, present written



acceptances of the proposed arrangement, if filed, and transact such other business as may properly come before said meeting.

Annexed hereto ~~is~~ are, if filed, a copy of the proposed arrangement, a summary of the liabilities of said debtor as shown by his schedules, and a summary of the appraisal of the property of said debtor [or\* a summary of the assets of said debtor as shown by his schedules].

[No change in the remaining portion of this form.]

\* Italicized.

#### Explanation

Section 323 as amended in 1958 requires revision of the first two paragraphs of this form as indicated. These changes are approved by the National Bankruptcy Conference.

Form No. 50

#### APPLICATION FOR CONFIRMATION OF AN ARRANGEMENT UNDER CHAPTER XI

(Caption as in Form No. 1)

To .... , Referee in Bankruptcy:

..... , the above-named debtor, respectfully represents that the arrangement under chapter XI of the Bankruptcy Act of Congress relating to bankruptcy, proposed ~~in the petition filed by him~~ on the .... day of ..... , 19 ... , has been duly accepted, in accordance with the provisions of said chapter, and that the deposit required by the provisions of said chapter and

by the said arrangement, amounting to the sum of .... dollars,  
has been deposited, subject to the order of the court, in .... ,  
of ..... , the depository designated by the court.

Wherefore the said debtor prays that the said arrangement  
be confirmed by the court.

.....,  
Debtor.\*

\* Italicized

Explanation

These proposed changes are required for the same reasons as  
those proposed for Form No. 49 and are approved by the National  
Bankruptcy Conference.

Form No. 51

ORDER CONFIRMING AN ARRANGEMENT UNDER CHAPTER XI  
(WHERE ALL AFFECTED CREDITORS HAVE ACCEPTED)

(Caption as in Form No. 1)

At .... , in said district, on the ..... day of .... ,  
19 ... ,

A petition having been filed herein on the .... day of .....,  
19 ... , by the above-named debtor, ~~proposing~~ an arrangement under  
chapter XI of the Bankruptcy Act of Congress relating to bankruptcy,  
having been proposed and said arrangement having been accepted in  
writing by all creditors affected thereby, at a meeting of credi-  
tors held on the ... day of ... , 19 ...., of which meeting ...  
days' notice by mail was given to said debtor, to his creditors,

and to other parties in interest; and

It appearing that the deposit required by the provisions of said chapter and by said arrangement, amounting to the sum of .... dollars, has been deposited, subject to the order of the court, in .... , of ..... , the depository designated by the court, and that said arrangement and its acceptance are in good faith and have not been made or procured by any means, promises, or acts forbidden by said Act;

It is ordered that the said arrangement be, and it hereby is, confirmed.

..... ,  
Referee in Bankruptcy.\*

\* Italicized.

#### Explanation

These changes are made for the same reasons as those made in the two immediately preceding forms.

#### Form No. 52

ORDER CONFIRMING AN ARRANGEMENT UNDER CHAPTER XI (WHERE  
LESS THAN ALL AFFECTED CREDITORS HAVE ACCEPTED)

(Caption as in Form No. 1)

At .... , in said district, on the ... day of ... , 19 ... ,

The application of ..... , the above-named debtor,  
for confirmation of the arrangement under chapter XI of the  
Bankruptcy Act of Congress relating to bankruptcy, proposed by

~~him said-debtor-in-the-petition-filed-by-him-on-the-19th-day-of~~  
~~19-19-19-19~~ having been heard and duly considered; and due  
notice of said hearing having been given [here state the manner  
of notice]\*; and [here state the proceedings, whether there was  
no opposition, or if opposed, what proceedings were had]\*; and

[No change in remaining paragraphs.]

.....  
Referee in Bankruptcy.+

\* The bracketed words are italicized.

+ Title is italicized.

Explanation

These changes are necessary for the same reasons as those  
requiring changes in the three preceding forms.

Form No. 58

ORIGINAL PETITION IN PROCEEDINGS UNDER CHAPTER XIII

(Caption as in Form No. 1)

[No change in opening.]

1. Your petitioner has resided [or\* has had his domicile]  
at .... , within the above judicial district, for the six months  
[or for a longer portion of the six months] immediately preceding  
the filing of this petition than in any other judicial district.

2. Your petitioner ~~works-for-wages-for-salary-or-hire~~  
~~at-a-rate-of-compensation-which-when-added-to-all-his-other~~  
~~income-does-not-exceed-\$3,600-per-year~~ is an individual whose

principal income is derived from wages, salary or commissions.

[No change in paragraphs 3 and 4.]

5. The schedule hereto annexed, marked Schedule A, and verified by your petitioner's oath, contains a full and true statement of all his debts, and, so far as it is possible to ascertain, the names and places of residence or of business of his creditors, and such further statements concerning said debts as are required by the provisions of the Bankruptcy Act of Congress relating to bankruptcy.

[No change in paragraphs 6, 7 and 8.]

Wherefore your petitioner prays that proceedings may be had upon this petition in accordance with the provisions of chapter XIII of the Bankruptcy Act of Congress relating to bankruptcy.

.....,  
Petitioner.\*

....., Attorney.\*

[No change in verification.]

\* Italicized.

Explanation

The first paragraph is revised to conform more closely to the statutory language of section 2a(1) of the Act. Other conforming changes in paragraph 5 and the last paragraph use the short title of the Act.

The principal changes here are in paragraphs 2 and 5. The 1959 amendment to section 606(8), effected by Public Law 86-24, requires an amendment in paragraph 2 to conform with the new statutory definition of a wage earner as "an individual whose

principal income is derived from wages, salary or commissions." The insertion of the reference to creditors' places of business in paragraph 5 recognizes the change made in section 7a(8) by the amendment of 1952.

These changes are all approved by the National Bankruptcy Conference.

Form No. 53

DEBTOR'S PETITION IN PROCEEDINGS UNDER SECTION 75 OF THE  
BANKRUPTCY ACT

Form No. 64

ORDER APPROVING DEBTOR'S PETITION IN PROCEEDINGS UNDER  
SECTION 75

Form No. 65

ORDER OF REFERENCE IN PROCEEDINGS UNDER SECTION 75

Form No. 66

BOND OF CONCILIATION COMMISSIONER

Form No. 67

NOTICE OF FIRST MEETING OF CREDITORS IN PROCEEDINGS UNDER  
SECTION 75

Form No. 68

APPLICATION FOR CONFIRMATION OF A COMPOSITION OR EXTENSION  
PROPOSAL UNDER SECTION 75

Form No. 69

ORDER CONFIRMING A COMPOSITION OR EXTENSION PROPOSAL UNDER  
SECTION 75

These forms may be eliminated inasmuch as the time for filing new cases under section 75 (Agricultural Composition and Extension) expired March 1, 1949. There were only nine cases pending under section 75 on December 31, 1959. These should be closed in the near future.