minute

A G E N D A

for meeting of

CALIFORNIA LAW REVISION COMMISSION

San Francisco March 13-14, 1959

1. Minutes February, 1959 meeting (Sent to you on February 27.)

2. Workload and Procedures (See Memorandum No. 1, sent to you on February 27)

3. Matters relating to 1959 Legislative program:

   A. Schedule of presentation of bills to judiciary committees (oral report)

   B. Study 37(L) - Claims Statute (See Memorandum No. 2, sent to you on February 27 and supplementary Memorandum enclosed):

      1) Action on suggestions made by Senate Interim Judiciary Committee

      2) Action on suggestions received from interested persons

   C. Study No. 11 - Sale of Corporate Assets (See Memorandum No. 4, enclosed)

   D. Study No. 24 - Mortgages for Future Advances (See Memorandum No. 5, enclosed)

   E. Suggestions (if any) received from State Bar relating to the Commission's bills

4. Approval of various research consultants' work for printing (See Memorandum No. 3, sent to you on February 27)

5. Further consideration of matters heretofore considered:

   A. Study No. 33 - Survival of Tort Actions (Material to be sent)

   B. Study No. 34 - Uniform Rules of Evidence (Further consideration of Chadbourn memorandum on the privilege against self-incrimination)

C. Study No. 38 - Inter Vivos Rights in Probate Code § 201.5 property (See material sent to you prior to the JANUARY meeting)

D. Study No. 32 - Arbitration (Progress report - material to be sent)

E. Study No. 28 - Condemnation (oral report on status of request for additional funds to carry study forward)

6. New Matters:

A. Study No. 42 - Trespassing Improvers (Sent to you prior to the February meeting)

B. Study No. 48 - Right of Juveniles to Counsel (Sent to you prior to the February meeting)

C. Study No. 51 - Alimony after Divorce (Sent to you prior to the February meeting)

MINUTES OF MEETING

of

March 13 and 14, 1959

SAN FRANCISCO

Pursuant to the call of the Chairman, there was a regular meeting of the Law Revision Commission on March 13 and 14, 1959, in San Francisco.

PRESENT: Mr. Thomas E. Stanton, Jr., Chairman
Mr. John D. Babbage, Vice Chairman
Mr. Frank S. Balthis
Honorable Roy A. Gustafson (14th)
Mr. Charles H. Matthews
Professor Samuel D. Thurman
Mr. Ralph N. Kleps, ex officio

ABSENT: Honorable James A. Cobey
Honorable Clark L. Bradley

Messrs. John R. McDonough, Jr., Glen E. Stephens, and Miss Louisa R. Lindow, members of the Commission's staff, were also present.

Professor James H. Chadbourn of the School of Law, University of California at Los Angeles, the research consultant for Study No. 34(L), was present during a part of the meeting on March 14, 1959.

The minutes of the meeting of February 13 and 14, 1959, were unanimously approved after the following changes were made:

(1) Page 15. Substitute Mr. Bradley's name for that of Mr. Babbage and substitute Mr. Stanton's name for that of Mr. Thurman.

(2) Page 18. Delete the reference to the action taken purporting to rescind action taken earlier with respect to the adoption of Subdivision (1) of Rule 23 and the repeal of Section 1323.5 of the Penal Code.

(3) Page 18. Insert the phrase "with the substitution of the word 'defendant' for the word 'accused' and" after the clause "Subdivision (1) of Rule 23."

(4) Page 20. Correction to be submitted by Mr. Gustafson.

I. ADMINISTRATIVE MATTERS

A. Personnel:

(1) Executive Secretary. The Executive Secretary reported that Mr. DeMoully has accepted the position as Executive Secretary and will assume the position August 1, 1959.

(2) Assistant Executive Secretary. The Executive Secretary reported on a conversation he had with Mr. John Fisher, Executive Officer of the State Personnel Board, relating to a communication received by the Board from an applicant for the Assistant Executive Secretary position who has taken the position that the Executive Secretary, Mr. McDonough, is disqualified to sit as the Commission's representative on the interview board because he recommended the appointment of Mr. Stephens, a Stanford Law School graduate, to the position on a temporary basis. The Commission considered the feasibility of having a Commission member represent the Commission or deferring the interviews until Mr. DeMoully takes over as Executive Secretary. After the matter was discussed a motion was made by Mr. Thurman, seconded by Mr. Stanton and unanimously adopted to proceed as originally planned and have Mr. McDonough sit in as the Commission's representative on the interview board.

B. Reorganization of the Commission's Workload and Procedures: The Commission considered Memorandum No. 1 (dated 2/25/59) prepared by the Executive Secretary relating to (1) the problems confronting the Commission (i.e., the substantial backlog of assignments and the necessarily limited amount of time which the members of the Commission can give to this work) and (2) various possible courses of action which might be adopted to deal with the situation. (A copy of which is attached hereto.) After the matter was discussed the following matters were agreed upon:

(1) There should be no Friday night meetings nor three-day meetings scheduled except when urgent matters must be considered or other special justification exists.

(2) The meetings should ordinarily be scheduled as follows:

Friday - 9 a.m. to 5:30 p.m.

Saturday - 9 a.m. to 5 p.m.

(3) The Chairman should terminate prolonged deliberations on any matter by either bringing it to a vote when appropriate, or, referring the matter to the staff either for further research or redrafting.

(4) The present rule of five votes should be abandoned and the rule adopted that action, including a recommendation to the Legislature, may be taken by a majority of those present but with a minimum of four votes.

(5) There should be no attempt at this time to reduce the

number of assigned studies presently on the Commission's agenda.

A motion was then made by Mr. Gustafson, seconded by Mr. Thurman and unanimously adopted to formally approve propositions just stated.

The Commission then considered what studies should be given priority for the 1961 Legislative Session. The Executive Secretary suggested that the Commission could either (1) concentrate on the major studies--i.e., Uniform Rules of Evidence, Arbitration, Condemnation, Sovereign Immunity, Bail, and Attachment--and defer consideration of the lesser studies, (2) or defer several of the major studies until 1963 and complete most or all of the lesser studies by 1961. After the matter was discussed it was agreed that the Chairman and the Executive Secretary should work out a recommendation on this matter and submit it to the Commission for its approval.

