

7/16/62

FIRST SUPPLEMENT TO MEMORANDUM NO. 38(1962)

Subject: Study No. 52(L) - Sovereign Immunity (Payment of Costs
in Actions Against Public Entities)

Attached to this supplemental memorandum (on green paper) is a letter from the Department of Public Works proposing an amendment to the statute which relates to costs and interest in actions against the State. This proposal should be considered in connection with the matters suggested in Memorandum No. 38(1962).

Respectfully submitted,

Jon D. Smock
Junior Counsel

Supp. to
Memo. 38(1962)

State of California

DEPARTMENT OF PUBLIC WORKS

Division of Contracts and Rights of Way

June 28, 1962

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

Dear John:

At the last meeting you requested that we draft an amendment to Government Code Section 652 pertaining to the payment of interest and costs on judgments against the State of California. We believe this subsection should be amended to read as follows:

"Except as otherwise provided by law If where a judgment is rendered for the plaintiff, it shall be for the legal amount actually found due from the State to the plaintiff, with legal interest from the time the claim or obligation first arose or accrued, and without costs date of entry of judgment, and the State shall not be liable for interest prior to entry of judgment or for punitive damages."

This amendment is patterned after the first amended form of Senate Bill 651 which was introduced at the 1961 Regular Session. The effect of this proposed amendment is to have interest run from the date of entry of judgment, which is the case in tort actions involving private individuals. The provision which provides that the State is not liable for costs has been deleted. You will note that we have incorporated the wording of S. B. 651 that the State shall not be liable for punitive damages. I have included the words "except as otherwise provided by law" which you suggested. However, I do not believe these words are really necessary, since there is no actual conflict with the interest provisions in eminent domain actions (C.C.P. Sec. 1255b). In an eminent domain action the State is the plaintiff and Section 652 impliedly refers to the State as the defendant.

Yours very truly,

S/ROBERT F. CARLSON
ROBERT F. CARLSON
Attorney