

Place of Meeting

Room 164E
School of Law
Stanford University
Stanford, California

AGENDA

for meeting of

CALIFORNIA LAW REVISION COMMISSION

Stanford

July 20-21, 1962

Meeting will start at 9:00 a.m. each day. Meeting will adjourn at 12:00 noon on July 21.

July 20

1. Minutes of June 1962 meeting (sent July 3, 1962)
2. Administrative Matters
 Memorandum No. 35(1962) (1963-64 Budget) (sent June 28, 1962)
3. Study No. 34(L) - Uniform Rules of Evidence
 Memorandum No. 43(1962) (Approval of printing of Tentative Recommendation and Study on Hearsay Article of Uniform Rules of Evidence) (sent July 3, 1962)
4. Study No. 52(L) - Sovereign Immunity
 Memorandum No. 36(1962) (Comprehensive Claims Presentation Statute) (sent July 11, 1962) (tentative recommendation)
 Memorandum No. 37(1962) (Payment of Debts of Dissolved Local Public Entities) (sent July 11, 1962) (tentative recommendation)
 Memorandum No. 32(1962) (Funding Tort Judgments With Bonds) (sent July 12, 1962) (tentative recommendation)
 --Memorandum No. 10(1962) pages 27-42 (sent February 10, 1962)
 Memorandum No. 31(1962) (Liability Under Joint Powers Agreements) (sent July 3, 1962) (tentative recommendation)
 Memorandum No. 38(1962) (Payment of Costs and Interest in Actions Against Public Entities) (enclosed) (tentative recommendation)

Memorandum No. 39(1962) (Limitation on Amount of Attorneys' Fees in Actions Against Public Entities) (tentative recommendation) (to be sent)

Memorandum No. 40(1962) (Law Enforcement Torts) (enclosed) (tentative recommendation)

--Memorandum No. 23(1962) (sent May 21, 1962)

Memorandum No. 44(1962) (Compromise of Claims and Actions Against the State) (tentative recommendation) (to be sent)

Memorandum No. 41(1962) (Vehicle Code Sections 17000-17003) (sent July 12, 1962) (memorandum pointing up alternatives)

Memorandum No. 42(1962) (General Liability Statute) (enclosed) (tentative recommendation)

July 21

1. Study No. 52(L) - Sovereign Immunity

Memorandum No. 24(1962) (Fire Fighting and Fire Protection) (sent May 8, 1962)

Research Study, Part IX (Fire Fighting and Fire Protection Torts) (sent April 27, 1962)

Memorandum No. 25(1962) (Park and Recreation Torts) (sent June 11, 1962) (We propose to cover only the portion of the memorandum NOT dealing with dangerous conditions of property--items 2, 3, 4 and 5 on pages 4 and 5 of the memorandum. We will consider the portion relating to dangerous conditions of property at the August meeting.)

Research Study, Part X (Parks and Recreation Torts) (sent June 1, 1962)

2. Continuation of item 4 on July 20 agenda.

meeting copy.

MINUTES OF MEETING

of

July 20 and 21, 1962

Stanford

A regular meeting of the Law Revision Commission was held at the Stanford School of Law on July 20 and 21, 1962.

Present: John R. McDonough, Jr., Vice Chairman
Honorable Clark L. Bradley
James R. Edwards
Richard H. Keatinge
Sho Sato
Thomas E. Stanton, Jr.
Angus C. Morrison, ex officio

Absent: Herman F. Selvin, Chairman
Honorable James A. Cobey
Joseph A. Ball

Messrs. John H. DeMouilly, Joseph B. Harvey and Jon D. Smock of the Commission's staff were also present.

Mr. Benton A. Sifford, special research consultant to the Senate Fact Finding Committee on Judiciary, and the following persons were also present:

J. F. Brady, Department of Finance
Robert Lynch, Office of the County Counsel (Los Angeles)
Mark C. Nosler, Department of Finance
Willard A. Shank, Office of the Attorney General.

Minutes of June Meeting. The Minutes of the June 1962 meeting were corrected as follows:

On page 24, third paragraph, the word "physical" was changed to "personal."

As corrected, the Minutes of the June 1962 meeting were approved.

ADMINISTRATIVE MATTERS

1963-64 Budget. The Commission considered Memorandum No. 35(1962) relating to the revised budget for 1962-63 and the proposed budget for the 1963-64 fiscal year. Upon motion by Commissioner Stanton, seconded by Commissioner Sato, the Commission unanimously approved the budgets as submitted.

Authority of Assistant Executive Secretary. The Executive Secretary reported upon the administrative difficulties created by the present lack of authority for the Assistant Executive Secretary to sign claims, personnel documents, and the like. Upon motion by Commissioner Stanton, seconded by Commissioner Edwards, the Commission unanimously approved the delegation of authority to the Assistant Executive Secretary to sign such documents.

Future Meetings. The Commission agreed to meet from 7 p.m. to approximately 10 p.m. on Thursday evening, August 16, 1962, preceding the regularly scheduled meeting in San Francisco on August 17 and 18, 1962.

Future meetings are now scheduled as follows:

August 16, 17 and 18, 1962	San Francisco
September 21 and 22, 1962	Beverly Hills (State Bar Convention)

STUDY NO. 52(L) - SOVEREIGN IMMUNITY

Claims Against Public Entities

The Commission considered Memorandum No. 36(1962) containing a draft statute and the text of a tentative recommendation relating to claims against public entities. The following actions were taken:

Section 620. Subdivision (c) was renumbered "(d)" and subdivision (d) was renumbered "(c)." As modified, the section was approved. The section was approved in order that the substance of the State claims sections--Govt. Code §§ 620, 621 and 641--would appear in the same section.

Section 621. The staff was directed to reword the section so that it indicates expressly that no action can be brought against the State upon a claim filed under Section 620 unless the claim filing and rejection requirements of Chapter 2.5 have been met. The language in the draft statute was objectionable in that (1) it failed to indicate that Chapter 2.5 relates to claims filing and rejection and (2) the reason for the reference to "causes of action" was not clear. With this modification, the section was approved.

Section 622 was approved.

Section 623, which relates to the payment of claims arising under Vehicle Code Section 17001, was discussed in connection with Section 622 and the proposed Section 773.5(b) which was suggested by the Department of Finance and was distributed with Memorandum No. 44(1962). The staff was directed to revise Section 623 so that its provisions will apply to

claims generally and to clear with the Department of Finance and the State Controller to be sure that the revision is workable and satisfactory. The proposed revision is to authorize the payment of all approved claims from appropriated funds instead of just vehicle claims.

Section 642 was revised to read:

Except as otherwise provided by law, the rules of practice in civil actions apply to all actions brought against a public entity.

The staff was directed to move the section to the article dealing with actions against public entities generally.

Section 705 was discussed. The staff was directed to add a provision to the statute authorizing the Board of Control, by regulation, to authorize State agencies to include claims provisions in State contracts. This would permit the Board of Control to control the exercise of the power by regulation, but would give the State the same flexibility in contract claims procedure that the local public entities enjoy under Section 705.

Section 730. The words "and acted upon" were inserted after "presented" in the fifth line from the bottom of the section. Language is to be added to limit consideration of claims presented under this procedure to the time specified in Section 775. The section is not applicable to the State because the State claims statutes purport to cover the entire field of claims against the State. Section 620 requires all claims to be presented to the Board of Control for which settlement

is not otherwise provided by law; hence, unless another claims settling procedure is applicable, Section 620 will apply. Thus, there are no claims against the State which are not governed by some statutes or regulations, as there may be in the case of local public entities.

Section 731. Section 731 was revised to require that a claims board established pursuant to its provisions have at least three members. This restriction was added to preclude the possible establishment of claims boards consisting of one member.

Section 732. The staff was directed to revise Section 732 to grant local governing bodies the authority to delegate all claims processing functions to an officer, but no such officer should be delegated authority to allow, settle or compromise a claim if the amount to be paid exceeds \$1,000. Commissioner Bradley voted against this proposal. The revision is designed to give local public entities more flexibility in the handling of claims. Because of the shorter time limits that have been imposed for such handling, it may be necessary to delegate to a claims officer the function of determining the sufficiency of claims and some other procedural responsibilities.

Section 760. Some concern was expressed over the fact that Sections 621 and 760 duplicate each other. The staff was asked to give some consideration to the possibility of reorganizing the entire division relating to claims and actions to eliminate the problems in these sections and in Section 710.

Subdivision (a) is to be revised to indicate that suit is barred unless a claim has been presented and acted upon, thus eliminating the requirement of rejection.

In subdivision (b), the words "the public entity or" were added before "an employee." The staff was directed to add language to require the plaintiff to show that he gave notice to the public entity within a reasonable time after he acquired knowledge that its act or omission caused the death or injury complained of. A provision is to be added somewhere in the claims statute to make clear that the statute of limitations applicable to actions against private persons is applicable to causes of action for which a claim is not required to be filed.

Section 762. The second sentence was revised to read:

If the board provides forms pursuant to this section, the person presenting a claim need not use such form if he presents his claim in conformity with Section 761. If he uses the form provided and complies substantially with its requirements, he shall be deemed to have complied with Section 761.

Section 763. The last sentence of the section was deleted. The first two lines of the section were revised to read:

A claim may be amended at any time before the expiration of the period designated in Section 767 or before final action thereon is taken by the board, whichever is later, if the claim as amended relates to the same

As revised, the section was approved. This revision is to clarify the intent of the section that an amended claim may be filed at any time within the period prescribed for presenting the original claim and at any time thereafter until the board has taken final action on the claim.

An amended claim may not be filed after the period for presenting claims has expired if the board has previously taken final action. The filing of an amended claim as permitted by this section will extend the time for consideration by the board for another 45 days as provided in a later section of the statute.

Section 764. A comma was placed at the end of the second line of subdivision (a) and the third and fourth lines of the subdivision were revised to read:

. . . or with the requirements of a form provided under Section 762 if a claim is presented pursuant thereto, the board may, at any time within 20 days

In subdivision (c), the words "a form provided under Section" were inserted before "762" in the last line of the section.

The requirement that a notice of insufficiency be given within 20 days was discussed. The section was approved as revised. Although the 20-day limit is fairly short and in some cases will prevent a board from ruling on insufficiency, the view was expressed that a board may delegate the determination of sufficiency to an officer. If the ultimate time for deciding is to be retained at 45 days, it is necessary to require notice of insufficiency to be given within 20 days.

Section 766. The word "shall" was substituted for "may" in the preliminary language of subdivisions (a) and (b). The staff was directed to add references to amendments to claims and applications for the late filing of claims to the preliminary language in subdivisions (a) and (b).

The words "within the period of time prescribed by Section 767" and "not later than the last day of such period" contained in subdivisions (a)(1) and (b)(1) were deleted as unnecessary.

Section 769. The words "a written" were substituted for "an" in the third line of the section. In the last sentence, the words "A copy of" were deleted. The requirement of verification was deleted. There is no need to require verification here when the claim itself is not required to be verified. The staff was directed to add language indicating that the reasons for which a board may permit a claimant to file a late claim are the same as those for which a court may permit a late claim presentation. Providing standards for boards to follow in ruling on applications for late filing will tend to insure that each board will treat various applicants alike.

Sections 770 and 771. The time within which a board may act upon an application for late presentation was changed to 35 days. The staff was directed to add a provision that a claim is deemed presented for the purposes of the claims statute when the board grants leave to file a late claim or when the court grants leave to file a late claim.

The words "to the claimant" were added after the word "given" in the first line of the second paragraph.

Subject to these revisions, the sections were approved.

Section 772. In the last line of subdivision (b)(1), the word "thereby" was deleted and the words "if leave to present the claim

is granted" were inserted in lieu thereof. The requirement of verification was deleted from subdivision (c). The staff was directed to add language to subdivision (c) requiring a petition for leave to file a late claim to show that application for such leave had been made to the board and was denied.

Section 774. The staff was directed to add language to indicate that no notice of the board's action need be given if the claim provided no return address.

Section 775. The words "before or after" were substituted for "prior to" in the sixth line of the section. This will permit the parties to extend the entity's time to rule on a claim--and thus, the time that a claimant cannot sue--by written agreement made after the original time expired as well as before. Language should be added to make clear that the period at the end of which a claim is deemed rejected is the period as extended by the agreement.

Section 776 was approved.

Section 781. Beginning after the word "date" in the third line, the section was revised to read: ". . . the claim is acted upon by the board." The revision was made together with a similar revision in subdivision (a) of Section 760 to eliminate the inconsistency with Section 782. Together, these sections will permit a claimant to sue on a claim that has been allowed in full if, after allowance, he decides not to accept the amount allowed. Because of the brief period in which personal injury claims must be presented, it will be

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frequently impossible to determine the exact amount of damage suffered by the time the claim must be presented; hence, injustice might occur if a public entity could promptly accept an erroneously understated claim and thus preclude the claimant from seeking greater compensation when the extent of his damage becomes known.

Section 781 was approved as revised.

Section 784 was not approved. This section might be construed to permit a person to present a claim in such a small amount that the entity would have no idea of the true size and nature of the claim.

Section 785. The word "imposes" was substituted for "is intended to impose" in the first line of the section.

Section 21, repealing Government Code Section 13920.1, was approved.

Section 22, adding Code of Civil Procedure Section 342, was approved.

The tentative recommendation, as revised, was approved for distribution for comment, subject to the staff's consideration of suggestions made by individual Commissioners for changes in the text of the tentative recommendation.

Funding Judgments with Bonds

The Commission considered Memorandum No. 32(1962) containing a proposed recommendation and draft statute relating to funding judgments against local public entities with bonds. The following actions were taken:

Section 742.1. The Commission approved this section with the addition of the words "the territory of" preceding "the entity" in subdivision (b).

Section 742.2. The Commission approved this section. However, it was agreed that a public hearing should be required prior to calling an election in the same manner as public hearings are normally held regarding the propriety of issuing bonds. The staff was directed to draft appropriate language to accomplish this purpose. It was suggested that the provisions in the statute relating to Community Services Districts might be used as a guide.

Section 742.3. The Commission agreed to revise this section to require publication much the same as is provided in Government Code Section 6066. This publication requirement should be applicable to give notice of the hearing as well as notice of any election.

Section 742.4. The Commission approved this section with the correction of a typographical error, changing "the" to "this" article in the last line.

Section 742.5. This section was revised to read:

Every elector authorized to vote in general elections of the local taxing entity may vote on the proposition to authorize the bonds.

This change was made because property owners residing outside the taxing entity may nevertheless be authorized to vote in general elections of the entity.

Section 742.6. This section was approved with the addition of the word "bonded" preceding "indebtedness" in the second line.

Section 742.7. This section was approved as submitted. It was noted that the specific denominations are desirable to lend salability to the bonds.

Section 742.8. This section was approved as submitted.

Section 742.9. This section was approved with the insertion of "presiding officer" in place of "chairman" in the first line. The Commission disapproved a staff suggestion that the section should require the signature of "two persons, at least one of whom shall be a member of the board."

Section 742.10. This section was approved with the substitution of "and" for "or" in the first sentence of this section.

Section 742.11. This section was approved as submitted.

Section 742.12. This section was approved with the deletion of "cities and counties" in the second paragraph. The staff was asked to consider redrafting the second paragraph to standardize the form of stating the legal investment authority.

Section 742.13. This section was approved as submitted.

Section 742.14. This section was approved as submitted.

Tentative Recommendation. The Commission approved the tentative recommendation as revised for general distribution for comment, subject to the staff's consideration of suggestions made by individual Commissioners.

Liability Under Joint Powers Agreements

The Commission considered Memorandum No. 31(1962) containing a tentative recommendation and draft statute relating to the liability of public entities under joint powers agreements. The Commission took the following action:

Title. The title of the proposed chapter was changed to read as follows: "Tort Liability Under Agreements Between Public Entities."

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Section 993.1. The word "means" was substituted for "includes" in the first line of this section and the phrase "provided by law" was added at the end of the section. The section was approved as so revised.

Section 993.2. This section was revised to read substantially as follows:

993.2. Whenever any public entities enter into an agreement, they are jointly and severally liable for damages caused by a negligent or wrongful act or omission occurring in the performance of such agreement for which liability is imposed by any law other than this chapter upon any one of the entities or upon any agency or entity created by or pursuant to the agreement.

As thus revised, the section was approved. It was suggested that the staff consider the possibility of using a defined phrase like "agreement subject to this chapter" in place of the word "agreement."

Section 993.3. This section was approved as submitted.

Section 993.4. The second paragraph of this section was revised to read:

The pro rata share of each public entity is determined by dividing the total amount of the liability by the number of public entities that are parties to the agreement.

Tentative Recommendation. The tentative recommendation as revised was approved for distribution for comment, subject to the staff's consideration of suggestions made by individual Commissioners.

General Liability Statute

The Commission considered Memorandum No. 42(1962) containing a draft statute and recommendation relating to the general tort liability of governmental entities. The following actions were taken:

The Commission discussed whether the principles underlying the statute should be approved. These principles are that (1) there should be no governmental liability except as provided by statute and (2) public entities should be vicariously liable for those torts committed by public employees in the scope of their employment for which the employees themselves are liable, i.e., for which the employees are not immune from liability under the doctrine of discretionary immunity. It was recognized that to consider in detail all facets of the problems of liability would be impossible prior to the 1963 Session of the Legislature. The draft statute fills in the pattern of liability in the areas not studied by assuming for public entities the same standards of liability now imposed on public employees. This adopts the same underlying basis for liability generally that was adopted in regard to medical and law enforcement activities. After approving this principle, it would be necessary to study in detail the discretionary immunity of public officers and employees to determine the extent to which it should be modified.

It was pointed out that the scheme of the draft statute would

overrule the principle of the Lipman case that public entities may be liable where their employees are immune because of the doctrine of sovereign immunity. The proposal would contemplate that the principle expressed in the Lipman case should be carried out by statutes expressly imposing liability where no employee may be held liable.

Although the proposal may be subject to objection on the ground that liability is being imposed in regard to activities that have not been studied, this liability is limited by the discretionary immunity, and, moreover, the proposal will eliminate the existing situation where the public employee alone must bear the financial responsibility for torts committed in carrying out activities for the benefit of the public.

Alternative courses would include preserving the proprietary-governmental distinction as a basis for liability in the areas not studied, imposing the Muskopf and Lipman rules in these areas, or granting immunity in these areas. None of these alternatives was considered satisfactory.

The principles of the statute -- that there should be no non-statutory liability and that public entities should be liable for the torts committed by public employees in the scope of their employment for which the employees are liable -- were approved upon the assumption that the statute would be so worded as to assure the continuance of the doctrine of discretionary immunity of public employees.

The Commission then considered the specific provisions of the draft statute.

Section 900.2 was approved. This section, in effect, repeals the holding in the Muskopf case so that all liability of governmental entities might be regulated by statute.

Section 900.3. The proposed section was the same as one previously approved in the recommendation relating to hospital and medical activities. There, the continued application of the doctrine of discretionary immunity had been assumed. The staff was asked to include in the general liability statute provisions that would assure the continued existence of the doctrine of discretionary immunity as a protection against the liability of governmental employees and, under the principle of Section 900.3, the liability of governmental entities. The doctrine should receive express statutory recognition so that continued judicial declaration of the doctrine need not be left to assumption.

The staff was asked to consider, too, the placement within this article of some of the more comprehensive statements of immunity of governmental employees that are contained in the present tentative law enforcement recommendation (not yet acted upon). The immunities stated in the Federal Tort Claims Act should also be considered for inclusion in this article. The continued necessity for some of the provisions contained in articles previously approved should also be reconsidered by the staff in the light of the inclusion of

many of these provisions in the general article on liability.

Section 900.4. The words "to the same extent as if such entity were a private person" were deleted from the end of the section. Under existing law, governmental entities are liable for nuisance and the qualification "to the same extent as a private person" does not qualify this liability. Therefore, this language was deleted so that existing law on the subject might not be disturbed. Section 900.4 was approved in principle with this modification.

Section 900.5 was approved in principle.

Sections 900.6 through 900.9. The proposed sections were the same as those contained in the tentative recommendation relating to hospital activities that was distributed for comments. The text of the sections was approved at the time the hospital and medical recommendation was approved, but the staff was directed at that time to add provisions permitting an employee who has paid a judgment against himself to recover from the public entity in those cases where the public entity could have been compelled to pay the judgment to the plaintiff without reimbursement from the employee. Proposed Sections 900.6 through 900.9 reflect the necessary alterations to carry out that directive.

In Section 900.6, the words "based thereon" in the third line from the end of the section were deleted and "of the claim or action" substituted for them. The necessity or desirability of the last

sentence of Section 900.6 was discussed. The sentence was placed in the section to forestall an argument that Section 900.5 merely forbids an entity's being held liable for exemplary damages directly and does not forbid an entity from indemnifying one of its employees for his liability for such damages. It was suggested that the reference to "claim" be deleted as it is impossible to determine in a settlement what the amount agreed upon is for; but the suggestion was not approved for it would create the impression that a plaintiff would be entitled to claim exemplary damages for settlement purposes. The sentence was left in the section as originally proposed and approved in the medical and hospital recommendation.

Sections 900.6 through 900.9 were approved in principle for inclusion in the general liability statute.

SECTIONS 2 through 9, containing proposed repeals and amendments of existing statutes were passed over without action.

SEC. 10, amending Section 1095 of the Code of Civil Procedure, was approved.

Tentative Recommendation and Statute. The staff was directed to redraft the tentative recommendation and statute in the light of the decisions made by the Commission and, in doing so, to consider various proposed revisions in the recommendation that were submitted by several commissioners.

Firefighting and Fire Protection Activities

The Commission considered Memorandum No. 24(1962) pointing up some of the policy questions for consideration by the Commission regarding governmental liability for firefighting and fire protection activities.

The following actions were taken:

1. Failure to provide fire protection. The Commission agreed with the consultant that there should be no tort liability for the failure of a public entity to provide fire protection.

2. Inadequate fire protection. The Commission agreed that there should be no tort liability for the failure of a public entity to provide adequate fire protection where the entity has undertaken to provide some protection. A majority of the Commission was of the opinion that the line between a total failure to provide protection and the inadequacy of protection in terms of equipment, facilities, personnel, and the like, in cases where some protection is provided, is a difficult one to draw and would be practically meaningless. [Commissioner Keatinge voted against providing immunity in this situation.]

3. Negligent maintenance. The Commission agreed that generally there should be no tort liability for the negligent maintenance of equipment, facilities, and the like, such as the failure to maintain firefighting equipment in working order. [Commissioner Keatinge voted against this immunity.] The Commission agreed, however, that tort liability should be imposed for death or personal injury caused by gross negligence or wilful misconduct in the maintenance of equipment

and facilities, including the maintenance of fire hydrants but not including the availability of water, its pressure, and the like.

4. Negligent conduct. With respect to tort liability for negligent conduct at the operational level, the Commission took the following action:

(a) A motion to provide complete immunity for negligent conduct at the operational level failed to pass. A motion to impose liability failed for lack of a second.

(b) The Commission unanimously agreed to provide immunity for fire prevention activities, such as the negligent inspection of premises.

(c) The Commission approved the imposition of tort liability for death or personal injury caused by gross negligence or wilful misconduct at the operational level of firefighting activities. The Commission agreed that property damage similarly caused should be excluded from this rule of tort liability because it is a risk ordinarily insured against by the property owner, and the risk of loss is as easily spread over a wide base by insurance procured at the owner's expense as at the public's expense.

5. Mutual aid and assistance. The Commission agreed that each entity participating in joint firefighting operations should be jointly and severally liable for death or injury caused by gross negligence or wilful misconduct. However, unless the participating entities have agreed to a different distribution, ultimate financial responsibility is to be borne by the negligent entity; every nonnegligent entity is entitled to full indemnification. The same substantive rules of

liability apply to each entity whether it acts within or without its own territory.

6. Destruction of property. A motion to adopt a rule of tort liability modeled after the Georgia statute failed. In the absence of affirmative action, it was agreed that the statute should contain no specific solution to this problem. Some Commissioners expressed the opinion that the situation is probably so rare as not to warrant special attention.

STUDY NO. 34(L) - UNIFORM RULES OF EVIDENCE

Hearsay Article

The Commission considered Memorandum No. 43(1962) with attached excerpts from the minutes of the Northern and Southern Sections of the State Bar Committee on the Uniform Rules of Evidence. The Commission took the following actions:

1. The present drafts of Rules 63(6) and 63(10) were approved without change.
2. The present draft of Rule 63(14), though stating a somewhat different test of admissibility than Rule 63(13), was approved without change. The Commission agreed to defer detailed consideration of using identical language in these exceptions until suggestions and comments on the entire article are considered.
3. The Commission agreed to delete the limiting language at the end of Rule 63(21.1). This rule purports to be a restatement of a portion of Code of Civil Procedure Section 1851, and that section does not contain any language similar to the limiting phrase "if offered by one who was a party to the action or proceeding in which the judgment was rendered." Although the decided cases under Section 1851 have involved only situations where the prior judgment is offered by such former party, the section itself contains no such limitation.
4. The Commission approved the entire tentative recommendation and study for printing and distribution to interested persons. Because of the probable widespread interest in this segment of the study, the Commission approved printing 5,000 copies of the completed pamphlet.