

2/18/70

Seventh Supplement to Memorandum 69-124

Subject: Function of Law Revision Commission

Several years ago, a friend of mine from New York--not associated with the New York Law Revision Commission--told me that there was a move on in New York to abolish the Law Revision Commission. The view was expressed by a number of legislators that the New York Commission was working on topics that were not particularly of interest to the Legislature, was not really assisting the Legislature in solving the difficult problems that require a number of years of study, and was not producing a sufficient volume of acceptable legislation.

You will note that the First Supplement to Memorandum 69-124 contains an attached extract from the 1969 Report of the New York Commission. An examination of that extract will demonstrate that the New York Commission has not followed our practice of making a widespread distribution of tentative proposals to all interested persons and of permitting interested persons to attend meetings as observers.

I have just received the 1970 Annual Report of the New York Law Revision Commission and attached is a portion of the Report describing the "Reorganization of the Commission." I have no additional information, but it appears to me that the Legislature has taken over control of the New York Commission. Whether the name Law Revision Commission is all that remains of the Commission as it has existed in the past will only be known as its future operations are reported.

This development is of particular interest to me because on several occasions when I have discussed the matter with the Chairman of the New York

Commission he has been very critical of our undertaking the study of large topics such as sovereign immunity, condemnation, and the like. He did not feel that these were appropriate topics for the Commission, despite the fact that the Legislature had expressed its wish--at different times--that the Commission devote substantially all its resources to these topics. He felt that the Commission should restrict its study to so-called "lawyers law" topics.

Respectfully submitted,

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Executive Secretary

III. REORGANIZATION OF THE COMMISSION

This year the Commission will not submit any recommendations for legislation to the Legislature in view of its continuing study of the proposed State Administrative Procedure Act as well as an interruption in its program necessitated by a proposed change in its organization and location. The Assembly Standing Committee on Governmental Operations and its Subcommittee on Administrative Procedures have made a thorough study of the Commission's proposed act since the close of the 1969 legislative session. A bill to enact the Commission's 1969 proposal, with certain amendments, will be introduced at this session of the Legislature. The Commission will support that bill.

When the Commission was created in 1934, it was, in general, charged by statute to examine the common law, statutory law and case law to discover defects and anachronisms and to recommend changes to bring about needed reform and modernization. (Legislative Law § 72.) Its endeavors have been almost exclusively in the field of private law. Exceptions have been studies directed by the Governor or by the Legislature. The experience of recent years has pointed up the desirability of a closer liaison between the Commission and the legislative and executive branches of the government. One factor which has had an impact on the relationship between the Commission and the Legislature is the reduction

in the number of joint legislative committees which have always carried the burden of reform in particularized areas in both public and private law. It is now suggested that the Commission undertake the research and fact-finding formerly entrusted to some of the joint legislative committees. To complement the plan for added duties and to achieve a more effective liaison, it is now proposed to transfer the Commission's offices to Albany. (See Proposed Executive Budget For the Fiscal Year April 1, 1970 to March 31, 1971, Part II, Page 677.)

The Commission has studied thoroughly, with such conferences as deemed necessary, the feasibility of moving the headquarters of the Commission from the Cornell Law School (where it has been located since 1934) to Albany, and a reorganization and expansion of its staff, enlarging not the basic jurisdiction of the Commission as fixed by statute, but the areas in which its functions may be performed. It has concluded that this change of location would increase its availability for such expansion of its functions.

Obviously, to change its headquarters after thirty-five years at Cornell Law School is a major enterprise with many problems. Cornell has been generous in its assistance, space, service and magnificent library, to name only a few illustrations of cooperation. The Commission is grateful for all of this, and expresses this gratitude on its own behalf and for the State.