
MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
MARCH 7, 2003
SACRAMENTO

A meeting of the California Law Revision Commission was held in Sacramento on March 7, 2003.

Commission:

Present: David Huebner, Chairperson
Frank Kaplan, Vice Chairperson
Diane F. Boyer-Vine, Legislative Counsel
Joyce G. Cook
Desiree Icaza Kellogg
Edmund L. Regalia
William E. Weinberger

Absent: Ellen Corbett, Assembly Member
Bill Morrow, Senate Member

Staff: Nathaniel Sterling, Executive Secretary
Barbara S. Gaal, Staff Counsel
Brian P. Hebert, Staff Counsel
Lynne I. Urman, Staff Counsel

Consultants: Miguel Méndez, Evidence Code

Other Persons:

Catherine Lawson, Executive Committee, State Bar Trusts and Estates Section,
Cameron Park
Kia Jorgensen, Wallace, Puccio & Garrett, Executive Council of Homeowners,
Sacramento
Vernon Pierson, Amador County District Attorney's Office, California District
Attorneys Association, Jackson

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MINUTES OF FEBRUARY 7, 2003, COMMISSION MEETING

1 The Commission approved the Minutes of the February 7, 2003, Commission
2 meeting as submitted by the staff.

ADMINISTRATIVE MATTERS

3 **Appointment of Assemblymember Ellen Corbett**

4 The Executive Secretary reported that the Speaker of the Assembly has
5 appointed Assemblymember Ellen Corbett as a member of the Law Revision
6 Commission, replacing former Assemblymember Howard Wayne. Ms. Corbett is
7 Chair of the Assembly Judiciary Committee. Her appointment was effective
8 February 11, 2003.

9 **Passing of Former Executive Secretary John H. DeMouly**

10 The Executive Secretary reported the death of the Commission’s former
11 Executive Secretary, John H. DeMouly, in Oregon on February 13, 2003. Mr.
12 DeMouly was a key force in the development of the Commission and
13 establishment of its reputation for excellence. He directed the Commission for 32
14 years, from 1959 until his retirement in 1991.

1 **Budget Report**

2 The Executive Secretary reported developments on the Commission's budget
3 for 2003-2004.

4 A pre-hearing conference for the Senate subcommittee hearing suggests there
5 is solid Senate support for funding the Commission's operations at an adequate
6 level. The Senate subcommittee hearing is scheduled for March 13, 2003.

7 The Assembly subcommittee hearing is scheduled for March 19, 2003. We do
8 not yet have a clear indication of the positions of subcommittee members, but
9 there is strong support for funding the Commission's operations at an adequate
10 level among members of the Assembly budget committee as a whole.

11 As a result of the Senate pre-hearing conference, the staff will attempt to
12 quantify for Department of Finance, Legislative Analyst, committee consultants,
13 and others, the monetary value of contributions by Commission members,
14 consultants, and others involved in the Commission's work. This information
15 will be useful not only for persons involved in the budget hearing process, but
16 also will be an informative document for legislators and legislative staff
17 generally.

18 **Commission Member Per Diem Allowances**

19 The Executive Secretary reported that every Commission member entitled to
20 a per diem allowance pursuant to Government Code Section 8282 for attending a
21 Commission meeting has waived the allowance for the current meeting, the
22 previous meeting, and any subsequent meeting attended during the fiscal year.

LEGISLATIVE PROGRAM

23 The Commission considered Memorandum 2003-2, relating to the
24 Commission's 2003 legislative program. The staff orally updated the chart
25 attached to the memorandum with the information that AB 182 (Harman),
26 relating to exemptions from enforcement of money judgments, has been
27 approved by the Assembly Judiciary Committee, and that SB 113 (Ackerman),
28 relating to stay of mechanic's lien enforcement pending arbitration, has been put
29 over to March 18.

1 **AB 286 (Dutra) — Double Liability Problem in Home Improvement Contracts**

2 For Commission action relating to AB 286 (Dutra), concerning the double
3 liability problem in home improvement contracts, see entry in these Minutes
4 under Study H-820.

5 **AB 903 (Steinberg) — Construction Defect Cases**

6 The staff brought to the Commission's attention AB 903 (Steinberg). The
7 measure, as introduced, would direct the Commission to conduct a study to
8 determine if the goal of achieving a more fair and prompt resolution of
9 construction defect cases has resulted from enactment of 2002 legislation on the
10 matter. The report would be due by March 1, 2004.

