

12/18/56

Memorandum No. 1

Subject: Studies to be Completed for  
1957 Session.

The Commission has completed its work on the following 13 studies and its recommendations on them will be submitted to the 1957 Session of the Legislature:

- Study 1 -- Suspension of the Absolute Power of Alienation
- Study 2 -- Judicial Notice of Foreign Country Law
- Study 3 -- Dead Man Statute
- Study 4 -- Law Governing Survival of Actions
- Study 5 -- Section 201.5 of the Probate Code
- Study 6 -- Effective Date of Order Granting New Trial
- Study 7 -- Retention of Venue for Convenience of Witnesses
- Study 8 -- Marital "For and Against" Testimonial Privilege
- Study 9 -- Technical Revision of Sections 1377 and 1378  
of the Penal Code
- Study 10 -- Penal Code Section 19a
- Study 12 -- Taking Instructions to Jury Room
- Study 13 -- Bringing in Additional Parties
- Study 15 -- Attorneys Fees and Costs Without Order to  
Show Cause

In addition the Commission will be submitting a bill to revise the Fish and Game Code.

The Commission has not completed the following studies which were authorized by the 1955 Session of the Legislature:

Study 11 -- A study to determine whether Sections 2201 and 3901 of the Corporations Code should be made uniform with respect to notice to stockholders before all or substantially all of the assets of a corporation may be sold.

Study 14 -- A study to determine whether a statute should be enacted to make it unnecessary to have an administrator appointed in a quiet title action involving property to which some claim was made by a person since deceased.

Study 16 -- A study to determine whether there is need for clarification of the law respecting the duties of city and county legislative bodies in connection with planning procedures and the enactment of zoning ordinances when there is no planning commission.

As you know, the Commission's 1957 report to the Legislature contains a footnote, which has been discussed at some length, explaining why the Commission is not in a position to make a report on Study 14 (Administrator in quiet title action). We have been assuming, however, that the Commission would complete its work on Studies 11 (Corporations Code) and 16 (Planning Procedures) in time to submit a recommendation to the 1957 Session. The research reports on these two studies were assigned to the staff. Primarily because the work of preparing the manuscripts for the printer on the 13 studies which we have completed took a great deal more staff time than we had anticipated, it has not been possible for us to begin work on Studies 11 and 16. This makes it necessary to decide now what to do about them. I have two courses of action to suggest:

1. We might simply regard these studies as not being possible of completion for the 1957 Session. In this event either of two changes should be made in our 1957 report to the Legislature: (a) We should change the last sentence in the first paragraph on page 9 of the report, which now reads:

X "The Commission expects to submit a recommendation relating to each of these topics, with the exception of Topic 14, to the 1957 Session of the Legislature," to read as follows: "The commission is submitting recommendations relating to most of these topics to the 1957 Session of the Legislature" and eliminate footnote 4a from the report, or (b) the sentence just referred to should be changed to read "The Commission is submitting recommendations relating to all but three of these topics to the 1957 Session of the Legislature" and footnote 4a should be expanded to include reference to Studies 11 and 16. (ND)

2. We might plan to introduce "spot" bills on the subject matter of Studies 11 and 16 in January, prepare research reports on them and complete Commission consideration of them during January and February, and then amend the bills after the constitutional recess to accomplish such revision of existing law as the Commission may decide to recommend. This course would, I believe, be possible; at the moment it would appear that the staff would have time to complete studies on these subjects within a month or six weeks after January 1 since neither of them appears to be particularly complicated and a relatively slack period appears to be in prospect at that time.

Of the topics which the Commission was authorized to study by the 1956 Session of the Legislature, we had originally contemplated making reports to the 1957 Session on Studies 26 (whether the law relating to escheat of personal property at death should be revised), 32 (whether the Arbitration Statute be revised), and 35 (whether the law respecting habeas corpus proceedings in the trial and appellate courts, should, for the purpose of simplification of procedures to the end of more expeditious and final determination of the legal questions presented, be revised). It was expected that the staff would prepare a research report on Study 26 and that the Commission's reports on Studies 32

and 35 would be based on the reports of research consultants Kagel and Selvin respectively. It now appears, however, that the Commission will not file a report at the 1957 Session on either Study 32 or Study 35 and that it will not be in a position to file a report on Study 26 (escheat) by January 1. Study 26 was also assigned to the staff for the preparation of a research report and for the same reasons as set forth above, we have not been able to prepare such a report as of this date. I believe that in this instance, also a "spot" bill could be introduced during the first part of the 1957 Session and that a research study and the Commission's action thereon might be completed during January and February and the bill amended after the constitutional recess to make whatever changes the Commission might decide to recommend in existing law. However, this study appears to be a more complicated one than either Study 11 or Study 16, as to which a similar recommendation was made above.

In any event, the sentence on page 12 of the third draft of the Commission's report which reads "The Commission expects to be able to submit a report on Topics 8, 14 and 17 [Studies 26, 32 and 35, respectively] to the 1957 Session of the Legislature and on the other topics to the 1959 Session" should be revised to reflect the decisions made concerning Studies 26, 32 and 35.

Respectfully submitted,

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Executive Secretary