

CAL. JUR. 2d

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CALIFORNIA JURISPRUDENCE

SECOND EDITION

A COMPLETE AND MODERN
STATEMENT OF THE LAW
AND PRACTICE OF THE
STATE OF CALIFORNIA

Volume 3

APPEAL AND ERROR §§ 1-292



By the Editorial Staff of the Publisher

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CALIFORNIA JURISPRUDENCE

SECOND EDITION

CITE BY TITLE AND SECTION

e. g. 3 Cal. Jur. 2d, Agreed Case,
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TABLE OF ABBREVIATIONS

AC	Advance California Reports
ACA	Advance California Appellate Reports
Adm C	Administrative Code
Ag C	Agricultural Code
ALR	American Law Reports Annotated
ALR2d	American Law Reports Annotated, Second Series
Am Jur	American Jurisprudence
Anno	Annotation
Bank C	Banking Code
B & P C	Business and Professions Code
C	California Reports
C2d	California Reports, Second Series
CA	California Appellate Reports
CA2d	California Appellate Reports, Second Series
CC	Civil Code
CCP	Code of Civil Procedure
ch	Chapter
CLR	California Law Review
Cof	Coffey
Const Art I § 1	Article and section California Constitution
Corp C	Corporations Code
CU	California Unreported
Deering's Gen Laws	Deering's California General Laws
Ed C	Education Code
Elec C	Elections Code
F	Federal Reporter
F2d	Federal Reporter, Second Series
F Supp	Federal Supplement
FRD	Federal Rules Decisions
F & G C	Fish and Game Code
Fin C	Financial Code
Gov C	Government Code
H & N C	Harbors and Navigation Code
H & S C	Health and Safety Code
Hast L J	Hastings Law Journal
Ins C	Insurance Code
Lab C	Labor Code
L ed	Lawyers' Edition U. S. Supreme Court Reports
Mil & Vet C	Military and Veterans Code
Ops Atty Gen	Opinions of the Attorney General

P	Page
P	Pacific Reporter
P2d	Pacific Reporter, Second Series
Pen C	Penal Code
Pol C	Political Code
Prob C	Probate Code
Pub Res C	Public Resources Code
Pub U C	Public Utilities Code
Rev & Tax C	Revenue and Taxation Code
SCLR	Southern California Law Review
S Ct	Supreme Court Reporter
Stan LR	Stanford Law Review
St B J	State Bar Journal
Sts & H C	Streets and Highways Code
subd	Subdivision
US	United States Reports
US Const	United States Constitution
Veh C	Vehicle Code
W & I C	Welfare and Institutions Code
Wat C	Water Code

TABLE OF PARALLEL REFERENCES

This table shows where the subject-matter of the various sections in CALIFORNIA JURISPRUDENCE is treated in CALIFORNIA JURISPRUDENCE, 2d. The figures in parentheses are page numbers of CALIFORNIA JURISPRUDENCE. Transfers of subject-matter to other articles are so indicated.

The reader should consult the indexes to CALIFORNIA JURISPRUDENCE, 2d for detail and for new matter not appearing in CALIFORNIA JURISPRUDENCE.

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AGREED CASE

I. IN GENERAL (§§ 1, 2).

II. SUBMISSION WITHOUT ACTION (§§ 3-10).

III. SUBMISSION AFTER BRINGING ACTION (§§ 11, 12).

I. IN GENERAL.

§ 1. Scope.

§ 2. Definitions and Distinctions.

II. SUBMISSION WITHOUT ACTION.

§ 3. In General.

§ 4. Controversies Submissible.

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III. SUBMISSION AFTER BRINGING ACTION.

§ 11. In General.

§ 12. Findings.

I. IN GENERAL

§ 1. **Scope.**—This article treats of the submission of a controversy to a court upon an agreed statement of facts, either with or without action. Other titles consider the submission of a controversy to an arbitrator or unofficial person designated by the parties involved,¹ actions for declaratory relief,² judgment by consent or stipulation,³ and stipulations as to evidentiary matters generally.⁴ Other articles should also be consulted for such matters as submission of fact questions to a jury, submission of a case for decision at the conclusion

1. ARBITRATION AND AWARD.

3. JUDGMENTS; TRIAL.

2. DECLARATORY RELIEF.

4. STIPULATIONS.

of trial,⁵ and the right to amend pleadings⁶ or reopen the case after submission of the cause.⁷

§ 2. Definitions and Distinctions.—An “agreed case” is a submission by the parties, to a court which can take jurisdiction, of a real controversy, all the ultimate facts essential to the determination of which are included in an agreed statement, for its final determination on matters of law.⁸ The definition embraces two different proceedings, both of which are often referred to under the name of “agreed case.” One is that whereby parties, without instituting an action, present an agreed statement of the controversy to a court for determination.⁹ In the other, a controversy is submitted to the court for its decision on the law, after the court has acquired jurisdiction through the commencement of an action in the ordinary way.¹⁰ The latter proceeding embodies an “agreed statement of facts” which has been defined as a statement agreed to or stipulated by respective counsel as constituting the facts of the case. It is merely a substitute for the evidence of the facts stated as agreed, and differs from an agreed case in the sense noted above in that the agreed case may be submitted without any pleadings.¹¹ The proceeding whereby a controversy is submitted without action is a special proceeding of a judicial character.¹²

II. SUBMISSION WITHOUT ACTION

§ 3. In General.—Parties to a question which might be the subject of a civil action may, without action, agree upon a case containing the facts upon which the controversy depends and submit it to any court which would have jurisdiction.

5. TRIAL.

10. §§ 11, 12, *infra*.

6. PLEADING.

11. *Towle v Sweeney* 2 CA 29, 83 P 74.

7. TRIAL.

8. *Am Jur Agreed Case* § 2.

12. *Brewster v Hartley* 37 C 15.

9. §§ 3-10, *infra*.