

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

ALBERT B. MARIS  
CHAIRMAN

WILLIAM E. FOLEY  
SECRETARY

August 30, 1966

CHAIRMEN OF ADVISORY COMMITTEES

DEAN ACHESON  
CIVIL RULES

PHILLIP FORMAN  
BANKRUPTCY RULES

JOHN C. PICKETT  
CRIMINAL RULES

WALTER L. POPE  
ADMIRALTY RULES

E. BARRETT PRETTYMAN  
APPELLATE RULES

ALBERT E. JENNER, JR.  
RULES OF EVIDENCE

Honorable Albert B. Maris  
Chairman, Committee on Rules of  
Practice and Procedure  
Supreme Court Building  
Washington, D.C. 20544

Dear Judge Maris:

In your letter of August 24th, you asked for a brief report indicating the present status of the work of the Advisory Committee on Rules of Evidence. The following is submitted accordingly.

The Committee was appointed in the spring of 1965 and held its first meeting in June. This meeting was for one day only and was devoted to considering the manner in which the Committee should go about its task, plus the dimensions of the task itself, particularly as it may be affected by problems arising out of the state-federal relationship.

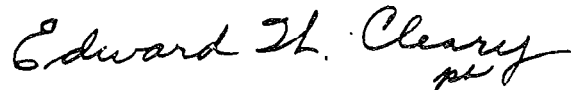
Subsequent meetings have consisted of full work days on Thursday and Friday, with a five-hour session on Saturday adjourning at 1:30 p.m. In 1965 one such meeting was held in October. Thus far in the current year, meetings have been held in February, April, and July, with a fourth scheduled for the end of September. Attendance at all meetings has been virtually 100 percent.

The Committee's approach has generally been to consider a draft on a particular subject at one meeting, to consider at the next meeting a redraft prepared in view of the discussion, then to set the topic aside and move into a new one. Working in this manner, two drafts have been considered dealing with the subjects of Authentication, Content of Writings, and Opinions and Expert Testimony. A first draft on Relevancy has been discussed, and review of a revision is scheduled for the September meeting. Privilege is scheduled for its first consideration in September.

Topics upon which no draft rules have yet been submitted to the Committee include Judicial Notice, Presumptions, Witnesses, Hearsay, and General Provisions.

An estimate in terms of percentage of completion of the work of the Committee would be difficult to formulate. However, it can be seen that substantial progress has been made. In fact, the materials can scarcely be produced and handled at any faster rate.

Respectfully submitted,

A handwritten signature in cursive script that reads "Edward W. Cleary". The signature is written in dark ink and is positioned above the typed name.

Edward W. Cleary  
Reporter

cc: Mr. Jenner  
Mr. Foley

Postscript to the letter from Professor Cleary re status of the Committee on Rules of Evidence - dictated by phone by Albert E. Jenner, Jr., Esquire, Chairman

I have reviewed Professor Cleary's response to Judge Maris' request and share all of Professor Cleary's observations.

I am pleased to report that attendance at meetings has been 100%, save the initial organizational meeting in June 1965 at which one of our members could not attend because he was hospitalized.

The "two drafts" to which Professor Cleary refers in his report consist of an original draft which the Committee has reviewed and a first redraft which the Committee has also reviewed.

It is the plan of the Committee to continue to hold a minimum of four meetings per year. The Reporter and his research staff can not possibly undertake a more severe schedule and still continue to maintain the high quality of the materials with which the Reporter has consistently favored the Committee. Furthermore, there is the matter of unduly burdening the Reporter which, of course, we wish to avoid. Further, Mr. Polcy has indicated to us that the budget will not permit, without financial discomfort, more than a four-meeting per year schedule.

It is our objective to complete by this time next year our study and revision of originals and first redrafts of all chapters, articles and categories and then to commence review and tentative finalization of our storehouse of second redrafts. This phase should be completed (hopefully) by July of 1968. We hope to go to the bar in the fall of 1968 but this may, of course, turn out to be unrealistic.

My own prognostication (or better, objective) is that a first draft of proposed rules acceptable for presentation, discussion and criticism would be completed within three years from the Committee's organizational meeting in June of 1965. I think this still remains possible of attainment, but only because the members of the Committee have been extraordinarily devoted, hard-working, cooperative and cohesive and, further, that the work of the Reporter has been of uniformly superior quality and of unbelievable volume. My concern is that the Reporter may not be able to maintain the somewhat torrid pace of this past year. It would be entirely understandable to all of us should he soon ask for some respite.

Respectfully,

Albert E. Jenner, Jr., Chairman