

3/1/72

First Supplement to Memorandum 72-17

Subject: Priorities and Scheduling of Topics

The Chairman suggested that this would be a good time to have a report on the status of the various topics on which we have research contracts.

This report is attached as Exhibit I.

The Chairman also suggested that it would be convenient to have a list of the topics on our agenda. This list is attached as Exhibit II.

It may be helpful to the Commission to have the staff's suggestions for the priorities and scheduling of our work during the next few years. A suggested schedule is set out below. In connection with this schedule, it must be kept in mind that material for a particular session must be sent to the printer by October 1 before the session.

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SUGGESTED FIVE-YEAR SCHEDULE

APRIL 1972--JANUARY 1973

Recommendations to 1973 Session (ready to print October 1, 1972)

Prejudgment Attachment  
Liquidated Damages  
Evidence Code revisions (Justice Kaus)

Other Work (ready to print January 31, 1973)

Tentative Recommendation on Condemnation (The Right to Take)

FEBRUARY 1973--JANUARY 1974

Recommendations to 1974 Session (ready to print October 1, 1973)

Claim and Delivery Statute (assuming that Legislature will direct this be given priority)  
Procedural Aspects of Inverse Condemnation (Van Alstyne study in progress)  
Right of Nonresident Aliens to Inherit  
Lease Law--Tenant's Abandoned Property

Other Work

Tentative Recommendations on Condemnation:

Compensation and Measure of Damages  
Apportionment of the Award  
Procedural Aspects

FEBRUARY 1974--JANUARY 1975

Recommendations to 1975 Session (ready to print October 1, 1974)

Comprehensive Eminent Domain Statute  
Oral Modification of Written Contract

FEBRUARY 1975--JANUARY 1976

Recommendations to 1976 Session (ready to print October 1, 1975)

Various aspects of custody of children, adoption, guardianship,  
freedom from parental custody and control, and related matters  
Partition Procedures

Other Work

Major portion of time will be devoted to overall revision of law  
relating to attachment, garnishment, and exemptions

FEBRUARY 1976--JANUARY 1977

Recommendations to 1977 Session (ready to print October 1, 1976)

Comprehensive Statute on Attachment, Garnishment, Execution

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Based on past experience, the above schedule is an optimistic view of what the Commission can accomplish in the next five years. In fact, the consensus of the staff is that it would be unlikely that the schedule could be met. The schedule is designed to substantially complete work on two major studies during the five-year period: condemnation law and procedure and attachment, garnishment, and execution. The other topics included on the agenda are either "easy"

ones on which we already have a study or topics that must, I believe, be given a priority. I suggest you play around with the schedule, inserting those topics you wish to give priority, and deleting those that you feel should not be taken up during the five-year period.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

EXHIBIT I

STATUS OF OUTSTANDING RESEARCH CONTRACTS

Attachment, Garnishment, Execution

Professors Warren and Riesenfeld are consultants on this topic. We expect to receive an outline of the remaining work to be done on the topic and to discuss the outline and schedule the work at the April 1972 meeting.

Inverse Condemnation

Professor Van Alstyne is working on a background study on certain procedural aspects. Study is expected by September 1, 1972.

Condemnation Law and Procedure

Mr. Matteoni has prepared substantially all of the study on procedural aspects of condemnation and is now finishing up the remainder of the study.

Mr. Harvey is working on the study on apportionment of the award and related problems. Study is expected by September 1, 1972.

Oral Modification of Written Contract

Study is scheduled to be printed in May 1972 issue of Hastings Law Journal.

Right of Nonresident Aliens to Inherit

Rough draft of study delivered to Commission. Consultant is now preparing study for publication in California Law Review, and study should be ready for submission to law review by the end of May 1972.

Liquidated Damages

Study printed in last issue of California Law Review.

Disposition of Property Abandoned by Tenant

Professor Friedenthal is starting work on the study, the bill on this subject having failed to pass the 1971 Legislature. He expects to complete work on the study within a few months.

Arbitration

We do not expect to receive a study on this topic.

EXHIBIT II

LIST OF TOPICS ON AGENDA

1. Attachment, Garnishment, Execution

Employees' Earnings Protection Law  
Prejudgment Attachment  
Execution  
Claim and Delivery Statute (likely addition)

2. Condemnation Law and Procedure

The Right to Take  
Taking Possession Prior to Judgment  
Compensation and Measure of Damages  
Apportionment of the Award  
Procedure

3. Inverse Condemnation

Deliberately Inflicted Injury or Destruction  
Denial Destruction  
Requisitioning  
Destruction of Menaces to Health and Safety  
Confiscation and Destruction as Sanctions  
Enforcement of Regulatory Policies  
Building and Safety Code Enforcement

Unintended Physical Damage  
Water Damage  
Interference With Land Stability  
Loss of Advantageous Conditions  
Miscellaneous Types of Physical Damage

Intangible Detriment  
Losses Caused by Highway and Street Improvements  
Noise Damage From the Operation of Aircraft

Taking or Damaging by Police Power  
Regulations of Personal Property or Activity  
Land Use Controls  
Compulsory Expenditures and Contributions

Procedural Problems  
Claims Statute  
Offsetting of Benefits  
Measure of Damages  
Interest on Award  
Other matters

4. Right of Nonresident Aliens to Inherit
5. Liquidated Damages
6. Oral Modification of Written Contract
7. Custody of Children, Adoption, Guardianship, Freedom From Parental Custody and Control, and Related Matters
8. Nonprofit Corporations
9. Partition Procedures
10. Parol Evidence Rule
11. Prejudgment Interest
12. Governmental Liability
13. Evidence

Justice Kaus has suggested a revision of the Evidence Code.
14. Lease Law

Rights of Parties to Tenant's Abandoned Property
15. Fictitious Business Names
16. Escheat; Unclaimed Property
17. Quasi-Community Property
18. Powers of Appointment
19. Unincorporated Associations

20. Counterclaims and Cross-Complaints

21. Joinder of Causes of Action

22. Arbitration