

Date of Meeting: August 28-29, 1959  
Date of Memo: August 10, 1959

Memorandum No. 7

Subject: Authorization of Publication of Study No. 43  
(Separate Trial on Issue of Insanity in Criminal Cases)  
in California Law Review.

Professor Louisell, our consultant on this study, has sent  
in his report and has requested permission to publish his study in the  
California Law Review.

See the attached correspondence in connection with this request.

Respectfully submitted

John H. DeMouilly  
Executive Secretary

UNIVERSITY OF CALIFORNIA

August 6, 1959

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

Dear Mr. DeMouilly:                      Re    Study of Bifurcated Trial

Thank you for your letter of August 5.

After I mailed this study to you I received four more express consents to the use of letters of judges and lawyers. Therefore will you please add the enclosed letters to the appendices as indicated:

1. Letter of Judge Philip Conley to Appendix B.
2. Letter of Judge Raymond J. Sherwin to Appendix B.
3. Letter of Judge R. M. Dunne to Appendix B.
4. Letter of Bradford M. Crittenden to Appendix D.

The reason why I would especially appreciate consent for Law Review publication is that, under the pressure of fulfilling my commitments, I now find myself unable to give to the California Law Review a manuscript for the October issue on Criminal Discovery. The bifurcated trial study would be a most welcome substitute. Actually, I was also going to request, when I forward the study on Post-Conviction Determination of Sanity which I hope I shall be able to send in about a week, that the Commission also consent to its publication as the Columbia Law Review seems quite eager to have it at an early date.

May I take this occasion to extend my congratulations on your assumption of your most important duties.

Sincerely yours,

S/ David W. Louisell  
David W. Louisell  
Professor of Law

August 5, 1959

Professor David W. Louisell  
School of Law  
University of California  
Berkeley 4, California

Dear Professor Louisell:

I have received your study on the bifurcated trial in California. We will take care of reproducing the necessary copies of the letters so you need not concern yourself about that. I have not yet had an opportunity to read the study but hope to get to it soon. I have just taken over Mr. McDonough's position as Executive Secretary and there may be some delay on that account. Professor McDonough has decided to return to full time teaching at Stanford.

The Commission as a general rule does not authorize the publication of a study in a Law Review until after the Commission has released its own publication. However, if you wish, I will bring this matter up for Commission consideration and advise you as to whether the Commission will make an exception in your case.

Sincerely yours,

John H. DeMouilly  
Executive Secretary

UNIVERSITY OF CALIFORNIA

July 30, 1959

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

Dear Professor McDonough:

I enclose herewith the original and four copies of the study on the bifurcated trial in California.

You will note that certain appendices are attached to the study, consisting of letters from superior court judges, district attorneys and defendants' attorneys. Knowing that you mimeograph these studies, I have not had these letters copied. Therefore no copies of them are attached to the copies of the study.\* However, if it is necessary that I have this done please return them and I will take care of it.

I have obtained from the writer of each letter included in the appendices his expressed consent to use the letter.

Would it be all right to submit this study for publication in a law review?

I expect to have the second study on post-conviction determination of insanity completed before I leave for Yale Law School, approximately August 15.

With kind regards, I remain

Sincerely yours,

S/ David W. Louisell  
David W. Louisell  
Professor of Law

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But the originals of the letters are attached to the original of the study.