

AGENDA

for meeting of

CALIFORNIA LAW REVISION COMMISSION

San Francisco

November 27-28, 1959

1. Minutes of October 1959 Meeting (enclosed).
2. Election of Chairman and Vice Chairman.
3. Study No. 51 - Right of Wife to Sue for Support After Ex Parte Divorce. See Memorandum No. 3 (enclosed).
4. Study No. 36 - Condemnation.

See:

- (1) Study entitled "Evidentiary Problems in Eminent Domain Cases (October, 1959)" (sent 10/28/59)
- (2) Memorandum No. 2a (enclosed).
- (3) Memorandum No. 2 (enclosed).

5. Study No. 34 - Uniform Rules of Evidence.

See:

- (1) Memorandum No. 1 (dated 11/1/59 and sent 10/28/59) containing revised text of URE (hearsay evidence division) and summarizing action on URE (hearsay evidence division).
- (2) Chadbourn Memorandum on Rule 62(7) (distributed at October Meeting) and Memorandum No. 1a (enclosed).
- (3) Chadbourn Memorandum on Rule 63(31) (enclosed).
- (4) Memorandum No. 4 (to be sent if arrives in time for meeting). (State Bar office report concerning activities of bar committees on medical treatises and medical panels.)
- (5) Memorandum No. 5 (to be sent) Rules 23-25.
- (6) Memorandum No. 6 (to be sent) Rule 36 - Identity of Informer.
- (7) Memorandum No. 7 (to be sent) Rule 37 - Waiver of Privilege.

(8) Memorandum No. 8 (to be sent) Rules 38-40.

For general background on Hearsay Evidence Division of the Uniform Rules of Evidence, see:

- (1) Summary of Action Taken by the California Law Revision Commission and the State Bar Committee to Consider the Uniform Rules of Evidence (dated 11/13/58 - sent 10/28/59).

- (2) Various Chadbourn Memorandums re Rules 62-66 (already distributed).

Minutes of Meeting

of

November 27 and 28, 1959

San Francisco

A regular meeting of the Law Revision Commission was held in San Francisco on November 27 and 28, 1959.

Present: Thomas E. Stanton, Jr., Chairman
Honorable Clark L. Bradley
Leonard J. Dieden (November 27)
George G. Grover
Roy A. Gustafson
Charles H. Matthews
John R. McDonough, Jr.
Herman F. Selvin
Ralph N. Kleps, ex officio (November 27)

Absent: Honorable James A. Cobey

Messrs. John H. DeMouilly and Joseph B. Harvey and Miss Louisa R. Lindow, members of the Commission's staff, were also present.

Mr. Robert Nibley of the law firm of Hill, Farrer & Burrill of Los Angeles, the research consultant for Study No. 36(L)-Condemnation, was present during a part of the meeting on November 27.

Professor J. H. Chadbourn of the School of Law, University of California at Los Angeles, the research consultant for Study No. 34(L)-Uniform Rules of Evidence, was present during a part of the meeting on November 28.

A motion was made by Mr. Gustafson, seconded by Mr. Matthews, and unanimously adopted to approve the minutes of the meeting held on October 23 and 24, 1959, with the following corrections:

On page 1, the middle initial of Commissioner Selvin should be "F" instead of "S."

On page 7, line 9, "Supreme Court" should be inserted for "Superior Court."

On page 14, line 4, the word "is" should be inserted for "as."

I. ADMINISTRATIVE MATTERS

A. Governor Brown: Mr. Dieden reported that Governor Brown may be able to attend the Friday session of the December 18 and 19, 1959, meeting of the Commission. After the matter was discussed it was agreed that the Chairman should write Governor Brown to extend to him an invitation to meet with the Commission at the December meeting.

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B. Election of Chairman and Vice Chairman: A motion was made by Mr. Dieden, seconded by Mr. Grover, and unanimously adopted that the election of officers (Chairman and Vice Chairman) be postponed to the January 1960 meeting.

