

8/26/71

Memorandum 71-56

Subject: Annual Report

Summary

The staff recommends the following schedule for work on the topics on our agenda:

October 1971-December 1972. Substantially all time to be devoted to eminent domain study.

December 1972- Substantially all time to be devoted to completing work on eminent domain and to attachment-garnishment-exemptions.

A substantially final draft of the proposed legislation would be available in preprint bill form in December 1972 and the recommendation on eminent domain would be available in printed form by August 1973. Topics not listed above would be considered only when the staff is working on background material on eminent domain and material is needed for Commission meetings. Topics that might be considered would include: (1) oral modification of a written contract (study completed), (2) liquidated damages (study completed), (3) nonresident alien's right to inherit (study substantially completed), and (4) recent developments in legislation enacted upon Commission recommendation. Inverse condemnation would not be considered until 1974 at the earliest, except that the study now in preparation by Professor Van Alstyne would be considered as soon as it is prepared.

Research contract moneys are very limited. We may find that we need to use these moneys to pay other costs, such as printing. If moneys are available toward the end of the present fiscal year, the Commission should consider which of the two studies listed below should be financed:

1. Water damage.
2. Prejudgment interest.

The staff suggests that the Commission not request authority to study any new topics. We do suggest, however, that the scope of the custody study be expanded. See Exhibit II (attached) for a statement prepared for inclusion in the Annual Report.

Analysis

The Annual Report will be prepared after the Commission determines (1) what recommendations it will submit to the 1972 Legislature and (2) what priorities it will give topics on its agenda.

Recommendation to 1972 Legislature. It appears that the only significant recommendation to the 1972 session is the Employees' Earnings Protection Law. Possibly, the Commission will also submit a recommendation on compulsory joinder of causes.

Priorities to be given topics on agenda. The staff recommends that priority be given to condemnation law and procedure with a view to having a fairly final draft of the statute printed as a preprinted bill in December 1972. During 1973, the preprinted bill could be studied by special legislative subcommittees and the bill, revised in light of this study, could be recommended for enactment at the 1974 legislative session. We would use the type for the preprinted bill to prepare our report which should be available in printed form in August 1973. This schedule can be met only if substantially all the Commission's time is devoted to eminent domain within the time between now and December 1972. See Exhibit I attached for a discussion of the work completed and the work that remains on the eminent domain study.

We may find that attachment, garnishment, and exemptions from execution will be a topic that will require substantially all of our time. However, unless court decisions make this essential, the staff suggests that we plan to complete the major work on the eminent domain study before we work on attachment-garnishments-exemptions. We should be able to devote a significant portion of our time to attachment-garnishments-exemptions after December 1972.

We suggest that work on other topics be deferred until after December 1972 unless they can be worked into the agenda for particular meetings without delaying work on condemnation. (Sometimes, the preparation of background material on particular aspects of eminent domain necessarily delays Commission consideration of those aspects. If a number of aspects require substantially all the staff time, the Commission may find it more desirable to take up a topic upon which background research has been completed, rather than delaying meeting until the background work on eminent domain is completed.)

Research contracts. A review of the budget for the current fiscal year and the one proposed for next year will indicate that we have no significant amount of money for background research studies. Fortunately, we have contracted for the background research on the two major studies now under active consideration--eminent domain and attachment-garnishments-executions. We are concerned that we do not have sufficient funds for printing and for other operating expenses that are essential. Accordingly, the staff recommends that we make no research contracts at this time. When the Commission determines that funds are available for research, we would recommend that prejudgment interest be given a top priority. We doubt that we will ever have enough funds to finance a study of water damage.

New topics. The Commission should request that the scope of the custody study be expanded to permit revision of other aspects of bodies of statute law that will be substantially revised in carrying out the consultant's recommendations. See Exhibit II attached.

We recommend that no other topics be requested for study. The subject of class actions is under active interim study by the Assembly and probably by the Senate as well. It would merely duplicate these efforts for the Commission to make a study of class actions.

Marshall B. Grossman, Los Angeles attorney, has suggested that the Commission make a study of the possible use of form pleadings in the area of complaints and answers. See Exhibit III. We do not believe this would be a profitable study and, if it would be, it would seem one that would be more appropriately made by the Judicial Council.

Miss Billie Laing, Bakersfield, suggests a revision of Section 585.4 of the Code of Civil Procedure to include an uncontested dissolution proceeding. See Exhibit IV. We do not think this is an appropriate topic for a full scale study by the Law Revision Commission.

Donald H. Maffly, San Francisco attorney, suggests a study of the meaning of "permanent minutes" under Code of Civil Procedure Section 660 and Rule on Appeal 2(b)(2). See Exhibit V. Even though Code of Civil Procedure Section 660 is one adopted on Commission recommendation, we do not believe the matter is one that would be an appropriate topic for a full scale study by the Law Revision Commission.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

EXHIBIT I

1. CONDEMNATION LAW AND PROCEDURE

Work on some aspects of condemnation law is substantially completed; work on other aspects is well underway. The following summarizes the work accomplished and the work that remains.

Taking possession prior to judgment

A tentative recommendation and background study on this aspect of condemnation law was published in 1967. The comments received have been reviewed and revised provisions incorporated into the comprehensive statute. A few details remain to be worked out, but they will not require substantial time.

The right to take

Substantial time and resources have been devoted to this aspect of condemnation law during the last several years. Many of the needed provisions covering the right to take have been drafted. Some important aspects remain to be considered; the staff will be preparing background material and memoranda on these matters and we hope to have a tentative recommendation, including a preliminary portion explaining the proposals, in draft form before July 1, 1972. We would hope to send this to the printer shortly thereafter.

Significant matters that remain to be considered include:

1. Property exempt from condemnation (such as cemetery property).
2. The role of the Public Utilities Commission in condemnation actions (manner of joint use, and the like).
3. Takings for state purposes, including State Property Acquisition Act.
4. Property owner's right to require taking of remnants or entire interest.
5. Consequences of defeating acquisition (costs, and the like).
6. Procedure for raising right to take questions.
7. Requirement that condemnor commence proceeding within specified time.
8. Right to condemn personal property, security interests, and the like.
9. Taking right of temporary occupancy.
10. Excess condemnation (substantial work remains in reviewing comments of State Bar Committee and others).
11. Public hearing, and other provisions from federal statement of condemnation policy.
12. Conforming changes in other codes.

Just compensation and measure of damages

The Commission will seriously commence work on this aspect of eminent domain law at the September meeting. Staff will prepare any needed background studies.

Apportionment and allocation of the award

We made a research contract with Joseph B. Harvey, former Assistant Executive Secretary of the Law Revision Commission, to prepare a background research study on this aspect of the topic. The contract calls for the completed study not later than July 1, 1972.

Condemnation procedure

We have received the first portion of the study being prepared by our consultant, Norman Matteoni. This portion has been reviewed and the staff is now working on a draft statute. The consultant is working on the remainder of the study and we expect to receive a substantial additional portion within the next few months.

Conforming changes

It will be a substantial task to amend, repeal, and otherwise conform the existing statutes to the new statute. We will want to eliminate unnecessary duplication of provisions, eliminate obsolete and inconsistent provisions, and generally tidy up the law. This will be a staff job initially, but will require review by the Commission.

2. INVERSE CONDEMNATION

We have published our report containing the background studies prepared by our consultant, Professor Van Alstyne. An additional study by Professor Van Alstyne was contracted for and is in progress. This study will cover general ways of limiting inverse condemnation liability.

We have submitted several recommendations arising out of this study and they have been enacted. The Commission has reviewed most of the Van Alstyne studies, and has deferred study of the remaining portions or has concluded that they are not appropriate matters for legislation.

The Commission has discussed contracting for a study of water damage, but it is unlikely that such a study could be financed with the available research funds.

3. COUNTERCLAIMS AND CROSS-COMPLAINTS

Recommended legislation was enacted by 1971 Legislature. Continued on agenda for study of future developments.

4. JOINDER OF CAUSES OF ACTION

Major recommendations enacted by 1971 Legislature. Compulsory joinder by plaintiffs still under study. We have distributed a tentative recommendation on that matter for comment, and we may submit a recommendation to the 1972 Legislature.

5. ATTACHMENT, GARNISHMENT, EXEMPTIONS FROM EXECUTION

We submitted a recommendation relating to discharge from employment because of wage garnishment to the 1971 Legislature, and the recommended legislation has passed the Senate.

We have distributed a tentative recommendation relating to wage garnishment procedure and related problems for comment.

We have contracted with Professors Warren and Riesenfeld for the additional research needed in this field. The next step in the study should be preparation by the consultants of a memorandum outlining the entire field, the problems that need study, and suggestions as to priorities.

6. LEASE LAW

We have retained this topic on our agenda for study of future developments. We have contracted with Professor Friedenthal for a study on disposition of the lessee's property upon abandonment or termination of a lease. It is not unlikely, however, that this matter will be dealt with by legislation enacted at the current session. One of Professor Friedenthal's research assistants has been working with a member of the Legislature in developing legislation on this subject. Accordingly, it is possible that the Commission will not need to give further consideration to this topic within the foreseeable future.

7. RIGHT OF NONRESIDENT ALIENS TO INHERIT

We have received a preliminary draft of the background study on this subject. This draft is being reviewed by various experts in the field before the consultant delivers the final version. The problems are complex and will require considerable work. But, at the same time, some legislation is needed since the existing California statute on the subject is unconstitutional.

8. GOVERNMENTAL LIABILITY

This topic is retained on our agenda for study of future developments. The staff does not plan to bring any aspects of the topic up for Commission consideration within the foreseeable future. (The inverse condemnation study now in progress will involve, however, such matters as the claims statute.)

9. CUSTODY PROCEEDINGS

We have received a background study on this topic. The staff has recommended that the topic be expanded.

10. ARBITRATION

This is a follow-up study on the arbitration statute enacted in 1961 on Commission recommendation. The consultant failed to deliver the background study on schedule and probably will never deliver it. We do not consider the topic as one that should be given any priority. When the background study is in hand, the Commission can consider whether it wishes to give the topic a priority.

11. LIQUIDATED DAMAGES

We have received a background study from the consultant and you have been sent a copy. This is a complex problem. The study has not yet been considered by the Commission.

12. ORAL MODIFICATION OF A WRITTEN CONTRACT

A staff study has been prepared and you have been sent a copy. The study recommends that the existing law, with a few changes, be codified; the existing statute does not reflect the existing law, which is primarily case developed law. The study has not yet been considered by the Commission.

13. PREJUDGMENT INTEREST

This topic was added to the Commission's agenda by the 1971 Legislature upon recommendation of the State Bar of California. We do not have a consultant on this topic, and a consultant should be obtained on a priority basis when research funds are available.

14. PAROL EVIDENCE RULE

This topic was added to the Commission's agenda by the 1971 Legislature upon recommendation of the Commission. We do not have a consultant on this topic, and the staff recommends that we defer work on it for the present.

15. NONPROFIT CORPORATIONS

We do not have a consultant on this topic.

16. PARTITION PROCEDURES

We do not have a consultant on this topic. When time permits, the staff will prepare a background study. This will not be prepared within the next two or three years.

OTHER TOPICS CONTINUED ON CALENDAR FOR FURTHER STUDY

The following topics are continued on the calendar for further study of new developments:

1. Escheat; unclaimed property (legislation enacted)
2. Quasi-community property (legislation enacted)
3. Powers of appointment (legislation enacted)
4. Evidence (legislation enacted)
5. Unincorporated associations (legislation enacted on some aspects)
6. Fictitious business names (legislation enacted)

EXHIBIT II

TOPICS FOR FUTURE CONSIDERATION

A study to determine whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised.

Resolution Chapter 42 of the Statutes of 1956 authorized the Law Revision Commission to study "whether the law relating to jurisdiction of courts in proceedings affecting the custody of children should be revised."¹ The Commission retained Professor Brigitte M. Bodenheimer, Research Professor of Law, University of California, Davis, to prepare a background study on this topic. Professor Bodenheimer's study has been completed and published in the Stanford Law Review.² Perhaps the most important of Professor Bodenheimer's recommendations is that the standards for custody determinations be made uniform, whether the custody issue is raised in a proceeding under the Family Law Act or in a guardianship, adoption, or other proceeding.

One problem in attempting to achieve such uniformity is that the present provisions relating to child custody are hopelessly intertwined with other matters in the various statutes dealing with the subject. For example, the statute governing guardianship proceedings commingles provisions relating to guardianship of the person of a minor with provisions relating to guardianship of the person of an adult incompetent and, in addition, commingles these provisions with provisions relating to guardianship of the estates of such persons. To deal with the child custody problems in a guardianship proceeding, it will be necessary to sort out the provisions relating to guardianship of

1. See 1 Cal. L. Revision Comm'n Reports, 1956 Report at 29 (1957).
2. See Bodenheimer, The Multiplicity of Child Custody Proceedings--Problems of California Law, 23 Stan. L. Rev. 703 (1971).

the person of a minor and to completely reorganize the entire guardianship statute. Any useful reorganization of the guardianship statute should also include revisions needed to modernize the statute generally. However, the study previously authorized covers only child custody and does not permit a study of other needed changes in the guardianship law.

Similarly, some reorganization of the existing statutory provisions relating to adoption is absolutely essential in order to draft legislation to effectuate Professor Bodenheimer's recommendations. But, in addition, the Commission believes an overall reorganization of this body of law is needed. In reorganizing a new adoption statute, it would no doubt be desirable to also make substantive revisions that might not be within the scope of the previously authorized study.

In short, the Commission believes that the maximum return for the resources expended can be realized only if other aspects of the various statutes that will need to be reorganized in effectuating the child custody recommendations are reviewed at the time these statutes are redrafted. Accordingly, the Commission recommends that the scope of the study previously authorized be expanded to permit this review.³

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3. In connection with the study of the law relating to guardianship proceedings, it should be noted that a special committee of the State Bar has been appointed to study the Uniform Probate Code. This committee has under study the provisions of the Uniform Probate Code dealing with the protection of persons under disability and their property. See California and the Uniform Probate Code, 46 Cal. S.B.J. 290, 294 (1971). If the previously authorized study is expanded as recommended, the Commission would defer work on child custody aspects of guardianship law until the State Bar committee has completed its study of the related portion of the Uniform Probate Code.

Memo 11-56

Exhibit III

LEON S. ALSCHULER
BENJAMIN F. SCHWARTZ
MELVYN B. FLIEGEL
MARSHALL B. GROSSMAN
HERBERT A. KARZEN
IRVING L. HALPERN
LAWRENCE KIRK
BARRY L. COLLEN
W. Z. JEFFERSON BROWN
GERALD B. KAGAN
BRUCE WARNER
PAUL D. LABIN

LAW OFFICES OF
SCHWARTZ & ALSCHULER

1880 CENTURY PARK EAST, SUITE 1212
CENTURY CITY
LOS ANGELES, CALIFORNIA 90067

December 21, 1970

OF COUNSEL
RICHARD H. MILLEN
BURNETT L. ESSEY

TELEPHONES
(213) 277-1226
(213) 879-1226

CABLE ADDRESS
SAGELAW

OUR FILE NO.

John H. DeMoulley, Executive Secretary
California Law Revision Commission
School of Law
Stanford University
Stanford, California 94305

Dear Mr. DeMoulley:

There are two points which I wish to discuss with you by this letter.


First, the Practice and Procedure Committee of the Beverly Hills Bar Association is a standing committee devoted to the study of matters in the area of civil practice and procedure. From time to time, the work of the California Law Revision Commission is brought to the attention of the committee, but it is only by happenstance. If you are able to place the Chairman of that committee as the same may be from time to time on your mailing list, it would facilitate the opportunity of the Practice and Procedure Committee to be of assistance to the Commission in its work. Specifically, the Committee would have the opportunity to review proposed legislation and offer its comments and criticisms. If this is agreeable, all correspondence may be addressed to the Chairman of the Practice and Procedure Committee, Beverly Hills Bar Association, 300 South Beverly Drive, Suite 201, Beverly Hills, California 90212. It will be forwarded to the Chairman by the Executive Secretary of the Beverly Hills Bar Association upon receipt.

Secondly, the Committee considered during the year the possible use of form pleadings of practice in the area of complaint and answers. The thought was that if for the more simplified types of pleadings there were approved forms which the practitioner could use, it would save the time of the practitioner and his secretary. Such approved forms would in no way preclude the practitioner from utilizing his own

John H. DeMouley, Executive Secretary
December 21, 1970
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draftsmanship either in areas not encompassed by the form or in more complex areas. Such forms would also cut down the time of the court in hearing law and motion matters where demurrers are oftentimes interposed to complaints defective in the matter of form but not as to substance. For your consideration, I am enclosing the form "Answer to Complaint Filed By Defendant(s)" in response to a complaint for breach of contract. This is in a preliminary form but I believe that our idea is conveyed by it. We would be interested in knowing whether the Law Revision Commission has any desire to pursue this topic and whether it believes that the idea has merit. Perhaps there is some other agency or body to which the matter could be referred for study. Your comments will be appreciated.

Sincerely yours,



MARSHALL B. GROSSMAN

MBG:fb

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5 Attorneys for _____
6 _____

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11)
12) NO. _____
13)
14) Plaintiff(s))
15) ANSWER TO COMPLAINT FILED BY
16) vs.) DEFENDANT(S)
17)
18)
19) Defendant(s))

20 Defendant(s) answer(s) as follows:

21 1. The allegations of the following paragraphs are denied
22 generally and specifically: _____

23 2. The allegations of the following paragraphs are
24 denied according to the information and belief of the answering
25 defendant(s): _____

26 3. The allegations of the following paragraphs are
27 denied because the answering defendant(s) (has)(have) no informa-
28 tion or belief sufficient to enable a different answer: _____

29 4. The allegations of the following paragraphs are ad-
30 mitted: _____
31

SCHWARTZ & ALSCHULER
ATTORNEYS AT LAW
9808 WILSHIRE BOUL
BEVERLY HILLS, CALIFORNIA 90212
TELEPHONE
276-8227 AND 272-9441

1 5. The allegations of certain paragraphs are admitted
2 and/or denied in part as to the following specified particulars, as
3 follows:

4 [Numerically list each such paragraph and
5 identify by number in complaint and precise
6 portions thereof the nature of your answer
7 to same]

8
9 AFFIRMATIVE DEFENSES
10 (Breach of Contract)

11 A. To Entire Complaint

- 12 Failure to state cause of action
13 Excuse for non-performance
14 Plaintiff(s) breached contract
15 Plaintiff(s) anticipatory breach
16 Failure of consideration
17 Impossibility of performance
18 Tender
19 Accord and satisfaction
20 Mutual rescission
21 Release
22 Novation
23 Account stated of \$ _____
24 Statute of frauds (C.C.P. § _____)
25 Statute of limitations (C.C.P. § _____)
26 Condition subsequent
27 Other (please specify)

28 _____
29 _____
30 _____
31 _____

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BEVERLY HILLS, CALIFORNIA 90212
TELEPHONE 7
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B. To First Cause of Action

- Failure to state cause of action
 - Excuse for non-performance
 - Plaintiff(s) breached contract
 - Plaintiff(s) anticipatory breach
 - Failure of consideration
 - Impossibility of performance
 - Tender
 - Accord and satisfaction
 - Mutual rescission
 - Release
 - Novation
 - Account stated of \$ _____
 - Statute of frauds (C.C.P. § _____)
 - Statute of limitations (C.C.P. § _____)
 - Condition subsequent
 - Other (please specify)
-
-
-
-

Exhibit II
Memorandum 7-54

BILLIE LAING
2408 Ashby Drive
Bakersfield, California 93308

July 26, 1971

California Law Revision Commission
University of Stanford
School of Law
Palo Alto, California 94305

Re: Proposed Revision of Code of Civil Procedure,
Section 585.4, to include Uncontested Dissolutions

Gentlemen:

I would like to propose a revision to C.C.P. 585.4 allowing a petitioner in an uncontested dissolution proceeding to make an appearance by affidavit in lieu of personal testimony.

In view of the new Family Law Act adopted January 1, 1970, rendering many previous provisions obsolete, including the requirement of a personal witness, I feel that uncontested matter could be resolved by such a declaration, and thereby savings of time and money could be had by petitioner, attorney, court and the judge.

In many instances the respondent in a dissolution proceeding does not file a response because matters are already agreed upon and there is no argument as to division of property, custody, etc., and respondent thereby saves the expense of filing such a response or hiring an attorney to do so. Therefore, the petitioner is placed in the position of having additional expense incurred by having to make a personal appearance in court, i.e. time off from work, transportation to court, etc.

The attorney's time would be saved thus allowing him time on much more needed items of research and matters of a more pressing nature.

Valuable court time could be saved, in that all documents are gone over previous to the time of hearing and could easily be judged on at that time, rather than going through the process

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of asking questions of petitioner which are set forth in the documents on file.

Courtrooms are not readily available in many instances due to overcrowded court calendars, especially in San Francisco, Alameda and Los Angeles Counties. Therefore, this time saved could afford the judges more time to hear other matters that necessarily require hearing in a courtroom. Thus, savings are had by all parties concerned, not excluding the taxpayer.

This proposed revision is respectfully submitted for your consideration.

Sincerely yours.

Billie Laing
Miss Billie Laing

b1

FRED G. ATHEARN 1893-1966
A. E. CHANDLER 1919-1954
WALTER HOFFMAN
EDWARD G. CHANDLER
LEIGH ATHEARN
THEODORE P. LAMBROS
CLARK W. MASER
ROBERT R. WOOD
RICHARD HARRINGTON
DONALD H. MAFFLY
ALBERT T. CHANDLER
ROBERT W. MEREDITH

LAW OFFICES OF
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TELEPHONE
AREA CODE 415
421-5484
CABLE ADDRESS
"HAVATH"

August 11, 1971

Mr. John H. DeMouilly
Executive Secretary
California Law Revision Commission
School of Law
Stanford, California 94305

Re: Fortenberry v. Weber, et al.,
1 Civil No. 26498; meaning of
"permanent minutes" under CCP
§660 and Rule on Appeal 2(b)(2);
Law Revision Commission Reports
of 1957 and 1959

Dear Mr. DeMouilly:

As I explained to you on the telephone, our firm has filed a petition for hearing with the State Supreme Court in the above captioned case. The Court must decide by August 20 whether or not to grant a hearing.

The primary issue presented in the Fortenberry case is what constitutes the "permanent minutes" of the Superior Court for the City and County of San Francisco within the meaning of Code of Civil Procedure §660; in relevant part §660 provides that a motion for new trial is deemed denied unless the court within a designated period of time enters an order ruling on the motion in the permanent minutes of the court. This issue is of interest to the Law Revision Commission because this provision of CCP §660 was added by the Legislature in 1959 pursuant to the recommendation of the Commission.

At your suggestion, I enclose a copy of our petition for hearing in the Fortenberry case, plus nine copies of this letter for distribution to members of the Commission. I also enclose a brief excerpt from a State Bar Journal article prepared by Commission member Thomas E. Stanton, Jr., reporting the 1959 recommendation of the Commission on this subject.

I provide the following brief summary of the relevant factors in connection with our petition for hearing in the Fortenberry case:

(1) In 1959 the Legislature added the following language to Code of Civil Procedure §660:

"A motion for a new trial is not determined within the meaning of this section until an order ruling on the motion (1) is entered in the permanent minutes of the court or (2) is signed by the judge and filed with the clerk." [Emphasis added.]

In adopting this amendment the Legislature acted pursuant to the recommendation of the Law Revision Commission. As explained in the enclosed excerpt from Mr. Stanton's 1959 Bar Journal article, the Commission's proposal was prompted by recognition of "the importance that the law in this matter be definite and clear," and the legislation was enacted after the Governor vetoed a 1957 bill which had used the term "temporary minutes", which he found objectionable.

(2) In 1969 the Court of Appeal for the Second Appellate District held in passing on the procedures followed by the Los Angeles County Clerk that an order is not entered in the permanent minutes until it is delivered to the custodian of records for photo-recording on microfilm. Deshero v. Rhodes, 1 Cal.App.3d 733 (hearing denied).

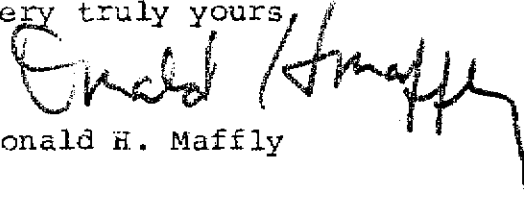
(3) In the Fortenberry case, decided by the First Appellate District on June 21, 1971, the court in considering practices of the San Francisco County Clerk reached a result in conflict with the holding of the Desherow case. (A reproduction of the Court of Appeal's Fortenberry decision appears as an appendix to the enclosed petition.) The court held that the permanent minutes of the court were those minutes prepared by each courtroom clerk and maintained by each department in their respective courtrooms under the custody of the courtroom clerk.

(4) We believe that if the Fortenberry decision is not corrected by the Supreme Court or amendatory legislation or court rule, chaos will inevitably result and it will be impossible to predict what constitutes the "permanent minutes" of any of the 58 superior courts in the State of California without lengthy and costly litigation. In passing I note that the meaning of the "permanent minutes" is of

importance not only under CCP §660 in determining when the court must act on a motion for new trial, but is also of crucial importance under California Rule on Appeal 2(b)(2) which uses the same technical term in describing the time within which a notice of appeal must be filed.

We send these materials to you and the Commission for whatever action the Commission may deem appropriate. We certainly would appreciate receiving any additional thoughts you or any member of the Commission may have on this subject.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald H. Maffly". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Donald H. Maffly

Enclosures

cc with/encl: Thomas E. Stanton, Jr.