

A G E N D A

for Meeting of

LAW REVISION COMMISSION

Ventura, May 16-17, 1958

1. Minutes of April 18-19 meeting (sent you on May 6, 1958).
2. Discussion proposed dates future meetings:
June 13 and 14, July 11-12, August 8-9, September 5-6,
October 3-4 (Coronado)
3. Study No. 59 - Notice by Publication. Report on arrangement with Harvard Student Legislative Research Bureau.
4. Study No. 58(L) - Codification Grand Jury Law: Outline of future work (Mr. Kleps will furnish memorandum).
5. Study No. 52(L) - Sovereign Immunity. Preliminary report by Professor Van Alstyne (memorandum to be sent).
6. Study No. 37(L) - Claims Statutes Discussion with Professor Van Alstyne of matters considered at last meeting (See Memorandum No. 4, enclosed herewith).
7. Study No. 36(L) - Condemnation Law and Procedure (See Memorandum No. 9 to be sent).
8. Study No. 56(L) - Narcotics Code (See Memorandum No. 10, to be sent).
9. Study No. 24 - Mortgages Future Advances (See Memorandum No. 3, enclosed herewith).
10. Study No. 34(L) - Uniform Rules of Evidence (See Memorandum No. 8, enclosed herewith).
11. Study No. 49 - Rights Unlicensed Contractor (See Memorandum No. 5, enclosed herewith).
12. Study No. 38 - Inter-vivos Rights, Probate Code § 201.5 Property (See Memorandum No. 1, sent to you on May 6).
13. Study No. 11 - §§ 2201, 3901 of Corporations Code (See Memorandum No. 2, sent to you on May 6).
14. Study No. 16 - Planning by Cities and Counties Not Having Planning Commissions (See Memorandum No. 6, enclosed herewith).

MINUTES OF MEETING

of

MAY 16-17, 1958

VENTURA

Pursuant to the call of the Chairman, there was a regular meeting of the Law Revision Commission on May 16 and 17, 1958, at Ventura.

PRESENT: Mr. Thomas E. Stanton, Jr., Chairman
Honorable Clark L. Bradley
Honorable Roy A. Gustafson
Mr. Charles H. Matthews
Professor Samuel D. Thurman
Mr. Ralph N. Kleps, ex officio (May 16)

ABSENT: Mr. John D. Babbage, Vice Chairman
Honorable James A. Cobey
Mr. Bert W. Levit
Mr. Stanford C. Shaw

Mr. John R. McDonough, Jr., the Executive Secretary, and Miss Louisa R. Lindow, Assistant Executive Secretary, were also present.

Professor James H. Chadbourn of the School of Law, University of California at Los Angeles, the research consultant of Study No. 34(L), was present during a part of the meeting on May 16, 1958.

Professor Arvo Van Alstyne of the School of Law, University of California at Los Angeles, the research consultant of Studies No. 37(L) and 52(L), was present during a part of the meeting on May 17, 1958.

Messrs. Robert Nibley and Albert A. Day of the law firm of Hill, Farrer and Burrill of Los Angeles, the research consultant of Study No. 36(L) were present during a part of the meeting on May 17, 1958.

The minutes of the meeting of April 18 and 19, 1958 were unanimously approved.

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I. ADMINISTRATION

A. Proposed Announcement of Studies in State Bar Journal: The Commission considered a draft of an announcement of studies to be published in the State Bar Journal prepared by the Staff and distributed to Members at the meeting (a copy of which is attached to these minutes). After the matter was discussed the Executive Secretary was authorized to request the State Bar to publish the announcement substantially as drafted in the State Bar Journal.

