

11/17/76

Memorandum 76-106

Subject: Annual Report

Attached are two copies of the Annual Report in the form in which we plan to print it. Please mark any editorial revisions on one copy and return it to the staff at the meeting.

We have revised the draft earlier considered by the Commission to reflect suggestions made at the time it was previously considered and to reflect decisions made since that time. We do not plan to discuss this matter at the meeting unless a member of the Commission wishes to bring it up for discussion.

Respectfully submitted,

John H. DeMouly  
Executive Secretary

STATE OF CALIFORNIA

**CALIFORNIA LAW  
REVISION COMMISSION**

Annual Report

December 1976

CALIFORNIA LAW REVISION COMMISSION

Stanford Law School

Stanford, California 94305

## SUMMARY OF WORK OF COMMISSION

During 1976, the Law Revision Commission was engaged in two principal tasks:

- (1) Presentation of its legislative program to the Legislature.
- (2) Work on various assignments given to the Commission by the Legislature.

At the 1976 session, one resolution and 12 bills were introduced upon recommendation of the Commission. The resolution was adopted; nine of the bills were enacted; two bills were held in committee; one bill was vetoed by the Governor. The nine bills enacted in 1976 (which added, amended, or repealed approximately 235 sections) dealt with a wide variety of subjects: operative date of eminent domain law, partition of real and personal property, modification of contracts, relocation assistance, transfer of out-of-state trusts to California, turnover orders under the claim and delivery statute, prejudgment attachment, private condemnation for utility easements, and service of process on unincorporated associations.

The Commission plans to submit five recommendations to the 1977 session. The major recommendation proposes enactment of a new comprehensive nonprofit corporation law. Other recommendations deal with wage garnishment, sister state money judgments, damages in action for breach of lease, and liquidated damages.

During 1977, the Commission plans to devote the major portion of its time and resources to the study of creditors' remedies; inverse condemnation; evidence; and child custody, adoption, guardianship, and related matters. Other topics may be considered if time permits.

During 1976, the Commission also reviewed decisions of the Supreme Court of the United States and the Supreme Court of California, as required by Section 10331 of the Government Code, to determine whether any statutes of the state have been held to be unconstitutional or to have been impliedly repealed.

During 1976, the Commission held 10 separate meetings, consisting of 28 days of working sessions.

## CALIFORNIA LAW REVISION COMMISSION

STANFORD LAW SCHOOL  
STANFORD, CALIFORNIA 94305  
(415) 497-1731

JOHN N. MCLAURIN  
*Chairman*

HOWARD R. WILLIAMS  
*Vice Chairman*

SENATOR ROBERT S. STEVENS  
ASSEMBLYMAN ALISTER McALISTER

JOHN J. BARRUFF

JOHN D. MILLER

MARC SANDSTROM

THOMAS E. STANTON, JR.

GEORGE R. MURPHY  
*Ex Officio*

December 1, 1976

To: THE HONORABLE EDMUND G. BROWN JR.  
*Governor of California* and  
THE LEGISLATURE OF CALIFORNIA

In conformity with Government Code Section 10335, the California Law Revision Commission herewith submits this report of its activities during 1976.

I am pleased to report that nine bills and one concurrent resolution were enacted to implement the Commission's recommendations during the 1976 legislative session.

I would also like to give special recognition to Assemblyman Alister McAlister who carried 11 of the bills recommended by the Commission, to Assemblyman John T. Knox who carried one of the bills recommended by the Commission, and to Senator Robert B. Presley and Senator Alfred H. Song who managed and explained bills recommended by the Commission on the Senate floor.

Respectfully submitted,  
JOHN N. MCLAURIN  
*Chairman*

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# ANNUAL REPORT FOR THE YEAR 1976

## INTRODUCTION

The primary objective of the California Law Revision Commission is to study the statutory and decisional law of this state to discover defects and anachronisms and to recommend legislation to make needed reforms.

The Commission consists of a Member of the Senate appointed by the Committee on Rules, a Member of the Assembly appointed by the Speaker, and seven additional members appointed by the Governor with the advice and consent of the Senate. The Legislative Counsel is an ex officio nonvoting member of the Commission.

The Commission assists the Legislature in keeping the law up to date by:

- (1) Intensively studying complex and controversial subjects;
- (2) Identifying major policy questions for legislative attention;
- (3) Gathering the views of interested persons and organizations; and
- (4) Drafting recommended legislation for legislative consideration.

The efforts of the Commission permit the Legislature to determine significant policy questions rather than to concern itself with the technical problems in preparing background studies, working out intricate legal problems, and drafting needed legislation. The Commission thus enables the Legislature to accomplish needed reforms that otherwise might not be made because of the heavy demands on legislative time. In some cases, the Commission's report demonstrates that no new legislation on a particular topic is needed, thus relieving the Legislature of the need to study the topic.

The Commission may study only topics that the Legislature by concurrent resolution authorizes it to study. The Commission now has a calendar of 23 topics, including six new topics added by the Legislature at the 1975 session and one new topic added by the Legislature at the 1976 session.<sup>1</sup> The Commission recommends that one topic be removed from its calendar.<sup>2</sup>

Commission recommendations have resulted in the enactment of legislation affecting 4,294 sections of the California statutes: 1,742 sections have been added, 910 sections amended, and 1,642 sections repealed. Of the 102 Commission recommendations submitted to the Legislature, 89 (87%) were enacted into law either in whole or in substantial part.

1. See listing of topics under "Calendar of Topics for Study" infra.

2. See discussion under "Topics to Be Removed From Calendar of Topics" infra.

## LEGISLATIVE HISTORY OF RECOMMENDATIONS SUBMITTED TO 1976 LEGISLATIVE SESSION

Twelve bills and one concurrent resolution were introduced to effectuate the Commission's recommendations during 1976.<sup>1</sup> The concurrent resolution was adopted, nine bills were enacted, one bill was passed by the Legislature but vetoed by the Governor, and two bills were held in committee.

### Partition of Real and Personal Property

Assembly Bill 1671, which became Chapter 73 of the Statutes of 1976, was introduced by Assemblyman Alister McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Partition of Real and Personal Property*, 13 Cal. L. Revision Comm'n Reports 401 (1976). See also letter submitting report of Assembly Committee on Judiciary, Assembly J. (Jan. 22, 1976), at 11419, reprinted as Appendix VI to this Report, and *Report of Assembly Committee on Judiciary on Assembly Bill 1671*, on file with the Assembly Committee on Judiciary, reprinted as Appendix VII to this Report.

A number of amendments were made to this bill upon recommendation of the Commission as a result of continuing study of this topic after the bill was introduced:

- (1) Code of Civil Procedure Section 392, which was not included in the bill as introduced, was amended to delete former paragraph (b) of subdivision (1).
- (2) Code of Civil Procedure Section 872.010 was amended to delete from the end of subdivision (d) the phrase "and any right, title, estate, lien, or other interest therein."
- (3) Section 872.040, which was not included in the bill as introduced, was added to the Code of Civil Procedure.
- (4) Code of Civil Procedure Section 872.110 was amended to add subdivision (b).
- (5) Code of Civil Procedure Section 872.210 was amended to add to paragraph (2) of subdivision (a) the clause: "where such property or estate therein is owned by several persons concurrently or in successive estates"; subdivision (b) was added.
- (6) Code of Civil Procedure Section 872.230 was amended to add the words "if any" at the end of subdivision (a); in subdivision (d), the word "estate" was substituted for the word "interests" and the word "therein" was added at the end of the subdivision.
- (7) Code of Civil Procedure Section 872.250 was amended to substitute a new last sentence in subdivision (c) for the one included in the bill as introduced.
- (8) Code of Civil Procedure Section 872.310 was amended to add to subdivision (b) the phrase "and on other persons named as unknown defendants," following "872.550," and to add the phrase "and the provisions of this article" following "415.50".
- (9) Code of Civil Procedure Section 872.320 was amended to insert in subdivision (a) the word "real" preceding the word "property".
- (10) Section 872.430, which was not included in the bill as introduced, was added to the Code of Civil Procedure.
- (11) Code of Civil Procedure Section 872.510 was amended to insert the phrase "or reasonably apparent from an inspection of the property, in the estate" preceding the words "as to".
- (12) Code of Civil Procedure Section 872.710 was amended to insert at the beginning of subdivision (b) the phrase "Except as provided in Section 872.730,"; in subdivision (c), the word "estates" was substituted for the word "interests" in five places.

<sup>1</sup> One of these bills—AB 1671—was actually introduced in 1975 but was enacted in 1976.

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(13) Code of Civil Procedure Section 872.720 was amended to insert at the end of subdivision (a) the phrase "and, unless it is to be later determined, the manner of partition."

(14) Section 872.730, which was not included in the bill as introduced, was added to the Code of Civil Procedure.

(15) Code of Civil Procedure Section 873.010 was amended to add paragraph (7) to subdivision (b).

(16) Code of Civil Procedure Section 873.080, as it was included in the bill as introduced, was deleted.

(17) Code of Civil Procedure Section 873.090, as it was included in the bill as introduced, was renumbered 873.080.

(18) Code of Civil Procedure Section 873.150 was amended to delete the phrase "in the action" following the words "third person".

(19) Code of Civil Procedure Section 873.230 was amended to insert the phrase "prior to the commencement of the action" following the word "Where".

(20) Code of Civil Procedure Section 873.290 was amended to insert, in subdivision (b), the phrase "of partition" following the word "judgment" and, in subdivision (c), to substitute the word "partition" for the word "confirmation".

(21) Code of Civil Procedure Section 873.640 was amended to insert the words "in writing" preceding the word "requested" in the final sentence.

(22) Code of Civil Procedure Section 873.650 was amended to substitute in subdivision (a) the phrase "place of" for the phrase "addition to" following the word "In".

(23) Code of Civil Procedure Section 873.770 was amended to insert the phrase "or lienholder" following the word "party" in the introductory paragraph.

(24) Code of Civil Procedure Section 873.820 was amended to delete from subdivision (c) the phrase "of parties" following the phrase "any liens".

(25) Section 873.850, which was not included in the bill as introduced, was added to the Code of Civil Procedure.

(26) Code of Civil Procedure Section 873.920 was amended to substitute a new subdivision (d) for the one which was included in the bill as introduced.

(27) Code of Civil Procedure Section 873.930 was amended to insert subdivision (a) at the beginning of the section.

(28) Code of Civil Procedure Section 873.960 was amended as follows: At the beginning of the third sentence, the clause "The order shall be conditioned" was substituted for the clause "The court order is contingent"; at the end of the third sentence, the word "partition" was substituted for the word "action"; the fourth sentence was added.

(29) Code of Civil Procedure Section 874.130 was amended to insert the phrase "all or a portion of" following the word "sale".

(30) Code of Civil Procedure Section 874.210 was amended to insert at the beginning of subdivision (c) the phrase "Except as provided in Section 874.230,".

(31) Code of Civil Procedure Section 874.230 was amended as follows: At the beginning of the section, the words "Where a" were substituted for the words "Notwithstanding Section 874.210, where an occupant or other"; the phrase "the occupancy reasonably should have been known or" was deleted following the word "but"; the phrase "or would have been reasonably apparent from an inspection of the property" was inserted following the words "interlocutory judgment"; the phrase "occupant or other" was deleted following the word "such"; the final sentence was added.

(32) Section 874.240, which was not included in the bill as introduced, was added to the Code of Civil Procedure.

(33) Probate Code Section 1103, which was not included in the bill as introduced, was amended to substitute in the first sentence the words "property when, under the circumstances, sale would be more equitable than partition and when the property" for the words "any property which can not be partitioned without great prejudice to the owners and which".

(34) The effective date provisions were amended to clarify their application.

(35) A section was added to the bill to specify when the owner or lienholder may bring an action for partition.

Technical amendments were also made.

## Prejudgment Attachment

Assembly Bill 2864, which became Chapter 437 of the Statutes of 1976, was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Revision of the Attachment Law*, 13 Cal. L. Revision Comm'n Reports 801 (1976). See also *Report*

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*of Senate Committee on Judiciary on Assembly Bill 2864, Senate J. (April 22, 1976) at 11113, reprinted as Appendix VIII to this Report.*

The following amendments were made to this bill upon recommendation of the Commission as a result of continuing study of this topic after the bill was introduced:

(1) Code of Civil Procedure Section 483.010 was amended to insert in the second sentence of subdivision (b), following the word "valueless", the phrase "or has decreased in value to less than the amount then owing on the claim, in which event the amount for which such attachment may issue shall not exceed the lesser of the amount of such decrease or the difference between the value of the security and the amount then owing on the claim." This amendment was made at the suggestion of the California State Bar.

(2) Code of Civil Procedure Section 484.050 was amended to substitute a new sentence for the final sentence in subdivision (c).

(3) Code of Civil Procedure Section 484.090 was amended to substitute at the end of subdivision (b) the phrase "attachment, it shall order a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220" for the phrase "attachment and the plaintiff has provided the undertaking required by Article 2 (commencing with Section 489.210) of Chapter 9, it shall order the issuance of a writ of attachment."

(4) Code of Civil Procedure Section 484.370 was amended as follows: In the introductory paragraph, following the word "order", the phrase "a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220, if it finds both" was substituted for the phrase "the issuance of a writ of attachment if it finds all"; the words "to be" were inserted preceding the word "described" in subdivision (b); subdivision (c) was deleted.

(5) Code of Civil Procedure Section 484.520 was amended as follows: In the introductory paragraph, following the word "order", the phrase "a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220, if it finds both" was substituted for the phrase "the issuance of a writ of attachment if it finds all"; the words "to be" were inserted preceding the word "described" in subdivision (b); subdivision (c) was deleted.

