

Memoranda

Date of Meeting: December 18-19, 1959

Date of Memo: December 10, 1959

MEMORANDUM NO. 5

Subject: Annual Report.

Attached is a revised copy of the Annual Report. We must finally approve the Annual Report at the December meeting in order to meet our printing schedule.

Also attached is a copy of a letter from Mr. Kleps concerning the recent Supreme Court case that held that violation of the code section requiring justices of the Supreme Court to reside in Sacramento did not deprive the Supreme Court of jurisdiction to decide cases. The staff submitted a memo on the question of whether this case held the statutory provision unconstitutional. The Commission at its October meeting decided that the case did hold the statutory provision unconstitutional. Mr. Kleps does not believe that it did. He suggests that the Commission omit all reference to the case in its annual report and indicates that if this suggestion is not adopted he wishes to be recorded as dissenting from this portion of the report. Mr. Kleps will be unable to attend our December meeting.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL

Sacramento, California
December 1, 1959

Mr. Thomas E. Stanton, Jr.
Chairman
California Law Revision Commission
111 Sutter Street
San Francisco, California

Dear Tom:

The purpose of this letter is to set forth my reasons for urging the Law Revision Commission to reconsider the action taken at its October meeting with respect to the constitutionality of Section 1060 of the Government Code, in the light of People v. Chessman, 52 A.C. 481, 513. I regret that I was not present at the time this matter was discussed, and also the fact that I will not be present at the December meeting in Palm Springs. I did discuss this informally, however, with several members of the Commission at the November meeting, including yourself, Mr. Selvin, Mr. Dieden and Mr. Gustafson. I have no objection to the general statement which is contained in the minutes of the October meeting, but I think it is a mistake to recommend the repeal of Section 1060(g) upon the ground that it is unconstitutional. To my mind it is a much different thing to say that the Legislature cannot impose additional qualifications for the office of Justice of the Supreme Court, from what it is to say that the Legislature may not constitutionally pass a statute stating that the Justices shall reside at Sacramento. Put another way, I think the constitutionality of the statute could be sustained upon the theory that it is directory, even though no enforcement exists.

There is no indication in the Chessman case that the Supreme Court considered the fairly substantial historical background of this statute. It was part of the 1872 Political Code (Pol. C. § 852) which reads almost exactly like the present Section 1060 of the Government Code. This section was in existence when the Constitution of 1879 was adopted by the voters, and that Constitution contained a section making existing laws applicable to the judicial system created by the 1879 Constitution (Const. Art. XXII, § 11). In 1880 the Legislature specifically provided "All laws relating to the former court shall, as far as applicable, be considered as applying to the present court" (Stats. 1880, Ch. 4). There is every reason, incidentally, to believe that this 1880 statute was prepared by the commissioners whose duties it was to adjust existing statutes to the requirements of the new 1879 Constitution (See 42 Cal. Law Rev. 766, 780, fn. 50).

In connection with the somewhat analogous problem of where sessions of the Supreme Court should be held, the debates at the Constitu-

Mr. Thomas E. Stanton, Jr. - p. 2

tional Convention made it clear that the Convention thought that this was a matter properly within the Legislature's power, and thought that it should remain there (Debates and Proceedings of the Constitutional Convention, Vol. III, pp. 1451-1454).

While I have not checked this out in detail, I think that a sufficient doubt exists so that the Law Revision Commission should not place itself in the position of determining that Section 1060(g) should be repealed as unconstitutional. Among other problems is the fact that the same section requires other constitutional officers to reside at Sacramento. I am not aware that anyone thinks that this statute would prevent the Governor or the Attorney General from carrying on the duties of their offices in the event they choose to reside elsewhere; but, on the other hand, I doubt that the statute is unconstitutional in that respect. In short, I suggest the omission of this entire matter from the Commission's report to the Legislature. Failing this, I should like an expression of my dissent in the Commission's report.

Regards,

Ralph N. Kleps
Legislative Counsel

RNK:r

cc: Messrs. Selvin and DeMouilly

STATE OF CALIFORNIA

REPORT OF THE
CALIFORNIA LAW REVISION
COMMISSION

To the Governor and the Legislature of the
State of California at the Legislative
Session of 1960

March 1960

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LETTER OF TRANSMITTAL

To HIS EXCELLENCY EDMUND G. BROWN
Governor of California
and to the Members of the Legislature

The California Law Revision Commission, created in 1953 to examine the common law and statutes of the State and to recommend such changes in the law as it deems necessary to modify or eliminate antiquated and inequitable rules of law and to bring the law of this State into harmony with modern conditions (Government Code Sections 10300 to 10340), herewith submits this report of its activities during the year 1959.

THOMAS E. STANTON, Jr., Chairman
Vice Chairman
JAMES A. COBEY, Member of the Senate
CLARK L. BRADLEY, Member of the Assembly
LEONARD J. DIEDEN
GEORGE G. GROVER
ROY A. GUSTAFSON
CHARLES H. MATTHEWS
JOHN R. McDONOUGH, JR.
HERMAN F. SELVIN
RALPH N. KLEPS, Legislative Counsel, ex officio

John H. DeMouilly
Executive Secretary

March 1960

REPORT OF THE CALIFORNIA LAW REVISION

COMMISSION FOR THE YEAR 1959

I. FUNCTION AND PROCEDURE OF COMMISSION

The California Law Revision Commission, created in 1953,¹ consists of one Member of the Senate, one Member of the Assembly, seven members appointed by the Governor with the advice and consent of the Senate, and the Legislative Counsel who is an ex officio nonvoting member.

The principal duties of the Law Revision Commission are to:²

(1) Examine the common law and statutes of the State for the purpose of discovering defects and anachronisms therein.

(2) Receive and consider suggestions and proposed changes in the law from the American Law Institute, the National Conference of Commissioners on Uniform State Laws, bar associations and other learned bodies, judges, public officials, lawyers and the public generally.

(3) Recommend such changes in the law as it deems necessary to bring the law of this State into harmony with modern conditions.

The Commission is required to file a report at each regular session of the Legislature containing a calendar of topics selected by it for study, listing both studies in progress and topics intended for future consideration. The Commission may study only topics which the Legislature, by concurrent resolution, authorizes it to study.³

Each of the Commission's recommendations is based on a research study of the subject matter concerned. Most of these studies are undertaken by specialists in the fields of law involved who are retained as research consultants to the Commission. This procedure not only provides the Commission with invaluable expert assistance but is economical as well because the attorneys and law professors who serve as research consultants have already acquired the considerable background necessary to understand the specific problems under consideration.

The consultant submits a detailed research study that is given careful consideration by the Commission in determining what report and recommendation it will make to the Legislature. When the Commission has reached a conclusion on the matter, a printed pamphlet is published that contains the official report and recommendation of the Commission together with a draft of any legislation necessary to effectuate the recommendation, and the research study upon which the recommendation is based. This pamphlet is distributed to the Governor, Members of the Legislature, heads of State departments, and a substantial number of judges, district attorneys, lawyers, law professors and law libraries throughout the State.⁴ Thus, a large and representative number of interested persons are given an opportunity to study and comment upon the Commission's work before it is submitted to the Legislature. The annual reports and the recommendations and studies of the Commission are bound in a set of volumes that is both a permanent record of the Commission's work and, it is believed, a valuable contribution to the legal literature of the State.

In 1955, 1957 and 1959, the Commission submitted to the Legislature recommendations for legislation accompanied by bills prepared by the Commission. The Commission also submitted a number of reports on topics as to which, after study, it concluded that (1) the existing law did not need to be revised or (2) the topic was one not suitable for study by the Commission.

A total of 33 bills⁵ and one Constitutional Amendment, drafted by the Commission to effectuate its recommendations, have been presented to the Legislature. Twenty-three of these bills became law -- three in 1955,⁶ seven in 1957⁷ and thirteen in 1959.⁸ The Constitutional Amendment was approved by the 1959 Legislature and will be voted upon by the people in 1960.

II. PERSONNEL OF COMMISSION

Honorable Clark L. Bradley of San Jose, Member of the Assembly for the Twenty-eighth Assembly District, was reappointed the Assembly Member of the Commission.

Mr. Bert W. Levit of San Francisco resigned from the Commission effective January 1, 1959, after his appointment as Director of the California Department of Finance. Mr. Leonard J. Dieden of Oakland was appointed to the Commission by Governor Brown in April 1959 to fill the vacancy created by the resignation of Mr. Levit.

Mr. Stanford C. Shaw of Ontario resigned from the Commission effective January 1, 1959, after assuming the duties as Member of the Senate for the Thirty-sixth Senatorial District. Mr. Frank S. Balthis of Los Angeles was appointed to the Commission by the Governor in February 1959 to fill the vacancy created by the resignation of Mr. Shaw. The term of Mr. Balthis expired October 1, 1959; he was succeeded by Mr. Herman F. Selvin of Los Angeles who was appointed to the Commission by the Governor in October 1959.

The term of Mr. John D. Babbage expired October 1, 1959; he was succeeded by Mr. George G. Grover of Corona who was appointed to the Commission by the Governor in October 1959.

The term of Professor Samuel D. Thurman expired October 1, 1959; he was succeeded by Professor John R. McDonough, Jr., of Stanford who was appointed to the Commission by the Governor in October 1959.

The term of Mr. Charles H. Matthews expired October 1, 1959;

As of the date of this report the membership of the Law Revision Commission is:

	Term Expires
Thomas E. Stanton, Jr., San Francisco, Chairman . . .	October 1, 1961
. Vice Chairman . . .	
Hon. James A. Cobey, Merced, Senate Member.	*
Hon. Clark L. Bradley, San Jose, Assembly Member. . .	*
Leonard J. Dieden, Oakland, Member.	October 1, 1961
George G. Grover, Corona, Member.	October 1, 1963
Roy A. Gustafson, Ventura, Member	October 1, 1961
Charles H. Matthews	
John R. McDonough, Jr., Stanford, Member.	October 1, 1963
Herman F. Selvin, Los Angeles, Member	October 1, 1963
Ralph N. Kleps, Sacramento, Ex Officio Member . . .	**

Professor John R. McDonough, Jr., a member of the law faculty of Stanford University, resigned as Executive Secretary of the Commission on August 1, 1959, to resume a full-time position as a member of the law school faculty at Stanford. He had served as Executive Secretary of the Commission on a half-time basis since the Commission was organized in 1954. In October 1959, Professor McDonough was appointed as a member of the Commission by Governor Brown.

Mr. John H. DeMouilly, formerly the Chief Deputy Legislative Counsel of Oregon, was appointed Executive Secretary by the Commission to fill the vacancy created by the resignation of Professor McDonough. Mr. DeMouilly serves as Executive Secretary of the Commission on a three-fourth time basis and serves as a member of the law faculty of Stanford University on a one-fourth time basis. This change in the position of the Executive Secretary from a half-time basis to a three-fourth time basis reflects the expansion of the

* The Legislative members of the Commission serve at the pleasure of the appointing power.
 ** The Legislative Counsel is an ex officio nonvoting member of the Law Revision Commission.

Commission's program over the past several years and the realization, which this development has brought, that the position of its Executive Secretary is virtually a full-time position.

On January 19, 1959, Mr. Glen E. Stephens of Menlo Park was appointed temporary Assistant Executive Secretary of the Commission. Mr. Joseph B. Harvey of Sacramento was appointed Assistant Executive Secretary of the Commission on September 1, 1959, to fill the vacancy created by the expiration of the temporary appointment of Mr. Stephens.

III. SUMMARY OF WORK OF COMMISSION

During 1959 the Law Revision Commission was engaged in four principal tasks:

- (1) Presentation of its 1959 legislative program to the Legislature.⁹
- (2) Work on various assignments given to the Commission by the Legislature.¹⁰
- (3) Consideration of various topics for possible future study by the Commission.¹¹
- (4) A study, made pursuant to Section 10331 of the Government Code, to determine whether any statutes of the State have been held by the Supreme Court of the United States or by the Supreme Court of California to be unconstitutional or to have been impliedly repealed.¹²

The Commission held eleven two-day meetings and one three-day meeting in 1959: three in Southern California (June 19-20, October 23-24 and December 18-19) and nine in Northern California (January 16-17, February 13-14, March 13-14, April 17-18, May 15-16, July 24-25, August 28-29, September 24-26 and November 27-28).

IV. 1959 LEGISLATIVE PROGRAM OF COMMISSION

A. TOPICS SELECTED FOR STUDY

Honorable Clark L. Bradley, the Assembly Member of the Commission, introduced at the 1959 Session of the Legislature a concurrent resolution requesting legislative authorization to continue the studies currently in progress by the Law Revision Commission.¹³ Mr. Bradley also introduced a concurrent resolution requesting legislative authorization for the Commission to extend its study of the provisions of the Code of Civil Procedure and the Probate Code relating to confirmation of partition sales and probate sales, authorized in 1956,¹⁴ to include a study of whether the various sections of the Code of Civil Procedure relating to partition should be revised.¹⁵ Both of these concurrent resolutions were adopted.

B. OTHER MEASURES

In 1959 the Law Revision Commission's second substantial legislative program was presented to the Legislature. Seventeen bills and one Constitutional Amendment prepared by the Commission were introduced by its legislative members. Of these, thirteen became law and the Constitutional Amendment was approved by the Legislature. The other four bills did not become law. The following is a brief summary of the legislative history of these bills:

Suspension of the Absolute Power of Alienation: Senate Bill No. 165, which was drafted by the Commission to effectuate its recommendation on this subject,¹⁶ was introduced by Senator Cobey. After minor amendment the bill was passed by the Legislature and signed by the Governor, becoming Chapter 470 of the Statutes of 1959.

Effective Date of an Order Ruling on a Motion for New Trial: Senate Bill No. 163, which was drafted by the Commission to effectuate its recommendation on this subject,¹⁷ was introduced by Senator Cobey. The bill was passed by the Legislature and signed by the Governor, becoming Chapter 468 of the Statutes of 1959.

Presentation of Claims Against Public Entities: Assembly Constitutional Amendment No. 16 and Assembly Bills Nos. 405-410, which were drafted by the Commission to effectuate its recommendation on this subject,¹⁸ were introduced by Mr. Bradley. After minor amendment, Assembly Constitutional Amendment No. 16 was approved by the Legislature. It will be voted upon by the people at the 1960 election. Following distribution by the Commission to interested persons throughout the State of its recommendation and study on this matter, a number of questions were raised relating to various provisions of the claims procedure in Assembly Bill No. 405. After extensive amendments were made to meet the objections raised to Assembly Bill No. 405 and technical amendments were made to Assembly Bills Nos. 406, 407, 408, 409 and 410, they were passed by the Legislature and signed by the Governor, becoming Chapters 1715, 1724-1728 of the Statutes of 1959.

Right of Nonresident Aliens to Inherit: Senate Bill No. 160, which was drafted by the Commission to effectuate its recommendation on this subject,¹⁹ was introduced by Senator Cobey. The bill was referred to the Senate Judiciary Committee. This Committee recommended that the bill be referred to the Committee on Rules to be assigned to an appropriate interim committee. No further action was taken on this bill.

Mortgages of Personal Property for Future Advances: Senate Bill No. 167, which was drafted by the Commission to effectuate its recommendation on this

subject,²⁰ was introduced by Senator Cobey. After several amendments, primarily of a technical character, had been made to the bill it was passed by the Legislature and signed by the Governor, becoming Chapter 528 of the Statutes of 1959.

Doctrine of Worthier Title: Senate Bill No. 166, which was drafted by the Commission to effectuate its recommendation on this subject,²¹ was introduced by Senator Cobey. The bill was passed by the Legislature and signed by the Governor, becoming Chapter 122 of the Statutes of 1959.

Overlapping Provisions of Penal and Vehicle Codes: Assembly Bills Nos. 400 and 402, which were drafted by the Commission to effectuate its recommendation on this subject,²² were introduced by Mr. Bradley. Assembly Bill No. 400 died in Assembly Committee on Criminal Procedure. Assembly Bill No. 402 was passed by the Assembly, was given a do-pass recommendation by the Senate Judiciary Committee, but failed to pass in the Senate.

Cut Off Date, Motion for New Trial: Senate Bill No. 164, which was drafted by the Commission to effectuate its recommendation on this subject,²³ was introduced by Senator Cobey. The bill was amended and passed by the Legislature and was signed by the Governor, becoming Chapter 469 of the Statutes of 1959.

Notice to Stockholders of Sale of Corporate Assets: Assembly Bill No. 403, which was drafted by the Commission to effectuate its recommendation on this subject,²⁴ was introduced by Mr. Bradley. The bill was passed by the Assembly but died in Senate Judiciary Committee.

Recodification of Statutes Relating to Grand Juries: Assembly Bill No. 404, which was drafted by the Commission to effectuate its recommendation on this subject,²⁵ was introduced by Mr. Bradley. After several technical amendments had been made to the bill it was passed by

the Legislature and signed by the Governor, becoming Chapter 501 of the Statutes of 1959.

Procedure for Appointment of Guardians: Assembly Bill No. 401, which was drafted by the Commission to effectuate its recommendation on this subject,²⁶ was introduced by Mr. Bradley. After several amendments had been made to the bill, it was passed by the Legislature and signed by the Governor, becoming Chapter 500 of the Statutes of 1959.

V. CALENDAR OF TOPICS SELECTED FOR STUDY

A. STUDIES IN PROGRESS

During 1959 the Commission worked on the topics listed below, each of which it had been authorized and directed by the Legislature to study.

Studies Which the Legislature Has Directed the Commission To Make:²⁷

1. Whether the law of evidence should be revised to conform to the Uniform Rules of Evidence drafted by the National Conference of Commissioners on Uniform State Laws and approved by it at its 1953 annual conference.
2. Whether the law respecting habeas corpus proceedings, in the trial and appellate courts, should, for the purpose of simplification of procedure to the end of more expeditious and final determination of the legal questions presented, be revised.
3. Whether the law and procedure relating to condemnation should be revised in order to safeguard the property rights of private citizens.
4. Whether the various provisions of law relating to the filing of claims against public officers and employees should be revised.
5. Whether the doctrine of sovereign or governmental immunity in California should be abolished or revised.
6. Whether an award of damages made to a married person in a personal injury action should be the separate property of such married person.
7. Whether changes in the Juvenile Court Law or in existing procedures should be made so that the term "ward of the juvenile court" would be inapplicable to nondelinquent minors.

8. Whether a trial court should have the power to require, as a condition of denying a motion for new trial, that the party opposing the motion stipulate to the entry of judgment for damages in excess of the damages awarded by the jury.
9. Whether the laws relating to bail should be revised.

Topics Authorized by the Legislature Upon the Recommendation of the Commission:²⁸

1. Whether the jury should be authorized to take a written copy of the court's instructions into the jury room in civil as well as criminal cases.²⁹
2. Whether the provisions of the Civil Code relating to rescission of contracts should be revised to provide a single procedure for rescinding contracts and achieving the return of the consideration given.³⁰
3. Whether the law relating to escheat of personal property should be revised.³¹
4. Whether the law relating to the rights of a putative spouse should be revised.³²
5. Whether the law respecting post-conviction sanity hearings should be revised.³³
6. Whether the law respecting jurisdiction of courts in proceedings affecting the custody of children should be revised.³⁴
7. Whether the Arbitration Statute should be revised.³⁵
8. Whether the law in respect of survivability of tort actions should be revised.³⁶

9. Whether the law relating to the inter vivos rights of one spouse in property acquired by the other spouse during marriage while domiciled outside California should be revised.³⁷
10. Whether the law relating to attachment, garnishment, and property exempt from execution should be revised.³⁸
11. Whether a defendant in a criminal action should be required to give notice to the prosecution of his intention to rely upon the defense of alibi.³⁹
12. Whether the Small Claims Court Law should be revised.⁴⁰
13. Whether the law relating to the rights of a good faith improver of property belonging to another should be revised.⁴¹
14. Whether the separate trial on the issue of insanity in criminal cases should be abolished or whether, if it is retained, evidence of the defendant's mental condition should be admissible on the issue of specific intent in the trial on the other pleas.⁴²
15. Whether partnerships and unincorporated associations should be permitted to sue in their common names and whether the law relating to the use of fictitious names should be revised.⁴³
16. Whether the law relating to the doctrine of mutuality of remedy in suits for specific performance should be revised.⁴⁴
17. Whether the provisions of the Penal Code relating to arson should be revised.⁴⁵
18. Whether Civil Code Section 1698 should be repealed or revised.⁴⁶
19. Whether minors should have a right to counsel in juvenile court proceedings.⁴⁷
20. Whether Section 7031 of the Business and Professions Code, which precludes

- an unlicensed contractor from bringing an action to recover for work done, should be revised.⁴⁸
21. Whether the law respecting the rights of a lessor of property when it is abandoned by the lessee should be revised.⁴⁹
 22. Whether a former wife, divorced in an action in which the court did not have personal jurisdiction over both parties, should be permitted to maintain an action for support.⁵⁰
 23. Whether California statutes relating to service of process by publication should be revised in light of recent decisions of the United States Supreme Court.⁵¹
 24. Whether Section 1974 of the Code of Civil Procedure should be repealed or revised.⁵²
 25. Whether the doctrine of election of remedies should be abolished in cases where relief is sought against different defendants.⁵³
 26. Whether the various sections of the Code of Civil Procedure relating to partition should be revised and whether the provisions of the Code of Civil Procedure relating to the confirmation of partition sales and the provisions of the Probate Code relating to the confirmation of sales of real property of estates of deceased persons should be made uniform and, if not, whether there is need for clarification as to which of them governs confirmation of private judicial partition sales.⁵⁴

B. TOPICS INTENDED FOR FUTURE CONSIDERATION

Pursuant to Section 10335 of the Government Code the Commission reported 23 topics that it had selected for study to the 1955 Session of the Legislature; 16 of these topics were approved. The Commission

reported 15 additional topics which it had selected for study to the 1956 Session, all of which were approved. The 1956 Session of the Legislature also referred four other topics to the Commission for study. The Commission reported 14 additional topics which it had selected for study to the 1957 Session, all of which were approved. The 1957 Session of the Legislature also referred seven additional topics to the Commission for study. The Commission reported five additional topics which it had selected for study to the 1958 Session of the Legislature; three of these topics were approved. The legislative members of the Commission did not introduce a concurrent resolution at the 1959 Session of the Legislature authorizing the Commission to undertake additional studies.

The Commission still has a full agenda of studies in progress⁵⁵ that will require all of its energies during the current fiscal year and during fiscal year 1960-61. For this reason the legislative members of the Commission will not introduce at the 1960 Session of the Legislature a concurrent resolution authorizing the Commission to undertake additional studies.

VI. REPORT ON STATUTES REPEALED BY IMPLICATION
OR HELD UNCONSTITUTIONAL

Section 10331 of the Government Code provides:

The Commission shall recommend the express repeal of all the statutes repealed by implication, or held unconstitutional by the Supreme Court of the State or the Supreme Court of the United States.

Pursuant to this directive the Commission has made a study of the decisions of the Supreme Court of the United States and of the Supreme Court of California handed down since the Commission's 1959 Report was prepared.⁵⁶ It has the following to report:

(1) No decision of the Supreme Court of the United States holding a statute of the State unconstitutional or repealed by implication has been found.

(2) No decision of the Supreme Court of California holding a statute of the State repealed by implication has been found.

(3) One decision of the Supreme Court of California holding a statute of the State unconstitutional in part has been found:

In People v. Chessman, 52 A.C. 481, 341 P.2d 679 (1959), the Supreme Court held that the provision of Section 1060 of the Government Code requiring that justices of the Supreme Court "shall reside at and keep their offices in the City of Sacramento" is unconstitutional because it conflicted with the provisions of Section 23 of Article VI of the State Constitution relating to the qualifications of Supreme Court justices.

The question arose out of the defendant's contention that because of the failure of the justices to reside and maintain their offices

in Sacramento, the Supreme Court was "'jurisdictionally foreclosed' from deciding this (or any other) case." Such a contention in effect amounts to the contention that such residence requirement is a qualification for the retention of the office of the Supreme Court justices. The Supreme Court held that the Legislature could not "properly require" such an additional qualification for office.

VII. RECOMMENDATIONS

The Law Revision Commission respectfully recommends that the Legislature authorize the Commission to complete its study of the topics listed in Part V A of this report.

Pursuant to the mandate imposed by Section 10331 of the Government Code the Commission recommends the repeal of Section 1060(g) of the Government Code.

Respectfully submitted,

Thomas E. Stanton, Jr., Chairman
, Vice Chairman
 James A. Cobey, Member of the Senate
 Clark L. Bradley, Member of the Assembly
 Leonard J. Dieden
 George G. Grover
 Roy A. Gustafson
 Charles H. Matthews
 John R. McDonough, Jr.
 Herman F. Selvin
 Ralph N. Kleps, Legislative Counsel, ex officio

John H. DeMouilly
Executive Secretary

FOOTNOTES

1. See Cal. Stat. 1953, ch. 1445, p. 3036; Cal. Govt. Code tit. 2, div. 2, ch. 2, §§ 10300-10340.
2. See Cal. Govt. Code § 10330. The Commission is also directed to recommend the express repeal of all statutes repealed by implication or held unconstitutional by the Supreme Court of the State or the Supreme Court of the United States. Cal. Govt. Code § 10331.
3. See Cal. Govt. Code § 10335.
4. See Cal. Govt. Code § 10333.
5. Two Commission bills failed to become law the first time they were introduced in the (1957 Session), but revised bills on the same topics were prepared by the Commission and enacted as law at the 1959 Session.
6. Cal. Stat. 1955, ch. 799, p. 1400. (Revision to Various Sections of Education Code relating to Public School System.)

Cal. Stat. 1955, ch. 877, p. 1494. (Revision to Various Sections Education Code relating to Public School System.)

Cal. Stat. 1955, ch. 1183, p. 2193. (Revision of Probate Code Sections 640 to 646 - Setting Aside Estates.)
7. Cal. Stat. 1957, ch. 456, p. 1308. (Fish and Game Code.)

Cal. Stat. 1957, ch. 139, p. 733. (Maximum Period of Confinement in a County Jail.)

Cal. Stat. 1957, ch. 540, p. 1589. (Notice of Application for Attorney's Fees and Costs in Domestic Relations Actions.)

Cal. Stat. 1957, ch. 490, p. 1520. (Rights of Surviving Spouse in Property Acquired by Decedent while Domiciled Elsewhere.)

Cal. Stat. 1957, ch. 102, p. 678. (Elimination of Obsolete Provisions in Penal Code Sections 1377 and 1378.)

7. (continued)

Cal. Stat. 1957, ch. 249, p. 902. (Judicial Notice of the Law of Foreign Countries.)

Cal. Stat. 1957, ch. 1498, p. 2825. (Bringing New Parties Into Civil Actions.)

8. Cal. Stat. 1959, ch. 470 (Suspension of Absolute Power of Alienation.)

Cal. Stat. 1959, ch. 468. (Effective Date of an Order on a Motion for New Trial.)

Cal. Stat. 1959, chs. 1715, 1724-1728 (Presentation of Claims Against Public Entities.)

Cal. Stat. 1959, ch. 528. (Mortgages of Personal Property for Future Advances.)

Cal. Stat. 1959, ch. 122. (Doctrine of Worthier Title.)

Cal. Stat. 1959, ch. 469. (Cut Off Date, Motion for New Trial.)

Cal. Stat. 1959, ch. 501. (Recodification of Statutes relating to Grand Juries.)

Cal. Stat. 1959, ch. 500. (Procedure for Appointment of Guardians.)

9. See Part IV of this report infra at 0.

10. See Part V A of this report infra at 00.

11. See Part V B of this report infra at 00.

12. See Part VI B of this report infra at 00.

13. Cal. Stat. 1959, res. ch. 98.

14. Cal. Stat. 1956, res. ch. 42 p. 263.

15. Cal. Stat. 1959, res. ch. 218.

16. See Recommendation and Study relating to Suspension of the Absolute Power of Alienation, 1 Cal. Law Revision Comm'n at G-1, XI; 1959 Rep. Cal. Law Revision Comm'n 14; 1958 Rep. Cal. Law Revision Comm'n 13.

17. See Recommendation and Study relating to the Effective Date of an Order Ruling on a Motion for New Trial, 1 Cal. Law Revision Comm'n at K-1, XI; 1959 Rep. Cal. Law Revision Comm'n 16; 1958 Rep. Cal. Law Revision Comm'n 13.
18. See Recommendation and Study relating to the Presentation of Claims Against Public Entities, Cal. Law Revision Comm'n A-1 et seq. (1959).
19. See Recommendation and Study relating to the Right of Nonresident Aliens to Inherit, Cal. Law Revision Comm'n B-1 et seq. (1959).
20. See Recommendation and Study relating to Mortgages to Secure Future Advances, Cal. Law Revision Comm'n C-1 et seq. (1958).
21. See Recommendation and Study relating to the Doctrine of Worthier Title, Cal. Law Revision Comm'n D-1 et seq. (1959).
22. See Recommendation and Study relating to Overlapping Provisions of Penal and Vehicle Codes relating to Taking of Vehicles and Drunk Driving, Cal. Law Revision Comm'n E-1 et seq. (1958).
23. See Recommendation and Study relating to Time Within Which Motion for New Trial May be Made, Cal. Law Revision Comm'n F-1 et seq. (1958).
24. See Recommendation and Study relating to Notice of Shareholders of Sale of Corporate Assets, Cal. Law Revision Comm'n G-1 et seq. (1959).
25. 1959 Rep. Cal. Law Revision Comm'n 20.
26. 1959 Rep. Cal. Law Revision Comm'n 21.
27. Section 10335 of the Government Code provides that the Commission shall study, in addition to those topics which it recommends and which are approved by the Legislature, any topic which the Legislature by concurrent resolution refers to it for such study.

The legislative directives to make these studies are found in the following:

Nos. 1 through 3: Cal. Stat. 1956, res. ch. 42, p. 263.

No. 4: Cal. Stat. 1956, res. ch. 35, p. 256. See Recommendation and Study relating to the Presentation of Claims Against Public Entities, Cal. Law Revision Comm'n A-1 at A-11 (1959).

Nos. 5 through 8: Cal. Stat. 1957, res. ch. 202, p. 4589.

No. 9: Cal. Stat. 1957, res. ch. 287, p. 4744.

28. Section 10335 of the Government Code requires the Commission to file a report at each regular session of the Legislature containing, inter-alia, a list of topics intended for future consideration, and authorizes the Commission to study the topics listed in the report which are thereafter approved for its study by concurrent resolution of the Legislature.

The legislative authority for the studies in this list is:

No. 1: Cal. Stat. 1955, res. ch. 207, p. 4207.

Nos. 2 through 8: Cal. Stat. 1956, res. ch. 42, p. 263.

Nos. 9 through 22: Cal. Stat. 1957, res. ch. 202, p. 4589.

Nos. 23 through 25: Cal. Stat. 1958, res. ch. 23.

No. 26: Cal. Stat. 1959, res. ch. 218; Cal. Stat. 1956, res. ch. 42, p. 263.

29. For a description of this topic, see 1 Cal. Law Revision Comm'n Rep., Rec. & Studies, 1955 Report at 28 (1957). For legislative history, see 1958 Rep. Cal. Law Revision Comm'n 13.
30. See 1 Cal. Law Revision Comm'n Rep., Rec. & Studies, 1956 Report at 22 (1957).
31. Id at 25.

32. Id. at 26.
33. Id. at 28.
34. Id. at 29.
35. Id. at 33.
36. Ibid.
37. See 1 Cal. Law Revision Comm'n Rep., Rec. & Studies, 1957 Report at 14 (1957).
38. Id. at 15.
39. Id. at 16.
40. Ibid.
41. Id. at 17.
42. Id. at 18.
43. Ibid.
44. Id. at 19.
45. Id. at 20.
46. Id. at 21.
47. Ibid.
48. Id. at 23.
49. Id. at 24.
50. Id. at 25.
51. See 1958 Rep. Cal. Law Revision Comm'n 18.
52. Id. at 20.
53. Id. at 21.
54. See 1 Cal. Law Revision Comm'n Rep., Rec. & Studies, 1956 Report at 21 (1957) and p. 00 of this Report.
55. See Part V A of this Report supra at 00.
56. This study has been carried through 00 Adv. Cal. 000 (1959) and 00 Supreme Court Reporter 000 (1959).