

April 27, 1971

<u>Time</u>	<u>Place</u>
April 29 - 10:00 a.m. - 5:00 p.m.	State Capitol Building
April 30 - 9:00 a.m. - 5:00 p.m.	Room adjacent to Senate Lounge
May 1 - 9:00 a.m. - 1:00 p.m.	Sacramento 95814

FINAL AGENDA

for meeting of

CALIFORNIA LAW REVISION COMMISSION

Sacramento

April 29-May 1, 1971

April 29

1. Minutes of March 11-13 Meeting (sent 3/26/71)
2. Administrative Matters
3. Priorities to be Given Topics on Agenda

Memorandum 71-18 (sent 4/8/71)
Memorandum 71-28 (sent 4/8/71)
Memorandum 71-29 (sent 4/8/71)

4. Study 39.30 - Attachment, Garnishment, Execution (Earnings Protection Law)

Memorandum 71-23 (sent 4/19/71)
Tentative Recommendation (attached to Memorandum)
First Supplement to Memorandum 71-23 (sent 4/26/71)
Second Supplement to Memorandum 71-23 (to be handed out at meeting)
Letter from Mr. Edwin Weiss, April 26, 1971.

April 30-May 1

5. 1971 Legislative Program

Memorandum 71-19 (sent 4/8/71)
Memorandum 71-34 (sent 4/26/71)
Senate Bill 201 (enclosed)

6. Study 36.33 - Condemnation (Right to Take--Public Necessity)

Memorandum 71-20 (sent 4/26/71)

April 27, 1971

7. Study 36.100 - Condemnation (Right of Former Owner)
Memorandum 71-21 (sent 4/14/71)
Background Study (attached to Memorandum)
8. Study 36.300 - Condemnation (Abandonment)
Memorandum 71-33 (sent 4/8/71)
9. Study 36.45 - Condemnation (Recoverable Costs When Right to Take Defeated)
Memorandum 71-22 (sent 4/8/71)
10. Study 36.20(2) - Condemnation (Tentative Statute)
Memorandum 71-30 (sent 4/8/71)
Draft of Comprehensive Statute (You were sent this for prior meetings)
11. Study 36.20(1) - Condemnation (The Declared Public Uses)
Memorandum 71-31 (sent 4/8/71)
12. Study 36.41 - Condemnation (Protective Condemnation)
Memorandum 71-13 (sent 4/19/71)
13. Study 36.43 - Condemnation (Open Space Acquisition)
Memorandum 71-27 (sent 4/21/71)
14. Study 36.35 - Condemnation (Possession Prior to Final Judgment)
Memorandum 71-25 (enclosed)
Draft of Comprehensive Statute (You were sent this for prior meetings)

MINUTES OF MEETING

of

CALIFORNIA LAW REVISION COMMISSION

APRIL 29, 30, AND MAY 1, 1971

Sacramento

A meeting of the California Law Revision Commission was held in Sacramento on April 29 and 30, and on May 1, 1971.

Present: Thomas E. Stanton, Jr., Chairman
John D. Miller, Vice Chairman
G. Bruce Gourley
Noble K. Gregory
John N. McLaurin
George H. Murphy, ex officio
Marc W. Sandstrom

Absent: Alfred H. Song, Member of Senate
Carlos J. Moorhead, Member of Assembly

Messrs. John H. DeMouilly, Jack I. Horton, E. Craig Smay, and Nathaniel Sterling, members of the Commission's staff, also were present.