(6) Code of Civil Procedure Section 485.010, which was not contained in the bill as introduced, was amended to insert at the end of subdivision (c) the phrase "plaintiff's pro rata share of the" preceding the word "proceeds" and to substitute the phrase "in escrow" for the phrase "of the license".

(7) Code of Civil Procedure Section 485.220 was amended as follows: In subdivision (a), following the words "and order", the phrase "a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220," was substituted for the phrase "the issuance of a writ of attachment"; the words "to be" were inserted preceding the word "specified" in paragraph (4); paragraph (6) was deleted.

(8) Code of Civil Procedure Section 485.540 was amended as follows: In subdivision (a), following the word "order", the phrase "a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220," was substituted for the phrase "the issuance of a writ of attachment"; the words "to be" were inserted preceding the word "specified" in subdivision (b); subdivision (d) was deleted.

(9) Code of Civil Procedure Section 486.020, which was not included in the bill as introduced, was amended as follows: In the introductory paragraph, following the word "order", the phrase "upon the filing of an undertaking as provided by Sections 489.210 and 489.220," was inserted; subdivision (e) was deleted.

(10) Code of Civil Procedure Section 487.020 was amended to insert in subdivision (c), following the word "payable", the words "to a defendant employee" and to delete, following the word "employer", the words "to an employee".

(11) Code of Civil Procedure Section 488.360 was amended as follows: In subdivision (c), the phrase "identifiable cash proceeds (as that term is used in Section 9306 of the Commercial Code)" was substituted for the word "proceeds" in the first sentence; the words "identifiable cash" were inserted preceding the word "proceeds" in the second sentence.

(12) Code of Civil Procedure Section 488.555 was amended as follows: In subdivision (c), the phrase "the defendant's interest in" was inserted following the words "value of" and the phrase "the value of the defendant's interest in" was inserted following the words "extent that".

(13) Code of Civil Procedure Section 489.060, which was not included in the bill as introduced, was amended as follows: At the beginning of subdivision (a), the phrase "Except as provided in subdivision (b)," was inserted; a new subdivision (b) was added; former subdivision (b) was designated as subdivision (c).

(14) Code of Civil Procedure Section 489.210, which was not included in the bill as introduced, was amended as follows: The word "temporary" was inserted preceding the word "protective"; the phrase "the court shall require that" was deleted; the words "shall file" were substituted for the words "have filed".

(15) Code of Civil Procedure Section 489.310 was amended as follows: The second sentence of subdivision (a) was deleted; a new subdivision (b) was substituted for the former subdivision (b); at the beginning of subdivision (c), the phrase "The defendant shall file" was substituted for the phrase "Before making such order, the court shall require the defendant to file with the court in which the application is made"; also in subdivision (c), the phrase "which may be" was inserted preceding the word "recovered" and, in the final sentence, the words "the condition" were substituted for the words "being satisfied", and the word "be" was substituted for the words "has been"; the third sentence was added to subdivision (d).

(16) Code of Civil Procedure Section 489.320 was amended as follows: The phrase "with respect to such defendant" was inserted following the words "temporary protective order" at the end of subdivision (a) and in the final sentence of subdivision (b); at the beginning of subdivision (b), the phrase "The defendant shall" was substituted for the phrase "Before making an order terminating the temporary protective order, the court shall require the defendant to"; in the final sentence of subdivision (b), the words "the condition" were substituted for the words "being satisfied", and the word "be" was substituted for the words "has been"; subdivision (c) was deleted.

(17) Code of Civil Procedure Section 490.010 was amended to restore the original wording of subdivision (d).

(18) Code of Civil Procedure Section 491.010 was amended to insert the second sentence in subdivision (a).

(19) Code of Civil Procedure Section 492.030 was amended as follows: In subdivision (a), following the words "and order", the phrase "a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220," was substituted for the phrase "the issuance of a writ of attachment"; the words "to be" were inserted preceding the word "specified" in paragraph (5) of subdivision (a); paragraph (6) of subdivision (a) was deleted.

(20) Code of Civil Procedure Section 492.090 was amended as follows: In the introductory paragraph, following the word "order", the phrase "a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220, if it finds both" was substituted for the phrase "the issuance of a writ of attachment if it finds all"; the words "to be" were inserted preceding the word "specified" in subdivision (b); subdivision (c) was deleted.

Technical amendments were also made.

### **Undertakings for Costs**

Assembly Bill 2847 was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Undertakings for Costs*, 13 Cal. L. Revision Comm'n Reports 901 (1976). The bill was not enacted; it was held in the Assembly Committee on Judiciary.

### **Claim and Delivery Statute—Turnover Orders**

Assembly Bill 2895, which became Chapter 145 of the Statutes of 1976, was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Turnover Orders Under the Claim and Delivery Law*, 13 Cal. L. Revision Comm'n Reports 2079 (1976). The bill was enacted as introduced.

### **Eminent Domain**

Three bills relating to eminent domain were introduced in 1976.

**Operative date of Eminent Domain Law.** Assembly Bill 2583, which became Chapter 22 of the Statutes of 1976, was introduced by Assemblyman McAlister to clarify the operative date of the Eminent Domain Law (Chapter 1275 of the Statutes of 1975).

**Relocation assistance.** Assembly Bill 2761, which became Chapter 143 of the Statutes of 1976, was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Relocation Assistance by Private Condemnors*, 13 Cal. L. Revision Comm'n Reports 2085 (1976).

The following amendments were made to this bill upon recommendation of the Commission as a result of continuing study of this topic after the bill was introduced:

Subdivision (a) of Code of Civil Procedure Section 7276 was amended to add the introductory phrase referring to the adoption of a resolution concerning the acquisition of the property by eminent domain and to provide that payments required to be made be made in conformity with the guidelines adopted by the Commission of Housing and Community Development.

Subdivision (b), referring to the application of the rules and regulations of the Department of Transportation, was also added.

Technical amendments were also made.

**Byroads and utility easements.** Assembly Bill 2582, which became Chapter 994 of the Statutes of 1976, was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Condemnation for Byroads and Utility Easements*, 13 Cal. L. Revision Comm'n Reports 2091 (1976).

The following amendments were made to this bill by the legislative committees that considered the bill:

Civil Code Section 1001 was amended as follows: In the first sentence of subdivision (b), the phrase "over private property for which there is a great necessity" and the phrase "or access to a public road from" were deleted; the second sentence of subdivision (b) was deleted; a new subdivision (c) was substituted for the one contained in the bill as introduced.

Code of Civil Procedure Section 1245.325 was amended as follows: In the introductory paragraph, the phrase "by eminent domain" was deleted following the word "acquire" and inserted following the word "easement" and the phrase "over private property" was deleted; in paragraph (2) of subdivision (b), the phrase "or access" was deleted; in paragraph (3) of subdivision (b), the word "clearly" was inserted preceding the word "outweighs".

Technical amendments were also made.

### **Transfer of Out-of-State Trusts to California**

Assembly Bill 2855, which became Chapter 144 of the Statutes of 1976, was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Transfer of Out-of-State Trusts to California*, 13 Cal. L. Revision Comm'n Reports 2101 (1976). The bill was enacted as introduced.

### **Admissibility of Duplicates**

Assembly Bill 2580 was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Admissibility of Duplicates in Evidence*, 13 Cal. L. Revision Comm'n Reports 2115 (1976). The bill was not enacted; it was held in the Assembly Committee on Judiciary.

### Modification of Contracts

Assembly Bill 2581, which became Chapter 109 of the Statutes of 1976, was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Oral Modification of Contracts*, 13 Cal. L. Revision Comm'n Reports 2129 (1976).

The following amendment was made to this bill: A section was added stating that Civil Code Sections 1697 and 1698, as those sections formerly existed, and the applicable case law, continue to apply to contracts made prior to the effective date of Assembly Bill 2581.

### Liquidated Damages

Assembly Bill 3169 was introduced by Assemblyman McAlister to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Liquidated Damages*, 13 Cal. L. Revision Comm'n Reports 2139 (1976). See also *Report of Senate Committee on Judiciary on Assembly Bill 3169*, Senate J. (Aug. 11, 1976) at 15127. The bill was passed in amended form by the Legislature but was vetoed by the Governor. The Commission plans to submit a new recommendation on this topic to the 1977 Legislature. See *Recommendation Relating to Liquidated Damages* (December 1976), published as Appendix X to this Report.

### Service of Process

Assembly Bill 3128, which became Chapter 888 of the Statutes of 1976, was introduced by Assemblyman John T. Knox to effectuate the Commission's recommendation on this subject. See *Recommendation Relating to Service of Process on Unincorporated Associations* (February 1976), published as Appendix III to this Report. The bill was enacted as introduced.

### Resolution Approving Topics for Study

Assembly Concurrent Resolution No. 130, introduced by Assemblyman McAlister and adopted as Resolution Chapter 30 of the Statutes of 1976, authorizes the Commission to continue its study of topics previously authorized for study.<sup>1</sup>

<sup>1</sup> Resolution Chapter 160 of the Statutes of 1976 also was adopted. This resolution authorizes the Commission to study "whether the law relating to tort liability should be revised, including the rules governing liability for and the amount of compensation or damages to be paid on account of injury to or death of persons or damages to or destruction of property and the manner and method of determination and payment thereof and related matters, including a study of liability arising from defective products, whether based on contract or tort."

## 1977 LEGISLATIVE PROGRAM

The Commission plans to submit the following recommendations to the 1977 Legislature:

(1) Recommendation Relating to Nonprofit Corporation Law (November 1976), to be reprinted in 13 Cal. L. Revision Comm'n Reports 2201 (1976).

(2) Recommendation Relating to Sister State Money Judgments (April 1976), published as Appendix IV to this Report.

(3) Recommendation Relating to Damages in Action for Breach of Lease (May 1976), published as Appendix V to this Report.

(4) Recommendation Relating to Wage Garnishment (October 1976), published as Appendix IX to this Report.

(5) Recommendation Relating to Liquidated Damages (December 1976), published as Appendix X to this Report.

**REPORT ON STATUTES REPEALED BY  
IMPLICATION  
OR HELD UNCONSTITUTIONAL**

Section 10331 of the Government Code provides:

The Commission shall recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the Supreme Court of the State or the Supreme Court of the United States.

Pursuant to this directive, the Commission has made a study of the decisions of the Supreme Court of the United States and of the Supreme Court of California handed down since the Commission's last Annual Report was prepared.<sup>1</sup> It has the following to report:

(1) No decision of the Supreme Court of the United States or of the Supreme Court of California holding a statute of this state repealed by implication has been found.

(2) No decision of the Supreme Court of the United States holding a statute of this state unconstitutional has been found.

(3) Five decisions of the Supreme Court of California held statutes of this state unconstitutional.<sup>2</sup>

1. This study has been carried through 96 S. Ct. 3235 (Advance Sheets No. 19A, Aug. 1, 1976) and 18 Cal.3d 124 (Advance Sheets No. 27, Oct. 5, 1976).
2. Several other California Supreme Court decisions may have constitutional impact on state statutes with no clear holding of unconstitutionality.

In *T.M. Cobb Co. v. County of Los Angeles*, 16 Cal.3d 606, 547 P.2d 431, 128 Cal. Rptr. 655 (1976), the court stated that the authorization contained in former Section 2914 (now Section 2951) of the Revenue and Taxation Code for a tax sale without a prior administrative hearing was "unconstitutional on its face" as a denial of due process. The statement is dictum, however, since the property in question had been released, the plaintiff "suffered no unconstitutional deprivation of property," and "on the facts of this case the taking was in accord with due process." *Id.* at 616-617, 547 P.2d at 437, 128 Cal. Rptr. at 661.

Five decisions imposed constitutional qualifications on the application of state statutes without invalidating any statutory language. *Valley Bank v. Superior Court*, 15 Cal.3d 652, 542 P.2d 977, 125 Cal. Rptr. 553 (1975), held that the discoverability of a bank's confidential customer information under civil discovery statutes is qualified by the right of privacy guaranteed by Article I, Section 1, of the California Constitution. The court concluded that, before such information may be disclosed in civil discovery proceedings, the bank must take reasonable steps to notify the customer so he may object to disclosure. *In re Arthur N.*, 16 Cal.3d 226, 545 P.2d 1345, 127 Cal. Rptr. 641 (1976), held that due process requires that a juvenile court order committing a minor to

In Citizens for Jobs and Energy v. Fair Political Practices Commission,<sup>3</sup> the court held unconstitutional the campaign spending limitations for statewide ballot propositions contained in Government Code Sections 85300-85305 as violative of freedom of speech guaranteed by the First Amendment to the United States Constitution.<sup>4</sup>

In People v. Olivas,<sup>5</sup> the court held that Section 1770 of the Welfare and Institutions Code results in an unconstitutional denial of

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the Youth Authority pursuant to Welfare and Institutions Code Section 777 be based on proof beyond a reasonable doubt that the minor committed the acts of misconduct charged. California Housing Fin. Agency v. Elliott, 17 Cal.3d 575, 551 P.2d 1193, 131 Cal. Rptr. 361 (1976), construed the Zenovich-Moscone-Chacon Housing and Home Finance Act (Health & Saf. Code §§ 41000-42080) to incorporate the provisions of Article XXXIV, Section 1, of the California Constitution which require voter approval at a local election of a proposed low rent housing project. People v. Richards, 17 Cal.3d 614, 552 P.2d 97, 131 Cal. Rptr. 537 (1976), held that, although Penal Code Section 1203.1 allows the trial court to impose as a condition of probation a requirement that the defendant make restitution "for any injury done to any person resulting from such breach," the court may not require the defendant to pay a third party for losses not actually caused by the defendant's crime, since any legal conclusion that the defendant owed money would be reached "in the absence of due process rights assured to every litigant." In People v. Collins, 17 Cal.3d 687, 552 P.2d 742, 131 Cal. Rptr. 782 (1976), the court construed Penal Code Section 1089, which authorizes upon a showing of good cause the substitution of an alternate juror before or after final submission of a case to the jury, to provide that, when a substitution is made after final submission to the jury, the court must instruct the jury to disregard its past deliberations and to begin deliberating anew. In this case, however, the trial court's failure so to instruct the jury was held to be harmless error.

