

July

9/8/60

Supplement to Memorandum No. 83(1960)

Subject: Uniform Rules of Evidence - Privileges.

The attached letter from Mr. Gustafson concerns Rule 40 - Effect of Error In Overruling Claim of Privilege. Rule 40, as set out in Memorandum No. 83 (1960), was approved as revised at the August meeting.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

September 6, 1960

Mr. John H. DeMouilly
Executive Secretary
California Law Revision Commission
School of Law
Stanford, California

Dear John:

I noticed from the minutes of the August meeting that rule 40 (as revised) of the Uniform Rules of Evidence was approved by the Commission. I wish you would make a note of this letter and bring it to the attention of the Commission next time we have the Rules of Evidence on the agenda.

I have no objection to the substance of rule 40. However, I do not believe that it belongs in the Rules of Evidence. It is not a rule of evidence, but a rule as to what an appellant may complain of on appeal.

In none of the other rules do we attempt to state what evidence rulings of the judge may be the subject of an appeal and what rulings may not. I see no particular reason for doing so in this case and I repeat that such a provision does not in any event belong in the law on evidence.

Sincerely yours,

S/ Roy
ROY A. GUSTAFSON

RAG/arb