The following observers were present for the portions of the meeting indicated:

Thursday, April 29

Loren S. Dahl, Attorney, California Association of Collectors
Robert Etienne, San Mateo Legal Aid (Stanford)
Lee S. Glass, Sacramento Legal Aid
James F. King, Sacramento Legal Aid
Emil A. Markovitz, Creditors Service of Los Angeles
Eric W. Wright, San Mateo Legal Aid (East Palo Alto)

Friday, April 30

Garrett H. Elmore, State Bar of California
Lloyd Hinkelman, Office of the Attorney General
Gideon Kanner, Commission consultant on condemnation law and procedure
Terry C. Smith, Office of the Los Angeles County Counsel

Saturday, May 1

Gideon Kanner, Commission consultant on condemnation law and procedure
John M. Morrison, Office of the Attorney General
Terry C. Smith, Office of the Los Angeles County Counsel

Minutes
April 29, 30, and May 1, 1971

ADMINISTRATIVE MATTERS

Approval of Minutes of March 11, 12, and 13, 1971, Meeting. The Minutes of the March 11-13, 1971, meeting were approved as submitted.

Revision in Meeting Schedule. The dates and place of the May meeting were changed so that the meeting will be held on the dates and at the place indicated below:

May 28	9:30 a.m. - 5:00 p.m.	Santa Barbara
May 29	9:00 a.m. - 4:00 p.m.	

Attendance at American Bar Association National Institute on Uniform Relocation Assistance and Land Acquisition Policies. The Commission discussed the effect the new federal statute, signed on January 2, 1971, will have on the Commission's study of condemnation law and procedure. It was noted that 12 new land acquisition policies have been codified in the new federal law and that these policies will apply in federally assisted state takings. The comprehensive eminent domain statute being drafted by the Commission will, accordingly, need to conform to the federal land acquisition policies.

It was reported that the American Bar Association, Division of Legal Practice and Education, has scheduled an ABA National Institute on Uniform Relocation Assistance and Land Acquisition Policies, to be held in Houston, Texas, on May 20 and 21, 1971. At this meeting, a group of outstanding experts, primarily but not exclusively from various federal offices and agencies, will discuss the implications of the new federal statute.

After considerable discussion, the Commission decided to reschedule its May meeting, which had been set for May 20 and 21, so that it would be possible for the Executive Secretary and Vice Chairman of the Commission to attend the ABA National Institute. It was recognized that the rescheduled

meeting would be held on a three-day weekend (~~Memorial~~ Day); but, despite the inconvenience in rescheduling the Commission meeting, it was considered important that representatives of the Commission attend the National Institute so that the needed information on the impact of the federal statute can be obtained.

A motion was made, seconded, and unanimously adopted that the Executive Secretary and Vice Chairman attend the ABA National Institute, and the Executive Secretary was directed to obtain the necessary approval for this trip as soon as possible.

1971 Legislative Program. The Executive Secretary made a report on the 1971 Legislative Program. This report is summarized below.

Passed One House

SCR 22 - continues authority to study topics; authorizes dropping of 9 topics.

Has passed Senate; set for hearing in Assembly.

SCR 23 - authorizes study of two new topics.

Has passed Senate; set for hearing in Assembly.

SB 201 - pleading revisions.

Has passed Senate; set for hearing in Assembly.

AB 333 - insurance authority of public entities.

Has passed Assembly; set for hearing in Senate.

Pending in First House

SB 594 - discharge for wage garnishment.

To be set for hearing by Committee on Industrial Relations

Priorities to be Given Topics on Agenda. The Commission considered Memorandum 71-18, relating to priorities to be given topics on the agenda.

The following decisions were made:

Minutes
April 29, 30, and May 1, 1971

1. The earnings protection law and custody bill will be prepared for submission to the 1972 legislative session.

2. The top priority will be given to condemnation law and procedure with a view to possibly submitting a comprehensive statute for enactment at the 1973 legislative session. (However, it is unlikely this schedule can be met.)

Consultant on Water Damage Study. It was noted that the Commission has been authorized to study water damage, whether the damage is caused by a public entity or by a private person. The Executive Secretary was directed to write to Professor Sho Sato (or call him) and determine whether he would be willing to prepare a research study for the Commission on this subject. If he is or someone else is available, the Executive Secretary is to see if funds can be found to finance the study.

Review of Progress on Research Studies. The Commission reviewed the progress on the various research studies that had been contracted for with research consultants. The unsatisfactory performance of some consultants in meeting their schedule for production of the study was noted.

The Executive Secretary was directed to submit for Commission review approximately every six months the status of each research study being prepared by an outside research consultant. This policy is to be incorporated into the manual of procedures.

The Executive Secretary is to submit suggested research consultants and studies for consideration at the May 28-29 meeting. Also, the budget should be carefully examined to see if any fund transfers can be made to make more money available for research.

Minutes
April 29, 30, and May 1, 1971

Letter From David Livingston. The Commission considered Memorandum 71-23, which included a letter from David Livingston, San Francisco attorney, who suggested that a right of appeal be allowed in a case where there is a controversy between the condemnor and the landowner concerning title. The Commission directed the Executive Secretary to refer the letter to the consultant on the procedure study for consideration in connection with that study.

Letter From Judge Bell. The Commission considered Memorandum 71-29, which included a letter from Judge Homer H. Bell, Los Angeles Superior Court, who suggested that the Commission study the problem of class actions. The Commission determined that such a study is needed and directed the staff to present the matter for further consideration at the time the Commission determines what new topics, if any, will be requested for study in the next Annual Report.

Minutes

April 29, 30, and May 1, 1971

STUDY 36.20(1) - CONDEMNATION (THE DECLARED PUBLIC USES)

The Commission considered Memorandum 71-31 relating to persons authorized to condemn. The Commission determined that private persons should not be authorized to condemn for sewers, but directed the staff to draft a statute giving private persons the opportunity of a hearing analogous to the treatment of byroads in proposed Streets and Highways Code Section 4120.1. The corresponding portion of Code of Civil Procedure Section 1238(8) that authorizes private condemnation for sewers should be repealed.

Minutes
April 29, 30, and May 1, 1971

STUDY 36.20(2) - CONDEMNATION (TENTATIVE STATUTE)

The Commission considered Memorandum 71-30 reviewing and cleaning up the Comprehensive Statute provisions. The Commission revised subdivision (c) of Section 401 to read:

(c) Unless the condemnor plans that the date of use of property taken will be within seven years from the date of the adoption of the resolution of necessity, the resolution of necessity and any complaint filed pursuant thereto shall refer specifically to this section and shall state the estimated date of use.

Minutes
April 29, 30, and May 1, 1971

STUDY 36.33 - CONDEMNATION (RIGHT TO TAKE--PUBLIC NECESSITY)

The Commission considered Memorandum 71-20 and the attached cases and articles dealing with the possibility of a "fraud, bad-faith, or abuse of discretion" exception to the conclusive resolution of necessity of local public entities. After lengthy debate, during which the benefits of a fraud exception were weighed against its burdens, the Commission voted not to incorporate such an exception into the Comprehensive Statute. The Commission also determined not to investigate further the possibility of public hearing requirements prior to adoption of a resolution of necessity and not to provide procedures whereby a nongovernmental condemnor may have the benefits of a resolution of necessity.

The Commission approved Sections 302 and 310-313 with Comments as set forth in Exhibit I to Memorandum 71-20 for inclusion in the Comprehensive Statute. The staff was instructed to adjust the sections to make a simple majority vote prerequisite to condemnation by a local public entity.

Minutes
April 29, 30, and May 1, 1971

STUDY 36.45 - CONDEMNATION (RECOVERABLE COSTS WHEN
RIGHT TO TAKE DEFEATED)

The Commission considered Memorandum 71-22 and the attached copy of Senate Bill 633 (Cologne 1971) relating to recovery of costs and expenses when the right to take is defeated in a condemnation action. It was noted that recent federal legislation, which applies to all federal and federally-assisted takings, requires reimbursement for litigation expenses in such a case. The Commission, in the interest of uniformity, approved provision for recoverable costs when the right to take is defeated, to be incorporated with the abandonment provisions when they are redrafted for the Comprehensive Statute.

