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VOLUME 2

NUMBER 1

ARTICLES

Legislating for the Consumer:
An Insiders Analysis of the
Consumers Legal Remedies Act

1 *James S. Reed*

This article examines in detail the new California Legal Remedies Act of 1970 analyzing the meaning, application, and legislative intent behind the Act. The author, from a draftsman's viewpoint, interprets its meaning and intended application. Of particular importance is the detailed analysis of the newly proscribed deceptive practices and the ramifications of the new consumer class action provisions.

Franchise Investment Law

27 *Franklin L. Damon*

The 1970 California Legislature enacted the first statute in the nation directed toward the stabilization of the franchise form of business. From the vantage point of counsel for the Senate committee primarily involved in the drafting and progression of the Franchise Investment Law, the author explains the intent of the legislature and the effect upon future franchise sales.

Tax Reform—1970

William T. Bagley
56 *Arthur V. Azevedo*

This article was coauthored by the sponsor of one of the most significant tax reform measures considered during the session. It explores the state's economic problems which necessitate a shift of the tax burden in California and suggests a practical approach for reducing the property tax burden of financing many governmental services. The authors explain the impact of proposed income tax withholding, new federal conformity laws, and a sales tax increase as a means of absorbing the costs of government programs now financed by the property tax.

Valuation of Partial Takings in
Condemnation: A Need for
Legislative Review

116 *Edward J. Connor, Jr.*

The author sets out in detailed analysis the peculiarities of California assessment practice in the area of "just compensation" for partial condemnation and the effect of the Code of Civil Procedure section 1248 which calls for a separate determination of values for the part taken, the damages, and the benefits before combining the separate values. The author in pointing up the need for reform in California suggests consideration be given to the federal before and after rule as a guide to determine the value of the part taken.

SPECIAL FEATURE

Notes for 21st Century
Lawyers

144 *Justice Leonard M.
Friedman*

One of California's most distinguished jurists discusses the changing emphasis of law schools throughout the nation toward a more socially oriented curriculum. In today's volatile social atmosphere, bar examiners are advised to retreat from the bare presentation of classic materials of law, and are called upon to advance elective testing to promote specialty training for licensing. A warning is directed to the profession that reform must occur in training and practice: The legal institution must become relevant to contemporary society.

COMMENTS

Is the Intentional Killing of
an Unborn Child Homicide?
California's Law to Punish
the Willful Killing of a Fetus

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The California Supreme Court's decision in *Keeler v. Superior Court* precipitated a legislative battle to include a fetus as a human being within the homicide statutes. Penal Code section 187 had existed unchanged since 1872. No one anticipated that the court would hold that a man who kills a fetus would not be convictable under its provision. The legislature has now cured this defect with a simple provision calling for the inclusion of a fetus, not as a human being, but as a separate entity subject to being murdered.

California's 1967 Therapeutic
Abortion Act: Abridging a
Fundamental Right to Abortion

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This comment examines the Therapeutic Abortion Act from three major perspectives: how has the law been applied in California since 1967; does a woman have a fundamental right to have an abortion; what is the state's interest in regulating abortions? Recent statistical evidence provides some insight concerning the application of the law. A review of some recent lower court decisions helps to illuminate the latter two questions.

Sexual Freedom for Consenting
Adults—Why Not?

206

This comment presents arguments which urge reform of California's anachronistic penal laws proscribing certain sexual behavior between consenting adults. With man's increased awareness concerning sexual attitudes it becomes increasingly difficult if not impossible to identify forms of sexual behavior that are "deviant". The California Legislature, with the recent introduction of a measure to reform California laws on deviant sexual acts, has shown some awareness of changing social attitudes toward sexual behavior.

This comment reviews contemporary examples of unchecked private and governmental development of the California coastal area and discusses instances where development has been in derogation of public access to California beaches. It is the author's contention that state policy, expressed in the state constitution and statutes, guarantees to the citizenry a right of access to beaches and he briefly analyzes attempted legislation introduced in the California Assembly during the 1970 Regular Session.

Arbitration, A Third
Alternative 245

This comment examines the recent California statutes passed during the 1970 session to provide a method for determining just compensation by arbitration between the condemner and the landowner. Presumably the landlord can now turn to arbitration in a secure bargaining position without fear of depreciating his award by incurring exorbitant costs. However, upon critical examination, the method provided by this legislation may not be of substantial benefit to the landowner.

Landlord-Tenant Legislation—
Revising An Old Common
Law Relationship 259

Pursuant to the California Law Revision Commission's recommendations, legislation was introduced which would require the landlord to mitigate damages arising when the tenant abandons or is justifiably evicted from the leasehold. The author traces the development of landlord-tenant law from early common law to recent enactments as he indicates the practical effect of the changes made, their merits and possible deficiencies.

REVIEW OF SELECTED 1970 CALIFORNIA LEGISLATION

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