

#34(L)

10/2/64

Memorandum 64-72

Subject: Study No. 34(L) - Uniform Rules of Evidence (Preprint Senate
Bill No. 1--Division 1)

Attached are two copies of the revised Comments to Division 1.
Mr. Keatinge is responsible for checking these Comments. Please mark
any revisions you believe should be made on one copy of the Comments.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

DIVISION 1. PRELIMINARY PROVISIONS AND CONSTRUCTION

§ 1. Short title

Comment. This section is similar to comparable sections in recently enacted California codes. E.g., VEHICLE CODE § 1. See also CODE CIV. PROC. §§ 1, 19.

§ 2. Common law rule construing code abrogated

Comment. This section is substantially the same as Code of Civil Procedure Section 4.

§ 3. Constitutionality

Comment. Section 3 is the same as Commercial Code Section 1108. See also, e.g., VEHICLE CODE § 5. This general "severability" provision permits the repeal of comparable provisions applicable to specific sections formerly compiled in the Code of Civil Procedure that are now compiled in the Evidence Code and makes it unnecessary to include similar provisions in future amendments to this code. See CODE CIV. PROC. § 1928.4 (superseded by Evidence Code).

§ 4. Construction of code

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

§ 5. Effect of headings

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

§ 6. References to statutes

Comment. This is a standard provision in various California codes.

E.g., VEHICLE CODE § 10.

§ 7. "Division," "chapter," "article," "section," "subdivision," and "paragraph"

Comment. Somewhat similar provisions appear in various California codes. E.g., VEHICLE CODE § 11. See also CODE CIV. PROC. § 17(8).

§ 8. Construction of tenses

Comment. This is a standard provision in various California codes.

E.g., VEHICLE CODE § 12. See also CODE CIV. PROC. § 17.

§ 9. Construction of genders

Comment. This is a standard provision in various California codes.

E.g., VEHICLE CODE § 13. See also CODE CIV. PROC. § 17.

§ 10. Construction of singular and plural

Comment. This is a standard provision in various California codes.

E.g., VEHICLE CODE § 14. See also CODE CIV. PROC. § 17.

§ 11. "Shall" and "may"

Comment. This is a standard provision in various California codes.

E.g., VEHICLE CODE § 15.

§ 12. Code effective January 1, 1967

Comment. The delayed effective date provides time for California judges and attorneys to become familiar with the code before it goes

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into effect. Section 12 makes it clear that the Evidence Code governs all proceedings after December 31, 1966. Thus, if the trial court makes a ruling on the admission of evidence prior to January 1, 1967, such ruling is not affected by the enactment of the Evidence Code; if an appeal is taken from the ruling, the appellate court will apply the law applicable at the time the ruling was made. On the other hand, any ruling made by the trial court on the admission of evidence after December 31, 1966, is governed by the Evidence Code, even if the particular action was commenced prior to that date.