MINUTES OF THE JULY 17-19, 1969 MEETING OF THE
STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

The meeting of the Committee on Rules of Practice and Procedure convened in the Administrative Office Conference Room, 725 Madison Place, N.W., Washington, D.C. on July 17, 1969 at 10:00 a.m. The following members, constituting the full membership of the committee, were present:

Albert B. Maris, Chairman
George H. Boldt
Peyton Ford
Mason Ladd
James Wm. Moore
J. Lee Rankin
Bernard G. Segal
Charles A. Wright
J. Skelly Wright
Bernard J. Ward, Reporter

Also present were Professor Albert M. Sacks, Reporter of the Advisory Committee on Civil Rules, and William E. Foley, Deputy Director of the Administrative Office and Secretary of the committee.

AGENDA ITEM 1. Federal Rules of Civil Procedure.

The final draft of Proposed Amendments to the Federal Rules of Civil Procedure relating to depositions and discovery, embodying the modifications made on Rules 5, 9, 26, 30, 31, 32, 33, 34, 35, 36, 37, 45, 69 and Form 24 by the Civil Committee at its meeting of April 1969 was laid before the meeting. The chairman stated the first order of business was consideration of those proposed rules.

As an introduction, Professor Sacks stated the major emphasis to the revisions of the rules had been to the matters relating to the "scope" of discovery; namely, discovery of insurance when the insurance is not relevant to any issue in the trial of the case, discovery of trial preparation materials, discovery with respect to experts, both expert witnesses and non-expert witnesses. In addition, he stated, the proposed revision concerned itself with a variety of questions relating to the "mechanics" of discovery. The two most prominent changes to the mechanics of discovery were Rules 33, 34, and 36.

He then stated some of the changes made to the rules were to conform to other rules. To eliminate numerous cross-references, Professor Sacks stated there had been a rearrangement of the rules. To the question of the chairman regarding public reaction to the rearrangement of the rules, Professor Sacks answered there had not been "much either way". Professor Wright stated the only problem he found with the rearrangement was that a court would make reference ~~to~~ a specific rule which would now be placed differently. Since there were no objections to the rearrangement of the rules, the committee approved its general outline.

RULE 5. Service and Filing of Pleadings and Other Papers.

Professor Sacks said Rule 5 was not related to discovery, but was a general rule regarding filing and service of papers. There were a number of comments from individual lawyers complaining that discovery would go on and exchanges would take place between parties A and B; and, if it was a multi-party action, parties C and D would not know what was going on. Therefore, a provision was put into the rule establishing that such papers relating to discovery are to be served upon any party to the action. In case the filing or service was a great burden, "unless the court orders otherwise" was added to the rule. Another change in this rule takes care of the problem of service when there has been no appearance by the opposing party. Professor Moore stated he felt the principle of the rule was good, but he objected to the word "garnishment". The deletion of lines 20 through 21 "whether through arrest, attachment, garnishment or similar process," was suggested. This suggestion was agreeable with the members. The motion to strike the phrase carried. The rule was approved as amended.

RULE 9. Pleading Special M~~atters.~~

(h) Admiralty and Maritime Claims. Professor Sacks stated this subsection referred to instances where some special provision had been contained in the civil rules for some admiralty problems. The striking of "26(a)" was due to the elimination of the de bene esse procedure and the transfer of subdivision (a) to Rule 30(a). The deletion of "26(a)" was approved subject to the approval of the underlying provisions.

RULE 26. General Provisions Governing Discovery.

Judge Maris stated this rule is made the general repository for provisions regarding all discovery. Professor Sacks stated all of subdivision (a) had been deleted because the provisions had been transferred to Rule 30(a) and Rule 31.

Subdivision (a) Discovery Methods was approved as drafted. Subdivision (b) Scope of Discovery, paragraph (1) In General, was approved as drafted. The changes in this paragraph were editorial and clarifying. Subdivision (b) paragraph (2) Insurance Agreements was approved with the limiting provision as suggested by the New York Bar. Professor Sacks stated the concern of the New York Bar was that without the limitation of the application, the application would be included as a part of the agreement. The application would be sought and would contain material other than the limits and the contents of the policy. It would disclose the financial status of the insured and other items which were not intended to be discoverable by the subdivision. Professor Wright suggested the Note reflect the reason for the addition of the limiting provision. This was agreeable to the members. Subdivision (3) Trial Preparation: Materials was a tough area for the civil committee. One of the problems was the confusion that exists in the cases between the concept of good cause and whatever may be the special doctrine relating to the "work product of the lawyer". To use a general standard in the rule, the civil committee decided to use "good cause" from Rule 34. When the proposed draft went to the bar and bench, there were many responses stating "good cause" would still cause confusion. The result was to substitute the language on page 12 [lines 74 through 77c] for the terminology of "good cause". The substitute simply indicates what a party has to show. Professor Sacks stated the language in lines 77c through 77f contemplated that sometimes there would be cases where a document should be disclosed, but the court can look at the document and excise material if there is some part which states the lawyer's evaluation of the case or a notion he has on the case. A question was raised regarding the limitation of the mental impressions, conclusions, opinions, or legal theories to attorneys. There might be other representatives involved. Another aspect of this subdivision dealt with the non-party witness being able to obtain his own statement, if the required showing had been given. The following language regarding non-party witnesses was approved as a substitute for the language in the original proposed draft:

"A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person.

"If the request is refused, the person may move for a court order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion."

Professor Wright was opposed to "other" in line 77a. It was stricken. After further deliberation, and the reporter stating the clause beginning on line 77a "or upon a showing of ~~other~~ exceptional circumstances indicating that denial of discovery would cause manifest injustice." was trivial, it was stricken. A period was placed after "means" on line 77a. For clarification, line 77c was changed to include "In ordering discovery 'of such material'". Returning to the problem of more than one attorney being involved, it was decided "an attorney's" would be stricken from line 77e and substituted with "the". At the end of line 77f "of an attorney or other representative of a party." would be added. The subdivision was approved as amended. Subdivision (4) Trial Preparation: Experts. Paragraph (A) deals with experts which are expected to be called at trial. Judge Wright moved approval as drafted. It carried. Paragraph (B) deals with experts which not expected to be called at trial. Judge Wright moved approval as drafted. After further deliberation, paragraph (B) was amended by changing "except" in line 104 to "only" and following "by another party." in line 102, "acquired or developed" was added. In this form, the paragraph was approved. Professor Wright brought up Mr. Frank's letter regarding paragraph (C). The letter stated "the other side's regularly employed expert should not be immune from factual testimony on discovery, without any special pay provisions". Professor Sacks agreed more consideration should be given the subdivision. He suggested line 111 read: "discovery; obtained by the court under subdivision (b)(4)(A)(ii) of this rule and to discovery obtained under subdivision (b)(4)(B) of this rule; * * *." It was moved the suggestion be adopted. It carried. It was also decided "ordered" in line 111 be changed to "obtained" and that "(ii)" be added in line 112 after "(b)(4)(A)". The subdivision was approved as amended. Subdivision (c) Protective Orders was approved as drafted. Professor Sacks stated there were no problems with this subdivision. Subdivision (d) Sequence and Timing of Discovery was approved as drafted. Like subdivision (c) there were no problems with this subdivision. Subdivision (e) Supplementation of Responses. The general statement stated a party does not have to correct even though he has later acquired the information. It was decided that if a party has actual knowledge (either while giving the information or afterwards) he should so correct his response. Paragraph (2) on line 255 was changed to "A party who has actual knowledge that his response is incorrect is under a duty seasonably to correct the response." "later learns" was deleted. This change was acceptable to the members. However, it was decided

the subdivision would be given more consideration. The reporter then submitted a substitute for paragraph (2): "A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which (A) he knows that the response was incorrect when made, or (B) he knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the prior response is in substance a knowing concealment." This substitution was approved. The rule was approved as amended.

RULE 29. Stipulations Regarding Discovery Procedure.

Professor Sacks stated this rule had been broadened so that it allowed stipulations regarding discovery procedure; and it had been expanded to permit parties to stipulate to modify the procedures provided by these rules for other methods of discovery. There was a discussion of the proposition that any extension of time should have approval of the court. Professor Sacks suggested an addition to the last line of the rule stating "except that stipulations extending the time provided in Rules 33, 34, and 36, for responses to discovery may be made only with the approval of the court." This was agreeable to the members and it was moved for approval and carried as amended.

RULE 30. Depositions Upon Oral Examination.

