

7/26/72

Third Supplement to Memorandum 72-54

Subject: Schedule of Work on Topics

It has been customary, and I believe useful, to review the status of the various topics on our calendar of topics at the meeting when the Annual Report and Budget are considered.

The following is the status of each topic on our calendar.

23 - Confirmation--Partition Sales

We have retained a consultant on this topic (Elmore) and should receive the background study within a year or so.

26 - Escheat; Unclaimed Property

Work on topic completed. Topic should be dropped. See staff draft of Annual Report.

30 - Child Custody and Related Matters

We have received an initial study on this topic. Study was considered, and Commission determined a more comprehensive study was needed. Topic was expanded by 1972 Legislature, and consultant (Bodenheimer) is preparing an additional study on one aspect (adoption) of the topic. We expect to receive the study within next year or so.

36 - Condemnation Law and Procedure

You are aware of the status of this topic. For general discussion, see staff draft of Annual Report.

39 - Creditors' Remedies

You are aware of the status of this topic. For general discussion, see staff draft of Annual Report.

44 - Fictitious Business Names

Work on topic completed. Topic should be dropped. See staff draft of Annual Report.

47 - Modification of Contracts in Writing

Staff-written background study will be published in next issue of Hastings Law Journal.

52 - Sovereign Immunity

Continued on calendar for study of additional areas or new developments.

63 - Evidence Code

Continued on calendar for study of new developments.

65 - Inverse Condemnation

Background study (six parts) covering many aspects of inverse liability has been published in various law reviews and republished by Commission. Our consultant (Van Alstyne) is preparing a study on certain procedural aspects of inverse condemnation, and we expect to receive this study within the next six months. We made a contract for a background study on nuisance liability, but consultant (Van Alstyne) is holding up work on this study until we ask him to go ahead on it.

66 - Quasi-Community Property

Work on topic completed. Topic should be dropped. See staff draft of Annual Report.

67 - Unincorporated Associations

Work on topic substantially completed. At one time had planned to prepare a recommendation on the rules governing liability of unincorporated associations, but it is so unlikely that we will ever consider this problem that the staff recommends that the topic be dropped from calendar. See staff draft of Annual Report.

69 - Powers of Appointment

Work on topic completed. Topic should be dropped. See staff draft of Annual Report.

70 - Arbitration

Authorized for study. We retained a consultant (Feldman), but he never produced a background study. Judicial Council has major study going on this topic, and staff believes it would be a mistake to duplicate work of Judicial Council and that work on topic be deferred for next few years.

71 - Joinder of Causes of Action; Counterclaims and Cross-Complaints

Work substantially completed. There are several aspects of the topics that might merit further consideration: (1) compulsory joinder of causes of action by plaintiff, (2) separate statement of causes of action. However, the staff believes that both are controversial and are not of sufficient importance to merit the time they would take to consider. We will need to continue topic on our calendar for a few years to be sure there are no "bugs" in the general revision of pleading law enacted upon our recommendation.

72 - Liquidated Damages in Contracts

Background study prepared by consultant (Sweet) has been published in California Law Review. Staff believes that Commission should try to work this topic into its meeting schedule as soon as possible.

75 - Right of Nonresident Aliens to Inherit

Consultant (Barton) has produced rough draft of background study, but we are unable to get her to fix date when she will deliver final draft. A law review note on this problem was published in the most recent issue of the Pacific Law Journal; the article was written at my suggestion.

77 - Nonprofit Corporations Law

The Commission has decided to defer work on this topic at least until such time as the work on the major topics (creditors' remedies and condemnation) is substantially completed. Topic authorized for study in 1970.

78 - Disposition of Tenant's Abandoned Property

We expect to receive the background study on this topic from our consultant (Friedenthal) within the next month or so. Commission has directed that this topic be placed on agenda when background study completed.

79 - Parol Evidence Rule

Authorized (1971) but no consultant obtained.

80 - Prejudgment Interest in Civil Actions

Authorized (1971) but no consultant obtained.

Respectfully submitted,

John H. DeMouilly
Executive Secretary