

Memorandum 87-101

Subject: Topics and Priorities for 1988 and Thereafter

BACKGROUND

There are now 24 topics on the Commission's Calendar of Topics that have been authorized for study by the Commission. The Commission has been giving the study of probate law and procedure a top priority with a view to drafting a new Probate Code. The major substantive work of redrafting is now well on its way to completion. There still remains a substantial amount of staff work in terms of clean-up, conforming changes, and the like. In addition, some substantive probate matters have been deferred until after work on the new code has been completed.

Nonetheless, now is an appropriate time to review the other topics on the Commission's calendar, together with additional suggestions for Commission study that have been made, with the view to setting priorities and beginning preparations for other studies in 1988 or thereafter. In some cases, a research consultant may be needed on a particular topic, and the process of obtaining a consultant can commence. In cases where an expert consultant is not needed, the staff can begin to collect material relating to each topic that will be studied in the next few years so that relevant material will be available when the staff begins to prepare material on the topic for Commission consideration. In addition, interested persons and organizations need to know whether they can look to the Commission to prepare needed legislation on particular topics or whether they should look to other methods of obtaining the needed legislation. Finally, the Commission can determine any additional topics (not now authorized for Commission study) that the Commission wishes to study in the future. We can prepare material for inclusion in our next Annual Report requesting authority to study these additional topics.

TOPICS CURRENTLY AUTHORIZED FOR COMMISSION STUDY

Exhibit 1 contains a detailed discussion of the 24 topics authorized for Commission study. The discussion indicates the status of each topic, the need for future work, and the past Commission recommendations concerning the topic. You should read Exhibit 1 with care. If you wish the Commission to discuss any portion of Exhibit 1, please bring the portion up for discussion at the meeting.

STAFF RECOMMENDATIONS CONCERNING PRIORITIES

These recommendations are based on the assumption that you have read Exhibit 1. That exhibit indicates various aspects of authorized studies that might be given active consideration. We set out below the priorities the staff would give to matters suitable for study. Any decision concerning priorities made at this time will, of course, be subject to change in the light of future developments and legislative indications as to topics to be given priority.

Principles That Guided Staff in Making Recommendations

As can be easily seen from a review of Exhibit 1, there are many topics in need of Commission attention. The problem is to decide which the Commission should allocate its resources to first. In making suggestions to the Commission, the staff has been guided by the following general principles:

(1) During the next few years a substantial amount of staff time will be devoted to wrapping up details on the new Probate Code.

(2) There are a number of important substantive probate problems that will consume both Commission and staff time, but the Commission should limit itself to a few of these at a time in order to give attention to problems in other areas that need to be addressed.

(3) Matters that appear to be in urgent need of attention and that will take little Commission or staff time should be given priority.

(4) Matters where there is legislative interest in having the Commission act should be given priority.

(5) Matters on which the Commission has consultant research available and ready for use should be given priority.

(6) If there is a reasonable possibility that some other entity might address the problem, it should not be given Commission priority.

(7) On key major studies, steps should be taken now to ascertain whether a consultant's study will be needed, and if so the machinery should be set in motion so that studies will be available when Commission and staff time is available several years down the road.

(8) Historically, the Commission has functioned most efficiently and effectively when conducting two major studies concurrently with several minor studies.

(9) There is little money (perhaps \$3,000 at the most) available for research consultants during the 1987-88 fiscal year. This may be enough to permit us to hire two consultants, each of whom could prepare a preliminary analysis of the scope and content of a possible background study. For the next fiscal year (1988-89), we have budgeted \$11,000 for research consultants.

Staff Recommended Priorities

With these principles in mind, the staff recommends the following priorities for future Commission work:

Creditors' Remedies

There are three problems in the creditors' remedies area that appear to be in need of immediate attention and that would not consume a great amount of Commission or staff time:

(1) The applicability of sanctions in an examination of a judgment debtor.

(2) The jurisdictional limits on enforcement of sister-state judgments.

(3) The revival of junior creditor liens where an execution sale is set aside.

Recommendations on these matters could be developed during 1988 without impacting any of the major Commission projects and without the need to hire a consultant to prepare a background study.

In addition, there are two important matters that the Commission should not address now, but we should plan to work on them in a few years when more time is available. These are foreclosure of real

property liens and default judgments. Both are substantial and important studies in areas where the Commission could make a real contribution. On the foreclosure study, we will need to hire an expert consultant to prepare a background study for the Commission. The Commission might be in a position to make a contract during the 1988-89 fiscal year to hire a consultant to prepare a preliminary analysis of the scope and content of a background study. The staff should begin to search for a consultant this fiscal year, so that the Commission will have the information needed to hire a consultant during the 1988-89 fiscal year to prepare the preliminary analysis. On the default judgment study, the staff would begin preliminary investigation to determine whether the background report should be prepared by a consultant or whether this is a matter that could be handled by the staff with the assistance of a State Bar committee.

Probate Law

In addition to completion of work on the new Probate Code, the Commission should during 1988 begin to address some of the difficult substantive problems it has deferred. Two problems that appear to the staff to be in need of attention, and concerning which there is either legislative interest or court cases indicating problems, are regulation of professional conservators and revision of the ancestral property doctrine. The staff recommends that the Commission address these two items during 1988. In addition, when time permits, the staff will prepare meeting materials on minor aspects of probate law.

The Commission should also begin to address the matter of uniform rules on survival requirements, antilapse provisions, revocation, and change of beneficiaries for wills and will substitutes. The Commission has consultant's studies available, but the matter may take some time to work through.

Real and Personal Property

The Commission's consultant's study on commercial lease law is due early in 1988 and the Commission should start consideration of this study, particularly matters relating to assignment and sublease, immediately on receipt of the study. There are real problems in the

field that need to be addressed, and people are looking to the Commission for solutions. This will be a major study in terms of both Commission and staff resources.

Family Law

The staff does not recommend any substantial Commission work in this area during 1988, but there is one matter that can be addressed fairly easily by the staff with the idea of Commission work later. The staff should compare the Commission's old recommendation (never enacted) on disposition of marital property with newly-enacted legislation to see whether there are any matters not covered in the new legislation that the Commission may wish to revive.

Injunctions

There is legislative interest in the Commission's study of this matter. The staff recommends that the Commission obtain a consultant within the next month or two to make an analysis of this topic to enable the Commission to make an intelligent decision whether this is a matter that really requires a Commission study, and if so what the scope of the study would be and what sort of urgency is involved. The Commission would then be in a better position to make a determination as to priorities.

The staff contemplates that the consultant's study would include an analysis of the existing law and the concerns expressed by the persons interested in this study. The staff recommends that the compensation to the consultant be \$1,250 with not to exceed \$250 for travel expenses.

Administrative Law

This topic was added in 1987 at the request of the Commission on the suggestion of the Los Angeles County Bar Association. The staff believes this should be treated the same way we propose for the injunction study—a preliminary overview by an expert consultant so that the Commission will be in a better decision to determine the scope of this matter and what sort of priority may be involved.

NEW TOPICS

The Commission has received a number of suggestions for new topics. These are discussed below.

Payment of Attorney Fees and Shifting of Fees Between Litigants

The Commission decided at its July 1987 meeting that it will request authority at the 1988 legislative session to study "Whether the law relating to the payment of attorney fees and the shifting of attorney fees between litigants should be revised." We will request authority to study this new topic in our Annual Report to be presented to the 1988 Legislature.

Repeal of Impliedly Repealed and Unconstitutional Statutes

The Commission has standing authority to recommend the repeal of statutes impliedly repealed or held unconstitutional by the state or federal supreme courts.

Repeal of Government Code Sections 27371 and 27375. Exhibit 11 is a letter from the County Recorders' Association of the State of California requesting the Commission's assistance in the repeal of obsolete and impliedly repealed provisions relating to county recorders. It is not clear the Commission's authority would extend to these provisions, and we have so informed the Association. However, if the Commission is so inclined, we could pursue this matter.

Repeal of Code of Civil Procedure Section 87. Attached as Exhibit 2 is a copy of a letter from Mike Bennett, Managing Editor of Bancroft-Whitney Co., concerning Code of Civil Procedure Section 87. Section 87 was enacted in 1957 and provides that, "Where a corporation is a party in the municipal or justice court it may appear through a director, an officer or an employee, whether or not such person is an attorney at law." Mr. Bennett characterizes this provision as "one of the few unrepealed California statutes that is a complete nullity." The section has been held unconstitutional by the state Court of Appeal.

Assembly Member Sher introduced AB 620 this year to repeal Section 87. The bill passed the Legislature, but was vetoed by the Governor on the theory that the section serves a salutary purpose and the state Supreme Court could well hold the statute constitutional. In light of

this history, the staff recommends that the Commission not study this matter.

Contract Damages

Michael Traynor suggests that the Commission study the issue whether contract damages under existing rules provide adequate compensation for breach of contract. See his letter and the attached article attached as Exhibit 3. This might be an appropriate matter for study by the Law Revision Commission. If there is interest on the part of the Commission, we could request authority to study the topic. The request for authority probably should be broad enough to cover all aspects of contract law. The existing statutory law relating to contracts is very old (1872) and does not reflect developments in contract law since 1872.

Grand Juries

The 1986 Grand Jury of Marin County has forwarded us a report titled "The California Grand Jury--A Controversial Topic." The report was prepared by a committee established by the Grand Jury and concludes that grand jury reports have had minimal impact on the operation of county government. A majority of the Grand Jury differed from the opinions expressed in the report, but approved the report for publication because of the good that can be derived through sharing the findings and thus inciting more widespread discussion.

The Commission in 1959 obtained enactment of legislation to reorganize and consolidate the statutes governing grand juries without making any substantive change in the law. See *Recommendation Relating to Grand Juries*, 2 Cal. L. Revision Comm'n Reports, Annual Report for 1959 at 20 (1959). The staff does not believe this matter is appropriate for further Commission study.

Duty of Lawyer to Disclose Perjury of Client

Jack E. Cooper (Exhibit 4) suggests legislation to resolve the conflict between a lawyer's duty of confidentiality to a client and the lawyer's duty to disclose known perjury by a client to the court. The staff believes this matter is more appropriate for the State Bar to address.

Name Change

The Court of Appeal in In re Ritchie, 159 Cal. App. 3d 1070, 206 Cal. Rptr. 239 (1984), held that a person may not change his name to the roman numeral "III". Exhibit 5 is a request from Mr. Ritchie/III that the Commission study this matter. The staff believes this matter would not be inappropriate for Commission study. The question is whether the Commission will have the resources to address the matter in the next few years, given the other pressing demands on the Commission's time. If the Commission is inclined to study this, we could have it added to the calendar with the idea of working it in as time on other major studies permits.