II. CURRENT STUDIES

A. Study No. 24 - Mortgages for Future Advances: The Commission considered Memorandum No. 3, a draft prepared by the Staff of a Recommendation of the Law Revision Commission relating to mortgages to secure future advances, and two drafts of bills to effectuate the Commission's recommendation, one prepared by Professor Merryman and the other prepared by the Staff. (A copy of each of these items is attached to these minutes). After the matter was discussed, the following changes in the draft statute prepared by the Staff were agreed upon:

- (a) "In all cases" should be inserted at the beginning of subsection (1).
- (b) "that is" should be deleted from the parenthetical phrase in subsection (2).
- (c) The word "necessary" should be inserted after the word "expenditures" in subsection (1).
- (d) The sequence of the three subsections should be changed so that subsection (1) becomes subsection (3). Subsections (2) and (3) would then be designated as subsections (1) and (2) respectively.
- (e) The word "all" should be changed to "any" in the second sentence of the next to last paragraph.
- (f) Additional minor changes should be made.

A motion was made by Mr. Thurman and seconded by Mr. Gustafson to

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approve the draft statute prepared by the Staff, as amended. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not present: Babbage, Cobey, Levit, Shaw.

A motion was made by Mr. Gustafson and seconded by Mr. Matthews to approve the proposed recommendation of the Commission relating to mortgages to secure future advances. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None
Not present: Babbage, Cobey, Levit, Shaw.

The Executive Secretary was directed to send the research study, the recommendation of the Commission, and the draft bill to the State Bar for its consideration.

B. Study No. 34(L) - Uniform Rules of Evidence: The Commission considered Memorandum No. 8, a summary compiled by the Staff of action taken to date on various of the Uniform Rules of Evidence by the Law Revision Commission and the Northern and Southern Sections of the State Bar Committee to Consider the Uniform Rules of Evidence, certain material received from the State Bar relating to studies it has made on the subject of medical treatises as evidence, and memoranda prepared by Professor James H. Chadbourn on Subdivision (31) of Rule 63 and on Rules 20, 21, and 22, 65 and 66. (These items are attached to these minutes.

The Commission considered the recommendation of the Executive Secretary that the Commission undertake to complete its work on Rule 63 and related Rules dealing with the hearsay rule and its exceptions in time to present its recommendations relating to these Rules to the 1959 Session of the Legislature. After the matter was discussed it was agreed to approve the recommendation of the Executive Secretary. It was also agreed that the Chairman should write Mr. Ball of this decision and should tell him that the Commission hopes to have the views of the State Bar on these Rules in time to consider them before its recommendations to the Legislature are put in final form and will be happy to cooperate in any way that it can to this end.

Rule 63, Subdivision (31) - Learned Treatises: The Commission deferred consideration of Subdivision (31) of Rule 63 to a later meeting.

Rule 65 - Credibility of Declarant: After the Commission considered Professor Chadbourn's memorandum a motion was made and seconded to approve

Rule 65 as amended to read:

Evidence of a statement or other conduct by a declarant inconsistent with a statement of such declarant received in evidence under an exception to Rule 63 is admissible for the purpose of discrediting the declarant, though he had no opportunity to deny or explain such inconsistent statement or other conduct. Any other evidence tending to impair or support the credibility of the declarant is admissible if it would have been admissible had the declarant been a witness.

The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.

No: None.

Not present: Babbage, Cobey, Levit, Shaw.

Professor Chadbourn agreed that certain revisions suggested by the Staff should be made to his memorandum on Rule 65.

Rule 66 - Multiple Hearsay: A motion was made by Mr. Bradley and seconded by Mr. Thurman to approve Rule 66 as drafted. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.

No: None.

Not Present: Babbage, Cobey, Levit, Shaw.

Rule 20 - Evidence Generally Affecting Credibility: The Commission considered the recommendation of Professor Chadbourn to amend the first phrase, "Subject to Rules 21 and 22," to read as follows: "Except as otherwise provided in Rule 21 or 22 or in any other of these Rules." A motion was made and seconded to approve the amendment. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.

No: None.

Not Present: Babbage, Cobey, Levit, Shaw.

A Motion was made and seconded to approve Rule 20 insofar as it abolishes the present restrictions upon impeaching one's own witness. The motion carried:

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Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

A motion was made and seconded to approve Rule 20 insofar as it would abolish the present "collateral-matter" limitation with respect to evidence of specific contradictions (it being noted that substantially the same limitation could be applied by the court in the exercise of its discretionary power under Rule 45). The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

The Commission unanimously approved Rule 20 insofar as it permits impeachment of a witness by (1) evidence of bias and (2) on other grounds than inconsistent statements, criminal conviction and bias.

The Commission considered Rule 20 insofar as it permits supporting the witness by evidence of good character. After the matter was discussed a motion was made by Mr. Bradley and seconded by Mr. Gustafson that Rule 20 should be amended to permit such evidence to be introduced only after the credibility of the witness had been attacked. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

Rule 21 - Limitations on Evidence of Conviction of Crime as Affecting Credibility: The Commission considered impeachment by criminal record in general and certain recommendations proposed by Professor Chadbourn for the amendment of Rule 21 .

In the course of the discussion agreement was reached upon the following principles:

- (1) Rule 21 was approved insofar as it (a) limits evidence of conviction of crime to crimes involving dishonesty or false statement and (b) permits proof of misdemeanors of such character.
- (2) Rule 21 should not require the questioner to make a showing that he has or can obtain record evidence of the conviction of a witness unless he proposes to question the witness initially in the presence of the jury.
- (3) Rule 21 should permit a witness to be questioned outside the presence of the jury as to whether he has been convicted of an impeachment crime, even though the question is a "shot in the dark", with the further provision that if such questioning discloses that the witness has been convicted of a crime of a character which may be shown to impeach him, the witness may then be questioned in the presence of the jury to bring out this fact.
- (4) Argument as to whether a crime is one involving dishonesty or false statement must be heard outside the presence of the jury.

Professor Chadbourn and the Staff were requested to prepare a redraft of Rule 21 embodying these principles for consideration by the Commission.

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The Commission considered the second sentence of Rule 21 which embodies a special rule limiting impeachment by criminal record of a defendant in a criminal case. Several members were of the opinion that a witness and a party to the action should receive similar treatment. A motion was made by Mr. Gustafson and seconded by Mr. Bradley to delete the second sentence of Rule 21. The motion did not carry:

Aye: Bradley, Gustafson, Matthews, Stanton.
No: Thurman.
Not Present: Babbage, Cobey, Levit, Shaw.

Rule 22 - Further Limitations on Admissibility of Evidence Affecting Credibility: A motion was made by Mr. Gustafson and seconded by Mr. Thurman to approve Rule 22 insofar as it gives the judge discretion to dispense with the requirement of laying a foundation before a witness can be impeached by self contradiction. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

A motion was made by Mr. Bradley and seconded by Mr. Matthews to approve Rule 22 insofar as it makes admissible opinion evidence relating to honesty and veracity. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

A motion was made by Mr. Gustafson and seconded by Mr. Matthews to approve Rule 20 as amended and Rule 22. Rule 20 is to read:

Rule 20. Except as otherwise provided in Rules 21 or 22, or in any other of these rules for the purpose of impairing or, when credibility of the witness has been

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attacked, supporting the credibility of a witness, any party including the party calling him may examine him and introduce extrinsic evidence concerning any conduct by him and any other matter relevant upon the issue of credibility.

The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

A motion was then made by Mr. Gustafson and seconded by Mr. Bradley to approve Rule 45 as far as it relates to Rules 20 and 22. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

C. Study No. 36(L) - Condemnation Law and Procedure: The Commission considered Memorandum No. 9 (a copy of which is attached to these minutes). The Executive Secretary reported on the May 5th meeting of the subcommittee of the Senate Interim Judiciary Committee which he and Messrs. Day and McLaurin attended. After the matter was discussed it was agreed that the Commission would attempt to adapt its schedule to the requests of the subcommittee.

Messrs. Nibley and Day reported that: (1) their study on moving expenses is complete except for inserting therein the research consultant's recommendations on the various problems discussed, and (2) the studies on recoverable costs and allocation of award can be completed by October.

It was agreed that in preparing its studies the research consultant should include both (1) an impartial analysis of the problems involved and the policy considerations, pro and con, relating to their solution and (2) its recommendations on the policy questions involved.