11 **SB 113 (Ackerman) — Stay of Mechanic's Lien Enforcement Pending**
12 **Arbitration**

13 For Commission action relating to SB 113 (Ackerman), concerning stay of a
14 mechanic's lien enforcement action pending arbitration, see entry in these
15 Minutes under Study J-1304.

16 **STUDY B-501 – UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT**

17 The Commission considered Memorandum 2003-6, presenting a staff draft
18 tentative recommendation on unincorporated associations. The Commission
19 approved the draft for circulation as a tentative recommendation.

20 **STUDY H-820 – MECHANIC'S LIEN LAW**

21 In connection with the Commission's discussion of its 2003 legislative
22 program (above), the staff reported that at the November 2002 meeting, the
23 Commission had decided to seek an author to introduce the Commission's
24 recommendation on the double liability problem in home improvement
25 contracts, in the form in which it was originally proposed. Minutes (Nov. 2002),
26 p. 4. After that meeting, however, it became clear that Assemblymember Dutra
27 intended to introduce legislation on the subject, which would not necessarily
28 track the Commission's original proposal. In accordance with Commission
29 procedure, the staff consulted Chairperson Huebner regarding whether to seek
30 an author to introduce a competing bill, or simply track the progress of
31 Assemblymember Dutra's efforts. Chairperson Huebner opted for the latter
32 course.

1 The staff further reported that Assemblymember Dutra has introduced AB
2 286 (Dutra), which is similar to the Commission's recommendation but differs in
3 the following respects:

- 4 (1) The proposed statute would apply to a home improvement
5 contract for \$20,000, instead of \$15,000 as in the Commission's
6 recommendation.
- 7 (2) The proposed statute includes language addressing the effect of a
8 preliminary 20-day notice. The Commission's recommendation
9 does not include such language.
- 10 (3) The proposed statute uses a setoff approach, whereas the
11 Commission's recommendation is cast as a limitation on
12 enforcement of mechanic's liens and stop notices.
- 13 (4) The proposed statute treats change orders differently than the
14 Commission's recommendation.

15 The staff reported that there is a strong likelihood that AB 286 (Dutra) will be
16 amended to apply to a home improvement contract for \$15,000 as in the
17 Commission's recommendation. The Commission considered whether to treat
18 the bill as a Commission proposal if that occurred. The Commission did not
19 make a decision on that point, but directed the staff to obtain more information
20 regarding why the bill uses a setoff approach, instead of a limitation on
21 enforcement as in the Commission's recommendation. The Commission noted
22 that its proposal limits the amount of mechanic's liens and stop notices that may
23 be enforced "to the amount remaining unpaid to the original contractor under
24 the contract." The setoff approach of AB 286 includes no comparable limitation
25 on the amount of mechanic's liens and stop notice claims.

26 The staff also reported that Assemblymember Dutra's office has requested
27 that the staff attend the Assembly Judiciary Committee hearing on AB 286 and
28 testify regarding the process that the Commission used in developing its
29 recommendation. The staff indicated its intention to comply with that request.

STUDY J-651 – AUTHORITY OF COURT COMMISSIONER

30 The Commission considered Memorandum 2003-8, relating to the authority
31 of a court commissioner. The staff reported that feedback from Los Angeles
32 Superior Court suggests that insertion of the constitutional standard for
33 appointment of a court commissioner as a temporary judge into the Code of Civil
34 Procedure appears appropriate. This is the approach of the draft tentative

1 recommendation attached to the memorandum. The Commission approved the
2 draft for circulation for public comment.

3 STUDY J-1304 – STAY OF MECHANIC’S LIEN ENFORCEMENT PENDING ARBITRATION

4 In connection with the Commission’s discussion of its 2003 legislative
5 program (above), the Commission approved the updated version of its
6 recommendation on stay of mechanic’s lien enforcement pending arbitration,
7 attached to Memorandum 2003-2. The updated recommendation includes the
8 revision discussed at page 2 of the memorandum — i.e., the last sentence of Code
9 of Civil Procedure Section 1281.5(a) should state that “Any party may file a
10 motion for relief from the stay” instead of “A party may object to arbitration by
11 filing a motion for relief from the stay.”

12 STUDY J-1401 – STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING

13 The Commission considered Memorandum 2003-5 and its First Supplement
14 regarding comments on the Tentative Recommendation on *Statutes Made Obsolete*
15 *by Trial Court Restructuring: Part 2* (December 2002). The Commission approved
16 the recommendation for printing and submission to the Legislature, subject to
17 the following revisions.

18 **Bail**

19 *Penal Code § 1269b. Bail*

20 The Commission approved the proposed revision to the second sentence of
21 subdivision (d) of Section 1269b, as set out in the First Supplement to
22 Memorandum 2003-5:

23 (d) A court may by local rule prescribe the procedure by which
24 the uniform countywide schedule of bail is prepared, adopted, and
25 annually revised by the judges. If a court does not adopt a local
26 rule, the uniform countywide schedule of bail shall be prepared,
27 adopted, and annually revised by a majority of the judges.

28 The staff informed the Commission that the Trial Court Presiding Judges
29 Executive Committee and the Joint Legislation Subcommittee would like “may”
30 in the first sentence of subdivision (d) replaced with “shall,” while retaining the
31 default procedure in the second sentence. This proposal would make it
32 mandatory for each superior court to adopt a local rule prescribing the procedure

1 by which the uniform countywide schedule of bail is prepared, adopted, and
2 annually revised. The Commission did not adopt this proposal.

3 *Penal Code § 1463.28. Revenue from increase in bail schedules*

4 The Commission adopted the staff's recommendation to remove Section
5 1463.28 from the recommendation.

6 **Judges**

7 *Gov't Code § 68079. Provision of superior court seal*

8 The Commission decided to recommend deletion of the last sentence of
9 Section 68079, referring to a judge's or clerk's private seal. As revised, Section
10 68079 would read:

11 68079. A court for which the necessary seal has not been
12 provided, or the judge or judges of that court, shall provide it. The
13 expense shall be an item of court operations. ~~Until the seal is~~
14 ~~provided the clerk or judge of each court may use his or her private~~
15 ~~seal whenever a seal is required.~~

16 The Commission directed the staff to discuss further clarification or
17 elimination of the first sentence of Section 68079 with the Administrative Office
18 of the Courts.

19 **Jury Commissioners**

20 *Funding of Grand Jury*

21 The Commission considered the proposal of the California Grand Jurors'
22 Association to amend Government Code Section 77003(a)(7) to delete grand jury
23 expenses and operations from the list of expenses that are not court operations.
24 The Commission decided not to proceed with the Association's proposal.

25 *Code Civ. Proc. § 235. Juries of inquest*

26 The Commission agreed that Section 235 should not be included in the
27 recommendation.

28 *Penal Code § 903.2. Jury commissioner's powers and duties*

29 The Commission adopted the staff's recommendation to remove Section 903.2
30 from the recommendation.

1 **Sessions**

2 *Gov't Code § 24250.1. Sheriff office in city where court facility located*

3 The Commission approved the revised treatment of Section 24250.1 to reflect
4 the fact that court-related services may not be performed by the sheriff in all
5 counties. As revised, Section 24250.1 would read:

6 24250.1. Sheriffs and clerks shall also have offices in each city in
7 which they perform court-related services and a regular session
8 facility of the superior court is held pursuant to law located. This
9 section does not authorize the establishment of offices in cities in
10 which extra sessions of the superior court are held.

11 The Commission decided to study Government Code Sections 24250, 24252,
12 24253, 24254, and 24254.5 for possible inclusion in subsequent legislation on trial
13 court restructuring.

14 *Gov't Code § 68108. Unpaid furlough days*

15 The Commission adopted the staff recommendation to include Section 68108
16 in the recommendation, as drafted in Memorandum 2003-5. As revised, the
17 section would read:

18 68108. (a) To the extent that a Memorandum of Understanding
19 for trial court employees designates certain days as unpaid
20 furlough days for employees assigned to regular positions in the
21 superior court, the court shall not be in session on those days except
22 as ordered by the presiding judge ~~upon a finding by the presiding~~
23 ~~judge of a judicial emergency as defined in Chapter 1.1~~
24 ~~(commencing with Section 68115)~~. On these furlough days,
25 although if the court clerk's office shall is not be open to the public,
26 each court shall permit documents to be filed at a drop box
27 pursuant to subdivision (b), and . If the court is not in session on a
28 furlough day, an appropriate judicial officer shall be available to
29 conduct arraignments and examinations as required pursuant to
30 Section 825 of the Penal Code, and to sign any necessary documents
31 on an emergency basis.

32 (b) A drop box shall provide for an automated, official time and
33 date stamping mechanism or other means of determining the actual
34 date on which a document was deposited in the drop box.

35 *Gov't Code §§ 69640-69650. Superior court districts*

36 The Commission decided to proceed with the proposed repeal of Article 4
37 (Gov't Code §§ 69640-69650), pertaining to superior court districts. The
38 Commission also decided to include a new Article 4 in the recommendation:

1 Article 4. Superior Court Districts in Los Angeles County

2 69640. (a) The superior court in Los Angeles County may by
3 local rule establish superior court districts within which one or
4 more sessions of the court shall be held.

5 (b) The superior court districts established by county ordinance
6 and in effect as of January 1, 2003, shall continue to be recognized
7 as the superior court districts until the court enacts a local rule as
8 provided in subdivision (a).

9 *Gov't Code §§ 69790-69800. Extra sessions*

10 The Commission decided to propose the repeal of Article 6 (Gov't Code §§
11 69790-69800) pertaining to extra sessions.

12 **Technical Revisions - Code Civ. Proc. § 431.30, Gov't Code § 68620**

13 The Commission adopted the staff recommendation to include technical
14 revisions to Code of Civil Procedure Section 431.30 and Government Code
15 Section 68620 in the recommendation. The proposed revisions would replace an
16 obsolete reference to Chapter 5 with a reference to Chapter 5.1.

17 STUDY K-200 – COMPARISON OF EVIDENCE CODE WITH
18 FEDERAL RULES

19 The Commission considered Memorandum 2003-7 and its First Supplement,
20 concerning hearsay issues. The Commission made the following decisions:

21 **Comparable Federal and California Provisions**

22 The Commission considered how to handle provisions in the Evidence Code
23 and the Federal Rules of Evidence that are substantively comparable but worded
24 differently. Should the California provision be revised to conform to the federal
25 language, or should it be left as is? The Commission decided that it would be
26 better to leave the California provision alone under such circumstances.

27 **Victims' Bill of Rights**

28 The Commission discussed the Truth-in Evidence provision of the Victims'
29 Bill of Rights (Cal. Const. art. I, § 28(d)) and its effect on the Evidence Code and
30 on this study. In effect, the Truth-in-Evidence provision creates two separate sets
31 of evidentiary rules:

- 32 (1) The Evidence Code as it reads on its face, applicable in civil cases.

1 (2) The Evidence Code as modified by the Truth-in-Evidence
2 provision and subject to the limitations of other constitutional
3 restrictions (e.g., due process and the right of confrontation). This
4 set of evidentiary principles applies in criminal cases.

5 The same section of the Evidence Code can have different meanings in a criminal
6 case and in a civil case.

7 The Commission discussed whether this situation creates problems and
8 whether any steps should be taken to improve clarity, such as creating separate
9 civil and criminal evidence codes, conforming the evidentiary rules for civil cases
10 to those for criminal cases, or specifying that proposed amendments will only
11 take effect if passed by a two-thirds vote in each house of the Legislature.
12 Because most attorneys handle either civil or criminal cases rather than a
13 mixture, the likelihood of confusion is not as great as it might initially appear.

14 The Commission decided that in reviewing the Evidence Code, it would
15 consider issues relating to the Truth-in-Evidence provision as they arise in
16 specific contexts and perhaps also take a more comprehensive look at Truth-in-
17 Evidence issues after completing its review of the entire code or of a particular
18 area. The Commission's consultant, Prof. Miguel Méndez, will attempt to flag
19 such issues as he prepares the remainder of his background study. The staff may
20 also do further research and analysis relating to the Truth-in-Evidence provision
21 as this study progresses and a need appears.

22 **Definition of Unavailability**

23 Evidence Code Section 240 should be amended to expressly recognize that a
24 witness who refuses to testify is unavailable. Section 240 should also be amended
25 to expressly refer to a witness who cannot testify due to a failure of recollection.
26 The Comment should make clear that this is not intended to have any impact on
27 the doctrine of *People v. Green*, 3 Cal. 3d 981, 479 P. 2d 998, 92 Cal. Rptr. 494
28 (1971).

29 Section 240(a)(2), relating to a witness who is disqualified, should be retained
30 despite the lack of a comparable provision in the Federal Rules of Evidence.
31 Section 240(c), regarding the impact of expert testimony concerning physical or
32 mental trauma resulting from an alleged crime, should also be left as is.

33 These decisions would be implemented by amending Section 240 along the
34 following lines:

1 240. (a) Except as otherwise provided in subdivision (b),
2 “unavailable as a witness” means that the declarant is any of the
3 following:

4 (1) Exempted or precluded on the ground of privilege from
5 testifying concerning the matter to which his or her statement is
6 relevant.

7 (2) Disqualified from testifying to the matter.

8 (3) Dead or unable to attend or to testify at the hearing because
9 of then existing physical or mental illness or infirmity.

10 (4) Absent from the hearing and the court is unable to compel
11 his or her attendance by its process.

12 (5) Absent from the hearing and the proponent of his or her
13 statement has exercised reasonable diligence but has been unable to
14 procure his or her attendance by the court’s process.

15 (6) Present at the hearing but persists in refusing to testify
16 concerning the subject matter of the declarant’s statement despite
17 an order of the court to do so.

18 (7) Present at the hearing but testifies to a lack of memory of the
19 subject matter of the declarant’s statement.

20 (b) A declarant is not unavailable as a witness if the exemption,
21 preclusion, disqualification, death, inability, or absence of the
22 declarant circumstance described in subdivision (a) was brought
23 about by the procurement or wrongdoing of the proponent of his or
24 her the declarant’s statement for the purpose of preventing the
25 declarant from attending or testifying.

26 (c) Expert testimony which establishes that physical or mental
27 trauma resulting from an alleged crime has caused harm to a
28 witness of sufficient severity that the witness is physically unable to
29 testify or is unable to testify without suffering substantial trauma
30 may constitute a sufficient showing of unavailability pursuant to
31 paragraph (3) of subdivision (a). As used in this section, the term
32 “expert” means a physician and surgeon, including a psychiatrist,
33 or any person described by subdivision (b), (c), or (e) of Section
34 1010.

35 The introduction of evidence to establish the unavailability of a
36 witness under this subdivision shall not be deemed procurement of
37 unavailability, in absence of proof to the contrary.

38 **Comment.** Paragraph (6) is added to Section 240(a) to codify
39 case law recognizing that a witness who refuses to testify is
40 unavailable. See *People v. Rojas*, 15 Cal. 3d 540, 547-53, 542 P.2d
41 229, 125 Cal. Rptr. 357 (1975); *People v. Francis*, 200 Cal. App. 3d
42 579, 245 Cal. Rptr. 923 (1988); *People v. Walker*, 145 Cal. App. 3d
43 886, 893-94, 193 Cal. Rptr. 812 (1983); *People v. Sul*, 122 Cal. App.
44 3d 355, 175 Cal. Rptr. 893 (1981). The language is drawn from Rule
45 804(a)(2) of the Federal Rules of Evidence. Before making a finding
46 of unavailability, a court must take reasonable steps to induce the

1 witness to testify, unless it is obvious that such steps would be
2 unavailing. *Francis*, 200 Cal. App. 3d at 584, 587; *Walker*, 145 Cal.
3 App. 3d at 894; *Sul*, 122 Cal. App. 3d at 365.

4 Paragraph (7) is added to Section 240(a) to codify case law
5 recognizing that a witness who credibly testifies to a total lack of
6 memory concerning the subject matter of an out of court statement
7 is unavailable to testify on that subject. See *People v. Alcala*, 4 Cal.
8 4th 742, 778, 842 P.2d 1192, 15 Cal. Rptr. 2d 432 (1992). The
9 language is drawn from Rule 804(a)(3) of the Federal Rules of
10 Evidence.

11 [Insert discussion of *People v. Green*, 3 Cal. 3d 981, 479 P. 2d 998,
12 92 Cal. Rptr. 494 (1971).]

13 Subdivision (b) is amended to encompass the revisions of
14 subdivision (a).

15 **Prior Inconsistent Statement**

16 Evidence Code Sections 770 (extrinsic evidence of prior inconsistent
17 statement) and 1235 (hearsay exception for prior inconsistent statement) should
18 be left as is.

19 **Prior Consistent Statement**

20 Evidence Code Sections 791 (extrinsic evidence of prior consistent statement)
21 and 1236 (hearsay exception for prior consistent statement) should be left as is.

22 **Prior Statement Identifying a Person**

23 Evidence Code Section 1238 (hearsay exception for prior statement
24 identifying a person) should be left as is.

25 **Opponent's Own Statement**

26 Evidence Code Section 1220 (hearsay exception for opponent's own
27 statement) should be left as is.

28 **Adoptive Admission**

29 Evidence Code Section 1221 (hearsay exception for adoptive admission)
30 should be left as is.

31 **Authorized Admission**

32 Evidence Code Section 1222 (hearsay exception for authorized admission)
33 should be amended to make clear that it applies regardless of whether the
34 statement in question was made to a third person, to the party who authorized
35 the statement, to a co-worker, or to someone else:

1 **Evid. Code § 1222 (amended). Authorized admission**

2 SEC. _____. Section 1222 of the Evidence Code is amended to
3 read:

4 1222. Evidence of a statement offered against a party is not
5 made inadmissible by the hearsay rule if both of the following
6 conditions are satisfied:

7 (a) The statement was made by a person authorized by the party
8 to make ~~the statement or statements for him concerning the subject~~
9 ~~matter of the statement;~~ and a statement concerning the subject.

10 (b) The evidence is offered either after admission of evidence
11 sufficient to sustain a finding of such authority or, in the court's
12 discretion as to the order of proof, subject to the admission of such
13 evidence.

14 **Comment.** Subdivision (a) of Section 1222 is amended to make
15 clear that the provision applies regardless of whether the statement
16 in question was made to a third person, to the party who
17 authorized the statement, to a co-worker, or to someone else. The
18 language is drawn from Rule 801(d)(2)(C) of the Federal Rules of
19 Evidence. For further discussion, see Fed. R. Evid. 801 advisory
20 committee's note.

21 Subdivision (a) is also amended to delete surplusage. See
22 Section 10 (singular includes plural).

23 Section 1222(b) provides useful guidance and should not be deleted as
24 unnecessary. The Commission deferred consideration of other issues relating to
25 Section 1222(b) pending completion of Prof. Méndez's analysis of the role of
26 judge and jury.

27 **Statements by a Party's Agent or Servant**

28 The staff should conduct further research on whether a provision like Federal
29 Rule of Evidence 801(d)(2)(D) (statement by party's agent or servant) should be
30 adopted in California.

31 **Coconspirator's Declaration**

32 Unlike the corresponding federal provision, Evidence Code Section 1223
33 (hearsay exception for coconspirator declaration) expressly applies to a statement
34 that a coconspirator made *before* the party that the statement is being introduced
35 against joined the conspiracy. This aspect of the California provision should be
36 retained. The Commission deferred consideration of other issues relating to
37 Section 1223 pending completion of Prof. Méndez's analysis of the role of judge
38 and jury.

1 **Statement of Declarant Whose Liability or Breach of Duty Is in Issue**

2 The Commission decided to defer consideration of how to treat Evidence
3 Code Sections 1224-1227 until after the staff has completed further research and
4 analysis on whether a provision like Federal Rule of Evidence 801(d)(2)(D)
5 (statement by party's agent or servant) should be adopted in California.

STUDY L-2011 – PROBATE CODE TECHNICAL CORRECTIONS

6 The Commission considered Memorandum 2003-4, relating to comments on
7 the Probate Code technical corrections tentative recommendation. The
8 Commission approved the tentative recommendation as its final
9 recommendation, with the following revisions.

10 **Correction of Erroneous Section References**

11 The final recommendation should include the corrections to Probate Code
12 Section 2356.6 set out in the memorandum.

13 **Clarification or Repeal of "Date of Death" Valuation**

14 The date of death valuation provision of Probate Code Sections 21612 and
15 21623 should be clarified rather than repealed. Each of the two provisions should
16 be revised to read, "The proportion of each beneficiary's share that may be taken
17 pursuant to this subdivision shall be determined based on values as of the date of
18 the decedent's death."

19 The staff should schedule for Commission review when it determines new
20 topics and priorities the question whether to engage in more fundamental reform
21 of these statutes.

22 **Community Property Transaction Involving Separate Property Interest**

23 The final recommendation should include the proposed revisions to Probate
24 Code Sections 3121 and 3144 set out in the Memorandum, relating to procedures
25 for authorizing a community property transaction that involves a separate
26 property interest.

27 STUDY N-50 – OBSOLETE REPORTING REQUIREMENTS

28 The Commission considered Memorandum 2003-3, presenting a staff draft
29 recommendation on obsolete reporting requirements. The Commission approved
30 the draft as its final recommendation, with one qualification. For any provision

1 affecting a report due after December 31, 1999, the staff will use the Legislative
2 Counsel list of agency reports (www.agencyreports.ca.gov) to verify that the
3 report was filed as required. Any such reports that were not filed as required will
4 be removed from the recommendation.

APPROVED AS SUBMITTED

Date

APPROVED AS CORRECTED
(for corrections, see Minutes of next meeting)

Chairperson

Executive Secretary