

1/12/66

Memorandum 66-10

Subject: Topics for Commission Study

We have received the concurrent resolution to continue the Commission's authority to study topics previously approved. We plan to have it introduced by Senator Cobey as soon as possible.

In connection with this resolution, we request that the Commission recommend an amendment that would extend the scope of our authority in connection with the topic of suit in common name. Specifically, we recommend approval of the following change in the description of this topic:

Whether the law relating to suit by and against partnerships and unincorporated associations should-be-permitted-to-sue in their common names should be revised and whether the law relating to the use of fictitious names should be revised.

We recommend this change because, as is pointed out in the research study on suit in common name (now in preparation), we have concluded that the law should be changed concerning the type of judgment that may be obtained when a suit is brought in common name against a partnership or other unincorporated association. In addition, other changes in the law relating to suit against such associations in common name may be necessary in order to provide a consistent scheme with the scheme we will develop for suit by such associations in common name. The original topic might be construed to limit consideration to the law relating to suit by such associations in their common names.

Respectfully submitted,

John H. DeMouilly
Executive Secretary