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D. Study No. 37(L) - Claims Statute: The Commission considered Memorandum No. 4, a Staff memorandum dated April 15, 1958, relating to problems involved in "dovetailing" the proposed uniform claims statute into existing law, and a draft of the proposed uniform claims statute. (a copy of each of these items is attached to these minutes).

After the matter was discussed it was agreed that Professor Van Alstyne would undertake a study of the problem of incorporating the principles expressed in the proposed uniform claims statute into the law of this State and make a report of his findings and recommendations.

The Chairman was authorized to enter into a contract with Professor Van Alstyne for the new study at an honorarium between \$750 to \$1,000. It was agreed that this study should take precedence over the Sovereign Immunity study insofar as Professor Van Alstyne is concerned.

E. Study No. 38 - Inter Vivos Rights - "201.5 Property": The Commission considered Memorandum No. 1 (a copy of which is attached to these minutes), and the research study prepared by Professor Harold Marsh, Jr. After the matter was discussed Mr. Stanton expressed an opinion that in some aspects 201.5 property should have the same incidents as community property.

It was agreed to consider whether 201.5 property should be treated similarly to community property with respect to the following matters:

- (a) Management and control: No member moved to treat 201.5 property like community property for this purpose.
- (b) Rights of creditors: No member moved to treat 201.5 property like community property for this purpose.
- (c) Inter vivos transfers of personal property - gratuitous or for value: A motion to treat 201.5 property like community property did not carry:

Aye: Bradley, Gustafson, Matthews, Stanton.
Pass: Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.
- (d) Inter vivos transfers of real property - gratuitous or for value: A motion to treat 201.5 property like community property did not carry:

Aye: Gustafson, Matthews, Stanton, Thurman.
Pass: Bradley.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.
- (e) Declaration of homestead: A motion to treat 201.5 property like community property carried:

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Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

(f) Division on divorce: A motion to treat 201.5 property
like community property did not carry:

Aye: Bradley, Matthews, Stanton, Thurman.
No: Gustafson.
Not Present: Babbage, Cobey, Levit, Shaw.

A motion was made by Mr. Gustafson and seconded to treat "201.5
property" like community property in divorce cases only as to the losing party.
The motion did not carry:

Aye: Gustafson
No: Bradley, Matthews, Stanton, Thurman.
Not Present: Babbage, Cobey, Levit, Shaw.

(g) Gift tax: A motion to treat 201.5 property like community
property did not carry:

Aye: Bradley, Gustafson, Matthews, Stanton.
Pass: Thurman.
No: None.
Not Present: Babbage, Cobey, Levit, Shaw.

A motion was made and seconded to repeal that portion of Section 164 of
the Civil Code which purports to transform "201.5 property" into community
property. The motion carried:

Aye: Bradley, Gustafson, Matthews, Stanton, Thurman.
No: None
Not Present: Babbage, Cobey, Levit, Shaw.

It was agreed that the research consultant should be requested to
include in the study a consideration of the rights of spouses with respect to
inter vivos transfers of 201.5 property in the states in which it is acquired --
i. e., before they come to California.

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F. Study No. 49 - Rights of Unlicensed Contractor: The Commission considered the research study prepared by Professor James D. Sumner, Jr. and Memorandum No. 5 (a copy of which is attached to these minutes). After the matter was discussed it was agreed that certain sections of the study should be more specific, and that certain inconsistencies should be eliminated. Further consideration of this study was deferred pending its revision by the research consultant.

G. Study No. 52(L) - Sovereign Immunity: The Commission considered Memorandum No. 7 and a preliminary report on the study of governmental immunity prepared by Professor Van Alstyne (A copy of each of these items is attached to these minutes). Professor Van Alstyne reported that after completing the initial work of this study he had arrived at the following tentative conclusions:

(1) The State should proceed conservatively in any program of abolishing governmental immunity.

(2) The present study should include a comprehensive survey of the present statutory law imposing liability on public entities and should include recommendations to cure any ambiguities or defects that now exist in such statutes and to make the principles embodied in them more uniformly applicable.

(3) A factual study of probable consequences should be made before abolition of governmental immunity is recommended.

After the matter was discussed the Commission expressed its agreement with Professor Van Alstyne and directed him to proceed along the lines outlined in his preliminary report.

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H. Study No. 56(L) - Narcotics Study: The Commission considered Memorandum No. 10 (a copy of which is attached to these minutes). After the matter was discussed, a motion was made by Mr. Matthews, seconded by Mr. Bradley, and unanimously adopted to approve the recommendation made in the memorandum. The Staff was directed to draft and submit for approval a Recommendation of the Commission along the lines set forth in Memorandum No. 10.

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I. Study No. 57(L) - Law Relating to Bail: The Commission considered the suggestion that it contract with a deputy in Mr. Gustafson's office to undertake this study, on the understanding that Mr. Gustafson would provide considerable guidance as the study progresses. Mr. Kleps suggested that there might be some objection to this by Members of the Legislature; Mr. Bradley, however, expressed his opinion that the proposal would not be thought objectionable. After the matter was discussed the Chairman and Executive Secretary were authorized to make a contract on the basis discussed, at an honorarium between \$1,200 to \$1,500.

(Revised)
6/16/58
See next page

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I. Study No. 57(L) - Law Relating to Bail: The Commission considered the suggestion that it contract with a deputy in Mr. Gustafson's office to undertake this study, on the understanding that Mr. Gustafson would provide considerable guidance as the study progresses. After the matter was discussed the Chairman and Executive Secretary were authorized to make a contract on the basis discussed, at an honorarium between \$1,200 to \$1,500.

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J. Study No. 58(L) - Codification of Grand Jury Law: The Commission considered the memorandum relating to this study prepared by Mr. Kleps (a copy of which is attached to these minutes). After the matter was discussed, a motion was made by Mr. Gustafson, seconded by Mr. Matthews, and unanimously adopted to authorize Mr. Kleps to proceed in the manner proposed in his memorandum.

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K. Study No. 59 - Service of Process by Publication: The Executive
Secretary reported that the Harvard Student Legislative Research Bureau has
agreed to undertake this study for the Commission.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

PROPOSED STATE BAR JOURNAL ANNOUNCEMENT

May 15, 1958

Pursuant to Resolution of the California
Legislature

THE CALIFORNIA LAW REVISION COMMISSION
is now making a study of the topics listed
below.

Members of the Bench and Bar who have
comments on defects in the present law
or suggestions as to what the statutory
law of the State should contain on these
subjects are invited to communicate with
the Commission. Communications may be
addressed to:

California Law Revision Commission
School of Law
Stanford, California

1. SERVICE OF PROCESS BY
PUBLICATION. A study to determine
whether California statutes relating
to service of process by publication
should be revised in light of recent
decisions of the United States Supreme
Court.

2. REQUIREMENT OF WRITING ON
REPRESENTATION OF CREDIT. A study to
determine whether Section 1974 of the
Code of Civil Procedure should be re-
pealed or revised.

3. ELECTION OF REMEDIES.

A study to determine whether the doctrine of election of remedies should be abolished in cases where relief is sought against different defendants.

4. SOVEREIGN IMMUNITY.

A study to determine whether the doctrine of sovereign or governmental immunity in California should be abolished or revised.

5. CONDEMNATION.

A study to determine whether the law and procedure relating to condemnation should be revised in order to safeguard the property rights of private citizens.

6. UNIFORM RULES OF EVIDENCE.

A study to determine whether the law of evidence should be revised to conform to the Uniform Rules of Evidence drafted by the National Conference of Commissioners on Uniform State Laws and approved by it at its 1953 annual conference.

7. CLAIMS.

A study to determine whether the various provisions of law relating to the filing of claims against public bodies and public employees should be made uniform and otherwise revised.

8. ATTACHMENT, GARNISHMENT, AND EXEMPT PROPERTY. A study to determine whether the law relating to attachment, garnishment, and property exempt from execution should be revised.

9. BAIL. A study to determine whether the laws relating to bail should be revised.

10. ARBITRATION. A study to determine whether the Arbitration Statute should be revised.

11. RIGHTS OF A PUTATIVE SPOUSE.

A study to determine whether the law relating to the rights of a putative spouse should be revised.

