

10/9/56

Memorandum No. 3

Subject: Agenda

As you know, we hope at the October meeting to complete the selection of items to be included in our agenda resolution to be submitted to the 1957 Session of the Legislature.

One factor which the commission will obviously take into account in deciding what to include in the 1957 agenda resolution is what studies will be carried over into 1957-58 from the current year. As of this date, it appears that these will include the following:

Study No. 19 - Overlapping provisions of Penal and Vehicle Codes.

Study No. 20 - Guardians for nonresidents.

Study No. 21 - Confirmation of partition sales.

Study No. 22 - Cut-off date for motion for new trial.

Study No. 29 - Post-conviction sanity hearings.

Study No. 34 - Uniform rules of evidence (most of the commission's work on this study will be done next year).

The commission has thus far tentatively selected the following topics for the 1957 agenda resolution:

A study to determine whether the defendant in a criminal action should be required to give notice to the prosecution of his intention to rely upon the defense of alibi and the facts relating thereto. [Suggestions 132(14) and 135(8)]

A study to determine (1) whether the legal definition of "insanity" should be revised, (2) whether the separate trial on the question of insanity should be abolished, and (3) whether, if the separate trial is retained, evidence of insanity should be admissible on the issue of specific intent. [Suggestions 118(1) and 132(15)]

A study to determine whether the law should be clarified concerning the instructions to be given to the jury as to the basis on which its discretion should be exercised in deciding whether punishment should be fixed at death or at life imprisonment. [Suggestion 118(2) and 118(3)]

A study to determine whether the Small Claims Court Law should be revised. [1955 Topic No. 10]

A study to determine what the inter vivos rights of one spouse should be in property acquired by the other spouse while the couple was domiciled outside of California which would have been community property had they been domiciled in California.

A study of the law relating to attachment and garnishment and property exempt from execution.

The following Suggestions will be considered at the October meeting.

(Copies of those which you have not yet received are enclosed.)

- I. Suggestions recommended by Southern Committee for consolidation with other Suggestions or Studies.

<u>Suggestion No.</u>	<u>To be Consolidated with:</u>
129(1)	Small Claims Court study
169(5)	Study No. 34, Uniform Rules of Evidence

- II. Suggestions which the Southern Committee recommends the commission Not Accept without other recommendations for disposition.

<u>Suggestion No.</u>
124
132(17)
132(20)
135(2)

Suggestion No.

135(4)

135(5)

135(6)

135(9)

135(10)

135(11)

140

146

148

153(1)

153(2)

156(1)

156(2)

156(3)

160(2)

163

168

169(3)

169(6)

170(3)

170(4)

170(5)

173

174

175

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III. Suggestions which the Southern Committee recommends the commission Not Accept with further suggestion re disposition.

<u>Suggestion No.</u>	<u>Suggested disposition</u>
110	Include in Report to Legislature as statute held unconstitutional and discuss with Senator Dorsey and Mr. Bradley whether they care to sponsor repealing legislation.
116	Refer to Senator Dorsey and Mr. Bradley for any action they may care to take.
128	Refer to Senator Dorsey and Mr. Bradley for any action they may care to take.
132(18)	Refer to Senator Dorsey and Mr. Bradley for any action they may care to take.
135(3)	Refer to Senator Dorsey and Mr. Bradley for any action they may care to take.
135(7)	Refer to Senator Dorsey and Mr. Bradley for any action they may care to take.
141	Refer to Senator Dorsey and Mr. Bradley for any action they may care to take.
170(1)	Refer to Senator Dorsey and Mr. Bradley for any action they may care to take.
180	Refer to Senator Dorsey and Mr. Bradley for any action they may care to take.

IV. Suggestions recommended for Immediate Study by the Southern Committee

- 132(8)
- 155(1)
- 169(4) and 194
- 176
- 177

V. Suggestions forwarded by the Southern
Committee without recommendation.

- 170(2) - Mr. Shaw - Immediate Study
Mr. Babbage - Not Accept
- 170(6) - Mr. Shaw - Immediate Study
Mr. Babbage - Not Accept

172

178

181

VI. Suggestions which have not been considered
by the Southern Committee

182	186	190	194
183	187	191	195
184	188	192	196
185	189	193	197

After selection of a tentative list of topics for inclusion in the 1957 agenda resolution has been completed, several additional steps remain to be taken:

1. A review of the tentative list by the commission to determine whether any topics should be deleted, either for lack of time to study them during 1957-58 or for any other reason. I recommend that this be done at the October meeting.

2. A check with the State Bar and the Judicial Council to determine whether any topics on the list are deemed by them inappropriate for study by us, either because the topics duplicate work which they are doing or contemplate doing or for

for any other reason. I recommend that the Chairman be given authority to make this check and to delete topics on the tentative list as he deems desirable in light of information developed.

3. Preparation of descriptions of the several topics selected for purposes of our 1957 Report to the Legislature. I recommend that the Chairman and the Executive Secretary be given authority to prepare such descriptions and, when this has been done, to send the 1957 Report to the State Printer.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary