

MINUTES OF THE AUGUST 1960 MEETING OF THE
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

The second meeting of the Committee on Rules of Practice and Procedure convened in the Supreme Court Building on August 31, 1960 at 10:15 a.m. The following members of the standing Committee were present:

Albert B. Maris, Chairman

George H. Boldt

Charles E. Clark

James W. Moore

Bernard G. Segal

J. Skelly Wright

Also present at the invitation of the Committee were the Chairmen, and the Reporters, of the five Advisory Committees:

Dean Acheson, Chairman, Civil Rules
Benjamin Kaplan, Reporter

John C. Pickett, Chairman, Criminal Rules
Edward L. Barrett, Jr., Reporter

Walter L. Pope, Chairman, Admiralty Rules
Brainerd Currie, Reporter

Phillip Forman, Chairman, Bankruptcy Rules
Frank R. Kennedy, Reporter

E. Barrett Prettyman, Chairman, Appellate Rules

The Chief Justice was present during a part of the meeting. Others attending were Warren Olney III, Director of the Administrative Office of United States Courts; Aubrey Gasque, Assistant Director, who is the Secretary of the Rules Committees; Carl H. Imlay, Attorney of the Administrative Office staff; and Ada E. Beckman, Law Clerk to Judge Maris.

Walter J. Cummings, Jr., former Solicitor General and now Chairman of the American Bar Association's Special Committee on Federal Rules, and Harry LeRoy Jones, Director of the Commission on International Rules of Judicial Procedure, were present during a part of the meeting at the invitation of the Chairman.

The Chairman announced that Solicitor General J. Lee Rankin was unable to attend because of other pressing public business, and noted with concern that Dean Mason Ladd, who had arrived in Washington to attend the meeting, had been confined to George Washington Hospital because of a sudden illness.

Judge Maris also spoke, with deep regret, of the untimely death of former Solicitor General Philip L. Perlman, a member of the standing Committee, who passed away in Washington, July 30, 1960.

1. Report of the Chairman

a. The Chairman formally reported the appointment by the Chief Justice of the five Advisory Committees and the Reporters for four of these Committees. (Exhibit 1). He welcomed to the meeting the Chairmen of all the Advisory Committees, and the Reporters, and urged their full participation in the proceedings.

b. The heavy volume of preliminary work performed by the Committee Secretariat in the Administrative Office was acknowledged by Judge Maris, and he expressed his appreciation to Director Olney and to the staff, mentioning especially Mr. Gasque, Mr. Imlay, Miss Louise Cooper and Mrs. Rose Beck, all of whom are directly concerned with the work of the Rules Committees.

c. The Chairman called the attention of the Advisory Committee Chairmen to the Resolution of the Judicial Conference, dated September 18, 1958, in which it was provided that membership on the Advisory Committees was to be for two and four-year terms, on a staggered basis. He stated that the Chief Justice, in declining to fix the terms of the members, had suggested that membership be settled by lot at the first meeting of each of the

Advisory Committees and that he be advised of the outcome. This provision is not applicable to the Chairman, all of whom were appointed to serve full four-year terms by the Chief Justice.

2. Progress Report on Civil Rules

Mr. Acheson, Chairman, stated that a brief report on the work of the Advisory Committee on Civil Rules had been filed with the standing Committee, and had been circulated. (Exhibit 2). A meeting of the Advisory Committee will be held in Washington in the late Fall.

Mr. Acheson advised the meeting that the Civil Rules study was underway, and that certain preliminary work -- in developing background materials, compiling a documentary history of the civil rules, preparing a comprehensive bibliography, and so forth -- had been accomplished with the assistance of the Committee Secretariat. He reported that Professor Kaplan, and his research assistants, were currently going over the 1955 report and the materials of the previous Advisory Committee. In this connection, Mr. Acheson commented that he considers his Committee to be a continuation of the preceding Advisory Committee, with an obligation to study carefully the work of that group and, particularly, the recommendations it made in 1955.

Mr. Acheson reported that his Committee had communicated with all United States appellate and district judges, asking what their experience had been with the civil rules; which rules require no further attention; and which rules should be modified and in what way. The Committee has received a great many responses and they have been exceedingly helpful. In addition, Mr. George Doub, Assistant Attorney General, and a member of the Civil Rules Committee, asked the United States Attorneys to report their experience with the civil rules and received a number of replies. These, too, have been helpful.

Following a study of the recommendations contained in the 1955 report, Mr. Acheson reported that his Committee plans to begin by dealing with those rules that need obvious modification and, then, to tackle the more difficult areas. Mr. Acheson expressed the desire to work very closely with Judge Pope and the Advisory Committee on Admiralty Rules in the extensive undertaking of that Committee.

3. Progress Report on Admiralty Rules

Judge Pope, Chairman of the Advisory Committee on Admiralty Rules, called attention to the progress reports

filed with the Committee and circulated. (Exhibits 3 and 4).

Judge Pope identified the two major problems confronting the Admiralty Committee:

1. The feasibility and desirability of integrating the admiralty and civil rules, in accordance with the direction of the standing Committee; and
2. resolving the problem brought to the attention of the Rules Committee in the Supreme Court's decision in Miner v. Atlass, holding invalid district court rules applying to admiralty the civil practice as to discovery depositions.

With respect to the first of these problems, Judge Pope advised the Committee that Professor Currie had prepared and filed with his Committee two rather comprehensive reports entitled:

1. Preliminary Survey of the Feasibility of Unifying the Civil and Admiralty Practices under a Single Set of Rules of Procedure, (Exhibit 5) and
2. Memorandum on the Need for and the Desirability of Unification of the Practice in Civil and Admiralty Cases under a Single Set of Rules of Procedure (Exhibit 6).

Judge Pope emphasized that the members of the Admiralty Bar were dedicated to tradition and that, regardless of the number of civil rules moved into admiralty, or vice versa, the Admiralty Bar is still of the opinion that there should exist a single, separate set of admiralty rules. They advance, for the most part, no concrete reasons, or justification, for separate admiralty rules, but rest their case upon tradition and sentimentality.

Judge Pope stated that he plans to try to get the Maritime Law Association, and other interested groups, to take the problem more seriously and to pose for them the question: "Why shouldn't the civil and admiralty practices integrate?" In this connection, he would like to have them consider Professor Currie's reports.

A meeting of the Admiralty Committee is tentatively scheduled to be held November 14th, in the Supreme Court Building, in Washington. Judge Pope cautioned that, because of the diverse views on the Admiralty Committee, the decision with respect to unification of the admiralty and civil practices, might have to be made by the standing Committee.

Chairman Maris pointed out that the admiralty bar must realize that unification is a problem not only for the admiralty

bar -- it is not a problem exclusive with the bar -- but there exists a group of admiralty judges who also have a right to have their opinions seriously considered.

Judge Pope reported that the second problem facing the Admiralty Committee was the interim disposition of matters posed in the decision of Miner v. Atlass, decided June 20, 1960. The Supreme Court in this decision, which invalidated procedures then being followed in 13 or 14 district courts, recommended that the Committee determine in what districts such rules were in effect and, also, to determine the efficacy of those rules.

Professor Currie informed the Committee that Judge Pope had addressed letters to approximately 90 United States District Judges in the districts having local discovery rules in admiralty, and that approximately 1000 letters, with a questionnaire, were prepared and mailed to members of the bar, and to members of the Maritime Law Association, in those districts. A gratifying number of replies have been received, although not enough to evaluate. Thus far, responses to the questionnaire are running 90 per cent in favor of the deposition practice.

Professor Currie stated that he, at least, had reached the conclusion that the admiralty and civil rules should be integrated, and that he would have an authenticated and implementing report for Judge Pope to present to the standing Committee at its meeting in February 1960.

Judge Clark remarked that he felt Professor Currie's work was remarkably good and that it was a splendid job.

