

#36

4/25/73

Memorandum 73-44

Subject: Study 36 - Condemnation (Schedule on Condemnation Study)

Assemblyman Warren, Chairman of the Assembly Judiciary Committee, has asked that the Chairman of the Law Revision Commission give him a report on the progress the Commission is making on the condemnation study, the scope of the study, and when the Commission's recommendation will be submitted to the Legislature.

Each session, a number of bills are presented to the Legislature that relate to condemnation law and procedure. Assemblyman Warren needs to know when the Commission's recommendation will be made so he can determine what action should be taken with respect to these bills. He is concerned about the delay in the completion of work on this project.

Attached is the draft of a letter that the staff suggests be sent by the Commission Chairman to Assemblyman Warren. (The article referred to in the letter is attached.) I believe that Assemblyman Warren will consider the letter as a binding commitment on the part of the Commission to produce according to the schedule. For this reason, I believe that the Commission should consider this matter.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

Hon. Charles Warren  
Assembly Post Office  
State Capitol  
Sacramento, California 95814

Dear Assemblyman Warren:

You requested information concerning the progress the Law Revision Commission is making in its study of condemnation law and procedure. Specifically, you want to know the scope of the study and when the Commission will submit its recommendation to the Legislature.

Over the years since 1961, the Commission has submitted to the Legislature a number of recommendations relating to condemnation law and procedure. These recommendations dealt with particular aspects of the subject, often were controversial, and accomplished significant improvements in California law. They are discussed on pages 287-288 of the enclosed article I wrote for The Appraisal Journal.

The resolution directing the Commission to study this topic was revised by the Senate Judiciary Committee a few years ago to direct that the study be made "with a view to recommending a comprehensive statute that will safeguard the rights of all parties to such proceedings." Pursuant to this direction, the Commission has been engaged in drafting a statute that will cover the entire field of law. Accordingly, all aspects of condemnation law and procedure will be considered in the course of this study. This matter is discussed in further detail in the enclosed article.

The Commission reported in its 1971 and 1972 Annual Reports that it plans to submit its recommendation for enactment of a comprehensive statute to the 1975 legislative session. The Commission plans to publish a tentative recommendation during the first half of 1974 which will include a draft of a comprehensive eminent domain statute. The comments and criticisms received from interested persons and organizations on the tentative statute

will be considered before the statute to be recommended to the Legislature is drafted. Despite the fact that the field of creditors' remedies has occupied most of the Commission's time and resources during 1971-73, the Commission still plans to meet this schedule. Substantial portions of the comprehensive statute have been drafted, but significant portions are still in the process of study and drafting.

A special State Bar Committee has been appointed to work with the Commission on this project. In addition, the Commission has been working in cooperation with a special committee of the National Conference of Commissioners on Uniform State Laws which is engaged in the drafting of a Uniform Eminent Domain Code. Other groups also are cooperating in the study, and almost 800 persons have indicated a desire and willingness to review and comment on the Commission's tentative drafts.

I will be delighted to provide you with any additional information concerning this study you desire.

Sincerely,

John D. Miller  
Chairman