

JUL 9 1956

MINUTES OF MEETING

OF

NORTHERN COMMITTEE

July 7, 1956
San Francisco

PRESENT

Members

Mr. Thomas E. Stanton, Jr.
Mr. Bert W. Levit
Mr. Samuel D. Thurman

Research Consultants

Professor John H. Merryman
Professor Lowell Turrentine

Staff

Mr. John R. McDonough, Jr.
Mrs. Virginia Nordby

ABSENT

Mr. John Harold Swan

1956 STUDY NO. 6 - MORTGAGES FOR FUTURE ADVANCES

The committee discussed with Professor Merryman, the research consultant on 1956 Study No. 6, the general scope of the study. Professor Merryman reported that his preliminary study of the matter indicated that the present California law respecting real property mortgages for future advances is well developed, sound, and in conformity with the general law on the subject. He reported that the same is true as to personal property mortgages save for certain problems created by Sections 2974 and 2975 of the Civil Code. He stated that he thought these latter code sections and the problems then present

should be thoroughly studied and that the sections should then be redrafted. Professor Merryman indicated his intention to discuss these problems with representatives of lending institutions and farmers' organizations (since livestock, crop, and farm production mortgages are apparently importantly involved).

It was agreed that Professor Merryman should proceed along the lines indicated and prepare a report covering the ground outlined in his discussion.

STUDY NO. 1 - RULE AGAINST SUSPENSION

The committee discussed with Professor Turrentine the report which he had prepared on this study. The committee commended Professor Turrentine for his report and determined to recommend that the commission accept the recommendations made therein, with the possible exception that it consider recommending a statute relating to the period for which a private trust may be made nonterminable in the event that the rule prohibiting suspension of the absolute power of alienation is repealed.

The Executive Secretary was directed to prepare a draft report and recommendation of the commission to the Legislature embodying Professor Turrentine's recommendations and also to work with Professor Turrentine in attempting to draft a statute relating to the duration of nonterminability provisions in private trusts for the commission's consideration.

The committee also discussed whether a statute relating to the power of the trustee and all of the beneficiaries of a private trust to terminate it should be recommended to forestall the possibility that the rule laid down in Estate of Walkerly and succeeding cases might be followed even though the rule

prohibiting suspension of the absolute power of alienation were repealed.
The Executive Secretary was directed to draft a statute for this purpose
for the commission's consideration.

There being no further business, the meeting was adjourned.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary