

4/7/60

Memorandum No. 41 (1960)

Subject: Study No. 36(L) - Condemnation.

Attached as Exhibit I is a letter from Senator O'Sullivan. Mr. Bohn referred to this letter at our March 1960 meeting. An examination of the letter indicates that most of the bills listed therein relate to evidence and pre-trial procedure.

It is suggested that the Commission determine at the April 1960 meeting those areas of the eminent domain field upon which the Commission proposes to make recommendations to the 1961 legislative session. We will advise Senator O'Sullivan accordingly.

After discussing this matter with Mr. Nibley, our consultant, the staff submits the following as a tentative legislative program for 1961 on eminent domain:

(1) Evidence in eminent domain cases.

Statute and recommendation scheduled to go to Bar Committee after April meeting.

(2) Moving expenses and other incidental expenses.

Moving expense statute and recommendation scheduled to go to Bar Committee after April meeting. Commission should be able to dispose of other incidental expenses rather quickly. Consultant probably will recommend that no incidental expenses (other than moving expenses) be allowed and has scheduled delivery of material on this subject in time for the May meeting of the Commission.

(3) Taking of immediate possession and passage of title.

Commission considered this study at March 1960 meeting. Tentative statute will be considered at April 1960 meeting.

(4) Pre-trial procedures.

Consultant has scheduled this study for delivery in time for June meeting of Commission. This study is closely related to item (1) above.

(5) Allocation and apportionment of the award.

Consultant has scheduled this study for delivery in time for July meeting of the Commission.

This tentative legislative program for the 1961 session anticipates that the remainder of the areas in the eminent domain field will be covered by legislation submitted to the 1963 legislative session. In addition, the Commission may decide that legislation should be submitted to the 1963 legislative session to consolidate the statutes proposed in 1961 and in 1963 into one comprehensive statute relating to eminent domain.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

EXHIBIT I

VIRGIL O'SULLIVAN  
Eighth Senatorial District  
Tehama, Glenn and Colusa Counties

CALIFORNIA LEGISLATURE

S E N A T E

March 23, 1960

Mr. John H. DeMouilly  
Executive Secretary  
Law Revision Commission  
School of Law  
Stanford, California

Dear Mr. DeMouilly:

The Sub-committee on Eminent Domain of the Senate Judiciary Committee, consisting of Senators Beard, Grunsky, Rattigan and myself, met on March 16th and considered the matters hereinafter referred to. Senator James A. Cobey called to our attention the fact that the Law Revision Commission had retained the firm of Hill, Farrer and Burrill, Los Angeles, to consider the general field of Eminent Domain. Since many of the matters which we will consider will undoubtedly be examined by the firm, the Sub-committee was unanimously of the opinion that we should call the following matters to your attention and suggest consideration of the subject matter of the following bills:

- S.B. 69 Relating to negotiations by state agencies with respect to proposed acquisition of property. (Passed at 1959 Session-vetoed by Governor)
- S.B. 70 (Hollister) Provide residence of comparable quality.
- S.B. 345 Relating to offers of purchase in eminent domain. (Passed at 1959 Session-vetoed by Governor)
- S.B. 1313 (Cobey-O'Sullivan-Dolwig) Evidence in severance damage cases.
- S.B. 1314 (Dolwig-O'Sullivan-Cobey) Minimum and maximum damages.
- S.B. 1315 (Dolwig-O'Sullivan-Cobey) Verdicts where owner and lessee involved - separate damages.
- S.B. 1316 (Dolwig-O'Sullivan-Cobey) Order of proof in condemnation actions.

- S.B. 1317 (Dolwig-O'Sullivan-Cobey) Interest from date of order of possession. (obsolete)
- S.B. 1318 (Dolwig-Cobey) Service of map etc. on defendant.
- S.B. 1319 (Dolwig-O'Sullivan-Cobey) Appraisal and other records of State departments not confidential.
- S.B. 1320 (Dolwig-O'Sullivan-Cobey) Written offers by State prior to trial.
- S.B. 1417 (Dolwig) When condemned property becomes surplus - offer to former owner. (Not specifically assigned)

The contents of these bills is generally indicative of the problem areas most frequently brought to the attention of the Legislature and it is hoped that questions raised by the bills will be included in this overall study. The Sub-committee is taking no action on these bills awaiting a full report from the Law Revision Commission as to its study. For this reason and since there will undoubtedly be many more bills of similar import introduced at the 1961 Session, it is hoped that your studies can be concluded at a very early date. Will you please advise your plans in this regard.

Very truly yours,

s/Virgil O'Sullivan

VIRGIL O'SULLIVAN

VO'S:s

ccs: Senator Regan  
Senator Cobey  
Senator Hollister  
Senator Beard  
Senator Grunsky  
Senator Rattigan  
John A. Bohn

Enclosures