Claims Against the State, by the Kansas Legislature Council Research Department

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This is a processed pamphlet publication relating to procedure for proof and allowance of claims against the state. It was prepared by the Research Department of the Kansas Legislative Council. It consists of an analysis of claims handled by the joint committee on claims and accounts of the 1939 legislature, an examination of procedure used in other states for the determination of claims, and a discussion of possible changes in the present Kansas procedure.

The usual state procedure for handling claims has been by reference to a legislative committee on claims. Sometimes this is a joint committee, sometimes the claims committees of both houses agree to meet in joint session. Claims committees may make investigations, call witnesses and make recommendations. But because claim bills are frequently passed at the end of the session rush, with little opportunity of determining in fact the validity of the claims, many states have sought better and fairer methods of handling them.

According to the pamphlet under review "At least 22 states have made provision, in their constitutions or statutes, for suits on claims against the state."

In some states a general law authorizes suits against the state. In most of such cases judgments against the state, can be satisfied only by subsequent legislative appropriation. Other states have provided for liability in certain classes of cases, such as highway accidents and there is a tendency to require such claims, if established, to be paid out of the highway funds. In some states permission to sue is granted to particular individuals by special legislative enactments. Only three states seem to have followed the federal example of establishing a special court of claims. In a few states claims are referred to administrative boards or commissions. Legislatures, however, jealously guard their power to vote appropriations and in consequence the usual method of satisfying private claims against the state is by direct legislative appeal.

Occasionally restrictions are placed on direct appeals to the legislature. One act provides that "No claim against the State of Iowa shall be considered or allowed by the General Assembly except it be presented before the State Appeal Board as provided in this act."

All claims must first be examined and recommended to the Appeal Board by a Special Assistant Attorney General on Claims. The act also provides that when a case has been presented to the General Assembly through the State Appeal Board, and the General Assembly has failed or refused to make an appropriation therefor, further proceedings before the General Assembly for the payment of such a claim are barred.

The purpose of such a provision is to stop the resubmission of unworthy claims year after year, in the hope that the Assembly will finally allow the claim to be rid of it.

1 Iowa Acts 1941, c. 71, §8.
While the Kansas study was made primarily for the guidance of the Kansas Legislature, it will be helpful to every state whose method of handling claims is unsatisfactory.

The conclusion of this study is probably sound:—that where fact situations are relatively simple and the questions of law presented are not so difficult as to require special treatment, administrative determination is preferable to judicial action, because the procedure is less cumbersome, less expensive and less technical than suits in the courts.

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REPORT OF THE LAW REVISION COMMISSION OF THE STATE OF NEW YORK. 1 1941 Legislative Document (1941) No. 65. John W. MacDonald, Executive Secretary and Director of Research, Albany, New York.

This report, and its supplementary documents, should be of great value to state legislators, to law revision commissions and legislative councils, to "reform" groups, and to practicing lawyers generally. The report is in two divisions: (1) The Proceedings of the Commission during 1940, and (2) The Commission's Program for 1941.

In 1940 the New York Commission caused the introduction of eleven substantive bills, seven of which became law, and twenty-three revision bills, twenty of which were enacted. The seven bills which were enacted concern: (1) Issuance of new stock certificates to replace lost or destroyed certificates; (2) Advising person charged with non-indictable crime of his right to counsel; (3) Service of process on non-resident natural persons doing business within the state; (4) Recording of land contracts; (5) Alimony in annulment actions; (6) Acknowledgments taken outside the state; and (7) Investments by guardians or wards of the veterans' bureau.

Pursuant to its announced program for 1941, the Commission prepared additional bills for submission to the legislature. Each was printed in a separate pamphlet, which contains not only a copy of the proposed bill, or the former act with its proposed amendments, but also summaries of the existing law, digests of pertinent cases, and an explanation of the reasons for the proposal. These pamphlets, whose topics follow, are designated by indicating first the number of the 1941 Report, followed by a letter, thus: Legislative Document No. 65 (A): Contribution among tort-feasors; (B) Infancy as a defense to a contract (to remove the power of rescission from minors over 18 under certain circumstances); (C) Purchaser from factor who obtains possession by fraud; (D) Action for dissolution of marriage on ground of insanity; (E) Action for death or injuries occurring

1 The New York Law Revision Commission was organized in 1934, and authorized to examine the common law, statutes, and current court decisions, to recommend changes so as to remove defects, anachronisms, and inequitable rules, and to keep the law of the state in harmony with modern conditions. Because of the excellent personnel of the Commission, it is faithfully and expertly performing the difficult duties assigned to it.