

August 30, 1955

Memorandum No. 6

Subject: Relationship with the
Legislature.

At the June 25 meeting the Commission discussed, inter alia, two questions with respect to the Commission's relationship with the Legislature:

- (1) Should the opposition which developed on the part of some members of the Assembly Judiciary Committee to the Calendar proposed by the Commission cause us to propose a different kind of Calendar in future sessions;
- (2) Should the Commission take steps to set up some kind of liaison with the Legislature and its committees, both during Sessions and during the interims between sessions, in order (a) to become better known to the members of the Legislature and (b) to give at least some of the members an opportunity to study our proposals at some length before they are acted upon.

No final decisions on these matters were taken at the June 25 meeting because a number of members of the Commission, including both of the Legislative members, were unable to be present.

The two problems mentioned were stated in my Memorandum No. 1 and Memorandum No. 8, respectively, distributed to the members prior to the June 25 meeting. Copies of these memoranda, redesignated A and B respectively, are attached hereto.

I recommend that these questions be considered at the September meeting.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

Memorandum No. A

It became apparent during the 1955 Session of the Legislature that a number of the Members are not in sympathy with the objectives of the Law Revision Commission as we have conceived them. Some Members apparently believe that there is no need for the commission. Others seem to believe that the commission should exist but that it should limit itself to functions closely related to those of the Code Commission - i.e. the revision of the various Codes in a primarily "mechanical" way for the purpose of reorganizing them where necessary, eliminating duplication and conflicts, etc. A number of Members stated that the commission should not recommend substantive changes in the law or that it should limit such recommendations to the minimum necessary to accomplish "mechanical" revision of the Codes.

The commission must now decide, I think, whether these attitudes should cause a change, either temporary or permanent, in its own view of its function. This question is relevant to all of its work. For example, it is possible that the commission might wish to consider whether it should not study some of the topics approved for study because they are too substantive in character. The question is probably of greatest importance, however, in connection with preparing the calendar of topics for study to be reported to the 1956 Session of the Legislature. The basic questions presented in this connection are, I think, these:

1. Should the commission present in 1956 a calendar of essentially the same kind as that presented in 1955?
2. Should the commission present in 1956 a calendar consisting of a number of relatively small individual items which are considerably less substantive in scope than those presented in 1955?
3. Should the commission present in 1956 a calendar consisting of a

few relatively large projects involving "mechanical" revision of Codes or parts of Codes?

It is important that the Agenda Committee have the Commission's view on this matter to guide future agenda work.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

JRM:11

Memorandum No. B

One thing which was apparent at the recent Session of the Legislature is that most members of the Legislature know little and understand less about the Law Revision Commission and the purposes for which it exists - at least as we understand those purposes. This lack of knowledge made it difficult, in several situations, for us to communicate effectively with committees about the matters for which we were responsible.

Another thing, related to the first, which was clear was that few, if any, members really understood the matters which we brought before them. The measure of success which we achieved was not due to the fact that we were able to explain what we were trying to do so much as it was to being taken on faith because we were the Commission. Given the time pressures on the members and the complexity of the matters which we brought before them, nothing else could reasonably have been expected.

It seems to me, therefore, that the Commission should begin now to think about how to remedy this situation - i.e., about ways in which we can communicate with at least some members of the Legislature in circumstances where there is a reasonable chance of being heard and understood. To get such a discussion started, I offer the following ideas:

1. Perhaps we should plan to close our books, so to speak, for a Session as early as October 1 of the preceding year so that our report can be printed and given to the members not later than November 1. Senator Cobey remarked at the Senate Judiciary Committee hearing on our agenda resolution that he hoped we would get our reports out well in advance of each Session. I think that at least some members would read our report if it got to them at so early a date.

2. I suggest that the commission's bills be introduced at the earliest possible time. Then, as soon as committee chairmen are designated I suggest that we approach the chairman of each committee to which a commission bill is assigned with a request that he appoint a subcommittee to meet with commission representatives (preferably during January and February) to consider the bill. Perhaps, if this were done in both houses we could persuade the subcommittees of the same committees in both to meet jointly. Finally, I think that we should try to get each bill set for hearing before a committee at the earliest possible date - i.e., as soon as its subcommittee has met. If this procedure is feasible I believe that it would go far both to acquainting a number of the members with the commission generally and to assure a consideration of our bills on their merits.

3. I suggest that the commission consider the possibility of maintaining liaison with interim committees working in the general areas in which its studies fall. I have suggested, for example, in the memoranda on the Inheritance Tax and Fish and Game Code studies that the appropriate interim committees might be told of these assignments and asked for their views about them as well as informed, from time to time, of the progress of the study. This might be done in the case of each study which the Commission undertakes. In the case of the interim Judiciary Committees we might even suggest that each of them appoint a subcommittee with which the commission could maintain liaison because most of our studies will fall in their areas of interest.

There are undoubtedly some disadvantages in this proposed procedure. It would create additional problems of administration in doing our work. I think that there may be some danger that some interim committees would attempt to take over or at least substantially to influence the commission's

work. Against this must be balanced what seems to me to be the considerable advantage of being able to say to a committee during a session that its interim committee was kept informed about a particular study while it was being made.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

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