

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE  
OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
SUPREME COURT BUILDING  
WASHINGTON, D. C. 20544

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REPORT

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TO THE JUDICIAL CONFERENCE OF THE UNITED STATES:

The standing Committee on Rules of Practice and Procedure met in Washington on February 25, 1971. Eight members of the committee were present. Judge Boldt was unavoidably absent. The committee has no definitive rules proposals to recommend at this time and merely presents the following progress report: •

Criminal Rules

The Advisory Committee on Criminal Rules met on June 1, 2 and 3, 1970 and again on January 11, 12 and 13, 1971. The committee plans to meet again in June of this year. At that meeting it expects to approve and forward to our committee final drafts of the proposed amendments to the Federal Rules of Criminal Procedure which were published to the bench and bar in January 1970. It is quite likely, therefore, that these proposals will be ready to be forwarded to the Judicial Conference for consideration at its session in the fall of this year.

At the meetings of the advisory committee in June 1970 and in January 1971 the committee approved for circulation to the bench and bar preliminary drafts of amendments proposed to certain other criminal rules. These proposals are now in the hands of the Government Printing Office and

will, we hope, be ready for distribution to the bench and bar in April with the request that comments thereon be sent to our committee not later than April 1, 1972.

There are, however, two alternative proposals for amendments to Rule 45, relating to time limits, which are directed toward the elimination of present delays in the disposition of criminal cases, and which our committee believes are of such urgent importance as to justify reducing to three months the time allotted for the receipt of public comments. These two alternative proposals are, accordingly, being published in a separate pamphlet with the time limit for the receipt of comments fixed at July 1, 1971. In this way we are hoping that it may be possible to present a definitive proposal on this subject to the Conference at its fall session this year. We think that prompt action in this matter is especially important in view of the fact that the Judiciary Committees of the two Houses of Congress are currently considering legislation for the establishment of specific fixed time limits for completing the various stages in criminal cases.

Finally, the Advisory Committee on Criminal Rules is continuing to work upon a draft of rules governing procedure in habeas corpus cases involving state prisoners and cases under 28 U.S.C. § 2255, as heretofore directed by the Conference.

### Admiralty Rules

The Advisory Committee on Admiralty Rules is continuing its study of the operation of the unified civil rules and the supplemental admiralty rules as they are being applied to maritime cases. The advisory committee plans to meet in the near future and submit a report upon its findings and recommendations.

### Bankruptcy Rules

The Advisory Committee on Bankruptcy Rules met on June 10, 11, 12 and 13, 1970, November 18, 19, 20 and 21, 1970 and March 3, 4, 5 and 6, 1971.

At its November 1970 meeting the advisory committee completed its task of preparing a preliminary draft of rules of procedure for ordinary bankruptcy cases. The draft is now in the hands of the Government Printing Office and will be circulated widely to the bench and bar as soon as it is printed. The deadline for receiving comments and suggestions will be April 1, 1972.

The advisory committee, with the able assistance of Professor Vern Countryman, as associate reporter, is now engaged in the preparation of rules and forms for cases under Chapter XIII of the Bankruptcy Act. These cases, which have constituted about one-sixth of all the filings under the Act, are the most numerous group on the dockets of the bankruptcy courts other than the straight bankruptcy cases. The advisory committee hopes that it will be possible to complete its

preliminary draft of these rules by the summer of this year.

With the able assistance of Professor Lawrence P. King, as associate reporter, the advisory committee is commencing its study of rules and forms for cases arising under Chapters X, XI and XII of the Act. Because of the parallelism that characterizes these chapters, which govern reorganizations and arrangements, the advisory committee believes that many of the rules for all three chapters can be considered simultaneously. By virtue of the greater complexity of the problems, the diversity of the debtors, and the large number of statutory provisions involved in Chapters X, XI and XII, as contrasted with those in Chapter XIII, the advisory committee believes that its consideration of rules and forms for the cases under those chapters will require a longer time than those for Chapter XIII. Nonetheless, the advisory committee entertains the hope that it may be able to complete its consideration of these rules and forms by the spring of 1972.

For a number of reasons the advisory committee has postponed consideration of rules and forms for cases under Section 77 (railroad reorganizations) and Chapter IX (compositions of municipal corporations and other state agencies and instrumentalities) until the proposed rules and forms under the other chapters have been completed.

#### Civil Rules and Appellate Rules

Advisory Committees on Rules of Civil Procedure and

Appellate Procedure are not presently under appointment and the standing committee has no proposals to present to the Conference at this time in these areas.

### Rules of Evidence

The definitive draft of the federal Rules of Evidence which was reported to the Conference at its session last October was transmitted to the Supreme Court in November 1970. The Court has now returned the draft to the standing committee for further study and to provide an opportunity for public consideration of the modifications which had been made in the preliminary draft published in March 1969.

The standing committee is expecting to arrange for the prompt publication of the November 1970 definitive draft by West Publishing Company in the advance sheets of the Federal Reporter, Federal Supplement and Federal Rules Decisions. The committee plans to send to all persons who submitted comments and suggestions with respect to the March 1969 preliminary draft a letter informing them that the text of the final draft is available to them in these West publications.

The committee hopes by September 1971 to formulate any further modifications in the draft which may appear des-

irable in the light of its further study and consideration of comments and suggestions received with respect to the November 1970 draft and to report the revised draft to the Conference in October 1971, if possible.

On behalf of the committee

*Albert B. Morris*  
Chairman

March 8, 1971