

8/7/56

Memorandum to Law Revision Commission

Subject: Uniform Rules of Evidence Study

You will recall that we have been discussing with Professor James H. Chadbourn of UCLA, who did the Dean Man Statute study for us, the possibility of his undertaking responsibility for the entire study on the Uniform Rules of Evidence. I had a talk with Jim about the matter the other day and we have gotten together on a proposed arrangement for consideration by the commission.

Preliminarily, I should mention that when I talked to Mr. Stephani of the Department of Finance in Sacramento on July 23 about our request for a grant from the emergency fund, he requested that we limit any contract made at this time for the Uniform Rules study to the amount necessary to cover work to be done during the current fiscal year in order to reduce the amount of the emergency fund grant, with a view to paying for the balance of the study out of next year's budget. I agreed to this and discussed the matter with Jim Chadbourn in this light.

The proposed agreement with Chadbourn is as follows:

1. Chadbourn would undertake to make a study and write a report covering the entire subject of the Uniform Rules, completing it by March 1, 1958. The report would cover, as to each of the Uniform Rules: (1) an analysis of existing California law in the area covered by the Rule; (2) an analysis of the changes which enactment of the Rule would make; (3) an evaluation of the Rule as a solution to the problem at which it is directed and (4) suggestion and evaluation of other possible legislative approaches to the same problem.
2. Chadbourn would assume responsibility for the entire report and do a large part of the work personally. (He hopes to have a sabbatical leave

during the second semester of the forthcoming year and to get a large part of the work done during the spring and summer of 1957). He will, however, need some help and he proposes to hire students or recent graduates as research assistants. These would be people of Law Review calibre and, if possible, with Law Review experience. He, rather than we, will pay them. Jim would plan to spot-check their research and to edit their manuscripts and integrate them into his final report. He prefers to use such assistants rather than to attempt to bring other evidence professors or established practitioners into the picture for several reasons: (a) it would be easier to be strict about deadlines with such assistants; (b) it would be easier to edit their work; (c) the assistants would be readily available for face-to-face consultation rather than scattered over the State.

3. Chadbourn's total compensation for the Uniform Rules study would be \$7500. There would be two contracts, one executed now for \$3750 covering specified Rules to be performed during fiscal year 1956-57 and the other executed when next year's funds are available, for \$3750 covering the other Rules to be performed during fiscal year 1957-58. Under his present plan, Jim would actually do the bulk of the work during 1956-57 but prefers an even division of the compensation between the two contracts for personal reasons.

4. Jim would plan to submit an initial interim report to the commission as soon as he finishes a significant part of the work which can be considered as a unit and to bring in other interim reports as major portions of the study are completed. Thus the commission would be informed about the progress of the study and would not have the entire job of reviewing it as of March 1, 1958.

I hope that the commission will act on this proposal at the August meeting.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

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UNIVERSITY OF CALIFORNIA

School of Law
Los Angeles 24, California

August 6, 1956

Professor John R. McDonough, Jr.
School of Law
Stanford University
Stanford, California

Dear John:

Assuming two separate contracts are to be executed covering the U.R.E. study, I suggest the topics and Rules be allocated as follows:

Fiscal Year July 1, 1956 - July 1, 1957

Presumptions (Rules 13, 14, 15, 16)
Hearsay Rule and Exceptions (Rules 62, 63, 64, 65, 66)
Credibility of Witnesses (Rules 20, 21, 22)

Fiscal Year July 1, 1957 - July 1, 1958

Privileges (Rules 23-40)
Extrinsic Policy (Rules 41-55)
Expert and Opinion Testimony (Rules 56-61)
Writings (Rules 67-72)
Judicial Notice (Rules 9-12)
Competency of Witnesses (Rules 17-19)
Miscellaneous (Rules 1-8)

An alternative possibility is to take the Rules up numerically, studying Rules 1-40 the first year and Rules 40-72 the second year.

My personal preference is for the first plan as that would enable me to start out by tackling what in my judgment are the toughest problems. However, if the Commission prefers the other plan, I would, of course, be willing to conduct the study in that way.

I enjoyed our meeting on Saturday and hope to see you in Los Angeles again soon. Best regards,

Yours sincerely,

/s/ Jim

James H. Chadbourn
Professor of Law

JHC/sj