

5/26/78

Memorandum 78-30

Subject: Research Consultant

At the last meeting, the Commission suggested that the staff, with the assistance of Commissioner Love, make a search for a consultant to prepare the background study on the liability of community and separate property for the debts and torts of one or both spouses and the application of exemptions from execution where one or both of the spouses are debtors. The staff was requested to submit the name of a recommended consultant for approval at the June 1978 meeting.

After consulting with other persons, Commissioner Love compiled a list of names, ranked in the order of desirability as consultants. Her first choice, a USC professor, declined to undertake the job after taking the matter under consideration for about a week. Commissioner Love then turned the list over to the Executive Secretary because she planned to leave the state.

We are pleased to report that the second person on the list, Professor Susan Prager of U.C.L.A. Law School, has agreed to prepare the study. She is now engaged in finishing up another project, but she plans to take a sabbatical leave during the fall of this year and will work on the study during part of the summer and during the fall. She should have a draft by December 31, 1978. The draft should be in substantially final form by March 1, 1979. Under the circumstances, this is an excellent delivery schedule.

Professor Prager is a specialist in community property law. She has recently published articles that consist of an analysis of the concepts and the foundations of community property law: Prager, The Persistence of Separate Property Concepts in California's Community Property System, 1849-1975, 24 U.C.L.A. L. Rev. 1 (1976); Prager, Sharing Principles and the Future of Marital Property Law, 25 U.C.L.A. L. Rev. 1 (1977). Professor Prager looks forward with considerable interest to preparing the background study for the Law Revision Commission. The study is a natural continuation of her previous work in the community property field.

The staff recommends that the Commission approve, and direct the Executive Secretary to execute on behalf of the Commission, a contract with Professor Susan Westerberg Prager of the U.C.L.A. Law School to prepare the background study on the liability of the various kinds of community and separate property for the debts and torts of one or both spouses, the application of exemptions from execution where one or both of the spouses are judgment debtors, and related matters. Related matters would include the disposition of the statute pertaining to married women as sole traders (Code Civ. Proc. §§ 1811-1821).

The contract would call for completion of a draft of the study by March 1, 1979, but it is our hope that a fairly complete draft of the study would be in the hands of the Commission by December 31, 1978. The compensation for the study would be \$5,000. (Next fiscal year, we would make a small contract to cover travel expenses of the consultant in meeting with the staff and the Commission.) The contract would follow the usual form of Law Revision Commission research consultant contracts.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary