

A G E N D A

for Meeting of

LAW REVISION COMMISSION

Stanford University, July 18-19, 1958

1. Minutes of June, 1958 meeting. (Sent to you July 3, 1958).
2. Budget for Fiscal year 1959-60. (See Memorandum No. 3, sent to you on July 11, 1958)
3. Discussion with Dean Spaeth of continuation of Commission at Stanford following fiscal year 1958-59.
4. Study No. 56 (L) - Narcotics. (See material enclosed)
5. Study No. 22 - Cut-off Date, Motion for New Trial. (See Memorandum No. 4, sent to you on July 11, 1958)
6. Study No. 11 - Sale of Corporate Assets. (See Memorandum No. 2, sent to you on July 11, 1958)
7. Study No. 37(L) - Claims Statute. (See Memorandum No. 5, sent to you on July 11, 1958)
8. Study No. 36 - Condemnation. (See Memorandum No. 6, sent to you on July 11, 1958)
9. Study No. 23 - Rescission of Contracts. (See Memorandum No. 1, sent to you on July 3, 1958)
10. Study No. 34(L) - Uniform Rules of Evidence. (Material to be sent)
11. Study No. 38 - Inter-vivos Rights, 201.5 Property. (See Memorandum No. 8 for the JUNE meeting and attachments thereto, sent to you prior to that meeting.)
12. Study No. 20 - Guardianship for Non-residents. (See Memorandum No. 3 for the JUNE meeting and attachment thereto, sent to you prior to that meeting)
13. Study No. 21 - Confirmation of Judicial Sales of Real Property. (See Memorandum No. 6 for the JUNE meeting and attachment thereto, sent to you prior to that meeting)
14. Study No. 44 - Suit in Common Name. (See Memorandum No. 5 for the June meeting and attachment thereto, sent to you prior to that meeting)

MINUTES OF MEETING

of

JULY 18-19, 1958

STANFORD

Pursuant to the call of the Chairman, there was a regular meeting of the Law Revision Commission on July 18 and 19, 1958, at Stanford.

PRESENT: Mr. Thomas E. Stanton, Jr., Chairman
Honorable James A. Cobey
Honorable Clark L. Bradley
Honorable Roy A. Gustafson
Mr. Charles H. Matthews
Professor Samuel D. Thurman

ABSENT: Mr. John D. Babbage, Vice Chairman
Mr. Bert W. Levit
Mr. Stanford C. Shaw
Mr. Ralph N. Kleps, ex officio

Mr. John R. McDonough, Jr., the Executive Secretary, and Miss Louisa R. Lindow, Assistant Executive Secretary, were also present.

Mr. Charles W. Johnson, Chief Deputy of the Legislative Counsel, was present on July 18 and 19, 1958.

Dean Carl B. Spaeth of the School of Law, Stanford University, was present during a part of the meeting on July 18, 1958.

Professor James H. Chadbourn of the School of Law, University of California at Los Angeles, the research consultant

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of Study No. 34(L), was present on July 19, 1958.

The minutes of the meeting of June 13 and 14, 1958
were unanimously approved.

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I. ADMINISTRATIVE MATTERS

A. Authorization of Executive Secretary to Attend Meeting of National Legislative Conference: The Executive Secretary reported that the Eleventh Annual Meeting of the National Legislative Conference will be held at Boston, Massachusetts September 16-20, 1958. After the matter was discussed Mr. Matthews made a motion which was seconded by Senator Cobey and unanimously adopted that the Executive Secretary be authorized to attend the meeting as the representative of the Commission.

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B. Authorization of Chairman to Retain Research

Consultants: The Executive Secretary reported that there are several studies which the Commission has been authorized to make for which the Commission should retain research consultants. After the matter was discussed a motion was made by Senator Cobey, seconded by Mr. Matthews and unanimously adopted that the Chairman be authorized to enter into research contracts with qualified persons with respect to any study heretofore authorized by the Legislature as to which the services of an outside research consultant are deemed by the Chairman and the Executive Secretary to be necessary.

