

12/8/60

Memorandum No. 107(1960)

Subject: Revisions Made in Approved Recommendations.

The following is a list of revisions made in recommendations already approved by the Commission. These revisions were made after going over the proposed legislation with the Legislative Counsel. These revisions do not change the policy decisions of the Commission. This memorandum is for your information. It is not included on the agenda for the December meeting of the Commission. If any Commissioner has any question about any of the revisions listed below, we can discuss the matter at the December meeting. Memorandum No. 105(1960) will present some policy matters to the Commission that may require revision of the recommended legislation included in the eminent domain recommendations.

Notice of Alibi (Recommendation dated September 19, 1960)

The chapter number for the new chapter created by the proposed legislation should be "4.5" rather than "4a." This requires a change in the title of the bill, a change in the first line of Section 1, a change in the third line of Section 1 and a change in subdivision (c) of Section 1028.2 on page 6.

On page 6, the second line of Section 1028.3, delete "Section 1028.2" and insert "this chapter".

On page 7, the last line of Section 1028.5, delete "under Section 1028.4".

On page 7, the first line of Section 1028.6, delete "Subject to Section 1028.7, if" and insert "If".

On page 8, second line from the top of the page, delete "under Section 1028.4".

On page 8, last line on the page, delete "Sections 1028.5 and 1028.6" and insert "this chapter".

Moving Expenses (Recommendation dated November 25, 1960)

On page 7, revise Section 1270.3 to read as follows:

1270.3. Whenever a person is entitled to reimbursement under Section 1270.1 for the cost of moving personal property, that portion of the reimbursement attributable to transportation may not exceed the cost of transporting such property 25 miles.

Whenever a person is entitled to reimbursement under Section 1270.2 for the cost of moving personal property, that portion of the reimbursement attributable to transportation may not exceed the cost of transporting such property 25 miles.

Reimbursement under this chapter may not exceed the value of the property moved.

On page 7, the first and second lines of Section 1270.4, delete "for moving personal property".

On page 7, third line of Section 1270.4, delete "on" and insert "from".

On page 7, fourth line of Section 1270.4, delete "located" and insert "moved".

On page 8, fourth line of Section 1270.5, after "The memorandum" insert "may be filed at any time after the costs are incurred but."

Evidence in Eminent Domain Cases (Recommendation dated November 25, 1960)

In Sec. 5, page 11, the following should be shown in strike out type before the remainder of the strike out type: "1845.5."

Taking Possession and Passage of Title (Recommendation dated
November 25, 1960)

In this recommendation, the primary subdivisions should be designated by "(a)", "(b)", etc., rather than "(1)", "(2)", etc. and the secondary subdivisions should be designated by "(1)", "(2)", etc., rather than "(a)", "(b)", etc. This change has been made throughout the recommended statute.

Page 16 of the recommendation, lines 6 and 7, delete "amount so determined in accordance with Section 1243.6" and insert "probable just compensation".

Page 16, line 8, delete the comma after "judgment".

Page 16, lines 12 and 13, delete "amount determined pursuant to subdivision (1) of this section" and insert "probable just compensation".

Page 16, line 13, delete the comma after "shall" and the comma after "order".

Page 18, last line, delete "by Section 1243.4".

Page 21, line 10, place commas before and after the phrase "but not to exceed double the amount of such excess".

Page 21, subdivision (4), delete "as provided in subdivision (2) of this section" and before "the" at the end of the line insert "the amount of or".

Page 22, first two lines of subdivision (6), restore the word "so" that was deleted and delete "pursuant to subdivision (5) of this section".

Page 23, third line, delete "any judgment" and insert "the judgment in the condemnation proceeding" and delete the words "providing for payment" appearing after the word "judgment".

Page 25, Section 1254, line 7, delete "said" and insert "the".

Page 25, last two lines of page, delete "deposit as" and after "required" insert "payment into court," and delete "in subdivision (1) of this section,".

Page 26, first line of page, delete commas before and after "by order".

Page 26, fourth line of subdivision (4), delete "deposit" and insert "pay into court".

Page 26, last line of subdivision (4), delete "subdivision (1) of".

Page 26, subdivision (5), second line, delete "depositing" and insert "paying into court".

Page 27, third line of subdivision (7), delete "deposited it" and insert "paid it into court,".

Page 27, first two lines of subdivision (8), delete ", as hereinbefore provided for,".

Page 28, line 11, after "Chapter 4" insert "(commencing with Section 16500)".

Page 29, Section 1255a, first line, delete "Subject to the provisions of this section, the", and insert "The".

Page 29, Section 1255a, third line, delete "thirty" and insert "30".

Page 30, third line from end of subdivision (3), delete "forty" and insert "40".

Page 31, Section 1255b, a paragraph (c) should be added to subdivision (1) of this section. This involves a policy question and is presented in Memorandum No. 105(1960).

Page 31, Section 1255b(2)(b) should read:

(b) As to any amount paid into court pursuant to Section 1254 or paid into court after entry of judgment, the date of such payment.

Page 32, first line, after "SEC. 11." Delete the rest of the line.

Page 32, line 2, delete "this" and insert "This".

Page 32, line 6, delete the period and insert ", except that Sections 5 and 6 of this act do not apply to any action or proceeding pending in the courts on such effective date.". Delete rest of section.

Page 33, line 2, delete "amend" and insert "add" and delete "5096 of" and insert "5096.3 to".

Page 35, first line of Section 1252.1, delete "(1)".

Page 35, second line from bottom of page, delete "(2)".

Page 35, last line on page, delete "subdivision (1) of".

Page 36, third line, delete "(3)".

Page 36, delete "subdivision (2) of" which appears twice on top portion of page.

Page 36, after "SEC. 3.", delete the rest of the line and insert: "Section 5096.3 is added to the Revenue and Taxation Code, to".

Page 36, delete all of 5096 (1) (8 lines).

Page 36, second line from bottom of page, delete "(2)" and insert "5096.3."

Page 37, line 2, delete "(1)" and insert "(a)".

Page 37, line 3, delete "(2)" and insert "(b)".

Page 37, SEC. 4, delete "takes effect" and insert "becomes operative".

Page 38, third line of text of resolution, delete "2d" and insert "second".

The amendment to Sec. 14 is considered in Memorandum No. 105(1960).

Page 41, SEC. 2, first line, delete "effective" and insert "operative".

Page 41, second line of SEC. 2, before "is" insert "of the 1961 Regular Session of the Legislature" and delete "people at the next general" and insert "electors,".

Page 41, SEC. 2, third line, delete "election," and delete the comma after "case" and delete "effective" and insert "operative".

Rescission of Contracts (Recommendation dated November 2, 1960)

Page 10, subdivision (7), after "39," insert "1533, 1566,".

Page 10, Section 1691, delete "(1)" at the beginning of the section.

Page 11, top line on page, delete "(2)".

Page 11, Section 1692, delete the numbers of each paragraph on this page.

Page 12, Section 1693, delete "(1)" and "(2)".

Page 18, Section 598, the subdivision designated "(1)" should be designated "(a)" and should be a paragraph.

Page 19, delete "(2)" and insert "(b)".

Inter Vivos Rights (Recommendation dated November 25, 1960)

Page 19, line four of the title, before "15300" insert "13672".

Page 19, line five of the title, delete "13671.5,".

Page 20, in the introductory clause for Sec. 2, delete "Article 4 of Chapter 2 of Title 1 of Part 3 of Division 1 of".

Similar adjustment, Sections 3 and 11.

On page 30, delete the last five lines on the page and insert:

SEC. 21. Section 13672 is added to the Revenue and Taxation

Code, to read:

13672. Where husband and wife hold property in joint tenancy, or deposit property in a bank or similar depository in their joint names subject to payment to either or the survivor, and such property had its source in quasi-community property of the marriage of the husband and wife, then upon the death of either of them, such property shall be treated for inheritance tax purposes as if one-half of the consideration for the acquisition of such property were furnished by each spouse.

For the purposes of this section, the term "quasi-community property" has the meaning given that term by Section 15300.

Page 31, delete all except last three lines.

Respectfully submitted,

John H. DeMouly
Executive Secretary