

6/1/65

Memorandum 65-32

Subject: Recommended legislation not enacted by Legislature

Some time ago, the Commission suggested that the staff review the various recommendations made by the Commission that have not been enacted into law. This review was to be made for the purpose of determining whether the Commission should request authority to make a new recommendation on any of these topics (where the topic has been dropped from our agenda).

The following is a list of the Recommendations that were not enacted into law. (You will note that in some cases, the substance of the recommendation was later enacted into law.)

With respect to recommendations made to the 1961 Legislature and subsequent sessions, we indicate our suggestions as to what action should be taken. With respect to recommendations made to the 1957 and 1959 sessions, we hope that Commissioners McDonough and Stanton can advise the Commission as to what action should be taken.

1957

Senate Bill No. 33 (Taking Instructions to Jury Room)

This topic has been continued on our agenda. The Commission will be considering this topic again after the Judicial Council has notified us as to whether court rules can take care of the problem.

Assembly Bill No. 247 (Dead Man Statute)

The Evidence Code accomplishes the purpose sought to be accomplished by this bill.

Assembly Bill No. 248 (Marital "For and Against" Privilege)

The Evidence Code accomplishes the purpose sought to be accomplished by this bill.

Assembly Bill No. 246 (Retention of Venue for Convenience of Witnesses)

1959

Senate Bill No. 160 (Right of Nonresident Aliens to Inherit)

Assembly Bills Nos. 400 and 402 (Overlapping Provisions of Penal and Vehicle Codes)

Assembly Bill No. 403 (Notice to Shareholders of Sale of Corporate Assets)

1961

Senate Bill No. 205 (Evidence in Eminent Domain Proceedings)

The substance of this recommendation is being presented by Senator Cobey to the 1965 Legislature in Senate Bill No. 967 and it appears likely that this bill will become law. In any case, this topic is included on our agenda as a part of the study of condemnation law and procedure.

Senate Constitutional Amendment No. 6 and Senate Bill No. 207 (Extension of Right of Immediate Possession)

This topic is included on our agenda as a part of the study of condemnation law and procedure. We believe that we should submit a recommendation to the 1967 Legislature that the Constitution be amended as suggested in SCA No. 6.

Senate Bill No. 203 (Reimbursement for Moving Expenses)

Some provision for moving expenses will most likely be enacted by the 1965 Legislature. Perhaps the Commission will want to consider extending the right to all public entities. In any case, this topic is included on our agenda as a part of the study of condemnation law and procedure.

Assembly Bill No. 466 (Rescission of a Release)

Since our basic rescission statute was enacted, we do not believe that this bill is of sufficient importance to justify submitting another recommendation that it be enacted.

Senate Bill No. 208 (Presentation of Claims Against Public Officers and Employees)

The substance of this recommendation was enacted in 1963 as a part of the general governmental liability statute.

Assembly Bill No. 464 (Notice of Alibi in Criminal Actions)

We recommend that no action be taken to revive this topic. The Joint Legislative Committee to Revise the Penal Laws is going to consider this problem.

1963

Senate Bill No. 46 (Liability of Public Entities for Ownership and Operation of Motor Vehicles)

The substance of this recommendation is presented to the 1965 Legislature in Assembly Bill No. 1735.

Senate Bill No. 71 (Discovery in Eminent Domain Proceedings)

We believe that this is a sound recommendation and should be considered for inclusion in the comprehensive eminent domain statute. We do not need any additional authority to reconsider this recommendation.

1965

We are hopeful that all legislation recommended by the Commission will be enacted. If it is not, we recommend that the legislation be recommended for enactment at the 1967 legislative session.

Respectfully submitted,

John H. DeMouilly
Executive Secretary