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C. Continuation of Commission Offices at Stanford:

The Commission discussed with Dean Carl B. Spaeth of the Stanford Law School plans for the continuation of the Law Revision Commission offices at Stanford and the arrangements for finding a qualified person for the position of Executive Secretary to succeed Mr. McDonough upon his prospective retirement from the position in the summer of 1959. It was agreed that a search should be made for a person who would be fully suitable as Executive Secretary of the Commission and also for the Stanford faculty. It was agreed that an attempt should first be made to find a person from California although this should not preclude an immediate inquiry for the names of qualified persons from out of state. Dean Spaeth agreed to initiate a search during the week of July 21.

A motion was made by Mr. Bradley, seconded by Senator Cobey and unanimously adopted to appoint Messrs. Stanton, Levit and Thurman as a committee to work with Dean Spaeth and to make recommendations to the Commission of persons to be considered for appointment to the position of Executive Secretary.

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D. Budget for Fiscal Year 1959-60: The Commission considered Memorandum No. 3; a proposed budget for the Fiscal Year 1959-60 and a memorandum on the estimated cost of printing studies presently assigned to the Commission and a letter from the Chairman to Mr. John Peirce, Director of Finance. (A copy of each of these items is attached hereto.) The Chairman reported a telephone call and letter he had received from Mr. T. H. Mugford of the Department of Finance concerning the letter sent to Mr. Peirce requesting changes on the Commission's staff. The Chairman reported that Mr. Mugford had stated that the request to upgrade the position of the Assistant Executive Secretary from Grade 2 (\$556 - \$676 per month) to Grade 4 (\$1200 - \$1300 per month) had been referred to the State Personnel Board and if approved by the Board would be approved by the Department of Finance; that the Department had agreed to increase the compensation of the Executive Secretary to a scale equal to an annual salary of \$15,600 and that the budget division believed that the Commission had a good case for changing the arrangement for its Executive Secretary from a one-half State one-half Stanford basis to a three-fourths State one-fourth Stanford basis in the 1959-60 budget.

The Executive Secretary then reported on the proposed budget for the Fiscal Year 1959-60. A motion was made by Mr. Bradley, seconded by Mr. Matthews and adopted to reduce the figure for printing by \$8,000. Senator Cobey voted against the

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motion on the ground that there should be an even greater reduction in the figure for printing. It was agreed that the staff should look into various possibilities of reducing the costs of printing the research studies.

A motion was made by Mr. Bradley, seconded by Mr. Matthews, and unanimously adopted to approve the proposed budget for the Fiscal Year 1959-60 as amended.

II. CURRENT STUDIES

A. Study No. 11 - Corporations Code Sections 2201 and 3901: The Commission considered Memorandum No. 2 and a draft prepared by the Staff of a Recommendation of the California Law Revision Commission relating to whether notice to all stockholders should be required when a sale of all or substantially all of the corporate assets is to be approved by a majority and legislation designed to effectuate the Commission's recommendation. (A copy of each is attached.) During the course of the discussion Mr. Stanton pointed out that an argument justifying the requirement of notice where approval of a sale of corporate assets is to be by vote even though no notice is required when approval is to be by written consent, on the ground that in the former case the transaction may be approved by proxy holders without the actual knowledge or consent of the shareholder whereas in the latter the shareholder has actual notice of the action he is approving, would appear to be fallacious in that under Section 2217 of the Corporations Code a proxy holder may approve by written consent any transaction which a shareholder may so approve. The Commission also discussed further whether Section 3901 should be revised to provide that notice need not be given to all stockholders when a sale is to be approved by the written consent of a majority, if it is

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decided that no substantive change should be made in the present law.

It was decided that before the Commission takes further action on this study the Executive Secretary should obtain the views of Professor Scott of Stanford, Professor Jennings of Boalt Hall and Mr. Graham Sterling of Los Angeles on the following questions:

1. Should Section 2201 be revised to eliminate the special notice provision in respect of a sale of corporate assets?
2. Conversely, should Section 3901 be revised to require that notice be given to all stockholders when a transaction is to be approved by the written consent of a majority?
3. If the answers to both questions 1 and 2 are in the negative, how may the difference be justified?
4. If it is determined to leave Section 3901 unchanged substantively should it be amended to state explicitly that notice to all stockholders is not required when a sale of corporate assets is approved by written consent of a majority? Is it likely that a court would infer from such an amendment that notice to all stockholders is required in the case of other provisions of the code authorizing action to be taken with the written consent of a stated proportion of the voting stock and which are silent as to whether such notice need be given?

