

MINUTES OF THE JUNE 1963 MEETING
OF THE ADVISORY COMMITTEE ON BANKRUPTCY RULES

The fourth meeting of the Advisory Committee on Bankruptcy Rules convened in the Supreme Court Building on June 20, 1963, at 9:30 a. m. The following members were present during the session:

Phillip Forman, Chairman
Edwin L. Covey
Edward T. Gignoux
G. Stanley Joslin
Norman H. Nachman
Stefan A. Riesenfeld
Charles Seligson
Roy M. Shelbourne
Estes Snedecor
Arthur J. Stanley, Jr.
Elmore Whitehurst
Frank R. Kennedy, Reporter

Mr. Gibson was unable to attend the meeting. Others attending were Judge Albert B. Maris, Chairman of the standing Committee on Rules of Practice and Procedure; Professor James Wm. Moore, a member of the standing Committee; Will Shafroth, Secretary of the Rules Committees, and Joseph F. Spaniol, Jr., of the Administrative Office.

The Chairman opened the meeting by welcoming Mr. Covey as a member of the Committee, following his appointment by the Chief Justice in December.

Judge Forman discussed the future plans of the Committee, and suggested that the Committee meet in November in order to make final proposals on materials to be included in a preliminary draft for the bench and bar. He further suggested another meeting in April to work on further proposals for publication. Professor Moore favored delaying publication until all the General Orders and Official Forms can be included in one pamphlet, and Judge Maris was inclined to the same view. The Committee agreed to set November 20-23, 1963, as the tentative dates for the next meeting.

ITEM 1. General Orders 44, 45, and 35(3).

The Committee first considered the draft of G. O. 44, as approved by the Committee on Style.

Professor Riesenfeld stated that he would prefer the use of "made" or "issued" in place of "entered" as the main verb in the second sentence of paragraph (1) and wherever else appropriate in this general order and throughout the general orders. Judge Maris agreed that since the Civil Rules Committee

has given a special meaning to "entering" an order, it would be better to use one of the words Professor Riesenfeld suggested. The Committee voted to substitute "made" for "entered" in all the general orders in which this meaning is appropriate.

Mr. Nachman questioned the need for the phrase "Notwithstanding the foregoing sentence" in paragraph (1) of G. O. 44. Professor Seligson explained that it was necessary to make clear that the new sentence qualifies the one preceding it. A motion was made to delete the words "Notwithstanding the foregoing sentence and" from the new sentence of paragraph (1). The motion was lost.

After a full discussion, it was the consensus of the Committee that this General Order does not apply to regularly employed members of the accounting or legal departments of the debtor, and that it is not necessary to have the approval of the court when new lawyers or accountants are hired for these departments. Professor Seligson moved that regularly employed accountants and attorneys be excluded from G. O. 44, and the motion was carried.

On motion of Mr. Nachman, as amended by Professor Seligson, the following was adopted as paragraph (3) of G. O. 44:

"Upon application of a receiver or trustee, the court may authorize the receiver or trustee to act as an attorney or accountant for the purpose or purposes set forth in the order of authorization, if such authorization is in the best interest of the estate."

Judge Gignoux suggested that in the last line of paragraph (1) "purpose or" be inserted before "purposes" in order to make it consistent with the language adopted for paragraph (3). The Committee voted instead to delete "purpose or" from paragraph (3).

The Committee next discussed the desirability of providing authorization for the court to permit a general retainer to permit the receiver to act as an accountant or attorney, as provided in the last sentence of paragraph (1). Mr. Nachman approved of this authorization in rare cases, and Professor Seligson moved that the Committee approve the provision. Professor Moore suggested language such as "A general retainer shall be the exception and not the rule." Judge Gignoux objected to this suggestion, as he felt it should be the usual procedure in small cases for the trustee to act as his own attorney. The Committee voted to reconsider its action on G. O. 44(3), and upon reconsideration, voted to adopt paragraph (3) as originally drafted by the Style Committee.

General Order 45.

This general order was approved by the Committee as drafted.

General Order 35(3).

