

10/29/71

Memorandum 71-76

Subject: Report on Status of Background Studies Being Prepared by Consultants

The Commission has asked for periodic reports on the progress being made by consultants preparing background studies for the Commission.

The following is the status of the background studies. We will supplement this report orally at the meeting.

Condemnation (Procedure)

Mr. Matteoni, our consultant, is making good progress on the study on the procedural aspects of condemnation law. One portion of the study has been considered by the Commission; a second installment will be considered at the November meeting; an additional installment is in preparation.

Condemnation (Divided Interests)

We have a contract with Joe Harvey to prepare a study on problems created by divided interests in property taken by condemnation. We wrote to Joe on October 7 asking what his plans are; we have received no reply. He has not yet started on the study. The contract requires that the study be completed by July 1, 1972.

Lease Law

We have a contract with Professor Friedenthal for a study of the problems arising when the lessee leaves property on the leased premises and abandons the property or when the lease is terminated or the term of the lease expires. I have asked Jack to hold up on the study because a law student (who is doing directed research under his supervision) has been working with a legislator on the problem and a bill she drafted has passed the Assembly and will be heard in the Senate during the first week in November.

#### Arbitration

The consultant promises delivery of the study in six weeks. See Exhibit II attached.

#### Liquidated Damages

This study has been delivered. Arrangements are being made for its publication in a law review. See Exhibit I attached.

#### Nonresident Aliens

We received a preliminary draft of the study. The consultant is supposedly revising this draft. We received no answer to our letter of October 7 requesting information concerning the current status of the study.

#### Inverse Condemnation

Van Alstyne has not responded to my letter of October 7 requesting information concerning the status of the last study on inverse condemnation.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

Memo 71-76                      EXHIBIT I  
UNIVERSITY OF CALIFORNIA, BERKELEY

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SANTA BARBARA • SANTA CRUZ

SCHOOL OF LAW (BOALT HALL)  
BERKELEY, CALIFORNIA 94720


October 14, 1971

Mr. John H. DeMouilly  
Executive Secretary  
California Law Revision Commission  
Stanford Law School  
Stanford, California 94305

Dear Mr. DeMouilly:

I received your letter of October 12, 1971. The liquidated damages study will be published in the January issue of the California Law Review. I am in the process of going over it with an editor at the present time. We will probably eliminate some of the introductory discussion and the material more directly related to methods of legislative reform.

Very truly yours,

  
Justin Sweet  
Professor of Law

JS:kh

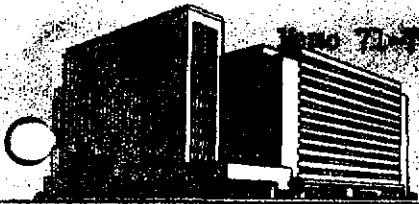


EXHIBIT II

LOS ANGELES

*Home Furnishings* MART

Eddy S. Feldman, Managing Director

1933 South Broadway • Los Angeles, California 90007

14 October 1971

Mr. John H. De Mouilly  
California Law Revision Commission  
School of Law - Stanford University  
Stanford, California 94305

Dear John:

Thank you for your letter of October 7, 1971.

I am happy to confirm that I will complete my study on the arbitration statute at no cost to the California Law Revision Commission.

I have done so much work on it that I should certainly hate to abandon it at this particular time.

I have a number of suggestions for revision of the statute which now becomes terribly important in view of the fact that arbitration is taking on an increasingly expanded role in disputes settlement in our state. More than likely, disputes under \$3,000 and perhaps as high as \$7,500 will be arbitrated. It appears already in the field of public employment that arbitration is proving its usefulness and the process will be expanded there. More and more arbitration is being considered for the settlement of disputes in negligence.

In many cases the arbitration procedures which are set up under existing laws are either sketchy or have been poorly thought out or have been poorly thought out or have been drafted with no reference to the basic arbitration statute. It occurs to me that some uniformity is needed and probably that where arbitration has been established by law the procedure should be integrated with the basic statute - to the extent possible. I will have detailed suggestions for this.

With reference to the last paragraph of your letter I am aware, through the press, of the Commission's work on attachment, garnishment and exemptions from execution. I will submit a number of suggestions with reference to arbitration for your study on these last mentioned matters. Give me six weeks.

Cordially,

ESF:io