

First Supplement to Memorandum 93-53

Trial Court Unification: Introduction — SCA 3 (Interim Hearing and Library Materials)

This supplementary memorandum reports on the legislative interim hearing on SCA 3, and supplements the listing of background materials available to and reviewed by the Commission's staff in connection with the trial court unification study.

INTERIM HEARING

The Senate and Assembly Committees on Judiciary held a joint interim hearing on trial court unification under SCA 3 on October 8, 1983, in San Diego. A transcript of the hearing is in preparation, and we anticipate a copy shortly. This supplement summarizes a few key points the staff brought away from the hearing.

The hearing was well-attended for an interim hearing, including three members of the Senate Judiciary Committee (Lockyer [Ch.], Marks, and Watson) and six members of the Assembly Judiciary Committee (Isenberg [Ch.], Connolly, Epple, Goldsmith, Snyder, and Speier). There was a variety of support and opposition to SCA 3 expressed at the hearing, engendering a lively discussion and interchange among witnesses and committee members consuming all the allotted time and then some.

Among the specific issues of greatest concern at the hearing, apart from general opposition to the concept of unification, were electoral subdistricting and the impact of the Voting Rights Act on judicial elections, the effect of unification on criminal review procedures and rights of defendants, the possible loss of local people's courts, and possible increased use of non-judge hearing officers.

Overarching these specific concerns are a couple of critical points the Commission should be aware of.

First, there is a fair amount of tension over whether the constitutional amendment should spell out the implementing details of unification, or whether it should merely establish the principle of unification and leave the details to later statute or court rule. Senator Lockyer and other legislators believe strongly

that the Constitution should be a general document, and that every detail included in it will generate opposition to unification from some quarter or other. If court reform is to be achieved at all, it will only be by establishing the general principle first, and dealing with the details later. Many judges and others affected by trial court unification, on the other hand, are not content to leave this matter to later resolution; the details are everything and they will be unable to control how the details come out. There is a basic mistrust here. This is perhaps why the Law Revision Commission as a neutral body was brought into the process.

Second, there is a tug of war between the judicial branch and the legislative branch going on. Should many matters of court organization and administration be left to the judicial branch or should they be subject to ultimate legislative control? Senator Lockyer voiced apprehension that the judicial branch is seeking to strengthen itself at the expense of the legislative branch. This can be seen in the judicial treatment of Proposition 140, as well as in the judicial branch reaction to SCA 3.

Third there appears also to be mistrust within the judicial branch between the individual courts and the Judicial Council (and its Administrative Office of the Courts). This manifests itself in a concern whether any of the details of court organization and procedure that are left to the judicial branch will be under the control of the individual courts or will be subject to the control of the Judicial Council. The individual courts are wary of empire-building.

BACKGROUND INFORMATION

Since Memorandum 93-53 was written, the staff has acquired additional library materials relating to trial court unification. The following listing is limited to those of the new materials the staff has found immediately useful.

Trial Court Reorganization Proposals Recently Considered in California
(Judicial Council of California 1976)

Articles Concerning Application of Voting Rights Act to Judicial Elections
(Various Authors 1989-1992)

Standards Relating to Court Organization (American Bar Association 1990)

History of California Trial Court Structure and Unification Proposals (State
Bar of California 1990)

California Trial Court Reorganization Proposals 1970-1990, Parallel Column
Analysis (State Bar of California ND)

Trial Court Reorganization Pilot Projects (State Bar of California 1991)

Impediments to Coordination as Listed in Individual Coordination Plans
(Judicial Council of California 1992)

Bibliography of Literature on Trial Court Unification (National Center for
State Courts 1993)

Memoranda on SCA 3 (Various State and Local Bar Association Committees
1993)

Summary Minutes of Meetings of Joint Session of Presiding Judges and Court
Administrators Standing Advisory Committees (Judicial Council of
California 1993)

Executive Summary, Trial Court Unification (Judicial Council of California
1993)

Electoral Districting Under the Judicial Council's SCA 3 Proposals (Warren
1993)

Trial Court Consolidation—Panacea or Pandemonium? (Patrick 1993)

Respectfully submitted,

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