Minutes
April 29, 30, and May 1, 1971

STUDY 36.100 - CONDEMNATION (RIGHT OF FORMER OWNER WHEN
CONDEMNED PROPERTY BECOMES SURPLUS)

The Commission considered Memorandum 71-21 and the attached background study relating to the possibility of a repurchase right for the former owner of property taken by eminent domain if that property is not put to public use. After lengthy discussion, during which the benefits of a repurchase right were weighed against its burdens, the Commission voted not to incorporate such a right into the Comprehensive Statute. The Commission further determined to investigate alternate means, such as collateral attack for lack of intended public use, to assure that property taken by eminent domain is put to public use.

Minutes

April 29, 30, and May 1, 1971

STUDY 36.300 - CONDEMNATION (ABANDONMENT)

The Commission considered Memorandum 71-33 relating to whether a condemnor should be able to abandon an eminent domain proceeding after it has taken possession. The Commission determined that present provisions are adequate and decided to make no change in them.

In addition, the Commission tentatively approved a ~~scheme~~ to make clear that an implied abandonment is to be treated the same as an abandonment on motion of the condemnor and to treat dismissal of a condemnation action for failure to prosecute as an abandonment. The staff was directed to draft an appropriate statute for Commission review.

Minutes
April 29, 30, and May 1, 1971

STUDY 39.30 - ATTACHMENT, GARNISHMENT, AND EXEMPTION
FROM EXECUTION (EARNINGS PROTECTION
LAW)

The Commission considered Memorandum 71-23, the First and Second Supplements thereto, a letter from Mr. Alvin Wiese to the Commission dated April 26, 1971, and a Tentative Recommendation dated April 15, 1971.

The recommendation was carefully reviewed and the staff was directed to prepare a revised tentative recommendation for the next Commission meeting incorporating the following decisions:

Preliminary Portion. Changes in this section of the recommendation must be made to conform to changes in the statutory portion of the recommendation.

Civil Code Section 4701. Subdivision (a) should be revised to make clear that a court may issue an order or orders to withhold from the earnings of either or both parents. A Comment should be prepared explaining the effects of this section.

Code of Civil Procedure Section 690.6. Subdivisions (a) and (b) of repealed Section 690.6 should be restored with appropriate revisions to protect the earnings of an independent contractor. The staff was directed to contact Professor Warren for suggestions concerning handling of the independent contractor problem, possible approaches, need for a study, and so on.

Subdivision (a) of the new Section 690.6 should be placed at the end of this section as an unnumbered paragraph and should be revised to incorporate the definition of earnings set forth in Section 723.11.

The first sentence of subdivision (d) was revised to read: "From levy of execution, all earnings of the debtor which are due or owing to him."

Subdivision (g) should be conformed to Section 723.51.

Minutes
April 29, 30, and May 1, 1971

Section 690.7. Subdivision (d) was revised to provide in substance:

(d) A debtor may claim a greater amount of any account as exempt from levy of attachment by filing a claim of exemption as provided in Section 690.50 and by showing that such amount is essential for the support of himself or his family or essential for the maintenance of his business.

A new subdivision (e) was added to provide:

(e) Nothing herein shall have any effect upon the rights of a banker under Section 3054 of the Civil Code.

Section 690.75. Subdivision (d) was deleted and a new subdivision (d) should be added to provide:

(d) Nothing herein shall have any effect upon the rights of a banker under Section 3054 of the Civil Code.

Subdivision (b) was revised to provide a \$1500 exemption per individual. No exemption should be provided for corporations, partnerships, or unincorporated associations. The staff was directed to consider whether the number of exemptions under this section and Section 690.7 should be limited to the number of persons required to make a withdrawal from the account. I.e., if the signature of only one person is required to make a withdrawal, only one exemption may be claimed for that account.

