

MINUTES OF THE JULY 1975 MEETING
OF THE ADVISORY COMMITTEE ON BANKRUPTCY RULES

The thirty-fourth meeting of the Advisory Committee on Bankruptcy Rules convened in the 6th Floor Conference Room of the Administrative Office of the United States Courts, 811 Vermont Avenue, N. W., Washington, D.C., on Friday, July 18, 1975 and adjourned on Saturday, July 19, 1975. The following members and reporters were present during the sessions:

Phillip Forman, Chairman, presiding
Asa S. Herzog
Charles A. Horsky
Norman H. Nachman
Morris G. Shanker
George M. Treister
Elmore Whitehurst
Frank R. Kennedy
Vern Countryman
Lawrence P. King
Walter J. Taggart

Others attending all or part of the sessions were Judge Roszel C. Thomsen, Chairman of the Standing Committee on Rules of Practice and Procedure, Mr. William E. Foley, Deputy Director of the Administrative Office of the United States Courts, and Mr. Thomas A. Beitelman, Jr. of the Bankruptcy Division.

Because of illness Professor Seligson missed his first meeting. In view of this the members sent a telegram as follows:

Professor Taggart reviewed the comments which had been received from the members of the bench and bar, and prepared a memorandum dated July 8 and one dated July 17, 1975 outlining the comments which required consideration of the Committee. The action taken at the meeting follows.

Rule 8-110. Responsive Pleading

Professor Taggart stated that since Bankruptcy Rule 704 had been amended to extend the time for mailing of the summons from 3 to 10 days and therefore caused an amendment to Bankruptcy Rule 112, the time limit to respond under this rule may need to be changed to 5 days. However, he recommended no change due to the infrequent number of involuntary petitions in Chapter VIII cases. The members agreed.

Rule 8-111. Disposition of Petition; Preliminary Approval; Hearing

(b) Involuntary Petition.-Mr. Marshall felt the language on lines 13-15 was not clear. Professor Taggart suggested it be changed to, "or if ~~no~~ valid defense or objection to such petition is set forth in any such answer." The members agreed.

(d) Award of Costs.- In his memorandum of July 8, Professor Taggart explained a possible necessity for adding a reference in the advisory committee note to this rule regarding Bankruptcy Rule 115(e) and the Alyeska Pipeline case, but the Committee felt it was unnecessary. Since someone other than the debtor may contest an involuntary

petition, the Committee agreed to Professor Taggart's recommendation that "debtor" not be substituted for "prevailing party" as suggested by Mr. Marshall.

Rule 8-201. Appointment and Duties of Receivers

Professor Taggart stated that the I.C.C. questioned the authority under this rule for appointment of a receiver and the omission of the I.C.C.'s approval of this appointment. He indicated that receivers are necessary since trustees are appointed and since the receiver is in office for a maximum of 60-90 days the need for I.C.C. approval would cause a delay in the case. No change was made.

Rule 8-202. Appointment of Trustee

(a) Appointment.-The Department of Justice wanted the rule modified to include disclosure of persons being considered for appointment as trustee as well as their qualifications, however, the Committee rejected the suggestion.

(c) Eligibility.-The I.C.C. felt the Committee should have retained the statutory provision for appointment of an employee of the debtor as sole trustee in smaller cases in order to avoid the expense of a disinterested trustee. Professor Taggart explained that there are very few railroads with revenue less than \$1,000,000 and the change was declined.

Rule 8-207. Trustee, Receiver, or Debtor to Conduct
Business of the Debtor

The Committee agreed to add "and in the interest of continuing the debtor's rail operations" at the end of the rule as suggested by the Department of Justice. They felt it more fully explained the intent of the rule.

Rule 8-209. Notices to Creditors, Stockholders and
Governmental Bodies

The Committee agreed to add the Attorney General as a party entitled to receive notices since these notices are few.

Rule 8-210. Standing to be Heard; Intervention

(b) Intervention of Right for Governmental Bodies.-

The Department of Justice objected to the role of the Department of Transportation under this subdivision. Judge Thomsen suggested they leave the rule as written and add a sentence to the note pointing out that this rule does not govern the appointment of counsel for the government parties who intervene.

Rule 8-212. Compensation of Services and Reimbursement of
Expenses

(b) Procedure for Allowance.-Mr. Marshall pointed out that paragraph (1) was not clear, therefore, Professor Taggart renumbered item (2) as (1) and redrafted (2) as follows:
"after notice to such persons as the court may direct of the time within which objections to allowance may be filed, if

no timely objection is filed or, if a timely objection is filed, after hearing to consider such objection." The Committee agreed.

The I.C.C. wanted the Committee to change the note to indicate that the parties should furnish such information as required, but Professor Kennedy suggested the note be changed to clarify that the rule is not cutting down on the duty to comply with the I.C.C. regulations.

Rule 8-301. Formulation and Filing of Plan

(a) First Filing of Plan. (2) By Others.-The Department of Justice and the I.C.C. objected to the requirement that someone other than the trustee needs leave of court to file a plan. After discussion, Mr. Nachman suggested changing the note to make the purpose of the hearing clearer. The Reporter suggested the following, "that the hearing is not for the purpose of making a detailed examination of the plan but rather for the court to determine that the plan proponents are serious and not frivolous" and the members agreed.

The Department of Justice also wanted the United States to be exempt from the leave of court requirement, that is, to have absolute right to file at the end of the year. It was agreed to leave the rule as written but Judge Thomsen suggested adding an explanation in the note that the United States will have status as a party in interest. Professor Countryman suggested adding a reference to Rule 8-210(b)

which allows the Department of Transportation the right to intervene. The members agreed.

Rule 8-303. Transmission of Plan to Interstate Commerce Commission

The I.C.C. objected to the second sentence which allowed the court to fix a time for the I.C.C. to report back on its progress because they felt it would cause confusion and therefore show things down. Professor Taggart explained that the sentence had been added to speed up the process. Mr. Nachman pointed out that the court could get the message through without the sentence and moved to delete it. The motion carried. The explanation in the note was also stricken.

Rule 8-401. Proof of Claim or Interest

(b) Filing Proof of Claim. (3) Who Must File. (C)

Professor Taggart recommended deleting the "excusable neglect" phrase and inserting the statutory language, "forgood cause" in order to preserve the liberal standards of § 77. Mr. Treister pointed out that it should be the same as Chapter X unless there is a major difference in the case. Mr. Nachman then suggested the rule remain as written but the note be conformed to the language of the comparable Chapter X note. Professor Countryman pointed out that in doing this the last sentence of the note to this rule regarding this paragraph should be deleted. The motion carried.

(5) Form and Place of Filing.- Mr. Marshall pointed out that the cross-reference to Rule 8-402 should include a reference to subdivision (a) also, and the Committee agreed.

Rule 8-405. Distributions; Unclaimed Money and Securities

(a) Distribution.-Professor Taggart agreed with Mr. Marshall's interpretation that "filed in accordance with Rule 8-706" on line 14 is technically incorrect, however, if the language is changed it would have to be changed in other bankruptcy rules. Mr. Horsky moved to leave the rule as written and hold this point for consideration at a later time when the rules are revised. His motion carried.

Rule 8-501. Petition As Automatic Stay of Actions Against Debtor, Lien Enforcement, and Setoff

Professor Taggart stated that the I.C.C. felt the rule did not recognize the problem decided in the Third Circuit case regarding interline service. Mr. Horsky moved to add this Penn Central case to the note and leave the rule as written. His motion carried.

The Committee agreed not to include an exception to the stay of set-offs in the rule as suggested by the Department of Justice.

Rule 8-509. Sale of Property Free of Lien or other Interest

(a) Sale After Hearing.-Mr. Marshall questioned the use of the following language, "or any other interest for which a holder may be compelled to take money satisfaction" but the Committee declined to agree because of the language which is also used in Rules 606, 701 and 10-701.

Rule 8-510. Lease of Property and Sale Other Than Free of
Lien or Other Interest

Mr. Marshall felt they should consider the possibility of combining this rule with Rule 8-509, however, the Committee preferred two separate rules for the ease of one looking for specific situations.

(a) Sale of Lease After Hearing.-Mr. Marshall felt the reference to Rule 8-509 was unnecessary, but the Committee felt it should be retained for clarification of the relationship of the two rules. Professor King suggested adding a comma after the reference and the members agreed.

Rule 8-512. Abandonment of Line of Railroad or Portion Thereof

(b) Abandonment After Hearing.-Mr. Marshall felt "on notice" was redundant and suggested the language be changed. Professor Taggart suggested deleting that phrase from lines 8-9 and adding, "of the hearing" after "notice" on line 13. Mr. Horsky moved approval as suggested and his motion carried.

Rule 8-516. Prosecution and Defense of Proceedings by Trustee,
Receiver, or Debtor.

Mr. Marshall questioned the status of the debtor here but the Committee felt it is covered by the note.

Rule 8-517. Preservation of Voidable Transfer.

Mr. Marshall questioned the use of "only" on line 6 and the § 77 language in the note but the Committee made no change.

Rule 8-602. Applicability of Federal Rules of Civil Procedure and Bankruptcy Rules to Adversary Proceedings

(a) Federal Rules of Civil Procedure.-Mr. Marshall

pointed out in his letter that the reference in paragraph (4) to Bankruptcy Rule 915 should be broader. Professor Taggart suggested replacing it with the following: "The following words shall be added at the beginning of Rule 12(h)(3): 'Subject to Bankruptcy Rule 915.'" Mr. Horsky moved approval and his motion carried.

Professor Taggart called attention to his memorandum of July 8 in which he discussed the effect of the proposed amendment to Bankruptcy Rule 704 but recommended no change in this rule.

Rule 8-701. General Definitions

Mr. Marshall disliked the definition of "railroad corporation" in paragraph (15). The Committee recognized his point but Mr. Horsky felt that it was too substantive to change and the members agreed to leave the statutory definition as written.

Rule 8-702. Meanings of Words in the Federal Rules of Civil Procedure and Bankruptcy Rules When Applicable in Chapter VIII Cases

The meaning of "bankruptcy" or "bankruptcy case" as used in the civil rules was questioned by Mr. Marshall. Professor Taggart stated he conformed these to the style used in other rules. No change was made.

Rule 8-703. Applicability of Federal Rules of Civil Procedure and Bankruptcy Rules

(a) Federal Rules of Civil Procedure.-Assuming an amendment to Bankruptcy Rule 805 will be approved a new paragraph (6) was added regarding the effect of appeal on an unstayed order. The members concurred.

Rule 8-704. Service and Filing of Applications, Motions, and Other Papers

Professor Taggart stated that the Department of Justice wanted an additional provision requiring the clerk to maintain a current service list. Judge Whitehurst disagreed and moved to leave the rule as written inasmuch as the Civil Rules do not require this procedure. His motion carried.

Form No. 8-7. Ballot for Accepting or Rejecting Plan

Mr. Marshall disliked the wording used on lines 39-40, "approved by the court on _ _ _ _ _ for submission of your vote." He indicated that since "the undersigned" is the subject of the case then "your" should refer to someone else. The Reporter agreed and recommended deletion of the words. The Committee agreed.

Rule 8-706. Representation and Appearances; Power of Attorney

(b) Notice of Appearance.-Professor Taggart stated that Mr. Marshall suggested requiring telephone numbers here and in Form No. 8-1. Professor King indicated Mr. Marshall's

similar suggestion with regard to the Chapter IX forms wherever there is a footnote requiring the mailing address. Judge Herzog felt this was unnecessary and moved to decline the suggestion in either set of rules. Professor Taggart pointed out that it would be easier to add this requirement to the Chapter VIII rules because it would effect only one rule and one form whereas many forms would have to be changed in Chapter IX. The committee voted against the suggestion.

Amendments to the Bankruptcy Rules

Professor Kennedy reviewed the comments which had been received from the bench and bar, and prepared a memorandum dated June 19, 1975 outlining the comments which required consideration of the Advisory Committee. The action taken by the Committee on these comments follows.

Rule 107. Filing Fees.

Mr. Schlitz, the clerk of court for the District of Maryland, objected to the burden placed upon the clerk's office to write \$10 checks for the trustee's fee in non-asset bankruptcy cases when no trustee is appointed. Professor Kennedy indicated that was something the Committee could not deal with directly.

Rule 115. Hearing and Disposition of Petition

(e) Award of Costs.-Professor Kennedy called attention to his memo explaining a possible change regarding reasonable counsel fees because of the recent decision in the Alyeska Pipeline case. He recommended not making any change without prior circulation to the bench and bar. The Committee agreed.

Rule 112. Responsive Pleading or Motion

An amendment to this rule was not included in the preliminary draft mailed to the bench and bar, but one was necessitated by a letter from Judge Ihlenfeldt in which he pointed out the Committee's failure to correlate the time allowed for filing a response to a petition by Rule 112 with the changes made by the amendments of Rule 704(e) and 712(a). Professor Kennedy thus prepared an amendment changing the time from 15 to 20 days to be included in the rules forwarded to the Standing Committee. Judge Herzog moved approval of this change and his motion carried.

Rule 122. Conversion of a Chapter Case to Bankruptcy

This rule was also not included in the draft but a change was proposed by Judge Beryl McGuire. The Committee approved the revision of paragraph (3) which Professor Kennedy prepared but agreed with his recommendation that the change suggested by Judge McGuire was not sufficiently important to warrant its inclusion without publication to the bench and bar.

Rule 205. Examination

Professor Kennedy referred to his memorandum regarding Professor Landers' discussion of spousal privilege as far as it being recognized by the courts in adversary proceedings and contested matters, since subdivision (d) of this rule would not apply in such proceedings and matters.

Assuming the Committee would recognize this privilege here, Professor Kennedy drafted an amendment to subdivision (d).

Mr. Treister expressed his view that this privilege should not be included here in the rule. To make this consistent with Congressional policy, Professor Kennedy suggested adding

"The examination of a spouse under subdivisions (a) and (b) of this rule shall be subject to the provisos of § 21a of the Act" in lieu of his suggestions in his memo of June 19, 1975. Judge Herzog moved approval and his motion carried. Professor Kennedy stated he would conform the Advisory Committee Note to the one in his memo with some additional references to the enabling act of Congress.

Rule 215. Employment of Attorneys and Accountants

(a) Conditions of employment of attorneys and accountants.-

Professor Kennedy read the suggestion of Mr. Lawson Thompson of Washington, Georgia to clarify the sentence regarding the employment of attorneys and accountants because in his area the attorney is representing the bankrupt and the trustee.

The Committee members agreed that his problem is one of administration. During the discussion Judge Herzog pointed out a problem in his district as a result of the rules not providing a maximum fee allowable for these accountants. Professor Kennedy agreed that a change is necessary but indicated that one should not be made without circulation to the bench and bar.

Rule 303. Filing of Tax and Wage Claims by Bankrupt

Professor Kennedy called attention to his memo pointing out a suggested change by Judge George Brody. The members agreed that there is not sufficient need to include the change at this time without circulation.

