

3/21/69

Memorandum 69-58

Subject: Research Contracts

You will recall that the Commission entered into a contract with Professor Ayer to prepare a comprehensive study on the procedural aspects of eminent domain. Professor Ayer produced an article that deals with one of the most important aspects of condemnation procedure (the condemnee's right to recover litigation expenses) and with a number of incidental problems (right to an independent appraisal and use of arbitration).

Professor Ayer has advised me that he will be unable to prepare a study on the remainder of the procedural aspects of eminent domain. For a number of personal reasons (including his feeling that he needs a rest after the major effort he devoted to the study already produced), he has asked to be relieved of the obligation to complete the remainder of the study.

Under the circumstances, the staff recommends that the Executive Secretary be authorized to execute on behalf of the Commission an agreement providing for the payment to Professor Ayer of \$1,500 as full payment for the work completed and relieving him and the State from any additional obligations under the existing contract which would be terminated. (The original agreement provided for payment of \$5,000 for the complete study.)

The staff further recommends that the Executive Secretary be authorized to execute a research contract with a consultant to be selected by him and approved by the Chairman in the amount of \$5,000

for preparation of a study of the procedural aspects of eminent domain law. The scope of the study would be generally the same as that called for in the contract with Professor Ayer.

I wrote to Professor Edward H. Rabin, School of Law, University of California, Davis, to determine whether he would be interested in undertaking the background study. He today advised me as follows:

I am still considering your proposal but I have not been able to make up my mind yet. The project you suggest would involve a full-time commitment for over a year and would force me to abandon certain other projects which I am currently involved in. This note is just to let you know that I am seriously considering this matter and will give you a definite answer at the earliest possible time.

We have sufficient funds available for research during the current fiscal year to finance the new \$5,000 contract if we can find a research consultant. If we find a research consultant on the collateral source problem, I believe that we can finance the study by obtaining approval from the Department of Finance for a budget transfer from other budget categories.

Professor Rabin would be an excellent choice for the study of procedural aspects of eminent domain law since he is interested in this field of law and has many personal contacts with persons in active practice in the field of eminent domain. If he decides he is not able to undertake the study, I will attempt to find another member of a law faculty of a California law school to prepare the study.

Respectfully submitted,

John H. DeMouilly
Executive Secretary