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5. If it should be deemed desirable to amend Section 3901 to make it clear that notice to all stockholders is not required when action is taken with written consent, would it follow that the same would be true in all other cases in which corporate action must be approved by a stated proportion of stockholders? If so, would it be desirable to enact a general provision to this effect rather than amending Section 3901?

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B. Study No. 20 - Guardianship for Nonresidents: The Commission considered Memorandum No. 3 dated May 29, 1958 and the research study prepared by the staff. (A copy of each of these items is attached hereto.) After the matter was discussed the following action was taken:

A motion was made by Senator Cobey and seconded by Mr. Matthews to approve the proposed revisions of Probate Code Section 1461 up through "within or without this State." The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None

Not Present: Babbage, Levit, Shaw.

A motion was made by Mr. Bradley and seconded by Mr. Matthews to approve the insertion in Section 1461 of "The court may order that similar notice be given to other persons in such manner as the court may direct." The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None

Not Present: Babbage, Levit, Shaw.

A motion was made by Mr. Bradley and seconded by

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Mr. Thurman to approve Section 1570 as revised to read: (See Appendix A.)

The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews,
Stanton, Thurman.

No : None

Not Present: Babbage, Levit, Shaw.

It was agreed that both Section 1461 and Section 1570 should provide that notice of the nature of the proceedings and of the time and place of the hearing shall be mailed to relatives named in the petition at least ten days before the hearing unless the court for good cause shown shortens the time.

It was suggested that the staff consider and report on the relative desirability of (1) repealing Chapter 10, making the other Chapters 3 and 4 applicable to nonresident wards, (2) relocating Chapter 10 so that it follows Chapter 4, or (3) leaving Chapter 10 where it is presently located but amending Section 1570 as approved above.

A motion was made by Mr. Gustafson, seconded by Mr. Bradley and unanimously adopted that because the Commission does not plan to meet in August Messrs. Stanton, Levit and Thurman should be appointed a committee to receive the staff

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report on various possible courses of action, draft a recommendation of the Commission, make further minor changes in Probate Code Sections 1460, 1461 and 1570 which may be necessary and send the study and Recommendation to the State Bar for its views.

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C. Study No. 22 - Cut-Off Date, Motion for New Trial:

The Commission considered Memorandum No. 4 and a draft Recommendation of the Law Revision Commission and legislation designed to effectuate the Commission's Recommendation prepared by the Staff. (Copies of these items are attached hereto.) After the matter was discussed the following changes in the draft were agreed upon:

1. The Recommendation of the Commission should point out that notice received from the clerk of the court does not start the moving party's time running under Section 659.

2. In both Section 659 and Section 663a the words "from the adverse party" should be inserted after the word "receiving."

3. The phrase "whichever is earlier" should be inserted following "after receiving written notice of the entry of judgment" in Section 663a.

A motion was made by Mr. Matthews and seconded by Mr. Bradley to approve the Recommendation and draft legislation as revised. The motion carried:

Aye: Bradley, Cobey, Matthews, Stanton, Thurman.

No : Gustafson

Not Present: Babbage, Levit, Shaw.

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The Executive Secretary was authorized to send this study and Recommendation to the State Bar for its views.

D. Study No. 34(L) - Uniform Rules of Evidence: The Commission considered the Revised (7/15/58) Summary of Action taken on Various of the Uniform Rules of Evidence by the Law Revision Commission and the Northern and Southern Sections of State Bar Committee to Study Uniform Rules of Evidence. (A copy of which is attached.)

The Commission first discussed the feasibility of presenting a bill on a portion of the Uniform Rules of Evidence, i.e., the Rules relating to hearsay. The Commission requested Professor Chadbourn to review the sections in the codes that would need revision if the Uniform Rules relating to hearsay were to be enacted in 1959 and submit a report of his findings at the September meeting. A decision with respect to presenting a bill in the 1959 Session was deferred pending the report from Professor Chadbourn.