Rule 306. Objections to and Allowance of Claims for Purpose of Distribution; Valuation of Security

Professor Kennedy referred to a letter from Scott Hampton, The Assistant Attorney General, for the Tax Division of the Department of Justice, in which he suggested that the allowance of a 10-day notice on a hearing on objection to the allowance of a claim be changed to a 30-day notice for the government in connection with a tax claim. This would allow more time for the government to assemble the files necessary to prepare for the hearing. Mr. Treister expressed his view that the change should be for anyone, not just the government. Professor Kennedy suggested "or, if the claim is for taxes, at least 30 days' notice" be added to line 4. Judge Herzog moved approval as suggested and his motion

carried. Professor Countryman stated he would make the corresponding change in Rule 13-307.

Rule 309. Small Dividends

Bankruptcy Judge Lavien suggested that the Committee delete dividends for less than \$1.00. Judge Herzog felt this should be referred to the Bankruptcy Division since it is a substantive matter. The other members agreed.

Rule 404. Grant or Denial of Discharge

Professor Kennedy referred to his memo explaining an amendment submitted by James H. Levy of the St. Paul bar which would prohibit any extension of time for the filing of a complaint objecting to discharge or a complaint to determine the dischargeability of a debt, after the lapse of a period of 10 days following the period prescribed, but the members did not agree to its inclusion in the package to the Standing Committee without circulation as recommended by Professor Kennedy.

Judge Lavien suggested eliminating the provision that a copy of the discharge be sent to creditors and Judge Evans commented on subdivision (h) stating that the proposed amendment limiting the copy of the discharge to creditors of individual bankrupts only would not help in his district because two-thirds of the cases involved individual bankruptcies. It was agreed that this provision could not be eliminated because it contains the injunction orders and the amendment would lessen the burden in some areas.

Rule 704. Process; Service of Summons, Complaint, and Notice of Trial or Pre-Trial Conference

Professor Kennedy pointed out an objection to the substitution of ordinary "first-class mail postage prepaid" for "mail requiring a signed receipt" in subdivision (c) by Louis W. Levit of Chicago, but indicated that the Committee had previously discussed the issues raised. Mr. Shanker and also objected to the amendments/suggested its rejection thereby leaving the rule as originally approved. Mr. Treister disagreed and suggested using another term such as "second mailing" or "certified mail" rather than first class. Mr. Horsky made a motion to approve the proposed amendment as sent to the bench and bar. Since the vote was 3-3, the Chairman voted "yes" and the motion carried.

Mr. Levit also recommended that clause (9) of the subdivision include all parties who have appeared in the bankruptcy case, however, Professor Kennedy expressed his view that this procedure would overrule a previous case. The Committee approved the rule as published.

Rule 712. Defenses and Objections

In his letter Mr. Crampton stated that in this amendment the Committee added 5 more days to the time allowed the defendant but did not change the original 30 days allowed the United States to answer to a complaint. Judge Herzog moved to change "30 days" on lines 18 and 21 to "35 days" and his motion carried.

Rule 755. Default

Professor Kennedy explained the need to include a safeguard against the possibility that service of the summons, complaint, and notice of trial or pre-trial conference might not come to the attention of the defendant. He stated this provision could be added to Rule 755 or Rule 922. During a discussion Mr. Treister stated that he felt it belongs in Rule 755 because the attorney actually gets the notice. Mr. Horsky moved to add a subdivision (b) to Rule 755 stating that whenever a default judgment has been entered against a party a copy of the judgment be serviced upon him pursuant to the provisions of Rule 705 forthwith. Mr. Shanker felt the language should be added to the end of subdivision (a) so Mr. Horsky withdrew his original motion and changed it to include the sentence in subdivision (a). His motion carried.

At the beginning of the Saturday session, **Professor** Kennedy suggested the title of subdivision (a) be changed to, "Entry and Notice." He also suggested the addition of language from Rule 922 as follows: "Immediately on the entry of judgment by default the court shall serve a copy of the judgment by mail in the manner provided by Rule 705 on the party against whom the judgment is entered." He indicated the possible desirability of adding a sentence regarding the notation in the court's docket of the service of the copy and a sentence about the lack of notice not having any

effect on the time to appeal. Mr. Nachman agreed suggesting the sentences be added at the end of the rule. Mr. Horsky moved approval as amended and his motion carried.

