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Senate Committee, Bar Group Studies Accident Legislation

By VINCENT THOMAS
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"When lawyers gather, can new laws be far behind?" may not be in any handbook of familiar quotations, but it seems a particularly appropriate question just now.

It was no coincidence that brought the Senate Fact Finding Committee on Judiciary and the Assembly Committees on Judiciary - Civil and on Criminal Procedure into session at the same time the California State Bar held its annual convention. As a matter of fact, these meetings saved time, effort and money for all parties concerned.

Free interchange of information and opinion will do much to speed up our work at the 1961 session.

MANY IMPORTANT legal problems, some under consideration by State Bar committees for months, were brought up for action by the assembled lawyers. Final decision on several was postponed to permit further study, but some resolutions were adopted which serve as recommendations for action by our legislative committees.

The controversial problem

of how best to deal with automobile accident cases again came up for extensive review. You may recall that some weeks ago I discussed in this column the proposal to establish an automobile accident commission, similar to the state industrial accident commission, to take over from the courts all disputes over motor-vehicle accidents. The Senate Judiciary group has had this suggestion under investigation for some time, and has been working closely with its advisory committee, on which the State Bar is represented.

A SEPARATE committee of the Bar has also been studying the recommendation. In its report to the convention this group flatly opposed the suggested new commission. It was stated that the doctrine of "liability without fault", under which all victims of traffic accidents would receive some compensation, is not in the public interest, because its adoption would place a "premium on reckless conduct."

IT IS ALSO noteworthy that, as expected, the Bar Assn. study group sharply divided over the perennial question as to whether the rule of "comparative negligence" should be substituted for the present one of "contributory negligence". To explain, under the present rule, if it is decided that you contributed in any way to an accident, you are entitled to no damages. Under the comparative rule, if it were decided you were 30 per cent responsible for an accident, you would be assessed 30 per cent of the cost, and the other party 70 per cent.

ANOTHER complex field in which the State Bar adopted a recommendation relates to searches and seizures by law enforcement officials. Our state Constitution protects citizens against unreasonable searches and seizures, and no warrant can be issued except on probable cause stated under oath. Both The United States Supreme Court and our California Supreme Court have clearly upheld this protection.

However, enforcement officers complain about the difficulties its strict application causes them in arresting and convicting criminals, so suggestions have been made that the law be relaxed. The State Bar takes the opposite position, though, and approved tightening, rather than relaxing the restrictions on searches and seizures by police. Many other suggestions for amendment of existing laws relating to legal procedures, or for drafting new ones, were submitted to our legislative committees on judicial matters.

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