The Commission then considered the action taken by the State Bar Committee to Study Uniform Rules of Evidence (hereinafter referred to as State Bar Committee) on various Rules and Subdivisions thereof relating to hearsay. The following action was taken:

1. Rule 19. A motion was made by Mr. Thurman and seconded by Senator Cobey that the Commission withdraw its proposed amendment to Rule 19. The motion carried:

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Aye: Bradley, Cobey, Matthews, Stanton, Thurman.

No : None.

Pass: Gustafson.

Not Present: Babbage, Levit, Shaw.

2. Subdivision (1) (b) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Thurman that Subdivision (1) (b) of Rule 63 as originally proposed by the Commission be revised to read:

(b) The statement is offered after evidence of a prior inconsistent statement or supporting a charge of recent fabrication by the witness has been received and the statement is one made before the alleged inconsistent statement or fabrication and is consistent with his testimony at the hearing, or

The motion carried:

Aye: Bradley, Cobey, Gustafson, Stanton, Thurman.

No : None.

Not Present: Babbage, Levit, Matthews, Shaw.

3. Subdivision (1) (c) of Rule 63. A motion was made by Mr. Gustafson and seconded by Senator Cobey not to accept the

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view of the State Bar Committee and to stand on Subdivision (1) (c) as originally drafted by the Commission. The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Levit, Shaw.

4. Subdivision (2) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Matthews that the Commission reaffirm its original action on Subdivision (2) with two modifications: (1) substitute "under the law" for "by the statutes" and (2) add "taken in the action in which they are offered" after "deposition." The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews, Thurman.

No : Stanton.

Not Present: Babbage, Levit, Shaw.

5. Subdivision (3) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Thurman to adopt and recommend to the Legislature the substitute for Subdivision (3) proposed by the State Bar Committee except that the subparagraphs should be designated (a), (b) and (c) rather than (i), (ii) and (iii).

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6. Subdivision (4) of Rule 63. A motion was made by Mr. Thurman and seconded by Mr. Gustafson to disapprove the portion of the first sentence up to "a statement" of the State Bar Committee substitute for Subdivision (4). The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews, Stanton,
Thurman.

No : None.

Not Present: Babbage, Levit, Shaw.

7. Subdivision (4) (a) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Bradley to approve clause (a) of the State Bar Committee substitute for Subdivision (4). The motion did not carry:

Aye: Cobey.

No : Bradley, Gustafson, Matthews, Stanton, Thurman.

Not Present: Babbage, Levit, Shaw.

8. Subdivision (4) (b) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Bradley to approve clause (b) of the State Bar Committee substitute for Subdivision (4). The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews, Stanton,
Thurman.

No : None.

Not Present: Babbage, Levit, Shaw.

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9. Subdivision (4) (c) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Bradley to disapprove clause (c) of Subdivision (4) of Rule 63 as proposed by the Commissioners on Uniform State Laws. The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Levit, Shaw.

It was agreed that if the Commission ultimately does not accept the State Bar Committee proposal to add "spontaneously" to clause (a) the title of Subdivision (4) of Rule 63 should be "Contemporaneous and Spontaneous Statements."

10. Subdivision (5) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Matthews to approve Subdivision (5) of Rule 63 in the modified form proposed by the State Bar Committee. The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

11. Subdivision (6) of Rule 63. Action on Subdivision (6) of Rule 63 was deferred. Mr. Gustafson is opposed to this Subdivision as amended by the State Bar Committee. He believes

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(1) that the Constitution affords adequate protection against coerced statements and (2) that in any event it would be unwise to attempt to specify or enumerate the bases upon which coerced confessions are to be excluded. Mr. Gustafson suggested that if this matter were to be covered in the Uniform Rules it should be done by providing simply that a statement is not admissible if obtained by methods violative of the due process clause of either the State or Federal Constitution.

12. Subdivision (7) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Matthews to delete "and if the latter, was acting in such representative capacity in making the statement." The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

13. Subdivision (8) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Thurman to approve Subdivision (8) of Rule 63 with the insertion of "matter" after "subject" in clause (a) as proposed by the State Bar Committee. The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

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14. Subdivision (9) of Rule 63. No Commission action was taken on Subdivision (9) of Rule 63 or on new Subdivision (9.1) proposed by the State Bar Committee. It was agreed that if the Commission were to approve proposed Subdivision (9.1) in substance it should be made clause (b) of Subdivision (9).