C. Certificate of Appreciation: The Chairman raised the question whether the Commission should establish the policy of presenting to the departing members a resolution of appreciation. After the matter was discussed, a motion was made by Mr. Dieden, seconded by Mr. Grover, and adopted to present to each past member and to each departing member a certificate of ~~appreciation~~ indicating that he served on the Commission during the time indicated. Messrs. Gustafson and Selvin expressed opposition to the motion. They stated that in their opinion such a certificate is meaningless and that the Commission should not establish this procedure.

D. Contracts with Professors Chadbourn, Van Alstyne and Stanford University: The Executive Secretary reported that the following contracts have been executed:

(1) Professor Chadbourn for a supplemental study of the California rules of evidence.

(2) Professor Van Alstyne for a study of the claims statutes relating to claims against public officers and employees.

(3) Research contract with Stanford University.

These contracts have been transmitted to the Department of Finance for approval.

E. Commission Meeting Schedule: The Commission agreed that future meetings will be scheduled for the third Friday and Saturday of each month.

The Commission approved the following places and dates for future meetings:

January 22 and 23 - San Francisco.
February 19 and 20 - Los Angeles.
March 18 and 19 - Sacramento.

II. CURRENT STUDIES

A. Study No. 34(L) - Uniform Rules of Evidence: The Commission had before it Memorandum No. 1 (11/1/59) and attached material: Appendix A (11/1/59) and Appendix B (11/1/59); Summary of Action Taken by the California Law Revision Commission and the State Bar Committee to Consider the Uniform Rules of Evidence (11/13/58); Memorandum No. 1a (11/5/59) and Chadbourn Memorandum on Rule 62(7) (9/29/58); Memorandum No. 4 (11/18/59) and Chadbourn Memorandum on Rule 63(31); Memorandum No. 5 (11/10/59); Memorandum No. 6 (11/10/59); and Memorandum No. 8 (11/18/59). (A copy of each of these items is attached hereto.)

1. The Commission first considered the suggestion made by the Executive Secretary that Rule 29 relating to the priest-penitent privilege should be revised. After the matter was discussed a motion was made by Mr. McDonough and seconded by Mr. Grover to amend Rule 29 by adding "or incompetent" in subsection (2)(c) of Rule 29. The motion carried:

Aye: Grover, Matthews, McDonough, Selvin, Stanton.

No: Gustafson.

Not Present: Bradley, Cobey, Dieden

2. The Commission then considered Memorandum No. 1 and the attached material, Memorandum No. 1a and Chadbourn Memorandum on Rule 62(7). After the matter was discussed the following action was taken:

(a) Rule 65A. A motion was made by Mr. Stanton and seconded by Mr. Gustafson to approve the adoption of Rule 65A as revised to read as follows:

Any statement otherwise admissible under paragraph (4), (5), (6), (7), (8), (10), (12), (23) or (24) of Rule 63 is inadmissible if the judge finds that at the time of making the statement the declarant was incapable of understanding the duty of a witness to tell the truth. The burden of establishing that a statement is inadmissible because of the provisions to the admission of the evidence.

The motion carried: *of this section is upon the person subjective*

Aye: Gustafson, Matthews, McDonough, Selvin, Stanton.

No: Grover.

Not Present: Bradley, Cobey, Dieden.

During the discussion of the various exceptions to the hearsay rule a motion was made by Mr. McDonough, seconded by Mr. Selvin, and unanimously adopted that consideration of the various rules on hearsay should be made without reference to Rule 65A until the Commission has the memorandum from the research consultant on Rule 17.

(b) Rule 62(6) and Rule 63(13). A motion was made by Mr. McDonough and seconded by Mr. Grover to approve the deletion of subsection (6) of Rule 62 which defines a business and the addition of the definition of a business to Rule 63(13).

The motion carried:

Aye: Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Bradley, Cobey, Dieden.

(c) Rule 62(3). A motion was made by Mr. Gustafson and seconded by Mr. McDonough to approve the adoption of Rule 62(3) as revised in Appendix A and with the deletion of the words "city and county" from subsection (3)(a) of Rule 62.

The motion carried:

Aye: Bradley, Gustafson, Matthews, McDonough, Selvin,
Stanton.

No: None.

Pass: Grover.

Not Present: Cobey, Dieden.

(d) Rule 62(4). A motion was made by Mr. Matthews and seconded by Mr. McDonough to approve subsection (4) of Rule 62. The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

(e) Rule 62(6). It was agreed to add "death," following "disqualification," in Rule 62(6)(second paragraph)(a).

(f) Rule 62. A motion was made by Mr. McDonough and seconded by Mr. Matthews to approve for adoption revised Rule 62 (set out in Appendix A of Memorandum No. 1) with the revisions made by the Commission. The motion carried:

Aye: Bradley, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Pass: Grover.

Not Present: Cobey, Dieden.

[Comment: It was agreed to retabulate subsection (6) of Rule 62 into two numbered subsections.]

(g) Rule 63(1). A motion was made by Mr. McDonough and seconded by Mr. Selvin to approve the adoption of Rule 63(1).
The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

(h) Rule 63(5). A motion was made by Mr. McDonough and seconded by Mr. Gustafson to approve the adoption of Rule 63(5) as revised to read as follows: ". . ., a statement by a person unavailable as a witness because of his death decedent after the judge finds" The motion carried:

Aye: Gustafson, Matthews, McDonough, Stanton.

No: Selvin.

Pass: Bradley, Grover.

Not Present: Cobey, Dieden.

(i) Rule 63(14). A motion was made by Mr. McDonough and seconded by Mr. Selvin to approve the adoption of Rule 63(14) as revised to include the definition of "a business." The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

Comment: It was agreed that Rule 63(14) should be reworded to conform as near as possible to the wording of Rule 63(13).⁷

Rule 63(17). The revision of Rule 63(17)(b) was noted and approved.

(j) Rule 63(23). A motion was made by Mr. McDonough and seconded by Mr. Grover to approve the revision of Rule 63(23).

The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

(k) Rule 63(26)(b)(ii). It was agreed that Rule 63(26)(b)(ii) should be revised to read as follows: "(ii) such evidence as notes in family bibles or other family books or charts, engravings on rings, family portraits, engravings on urns, crypts or tombstones."

(1) It was agreed that consideration of Rule 63(31) and Memorandum No. 4 should be deferred to a later meeting.

(m) Rule 64. A motion was made by Mr. Grover and seconded by Mr. Selvin to make Rule 64 applicable only to exceptions (15) and (29) of Rule 63. The motion carried:

Aye: Grover, Matthews, McDonough, Selvin, Stanton.

No: Bradley, Gustafson.

Not Present: Cobey, Dieden.

A motion was then made by Mr. McDonough and seconded by Mr. Gustafson to delete the last sentence in Rule 64. The motion carried:

Aye: Bradley, Gustafson, Matthews, McDonough, Selvin,
Stanton.

No: None.

Pass: Grover.

Not Present: Cobey, Dieden.

3. The Commission then considered Memorandum No. 5 relating to Rules 23-25. After the matter was discussed, the following action was taken:

(a) Rule 23(3). A motion was made by Mr. Grover and seconded by Mr. Matthews to revise Rule 23(3) to incorporate a cross-reference to Art. I, Section 13, of the California Constitution. The motion carried:

Aye: Bradley, Grover, Matthews, McDonough.

No: Gustafson, Stanton.

Not Present: Cobey, Dieden, Selvin.

(b) Rule 24. A motion was made by Mr. Gustafson and seconded by Mr. Stanton to delete Rule 24 as unnecessary. The motion did not carry:

Aye: Grover, Gustafson.

No: Bradley, Matthews, McDonough, Selvin, Stanton.

Not Present: Cobey, Dieden.

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A motion was then made by Mr. McDonough and seconded by Mr. Matthews to approve the adoption of Rule 24 with the latter portion of the rule revised as follows:

. . . subject him to liability to conviction thereof, unless he has become permanently immune from conviction for such violation.

The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough, Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

(c) Rule 25. A motion was made by Mr. McDonough, seconded by Mr. Grover, and adopted to direct the staff to review and revise Rule 25(2) to provide that a witness can be required to utter words for purposes of identification only. Mr. Selvin expressed ~~opposition~~ to the motion.

A motion was then made by Mr. McDonough and seconded by Mr. Matthews to approve Rule 25(3)(4)(5) with the following revisions:

The phrase "other individual or a" should be deleted from paragraph (4) of Rule 25.

The words "or employee" should be inserted after the word "officer" in paragraph (5) of Rule 25.

The word "employment" should be inserted after the word "office" in paragraph (5) of Rule 25.

The motion carried.

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Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Stanton.

No: None.

Pass: Selvin.

Not Present: Cobey, Dieden.

A motion was then made by Mr. Bradley and seconded by
Mr. Grover to reinstate subsection (f) of Rule 25. The motion
carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Stanton.

No: Selvin.

Not Present: Cobey, Dieden.

A motion was then made by Mr. McDonough and seconded
by Mr. Selvin to delete the phrase "by the counsel for the
people" from subsection (6) of Rule 25. The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

A motion was then made by Mr. McDonough and seconded
by Mr. Matthews to approve the adoption of Rule 25(6) as revised.
The motion carried:

Aye: Bradley, Gustafson, Matthews, McDonough, Selvin,
Stanton.

No: None.

Pass: Grover.

Not Present: Cobey, Dieden.

[Comment: It was agreed that the action taken on Rule 25(6) is subject to reconsideration at the time Rule 21 is under consideration.]

4. The Commission then considered Memorandum No. 6 relating to Rule 36 -- Identity of Informer. After the matter was discussed, the following action was taken:

(a) A motion was made by Mr. Selvin and seconded by Mr. Grover to exclude the substance of Rule 36 from Rule 34.

The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

A motion was then made by Mr. Gustafson and seconded by Mr. Matthews to revise Rule 36 by inserting the following phrase after "law enforcement ^{officer} office":

or to a representative of an administrative agency charged with the administration or enforcement of the law alleged to be violated.

The motion carried:

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

No: Grover, Selvin.

Not Present: Cobey, Dieden.

A motion was then made by Mr. Matthews and seconded by Mr. Selvin to amend subsection (2) of Rule 36 to incorporate the principle that a witness has a privilege ^{not} to disclose the

identity of a person unless the judge finds that the disclosure is relevant and helpful to assure a fair determination of the issues. The motion did not carry:

Aye: Grover, Matthews, Selvin.

No: Bradley, Gustafson, McDonough, Stanton.

Not Present: Cobey, Dieden.

A motion was then made by Mr. Bradley and seconded by Mr. Gustafson to approve the adoption of Rule 36 as drafted including the revision made to the first paragraph of Rule 36.

The motion did not carry:

Aye: Bradley, Gustafson, Stanton.

No: Grover, Matthews, McDonough, Selvin.

Not Present: Cobey, Dieden.

A motion was then made by Mr. Selvin and seconded by Mr. Grover to substitute the word "needed" for the word "essential" in subsection (2) of Rule 36. The motion carried:

Aye: Bradley, Gustafson, Selvin, Stanton.

No: Grover, Matthews, McDonough.

Not Present: Cobey, Dieden.

A motion was then made by Mr. Gustafson and seconded by Mr. Bradley to approve the adoption of Rule 36 as revised.

The motion carried:

Aye: Bradley, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: Grover.

Not Present: Cobey, Dieden.

