# MINUTES OF THE DECEMBER 1960 MEETING OF THE ADVISORY COMMITTEE ON BANKRUPTCY RULES

Supreme Court Building
Washington, D. C.
December 12, 1960

# MINUTES OF THE DECEMBER 1960 MEETING OF THE ADVISORY COMMITTEE ON BANKRUPTCY RULES

The first meeting of the Advisory Committee on Bankruptcy Rules convened in the Supreme Court Building on December 12, 1960, at 9:30 a.m. The following members were present during the session:

Phillip Forman, Chairman

Charles A. Horsky

George Ragland, Jr.

Stefan A. Riesenfeld

John B. Sanborn

Charles Seligson

Estes Snedecor

Arthur J. Stanley, Jr.

Elmore Whitehurst

Frank R. Kennedy, Reporter

The following members were unable to attend the first day:

George D. Gibson

Roy M. Shelbourne

Judge Gignoux was absent from the entire meeting because of illness.

The Chief Justice was present during a part of the meeting. Others attending were Senior United States Circuit Judge Albert B. Maris, Chairman of the standing Committee on Rules of Practice and Procedure; Professor James William Moore, a member of the standing Committee; Warren Olney III, Director of the Administrative Office of the United States Courts; Will Shafroth, Deputy Director of the Administrative Office; Edwin L. Covey, Chief, Division of Bankruptcy, of the Administrative Office; and Aubrey Gasque, Assistant Director of the Administrative Office, who serves as Secretary of the standing Committee on Rules of Practice and Procedure and the Advisory Committees.

At the invitation of the Chairman, Judge Maris, Chairman of the standing Committee, explained its function as a coordinating group and outlined the over-all program of the Rules Committees. He described the method of setting terms of two and four years for the members (with the possibility of one reappointment) by drawing lots. The Chairmen of the Committees are not subject to terms. During the meeting lots were drawn and terms of the members were set as follows:

| | |
|---|---|
| Phillip Forman, Chairman | 4 years |
| George D. Gibson | 2 years |
| Edward T. Gignoux | 2 years |
| Charles A. Horsky | 2 years |
| George Ragland, Jr. | 4 years |
| Stefan A. Riesenfeld | 4 years |
| John B. Sanborn | 2 years |
| Charles Seligson | 4 years |
| Roy M. Shelbourne | 2 years |
| Estes Snedecor | 2 years |
| Arthur J. Stanley, Jr. | 4 years |
| Elmore Whitehurst | 4 years |

The terms begin to run as of October 1, 1960.

AGENDA 2. Consideration of published draft of proposed revision of certain General Orders and Official Forms in Bankruptcy.

The Reporter stated that the purpose of the revisions was to bring the orders and forms in line with the statutes and to bring them into harmony with current, sound practice. The Committee on Rules of Practice and Procedure has published these rules generally with an invitation to the bench and bar of the country to submit comments by January 1961. It is hoped to submit recommendations to the standing Committee on February 24, together with any fruitful suggestions received.

Mr. Gasque, the Secretary, reported that several letters have already been received from the bench and bar and will be duplicated and sent to the Reporter, as well as to the other members of the Committee. He reported that a wide circulation of the draft had been made.

The General Orders and Forms were taken up individually and comments and suggestions for improvement were noted by the Reporter.

GENERAL ORDER 1. Professor Riesenfeld suggested he preferred the word "notation" in place of "entry" in line 5. Since the word "entry" was a more familiar term, it was decided to retain the word "entry."

Professor Moore proposed that the word "docket" in the second full paragraph be changed to "docket sheets." It was agreed to enter the word "sheets" at two places -- in the second line of the second paragraph, and in the last line on page 1.

Professor Moore suggested the use of the word "note" instead of "explanation" and that was agreed to.

GENERAL ORDER 5. Mr. Snedecor referred to a memorandum which he had submitted to the Committee suggesting various changes. In the interest of time it was suggested that Mr. Snedecor and the Reporter confer and discuss any changes to be made.

It was agreed at this point that since this was an urgent program to bring the forms and orders in line with existing law, no attempt would be made to propose substantive changes, but merely to make them conform to the new statutes.