Professor Riesenfeld suggested that "by the Act" be inserted after "allowed" in the first sentence, and without objection it was so ordered. He also called the attention of the Committee to his suggestion for the last sentence of 35(3), as set out in his memorandum of June 10. After a full discussion, Judge Snedecor moved that the Committee approve the language as drafted, and Professor Seligson suggested an amendment to the motion, adding the words "of him" after "required" in the last sentence of 35(3). The motion as amended was carried.

ITEM 1A. General Order 44.

The Committee discussed the subject of employment and compensation of attorneys for creditors' committees, and the extent of the power of the bankruptcy court over the creditors' committees. Mr. Nachman expressed approval of court control over attorneys for committees. Professor Seligson felt that the attorney for any committee under chapter XI should be required to make an application to the court and have the court fix his compensation whether or not payment is to be made from the estate.

Professor Joslin moved that the jurisdiction of the court be further extended to cover selection of the attorney for the creditors' committee. This motion was unanimously carried. Professor Riesenfeld moved that the court have power to supervise the compensation an attorney can receive even if it is not from the estate. This motion was also unanimously carried.

Judge Gignoux moved that a subcommittee be appointed by the Chairman to confer with the Reporter and work out a draft to carry out the foregoing policy decisions relating to creditors' committees. The motion was carried, and at a later time the Chairman appointed Mr. Nachman and Professor Seligson as a subcommittee.

ITEM 2. General Order and Official Forms for Installment Fee Cases.

General Order 35A.

As a result of suggestions made by Mr. Nachman, Professor Riesenfeld, and other members of the Committee, the following changes were made in the

draft of G. O. 35A:

Paragraph (1). The first sentence was amended to read as follows: "A petition for voluntary bankruptcy or for relief under chapter XIII of the Act may be accepted for filing by the clerk of the district court if accompanied by an application signed by the petitioner for permission to pay the filing fees in installments." The last sentence was amended to read in part ". . . one copy for the clerk and one for the referee."

Paragraph (2). In the first sentence, "make" was substituted for "enter."

Paragraph (3). The phrase "initiated by the petition" was stricken.

Form No. 1A. Application to Pay Filing Fees in Installments.

The following changes were made in Form No. 1A:

The words "for Permission" were deleted from the title and caption of the form.

Paragraph 1. This paragraph was amended to read as follows: "Applicant is filing herewith a voluntary petition in bankruptcy [or a petition under chapter XIII of the Bankruptcy Act]."

Paragraph 4. This paragraph was amended to read as follows: "He has paid no money to his attorney for services in connection with this proceeding, and he will make no payment to his attorney for such services until the filing fees are paid in full."

In the Wherefore clause, "the" was stricken after "Wherefore".

Form No. 1B. Order Permitting Payment of Filing Fees in Installments.

Mr. Wachman suggested amending the first paragraph of the form as follows: ". . . having been duly heard;" and further suggested striking "the amount of" from the second paragraph. These suggestions were adopted.

Judge Snedecor moved that the listing of "\$ _____ on or before _____, 19__" be deleted. He felt that leaving a blank would make it simpler for the referees to fill in the schedule for paying the fees. This suggestion was adopted without objection.

ITEM 3. Official Forms for Petitions.

Form No. 1. Petition for Voluntary Bankruptcy.

Professor Riesenfeld suggested that the title be changed as appears above in order to correspond with the amended language of G. O. 35A.

Professor Kennedy stated that the Committee on Style had decided that brackets should be retained in several of the forms, and should be included before "or" and after "district" in this form and in several others where this language appears.

After some discussion, it was the consensus of the Committee that the deleted language of the first paragraph, giving a more complete address and the occupation of the petitioner, is necessary in many cases, and the Committee directed that this information be restored. The exact arrangement and wording were left to the Committee on Style.

At Mr. Nachman's suggestion, "under" was substituted for "within" in the Wherefore clause. Judge Maris suggested that in the bracketed paragraph following the form the last word be changed from "verified" to "sworn to" in order to make the meaning clearer. Professor Kennedy suggested "verified under oath" and this language was adopted without objection.

The Committee interrupted its consideration of Item 3 at this point and moved to other items where policy questions were involved, at the request of Professor Seligson.

ITEM 7. General Order 4.

The Committee first discussed the question of creditors acting as attorneys for other creditors under powers of attorney. Judge Snedecor objected to creditors representing other creditors, and particularly to solicitation of powers of attorney from other creditors. Professor Seligson stated that the statute includes in the definition of creditor a person who has been given a power of attorney to act for a creditor, even if he is a creditor himself.

As a result of the Committee discussion, paragraph (1) was split into two paragraphs, which read as follows:

"(1) In a proceeding, a bankrupt, debtor, creditor or other party may appear either in his own behalf or by an attorney authorized to practice in the court. A creditor may also act by a duly authorized agent, attorney in fact, or proxy.

"(2) An attorney appearing for a party shall file a notice of appearance, and his name and business address shall be entered upon the docket or claim register, with the date of the entry. "

The succeeding paragraphs were renumbered in accordance with this amendment, and were approved as drafted.

The Committee agreed, on the suggestion of Professor Joslin, that as a matter of policy, the word "attorney" will be construed to mean "attorney at law", and will only be qualified when the desired meaning is "attorney in fact. "

Judge Gignoux felt it should be made clear that the power of attorney will be limited so as not to permit the attorney in fact to act as an attorney at law. Professor Kennedy explained that his power was limited by the provisions of Official Forms 18 and 19, which specifically state that no power is given to act as an attorney at law.

ITEM 9. Official Forms 18 and 19.

Form No. 18. General Power of Attorney.

Professor Joslin suggested that the last phrase of the form read "in general to act for the undersigned as an attorney in fact in all matters arising in this proceeding. " This would avoid the prohibition against acting as an attorney at law. Mr. Whitehurst and Professor Riesenfeld suggested the following: "in general to perform any act, not constituting the practice of law, for the undersigned in all matters arising in this proceeding. " The Committee approved this formulation, but referred to the Reporter the task of working out the precise language to carry out the principle which the Committee approved.

At Mr. Nachman's suggestion, the Committee voted to delete the words "under the Bankruptcy Act" from the first sentence of Form No. 18.

It was agreed that the last paragraph beginning "In witness whereof" should be omitted. Judge Maris suggested that after the date line of the form it should say simply "Signed:" with the required address and other information which follows the signature line. The Committee approved the following revision:

Signed: _____
[If appropriate] by _____
as _____
Address: _____

"In the presence of _____" was deleted.

At Mr. Covey's suggestion, the Committee voted to amend the address line in forms 18 and 19 to eliminate the word "in" so that the forms would read:

"To _____, of _____, _____, and _____, of _____, _____:"

Judge Gignoux suggested that in the corporate acknowledgment the word "a" be deleted before "_____ of the corporation named above . . .". This suggestion was adopted by the Committee.

Form No. 19. Special Power of Attorney.

The Committee agreed to apply the decisions as to the form of Form No. 18 to Form No. 19.

Judge Stanley noted that the phrase "with full power of substitution" would not necessarily be desired by all claimants, and Judge Maris suggested including the phrase in brackets. Judge Gignoux suggested that the first sentence be amended to read as follows: "The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned, [with full power of substitution,] to" This suggestion was adopted by the Committee.

At Mr. Nachman's suggestion the corporate acknowledgment in Form No. 19 was amended to read in part ". . . that he is a member of the partnership named above and has been duly authorized . . .". The same change was approved for Form No. 18.

Professor Kennedy brought the Committee's attention to his memorandum of June 6th on the subject of clarifying the implied authority of an attorney at law for a creditor. His own suggestion was to leave the matter to local rules. After some discussion, the Committee agreed, but Professor Moore stated that local rules which require a local attorney to file a proof of claim should be prevented if possible.

ITEM 8. General Order 21. Proofs of Claim

The Committee agreed to delete "or attorney" after "duly authorized agent" in paragraph (1). Judge Gignoux suggested that the words "and filed" be added after "executed" in paragraph (1) so as to make it clear that a non-resident attorney may file a proof of claim when he is acting as an agent for a creditor. This would meet Professor Moore's point as stated above. Without objection, this suggestion was adopted.

The Committee next discussed the case where the creditor executes the proof of claim and the attorney files it. After a full discussion, the Committee agreed that the attorney's authorization to file the proof of claim is implied in G. O. 4, paragraph 3, as amended, and by the first sentence of G. O. 21(1), i. e., ". . . may be executed and filed by the creditor or by his duly authorized agent." The Committee agreed that the authority of the agent to execute the claim must be stated, and Judge Gignoux suggested the following language: "If executed by an agent, his authority shall be stated in the proof of claim. After further discussion, the following was adopted as General Order 21(1):

"(1) A proof of claim against an estate shall contain a caption as prescribed by General Order 5, shall be filed as provided in General Order 2, and may be executed and filed by the creditor or by his duly authorized agent. If executed by an agent, his authority to do so shall be stated therein."

The Reporter was instructed to draft appropriate language in the rule or in the note which would make clear that this General Order would supersede local rules which do not permit a nonresident attorney to file proofs of claim for a creditor.

The meeting was adjourned at 5:45, June 20.

The meeting reconvened at 9:00, June 21.

The Committee next discussed the drafts of G. O. 21(2)(a) and 21(2)(b) relating to transfers of claims. Professor Riesenfeld suggested making (a) and (b) two separate numbered paragraphs of the general order. He further suggested that the first sentence of 21(2)(a) read in part ". . . the proof of such claim shall be supported by . . .". This suggestion was adopted. Professor Kennedy suggested that "transferor" (contained in brackets in the draft) be substituted for "original owner", and this suggestion was adopted.

Professor Joslin raised the question of the quick transfer which occurs after bankruptcy and before the proof of claim. He questioned whether the rule should cover the consideration for the transfer as well as the consideration for the original debt. Mr. Nachman stated that in his opinion the General Order should only cover the consideration for the original debt. He felt that if the claimant acquired the claim after bankruptcy had started, it was not an undue burden on him to get the information as to the original debt, in order to be able to substantiate the claim.

After further discussion, Judge Gignoux moved that it be the sense of the Committee that in the event of the assignment of a claim after the commencement of a proceeding but before proof of claim has been filed, it is neither necessary

nor desirable to require a statement of the transferor or the original owner setting forth the consideration for the original debt, the payments made thereon, and the security held therefor. He further moved that it be the sense of the Committee that it may be desirable to require a statement by the transferor in these circumstances acknowledging the transfer and setting forth the true consideration for the transfer, and that the matter be referred to the Reporter for further consideration and report back to the Committee. These motions were carried.

The Committee next considered the Reporter's draft of G. O. 21(2)(b), which concerns transfers which are made after proof of claim has been filed. Professor Riesenfeld suggested that the first sentence be amended to read as follows: "If a claim has been transferred after proof thereof has been filed and if satisfactory proof of the transfer has been filed, the court shall . . .". The Chairman referred this suggestion to the Reporter for his consideration.

Mr. Whitehurst suggested that "satisfactory" be deleted, as it raises a question as to the meaning of satisfactory proof, and this suggestion was adopted.

Professor Riesenfeld stated that he felt the word "subrogate" in 21(2)(b) was too broad, and should be replaced with a phrase which would take account of the provisions of subdivision (2)(c). The Committee directed that the Reporter study this problem further and make a recommendation at the next meeting of the Committee.

Judge Gignoux suggested that the last sentence be amended to refer to the court as "it" and "the court" in place of "he." This suggestion was adopted.

Mr. Covey moved approval of the Reporter's draft, subject to the amendments set out above, and the motion was carried.

G. O. 21(2)(c). Professor Kennedy stated that this section deals with the assignment of claims for security. He stated that the cases were conflicting as to the rights of an assignee for security. Professor Moore stated that under the draft the transferor gets the right to file the proof of claim substantially after the first meeting of creditors. He questioned whether the transferor should not be permitted to file at or before the first meeting. To implement this change, "transferor or" would be added before "transferee" in the first sentence, and the second sentence would be deleted.