4. Progress Report on the General Orders in Bankruptcy

The Chairman of the Advisory Committee on Bankruptcy Rules, Judge Forman, called attention to the report filed with the standing Committee (Exhibit 7).

Judge Forman cited statistics showing that bankruptcy filings increased from 100,729 cases in fiscal year 1959 to 110,284 in fiscal 1960, an increase of about 10,000 cases. Non-business filings rose from 89,000 in 1959 to 98,000 in 1960; and business filings from 11,729 to 12,284. These statistics emphasize the volume of bankruptcy business in the courts and the need to keep current at all times both the general orders and the forms in bankruptcy.

Judge Forman stated that the first order of business for his Committee was to bring the general orders and official forms into

conformity with legislation that has been enacted in recent years. While reforms have been made by statutory enactment, the general orders and official forms have remained unchanged and, as a result, they are out of date. He commented that just to bring the forms and orders into conformity with existing law was a considerable task, but that with Professor Kennedy, as Reporter, and Mr. Covey, Chief of the Bankruptcy Division of the Administrative Office, the work has been accomplished. The report, filed with the Committee, contains the perfecting material.

Judge Forman then announced that a meeting of the Advisory Committee on Bankruptcy Rules is scheduled to be held December 10th and 11th in the Supreme Court Building in Washington.

Professor Kennedy commented that the Bankruptcy Committee is currently faced with three major problems:

1. The feasibility and wisdom of amending the Bankruptcy Act in order to conform rule-making in bankruptcy to that in civil cases generally in the federal courts;
2. the matter, referred by the Judicial Conference, relating to the authority of a referee to conduct a jury trial; and

3. the question whether a trustee should be appointed in every case, contrary to the implication of General Order 15.

Professor Kennedy stated that the Bankruptcy Act appears to require a trustee to be appointed in every case. He mentioned that the Judicial Conference had asked the Advisory Committee to study the possibility of establishing a panel of trustees, which would facilitate administration of no-asset cases without running counter to the policy against standing trustees.

5. Progress Report on Criminal Rules

Judge Pickett, Chairman, called attention to the report of the Advisory Committee on Criminal Rules (Exhibit 8). He advised the Committee that a meeting of the Advisory Committee is scheduled to be held October 14th in Washington. At that time, Judge Pickett hopes that the Advisory Committee will be in a position to make a report on what should be done with Rule 5, if anything. Rule 5 has been accorded this early study because of the many proposals made in Congress to amend the rule; Judge Pickett believes that the Rules group should take the initiative in order to prevent hasty enactment of legislation which might prove to be undesirable.

Professor Barrett made special mention of the excellent cooperation given the Advisory Committee on the Criminal Rules by the Department of Justice. With respect to Rule 5, he stated that his studies to date caused him to wonder whether there should not be a federal rule and, in addition, a rule especially designed for the District of Columbia. Apparently, the Mallory Decision has caused concern primarily in the District of Columbia, and this because of the nature of the problems in law enforcement in a big city as distinguished from the usual federal district court. Professor Barrett invited suggestions and advice from the members of the standing Committee on how to approach this particularly sensitive task pending before the Advisory Committee.

Judge Prettyman stated that, because of his experience, he felt it would be most unwise to have one rule for the District of Columbia and another for the rest of the country.

Professor Barrett then raised the question -- of interest to all the chairmen and the reporters of the Advisory Committees -- as to when drafts, reports, and recommendations should be circulated, i. e., when the Advisory Committee has prepared a formal draft or when the standing Committee has formally approved a report. Chairman Maris stated that this was a procedural question of some importance that would have to be

discussed and decided upon at this meeting.

6. Remarks by the Chief Justice

The Chief Justice of the United States, who had joined the meeting during the report by Professor Barrett, was invited by Judge Maris to speak to the members present. The Chief Justice said:

"Judge Maris and Gentlemen: I came to express my continuing interest in the work of these committees. I think they are of tremendous importance and the more I see of the work that you have done, the more this is impressed upon my mind. I have been thinking as I sat here about the genesis of this whole undertaking and the concerns that were raised when the initial suggestion was made. One was that any new organization would just come in and tear all the existing rules to pieces and undo all the good work done through the years. I think the presence of you gentlemen here is enough evidence to shatter that concern and, as for myself and for the members of the Court, I am sure there isn't the slightest feeling on the part of anyone that it is a desirable thing to do.

We all feel that the Federal Rules have worked well and, if we could honestly say so, we would like to think there was no need of changing them at all.

"Our concern was that we remain current with the thinking, with a broad base that would reach into the law schools, the circuit and districts and into the bar associations themselves. We need to keep these rules on a current basis. These are changing times in which we live and I do not believe that we can feel that there is no need for change of any kind in order to meet present or future conditions. So, I just want to assure you of the fact that we have no desire to urge any particular changes; on the other hand, I have no doubt that it will be necessary to make some and that is your job.

"The other concern was that we might not be able to interest enough scholars and judges in what a lot of people consider a rather prosaic thing -- rules -- to justify the expenditure of money and work we propose to do. I think this gathering

and what has preceded this meeting is sufficient to shatter that concern. So I am tremendously pleased with everything that has gone on today. I didn't think you would make as much progress as you have. Moreover, when we told Congress of the progress being made they gave us every dollar we asked for the undertaking, so I am sure that we enjoy the confidence of the Congress in what we are doing.

"I might say also there was one other reason that I want to see this work done and done through the Judicial Conference and its constituent bodies, and that is that while great things are expected of the Judicial Conference, it has very few statutory responsibilities for doing things of importance that the members can really get their teeth into. I thought if we had something like this of importance for the Conference it would strengthen the Conference and give it a stronger objective than heretofore. I am pleased, Judge Maris, with all these committees, with what they are trying to do. I will be willing to help in any way I can and I am sure the Administrative

Office will serve you very well. Thank you very much for the service you are rendering and the service you are giving here."

Judge Maris acknowledged the remarks of the Chief Justice and expressed gratitude for his more than generous giving of his time and advice, and said it was quite evident that the project was one that was close to his heart.

The Chairman informed the Chief Justice that just before his arrival, the matter of the procedure to be followed in circulating matters to the bench and bar was being discussed.

The Chief Justice said that he thought, first, it would be better to wait and send out a number of changes from a Committee -- rather than just sending everything out piecemeal; and, second, that every attempt should be made to get as wide a circulation and response as possible.

Judge Maris said that, in this connection, the Committee was considering amending the General Orders and Forms in Bankruptcy in order to bring them in line with existing statutes and thought of sending them to the Court so that the Court could bring existing rules into conformity with existing statutes.

The Chief Justice asked whether these proposed changes had been submitted to the circuits, and to what extent would they be circularized before going to the Court. He reminded the meeting that "we promised we would do that".

Chairman Maris said that these were peculiarly technical and non-controversial amendments, and that the Court would probably want to have the rules current as rapidly as possible.

7. Introduction of Mr. Walter J. Cummings, Jr.

Chairman Maris then introduced Walter J. Cummings, Jr., the Chairman of the Special Committee on Federal Rules of the American Bar Association, who briefly addressed the meeting.

Mr. Cummings stated that the American Bar Association would like to cooperate with the Rules Committees, and would arrange for consideration of any work product of the Rules group. He also conveyed an invitation of Chief Judge Hastings of the Seventh Circuit to have any reports of the rules committees considered by the Judicial Conference of that Circuit in May. Mr. Cummings mentioned that a member of his committee is Mr. James R. Browning, Clerk of the Supreme Court, and expressed the hope that he could serve as a liaison between the ABA Committee and the standing Committee. Mr. Cummings said that after rules are formulated they would be glad to have them

considered and processed through the American Bar Association, and that they would be glad to proselytize the bar. Mr. Cummings expressed the desire to cooperate with this group in every way.

[The Chief Justice and Mr. Cummings then left the room]

8. Circulation of Bankruptcy Proposals

The Chairman referred again to the proposal of the Bankruptcy Advisory Committee and stated that he thought the Chief Justice was entirely right in saying that committee proposals normally must be thoroughly circulated and considered by the judicial conferences, bench and bar and the reaction of all of those obtained before being sent to the Judicial Conference of the United States.

The Chairman pointed out that the present recommendations of the Bankruptcy Advisory Committee -- being technical amendments merely bringing the general orders and forms up to date with changes in the Act -- are in a different category and asked whether it was thought they should go directly to the Judicial Conference at its meeting next month. During the discussion that followed Judge Forman pointed out that all members of his committee had studied the changes carefully and agreed on them and said he felt there was no room for controversy.

Mr. Segal thought that since this was the first concrete action to be taken by the Rules Committees, this procedure might presage a method that would be followed in the future.

The Chairman said that perhaps the committee could afford to take until next March so that a pattern would be set which could be followed. The proposals could be forwarded to the Conference in March and could be adopted by the Court at that time.

Professor Moore felt very strongly in reference to the Tax Court Rule, proposed by the Advisory Committee on Appellate Rules, for the simple reason that it raises problems that the bar generally will want to comment upon -- not that there will be any real objections. The bar will feel that it should be circula rized and he felt somewhat that same way about the General Orders, even though they are 80 percent mechanical.

Judge Forman pointed out that the discrepancy between the law and the general orders had been obvious, and that their committee had activated itself thinking the standing Committee wanted the amendments as quickly as possible, but stated that he had no feeling that the matter could not go over until March.

Judge Wright suggested that the report be referred back to the Advisory Committee and that the proposed changes be circulated to

the bar and others concerned for responses in time for the next meeting of the standing Committee.

9. Circulation of Proposed Drafts by the Standing Committee

In this connection, Professor Barrett expressed the hope that a decision would be reached as to whether the Advisory Committees should circulate drafts or whether they should be circulated by the standing Committee.

Chairman Maris recognized the importance of this procedural problem and stated that, in his view, each Advisory Committee is free to communicate with and obtain the views of all interested individuals and groups in the development of a tentative proposal, but that at such time as a definitive draft has been agreed upon it should probably be submitted to the standing Committee for broad circulation to the bench, bar and judicial conferences.

Judge Boldt expressed a similar view, and felt strongly that the matter of circularizing ought to be approved by the Chairman of the standing Committee.

Judge Maris asked if it was the judgment of those present that each Advisory Committee should be authorized to circulate to the groups their tentative drafts or perhaps a final draft, and that they should be authorized to do that before any proposal is

presented to the standing Committee.

Mr. Acheson had two suggestions: With respect to the specific question of the General Orders in Bankruptcy, he suggested that Judge Maris announce, through West Publishing Company and other appropriate media, that the Advisory Committee on Bankruptcy Rules had brought the General Orders and Official Forms up to date, i. e., in accordance with recently enacted amendments to the Bankruptcy Act, and that the standing Committee, to whom these proposed amendments had been forwarded, would very much appreciate expressions from the bench, bar and judicial conferences. Mr. Acheson then suggested that it would be most helpful to the Advisory Committees to have Judge Maris and the standing Committee circulate proposed amendments with a notice saying that the standing Committee had received the draft from the Advisory Committee and would be considering it in due course; and, in this connection, the standing Committee earnestly solicits expressions of opinion and suggestions for improvement from the bench, bar and judicial conferences. When suggestions come in, they should be referred to the Advisory Committee for consideration in the preparation of the ultimate proposal to be forwarded to the standing Committee and the Judicial Conference.

Professor Kaplan was of the view that any definite proposal should be submitted to the bench and bar from the standing Committee.

Judge Pope agreed with this view, but added that there would be limited questions to submit to specialized groups in the development of a proposal and that he would imagine that those would go directly from the standing Committee. He mentioned that the Advisory Committee on Admiralty Procedure had just recently distributed a questionnaire to some 1000 judges and lawyers on the question involving depositions in Miner v. Atlass.

Mr. Gasque stated that in the development of a rule, it would seem that a questionnaire should go to a select group by the Advisory Committee. When a finished proposal has been agreed upon, it would be circulated promptly, and by the standing Committee. In this discussion, he thought it important to emphasize that the common secretariat for the standing Committee and the Advisory Committees would tend to reduce instances of duplication and confusion in matters of circularizing to the bench and bar.

Judge Boldt thought this was so, but in any event, thought

that circularizing should be cleared through the standing Committee as a matter of policy.

Judge Prettyman urged the Committee to make a clear distinction between the right of an Advisory Committee to seek advice from anybody in the development of a proposal and the ultimate circularization of a firm proposal from an Advisory Committee. The latter involves, in effect, a broadcast; but given a topic, the Advisory Committee might very well want views of particular persons or groups. He felt that it would unduly hamper an Advisory Committee if it had to clear through the standing Committee every time it wanted to seek views on technical questions in developing a proposal. There is a clear difference between development and circularization.

After further discussion, Judge Maris summarized the view of the meeting that any proposal, whether tentative or definitive, that is to be circulated widely to the bench and bar of the country should be circulated only by the standing Committee in a communication signed by the Chairman, but that in the performance of its work, and in the development of its proposals, an Advisory Committee should be free to secure directly any comments, advice and assistance which it may desire from particular individuals or specialized groups.

Accordingly, it was decided that the proposals of the Advisory Committee on Bankruptcy Rules should be submitted by the standing Committee to the bench and bar with the notification that these proposals prepared by the Advisory Committee on Bankruptcy Rules will be submitted to the Judicial Conference in March for transmission to the Supreme Court, and that expressions of opinion with respect to them and suggestions for their improvement will be welcome and should be transmitted promptly.

10. Public Announcement to the Bench and Bar

The question was then raised by the Chairman whether some public announcement should be made, expressing an invitation to the bench and bar of the United States to send in any proposals they may have for improvements in the federal rules of procedure so all will know they have a place in this program.

The Chairman said it had been pretty strongly suggested to him that it should be made clear to the bar of America that the Committees are functioning and ready to receive suggestions. It is felt that this has not been made clear. He said that publicity had been given to the appointment of the committees

but suggested that perhaps through bar association journals and in other appropriate ways, it should be definitely suggested that we are open to any suggestions that anyone has to make in the rules field. He thought that this would avoid later criticism of our work.

Professor Currie suggested that Judge Maris write a short article describing the organization, which might be published by the American Bar Association, Federal Rules Service, and so forth. Professor Barrett suggested sending it to ABA Journal and to state bar associations. Judge Maris would include presidents of state bar associations, soliciting cooperation of their committees and asking them to transmit to their members an invitation to send in suggestions.

It was agreed that these actions should be taken as soon as possible.

11. Proposal to formulate federal rules of evidence (possible cooperation of American Bar Foundation).

Mr. Segal read the letter of August 19, 1960 to Judge Maris from Professor Charles W. Joiner enclosing a brief report and recommended resolution pertaining to proposed work on

the uniform rules of evidence by the American Bar Foundation.

After discussion, it was decided that a study of uniform rules of evidence is such a big project and that it would constitute a hindrance to the other work at this time. It was accordingly decided that action on the proposal to prepare uniform rules of evidence for the federal courts be postponed until the next meeting. The proposal must be considered, but obviously the Advisory Committee on Civil Rules and the Reporter are not able to add this project to their labor now. When it is considered it should probably be by a specially constituted group.

12. Progress Report on Appellate Rules

Judge Prettyman, Chairman, stated that the Advisory Committee on Appellate Rules had filed a report for the Committee (Exhibit 9).