GENERAL ORDER 9. Mr. Seligson observed that it is unfair to impose the obligation of filing a list of creditors upon the petitioning

creditor where there is a receiver. He said the petitioning creditor does not know who the creditors are and does not have access to the records. The receiver is there and has the records and he should file them. That suggestion was observed and will be considered on its merits.

GENERAL ORDER 24. Mr. Snedecor stated that this General Order was inconsistent with Section 166 of Chapter X of the Bankruptcy Act because there the judge has the power to impound all schedules and list of claims to prevent the public from getting hold of it for the purpose of circularizing stockholders or bondholders. He suggested the following alternative first sentence: "Unless otherwise ordered by the judge, the person with whom proofs of claim or of interest are filed shall maintain open to inspection . . . ." He said that would make the order consistent with the entire Act including Chapter X.

Professor Moore suggested that Mr. Snedecor's point could be adequately called to the attention of the profession in a note.

After further discussion it was the consensus of the Committee to leave the order alone and General Order 24 was approved as printed.

GENERAL ORDER 48. Mr. Whitehurst thought this order should be eliminated and Mr. Snedecor thought that it should be

discussed with the Internal Revenue Department.

During the discussion the Chief Justice came to the meeting and was welcomed by the Chairman. He spoke as follows:

"Gentlemen, I did want to come down here and visit with you, as I have with the other Committees at their opening meeting, for the purpose of telling you just how important the Court considers this work that you are engaged in.

"We have had a real problem for many years so far as Rules are concerned. We have had a very great responsibility placed upon us to keep current the Rules of Civil Procedure, Criminal Procedure, Bankruptcy, Admiralty, Appellate Procedure, Tax Appeals, and so forth, and we have had absolutely no machinery for doing it. Our organization here is not adapted to it. We don't have one person in our entire setup who can work at this thing continuously through the years, and that burden weighed heavily upon us, so we felt that we were not performing the responsibility that Congress had placed on us, and we didn't want to start building up a bureaucracy in the Supreme Court. We feel that

it ought to remain very much as it is, and, still, we wanted to do something about it. So it occurred to us that the best way to approach it would be to give the Judicial Conference of the United States some responsibility in doing the spade work and in recommending to us what changes should be made in the rules.

"Now that does not mean that we are dissatisfied with the rules. There was some apprehension on the part of some people lest we expect these Committees to tear the rules to pieces and put them back together again. I assure you that is not the purpose of the Court and we know that you won't approach your work in that way.

"I think, generally speaking, the Civil Rules, Criminal Rules, and Bankruptcy Rules have worked effectively, but what we want to do with them is keep them current -- keep them current with the needs of the federal system which frankly we were not doing. Then it occurred to us if that was to be done, we should broaden our base so that when the recommendations were made by the Judicial Conference, we would have assurance that they have been reviewed by both the bench and the bar and the scholars of

the country, and that there would be some unanimity of opinion when the proposed changes came to us. The Conference, itself, felt that it was a good idea. We made a proposal to Congress. Congress thought that in view of our backlogs in most of the metropolitan centers of the country, and other inadequacies of our federal system, this is a very appropriate time and it is a very proper objective. So, it provided for the Judicial Conference to assume this obligation and it appropriated ample money to do the job. So here we are and we have picked the very best people we can find in the country. We have tried to make the committees representative of all different phases of the practice that is involved in the work of the particular committee. We didn't want everybody to have to say you deliberately picked the committee' so that would not be the case -- so it would broaden our base and we would get a representative viewpoint when it came to us.

"And so, the knowledge of the fact that you folks are working, and working as industriously as you are,

and that we have scholarly reporters on all of these committees, is a great comfort to us and I am sure that we can go forward from this time with the assurance that our rules are going to represent the best thought in the bench and the bar. While the Court won't be able to spend much time with you, nor will I because today we are hearing arguments and I must be there, we do have an intense interest in it and we have a very great appreciation of the fact that you would leave your own regular work to come here and do this job for us.

"There is just one other thing I might say about bankruptcy. There is concern about the time element that is involved in bankruptcy, and also there is concern about the cost of administration of bankruptcy. I am sure that later Congress will be looking at both of those situations, and I think it is something that the Judiciary, itself, should look into, and everything we do should be pointed toward expedition of our work and also at a reasonable administrative cost.

"There is evidence at the present time, and has been for some time, that the number of bankruptcies have been increasing very greatly. Most of those are wage-earner bankruptcies. But if we are on the verge of a

depression of some kind, as many people think we are, it is not unlikely that we will have a great deal of bankruptcy business in the field of business, too. If that should be the case, it would be a great burden on the federal system which is already overburdened. And so anything that you do to remedy that situation will, of course, be within the purpose and scope of your work.

"I want to thank you very much for your work, and I assure you my office is always open to you, and I will give just as much time as I possibly can to the work of this and the other committees. I thank you for coming in this inclement weather."

The Chairman thanked the Chief Justice for coming and said that he felt the Committee had the goals set for them well in mind -- expedition and economy in bankruptcy.

The Committee resumed its consideration of the General Orders.

Regarding General Order 48, Mr. Seligson suggested that the request of the Securities and Exchange Commission be placed on the agenda.

GENERAL ORDER 49. Approved.

GENERAL ORDER 51. Approved.

GENERAL ORDER 52. There was a suggestion that the note be conformed to 49.

GENERAL ORDER 53. Approved.

GENERAL ORDER 54. The Reporter suggested a change: "The clerk of the district court, and in case of a reference the referee after such a reference, shall forthwith transmit to the District Director of Internal Revenue, etc." After discussion it was the consensus that General Order 54 should remain as it is.

GENERAL ORDER 55. Approved.

GENERAL ORDER 56. Approved.

The General Orders having been tentatively approved by the Committee, the Forms were then considered.

Judge Maris pointed out that the preliminary draft is the only document that will go out to the bench and bar. When the final report is made to the standing Committee in February, it will not go to the bench and bar but to the Judicial Conference and the Supreme Court. Inconsistencies in revising forms will be presented in a discursive report to the Supreme Court, but this will not go out to the public. He poirted out that in the ordinary case the bench and

bar should have a substantial period of time, perhaps a year, between the time a tentative proposed amendment is sent out and the time a final report is made. This draft, however, is an emergency matter.

FORMS NO. 1, 4, and 5. The postponement of recommendations affecting these forms was tentatively approved.

FORM NO. 7. It was suggested that the last sentence, "The National Bankruptcy Conference has approved this change," be omitted in the notes submitted to the Judicial Conference and the Supreme Court.

Judge Maris also suggested that when definitive suggestions are sent in, the text of the form should be included for purposes of definiteness.

Mr. Seligson raised the point whether in striking out the oath it is necessary for the attorney to subscribe his name to the answer. It was agreed that the Form should indicate the place for the attorney to sign and that was to be remedied by the Reporter.

FORM NO. 14. The comments regarding Form No. 7 apply to Form No. 14.

FORMS 17A, 17B, 42A, 42B.

Mr. Seligson raised a question as to consistency and the absence of recital. If judicial requirements are used in one place they should be used in all. Professor Seligson and Professor Kennedy

were instructed to study and iron out the problem of including recital.

The consensus of opinion was that instead of having "Caption as in Form No. 1" there should be the word "Caption".

Professor Moore suggested consideration of General Order 23. He would prefer not to have mandatory recitals but there would be a presumption of regularity in favor of the referees in proceedings. The Chairman requested that the Reporter reconsider General Order 23.

Attention was called to a typographical error in 17A -- "order" should be "ordered".

Form 17B. A correction is to be made in the first line beginning "Notice is hereby given that said _____," -- the line should be broken. Also the underlining of the line re first meetings of creditors should be eliminated.

Professor Moore suggested that when substantive matters are considered, thought should be given to changing "appointment of a trustee" by a creditor.

Form 42A. Correction --the "A" should be underlined.

On page 16, in the last line, it was suggested that "said bankrupt" should be changed to "the bankrupt".

Form 42B. It was agreed to delete "in the county of and district aforesaid" to conform with 17B.

On page 19 the Reporter suggested that it would be well to point out that Form No. 17A has been drawn so that it can be readily adapted for use in Chapter XIII proceedings as well as in cases in ordinary bankruptcy. Then Form 17B is for use only in ordinary cases where installment fees are authorized. This would point out that 17A and 17B are not coextensive. This was agreed to.

FORM NO. 20. This is a consolidation of Forms 20 and 21. There was no objection to this form.

FORM NO. 22. The Reporter suggested he should have a note saying "See explanatory note following 22A."

LUNCH

Mr. Covey briefed the Committee on the recent picture of bankruptcy in the country at large.

The question was taken up of combining Form 22 and 22A. Judge Maris suggested putting the second paragraph in with a star and making a footnote "this paragraph is stricken out if not applicable." Submit to the Supreme Court with a note: "this form covers both. If the time is not fixed for filing objections the form may be used without the second paragraph." This was agreed to.

FORMS 28, 29, 30, and 31. These forms require study and possible further revision. The elimination of oaths is what makes

necessary the change in these forms. Mr. Seligson stated that General Order 21(5) says that the execution of any power of attorney to represent a creditor may be proved or acknowledged before any enumerated in Section 20 of the Act.

Judge Maris suggested it was more or less implicit in the statutory elimination of the oath to the pleadings and therefore perhaps you could spell out the idea that a change in that General Order is really dictated by the new statute.

Mr. Seligson thought that it could be handled by eliminating or changing General Order 21(5).

It was decided that could not be accomplished now and General Order 21(5) would be further examined with the idea of eliminating the acknowledgment.

FORMS 35, 37, 40, 41, 44, 50, 55, and 60. The oath is to be stricken from these forms pursuant to law.

Mr. Horsky and Professor Kennedy were instructed to make a study as to whether the forms need an appropriate warning. The Reporter stated that he would prepare this with each form set out. He indicated he would also refer in the note to Rule 11.

FORM 48. Merely conforming to the statutes -- approved.

FORM NO. 49. The Reporter suggested elimination in the second line "in the county of ---- and district aforesaid" to conform

to Form 17 and Form 43B. It was agreed that this would be made consistent.

FORM NO. 50. The reporter mentioned that Form No. 50 is mentioned in two places and after discussion it was agreed that this should be included in the note.

FORM NO. 51. Approved without change.

FORM NO. 52. Approved without change except that "the debtor" will be substituted for "by him" in Form No. 52.

FORM NO. 58. Approved without change.

FORMS 63-69 inclusive. Approved without change.

Upon conclusion of the discussion of the General Orders and Forms, Judge Maris suggested that the best way to submit them would be to set them out in numerical sequence, with a note. If there are three or four in a lot, the note should be put in and in the following ones merely referred to.

The Chairman announced that there would be a circulation in the Committee once more so that the members can see the forms that are being sent forward and there may be comments from the bench and bar that will be taken into account. A tentative time schedule was agreed upon whereby the Reporter would send to the Committee his suggested report by January 20, with the deadline for responses from the Committee set at February 3.

AGENDA 3. Discussion of proposal to conform rulemaking in bankruptcy to rulemaking for federal civil actions generally.

Members were referred to Professor Kennedy's memorandum of November 10. On pages 8-9 of that memo Professor Kennedy suggested that conforming rulemaking in bankruptcy to other kinds of rulemaking in the federal courts could be achieved pursuant to a new Section 2074 of the Judicial Code which is set out in the memorandum. Professor Kennedy suggested a change in line 3 so that it would read "motions, and the practice and procedure for all matters and proceedings in bankruptcy." Judge Maris suggested the line should read "motions, and the practice and procedure in the district courts of the United States in matters and proceedings in bankruptcy."

Judge Maris suggested only one additional paragraph need be added to the first paragraph of the draft suggested by the reporter as follows: "Any such rules and orders shall be reported by the Court to Congress on or before May 1, and upon taking effect will supersede any statutes in conflict." Judge Maris suggested alternatively that the two paragraphs at the top of page 9 in Professor Kennedy's memorandum could be added to Section 30 of the Bankruptcy Act.

Judge Maris noted that the actual securing of legislation would have to be done by others than this Committee. If the Committee recommends that certain legislation is to be obtained which would

authorize the Supreme Court to prescribe rules in bankruptcy proceedings which shall be reported to the Congress in the normal fashion, and which shall upon taking effect supersede inconsistent statutes, that may be accomplished either by amending Section 30 of the Bankruptcy Act, or by adding a new section to Title 28 as appears most feasible.

This was adopted as a resolution of the Committee, and Professor Kennedy, Mr. Horsky and Mr. Covey were appointed as a committee to prepare a draft and submit it to Judge Maris.

There was some discussion regarding the official title of this Committee. It was announced that henceforth it will be known as "The Advisory Committee on Bankruptcy Rules."

AGENDA 4. Discussion of proposed changes in procedure in installment cases under General Order 35(4).

The Reporter referred to his memorandum of November 20 to the Committee. Mr. Covey briefed the Committee regarding installment cases, indicating that he did not think the General Order needs much change except to limit the number of payments. Mr. Seligson suggested that in part (4)a of the General Order, the time for the final installment payment should be changed from six to four months after the date of the filing of the original petition, and the period for which the court may extend the time of payment of

any installment should be changed from three to two months.

Mr. Snedecor suggested omitting in the first paragraph of part (4) the terms upon which the petitioner proposes to pay his filing fees.

The Reporter raised the question whether there should be an affidavit from the attorney, an affidavit from the petitioner, or from either one. It was decided that an affidavit should not be compelled by either.

Mr. Snedecor suggested there should be inserted in the proposed (4)c on page 5 of the Reporter's memorandum the words "after hearing on notice to the bankrupt" after the word "may" in line 2.

The Reporter stated that he recommended a change in section 48c of the Bankruptcy Act because there is a discrepancy in the statute. Also he questioned whether something should be put in the statute making possible a pauper's petition in bankruptcy. It was agreed that these matters would be called to the attention of the Bankruptcy Committee of the Judicial Conference and have them consider it.

Recessed at 4:25, December 12.
Reconvened at 9:30, December 13.

AGENDA 5. Discussion of problems incident to selection of trustees in no-asset cases. This was discussed in a memorandum of the Reporter of December 2, 1960. The Reporter stated that the first question was whether there should be a trustee for every case. The premise of the proposal made in his memorandum is that there should be a trustee in every case unless there are no assets, either exempt or non-exempt.

Mr. Covey was strongly of the opinion that there should be a trustee in almost every case. He stated that this was the view of the Bankruptcy Committee of the Judicial Conference also. He thinks it is good for the creditors, good for the public, and good for a training program.

Judge Sanborn moved the approval of the appointment of a trustee in every case, which in effect repeals General Order 15.

Mr. Snedecor protested the proposal of a trustee for every case. Mr. Seligson felt that the language of the Act or General Order 15 would have to be changed. Mr. Covey suggested that the court may in its discretion establish a panel of trustees for cases where the creditors fail to nominate a trustee and there are no apparent assets at the time of the appointment for distribution to creditors. That was suggested as a way of solving the problem.

Mr. Snedecor gave the recommendation of the Ninth Circuit, which was as follows: To amend the second sentence in Section 44a

of the Act to read, "If the creditors do not appoint a trustee or if the trustee so appointed fails to qualify as herein provided, the court shall make the appointment, unless it is convinced from the examination of the bankrupt that there are no non-exempt assets and no circumstances indicating the advisability of further investigation by the trustee, then no appointment need be made." Then under Section 39, Duties of Trustees, add: "if no trustee is appointed, set apart the bankrupt's exemption allowed by law, if claimed, specifying the item and estimated value thereof." General Order 15 would be revised to read: "If at the first meeting of the creditors, or any adjournment thereof, the court shall determine that a trustee need not be appointed, he shall make an order to take effect, and at the same time set off to the bankrupt the articles claimed exempt with the estimated value thereof. The bankrupt or any creditor may file objections to the determination of exemption within ten days after the entry of said order. If no trustee is appointed, as aforesaid, the court may order that no meeting of creditors other than the first meeting shall be called; but at any time thereafter a trustee may be appointed, if the court shall deem it desirable."

Mr. Covey did not agree with this type of treatment. Messrs. Whitehurst, Seligson, Horsky, and Ragland all expressed views.

