

MINUTES OF COMMISSION MEETING

December 21, 2006

Present at the New Jersey Law Revision Commission meeting held at 153 Halsey Street, 7th Floor, Newark, New Jersey, were Commissioner Burstein, Grace Bertone of McElroy, Deutsch & Mulvaney attending on behalf of Commissioner Rayman Solomon, and Professor Bernard Bell of Rutgers Law School, Newark, attending on behalf of Commissioner Stuart Deutsch. Commissioner Burstein called the meeting to order, as Chairman Vito A. Gagliardi, Jr., could not arrive until later.

Minutes

The Minutes were accepted as submitted.

Title 39

Laura Tharney reported having attended two meetings of Traffic Safety Officers Associations, the joint meeting of the Monmouth and Ocean County organizations, and the State level organization. More than 100 officers were in attendance at those meetings. She will, on the basis of the feedback received and the direction provided by the Commission, make changes that render the penalties more consistent. She asked for the Commission's preference regarding offenses and penalties: 1) leave as is (with offenses and penalty provisions throughout Title 39), 2) remove both offenses and penalties from the various sections where they are now found and put them into one section, or 3) leave offenses where they are, making reference to them as Class A, B, or C; and put the penalties into one new section. The Commission prefers the third option, as did the vast majority of the police officers questioned about this issue.

Commissioner Burstein asked that the Commission see the offenses and penalties draft in January. Title 39 will not be on the February agenda. Ms. Tharney anticipates providing the entire report to the Commission in March.

Uniform Foreign-Country Money Judgments Recognition Act

Commissioner Burstein raised the issue of the standard "from the time the judgment is effective": how does one know when the judgment is effective? John Cannel said that it depends on each country's law. He relayed a suggested rewording by Commissioner Pressler for Point 6, Section 9: "An action must be commenced within the period that the judgment is effective in the foreign country or 15 years from the date the judgment became effective in the foreign country, whichever is earlier." The Commission decided to retain the version in the draft.

Residential Mortgage Satisfaction Act

Mr. Cannel said that he had made the changes that the Commission had decided upon. Professor Garland did not submit additional comments. Mr. Cannel reported that

Commissioner Pressler had told him that she had no further comments. The Commission approved the final report subject to concurrence of Chairman Gagliardi; Commissioner Pressler had indicated that she should be recorded in favor.

Married Women's Property

Commissioner Burstein said that a draft tentative report should be prepared for the January meeting. Some concern was expressed as to whether a statute would be necessary containing a generalized statement that marriage caused no diminution of rights based on gender. Commissioner Burstein suggested that a good explanatory statement to make it apparent that the repealer does not reestablish the old married woman disabilities would be sufficient.

Criminal Code Causation

Mr. Cannel said that a judge sitting in Mercer County had called suggesting amendment of 2C:2-3(c) which deals with causation in criminal matters. The section uses the word "probable" which causes problems for jury charges. Members of the Supreme Court Committee on Criminal Jury Charges confirmed the problem. Commissioner Burstein questioned the effect of the standard of "not too remote or accidental." Professor Bell suggested that the following wording, "same kind of injury or harm that is reasonably foreseeable" would give more direction than the word "probable" which calls for a higher degree of likelihood. Mr. Cannel will produce a draft for the next meeting using the word "foreseeable." Commissioner Burstein said that the Commission will consider the proposed project further at the next meeting.

Miscellaneous

The date for the next meeting is January 18, 2007, at which time the other proposed 2007 meeting dates will be considered.