3. 16 Cal.3d 671, 547 P.2d 1386, 129 Cal. Rptr. 106 (1976).
4. Sections 85300-85305 of the Government Code were enacted as part of the Political Reform Act of 1974, a statewide initiative measure (Proposition 9) approved at the June 4, 1974, primary election. See Cal. Stats. 1974, at A-179. By its terms, the Act "may be amended to further its purposes" by statute passed by a two-thirds vote of each house of the Legislature and signed by the Governor, if at least 20 days prior to passage in each house the bill in its final form has been delivered to the Fair Political Practices Commission for distribution. Cal. Stats. 1976, Ch. 883, amending Govt. Code § 81012(a). The act may for any purpose "be amended or repealed by a statute that becomes effective only when approved by the electors." Govt. Code § 81012(b).
5. 17 Cal.3d 236, 551 P.2d 375, 131 Cal. Rptr. 55 (1976).

equal protection guaranteed by Article I, Section 7, of the California Constitution and the Fourteenth Amendment to the United States Constitution to the extent that it authorizes the California Youth Authority to maintain control over misdemeanants committed to its care for any period of time in excess of the maximum jail term permitted by statute for the offense committed.

In Choudhry v. Free,<sup>6</sup> the court held that the provisions of Water Code Section 21100 requiring that a director of an irrigation district formed under the Irrigation District Law be "a freeholder of the district" which he represents are unconstitutional as applied to the Imperial Irrigation District,<sup>7</sup> in that they deny equal protection of the laws.

In Business Title Corp. v. Division of Labor Law Enforcement,<sup>8</sup> the court held that, under the supremacy clause of the United States Constitution, the priority of a federal tax lien afforded by federal statute controlled over the lesser priority given to such liens under Section 24074 of the Business and Professions Code.

In In re Grant,<sup>9</sup> the court held unconstitutional the provisions of former Section 11531 (now Section 11360) of the Health and Safety Code which preclude parole consideration of a narcotics offender for five years with one previous conviction, and for 10 years with two or more previous convictions, as constituting cruel and unusual punishment proscribed by the California Constitution.<sup>10</sup>

6. 17 Cal.3d 660, 552 P.2d 438, 131 Cal. Rptr. 654 (1976).
7. The court limited its holding to the Imperial Irrigation District because it "is singular among irrigation districts in that it has more residents, land and employees than the others," and because the claim of unconstitutionality was not opposed by the respondent or real parties in interest, thus presenting the issue in a non-adversary context. The court therefore expressly declined to decide "whether other irrigation districts, or irrigation districts generally, are affected" by the decision. See Choudhry v. Free, 17 Cal.3d 660, 669, 552 P.2d 438, 444, 131 Cal. Rptr. 654, 660 (1976).
8. 17 Cal.3d 878, \_\_\_ P.2d \_\_\_, \_\_\_ Cal. Rptr. \_\_\_ (1976).
9. 18 Cal.3d 1, \_\_\_ P.2d \_\_\_, \_\_\_ Cal. Rptr. \_\_\_ (1976).
10. Three of the seven justices were of the view that the court should also hold unconstitutional a number of related sections of the Health and Safety Code which preclude repeat narcotics offenders from parole consideration for periods of five years or more. See In re Grant, 18 Cal.3d 1, 13-14, \_\_\_ P.2d \_\_\_, \_\_\_, \_\_\_ Cal. Rptr. \_\_\_, \_\_\_ (1976).

# CALENDAR OF TOPICS FOR STUDY

## Topics Authorized for Study

The Commission has on its calendar of topics the topics listed below.<sup>1</sup> Each of these topics has been authorized for Commission study by the Legislature.<sup>2</sup>

## Topics Under Active Consideration

During the next year, the Commission plans to devote substantially all of its time to consideration of the following topics:

Nonprofit corporations. Whether the law relating to nonprofit corporations should be revised.

The Commission plans to submit a recommendation to the 1977 Legislature for a new comprehensive statute relating to nonprofit corporations. G. Gervaise Davis III, a Monterey lawyer, has served as the chief consultant to the Commission on this study. Peter A. Whitman, a Palo Alto lawyer, also has served as a consultant. Numerous other persons and organizations have cooperated in the study; they are listed in the acknowledgments in the Commission's recommendation. See Recommendation Relating to Nonprofit Corporation Law (November 1976), to be reprinted in 13 Cal. L. Revision Comm'n Reports 2201 (1976).

Creditors' remedies. Whether the law relating to creditors' remedies including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters should be revised.

The Commission, working with a State Bar committee, is now engaged in drafting a comprehensive statute governing enforcement of judgments. Professor Stefan A. Riesenfeld, of the Boalt Hall Law School, University of California at Berkeley, is serving as the consultant to the Commission.

<sup>1</sup> For information concerning prior Commission recommendations and studies concerning these topics, and the legislative history of legislation introduced to effectuate such recommendations, see "Current Topics--Prior Publications and Legislative Action," *infra*.

<sup>2</sup> Section 10335 of the Government Code provides that the Commission shall study, in addition to those topics which it recommends and which are approved by the Legislature, any topic which the Legislature by concurrent resolution refers to it for such study. The legislative authorization for each topic is noted in "Current Topics--Prior Publications and Legislative Action" *infra*.

The Commission published a recommendation relating to wage garnishment procedure in April 1975, but no bill was introduced in 1975 to effectuate this recommendation. See Recommendation Relating to Wage Garnishment Procedure, 13 Cal. L. Revision Comm'n Reports 601 (1976). The Commission has received comments on the 1975 recommendation from various persons and organizations, including the State Bar Committee on Relations of Debtor and Creditor, and plans to have a bill introduced in 1977 relating to this subject. See Recommendation Relating to Wage Garnishment (October 1976), published as Appendix IX to this Report.

The Commission plans to submit a recommendation to the 1977 Legislature proposing several technical revisions in the statute relating to enforcement of sister state money judgments. See Recommendation Relating to Sister State Money Judgments (April 1976), published as Appendix IV to this Report.

**Condemnation law and procedure.** Whether the law and procedure relating to condemnation should be revised with a view to recommending a comprehensive statute that will safeguard the rights of all parties to such proceedings.

The Commission is engaged in a study of the provisions of the Evidence

Code relating to evidence in eminent domain and inverse condemnation actions and is making a study to determine whether any additional changes in other statutes are needed to conform to the new Eminent Domain Law.

**Evidence.** Whether the Evidence Code should be revised.

The Commission has undertaken a study of the differences between the newly adopted Federal Rules of Evidence and the California Evidence Code. Professor Jack Friedenthal of the Stanford Law School is the Commission's consultant on this study. The Commission also is making a study of the experience under the Evidence Code to determine whether any revisions are needed.

**Child custody and related matters.** Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised.

Professor Brigitte M. Bodenheimer of the Law School, University of California at Davis, has been retained as the chief consultant on this topic. She has prepared two background studies--one

relating to child custody and the other to adoption. See Bodenheimer, *The Multiplicity of Child Custody Proceedings—Problems of California Law*, 23 Stan. L. Rev. 703 (1971); *New Trends and Requirements in Adoption Law and Proposals for Legislative Change*, 49 So. Cal. L. Rev. 10 (1975). The background studies do not necessarily represent the views of the Commission; the Commission's action will be reflected in its own recommendation. Mr. Garrett H. Elmore has been retained as a consultant on one aspect of the topic--a project to eliminate the overlap between the guardianship and conservatorship statutes.

**Lease law.** Whether the law relating to the rights and duties attendant upon termination or abandonment of a lease should be revised.

The Commission plans to submit a recommendation on one aspect of this topic to the 1977 Legislature. See Recommendation Relating to Damages in Action for Breach of Lease (May 1976), published as Appendix V to this Report.

**Liquidated damages.** Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised.

The Commission plans to submit a recommendation on this topic to the 1977 Legislature. See Recommendation Relating to Liquidated Damages (December 1976), published as Appendix X to this Report.

**Inverse condemnation.** Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including but not limited to liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised.

The Commission plans to study one or more aspects of this topic during 1977.

#### Other Topics Authorized for Study

The Commission has not yet begun the preparation of a recommendation on the topics listed below.

**Parol evidence rule.** Whether the parol evidence rule should be revised.

**Prejudgment interest.** Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised.

The Commission is deferring consideration of this topic in order to avoid possible duplication of the work of the Joint Legislative Committee on Tort Liability. See Cal. Stats. 1976, Res. Ch. 160.

**Class actions.** Whether the law relating to class actions should be revised.

**Offers of compromise.** Whether the law relating to offers of compromise should be revised.

The Commission is deferring consideration of this topic in order to avoid possible duplication of the work of the Joint Legislative Committee on Tort Liability. See Cal. Stats. 1976, Res. Ch. 160.

**Discovery in civil cases.** Whether the law relating to discovery in civil cases should be revised.

**Possibilities of reverter and powers of termination.** Whether the law relating to possibilities of reverter and powers of termination should be revised.

**Marketable Title Act and related matters.** Whether a Marketable Title Act should be enacted in California and whether the law relating to covenants and servitudes relating to land, and the law relating to nominal, remote, and obsolete covenants, conditions, and restrictions on land use should be revised.

Tort liability. Whether the law relating to tort liability should be revised, including the rules governing liability for and the amount of compensation or damages to be paid on account of injury to or death of persons or damages to or destruction of property and the manner and method of determination and payment thereof and related matters, including a study of liability arising from defective products, whether based on contract or tort.

The concurrent resolution that authorized the study of this topic also created the Joint Legislative Committee on Tort Liability. The Commission is advised that this Committee plans to make a comprehensive study of tort liability. Accordingly, the Commission does not plan to consider this topic unless the Committee and the Commission jointly determine that Commission study of some aspect of the topic would be appropriate and would not duplicate the work of the Committee.

### Topics Continued on Calendar for Further Study

On the following topics, studies and recommendations relating to the topic, or one or more aspects of the topic, have been made. The topics are continued on the Commission's calendar for further study of recommendations not enacted or for the study of additional aspects of the topic or new developments.

**Arbitration.** Whether the law relating to arbitration should be revised.

The State Bar is actively studying this topic. The Commission plans to cooperate with the State Bar if the State Bar concludes that the assistance of the Commission would be useful.

**Escheat; unclaimed property.** Whether the law relating to the escheat of property and the disposition of unclaimed or abandoned property should be revised.

**Unincorporated associations.** Whether the law relating to suit by and against partnerships and other unincorporated associations should be revised and whether the law relating to the liability of such associations and their members should be revised.

**Partition procedures.** Whether the various sections of the Code of Civil Procedure relating to partition should be revised and whether the provisions of the Code of Civil Procedure relating to the confirmation of partition sales and the provisions of the Probate Code relating to the confirmation of sales of real property of estates of deceased persons should be made uniform and, if not, whether there is need for clarification as to which of them governs confirmation of private judicial partition sales.

**Modification of contracts.** Whether the law relating to modification of contracts should be revised.

**Governmental liability.** Whether the doctrine of sovereign or governmental immunity in California should be abolished or revised.

The Commission is deferring further consideration of this topic in order to avoid possible duplication of the work of the Joint Legislative Committee on Tort Liability. See Cal. Stats. 1976, Res. Ch. 160.

### Topics to Be Removed From Calendar of Topics

A recommendation has been made on the following topic and the recommended legislation has been enacted. Because of its nature, this topic

does not need to be continued on the Commission's calendar for further study.<sup>3</sup>

Transfer of out-of-state trusts to California. Whether the law relating to transfer of out-of-state trusts to California should be revised.

### Topics for Future Consideration

The Commission now has a number of major studies on its calendar. During the next year, studies under active consideration will include nonprofit corporations; inverse condemnation; creditors' remedies; child custody, adoption, and guardianship; and evidence. Because of the substantial and numerous topics already on its calendar (six of which were added by the 1975 Legislature and one by the 1976 Legislature), the Commission does not at this time recommend any additional topics for inclusion on its calendar of topics.

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3. A number of the topics upon which studies and recommendations have been made are nevertheless retained on the Commission's calendar for further study of recommendations not enacted or for the study of additional aspects of the topic or new developments. See discussion under "Topics Continued on Calendar for Further Study" supra.

## FUNCTION AND PROCEDURE OF COMMISSION

The California Law Revision Commission consists of one Member of the Senate, one Member of the Assembly, seven members appointed by the Governor with the advice and consent of the Senate, and the Legislative Counsel who is ex officio a nonvoting member.<sup>1</sup>

The principal duties of the Law Revision Commission are to:

(1) Examine the common law and statutes for the purpose of discovering defects and anachronisms.

(2) Receive and consider suggestions and proposed changes in the law from the American Law Institute, the National Conference of Commissioners on Uniform State Laws, bar associations, and other learned bodies, judges, public officials, lawyers, and the public generally.

(3) Recommend such changes in the law as it deems necessary to bring the law of this state into harmony with modern conditions.<sup>2</sup>

The Commission is required to file a report at each regular session of the Legislature containing a calendar of topics selected by it for study, listing both studies in progress and topics intended for future consideration. The Commission may study only topics which the Legislature, by concurrent resolution, authorizes it to study.<sup>3</sup>

Each of the Commission's recommendations is based on a research study of the subject matter concerned. In some cases, the study is prepared by a member of the Commission's staff, but many of the studies are undertaken by specialists in the fields of law involved who are retained as research consultants to the Commission. This procedure not only provides the Commission with invaluable expert assistance but is economical as well because the attorneys and law professors who serve as research consultants have already acquired the considerable background necessary to understand the specific problems under consideration.

The research study includes a discussion of the existing law and the defects therein and suggests possible methods of

<sup>1</sup> See CAL. GOVT. CODE §§ 10300-10340.

<sup>2</sup> See CAL. GOVT. CODE § 10330. The Commission is also directed to recommend the express repeal of all statutes repealed by implication or held unconstitutional by the California Supreme Court or the Supreme Court of the United States. CAL. GOVT. CODE § 10331.

<sup>3</sup> See CAL. GOVT. CODE § 10335.

eliminating those defects. The study is given careful consideration by the Commission and, after making its preliminary decisions on the subject, the Commission distributes a tentative recommendation to the State Bar and to numerous other interested persons. Comments on the tentative recommendation are considered by the Commission in determining what report and recommendation it will make to the Legislature. When the Commission has reached a conclusion on the matter, its recommendation to the Legislature, including a draft of any legislation necessary to effectuate its recommendation, is published in a printed pamphlet.<sup>4</sup> If the research study has not been previously published,<sup>5</sup> it usually is published in the pamphlet containing the recommendation.

The Commission ordinarily prepares a Comment explaining each section it recommends. These Comments are included in the Commission's report and are frequently revised by legislative committee reports<sup>6</sup> to reflect amendments<sup>7</sup> made after the recommended legislation has been introduced in the Legislature. The Comment often indicates the derivation of the section and explains its purpose, its relation to other sections, and potential problems in its meaning or application. The Comments are written as if the legislation were enacted since their primary purpose is to explain the statute to those who will have occasion to use it after it is in effect. They are entitled to substantial weight in construing the statutory provisions.<sup>8</sup>

<sup>4</sup> Occasionally one or more members of the Commission may not join in all or part of a recommendation submitted to the Legislature by the Commission.

<sup>5</sup> For a background study published in a law review in 1975, see Bodenheimer, New Trends and Requirements in Adoption Law and Proposals for Legislative Change, 49 So. Cal. L. Rev. 10 (1975). For a listing of background studies published in law reviews prior to 1975, see 10 Cal. L. Revision,

COMM'N REPORTS 1108 n.5 (1971) and 11 CAL. L. REVISION COMM'N REPORTS 1008 n.5 & 1108 n.5 (1973).

<sup>6</sup> Special reports are adopted by legislative committees that consider bills recommended by the Commission. These reports, which are printed in the legislative journal, state that the Comments to the various sections of the bill contained in the Commission's recommendation reflect the intent of the committee in approving the bill except to the extent that new or revised Comments are set out in the committee report itself. For a description of the legislative committee reports adopted in connection with the bill that became the Evidence Code, see *Arellano v. Moreno*, 33 Cal. App.3d 877, 884, 109 Cal. Rptr. 421, 426 (1973). For examples of such reports, see 10 CAL. L. REVISION COMM'N REPORTS 1132-1146 (1971).

<sup>7</sup> Many of the amendments made after the recommended legislation has been introduced are made upon recommendation of the Commission to deal with matters brought to the Commission's attention after its recommendation was printed. In some cases, however, an amendment may be made that the Commission believes is not desirable and does not recommend.

<sup>8</sup> *E.g.*, *Van Arsdale v. Hollinger*, 68 Cal.2d 245, 249-250, 437 P.2d 508, 511, 66 Cal. Rptr. 20, 23 (1968). The Comments are published by both the Bancroft-Whitney Company and the West Publishing Company in their editions of the annotated codes.

However, while the Commission endeavors in the Comment to explain any changes in the law made by the section, the Commission does not claim that every inconsistent case is noted in the Comment, nor can it anticipate judicial conclusions as to the significance of existing case authorities.<sup>9</sup> Hence, failure to note a change in prior law or to refer to an inconsistent judicial decision is not intended to, and should not, influence the construction of a clearly stated statutory provision.<sup>10</sup>

The pamphlets are distributed to the Governor, Members of the Legislature, heads of state departments, and a substantial number of judges, district attorneys, lawyers, law professors, and law libraries throughout the state.<sup>11</sup> Thus, a large and representative number of interested persons are given an opportunity to study and comment upon the Commission's work before it is submitted to the Legislature.<sup>12</sup> The annual reports and the recommendations and studies of the Commission are bound in a set of volumes that is both a permanent record of the Commission's work and, it is believed, a valuable contribution to the legal literature of the state.

<sup>9</sup> See, e.g., *Arellano v. Moreno*, 33 Cal. App.3d 877, 109 Cal. Rptr. 421 (1973).

<sup>10</sup> The commission does not concur in the *Kaplan* approach to statutory construction. See *Kaplan v. Superior Court*, 6 Cal.3d 150, 158-159, 491 P.2d 1, 5-6, 98 Cal. Rptr. 649, 653-654 (1971). For a reaction to the problem created by the *Kaplan* approach, see *Recommendation Relating to Erroneously Ordered Disclosure of Privileged Information*, 11 CAL. L. REVISION COMM'N REPORTS 1163 (1973). See also Cal. Stats. 1974, Ch. 227.

<sup>11</sup> See CAL. GOVT. CODE § 10333.

<sup>12</sup> For a step by step description of the procedure followed by the Commission in preparing the 1963 governmental liability statute, see DeMouly, *Fact Finding for Legislation: A Case Study*, 50 A.B.A.J. 285 (1964). The procedure followed in preparing the Evidence Code is described in 7 CAL. L. REVISION COMM'N REPORTS 3 (1965).

## PERSONNEL OF COMMISSION

As of December 1, 1976, the membership of the Law Revision Commission is:

	<i>Term expires</i>
John N. McLaurin, Los Angeles, <i>Chairman</i> .....	October 1, 1975
Howard R. Williams, Stanford, <i>Vice Chairman</i> .....	October 1, 1977
Hon. Robert S. Stevens, Los Angeles, <i>Senate Member</i> .....	*
Hon. Alister McAlister, San Jose, <i>Assembly Member</i> .....	*
John J. Balluff, Palos Verdes Estates, <i>Member</i> .....	October 1, 1975
John D. Miller, Long Beach, <i>Member</i> .....	October 1, 1977
Marc Sandstrom, San Diego, <i>Member</i> .....	October 1, 1975
Thomas E. Stanton, Jr., San Francisco, <i>Member</i> .....	October 1, 1977
Vacancy .....	October 1, 1979
George H. Murphy, Sacramento, <i>ex officio Member</i> .....	†

\* The legislative members of the Commission serve at the pleasure of the appointing power.

† The Legislative Counsel is *ex officio* a nonvoting member of the Commission.

As of December 1, 1976, the staff of the Commission is:

### *Legal*

John H. DeMouly, *Executive Secretary*  
Nathaniel Sterling, *Assistant Executive Secretary*  
Stan G. Ulrich, *Staff Counsel*  
Robert J. Murphy III, *Staff Counsel*

### *Administrative-Secretarial*

Anne Johnston, *Administrative Assistant*  
Violet S. Harju, *Clerk-Typist*  
Kristine A. Powers, *Clerk-Typist*  
Christine K. Taylor, *Clerk-Typist*

## RECOMMENDATIONS

The Law Revision Commission respectfully recommends that the Legislature authorize the Commission to complete its study of the topics previously authorized for study (see "Calendar of Topics for Study" supra) and to remove from its calendar of topics the topic listed under "Topics to Be Removed From Calendar of Topics" supra.

Pursuant to the mandate imposed by Section 10331 of the Government Code, the Commission recommends the repeal of the provisions referred to under "Report on Statutes Repealed by Implication or Held Unconstitutional," *supra*, to the extent that those provisions have been held to be unconstitutional.

# APPENDIX I

## CURRENT TOPICS—PRIOR PUBLICATIONS AND LEGISLATIVE ACTION

### Arbitration

Authorized by Cal. Stats. 1968, Res. Ch. 110, at 3103; see also 8 Cal. L. Revision Comm'n Reports 1325 (1967).

This is a supplemental study; the present California arbitration law was enacted in 1961 upon Commission recommendation. See *Recommendation and Study Relating to Arbitration*, 3 Cal. L. Revision Comm'n Reports at G-1 (1961). For a legislative history of this recommendation, see 4 Cal. L. Revision Comm'n Reports 15 (1963). See also Cal. Stats. 1961, Ch. 461.

### Child Custody and Related Matters

Authorized by Cal. Stats. 1972, Res. Ch. 27, at 3227. See 10 Cal. L. Revision Comm'n Reports 1122 (1971). See also Cal. Stats. 1956, Res. Ch. 42, at 263; 1 Cal. L. Revision Comm'n Reports, "1956 Report" at 29 (1957).

Background studies on two aspects of this topic have been prepared by the Commission's consultant, Professor Brigitte M. Bodenheimer, Law School, University of California at Davis. See Bodenheimer, *The Multiplicity of Child Custody Proceedings—Problems of California Law*, 23 Stan. L. Rev. 703 (1971); *New Trends and Requirements in Adoption Law and Proposals for Legislative Change*, 49 So. Cal. L. Rev. 10 (1975). The studies do not necessarily represent the views of the Commission; the

Commission's action will be reflected in its own recommendation. Mr.

Garrett H. Elmore has been retained as a consultant on one aspect of this topic—a project to eliminate the overlap between the guardianship and conservatorship statutes.

### Class Actions

Authorized by Cal. Stats. 1975, Res. Ch. 15; see also 12 Cal. L. Revision Comm'n Reports 524 (1974).

### Condemnation Law and Procedure

Authorized by Cal. Stats. 1965, Res. Ch. 130, at 5289; see also Cal. Stats. 1956, Res. Ch. 42, at 263; 4 Cal. L. Revision Comm'n Reports 115 (1963).

See *Recommendation and Study Relating to Evidence in Eminent Domain Proceedings; Recommendation and Study Relating to Taking Possession and Passage of Title in Eminent Domain Proceedings; Recommendation and Study Relating to the Reimbursement for Moving Expenses When Property Is Acquired for Public Use*, 3 Cal. L. Revision Comm'n Reports at A-1, B-1, and C-1 (1961). For a legislative history of these recommendations, see 3 Cal. L. Revision Comm'n Reports, "Legislative History" at 1-5 (1961). See also Cal. Stats. 1961, Ch. 1612 (tax apportionment) and Ch. 1613 (taking possession and passage of title). The substance of two of these recommendations was incorporated in legislation enacted in 1965. Cal. Stats. 1965, Ch. 1151 (evidence in eminent domain proceedings); Chs. 1649, 1650 (reimbursement for moving expenses).

See also *Recommendation and Study Relating to Condemnation Law and Procedure: Number 4—Discovery in Eminent Domain Proceedings*, 4 Cal. L. Revision Comm'n Reports 701 (1963). For a legislative history of this recommendation, see 4 Cal. L. Revision Comm'n Reports 213 (1963). See also *Recommendation Relating to Discovery in Eminent Domain Proceedings*, 8 Cal. L. Revision Comm'n Reports 19 (1967). For a legislative history of this recommendation, see 8 Cal. L. Revision Comm'n Reports 1318 (1967). The recommended legislation was enacted. See Cal. Stats. 1967, Ch. 1104 (exchange of valuation data).

See also *Recommendation Relating to Recovery of Condemnee's Expenses on Abandonment of an Eminent Domain Proceeding*, 8 Cal. L. Revision Comm'n Reports 1361 (1967). For a legislative history of this recommendation, see 9 Cal. L. Revision Comm'n Reports 19 (1969). The recommended legislation was enacted. See Cal. Stats. 1968, Ch. 133.

See also *Recommendation Relating to Arbitration of Just Compensation*, 9 Cal. L. Revision Comm'n Reports 123 (1969). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1018 (1971). The recommended legislation was enacted. See Cal. Stats. 1970, Ch. 417.

See also *Recommendation Relating to Condemnation Law and Procedure: Conforming Changes in Improvement Acts*, 12 Cal. L. Revision Comm'n Reports 1001 (1974). For a legislative history of this recommendation, see 12 Cal. L. Revision Comm'n Reports 534 (1974). The recommended legislation was enacted. See Cal. Stats. 1974, Ch. 426.

See also *Tentative Recommendations Relating to Condemnation Law and Procedure: The Eminent Domain Law, Condemnation Authority of State Agencies, and Conforming Changes in Special District Statutes*, 12 Cal. L. Revision Comm'n Reports at 1, 1051, and 1101 (1974).

See also *Recommendation Proposing the Eminent Domain Law*, 12 Cal. L. Revision Comm'n Reports 1601 (1974). For a legislative history of this recommendation, see 13 Cal. L. Revision Comm'n Reports 2010 (1976). The recommended legislation was enacted. See Cal. Stats. 1975, Chs. 581, 582, 584, 585, 586, 587, 1176, 1239, 1240, 1275, 1276. See also Cal. Stats. 1976, Ch. 22.

See also Recommendation Relating to Relocation Assistance by Private Condemnors, 13 Cal. L. Revision Comm'n Reports 2091 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was enacted. See Cal. Stats. 1976, Ch. 143.

See also Recommendation Relating to Condemnation for Byroads and Utility Easements, 13 Cal. L. Revision Comm'n Reports 2091 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was enacted in part (utility easements). See Cal. Stats. 1976, Ch. 994.

#### Creditors' Remedies

Authorized by Cal. Stats. 1972, Res. Ch. 27, at 3227. See also Cal. Stats. 1957, Res. Ch. 202, at 4589; see also 1 Cal. L. Revision Comm'n Reports, "1957 Report" at 15 (1957).

See *Recommendation Relating to Attachment, Garnishment, and Exemptions From Execution: Discharge From Employment*, 10 Cal. L. Revision Comm'n Reports 1147 (1971). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1126-1127 (1971). The recommended legislation was enacted. See Cal. Stats. 1971, Ch. 1607.

See also *Recommendation Relating to Attachment, Garnishment, and Exemptions From Execution: Employees' Earnings Protection Law*, 10 Cal. L. Revision Comm'n Reports 701 (1971). For a legislative history of this recommendation, see 11 Cal. L. Revision Comm'n Reports 1024 (1973). The recommended legislation was not enacted. The Commission submitted a revised recommendation to the 1973 Legislature. See *Recommendation Relating to Wage Garnishment and Related Matters*, 11 Cal. L. Revision Comm'n Reports 101 (1973). For a legislative history of this recommendation, see 11 Cal. L. Revision Comm'n Reports 1123 (1973); 12 Cal. L. Revision Comm'n Reports 530 n.1 (1974). The recommended legislation was not enacted. The Commission submitted a revised recommendation to the 1975 Legislature. See *Recommendation Relating to Wage Garnishment Exemptions*, 12 Cal. L. Revision Comm'n Reports 901 (1974). For a legislative history of this recommendation, see 13 Cal. L. Revision Comm'n Reports 2012 (1976). The recommended legislation was not enacted. See also Recommendation Relating to Wage Garnishment Procedure, 13 Cal. L. Revision Comm'n Reports 601 (1976). The Commission plans to submit a recommendation to the 1977 Legislature. See Recommendation Relating to Wage Garnishment (October 1976), published as Appendix IX to this Report.

See also *Recommendation and Study Relating to Civil Arrest*, 11 Cal. L. Revision Comm'n Reports 1 (1973). For a legislative history of this recommendation, see 11 Cal. L. Revision Comm'n Reports 1123 (1973). The recommended legislation was enacted. See Cal. Stats. 1973, Ch. 20.

\* See also *Recommendation Relating to the Claim and Delivery Statute*, 11 Cal. L. Revision Comm'n Reports 301 (1973). For a legislative history of this recommendation, see 11 Cal. L. Revision Comm'n Reports 1124 (1973). The recommended legislation was enacted. See Cal. Stats. 1973, Ch. 526. See also Recommendation Relating to Turnover Orders Under the Claim and Delivery Law, 13 Cal. L. Revision Comm'n Reports 2079 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was enacted. See Cal. Stats. 1976, Ch. 145.

See also *Recommendation Relating to Prejudgment Attachment*, 11 Cal. L. Revision Comm'n Reports 701 (1973). For a legislative history of this recommendation, see 12 Cal. L. Revision Comm'n Reports 530 (1974). The recommended legislation was enacted. See Cal. Stats. 1974, Ch. 1516. See also Recommendation Relating to Revision of the Attachment Law, 13 Cal. L. Revision Comm'n Reports 801 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was enacted. See Cal. Stats. 1976, Ch. 437.

See also *Recommendation Relating to Enforcement of Sister State Money Judgments*, 11 Cal. L. Revision Comm'n Reports 451 (1973). For a legislative history of this recommendation, see 12 Cal. L. Revision Comm'n Reports 534 (1974). The recommended legislation was enacted. See Cal. Stats. 1974, Ch. 211. See also Recommendation Relating to Sister State Money Judgments (April 1976), published as Appendix IV to this Report. This recommendation will be submitted to the 1977 Legislature.

#### Discovery in Civil Cases

Authorized by Cal. Stats. 1975, Res. Ch. 15; see also 12 Cal. L. Revision Comm'n Reports 526 (1974).

#### Escheat; Unclaimed Property

Authorized by Cal. Stats. 1967, Res. Ch. 81, at 4592; see also Cal. Stats. 1956, Res. Ch. 42, at 263.

See *Recommendation Relating to Escheat*, 8 Cal. L. Revision Comm'n Reports 1001 (1967). For a legislative history of this recommendation, see 9 Cal. L. Revision Comm'n Reports 16-18 (1969). Most of the recommended legislation was enacted. See Cal. Stats. 1968, Ch. 247 (escheat of decedent's estate) and Ch. 356 (unclaimed property act).

See also *Recommendation Relating to Unclaimed Property*, 11 Cal. L. Revision Comm'n Reports 401 (1973). For a legislative history of this recommendation, see 11 Cal. L. Revision Comm'n Reports 1124 (1973). The recommended legislation was not enacted.

See also *Recommendation Relating to Escheat of Amounts Payable on Travelers Checks, Money Orders, and Similar Instruments*, 12 Cal. L. Revision Comm'n Reports 613 (1974). For a legislative history of this recommendation, see 13 Cal. L. Revision Comm'n Reports 2012 (1976). The recommended legislation was enacted. See Cal. Stats. 1975, Ch. 25.

## Evidence

Authorized by Cal. Stats. 1965, Res. Ch. 130, at 5289.

See *Recommendation Proposing an Evidence Code*, 7 Cal. L. Revision Comm'n Reports I (1965). A series of tentative recommendations and research studies relating to the Uniform Rules of Evidence was published and distributed for comment prior to the preparation of the recommendation proposing the Evidence Code. See 6 Cal. L. Revision Comm'n Reports at 1, 101, 201, 601, 701, 801, 901, 1001, and *Appendix* (1964). For a legislative history of this recommendation, see 7 Cal. L. Revision Comm'n Reports 912-914 (1965). See also *Evidence Code With Official Comments*, 7 Cal. L. Revision Comm'n Reports 1001 (1965). See also Cal. Stats. 1965, Ch. 299 (Evidence Code).

See also *Recommendations Relating to the Evidence Code: Number 1—Evidence Code Revisions; Number 2—Agricultural Code Revisions; Number 3—Commercial Code Revisions*, 8 Cal. L. Revision Comm'n Reports 101, 201, 301 (1967). For a legislative history of these recommendations, see 8 Cal. L. Revision Comm'n Reports 1315 (1967). See also Cal. Stats. 1967, Ch. 650 (Evidence Code revisions), Ch. 262 (Agricultural Code revisions), Ch. 703 (Commercial Code revisions).

See also *Recommendation Relating to the Evidence Code: Number 4—Revision of the Privileges Article*, 9 Cal. L. Revision Comm'n Reports 501 (1969). For a legislative history of this recommendation, see 9 Cal. L. Revision Comm'n Reports 98 (1969).

See also *Recommendation Relating to the Evidence Code: Number 5—Revisions of the Evidence Code*, 9 Cal. L. Revision Comm'n Reports 137 (1969). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1018 (1971). Some of the recommended legislation was enacted. See Cal. Stats. 1970, Ch. 69 (res ipsa loquitur), Ch. 1397 (psychotherapist-patient privilege).

See also report concerning *Proof of Foreign Official Records*, 10 Cal. L. Revision Comm'n Reports 1022 (1971), and Cal. Stats. 1970, Ch. 41.

See also *Recommendation Relating to Erroneously Ordered Disclosure of Privileged Information*, 11 Cal. L. Revision Comm'n Reports 1163 (1973). For a legislative history of this recommendation, see 12 Cal. L. Revision Comm'n Reports 535 (1974). The recommended legislation was enacted. See Cal. Stats. 1974, Ch. 227.

See also *Recommendation Relating to Evidence Code Section 999—The "Criminal Conduct" Exception to the Physician-Patient Privilege*, 11 Cal. L. Revision Comm'n Reports 1147 (1973). For a legislative history of this recommendation, see 12 Cal. L. Revision Comm'n Reports 535 (1974). The recommended legislation was not enacted. A revised recommendation was submitted to the 1975 Legislature. See *Recommendation Relating to the Good Cause Exception to the Physician-Patient Privilege*, 12 Cal. L. Revision Comm'n Reports 601 (1974). For a legislative history of this recommendation,

see 13 Cal. L. Revision Comm'n Reports 2012 (1976). The recommended legislation was enacted. See Cal. Stats. 1975, Ch. 318.

See also Recommendation Relating to View by Trier of Fact in a Civil Case, 12 Cal. L. Revision Comm'n Reports 587 (1974). For a legislative history of this recommendation, see 13 Cal. L. Revision Comm'n Reports 2011 (1976). The recommended legislation was enacted. See Cal. Stats. 1975, Ch. 301.

See also Recommendation Relating to Admissibility of Copies of Business Records in Evidence, 13 Cal. L. Revision Comm'n Reports 2051 (1976). For a legislative history of this recommendation, see 13 Cal. L. Revision Comm'n Reports 2012 (1976). The recommended legislation was not enacted.

See also Recommendation Relating to Admissibility of Duplicates in Evidence, 13 Cal. L. Revision Comm'n Reports 2115 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was not enacted.

This topic is under continuing study to determine whether any substantive, technical, or clarifying changes are needed in the Evidence Code and whether changes are needed in other codes to conform them to the Evidence Code. See 10 Cal. L. Revision Comm'n Reports 1015 (1971). See also Cal. Stats. 1972, Ch. 764 (judicial notice—technical amendment).

### Governmental Liability

Authorized by Cal. Stats. 1957, Res. Ch. 202, at 4589.

See *Recommendations Relating to Sovereign Immunity: Number 1—Tort Liability of Public Entities and Public Employees; Number 2—Claims, Actions and Judgments Against Public Entities and Public Employees; Number 3—Insurance Coverage for Public Entities and Public Employees; Number 4—Defense of Public Employees; Number 5—Liability of Public Entities for Ownership and Operation of Motor Vehicles; Number 6—Workmen's Compensation Benefits for Persons Assisting Law Enforcement or Fire Control Officers; Number 7—Amendments and Repeals of Inconsistent Special Statutes*, 4 Cal. L. Revision Comm'n Reports 801, 1001, 1201, 1301, 1401, 1501, and 1601 (1963). For a legislative history of these recommendations, see 4 Cal. L. Revision Comm'n Reports 211-213 (1963). See also *A Study Relating to Sovereign Immunity*, 5 Cal. L. Revision Comm'n Reports 1 (1963). See also Cal. Stats. 1963, Ch. 1681 (tort liability of public entities and public employees), Ch. 1715 (claims, actions and judgments against public entities and public employees), Ch. 1682 (insurance coverage for public entities and public employees), Ch. 1683 (defense of public employees), Ch. 1684 (workmen's compensation benefits for persons assisting law enforcement or fire control officers), Ch. 1685 (amendments and repeals of inconsistent special statutes), Ch. 1686 (amendments and repeals of inconsistent special statutes), Ch. 2029 (amendments and repeals of inconsistent special statutes).

See also *Recommendation Relating to Sovereign Immunity: Number 8—Revisions of the Governmental Liability Act*, 7 Cal. L. Revision Comm'n Reports 401 (1965). For a legislative history of this recommendation, see 7 Cal. L. Revision Comm'n Reports 914 (1965). See also Cal. Stats. 1965, Ch. 653 (claims and actions against public entities and public employees), Ch. 1527 (liability of public entities for ownership and operation of motor vehicles).

See also *Recommendation Relating to Sovereign Immunity: Number 9—Statute of Limitations in Actions Against Public Entities and Public Employees*, 9 Cal. L. Revision Comm'n Reports 49 (1969). For a legislative history of this recommendation, see 9 Cal. L. Revision Comm'n Reports 98 (1969). See also *Proposed Legislation Relating to Statute of Limitations in Actions Against Public Entities and Public Employees*, 9 Cal. L. Revision Comm'n Reports 175 (1969). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1021 (1971). The recommended legislation was enacted. See Cal. Stats. 1970, Ch. 104.

See also *Recommendation Relating to Sovereign Immunity: Number 10—Revisions of the Governmental Liability Act*, 9 Cal. L. Revision Comm'n Reports 801 (1969). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1020 (1971). Most of the recommended legislation was enacted. See Cal. Stats. 1970, Ch. 652 (entry to make tests) and Ch. 1099 (liability for use of pesticides, liability for damages from tests).

See also *Recommendation Relating to Payment of Judgments Against Local Public Entities*, 12 Cal. L. Revision Comm'n Reports 575 (1974). For a legislative history of this recommendation, see 13 Cal. L. Revision Comm'n Reports 2011 (1976). The recommended legislation was enacted. See Cal. Stats. 1975, Ch. 285.

See also *Recommendation Relating to Undertakings for Costs*, 13 Cal. L. Revision Comm'n Reports 901 (1976). For a legislative history of this recommendation, see this Report *supra*. The recommended legislation was not enacted.

## Inverse Condemnation

Authorized by Cal. Stats. 1970, Res. Ch. 46, at 3541; see also Cal. Stats. 1965, Res. Ch. 130, at 5289.

See *Recommendation Relating to Inverse Condemnation: Insurance Coverage*, 10 Cal. L. Revision Comm'n Reports 1031 (1971). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1126 (1971). The recommended legislation was enacted. See Cal. Stats. 1971, Ch. 140.

See also *Recommendation Relating to Sovereign Immunity: Number 10—Revisions of the Governmental Liability Act*, 9 Cal. L. Revision Comm'n Reports 801 (1969). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1020 (1971). Most of the recommended legislation was enacted. See Cal. Stats. 1970, Ch. 662 (entry to make tests) and Ch. 1099 (liability for use of pesticides, liability for damages from tests). See also *Proposed Legislation Relating to Statute of Limitations in Actions Against Public Entities and Public Employees*, 9 Cal. L. Revision Comm'n Reports 175 (1969). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1021 (1971). The recommended legislation was enacted. See Cal. Stats. 1970, Ch. 104.

See also *Recommendation Relating to Payment of Judgments Against Local Public Entities*, 12 Cal. L. Revision Comm'n Reports 575 (1974). For a legislative history of this recommendation, see 13 Cal. L. Revision Comm'n Reports 2011 (1976). The recommended legislation was enacted. See Cal. Stats. 1975, Ch. 285.

See also Van Alstyne, *California Inverse Condemnation Law*, 10 Cal. L. Revision Comm'n Reports 1 (1971).

## Lease Law

Authorized by Cal. Stats. 1965, Res. Ch. 130, at 5289; see also Cal. Stats. 1957, Res. Ch. 202, at 4589.

See *Recommendation and Study Relating to Abandonment or Termination of a Lease*, 8 Cal. L. Revision Comm'n Reports 701 (1967). For a legislative history of this recommendation, see 8 Cal. L. Revision Comm'n Reports 1319 (1967).

See also *Recommendation Relating to Real Property Leases*, 9 Cal. L. Revision Comm'n Reports 401 (1969). For a legislative history of this recommendation, see 9 Cal. L. Revision Comm'n Reports 93 (1969).

See also *Recommendation Relating to Real Property Leases*, 9 Cal. L. Revision Comm'n Reports 153 (1969). For a legislative history of this recommendation, see 10 Cal. L. Revision Comm'n Reports 1018 (1971). The recommended legislation was enacted. See Cal. Stats. 1970, Ch. 89.

See also *Recommendations Relating to Landlord-Tenant Relations*, 11 Cal. L. Revision Comm'n Reports 951 (1973). This report contains two recommendations: *Abandonment of Leased Real Property* and *Personal Property Left on Premises Vacated by Tenant*. For a legislative history of these recommendations, see 12 Cal. L. Revision Comm'n Reports 536 (1974). The recommended legislation was enacted. See Cal. Stats. 1974, Chs. 331, 332.

The Commission plans to submit a recommendation to the 1977 Legislature. See Recommendation Relating to Damages in Action for Breach of Lease, (May 1976), published as Appendix V to this Report.

## Liquidated Damages

Authorized by Cal. Stats. 1969, Res. Ch. 224, at 3588.

See *Recommendation and Study Relating to Liquidated Damages*, 11 Cal. L. Revision Comm'n Reports 1201 (1973). For a legislative history of this recommendation, see 12 Cal. L. Revision Comm'n Reports 535 (1974). The recommended legislation was not enacted.

See also Recommendation Relating to Liquidated Damages, 13 Cal. L. Revision Comm'n Reports 2139 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was passed by the Legislature but vetoed by the Governor. The Commission plans to submit a new recommendation to the 1977 Legislature. See Recommendation Relating to Liquidated Damages (December 1976), published as Appendix X to this Report.

## Marketable Title Act and Related Matters

Authorized by Cal. Stats. 1975, Res. Ch. 82.

### **Modification of Contracts**

Authorized by Cal. Stats. 1957, Res. Ch. 202, at 4589; see also 1 Cal. L. Revision Comm'n Reports, "1957 Report" at 21 (1957).

See *Recommendation and Study Relating to Oral Modification of Written Contracts* (January 1975), to be reprinted in 13 Cal. L. Revision Comm'n Reports 301 (1976). For a legislative history of this recommendation, see 13 Cal. L. Revision Comm'n Reports 2011 (1976). One of the two legislative measures recommended was enacted. See Cal. Stats. 1975, Ch. 7.

See also Recommendation Relating to Oral Modification of Contracts, 13 Cal. L. Revision Comm'n Reports 2129 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was enacted. See Cal. Stats. 1976, Ch. 109.

### **Nonprofit Corporations**

Authorized by Cal. Stats. 1970, Res. Ch. 54, at 3547; see also 9 Cal. L. Revision Comm'n Reports 107 (1969).

The Commission plans to submit a recommendation to the 1977 Legislature. See Recommendation Relating to Nonprofit Corporation Law (November 1976), to be reprinted in 13 Cal. L. Revision Comm'n Reports 2201 (1976).

### Offers of Compromise

Authorized by Cal. Stats. 1975, Res. Ch. 15; see also 12 Cal. L. Revision Comm'n Reports 525 (1974).

### **Parol Evidence Rule**

Authorized by Cal. Stats. 1971, Res. Ch. 75; see also 10 Cal. L. Revision Comm'n Reports 1031 (1971).

### **Partition Procedures**

Authorized by Cal. Stats. 1959, Res. Ch. 218, at 5792; see also Cal. Stats. 1956, Res. Ch. 42, at 263; 1 Cal. L. Revision Comm'n Reports, "1956 Report" at 21 (1957).

See Recommendation Relating to Partition of Real and Personal Property, 13 Cal. L. Revision Comm'n Reports 401 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was enacted. See Cal. Stats. 1976, Ch. 73.

### Possibilities of Reverter and Powers of Termination

Authorized by Cal. Stats. 1975, Res. Ch. 15; see also 12 Cal. L. Revision Comm'n Reports 528 (1974).

**Prejudgment Interest**

Authorized by Cal. Stats. 1971, Res. Ch. 75.

**Tort Liability**

Authorized by Cal. Stats. 1976, Res. Ch. 160.

**Transfer of Out-of-State Trusts to California**

Authorized by Cal. Stats. 1975, Res. Ch. 15; see also 12 Cal. L. Revision Comm'n Reports 523 (1974).

See Recommendation Relating to Transfer of Out-of-State Trusts to California, 13 Cal. L. Revision Comm'n Reports 2101 (1976). For a legislative history of this recommendation, see this Report supra. The recommended legislation was enacted. See Cal. Stats. 1976, Ch. 144.

**Unincorporated Associations**

Authorized by Cal. Stats. 1966, Res. Ch. 9, at 241; see also Cal. Stats. 1957, Res. Ch. 202, at 4589.

See Recommendation and Study Relating to Suit by or Against an Unincorporated Association, 8 Cal. L. Revision Comm'n Reports 901 (1967). For a legislative history of this recommendation, see 8 Cal. L. Revision Comm'n Reports 1317 (1967). The recommended legislation was enacted. See Cal. Stats. 1967, Ch. 1324.

See also Recommendation Relating to Service of Process on Unincorporated Associations, 8 Cal. L. Revision Comm'n Reports 1403 (1967). For a legislative history of this recommendation, see 9 Cal. L. Revision Comm'n Reports 18-19 (1969). The recommended legislation was enacted. See Cal. Stats. 1968, Ch. 132.

See also Recommendation Relating to Service of Process on Unincorporated Associations (February 1976), published as Appendix III to this Report. For a legislative history of this recommendation, see this Report supra. The recommended legislation was enacted. See Cal. Stats. 1976, Ch. 888.

## APPENDIX II

### LEGISLATIVE ACTION ON COMMISSION RECOMMENDATIONS

(Cumulative)

Recommendation	Action by Legislature
1. <i>Partial Revision of Education Code</i> , 1 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1954 at 12 (1957)	Enacted. Cal. Stats. 1955, Chs. 799, 877
2. <i>Summary Distribution of Small Estates Under Probate Code Sections 640 to 646</i> , 1 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1954 at 50 (1957)	Enacted. Cal. Stats. 1955, Ch. 1183
3. <i>Fish and Game Code</i> , 1 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1957 at 13 (1957); 1 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1956 at 13 (1957)	Enacted. Cal. Stats. 1957, Ch. 456
4. <i>Maximum Period of Confinement in a County Jail</i> , 1 CAL. L. REVISION COMM'N REPORTS at A-1 (1957)	Enacted. Cal. Stats. 1957, Ch. 139
5. <i>Notice of Application for Attorney's Fees and Costs in Domestic Relations Actions</i> , 1 CAL. L. REVISION COMM'N REPORTS at B-1 (1957)	Enacted. Cal. Stats. 1957, Ch. 540
6. <i>Taking Instructions to Jury Room</i> , 1 CAL. L. REVISION COMM'N REPORTS at C-1 (1957)	Not enacted. But see Cal. Stats. 1975, Ch. 461, enacting substance of this recommendation.

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| <p>7. <i>The Dead Man Statute</i>, 1 CAL. L. REVISION COMM'N REPORTS at D-1 (1957)</p>  | <p>Not enacted. But recommendation accomplished in enactment of Evidence Code. See Comment to EVID. CODE § 1261.</p> |
| <p>8. <i>Rights of Surviving Spouse in Property Acquired by Decedent While Domiciled Elsewhere</i>, 1 CAL. L. REVISION COMM'N REPORTS at E-1 (1957)</p>                                   | <p>Enacted. Cal. Stats. 1957, Ch. 490</p>  |
| <p>9. <i>The Marital "For and Against" Testimonial Privilege</i>, 1 CAL. L. REVISION COMM'N REPORTS at F-1 (1957)</p>   | <p>Not enacted. But recommendation accomplished in enactment of Evidence Code. See Comment to EVID. CODE § 970.</p>  |
| <p>10. <i>Suspension of the Absolute Power of Alienation</i>, 1 CAL. L. REVISION COMM'N REPORTS at G-1 (1957); 2 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1959 at 14 (1959)</p> | <p>Enacted. Cal. Stats. 1959, Ch. 470</p>  |
| <p>11. <i>Elimination of Obsolete Provisions in Penal Code Sections 1377 and 1378</i>, 1 CAL. L. REVISION COMM'N REPORTS at H-1 (1957)</p>  | <p>Enacted. Cal. Stats. 1957, Ch. 102</p>  |
| <p>12. <i>Judicial Notice of the Law of Foreign Countries</i>, 1 CAL. L. REVISION COMM'N REPORTS at I-1 (1957)</p>  | <p>Enacted. Cal. Stats. 1957, Ch. 249</p>  |

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| 13. <i>Choice of Law Governing Survival of Actions</i> , 1 CAL. L. REVISION COMM'N REPORTS at J-1 (1957)  | No legislation recommended.         |
| 14. <i>Effective Date of Order Ruling on a Motion for New Trial</i> , 1 CAL. L. REVISION COMM'N REPORTS at K-1 (1957); 2 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1959 at 16 (1959) | Enacted. Cal. Stats. 1959, Ch. 468  |
| 15. <i>Retention of Venue for Convenience of Witnesses</i> , 1 CAL. L. REVISION COMM'N REPORTS at L-1 (1957)  | Not enacted.                        |
| 16. <i>Bringing New Parties Into Civil Actions</i> , 1 CAL. L. REVISION COMM'N REPORTS at M-1 (1957)  | Enacted. Cal. Stats. 1957, Ch. 1498 |
| 17. <i>Grand Juries</i> , 2 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1959 at 20 (1959)  | Enacted. Cal. Stats. 1959, Ch. 501  |
| 18. <i>Procedure for Appointing Guardians</i> , 2 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1959 at 21 (1959)  | Enacted. Cal. Stats. 1959, Ch. 500  |
| 19. <i>Appointment of Administrator in Quiet Title Action</i> , 2 CAL. L. REVISION COMM'N REPORTS, Annual Report for 1959 at 29 (1959)  | No legislation recommended.         |

20. *Presentation of Claims Against Public Entities*, 2 CAL. L. REVISION COMM'N REPORTS at A-1 (1959) Enacted. Cal. Stats. 1959, Chs. 1715, 1724, 1725, 1726, 1727, 1728; CAL. CONST., Art. XI, § 10 (1960)
21. *Right of Nonresident Aliens to Inherit*, 2 CAL. L. REVISION COMM'N REPORTS at B-1 (1959); 11 CAL. L. REVISION COMM'N REPORTS 421 (1973) Enacted. Cal. Stats. 1974, Ch. 425
22. *Mortgages to Secure Future Advances*, 2 CAL. L. REVISION COMM'N REPORTS at C-1 (1959) Enacted. Cal. Stats. 1959, Ch. 528
23. *Doctrine of Worthier Title*, 2 CAL. L. REVISION COMM'N REPORTS at D-1 (1959) Enacted. Cal. Stats. 1959, Ch. 122
24. *Overlapping Provisions of Penal and Vehicle Codes Relating to Taking of Vehicles and Drunk Driving*, 2 CAL. L. REVISION COMM'N REPORTS at E-1. (1959) Not enacted. But see Cal. Stats. 1972, Ch. 92, enacting substance of a portion of recommendation relating to drunk driving.
25. *Time Within Which Motion for New Trial May Be Made*, 2 CAL. L. REVISION COMM'N REPORTS at F-1 (1959) Enacted. Cal. Stats. 1959, Ch. 469
26. *Notice to Shareholders of Sale of Corporate Assets*, 2 CAL. L. REVISION COMM'N REPORTS at G-1 (1959) Not enacted. But see CORP. CODE §§ 1001, 1002 (effective January 1, 1977) enacting substance of recommendation.

