

6/12/67

Memorandum 67-38

Subject: Commission Activities During 1967-68

It would be helpful to have the Commission's views concerning the activities that the Commission wishes to engage in during 1967-68. The following are the staff's suggestions.

1. Recommendations substantially ready for publication

Two recommendations are substantially ready for publication and the staff believes that we should plan to approve them for publication at the July 28-29 meeting. These recommendations are discussed below.

a. Recommendation Relating to Escheat. We should be able to approve our recommendation on this subject for publication at the July 28-29 meeting. We have twice distributed a tentative recommendation for comments. Comments received to date on the second distribution do not indicate that any substantial revisions of the tentative recommendation are needed.

If we can approve this for publication at the end of July we will be sure to have the pamphlet containing our recommendation ready for the 1968 session. We were considerably handicapped this session by the fact that a number of our pamphlets were not available in printed form when the session commenced.

b. Tentative Recommendation Relating to Possession Prior to Judgment and Related Problems. We believe that the Commission is fully aware of the problems in this area, that the tentative recommendation can be made ready for publication after the June 29-July 1 meeting, and that we can publish the tentative recommendation after the July 28-29 meeting and then turn to other matters.

We believe that it is highly desirable that we publish our tentative conclusions on possession prior to judgment so that we will have those conclusions available as we work on other aspects of condemnation law. We anticipate that there will be comments on the tentative recommendation that will need to be considered at the time the Commission determines the content of the comprehensive statute some years from now. We do not believe, however, that it would be a profitable use of our time to expend any considerable amount of additional time on this aspect of the condemnation study.

In examining the tentative recommendation, we note that there is one matter that should perhaps be the subject of a bill at the 1968 session. This is the matter of costs and fees on abandonment. The matter is severable from the remainder of the tentative recommendation and the staff believes that it would be undesirable to leave the law in its present unsatisfactory condition until the comprehensive statute is prepared. We would make the same suggestion concerning date of valuation, but that problem is difficult to separate from the remainder of the tentative recommendation and is not one that needs immediate attention.

2. Follow-up work on previous recommendations

We anticipate some turnover in Commission membership after October 1. Hence, we believe that it would be most profitable to expend a substantial portion of our time prior to October 1 in follow-up work on previous recommendations. These include:

a. Lease recommendation. As soon as the staff has the opportunity to devote a significant amount of time to this recommendation, we

believe that it should be presented to the Commission to determine whether any change in existing law is needed and, if so, the nature of the change. The recommendation, if any, should be included in our Annual Report to the 1968 session.

b. Evidence Code. A consideration of the various problems that are alleged to exist in the Evidence Code would be a profitable expenditure of Commission time during the next few months.

c. Any other recommendations to the 1967 session that are not enacted. Consideration should be given to the reasons why any other recommendation to the 1967 session is not enacted and a determination should be made whether the same or a revised recommendation should be submitted to the 1968 session.

3. Inverse Condemnation

We have previously scheduled a recommendation on this subject for the 1969 session. Hence, notwithstanding the fact that there may be changes in Commission membership in October, we suggest that we commence work on the subject as soon as the consultant's study is received. We believe that this would be of substantial assistance in keeping this project on schedule.

4. Condemnation Law and Procedure

We suggest that no new aspects of this topic be considered until after the Governor has made his appointments to the Commission. The research study on The Right to Take should be ready for consideration in September. Thereafter, the staff will commence work on the research study on Compensation and Measure of Damages.

5. Fictitious Name Statute

Does the Commission wish to obtain a research consultant to prepare a study on this topic? Perhaps Mr. Harvey would be willing to undertake the preparation of a study. He has the background that would be needed--i.e., the practical problems of eliminating or revising the publication requirements.

Respectfully submitted,

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Executive Secretary