Solicitation by Television Evangelists

Exhibit 6 is a suggestion that television evangelists should be required to broadcast, immediately following any solicitation, a financial report stating the exact amounts of allocations, including executive salaries, properties, investments, tax shelters, special projects, charity projects, and any expenses that benefit employees and their families; the report would be broadcast for a length of time equal to the length of the solicitation. The staff does not believe this matter is appropriate for Commission study.

Legal Forms

Exhibit 7 contains a suggestion that legal forms have printed on them the text of the statute to which they relate, rather than just a reference to the statute. The letter also suggests that standard filing fees for various documents be published and available. The staff believes this matter could better be addressed by the Judicial Council than by the Commission.

Contempt of Court

Exhibit 7 also includes a complaint that a person should not be held in contempt of court unless the person actually appears in court.

Prisoners' Mail

Exhibit 7 complains that jail employees should not be opening letters written by prisoners. This is not a proper matter for the Commission to become involved in.

Subpoenas of Peace Officers

Exhibit 8 includes a suggestion that the definition of "peace officer" in Government Code Section 68097.1 be conformed to the definition in Section 68097.2, and perhaps to succeeding provisions in the Government Code, relating to subpoenas of police officers. This appears to be a technical problem that could be best addressed to the sponsors of the 1980 legislation defining peace officers in Section 68097.2.

CONCLUSION

Priorities for Existing Topics

As to priorities for existing topics, matters the Commission should take up during 1988 include:

Probate Law

- completion of work on new Probate Code
- regulation of professional conservators
- revision of the ancestral property doctrine
- uniform rules on survival requirements, antilapse provisions, revocation, and change of beneficiaries for wills and will substitutes

Creditors' Remedies

- applicability of sanctions in an examination of a judgment debtor
- jurisdictional limits on enforcement of sister-state judgments
- revival of junior creditor liens where an execution sale is set aside

Real and Personal Property

- commercial lease law

The staff recommends that during 1988 the staff investigate and report to the Commission concerning the scope and priority of the following matters:

Creditors' Remedies

- default judgments
- foreclosure of real property liens

Family Law

- disposition of marital property

The staff recommends that the Commission retain an expert consultant (using funds available for expenditure during the current fiscal year) to begin preparation of:

- analysis of the possible scope of a background study on administrative law
- analysis of the need for a study of the law relating to injunctions and the possible scope of a background study on this topic

New Topics

Of the new topics that have been suggested for Commission study, most appear to be inappropriate. Contract law is a topic of a type the Commission has been successful with in the past, and it may be worth adding this to the Commission's calendar. This would be a major study that would require a number of years to complete. The law governing name change would be a small study that could be added to the calendar for future work if the Commission is so inclined.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

11/18/87

Exhibit 1

BACKGROUND INFORMATION CONCERNING AUTHORIZED TOPICS

The following discussion gives background information concerning each of the topics authorized for study by the Commission. These studies were authorized or directed by concurrent resolution adopted by both houses of the Legislature. The topic the Commission is authorized or directed to study is set out in bold face and underscored below, followed by a discussion of the topic.

CREDITORS' REMEDIES. Whether the law relating to creditors' remedies (including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters) should be revised. (Authorized by 1983 Cal. Stat. res. ch. 40. See also 1974 Cal. Stat. res. ch. 45; 1972 Cal. Stat. res. ch. 27; 1957 Cal. Stat. res. ch. 202; 1 Cal. L. Revision Comm'n reports, "1957 Report" at 15 (1957).)

This study was first authorized in 1957 at the request of the Commission in response to a suggestion from a State Bar Committee. The study was a major study. Work on the topic was deferred for a number of years during which the Commission drafted the Evidence Code and worked on other topics. Beginning in 1971, the Commission submitted a series of recommendations covering specific aspects of the topic and in 1980 submitted a tentative recommendation proposing a comprehensive statute covering enforcement of judgments. The comprehensive statute was enacted. The Commission has retained the topic on its Calendar of Topics so that the Commission would be authorized to submit recommendations to deal with technical and substantive defects in the Enforcement of Judgments Law and to deal with additional aspects of the topic. Since the enactment of the Enforcement of Judgments Law, numerous recommendations have been submitted to the Legislature to make technical and substantive revisions in that law or to deal with additional aspects of the creditors' remedies topic.

Exemptions. Code of Civil Procedure Section 703.120 requires that the Law Revision Commission by July 1, 1993, and every ten years thereafter, review the exemptions from execution and recommend any changes in the exempt amounts that appear proper.

Attachment. Exhibits 13 and 14 are letters suggesting changes in the attachment law tending in opposite directions. Exhibit 13 argues for higher standards and burdens of proof to obtain an attachment. Exhibit 14 argues that the courts are being unduly restrictive in issuing attachments, and that it should be easier to obtain an attachment.

Enforcement of judgments. Exhibit 15 points out a problem in applying sanctions against a judgment debtor who fails to appear or produce documents under court order at an examination.

Enforcement of sister-state judgments. Exhibit 9 is a letter pointing out the need for a revision in Code of Civil Procedure Section 1710.20 to permit an application for entry of a judgment based on a sister-state judgment to be filed in the municipal or justice court where the judgment amounts to \$25,000 or less. This would raise the existing limit which is \$15,000. The change would conform to the change in the jurisdictional limit of the municipal court from \$15,000 to \$25,000. This is a needed change; it would take no significant amount of Commission or staff time to make this recommendation.

Whether the liens of junior creditors should be restored when an execution sale is set aside. See Exhibit 10. This is an important problem that deserves Commission attention but that the Commission has deferred pending completion of the probate study. The project probably would not require a great amount of staff or Commission time.

Judicial and nonjudicial foreclosure of real property liens. This is a topic that the Commission has recognized in the past is in need of study. We recently received another letter suggesting the need to revise the foreclosure auction system. See Exhibit 12 attached. A study of judicial and nonjudicial foreclosures would be a major study. A background study, prepared by an expert consultant, might be needed if the Commission were to study this matter. The staff would make a preliminary study of the matter with a view to determining whether an expert consultant is necessary or whether the staff could prepare the necessary background study.

Default in a civil action. One aspect of the creditors' remedies topic that is specifically noted in the detailed description of the topic is default judgment procedures. From time to time, the Commission has received letters suggesting that this area of law is in need of study so that the existing provisions can be reorganized and improved in substance. Exhibit 8 is another letter along these lines that urges that the Commission study this area of law and propose "a comprehensive arrangement of the provisions relating to entry of default and relief therefrom." This study probably would not be as difficult as the study of foreclosure, but nevertheless may be a study where an expert consultant would be required.

The Commission has submitted the following recommendations relating to this topic:

Recommendation Relating to Attachment, Garnishment, and Exemptions From Execution: Discharge From Employment, 10 Cal. L. Revision Comm'n Reports 1147 (1971); 10 Cal. L. Revision Comm'n Reports 1126-1127 (1971). The recommended legislation was enacted. See 1971 Cal. Stat. ch. 1607.

Recommendation Relating to Attachment, Garnishment, and Exemptions from Execution: Employees' Earnings Protection Law, 10 Cal. L. Revision Comm'n Reports 701 (1971); 11 Cal. L. Revision Comm'n Reports 1024 (1973). The recommended legislation was not enacted. The Commission submitted a revised recommendation to the 1973 Legislature. See *Recommendation Relating to Wage Garnishment and Related Matters*, 11 Cal. L. Revision Comm'n Reports 101 (1973). See also 11 Cal. L. Revision Comm'n Reports 1123 (1973); 12 Cal. L. Revision Comm'n Reports 530 n.1 (1974). The recommended legislation was not enacted. The Commission submitted a revised recommendation to the 1975 Legislature. See *Recommendation Relating to Wage Garnishment Exemptions*, 12 Cal. L. Revision Comm'n Reports 901 (1974). See also 13 Cal. L. Revision Comm'n Reports 2012 (1976). The recommended legislation was not enacted. Two additional recommendations were made in 1976. See *Recommendation Relating to Wage Garnishment Procedure*, 13 Cal. L. Revision Comm'n Reports 601 (1976), and *Recommendation Relating to Wage Garnishment*, 13 Cal. L. Revision Comm'n Reports 1703 (1976). See also 14 Cal. L. Revision Comm'n Reports 13 (1978); 14 Cal. L. Revision Comm'n Reports 261 (1978); 14 Cal. L. Revision Comm'n Reports 223-24 (1978). The recommended legislation was enacted in part. See 1978 Cal. Stat. ch. 1133. See also 15 Cal. L. Revision Comm'n Reports 1024 (1980). Additional parts of the recommended legislation were enacted. See 1979 Cal. Stat. ch. 66.

Recommendation and Study Relating to Civil Arrest, 11 Cal. L. Revision Comm'n Reports 1 (1973); 11 Cal. L. Revision Comm'n Reports 1123 (1973). The recommended legislation was enacted. See 1973 Cal. Stat. ch. 20.

Recommendation Relating to the Claim and Delivery Statute, 11 Cal. L. Revision Comm'n Reports 301 (1973); 11 Cal. L. Revision

Comm'n Reports 1124 (1973). The recommended legislation was enacted. See 1973 Cal. Stat. ch. 526.

Recommendation Relating to Turnover Orders Under the Claim and Delivery Law, 13 Cal. L. Revision Comm'n Reports 2079 (1976); 13 Cal. L. Revision Comm'n Reports 1614 (1976). The recommended legislation was enacted. See 1976 Cal. Stat. ch. 145.

Recommendation Relating to Prejudgment Attachment, 11 Cal. L. Revision Comm'n Reports 701 (1973); 12 Cal. L. Revision Comm'n Reports 530 (1974). The recommended legislation was enacted. See 1974 Cal. Stat. ch. 1516.

Recommendation Relating to Revision of the Attachment Law, 13 Cal. L. Revision Comm'n Reports 801 (1976); 13 Cal. L. Revision Comm'n Reports 1612 (1976). The recommended legislation was enacted. See 1976 Cal. Stat. ch. 437.

Recommendation Relating to the Attachment Law--Effect of Bankruptcy Proceedings; Effect of General Assignments for the Benefit of Creditors, 14 Cal. L. Revision Comm'n Reports 61 (1978); 14 Cal. L. Revision Comm'n Reports 12 (1978). The recommended legislation was enacted. See 1977 Cal. Stat. ch. 499.

