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PROCEEDINGS

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of the

Twentieth Annual Conference

of

Commissioners On Uniform State Laws

held at

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Chattanooga, Tennessee

August 25, 26, 27 and 29

1910

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PROCEEDINGS

OF THE

TWENTIETH ANNUAL CONFERENCE

OF

Commissioners on Uniform State Laws

HELD AT

CHATTANOOGA, TENN.

August 25, 26, 27 and 29, 1910

OFFICERS OF THE CONFERENCE

1910–1911.

WALTER GEORGE SMITH, *President*,
1006 Land Title Building, Philadelphia, Pennsylvania.

J. R. THORNTON, *Vice-President*,
Alexandria, Louisiana.

CHARLES THADDEUS TERRY, *Secretary*,
100 Broadway, New York, New York.

TALCOTT H. RUSSELL, *Treasurer*,
42 Church St., New Haven, Connecticut.

M. GRUNTHAL, *Assistant Secretary*,
100 Broadway, New York, New York.

MEMORANDUM.

The National Conference of Commissioners on Uniform State Laws is made up of Commissioners appointed by the Governors of the different states, meeting in conference and organizing themselves into a national body for the better accomplishment of the work for which its members were appointed by the states. The Commissioners, usually three from each state, are appointed under laws of the respective states creating them, usually for five

years, with authority to confer with the Commissioners of the other states and recommend forms of bills or measures to bring about uniformity of law in the execution and proofs of deeds and wills, in the laws of bills and notes, marriage and divorce and other subjects where such uniformity seems practicable and desirable. The officers of the National Conference consist of a President, Vice-President, Secretary and Treasurer, elected annually. Twenty Conferences have so far been held; the first at Saratoga for three days, beginning August 24, 1892, and the twentieth at Chattanooga, Tennessee, August 25, 26, 27 and 29, 1910.

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A complete list of the Commissioners of the several states with standing committees will be found in the following pages.

The time of the Twentieth Conference was largely taken up in the consideration of the draft of an Act to make Uniform the Law of the Incorporation of Business Corporations, the Act relating to Family Desertion and Non-Support, the Act relating to Marriage and Licenses to Marry, and the Acts prepared by the Committee on Wills, Descent and Distribution.

The Committee on Commercial Law was authorized to consider the subject of partnership at large and recommend to the Conference such an act on that subject as might seem advisable. The committee was authorized also to have Professor Samuel Williston prepare a draft of suggested amendments to the Negotiable Instruments Law, and have the same printed with annotations and distributed among the members of the Conference, lawyers, bankers and commercial bodies, and that such draft when considered and approved by the committee be presented to the Conference for their action.

The Committee on Marriage and Divorce was directed to further consider the draft of an act on marriage and licenses to marry, and to report same to the next Conference with such amendments as they may deem best after discussion and consultation, and that the new draft of the proposed act be printed and distributed at least ninety days preceding the meeting of the next Conference.

The draft of the act on family desertion and non-support as finally approved by the Conference was recommended for passage in the various states.

The "act relative to wills executed without this state and to promote uniformity among the states in that respect" was approved and its adoption recommended to the various states.

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The Committee on Uniform Incorporation was instructed to consider further the subject of the draft of an act to make uniform the law of the incorporation of business corporations, and after investigation and consideration to redraft the act and have the same printed and distributed.

The Committee on the Torrens System and Registration of Land Titles was requested to take up with each Commissioner the advisability of the adoption of the Torrens System in the different states, and to send them copies of the laws of New York and Massachusetts in this regard, providing for the investigation of the Torrens System.

The Committee on Vital and Penal Statistics was authorized to print the uniform act on vital statistics submitted to the Conference in 1908 and to distribute copies thereof among the members of the Conference and others at least ninety days before the next Annual Conference; the said act to be taken up for consideration at said Conference.

In accordance with the Constitution and By-laws adopted by this Conference, the Commissioners will please advise the Secretary of the date of their appointment, specifying the law or authority under which the appointment was made and the duration of their term of office; also of any changes in the personnel of the respective state commissions.

The Conference earnestly urges upon the legislatures of the several states, as well as upon their Commissioners, the importance of introducing at the next session all of the bills recommended which have not passed, and the Secretary would ask members to communicate with him whenever such bills are introduced.

In case the list of Commissioners as printed in this report is not correct, or any changes are made subsequently, the Secretary should be notified at once.

Extra copies of this report and such previous reports as are extant may be obtained on application to the President or the Secretary.

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CONSTITUTION AND BY-LAWS

OF THE

Commissioners on Uniform State Laws

CONSTITUTION

ARTICLE I.

Name and Object.

SECTION 1. This Conference or Association of Commissioners shall be known as "Commissioners on Uniform State Laws."

SEC. 2. Its object shall be to promote uniformity of state laws by affording the Commissioners on Uniform State Laws, appointed in the different states of the United States of America, an opportunity of meeting in Annual Conference for the better accomplishment of the work for which they were appointed.

ARTICLE II.

Membership.

SECTION 1. Its members shall consist of the Commissioners appointed under the laws or by the authority of the respective states of the United States of America to bring about uniformity of state laws, whose commissions give them authority to confer with Commissioners of the other states of said United States.

SEC. 2. Each Commissioner, upon his first attendance at an Annual National Conference of Commissioners and on his re-appointment, shall file with the Secretary of the Conference the date of his commission, a statement of the term for which he is appointed and a reference to the Act of Assembly or other authority under which he has been appointed a Commissioner.

Article III.

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Officers and Committees.

Section 1. The following officers shall be elected at each Annual Conference for the year ensuing:

A President, Vice-President, Treasurer, Secretary, and an Executive Committee shall be constituted which shall consist of the President, the last preceding President,[1] Vice-President, Treasurer and Secretary,[2] all of whom shall be *ex officio* members, together with five other members to be appointed by the President, and after the year 1908 no person shall be elected President for more than three successive terms.[3]

Sec. 2. The following committees shall be annually appointed by the President, for the year ensuing, and shall consist of seven members each:

1. Executive.
2. Commercial Law.
3. Wills, Descent and Distribution.
4. Marriage and Divorce.
5. Conveyances.
6. Depositions and Proof of Statutes of other States.
7. Insurance.
8. Congressional Action.
9. Appointment of New Commissioners.
10. Purity of Articles of Commerce.
11. Uniform Incorporation Law.
12. The Torrens System and Registration of Title to Land.
13. Banks and Banking.[4]
14. Publicity.

A majority of those members of any committee who may be present at any Annual Conference shall constitute a quorum of such committee for the purposes of such Conference.

[1] Amendment adopted in 1908.
[2] Amendment adopted in 1909.
[3] Amendment adopted in 1908.
[4] Amendment adopted in 1906.

Article IV.

Duties of Members.

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Section 1. It shall be the duty of the Commissioners from each state, at least thirty days before each Annual Conference, to report to the Chairman of the Executive Committee the enactment of any laws or the filing of any judicial decisions in the state from which they are appointed, upon the subject of uniform legislation in the United States.

Sec. 2. It shall be the duty of the Commissioners from each state to attend the Annual Conference of the Commissioners from the various states, or to arrange before each Annual Conference for the attendance of at least one Commissioner from their state at such Annual Conference.

Sec. 3. It shall be the duty of the Commissioners from each state to report to the President of the National Conference the death or resignation of any Commissioner from their state.

Sec. 4. It shall be the duty of the Commissioners from each state to endeavor to secure from the legislature of their state an appropriation toward defraying the annual expenses of the National Conference of Commissioners.

Sec. 5. It shall be the duty of the Commissioners from each state to file with the President, Secretary and members of the Executive Committee a copy of their reports to the Governor or legislature of their respective states.

Article V.

By-laws.

By-laws may be adopted, repealed or amended at any Annual Conference of Commissioners by a majority of the Commissioners present.

Article VI.

Annual Address.

The President shall open each Annual Conference with an address, in which he shall communicate such changes in the statute laws of each state as tend to promote uniformity of legis-

lation in the United States, and also any matters of interest concerning subjects of legislation, as to which uniformity may seem practicable and desirable, as well as any matters of general interest relating to the work and aims of the Conference. The topics referred to in the President's Annual Address relating to subjects pertinent to the work of this Conference, with his recommendations thereon, shall be referred to the appropriate committee or to special committees of the Conference, and each committee shall report at the next Conference upon such matters so referred.

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Article VII.

Annual Conference.

The Annual Conference of Commissioners shall be held yearly at such time and place as shall be selected by the members of the Executive Committee, and those Commissioners present at each daily session of such Conference shall constitute a quorum.

Article VIII.

Amendments.

This Constitution may be altered or amended by a two-thirds vote of the Commissioners present at any Annual Conference; but no such change shall be made at any Conference at which less than fifteen Commissioners are present.

Article IX.

Construction.

The word "state," whenever used in this Constitution, shall be deemed to be equivalent to state, territory or district, or insular possession of the United States of America.

Article X.

Privileges at Conference.

The members of the Committee on Uniform State Laws of the American Bar Association shall be privileged to attend the Annual Conference of Commissioners and to participate in the discussions of the Conference, but without the right to vote.

BY-LAWS

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Calling to Order.

SECTION 1. The Annual Conference shall be called to order by the President, or, in his absence, by the Vice-President, or, in the absence of both the President and Vice-President, by the Secretary of the last preceding Conference.

Roll Call.

SEC. 2. The Secretary shall call the roll of members by states and report the names of those present.

Officers.

SEC. 3. The Conference shall annually thereupon proceed, upon nomination of a committee appointed for that purpose, or by a direct vote of the Conference, as it shall determine, to elect a President, a Vice-President, Treasurer and Secretary, who shall serve as such during the Conference and until their successor shall be elected.[1]

Duties of Officers.—President.

SEC. 4. The President shall preside at all meetings of the Conference, appoint all standing committees, and, unless otherwise ordered by a vote of the Conference, he shall also appoint the members of special committees. It shall be his duty to make an annual address or report to the members of the Conference.

Vice-President.

SEC. 5. The Vice-President, during the absence or inability of the President, shall possess all the powers and perform all the duties of the President in his stead.

Treasurer.

SEC. 6. The Treasurer shall receive all the funds of the National Conference of Commissioners and shall keep and disburse the same, under the direction of the Executive Committee. He

[1] Amendment adopted in 1910.

shall give bond with a surety company as surety for the faithful performance of his duties, in such form and in such amount as may be from time to time required by a vote of the National Conference, and such bond shall be deposited with the President for safe keeping. The premium on such bond shall be paid by the Conference. He shall keep, or cause to be kept, regular books and full accounts, showing all the receipts and disbursements, which books and accounts shall be open at all times to the inspection of the President or any member of the Executive Committee. He shall report, at each Annual Meeting of the Conference, as to the financial condition of the treasury, with a detailed statement of the receipts and disbursements. All of the funds of the National Conference shall be deposited in the name of the Treasurer, in such deposit banks or trust companies as shall be designated from time to time by a vote of the Conference; such funds shall be disbursed by the Treasurer by checks signed by him, every voucher having endorsed upon it the approval of the Chairman of the Executive Committee.

Secretary.

SEC. 7. The Secretary shall keep a record of the proceedings of the Conference, and of such other matters as may be directed to be placed on the files of the Conference; he shall keep an accurate roll of the officers and members of the Conference, with the dates of the attendance of each Commissioner, the date of his commission and the term thereof; he shall issue notices of all meetings of the National Conference, in such form as shall be approved by the Executive Committee; notify the members of all committees of their selection or appointment, conduct the correspondence of the Conference, and report to the Executive Committee, prior to the Annual Conference, a summary of his transactions during the year; shall perform such other duties as may be required of him by the Conference, the President, or the Executive Committee, and his books and papers shall at all times be open to the inspection of the Executive Committee, and he shall receive such compensation for his services as shall be allowed by the Conference.

Assistant Secretary.

SEC. 8. The Secretary may appoint an Assistant Secretary to assist him in the performance of his duties, and to act for him in his absence.[1]

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Committees.

SEC. 9. The President, as soon as may be after his election, shall appoint the following standing committees:

1. Executive.
2. Commercial Law.
3. Wills, Descent and Distribution.
4. Marriage and Divorce.
5. Conveyances.
6. Depositions and Proof of Statutes of Other States.
7. Insurance.
8. Congressional Action.
9. Appointment of New Commissioners.
10. Purity of Articles of Commerce.
11. Uniform Incorporation Law.
12. The Torrens System and Registration of Title to Land.
13. Banks and Banking.
14. Publicity.

Order of Business.

SEC. 10. At each session of the Conference the order of the business shall be as follows, unless otherwise ordered by the Conference:[2]

1. Call of the Roll.
2. Reading of the Minutes of Last Meeting.
3. Address of the President.
4. Report of the Treasurer.
5. Report of the Secretary.
6. Appointment of Nominating Committee to consist of five Members.

[1] Amendment adopted in 1910.
[2] Amendment adopted in 1908.

7. Report of Executive Committee.
8. Report of Standing Committees in the order named in Article III, Section 2, of the Constitution.
9. Reports of Special Committees.
10. Report of Nominating Committee and Election of Officers.
11. Unfinished Business.
12. New Business.

Reports of Committees.

SEC. 11. All reports of committees shall be in writing. No Commissioner or person privileged to participate in the discussions, except the member of the committee making the report, shall speak more than once to the subject matter of the report, nor for more than ten minutes, until after all the Commissioners shall have had an opportunity to be heard. A stenographer shall be employed at each annual meeting.

Motions and Resolutions.

SEC. 12. Motions and resolutions shall, on request of the Chair, be reduced to writing and be referred at once to the appropriate committee, unless otherwise directed by a majority vote of members present.

All amendments to any proposed act shall be written out and signed by the Commissioner making the same, before being considered or debated, unless excused at the discretion of the Chair.[1]

When a question is under debate, no motion shall be received but:

1. To adjourn.
2. To take a recess.
3. To lay on the table.
4. To postpone to a certain day.
5. To commit.
6. To amend.
7. To postpone indefinitely.

Which several motions shall take precedence in the order in

[1] Amendment adopted in 1910.

which they stand arranged. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon the reassembling of the Conference unless otherwise determined.

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A motion to adjourn shall always be in order: that and the motion to lay on the table shall be decided without debate. A motion for recess, pending the consideration of other business, shall not be debatable.

Absence of Members of Conference.

SEC. 13. When any state having a commission shall fail to be represented at two consecutive meetings of the Conference, the President shall notify the Governor of said state of the absence of its Commissioners for such action by the Governor as he may deem proper, and unless the non-attendance has been excused by the Conference.

Reports of Committees.

SEC. 14. Each committee whose province is some branch of law shall report annually what, if any, recommendations it desires to make; what progress has been made in securing the adoption of bills, within its province, already recommended by the Conference; and what difficulties have been met in securing the adoption of such bills. It shall be the duty of the Executive Committee to call the attention of the Chairman of each such committee to this rule a reasonable time before each annual meeting of the Conference.

Printing, Etc.

SEC. 15. All papers read before the Conference shall be lodged with the Secretary. The annual address of the President, the reports of committees, and so much of the proceedings at the Annual Conference as the Executive Committee shall direct, shall be printed; but no other address made or paper read or presented shall be printed, except by order of the Executive Committee.

The Secretary shall send one copy of the report of the pro-

ceedings of the Conference to the President of the United States, and to each of the Justices of the Supreme Court thereof, and to the Library of the State Department, and of the Department of Justice thereof, and to the Governor, and to the Chief Judge of the court of last resort of each state, and to the State Librarian thereof, and to such other persons or bodies as the Executive Committee may direct.

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No resolution complimentary to an officer or member for any service performed, paper read or address delivered shall be considered by the Conference.

SEC. 16. The terms of office of all officers elected at any annual meeting shall commence with their election.

SEC. 17. The President shall appoint all committees, within thirty days after the annual meeting, and shall announce them to the Secretary, and the Secretary shall promptly give notice to the persons appointed.

SEC. 18. The Treasurer's report shall be examined and audited annually, before its presentation to the Conference, by two members to be appointed by the President of the Conference.

Executive Committee.

SEC. 19. The Executive Committee shall meet on the day preceding each annual meeting, at the place where the same is to be held, at such hour as the Chairman shall appoint.

If, at any annual meeting of the Conference, any member of the committee shall be absent, the vacancy may be filled by the members of the committee present.

It shall be the duty of the Executive Committee to make all arrangements for the annual meeting of the Conference, and to endeavor to secure the attendance at each Annual Conference of the Commissioners from the states represented in the Conference; to communicate with the Chairman of each standing committee and each special committee at least thirty days before the meeting of the Annual Conference with the view of securing a statement of the work of such committee since the preceding Annual Conference, and to attend to such other matters as may be from time to time referred to the committee by the Conference.

SEC. 20. Special meetings of any committee shall be held at such times and places as the Chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

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SEC. 21. The traveling and other necessary expenses incurred by any committee, standing or special, for meetings of such committee during the interval between the annual meetings of the Conference, shall be paid by the Treasurer on the approval and by the order of the Executive Committee out of such appropriation as to the Executive Committee may seem necessary in such cases on previous application in advance of its expenditure.

SEC. 22. All reports of committees containing any recommendation for action on the part of the Conference shall be printed, together with a draft of bill embodying the views of the committee, whenever legislation shall be proposed. No legislation shall be recommended or approved except upon the report of a committee.

SEC. 23. It shall be the duty of the Commissioners from each state to endeavor to procure the enactment by the legislature of their state of each and every law recommended by the Conference, and the Secretary shall furnish them with copies of each and every recommendation and draft of bill when there shall be such draft; and whenever this Conference shall by resolution recommend the enactment of any law or laws, the Secretary shall, as soon as possible, furnish a copy of the resolution to the President of each State Bar Association with the request of this Conference that such State Bar Association shall co-operate with the Commissioners of that state in having a bill introduced in the legislature of their state containing the subject matter recommended by such resolution, and use proper means to procure the enactment of the same into law. In every state where there is no State Bar Association, a copy of such resolution, with a similar request, shall be sent to the President of the Bar Association of the principal city in such state; and in every instance where the form of bill has been recommended with the resolution, a copy of such form of bill shall also be sent with the resolution.

SEC. 24. These By-laws may be amended at any Conference of the Commissioners by a majority vote of the Commissioners present at such Conference.

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LIST OF
COMMISSIONERS ON UNIFORM STATE LAWS.
1910.

ALABAMA.—Frederick G. Bromberg, 72 St. Francis St., Mobile; Henry Tonsmeire, Mobile; S. D. Weakley, Birmingham.

ARIZONA.—Edward Kent, Phœnix; E. E. Ellinwood, Bisbee; J. M. Ross, Prescott.

ARKANSAS.—John Fletcher, Southern Trust Bldg., Little Rock; John M. Moore, Moore & Turner Bldg., Little Rock; Ashley Cockrill, Southern Trust Bldg., Little Rock.

CALIFORNIA.—John F. Davis, 1430 Masonic Ave., San Francisco; Charles Monroe, California Club, Los Angeles; Lynn Helm, Los Angeles Trust Bldg., Los Angeles; Gurney E. Newlin, 431 S. Hill St., Los Angeles; Walter R. Leeds, Los Angeles; Oscar A. Trippet, Los Angeles.

COLORADO.—Thomas H. Devine, Opera House Block, Pueblo; Gerald Hughes, Denver; Willis V. Elliott, Denver.

CONNECTICUT.—Talcott H. Russell, New Haven; Walter E. Coe (165 Broadway, N. Y.), Stamford; Erliss P. Arvine, 42 Church St., New Haven.

DELAWARE.—Phillip Q. Churchman, Wilmington; James M. Satterfield, Dover; Charles M. Cullen, Georgetown.

DISTRICT OF COLUMBIA.—F. L. Siddons, Bond Building, Washington; Aldis B. Browne, 1419 F St., N. W., Washington; Walter C. Clephane, Fendall Bldg., Washington.

FLORIDA.—Robert W. Williams, Tallahassee; John C. Avery, Pensacola; Louis C. Massey, Orlando.

GEORGIA.—Peter W. Meldrim, Savannah; A. C. Pate, Hawkinsville; Reuben R. Arnold, Atlanta.

HAWAII.—David L. Withington, Honolulu; Carl S. Smith, Hilo; Charles F. Clemens, Honolulu.

IDAHO.—James E. Babb, Lewiston National Bank Bldg., Lewiston; Fremont Wood, Boise; W. W. Woods, Wallace.

ILLINOIS.—John C. Richberg, 1303 Rector Bldg., Chicago; Nathan W. MacChesney, 108 La Salle St., Chicago; John H. Wigmore, Northwestern Law School, Chicago; Oliver A. Harker, University of Illinois, Champaign; Ernst Freund, University of Chicago, Chicago.

INDIANA.—Andrew A. Adams, Columbia City; E. B. Sellers, Monticello; S. O. Pickens, Indianapolis; James W. Noel, Indianapolis; Merrill Moores, Indianapolis.

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IOWA.—Thomas A. Cheshire, Des Moines; Emlin McClain, Iowa City; J. B. Sullivan, Des Moines; H. O. Weaver, Wapello.

KANSAS.—A. A. Godard, Topeka; Charles W. Smith; Stockton; S. N. Hawkes, Stockton; S. H. Allen, Topeka; J. L. Jackson, Topeka.

KENTUCKY.—T. L. Edelen, Frankfort; John T. Shelby, Lexington; James R. Duffin, Louisville.

LOUISIANA.—Thomas J. Kernan, 414 Third St., Baton Rouge; W. O. Hart, 134 Carondelet St., New Orleans; J. R. Thornton, Alexandria.

MAINE.—Levi Turner, Portland; Frank M. Higgins, Limerick; Hannibal E. Hamlin, Ellsworth.

MARYLAND.—George Whitelock, Baltimore; Jacob Rohrback, Frederick; Lewin W. Wickes, Chestertown.

MASSACHUSETTS.—Samuel Ross, New Bedford; Hollis R. Bailey, Cambridge; Samuel Williston, Cambridge.

MICHIGAN.—George W. Bates, 32 Buhl Bldg., Detroit; Cyrenius P. Black, Lansing.

MINNESOTA.—Rome G. Brown, Metropolitan Life Bldg., Minneapolis; C. A. Severance, St. Paul; Henry Deutsch, Minneapolis.

MISSISSIPPI.—R. H. Thompson, Jackson, W. V. Sullivan, Oxford; A. T. Stovall, Okolona.

MISSOURI.—Seneca N. Taylor, St. Louis; John D. Lawson, Columbia; Edwin A. Krauthoff, Kansas City.

MONTANA.—J. B. Clayberg, Helena; T. C. Marshall, Missoula; Hiram Knowles, Missoula.

NEBRASKA.—John L. Webster, 326 N. Y. Life Building, Omaha; Ralph W. Breckenridge, 711 N. Y. Life Bldg., Omaha; William G. Hastings, Wilbur.

NEW HAMPSHIRE.—Henry E. Burnham, Manchester; Ira A. Chase, Bristol.

NEW JERSEY.—Frank Bergen, Elizabeth; John R. Hardin, Prudential Bldg., Newark; John R. Emery, Morristown.

NEW MEXICO.—James M. Hervey, Roswell; James G. Fitch, Socorro; A. A. Freeman, Carlsbad (Victoria, B. C.).

NEW YORK.—Charles Thaddeus Terry, 100 Broadway, N. Y. City; Francis M. Burdick, 633 West 115th St., N. Y. City; Carlos C. Alden, Buffalo Law School, Buffalo.

NORTH CAROLINA.—J. Crawford Biggs, Durham; Linsly Patterson, Winston-Salem; Charles A. Moore, Asheville.

NORTH DAKOTA.—H. R. Turner, Fargo; John E. Green, Minot.

OHIO.—Seth S. Wheeler, Lima; Harry B. Arnold, 8 East Long St., Columbus.

OKLAHOMA.—J. C. Strang, Guthrie; J. W. Shartell, Oklahoma City; John H. Mosier, Norman; C. B. Ames, Oklahoma City; C. R Brooks, Guthrie.

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OREGON.—H. H. Emmons, 366 Washington St., Portland; W. H. Fowler, Board of Trade Building, Portland.

PENNSYLVANIA.—William H. Staake, 648 City Hall, Philadelphia; Walter George Smith, 1006 Land Title Building, Philadelphia; Robert Snodgrass, Harrisburg.

PHILIPPINE ISLANDS.—E. Finley Johnson, Associate Judge Supreme Court, Manila; Charles S. Lobingier, Judge Court of First Instance, District of Manila, Baguio; Charles H. Smith, Judge Court of First Instance, Manila (or Jackson, Michigan).

PORTO RICO.—Manuel R. Serra, San Juan; Foster V. Brown, San Juan.

RHODE ISLAND.—Amasa M. Eaton, 86 Weybosset St., Providence; Clarence N. Woolley, Studley Bldg., Providence; Thomas A. Jenckes, Providence.

SOUTH CAROLINA.—T. Moultrie Mordecai, Charleston; John C. Sheppard, Edgefield; John P. Thomas, Jr., Columbia.

SOUTH DAKOTA.—U. S. G. Cherry, Sioux Falls; A. W. Wilmarth, Huron; L. W. Crofoot, Aberdeen; J. H. Voorhees, Sioux Falls.

TENNESSEE.—Lem Banks, Memphis; W. H. Washington, Nashville; H. H. Ingersoll, Knoxville.

TEXAS.—W. M. Crook, Beaumont; H. M. Garwood, Houston; Claude Pollard, Kingsville; Hiram Glass, Texarkana.

UTAH.—Jerrold R. Letcher, U. S. Courts, Salt Lake; Benner X. Smith, Salt Lake; L. L. Baker, Tooele.

VERMONT.—O. M. Barber, Bennington; A. A. Hall, St. Albans.

VIRGINIA.—Eugene C. Massie, Richmond; J. E. Thrift, Madison; James R. Caton, Alexandria.

WASHINGTON.—Charles E. Shepard, New York Bldg., Seattle; Alfred Battle, Alaska Bldg., Seattle; W. B. Tanner, Olympia.

WEST VIRGINIA.—John W. Davis, Clarksburg; Hunter H. Moss, Jr., Parkersburg; Charles W. Dillon, Fayetteville; William W. Brannon, Weston; Edgar B. Stewart, Morgantown.

WISCONSIN.—Edward W. Frost, Wells Bldg., Milwaukee; E. Ray Stevens, Madison; Dr. Charles McCarthy, 409 North Henry St., Madison.

WYOMING.—Chief Justice Charles N. Potter, Cheyenne; Attorney-General W. E. Mullen, Cheyenne; Assistant U. S. Attorney Edward T. Clark, Cheyenne.

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LIST OF
COMMISSIONERS ON UNIFORM STATE LAWS.
PRESENT AT THE
TWENTIETH ANNUAL CONFERENCE.
CHATTANOOGA, TENNESSEE,
August 25, 26, 27 and 29, 1910.

ALABAMA.—Frederick G. Bromberg.
ARKANSAS.—John Fletcher.
CALIFORNIA.—Lynn Helm, Walter R. Leeds and Oscar A. Trippet.
CONNECTICUT.—Talcott H. Russell.
DISTRICT OF COLUMBIA.—Aldis B. Browne.
GEORGIA.—Peter W. Meldrim, A. C. Pate and Reuben R. Arnold.
ILLINOIS.—John C. Richberg, Nathan William MacChesney, Oliver A. Harker and Ernst Freund.
INDIANA.—E. B. Sellers.
KANSAS.—Charles W. Smith, S. N. Hawkes and S. H. Allen.
LOUISIANA.—W. O. Hart and J. R. Thornton
MAINE—Levi Turner.
MARYLAND.—George Whitelock, Jacob Rohrback and Lewin W. Wickes.
MASSACHUSETTS.—Hollis R. Bailey and Samuel Williston.
MICHIGAN.—Cyrenius P. Black.
MINNESOTA.—Henry Deutsch.
MISSISSIPPI.—A. T. Stovall.
NEBRASKA.—Ralph W. Breckenridge and William G. Hastings.
NEW YORK.—Charles Thaddeus Terry, Francis M. Burdick and C. C. Alden.
PENNSYLVANIA.—William H. Staake and Walter George Smith.
RHODE ISLAND.—Amasa M. Eaton, Clarence N. Woolley and Thomas A. Jenckes.
TEXAS.—Hiram Glass.
SOUTH DAKOTA.—John H. Voorhees.
TENNESSEE.—H. H. Ingersoll.
VIRGINIA.—Eugene C. Massie and James R. Caton.
WASHINGTON.—Charles E. Shepard.
WISCONSIN.—Edward W. Frost and Dr. Charles McCarthy.
PORTO RICO.—Manuel R. Serra and Foster V. Brown.

Others in Attendance at Conference.

South Carolina.—Simeon Hyde, Charleston.
South Dakota.—Tore Teigen, Sioux Falls.

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Also, by invitation, William D. Crocker, of Williamsport, Pennsylvania; Mr. Owen K. Lovejoy, of Washington, District of Columbia; W. B. Swaney, of Tennessee; and T. C. Thompson, of Tennessee.

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LIST OF COMMITTEES OF THE CONFERENCE

OF

COMMISSIONERS ON UNIFORM STATE LAWS.

1910–1911.

(Names given first are Chairmen.)

1. **Executive Committee.**

Appointed Members.

William H. Staake, Pennsylvania.
Peter W. Meldrim, Georgia.
James R. Caton, Virginia.
C. P. Black, Michigan.
Charles W. Smith, Kansas.

Ex-officio.

Walter George Smith, Pennsylvania, *President.*
J. R. Thornton, Louisiana, *Vice-President.*
Talcott H. Russell, Connecticut, *Treasurer.*
Charles Thaddeus Terry, New York, *Secretary.*
Amasa M. Eaton, Rhode Island, *Ex-President.*

2. **Commercial Law.**—Talcott H. Russell, Connecticut; W. O. Hart, Louisiana; Charles Thaddeus Terry, New York; George Whitelock, Maryland; A. T. Stovall, Mississippi; Samuel Williston, Massachusetts; Hiram Glass, Texas.

3. **Wills, Descent and Distribution.**—W. O. Hart, Louisiana; R. W. Williams, Florida; Francis M. Burdick, New York; H. H. Ingersoll, Tennessee; John Fletcher, Arkansas; William G. Hastings, Nebraska; Walter R. Leeds, California.

4. **Marriage and Divorce.**—Edward W. Frost, Wisconsin; J. R. Thornton, Louisiana; Seneca N. Taylor, Missouri; F. L. Siddons, District of Columbia; Robert Snodgrass, Pennsylvania; John R. Emery, New Jersey; Ernst Freund, Illinois.

5. **Conveyances.**—Amasa M. Eaton, Rhode Island; Nathan W. MacChesney, Illinois; Jacob Rohrback, Maryland; E. B. Sellers, Indiana; Thomas A. Jenckes, Rhode Island; Eugene C. Massie, Virginia; Lynn Helm, California.

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6. **Depositions and Proof of Statutes of Other States.**—F. G. Bromberg, Alabama; J. E. Babb, Idaho; C. N. Woolley, Rhode Island; J. H. Voorhees, South Dakota; Manuel R. Serra, Porto Rico; Lewin W. Wickes, Maryland; S. N. Hawkes, Kansas.

7. **Insurance.**—Frank Bergen, New Jersey; John C. Richberg, Illinois; Robert W. Williams, Florida; Hannibal E. Hamlin, Maine; Ralph W. Breckenridge, Nebraska; Edwin A. Krauthoff, Missouri; James R. Caton, Virginia.

8. **Congressional Action.**—Aldis B. Browne, District of Columbia; E. Ray Stevens, Wisconsin; S. H. Allen, Kansas; Lem Banks, Tennessee; Rome G. Brown, Minnesota; Thomas J. Kernan, Louisiana; T. Moultrie Mordecai, South Carolina.

9. **Appointment of New Commissioners.**—Oliver A. Harker, Illinois; Foster V. Brown, Porto Rico; W. O. Hart, Louisiana; Louis C. Massey, Florida; Frank M. Higgins, Maine; David L. Withington, Hawaii; Phillip Q. Churchman, Delaware.

10. **Purity of Articles of Commerce.**— Walter E. Coe, Connecticut; Walter C. Clephane, District of Columbia; Carlos C. Alden, New York; Levi Turner, Maine; J. Crawford Biggs, North Carolina; William W. Brannon, West Virginia; Dr. Charles McCarthy, Wisconsin.

11. **Uniform Incorporation Law.**—John C. Richberg, Illinois; Thomas J. Kernan, Louisiana; Charles Thaddeus Terry, New York; Erliss P. Arvine, Connecticut; John R. Emery, New Jersey; Charles E. Shepard, Washington; John P. Thomas, Jr., South Carolina.

12. **The Torrens System and Registration of Land Titles.**—Francis M. Burdick, New York; John H. Wigmore, Illinois; John D. Lawson, Missouri; Edward Kent, Arizona; Ira A. Chase, New Hampshire; E. Finley Johnson, Philippine Islands; James W. Noel, Indiana.

13. **Banks and Banking.**—John R. Hardin, New Jersey; Ernst Freund, Illinois; John Fletcher, Arkansas; Thomas J. Kernan, Louisiana; William G. Hastings, Nebraska; Charles S. Lobingier, Philippine Islands; George W. Bates, Michigan.

14. **Publicity.**—W. O. Hart, Louisiana; Amasa M. Eaton, Rhode Island; Charles Thaddeus Terry, New York.

Special Committee on Vital and Penal Statistics.—F. L. Siddons, District of Columbia; Aldis B. Browne, District of Columbia; Walter C. Clephane, District of Columbia.

Special Committee on Child Labor Legislation.—Hollis R. Bailey, Massachusetts; Amasa M. Eaton, Rhode Island; Nathan W. MacChesney, Illinois; Fremont Wood, Idaho; A. T. Stovall, Mississippi.

Special Committee on Compensation for Industrial Accidents.—Hollis R. Bailey, Massachusetts; John H. Wigmore, Illinois; Aldis B. Browne, District of Columbia; Charles Thaddeus Terry, New York; John R. Hardin, New Jersey; Peter W. Meldrim, Georgia; George Whitelock, Maryland.

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PROCEEDINGS

Chattanooga, Tennessee,

Thursday, August 25, 1910, 10 A. M.

The Twentieth Annual Conference of the Commissioners on Uniform State Laws convened in the Municipal Building, Chattanooga, Tennessee, on Thursday, August 25, 1910, at 10 A. M., the President, Walter George Smith, of Pennsylvania, in the Chair.

The Commissioners who registered and were in attendance are found on page 18.

The President:

Gentlemen, a word of greeting will be given us by the Chairman of the Reception Committee of the Tennessee Bar Association.

W. B. Swaney, of Tennessee:

Mr. President and members of the Conference: Chattanooga, as you doubtless are aware, has been anxious for many years to entertain the American Bar Association. One reason was that they understood the Commissioners on Uniform State Laws had a habit of meeting either preceding or succeeding the meeting of the American Bar Association, and one special reason why we wanted to have you meet here was to demonstrate to you the cosmopolitan character of our people. In order to illustrate that to you I will state that shortly after I became a citizen of this place, some twenty-three years ago, I met an old Irishman who formerly lived in middle Tennessee where I did, in the town of Gallatin; I introduced myself to him, and he said: "Mr. Swaney, I am delighted to see you, sir. Since I have been in Chattanooga I have met men from all quarters of the earth except Gallatin, and now this makes the circle complete." We

boast that Chattanooga is so cosmopolitan that no American citizen can put his foot on our soil without finding some one from his own native heath to greet him as a former neighbor. When there is the dedication of a monument in Chickamauga Park men come from Maine and California, and our Chamber of Commerce on such occasions has never yet failed to find representatives from their states living here to greet them.

The Bar of Chattanooga as well as the Bar of Tennessee welcomes you. If there is anything that you want just let it be known and we will endeavor to procure it for you.

I take pleasure in introducing to you now the mayor of this city, who will give you a formal word of welcome on behalf of Chattanooga.

T. C. Thompson (mayor of Chattanooga), of Tennessee:

Mr. President, members of the Conference, Mr. Swaney: When William R. Travers first went to New York he stammered pretty badly. After he had been there some time he seemed to stammer even worse. One day he met a friend from Richmond, who said to him, " Mr. Travers, you seem to stammer more than you did when you were down in Richmond," to which Mr. Travers replied, " Yes, New York is a bigger place than Richmond." Now I am convinced pretty nearly that all mayors should be lawyers. I am not thoroughly convinced, however, that all lawyers should be mayors, but I do know that from the class of people that I have seen selected for mayors I would rather be a good lawyer than be a mayor. The only law I know is the " corn field law," which was demonstrated to me by Andrew Gilman, the city recorder of Atlanta, who said at the opening of the great war between the states that a Georgia farmer had three sons, all of whom were anxious to get out of going to war. The old farmer captured the younger boy and had a writ of lunacy taken out which saved the youngster from being drafted. A short time thereafter the officers came along, and they sent down in the field to get this boy, who had learned some sense in the meantime, and started him up the road towards the house, and he said, " What do you want to do with me?" One of the officers replied, " We

are going to put you in the army and make you fight." "Fight," he said, "you can't do that; I am a damn fool and I've got the papers to prove it."

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Immediately following that war there was much unwise, unjust and unrighteous legislation, in my judgment. The dollar-mark being the standard so much in this country, social, political and all other conditions being so liable to change, legislation was so rapidly placed upon the national statute books, that it was hard for the laymen to keep up. I do not know if you gentlemen appreciate as much as a layman does the appalling size of the statute books that come out from the various states. When a layman goes out to find something about the law and ascertains that there are so many conflicting and contradictory statutes he is reminded of the story of an East Tennesseean, who said that he wouldn't go to the legislature because he didn't think an honest man ought ever to go there, but he would go there because he was bound that he would keep his neighbors' hogs off his property. So he did go to the legislature and when he found that he could not get his bill passed except it applied to the whole state, why, he had it so fixed that counties of less than 20,000 inhabitants or more than 70,000 inhabitants should have the same law applied to them, and from that day to this every county in the state has had to adapt itself to that law, which was really passed to appease the personal spite of that man. It seems to me that the civic righteousness which is growing so rapidly in our country is the outcome of the efforts that are put forth and directed through you gentlemen. The responsibility rests upon you. I realize that an organization of this kind represents the very highest type of the American Bar, and I trust that I am not overstepping the proprieties when I say that I hope you will see to it that the men who come to the Bar in every state shall be held back until their training, morally and intellectually, approaches the high standard which you gentlemen stand for.

While I have no authority, for I am mayor in name only, if there is anything I can do for you gentlemen I will be only too glad to try and do it; but before you leave, I hope it will be the

duty of every man in this room to go to the Chickamauga battlefield, not so much to see what a generous government has done, as to be able to go back to your homes and teach the rising young generation that there is no North, no South, no East, no West, in this great country of ours. We believe that the high tide of valor of the American soldier was reached on a spot within ten miles of this building, where 99,000 American troops fought for two days, and 33,000 were left on the field wounded and dead. Minnesota, Iowa, all the far Western states on one side; the Carolinas and Georgia on the other. American battling against American. No man need ever be ashamed of the fact that his forefathers took part in that great conflict, which was a battle distinctively of Americans.

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In welcoming you to Chattanooga, as I have just said, my authority is extremely limited. Our mayors feel a heap bigger since Mayor Gaynor, in New York, has done what he has there, but the mayor of Chattanooga has no such authority. If I had the authority I would try to do at least half what Mayor Gaynor has done in New York, for he has set a standard for mayors that all mayors ought to live up to.

I extend to you a cordial welcome; I am heartily glad to meet you here, and if you can change any of the laws that we have got so that they will give the mayor a little more authority I assure you I will appreciate it very much.

The President:

Mr. Swaney, Mayor Thompson: On behalf of the Commissioners I wish to express our cordial appreciation of these hearty words of welcome. Our minds have gone back to those historic events that have made the country hereabouts a spot ever memorable in the history of the world. In 1863, when the armies of Bragg and Rosecrans fought at Chickamauga, and afterwards when Grant, from the famous manœuvers that resulted in the retreat of the Confederate forces, came here, there were operations upon these mountains that will be of interest to the military student for all time. Some of us are soldiers, but for the most part we are men of peace. We come to Chattanooga to try and

overcome those evils, that you, Mr. Mayor, have referred to—to try to remove some of the inconsistencies and injustices of the present systems of law which flow necessarily from the dual system of our states and national government. You see before you representatives of nearly all of the states of the union and its dependent possessions. We meet here open-minded, as the representatives of our different states, for the purpose of formulating laws that will commend themselves to the conscience and intelligence of the country. We feel that we are performing a patriotic duty which is in itself its own reward, and we hope that the time will come when the measures that are formulated by this Commission will be accepted throughout the length and breadth of the land; thereby preserving in the best way that it can be preserved the structure of government handed down to us by our fathers so well described by the great Chief Justice of the United States as the "indestructible union of indestructible states."

Charles Thaddeus Terry, of New York:

It is with great pleasure, sir, that I rise to offer on behalf of the Conference a resolution of thanks to the Bench and Bar of Chattanooga and of the State of Tennessee and to his honor the mayor of this city, for their courtesy and hospitality in connection with our meeting, and to that end I offer the following resolution:

Resolved, That it is the sense of the Conference of Commissioners on Uniform State Laws, assembled in the City of Chattanooga this month of August, 1910, that it appreciates keenly the open-armed hospitality of the officials and citizens of this city and the courtesies and attentions of the Bench and Bar of the city and state.

The resolution was seconded and adopted by a rising vote.

The President of the Conference, Walter George Smith, of Pennsylvania, then delivered the Annual Address.

(*The Address follows these Minutes, page 87.*)

Ralph W. Breckenridge, of Nebraska:

I move that so much of the Annual Address as refers to subjects that may require the action of the Conference be referred

to a Special Committee of Five to report to this body whatever action they deem advisable to recommend on the subjects therein referred to.

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W. O. Hart, of Louisiana:

If the gentleman will include in his motion that such committee have leave to report at any time, I will second it.

Ralph W. Breckenridge, of Nebraska:

Certainly.

Charles Thaddeus Terry, of New York:

May I call attention to the latter part of Article VI of the Constitution:

"The topics referred to in the President's Annual Address, relating to subjects pertinent to the work of this Conference, with his recommendations thereon, shall be referred to the appropriate committee or to special committees of the Conference, and each committee shall report at the next Conference upon such matters so referred."

I offer as an amendment to the motion of the gentleman from Nebraska that so much of the President's address as relates to the Negotiable Instruments Law, with the recommendations thereon, and so much of the address as relates to the Bills of Lading Law, with the recommendations thereon, be referred to the Committee on Commercial Law.

Ralph W. Breckenridge, of Nebraska:

I accept the amendment.

The motion, so amended, was carried.

Charles Thaddeus Terry, of New York:

I move, as a further amendment, that the question whether this Conference shall create a committee, special or otherwise, upon the subject of compensation for industrial accidents, referred to in the President's address, be referred to the Executive Committee, with instructions to report thereon at the present Conference.

The motion was seconded and carried.

The President:

The question now recurs upon the motion originally made by the gentleman from Nebraska, as amended. All in favor of the

motion as amended will signify it by saying aye; opposed, no.

Carried.

The Secretary then called the roll.

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J. T. Thornton, of Louisiana:

It is with great regret that I announce that owing to illness Mr. Kernan will not be able to be present. His condition is improving rapidly, however.

C. P. Black, of Michigan:

I desire to state that since our last meeting Mr. Lawrence C. Fyfe has died, and Mr. Bates will be unable to be present at this Conference.

W. O. Hart, of Louisiana:

Mr. President, I have a telegram from Edwin A. Krauthoff, of Kansas City, Missouri, reading:

"Regret exceedingly that important matters here prevent my attendance at Conference. Accept my best wishes for pleasant and successful meeting."

William H. Staake of Pennsylvania:

Mr. President, I regret to state that Mr. Robert Snodgrass, of Harrisburg, Pennsylvania, who had expected to attend this Conference will be prevented from doing so owing to the unexpected death of a near relative.

Amasa M. Eaton, of Rhode Island:

Mr. President and gentlemen, I desire to introduce to the Conference Mr. Thomas A. Jenckes, our new member from Rhode Island.

Peter W. Meldrim, of Georgia:

Mr. Mordecai, of Charleston, South Carolina, is in Europe. His law partner, Mr. Hyde, is here; and it would be most agreeable to Mr. Mordecai if Mr. Hyde is recognized as a member of the Conference in Mr. Mordecai's absence.

The President:

There is no objection, I am sure, and Mr. Hyde is welcomed.

Mr. Banks, of Memphis, Tennessee, writes me expressing his regret that the serious illness of his father will prevent his being present at this Conference.

William H. Staake, of Pennsylvania:

At a meeting of the Executive Committee last evening a list of the Commissioners appointed by the Governor of Delaware was handed in. Would it not be well to have their names also called?

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The President:

By all means.

The names of the Commissioners from Delaware were read.

William H. Staake, of Pennsylvania:

The next order of business is the reading of the minutes. In view of the fact that they have been printed and distributed I move that the reading of the minutes be dispensed with.

Seconded and carried.

The report of the Treasurer of the Conference, Talcott H. Russell, of New Haven, Connecticut, was then read, and on motion referred to an Auditing Committee, consisting of Mr. Hawkes, of Kansas, Mr. Allen, of Kansas, and Mr. Leeds, of California.

(*The Report of the Treasurer follows these Minutes, page 121.*)

The report of the Secretary, Charles Thaddeus Terry, of New York, was then read, and on motion approved and placed on file

(*The Report follows these Minutes, page 125.*)

Charles Thaddeus Terry, of New York:

It is my sad duty to call the attention of the Conference to the death since our last meeting of Prof. James Barr Ames, a Commissioner of Massachusetts, and Dean of the Harvard Law School, and also to the death of Lawrence C. Fyfe, of Michigan, whose decease was announced this morning by his colleague, Mr. Black.

I suggest that appropriate action be taken by the Conference.

On motion, the President was requested to appoint committees to draft appropriate resolutions in respect of the deceased members.

The President appointed on the death of James Barr Ames the following committee: Samuel Williston, of Massachusetts; Francis M. Burdick, of New York; J. R. Thornton, of Louisiana.

And on the death of Lawrence C. Fyfe: C. P. Black, of Michigan; S. H. Allen, of Kansas; Jacob Rohrback, of Maryland.

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The President appointed the following committee to nominate officers: W. O. Hart, of Louisiana; Frederick G. Bromberg, of Alabama; Levi Turner, of Maine; H. H. Ingersoll, of Tennessee; C. W. Smith, of Kansas.

The report of the Executive Committee was then read by the Chairman, William H. Staake, of Philadelphia, Pennsylvania, and laid on the table until later, when its recommendations were taken up for consideration.

(*The Report follows these Minutes, page 133.*)

The President:

Next in order is the report of the Committee on Commercial Law.

Talcott H. Russell, Chairman, submitted the report of the Committee on Commercial Law. The report was accepted, and laid on the table for consideration later.

(*The Report follows these Minutes, page 142.*)

The President:

The next report is that of the Committee on Wills, Descent and Distribution.

W. O. Hart, Chairman, submitted the report of the Committee on Wills, Descent and Distribution.

(*The Report follows these Minutes, page 144.*)

W. O. Hart, of Louisiana:

I move that the resolution, with which our report ends, be made the special order of the Conference immediately following the consideration of the report of the Committee on Marriage and Divorce.

The motion was seconded and carried.

The President:

The Committee on Conveyances is next in order. No report was made by that committee.

The report of the Committee on Depositions and Proofs of Statutes of Other States.

Frederick G. Bromberg, of Alabama:

The chairmanship of this committee devolved upon me rather suddenly, and I have had no time to confer with my colleagues.

I have prepared a report, which may probably appear to be a criticism of some recommendations which I now find that the Conference made away back in 1896 before I became a Commissioner.

The act recommended by the Conference in 1896 will be found on pages 14 to 17 of the Proceedings of that year.

(The Report was then read, and it will be found following these Minutes, page 146.)

The President:

The report will be received and laid over for future consideration.

The report of the Committee on Insurance is next in order. Mr. Bergen, of New Jersey, I believe, is Chairman of the committee. As he is not present I will call upon Mr. Breckenridge if the committee has any report to submit.

As Mr. Breckenridge had no report to make on behalf of the committee, that report was passed for the time being.

The President:

The next in order is the report of the Committee on Congressional Action. Is any member of that committee present?

Aldis B. Browne, of District of Columbia:

The committee has no new report to make, except to state that Congress has passed the Warehouse Receipts Act.

The President:

The Committee on Appointment of New Commissioners.

W. O. Hart, of Louisiana:

I beg to state that no member of that committee is present except myself. The committee has a report, prepared by myself and Mr. Banks, which I will read.

(The Report was then read, and will be found following these Minutes, page 148.)

On motion, the report was received and placed on file.

The President:

I omitted to call in its proper order the report of the Committee on Marriage and Divorce.

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Ernst Freund, of Illinois:

The committee has prepared a tentative draft of an Act on Family Desertion and Non-Support, and a draft of an Act on Marriages and Licenses to Marry.

(*The Report follows these Minutes, page 150.*)

The President:

The consideration of those drafts will be taken up tomorrow.

The report of the Committee on a Uniform Incorporation Law.

John C. Richberg, of Illinois:

On behalf of a majority of the committee I desire to refer to the report of the committee rendered at the 1909 Conference, and the action taken thereon at said Conference. Our report is the printed draft of act with introduction and annotations. Mr. Terry and myself are the only members of the committee present.

The President:

The report of the Committee on Banks and Banking.

Ralph W. Breckenridge presented the report of the committee.

(*The Report follows these Minutes, page 186.*)

Ralph W. Breckenridge, of Nebraska:

We recommend that this committee be discontinued, and tc carry that out I offer this resolution:

Resolved, That Section 2 of Article III of the Constitution and Section 9 of the By-laws be amended by striking out from the lists of standing committees the Committee on Banks and Banking.

The President:

The report will be received and filed, and the resolution offered by Mr. Breckenridge will be taken up for consideration later.

The Committee on Publicity is next in order.

W. O. Hart, of Louisiana, submitted the report of the Committee on Publicity.

On motion, the report was received and placed on file.

(*The Report follows these Minutes, page 188.*)

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The President:

The next report in order is that of the Committee on a Uniform Child Labor Law.

Hollis R. Bailey, of Massachusetts:

The committee has prepared a report, which has been printed and sent to all members of the Conference. The report is signed by all the members of the committee:

(*The Report was then read, and follows these Minutes, page 190.*)

The President:

The report will be received, and laid over for future consideration.

The next report is that of the Special Committee on Vital Statistics. Is any member of that committee present?

Aldis B. Browne, of District of Columbia:

I have been requested by Mr. Siddons, the Chairman of the committee, to state that nothing has been done since the meeting at Seattle.

Charles Thaddeus Terry, of New York:

I will read a brief letter received from Mr. Siddons supplementary to what Mr. Browne has stated:

WASHINGTON, D. C., July 8, 1910.

HON. WILLIAM H. STAAKE, Philadelphia, Pa.

My dear Judge Staake: Replying to your circular letter of the 20th, asking me, as Chairman of the Sub-Committee on Vital and Penal Statistics, for a statement of the work of the committee since the last Annual Conference of the Commissioners on Uniform State Laws, I beg to say, that the draft of the committee's proposed uniform law on the subject of births and deaths has heretofore been submitted to the Conference and is waiting action by it. I hope very much that at least one member of our committee will be able to attend the forthcoming Conference at Chattanooga, and secure consideration of the proposed law by the organization.

Truly yours,

F. L. SIDDONS.

The President:

The report of the committee will be passed for the present, and the Chair would informally suggest to Mr. Browne that he consult with Mr. Terry on the subject of the report.

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Next in order is the report of a Special Committee to Consider and Report on the Advisability of the Appointment by the Conference of a Standing Committee to Co-operate with the American Institute of Criminal Law and Criminology on Matters Affecting the Penal Law. Mr. Russell, of Connecticut.

Talcott H. Russell, of Connecticut:

I am not the Chairman of that committee, but Prof. Wigmore, who is now abroad, has sent me a report which he desires me to submit.

(*The Report was then read and follows these Minutes, page 215.*)

On motion, the report was received and placed on file.

The President:

The next report in order is that of the Committee on the Torrens System and Registration of Land Titles.

Francis M. Burdick, of New York, submitted the report of the committee, and, on motion, the same was received and placed on file.

(*The Report follows these Minutes, page 217.*)

The President:

Is Mr. Coe, of the Committee on Purity of Articles of Commerce, present?

Charles Thaddeus Terry, of New York:

I have in my hand a letter from Mr. Coe which explains the situation:

NEW YORK, August 19, 1910.

HON. WILLIAM H. STAAKE, Chairman Executive Committee, Commissioners on Uniform Laws, Chattanooga, Tennessee.

Dear Judge: I am enclosing herewith a brief report of Committee on Purity of Articles of Commerce to the Conference of Commissioners on Uniform State Laws.

I regret to say I shall be unable to attend the Conference on account of the serious condition of my father. I have written to Mr.

Mordecai, asking him to prepare and submit the report of our committee, but he advises me that it is very doubtful whether he can attend the Conference, and under the circumstances I thought it best to forward the report, which I would ask you to kindly have signed by such members of our committee as attend the Conference, and submit it to that body.

With kind regards, I remain,

Yours very truly,

WALTER E. COE.

I might say in this connection that in conference with some of the officers of the National Civic Federation, particularly the Chairman of the Executive Council, it was suggested that a great many complaints have been received by that body, and particularly since it was known that they were co-operating with this Commission, of the present national pure food law. The suggestion is that while in the main it is an excellent law there are some defects in it which need immediate correction, and the National Civic Federation suggests that perhaps that work could be initiated better in this Conference than elsewhere.

I make this statement simply that the matter may be called to the attention of the committee in a purely formal way, and that they may take such action as they deem advisable.

(*The Report of the Committee follows these Minutes, page 219.*)

The President:

Is there any special or general committee whose reports the Chairman has failed to call for?

William H. Staake, of Pennsylvania:

The Executive Committee at its meeting last evening considered the subject of the hours for our session, Mr. President, and I was directed to recommend to the Conference that the hours for our sessions be fixed from 9 o'clock in the morning until 12.30 and from 2.30 in the afternoon to 5 o'clock. I, therefore, move that those hours be fixed.

I was also directed by the Executive Committee to move that the subject of the report of the Committee on Marriage and Divorce be made the special order for tomorrow morning.

Seconded and carried.

W. O. Hart, of Louisiana:

Mr. President, the Committee on Nominations is ready to report, and, preliminarily to the report, we desire to submit the following amendments to the Constitution and By-laws.

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Amend the Constitution, Article III, Section 1, second paragraph, by striking out the word "Assistant Secretary."

Amend the By-laws, as follows:

Section III, by striking out the words "and Assistant Secretary" and inserting before "Secretary" the word "and." Strike out the second paragraph of Section 3. Amend Section 8 so that it will read as follows:

"The Secretary may appoint an Assistant Secretary to assist him in the performance of his duties, and to act for him in his absence."

John C. Richberg, of Illinois:

I move that unanimous consent be given for the consideration of the proposed amendment.

The motion was seconded and carried.

The President:

Is there any discussion now of the proposed amendments? If not, all who favor their adoption will signify it by saying aye; opposed, no.

Carried.

The President:

The Constitution and By-laws are so amended. Now, Mr. Hart, we are ready to receive the report of the Committee on Nominations.

W. O. Hart, of Louisiana:

The Committee on Nominations unanimously makes the following report recommending the election of these gentlemen as officers of the Conference for the ensuing year: President, Walter George Smith, of Pennsylvania; Vice-President, J. R. Thornton, of Louisiana; Secretary, Charles Thaddeus Terry, of New York; Treasurer, Talcott H. Russell, of Connecticut.

On behalf of the committee, I move that Mr. Meldrim cast the vote of the Conference for the election of these officers.

The motion was seconded and carried, the President relinquishing the Chair to Stephen H. Allen, of Kansas, while the question was being put.

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Stephen H. Allen, of Kansas:

I declare the gentlemen nominated as officers of the Conference for the ensuing year to have been duly and regularly elected, and I will appoint Mr. Hart and Mr. Eaton as a committee to escort the President to the Chair.

The re-elected President was then escorted to the platform by the committee.

The President:

It would be an affectation, fellow Commissioners and my good friends, if I did not frankly admit my gratification and pleasure at this evidence of your confidence. The position of President of this Commission is not a sinecure. The volume of correspondence necessary, the discouragement that comes to a zealous officer who is advocating a cause that requires much explanation, which requires so much stimulating constantly and the importance of which is appreciated by such a comparatively small number of people, is such that I surely do not magnify the importance of this office when I say that it is a highly honorable one and may be made a highly useful one by an incumbent who is ready to work with and in accordance with the sentiment of the members of the Conference. I asked you to extend to me your charity when you elected me a year ago, and you have been abundantly kind and charitable. If any member of the Conference should at any time think that I do not reciprocate I trust he will correct that feeling by the reflection that the President of this Conference has a duty to perform as well, and, though he may appear at times to err on the side of unkindness, he has none but the kindliest feeling toward each member. I thank you.

Gentlemen, the Conference will now stand adjourned until half past 2 o'clock.

Recess was then taken until 2.30 P. M.

Afternoon Session.

The President:
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When we adjourned this morning we had received the reports of various committees, which are now on the table and will be taken up in their order for such action as is possible excepting where there has been a special order made in regard to them.

First, the report of the Committee on Commercial Law. I will ask the Chairman of that committee to remind the Conference whether or not any resolution was reported with the committee's report that requires the action of the Conference.

Talcott H. Russell, of Connecticut:

I think not, sir. The committee may submit certain resolutions later.

The President:

The Committee on Wills, Descent and Distribution reported a form of uniform law on the subject of the probate of wills, which the Chair will ask the Secretary to read if he has the report before him.

W. O. Hart, of Louisiana:

I did not know what the order of business was for this afternoon and so I moved this morning that that report be made the special order for tomorrow following the report of the Committee on Marriage and Divorce.

The President:

That is so, and, therefore, that report will be passed now. The next is the report of the Committee on Conveyances. There was a specific matter referred to that committee, and a resolution should be passed either continuing the matter in the hands of the committee or disposing of it.

William H. Staake, of Pennsylvania:

It was a communication from the National Association of Real Estate Exchanges.

The President:

The Chair would suggest, if the committee has not considered that matter, that the Chairman call a meeting of that committee during this session for that purpose.

Charles Thaddeus Terry, of New York:

I move that the matter which Judge Staake referred to, that was referred to the Committee on Conveyances, be again referred to that committee with the request that they consider the same and report upon it at the next Conference.

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The motion was seconded and carried.

The President:

The next report in order will be the report of the Committee on Insurance. Mr. Breckenridge, I understand, has a resolution to present in connection with that report.

Ralph W. Breckenridge, of Nebraska:

I move that the report of the Committee on Insurance be again postponed until the next meeting. The reason for making the motion is this: A bill was approved by the American Bar Association last year providing for the creation of a commission to prepare a model insurance code for the District of Columbia with the view of making such code a model for the various states, and which code could then be presented not only to the American Bar Association, but to this Conference, for approval. In lieu of the passage of that bill, the Senate Committee of the District of Columbia passed a resolution on June 16, last, authorizing a sub-committee to prepare and report to Congress a model code for the District of Columbia, and of that committee Senator Bulkley, the Chairman of the committee, and other members, working with him, are preparing such a bill. Therefore, in view of the action to be taken by that sub-committee within a short time I think it would be going over ground that may have to be gone over again if we were to take time to discuss some individual proposition such as is presented in the report of the Committee on Insurance.

The motion was seconded and carried.

The President:

Mr. Browne's report on Vital and Penal Statistics. Mr. Terry, what is the status of that report?

Charles Thaddeus Terry, of New York:

I suppose it is within the province of the committee to request specific action if desired.

Aldis B. Browne, of District of Columbia:

I told Mr. Siddons that I would do what I could to have it considered. The report is very voluminous. However, I have not any copy of the report here.

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William H. Staake, of Pennsylvania:

The report of that committee last year seemed to ask for instructions from the Conference, as you will see by referring to pages 161 and 162 of the Proceedings of our Conference at Detroit.

Aldis B. Browne, of District of Columbia:

To be frank with the Conference, I do not know anything about the matter, and, therefore, I should like to ask for a continuance for another year.

Charles Thaddeus Terry, of New York:

I move that Mr. Browne be requested to take up the matter with the Chairman of the Executive Committee, and, when the status of the same is determined, the matter be then left to the discretion of the Executive Committee to deal with as it deems advisable.

The motion was seconded and carried.

The President:

Was there any resolution appended to the report of the Committee on Purity of Articles of Commerce?

Charles Thaddeus Terry, of New York:

No, sir. It was simply a repetition of its recommendation of previous years.

The President:

Prof. Burdick, was there any resolution appended to your report?

F. M. Burdick, of New York:

No, sir.

The President:

Have you any recommendation to make?

F. M. Burdick, of New York:

No, sir; excepting, if the committee is to be continued, that

the gentlemen from the states where the system has been adopted give us their aid as to the advisability of it in the various states.

The President:

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That could hardly be done in a parliamentary way excepting by debate on resolution.

F. M. Burdick, of New York:

Then I move that the Chairman of this committee be instructed to present during the coming year this system to the legislatures of the various states which have not yet adopted it.

Seconded.

The President:

It has been moved and seconded that the committee be continued with instructions to present to the different legislatures who have not yet adopted it the recommendation of this Conference approving of the Torrens System of Registration of Titles. Are you ready for the question?

Talcott H. Russell, of Connecticut:

That is quite an important subject and ought not to be acted upon without full consideration. In Connecticut we do not need any such system. Under our registration system there is no very serious difficulty connected with titles to real estate, and I do not think there is any chance of our legislature adopting the system. There may be states where it is necessary. I confess that I am not prepared to debate this subject as I have not examined very carefully the report on the system nor the system itself. As I understand it, the scheme involves a public guaranty of titles. Is not that so, Mr. Burdick?

F. M. Burdick, of New York:

It does in some respects, but that is not an essential part of it.

The President:

The Chair will take leave to say that he was in error when he referred to this committee as being a special committee. It seems that the Conference has deemed this subject of sufficient importance to create a standing committee to deal with.

John C. Richberg, of Illinois:

Illinois adopted this system and the Supreme Court sat down

upon it the first time, but finally the legislature passed the act in a manner that the court has now pronounced satisfactory. We got along very well without the system, and we are getting along very well with it. Cook County, which perhaps has more conveyancing than all of the rest of the state put together, has always gotten along very well with the Title Guarantee Company's policies and not a great deal of use has been made of the Torrens system. There was an amendment made to the law some three years ago by which a guarantee fund was created so that when titles are registered under the system and a certificate is given if a mistake is made, purchasers may be able to recover and be indemnified for loss. Since that amendment a little more progress has been made in taking titles registered under that system.

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Ralph W. Breckenridge, of Nebraska:

By whom is the indemnity paid?

John C. Richberg, of Illinois:

By the counties through the fees that are exacted. There is a certain proportion of the fees which are kept apart as an indemnity fund. Real estate men are much in favor of the system because it is a very expeditious way of transferring titles, although the use of the Torrens System in Cook County is quite small compared with the transactions of the Guarantee Title Company.

Amasa M. Eaton, of Rhode Island:

I am strongly in favor of the Torrens System, but I am not in favor of the resolution in the form in which it is placed before us. It seems to me that it will hardly be possible to adopt any resolution recommending a plan. I think what we ought to do is to recommend a specific bill, which of course will have to be worked out and discussed; and, therefore, it seems to me that the best thing we can do now is to leave the whole subject in the hands of the committee. I would move as an amendment, that the whole subject be referred to the committee.

The President:

Was not a resolution passed by the Conference a few years ago recommending to the legislatures of the different states the appointment of Commissioners to inquire into the advisability of adopting the Torrens System in those states?

W. O. Hart, of Louisiana:

Yes, sir. I think that was in 1908.

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The President:

Did you understand that to be a definite decision of the Conference as to what it was going to do on the subject?

W. O. Hart, of Louisiana:

Yes, sir; that the matter should be fully considered in the different states. Since that time New York has adopted the system, and I think Minnesota has also.

John C. Richberg, of Illinois:

Was it not also the idea that uniformity was not essential with reference to the transfer of title?

W. O. Hart, of Louisiana:

That is so, the idea being to educate the people up to the importance of instituting the Torrens System. In Louisiana we recommended the adoption of the system, but the legislature has taken no action upon it as yet.

F. M. Burdick, of New York:

Massachusetts has adopted the system, and we might hear from Mr. Bailey how it has worked there.

Hollis R. Bailey, of Massachusetts:

We have had the system in Massachusetts for about ten years. It is optional; that is, the owner of land may register under the Torrens System, or not, as he chooses. The system is administered by what is called the Land Court. The system works very well. I venture to say that in the last three years there have been more titles registered under the Torrens System than during the entire seven years preceding. It is found very useful not only on the general principle that lawyers ought not to be searching titles over and over again and charging clients for the service when it can be done once for all, but it is especially useful where a man has a piece of property upon which there is an old mortgage which ought to have been discharged, or some other fault not easily curable in the old way, and which he wants to get cured in order to give him a marketable title. The land owner may go

to the Land Court and have his title cleared up at once. The savings banks at first did not want to take title under the Torrens System, but I think that now they as well as everybody else recognize its advantages.

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Talcott H. Russell, of Connecticut:

Is there any reason why the law on this subject should be uniform throughout all the states, or is it simply a question for the interests of each particular state?

Hollis R. Bailey, of Massachusetts:

I do not know of any interstate question that is involved, and the only reason is that when you have a good thing you want other people to have it too.

Amasa M. Eaton, of Rhode Island:

I move as a substitute for the pending question that the committee be requested to address each Commissioner, calling his attention to the adoption of this resolution and sending to him copies of the laws of New York and Massachusetts, providing for the investigation of the Torrens System.

F. M. Burdick, of New York:

I will accept that as an amendment to the resolution of the committee.

The motion was carried.

The President:

The next matter on my list is the report presented by Mr. Breckenridge, accompanied by a resolution on the subject of the abolition of the Standing Committee of Banks and Banking.

W. O. Hart, of Louisiana:

I trust that this committee will not be wiped out. One of the most important questions now being discussed throughout the country is whether banks shall guarantee bills of lading, and it seems to me that when that matter reaches a concrete form—as it surely will by the time of the next Conference—it may be found very necessary to have this committee. I think the committee ought to be continued for at least another year.

Ralph W. Breckenridge, of Nebraska:

It does not follow because some phase of a subject that is being

dealt with by the Committee on Commercial Law may affect banks and bankers that we should continue a Standing Committee on Banks and Banking. The Committee on Commercial Law can deal with that particular subject. Many of the matters which were discussed before the committee by Mr. Paton, the counsel for the American Bankers' Association, have been dealt with by the Committee on Commercial Law—the Negotiable Instruments Act and the Warehouse Receipts Act. I have made to Mr. Paton several requests for suggestions as to what the American Bankers' Association would like to have our Standing Committee on Banks and Banking do, to which I have had no response.

William H. Staake, of Pennsylvania:

Nevertheless, the subject of banks and banking is an important one. We have other committees which exist because of the general importance of the subjects which may be referred to them, and it surely will not do any harm to continue this committee. If the counsel of the American Bankers' Association has failed to suggest anything that he thinks the committee ought to act upon, possibly the Chairman of the committee by the exercise of his intelligence and ingenuity may do some thinking which will bring about the suggestion of topics for the consideration of the committee.

J. R. Thornton, of Louisiana:

The report of the committee embodies the views of the committee for the reason expressed in the report. The committee has not found that it could do anything, and, under the circumstances, did not deem it wise to ask for its continuance. However, so far as I am individually concerned, if the Conference is of the opinion that the committee should be continued with the idea that at some future time something may arise for it to consider, I have no objection.

Ralph W. Breckenridge, of Nebraska:

In view of the suggestion of Judge Staake, and of the statement of my associate, Mr. Thornton, I am willing to leave the matter to the Executive Committee. Therefore, I move that the

subject of my resolution be referred to the Executive Committee.

The motion was seconded and carried.

The President:

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It is so ordered. The next matter for the consideration of the Conference is the report of the Committee on Purity of Articles of Commerce. The Chair is informed by the Secretary that the resolution of that committee was that the Commissioners be instructed to recommend to their various state legislatures the adoption of the national pure food law as the law of their states.

Charles McCarthy, of Wisconsin:

I cannot go back to my state with my vote for that without a protest. I know that our part of the country is trying to go beyond the pure food law, and I think the people in Minnesota and in Iowa are probably of the same mind. It is a question whether if you go outside of the law your provisions can be made effective. This law has come to be like other laws—they are old the minute they are passed—and there are conditions which come up which demand new treatment. It is a question, in my mind, whether a body like this is authorized to take hold of that kind of legislation. I do not believe in the report of the committee.

The President:

Dr. McCarthy, have you any suggestion to make?

Charles McCarthy, of Wisconsin:

It seems to me that the committee should investigate this question. If the committee will investigate the necessity of the matter instead of putting out a report of this kind I think they will be satisfied that there is a necessity of uniformity in new legislation of a supplementary nature. I advocate the necessity of legislation supplementary to the national law. We cannot take everything and put it into a national law at once and make it satisfactory. As new conditions arise we have got to supplement that law and make advancements upon it. There is a field for uniformity in that way. The pure food law has done a great deal of good, but I do not see how we can force the national government any further in it. I think the greatest work this Com-

mission can do is to take away that field from the federal government and let the states work at it. I suppose in the next legislature there will be a dozen or fifteen bills to deal with this very question in Wisconsin.

William H. Staake, of Pennsylvania:

I was formerly the Chairman of this committee and I remember the preparation of detailed reports making recommendations for legislation in the various states. Finally there came the national pure food law, which was discussed in quite some detail by this body at one or more Conferences, and it was recommended to the states that they should adopt pure food laws framed along the lines of the national pure food law. Now if by reason of subsequent experiences in Wisconsin, or any other state, anyone thinks there are points which can be improved upon in the national pure food law and anyone has something to suggest that is tangible in the way of additions to or improvements on that law, then I think it would be proper to refer the same to the committee of which Mr. Coe is Chairman. It is very manifest that a committee of this body or the Conference itself cannot go through the pure food laws of all the states, not knowing what may have been the experience of each state with this law, and suggest that this and that provision should be grafted upon the national law.

The President:

Gentlemen, are you ready for the question, embodied in the report which is on the table to the effect that the Conference recommends to the different states the adoption of the national pure food law?

Charles McCarthy, of Wisconsin:

I move that the matter be recommitted with directions to the committee to investigate and find out the needs of the various states, and, if possible, make some recommendations to the Conference next year.

Talcott H. Russell, of Connecticut:

I second that motion.

P. W. Meldrim, of Georgia:

At the last Conference the committee reported, urging the

adoption by all of the states of an act in conformity with the national act, the wording of the committee's recommendation being: www.libtool.com.cn

"It is the conclusion of your committee that this Conference should again urge the adoption by all of the states of the federal food and drug act."

Now, that is the action the Conference took a year ago. What are you going to do about it now?

Charles McCarthy, of Wisconsin:

I think it is immaterial what action was taken a year ago. We have gone forward since then. If we can get the federal law amended so that it will be conformable to what the people in Wisconsin want, why, I am in favor of having it done.

P. W. Meldrim, of Georgia:

Of course, we are interested in what Dr. McCarthy thinks about it, and, while he may not think with any special favor of the previous action of this body, yet purely from a parliamentary point of view we have acted heretofore and there cannot be any further action until we reconsider what we have previously done. When we have considered a subject after a committee has reported upon it that ends for the time being all further action.

The President:

The situation is well stated by the gentleman from Georgia. Dr. McCarthy intimates that certain changes have taken place since a year ago. Now, it would be entirely proper for the matter to be referred back to the committee, and, if they wish to submit any amendments to the action taken last year, they may do so.

The question is on the motion of Dr. McCarthy that this subject be practically reopened by referring back to the committee the propriety of further amendments to the federal law before it is recommended to the various states for adoption.

P. W. Meldrim, of Georgia:

Permit me to say that if we want to commit ourselves to taking the federal act and making changes in it and then present all those several changes to the different states, we should move to

recommit. If we are determined to stand by and adhere to our previous determination to recommend the present federal act then there is no necessity for us to recommit.

I would say, further, that I do not think it is possible for this body to make changes that can be adapted to all of the states, because the conditions in the various states are so varied. It seems to me that the better course is the one that we have adopted: Reach a certain uniformity by having the several states adopt the federal act, and then for those several states to add to or take from as in their own local conditions they may deem best.

For these reasons I shall vote against the committee.

W. O. Hart, of Louisiana:

In order to clear up the matter, with all due respect to General Meldrim, the recommendations of the committee last year do not appear to have been adopted by the Conference. So the matter is still in the air.

John C. Richberg, of Illinois:

I am entirely in accord with the lucid statement of General Meldrim. There is nothing to prevent the State of Wisconsin passing a pure food law as we recommend, passing it as near as may be, and amending it in whatever respect is necessary to conform to the peculiar conditions that may exist in that state. I think this Conference can do no better than to adopt the report.

J. R. Thornton, of Louisiana:

I suppose we are all willing to admit the necessity for the passage of a pure food law. The only difference, I take it, is how to get at it, and what shall or shall not be enacted; but that the principle of it is all right. We have had a recent vivid illustration of it in Louisiana. A short time ago a defunct dog's paw was found in a tin can of preserved meat. Now, I think that the quicker you can get at it the better it is going to be for the whole country. If you refer the matter back, why, you don't know how many more dogs' paws are going to get in it. I agree with the proposition advanced by General Meldrim and Mr. Richberg.

Charles McCarthy, of Wisconsin:

I just want to call attention to the fact that the federal act is limited; it is just the least thing. We don't want in Wisconsin

to have some lobbyist come before the legislature and say, "You mustn't make all these different regulations because there is the federal law and you don't want to destroy that." As soon as the resolution was passed by the National Civic Federation in Washington, on this subject, there was a protest raised in Wisconsin and I was called down as a delegate to Washington for not protesting against it.

The President:

Gentlemen, are you ready for the question on Dr. McCarthy's motion? All in favor of it will signify the same by saying aye; opposed, no.

The result of the viva voce vote being in doubt, a division was ordered, whereupon the motion was lost, the vote standing fifteen ayes to seventeen noes.

The President:

The motion of Dr. McCarthy is lost. The next matter that I would call up for consideration, if Judge Staake is ready, are the suggestions of the Executive Committee that were laid over with their report this morning. The desire of the Chair is to dispose of matters that do not require extended debate before taking up subjects that may be provocative of considerable debate. There were certain specific recommendations of the executive committee that were laid over. The question of a uniform law as to sales was one of them, and the petition of Mr. Moore, of Maryland, was another.

William H. Staake, of Pennsylvania:

We have made no recommendation in regard to that. We have referred to the fact that the committee had received a number of communications. Among those communications was one from Secretary Whitelock embodying the letter of Mr. Moore, of Maryland. As bearing upon that subject, the whole matter referred to by Mr. Moore was before this body several years ago. I remember personally submitting it at that time, but just what the action of the Conference was in regard to it I do not remember.

The only other matter was the communication from Mr. Hopper, of Philadelphia, sugesting the propriety of the Conference taking up the subject of the legal effect of the use of a seal after an individual signature—which is, as he says in his communication, a question that in many of our commonwealths the use of the seal has been discontinued altogether and it has no value in some states, and in other states it still continues to import a consideration. The committee make no recommendation on the subject.

The President:

The Chair was mistaken as to the report, having been under the impression that there were certain recommendations made in it.

The Executive Committee lays before the Conference two communications: One from a gentleman in Maryland, recommending a uniform law changing the form of oath, and the other recommending the adoption of the uniform law abolishing the use of seals. Of course, if there is no motion, it is equivalent to ignoring the requests.

Charles Thaddeus Terry, of New York:

I move that the report of the Executive Committee be received, approved and placed on file.

The motion was seconded and carried.

Talcott H. Russell, of Connecticut:

On behalf of the Committee on Commercial Law I move that any resolution that may heretofore have been adopted by the Conference tending to limit the committee in its consideration of the partnership law, now under consideration, to what is known as the entity theory, be, and the same is, hereby rescinded, and the Committee on Commercial Law be allowed and directed to consider the subject of partnership at large as though no such resolution had been adopted by the Conference.

Ralph W. Breckenridge, of Nebraska:

I second that motion.

Talcott H. Russell, of Connecticut:

I might say that at a previous meeting of the Conference, when

the subject of partnership was up in 1905, I think, the Conference took action directing Prof. Ames to prepare a draft of a partnership act which was to be the basis of the deliberations of the committee on what is known as the entity theory as distinguished from the theory that a partnership is an aggregation of individuals engaged in business, and the committee proceeded to consider a partial draft drawn by Prof. Ames on that theory.

Now at present the committee have come to this position: That they deem it advisable that they consider the subject and recommend to this Conference such an act on partnership as may seem advisable to them without being necessarily limited by this resolution, which perhaps confines them to the entity theory. This does not mean that the committee will necessarily disregard the entity theory, but they wish liberty to consider the matter without the restrictions which may possibly be imposed by this resolution.

I might say that the entity theory is the theory which has been favored by some experts, but it is not the theory adopted by the states of the union generally. That is, the states of the union generally, as I am advised, go on the common law theory which was the theory that a corporation was an aggregation of individuals.

Levi Turner, of Maine:

The English law is based upon that principle, too.

The President:

Is there any further discussion? If not, all in favor of the motion made by the Chairman of the Committee on Commercial Law will signify the same by saying aye; opposed, no.

Carried.

W. O. Hart, of Louisiana:

A letter was sent to the President of this Conference under date of August 20, of this year, signed, "H. A. Williams, Secretary of the Association of Probate Judges of Michigan," inviting the Conference to appoint a delegate to attend their meeting on September 20. Apropos of that communication I offer this resolution:

Resolved, That the invitation extended to this Conference through our President by the Association of Probate Judges of Michigan to be represented at their fourteenth annual meeting at Saginaw on September 20, be accepted, and the President authorized to appoint one or more delegates to attend said meeting without expense to the Conference, and that one of such delegates be requested to prepare and deliver an address or read a paper, as requested in said invitation, on the subject of a uniform law governing the distribution of personal property.

Seconded.

Talcott H. Russell, of Connecticut:

I am opposing this resolution, so far as I do oppose it, so as to get a full understanding of the matter. The resolution, as I understand it, embodies the idea that our delegate, if we send one, is to recommend some uniform law on the distribution of property. Is that it?

W. O. Hart, of Louisiana:

No, not at all.

Talcott H. Russell, of Connecticut:

Well, you embody there in some form the suggestion that the delegate is to speak in reference to a uniform law concerning the distribution of personal property?

W. O. Hart, of Louisiana:

Yes, sir; as requested in the invitation. That is all. That does not commit us to anything. It simply requests us to have a delegate read a paper or speak on that subject.

I think, on reflection, Mr. President, that I will withdraw my resolution and ask that the invitation be referred to the Executive Committee.

The President:

Very well, the invitation is so referred.

The next matter will be the consideration of the subject of a uniform incorporation law.

John C. Richberg, of Illinois:

In accordance with the instructions of the Conference at the last session, as the members already know, a tentative draft of a uniform incorporation law has been printed and distributed. The

committee is ready to proceed. I simply have this to say: That the tentative draft—as found also in the report of the last Conference, copies of which are here—was drawn more than a year ago and compiled substantially by Mr. Terry. As Chairman of the committee I have no pride of opinion with reference to this draft. I think it is as good a form as we can adopt. I desire to call attention to the fact that when the Uniform Divorce Congress first met it was thought almost impossible to get a draft of a law upon which the states could agree, and it was thought especially that they would never be able to agree upon a cause. Upon examination, however, it was discovered that over 90 per cent of the states of the union had six causes of divorce in common. So there was very little difficulty in drafting a law with reference to those six causes, as the percentage was so small of those that did not have those causes; also that there was a great deal of uniformity in the laws then existing. We found the same state of facts existing in reference to incorporation laws. Every man here knows the incorporation laws of his own state. And I think if every man here will examine this draft he will find that there is not a great deal of diversity between the incorporation laws of his own state and the law presented by this committee. In some states there may be a difference in the number of persons allowed to incorporate. In some states they may limit the number of men composing the Board of Directors. They may make the term of existence of the corporation fifty years, ninety-nine years or without limit. Those are all matters upon which the Conference can, I think, agree. It is quite immaterial. It is not very essential whether you have seven directors or thirteen directors or five directors. Then comes the question as to the amount of capital stock, and how much shall be paid in in cash. When we get to that, why, of course, there must be compromises made in order to obtain a uniform law. You will recollect that as good a bill that ever was drawn was the Negotiable Instruments Law. We were twelve years in getting that adopted, and we now have thirty-eight states that have it in force. As far as the Warehouse Receipts Law is concerned, we have been at that four years, and now it is the law in twenty states.

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I desire, further, to call attention to the fact that this act, which was drafted by Mr. Terry more than a year ago, I found on comparing it with the interstate act, drawn by the attorney-general, and which had the approval of the President, and which, from reports that I received while in Washington last January attending the meeting of the Civic Federation, was favorably considered by members of the Judiciary Committee of the House and of the same committee of the Senate—I found on comparing it with that act, that in its substantial features it is the same kind of an act that is presented to you here. The inspiration of both of these acts was evidently drawn from the same source, which only goes to show that there cannot be a great divergence of opinion about the subject. I give the credit to Mr. Terry that he certainly did not draw his inspiration from the attorney-general, because Mr. Terry drew his act more than a year prior. The attorney-general is much more elaborate in his act, and the difference in the matter of capital stock is much larger than we give and also as to the amount of the capital stock, which is unlimited, whereas in our act we limit it to $25,000,000. The various points of difference are differences of this character. In our act we have it that the transferor shall be liable as well as the transferee, and also that the stockholders shall be liable if the indebtedness of the corporation exceeds the assets.

I, therefore, move that the tentative draft be taken up in the Committee of the Whole section by section.

Talcott H. Russell, of Connecticut:

Before a motion is made to go into the Committee of the Whole I ask leave to present a resolution which will require no debate.

The President:

The resolution may be read.

Talcott H. Russell, of Connecticut:

Resolved, That the Committee on Commercial Law be authorized to have Prof. Samuel Williston prepare a draft of an act of suggested amendments to the Negotiable Instruments Law; that the same be printed with annotations and distributed by the committee to members of the Conference, lawyers, bankers and

commercial bodies throughout the country as soon as practicable, and that said draft, when considered and approved by the committee, be presented to the Conference for further action.

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The resolution was seconded and on motion carried.

The President:

Mr. Richberg, Chairman of the Special Committee on a Uniform Incorporation Law, has moved that the Conference go into Committee of the Whole to consider the tentative draft of the act section by section.

The motion was carried.

The Conference then resolved itself into Committee of the Whole, with John Fletcher, of Arkansas, in the Chair.

(The details of the discussions in Committee of the Whole are omitted.)

The Committee of the Whole then rose and the President resumed the Chair.

John Fletcher, of Arkansas:

Mr. President, the Committee of the Whole having had under consideration the draft of an act to make uniform the law of incorporation begs leave to report progress and asks to sit again.

On motion, the report was received and leave to sit again granted.

On motion, the Conference then adjourned to Friday, August 26, 1910, at 9 A. M.

Second Day.

Friday, August 26, 1910, 9 A. M.

The President in the Chair.

The President:

The Conference will come to order.

Talcott H. Russell, of Connecticut:

I ask permission to make a report on behalf of the Committee on Commercial Law. The committee having had committed to it that portion of the President's address which referred to uniform legislation concerning carriers' liability, and having con-

sidered the matter, requests permission on account of certain questions that have arisen to defer its report thereon until the next Annual Conference.

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On motion, the report made by the Chairman of the Committee on Commercial Law was accepted and the request granted.

J. R. Thornton, of Louisiana:

I ask to be excused from further attendance on the Conference after this morning's session, owing to the fact that I have received a message calling upon me to return home which I am in duty bound to regard. I think the members of this Conference will feel assured that I would not leave the work here if I did not consider myself morally bound to do so.

The President:

I am sure that every member of the Conference has been delighted to have had the opportunity of taking you by the hand, Judge Thornton, and associating with you as much as we have, and we regret that you are obliged to leave.

It is my duty as President of the Conference to announce the committees as soon as may be after my election. I have appointed the following members of the Executive Committee who are appointive, and the other committees I will announce as soon as I have had an opportunity to go over the list. The appointive members of the Executive Committee will be: William H. Staake, of Pennsylvania; Peter W. Meldrim, of Georgia; Aldis B. Browne, of District of Columbia; C. P. Black, of Michigan; Charles W. Smith, of Kansas. The ex-officio members are the President, the Vice-President, the Treasurer, the Secretary and the last ex-President.

The first business in order this morning, gentlemen, is the special order, namely, the report of the Committee on Marriage and Divorce, with the second tentative drafts of acts on the subjects of marriages and licenses to marry and family desertion and non-support, copies of which have been sent to all members and extra copies are here.

On motion, the Conference resolved itself into Committee of the Whole, with Aldis B. Browne, of District of Columbia, in the

Chair, for the purpose of considering the tentative drafts of acts reported from the Committee on Marriage and Divorce.

(*The details of the discussion in Committee of the Whole are omitted.*)

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The Committee of the Whole rose and the President resumed the Chair.

Aldis B. Browne, of District of Columbia:

Mr. President, the Committee of the Whole having had under consideration the second tentative draft of an act on family desertion and non-support, report that they have finished the consideration of the same and recommend the bill as amended for adoption.

The President:

The Chair will now state that the report of the Committee of the Whole has been submitted, the report being that the committee has considered the bill entitled "Family Desertion and Non-Support" and desires to report the act for the approval of the Conference. The question before the House is: Shall that report be accepted?

W. O. Hart, of Louisiana:

I respectfully submit that the question before the House is: Shall the report be received?

The President:

Shall the report be received?

On motion duly made and seconded, the report was received.

The President:

It is so ordered. The hour of adjournment having arrived, the Conference will stand adjourned until 2.30 o'clock.

The Conference then took a recess until half past 2 o'clock.

Afternoon Session.

The President:

The Conference will be in order. When we adjourned we had just received the report of the Committee of the Whole recommending the adoption of the Act on Family Desertion and Non-Support as amended.

E. W. Frost, of Wisconsin:

I move that the Conference now accept the report of the Committee of the Whole and recommend the passage of the act to the various states.

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Seconded.

W. O. Hart, of Louisiana:

I move as an amendment that the Conference disagree to the amendment proposed in Committee of the Whole to Section 4, striking out the words "or in addition thereto," and that the section be adopted as originally written, with the amendments excluding this one. Section 5 provides that after the defendant has been convicted, or at any time during the two years referred to, the court may proceed with the trial of the case even though it may have been suspended under the terms of Section 4. Now, taking the two sections together, I submit that there is no hardship to the defendant. The primary object of the law is not necessarily so much to punish the defendant as it is to provide for the wife and children.

E. W. Frost, of Wisconsin:

On behalf of the committee, I will second the motion made by Mr. Hart. After careful consideration of the matter during recess we feel that it would weaken the bill if these words were stricken out.

The President:

Those in favor of Mr. Hart's motion, which is seconded by the Chairman of the committee, to restore the words "or in addition thereto," which were stricken out of the proposed act in the Committee of the Whole, will signify the same by saying aye; opposed, no.

The motion was carried.

S. H. Allen, of Kansas:

I move to insert after the word "trustee" in the seventh line, page 51, the words "and may from time to time thereafter extend such order for periods of not more than two years at one time."

Seconded.

Ernst Freund, of Illinois:

I trust this amendment will not be accepted. It would practically amount to making this order for an indefinite period.

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Hiram Glass, of Texas:

What good will it do to say that you may extend the time for an additional period of two years? Suppose the man says, "I want to give a bond," what is your remedy? It seems to me that if you put that in, it will be necessary to go further and amend the law in other particulars.

The President:

Is there further discussion? If not, all in favor of Judge Allen's motion will say aye; opposed, no.

The motion was lost.

The President:

The question is now upon the adoption of Section 4 as amended. All in favor will say aye; opposed, no. Carried.

The President:

The question now recurs upon the adoption of the report and recommending to the legislatures of the various states that this tentative draft of act be passed.

P. W. Meldrim, of Georgia:

I move to disagree to so much of the report as favorably recommends Section 6, and I move to amend by striking from that section so much as is contained therein between the words "in" in the sixth line and "proof" in the sixteenth line.

Seconded.

And on that question I demand that we vote by states.

W. O. Hart, of Louisiana:

After an amendment has been voted upon in Committee of the Whole, I make the point of order that unless the point were reserved at that time it cannot be again raised in the Conference.

P. W. Meldrim, of Georgia:

I insist upon the call by states, Mr. President. It has been held that in Committee of the Whole the rule to which the gentleman refers does not obtain.

The President:

It will not be necessary to rule upon the technical point if a vote is taken by states upon the whole section, as those who will vote against it probably will so vote because of their desire to have the section amended by striking out those words.

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P. W. Meldrim, of Georgia:

Then I understand the Chair proposes to put the question in this way: All in favor of agreeing to Section 6 as it stands will vote aye; and those in favor of striking out everything contained between "in" in the sixth line and "proof" in the sixteenth line—which is my motion—will vote no?

The President:

Exactly. The motion now before the House is upon agreeing to Section 6 with no amendment except the striking out of the words "whether legitimate or illegitimate." Those in favor of the proposition of General Meldrim, or who desire to amend the section in any way will, of course, vote no. The Secretary will proceed and call the roll of states.

The roll was called with the following result:

AYE:	NAY:
Alabama	Georgia
Arkansas	Illinois
California	Indiana
District of Columbia	Maryland
Kansas	Michigan
Louisiana	Minnesota
Maine	Porto Rico
Massachusetts	Rhode Island
Mississippi	South Dakota
Nebraska	Virginia
New York	Washington
Pennsylvania	South Carolina
Texas	
Wisconsin	

(The states whose names do not appear in this roll call were called, but there was no response.)

The President:

The result is fourteen ayes and twelve nays. Mr. Meldrim's

amendment is, therefore, lost. The question is now on the motion of Mr. Frost that the act be approved and recommended to the various states for adoption. All in favor of that will signify the same by saying aye; opposed, no.

Carried.

NOTE.—A copy of the Act on Family Desertion and Non-Support, in the final form approved by the Conference, is appended at page 221.

W. O. Hart, of Louisiana:

Before preceding further, Mr. President, I desire to state that my colleague, Judge Thornton, as he stated to you, was compelled to leave for home on important business. Now that he has gone I am privileged to state that the important business was to return to Louisiana to receive from the Governor the appointment of United States Senator.

The President:

I am sure that individually and collectively the Conference is most gratified at this news.

On motion, the Conference resolved itself into Committee of the Whole, with P. W. Meldrim, of Georgia, in the Chair, for the purpose of considering the second tentative draft of an act on marriages and licenses to marry.

(*The details of the discussion in Committee of the Whole are omitted.*)

The Committee of the Whole then rose, and the President resumed the Chair.

P. W. Meldrim, of Georgia:

The Committee of the Whole having had under consideration the second tentative draft of an act on the subject of marriages and licenses to marry report that they have considered the same, report progress, and ask leave to sit again.

The President:

Gentlemen, you have heard the report of the Chairman of the Committee of the Whole. Unless there is objection, the report will be received and the request made granted. There being no objection, it is so ordered.

Charles Thaddeus Terry, of New York:

I move that at the opening of the session tomorrow morning,

inasmuch as arrangements have been made therefor, we give an opportunity to Mr. Lovejoy to be heard on the Child Labor Law.

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The President:

The Chair understands that Mr. Lovejoy has been invited here, with the approval of the officers of the Conference, to address us on this subject.

The motion made by Mr. Terry is seconded.

The President:

All in favor of the motion that tomorrow morning the Conference give attention to a short explanation of the Act on Child Labor, by Mr. Lovejoy, will say aye; opposed, no.

The motion was carried.

The Conference then adjourned to Saturday, August 27, 1910, at 9 A. M.

THIRD DAY.

Saturday, August 27, 1910, 9 A. M.

The President in the Chair.

The President:

The Conference will be in order.

Hollis R. Bailey, of Massachusetts:

Mr. President and gentlemen of the Conference: On behalf of the Special Committee on a Uniform Child Labor Law, I beg to state that your committee very earnestly recognize the importance of doing what has been done heretofore by the Conference in order to procure good results, namely, first, to procure the assistance of an expert, and, second, to procure the backing of outside organizations interested in the work. The Committee on Commercial Law gained the success which has attended its work largely, I think, by reason of its employment of experts and then by having the backing of outside bodies that wanted to see the results accomplished. Very early in the work of this special committee we were fortunate in coming in contact with Mr. Lovejoy, the Secretary of the National Child Labor Committee. We met him at Washington last January, in connection with the meeting held under the auspices of the Civic Federation, and we very soon found that he knew all about the legislation through-

out the country respecting child labor, and that he was a practical man; and the committee unanimously voted that its work might well begin with procuring copies of the standard Child Labor Law which had been framed for the National Child Labor Committee, distributing those throughout the country, and inviting suggestions.

That was done early in the spring, and, as the report which I read the other day stated, we sent out about one thousand copies with questions, and we received some very valuable suggestions. Having received those responses the committee was fortunate in having the assistance of Mr. Lovejoy in redrafting the proposed law and putting it into the shape that we now have it. Mr. Lovejoy will tell you briefly how the standard Child Labor Law was framed, and he will tell you of the organization which he represents and of kindred affiliated organizations which he knows about; so that you may see what the prospects of a successful outcome are if we steadily pursue the path which the committee has marked out.

We did not attempt to come before you this year with a form of act which should be considered section by section, because we knew that you would not have time to deal with it in view of the other work that was pressing upon the attention of the Conference.

With this brief introduction, sir, I move that Mr. Lovejoy be invited to address the Conference.

E. W. Frost, of Wisconsin:

As a member of the National Child Labor Committee, knowing Mr. Lovejoy and his work, and knowing too the non-sectarian manner in which the committee has worked, I take great pleasure in seconding the motion.

The President:

Gentlemen, you have heard the motion that has been made and seconded that Mr. Lovejoy do now address the Conference.

All in favor of the motion will signify the same by saying aye; opposed, no.

Carried.

Mr. Lovejoy:

Mr. President and members of the Commission: I shall take only a very few moments of your time, because having attended your session yesterday I realize something of the volume of business that is before you.

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I bring the greetings of the National Child Labor Committee and express our appreciation of the fact that the time has come when a commission of this character deems it advisable to undertake the study, with the prospect of a final report thereon, of the subject of uniform child labor laws. Mr. Bailey has already stated in brief the principal facts regarding the development of the committee of your Commission.

Regarding the so-called standard Child Labor Law, I will only say that it has grown up by a process of accretion. It originated from the work of Mrs. Florence Cooley, Secretary of the National Consumers' League, who many years ago began to compile the best statutes existing in any of the states and worked them into the form of a law. When the National Child Labor Committee was organized six years ago, we took this law and we have been adding to it, changing and revising it as better laws were passed in any of the states, but there was nothing classified or arranged when it was handed over to your committee. So it remains for a body of legal minds to take up this work and re-classify it, and the result is largely due to Mr. Bailey, who has spent a great deal of time on it. The only contribution I have been able to make was in preparing annotations, references to various state laws, and various decisions.

I suppose the Commission would like to know some of the reasons for our desiring the adoption by this Conference of a uniform law on the subject. Perhaps the principal reason is that in our judgment the time has come when the sentiment all over the country indicates a desire for uniformity in dealing with a subject of so great and vital importance.

Many states took the unscientific position that if a child was already handicapped by poverty at home the state instead of being an auxiliary of the parent would remove the protection which it gave to a child not so circumstanced, and thus would

still further handicap the former. We have succeeded in repealing such unreasonable provisions in many of the states, and today the child of the poor parents is granted the same privilege to protection by the state that the child of more fortunate parents receives. A year ago the National Committee began an investigation of the conditions surrounding night messenger service. It was found that while day messenger service gives a boy an opportunity for coming in contact with business people and business methods the night service sent a boy out to saloons, gambling houses and houses of ill fame. The committee have succeeded in having a bill passed by the New York legislature forbidding the employment of any boy as a messenger between ten o'clock at night and five o'clock in the morning under the age of twenty-one years.

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I believe that carefully compiled statistics will show that child labor is the most extravagant and expensive kind of labor, and that the manufacturer who gets along without employing child labor has an advantage over his competitors. Recent reports from cotton manufacturing towns in New England show that there is not a cotton mill that has been injured or put out of business by the enactment of rigid child labor laws.

The point we make is that there are a great many manufacturers who believe that they are injured by the adoption of such laws, who believe that they work to their disadvantage, but we have been seeking to show them that when such laws are adopted in other states their competitors will be under the same conditions as they are and they will not suffer at all. Because employers regard this inequality of law as a handicap they impress legislative committees, and this fact stands as a great obstacle to our work.

I regretted to learn from Mr. Bailey this morning that there is no likelihood of the report of this committee being adopted at this session. The coming winter is going to be a very important one in legislative activities. Our committee has already received calls from local committees and individuals interested in twenty-five states asking our aid in securing amendments to child labor

laws, and if we could have the great aid of this Conference it would serve to facilitate the efforts that are being made all over the country to improve these laws. I might suggest that in my opinion the regulation of child labor is a subject that will not probably for many years be perfected. It is in a state of evolution, and if we wait until we can present to the country an absolutely perfect plan for a uniform child labor law we will never get anywhere because every year brings new conditions and new problems and every year sees the necessity for change. When a plan that seems to be workable can be presented if it needs still further revision then it can be made; but let us have a beginning.

Our committee has sought to co-operate with all social forces everywhere that are working for the amelioration of the child—physicians, teachers, moral and educational forces in all communities; and now if we can have the co-operation of the lawyers of this country represented in this great Association standing behind us in our efforts to regulate the conditions of employment of children, then I am sure that progress will indeed be made.

I thank you for your attention.

William H. Staake, of Pennsylvania:

I would like to ask Mr. Lovejoy if he has found any difference in the development of children between those who reside in the northern part of the country and those who reside in the extreme southern part of the country?

Mr. Lovejoy:

The question of the gentleman represents a popular notion. I have heard the statement made that there is earlier development among children who reside in the extreme South, but our investigations do not indicate that there is any basis of fact for the supposition. There is a difference in the age of development between the children of different races, but the age of fourteen years as the minimum has been agreed upon—tentatively, at least, because while some children are quite fully developed at twelve and one-half to thirteen years and some not until fourteen and one-half to fifteen years, the debatable ground between childhood and youth hovers around the fourteenth year.

The President:

I am sure we have all been enlightened by the very clear exposition of Mr. Lovejoy as a specialist upon this sociological question.

We will now proceed with the regular order, and I will appoint the following committees to serve for the ensuing year.

(*See List of Committees preceding these Minutes, page 20.*)

William H. Staake, of Pennsylvania:

On behalf of the Executive Committee I desire to report several matters.

Respecting the invitation to appoint a delegate to attend a meeting of the Association of Probate Judges of Michigan, at Saginaw, Michigan, it was deemed not timely for this Conference as a body representing the various states to send an accredited delegate to such a meeting, and the committee, therefore, recommend that the invitation be suitably acknowledged by the Secretary of the Conference, and stating the action of this body thereon.

The matter of appointing a special committee to take into consideration the subject of proper compensation for industrial accidents, urged by the National Civic Federation, received the careful thought of the committee, and it was decided to report to the Conference recommending the President to appoint a special committee of seven with a view to drafting a uniform law on the subject if deemed expedient.

The committee also resolved that the resolutions passed at the instance of the meeting in Washington last January should be considered as before this Conference for such action as may seem suitable.

In addition, that the committee have a confirmation of its action in approving the action of the Committee on Marriage and Divorce in retaining the services of William B. Crocker, and authorizing the payment of $250 to him for his services as expert for the committee, in addition to his expenses.

On motion, the report was received and accepted.

John C. Richberg, of Illinois:

May I ask whether the resolution adopted by the Washington meeting last January will be published in our proceedings?

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The President:

It will be contained as an appendix to the President's address.

E. W. Frost, of Wisconsin:

I move that the Conference do now go into Committee of the Whole for the purpose of resuming consideration of the Act on Marriages and Licenses to Marry.

The motion was seconded and carried, and the Conference resolved itself into Committee of the Whole, with C. W. Smith, of Kansas, in the Chair, and resumed consideration of the draft of a tentative act on the subject of marriages and licenses to marry.

(*The details of the discussion in Committee of the Whole are omitted.*)

The Committee of the Whole then rose, and the President resumed the Chair.

C. W. Smith, of Kansas:

Mr. President, the Committee of the Whole having had under consideration the second tentative draft of an act on marriages and licenses to marry begs leave to report that they have considered the same and report to the Conference recommending its approval thereof.

On motion, the report was received.

Samuel Williston, of Massachusetts:

I move that the act be referred back to the Committee on Marriage and Divorce with instructions to further consider the same and report to the next Conference with such amendment as after criticism, discussion and consultation they deem best, and also that a new draft of the proposed act be printed and distributed at least ninety days preceding the meeting of the Conference.

Seconded.

E. W. Frost, of Wisconsin:

On behalf of the committee I desire to state that we very willingly accept this disposition.

We understand that it comes back to us with the suggestion and amendments made in Committee of the Whole as our guide, and that we are given discretion as to reframing the act in accordance therewith?

The President:

The Chair so understands.

Charles E. Shepard, of Washington:

In at least one or two instances substitute sections have been suggested, and I think they ought to be printed along with the sections as originally drafted—that is, printed separately.

E. W. Frost, of Wisconsin:

We are willing to print those as notes; certainly.

E. C. Massie, of Virginia:

I would like to have the privilege also of offering amendments, and having those amendments printed in notes as well. I make this suggestion as a motion.

George Whitelock, of Maryland:

Does that mean that anybody may submit amendments and have them printed with the act as notes?

The President:

No. The motion just made by the gentleman from Virginia would restrict that privilege to him.

E. C. Massie, of Virginia:

I did not mean it to have that effect.

E. W. Frost, of Wisconsin:

I understand that if any gentleman proposes an amendment which modifies or changes the act as reported by the committee it may be put in a note appended to the act, or not, in the discretion of the committee. If that is the understanding, the committee is content.

The President:

Unless there is objection, it will be so understood. The Chair hearing no objection it is so ordered.

W. O. Hart, of Louisiana:

I move the reference to the Executive Committee of the following resolution:

Resolved, That the Executive Committee be instructed to present a rule requiring all amendments to any proposed act to be written out and signed by the Commissioner making the same before being considered or debated.

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The President:

By unanimous consent the resolution offered by the gentleman from Louisiana will be referred to the Executive Committee.

It has been moved and seconded that the report of the Committee on Marriage and Divorce, containing the tentative draft of act on marriages and licenses to marry be referred back to the Committee on Marriage and Divorce with directions to further consider the same in the light of the suggestions and discussions that have taken place; that the committee be authorized in their discretion to annotate the suggestions and amendments and to note the same, and to circulate the revised draft at least ninety days before the next Conference. All in favor of this motion will signify the same by saying aye; opposed, no.

Carried.

The motion prevails, and the Conference will now take a recess until half past 2 o'clock.

The Conference then took a recess until 2.30 P. M.

AFTERNOON SESSION.

The President:

The Conference will be in order.

Samuel Williston, of Massachusetts:

The committee appointed to draft resolutions in regard to the death of Prof. Ames is ready to report.

The President:

The Conference will give attention to the report.

Samuel Williston, of Massachusetts:

To the Conference of Commissioners on Uniform State Laws:

Your undersigned committee appointed to draft and present suitable resolutions of respect to the memory of James Barr Ames, late Commissioner from the State of Massachusetts, who died on

January 8, 1910, in the 64th year of his age, beg leave to report as follows:

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Mr. Ames had devoted his life with rare singleness of purpose to the study and teaching of the common law. He never engaged in the practice of his profession, but on his graduation from the Harvard Law School, became himself a teacher of law. From 1873 until the year of his death, without intermission, he taught in the same school, and since 1895 had been its dean. During all these years he was a student and writer as well as a teacher of law and he had won a reputation extending beyond the limits of this country by his writings on the history of the law. Perhaps even more remarkable than his historical learning, was his power of harmonizing and unifying legal doctrine. His gifts for imparting his knowledge were also unusual; and in his every word and act were reflected the fineness and nobility of his nature. He was much interested in the work of the Conference and at the time of his death had in hand a draft of act to make uniform the law of partnership.

We, therefore, present for adoption the following resolutions:

Resolved, That we are deeply sensible that in the death of James Barr Ames this Conference has lost a member whose learning, skill and industry were freely placed at its service and whose personal character and charm of manner made association with him a pleasure. In common with his family and friends, we deplore his loss.

Be it further Resolved, That these resolutions be spread upon our minutes and a copy of them transmitted to the family of our late associate.

Samuel Williston,
J. R. Thornton,
Francis M. Burdick,
Committee.

Hollis R. Bailey, of Massachusetts:

As a pupil of Dean Ames, as a friend, and as one of his neighbors for many years, I desire the privilege of seconding the adoption of the resolutions.

Frederick G. Bromberg, of Alabama:

I suggest, Mr. President, that the resolutions be adopted by a rising vote.

The President:

Gentlemen of the Conference, you have heard read the resolutions in respect of the lamented death of James Barr Ames, a distinguished member of this Conference. All in favor of their adoption will signify the same by rising.

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Adopted.

The Chair then announced the names of the Committee on Compensation for Industrial Accidents, stating that although these names necessarily were read in order, it was not intended by the Chair to appoint any member of the committee as its Chairman, thinking that it would be best for the committee to elect their own presiding officer: John H. Wigmore, Illinois; Aldis B. Browne, District of Columbia; Charles Thaddeus Terry, New York; John R. Hardin, New Jersey; John R. Emery, New Jersey; Peter W. Meldrim, Georgia; Hollis R. Bailey, Massachusetts.

Gentlemen, the regular business next in order is the consideration of the report of the Committee on Wills, Descent and Distribution.

W. O. Hart, of Louisiana:

The report is in print and a copy has been sent to every member of the Conference. The committee made a report last year, but the matter was recommitted for further consideration and report this year.

On behalf of the committee, I move that the law reported by the committee be approved and recommended to the various states for adoption.

John Fletcher, of Arkansas:

I second the motion.