Comment: The staff was directed to redraft the rule to substitute more precise language for the words "directly or indirectly."7

5. The Commission then considered Memorandum No. 8. After the matter was discussed the following action was taken:

(a) Rule 38. A motion was made by Mr. Gustafson and seconded by Mr. McDonough to approve the adoption of Rule 38 as drafted in Memorandum No. 8. The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

(b) Rule 39. A motion was then made by Mr. McDonough and seconded by Mr. Selvin to approve the principle that instructions should be given in every jury case at the request of the person who may suffer an adverse inference. The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

(c) A motion was then made by Mr. McDonough and seconded by Mr. Selvin to approve the adoption of Rule 39 as revised. The motion carried:

Aye: Bradley, Grover, Matthews, McDonough, Selvin,
Stanton.

No: Gustafson.

Not Present: Cobey, Dieden.

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[Comment: It was agreed that the action taken approving Rule 39 as revised is subject to reconsideration at the time Rule ~~25~~(7) is to be considered.]

6. It was agreed that various revisions should be made to the comments on the Commission's actions on the different Uniform Rules of Evidence.

B. Study No. 36(L) - Condemnation: The Commission had before it Memorandum No. 2 (11/2/59), Memorandum No. 2a (11/2/59) both prepared by the staff, and the Condemnation Study relating to Evidentiary Problems in Eminent Domain Cases prepared by the research consultant. (A copy of each of these items is attached hereto).

The Commission first considered the policy it should adopt with regard to the circulation of the Condemnation Study. During the discussion Mr. Nibley requested authorization of the Commission to submit the proposed draft statute to the Los Angeles Bar Committee to get its views on the proposed draft statute in order that he can then present a compilation of views on the various matters relating to condemnation to the Commission. After the matter was discussed a motion was made by Mr. Gustafson, seconded by Mr. Dieden, and unanimously adopted to authorize Mr. Nibley (1) to communicate and to submit proposed draft statutes relating to condemnation to any interested person for the purpose of obtaining reactions to the proposed statute that can subsequently be incorporated in the report to be submitted to the Commission, and (2) to submit the various portions of the Condemnation Study to any interested person at his discretion prior to submitting it to the Commission.

It was agreed that the staff should compile a mailing list for the distribution of the Condemnation Study material. The mailing list is to be submitted to the Commission for its consideration at the December meeting. It was suggested that

the Executive Secretary call Mr. Robert Reed of the Division of Highways and Mr. Walter Rountree at the Attorney General's office to determine whether they are interested in receiving the Condemnation Study and if so the number of copies they want.

It was also agreed that the Commission should first act upon the various portions of the Condemnation Study before circulating material to persons on the mailing list.

The Commission then considered Memorandum No. 2. After the matter was discussed the following action was taken:

1. A motion was made by Mr. McDonough and seconded by Mr. Dieden to approve the principle that admissible evidence of sales data relating to comparable property may be introduced on direct examination. The motion carried:

Aye: Dieden, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Bradley, Cobey.

Comment: This is a codification of the Faus decision.]

2. A motion was made by Mr. Grover and seconded by Mr. Selvin to approve the principle that evidence of the sales data in regard to the subject property should be treated in the same manner as sales data in regard to comparable property. The motion carried:

Aye: Dieden, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Bradley, Cobey.

3. A motion was made by Mr. McDonough and seconded by Mr. Selvin to approve the principle that ~~any~~^{admissible} evidence of market data ~~concerning the value of property if it is decided it is to be admitted,~~ should be admitted as independent evidence of the value of the ~~property.~~^{subject} ~~The motion carried:~~^{and not merely as in support of an expert's opinion.}

Aye: Dieden, Grover, Gustafson, Matthews, McDonough, Selvin, Stanton.

No: None.

Not Present: Bradley, Cobey.

4. A motion was made by Mr. McDonough and seconded by Mr. Selvin to approve the principle that an adequate foundation of comparability must be laid before any person can testify to sales data in regard to comparable property; however, once the foundation is laid, any person with knowledge of the facts can then testify to such sales data. The motion carried:

Aye: Dieden, Grover, Gustafson, Matthews, McDonough, Selvin.

No: Stanton.

Pass: Bradley

Not Present: Cobey.

Comment: It was agreed that the evidence of comparable sales data given by an expert is usually hearsay and that the testimony of a person who has knowledge of the facts other than an expert should be admitted on direct examination after a proper foundation is laid rather than requiring that such data be first related to an expert and given by the expert as hearsay.7

5. A motion was made by Mr. Gustafson and seconded by Mr. McDonough to approve the principle that evidence of the sales price of subject property should be admitted. The motion carried:

Aye: Dieden, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Pass: Bradley.

Not Present: Cobey.

6. A motion was made by Mr. McDonough and seconded by Mr. Dieden to approve the principle that evidence of the sales price of comparable property should be admitted. The motion carried:

Aye: Bradley, Dieden, Grover, Gustafson, Matthews,
McDonough, Selvin, Stanton.

No: None.

Not Present: Cobey.

7. A motion was made by Mr. McDonough and seconded by Mr. Selvin to approve the principle that evidence of rentals of comparable property to establish the value of a leasehold that is acquired by condemnation should be admitted. The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

Comment: It was agreed that this action is subject to re-consideration when the Commission considers valuation and apportionment problems involved when property subject to a lease is condemned in fee.⁷

8. A motion was made by Mr. Grover and seconded by Mr. Matthews to approve the principle that evidence of the rental of the subject property should be admitted on the issue of the market value of the condemned leasehold. The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

9. A motion was made by Mr. Gustafson and seconded by Mr. Grover to approve the principle that evidence of subsequent sales of comparable property should not be admitted where the court finds that these subsequent sales were significantly affected by the condemnation proceeding. The motion did not carry.

Aye: Gustafson

No: Bradley, Grover, Matthews, McDonough, Selvin,
Stanton.

Not Present: Cobey, Dieden.

10. A motion was made by Mr. Grover and seconded by Mr. Matthews to approve the principle that evidence of sales of comparable property may be admitted, notwithstanding the fact that such sales were subsequent to the taking of the subject property. The motion carried:

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Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

Comment: It was indicated that this action was taken reserving the question of what effect the condemnation should have on the admissibility of sales data generally.⁷

11. A motion was made by Mr. Grover and seconded by Mr. Matthews to approve the principle that evidence of sales made to an agency with the power of condemnation should not be admitted. The motion carried:

Aye: Bradley, Grover, Matthews, Stanton.

No: None.

Pass: Gustafson, McDonough, Selvin.

Not Present: Cobey, Dieden.

12. A motion was made by Mr. McDonough and seconded by Mr. Selvin to approve the principle that evidence of sales made by administrators, executors or under deeds of trust should not be specifically excluded, but to provide that all such sales must be shown to be freely made and in good faith. The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin, Stanton.

No: None.

Not Present: Cobey, Dieden.

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15. A motion was made by Mr. Gustafson and seconded by Mr. Selvin to approve the principle that evidence of all offers listed under 2(f) in Memorandum No. 2 should not be admitted reserving the question of admissibility of offers that constitute admissions. The motion carried:

Aye: Bradley, Grover, Gustafson, Matthews, McDonough,
Selvin.

No: None.

Not Present: Cobey, Dieden.

Comment: After the motion was passed, there was a discussion of what offers should be considered as admissions. Discussion centered around offers by the condemnee to sell to third parties, offers by the condemnor to purchase the subject property, offers by the condemnor to purchase (and purchases by the condemnor of) comparable property, and offers by the condemnee to sell to the condemnor. No decision was made on this matter.]

C. Study No. 51 - Right to Support After Ex Parte

Divorce: The Commission considered Memorandum No. 3 (11/6/59), the letter of the Executive Secretary to Professor Horowitz (dated 10/27/59) and the letter from Professor Horowitz to the Executive Secretary (dated 11/3/59). (A copy of each of these items is attached hereto.) After the matter was discussed it was agreed that the staff should review the matter and submit its recommendation to the Commission.

Respectfully submitted,

John H. DeLiouilly
Executive Secretary