The Chairman suggested that this be referred back for more study for something imaginative that will fill the need that is not drawn from the present law and general orders, and perhaps something in the way of an administrator as suggested by Mr. Horsky.

Judge Stanley suggested having this referred for further study also. Judge Sanborn said he was willing to withdraw his motion.

Judge Stanley stated that he wished to confer with his referees. He felt that if General Order 15 is repealed, it would put the referees in a strait jacket. This was taken as a recommendation that a study be made of what is being done by the referees in the country. Judge Shelbourne said he did not think anything could be accomplished by an extended study.

A test vote was taken on Judge Sanborn's motion that a trustee be appointed in every case. Two were in favor and seven were opposed. This was not taken to indicate opposition to further study, and all members were asked to write in anything that occurred to them.

AGENDA 6. Discussion of jury trials conducted by referees.

Professor Kennedy sent out a memorandum on November 26. The Reporter felt that there was no Constitutional question at stake

but a statutory question. He said that sections 19, 22, and 38 of the Bankruptcy Act and General Order 12 support an argument that the referee could indeed hold a jury trial. Senator Eastland, however, said it was not intended by the recent amendment of 22A to confer on a referee authority to conduct a jury trial. The Reporter found nothing incompatible with sound administration of the Bankruptcy Act to have a jury trial conducted by a referee.

Professor Reisenfeld briefed the Committee on the historical background of jury trials. His conclusion was that a referee could not hold a jury trial. He recommended deletion of section 19a of the Act.

Mr. Gasque pointed out that the Congress feels very strongly regarding the right of trial by jury, and that this is an emotional question completely out of perspective in the Congress. He suggested that this Committee should study this on its merits, but that jury trial should not be withdrawn where it already exists.

Mr. Horsky was inclined to agree with Mr. Reisenfeld as to authority of a referee to hold a jury trial. He suggested simply stating that referees shall not hold jury trials.

Judge Maris suggested that General Order 12, paragraph 1, could be amended by adding to the second sentence a proviso excepting

trials by jury from the proceedings to be had before the referee. He said that General Order 12 calls for amendment anyway and this could be taken care of at the same time.

Mr. Seligson wanted to go on record as being in favor of a referee having authority to hold a jury trial and made a motion that referees as a matter of policy may hold jury trials. Judge Sanborn seconded the motion. Mr. Horsky disagreed.

Mr. Gasque suggested that the Committee take the position that whether they should have that authority or not, and whether they should be given that power permanently, are legislative questions, and this Committee would not be saddled with the question.

Mr. Gibson suggested an amendment to the motion that if a jury trial be permitted it shall be before the judge if request therefor be made in the pleading. Mr. Seligson accepted the amendment. The motion as amended was : "If a jury trial is permitted, it shall be before the judge if request therefor be made in the pleading." The motion was carried, with Mr. Whitehurst abstaining.

AGENDA 7. Consideration of proposed new General Order 46 on Accountants and related amendment of General Order 45. The Reporter suggested one or two minor changes in the proposed drafts.

There was no objection to the General Order 45 and the addition of General Order 46 as proposed.

Mr. Horsky asked if this was a confidential action and was instructed not to give publicity to determinations of the Committee which are still subject to reconsideration - even to interested parties.

LUNCH

Consideration was given as to the time of the next meeting. It was tentatively settled that a date either before or after the meeting of the National Bankruptcy Conference, which is to be held October 20 and 21, 1961, would be a good time.

AGENDA 8(a) Changes proposed by National Bankruptcy Conference and Ninth Circuit Judicial Conference Bankruptcy Committee in respect to General Orders 11, 12, 17, 28, 31, and 33 and Official Form No. 44.

This was circulated under covering letter of May 4, 1960, by Mr. Gasque.

General Order 11 was considered first and was tentatively approved.

The Reporter referred to a memorandum of Judge Sanborn making recommendations re General Order 12. On page 2 of Judge Sanborn's memorandum the Reporter suggested the adoption of his

proposed General Order, with the addition of Mr. Gibson's suggested addition mentioned previously. This suggestion was adopted.

Paragraph 2 of General Order 12 is to be eliminated. There was no objection.

Paragraph 3 of General Order 12 is unobjectionable in its present form. It will be left intact.

Paragraph 4 of General Order 12 was proposed to be left intact with an addition of a sentence from Judge Sanborn's memorandum: "Such summary and statement shall be mailed only to those creditors who have filed proper proofs of claim in time." General sentiment was to disapprove the sentence. That left open the possibility that the Committee might want to consider the policy of changing the law. Mr. Horsky pointed out that this would be something to be considered if Congress amends the Supreme Court's power.

Mr. Seligson referred back to Rule 12 and asked that consideration be postponed on one point. It was agreed that the clause "and the bankrupt or debtor may receive from the referee a protection against arrest be continued unless suspended or vacated by order of the court" would be considered further.

General Order 17. No recommendation was made re 17(1). As to 17(2), a revised statement was proposed to deal with a trustee's

duties in setting apart exemptions. Mr. Snedecor suggested that 5 days was too short and suggested "as soon as practicable and not exceeding 20 days." It was agreed not to take Mr. Snedecor's 20-day suggestion, but to adopt his suggestion about sending notice to debtor and his counsel.

General Order 17(4) was proposed to be deleted. It was agreed that (4) should go out under 17 and in under 12 with the revision.

General Order 28 was taken up re redemption of property and compounding of claims. The proposal is to take out language regarding compounding of claims. Professor Reisenfeld offered several suggestions of change and it was decided to leave this for further study.

General Order 31. Mr. Seligson moved approval of the elimination of the General Order. This was approved.

General Order 33. This was referred back to the Reporter to see if it is needed at all and to see whether the statute does not already cover it. There was no objection.

General Order 34. It was suggested that this be deferred until the omnibus bill is introduced. This was agreed to.

Official Form No. 44. Proposed revision of this form is set forth on page 12 of the National Bankruptcy Conference Memorandum.

No substantive change is involved -- a mere removal of brackets. This was approved.

AGENDA 8(b). Revision of General Orders 5 and 52 was proposed by Referee Snedecor. This is to be left over and will be handled by correspondence.

AGENDA 8(c). Change in General Order 48(3) was proposed by Referee Whitehurst. The question of the SEC's interest in receiving copies of documents was also taken up at this time. It was decided to leave the matter to Professor Kennedy and the Administrative Office so that those things that can get done earlier will be done.

Judge Maris asked that on the specific items referred to the standing Committee by the Judicial Conference, and in turn referred to the Bankruptcy Committee, a report be made to the standing Committee.

AGENDA 8(d). Change in General Order 51 was proposed by Professor Seligson re ancillary receiverships. No definitive action was taken, and it was left for Professor Kennedy and Mr. Seligson to work something out.

AGENDA 8(e). Revision of Official Forms No. 2, 28, 29, 30, and 31 has been recommended by Advisor Covey. These forms are now being worked on and will be reported on later.

AGENDA 8(f). Revision of General Order 49 was suggested by Circuit Judge Phillips. The Reporter asked that Committee members well versed in Section 77 proceedings could be helpful. Mr. Horsky mentioned that there is a bill pending proposed by the ABA with very comprehensive series of amendments to Section 77. The National Bankruptcy Conference also has a Committee studying that bill. He thought it would be premature to do anything except to note the fact that with or without the new amendments it would be worth looking at. It was agreed that was the course to follow.

AGENDA 8(g). Repeal or revision of Official Form No. 13 was proposed by the Ninth Circuit Judicial Conference Bankruptcy Committee. This is a recommendation that Form 13 be eliminated as no longer necessary. A motion was made and approved to eliminate the form.

Mr. Horsky moved a vote of thanks to Professor Kennedy for his splendid work as Reporter for this Committee, and Judge Maris seconded the motion on behalf of the Committee on Rules of Practice and Procedure.

Mr. Seligson raised the question of requiring the filing fee for a petition for review to be raised from $10 to $25 as being more consonant with the current value of the dollar. He suggested this might reduce the number of petitions filed solely for the purpose of delay.

It was decided this was a matter for the Bankruptcy Committee of the Judicial Conference.

The Chairman expressed his gratification for the great interest taken in the meeting by the members and the meeting was adjourned at 3:15.

**********