

Memorandum No. 1

Subject: 1956-1957 Program

As you know, the commission requested and was granted authority by the 1956 Session of the Legislature to study the fifteen new topics listed in our 1956 report. In addition, the Legislature authorized and directed the commission to study four other new topics: (1) whether the California law of evidence should be revised to conform to the Uniform Rules of Evidence; (2) whether the law relating to habeas corpus proceedings in trial and appellate courts should be revised; (3) whether the law and procedure in condemnation proceedings should be revised; and (4) whether the various provisions of law relating to the filing of claims against public bodies and public employees should be made uniform and otherwise revised.

Topic No. 10 of those included in the commission's agenda resolution—use of evidence of sales of adjacent property in condemnation proceedings—ought, I should think, to be consolidated with the third of the four new topics listed above. If this is done, we will have a total of eighteen new topics for study.

Two matters relating to these new topics for study now require the commission's attention: (1) whether we should begin immediately to make arrangements with research consultants to have these studies made and in what order this should be done; and (2) how the prospective \$6900 deficit in our research budget for these studies can be covered.

Arrangements for Studies

Although the commission will not report on the eighteen new topics until the 1959 Session of the Legislature, it is, I assume, desirable to get them under way and completed as soon as possible. If contracts for studies on these topics are made with research consultants within the next couple of months, the consultants can in most instances be given reporting dates in the first six months of 1957. By then the commission's work for the 1957 Session will have been completed. If we can complete most of the eighteen new studies by January 1, 1958 we will have a year to discuss them with the State Bar and other interested parties and will also be able to complete for the 1959 Session of the Legislature some of the studies on topics authorized for study by the 1957 Session. I recommend, therefore, that the Chairman be authorized to contract with qualified research consultants to have the eighteen new studies made. I recommend also that the commission indicate to the Chairman, without binding him in this regard, the order in which the commission believes these studies should be undertaken if for financial reasons (see below) or otherwise it is not possible to begin all of them substantially at once.

Deficit in Research Funds

Our 1956-57 budget as submitted contained a total of \$14,000 for research, consisting of the following items:

Stanford Agenda Contract	2500
Research Consultants	8000
Studies Requested by Legislature	<u>3500</u>
TOTAL	\$14,000

The \$3500 item, which had been included to take care of additional assignments which might be made to the commission by the Legislature (such as the four topics referred to above), was deleted by the Department of Finance on the ground that an agency budget cannot include funds for new work which the agency may be given to do by the forthcoming Session of the Legislature. Hence the funds in the 1956-57 budget for research total only \$10,500.

In making up our budget for 1956-57 we estimated that ten of the fifteen topics would be done by research consultants at an average cost of \$800<sup>00</sup> each and that five would be done by the staff. Experience since shows, I believe, that we were wrong in planning to have a staff of the present size do any research studies in the future. In recent weeks it has become clear to me that the burden of work in connection with research consultant's reports—editorial work on all manuscripts and rewriting some of them, preparing and revising the commission's reports and recommendations to the Legislature and the statutes to be recommended, etc.—is all that the staff can reasonably be asked to do in addition to its general administrative duties. I recommend, therefore, that we plan to have all of the eighteen studies now authorized done by research consultants if the necessary funds can be made available.

My estimate of the cost of having the eighteen studies done by research consultants is as follows:

New Topic No.	Subject	Estimated Cost
1	Overlap between Penal Code and Vehicle Code	\$300
2	Guardians for Nonresidents	\$300
3	Confirmation of Judicial Partition Sales	\$300
4	Cutoff Date on Motions for New Trial	\$300
5	Rescission of Contracts	\$1000
6	Mortgages for Future Advances	\$800
7	Probate Code Section 259 et seq.	\$600
8	Escheat of Personal Property	\$300
9	Rights of Putative Spouse	\$1000
10	Evidence of Sale of Nearby Property In Condemnation Cases	*
11	Postconviction Sanity Hearings	\$600
12	Jurisdiction in Custody Matters	\$1000
13	Doctrine of Worthier Title	\$500
14	Arbitration Statute	\$1000
15	Survivability of Tort Actions	\$600
16	Uniform Rules of Evidence	\$3000
17	Habeas Corpus	\$800
18	Condemnation Law & Procedure	\$1500
(19)	Claims Statutes	\$1000
		<u>\$14,900</u>

\* Recommend consolidate with No. 18.

This sum plus the \$2500 for the Stanford contract brings our total research budget for 1956-1957 to \$17,400 or \$6900 in excess of the existing budget item.

Various measures might be taken to close or at least narrow this gap:

(1) Topics 1, 2, 3, 4 and 8 might be assigned to the staff, thus saving \$1500. For reasons which I have indicated, I believe this should be done only as a last resort.

(2) The sum committed to the Stanford contract might be reduced to \$1500, thus saving \$1000. This would be undesirable if it can be avoided. With \$2500 available during fiscal year 1956-57 I believe that Stanford will be able to put together a better balanced agenda for consideration by the commission than it has been able to do heretofore, due largely to the fact that some exceptionally well qualified people will be available particularly during the summer. I also hope that the Stanford contract can be written in such a way as to enable us to obtain some assistance from Stanford in putting the finishing touches on the commission's legislative program for the 1957 Session of the Legislature.

(3) An attempt might be made to use a part of this year's unused research funds to cover all or a part of the deficit. At the moment we have a balance of \$1700.44 in this account. Moreover, some time ago the Department of Finance reduced this year's research funds by approximately \$4200 upon learning that our research program for the current fiscal year would fall considerably short of the \$20,000 originally budgeted. Perhaps the \$4200 could be restored and the balance in the account (\$5900) used for research which we had originally intended to charge to the 1956-57 budget. Ralph Kleps

is of the view that current funds can properly be used for the eighteen new topics since study topics are not legally tied to any specific budget. I should think, however, that the matter should be fully discussed with the Department of Finance—even as to the use of the present balance of \$1700 for this purpose.

(4) A request might be made to the Department of Finance for an appropriation from the emergency fund, at least in the amount of \$6300 necessary to finance the four topics assigned to the commission by the Legislature. However, Ralph Kleps doubts that this will be done, if at all, until our research funds have been exhausted.