Judge Prettyman reported that Congress had passed a special statute authorizing the Supreme Court to promulgate rules governing appeals from the Tax Court and immediately upon appointment of the Advisory Committee on Appellate Rules, that Committee was advised that the Judicial Conference wanted them to consider this at once with the idea that it would be

presented to the September meeting of the Conference. No formal meetings were held, but a volunteer meeting was called which was attended by Mr. Ash, Judge Murdock, Mr. Gatchell, Mr. Gasque, Mr. Imlay, and Mr. Locke, Clerk of the Tax Court. A draft of rule was prepared.

Judge Prettyman suggested that, under the procedure adopted at the morning session, the proposed rule to govern the appeal of decisions of the Tax Court be circulated.

The Chairman stated that the rule would be circulated to the bench and bar as a draft approved by the Advisory Committee on Appellate Rules. Any suggestions received will be transmitted to the Advisory Committee and further consideration given to the rule at the next meeting of the standing Committee.

Professor Moore said he would like to have Judge Prettyman given authority to take a look at the other appeal rules also. He feels it is very important that we try to keep these rules uniform with other appellate rules.

Judge Prettyman then asked if matters to be referred to his committee by the standing Committee or by the Judicial Conference would be specific problems or will his committee be authorized to make a study of appellate rules generally and come up eventually with something the standing Committee could consider that it might circulate. Judge Prettyman said piecemeal instructions

would not be a very happy way to proceed. Judge Prettyman mentioned that he had told the appropriations committees that his committee planned to make a thorough study of appellate rules and felt that the congressional committee was impressed by this fact.

It was agreed that the Advisory Committee on Appellate Rules shall have authority to make a full study of all of the rules of practice and procedure in the courts of appeals and to proceed in the direction of preparing uniform rules in that field, the disposition of which will await further developments.

13. Consideration of continued use by some courts of appeals of the system of printing the record on appeal rather than relevant portions thereof in an appendix to the brief.

The Chairman stated that this would seem to be a matter to be referred to the Advisory Committee on Appellate Rules. After some discussion of methods used in the various circuits it was agreed that the proposal as set out above be referred to the Advisory Committee on Appellate Rules.

14. Proposal to liberalize the Rules of Civil Procedure with regard to the reference of patent cases to masters.

This is a suggestion put forth by Judge Jones and after

some discussion it was decided that the proposal be referred for study and consideration to the Advisory Committee on Civil Rules.

15. Proposal of judges of Southern District of New York to provide for standing masters under Civil Procedure Rule 53 for pre-trial and discovery duties.

After some discussion, it was decided to report to the Conference that there is no need for any amendment on Rule 53, but we regard the problem as a financial one involving the securing of the necessary appropriation from Congress if it is desired to appoint such standing masters.

16. Local Rules of the United States District Courts

Mr. Gasque informed the Committee that, under the signature of the Chairman, a letter was sent to all United States District Courts requesting copies of their local rules. He pointed out that the rules received were frequently out of date and some out of line with the existing rules of civil procedure. He hopes, eventually, to have the Chief Justice request the Chief Judges to bring their local rules up to date and, also to make the suggestion that, as they are brought up to date, they be forwarded to the Administrative Office for printing in order that they can be printed and bound uniformly.

17. Amendments to the Federal Forms

Professor Moore commented that there would inevitably be mechanical amendments in the forms which could, and perhaps should be proposed by the standing Committee without reference to the bench and bar generally. For example, there are the two forms annexed to the Federal Rules of Civil Procedure in conflict with the recently enacted statute, which raised the jurisdictional amount from \$3,000 to \$10,000, and it is believed that the Committee could suggest the adoption of such changes to comply with the statute.

18. Date of Future Meeting

The date of the next meeting of the standing Committee was discussed and it was tentatively set for Friday, February 24, 1961. The Chairman stated that it would again be helpful if the Chairmen of the Advisory Committees and Reporters attended, particularly those with matters to present.

The meeting was adjourned at 3:10 p.m.