Rule 801. Manner of Taking Appeal; Voluntary Dismissal

In a letter Judge Seidman from Connecticut raised a point previously considered by the Committee in connection with subdivision (b). He felt the bankruptcy judge should be allowed to act on motion of the appellee. The members of the Committee disagreed.

Rule 805. Stay Pending Appeal

Mr. Crampton disagreed with the note stating that the rule is a statement of existing law. He pointed out that the matter is currently under litigation. Professor Kennedy stated that if the Committee agreed "appeal on nonjurisdictional grounds" would be added to line 30. Mr. Treister felt this could not be clarified because if the Committee added something to indicate that, the rule would be different in some areas and parties would argue that the court does not have jurisdiction. Mr. Horsky moved to decline this suggestion made by Mr. Crampton and the members agreed.

Professor Kennedy called attention to an article in the John Marshall Journal of Practice and Procedure that there is nothing in the bankruptcy rules dealing with the

effect of an appeal to the court of appeals without a stay and there is nothing which states that the appeals from the district court to the court of appeals are governed by the Federal Rules of Appellate Procedure. If the Committee agreed, he suggested a new rule 816 entitled "Appeals." Professor Shanker pointed out that Rule 6(a) of the Federal Rules of Appellate Procedure provides for appeal under the Bankruptcy Act. The Committee decided that it is not necessary therefore to point this out specifically in the bankruptcy rules.

Rule 917. Evidence

Professor Kennedy referred to a letter from Professor Landers in which he raised a question as to which set of evidence rules this particular rule relates. Professor Kennedy stated he would clarify this in the note. In his letter, Professor Landers also questioned the possibility of including evidence rules here even though they may conflict with the Federal Rules of Evidence. The Advisory Committee agreed to leave Rule 917 as written with an appropriate note as revised.

Official Bankruptcy Forms

Professor Kennedy called attention to the suggestion of Judge Sear and Judge Raphael to require zip codes on Form No. 6 and not merely recommend them. Judge Herzog agreed that it would help facilitate deliveries. Professor Kennedy suggested the form include a provision for "complete mailing address including zip code [if unknown, so state]." Although Mr. Treister and Judge Whitehurst felt this was unnecessary and might constitute an improper schedule if not followed, the other members agreed to the suggested amendment.

Professor Kennedy stated that Judge Lavien suggested the title of Official Form No. 12 should be "Objection to Discharge" rather than "Complaint Objecting to Discharge" and indicated that the Committee had decided not to make such changes at this time.

Judge Lavien also pointed out that Form No. 11-F19 omits the notice to creditors who have not filed a proof of claim that they have 30 days to file subject to limitations and if they are going to give them a second chance, they should tell them. Mr. Treister felt no change should be made at this time. Judge Herzog stated he would suggest the Administrative Office handle the change of notice in the form.

CHAPTER XIII AMENDMENTS

Rule 13-302. Filing Proof of Claim

Professor Countryman stated that this rule is amended to require secured creditors to file before the conclusion of the first creditor's meeting rather than on or before the date set for the first meeting because they are frequently concluded in less than a day. He referred to his memorandum explaining that this amendment requires a conforming amendment to Rule 13-204 and Form 13-7 which was not included in the preliminary draft.

Professor Countryman pointed out a suggestion by Judge Patchan to clarify in the note the addition of the last sentence in the rule. Mr. Nachman moved to make no change as unnecessary and the members agreed. Another suggestion regarding this sentence was made by Mr. Marshall to reword it as follows, "the court may permit the later filing of a secured claim by the debtor, the trustee, or a codebtor," however, Judge Herzog felt the sentence as drafted was clear and moved approval. The Committee agreed again to no change.

