

Meeting

8/16/62

Second Supplement to Memorandum No. 62(1962)

Subject: Study No. 52(L) - Sovereign Immunity (Vehicle Code amendments)

Memorandum No. 64(1962), and the First Supplement thereto, include a discussion of the problem that arises out of the inclusion of the word "agent" in the definition of "employee."

Section 17001 of the tentative recommendation relating to liability arising out of ownership or operation of vehicles imposes liability upon public entities for the tortious operation of vehicles by "an officer, agent or employee" of the public entity when "acting within the scope of his office, agency or employment." Although Section 17001 restates the existing law, we are proposing the repeal of Section 17002 of the Vehicle Code which provides for subrogation of the public entity to all the rights of the injured person against the officer, agent or employee.

The question that is presented is: Should Section 17001 specifically provide that "officer, agent or employee" does not include an independent contractor? Does the Commission wish to impose liability under Section 17001 under any circumstances for acts of independent contractors? See discussion in Memorandum No. 64(1962).

Respectfully submitted,

John H. DeMouilly  
Executive Secretary