C. Law Review Publication Requests:

(1) Request of Professor Harold E. Verrall. After the matter was discussed a motion was made by Mr. Babbage, seconded by Mr. Stanton, and unanimously adopted to grant Professor Verrall permission to publish his Doctrine of Worthier Title Study in revised form as a law review article with appropriate acknowledgment of its connection with the Commission.

(2) Request of Professor Harold Marsh, Jr. The Commission considered the request of Professor Harold Marsh, Jr. for authorization to publish a law review article, Section VIII of which is a discussion of the inter vivos rights of one spouse in property acquired by the other spouse while domiciled elsewhere.

This discussion is based on a study for the Commission by Professor Marsh which has not been published by the Commission. During the discussion Mr. Babbage pointed out that the question whether research consultants should be permitted to publish their work for the Commission as law review articles prior its publication was considered at the January 16 and 17 meeting and should not be reconsidered at this time since Senator Cobey and Mr. Gustafson, who took the position that such publication should not be permitted, were not present. After the matter was discussed it was agreed that the Executive Secretary should contact Professor Marsh to see if it would be agreeable to him if Section VIII were deleted. It was also agreed that this matter should be reconsidered if Professor Marsh is of the opinion that Section VIII is an essential portion of the proposed law review article.

D. Printing Program. The Commission had before it Memorandum No. 3 (dated 2/27/59). (A copy of which is attached hereto.)

The Commission first considered whether the study and recommendation of the Uniform Rules of Evidence should be printed in one pamphlet or in more than one pamphlet. During the discussion Mr. Gustafson stated his view that the Commission's report should not be printed until the Commission finally considers all the Uniform Rules because what may be deemed final action now may be changed during consideration of a later rule. After the matter was discussed it was agreed that the Executive Secretary should (1) have Professors Chadbourn's study relating to the hearsay rule and its exceptions set in type and hold it in galley form, and (2) draft a recommendation of the Commission on the hearsay rule and its exceptions for the Commission's consideration. It was agreed to defer to a later date a decision on whether to print and distribute the Uniform Rules as a unit or piecemeal.

The Commission then considered the request of the Executive Secretary for authorization to send the following studies to the printer:

Study #33 Survival of Tort Actions
#38 Inter Vivos Rights
#42 Rights of Good Faith Improver
#48 Juveniles Right to Counsel
#51 Right to Support After Divorce

After the matter was discussed a motion was made, seconded and unanimously adopted to authorize the Executive Secretary to prepare and send to the printer the following studies; Studies

No. 33 (Survival of Tort Action); No. 34(L) (Uniform Rules of Evidence - See supra.); and No. 38 (Inter Vivos Rights).

E. New Studies Authorized by the Legislature: Mr. Kleps stated that there is a bill before the Legislature which proposes to add a new Public Districts Code to the present codes. He raised the question of whether the Commission would object if one of its legislative members were to propose that the Commission be authorized to make a study to determine whether such a new code should be enacted. After the matter was discussed it was agreed that the Commission would not welcome having this topic assigned to it.

II. LEGISLATIVE MATTERS

A. Schedule of the Presentation of Bills: The Executive Secretary reported that A.B. 400 and A.B. 402 are scheduled to be presented to the Assembly Judiciary Committee--Criminal on March 23; that S.B. 160, 163, 164, 165, 166 and 167 are scheduled to be presented to the Senate Judiciary Committee at 10:00 a.m. on March 25, and that A.B. 401, 403, 404 and 405-410 are scheduled to be presented to the Assembly Judiciary Civil Committee at 3:45 p.m. on March 25.

B. Study No. 1 - Suspension of the Absolute Power of Alienation:

The Commission considered the letter (dated 2/26/59) containing the report of the State Bar Committee appointed to study and report to the Board of Governors concerning the Commission's proposed legislation relating to suspension of the absolute power of alienation and S.B. 165. (A copy of each of these items is attached hereto.) After the matter was discussed the following action was taken:

(1) A motion was made by Mr. Gustafson and seconded by Mr. Babbage to delete from the second paragraph of Section 771 of the Civil Code the following phrase:

> "and the provision is wholly ineffective unless, consistently with the purposes of the trust, it may be given effect for some period not exceeding such time."

The motion carried:

Aye: Babbage, Balthis, Gustafson, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey.

It was agreed that the Executive Secretary should check with Mr. Turrentine regarding this revision and to authorize the Chairman and Executive Secretary to take the necessary steps to amend S.B. 165.

(2) A motion was made by Mr. Babbage and seconded by Mr. Matthews to substitute the words "all of the creators of the trust" for "the creator of the trust" in the second sentence of the second paragraph of Section 771 of the Civil Code. The motion carried:

Aye: Babbage, Balthis, Gustafson, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey.

(3) A motion was made by Mr. Matthews and seconded by Mr. Babbage to disapprove the Committee's proposed addition of a new subsection to new Section 771, because, as the Committee stated, the point sought to be clarified was "obvious". The motion carried:

Aye: Babbage, Matthews, Stanton, Thurman.

No: Balthis, Gustafson.

Not Present: Bradley, Cobey.

C. Study No. 11 - Sale of Corporate Assets: The Commission considered Memorandum No. 4 (dated 3/4/59) and a memorandum (dated 3/4/59) prepared by Mr. Stephens relating to the Commission's proposal to codify the decision of the Jeppi case. (A copy of each of these items is attached hereto.) After the matter was discussed it was agreed that Mr. Stephen's memorandum should be sent to the members of the Board of Governors and that the Chairman and the Executive Secretary should attend the meeting presently scheduled for the coming week of the Committee appointed by the State Bar to study the Commission's recommendation relating to sale of corporate assets.

D. Study No. 22 - Cut off Date - Motion for New Trial: The Executive Secretary reported on a letter received from the State Bar reporting the Board of Governor's concurrence in the view of the Committee on Administration of Justice that S.B. 164 should amend Sections 659 and 663a of the Code of Civil Procedure to give the moving party 60 days rather than 30 days after entry of the judgment to notice his motion. After the matter was discussed a motion was made by Mr. Babbage and seconded by Mr. Balthis to direct the Executive Secretary to advise the Board of Governors and the legislative committees that the Commission is not persuaded of the desirability of the proposed amendment but views the matter as one of policy for the Legislature to decide and, therefore, would not object to the proposed amendment if a legislative committee favors it.

E. Study No. 24 - Mortgages for Future Advances: The Commission had before it Memorandum No. 5 (dated 3/5/59); a letter (dated 2/26/59) from Senator Cobey to the Executive Secretary forwarding a memorandum sent to him by Mr. Albert Monaco suggesting certain changes in S.B. 167 (the bill relating to mortgages for future advances); a copy of the memorandum from Mr. Monaco to Senator Cobey; a copy of Section 2975 of the Civil Code proposed by the Commission as it would be amended if changes proposed by Mr. Monaco were made; a letter (dated 3/10/59) sent to the Executive Secretary from Mr. Philip Gregory proposing, on behalf of the California Banker's Association, certain revisions to S.B. 165 and S.B. 167. (A copy of each of these items is attached hereto.)

The Commission first considered Mr. Gregory's letter. After the matter was discussed it was agreed (1) to approve the insertion of a comma after the words "obligatory advances" in line 15 of S.B. 167 and (2) to direct the Executive Secretary to discuss the other two proposed revisions with Mr. Gregory.

During the course of the meeting a copy of the report of the State Bar Committee appointed to consider the Commission's study and recommendation on mortgages for future advances was given to Mr. Stanton. (Mr. Monaco is a member of this committee and its views coincided with those expressed in his memorandum to Senator Cobey.) The Executive Secretary reported that he had reviewed the Committee's proposed amendments of S.B. 167 and believed that they fell into two categories: (1) amendments to clarify which were not necessary and

(2) amendments going beyond the scope of the Commission's study. During the discussion which followed Mr. Babbage stated that the Commission should adhere to the policy adopted at its January meeting that ordinarily bills will be introduced in the form in which they are published by the Commission and amended to reflect only those changes which are necessary to avoid real ambiguity or to meet a problem not forseen by the Commission. After the matter was discussed it was agreed that the proposals of the State Bar Committee should not be accepted. It was also agreed that the Chairman should talk to Mr. Sterling and explain to him the Commission's general views about amending its proposed legislation after its reports have been published and bills have been introduced.

A motion was made by Mr. Gustafson, seconded by Mr. Babbage and adopted to disapprove Mr. Monaco's suggested changes in S.B. 167. Mr. Stanton voted against the motion.

A motion was then made by Mr. Babbage, seconded by Mr. Thurman and unanimously adopted to authorize the Chairman and Executive Secretary to take whatever action is necessary to resolve any problems which may arise in light of the position taken by the Board of Governors on S.B. 167.

F. Study No. 37(L) - Claims Statute: The Commission considered the staff memorandum (dated 2/20/59) relating to the various revisions to A.B. 405 proposed by the Senate Interim Committee at its meeting on February 18, 1959. (A copy is attached hereto.) The following action was taken:

(1) Section 711. A motion was made by Mr. Babbage and seconded by Mr. Matthews to insert the following provision after Subsection (e) of Section 711: "The claim shall be signed by the claimant or by some person on his behalf." The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

[Comment: The reasons given by the Senate Committee for this requirement are (1) that a signature is necessary to give some assurance that the claim will constitute a representation by the claimant and will be so regarded by him, thus giving some guarantee of its veracity and (2) that it might facilitate a prosecution under Penal Code Section 72 against a person who has filed a false claim.]

The Commission considered when a claimant should be permitted to amend his claim. After the matter was discussed a motion was made by Mr. Babbage and seconded by Mr. Matthews to revise the last paragraph of Section 711 to read:

> A claim may be amended at any time within eighty (80) days after it is presented unless at the time of the proposed amendment the claimant is barred by Section 718 from suing on the cause of action to which the claim relates.

The motion did not carry:

Aye: Babbage, Matthews, Stanton.

No: Balthis, Thurman.

Not Present: Bradley, Cobey, Gustafson.

A motion was then made by Mr. Thurman and seconded by Mr. Balthis to revise the last paragraph of Section 711 to read:

> A claim may be amended at any time within eighty (80) days after it is presented.

The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

(2) Section 716. The Commission then discussed the last sentence of the last paragraph of Section 716. After the matter was discussed a motion was made by Mr. Babbage and seconded by Mr. Balthis to add a new Section 722 to the Government Code to read:

> Nothing in this chapter shall prohibit the governing body of the local public entity from compromising any suit based on a cause of action for which this chapter requires a claim to be presented.

The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

A motion was then made by Mr. Babbage and seconded by Mr. Balthis to revise the first paragraph of Section 716 to read:

> Within eighty (80) days after a claim is presented, the governing body shall act on the claim in one of the following ways:

and to delete the last sentence from the last paragraph of Section 716 which reads:

> Action taken under this section shall be final and may not be reconsidered by the governing body, but nothing herein shall prohibit the governing body from compromising any suit based upon the cause of action to which the claim relates.

The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

(3) Section 718. A motion was made by Mr. Matthews and seconded by Mr. Balthis to amend Subsection (a) of Section 718 to read:

> (a) If the claim is allowed in full and the claimant accepts the amount allowed, no suit may be maintained on any part of the cause of action to which the claim relates.

The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

A motion was then made by Mr. Thurman and seconded by Mr. Matthews to delete the word "final" which precedes "action" from the first paragraph of Section 718. The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

(4) Section 719. The Commission considered the

objection raised by the Interim Committee that Section 719 undermines one of the basic purposes of the claims statute by allowing a claimant to sue for an amount greater than he stated in his claim in that the entity is not put on notice of the extent of the claim in time for it to make proper investigation. After the matter was discussed it was agreed (1) not to amend Section 719 out of the bill at this time; (2) it pressed, to suggest that it be amended to permit a variance not amounting to a marked discrepancy between the amount of the claim presented and the amount prayed in a suit; and (3) that if this suggestion is unacceptable Section 719 should be deleted from the bill.

A motion was then made by Mr. Thurman and seconded by Mr. Matthews to delete the clause "Except as provided in Section 718" from Section 719. The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

(5) The Commission considered the objections raised by the Interim Committee and several city attorneys who have written to Mr. Bradley to Section 720 (that it is unnecessary because the courts would apply the principle of estoppel in any event, that it is undesirable because every claimant who failed to file a timely claim would seek to invoke it, and that it would constitute an invitation to claimants to assert estoppel). After the matter was discussed it was agreed not to amend Section 720 out of the bill at this time

and to authorize the Executive Secretary in his discretion to agree to delete the section if strong objections are raised to it by a legislative committee. It was, however, agreed to delete the clause "express or implied" from Section 720.

(6) Section 721. A motion was made by Mr. Babbage and seconded by Mr. Matthews to revise Section 721 to require that a suit "must be commenced within one year after the date of rejection of the claim." The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

[Comment: This revision was made to meet the objections made to Section 720 by some members of the Senate Interim Judiciary Committee.]

G. Study No. 37(L) - Suggestions received relating to Claims Statute: The Commission had before it two staff memoranda (dated 2/25/59 and 3/5/59) reporting suggestions received relating to the claims statute from different attorneys; a letter (dated 2/28/59) from Mr. McCaffrey, Principal Counsel of the Department of Employment; a letter (dated 2/20/59) from Professor Van Alstyne to the Executive Secretary concerning a conversation he had with Mr. Roscoe Hollinger, Chief Auditor of Los Angeles County and a letter (dated 3/5/59) from Professor Van Alstyne to the Executive Secretary concerning the conversation he had with Mr. Chambers of the Los Angeles County Auditor's Office, both letters relating to provisions of the claims statute; and A.B. 405 relating to claims against local public entities. (A copy of each of these items is attached hereto.)

(1) The Commission first considered the memorandum (dated 2/25/59) reporting suggestions received from Messrs. Ferguson, Flewelling, Gardiner, Kostlan, Nelson and Scanlon. After the matter was discussed it was agreed that no action should be taken at this time on the various suggestions contained in this memorandum.

(2) The Commission then considered the memorandum (dated 3/5/59) reporting suggestions received from Messrs. Lauten, Annibale, and Cockins. After the matter was discussed the following action was taken:

(a) Section 703. A motion was made and seconded to substitute the word "statute" for the clause "provisions of law" in Subsection (a) of Section 703. The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

[Comment: This revision was made to preclude a construction of "provisions of law" to include ordinances.]

(b) Section 718. A motion was made by Mr. Thurman and seconded by Mr. Matthews to revise the last paragraph of Section 718 to read:

> Nothing in this article shall be construed to deprive a claimant of the right to resort to writ of mandamus or other proceeding against the local public entity or the governing body or any officer thereof to compel it or him to pay a claim when and to the extent that it has been allowed.

The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

[Comment: It was agreed that authorization of a writ of mandamus against a local public entity to compel it to act on a claim is inconsistent with the scheme of the statute which gives the entity eighty (80) days to act (Section 716) and provides that a claim is deemed rejected after the eightieth day. (Section 717)]

(3) The Commission then considered the letters from Professor Van Alstyne to the Executive Secretary relating to his conversation with Messrs. Hollinger and Chambers of the Los Angeles Auditors Office. After the matter was discussed it was agreed to

amend Sections 714 and 716 to include the auditor of a local public entity as a person to whom the claim could be delivered.

(4) The Commission then considered the letter to Mr. Bradley from Mr. McCaffrey suggesting that the claims arising under the Unemployment Insurance Code should be included in Section 703 and thus excepted from the claims statute. After the matter was discussed a motion was made by Mr. Matthews and seconded by Mr. Thurman to add the following as Subsection (j) of Section 703.

> (j) Claims arising under any provision of the Unemployment Insurance Code, including but not limited to claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed.

The motion carried:

Aye: Babbage, Balthis, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey, Gustafson.

III. CURRENT STUDIES

A. Study No. 32 - Arbitration: The Commission considered an oral progress report made by the Assistant Executive Secretary of the work he has been doing on the study relating to Arbitration. During the discussion Mr. Stanton stated that the study should include areas that are not included in the Uniform Act, e.g., oral agreements, "legislative" collective bargaining agreements, etc. After the matter was discussed it was agreed that collaboration with either Mr. Kagel or a third person is not necessary and that the Assistant Executive Secretary should proceed as outlined in his report.

B. Study No. 34(L) - Uniform Rules of Evidence: The Commission considered certain portions of a memorandum prepared by Professor Chadbourn on the various Uniform Rules which relate to the privilege against self-incrimination (a copy of which is attached). After the matter was discussed the following action was taken:

1. Subdivision (b) of Rule 25. A motion was made and seconded to approve Subdivision (b) of Rule 25. The motion carried:

Aye: Babbage, Balthis, Gustafson, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey.

[Comment: It was noted that Rule 25(b) is consistent with the present California law.]

2. Subdivision (c) of Rule 25. A motion was made by Mr. Thurman and seconded by Mr. Matthews to approve Subdivision (c) of Rule 25. The motion carried:

Aye: Babbage, Balthis, Gustafson, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey.

[Comment: It was noted that Rule 25(c) is consistent with the present California law.]

3. Subdivision (d) of Rule 25. During the discussion of Subdivision (d) of Rule 25 Mr. Stanton raised the question

whether the adoption of this section would change the present California law by permitting the custodian of corporate records to claim the privilege of not producing the records where the records would personally incriminate him; he expressed doubt that the statement in terms of "superior right to possession" makes this clear. The other members did not share Mr. Stanton's doubt. After the matter was discussed a motion was made by Mr. Thurman and seconded by Mr. Balthis to approve Subdivision (d) of Rule 25 with the following revision to the last portion of the rule:

> by the applicable rules of the substantive law, some corporation, partnership, association or other person has a superior right...

The motion carried:

Aye: Babbage, Balthis, Gustafson, Thurman.

No: Matthews, Stanton.

Not Present: Bradley, Cobey.

[Comment: It was thought that "association" might not be construed to include "partnership". The words "other person" were inserted after "association" to clarify the meaning. There was some discussion of limiting Subdivision (d) of Rule 25 to civil actions but no action to this effect was taken.

4. Subdivision (e) of Rule 25. During the discussion of Subdivision (e) of Rule 25 Mr. Balthis stated that in his opinion this section is too broad, in that "regulations" could also be construed to include private regulations. In the course of the

discussion it was agreed that it is not probable that Rule 25(e) would be construed to override any existing statute giving a department or public office the privilege to not disclose private communications. After the matter was discussed a motion was made by Mr. Balthis and seconded by Mr. Thurman to approve Subdivision (e) of Rule 25 insofar as it applies to public officials. The motion carried:

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

No: Babbage.

Not Present: Bradley, Cobey.

During the discussion of Rule 25(e) insofar as it applies to private persons Mr. Stanton pointed out that the Article I, § 13 of the California Constitution contains a privilege against self-incrimination and that Rule 25(e) could not affect this privilege. After the matter was discussed a motion was made by Mr. Gustafson and seconded by Mr. Stanton to approve Subdivision (e) of Rule 25 as it is presently drafted, i.e., insofar as it applies to both public officials and private persons. The motion carried:

Aye: Gustafson, Matthews, Stanton, Thurman.

No: Babbage, Balthis.

Not Present: Bradley, Cobey.

5. Subdivision (f) of Rule 25. A motion was made by Mr. Gustafson and seconded by Mr. Thurman to approve Subdivision (f) of Rule 25. The motion did not carry:

Aye: Gustafson, Stanton, Thurman.

No: Babbage, Balthis, Matthews.

Not Present: Bradley, Cobey.

[Comment: It was the opinion of some members that Subdivision (f) of Rule 25 if enacted would contravene the Constitution in that it would require a witness who is a custodian or corporate records to testify on matters contained within the documents which would incriminate him personally.]

6. Subdivision (g) of Rule 25. A motion was made by Mr. Balthis and seconded by Mr. Gustafson to approve Subdivision (g) of Rule 25. The motion carried:

Aye: Balthis, Gustafson, Stanton, Thurman.

No: Babbage, Matthews.

Not Present: Bradley, Cobey.

7. Rule 24. A motion was made by Mr. Babbage and seconded by Mr. Gustafson to approve Rule 24. The motion carried:

Aye: Babbage, Balthis, Gustafson, Matthews, Stanton, Thurman.

No: None.

Not Present: Bradley, Cobey.

It was agreed that consideration of Rules 37, 38 and 39 should be deferred until after the other rules relating to privilege have been considered.

It was also agreed that the procedure of sending Professor Chadbourn's memoranda to members of the State Bar Committee

to Study the Uniform Rules of Evidence immediately upon receipt of the memoranda should be continued rather than holding the memoranda until after the Commission has acted and written a report of its action.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

minutes

O'MELVENY & MYERS
Los Angeles

February 26, 1959

Board of Governors
State Bar of California
2100 Central Tower
San Francisco 3, California

Gentlemen:

By your letter dated December 4, 1958, the undersigned were appointed as a committee to study and report to the Board concerning a memorandum prepared by the California Law Revision Commission dated October 16, 1958, re discussion with Senate Interim Committee concerning the rule prohibiting suspension of the absolute power of alienation. Our consideration of this matter has been unfortunately delayed by the extended absence from the city of the Chairman of the committee.

We would like first to compliment the Law Revision Commission upon its memorandum and its proposed new legislation. In general we think the new legislation proposed is a substantial improvement both over existing law and the original provisions of A.B. 249 (1957). We have, however, a few comments which we would like to make.

1. We believe there should be deleted from the second paragraph of proposed Section 771 (as set forth on page 4 of the Commission's memorandum) the clause reading "and the provision is wholly ineffective unless, consistently with the purposes of the trust, it may be given effect for some period not exceeding such time." The presence of this clause appears to us unnecessary and undesirable. The preceding part of the sentence in question has the effect of cutting off any non-termination provision as of the end of the permitted period of the rule against perpetuities but presumably leaves such provision valid during such period. The additional clause, inviting as it does attempted earlier terminations, seems to us to serve no useful purpose because no one could rely upon such earlier termination, absent a judicial determination that the effectiveness of the non-termination provision during the permitted provision was inconsistent "with the purposes of the trust". This test of inconsistency with trust purposes in these circumstances is too vague to have any practical value. We would prefer to eliminate the clause and to leave to individual case determination by the courts any claim that a particular non-termination provision could not be given effect even during the permitted period.

2. We suggest that the words "the creator of the trust" of the second sentence of the paragraph be changed to read "all the creators of the trust" to make it perfectly clear that the death or incompetency of one of several creators will prevent voluntary termination by joint action. Just as all beneficiaries must join, so must all trustors; otherwise the purposes of the trustors may be defeated.

3. We suggest that the presently numbered subsections (1) and (2) under the third paragraph of the proposed law be renumbered (2) and (3), and a new subsection (1) be added reading as follows:

"(1) it may be terminated in the manner provided in the instrument creating the trust."

While this addition may seem merely to state the obvious, it would be unfortunate if a court should construe the section as exclusionary with respect to methods of termination.

Respectfully submitted,

W. B. CARMAN
WILLIAM E. BURBY
LAWRENCE L. OTIS

By /s/ W. B. Carman
W. B. Carman,
Chairman

WBC/hlf

59-90
A-3-20

October 16, 1958

Memorandum on Commission's discussion with
Senate Interim Committee re. rule prohibiting
suspension of the absolute power of alienation

The Law Revision Commission discussed A. B. 249 (1957) with the Senate Interim Judiciary Committee in March 1958 with a view to seeing whether the bill would be acceptable to the members of the Committee if it were re-introduced in 1959. At that time some members of the Committee expressed concern about Section 5 of the bill which would have enacted the following new Section 771 of the Civil Code:

> 771. A trust is not invalid, either in whole or in part, merely because the duration of the trust may exceed the time within which future interests in property must vest under this title, if the interests of all the beneficiaries must vest, if at all, within such time.
>
> A provision, express or implied, in the terms of an instrument creating a trust that the trust may not be terminated is effective if the trust is limited in duration to the time within which future interests in property must vest under this title. But if the trust is not so limited in duration, such a provision is ineffective insofar as it purports to be applicable beyond the time within which future interests in property must vest under this title and the provision is wholly ineffective unless, consistently with the purposes of the trust, it may be given effect for some period not exceeding such time.

The concern expressed by members of the Committee was that the repeal of the suspension rule and the enactment of this provision to limit to duration of trusts would result in trusts of perpetual duration or at least which would last well beyond the period which is permissible under the suspension rule today. The Commission took the position that this was unlikely to happen because under the second paragraph of proposed new Section 771 the beneficiaries could terminate the trust by their joint action at any time

after the time within which future interests in property must vest -- i.e., lives in being plus 21 years. Some members of the Committee suggested, however, that this is not a sufficient safeguard because of the problem of getting the beneficiaries to agree upon termination, pointing out that each beneficiary would have a veto power with respect thereto.

At the end of the discussion it was agreed that the Commission would give the matter further consideration and would attempt to draft a revision of Section 771 which would meet the objections which had been expressed. It was further agreed that when this had been done the matter would again be placed on the agenda of the Interim Committee.

In the course of the Commission's further consideration of Section 5 of A. B. 249 we detected a problem which had not theretofore occurred to us in respect of the first sentence of the second paragraph of proposed new Section 771 of the Civil Code. This sentence might be construed to prohibit termination of an inter vivos trust which would not endure longer than the permissible perpetuities period even though the settlor and all of the beneficiaries, being competent and of age, desired termination. This would be a departure from present law and would be undesirable. While the Commission believes that the first sentence would not be so construed, it seems best to avoid any doubt on the matter by omitting the first sentence of the second paragraph altogether and revising the paragraph to read as follows :

> If a trust is not limited in duration to the time within which future interests in property must vest under this title, a provision, express or implied, in the instrument creating the trust that the trust may not be terminated is ineffective insofar as it purports to be applicable beyond such time and the provision is wholly ineffective unless, consistently with the purposes of the trust, it may be given effect for some period not exceeding such time. A provision, express or implied, in

> an instrument creating an inter vivos trust that the trust may not be terminated shall not prevent termination by the joint action of the creator of the trust and all of the beneficiaries thereunder if all concerned are competent and if the beneficiaries are all of the age of majority.

As to revising A. B. 249 to meet the questions raised by the Committee, the Commission considered the possibility of enacting a flat rule that no trust may endure for a period not limited to lives in being plus 21 years, by the enactment of a provision along the following lines:

> A provision, express or implied, in an instrument creating a trust which would require or permit the trust to continue in existence beyond the period within which future interests in property must vest under this title is to that extent void and the entire trust is void unless, consistently with the purposes of the creator thereof, it may be permitted to exist for some period not exceeding such time.

It was almost immediately perceived that such a provision would be undesirable, however, because it would strike down both deeds of trust and business (Massachusetts) trusts insofar as they would endure for periods not measured by lives in being plus 21 years, which many if not most of them do. (The impact of the present suspension rule on the duration of trusts is limited to ordinary private trusts. Deeds of trusts and business trusts do not fall thereunder because all interests under such trusts are transferable and hence such trusts are held not to suspend the absolute power of alienation.)

Moreover, this solution of the problem would be unsatisfactory because it would not obviate one of the principal defects in our present law and thus one of the principal reasons for making the suspension of alienation study in the first place. This, as is pointed out in Professor Turrentine's study, is that the present California law (which the proposal under dis-

cussion would codify) is unusually and unnecessarily restrictive in limiting the duration of ordinary private trusts to lives in being plus 21 years. The present rule puts California in a minority, if not in a unique position, among the several states in this regard and thus at a considerable disadvantage as a state in which to create trusts. (See discussion at pp. G-18-22 and G-28-29 of research study.)

After giving the matter careful consideration the Law Revision Commission decided to recommend that a third paragraph be added to Section 771 of the Civil Code as it would be enacted, so that it would read as follows:

[As in A.B. 249]

771. A trust is not invalid, either in whole or in part, merely because the duration of the trust may exceed the time within which future interests in property must vest under this title, if the interest of all the beneficiaries must vest, if at all, within such time.

[As revised above]

If a trust is not limited in duration to the time within which future interests in property must vest under this title, a provision, express or implied, in the instrument creating the trust that the trust may not be terminated is ineffective insofar as it purports to be applicable beyond such time and the provision is wholly ineffective unless, consistently with the purposes of the trust, it may be given effect for some period not exceeding such time. A provision express or implied in an instrument creating an inter vivos trust that the trust may not be terminated shall not prevent termination by the joint action of the creator of the trust and all of the beneficiaries thereunder if all concerned are competent and if the beneficiaries are all of the age of majority.

[New]

Whenever a trust has existed longer than the time within which future interests in property must vest under this title

(1) it shall be terminated upon the request of a majority of the beneficiaries

(2) it may be terminated by a court of competent jurisdiction upon the petition of the Attorney General or of any person who

would be affected thereby if the court finds that such termination would be in the public interest or in the best interest of a majority of the persons who would be affected thereby.

This proposed solution of the problem of placing limitations on the duration of trusts would make it impossible for any beneficiary or group of beneficiaries less than a majority to veto termination. It gives a majority of the beneficiaries the absolute power to compel dissolution of the trust after it has endured for a period measured by lives in being plus 21 years. As an additional safeguard, the proposed statute empowers a court to dissolve a trust after such period upon the petition of the Attorney General or of any interested person, even though a majority or even all of the beneficiaries desire to have the trust continued, if public or private interest so requires.

(1959 Report)

RECOMMENDATION OF LAW REVISION COMMISSION RELATING TO SUSPENSION OF THE ABSOLUTE POWER OF ALIENATION

At the 1957 Session of the Legislature Honorable Clark L. Bradley introduced Assembly Bill No. 249, a bill drafted by the Commission to eliminate from the Civil Code several provisions which collectively are known as the rule prohibiting suspension of the absolute power of alienation (hereinafter referred to as the suspension rule).[50] The bill failed to pass, principally because a question was raised as to whether it provided an adequate substitute for the suspension rule as a limitation on the duration of private trusts.[51] The Commission has studied the matter further since 1957 and has drafted a bill which it believes will meet the objections which were made to A. B. 249.

Assembly Bill No. 249 would have provided as a substitute for the suspension rule as a limitation on the duration of private trusts a new Section 771 of the Civil Code which would have read as follows:

> 771. A trust is not invalid, either in whole or in part, merely because the duration of the trust may exceed the time within which future

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[50] For the Commission's recommendation and its supporting research study on this subject, see Recommendation and Study relating to Suspension of the Absolute Power of Alienation, 1 Cal. Law Revision Comm'n Rep., Rec. & Studies at G-1 et seq. (1957).

[51] See discussion of the problem in the research consultant's report id at G-18-22.

> interests in property must vest under this title, if the interest of all the beneficiaries must vest, if at all, within such time.
>
> A provision, express or implied, in the terms of an instrument creating a trust that the trust may not be terminated is effective if the trust is limited in duration to the time within which future interests in property must vest under this title. But if the trust is not so limited in duration, such a provision is ineffective insofar as it purports to be applicable beyond the time within which future interests in property must vest under this title and the provision is wholly ineffective unless, consistently with the purposes of the trust, it may be given effect for some period not exceeding such time.

The concern expressed in 1957 was that the repeal of the suspension rule and the enactment of this provision to limit the duration of trusts might result in trusts of perpetual duration or at least which would last well beyond the period which is permissible under the suspension rule today. The Commission thought that this was unlikely to happen because under the second paragraph of proposed new Section 771 the beneficiaries could terminate the trust by their joint action at any time after the time within which future interests in property must vest -- i.e., lives in being plus 21 years. It was contended, however, that this is not a sufficient safeguard because of the problem of getting all of the beneficiaries to agree upon termination.

In the course of the Commission's further consideration since 1957 of proposed Section 771 of the Civil Code a question was raised as to whether the first sentence of the second paragraph thereof might be construed to prohibit

termination of an inter vivos trust which would not endure longer than the permissible perpetuities period even though the settlor and all of the beneficiaries, being competent and of age, desired termination. This would be a departure from present law and would be undesirable. While the Commission does not believe that the first sentence would be so construed, it seems best to avoid any doubt on the matter by omitting the first sentence of the second paragraph altogether and revising the paragraph to read as follows:

> If a trust is not limited in duration to the time within which future interests in property must vest under this title, a provision, express or implied, in the instrument creating the trust that the trust may not be terminated is ineffective insofar as it purports to be applicable beyond such time and the provision is wholly ineffective unless, consistently with the purposes of the trust, it may be given effect for some period not exceeding such time. A provision, express or implied, in an instrument creating an inter vivos trust that the trust may not be terminated shall not prevent termination by the joint action of the creator of the trust and all of the beneficiaries thereunder if all concerned are competent and if the beneficiaries are all of the age of majority.

After giving careful consideration to the matter of providing additional safeguards with respect to the duration of trusts the Law Revision Commission decided to recommend that a third paragraph be added to proposed new Section 771 of the Civil Code to read as follows:

> Whenever a trust has existed longer than the time within which future interests in property must vest under this title

(1) it shall be terminated upon the request of a majority of the beneficiaries

(2) it may be terminated by a court of competent jurisdiction upon the petition of the Attorney General or of any person who would be affected thereby if the court finds that such termination would be in the public interest or in the best interest of a majority of the persons who would be affected thereby.

This proposed solution of the problem of placing limitations on the duration of trusts gives a majority of the beneficiaries the absolute power to compel dissolution of the trust after it has endured for a period measured by lives in being plus 21 years. Thus it would make it impossible for any beneficiary or group of beneficiaries less than a majority to veto termination. As an additional safeguard, the proposed statute empowers a court to dissolve a trust after such period upon the petition of the Attorney General or of any interested person if public or private interest so requires, even though a majority or even all of the beneficiaries desire to have the trust continued.

A bill making these changes in proposed new Section 771 of the Civil Code, but otherwise substantially identical with A. B. 249, will be introduced at the 1959 Session of the Legislature by one of the legislative members of the Commission.

Married

State of California
DEPARTMENT OF EMPLOYMENT
800 Capitol Avenue
Sacramento 14, California

February 28, 1959

Direct Reply To:
53:CMR:dh

Hon. Clark L. Bradley
Member of Assembly
Room 4148, State Capitol
Sacramento 14, California

Dear Mr. Bradley:

We wish to call to your attention certain problems of major importance to the Department of Employment which could arise under the provisions of Assembly Bill No. 405.

The bill adds a new division to the Government Code, and repeals and adds certain sections relating to the Code of Civil Procedure, to prescribe a general procedure for the presentation of claims for money or damages against "local public entities". "Local public entities" is defined under Section 700 of the Government Code as added by the bill. This definition appears to include the Department of Employment at least insofar as it pays claims which are not paid by warrants drawn by the Controller. The Department of Employment does pay thousands of unemployment compensation insurance benefit and disability benefit claims by cash payment or by pay orders not drawn on warrants by the Controller. These payments of course are subject to special provisions of the Unemployment Insurance Code and other general controls provided by existing law applicable to special funds from which the payments are made. These controls are designed to and do adequately protect the State's interest.

The application of Assembly Bill No. 405 to benefit payments of the Department of Employment would seriously hamper the administration of the unemployment and disability insurance program. It is most probable that Federal officials would raise a question of conformity under such circumstances, thereby suspending the payment of unemployment insurance benefits in California. The bill thus raises potential problems of vital importance to the Department of Employment, to claimants for unemployment insurance benefits, to California employers, and to the State as a whole.

We note that Assembly Bill No. 405 expressly excludes claims for workmen's compensation and public assistance from its provisions. From these exclusions, we think it fair to infer that the proponents of the bill do not intend that the bill apply to the Department of Employment. Accordingly,

we suggest that any possibility of a construction that the bill applies to the Department of Employment be removed by specific language excluding claims arising under the Unemployment Insurance Code administered by the Department of Employment. For this purpose, we propose the addition on page 2, after line 46, of the printed bill, of subdivision (j) to Section 703, to read:

> "(j) Claims arising under any provision of the Unemployment Insurance Code, including but not limited to claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed."

We attach a line amendment reflecting our proposal. We urge your favorable consideration of the amendment. If you so desire, we shall be pleased to confer with you concerning this matter, at your convenience.