Rule 13-303. Filing of Claims by Debtor or Trustee

Professor Countryman called attention to a suggestion by Judge Lavien to amend this rule which requires a debtor or trustee to file a claim if a creditor does not, to provide that claims which are scheduled but not filed will be automatically allowed if scheduled. He recommended not accepting the suggestion because the claims would probably be scheduled

in the wrong amount and they are going to be discharged anyway. Mr. Nachman moved that no change be made and the Committee agreed.

CHAPTER XI AMENDMENTS

No substantial changes.

CHAPTER IX RULES AND FORMS

Professor King explained that a suggestion had been received from Mr. Crampton of the Tax Division of the Department of Justice that Rule 9-14(g) be amended to require a copy of the notice be given to the District Director of Internal Revenue as required in the other rules so he called Mr. Crampton to explain that the Chapter IX rules deal with municipalities therefore tax claims would not be involved. Mr. Crampton agreed stating he had not prepared the letter.

Professor King then referred to the following comments from Mr. Marshall.

Rule 9-12. Venue and Transfer

(a) Proper Venue. Mr. Marshall felt the cross-reference should be to Rule 9-2 rather than 9-3. Professor King pointed out that the reference conforms to other rules and Mr. Nachman moved to decline any change. The Committee agreed.

Rule 9-14. Notices

(c) Other Notices. On line 30 in clause (3), Mr. Marshall stated the phrase which conforms to Rule 9-25 should include

"or rejecting." Professor King stated this is literally correct and Mr. Horsky moved to include those words after "accepting." His motion carried.

Rule 9-15. Standing to Be Heard

Mr. Marshall pointed out that "may" on line 1 should be changed to "shall" to conform to the language in the Act. Judge Herzog moved to change the word and his motion carried.

Rule 9-22. Proof of Claim

(b)(1) Time for Filing. Mr. Marshall referred to lines 13-15 and suggested a similar addition be made here to conform to a change in Rule 13-302 permitting the filing of claims before the conclusion of the first meeting of creditors. Professor King explained that the problem is different in the Chapter IX rules and that here the plan cannot be confirmed at the first meeting. The Committee agreed.

Mr. Marshall did not understand why the petitioner is excused from objecting to the allowance of improper claims under subdivisions (d) and (e) but the Committee rejected making any change as decided earlier during a discussion of a similar objection with regard to Rule 8-401.

Rule 9-25. Acceptance or Rejection of Plans

(a) Persons Entitled to Accept or Reject Plan; Time for Acceptance or Rejection. Mr. Marshall felt lines 6-7 are unclear and should state that the creditor should vote

to accept or reject the plan. Professor King explained that with regard to Rule 8-305 which is similar, the Committee had rejected any change other than explaining the ballot which would not be applicable in the Chapter IX rules.

Rule 9-30. Distributions; Unclaimed Money and Securities

(a) Distributions. Mr. Marshall made another similar objection to line 13 and a Chapter VIII rule which the Committee decided to reject.

Form No. 9-F1. Chapter IX Petition

At the suggestion of Mr. Marshall the Committee agreed to include a place for the attorney's telephone number on line 34.

Form No. 9-F3. Order Permitting Filing Modification of Plan Prior to Confirmation, Fixing Hearing and Time for Rejection of Modification, Combined with Notice Thereof

Mr. Marshall pointed out that line 11 refers to the modification of the plan having been filed whereas line 17 indicates that it may be filed. Professor Countryman suggested they use the word "proposed" in line 11 in place of "filed." Mr. Nachman moved approval as suggested and his motion carried.

Form No. 9-F4. Order Confirming Plan and Form No. 9-F5. Order Appointing Disbursing Agent and Fixing Amount of His Bond

Mr. Marshall felt it would be useful to include the disbursing agent's telephone number with his address at the end

of the form, however, the Committee felt the court would not necessarily have the number and therefore they declined to include Mr. Marshall's suggestion.