

REPORT OF THE COMMITTEE
ON THE RULES OF PRACTICE AND PROCEDURE

TO THE CHIEF JUSTICE OF THE UNITED STATES, CHAIRMAN; AND
MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

Your Standing Committee on the Rules of Practice and Procedure met at Washington, D. C. on August 26 and 27, 1976. All members of the committee were present except Judge Carl McGowan and Richard D. Kyle who were unavoidably absent. During a portion of the meeting your committee met with the Advisory Committee on Rules of Criminal Procedure as noted below.

BANKRUPTCY RULES

On April 26, 1976, the Supreme Court, on recommendation of the Judicial Conference, approved the rules and forms governing proceedings under Chapters VIII and IX of the Bankruptcy Act and rules and forms amending certain rules and forms previously prescribed pursuant to Chapters I through VII, XI and XIII of the Bankruptcy Act. These rules became effective August 1, 1976 and thus completed the work of the Advisory Committee on Bankruptcy Rules. The committee

which had been in session periodically for more than 10 years, was discharged with an expression of appreciation of the Conference for its achievement.

CRIMINAL RULES

On April 26, 1976 the Supreme Court also approved and transmitted to the Congress amendments to certain of the Rules of Criminal Procedure, as well as rules and forms governing section 2254 cases in the United States district courts and the rules and forms covering section 2255 proceedings in the United States district courts. The Congress subsequently enacted legislation which was approved by the President on July 8, 1976 and signed into law as Public Law 94-349 changing the effective date of certain of these rules and amendments to rules as follows:

1. The amendments to Rules 6(e), 23, 24, 40.1 and 41(c)(2) of the Rules of Criminal Procedure shall not take effect until August 1, 1977, or until and to the extent approved by Act of Congress, whichever is earlier;
2. The remaining amendments to Rules of Criminal Procedure, namely amendments to Rules 6(f), 41(a), 41(c)(1), and 50(b) are not changed by PL 94-349 and hence shall become effective August 1, 1976,

We further recommend that the report of the Advisory Committee transmitting the proposed amendments, also set out in Appendix A, be submitted to the Supreme Court together with the proposed amendments. If the proposed amendments are approved by the Supreme Court, we suggest that the Advisory Committee's report also be transmitted to the Congress.

Bankruptcy Rules

A new Advisory Committee on Bankruptcy Rules has been appointed by the Chief Justice to consider amendments to the Rules of Bankruptcy Procedure required by the new Bankruptcy Code, which becomes effective on October 1, 1979. Judge Ruggero J. Aldisert of the Third Circuit is Chairman of the new Committee which comprises a group of district judges, bankruptcy judges, law professors and members of the bankruptcy bar. The Bankruptcy Rules Committee met on June 14th and 15th, and again on July 11th and 12th, to plan the task of amending the bankruptcy rules and to consider interim rules or guidelines for the application of existing bankruptcy rules to bankruptcy cases commenced under the new Code.

A transition provision in the Bankruptcy Code, Public Law 95-598, Sec. 405(d) provides as follows: