

10/8/64

Memorandum 64-97

Subject: Projects to be undertaken for 1967 Legislative Session

The staff would like an expression of Commission opinion as to the general nature of the projects to be undertaken for the 1967 legislative session. The basic policy decision that should be made now is whether we are going to devote our efforts to one substantial project or to a number of relatively small projects.

If it is desired to undertake one substantial project, we suggest that we attempt to prepare a new eminent domain statute for the 1967 legislative session. We have a number of research studies that cover the entire field, but they are somewhat obsolete.

If it is desired to undertake a number of relatively small projects, we have research studies on several of them now available and we can review our other topics and obtain research consultants, if necessary, to prepare any needed research studies. Attached as Exhibit I is a list of topics which appear to be relatively small projects. We may find that we can eliminate at least one of these topics from our agenda because it is not a suitable topic for Commission study or legislation is not needed.

The staff suggests that we do not undertake another substantial project for the 1967 legislative session. Instead, we believe that a number of relatively small projects should be undertaken. We make this suggestion for two reasons: First, we would like to reduce the workload on the staff and the Commission members. When

we undertake a substantial project we must meet next to impossible deadlines. If we undertake a number of relatively small projects, we can drop a few of them if we find that we have undertaken more than can be accomplished before the 1967 legislative session. Second, we will have time to review the major projects already completed and determine if any corrections are needed.

If we undertake relatively small projects, the staff suggests that we nevertheless also begin work on a revision of the eminent domain statutes, but we would not undertake this work with a view to completing the project for the 1967 legislative session.

Because we have much to do for the 1965 session, we would prefer not to discuss at this time the specific projects to be undertaken if the Commission decides to undertake a number of relatively minor projects for the 1967 legislative session. Also, the priority of the topics to be undertaken will be discussed at a later time. We will prepare a comprehensive memorandum on this subject after we have substantially completed our work for the 1965 legislative session.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

EXHIBIT I

Topics on which we have a research study

1. Clean up bill on presumptions.
2. Personal injury damages as separate property.
3. Additur.
4. Taking jury instructions into jury room in civil cases
(Additional supplemental study will be required).
5. Imputed contributory negligence under Vehicle Code
Section 17150.
6. Rights of good faith improver of real property belonging
to another.
7. Particular problems in eminent domain law.
8. Rights of lessor of property when it is abandoned by lessee.

Topics on which we have no research study

1. Clean up of Part IV of the Code of Civil Procedure.
2. Particular problems in Sovereign Immunity.
3. Particular problems in Evidence.
4. Escheat of personal property. (Study inadequate)
5. Suit by partnership or unincorporated association in
common name and use of fictitious names.
6. Doctrine of mutuality of remedy in suits for specific
performance.
7. Civil Code Section 1698.
8. Suit by unlicensed contractor. (Study inadequate)
9. Support rights after ex parte divorce. (Study inadequate)
10. Service of process by publication.
11. Section 1974 of the Code of Civil Procedure.
12. Doctrine of election of remedies in cases where relief
is sought against different defendants.