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Report of the Committee on Federal Rules

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Report of Committee on Federal Rules

Since the report on the November, 1937, draft of the Federal Rules was written, the Supreme Court, through the Attorney General, submitted to Congress on January 3, 1938, that draft with two important changes advocated by the Washington State Bar Association.

The provision in Rule 26 (f) relating to depositions was stricken, which made it possible for any party to show contradictory statements to those made in the deposition by a witness without calling the contradictory statements to the attention of the witness. If the rule had been adopted as submitted by the Advisory Committee no foundation would have been necessary to be laid for impeaching testimony.

A like provision in Rule 44 (6) relating to trial evidence was eliminated.

From the same Rule 44 (b) the Supreme Court struck the provision that "any witness called by a party and examined as to any matter material to any issue may be cross-examined by the adverse party upon all matters material to every issue of the action." This rule, if it had been permitted to stand as drawn, taken in connection with Rule 18 permitting the joinder, without limitation, of all the claims any party might have against another, Rule 20 permitting joinder of all persons and Rule 21 making the misjoinder of all persons not a ground for dismissal, would have made the procedure proposed one for abuse in joining countless parties in countless causes of action and in subjecting witnesses to unjust harassment in examination as to anything which ingenious opposing counsel might allege in his pleadings.

With the exception of Mr. Justice Brandeis, the Justices of the Court adopted the Rules as proposed in the November, 1937, draft, after a few other verbal changes had been made and the Chief

Justice was authorized to transmit the Final Draft to the 75th Congress. The statute authorizing the prescribing of the District Court Rules by the Supreme Court of the United States provides that "Such united rules shall not take effect until they shall have been reported to Congress by the Attorney General at the beginning of a regular session thereof and until after the close of such session."

The Washington State Bar Association is greatly indebted to Judge George Donworth for his most efficient assistance in the Advisory Committee in having incorporated in the Rules most of the suggestions made by its Committee on Federal Rules of Civil Procedure. His work has been invaluable, not only in this respect, but in securing for the members of the Bar in general who practice in the United States District Courts a vastly improved set of rules of civil procedure, which will be the means of eliminating many of the difficulties and much of the delay now attendant upon federal court litigation.

CHARLES S. ALBERT, *Chairman,*
Committee on Federal Rules of Civil Procedure.

Test Radio Programs

Upon mandate of the members of the Washington State Bar Association assembled in Convention at Bellingham, Washington, August 12, 13 and 14, the Board of Governors, after conferring with the Board of Governors of the Oregon Bar Association, determined that the Public Relations Committee of the Washington and Oregon Bar Associations be authorized to enter into a joint series of three radio broadcast programs along the lines of the sample one put on by the Washington State Bar Association Committee at the Bellingham Convention, at a cost to the Washington State Bar Association not to exceed \$1,200.00, or two-thirds of the entire cost.

The programs were heard over Stations KOMO, Seattle; KHQ, Spokane, and KGW, Portland. They were entitled the "Law Theatre" and were given as follows:

Saturday, November 27	8:30-9:00
Saturday, December 4	8:30-9:00
Saturday, December 11	8:30-9:00

An explanatory letter was sent to each member of the Bar and upon conclusion of these test programs, a referendum was ordered by the Board of Governors, which resulted in a vote as follows:

No	1052
Yes	243

The Oregon Bar Association likewise conducted a referendum which resulted in a vote of three to one against the continuation of such programs.