Professor Sacks stated this rule contained the language of Rule 26(a) and it also contained within it the new approach to the time when deposition or discovery could start. He stated with regard to the new language proposed in line 12, that it protected the plaintiff against an undue delay in service of the summons and complaint, but really protected only when protracted to the point where there is more than a 30-day delay. Professor Wright was opposed to the new language. He felt it would be difficult for an attorney to understand without having a treatise to interpret it. Judge Boldt moved the deletion of the new language. The motion carried. The subsection was approved as amended. Subsection (b)(1) was approved as drafted. Subsection (b)(2) was approved as amended. The amendment was changing "20-day" to "30-day" in line 45 for consistency. Subsection (b)(3) was approved as drafted. Subsection (b)(4) was changed from the proposal of the preliminary draft. The proposal in the preliminary draft contemplated that without an order of court a party might provide for non-stenographic recording of a testimony at a deposition. It was stated what the Civil Committee had done was to require a notice that would specify the manner of

recording, preserving and filing. The subsection was moved for approval. It carried. Subsection (b)(5) was approved as drafted. Subsection (b)(6) was approved as drafted.

(c) Examination and Cross-Examination; Record of Examination; Oath; Objections. The first sentence of this subsection is a carry-over from Rule 26(c). Professor Wright suggested "designated" in line 123 be changed to "ordered". He stated at the time this subsection went to the country a party could designate in a notice, but at present a party had to get a court order. Everyone was in agreement with this suggestion. The subsection was approved as amended.

(d) Motion to Terminate or Limit Examination. Judge Boldt moved approval. The subsection was approved as drafted.

(e) Submission to Witness; Changes; Signing. The subsection was approved as drafted.

(f) Certification and Filing by Officer; Exhibits; Copies; Notice of Filing. Judge Boldt moved the approval of subdivision (1). It carried. There were no changes in subdivisions (2) and (3). They were approved as drafted.

(g) Failure To Attend or To Serve Subpoena; Expenses. Both subdivisions (1) and (2) were approved as drafted.

[At this point, 5:20 p.m. the meeting adjourned until 9:30 a.m. on Friday, July 18, 1969.]

The meeting reconvened on July 18, 1969, at 9:30 a.m.

RULE 31. Depositions of Witnesses Upon Written Questions.

Professor Sacks stated this rule did not present any major problems. The first sentence simply incorporated material which was transferred from Rule 26(a), so far as it pertained to written depositions. To avoid confusion with Rule 33, "Interrogatories" had been changed to "Questions" both in the title and throughout the rule. Mr. Segal moved the approval of the rule. It carried.

RULE 32. Use of Depositions in Court Proceedings.

Professor Sacks made a general statement in support of the changes to this rule. For consistency with Rule 30(b)(6), "or governmental agency" was inserted on line 20 following "partnership or association". Judge Maris suggested in line 32, "sickness" be changed to "illness". His suggestion was agreeable with the members. Rule 32 was moved for approval as amended. It carried.

RULE 33. Interrogatories to Parties.

Professor Sacks stated this rule had been revised considerably. The "mechanics" of this rule [the way in which the sequence of discovery occurs] is one example. He stated in line 26 "if any," should be added after "and objections", and a comma should be placed before "and". In the new proposed language, Professor Sacks suggested "not less than" be changed to "within".

Professor Moore felt it would be confusing to allow a party 30 days to answer interrogatories but allow 45 days for a defendant to answer. He felt the time limits should be uniform. Professor Sacks stated that in the preliminary draft, the committee provided a 30-day period for answering interrogatories "across-the-board". He then stated the present rule required the plaintiff to wait ten days from commencement of the action and then serve the interrogatories, which gives the defendant 10 days to object or 15 days to answer. Hence, the 30-day provision. There was a great deal of objection to this provision in the comments received. One view was that at the outset of a law suit the defendant needs some time to get ready. It was suggested in the comments that 15 days be allowed for preparation, thus being 45 days. Another view was at the present time a plaintiff has to wait 10 days to move.

Judge Maris suggested "but" in the proposed new language be changed to "or" for consistency.