Section 690.18. Subdivision (c) should be revised to provide a complete exemption for assets (1) held in a "retirement system" as defined in Section 28002 of the Corporations Code and (2) as to which the debtor has no right of immediate possession. Subdivision (c) should be further revised to make clear that (1) the \$5000 annual exclusion refers to combined annual contributions, (2) this subdivision is subject to the exception provided in subdivision (d), and (3) the term "person" refers to the "judgment debtor."

Section 690.50. This section must be revised to provide appropriate references to Sections 690.6, 690.7, and 690.75 as revised.

Minutes
April 29, 30, and May 1, 1971

Section 710. Approved without change.

Section 723.10. Approved without change.

Section 723.11. The Comment to this section should be revised to include appropriate references to vacation credits and public employees. The last three sentences of the Comment referring to retirement benefits should be deleted.

Section 723.20. The phrase "including proceedings under Chapter 13 of the National Bankruptcy Act" was added to the last sentence of the Comment.

Section 723.21. Approved without change.

Section 723.22. This section was revised to provide:

723.22. (a) Except as provided in this chapter, receipt by an employer of an earnings withholding order imposes upon the employer a continuing duty to withhold from the employee's earnings amounts in accordance with the earnings withholding order and to pay over those amounts to the person specified in the order.

(b) Service of an earnings withholding order creates a lien upon the earnings of the employee required to be withheld pursuant to such order. Such lien shall continue for a period of three years from the date the earnings became payable.

The staff was directed, however, to determine the purpose and necessity for a lien and to report on this matter at the next meeting.

Section 723.23. Approved without change.

Section 723.24. Subdivision (a) was revised to provide:

723.24. An employer shall cease withholding pursuant to an earnings withholding order when any of the following occurs:

(a) The employer receives written notice of termination of the order from the judgment creditor or the court.

Minutes
April 29, 30, and May 1, 1971

Section 723.25. Subdivision (a) must be revised (1) to explain what happens concerning an order which is not given effect and (2) to provide for employers with multiple business offices.

Section 723.26. The reference to modification in paragraph (3) of subdivision (b) was deleted. The Comment should make clear, however, that these orders may be modified and, of course, the modified order would supersede any prior order.

Paragraph (4) of subdivision (b) should be redrafted to avoid the use of "regardless whether."

The last paragraph of the Comment should be revised to clarify the existing law and the effect of this section.

Section 723.27. A procedure should be provided which permits a taxing agency to collect taxes by warrant or notice for withholding. However, such warrants and notices, as well as earnings withholding orders, should be limited in amount initially to the amounts permitted to be withheld pursuant to Section 723.50. If the agency or the debtor respectively wish to raise or lower this amount, they may apply for a hearing to obtain such modification based on the standards set forth in Section 723.51.

Section 723.28. Approved without change.

Section 723.29. This section should be revised to make clear that the creditor may only reinstate the original order once. The Comment should carefully explain the procedure set forth and make clear that the debtor's remedies where reinstatement is in violation of the creditor-debtor agreement are limited to those otherwise available for breach of contract.

Minutes
April 29, 30, and May 1, 1971

The last sentence of subdivision (c) was revised to read: "The burden to prove that the order superseded by the agreement should not be terminated is on the parties to the agreement."

Section 723.30. The phrase "that is less than \$10" was deleted from subdivision (c), and the section should refer to the employee's pay period.

Section 723.31. Approved without change.

Section 723.32. The Comment should be expanded somewhat to refer to creditor's general duty to file a satisfaction of judgment in the original court of record.

Section 723.50. The basic minimum exemption was revised to be the greater of \$50 or 30 times the federal minimum hourly wage. The percentage of withholding should be 25%.

Section 723.51. Approved without change.

Section 723.100. A reference to "registered mail" was added.

Section 723.101. This section must be revised to provide for which court shall review withholding pursuant to tax warrants and notices to withhold. The staff was directed to consider revising the first sentence of subdivision (c) to provide:

(c) In cases not covered by subdivision (b), the application shall be made to a court of record in the county where the judgment debtor was known to reside.

Section 723.102. The references to forms in paragraphs (2) and (3) of subdivision (a) should be deleted and placed in the Comment.

Section 723.103. The last sentence of subdivision (b) was revised to read: "The burden to prove that the order should not be modified or terminated is on the judgment debtor."

Minutes
April 29, 30, and May 1, 1971

Section 723.104. In the second sentence, the word "of" was changed to "after."

Section 723.105. Approved without change.

Section 723.106. Should make clear that creditor can have only one hearing with regard to a given set of facts in the multiple employment situation. The staff was directed to consider what happens in the multiple employment situation where only one employer is withholding pursuant to an order based on the combined earnings and the second employer then receives an order from another creditor--both of the latter being unaware of the prior order.

Section 723.107. Approved without change.

Section 723.108. The reference in subdivision (b) to "received" should be changed to "served." The staff was asked to consider possible sanctions for the employer for refusing to accept service.

Section 723.109. The staff was directed to draft a provision authorizing the employer to deduct a one-dollar fee from the amount withheld each pay period.

Section 723.110. The reference to notice in subdivision (c) should be in writing.

Section 723.111. The staff was directed to contact Professor Warren regarding the problem of one collection agency monopolizing the procedure for withholding the earnings of a certain debtor and asking him for possible solutions to this problem.

Minutes
April 29, 30, and May 1, 1971

Sections 723.120-723.125. All the sections in Article 5 should be revised to provide that the Judicial Council may prescribe forms which provide in substance what these sections require. Draft forms may be set forth in the Comment to these sections where desired.

Section 723.126. Subdivision (a) was revised to provide in substance:

(a) The State Administrator shall prepare an Informational Pamphlet for employers and revise or supplement such Pamphlet when he considers it necessary to reflect changes in the law.

The uncodified section of the act should require the Administrator to prepare the Pamphlet and the Judicial Council to prepare the forms prior to the effective date of this act.

Articles 6 and 7. These articles should be combined into one article.

The Comment to the heading of Article 6 was deleted.

Section 723.130. Section 723.130 was revised to provide:

723.130. Any order of the court made pursuant to this chapter may be enforced by the court by contempt or by such other appropriate order.

Section 723.131. Approved without change.

Section 723.132. The staff was directed to compare this section with Section 227 of the Labor Code to determine whether the terms "willfully" or "with knowledge" should be used here.

Section 723.133. Section 723.133 was revised to provide in substance:

723.133. Notwithstanding any other provision of this chapter, an employer who complies with any court order or written notice which purports to be given in accordance with the provisions of this chapter shall not be subject to civil or criminal liability for such compliance unless he is actively participating in a fraud.

Article 7. All the sections in this article must be renumbered. The Department of Industrial Relations should be asked to comment on these duties particularly.

Section 723.150. The phrase "The Department of Industrial Relations, referred to in this chapter as" was deleted from subdivision (a).

Section 723.151. This section was revised to provide:

723.151. If the State Administrator determines that the public interest will be adequately served by such action, he may give a person who violates this chapter a suitable written notice or warning.

Section 723.152. This section was revised in part to provide substantially: ". . . he may give written notice to the suspected violator for the suspected violator or his authorized representative to attend a conference with the State Administrator"

Section 723.153. This section should be framed in terms of issuance of an order to show cause rather than a cease and desist order.

Section 723.154. The staff was directed to determine whether the enforcement provisions set forth here and in this act generally can be integrated with the customary practices and procedures of the Department of Industrial Relations.

Section 723.155. Approved without change.

Section 723.156. Approved without change.

Section 723.157. Approved without change.

Section 723.158. The word "shall" in the first line was changed to "may."

Section 723.159. The exception for employers' fees must be noted in subdivision (c).

Financial Code Section 15406. Approved without change.

