

Time

Place

Oct. 29 - 7:00 p.m. - 10:00 p.m. Faculty Lounge
Oct. 30 - 9:00 a.m. - 5:00 p.m. U.C.L.A. Law School
Oct. 31 - 9:00 a.m. - 4:30 p.m. Los Angeles

FINAL AGENDA

for meeting of

CALIFORNIA LAW REVISION COMMISSION

Los Angeles

October 29-31, 1964

Bring the following materials to the meeting (in addition to other items listed on agenda):

- (1) Printed pamphlet containing Uniform Rules of Evidence
- (2) Printed pamphlets containing tentative recommendations and studies on:
 - a. Hearsay Evidence
 - b. Authentication and Content of Writings
 - c. Privileges
 - d. Witnesses
 - e. Extrinsic Policies Affecting Admissibility
 - f. Judicial Notice
 - g. Expert and Other Opinion Testimony
 - h. Burden of Producing Evidence, Burden of Proof, and Presumption
 - i. General Provisions
- (3) Preprinted Senate Bill No. 1

AGENDA ITEMS

1. Approval of Minutes for September 1964 Meeting (sent 10/7/64)
2. Administrative Matters
 - Memorandum 64-96 (sent 10/13/64)
 - Memorandum 64-97 (sent 10/13/64)
 - Memorandum 64-98 (enclosed)
 - First Supplement to Memorandum 64-98 (to be sent)
 - Memorandum 64-99 (to be sent)
3. Review of preprinted bill and "official comments" for printing
 - Preliminary Portion of Recommendation
 - Memorandum 64-70 (sent 10/13/64)

- Division 1 (Preliminary Provisions and Construction)
Memorandum 64-71 (comments of interested persons) (to be sent)
Memorandum 64-72 (official comments) (sent 10/7/64)
- Division 2 (Words and Phrases Defined)
Memorandum 64-73 (comments of interested persons) (to be sent)
Memorandum 64-74 (official comments) (sent 10/7/64)
- Division 3 (General Provisions)
Memorandum 64-75 (comments of interested persons) (to be sent)
Memorandum 64-76 (official comments) (sent 10/13/64)
- Division 4 (Judicial Notice)
Memorandum 64-77 (comments of interested persons) (to be sent)
Memorandum 64-78 (official comments) (sent 10/9/64)
- Division 5 (Burden of Producing Evidence, Burden of Proof, and Presumptions)
Memorandum 64-79 (comments of interested persons) (to be sent)
Memorandum 64-80 (official comments) (enclosed)
- Division 6 (Witnesses)
Memorandum 64-81 (comments of interested persons) (to be sent)
Memorandum 64-82 (official comments) (to be sent)
Memorandum 64-100 (comments of interested persons) (to be sent)
- Division 7 (Opinion Testimony and Scientific Evidence)
Memorandum 64-83 (comments of interested persons) (to be sent)
Memorandum 64-84 (official comments) (sent 10/7/64)
Memorandum 64-100 (comments of interested persons) (to be sent)
- Division 8 (Privileges)
Memorandum 64-85 (comments of interested persons) (to be sent)
Memorandum 64-86 (official comments) (to be sent)
- Division 9 (Evidence Affected or Excluded by Extrinsic Policies)
Memorandum 64-87 (comments of interested persons) (to be sent)
Memorandum 64-88 (official comments) (sent 10/7/64)
Memorandum 64-100 (comments of interested persons) (to be sent)
- Division 10 (Hearsay Evidence)
Memorandum 64-89 (comments of interested persons) (to be sent)
Memorandum 64-90 (official comments) (sent 10/7/64)
- Division 11 (Writings)
Memorandum 64-91 (comments of interested persons) (to be sent)
Memorandum 64-92 (official comments) (sent 10/7/64)
- Amendments, Additions and Repeals
Memorandum 64-93 (comments of interested persons) (to be sent)
Memorandum 64-94 (official comments) (sent 10/7/64)

4. Study No. 52 (L)--Sovereign Immunity

- Memorandum 64-95 (sent 10/7/64)
Additional material to be distributed at meeting

MINUTES OF MEETING

of

OCTOBER 29, 30, and 31, 1964

Los Angeles

A regular meeting of the California Law Revision Commission was held in Los Angeles at the Law School, University of California at Los Angeles, on October 29, 30, and 31.

Present: John R. McDonough, Jr., Chairman (October 29 and 30)
Richard H. Keatinge, Vice Chairman (October 29 and 30)
Hon. James A. Cobey (October 30 and 31)
James R. Edwards
Sho Sato
Thomas E. Stanton, Jr. (October 30 and 31)

Absent: Hon. Alfred H. Song
Joseph A. Ball
Herman F. Selvin

Messrs. John H. DeMouilly, Joseph B. Harvey, and Jon D. Smock of the Commission's staff were also present.

Also present were the following: Joseph Powers, representing the Association of District Attorneys; Willard A. Shank and Gordon Ringer, representing the Office of the Attorney General; Robert F. Carlson, representing the Department of Public Works.

ADMINISTRATIVE MATTERS

Minutes of September 1964 Meeting. The Minutes of the September 1964 meeting were approved as submitted.

Index for publication containing the proposed Evidence Code. The Executive Secretary suggested that it would be desirable to include an index in the publication containing the recommendation on the Evidence Code. This publication will contain Background and Recommendations, Preprint Senate Bill No. 1 and Comments thereto, and various tables relating to the Evidence Code. The staff will not have time to index this material.

The Executive Secretary reported that Mrs. Margaret Loftus, who indexed the Commission's Volume 6 and various volumes for the Continuing Education of the Bar, has expressed a willingness to index this publication for \$600.00. The staff believes this compensation to be reasonable in view of the fact that the index will need to be produced under considerable pressure in order to meet our printing schedule.

A motion was made by Commissioner Stanton, seconded by Commissioner Keatinge, and unanimously adopted that an Agreement be made with Mrs. Margaret Loftus to index this publication for \$600.00 and that the Chairman be authorized to execute such agreement on behalf of the Commission.

Future meetings. Future meetings are scheduled as follows:

November 19 (evening), 20, and 21 (morning) - Berkeley

No meeting in December

January 7, 8, and 9 (three full days)(tentative) - San Francisco

STUDY NO. 52(L) - SOVEREIGN IMMUNITY

The Commission considered Memorandum 64-95, a report on amendments to the 1963 Governmental Liability Statute. The report was prepared by Professor Arvo Van Alstyne.

Section 809

The Commission approved this section, after revising it to read:

809. This division shall be known and may be cited as the Governmental Tort Liability Act.

Section 818.8

The amendment to this section was disapproved.

Section 821.6

The amendment to this section was disapproved.

Section 822.2

The amendment to this section was disapproved.

Section 830

The amendment to this section was disapproved.

Section 831.2

This section was revised in substance to read:

831.2. Neither a public entity nor a public employee is liable for an injury caused by a natural condition of any unimproved public property, ~~including but not limited to any lake, stream, bay, river, or beach~~. For the purposes of this section, "unimproved public property" means an area of land or water, or both, in its natural condition, but does not include any portion of such area upon which structural or other artificial improvements have been or are being constructed, except that changes for the limited purpose of conservation of natural resources do not alter the unimproved character of such property.

Only the policy decision reflected in revised Section 831.2 was made; the specific language was not approved.

STUDY NO. 34(L) - UNIFORM RULES OF EVIDENCE

The Commission considered the following memoranda dealing with the proposed Evidence Code:

Memorandum 64-70 through Memorandum 64-94
First Supplement to Memorandum 64-70
First Supplement to Memorandum 64-89
Memorandum 64-96
Memorandum 64-98
First Supplement to Memorandum 64-98
Memorandum 64-99
Memorandum 64-100

Except for the changes specifically noted below, the action taken by the Commission is reflected in the revised copy of the bill which is attached hereto and made a part hereof.

- (1) The Commission approved the following revision of

Section 760:

760. "Direct examination" is the examination of a witness by the party producing him and, in civil actions, by any party whose interest is not adverse to the party producing the witness.

After this change was agreed upon, the Commission asked the staff to consider a different means of meeting the problem of examination by nonadverse parties and examination beyond the scope of cross-examination and to present an alternative scheme for the Commission's consideration at the November meeting.

- (2) The change shown in Section 804(b) was not considered by the Commission.

- (3) The substance of Section 1073 was approved by the Commission but the specific language was not agreed upon.

Minutes - Regular Meeting
October 29, 30, and 31, 1964

(4) The change shown in Section 1200 was not considered by the Commission.

(5) The change shown in Section 1203(b) was not considered by the Commission.

Attached as an Exhibit (pink) to these minutes is a summary of the presentation made by Mr. Gordon Ringer of the Office of the Attorney General.