Sincerely,

S/ Maurice P. McCaffrey

Maurice P. McCaffrey
Principal Counsel

Enc.

Memorandum

UNIVERSITY OF CALIFORNIA

March 5, 1959

Professor John R. McDonough, Jr.
Executive Secretary
Law Revision Commission
School of Law
Stanford University
Stanford, California

Dear John:

A Mr. Chambers of the Los Angeles County Auditor's Office visited me this afternoon and discussed the Commission's Claims Legislation. I thought I should pass on to you his remarks, for they appear to represent the feeling that is current in the County Auditor's Office, and which therefore may also be reflected by the Auditor's Association.

His main concern was that the proposed General Statute, by cutting down the claim filing period for claims against counties from one year to one hundred days, and by providing for automatic rejection where the claim is not officially passed on within eighty days, would make the administration of Contract Claims by a large county such as Los Angeles practically impossible. On the basis of long experience in handling such claims for the County, he advised that frequently such claims (i.e., Contract Claims) were filed long after the one hundred day limitation would have expired, and that far longer than eighty days was often necessary to process and pay them.

I, of course, pointed out that Section 705 of the proposed bill would permit the County to prescribe its own filing and consideration times for all kinds of Contract Claims. After some discussion of this matter, he seemed to feel that Section 705 might be the answer to the problem which he was posing. He still had some doubts about it, however, chiefly because he visualized a great deal of administrative work on the part of someone in the County to incorporate in the thousands of County contracts a provision setting up a special claims procedure for such contracts.

A second matter which appeared to concern him was his belief that the new Claims Legislation would prevent the County from utilizing its present procedures under which most claims are presented to the County Auditor rather than to the Clerk of the Board of Supervisors. I advised him that in my opinion the new legislation would not alter this administrative practice, since Section 29740 of the Government Code appeared to authorize the Board of Supervisors to set up the alternative procedure under which the Auditor would receive and audit claims. I observed, however, that if there were any doubt about the legality of the Auditor procedures, I felt that there would not be any opposition to a clarification of the matter by way

of further amendment to Section 29740. As you will recall, former Section 29701 appeared to expressly authorize the Board of Supervisors to designate the Auditor as the recipient of claims. I have always construed Section 29701 in pari materia with Section 29740. In view of the fact that 29701 is to be repealed by the new legislation, it might be advisable to consider amending Section 29740 to expressly clarify this matter by authorizing the Board to designate the Auditor as the person to receive the claims. I pointed out to Mr. Chambers that the matter was more an administrative matter than a legal one, for the problem could easily be solved if there were any doubt about it through the expedient of appointing the personnel in the County Auditor's Office as ex officio Deputy Clerks of the Board of Supervisors for the purpose of receiving such claims.

A revised version of my Claims Study has gone to the U.C.L.A. Law Review and I expect that it will be published in the issue which is coming out shortly. Because of space limitations, I have rather drastically edited the study. I think the essence of the conclusions reached, and the supporting data for them, are included in the article as revised. Of course, I have insisted that the customary acknowledgement that the study was made under the auspices of the Commission, but does not necessarily reflect the opinions of individual members thereof or of the Commission itself, be appended on the first page.

Kindest personal regards.

Sincerely yours,

S/Arvo

Arvo Van Alstyne

AVA:cz

University of California
Office of the Dean
School of Law
Los Angeles 24, California

February 20, 1959

Professor John R. McDonough, Jr.
California Law Revision Commission
School of Law
Stanford, California

Dear John:

Yesterday I received a call from Mr. Roscoe Hollinger, Chief Auditor of Los Angeles County. Mr. Hollinger was concerned about two provisions in the Claims Statute bill.

One provision to which he objected was the one which established a 100 day claim filing period. Mr. Hollinger stated that in Los Angeles County there are literally thousands of claims which must be processed every month and that in many cases it would be completely impossible to adequately administer County business with a 100 day claim filing provision. When I questioned him further, he appeared to be mainly concerned about contract claims, many of which are delayed due to various reasons, for periods extending beyond the 100 days. I called Mr. Hollinger's attention to the fact that in proposed Section 705 of the new Claims Statute, there was ample authority for the County to include in its written agreements with vendors and other contractors with the County provisions prescribing a longer claim filing time and such other procedures in connection with claims arising out of such agreements as might be deemed desirable by the County. With the explanation, he appeared to be more favorably disposed to the 100 day limitation, which he recognized as being a desirable one with respect to tort claims.

A second matter with respect to which he felt some concern was the requirement that a claim be deemed to be rejected if not acted upon within 80 days. He stated that in connection with many kinds of claims, a full investigation and proceedings to negotiate a settlement could not be adequately completed within this period of time. He pointed out that the 1957 change in Government Code Section 29714, amending it from an "optional" rejection procedure to a "mandatory" rejection had proven to be unsatisfactory in the County of Los Angeles. Again, a rejection here seemed to be related primarily to contract claims and when I explained to him that the County could establish its own procedure in connection therewith by express agreement with its vendors, his objection seemed to be minimized.

One other matter that he mentioned, only incidentally, was that he felt it inadvisable to require all claims to be filed with the Clerk of the Board of Supervisors, and felt that at least in large counties like Los Angeles, many of them should be permitted to be filed with the County Auditor. I expressed the opinion that this was probably not a matter of substantial policy with the Law Revision Commission, and that I did not believe a great deal of opposition would be expressed to a proposal to add the Auditor to the list of persons to whom a claim could be validly presented.

In closing, I suggested to Mr. Hollinger that instead of taking a position opposed to the General Claims Statute, I believed that it would be much more constructive if the County were to seek to work out an appropriate modification of the language of the bill to the extent necessary to meet the County's objections. He seemed to be agreeable to this proposal, and said that he was going to refer the entire matter to Mr. George Wakefield, Assistant County Counsel in charge of presenting the County's legislative program to the Legislature. I am calling this matter to your attention since I am sure it is of some interest in connection with the future of the General Claims bill.

Sincerely yours,

Arvo Van Alstyne

AVA:cz

CC - Assemblyman Clark L. Bradley
California State Capitol Building
Sacramento, California

Thomas E. Stanton, Jr., Esq.
111 Sutter Street
San Francisco, California