(*Discussion on act proposed by committee is omitted.*)

Ernst Freund, of Illinois:

I do not think the proper title is given here for the act, and I move to amend the title as printed by making it read:

An act relative to wills executed without this state.

Seconded.

The President:

The question now is upon the motion of Prof. Freund changing the title of the act so that it will read: "An act relative to wills executed without this state."

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All in favor of making the title to read in that way will signify the same by saying aye; opposed, no.

Carried.

Charles Thaddeus Terry, of New York:

I move as an amendment to the title, as established by the last vote, the addition of the following words: "And to promote uniformity among the states in that regard."

Seconded and carried.

The President:

The question is now upon the adoption of the act as amended. Are you ready for the question?

Nathan William MacChesney, of Illinois:

In Illinois, at least, the act would have to be redrafted before it could be passed, and I believe the same thing would be true in most of the states. The sections would have to be numbered and there would have to be an enacting clause. I, therefore, move that the act be amended so as to read:

"Section 1. Be it enacted," etc., giving the name of the people of the state or of the commonwealth, as the case may be.

Seconded.

W. O. Hart, of Louisiana:

The committee will accept the amendment suggested by the gentleman from Illinois.

The President:

The amendment suggested having been accepted by the committee, the question is on the adoption of the act as amended. All in favor of so doing will signify the same by saying aye; opposed, no—

Talcott H. Russell, of Connecticut:

On this question I call for a vote by states.

The President:

The Secretary will call the roll of states.

The roll was called with the following result:

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AYE:

Alabama
California
District of Columbia
Illinois
Kansas
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Nebraska
New York

AYE:

Pennsylvania
Rhode Island
South Dakota
Texas
Virginia

NAY:

Arkansas
Connecticut
Porto Rico
Washington
Wisconsin

Nineteen ayes and five nays.

The President:

The act is approved and adopted.

NOTE.—Copy of uniform "Act relative to Wills Executed without this State and to Promote Uniformity among the States in that Respect," in the final form approved by the Conference, is appended at page 223.

W. O. Hart, of Louisiana:

On behalf of the committee I present the second bill and move its adoption.

(*Discussion in connection with this act is omitted.*)

Ernst Freund, of Illinois:

I would move that this act be recommitted to the committee.

Seconded and carried.

W. O. Hart, of Louisiana:

It seems to me that as this act has been recommitted the other act should also be recommitted. I, therefore, move a reconsideration of the vote by which act No. 1 was approved.

Seconded and lost.

W. O. Hart, of Louisiana:

The committee now offer the following resolution:

Resolved, That the Commissioners use their best endeavors to secure the adoption in their respective states of an act entitled, "An act relative to wills executed without this state and to promote uniformity among the states in that respect."

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Seconded and carried.

Amasa M. Eaton, of Rhode Island:

I desire to offer the following resolution:

Resolved, That the Committee on Vital Statistics be authorized to print the Uniform Act on Vital Statistics submitted by that committee to the Conference in 1908, and to distribute copies thereof among the members of the Conference and others at least ninety days before the next Annual Conference, and that said uniform act be taken up for consideration at said Conference.

Seconded and carried.

The President:

The next matter is the further consideration of the Uniform Incorporation Act.

The Conference then resolved itself into Committee of the Whole for the purpose of further considering the draft of an act to make uniform the law of the incorporation of business corporations, with C. P. Black, of Michigan, in the Chair.

(*Details of discussion in Committee of the Whole are omitted.*)

The Committee of the Whole rose, the President resumed the Chair, and the Chairman of the Committee of the Whole reported progress and asked leave on behalf of the Committee of the Whole to sit again, which leave was granted.

The Conference then adjourned to Monday, August 29, 1910, at 9 A. M.

FOURTH DAY.

Monday, August 29, 1910, 9 A. M.

The President in the Chair.

The President:

When the Conference adjourned on Saturday we had received the report of the Committee of the Whole having under discus-

sion the Uniform Incorporation Act. I suggest, in view of the absence this morning of certain gentlemen who have some reports to make, that if it is the pleasure of the Conference we now go into Committee of the Whole and rise say fifteen minutes before the usual hour of adjournment in order to dispose of those routine matters.

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W. O. Hart, of Louisiana:

Mr. President, I desire to read this communication received by me this morning:

New Orleans, La., August 27, 1910.

My Dear Hart: I reached here late today. Saw the Governor about 11.30 P. M., was tendered the appointment of United States Senator, and accepted.

I would be glad if you will consider this as a message through you to the Conference. Give my love to all the members who remain at the meeting and say to them that notwithstanding my appointment as Senator I expect to continue my membership in the Conference and hope to assist in their labors for the general good for many years to come.

I have concluded to go home in the morning, and will not come back to Chattanooga.

Respectfully your friend,
J. R. Thornton.

Ralph W. Breckenridge, of Nebraska:

Apropos of the letter just read by Mr. Hart, I desire to offer the following preamble and resolutions:

Whereas, This Conference has been advised of the appointment of our colleague, the Honorable J. R. Thornton, as United States Senator from Louisiana, and desiring to express our graticafition at the honor done one so worthy,

Be it Resolved, That we extend our most cordial congratulations to our friend and colleague upon his appointment to the high office of Senator of the United States, and to the people of Louisiana and the nation on the selection of one so eminently representative of the highest and best things in American life.

Resolved further, That the President of the Conference send a telegram to Senator Thornton in the name of all the members of the Conference extending our congratulations and affectionate regards.

Seconded.

The President:

It affords me very great pleasure to put the question on this resolution.

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Carried.

The Conference then resolved itself into Committee of the Whole, with Stephen H. Allen, of Kansas, in the Chair, and resumed consideration of the draft of an act on uniform incorporation law.

(*Details of discussion in Committee of the Whole are omitted.*)

The Committee of the Whole rose and the President resumed the Chair.

S. H. Allen, of Kansas:

Mr. President, the Committee of the Whole has had under consideration the draft of a uniform incorporation act, and reports progress and asks leave to sit again.

On motion the report was received and the request granted.

S. N. Hawkes, of Kansas:

The Auditing Committee desires to report that it has carefully examined the report of the Treasurer and the vouchers accompanying the same and finds it to be correct and recommends that the accounts of the Treasurer and his report be approved.

On motion, the report of the Auditing Committee was accepted, and the report of the Treasurer thereupon approved.

C. P. Black, of Michigan:

Mr. President, and members of the Conference, on behalf of the committee appointed to draft suitable resolutions in regard to the death of Lawrence C. Fyfe, of Michigan, I desire to present the following:

To the Conference of the Commissioners on Uniform State Laws:

The undersigned special committee, to whom was referred the matter of drafting and reporting to your honorable body suitable resolutions to the memory of Lawrence C. Fyfe, late a member of your body from the State of Michigan, in compliance with your direction, report as follows:

Mr. Fyfe was born at Isle Aux Noix, Lake Champlain, May 15, 1850, but in early life removed to and was educated in Scotland,

where he resided until he attained his early manhood, when he returned to this country, and located in Western Michigan. He studied law and entered upon the practice of the same while comparatively a young man. His rise in his profession was rapid and he soon became recognized as a leading lawyer in his section of the State. While it cannot be said that his tastes led him into the domain of politics, yet when important questions arose, he met his duty as a citizen with an honest and resolute will. He was elected a member of the lower house of the Michigan legislature in 1882 and in the session following was the acknowledged leader of his party in the great contest over the election of a United States Senator, which continued through more than forty legislative days. He was at this session chairman of the House Judiciary Committee, and discharged his duties with marked ability and fairness. His inclination to closely follow his profession led him away from the strife of politics, and not until the Constitutional Convention of 1908 did he again consent to respond to the call of his fellow citizens to serve them in a political way. In that year he was chosen a member of that convention and through his honest and earnest efforts, many useful reforms were made a part of the organic law of his state. In 1909 the legislature of Michigan provided for the appointment of three Commissioners by the Governor, on Uniform State Laws, and Mr. Fyfe was one of the first three appointed. At the time of the last Annual Conference of your body, he was in Europe, where he had gone hoping to secure restoration of his then failing health. Upon his return he continued to fail in health until his death occurred upon the 15th day of November, 1909.

In the death of Mr. Fyfe the State of Michigan has lost an able and upright citizen, and this Conference of Commissioners on Uniform State Laws has been deprived of one, whom we would have esteemed highly for his lovable traits and polite manners, but above all for his keen perception of legal principles and his ability to present the same in precise language easily to be understood.

Your committee, therefore, present for adoption the following resolutions:

Resolved, That we are sensible that in the death of Honorable Lawrence C. Fyfe, of Michigan, this Conference has lost a member whose learning would have been of great value to our body and whose genial ways and courtly manners would have endeared him to us all, and we deeply deplore our loss and extend our sympathy to his bereaved family.

Be it further Resolved, That these resolutions be spread upon the minutes of this Conference and a copy of them transmitted to the family of the deceased.

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C. P. Black,
S. H. Allen,
Jacob Rohrback,
Committee.

On motion the report was received and the resolutions adopted by a rising vote.

Nathan William MacChesney, of Illinois:

I wish to inquire whether the President has appointed the standing committee recommended by the special committee to report upon the advisability of co-operating with the American Institute of Criminal Law?

The President:

The situation in regard to that is this: The committee made its report, through Mr. Russell, of Connecticut, Chairman, and the resolution was not acted upon by this body. Therefore, the matter stands as left on the report of the special committee.

Nathan William MacChesney, of Illinois:

Then I move that the matter be taken up now.

Seconded.

W. O. Hart, of Louisiana:

I move as an amendment to the motion that Article III, Section 2, of the Constitution, be amended by adding after the word "publicity" the words "fifteen, to co-operate with the American Institute of Criminal Law on Matters Affecting Penal Law."

Also that Section 9 of the By-laws be amended in the same way.

If, however, it is not the desire of the Conference to take this matter up at once I would move that it be referred to the special committee.

The President:

The Chair would remind the gentleman from Louisiana that the practice of the Conference has been not to appoint any delegates nor any standing committee to consult with any other body.

W. O. Hart, of Louisiana:

Then I will change my motion in this way: I move to add to Section 2 of Article III, after the word "publicity" the following: "15. Criminal Law and Criminology."

Also, in Section 9 of the By-laws, to add: "15. Criminal Law and Criminology."

Talcott H. Russell, of Connecticut:

Mr. President, I move that the motion and the amendment be both referred to the Executive Committee.

W. O. Hart, of Louisiana:

Very well; I will accept that suggestion.

The President:

Then the Chair will refer the matter to the Executive Committee.

The hour for adjournment having arrived, the Conference will take a recess until 2.30 this afternoon.

Afternoon Session.

The President:

The Chair originally appointed Mr. Browne, of the District of Columbia, on the Executive Committee. Since his appointment other duties have arisen requiring Mr. Browne's attention and he has requested that he be relieved from service on that committee. The Chair, therefore, appoints Mr. James R. Caton, of Alexandria, Virginia, as a member of the Executive Committee in Mr. Browne's place.

The Chair also wishes to make a change in two committee assignments. On the Committee on Insurance I will relieve Mr. Shepard, of Washington, from duty, and appoint Mr. Hannibal E. Hamlin, of Maine. On the Committee on Uniform Incorporation Laws I will relieve Mr. Hamlin from duty, and appoint in his place Mr. Charles E. Shepard, of Washington.

The Executive Committee have held a meeting since our adjournment, and I understand they wish to submit a report on certain matters.

William H. Staake, of Pennsylvania:

On the question of the amendment of the Constitution and By-laws, the committee have approved of the same with the proviso that there be appended to it the words, "unless excused at the discretion of the Chair." The committee recognize that there may be times when it would be impossible to do that, and when on account of the emergency of the occasion the Chair might be willing to excuse the member.

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In that shape the amendment is recommended for adoption.

On motion, the recommendation of the committee was adopted.

William H. Staake, of Pennsylvania:

It was stated to the committee that Prof. Baldwin was going to take up this afternoon in the Bureau of Comparative Law the subject of the law governing airships and aviators, and that it might be well for the Conference to take up the study of the subject. The committee voted to postpone until its next meeting the consideration of any possible action in that regard.

The matter of the discontinuance of the Committee on Banks and Banking was referred to the committee, and the committee recommend that such committee be continued.

On motion, the report of the committee was adopted.

William H. Staake, of Pennsylvania:

In respect to the amendment of the Constitution and By-laws referring to the creation of a Committee on Criminal Law, the committee voted to recommend that no standing committee be appointed on the subject, but that the Conference from time to time shall, as necessity arises, appoint a special committee on that subject.

On motion, the report was adopted.

The Conference then resolved itself into Committee of the Whole and resumed consideration of the draft of a uniform incorporation act, with Charles W. Smith, of Kansas in the Chair.

(*The details of the discussion in Committee of the Whole are omitted.*)

The Committee of the Whole rose and the President resumed the Chair.

Charles W. Smith, of Kansas:

The Committee of the Whole, having had under consideration the proposed draft of an act to make uniform the law of incorporation begs leave to report the adoption by the Committee of the Whole of the first twenty sections of the proposed act.

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On motion, the report of the Committee of the Whole was received.

Charles Thaddeus Terry, of New York:

I move that the draft of an act to make uniform the law of the incorporation of business corporations be recommitted to the committee, with instructions to consider the subject further, and, after investigation and consideration, to redraft the act and have the same printed and distributed as in the case of other acts.

The motion was seconded and carried.

The President:

Is there any other business to come before the Conference at this time?

William H. Staake, of Pennsylvania:

A communication from the Tennessee Women's Suffrage Association was submitted to the Executive Committee.

The committee would suggest that whatever may be the individual views of members of the Conference on the subject of equal suffrage of men and women in the United States, it is not the province of the Conference officially to pass any resolution endorsing the efforts of American women or to express approval of the granting of the ballot to women.

Talcott H. Russell, of Connecticut:

I move that this whole subject be referred to the Executive Committee with power.

The motion was seconded and carried.

William H. Staake, of Pennsylvania:

I move that the thanks of the Conference be tendered to the members of the Tennessee and of the Chattanooga Bar Associations, as well as to the citizens of Chattanooga, for their generous hospitality so bountifully expressed, and also to the newspaper men for their excellent reports of the proceedings of our meetings.

The President:

And will you add to your motion that thanks be also tendered to the Judges of the federal courts in this city who have kindly afforded us the facilities and conveniences of a meeting place?

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William H. Staake, of Pennsylvania:

Yes, sir; I most cheerfully include that in my motion.

The motion was seconded and carried.

The President:

Gentlemen, I thank you all for your courtesy and kindness expressed to your Chairman during this Conference, and I congratulate you upon the attention that has been given to the work.

As is usual, the Conference will now stand adjourned subject to the call of the Chair.

ADJOURNED MEETING.

Thursday, September 1, 1910, 9 A. M.

The President in the Chair.

The President:

Gentlemen, you will remember that when we adjourned it was to meet subject to the call of the Chair in view of the possibility that the American Bar Association might take some action that would require our attention.

W. O. Hart, of Louisiana:

Mr. President, before proceeding further, may I read to the Conference the following telegram:

ALEXANDRIA, LA., August 31, 1910.

WALTER GEORGE SMITH, Hotel Patten, Chattanooga, Tenn.

The message of the Conference concerning my appointment as United States Senator received, and my heart goes out to my brother Commissioners in loving and grateful appreciation.

J. R. THORNTON.

The President:

This telegram is in response to the congratulatory message sent to Judge Thornton by the Conference when the news came to us that he had been tendered the high office of United States Senator from Louisiana.

You all heard Judge Farrar's substitute resolutions which

were presented in the American Bar Association, in place of those offered by the Committee on Commercial Law and the Committee on Uniform State Laws, and you recall that he objected to Sections 17 and 14, respectively, because there was no limit of time fixed. Now, Judge Farrar is a man who does not make an objection lightly. He is not a theorist merely, but is a lawyer in large practice in New Orleans, especially engaged in corporation practice, and anything that comes from him should be received with great attention. After the meeting was over, I, together with Mr. Russell, the Chairman of the Committee on Commercial Law, had a conversation with Judge Farrar, and he said to us that he desired that this matter should be considered by the Commissioners and a public meeting held on the subject to which all interests should be invited.

Mr. Russell, on behalf of the Committee on Commercial Law, assured him that if the substitute resolutions were withdrawn, the committee would hold a public meeting, as Judge Farrar suggested, the meeting to be held at some convenient time after the vacation season is over.

Now I have asked you to meet this morning in order that you might pass a resolution referring the matter of Judge Farrar's substitute to the Committee on Commercial Law with instructions to consider the same carefully and report to the Conference at a subsequent meeting.

John Fletcher, of Arkansas:

I make that motion, sir.

S. H. Allen, of Kansas:

I second it.

The President:

Is there any discussion? If not, all those in favor of the motion will say aye; opposed, no.

Carried.

I will ask Judge Staake to act as Secretary *pro tem.* of this meeting, as Mr. Terry has left the city.

As there is no further business, the Conference will now adjourn.

CHARLES THADDEUS TERRY,
Secretary.

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PRESIDENT'S ADDRESS

BY

WALTER GEORGE SMITH,

OF PENNSYLVANIA.

Gentlemen of the Conference:

Owing to the fact that during the past year but comparatively few of the states have held sessions of their legislatures, I cannot report a very large extension of the uniform laws which have been drafted by this Conference. None the less, the progress has been encouraging.

Congress passed the Warehouse Receipts Act, thus adding the District of Columbia to the roll of states and territories that have adopted the Uniform Act. The lower house adopted an act relating to bills of lading, known as the Stevens Act, defining "order" bills of lading and "straight" bills of lading wherever the terms are used in interstate commerce, but the bill was not reported by the Senate Committee. The bearing of this act upon the Uniform Bill of Lading Act will appear in the report of the Committee on Commercial Law of the American Bar Association.