15. Subdivision (10) of Rule 63: A motion was made by Mr. Matthews and seconded by Mr. Thurman to approve the following portion of Subdivision (10) of Rule 63 as modified by the State Bar Committee: "Except as against the accused in a criminal proceeding, if the declarant is unavailable as a witness..." The motion did not carry:

Aye: Cobey, Matthews, Thurman.

No : Gustafson, Stanton.

Not Present: Babbage, Bradley, Levit, Shaw.

A motion was made by Senator Cobey and seconded by Mr. Matthews to approve that portion of Subdivision (10) of Rule 63 as modified by the State Bar Committee which would require a finding of sufficient knowledge of the subject on the part of the declarant. The motion did not carry:

Aye: Cobey, Matthews.

No : Gustafson, Stanton, Thurman.

Not Present: Babbage, Bradley, Levit, Shaw.

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A motion was made by Senator Cobey and seconded by Mr. Gustafson to disapprove the proposal of the State Bar Committee to strike out that portion of Subdivision (10) of Rule 63 which relates to a statement which would make the declarant an "object of hatred, ridicule etc." The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

The substitution of "statement" for "assertion" proposed by the State Bar Committee was approved.

16. Subdivision (13) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Stanton to substitute for Subdivision (13) of Rule 63 a provision embodying the present California Business Records as Evidence Act, subject to such formal textual modifications as may be necessary to conform to the Uniform Rules of Evidence. The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

17. Subdivision (14) of Rule 63. A motion was made,

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seconded and unanimously adopted to accept the recommendation of the State Bar Committee.

18. Subdivision (17) of Rule 63. A motion was made by Senator Cobey, seconded by Mr. Matthews and unanimously adopted to accept the recommendation of the State Bar Committee.

19. Subdivision (18) of Rule 63. A motion was made by Mr. Matthews, seconded by Mr. Thurman and unanimously adopted to accept the recommendation of the State Bar Committee.

20. Subdivision (20) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Matthews to accept the recommendation of the State Bar Committee. The motion did not carry:

Aye: Cobey, Matthews, Stanton, Thurman.

No : Gustafson

Not Present: Babbage, Bradley, Levit, Shaw.

21. Subdivision (24) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Matthews to approve Subdivision (24) of Rule 63 as redrafted by the Staff (see Summary attached.) The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

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22. Subdivision (25) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Matthews to disapprove Subdivision (25) of Rule 63. The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

23. Subdivision (26) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Matthews to approve Subdivision (26) of Rule 63 as modified by the State Bar Committee. The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

24. Subdivision (27) of Rule 63. A motion was made by Mr. Gustafson and seconded by Mr. Thurman to approve Subdivision (27) of Rule 63 as previously approved by the Commission with the deletion of the word "legitimacy." The motion did not carry:

Aye: Gustafson, Stanton, Thurman.

No : Cobey, Matthews.

Not Present: Babbage, Bradley, Levit, Shaw.

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A motion was made by Mr. Matthews and seconded by Mr. Gustafson to approve Subdivision (27) of Rule 63 as previously approved by the Commission with the deletion of the word "legitimacy" and striking out the phrase "or of his personal status or condition." The motion did not carry:

Aye: Gustafson, Matthews, Stanton, Thurman.

No : Cobey.

Not Present: Babbage, Bradley, Levit, Shaw.

25. Subdivision (28) of Rule 63. A motion was made by Mr. Matthews and seconded by Mr. Gustafson to add "general" before "reputation." The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

26. Subdivision (29) of Rule 63. A motion was made by Senator Cobey and seconded by Mr. Matthews to approve the modifications proposed by the State Bar Committee in Subdivision (29) as originally modified by Commission. The motion carried:

Aye: Cobey, Gustafson, Matthews, Stanton, Thurman.

No : None.

Not Present: Babbage, Bradley, Levit, Shaw.

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It was agreed that the section should be redrafted to make clauses (a) and (b) subparagraphs.

It was agreed that the Commission should propose a joint meeting with the State Bar Committee to Study the Uniform Rules of Evidence at the time of the October meeting to discuss the portions of the Uniform Rules relating to hearsay upon which the Commission and the State Bar Committee are not in agreement as of that date.

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E. Study No. 36(L) - Condemnation Law and Procedure:

The Commission considered Memorandum No. 6, the research consultant's study on moving expenses, a copy of a letter from the research consultant, Mr. Nibley, relating to the study and a copy of a letter received by the research consultant from Mr. Rhyner of the Division of Contracts and Rights of Way of the State Highway Department commenting on the statutes proposed in the moving expense study. (Copies of these items are attached hereto.) After the matter was discussed it was agreed:

1. That the Commission does not plan to present legislation on this matter to the 1959 Session of the Legislature.
2. That the Executive Secretary should communicate to the research consultant the following:

(a) A suggestion that the discussion of policy considerations in the study should incorporate the substance of the points made in Mr. Rhyner's letter of May 16 and Mr. Nibley's letter of July 2.

(b) A suggestion that if there is a body of literature in texts, law reviews, etc., discussing the pros and cons of reimbursement of moving expenses, reference thereto should be made in the study.

(c) That one of the members of the Commission questions whether moving expense is a factor

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properly to be taken into account in determining the market value of property.

(d) A suggestion that the discussion of out of state cases in the text of the study should refer to the state in which the case was decided.

(e) That Senator Cobey is of the view that the condemnation study should, insofar as it is concerned with valuation problems, be economically rather than legally oriented.

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F. Study No. 37(L) - Claims Statutes: The Commission considered Memorandum No. 5; a copy of the proposed general claims statute in the form in which it was last before the Commission; a memorandum prepared for the April meeting; and a letter, a memorandum and a "Partial Proposed Draft of General Claims Statute with Explanatory Notes" from Professor Van Alstyne relating to the work which he has done to date in "dovetailing" the proposed uniform claims statutes into existing law. (A copy of each of these items is attached hereto.) The Commission first discussed the Progress Report on drafting of Claims Statutes submitted by Professor Van Alstyne. The following proposals made by Professor Van Alstyne were agreed upon:

1. The new general claims statute should be applicable to all claims except those expressly excepted.

2. The county claims law should be redrafted in such a way as to make it applicable only to claims which are not governed by either the new general claims statute or by other express statutory procedures.

3. Professor Van Alstyne should propose such changes in the general claims statute as occur to him in the course of carrying out his present assignment.

4. Professor Van Alstyne should proceed along the lines suggested in his memorandum in revising existing claims statutes to integrate them with the new general claims statute.

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5. The law relating to internal auditing and processing procedures should not be disturbed except to the extent they trench on the policies which are implicit in the new general statute.

It was agreed that Professor Van Alstyne was proceeding along the proper lines and that he should proceed in the future as proposed in his progress report.

The Commission then considered the Partial Proposed Draft of the General Claims Statute which was prepared by Professor Van Alstyne. The following minor changes were agreed upon:

1. Subsection (f) of Section 600: After "Applications" should be inserted "or claims."
2. Section 601. "City" should be inserted after "county" and "whether chartered or not" should be inserted following "political subdivision of the State."

The Commission considered Professor Van Alstyne's comment relating to the codification of Section 600.5. At the recommendation of Mr. Johnson it was agreed that Section 600.5 should be codified as a separate section of the general claims statute.

A motion was made by Mr. Gustafson and seconded by

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Mr. Matthews to approve Section 600 to Section 603 as drafted and submitted by Professor Van Alstyne with the minor revisions noted above. The motion carried:

Aye: Bradley, Cobey, Gustafson, Matthews, Stanton,
Thurman.

No : None

Not Present: Babbage, Levit, Shaw.

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G. Study No. 56(L) - Narcotics: The Commission considered Memorandum No. 7 and a draft Recommendation of the Law Revision Commission prepared by the Staff. (A copy of each of these items is attached hereto.) After the matter was discussed it was agreed to authorize the Chairman to make any minor changes in the Recommendation that may be suggested by Mr. Crawford. It was also agreed that it would not be necessary to send this Recommendation to the State Bar for its views.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary