

5/19/64

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Subject: Study No. 34(L) - Uniform Rules of Evidence (New Evidence Code--
Division 1)

Attached (white pages) are the comments to the sections in Division 1 (Preliminary Provisions and Construction) of the New Evidence Code. We would like to approve Division 1 and the Comments thereto at this time.

The following problems are presented by Division 1:

Effective date of code.

Section 14 provides that the code takes effect on July 1, 1966. This will defer the effective date of the code for almost a year after it is enacted. This will permit Continuing Education of the Bar to hold programs and to publish the necessary materials to familiarize members of the bar with the code.

Sections 2 and 3.

We believe that these are desirable provisions.

Section 4.

Is this section satisfactory?

Section 5.

Should a general provision like this be included in the code?

Comments.

Note that we have written the comments so that they will make sense (without editorial revision) when inserted under the new code sections in the annotated codes. Thus, we refer to "former" sections of the Code of Civil Procedure. Is this satisfactory?

Respectfully submitted,

John H. DeMouilly
Executive Secretary

DIVISION 1. PRELIMINARY PROVISIONS AND CONSTRUCTION

COMMENT

§ 1

This section is similar to comparable sections in recently enacted California codes. E.g., VEH. CODE § 1. See also C.C.P. §§ 1, 19.

COMMENT

§ 2

This section is the same as C.C.P. § 4

COMMENT

§ 3

Provisions similar to this section apply in all the existing California codes, except that Section 5 of the Civil Code continues "the common law" as well as "existing statutes." E.g., VEH. CODE § 2. See also C.C.P. § 5.

COMMENT

§ 4

This section is substantially the same as C.C.P. § 8. For similar provisions, see CIV. CODE § 6, PROBATE CODE § 3, GOVT. CODE § 4, and VEH. CODE § 4.

COMMENT

§ 5

This "severability" provision permits the repeal of comparable provisions applicable to sections formerly compiled in the Code of Civil Procedure that are now compiled in this code and makes it unnecessary to include similar provisions in future amendments of this code. See C.C.P. § 1928.4. See also e.g., VEH. CODE § 5.

COMMENT

§ 6

This is a standard provision in various California codes. E.g., VEH. CODE § 6.

COMMENT

§ 7

Similar provisions appear in all the existing California codes, except the Civil Code and the Code of Civil Procedure. E.g., VEH. CODE § 7.

COMMENT

§ 8

This is a standard provision in various California codes. E.g., VEH. CODE § 10.

COMMENT

§ 9

Somewhat similar provisions appear in various California codes. E.g., VEH. CODE § 11. See also C.C.P. § 17(8).

COMMENT

§ 10

This is a standard provision in various California codes. E.g., VEH. CODE § 12. See also C.C.P. § 17.

COMMENT

§ 11

This is a standard provision in various California codes. E.g., VEH. CODE § 13. See also C.C.P. § 17

COMMENT

§ 12

This is a standard provision in various California codes. E.g., VEH. CODE § 14. See also C.C.P. § 17.

COMMENT

§ 13

This is a standard provision in various California codes. E.g., VEH. CODE § 15.

COMMENT

§ 14

The delayed effective date permits time for the members of the California Bar to become familiar with the code before it goes into effect. See Section 4 providing for the application of the provisions of the code to actions and proceedings commenced prior to its effective date.