Judge Wright moved the approval of subsection (a) Availability; Procedures for Use. Before voting on the motion, Professor Ward stated he was not against the addition of "governmental agency" in line 6. His reason being when a party doesn't know to whom to address inquiries, a general name such as a corporation, governmental agency, etc., should be used. In this sense, Professor Ward felt the phrase logical. Mr. Ford moved adoption

of the phrase "or governmental agency". The motion carried. Judge Wright again moved approval of subsection (a) as amended. It carried. Subsection (b) Scope; Use at Trial, was approved by the members with some editorial changes to lines 68 through 70: "such an interrogatory need not be answered until after discovery has been designated, or at a pretrial conference, or other later time." Subsection (c) Option to Produce Business Records, was approved as drafted.

RULE 34. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes.

Professor Sacks stated this version was completely new, replacing the "old" version of Rule 34. The reason being the change of the procedure in which a court order is a necessary prerequisite to one in which it is not. With respect to subsection (a) Scope, the major change was to eliminate the standard of good cause as a requirement for production. A second change was a change in lines 6 to 9. It related to the definition of what is to be produced. Regarding subsection (b) Procedure, Professor Sacks stated it set up a procedure that operated extra-judicially without the requirement of a prior court order. Subsection (c) Persons Not Parties. Professor Sacks stated he had been advised that it was quite difficult to examine land or documents of a non-party. He said this was the basis of subsection (c). The whole rule was approved as drafted.

RULE 35. Physical and Mental Examination of Persons.

Aside from the minor editorial changes, Professor Sacks stated there was a provision for the taking of a physical or mental examination of a person in the custody or under the legal control of a party. The second change was to correct a rather minor and technical imbalance in the right of the two parties to get physician reports. The third change was in subsection (b)(3). It makes clear that the provisions relating to physician reports apply whether the examination was by court order or not and that Rule 35 does not preclude discovery of a report of an examining physician in accordance with any other rule. There was a motion to approve the rule as drafted. It carried.

RULE 36. Requests for Admission.

Professor Sacks stated the "old" rule stated a party may request an admission respecting matters of fact. The proposal in the preliminary draft was to simply strike out the words "of fact" so as to permit a request to admit to any matter. He further stated Rule 37 was very closely related to Rule 36. He drew the attention of the members to Rule 37(c) Expenses on Failure to Admit. The major change was the typed proposal on lines 167 through 172d. Judge Wright moved the approval of both Rule 36(a) Request for Admission and Rule 37(c). On line 31 of subsection (a) it was decided "not less than" would be stricken and "within" would appear. Judge Wright's motion carried. Subsection (b) Effect of Admission, was moved for approval as drafted. It carried.

RULE 37. Failure to Make Discovery: Sanctions.

Professor Sacks stated there were enough changes in subsection (a) Motion for Order Compelling Discovery that an entire rewriting was necessary. He said Rule 37 was broken down into four major subdivisions. Subsection (a) deals with the situation where a party has been refused discovery and wants to obtain an order from the court entitling him to do so. Subsection (b) Failure to Comply With Order deals with the situation where the party has the order that in one way or another has been disobeyed; and, what sanction to impose for violation. Subsection (c) Expenses on Failure to Admit, deals with admissions. Subsection (d) Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond To Request for Inspection deals with a special case of a party who fails to respond to discovery completely.

The changes in subsection (a): regarding (1) Appropriate Court, there was some difficulty with the prior language. In one instance, dealing with depositions, it referred to the court where the depositions were taken and did not seem to authorize the court where the action was pending. Subdivision (2) Motion was in part an incorporation of the existing Rule 37(a) and in part was new to conform to new procedures. Subdivision (2) simply set the power of the court to act where the deponent had failed to answer, or the party had failed to answer interrogatories, or failed to respond to requests for production. Mr. Ford questioned line 38 [deletion of "alternatively"].