Recommendation Relating to Use of Court Commissioners Under the Attachment Law, 14 Cal. L. Revision Comm'n Reports 93 (1978); 14 Cal. L. Revision Comm'n Reports 224 (1978). The recommended legislation was enacted. See 1978 Cal. Stat. ch. 273.

Recommendation Relating to Technical Revisions in the Attachment Law, 14 Cal. L. Revision Comm'n Reports 241 (1978); 14 Cal. L. Revision Comm'n Reports 224 (1978). The recommended legislation was enacted. See 1978 Cal. Stat. ch. 273.

Recommendation Relating to Effect of New Bankruptcy Law on the Attachment Law, 15 Cal. L. Revision Comm'n Reports 1043 (1980); 15 Cal. L. Revision Comm'n Reports 1024 (1980). The recommended legislation was enacted. See 1979 Cal. Stat. ch. 177.

Recommendation Relating to Attachment, 16 Cal. L. Revision Comm'n Reports 701 (1982); 16 Cal. L. Revision Comm'n Reports 2025 (1982). The recommended legislation was enacted. See 1982 Cal. Stat. ch. 1198. See also *1982 Creditors' Remedies Legislation With Official Comments--The Enforcement of Judgments Law; The Attachment Law*, 16 Cal. L. Revision Comm'n Reports 1001 (1982).

Recommendation Relating to Enforcement of Sister State Money Judgments, 11 Cal. L. Revision Comm'n Reports 451 (1973); 12 Cal. L. Revision Comm'n Reports 534 (1974). The recommended legislation was enacted. See 1974 Cal. Stat. ch. 211. See also *Recommendation Relating to Sister State Money Judgments*, 13 Cal. L. Revision Comm'n Reports 1669 (1976); 14 Cal. L. Revision Comm'n Reports 12 (1978). The recommended legislation was enacted. See 1977 Cal. Stat. ch. 232.

Recommendation Relating to Use of Keepers Pursuant to Writs of Execution, 14 Cal. L. Revision Comm'n Reports 49 (1978); 14 Cal. L. Revision Comm'n Reports 12 (1978). The recommended legislation was enacted. See 1977 Cal. Stat. ch. 155.

Recommendation Relating to Interest Rate on Judgments, 15 Cal. L. Revision Comm'n Reports 7 (1980); 15 Cal. L. Revision Comm'n Reports 1427 (1980); 16 Cal. L. Revision Comm'n Reports 2025 (1982); 16 Cal. L. Revision Comm'n Reports (1982). The recommended legislation was enacted. See 1982 Cal. Stat. ch. 150.

Recommendation Relating to Married Women as Sole Traders, 15 Cal. L. Revision Comm'n Reports 21 (1980); 15 Cal. L. Revision Comm'n Reports 1426 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 123.

Recommendation Relating to State Tax Liens, 15 Cal. L. Revision Comm'n Reports 29 (1980); 15 Cal. L. Revision Comm'n Reports 1427 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 600. Additional revisions to the enacted legislation were recommended. See 15 Cal. L. Revision Comm'n Reports 24 (1982). The recommended legislation was enacted. See 1982 Cal. Stat. ch. 202.

Recommendation Relating to Probate Homestead, 15 Cal. L. Revision Comm'n Reports 401 (1980); 15 Cal. L. Revision Comm'n Reports 1428 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 119.

Recommendation Relating to Confession of Judgment, 15 Cal. L. Revision Comm'n Reports 1053 (1980); 15 Cal. L. Revision Comm'n Reports 1024 (1980). The recommended legislation was enacted. See 1979 Cal. Stat. ch. 568.

Recommendation Relating to Agreements for Entry of Paternity and Support Judgments, 15 Cal. L. Revision Comm'n Reports 1237 (1980); 15 Cal. L. Revision Comm'n Reports 1426 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 682.

Recommendation Relating to Assignment for the Benefit of creditors, 15 Cal. L. Revision Comm'n Reports 1117 (1980); 15 Cal. L. Revision Comm'n Reports 1427 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 135.

Recommendation Relating to Enforcement of Claims and Judgments Against Public Entities, 15 Cal. L. Revision Comm'n Reports 1257 (1980); 15 Cal. L. Revision Comm'n Reports 1426-27 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 215.

Recommendation Relating to Enforcement of Obligations After Death, 15 Cal. L. Revision Comm'n Reports 1327 (1980); 15 Cal. L. Revision Comm'n Reports 1426 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 124.

Tentative Recommendation Proposing the Enforcement of Judgments Law, 15 Cal. L. Revision Comm'n Reports 2001 (1980). See also 16 Cal. L. Revision Comm'n Reports 24 (1982); 16 Cal. L. Revision Comm'n Reports 2024 (1982). The recommended legislation was enacted. See 1982 Cal. Stat. chs. 497, 1364. See also 1982 *Creditors' Remedies Legislation With Official Comments--The Enforcement of Judgments Law; The Attachment Law*, 16 Cal. L. Revision Comm'n Reports 1001 (1982).

Recommendation Relating to Creditors' Remedies, 16 Cal. L. Revision Comm'n Reports 2175 (1982); 17 Cal. L. Revision Comm'n Reports 824-25 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 155.

Recommendation Relating to Creditors' Remedies, 17 Cal. L. Revision Comm'n Reports 975 (1984); 18 Cal. L. Revision Comm'n Reports 23 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 538.

The Commission recommended additional technical and clarifying changes to the Enforcement of Judgments Law but did not

print its recommendations. The recommended legislation was enacted. See 1985 Cal. Stat. ch. 41.

Recommendation Relating to Statutory Bonds and Undertakings, 16 Cal. L. Revision Comm'n Reports 501 (1982); 16 Cal. L. Revision Comm'n Reports 2025-26 (1982). The recommended legislation was enacted. See 1982 Cal. Stat. chs. 517, 998. See also *Recommendation Relating to Conforming Changes to the Bond and Undertaking Law*, 16 Cal. L. Revision Comm'n Reports 2239 (1982); 17 Cal. L. Revision Comm'n Reports 825 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 18.

PROBATE CODE. Whether the California Probate Code should be revised, including, but not limited to, whether California should adopt, in whole or in part, the Uniform Probate Code. (Authorized by 1980 Cal. Stat. res. ch. 37.)

As the Commission is well aware, the Commission is now devoting substantially all of its time and resources to the project of drafting a new Probate Code. This project is well along, though substantial additional work of both a technical and substantive nature is still required.

"Professional" conservators. The Commission in January 1987 considered the problem of the lack of regulation of persons in the business of acting as conservators. The Commission noted the significant fiscal considerations that could be involved in the solution of this problem, whether it takes the form of establishment of a licensing system or imposing additional responsibilities on the public guardian. The Commission decided to defer study of this problem; but if legislation were not enacted in 1987, the Commission would consider whether to undertake a study of it in 1988. Legislation addressed to this matter was not enacted in 1987. A judge in San Diego has suggested to a number of legislators that this matter needs attention. Three members of the Legislature have asked the Commission to look into the matter. The staff will prepare a memorandum on the problem for a meeting early in 1988.

Uniform Custodial Trust Act. This is a newly-promulgated uniform act designed to provide a simple alternative to conservatorship for the elderly. The trust is created by a declaration by the settlor, who may also be the beneficiary of the trust. While the beneficiary is competent, the beneficiary may control the trustee, who serves basically as a custodian. When the beneficiary becomes incompetent,

the trustee functions as a normal trustee. The statute controls the terms of this trust. The concept is drawn from the concept of the Uniform Transfers to Minors Act, but the Custodial Trust Act applies to adults. The Commission may wish to investigate the desirability of this concept for California. The staff will prepare a memorandum during the next year or so.

Definition of community property, quasi-community property, and separate property. During the past year the Commission has received three letters addressed to problems in the definition of marital property for probate purposes. Neal Wells (Exhibit 16) addresses a problem in the definition of quasi-community property. Timothy C. Wright (Exhibit 17) suggests that the Civil Code definitions apply in the Probate Code. And Gus McClanahan (Exhibit 18) writes concerning the need to make the statutes defining community property consistent. Given this level of concern, this may be something the Commission should spend some time with.

Powers of appointment and powers of attorney. This is a project to prepare a comprehensive powers of attorney statute and to combine that statute and the powers of appointment statute in a new division of the Probate Code. The "Directive to Physicians" might also be included in the new division. This project would require some staff and Commission time but is not a major project.

Uniform rules on survival requirements, antilapse provisions, revocation, and change of beneficiaries for wills and will substitutes. We have on hand studies prepared by Professor French on these matters, but the project is a difficult one.

Confidential relationship in will contest. Luther J. Avery sent a copy of an article from Trusts and Estates (February 1985) suggesting that a needed area of review in the probate law study is the "confidential relationship" doctrine as applied in will contests. See Exhibit 7 for his letter and the article.

Other matters the Commission has deferred for future study. In the process of preparing the new Probate Code the Commission has identified a number of matters in need of further study. These are all matters of a substantive nature that the Commission felt were important but that could not be addressed quickly in the context of code

rewrite. The Commission has reserved these issues for study after completion of the new Probate Code:

- Right of Surviving Spouse to Dispose of Community and Quasi-Community Property
- Statutory 630 Affidavit Form
- Uniform Transfers to Minors Act
 - Make possible to make outright gift to remain in custody until age 25
 - Co-custodians
 - Powers of Appointment
- Claims Procedure for Trusts
- Creditor's Right To Reach Nonprobate Assets
- Rights of Estranged Spouse
- Trustee's Use of Section 650 Procedure
- Ancestral Property Doctrine
- Directive to Physicians (Uniform Act)
- Community Property With Right of Survivorship
- Transfer on Death Designation for Real Property
- Uniform Rule Against Perpetuities
- Summary Guardianship or Conservatorship Procedure
 - (to enable single or limited protective actions short of appointment of temporary guardian or conservator)
- Litigation Involving Decedent
- Adoption in Closing Classes
- Claim Procedure for Specific Performance
- Interest on Lien on Estate Property (Attorney Fees)
- Filing Fees in Probate

The Commission has submitted the following recommendations relating to this topic:

Recommendation Relating to Uniform Durable Power of Attorney Act, 15 Cal. L. Revision Comm'n Reports 351 (1980); 16 Cal. L. Revision Comm'n Reports 25 (1982). The recommended legislation was enacted. See 1981 Cal. Stat. ch. 511.

Recommendation Relating to Non-Probate Transfers, 15 Cal. L. Revision Comm'n Reports 1605 (1980); 16 Cal. L. Revision Comm'n Reports 25 (1982). The recommended legislation was enacted in part. See 1982 Cal. Stat. ch. 269 (financial institutions given express authority to offer pay-on-death accounts). See also *Recommendation Relating to Nonprobate Transfers*, 16 Cal. L. Revision Comm'n Reports 129 (1982); 17 Cal. L. Revision Comm'n Reports 823 (1984). The recommended legislation was enacted in part (credit unions and industrial loan companies). See 1983 Cal. Stat. ch. 92.

Recommendation Relating to Missing Persons, 16 Cal. L. Revision Comm'n Reports 105 (1982); 17 Cal. L. Revision Comm'n Reports 822-23 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 201.

Recommendation Relating to Emancipated Minors, 16 Cal. L. Revision Comm'n Reports 183 (1982); 17 Cal. L. Revision Comm'n Reports 823 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 6.

Recommendation Relating to Notice in Limited Conservatorship Proceedings, 16 Cal. L. Revision Comm'n Reports 199 (1982); 17 Cal. L. Revision Comm'n Reports 823 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 72.

Recommendation Relating to Disclaimer of Testamentary and Other Interests, 16 Cal. L. Revision Comm'n Reports 207 (1982); 17 Cal. L. Revision Comm'n Reports 823 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 17.

Recommendation Relating to Holographic and Nuncupative Wills, 16 Cal. L. Revision Comm'n Reports 301 (1982); 16 Cal. L. Revision Comm'n Reports 2026 (1982). The recommended legislation was enacted. See 1982 Cal. Stat. ch. 187.

Tentative Recommendation Relating to Wills and Intestate Succession, 16 Cal. L. Revision Comm'n Reports 2301 (1982); 17 Cal. L. Revision Comm'n Reports 822 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 842. See also *Recommendation Relating to Revision of Wills and Intestate Succession Law*, 17 Cal. L. Revision Comm'n Reports 537 (1984); 18 Cal. L. Revision Comm'n Reports 19 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 892.

Recommendation Relating to Independent Administration of Decedent's Estate; Recommendation Relating to Distribution of Estates Without Administration; Recommendation Relating to Bonds for Personal Representatives, 17 Cal. L. Revision Comm'n Reports 405, 421, and 483 (1984). These three recommendations were combined in one bill. See also 18 Cal. L. Revision Comm'n Reports 19 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 451.

Recommendation Relating to Simultaneous Deaths, 17 Cal. L. Revision Comm'n Reports 443 (1984); 18 Cal. L. Revision Comm'n Reports 20 (1986). The recommended legislation was not enacted.

Recommendation Relating to Notice of Will, 17 Cal. L. Revision Comm'n Reports 461 (1984); 18 Cal. L. Revision Comm'n Reports 20 (1986). The recommended legislation was not enacted.

Recommendation Relating to Garnishment of Amounts Payable to Trust Beneficiary, 17 Cal. L. Revision Comm'n Reports 471 (1984); 18 Cal. L. Revision Comm'n Reports 19-20 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 493.

Recommendation Relating to Recording Affidavit of Death, 17 Cal. L. Revision Comm'n Reports 493 (1984); 18 Cal. L. Revision Comm'n Reports 20 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 527.

Recommendation Relating to Execution of Witnessed Wills, 17 Cal. L. Revision Comm'n Reports 509 (1984); 18 Cal. L. Revision Comm'n Reports 20 (1986). The recommended legislation was not enacted.

Recommendation Relating to Uniform Transfers to Minors Act, 17 Cal. L. Revision Comm'n Reports 601 (1984); 18 Cal. L. Revision Comm'n Reports 19 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 243. An amendment to the 1984 legislation was submitted to the 1985 Legislature though no recommendation was printed. The recommended legislation was enacted. See 1985 Cal. Stat. ch. 90 (authority of donor to designate successor custodians).

Recommendation Relating to Transfer Without Probate of Certain Property Registered by the State, 18 Cal. L. Revision Comm'n Reports 129 (1986); *Recommendation Relating to Distribution of Will or Trust*, 18 Cal. L. Revision Comm'n Reports 269 (1986); *Recommendation Relating to Effect of Adoption or Out of Wedlock Birth on Rights at Death*, 18 Cal. L. Revision Comm'n Reports 289 (1986). These three recommendations, together with additional technical and clarifying revisions to previously enacted probate legislation, were combined in one bill. The recommended legislation was enacted. See 1985 Cal. Stat. ch. 982. See also 1985 Cal. Stat. ch. 359.

Recommendation Relating to Disposition of Estate Without Administration, 18 Cal. L. Revision Comm'n Reports 1005 (1986); *Recommendation Relating to Small Estate Set-Aside*, 18 Cal. L. Revision Comm'n Reports 1101 (1986); *Recommendation Relating to Proration of Estate Taxes*, 18 Cal. L. Revision Comm'n Reports 1127 (1986). These three recommendations were combined in one bill. The recommended legislation was enacted. See 1986 Cal. Stat. ch. 783.

Recommendation Proposing the Trust Law, 18 Cal. L. Revision Comm'n Reports 501 (1986). The recommended legislation was enacted. See 1986 Cal. Stat. ch. 820. Follow-up legislation was proposed in *Recommendation Relating to Technical Revisions in the Trust Law*, 18 Cal. L. Revision Comm'n Reports 1823 (1986). The recommended legislation was enacted. See 1987 Cal. Stat. ch. 128.

Recommendation Relating to Notice in Guardianship and Conservatorship Proceedings, 18 Cal. L. Revision Comm'n Reports 1793 (1986); *Recommendation Relating to Preliminary Provisions and Definitions of the Probate Code*, 18 Cal. L. Revision Comm'n Reports 1807 (1986); *Recommendation Relating to Marital Deduction Gifts*, Appendix 5 of 1987 Annual Report; *Recommendation Relating to Administration of Estates of Missing Persons*, Appendix 6 of 1987 Annual Report; *Recommendation Relating to Supervised Administration of Decedent's Estate*, 1 Cal. L. Revision Comm'n Reports 5 (1988); *Recommendation Relating to Independent Administration of Estates Act*, 19 Cal. L. Revision Comm'n Reports 205 (1988); *Recommendation Relating to Creditor Claims Against Decedent's Estate*, 19 Cal. L. Revision Comm'n Reports 299 (1988); *Recommendation Relating to Notice in Probate Proceedings*, 19 Cal. L. Revision Comm'n Reports 357 (1988). These eight recommendations were combined in one bill. The recommended legislation was enacted. See 1987 Cal. Stat. ch. 923.

REAL AND PERSONAL PROPERTY. Whether the law relating to real and personal property (including, but not limited to, a Marketable Title Act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon termination or abandonment

of a lease, powers of appointment, and related matters) should be revised. (Authorized by 1983 Cal. Stat. res. ch. 40, consolidating various previously authorized aspects of real and personal property law into one comprehensive topic.)

Commercial lease law. As the Commission is aware, the area of real property law most in need of study is landlord-tenant law. The Commission currently has a consultant preparing a study of commercial lease law. The consultant's study is due March 1, 1988. The consultant may be able to release the first portion of the study, dealing with the critical issue of the tenant's right to sublease or assign, earlier. There is great concern about this problem in the field, and it was this problem that caused the Commission to undertake this study.

Application of Marketable Title Act to Obsolete Restrictive Covenants. During the past five years, the Commission has made a series of recommendations designed to improve the marketability of title to property. Provisions were enacted upon Commission recommendations designed to remove clouds on title created by (1) ancient mortgages and deeds of trust, (2) dormant mineral rights, (3) unexercised options, (5) powers of termination, (6) unperformed contracts for sale of real property, and (7) abandoned easements. The Commission has long planned to undertake a study to determine whether and how the marketable title statute should be made applicable to obsolete restrictive covenants. The staff probably could prepare the necessary background study on this rather difficult matter.

Other title matters. The Commission has a background study outlining many other aspects of real and personal property law that are in need of study. Reference to this background study sometime in the future will permit the Commission to determine additional areas that might be studied.

The Commission has submitted the following recommendations relating to this topic:

Recommendation and Study Relating to Taking Possession and Passage of Title in Eminent Domain Proceedings, 3 Cal. L. Revision Comm'n Reports at B-1 (1961). See also 3 Cal. L. Revision Comm'n Reports at 1-5 (1961). This recommendation was enacted. 1961

Cal. Stat. chs. 1612 (tax apportionment) and 1613 (taking possession and passage of title).

Recommendation and Study Relating to Evidence in Eminent Domain Proceedings, 3 Cal. L. Revision Comm'n Reports at A-1 (1961). This recommendation was submitted to the Legislature several times and was enacted in 1965. 1965 Cal. Stat. ch. 1151.

Recommendation and Study Relating to the Reimbursement for Moving Expenses When Property Is Acquired for Public Use, 3 Cal. L. Revision Comm'n Reports at C-1 (1961). The substance of this recommendation was enacted in 1965. 1965 Cal. Stat. chs. 1649, 1650.

Recommendation and Study Relating to Condemnation Law and Procedure: Number 4--Discovery in Eminent Domain Proceedings, 4 Cal. L. Revision Comm'n Reports 701 (1963); 4 Cal. L. Revision Comm'n Reports 213 (1963). The recommended legislation was not enacted. See also *Recommendation Relating to Discovery in Eminent Domain Proceedings*, 8 Cal. L. Revision Comm'n Reports 19 (1967); 8 Cal. L. Revision Comm'n Reports 1318 (1967). The recommended legislation was enacted. See 1967 Cal. Stat. ch. 1104 (exchange of valuation data).

Recommendation Relating to Recovery of Condemnee's Expenses on Abandonment of an Eminent Domain Proceeding, 8 Cal. L. Revision Comm'n Reports 1361 (1967); 9 Cal. L. Revision Comm'n Reports 19 (1969). The recommended legislation was enacted. See 1968 Cal. Stat. ch. 133.

Recommendation Relating to Arbitration of Just Compensation, 9 Cal. L. Revision Comm'n Reports 123 (1969); 10 Cal. L. Revision Comm'n Reports 1018 (1971). The recommended legislation was enacted. See 1970 Cal. Stat. ch. 417.

Recommendation Relating to Condemnation Law and Procedure: Conforming Changes in Improvement Acts, 12 Cal. L. Revision Comm'n Reports 1001 (1974); 12 Cal. L. Revision Comm'n Reports 534 (1974). The recommended legislation was enacted. See 1974 Cal. Stat. ch. 426.

Recommendation Proposing the Eminent Domain Law, 12 Cal. L. Revision Comm'n Reports 1601 (1974); 13 Cal. L. Revision Comm'n Reports 2010 (1976); *Tentative Recommendations Relating to Condemnation Law and Procedure: The Eminent Domain Law, Condemnation Authority of State Agencies, and Conforming Changes in Special District Statutes*, 12 Cal. L. Revision Comm'n Reports at 1, 1051, and 1101 (1974). The recommended legislation was enacted. See 1975 Cal. Stat. chs. 581, 582, 584, 585, 586, 587, 1176, 1239, 1240, 1275, 1276. See also 1976 Cal. Stat. ch. 22.

Recommendation Relating to Relocation Assistance by Private Condemners, 13 Cal. L. Revision Comm'n Reports 2085 (1976); 13 Cal. L. Revision Comm'n Reports 1614-15 (1976). The recommended legislation was enacted. See 1976 Cal. Stat. ch. 143.

Recommendation Relating to Condemnation for Byroads and Utility Easements, 13 Cal. L. Revision Comm'n Reports 2091 (1976); 13 Cal. L. Revision Comm'n Reports 1615 (1976). The recommended legislation was enacted in part (utility easements). See 1976 Cal. Stat. ch. 994.

Recommendation Relating to Escheat, 8 Cal. L. Revision Comm'n Reports 1001 (1967); 9 Cal. L. Revision Comm'n Reports 16-18

(1969). Most of the recommended legislation was enacted. See 1968 Cal. Stat. chs. 247 (escheat of decedent's estate) and 356 (unclaimed property act).

Recommendation Relating to Unclaimed Property, 11 Cal. L. Revision Comm'n Reports 401 (1973); 11 Cal. L. Revision Comm'n Reports 1124 (1973). The recommended legislation was not enacted. See also *Recommendation Relating to Escheat of Amounts Payable on Travelers Checks, Money Orders, and Similar Instruments*, 12 Cal. L. Revision Comm'n Reports 613 (1974); 13 Cal. L. Revision Comm'n Reports 2012 (1976). The recommended legislation was enacted. See 1975 Cal. Stat. ch. 25.

See *Recommendation and Study Relating to Abandonment or Termination of a Lease*, 8 Cal. L. Revision Comm'n Reports 701 (1967); 8 Cal. L. Revision Comm'n Reports 1319 (1967). The recommended legislation was not enacted. See also *Recommendation Relating to Real Property Leases*, 9 Cal. L. Revision Comm'n Reports 401 (1969); 9 Cal. L. Revision Comm'n Reports 98 (1969). The recommended legislation was not enacted. See also *Recommendation Relating to Real Property Leases*, 9 Cal. L. Revision Comm'n Reports 153 (1969); 10 Cal. L. Revision Comm'n Reports 1018 (1971). The recommended legislation was enacted. See 1970 Cal. Stat. ch. 89.

Recommendations Relating to Landlord-Tenant Relations, 11 Cal. L. Revision Comm'n Reports 951 (1973). This report contains two recommendations: *Abandonment of Leased Real Property* and *Personal Property Left on Premises Vacated by Tenant*. See also 12 Cal. L. Revision Comm'n Reports 536 (1974). The recommended legislation was enacted. See 1974 Cal. Stat. chs. 331, 332.

Recommendation Relating to Damages in Action for Breach of Lease, 13 Cal. L. Revision Comm'n Reports 1679 (1976); 14 Cal. L. Revision Comm'n Reports 13 (1978). The recommended legislation was enacted. See 1977 Cal. Stat. ch. 49.

Recommendation Relating to Partition of Real and Personal Property, 13 Cal. L. Revision Comm'n Reports 401 (1976); 13 Cal. L. Revision Comm'n Reports 1610-12 (1976). The recommended legislation was enacted. See 1976 Cal. Stat. ch. 73.

Recommendation Relating to Review of Resolution of Necessity by Writ of Mandate, 14 Cal. L. Revision Comm'n Reports 83 (1978); 14 Cal. L. Revision Comm'n Reports 224 (1978). The recommended legislation was enacted. See 1978 Cal. Stat. ch. 286.

Recommendation Relating to Evidence of Market Value of Property, 14 Cal. L. Revision Comm'n Reports 105 (1978); 14 Cal. L. Revision Comm'n Reports 225 (1978). The recommended legislation was enacted in part. See 1978 Cal. Stat. ch. 294. *Recommendation Relating to Application of Evidence Code Property Valuation Rules in Noncondemnation Cases*, 15 Cal. L. Revision Comm'n Reports 301 (1980); 15 Cal. L. Revision Comm'n Reports 1429 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 381.

Recommendation Relating to Ad Valorem Property Taxes in Eminent Domain Proceedings, 14 Cal. L. Revision Comm'n Reports 291 (1978); 15 Cal. L. Revision Comm'n Reports 1025 (1980). The recommended legislation was enacted. See 1978 Cal. Stat. ch. 31.

Recommendation Relating to Vacation of Public Streets, Highways, and Service Easements, 15 Cal. L. Revision Comm'n Reports 1137 (1980); 15 Cal. L. Revision Comm'n Reports 1429 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 1050. See also 17 Cal. L. Revision Comm'n Reports 825 (1984). The recommended follow-up legislation was enacted. See 1983 Cal. Stat. ch. 69.

Recommendation Relating to Special Assessment Liens on Property Acquired for Public Use, 15 Cal. L. Revision Comm'n Reports 1101 (1980); 15 Cal. L. Revision Comm'n Reports 1428 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 122. See also 16 Cal. L. Revision Comm'n Reports 25 (follow up legislation). The recommended legislation was enacted. See 1981 Cal. Stat. ch. 139.

Recommendation Relating to Quiet Title Actions, 15 Cal. L. Revision Comm'n Reports 1187 (1980); 15 Cal. L. Revision Comm'n Reports 1428 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 44.

Recommendation Relating to Marketable Title of Real Property, 16 Cal. L. Revision Comm'n Reports 401 (1982); 16 Cal. L. Revision Comm'n Reports 2026 (1982). The recommended legislation was enacted. See 1982 Cal. Stat. ch. 1268.

Recommendation Relating to Severance of Joint Tenancy, 17 Cal. L. Revision Comm'n Reports 941 (1984); 18 Cal. L. Revision Comm'n Reports 23 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 519.

Recommendation Relating to Effect of Quiet Title and Partition Judgments, 17 Cal. L. Revision Comm'n Reports 947 (1984); 18 Cal. L. Revision Comm'n Reports 22 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 20.

Recommendation Relating to Dormant Mineral Rights, 17 Cal. L. Revision Comm'n Reports 957 (1984); 18 Cal. L. Revision Comm'n Reports 22 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 240.

Recommendation Relating to Rights Among Cotenants In Possession and Out of Possession of Real Property, 17 Cal. L. Revision Comm'n Reports 1023 (1984); 18 Cal. L. Revision Comm'n Reports 23 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 241.

Recommendation Relating to Recording Severance of Joint Tenancy, 18 Cal. L. Revision Comm'n Reports 249 (1986). The recommended legislation was enacted. See 1985 Cal. Stat. ch. 157.

Recommendation Relating to Abandoned Easements, 18 Cal. L. Revision Comm'n Reports 257 (1986). The recommended legislation was enacted. See 1985 Cal. Stat. ch. 157.

FAMILY LAW. Whether the law relating to family law (including, but not limited to, community property) should be revised. (Authorized by 1983 Cal. Stat. res. ch. 40. See also 1978 Cal. Stat. res. ch. 65; 16 Cal. L. Revision Comm'n Reports 2019 (1982); 14 Cal. L. Revision Comm'n Reports 22 (1978).)

The area of family law is in need of study to clarify the law and to make needed substantive changes in the law. This field of law is

very controversial. The Commission has submitted a number of recommendations and has several background studies available.

Marital agreements made during marriage. California now has the Uniform Premarital Agreements Act and detailed provisions concerning agreements relating to rights upon death of one of the spouses. However, there is no general statute governing marital agreements during marriage. Such a statute would be useful and the development of the statute might involve controversial issues. Also, the issue whether the right to support can be waived in a premarital agreement should be considered.

Disposition of marital property. The Commission submitted a recommendation on this matter on which an interim hearing was held by the Senate Judiciary Committee. Recent legislation sponsored by the Commission on Status of Women has been enacted that affects this area. The Commission's recommendation should be reviewed and compared with the newly enacted legislation. Any Commission proposals not already acted upon could be revived and presented to the Legislature.

Stepparent liability. The Commission is responsible for a number of statutes that impact on the liability of a stepparent for support of a stepchild, particularly the statutes governing liability of marital property for debts. The staff has received the manuscript of an article by Professor Mary-Lynne Fisher entitled "Stepparent Responsibility for Child Support," which is critical of the statutes in a number of respects. At some point the Commission should review this article to determine whether any additional changes in these statutes appear desirable.

The Commission has submitted the following recommendations relating to this topic:

Recommendation Relating to Federal Military and Other Pensions as Community Property, 16 Cal. L. Revision Comm'n Reports 47 (1982); 16 Cal. L. Revision Comm'n Reports 2027 (1982). The recommended resolution was adopted. See 1982 Cal. Stat. res. ch. 44.

Recommendation Relating to Division of Joint Tenancy and Tenancy in Common Property at Dissolution of Marriage, 16 Cal. L. Revision Comm'n Reports 2165 (1982); 17 Cal. L. Revision Comm'n Reports 823-24 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 342. The Commission has prepared follow up legislation to deal with the application of the 1983 statute to cases pending when that statute took effect. *Recommendation*

Relating to Civil Code Sections 4800.1 and 4800.2, 18 Cal. L. Revision Comm'n Reports, 383 (1986). One of two recommended measures was enacted (Application of Civil Code Sections 4800.1 and 4800.2). See 1986 Cal. Stat. ch. 49.

Recommendation Relating to Liability of Marital Property for Debts, 17 Cal. L. Revision Comm'n Reports 1 (1984). See also 17 Cal. L. Revision Comm'n Reports 824 (1984); 18 Cal. L. Revision Comm'n Reports 20-21 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 1671.

Recommendation Relating to Marital Property Presumptions and Transmutations, 17 Cal. L. Revision Comm'n Reports 205 (1984); 18 Cal. L. Revision Comm'n Reports 21 (1986). The recommended legislation was enacted in part (transmutations). See 1984 Cal. Stat. ch. 1733.

Recommendation Relating to Reimbursement of Educational Expenses, 17 Cal. L. Revision Comm'n Reports 229 (1984); 18 Cal. L. Revision Comm'n Reports 22 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 1661.

Recommendation Relating to Special Appearance in Family Law Proceedings, 17 Cal. L. Revision Comm'n Reports 243 (1984); 18 Cal. L. Revision Comm'n Reports 21 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 156.

Recommendation Relating to Liability of Stepparent for Child Support, 17 Cal. L. Revision Comm'n Reports 251 (1984); 18 Cal. L. Revision Comm'n Reports 21 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 249.

Recommendation Relating to Awarding Temporary Use of Family Home, 17 Cal. L. Revision Comm'n Reports 261 (1984); 18 Cal. L. Revision Comm'n Reports 21 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 463.

Recommendation Relating to Disposition of Community Property, 17 Cal. L. Revision Comm'n Reports 269 (1984); 18 Cal. L. Revision Comm'n Reports 22 (1986). The recommended legislation was not enacted but the subject matter of the Commission's recommendation was referred for interim study by the Senate Judiciary Committee.

Recommendation Relating to Effect of Death of Support Obligor, 17 Cal. L. Revision Comm'n Reports 824 (1984); 18 Cal. L. Revision Comm'n Reports 21-22 (1986). The recommended legislation was enacted in part. See 1984 Cal. Stat. ch. 19. See also *Recommendation Relating to Provision for Support if Support Obligor Dies*, 18 Cal. L. Revision Comm'n Reports 119 (1986). The recommended legislation was enacted. See 1985 Cal. Stat. ch. 362.

Recommendation Relating to Dividing Jointly Owned Property Upon Marriage Dissolution, 18 Cal. L. Revision Comm'n Reports 147 (1986). The recommended legislation was enacted. See 1985 Cal. Stat. ch. 362.

Recommendation Relating to Litigation Expenses in Family Law Proceedings, 18 Cal. L. Revision Comm'n Reports 351 (1986). The recommended legislation was enacted. See 1985 Cal. Stat. ch. 362.

PREJUDGMENT INTEREST. Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised. (Authorized by 1971 Cal. Stat. res. ch. 75.)

This topic was added to the Commission's Calendar of Topics by the Legislature (not on recommendation of the Commission) because some members of the Legislature believed that prejudgment interest should be recoverable in personal injury actions. This topic was never given priority by the Commission. The Commission doubted that a recommendation by the Commission would carry much weight, given the positions of the Trial Lawyers Association and the Insurance Companies and other potential defendants on the issue. Provisions providing for prejudgment interest in personal injury actions (not recommended by the Commission) were enacted in 1982. See Civil Code Section 3291. This is a topic that could be dropped from the Commission's agenda.

CLASS ACTIONS. Whether the law relating to class actions should be revised. (Authorized by 1975 Cal. Stat. res. ch. 15. See also 12 Cal. L. Revision Comm'n Reports 524 (1974).)

This topic was added to the Commission's Calendar of Topics upon request of the Commission. However, the Commission never gave the topic any priority because the State Bar and the Uniform Law Commissioners were reviewing the Uniform Class Actions Act which was approved by the National Conference of Commissioners on Uniform State Laws in 1976. As of September 1985, only two states--Iowa and North Dakota--have enacted the Uniform Act. The staff doubts that the Commission could produce a statute in this area that would have a reasonable chance for enactment, given the controversial nature of the issues involved in drafting such a statute. But Commissioner Gregory can provide more information concerning the efforts to obtain enactment of the Uniform Act in California and whether this is a topic to which the Commission would want to give priority at some future time.

OFFERS OF COMPROMISE. Whether the law relating to offers of compromise should be revised. (Authorized by 1975 Cal. Stat. res. ch. 15. See also 12 Cal. L. Revision Comm'n Reports 525 (1974).)

This topic was added to the Commission's Calendar of Topics at the request of the Commission in 1975. The Commission was concerned with Section 998 of the Code of Civil Procedure (withholding or augmenting costs following rejection or acceptance of offer to allow judgment). The Commission noted several instances where the language of Section 998 might be clarified and suggested that the section did not deal adequately with the problem of a joint offer to several plaintiffs. The Commission raised the question whether some provision should be made for the case involving multiple plaintiffs. Since then Section 3291 of the Civil Code has been enacted to allow recovery of interest where the plaintiff makes an offer pursuant to Section 998.

The Commission has never given this topic any priority, but it is one that might be considered by the Commission sometime in the future on a nonpriority basis when staff and Commission time permit work on the topic.

DISCOVERY IN CIVIL ACTIONS. Whether the law relating to discovery in civil cases should be revised. (Authorized by 1975 Cal. Stat. res. ch. 15. See also 12 Cal. L. Revision Comm'n Reports 526 (1974).)

The Commission requested authority to study this topic in 1974. The Commission noted that the existing California discovery statute was based on the Federal Rules of Civil Procedure and that the federal rules had been amended to deal with specific problems which had arisen under the rules. The Commission believed the federal revisions should be studied to determine whether the California statute should be modified in light of the changes in the federal rules.

Although the Commission considered the topic to be an important one, the Commission decided not to give the study priority because the California State Bar was actively studying the matter and the Commission did not want to duplicate the efforts of the California State Bar. A joint commission of the California State Bar and the Judicial Council has now produced a new discovery act that has been enacted into law. The Commission decided to retain this topic on its agenda.

PROCEDURE FOR REMOVAL OF INVALID LIENS. Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorney's fees to the prevailing party. (Authorized by 1980 Cal. Stat. res. ch. 37.)

This topic was added to the Commission's Calendar of Topics by the Legislature (not recommended for addition by Commission) because of the problem created by unknown persons filing fraudulent lien documents on property owner by public officials or others to create a cloud on the title of the property. The Commission has never given this topic any priority, but it is one that might be considered on a nonpriority basis in the future when staff and Commission time permit. The staff has done a preliminary analysis of this matter that shows a number of remedies are available under existing law. The question is whether these remedies are adequate.

SPECIAL ASSESSMENT LIENS FOR PUBLIC IMPROVEMENTS. Whether acts governing special assessments for public improvements should be simplified and unified. (Authorized by 1980 Cal. Stat. res. ch. 37.)

There are a great number of statutes that provide for special assessments for public improvements of various types. The statutes overlap and duplicate each other and contain apparently needless inconsistencies. The Legislature added this topic to the Commission's Calendar of Topics with the objective that the Commission might be able to develop one or more unified acts to replace the variety of acts that now exist. (A number of years ago, the Commission examined the improvement acts and recommended the repeal of a number of obsolete ones. That recommendation was enacted.) This legislative assignment would be a worthwhile project but would require a substantial amount of staff time.

INJUNCTIONS. Whether the law on injunctions and related matters should be revised. (Authorized by 1984 Cal. Stat. res. ch. 42.)

This topic was added to the Commission's Calendar of Topics by the Legislature in 1984. The topic was added because comprehensive legislation was proposed for enactment and it was easier for the

Legislature to refer the matter to the Commission than to make a careful study of the legislation.

We some time ago received a letter from Irwin J. Nowick who is the one primarily interested in this study. See Exhibit 19. You should note that the letter is on the letterhead of the Assembly Majority Whip. The letter from Mr. Nowick had attached a draft statute. Since then we have received inquiries from other legislative committee staffs as to our schedule on this matter.

Because there is legislative interest in this topic, the staff believes that some action should be taken now. Perhaps the best way to deal with it would be to retain an expert consultant to advise us whether a study of this topic is needed. If the consultant concludes that a study of the topic is needed, the consultant could prepare a Scope of Study Statement which would indicate the contents of the study should the Commission decide to study the topic. The action suggested by the staff would be a useful method of determining whether the Commission wishes to give the topic a priority in the future without the need to devote staff resources to the topic. An alternative would be for the staff to prepare the analysis.

INVOLUNTARY DISMISSAL FOR LACK OF PROSECUTION. Whether the law relating to involuntary dismissal for lack of prosecution should be revised. (Authorized by 1978 Cal. Stat. res. ch. 85. See also 14 Cal. L. Revision Comm'n Reports 23 (1978).)

The Commission recommended a comprehensive statute on this topic. *Recommendation Relating to Dismissal for Lack of Prosecution*, 16 Cal. L. Revision Comm'n Reports 2205 (1982); *Revised Recommendation Relating to Dismissal for Lack of Prosecution*, 17 Cal. L. Revision Comm'n Reports 905 (1984). See also 18 Cal. L. Revision Comm'n Reports 23 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 1705.

This topic was retained on the Calendar of Topics so that the Commission would have authority to recommend any clean up legislation that might be needed. The staff will follow the experience under the new statute and report any problems with it to the Commission.

STATUTES OF LIMITATIONS FOR FELONIES. Whether the law relating to statutes of limitations applicable to felonies should be revised. (Authorized by 1981 Cal. Stat. ch. 909, § 3.)

The Commission submitted a recommendation for a comprehensive statute on this topic. *Recommendation Relating to Statutes of Limitation for Felonies*, 17 Cal. L. Revision Comm'n Reports 301 (1984); 18 Cal. L. Revision Comm'n Reports 23-24 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. ch. 1270.

The Commission retained this topic on its Calendar of Topics so that any needed clean up legislation could be submitted.

RIGHTS AND DISABILITIES OF MINORS AND INCOMPETENT PERSONS. Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised. (Authorized by 1979 Cal. Stat. res. ch. 19. See also 14 Cal. L. Revision Comm'n Reports 217 (1978).)

The Commission has submitted a number of recommendations under this topic authorization and it is anticipated that more will be submitted under this topic authorization as the need for those recommendations becomes apparent. One possible study would be to prepare a comprehensive statute relating to the rights of minors to medical treatment. The existing statutes are poorly organized and a comprehensive statute dealing with this matter would be useful. Also a study on the right of a minor to contract might be worthwhile.

The Commission has submitted the following recommendations relating to this topic:

Recommendation and Study Relating to Powers of Appointment, 9 Cal. L. Revision Comm'n Reports 301 (1969); 9 Cal. L. Revision Comm'n Reports 98 (1969). The recommended legislation was enacted. See 1969 Cal. Stat. chs. 113, 155. A clarifying revision to the powers appointment statute was submitted to the 1978 Legislature. See 14 Cal. L. Revision Comm'n Reports 225, 257 (1978). The recommended legislation was enacted. See 1978 Cal. Stat. ch. 266. See also *Recommendation Relating to Revision of Powers of Appointment Statute*, 15 Cal. L. Revision Comm'n Reports 1668 (1980); 16 Cal. L. Revision Comm'n Reports 25 (1982). The recommended legislation was enacted. See 1981 Cal. Stat. ch. 63.

Recommendation Relating to Emancipated Minors, 16 Cal. L. Revision Comm'n Reports 183 (1982); 17 Cal. L. Revision Comm'n Reports 823 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 6.

Recommendation Relating to Uniform Durable Power of Attorney for Health Care Decisions, 17 Cal. L. Revision Comm'n Reports 101

(1984); 17 Cal. L. Revision Comm'n Reports 822 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 1204.

Recommendation Relating to Statutory Forms for Durable Powers of Attorney, 17 Cal. L. Revision Comm'n Reports 701 (1984); 18 Cal. L. Revision Comm'n Reports 18-19 (1986). The recommended legislation was enacted. See 1984 Cal. Stat. chs. 312, 602.

Recommendation Relating to Durable Powers of Attorney, 18 Cal. L. Revision Comm'n Reports 305 (1986). The recommended legislation was enacted. See 1985 Cal. Stat. ch. 403.

CHILD CUSTODY, ADOPTION, GUARDIANSHIP, AND RELATED MATTERS. Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised. (Authorized by 1972 Cal. Stat. res. ch. 27. See also 10 Cal. L. Revision Comm'n Reports 1122 (1971); 1956 Cal. Stat. res. ch. 42; 1 Cal. L. Revision Comm'n Reports, "1956 Report" at 29 (1957).)

Child custody. The Commission has in hand a study of this topic prepared by the Commission's consultant, the late Professor Brigitte M. Bodenheimer. See Bodenheimer, *The Multiplicity of Child Custody Proceedings--Problems of California Law*, 23 Stan. L. Rev. 703 (1971). The Commission has not considered this study. The Commission has also received a letter bringing to its attention inadequacies in the California custody laws. Exhibit 20.

Adoption. There is a need to review the substantive provisions relating to adoption and there is a need for a well drafted, well organized adoption statute. The Commission has planned to undertake the drafting of a new adoption statute and to give the matter some priority. The Uniform Law Commissioners have a special drafting committee working on the rights of an unmarried natural father when a child is adopted and on other issues involving adoption. The Commission has deferred the study of adoption until the work of the Uniform Commissioners becomes available. The Commission also has in hand a study of this topic prepared by the Commission's consultant, the late Professor Brigitte M. Bodenheimer. See Bodenheimer, *New Trends and Requirements in Adoption Law and Proposals for Legislative Change*, 49 So. Cal. L. Rev. 10 (1975).

Uniform Parentage Act. Exhibit 21 points out procedural problems in enforcement proceedings under the Uniform Parentage Act. Addressing these problems would not be a major project. It may be appropriate to submit the apparent defects to the Uniform Law Commission to see

whether they are inclined to develop uniform provisions to deal with the problems.

Surrogate motherhood. Exhibit 22 is a letter containing suggestions to minimize custody battles where a woman has agreed to give up a child either before conception or during pregnancy, and to allow single parents to arrange to have children by a surrogate mother. The Uniform Law Commissioners may produce an act on this subject. Legislation might be useful, but the topic is an emotional one.

The Commission has submitted the following recommendations relating to this topic:

Recommendation Relating to Guardianship-Conservatorship Law, 14 Cal. L. Revision Comm'n Reports 501 (1978); 15 Cal. L. Revision Comm'n Reports 1024-25 (1980). See also *Guardianship-Conservatorship Law With Official Comments,* 15 Cal. L. Revision Comm'n Reports 451 (1980). The recommended legislation was enacted. See 1979 Cal. Stat. chs. 165, 726, 730. See also 15 Cal. L. Revision Comm'n Reports 1427 (1980) (Guardianship-Conservatorship Law--technical and clarifying revisions). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 246.

Recommendation Relating to Revision of Guardianship-Conservatorship Law, 15 Cal. L. Revision Comm'n Reports 1463 (1980); 16 Cal. L. Revision Comm'n Reports 24-25 (1982). The recommended legislation was enacted. See 1981 Cal. Stat. ch. 9.

Recommendation Relating to Uniform Veterans Guardianship Act, 15 Cal. L. Revision Comm'n Reports 1289 (1980); 15 Cal. L. Revision Comm'n Reports 1428 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 89.

Recommendation Relating to Uniform Durable Power of Attorney Act, 15 Cal. L. Revision Comm'n Reports 351 (1980); 16 Cal. L. Revision Comm'n Reports 25 (1982). The recommended legislation was enacted. See 1981 Cal. Stat. ch. 511.

EVIDENCE. Whether the Evidence Code should be revised. (Authorized by 1965 Cal. Stat. res. ch. 130)

The California Evidence Code was enacted upon recommendation of the Commission. Since then, the Federal Rules of Evidence have been adopted. Those rules draw heavily from the California Evidence Code, and in drafting the federal rules the drafters made changes in provisions taken from California. The California statute might be conformed to some of these federal provisions. In addition, there is a

substantial body of experience under the Evidence Code. That experience might be reviewed to determine whether any technical or substantive revisions in the Evidence Code are needed. The Commission has available a background study that reviews the federal rules and notes changes that might be made in the California code in light of the federal rules. However, the study was prepared 10 years ago and probably should be updated before it is considered by the Commission. In addition, a background study by an expert consultant of the experience under the California Evidence Code (enacted more than 20 years ago) might be useful before the Commission undertakes a review of the Evidence Code.

The Commission has submitted the following recommendations relating to this topic:

Recommendation Proposing an Evidence Code, 7 Cal. L. Revision Comm'n Reports 1 (1965). A number of tentative recommendations and research studies were published and distributed for comment prior to the preparation of the recommendation proposing the Evidence Code. See 6 Cal. L. Revision Comm'n Reports at 1, 101, 201, 601, 701, 801, 901, 1001, and Appendix (1964). See also *Evidence Code With Official Comments*, 7 Cal. L. Revision Comm'n Reports 1001 (1965). The recommended legislation was enacted. See 1965 Cal. Stat. ch. 299 (Evidence Code).

Recommendations Relating to the Evidence Code: Number 1--Evidence Code Revisions; Number 2--Agricultural Code Revisions; Number 3--Commercial Code Revisions, 8 Cal. L. Revision Comm'n Reports 101, 201, 301 (1967). See also 8 Cal. L. Revision Comm'n Reports 1315 (1967). The recommended legislation was enacted. See 1967 Cal. Stat. chs. 650 (Evidence Code revisions), 262 (Agricultural Code revisions), 703 (Commercial Code revisions).

Recommendation Relating to the Evidence Code: Number 4--Revision of the Privileges Article, 9 Cal. L. Revision Comm'n Reports 501 (1969); 9 Cal. L. Revision Comm'n Reports 98 (1969). The recommended legislation was not enacted; *Recommendation Relating to Psychotherapist-Patient Privilege*, 14 Cal. L. Revision Comm'n Reports 127 (1978); 14 Cal. L. Revision Comm'n Reports 225 (1978). The recommended legislation was passed by the Legislature but vetoed by the Governor. See also *Recommendation Relating to Psychotherapist-Patient Privilege*, 15 Cal. L. Revision Comm'n Reports 1307 (1980). This revised recommendation was not submitted to the Legislature. Portions of the revised recommendation were enacted in 1985. 1985 Cal. Stat. chs. 545, 1077.

Recommendation Relating to the Evidence Code: Number 5--Revisions of the Evidence Code, 9 Cal. L. Revision Comm'n Reports 137 (1969); 10 Cal. L. Revision Comm'n Reports 1018 (1971). Some of the recommended legislation was enacted. See

1970 Cal. Stat. chs. 69 (res ipsa loquitur), 1397 (psychotherapist-patient privilege).

See also report concerning *Proof of Foreign Official Records*, 10 Cal. L. Revision Comm'n Reports 1022 (1971) and 1970 Cal. Stat. ch. 41.

Recommendation Relating to Erroneously Ordered Disclosure of Privileged Information, 11 Cal. L. Revision Comm'n Reports 1163 (1973); 12 Cal. L. Revision Comm'n Reports 535 (1974). The recommended legislation was enacted. See 1974 Cal. Stat. ch. 227.

Recommendation Relating to Evidence Code Section 999-The "Criminal Conduct" Exception to the Physician-Patient Privilege, 11 Cal. L. Revision Comm'n Reports 1147 (1973); 12 Cal. L. Revision Comm'n Reports 535 (1974). The recommended legislation was not enacted. A revised recommendation was submitted to the 1975 Legislature. See *Recommendation Relating to the Good Cause Exception to the Physician-Patient Privilege*, 12 Cal. L. Revision Comm'n Reports 601 (1974); 13 Cal. L. Revision Comm'n Reports 2012 (1976). The recommended legislation was enacted. See 1975 Cal. Stat. ch. 318.

Recommendation Relating to View by Trier of Fact in a Civil Case, 12 Cal. L. Revision Comm'n Reports 587 (1974); 13 Cal. L. Revision Comm'n Reports 2011 (1976). The recommended legislation was enacted. See 1975 Cal. Stat. ch. 301.

Recommendation Relating to Admissibility of Copies of Business Records in Evidence, 13 Cal. L. Revision Comm'n Reports 2051 (1976); 13 Cal. L. Revision Comm'n Reports 2012 (1976). The recommended legislation was not enacted.

Recommendation Relating to Evidence of Market Value of Property, 14 Cal. L. Revision Comm'n Reports 105 (1978); 14 Cal. L. Revision Comm'n Reports 225 (1978). The recommended legislation was enacted. See 1978 Cal. Stat. ch. 294.

Recommendation Relating to Protection of Mediation Communications, 18 Cal. L. Revision Comm'n Reports, 241 (1986). The recommended legislation was enacted. See 1985 Cal. Stat. ch. 731.

ARBITRATION. Whether the law relating to arbitration should be revised. (Authorized by 1968 Cal. Stat. res. ch. 110. See also 8 Cal. L. Revision Comm'n Reports 1325 (1967).)

The present California arbitration statute was enacted in 1961 upon Commission recommendation. See *Recommendation and Study Relating to Arbitration*, 3 Cal. L. Revision Comm'n Reports at G-1 (1961). See also 4 Cal. L. Revision Comm'n Reports 15 (1963). See also 1961 Cal. Stat. ch. 461. The topic was retained on the Commission's Calendar of Topics so that the Commission has authority to recommend any needed technical or substantive revisions in the statute.

MODIFICATION OF CONTRACTS. Whether the law relating to modification of contracts should be revised. (Authorized by 1974 Cal. Stat. res. ch. 45. See also 1957 Cal. Stat. res. ch. 202; 1 Cal. L. Revision Comm'n Reports, "1957 Report" at 21 (1957).)

The Commission recommended legislation on this topic that was enacted in 1975 and 1976. See *Recommendation and Study Relating to Oral Modification of Written Contracts*, 13 Cal. L. Revision Comm'n Reports 301 (1976); 13 Cal. L. Revision Comm'n Reports 2011 (1976). One of the two legislative measures recommended was enacted. See 1975 Cal. Stat. ch. 7; *Recommendation Relating to Oral Modification of Contracts*, 13 Cal. L. Revision Comm'n Reports 2129 (1976); 13 Cal. L. Revision Comm'n Reports 1616 (1976). The recommended legislation was enacted. See 1976 Cal. Stat. ch. 109.

This topic is continued on the Commission's Calendar of Topics so that the Commission has authority to recommend any needed technical or substantive revisions in the legislation enacted upon Commission recommendation.

GOVERNMENTAL LIABILITY. Whether the law relating to sovereign or governmental immunity in California should be revised. (Authorized by 1977 Cal. Stat. res. ch. 17. See also 1957 Cal. Stat. res. ch. 202.)

The comprehensive governmental tort liability statute was enacted upon Commission recommendation in 1963 and additional legislation on this topic was enacted in the following years upon Commission recommendation. The topic is retained on the Commission's Calendar of Topics so that the Commission has authority to make additional recommendations concerning this topic to make substantive and technical improvements in the statutes enacted upon Commission recommendation and to make recommendations to deal with situations not dealt with by the existing statutes. Other groups have been active in this field in recent years.

The Commission has submitted the following recommendations relating to this topic:

Recommendations Relating to Sovereign Immunity: Number 1--Tort Liability of Public Entities and Public Employees; Number 2--Claims, Actions and Judgments Against Public Entities and Public Employees; Number 3--Insurance Coverage for Public Entities and Public Employees; Number 4--Defense of Public Employees; Number 5--Liability of Public Entities for Ownership

and Operation of Motor Vehicles; Number 6--*Workmen's Compensation Benefits for Persons Assisting Law Enforcement or Fire Control Officers*; Number 7--*Amendments and Repeals of Inconsistent Special Statutes*, 4 Cal. L. Revision Comm'n Reports 801, 1001, 1201, 1301, 1401, 1501, and 1601 (1963). See also 4 cal. L. Revision Comm'n Reports 211-13 (1963). Most of the recommended legislation was enacted. See 1963 Cal. Stat. chs. 1681 (tort liability of public entities and public employees), 1715 (claims, actions and judgments against public entities and public employees), 1682 (insurance coverage for public entities and public employees), 1683 (defense of public employees), 1684 (workmen's compensation benefits for persons assisting law enforcement or fire control officers), 1685 (amendments and repeals of inconsistent special statutes), 1686 (amendments and repeals of inconsistent special statutes), 2029 (amendments and repeals of inconsistent special statutes). See also *A Study Relating to Sovereign Immunity*, 5 Cal. L. Revision Comm'n Reports 1 (1963).

Recommendation Relating to Sovereign Immunity: Number 8--Revisions of the Governmental Liability Act, 7 Cal. L. Revision Comm'n Reports 401 (1965); 7 Cal. L. Revision Comm'n Reports 914 (1965). The recommended legislation was enacted. See 1965 Cal. Stat. chs. 653 (claims and actions against public entities and public employees), 1527 (liability of public entities for ownership and operation of motor vehicles).

Recommendation Relating to Sovereign Immunity: Number 9--Statute of Limitations in Actions Against Public Entities and Public Employees, 9 Cal. L. Revision Comm'n Reports 49 (1969); 9 Cal. L. Revision Comm'n Reports 98 (1969). See also *Proposed Legislation Relating to Statute of Limitations in Actions Against Public Entities and Public Employees*, 9 Cal. L. Revision Comm'n Reports 175 (1969); 10 Cal. L. Revision Comm'n Reports 1021 (1971). The recommended legislation was enacted. See 1970 Cal. Stat. ch. 104.

Recommendation Relating to Sovereign Immunity: Number 10--Revisions of the Governmental Liability Act, 9 Cal. L. Revision Comm'n Reports 801 (1969); 10 Cal. L. Revision Comm'n Reports 1020 (1971). Most of the recommended legislation was enacted. See 1970 Cal. Stat. ch. 662 (entry to make tests) and 1099 (liability for use of pesticides, liability for damages from tests).

Recommendation Relating to Payment of Judgments Against Local Public Entities, 12 Cal. L. Revision Comm'n Reports 575 (1974); 13 Cal. L. Revision Comm'n Reports 2011 (1976). The recommended legislation was enacted. See 1975 Cal. Stat. ch. 285.

Recommendation Relating to Undertakings for Costs, 13 Cal. L. Revision Comm'n Reports 901 (1975); 13 Cal. L. Revision Comm'n Reports 1614 (1976). The recommended legislation was not enacted.

Recommendation Relating to Notice of Rejection of Late Claim Against Public Entity, 16 Cal. L. Revision Comm'n Reports 2251 (1982); 17 Cal. L. Revision Comm'n Reports 824 (1984). The recommended legislation was enacted. See 1983 Cal. Stat. ch. 107.

Recommendation Relating to Security for Costs, 14 Cal. L. Revision Comm'n Reports 319 (1978); 15 Cal. L. Revision Comm'n Reports 1025 (1980). The recommended legislation was enacted. See 1980 Cal. Stat. ch. 114.

INVERSE CONDEMNATION. Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised. (Authorized by 1971 Cal. Stat. res. ch. 74. See also 1970 Cal. Stat. res. ch. 46; 1965 Cal. Stat. res. ch. 130.)

The Commission has made recommendations to deal with specific aspects of this topic but has never made a study looking toward the enactment of a comprehensive statute, primarily because inverse condemnation liability has a constitutional basis and because it is unlikely that any significant legislation could be enacted.

The Commission has submitted the following recommendations relating to this topic:

Recommendation Relating to Inverse Condemnation: Insurance Coverage, 10 Cal. L. Revision Comm'n Reports 1031 (1971); 10 Cal. L. Revision Comm'n Reports 1126 (1971). The recommended legislation was enacted. See 1971 Cal. Stat. ch. 140.

Recommendation Relating to Sovereign Immunity: Number 10--Revisions of the Governmental Liability Act, 9 Cal. L. Revision Comm'n Reports 801 (1969); 10 Cal. L. Revision Comm'n Reports 1020 (1971). Most of the recommended legislation was enacted. See 1970 Cal. Stat. chs. 622 (entry to make tests) and 1099 (liability for use of pesticides, liability for damages from tests).

Proposed Legislation Relating to Statute of Limitations in Actions Against Public Entities and Public Employees, 9 Cal. L. Revision Comm'n Reports 175 (1969); 10 Cal. L. Revision Comm'n Reports 1021 (1971). The recommended legislation was enacted. See 1970 Cal. Stat. ch. 104.

Recommendation Relating to Payment of Judgments Against Local Public Entities, 12 Cal. L. Revision Comm'n Reports 575 (1974); 13 Cal. L. Revision Comm'n Reports 2011 (1976). The recommended legislation was enacted. See 1975 Cal. Stat. ch. 285.

See also Van Alstyne, California Inverse Condemnation Law, 10 Cal. L. Revision Comm'n Reports 1 (1971).

LIQUIDATED DAMAGES. Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised. (Authorized by 1973 Cal. Stat. res. ch. 39. See also 1969 Cal. Stat. res. ch. 224.)

The Commission submitted a series of recommendations proposing enactment of a comprehensive liquidated damages statute. Ultimately,

the statute was enacted. The topic is retained on the Calendar of Topics so that the Commission has authority to recommend any needed technical or substantive changes in the statute.

The Commission has submitted the following recommendations relating to this topic:

Recommendation and Study Relating to Liquidated Damages, 11 Cal. L. Revision Comm'n Reports 1201 (1973); 12 Cal. L. Revision Comm'n Reports 535 (1974). The recommended legislation was not enacted. See also *Recommendation Relating to Liquidated Damages*, 13 Cal. L. Revision Comm'n Reports 2139 (1976); 13 Cal. L. Revision Comm'n Reports 1616 (1976). The recommended legislation was passed by the Legislature but vetoed by the Governor. See also *Recommendation Relating to Liquidated Damages*, 13 Cal. L. Revision Comm'n Reports 1735 (1976); 14 Cal. L. Revision Comm'n Reports 13 (1978). The recommended legislation was enacted. See 1977 Cal. Stat. ch. 198.

PAROL EVIDENCE RULE. Whether the parol evidence rule should be revised. (Authorized by 1971 Cal. Stat. res. ch. 75. See also 10 Cal. L. Revision Comm'n Reports 1031 (1971).)

The Commission has submitted the following recommendation relating to the topic. *Recommendation Relating to Parol Evidence Rule*, 14 Cal. L. Revision Comm'n Reports 143 (1978); 14 Cal. L. Revision Comm'n Reports 224 (1978). The recommended legislation was enacted. See 1978 Cal. Stat. ch. 150. The topic is retained on the Calendar of Topics so that the Commission is authorized to recommend any technical or substantive changes in the statute.

PLEADINGS IN CIVIL ACTIONS. Whether the law relating to pleadings in civil actions and proceedings should be revised. (Authorized by 1980 Cal. Stat. res. ch. 37.)

The Commission submitted a recommendation proposing a comprehensive statute relating to pleading. *Recommendation and Study Relating to Counterclaims and Cross-Complaints, Joinder of Causes of Action, and Related Provisions*, 10 Cal. L. Revision Comm'n Reports 499 (1971). The topic is continued on the Calendar of Topics so that the Commission is authorized to recommend technical and substantive changes in the pleading statute. See 11 Cal. L. Revision Comm'n Reports 1024 (1973) (technical change).

ADMINISTRATIVE LAW. Whether there should be changes to administrative law. (Authorized by 1987 Cal. Stat. res. ch. 47.)

This is the Commission's newest topic, added at the 1987 session at the request of the Commission, in response to a suggestion from the Los Angeles County Bar Association. At the time the Commission decided to request authority to study this topic, the Commission decided to review its financial resources after the authority was granted and determine whether there are sufficient resources available to retain a research consultant to prepare an outline of the matters that might be considered in a study of administrative law.