After further suggestions for changes from various members of the Committee, subparagraph (c) of General Order 21(2) was adopted as follows:

"(c) If a claim has been transferred for security, the transferor or transferee may file a proof of claim for the full amount, which proof shall set forth the terms of such transfer. No dividend shall be paid upon such claim, except upon satisfactory proof that the original debt will be diminished by the amount so paid. If both transferor and transferee file proofs of the same claim the proofs shall be consolidated, and the court shall make such orders respecting voting of the claim, payment of dividends thereon, and participation in the administration of the estate as will protect the interests of the estate and the parties."

G. O. 21(3). Professor Moore raised the question whether a person who has pledged stock or given property for security, but has not given his "individual undertaking", is covered by this subdivision. He felt that these types of security should be covered by this provision. After some discussion, the Committee voted to delete "by his individual undertaking" from the first sentence of 21(3) and to give an explanation of the deletion in the Committee Note. The subdivision was approved as amended.

G. O. 21(4). Professor Kennedy went over with the Committee Professor Seligson's reservations on this section, set out in the covering memorandum on G. O. 21. After a full discussion, the last sentence of G. O. 21(4) was amended to read as follows:

"If the application is granted, the court may, upon notice and after opportunity to be heard, make any order with respect to the claim which may be appropriate."

The Committee further voted that the Committee Note should express a broad concept of allowance, disallowance, etc.

ITEM 10. Proofs of Claim.

Form No. 28. Short Form for Proof of Claim by Wage Earner.

After a full discussion of the language and purpose of this form, the Committee agreed that the present draft was not acceptable, and referred it back to the Reporter for further study and report to the Committee.

Form No. 29. Combined Official Form for Proof of Claim.

Professor Kennedy stated that in accordance with decisions of the Committee on the previous day, all the "in"s in the address blanks in this form should be

deleted, as should the words "or attorney" in two places in subparagraph 4 of paragraph 1. Mr. Nachman suggested that the words "if any" be added after "security" in paragraph 10, that the bracketed sentence be amended to add "below" after indicate", and that a space be left between paragraphs 10 and 11 for such information to be inserted. These suggestions were adopted.

After some discussion, the Committee voted to retain the numbering of the paragraphs as set out in the draft, and voted to amend the first sentence of paragraph 10 as follows:

"10. This claim is a general, unsecured claim, except to the extent that the above security, if any, is sufficient to satisfy the claim."

ITEM 11. Form No. 33. Order on Reconsideration of Claim.

Professor Kennedy stated that this form had been adapted, at the suggestion of the Style Committee, for use in chapter XI and chapter XIII proceedings. Judge Snedecor moved that the form be eliminated. He felt that the form was a remnant from the days when referees in bankruptcy were laymen in many cases. The motion to eliminate Form No. 33 was carried.

ITEM 3. Official Forms for Petitions.

Form No. 1. Petition for Voluntary Bankruptcy.

This form was considered on June 20th, and the decisions of the Committee are reported on page 5 of the Minutes.

Form No. 4. Joint Partnership and Partners' Petition for Voluntary Bankruptcy.

The following changes were made in Form No. 4 and approved by the Committee:

1. The title was changed as set out above.
2. A blank was added after the firm name for indicating the address of the firm, i. e., "under the firm name of _____, at _____, _____, file ...".
3. In the last paragraph of the form "with the Act" was changed to "under the Act."
4. Another line was provided for a signature in the case of the petitioners signing instead of the attorney.

Form No. 5. Creditors' Petition for Bankruptcy.

The Committee approved the following changes in this form:

1. The title was amended to read as above.
2. The designation was amended to read "Creditors' Petition".
3. In the attestation, "therein" was substituted for "in the foregoing petition" in line 4 of the paragraph.
4. The Reporter was instructed to include in the note mention of the filing of a creditors' petition by less than three creditors.

Form No. 48. Original Petition Under Chapter XI.

The Committee approved the following changes in this form:

1. The title was amended to read as above.
2. The caption was amended to read "Proceeding for an Arrangement Under Chapter XI. No. _____."
3. The more detailed address, business name and address, etc., which was restored in Form No. 1, was also restored in this form, and the Committee directed that it be contained in a separate paragraph.
4. In paragraph 1, "whose address is _____, _____" was deleted.
5. In paragraph 2, the commas were deleted.
6. Mr. Whitehurst suggested that paragraph 3 be redrafted by the Reporter to indicate that the petitioner could set out the arrangement in the petition, annex it to the petition, or state his intention to propose an arrangement at some later time. After some discussion, the Committee agreed to leave this provision as originally drafted by the Reporter.
7. The word "Bankruptcy" was deleted from the bracketed expression in the last line of paragraph 3, and in the Wherefore paragraph immediately following. The phrase "under the Bankruptcy Act" was added after "petition" in the second line of paragraph 3.

Form No. 48A. Petition Under Chapter XI in Pending Bankruptcy.

The Committee approved the following changes in this form:

1. Paragraph 1 was eliminated, and the remaining paragraph was not numbered.
2. The first sentence of the form was amended to read as follows: "Petitioner, the bankrupt named above, who is qualified to file this petition, . . .".

Form No. 53. Original Petition Under Chapter XII.

The Committee approved the following changes in this form:

1. The title was amended to read as above.
2. The designation "Original Petition" was inserted before the body of the form.
3. The preliminary paragraph setting forth the address, etc. of the petitioner was restored, and will conform to those in Forms No. 1 and 48.
4. In paragraph 1, "whose address is _____, _____" was deleted.
5. The commas in paragraph 3 were eliminated.
6. The Reporter was directed to work out the language concerning the proposed arrangement contained in paragraph 4.
7. In paragraph 4, "under the Bankruptcy Act" was added after "petition".
8. In the last paragraph of the form the word "Bankruptcy" was deleted.

The decision of the Style Committee not to submit a form numbered 53A was confirmed by the Committee.

Form No. 58. Original Petition Under Chapter XIII.

The Committee approved the following changes in this form:

1. The title was amended to read as above.
2. The preliminary paragraph was restored as in Forms No. 1, 48, and 53.
3. The commas in paragraph 3 were deleted.

ITEM 4. Official Forms for Notices.

Judge Maris stated that he felt it was not necessary in most cases for official forms for orders of the court to be approved by the Supreme Court. He favored retaining the forms as illustrative, but not requiring the Supreme Court's approval of them.

Professor Kennedy called the Committee's attention to the proposed renumbering of Forms No. 17A and 17B, 42A and 42B, and 43A and 43B, as 17A through 17F. This would bring all these related forms together in sequence. The Committee discussed the Reporter's proposal of eliminating several of these forms and adding notes to 17A and 17B which would adapt those forms for use when the filing fees are paid in installments. After some discussion the Committee approved the renumbering of the forms, and voted to retain the six forms presently in use, with such amendments as the Committee may make.

On Professor Kennedy's recommendation, the Committee voted to officially abrogate Forms No. 17, 42 and 43, since it was not universally understood that, for example, 17A and 17B took the place of former 17.

The Committee next discussed Mr. Covey's suggestion of indicating the Social Security number of the bankrupt or debtor in Forms 17B, 17D and Form 59. Mr. Covey stated that this information would be useful to the Treasury Department. After further discussion, Judge Snedecor moved that no action be taken by the Committee with regard to disclosing Social Security numbers beyond what has already been taken (with respect to the form for proofs of claim by wage earners). This motion was carried.

Form No. 17A. Order for First Meeting of Creditors and Fixing Time
for Filing Objections to Discharge

No changes were made in the title and caption of the form. The body of the form was amended to read as follows:

"It is ordered that the first meeting of creditors be held at _____, _____, on _____, at _____ o'clock, ____ m. and that the bankrupt appear before the court at that time and place for the purpose of being examined as provided by the Bankruptcy Act.

"It is further ordered that _____ is fixed as the last day for filing objections to the discharge of the bankrupt."

Dated: _____.

_____,
Referee in Bankruptcy.

The Committee directed that the format for indicating the time and place of the first meeting adopted for this form apply to all the forms where applicable.

The meeting was adjourned at 5:30 June 21st.
The meeting reconvened at 9:00 on June 22nd.

Form No. 17B. Notice of First Meeting of Creditors and Time for Filing
Objections to Discharge

Professor Kennedy called the attention of the Committee to a suggestion by the Detroit referees that this notice be addressed to the bankrupt and the creditors, rather than just to the creditors. After some discussion, the Committee disapproved this suggestion.

The body of the form was amended to read as follows:

"To the creditors and other parties in interest:

"Notice is hereby given that _____, of _____, _____, has been adjudged a bankrupt on a petition filed by [or against] him on _____, and that the first meeting of his creditors will be held at _____, _____, on _____, at _____ o'clock, _____ m. At the meeting the creditors may file their claims, which may then be allowed or disallowed, elect a trustee, elect a committee of creditors, examine the bankrupt as permitted by the court, and transact such other business as may properly come before the meeting.

"In order to have his claim allowed and to share in any distribution from the estate, a creditor must file a claim whether or not he is included in the list of creditors filed by the bankrupt. Claims which are not filed within six months after the above date set for the first meeting of creditors will not be allowed except as otherwise provided by the Bankruptcy Act. A claim may be filed in the office of the undersigned referee upon the official form prescribed for a proof of claim.

"Notice is also hereby given that the last day for filing objections to the discharge of the bankrupt is _____."

Dated: _____.

Referee in Bankruptcy.

Form No. 17C. Order for First Meeting of Creditors.

The body of Form No. 17C was amended to read as follows:

"It is ordered that the first meeting of creditors be held at _____, _____, on _____, at _____ o'clock, _____ m. and that the bankrupt [or, in a proceeding under chapter XIII, debtor] appear before the court at that time and place for the purpose of being examined as provided by the Bankruptcy Act."

Dated: _____.

Referee in Bankruptcy.

Form No. 17D. Notice of First Meeting of Creditors

The body of Form No. 17D was amended to read as follows:

"To the creditors and other parties in interest:

"Notice is hereby given that _____, of _____, _____, has been adjudged a bankrupt on a petition filed by him on _____, and that the first meeting of his creditors will be held at _____, _____, on _____, at _____ o'clock, _____ m. At the meeting creditors may file their claims, which may then be allowed or disallowed, elect a trustee, elect a committee of creditors, examine the bankrupt as permitted by the court, and transact such other business as may properly come before the meeting.

"In order to have his claim allowed and to share in any distribution from the estate, a creditor must file a claim whether or not he is included in the list of creditors filed by the bankrupt. Claims which are not filed within six months after the above date set for the first meeting of creditors will not be allowed except as otherwise provided by the Bankruptcy Act. A claim may be filed in the office of the undersigned referee upon the official form prescribed for a proof of claim.

Dated: _____.

_____,
Referee in Bankruptcy.

Form No. 17E. Order Fixing Time for Filing Objections to Discharge

The body of the form was amended to read as follows:

"It is ordered that the last day for filing objections to the discharge of the bankrupt is _____."

Dated: _____.

_____,
Referee in Bankruptcy.

Form No. 17F. Notice of Time for Filing Objections to Discharge

The body of the form was amended to read as follows:

"To the creditors and to other parties in interest:

"Notice is hereby given that the last day for filing objections to the discharge of the bankrupt is _____."

Dated: _____.

_____,
Referee in Bankruptcy.

Form No. 49. Notice of Initial Meeting of Creditors under Chapter XI

Professor Kennedy referred the Committee to the section of chapter XI which states that the court shall give notice of the first meeting of creditors, and shall prescribe the form and manner of the notice. He questioned whether the Supreme Court has the power to prescribe a form in this instance, since the statute says that the court shall do so. He stated that the statute provides the same type of provision for chapter XII (Form No. 54) and chapter XIII (Form No. 59).

Judge Forman summarized the Committee discussion: That the Committee take up the content of the forms now, with the understanding that they will be held pending study by the Reporter as to the channels through which they should be sent for promulgation. The Reporter will also give consideration to whether they should be withdrawn as "Official Forms" and included in some other category, and will present proposals at the next meeting of the Committee.

The title of Form No. 49 was amended to read as above.

The body of the form was amended to read as follows:

"To the debtor, his creditors, and to other parties in interest:

"Notice is hereby given that _____, of _____, _____, on _____, filed a petition in this court proposing [or stating that he intends to propose] an arrangement with his unsecured creditors under chapter XI of the Bankruptcy Act, and that a meeting of creditors will be

held at _____, _____, on _____, at _____ o'clock, _____ m.
At the meeting the creditors may file their claims, which may then be allowed or disallowed, nominate a trustee, elect a committee of creditors, participate in the examination of the debtor as permitted by the court, and transact such other business as may properly come before the meeting.

(The Committee directed that the Reporter rephrase the next paragraph dealing with the summaries of the liabilities, and of the appraisal or the assets to show that the debtor has the responsibility for furnishing the summaries of the liabilities and the assets.)

"[If copy of the arrangement does not accompany notice, add:]

"At the meeting the court will fix a time within which the arrangement to be proposed by the debtor shall be filed and will adjourn the meeting to a day at least fifteen days after such date.

"[If copy of arrangement accompanies notice, add:]

"Also accompanying this notice is a copy of the arrangement proposed by the debtor. At the meeting the court will receive and act upon written acceptances by the creditors of this proposed arrangement.

"Notice is also hereby given that the last day for filing the application to confirm the arrangement is _____, and that the hearing on the confirmation and objections thereto, if any, will be held at _____, _____, on _____, at _____ o'clock, _____ m."

Dated: _____.

Referee in Bankruptcy.

Form No. 54. Notice of Initial Meeting of Creditors Under Chapter XII

The body of the form was amended to read as follows:

"To the debtor, his creditors, and other parties in interest:

"Notice is hereby given that _____, of _____, _____, on _____, filed a petition in this court proposing an arrangement with his creditors under chapter XII of the Bankruptcy Act, and that a meeting of

creditors will be held at _____, _____, on _____, at _____ o'clock, _____ m. At the meeting the creditors may file their claims, participate in the examination of the debtor as permitted by the court, present written acceptances of the proposed arrangement, and transact such other business as may properly come before the meeting. At the meeting the court may allow or disallow claims and will act upon written acceptances by the creditors of the proposed arrangement.

"Accompanying this notice is a copy of the proposed arrangement, a summary of the liabilities of the debtor as shown by his schedules, and a summary of the appraisal of the property of the debtor [or a summary of the assets of the debtor as shown by the schedules].

"Notice is also hereby given that the last day for filing the application to confirm the arrangement is _____, and that the hearing on the confirmation and objections thereto, if any, will be held at _____, _____, on _____, at _____ o'clock, _____ m."

Dated: _____.

District Judge or Referee in Bankruptcy.

Mr. Whitehurst questioned whether a provision should be included in Form No. 54 which would limit the time within which creditors must file their claims, such as in Forms No. 17B and 17D. The Reporter was instructed to consider this suggestion in the light of the changes in the title and body of the form which it would entail.

Form No. 59. Notice of First Meeting of Creditors Under Chapter XIII

The body of the form was amended to read as follows:

"To the debtor, his creditors and other parties in interest:

"Notice is hereby given that _____, of _____, _____, on _____, filed a petition in this court stating that he desires to effect a plan under chapter XIII of the Bankruptcy Act to pay his debts in whole or in part out of his future earnings or wages and that a meeting of his creditors will be held at _____, _____, on _____, at _____ o'clock, _____ m. At the meeting the debtor must submit his plan, and the creditors may file their claims, participate in the examination of the debtor as permitted by the court, present written acceptances of the proposed plan, and transact such other business as may properly come before the meeting. At the meeting the court may allow or disallow claims and will act upon written acceptances by the creditors of the proposed plan.

"[If appropriate, add:]

"Notice is also hereby given that the last day for filing of the application to confirm the plan is _____, and that the hearing on the confirmation and objections thereto, if any, will be held at _____, _____, on _____, at _____ o'clock, _____ m."

Dated: _____.

Referee in Bankruptcy.

The Committee approved of the continuation of the Committee on Style, and the Chairman appointed Mr. Nachman as an additional member of the Committee.

Judge Forman expressed his appreciation to the Reporter and the members of the Committee for their application at the meeting and in preparation for the meeting, and the meeting was adjourned at 12:30 p. m., June 22, 1963.

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