

Meeting

Date of Meeting: April 17-18, 1959
Date of Memo: April 10, 1959

Memorandum No. 4

SUBJECT: Study #37 (L) - Claims

The Claims statute bills (AB 405-410) were presented to the Assembly Judiciary Committee on March 25. We were given the opportunity to make a fairly complete opening statement which seemed to be generally well received by the members of the committee present. The Chairman then asked if there was any opposition to the bill and when several persons indicated they desired to be heard, the matter was put over until April 8 both because the hour was late and because there was some thought that the Commission might be able to get together with the opposition and iron out at least some of the difficulties.

When I discussed this development with Mr. Stanton we agreed that (1) the Commission should not undertake to amend its bills to meet questions which might be raised but should present the bills to the Committee on April 8 explaining its reasons for any provisions as to which opposition might develop or questions might be raised and leaving it up to the committee to determine whether and to what extent the bill should be amended and (2) we should advise the State Bar of the fact that there appeared to be some opposition to the bills and suggest that if the Bar is interested in having remedial legislation in this area enacted it might wish to have someone present on April 8

to make a statement in favor of AB 405-410. Mr. Stanton subsequently communicated these views to Mr. Sterling, President of the State Bar, and he in turn asked Arthur Connolly, Chairman of the Committee on Administration of Justice, to appear on April 8 in support of the bills.

On April 7 I received a telephone call from Goscoe Farley, the State Bar's legislative representative in Sacramento, advising me that Mr. Connolly was in Sacramento and had reported to him that the Northern Section of the Committee on Administration of Justice had considered AB 405 on April 6 and had raised a number of questions concerning it. I arranged with Mr. Farley to discuss these questions with Mr. Connolly in Sacramento on the morning of April 8 (the hearing being scheduled for 3:45 p.m.).

On April 8 I talked with Mr. Connolly and Mr. Garrett Elmore, Secretary of the Committee on Administration of Justice, who was also present. It turned out that the questions raised by the Northern Section of the Committee on Administration of Justice were both numerous and substantial. Mr. Connolly felt that in view of this fact he could not in good conscience offer unqualified support on behalf of the State Bar for the bills. He stated that he hoped that the hearing on the bills could be put over until after the next meeting of the Board of Governors, which will be held on April 23-25, so that the Board can consider the report of the CAJ and take an official position.

After I had spent the morning talking to Messrs. Connolly and Elmore and realized the substantiality of the State Bar objections and questions to the claims bills I suggested to Messrs. Cobey, Bradley

and Kleps at lunch that it would be unwise to go forward with the presentation of the claims bills that afternoon. They agreed and after further discussion it was decided that Mr. Bradley should ask the chairman of the Assembly Judiciary Committee at the afternoon meeting to appoint a subcommittee to consider AB 405-10 and that when the chairman of the subcommittee had been named we should advise him that the Commission would give further consideration to the claims bills at its April meeting and would then advise him when it would like to have a meeting of the subcommittee. This action was taken.

There is set forth in the several memoranda attached objections made and questions raised concerning AB 405 by various persons and organizations including the State Bar. I suggest the following procedure:

- (1) That the Commission review all of these objections at the April meeting and determine whether and to what extent to amend AB 405 in light thereof.
- (2) That immediately after the April meeting we advise the Board of Governors of the Commission's views respecting the various objections and questions raised by the Northern Section of the Committee on Administration of Justice so that the Board of Governors will understand clearly the consequences of whatever action it may decide to take. (It may be desirable to request an opportunity for the Chairman and the Executive Secretary to appear before the Board at its April meeting to discuss those matters.)

if any, on which the CAJ and the Commission are in disagreement.)

- (3) That as soon as the Board of Governors has taken a State Bar position on the bills we request the chairman of the subcommittee to set them for hearing. At that hearing the various matters on which the Commission and its opposition are still in disagreement would be heard and decided. Hopefully the subcommittee will work out a bill which it will recommend to the full committee.

Respectfully submitted

John R. McDonough, Jr.
Executive Secretary