12. HABEAS CORPUS. A study to determine whether the law respecting habeas corpus proceedings, in the trial and appellate courts should, for the purpose of simplification of procedure to the end of more expeditious and final determination of the legal questions presented, be revised.

13. ACTION FOR SUPPORT BY DIVORCED SPOUSE. A study to determine whether a former wife, divorced in an action in which the court did not have personal jurisdiction over both parties, should be permitted to maintain an action for support.

RALPH N. KLEPS
LEGISLATIVE COUNSEL

CHARLES W. JOHNSON
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STATE OF CALIFORNIA

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3021 STATE CAPITOL, SACRAMENTO 14
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Agenda Item # 4

LAWRENCE G. ALLYN
TERRY L. BAUM
BARBARA C. CALAIS
VIRGINIA COKER
BERNARD CZEKLA
KENT L. DECHAMBEAU
ROBLEY E. GEORGE
J. GOULD
OWEN K. KUNS
ERNEST H. KUNZI
RYAN M. POLSTRA
EDWARD K. PURCELL
RAY H. WHITAKER
ROSE WOODS
DEPUTIES

May 12, 1958

To: Members of the Law Revision Commission

From: R. N. Kleps

Codification of Laws Relating
to Grand Juries

A. Material Involved

The statutory provisions relating to grand juries, including those of incidental application, are found in the Code of Civil Procedure, the Penal Code, and the Government Code. The sections involved are:

<u>Code of Civil Procedure</u>	<u>Government Code</u>	<u>Penal Code</u>
65.2	3060	167
190-196.1	3062	168
204-211	3073	169
238	12551	894-907
241-243	12552	915-932
	28101-28158	940-945
		948-973
		997-998
		1009
		1117
		1324
		1326
		1395

B. Proposed Disposition

It is proposed that, generally, the statutes which relate specifically to grand juries be revised without substantive change as contemplated by Resolutions Chapter 266, Statutes of 1957, and that they be allocated

to the Penal Code. This would be accomplished by a revision of Title 4 of Part 2 of the Penal Code (commencing at Section 894), and would include the transfer to that title of the statutory material in the Code of Civil Procedure and the Government Code, with two major exceptions. The first would be the salary provisions of the Government Code, which are now included at Sections 28101-28158 of that code as part of the county salary sections. It is thought that no purpose would be served by changing these well-established salary provisions. The second would be those provisions relating to the qualifications of jurors and the exemptions from jury duty (C.C.P., Secs. 198, 200-202). It is thought that these should be the same for both trial and grand jurors and that by cross-reference they can be kept the same.

Where the recommendation "duplicate" appears in the attached table, it is intended either to transfer the language applicable to grand jurors or to rewrite the section to separate those provisions of a section which relate to grand jurors.

In some cases, a section deals in part with the grand jury and in part with other bodies or officers, and may also constitute an integral part of a larger group of sections. In such cases, the provisions relating to grand juries cannot be lifted out and transferred without detracting either from their own understandability or the understandability of the surrounding provisions from which they are taken. In such cases, the recommendation is that the sections be left where they are. This applies largely to indictments and the removal from office of public officers.

The sections, a brief description of their contents, and proposed disposition, if any, are as follows:

<u>Code and Section</u>	<u>Contents</u>	<u>Disposition</u>
Code of Civil Procedure		
65.2	Requires superior court judge to call jury's attention to certain basic provisions re nature and powers of counties and liability of officers	To Title 4, Pt. 2, Pen. C.
190	First sentence which also relates to trial juries provides, in part: "A jury is a body of persons temporarily selected from the citizens of a particular district and invested with power to present or indict a person for a public offense."	So much of sentence as relates to grand juries could be duplicated in Pen.C.; but in view of definition of grand jury in Sec. 192, recommended to be transferred to Pen.C., may be unnecessary to make any disposition of Sec. 190.
191	Lists three kinds of juries: grand, trial, and juries of inquest	None
192	Defines grand jury	To Title 4, Pt. 2, Pen. C.
196	Fixes uniform minimum fees for both trial and grand jurors	Duplicate
198	Persons competent to serve as jurors, trial and grand	Cross reference
199	Subdivisions (b) and (c) relate to persons competent or not competent to serve as grand jurors	To Title 4, Pt. 2, Pen. C.
200-202	Exemptions from jury duty	Cross reference
204	Estimate of needed number of grand and trial jurors and their selection	Duplicate

