

Date of Meeting: April 18-19, 1958

Date of Memo: April 9, 1958

Memorandum No. 4

Subject: Suggested topic for study submitted by
Senator Cobey.

Attached is a copy of a communication which I have received from Senator Cobey, together with attachments thereto. I suggest that we consider at the April meeting whether this matter is one which would be appropriate for study by the Commission. If we believe that it is, Senator Cobey may wish to introduce a resolution at the present extraordinary session authorizing the Commission to study it.

In discussing this matter I take it the Commission will have in mind the action taken by the Senate Interim Judiciary Committee March 20 with respect to the Commission's 1958 agenda resolution.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

JRM:ih

JAMES A. COBEY
Twenty-Fourth Senatorial District
Merced and Madera Counties

CALIFORNIA LEGISLATURE

SENATE

March 31, 1958

Professor John R. McDonough, Jr.
Executive Secretary
California Law Revision Commission
School of Law
Stanford, California

Dear John:

Thank you very much for sending me back the material I absent-mindedly left in the hearing room on March 22nd.

I enclose some material which is self-explanatory. I was wondering whether the Commission could make a preliminary study on this matter. Perhaps it should be handled by the Judicial Council but my ignorance is such that I am not certain.

With kindest personal regards.

Very truly yours,

JAMES A. COBEY

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encls.

UNITED STATES DISTRICT COURT
Northern District of California
Office of the Probation Officer

January 8, 1958

Honorable James A. Cobey
State Senator
P. O. Box 1229
Merced, California

Dear Jim:

Please excuse the formality of our office letterhead but as you will see, this is to be pretty much a "business" message.

You are of course familiar with Rule 20, Federal Rules of Criminal Procedure, wherein a defendant situated within, say, the District of Utah can plead guilty to an indictment charging him with an offense committed in, say, the District of Arizona. This handling avoids the expense and inconvenience of the defendant's return to Arizona.

It has been suggested that within this (large) State of California a similar handling could be used with special situations where a defendant resided in a county remote from the county wherein a complaint was filed.

An example (which actually occurred) should make the proposal clear. Recently the estranged wife of a San Francisco husband moved to Los Angeles. There she filed a complaint charging failure-to-provide. The husband readily admitted guilt but it was necessary that he make three costly round trips to Los Angeles (with layovers) to plead guilty and accept judgment. The sums thus expended could better have been given to the support situation.

If the "Rule 20" procedure could have been adopted, the man would have entered his plea here in San Francisco and accepted judgment here.

There could be resistance to such a proposal from the county prosecutors (who feel their authority or autonomy threatened); this was initially the case with some United States Attorneys and United States Courts at the time "Rule 20" was introduced. But it should be remembered that both county prosecutors and Courts must each accede to the handling (as must the defendant). It should also be remembered that by now the Federal handling is freely used and recognized as a valuable, efficient procedure.

While a failure-to-provide situation seems a good illustrative example, it would seem that the principle could be used to cover many varying offenses.

My best regards to you and Virginia, Mary sends her greetings.

Yours,

JOHN A. SPRAGUE
Supervising U. S. Probation Officer

STATE OF CALIFORNIA

OFFICE OF LEGISLATIVE COUNSEL
3021 State Capitol, Sacramento 14
311 State Building, Los Angeles 12

Sacramento, California
March 24, 1958

Honorable James A. Cobey
Senate Chamber

Transfer of Criminal Prosecution for
Plea and Sentence - #2230

Dear Senator Cobey:

Enclosed is a bill to add Section 830 to the Penal Code, patterned after Rule 20 of the Federal Rules of Criminal Procedure.

We want to emphasize that this is a highly tentative draft. We were uncertain as to the details of your correspondent's proposal, e.g., the types of cases to which the section should apply, the stage at which the statement should be filed and the person with whom it should be filed, and the distance between counties that should be required before the remedy is available.

Very truly yours,

Ralph N. Kleps
Legislative Counsel

By
Terry L. Baum
Deputy

TLB:lc

An act to add Section 830 to the Penal Code, relating to transfer from county for plea and sentence.

The people of the State of California do enact as follows:

Section 1. Section 830 is added to the Penal Code, to read:

830. When a defendant is arrested in a county other than that in which an indictment or information is pending against him, and the county seat of the county in which he is arrested is more than 300 miles distant from the county in which the indictment or information is pending, he may file with the superior court a written statement that he wishes to plead guilty to the offense for which the arrest is made and waive trial in the county in which the indictment or information is pending and that he consents to disposition of the case in the county in which he was arrested, subject to the approval of the district attorney of the county where he is arrested and of the county where the indictment or information is pending. Upon receipt of the defendant's statement and of the written approval of the district attorneys, the clerk of the court in which the indictment or information is pending shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the county in which the defendant is held and the prosecution shall continue in that county. If after the proceeding the defendant pleads not guilty, the clerk shall return the papers to the court in which the prosecution was commenced and the proceeding shall be restored to the docket of the court. The defendant's statement shall not be used against him unless he was represented by counsel when it was made.