Labor Code Section 300. The Comment to subdivision (a) should emphasize that no change in existing law is made by the definition provided therein.

Unemployment Insurance Code Section 1342. Approved without change.

Operative Date. As indicated above, this section should be revised to make clear that the Judicial Council and the State Administrator must perform certain acts prior to the operative date of the act.

Minutes
April 29, 30, and May 1, 1971

STUDY 71 - PLEADING

The Commission considered Memorandum 71-34. The following actions were taken.

Senate Bill 201

Section 428.10. The following additional paragraph is to be added to the Comment to Section 428.10:

Section 428.10 restricts cross-complaints in eminent domain actions to those that assert a cause of action arising out of the same transaction or occurrence or that involve the same property or controversy. Subdivision (a) which permits assertion of unrelated causes of action is made specifically not applicable to eminent domain actions; but subdivision (b), which permits assertion of related causes, is applicable.

Section 430.30. The following is to be added to the Comment to Section 430.30:

Where a ground for objection to the complaint or cross-complaint appears on the face of the pleading and no objection is taken by demurrer, the objection is waived except as otherwise provided in Section 430.80. See 3 B. Witkin, California Procedure Pleading §§ 808-809 at 2418-2419 (1971). In this respect, Section 430.30 continues prior law.

Section 431.7. The following revision is to be made in the second sentence from the end of Section 431.7:

The defense provided by this section is not available if the cross-demand is barred for previous failure to assert it in a prior action under Section 426.30.

Family Law Act. The following new section--Section 429.40--was added to the bill, and the following Comment to the new section was approved:

429.40. Nothing in this title affects the authority of the Judicial Council under Section 4001 of the Civil Code.

Minutes

April 29, 30, and May 1, 1971

Comment. Section 429.40 makes clear that nothing in this title affects the authority of the Judicial Council to provide by rule for the practice and procedure under The Family Law Act, notwithstanding that former Code of Civil Procedure Sections 426a and 426c are continued as Sections 429.10 and 429.20 of the Code of Civil Procedure.

Revision of Comments to reflect publication of new edition of Witkin's California Procedure. It was suggested that the staff prepare a report for adoption by the Assembly Judiciary Committee to make revisions of the Comments to refer to the Second Edition of Witkin's California Procedure.

Revisions by staff. The staff was authorized to make any other needed revisions in the Comments.

Separate Statement Requirement

Mr. Elmore of the State Bar stated that, in his view, the Commission has made an agreement not to submit a bill to revise the separate statement requirement to the 1971 Legislature. Although this did not reflect the understanding of the members of the Commission and its staff, the Commission nevertheless decided, in view of Mr. Elmore's interpretation of the situation, not to submit a new bill to revise the separate statement requirement.

The staff is to prepare a tentative recommendation on this matter for possible distribution for comment after it has been reviewed by the Commission at the May 28-29 meeting.

Compulsory Joinder by Plaintiffs

Mr. Elmore of the State Bar stated that both sections of the State Bar Committee on the Administration of Justice had reviewed their position on the requirement of a limited compulsory joinder of causes by a plaintiff.

Minutes
April 29, 30, and May 1, 1971

After reviewing the matter, both sections of the Committee on Administration of Justice remain opposed to any compulsory joinder requirement for plaintiffs.

The Commission directed the staff to prepare a tentative recommendation on this matter for distribution for comment after it has been reviewed and approved by the Commission.

Meeting With Representatives of Committee on Administration of Justice

A motion was unanimously adopted that the Chairman and other members designated by him and one or more staff members meet with a subcommittee of the State Bar Committee on the Administration of Justice to determine whether any mutually satisfactory provisions relating to separate statement requirement and compulsory joinder by plaintiffs can be worked out.

Separate Final Judgments

The Commission considered Memorandum 71-19, relating to separate final judgments. The Commission determined not to give any further consideration to this problem at this time. The matter is to be left to the courts to work out.