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| 27. <i>Evidence in Eminent Domain Proceedings</i> , 3 CAL. L. REVISION COMM'N REPORTS at A-1 (1961)   | Not enacted. But see EVID. CODE § 810 <i>et seq.</i> enacting substance of recommendation.      |
| 28. <i>Taking Possession and Passage of Title in Eminent Domain Proceedings</i> , 3 CAL. L. REVISION COMM'N REPORTS at B-1 (1961)                                 | Enacted. Cal. Stats. 1961, Chs. 1612, 1613  |
| 29. <i>Reimbursement for Moving Expenses When Property Is Acquired for Public Use</i> , 3 CAL. L. REVISION COMM'N REPORTS at C-1 (1961)                           | Not enacted. But see GOVT. CODE § 7260 <i>et seq.</i> enacting substance of recommendation.     |
| 30. <i>Rescission of Contracts</i> , 3 CAL. L. REVISION COMM'N REPORTS at D-1 (1961)  | Enacted. Cal. Stats. 1961, Ch. 589  |
| 31. <i>Right to Counsel and Separation of Delinquent From Nondelinquent Minor In Juvenile Court Proceedings</i> , 3 CAL. L. REVISION COMM'N REPORTS at E-1 (1961) | Enacted. Cal. Stats. 1961, Ch. 1616   |
| 32. <i>Survival of Actions</i> , 3 CAL. L. REVISION COMM'N REPORTS at F-1 (1961)  | Enacted. Cal. Stats. 1961, Ch. 657  |
| 33. <i>Arbitration</i> , 3 CAL. L. REVISION COMM'N REPORTS at G-1 (1961)  | Enacted. Cal. Stats. 1961, Ch. 461  |
| 34. <i>Presentation of Claims Against Public Officers and Employees</i> , 3 CAL. L. REVISION COMM'N REPORTS at H-1 (1961)   | Not enacted 1961. See recommendation to 1963 session (item 39 <i>infra</i> ) which was enacted. |

35. *Inter Vivos Marital Property Rights in Property Acquired While Domiciled Elsewhere*, 3 CAL. L. REVISION COMM'N REPORTS at I-1 (1961) Enacted. Cal. Stats. 1961, Ch. 636
36. *Notice of Alibi in Criminal Actions*, 3 CAL. L. REVISION COMM'N REPORTS at J-1 (1961) Not enacted.
37. *Discovery in Eminent Domain Proceedings*, 4 CAL. L. REVISION COMM'N REPORTS 701 (1963); 8 CAL. L. REVISION COMM'N REPORTS 19 (1967) Enacted. Cal. Stats. 1967, Ch. 1104
38. *Tort Liability of Public Entities and Public Employees*, 4 CAL. L. REVISION COMM'N REPORTS 801 (1963) Enacted. Cal. Stats. 1963, Ch. 1681
39. *Claims, Actions and Judgments Against Public Entities and Public Employees*, 4 CAL. L. REVISION COMM'N REPORTS 1001 (1963) Enacted. Cal. Stats. 1963, Ch. 1715
40. *Insurance Coverage for Public Entities and Public Employees*, 4 CAL. L. REVISION COMM'N REPORTS 1201 (1963) Enacted. Cal. Stats. 1963, Ch. 1682
41. *Defense of Public Employees*, 4 CAL. L. REVISION COMM'N REPORTS 1301 (1963) Enacted. Cal. Stats. 1963, Ch. 1683

42. *Liability of Public Entities for Ownership and Operation of Motor Vehicles*, 4 CAL. L. REVISION COMM'N REPORTS 1401 (1963); 7 CAL. L. REVISION COMM'N REPORTS 401 (1965) Enacted. Cal. Stats. 1965, Ch. 1527
43. *Workmen's Compensation Benefits for Persons Assisting Law Enforcement or Fire Control Officer*, 4 CAL. L. REVISION COMM'N REPORTS 1501 (1963) Enacted. Cal. Stats. 1963, Ch. 1684
44. *Sovereign Immunity—Amendments and Repeals of Inconsistent Statutes*, 4 CAL. L. REVISION COMM'N REPORTS 1601 (1963) Enacted. Cal. Stats. 1963, Chs. 1685, 1686, 2029
45. *Evidence Code*, 7 CAL. L. REVISION COMM'N REPORTS 1 (1965) Enacted. Cal. Stats. 1965, Ch. 299
46. *Claims and Actions Against Public Entities and Public Employees*, 7 CAL. L. REVISION COMM'N REPORTS 401 (1965) Enacted. Cal. Stats. 1965, Ch. 653
47. *Evidence Code Revisions*, 8 CAL. L. REVISION COMM'N REPORTS 101 (1967) Enacted in part: Cal. Stats. 1967, Ch. 650; balance enacted: Cal. Stats. 1970, Ch. 69
48. *Evidence—Agricultural Code Revisions*, 8 CAL. L. REVISION COMM'N REPORTS 201 (1967) Enacted. Cal. Stats. 1967, Ch. 262

49. *Evidence—Commercial Code Revisions*, 8 CAL. L. REVISION COMM'N REPORTS 301 (1967) Enacted. Cal. Stats. 1967, Ch. 703
50. *Whether Damage for Personal Injury to a Married Person Should Be Separate or Community Property*, 8 CAL. L. REVISION COMM'N REPORTS 401 (1967); 8 CAL. L. REVISION COMM'N REPORTS 1385 (1967) Enacted. Cal. Stats. 1968, Chs. 457, 458
51. *Vehicle Code Section 17150 and Related Sections*, 8 CAL. L. REVISION COMM'N REPORTS 501 (1967) Enacted. Cal. Stats. 1967, Ch. 702
52. *Additur*, 8 CAL. L. REVISION COMM'N REPORTS 601 (1967) Enacted. Cal. Stats. 1967, Ch. 72
53. *Abandonment or Termination of a Lease*, 8 CAL. L. REVISION COMM'N REPORTS 701 (1967); 9 CAL. L. REVISION COMM'N REPORTS 401 (1969); 9 CAL. L. REVISION COMM'N REPORTS 153 (1969) Enacted. Cal. Stats. 1970, Ch. 89
54. *Good Faith Improver of Land Owned by Another*, 8 CAL. L. REVISION COMM'N REPORTS 801 (1967); 8 CAL. L. REVISION COMM'N REPORTS 1373 (1967) Enacted. Cal. Stats. 1968, Ch. 150

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| 55. <i>Suit By or Against an Unincorporated Association</i> , 8 CAL. L. REVISION COMM'N REPORTS 901 (1967)                                       | Enacted. Cal. Stats. 1967,<br>Ch. 1324             |
| 56. <i>Escheat</i> , 8 CAL. L. REVISION COMM'N REPORTS 1001 (1967)   | Enacted. Cal. Stats. 1968,<br>Chs. 247, 356        |
| 57. <i>Recovery of Condemnee's Expenses on Abandonment of an Eminent Domain Proceeding</i> , 8 CAL. L. REVISION COMM'N REPORTS 1361 (1967)       | Enacted. Cal. Stats. 1968,<br>Ch. 133              |
| 58. <i>Service of Process on Unincorporated Associations</i> , 8 CAL. L. REVISION COMM'N REPORTS 1403 (1967)                                     | Enacted. Cal. Stats. 1968,<br>Ch. 132              |
| 59. <i>Sovereign Immunity—Statute of Limitations</i> , 9 CAL. L. REVISION COMM'N REPORTS 49 (1969); 9 CAL. L. REVISION COMM'N REPORTS 175 (1969) | Vetoed 1969. Enacted:<br>Cal. Stats. 1970, Ch. 104 |
| 60. <i>Additur and Remittitur</i> , 9 CAL. L. REVISION COMM'N REPORTS 63 (1969)  | Enacted. Cal. Stats. 1969,<br>Ch. 115              |
| 61. <i>Fictitious Business Names</i> , 9 CAL. L. REVISION COMM'N REPORTS 71 (1969)   | Enacted. Cal. Stats. 1969,<br>Ch. 114              |
| 62. <i>Quasi-Community Property</i> , 9 CAL. L. REVISION COMM'N REPORTS 113 (1969)   | Enacted. Cal. Stats. 1970,<br>Ch. 312              |

63. *Arbitration of Just Compensation*, 9 CAL. L. REVISION COMM'N REPORTS 123 (1969) Enacted. Cal. Stats. 1970, Ch. 417
64. *Revisions of Evidence Code*, 9 CAL. L. REVISION COMM'N REPORTS 137 (1969) Enacted in part: Cal. Stats. 1970, Ch. 69; see also Cal. Stats. 1970, Chs. 1396, 1397
65. *Mutuality of Remedies in Suits for Specific Performance*, 9 CAL. L. REVISION COMM'N REPORTS 201 (1969) Enacted. Cal. Stats. 1969, Ch. 156
66. *Powers of Appointment*, 9 CAL. L. REVISION COMM'N REPORTS 301 (1969) Enacted. Cal. Stats. 1969, Chs. 113, 155
67. *Evidence Code—Revisions of Privileges Article*, 9 CAL. L. REVISION COMM'N REPORTS 501 (1969) Vetoed. But see Cal. Stats. 1970, Chs. 1396, 1397
68. *Fictitious Business Names*, 9 CAL. L. REVISION COMM'N REPORTS 601 (1969) Enacted. Cal. Stats. 1970, Ch. 618
69. *Representations as to the Credit of Third Persons and the Statute of Frauds*, 9 CAL. L. REVISION COMM'N REPORTS 701 (1969) Enacted. Cal. Stats. 1970, Ch. 720
70. *Revisions of Governmental Liability Act*, 9 CAL. L. REVISION COMM'N REPORTS 801 (1969) Enacted in part: Cal. Stats. 1970, Chs. 662, 1099

71. *"Vesting" of Interests Under Rule Against Perpetuities*, 9 CAL. L. REVISION COMM'N REPORTS 901 (1969) Enacted. Cal. Stats. 1970, Ch. 45
72. *Counterclaims and Cross-Complaints, Joinder of Causes of Action, and Related Provisions*, 10 CAL. L. REVISION COMM'N REPORTS 501 (1971) Enacted. Cal. Stats. 1971, Chs. 244, 950; see also Cal. Stats. 1973, Ch. 828
73. *Wage Garnishment and Related Matters*, 10 CAL. L. REVISION COMM'N REPORTS 701 (1971); 11 CAL. L. REVISION COMM'N REPORTS 101 (1973); 12 CAL. L. REVISION COMM'N REPORTS 901 (1974); 13 CAL. L. REVISION COMM'N REPORTS 601 (1976) Not enacted. The Commission plans to submit a new recommendation to the 1977 Legislature.
74. *Proof of Foreign Official Records*, 10 CAL. L. REVISION COMM'N REPORTS 1022 (1971) Enacted. Cal. Stats. 1970, Ch. 41
75. *Inverse Condemnation—Insurance Coverage*, 10 CAL. L. REVISION COMM'N REPORTS 1051 (1971) Enacted. Cal. Stats. 1971, Ch. 140
76. *Discharge From Employment Because of Wage Garnishment*, 10 CAL. L. REVISION COMM'N REPORTS 1147 (1971) Enacted. Cal. Stats. 1971, Ch. 1607
77. *Civil Arrest*, 11 CAL. L. REVISION COMM'N REPORTS 1 (1973) Enacted. Cal. Stats. 1973, Ch. 20

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| 78. <i>Claim and Delivery Statute</i> , 11 CAL. L. REVISION COMM'N REPORTS 301 (1973)  | Enacted. Cal. Stats. 1973, Ch. 526   |
| 79. <i>Unclaimed Property</i> , 11 CAL. L. REVISION COMM'N REPORTS 401 (1973); 12 CAL. L. REVISION COMM'N REPORTS 609 (1974) | Proposed resolution enacted. Cal. Stats. 1973, Res. Ch. 76. Legislation enacted. Cal. Stats. 1975, Ch. 25. |
| 80. <i>Enforcement of Sister State Money Judgments</i> , 11 CAL. L. REVISION COMM'N REPORTS 451 (1973)                       | Enacted. Cal. Stats. 1974, Ch. 211   |
| 81. <i>Prejudgment Attachment</i> , 11 CAL. L. REVISION COMM'N REPORTS 701 (1973)  | Enacted. Cal. Stats. 1974, Ch. 1516. See also Cal. Stats. 1975, Ch. 200.                                   |
| 82. <i>Landlord-Tenant Relations</i> , 11 CAL. L. REVISION COMM'N REPORTS 951 (1973)   | Enacted. Cal. Stats. 1974, Chs. 331, 332   |
| 83. <i>Pleading</i> (technical change), 11 CAL. L. REVISION COMM'N REPORTS 1024 (1973)                                       | Enacted. Cal. Stats. 1972, Ch. 73  |
| 84. <i>Evidence—Judicial Notice</i> (technical change), 11 CAL. L. REVISION COMM'N REPORTS 1025 (1973)                       | Enacted. Cal. Stats. 1972, Ch. 764   |
| 85. <i>Evidence—"Criminal Conduct" Exception</i> , 11 CAL. L. REVISION COMM'N REPORTS 1147 (1973)                            | Not enacted 1974. See recommendation to 1975 session (item 90 <i>infra</i> ) which was enacted.            |

86. *Erroneously Compelled Disclosure of Privileged Information*, 11 CAL. L. REVISION COMM'N REPORTS 1163 (1973) Enacted. Cal. Stats. 1974, Ch. 227
87. *Liquidated Damages*, 11 Cal. L. Revision Comm'n Reports 1201 (1973); 13 Cal. L. Revision Comm'n Reports 2139 (1976) Vetoed 1976. The Commission plans to submit a new recommendation to the 1977 Legislature.
88. *Payment of Judgments Against Local Public Entities*, 12 CAL. L. REVISION COMM'N REPORTS 575 (1974) Enacted. Cal. Stats. 1975, Ch. 285
89. *View by Trier of Fact in a Civil Case*, 12 CAL. L. REVISION COMM'N REPORTS 587 (1974) Enacted. Cal. Stats. 1975, Ch. 301
90. *Good Cause Exception to the Physician-Patient Privilege*, 12 CAL. L. REVISION COMM'N REPORTS 601 (1974) Enacted. Cal. Stats. 1975, Ch. 318
91. *Improvement Acts*, 12 CAL. L. REVISION COMM'N REPORTS 1001 (1974) Enacted. Cal. Stats. 1974, Ch. 426
92. *The Eminent Domain Law*, 12 CAL. L. REVISION COMM'N REPORTS 1601 (1974) Enacted. Cal. Stats. 1975, Chs. 1239, 1240, 1275
93. *Eminent Domain—Conforming Changes in Special District Statutes*, 12 CAL. L. REVISION COMM'N REPORTS 1101 (1974); 12 CAL. L. REVISION COMM'N REPORTS 2004 (1974) Enacted. Cal. Stats. 1975, Chs. 581, 582, 584, 585, 586, 587, 1176, 1276

94. Oral Modification of Written Contracts, 13 Cal. L. Revision Comm'n Reports 301 (1976); 13 Cal. L. Revision Comm'n Reports 2129 (1976) Enacted. Cal. Stats. 1975, Ch. 7; Cal. Stats. 1976, Ch. 109
95. Partition of Real and Personal Property, 13 Cal. L. Revision Comm'n Reports 401 (1976) Enacted. Cal. Stats. 1976, Ch. 73
96. Revision of the Attachment Law, 13 Cal. L. Revision Comm'n Reports 801 (1976) Enacted. Cal. Stats. 1976, Ch. 437
97. Undertakings for Costs, 13 Cal. L. Revision Comm'n Reports 901 (1976) Not enacted.
98. Admissibility of Copies of Business Records in Evidence, 13 Cal. L. Revision Comm'n Reports 2051 (1976) Not enacted.
99. Turnover Orders Under the Claim and Delivery Law, 13 Cal. L. Revision Reports 2079 (1976) Enacted. Cal. Stats. 1976, Ch. 145
100. Relocation Assistance by Private Condemnors, 13 Cal. L. Revision Comm'n Reports 2085 (1976) Enacted. Cal. Stats. 1976, Ch. 143
101. Condemnation for By-roads and Utility Easements, 13 Cal. L. Revision Comm'n Reports 2091 (1976) Enacted in part (utility easements). Cal. Stats. 1976, Ch. 994
102. Transfer of Out-of-State Trusts to California, 13 Cal. L. Revision Comm'n Reports 2101 (1976) Enacted. Cal. Stats. 1976, Ch. 144

103. Admissibility of Du-  
plicates in Evidence,  
13 Cal. L. Revision  
Comm'n Reports 2115  
(1976)

Not enacted.

104. Service of Process  
on Unincorporated  
Associations, (Feb-  
ruary 1976), published  
as Appendix III to  
this Report

Enacted. Cal. Stats. 1976,  
Ch. 888

APPENDIX III

STATE OF CALIFORNIA

CALIFORNIA LAW  
REVISION COMMISSION

RECOMMENDATION

*relating to*

Service of Process on  
Unincorporated Associations

February 1976

CALIFORNIA LAW REVISION COMMISSION  
Stanford Law School  
Stanford, California 94305

APPENDIX IV

STATE OF CALIFORNIA

CALIFORNIA LAW  
REVISION COMMISSION

RECOMMENDATION

*relating to*

Sister State Money Judgments

April 1976

CALIFORNIA LAW REVISION COMMISSION  
Stanford Law School  
Stanford, California 94305

APPENDIX V

STATE OF CALIFORNIA

CALIFORNIA LAW  
REVISION COMMISSION

RECOMMENDATION

*relating to*

Damages in Action for Breach  
of Lease

May 1976

CALIFORNIA LAW REVISION COMMISSION  
Stanford Law School  
Stanford, California 94305

APPENDIX VI

Letter Submitting Report on Assembly Bill 1671

(text to be included in Annual Report but omitted here)

APPENDIX VII

Report of Assembly Committee on Judiciary on Assembly Bill 1671

(text to be included in Annual Report but omitted here)

APPENDIX VIII

Report of Senate Committee on Judiciary on Assembly Bill 2864

(text to be included in Annual Report but omitted here)

APPENDIX IX

STATE OF CALIFORNIA

**CALIFORNIA LAW  
REVISION COMMISSION**

RECOMMENDATION

*relating to*

Wage Garnishment

October 1976

CALIFORNIA LAW REVISION COMMISSION  
Stanford Law School  
Stanford, California 94305

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APPENDIX X

STATE OF CALIFORNIA

**CALIFORNIA LAW  
REVISION COMMISSION**

RECOMMENDATION

*relating to*

Liquidated Damages

December 1976

CALIFORNIA LAW REVISION COMMISSION  
Stanford Law School  
Stanford, California 94305

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1956 Annual Report

1957 Annual Report

Recommendation and Study Relating to:

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Notice of Application for Attorney's Fees and Costs in Domestic Relations  
Actions

Taking Instructions to the Jury Room

The Dead Man Statute

Rights of Surviving Spouse in Property Acquired by Decedent While  
Domiciled Elsewhere

The Marital "For and Against" Testimonial Privilege

Suspension of the Absolute Power of Alienation

Elimination of Obsolete Provisions in Penal Code Sections 1377 and 1378

Judicial Notice of the Law of Foreign Countries

Choice of Law Governing Survival of Actions

The Effective Date of an Order Ruling on a Motion for New Trial

Retention of Venue for Convenience of Witnesses

Bringing New Parties into Civil Actions

### VOLUME 2 (1959)

1958 Annual Report

1959 Annual Report

**Recommendation and Study Relating to:**

- The Presentation of Claims Against Public Entities**
- The Right of Nonresident Aliens to Inherit**
- Mortgages to Secure Future Advances**
- The Doctrine of Worthier Title**
- Overlapping Provisions of Penal and Vehicle Codes Relating to Taking of Vehicles and Drunk Driving**
- Time Within Which Motion for New Trial May Be Made**
- Notice to Shareholders of Sale of Corporate Assets**

**VOLUME 3 (1961)**

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1960 Annual Report

1961 Annual Report

**Recommendation and Study Relating to:**

- Evidence in Eminent Domain Proceedings**
- Taking Possession and Passage of Title in Eminent Domain Proceedings**
- The Reimbursement for Moving Expenses When Property is Acquired for Public Use**
- Rescission of Contracts**
- The Right to Counsel and the Separation of the Delinquent From the Nondelinquent Minor in Juvenile Court Proceedings**
- Survival of Actions**
- Arbitration**
- The Presentation of Claims Against Public Officers and Employees**
- Inter Vivos Marital Property Rights in Property Acquired While Domiciled Elsewhere**
- Notice of Alibi in Criminal Actions**

**VOLUME 4 (1963)**

1962 Annual Report

1963 Annual Report

1964 Annual Report

**Recommendation and Study Relating to Condemnation Law and Procedure:**

- Number 4—Discovery in Eminent Domain Proceedings [The first three pamphlets (unnumbered) in Volume 3 also deal with the subject of condemnation law and procedure.]**

**Recommendations Relating to Sovereign Immunity:**

- Number 1—Tort Liability of Public Entities and Public Employees**
- Number 2—Claims, Actions and Judgments Against Public Entities and Public Employees**
- Number 3—Insurance Coverage for Public Entities and Public Employees**
- Number 4—Defense of Public Employees**
- Number 5—Liability of Public Entities for Ownership and Operation of Motor Vehicles**
- Number 6—Workmen's Compensation Benefits for Persons Assisting Law Enforcement or Fire Control Officers**
- Number 7—Amendments and Repeals of Inconsistent Special Statutes [out of print]**

**Tentative Recommendation and A Study Relating to the Uniform Rules of Evidence (Article VIII. Hearsay Evidence)**

**VOLUME 5 (1963)**

**A Study Relating to Sovereign Immunity**

**VOLUME 6 (1964)**

[Out of print—copies of pamphlets (listed below) available]

**Tentative Recommendations and Studies Relating to the Uniform Rules of Evidence:**

- Article I (General Provisions)**
- Article II (Judicial Notice)**

**Burden of Producing Evidence, Burden of Proof, and Presumptions  
(replacing URE Article III)**

- Article IV** (Witnesses)
- Article V** (Privileges)
- Article VI** (Extrinsic Policies Affecting Admissibility)
- Article VII** (Expert and Other Opinion Testimony)
- Article VIII** (Hearsay Evidence) [same as publication in Volume 4]
- Article IX** (Authentication and Content of Writings)

**VOLUME 7 (1965)**

- 1965 Annual Report
- 1966 Annual Report
- Evidence Code with Official Comments [out of print]
- Recommendation Proposing an Evidence Code [out of print]
- Recommendation Relating to Sovereign Immunity: Number 8—Revisions of the Governmental Liability Act; Liability of Public Entities for Ownership and Operation of Motor Vehicles; Claims and Actions Against Public Entities and Public Employees

**VOLUME 8 (1967)**

- Annual Report (December 1966) includes the following recommendation:
  - Discovery in Eminent Domain Proceedings
- Annual Report (December 1967) includes following recommendations:
  - Recovery of Condemnee's Expenses on Abandonment of an Eminent Domain Proceeding
  - Improvements Made in Good Faith Upon Land Owned by Another
  - Damages for Personal Injuries to a Married Person as Separate or Community Property
  - Service of Process on Unincorporated Associations
- Recommendation and Study Relating to:
  - Whether Damages for Personal Injury to a Married Person Should Be Separate or Community Property
  - Vehicle Code Section 17150 and Related Sections
  - Additur
  - Abandonment or Termination of a Lease
  - The Good Faith Improver of Land Owned by Another
  - Suit By or Against An Unincorporated Association
- Recommendation Relating to the Evidence Code:
  - Number 1—Evidence Code Revisions
  - Number 2—Agricultural Code Revisions
  - Number 3—Commercial Code Revisions
- Recommendation Relating to Escheat
- Tentative Recommendation and A Study Relating to Condemnation Law and Procedure: Number 1—Possession Prior to Final Judgment and Related Problems

**VOLUME 9 (1969)**

- Annual Report (December 1968) includes following recommendations:
  - Recommendation Relating to Sovereign Immunity: Number 9—Statute of Limitations in Actions Against Public Entities and Public Employees
  - Recommendation Relating to Additur and Remittitur
  - Recommendation Relating to Fictitious Business Names
- Annual Report (December 1969) includes following recommendations:
  - Recommendation Relating to Quasi-Community Property
  - Recommendation Relating to Arbitration of Just Compensation

- **Recommendation Relating to the Evidence Code: Number 5—Revisions of the Evidence Code**
- Recommendation Relating to Real Property Leases**
- Proposed Legislation Relating to Statute of Limitations in Actions Against Public Entities and Public Employees**
- Recommendation and Study Relating to:**
  - Mutuality of Remedies in Suits for Specific Performance**
  - Powers of Appointment**
  - Fictitious Business Names**
  - Representations as to the Credit of Third Persons and the Statute of Frauds**
  - The "Vesting" of Interests Under the Rule Against Perpetuities**
- Recommendation Relating to:**
  - Real Property Leases**
  - The Evidence Code: Number 4—Revision of the Privileges Article**
  - Sovereign Immunity: Number 10—Revisions of the Governmental Liability Act**

### VOLUME 10 (1971)

- Annual Report (December 1970) includes the following recommendation:**
  - Recommendation Relating to Inverse Condemnation: Insurance Coverage**
- Annual Report (December 1971) includes the following recommendation:**
  - Recommendation Relating to Attachment, Garnishment, and Exemptions From Execution: Discharge From Employment**
- California Inverse Condemnation Law [out of print] \***
- Recommendation and Study Relating to Counterclaims and Cross-Complaints, Joinder of Causes of Action, and Related Provisions**
- Recommendation Relating to Attachment, Garnishment, and Exemptions From Execution: Employees' Earnings Protection Law [out of print]**

### VOLUME 11 (1973)

- Annual Report (December 1972)**
- Annual Report (December 1973) includes the following recommendations:**
  - Evidence Code Section 999—The "Criminal Conduct" Exception to the Physician-Patient Privilege**
  - Erroneously Ordered Disclosure of Privileged Information**
- Recommendation and Study Relating to:**
  - Civil Arrest**
  - Inheritance Rights of Nonresident Aliens**
  - Liquidated Damages**
- Recommendation Relating to:**
  - Wage Garnishment and Related Matters**
  - The Claim and Delivery Statute**
  - Unclaimed Property**
  - Enforcement of Sister State Money Judgments**
  - Prejudgment Attachment**
  - Landlord-Tenant Relations**
- Tentative Recommendation Relating to:**
  - Prejudgment Attachment**

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## VOLUME 12 (1974)

Annual Report (December 1974) includes following recommendations:

Payment of Judgments Against Local Public Entities  
View by Trier of Fact in a Civil Case  
The Good Cause Exception to the Physician-Patient Privilege  
Escheat of Amounts Payable on Travelers Checks, Money Orders, and Similar Instruments

Recommendation Proposing the Eminent Domain Law.

Recommendation Relating to Condemnation Law and Procedure:

Conforming Changes in Improvement Acts

Recommendation Relating to Wage Garnishment Exemptions

Tentative Recommendations Relating to Condemnation Law and Procedure:

The Eminent Domain Law

Condemnation Authority of State Agencies

Conforming Changes in Special District Statutes

## VOLUME 13 (1976)

[Volume expected to be available in September 1977]

Annual Report (December 1975) includes following recommendations:

Admissibility of Copies of Business Records in Evidence (January 1975)

Turnover Orders Under the Claim and Delivery Law (June 1975)

Relocation Assistance by Private Condemnors (October 1975)

Condemnation for Byroads and Utility Easements (October 1975)

Transfer of Out-of-State Trusts to California (October 1975)

Admissibility of Duplicates in Evidence (November 1975)

Oral Modification of Contracts (November 1975)

Liquidated Damages (November 1975)

Annual Report (December 1976) includes following recommendations:

Service of Process on Unincorporated Associations (February 1976)

Sister State Money Judgments (April 1976)

Damages in Action for Breach of Lease (May 1976)

Wage Garnishment (October 1976)

Liquidated Damages (December 1976)

Selected Legislation Relating to Creditors' Remedies (January 1975)[out of print]

Eminent Domain Law with Conforming Changes in Codified Sections and Official Comments (December 1975)[out of print]\*

Recommendation and Study Relating to Oral Modification of Written Contracts (January 1975)

Recommendation Relating to:

Partition of Real and Personal Property (January 1975)

Wage Garnishment Procedure (April 1975)

Revision of the Attachment Law (November 1975)

Undertakings for Costs (November 1975)

Nonprofit Corporation Law (November 1976)

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