

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
SUPREME COURT BUILDING
WASHINGTON 25, D. C.

REPORT

TO THE JUDICIAL CONFERENCE OF THE UNITED STATES:

The standing committee on Rules of Practice and Procedure met in Washington on March 14, 1973 with a quorum present. The committee has no definite proposals to recommend at this time and merely presents the following progress report:

Criminal Rules

The standing committee and a subcommittee of the Advisory Committee on Criminal Rules on March 14, 1973 met jointly with counsel for the Subcommittee on Criminal Laws and Procedures of the United States Senate pursuant to the authority granted to our committees by the Judicial Conference at its October 1972 session to cooperate with the Senate subcommittee with respect to the amendments and additions to the Federal Rules of Criminal Procedure which are included as title II in its bill to revise the federal criminal code which is now S. 1 of the 93rd Congress.

The proposed rules largely involve procedural provisions which are not included in title 18 of the United States Code but which the Senate subcommittee believes, and we agree, should, if they are to be retained, be included in the Federal Rules of Criminal Procedure rather than in the statutory penal code. Our committees were able to consider

all the proposals and to reach a unanimous judgment, with which counsel for the Senate subcommittee concurred, as to those provisions which should be retained in the statute, those which should be transferred to the Rules and those which should be dropped as obsolete. The form which the provisions should take which are to be transferred to the Rules was agreed upon in principal and is being worked out in detail by the reporter for the Advisory Committee. They will be presented to the Senate subcommittee in specific form at a hearing which that committee is planning to hold at an early date.

The Advisory Committee on Criminal Rules has recently approved proposed amendments to the Rules which have now been printed in pamphlet form for distribution to the bench and bar. February 1, 1974 has been fixed as a deadline for the receipt of comments and suggestions with respect to them. Presumably they may be ready for consideration by the Judicial Conference in their final form in September 1974.

Bankruptcy Rules

The definitive drafts of Bankruptcy Rules and of Chapter XIII Rules which were approved by the Judicial Conference in October 1972 are at the date of this report under consideration by the Supreme Court. Preliminary drafts of Chapter XI Rules (Arrangements) printed under date of October 1972 and Chapter X Rules (Corporate Reorganizations) printed under date of December 1972, are

now before the bench and bar for comment. It may be that definitive drafts of these Chapter XI and Chapter X Rules will be ready for consideration by the Judicial Conference in September 1973.

The Advisory Committee on Bankruptcy Rules met on January 24, 25, 26 and 27, 1973 and approved for printing and circulation a preliminary draft of rules for proceedings under Chapter XII (Real Property Arrangements) of the Bankruptcy Act. This draft is now about to be printed and will be distributed to the bench and bar when it is received from the Government Printing Office.

Work is progressing on rules to govern proceedings under Chapter IX (Composition of Indebtedness of Local Taxing Agencies) of the Bankruptcy Act but a preliminary draft for publication is yet to be approved by the Advisory Committee.

No work has yet been done on the last of these reorganization chapters, section 77 of Chapter VIII, (railroad reorganizations) but an associate reporter with wide experience in the field, Professor Walter J. Taggart, of Villanova University Law School, has been appointed by the Chief Justice to undertake the task of drafting such rules and he is expected shortly to begin work on them.

With the completion of these latter rules the task of the Advisory Committee to prepare a comprehensive draft of rules to govern all the procedure under the Bankruptcy Act

and all of its reorganization chapters will have been completed, a truly monumental task.

Civil Rules

The Advisory Committee on Civil Rules has held no meeting since our last report. Its reporter is continuing his study of Rule 23 relating to class actions.

Rules of Evidence

The Federal Rules of Evidence approved by the Judicial Conference were promulgated by the Supreme Court on November 20, 1972 and forwarded to the Congress on February 5, 1972. They are now under detailed study by a special Subcommittee on Reform of Federal Criminal Laws of the House of Representatives.

On behalf of the Committee
on Rules of Practice and
Procedure


Chairman

March 16, 1973