<u>Code and Section</u>	<u>Contents</u>	<u>Disposition</u>
Code of Civil Procedure (continued)		
204b	Requires jury commissioner to furnish to judges list of persons qualified to be grand jurors and trial jurors and authorized to make governing rules	Duplicate
204c	Defines authority of jury commissioner to inquire into qualifications of "jurors," apparently including both trial and grand	Duplicate
204d	Return of list of "jurors" to judges, and their selection from list	Duplicate
205	Prescribes standards for listing and selecting "jurors"	Duplicate
206	Separate lists for judicial districts or wards in Los Angeles County	Duplicate
206a	Special provisions re lists in counties when superior court sessions are held in cities other than county seats. Apparently relates only to trial juries	If relates only to trial jurors, no transfer
209	Disposition of jury lists by County Clerk	Duplicate
210	Term of service of jurors	Duplicate
211	Drawing of names from jury boxes	Duplicate
238	Compelling attendance of and discipline absent "juror." Apparently applies to grand as well as trial juries	Duplicate

<u>Code and Section</u>	<u>Contents</u>	<u>Disposition</u>
Code of Civil Procedure (continued)		
241	Drawing of jury	Duplicate
242	Drawing of jury	Duplicate
243	"Hereafter [after selection pursuant to preceding actions] such proceedings shall be had in impaneling the grand jury as are prescribed in part two of the Penal Code."	To Title 4, Part 2, Pen. C.
Penal Code		
167	Crime of eavesdropping on juries, grand and trial	Duplicate
168	Crime of disclosure of information or indictment before arrest	Duplicate
169	Crime of disclosure by grand juror of grand jury proceedings	To Title 4, Part 2
894-5, 902-7	Formation of grand jury, appointment of foreman, selection of officers, charge by court, deliberations, retirement of prejudicial members from particular cases	To remain in Title 4, Part 2
915-32	Powers and duties of grand juries	To remain in Title 4, Part 2

<u>Code and Section</u>	<u>Contents</u>	<u>Disposition</u>
Penal Code (continued)		
940	Indictment requires concurrence of 12 jurors; must be endorsed "true bill," signed by foreman	This and succeeding sections through 1117 are in Titles 5 and 6 of Pt. 2, relating to the indictment and proceedings on the indictment. These titles, of course, immediately follow Title 4 and it would not seem desirable that the subjects they cover be chopped up. Thus, no change is recommended.
943	Listing of witnesses on the indictment	
944	Presentation of indictment to court by foreman	
948-973	Form of indictment, manner of charging certain offenses and alleging certain facts, etc.	
997-998	Setting aside of indictment and resubmission to grand jury	
1009	Amendment of and pleading to indictment	
1117	Resubmission of case to grand jury by direction of court	

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<u>Code and Section</u>	<u>Contents</u>	<u>Disposition</u>
Penal Code (continued)		
1324	Granting of immunity to witness in trial or before grand jury	Duplicate
1326	Issuance of subpoenas for witnesses before a court or grand jury	Duplicate
1395	"Preliminary hearing" for corporation as prerequisite to indictment or information	Cross reference in Title 4, Part 2
Government Code		
3060-3073	Removal from office of district, county, or city officer by proceedings on accusation filed by grand jury	Sections 3060, 306 and 3073 refer expressly to the grand jury. It would seem, however, that Secs. 3060-3073 would remain together. There should be cross reference in Penal Code
12551	Power of Attorney General to direct grand jury to consider matter he submits to it	To Title 4, Part 2, Pen. C.
12552	Power of Attorney General to demand impaneling of grand jury	To Title 4, Part 2, Pen. C.
28101-28158	Compensation. See previous comments in memo.	

RNK:TG

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