Professor Sacks stated it was redundant and unnecessary. Judge Maris suggested line 57c read: "would have been empowered to make" instead of "would have made". This was agreeable with the members. Subdivision (3) Evasive or Incomplete Answer presented no problems. Judge Maris, however, felt the subdivision should be amended to read: "For purposes of this subdivision an evasive or incomplete answer is 'to be treated as' a failure to answer." His reason being an evasive answer is not construed as a failure to answer. Again, the members were in agreement. Subdivision (4) Award of Expenses of Motion. Professor Sacks stated the existing rule had a provision stating: "the court shall award expenses including attorneys fees if the court finds that the motion was made without substantial justification." The change made in the new proposed subdivision was not a change in the standard but a change in the burden. Under this change the court shall "assess". Judge Boldt moved the approval of (a)(4), with an insertion regarding the fact that a party is indigent is not a consideration in determining to impose a penalty on the lawyer. The motion carried. Professor Wright moved the proposed parenthetical phrase on page 85 be deleted. The motion carried. With this deletion, Professor Wright moved approval of subsection (a) as amended. It carried. The changes in subsection (b) Failure to Comply With Order were in the titles of (1) Sanctions by Court in District Where Deposition is Taken and (2) Sanctions by Court in Which Action is Pending. On page 88, Professor Sacks pointed out subdivision (E) was new and dealt with cases of a party required under Rule 35 to produce another party for physical examination. There was an objection to "expressly" in line 152. Professor Sacks agreed stating it was not necessary. Also, along with the striking of "expressly" in line 152 on page 88, "expressly" was stricken in line 200 on page 90. Judge Maris suggested changing "subsections" in line 143 on page 88 and in line 195 on page 90 to "paragraphs". This was agreeable with the members. Judge Maris also suggested changing "and" in line 106 on page 87 to "or". There was a motion to approve subsection (b) as amended. It carried. Subsection (d) was moved for approval as amended. It carried. Subsections (e) Subpoena of Person in Foreign Country, and (f) Expenses Against United States were moved for approval as drafted. It carried.

RULE 45. Subpoena.

(d) Subpoena for Taking Depositions; Place of Examination. Professor Sacks stated that as this rule appeared in the printed draft it was simply conforming to changes made in the other discovery rules. He further stated there is no question under

a subpoena duces tecum that a person must bring in the requested materials; however, in some cases, the person bringing the materials has not allowed inspection or reproduction of the materials. The proposed typewritten material provides such a procedure by which such a dispute over inspection and copying can be resolved. Mr. Segal objected and moved to strike the last sentence beginning on line 30 of the new proposed typewritten language. His motion carried. He then moved approval of the rule as amended. It carried.

RULE 69. Execution.

Professor Sacks stated this was the problem as to the extent to which discovery procedures may be used in proceedings in execution upon a judgment. He stated the present language of lines 14, 15, 16, and 17 suggests that discovery permitted is deposition discovery. There was a motion to approve the rule as drafted. It carried.

FORM 24. Request for Production of Documents, Etc., under Rule 34.

Professor Sacks stated the Form was being changed because Rule 34 was being shifted from court ordered, i.e., discovery which can be handled only by court order, to discovery which can be had on request.

Judge Maris stated it was a form of motion and there were a lot of various types of motions and pleadings in the form category; however, it is now a notice or request from one party to another. He felt it should be deleted. Professor Wright stated Form 28 was also a form of notice. Mr. Ford felt the form was helpful. It was moved to approve the Form as drafted. It carried.

Judge Maris stated the draft could now be forwarded to the Judicial Conference (with leave to the chairman and reporter to make whatever textual changes necessary) with a recommendation from the standing Committee that the revised rules be approved and transmitted to the Supreme Court for adoption. It was so ordered by the committee.

[This concluded the work on the Civil Rules. There was a short break before going on to Agenda Item 2.]

AGENDA ITEM 2. Federal Rules of Appellate Procedure.

Judge Maris stated the standing Committee was authorized by the Judicial Conference to consider the Appellate Rules and to propose changes therein since the Advisory Committee on Appellate Rules had finished its work and had been discharged. He stated he had been told by Judge Bailey Aldrich that the time limits for filing briefs and appendices had been lengthened over what they were in the First Circuit and as a result the hearing of cases had been delayed in that circuit, which is current with its docket. Judge Aldrich presented this problem to the recent conference of Chief Judges and out of that conference came certain recommendations to the standing Committee. Judge Maris said the proposals had been considered by Professor Ward. Professor Ward drew the attention of the members to his memorandum of July 10 in which he had summarized the recommendations received. Judge Wright stated the present delays in appeals come from the unavailability of a transcript. There was discussion that some circuits keep abreast with their calendars and this lengthening of the time limits has handicapped their scheduling. It was decided an amendment would be made which would enable a court of appeals, which is current in its argument calendar, to reduce by local rule the time fixed by the present rules for the filing of records, briefs and appendices.

Regarding Rule 30(c), which at present authorizes the appellant to defer the filing of the appendix until 21 days after the appellee's brief is filed, an amendment was proposed which would eliminate this right of the appellant. The amendment would leave to the court the authorization of a deferred appendix by local rule. This was done pursuant to Professor Wright's motion to strike "If the appellant shall so elect, or" from the present (c) Alternative Method of Designating Contents of the Appendix; How References to the Record May Be Made in the Briefs When Alternative Method Is Used.

[At 5:30 p.m., the meeting adjourned until Saturday, July 19, at 9:00 a.m.]

The meeting reconvened on July 19, 1969 at 9:00 a.m.

The first order of business was discussion on Rule 9 of the Federal Rules of Appellate Procedure Release in Criminal Cases. A proposed amendment of the rule had been submitted by the Advisory Committee on Criminal Rules. The basis for the proposed amendment was that there is a very basic difference in the status of an accused defendant after a jury has found him guilty. The burden of proof that a defendant is within the Act and has satisfied the criteria for release should be on the defendant rather than on the government.

Professor Wright stated that if all that this rule did was put the burden of proof on the defendant, where the burden was put, as a practical matter, really does not make much difference. What did concern Professor Wright was the new standard in subsection (b) Release Pending Appeal From A Judgment of Conviction: "put the burden on the defendant to establish 'that an appeal is not frivolous or taken for delay'." It was moved to delete the phrase "and that an appeal is not frivolous or taken for delay" from the proposal. The motion carried. Rule 9 will be released for circulation to the bench and bar for comments.

Senator Tydings' Proposal

Regarding Senator Tydings' proposal, Judge Maris suggested submitting it to the reporter for study and future reporting on the matter of possible screening procedures in the early stages of a proceeding.

Proposals from the Department of Justice

A letter from Mr. Gilinsky dated May 5, 1969, brought out that the Appellate Rules were not uniform. It also brought out the Department's problem in obtaining rehearings en banc. A request for a rehearing has to be cleared through the Solicitor General's office. The Appellate Rules only allow 14 days for such a request. He wanted an exception to be put into the rule that would allow 30 days for request of rehearing. It was decided it was no more difficult for the Government than for private counsel to "get ready" within the existing 14-day period.

Judge Boldt moved no action be taken on paragraph 2 of Mr. Gilinsky's letter. The motion carried.

Mr. Segal requested an amendment to the motion that the reporter would advise the Committee in due course what the situation is concerning the grant of leave to the Department for late filing of rehearing petitions. Also, added by Judge Maris, if the Department had at any time been refused an extension. This, too, carried.

Returning to the uniformity of the Appellate Rules, Professor Ward stated he had checked every deviation he could find. Judge Maris stated this was in the judicial realm.

There was also a letter submitted by Mitchell Rogovin, Assistant Attorney General, Tax Division. He raised the problem of the costs in the Tax Court. There was a suggestion of amending Rule 39(e) to state "Subdivision (e) of Rule 39 is not applicable to the Tax Court." Professor Ward stated he had written the Tax Court giving his interpretation of this rule and asked a few questions. He received no reply. Mr. Rankin moved awaiting action on Mr. Rogovin's letter until some court action determines whether the Act applies.

Concerning a reply to Chief Judge Drennen of the Tax Court, it was decided a letter would be written to Clerks of Courts of Appeals alerting them to the problem and telling them what action was taken by the Committee. Mr. Rankin's motion carried.

ABA Project on Minimum Standards.

Judge Maris stated in regard to the ABA Project, that Professor Ward would from time to time gather material from the project and present it to the Committee.

AGENDA ITEM 3. Reports of Progress of Advisory Committees.

Judge Maris stated the Civil Committee had not submitted a report because their whole project had been presented at the meeting. The Evidence Committee report is before the public. When the views of the public are received, the standing Committee will consider it. The Criminal Committee has been working in the "preliminary procedure" [procedure before trial], which is quite time-consuming. The Admiralty Committee is

working on supplementary rules. A letter had been sent to the bar, clerks, and the entire Maritime Law Association, asking for comments on how the rules have been working. The Bankruptcy Committee is in the process of developing uniform rules for bankruptcy.

The last item to be considered was the possibility of providing uniform rules to govern habeas corpus and 2255 proceedings. It was decided this proposal would be presented to the Judicial Conference with a recommendation that the Advisory Committee on Criminal Rules be given the task of formulating such rules.

[The meeting adjourned at 12:00 noon.]