

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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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 September 7, 1966. All the members of the committee were present except Mr. Peyton Ford, who was unable to attend. Prof. Bernard J. Ward, reporter of the Advisory Committee on Appellate Rules, was present by invitation. Judge E. Barrett Prettyman, chairman of that advisory committee, had also been invited to attend the meeting but was prevented by illness from doing so. Mr. William E. Foley, secretary of the committee, was also present.

Appellate Rules

The standing committee gave detailed consideration to a definitive draft of uniform appellate rules for the United States Courts of Appeals which it had received from the Advisory Committee on Appellate Rules. The draft had been formulated by the advisory committee following the publication of its tentative draft in March 1964 and the

consideration by the advisory committee of the comments and suggestions with respect to the published draft which had been received from the bench and bar. Except in one particular about to be mentioned the standing committee approves the draft with a few comparatively minor amendments.

With respect to the matter of providing for the use of the judges of the courts of appeals the parts of the record which they need to consider in deciding an appeal, the advisory committee has proposed a method different from that proposed in the draft published in March 1964 and different from that presently followed in a majority of the courts of appeals. In these circumstances the standing committee concluded that the four alternative methods which have been considered by the advisory committee should be published and the comments and suggestions of the bench and bar given full consideration before a final recommendation with respect to this particular portion of the proposed appellate rules is made. The standing committee accordingly plans to proceed with such publication promptly and will defer making a recommendation to the Judicial Conference with respect to the appellate rules until the comments and suggestions of the bench and bar with respect to the proposed methods of reproducing the record have been received and considered.

Civil Rules

The Advisory Committee on Civil Rules is in the final stage of completing a tentative draft of proposed amendments to the rules relating to discovery. It is anticipated that this draft will shortly be published and distributed to the bench and bar for consideration and suggestions.

Bankruptcy Rules

The Advisory Committee on Bankruptcy Rules is hard at work on its task of preparing a draft of comprehensive rules of practice and procedure under the Bankruptcy Act which will supersede the present general orders and procedural provisions of the Act. This is a major task which will take some time to complete.

Criminal Rules

The amendments to the Federal Rules of Criminal Procedure which went into effect July 1, 1966, covered most of the criminal procedure. The Advisory Committee on Criminal Rules is continuing to study the subject of preliminary hearings and motions, however, but is not yet ready to report thereon.

Rules of Evidence

The Advisory Committee on Rules of Evidence is actively engaged in the work of formulating a draft of uniform rules of evidence for the federal district courts, a formidable task which will take some time to complete.

Advisory Committee on Admiralty Rules

The amendments to the Federal Rules of Civil Procedure which went into effect on July 1st, merged the admiralty and civil procedure, but provided supplemental rules for certain distinctive admiralty procedures. The standing committee believes that it is important that the operation of the new combined procedure with respect to maritime litigation, including the adequacy of the new supplemental rules, should be kept under study during the next two years in order that any possible difficulties may be dealt with promptly. We accordingly recommend that the Advisory Committee on Admiralty Rules, which is the most knowledgeable group available, be kept under appointment for another two years from October 1st for this purpose. At the expiration of that time it can be determined whether to continue the advisory committee for a further period or to add a

representative group of its members or other admiralty specialists to the Advisory Committee on Civil Rules.

Revised Rules of United States Court
of Appeals for the Tenth Circuit

The United States Court of Appeals for the Tenth Circuit has revised its rules, effective July 1, 1966, and requests approval under 5 U.S.C. § 1041 (now 28 U.S.C. § 2352) and 28 U.S.C. § 2112 of those of the rules which relate to the review and enforcement of the orders of administrative agencies. Your committee has examined the rules and recommends their approval.

On behalf of the
Committee on Rules of
Practice and Procedure

September 15, 1966


Chairman