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Agenda 15  
Rules  
Sept. 1960

REPORT OF THE 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 held its first meeting on December 22, 1959 and its second meeting on August 31, 1960. Both meetings were held in the Supreme Court building in Washington. The chairmen of the five advisory committees and the reporters were present by invitation at the meeting on August 31st. The Chief Justice was also present during a part of that meeting and expressed his deep interest in the work of the committees. At the first meeting Aubrey Gasque, Esq., Assistant Director of the Administrative Office, was appointed secretary of all the committees.

The reporters have begun their work and the advisory committees are planning early meetings. All of the matters referred to the standing committee by the Judicial Conference have been in turn referred to the appropriate advisory committees for study and report except the proposal to establish uniform rules of evidence for the federal courts and the proposal of the judges of the Southern District of New York to provide for standing masters under Rule 53, Federal Rules of Civil Procedure.

The standing committee has decided to postpone consideration of the proposal for uniform rules of evidence

until a later meeting in view of the large program presently being undertaken by the Advisory Committee on Civil Rules. With respect to the proposal for standing masters the standing committee is of opinion that Rule 53 in its present form gives full authority to the district courts to appoint such officers and that all that is now needed is a sufficient appropriation by the Congress of funds for their compensation and expenses.

The standing committee accordingly suggests that the proposal of the District Court for the Southern District of New York for the appointment of standing masters, if approved by the Judicial Conference, be referred to the Committee on the Budget for implementation.

The Advisory Committee on Bankruptcy Rules has reported a proposed revision of a number of the general orders and official forms in bankruptcy to conform them to recent amendments of the Bankruptcy Act, to bring them into harmony with current and sound practice and to correct obvious departures from approved form. The Advisory Committee on Appellate Rules has reported a proposed rule for the review of decisions of the Tax Court of the United States. The standing committee has directed that both proposals be circulated to the members of the judicial conferences of the circuits and to the bench and bar generally for comment and suggestions. It is hoped that both proposals will be ready for submission to the Judicial

Conference at its special session in March 1961.

The Advisory Committee on Admiralty Rules has been requested to give preferred attention to the advisability of integrating the admiralty procedure so far as possible into the civil procedure, and to the formulation of rules to meet the situation resulting from the voiding of local discovery rules in admiralty by the Supreme Court in *Miner v. Atlass*, 1960, 363 U.S. 641. It is possible that the Advisory Committee may be able to prepare and circulate proposals with respect to discovery in admiralty in time for their consideration by the Judicial Conference at its March 1961 special session.

The standing committee has authorized the Advisory Committee on Appellate Rules to undertake a comprehensive long-range study of the rules and procedure of the courts of appeals with a view to formulating improved rules of appellate procedure to be submitted to the Judicial Conference for its approval and, if approved, to be recommended by the Conference to the courts of appeals for adoption by each of them in the interest of uniformity. This is in addition to the narrower task of the Advisory Committee of preparing rules for the review of Tax Court decisions for

ultimate promulgation by the Supreme Court and of considering rules of the courts of appeals with respect to the review of agency orders and the record upon such review which are by statute required to have the approval of the Judicial Conference.

Respectfully submitted,

*Albert B. Maris*

Chairman

September 12, 1960

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

**ALBERT B. MARIS**  
CHAIRMAN

**AUBREY GASQUE**  
SECRETARY

November 25, 1960

**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

**MEMORANDUM FOR MEMBERS OF THE JUDICIAL  
CONFERENCE OF THE UNITED STATES**

Enclosed are advance copies of the preliminary draft of the Proposed Rule for Review of Decisions of the Tax Court of the United States and, also, of the Proposed Revision of Certain General Orders and Official Forms in Bankruptcy. I should like to request that these not be released to the public prior to December 1, 1960.

The work of the Committees on Rules of Practice and Procedure is going full speed ahead and I am very pleased with the degree of cooperation that we are receiving from the Bench and the Bar.

*Albert B. Maris*  
Chairman

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BARRETT PRETTYMAN  
APPELLATE RULES

October 31, 1960

MEMORANDUM FOR MEMBERS OF THE JUDICIAL  
CONFERENCE OF THE UNITED STATES

Subject: Advisory Committee on Admiralty Rules

The Chief Justice has asked me to inform you that he has just named W. G. Symmers, Esquire, of New York, to fill the vacancy on the Advisory Committee on Admiralty Rules occasioned by the untimely death of Mr. Arnold W. Knauth, and Stuart B. Bradley, Esquire, of Chicago, has been appointed to fill the vacancy which occurred when Professor Brainerd Currie resigned to become Reporter for the Committee.

Three additional members have been added to the Admiralty Committee by the Chief Justice, to provide better geographic representation. They are: William A. Grimes, Esquire, of Baltimore, Maryland; Sam L. Levinson, Esquire, of Seattle, Washington; and John C. McHose, Esquire, of Los Angeles, California.

Biographical data concerning these new appointees, and a complete list of the members of the Admiralty Committee, are enclosed.

*Albert B. Maris*  
Chairman

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October 31, 1960

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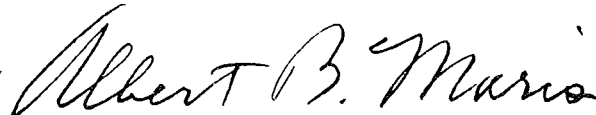
MEMORANDUM FOR THE COMMITTEE ON RULES  
OF PRACTICE AND PROCEDURE

Subject: Advisory Committee on Admiralty Rules

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Biographical data concerning these new appointees, and a complete list of the members of the Admiralty Committee, are enclosed.

  
Chairman

ADVISORY COMMITTEE ON ADMIRALTY RULES

Pope, Walter L. , Chairman  
Judge, U. S. Court of Appeals  
for the Ninth Circuit  
San Francisco, California

Aldrich, Bailey  
Judge, U. S. Court of Appeals  
for the First Circuit  
Boston, Massachusetts

Black, Charles L. , Esquire  
Professor, Yale Law School  
New Haven, Connecticut

Bradley, Stuart B. , Esquire  
Bradley, Pipin, Vetter & Eaton  
135 South LaSalle Street  
Chicago, Illinois

Christenberry, Herbert W.  
Chief Judge, U. S. District Court  
for the Eastern District of Louisiana  
New Orleans, Louisiana

Colby, Leavenworth, Esquire  
Department of Justice  
Washington 25, D. C.

Dimock, Edward J.  
Judge, U. S. District Court  
for the Southern District of New York  
New York, New York

Freedman, Abraham E. , Esquire  
Freedman, Landy and Lorry  
1415 Walnut Street  
Philadelphia 2, Pennsylvania

Grimes, William A. , Esquire  
Ober, Williams, Grimes & Stinson  
640 Mathieson Building  
Baltimore 2, Maryland



ADVISORY COMMITTEE ON ADMIRALTY RULES (Continued)

Kennedy, Harold M. , Esquire  
Burlingham, Hupper & Kennedy  
26 Broadway  
New York, New York

Levinson, Sam L. , Esquire  
Levinson & Friedman  
Northern Life Tower  
Seattle 1, Washington

McHose, John C. , Esquire  
Lillick, Geary, McHose, Roethke & Myers  
634 South Spring Street  
Los Angeles, California

Symmers, W. G. , Esquire  
Symmers, Fish and Warner  
37 Wall Street  
New York 5, New York

REPORTER

Currie, Brainerd, Esquire  
Professor, University of Chicago Law School  
Chicago, Illinois

STUART B. BRADLEY

BRADLEY, Stuart B., lawyer; b. Chgo., Jan. 29, 1907; s. Alexander S. and Laura (Bevans) B.; student Wash. State Coll., 1923-25; children - Stuart G., Barbara R., Carolyn, Laura. Admitted to Ill. bar, 1931; partner Bradley, Pipin, Vetter & Eaton and predecessors, Chgo., 1934----, specializing admiralty, maritime law, 1936---; promoted St. Lawrence Seaway, Calumet-Sag projects. Dir. Deerfield Savs.&Loan Assn., 1951---. Scoutmaster local council Boy Scouts Am., 1949-52; chmn. planning bd. North Shore Area Council, 1953. Mem. vis. com. U. Chgo. Law Sch., 1956---. Served Capt. to lt. col, AUS, 1943-46; Decorated Bronze Star Medal; recipient citation for publ. service U.Chgo., 1955. Mem. Chgo. Assn. Commerce (chmn. harbors and waterways com. 1948-52), Maritime Law Assn., Chgo. Law Inst., Parents Assn. New Trier Sch. (exec. com. 1954-55), Am., Ill., Chgo. (chmn. admiralty com. 1958-59) bar assns., Phi Delta Phi, Kappa Sigma. Methodist. Clubs: Propeller (pres. port of Chgo. 1948), Jackson Park Yacht (judge adv.), Law, Legal, Export Managers, The Attic (Chgo.); Skokie Country (Glencoe). Author articles mags., law reviews. Home: 750 Bluff St., Glencoe, Ill. Office; 135 S. LaSalle St., Chgo.3.

WHO'S WHO IN AMERICA  
1960-1961

WILLIAM A. GRIMES

GRIMES, William A. , lawyer; b. St. Louis, Missouri, June 7, 1904. Preparatory education at Marston's School, Baltimore, Md. ; Harvard College, A. B. 1925; Harvard Law School, LL. B. 1928. Practiced law in Baltimore, first as an associate and, since 1931, as a member of Ober, Williams, Grimes & Stinson, and its predecessors. Member: Maritime Law Association of the United States, its Executive Committee, and its Committee on Supreme Court Admiralty Rules. Former Chairman of a Committee on Admiralty Rules, appointed by the Chief Judge of the U. S. District Court for Maryland. Member American Bar Association. Office: 640 Mathieson Building, Baltimore 2, Maryland.

SAM L. LEVINSON

LEVINSON, Sam L.; born 1901. A.B. Univ. of Washington; LL.B. Columbia University; LL.M., Columbia University; Admitted to bar, 1925. Member, Seattle and American Bar Associations. Associate Editor in Admiralty Law, NACCA. With firm of Levinson and Friedman, Seattle.

MARTINDALE-HUBBELL

JOHN CRESCO McHOSE

McHOSE, John Cresco, lawyer; b. Springfield, Mass., Sept. 19, 1902; s. John Van Nest and Nanetta (Enck) MCH.; A.B., Stanford, 1924, J.D., 1926; m. Alison Waters, June 28, 1943; 1 son, Terry Jon. Admitted to Cal. bar, 1927; asso. Lillick, Geary, McHose, Roethke & Myers, Los Angeles, 1927-34, partner, 1934---. Dir. Quaker State Cocal Cola Bottling Co., Cocal Cola Bottling Co. of San Jose. Asst. regional dir. War Shipping Adminstrn., 1942-45. Mem. Am., Cal., Los Angeles Bar assns., Maritime Law Assn., Soc. Internat. Law, Japan-Am. Soc., So.Cal. Golf Assn. Los Angeles C. of C. (dir., v.p.). Home: 3003 Nichols Canyon Rd., Los Angeles 46. Office: 634 S. Spring St., Los Angeles 14.

WHO'S WHO IN AMERICA  
1960-1961

## WILLIAM GARTH SYMMERS

SYMMERS, William Garth, lawyer; b. Bronxville, N.Y., Nov. 30, 1910; s. James Keith and Agnes Louise (Shuey) S.; student Lawrenceville (N.J.) Sch., 1925-29; A.B., U.Va., 1933, LL.B., 1935; m. Marina Baruch, Apr. 25, 1936; children - Benjamin Keith, Anne St.Clair; m.2d Anne H. Ellis. Mar.20, 1946; children - Barbara Hazeltine, Susan, Deborah. Admitted to N.Y. bar, 1937, D.C. bar; asso. Bigham, Englar, Jones & Houston, N.Y.C., 1935-37; senior mem. Symmers, Fish & Warner and predecessor firm, N.Y.C., 1959---; assistant counsel and sr. admiralty atty. U.S. Maritime Commn., 1937-40. Counsel to naval affairs com. ho. of Reps., in investigation of loss of SS Normandie (USS Lafayette), 1942; U.S. del. and v.p. Antwerp Conf., Internat. Maritime Com. and del. Maritime Law Assn., U.S. to succeeding confs. at Amsterdam, 1949, Naples, 1951, Madrid, 1955. Mem. Am. Soc. Internat. Law, Am. Bar Assn., Bar Assn. City N.Y. (chmn. admiralty com. 1953-56), Maritime Law Assn. (chmn. com. revision U.S. Supreme Ct. admiralty rules 1952-54, mem. exec. com. 1958---), Phi Delta Theta, Phi Delta Phi. Episcopalian. Clubs: Downtown Assn., The Virginians, Whitehall and India House (New York City), Field (Greenwich, Conn.); Chevy Chase (D.C.); University (Washington, D.C.); and Rocky Point Sailing (Old Greenwich, Conn.). Contbr. articles to maritime publs. Home: Binney Lane, Old Greenwich, Conn. Office: 37 Wall St., N.Y.C. 5.

WHO'S WHO IN AMERICA  
1960-1961

MATTERS REFERRED TO  
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE  
BY THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
1958-1959

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From the report of the proceedings of the regular annual meeting of the Judicial Conference of the United States: September 17, 18, 19, 1958.

1. Uniform Rules of Evidence for the  
Federal Courts

"At the September 1957 session of the Conference (Conf. Rept. p. 43), a proposal to establish uniform rules of evidence for the federal courts was referred by the Conference to the Committee on Court Administration for study and report. In view of the action of the Conference at this session establishing a Committee on Rules of Practice and Procedure, the Committees recommended that this subject, which involves rules of practice and procedure, be referred to that Committee for consideration to the end that it may be referred to an appropriate advisory committee if deemed proper. The Conference approved the recommendation of the Committee." (p. 15)

2. Printing Records on Appeal

"Chief Judge Biggs reported that the Committees had discussed the costs and delays involved in the continued use by some of the courts of appeals of the system of printing the record on appeal rather than portions thereof in an appendix to the brief. The Committees recommended that this matter be referred to the standing Committee on Rules of Practice and Procedure to the end that it may be referred to an appropriate advisory committee for consideration if deemed proper. Judge Orie L. Phillips, with whom Chief Judge Hutcheson concurred, noted his disagreement with the proposal because it implies that a system of printing records on appeal involves costs and delays in all courts of appeals that retain that system." (p. 16)

3. Improvements in Bankruptcy Procedures and Administration

"(1) Procedures in installment cases - General Order 35(4). - The Committee informed the Conference that it had requested the Bankruptcy Division of the Administrative Office to prepare the necessary factual data with regard to changes in procedures in installment cases under General Order 35(4) and to present this information to the new standing Committee of the Conference on Rules of Practice and Procedure for the federal courts." (p. 29)

4. Rules for the Review or Enforcement of Orders of Administrative Agencies

"Judge Maris called to the attention of the Conference the provisions of Public Law 85-791 with respect to the approval by the Conference of uniform rules for the abbreviation of the record on review or enforcement of orders of administrative agencies. The Conference referred the matter to the Standing Committee on the Conference on Rules of Practice and Procedure for consideration and report to the Conference." (p. 42)



From the report of the proceedings of a special session of the Judicial Conference of the United States: March 16, 17, 1959.

5. Closing of Clerks' Offices on Saturdays

"The Committee reported that several members of the Judicial Conference had raised the question as to whether or not the offices of the clerks of court should be closed on Saturdays. The Conference, on recommendation of the Committees, referred the matter to the Committee to be appointed on Rules of Practice and Procedure." (p. 10)

6. Improvements in Bankruptcy Procedures and Administration

"The Committee reported as follows on matters referred to it by the Conference at its September 1958 session (Conf. Rept., p. 28):

(1) Elimination of the oath on proofs of claim. - The Committee presented to the Conference a draft of a bill eliminating the requirement that proofs of claim be verified under oath and submitted revised claim forms prepared by the Administrative Office containing the statement that any false material statement of fact in the claim shall constitute a criminal offense. Upon the Committee's recommendation, the Conference approved the bill and referred the revision of the forms to the Committee on Bankruptcy Rules to be appointed pursuant to Public Law 85-513.

(2) Attorneys' fees. -- The Committee reported that the Bankruptcy Division of the Administrative Office had presented a draft of an amendment to Section 60d of the Bankruptcy Act (11 U.S.C. 96d) designed to give the Bankruptcy Court on its own motion, or on petition of the bankrupt made prior to the granting of his discharge, jurisdiction to determine the reasonableness of fees paid or agreed to be paid to his attorney for services rendered or to be rendered. As amended, Section 60d

would read as follows:

If a debtor shall, directly or indirectly, in contemplation of the filing of a petition by or against him, pay money or transfer property to an attorney and counselor at law, solicitor in equity, or proctor in admiralty for services rendered or to be rendered, the transaction shall be reexamined by the court on petition of the trustee or any creditor and shall be held valid only to the extent of a reasonable amount to be determined by the court, and the excess may be recovered by the trustee for the benefit of the estate.

If, whether before or after filing, a debtor shall agree orally or in writing to pay money or transfer property after the filing, the transaction shall be reexamined by the court on its own motion or on petition of the bankrupt made prior to discharge and shall be held valid only to the extent of a reasonable amount to be determined by the court, and any excess obligation shall be cancelled, or if excess payment or transfer has been made, returned to the bankrupt. [The italicized words are new.]

On recommendation of the Committee, the Conference approved the proposal and referred to the Committee to be appointed on Bankruptcy Rules a proposed change in Schedule B-4 to conform with this amendment.

(3) Standing trustees for small cases.-- The Committee reported that it had considered the study made by the Bankruptcy Division of the Administrative Office of the proposal to provide a panel of standing trustees to handle small cases. Upon the recommendation of the Committee, the Conference reaffirmed the following resolution adopted at the September 1954 session (Conf. Rept. p. 14):

It is the sense of the Conference that a greater use of trustees in the administration of no-asset cases should be made by the referees in bankruptcy.

The Conference referred to the Committee on Bankruptcy Rules the proposal to exempt trustees appointed in no-asset cases from the provisions of General Order 14, as was similarly done in General Order 55(2) in the case of trustees appointed to handle Chapter XIII cases.