Maryland has passed all of the commercial acts, four having been adopted at the last session of her legislature.[1]

Massachusetts has passed the Bill of Lading Act and the Transfer of Stock Act, also an act in relation to marriage statistics, and has made an appropriation for her Commissioners.[2] Thus Maryland and Massachusetts have brought themselves fully abreast of the work of the Conference on commercial subjects, as all five of the uniform acts are now upon their statute books.

[1] C. 306, Acts 1910; c. 406, Acts 1910; c. 73, Acts 1910.

[2] For Uniform Negotiable Instruments Act see Rev. Laws Mass., c. 73; Acts 1910, c. 417. Uniform Warehouse Receipts Act, Acts 1907, c. 582; Acts 1909, c. 227. Uniform Sales Act, Acts 1908, c. 237. Uniform Stock Transfer Act, Acts 1910, c. 171. Uniform Bill of Lading Act, Acts 1910, c. 214.

Louisiana has passed the Transfer of Stock Act, the Uniform Law for the return of Marriage Statistics and an act making an appropriation for the expenses of her Commissioners.

In Ohio the Certificates of Stock Act and the Bills of Lading Act were both passed by the Senate, but owing to adjournment were not reached upon the house calendar.

In New York the Transfer of Stock Act was passed, but there being certain technical defects of verbiage it was vetoed by the Governor. In order that there may be no misunderstanding as to the reasons for the failure of this act in New York, I have set out the message in full in an appendix to this address. The jurisdictional clauses of the Uniform Divorce Act were passed by the Assembly, but left unacted upon in the Senate.

Georgia, Mississippi, New Jersey, Rhode Island, South Carolina and Virginia, the other states whose legislatures met during the year, failed to pass any of the acts. In Mississippi sufficient interest in the subject was aroused to cause the legislature to pass a concurrent resolution, inviting the President of the Conference of Commissioners to address both houses upon the uniform commercial acts, and accordingly he went to Jackson on the 17th day of March, 1910, and was accorded a most courteous and patient hearing in the hall of the House of Representatives. Much interest was manifested in the subject of uniformity, but owing to the distraction attendant upon the election of a Senator of the United States and other political matters, no uniform legislation was enacted.

The Bill of Lading Act failed in Louisiana and Rhode Island because of the opposition on the part of certain representatives of railroad interests to Section 23. It will be remembered that this section provides for the conditions under which carriers shall be liable for non-receipt or misdescription of goods.[3] This

[3] Section 23. (Liability for Non-Receipt or Misdescription of Goods.) If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to

(a) The consignee named in a non-negotiable bill, or

(b) The holder of a negotiable bill,

who has given value in good faith, relying upon the description

section was adopted after full and careful comparison of views between the members of the Committee on Commercial Law and representatives of a number of leading railroads, and it has been thought strange, therefore, that these interests should have opposed it. It was at first thought by the President of the Conference and the Commissioners from Louisiana, with whom he consulted, that it might be wise to permit the bill to pass with this section so amended as to relieve the carriers from liability for damages caused by non-receipt of the goods for which a bill of lading had been issued on its behalf, but on further reflection and in view of the strong representations of Francis B. James, Esq., former Chairman of the committee, it was concluded that this provision was too important to be given up. Accordingly, the bill was withdrawn in Louisiana.

It is to be hoped that the opposition to the provisions of Section 23 will not be pressed by the representatives of the railroad companies. It is so obviously just that railroads should be responsible for all the stipulations of a bill of lading issued by their

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therein of the goods, for damages caused by the non-receipt by the carrier or a connecting carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue.

If, however, the goods are described in a bill merely by a statement of marks or labels upon them or upon packages containing them or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or it is stated in the bill that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill, such statements, if true, shall not make liable the carrier issuing the bill, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. The carrier may, also, by inserting in the bill the words "shipper's load and count," or other words of like purport, indicate that the goods were loaded by the shipper and the description of them made by him; and if such statement be true the carrier shall not be liable for damages caused by the improper loading or by the non-receipt or by the misdescription of the goods described in the bill.

direction and under their authority that it is difficult to conceive any argument on the other side. It cannot be doubted that the companies have real cause to complain of the hostile spirit in which much of the legislation affecting them has been conceived; but the short-sighted policy that for so many years marked the management of many of them has been largely instrumental in bringing about the present troubles. As long ago as 1886, the causes of complaint against the railroad companies were set out in the report of the Cullom Committee to the United States Senate, in eighteen paragraphs that constitute the severest indictment, and of these an eminent authority says that "the substantial justice of nearly every one was generally admitted by the railroad managers."[4] Among the counts of the indictment were:

"10. That in the absence of national and uniform legislation, the railroads were able, by various devices, to avoid their responsibility as carriers, especially on shipments over more than one road, or from one state to another, and that shippers found great difficulty in recovering damages for the loss of property or for injury thereto."

and

"12. That railroads often refused to recognize or be responsible for the acts of dishonest agents acting under their authority."[5]

Mr. McPherson's book was published in 1909. In commenting upon these two paragraphs he says:

"There is not now any lack of national legislation, but the enactments of the various states are sadly lacking in uniformity. Competition, especially since the abolition of secret concessions, has forced the railroads to give more care to the settlement of claims for loss and damage in order that they may retain the business of the claimant. Indeed, fictitious claims—which are obviously equivalent to rebates—have been paid for this purpose."

And as to the twelfth charge he says:

"During the two years' survey that has resulted in the preparation of this book, no such complaints have come to the writer's attention."[6]

[4] McPherson Railroad Freight Rates, 247.

[5] *Ibid.*, p. 246.

[6] McPherson Freight Rates, p. 402.

It is the more difficult to understand, therefore, why there should be either secret or open opposition on the part of representatives of railroad companies to Section 23 of the Bill of Lading Act.

Our Committee on Commercial Law, in its report of 1908, made reference to the apparent desirability, if not necessity, for uniform legislation to define more accurately the rights and liability of common carriers, and again adverted to the same subject in 1909. Recent developments lead me to believe that the time is ripe for the preparation of uniform legislation on this subject and I recommend that the Committee on Commercial Law be requested to prepare an outline of the principles to be embodied in such an act, to the end that expert assistance may be obtained at as early a day as our finances will warrant. Recent heavy losses arising from a careless practice of some carriers in issuing bills of lading for goods in anticipation of their receipt, have led to a discussion of the whole subject among bankers and merchants.[7] It was suggested that the alarm and consequent discredit cast upon bills of lading by the occurrences referred to might be quieted by the device of having the genuineness of bills of lading guaranteed by outside parties, but the cumbersome and expensive nature of such a remedy is obvious. Another and better suggestion is that the railroad companies should be in all cases held liable for bills of lading issued in their name, and to guard against the acceptance of bills issued by employees without authority, a validity certificate of the authority of the signing official be attached or stamped upon the bill.[8]

It is not possible to guard against every risk of forgery, but clearly the principle embodied in Section 23 is just and necessary. The statutes of ten of the states, as I am informed by the former Chairman of the Committee on Commercial Law, embody substantially the principle of Section 23, viz: Alabama,

[7] New York Journal of Commerce, July 20, 1910; July 21, 1910, editorial.

[8] The following is a form adopted at a meeting of railroad officials and bankers, held at White Sulphur Springs, W. Va., July 19, 1910, and tentatively accepted by all lines west of the Mississippi River represented at the meeting. The southern railroads have agreed to

Arkansas, Louisiana, Michigan, Minnesota, Mississippi, Pennsylvania, Washington and Wyoming, while the common law is held to cover the same results in Illinois, Kansas, New York, Nebraska, Pennsylvania and Tennessee, those of Illinois and Tennessee being somewhat ambiguous.

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A list of the states and territories that have adopted uniform acts to this date will appear in the Secretary's report.

JUDICIAL DECISIONS.

It has been customary for my predecessor to set out in some detail the decisions of the courts of the various states which have interpreted any of the sections of the various uniform acts, and it is obviously valuable to the Commission to know what the temper of the courts may be towards the product of our labors. I shall not take time or space, however, in giving the facts of the various cases that have been brought to my attention relating to the Negotiable Instruments Act, as I incline to agree with the sentiment expressed at the last meeting of the Association, that this act has been so universally adopted it does not now require so great attention of the Commission. Besides, special works upon the subject carefully annotated are appearing from time to time that give full and accurate statements of the various cases decided by the highest courts upon this subject. Some reference to the cases brought to my attention, however, will not be out of place.

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put it into use; southwestern railroads were (August 11, 1910) in process of agreement with the bankers' committee.

(To be Attached to Order Notify Bills of Lading for Export Cotton Issued by Agents of this Company.)

Bill of Lading Signature Certificate No.........

The........................Railroad Company hereby certifies:

That......................is its regularly appointed............

Agent at......................, and as such is authorized to sign Bills of Lading in accordance with the regulations of this Company, and that the signature on the attached Order Notify Bill of Lading No............, dated (place of issue).......................... (date)......................., covering..................Bales of Cotton marked..................., is his signature.

(Date)................. ....

The report of Charles Thaddeus Terry, Esq., Commissioner from New York, states that:

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"Since the last Conference of Commissioners, held in August, 1909, there have been in the State of New York altogether some[9] sixteen reported decisions under the Negotiable Instruments Act. In none of these decisions does the court refer to the efforts of the state in regard to uniformity of state legislation, and in only one of them does the court state that the Negotiable Instruments Act has changed the common law on the subject."

This case was decided by an inferior court. It interpreted Section 96 of the Negotiable Instruments Law and decides that a bona fide holder of a note in due course holds it free from any taint of usury and can recover even if the note was given for a usurious consideration.[10]

Mr. Terry adds that:

"In five of the decisions . . . . the court does not mention the Negotiable Instruments Act. In others, the court refers to the act and decides the questions at issue in accordance with the meaning of the sections of the statute under discussion. With few exceptions, the courts continue to confine their citations and references to other cases decided by our own courts."

None of these cases are from courts of last resort, with one exception, viz.: in the matter of Pirie, 198 N. Y. 209, where in passing upon a promissory note to which a seal was attached, but no phrase such as "witness my hand and seal," the seal was held to be mere surplusage and the note a negotiable instrument under Section 25 of Chapter 39 of the Consolidated Laws.

Commissioner Krauthoff, of Missouri, calls attention to a number of cases decided in the courts of his state, interpreting

[9] Klar *vs.* Kostiuk, 65 Misc. 199; George *vs.* Bacon, 123 N. Y. Supp. 103; Usefof *vs.* Herzenstein, 65 Misc. 45; Becker *vs.* Hart, 135 App. Div. 785; Tanners Nat'l Bank *vs.* Lacs, 136 App. Div. 92; Adler *vs.* Levinson, 65 Misc. 514; Nat'l Park Bank *vs.* Koehler, 65 Misc. 390; Wray *vs.* Miller, 120 N. Y. Supp. 787; Pfister *vs.* Heins, 136 App. Div. 457; Wilson *vs.* Peck, 66 Misc. 179; Madden *vs.* Gaston, 137 App. Div. 295; McBride *vs.* Illinois Nat'l Bank, 121 N. Y. Supp. 1041; Caras *vs.* Thalmann, 123 N. Y. Supp. 97; Carpenter *vs.* Hoadley, 123 N. Y. Supp. 61; Studebaker Bros. Co. *vs.* Fuerther, 123 N. Y. Supp. 118.

[10] Klar *vs.* Kostiuk, 65 Misc. 199.

the Negotiable Instruments Act, the only one of the commercial acts adopted in that state.

In Walker *vs.* Dunham[11] it was held in the trial court that the adoption of the Negotiable Instruments Act had not changed the rule of law, theretofore, prevailing in Missouri to the effect that one whose name appeared on a promissory note in which he was not the payee, was the maker, notwithstanding the fact that the name was signed on the back of the note. In other words, a person signing his name on the back of a note prior to the delivery of the note to the payee (such person so signing not being the payee) became the maker and not the endorser. On appeal, the court, citing among other cases that of Rockfield *et al. vs.* First National Bank,[12] decides that the former rule was abrogated by Sections 63 and 64 of the Negotiable Instruments Act. In a full review of the law on the subject the court remarks:

"To hold that these sections, particularly Section 63, does not govern in our state, because before its enactment our courts had held otherwise, would be to perpetuate that very confusion and dissimilarity between our law-merchant and that of the other great commercial states, to obviate which is stated in the title of the act itself is one of the great objects of its enactment."

Other interesting decisions of various of the Missouri courts have been rendered in the course of the year, interpreting Section 13 of the act relating to filling in a blank date.[13]

Sections 30 and 31 as to what constitutes negotiation.[14]

Section 52 which defines a holder in due course.[15]

Section 16 as to what constitutes effectual delivery.[16]

Section 62 as to the liability of an acceptor and Section 188 as to the effect where the holder of a check procures it to be certified.[17]

[11] 135 Mo. App. 396.

[12] 77 Ohio St. 311.

[13] Bank of Houston *vs.* Day, St. Louis Ct. App., 122 S. W. Rep. 756.

[14] Sublette *vs.* Brewington, Kansas City Ct. App., 122 S. W. Rep. 1150; Scotland County Nat'l Bank *vs.* Hohn, St. Louis Ct. App., 125 S. W. Rep. 539.

[15] Bank of Ozark *vs.* Hanks, Springfield Ct. App., 125 S. W. Rep. 221.

[16] Chitwood *vs.* Hatfield, 136 Mo. App. 688.

[17] Nat'l Bank of Rolla *vs.* First Nat'l Bank of Salem, 125 S. W. Rep. 513.

In another case the court, quoting Sections 62, 185 and 188 of the Negotiable Instruments Law, holds that the rule announced in Price *vs.* Neal[18] is now the law of Missouri in accordance with the provisions of the Negotiable Instruments Act, namely, that when the drawee of a check, to which the name of the drawer has been forged, pays it to a bona fide holder, he is bound by the act and cannot recover the payment.

Another case[19] holds that a certificate of deposit issued by a bank payable to the order of the payee is a negotiable instrument.

Commissioner Shepard, of Washington, reports a decision interpreting Section 59 of the Negotiable Instruments Law providing that when the title of anyone who has negotiated the instrument was defective, the burden is on the holder to prove that he acquired title in due course. This decision holds that this is but a statement of the general rule fixing the burden of proof, and is peculiarly applicable in an issue of fraud in the inception of the note,[20] and thus holding that under Sections 52 and 56 of the Negotiable Instruments Law one who buys from an insurance agent a note given to him for premiums amounting to less than the full sum of the premiums in violation of a statute prohibiting rebates or other discriminations, and who knows that the payee is such agent and the note was made for premiums, but who knows nothing more, is not a holder in bad faith, and the note is not void in his hands.[21] And that under Sections 26, 29, 52, 58, 59, 60 and 192 of Negotiable Instruments Law a joint maker is not entitled to show against a holder for value that he signed as an accommodation maker without value, to the plaintiff's knowledge.[22]

The gradual acceptance of the other commercial acts is made easier by the favor shown the Negotiable Instruments Law wherever it has been enacted. Although its provisions are not always cited by the courts, it has brought about substantial uniformity in thirty-eight of the forty-eight states.

[18] 3 Burr 1354.

[19] Dickey *vs.* Adler, Kansas City Ct. App., 127 S. W. Rep. 593.

[20] Ireland *vs.* Scharpenberg, 103 Pac. 801.

[21] Gray *vs.* Boyd, 104 Pac. 828.

[22] Bradley Eng. & Mfg. Co. *vs.* Heyburn, 106 Pac. 170.

Attention has been called to an ambiguity in Section 85 of this act. This section as adopted in all of the states that have accepted it, excepting New York, Missouri and Virginia (and Arizona, Kentucky and Wisconsin which omit it altogether) reads as follows:

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"Section 85 (Time and Maturity). Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday."

As is stated in a note to the act as printed in the pamphlet edition of the acts issued by this Conference, it is deemed better that the words "or becoming payable" should be inserted in the last sentence so it would read: "Instruments falling due *or becoming payable* on Saturday, etc." and this suggestion has been followed in New York, Missouri and Virginia. As the section twice used the word "payable" and then uses the words "falling due," doubts have been raised in cases where Friday is a legal holiday and the paper matures on Friday. The insertion of these words would seem to remove any doubt on this point.[23]

Prof. Williston refers to a case that arose under this section where it was sought to charge interest because certain notes which matured on Saturday were payable at a specified bank in Boston and not presented until the following Monday. It was claimed by the bank at which the notes were payable that they were due on Saturday and the presence of the fund in the bank where the notes were payable "operated as a tender of payment and, therefore, stopped the running of interest." The question was referred to counsel, who gave his opinion as follows:

"The language of the statute is not clear, and until it has been construed by the Supreme Court of this commonwealth we think that the only safe course for a bank to pursue, which holds a note

[23] See American Uniform Com. Acts, p. 158; Harvard Law Review for June, 1910, p. 603.

falling due on Saturday, is to present it for payment on Saturday so as to protect itself from any claim for negligence by the holder if the bank at which it is payable should have funds applicable to its payment on that day. If payment is refused on Saturday, the collecting bank should present it again for payment on Monday so as to charge the endorsers who are entitled to a present-succeeding day."[23]

In consequence of this opinion and in order to remove any ambiguity, the legislature of Massachusetts passed the following act:

"When the day of maturity falls upon Saturday, Sunday or a holiday, the instrument is payable on the next succeeding business day which is not a Saturday. Instruments payable on demand may at the option of the holder be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday. Provided, that no person receiving any check, draft, bill of exchange or promissory note payable on demand shall be deemed guilty of any neglect or omission of duty or incur any liability for not presenting for payment, or acceptance, or collection, such check, draft, bill of exchange or promissory note on Saturday. Provided also that the same shall be duly presented for payment, or acceptance, or collection, on the next succeeding day."[24]

This amendment has been criticised as being unnecessarily prolix, it being thought that the language used in the New York, Missouri and Virginia statutes removed any possible ambiguity. It would seem well that this subject should be considered, if possible, during this session of the Conference by the Committee on Commercial Law, so that a uniform amendment to the act be recommended to those states that have not yet adopted it.

Warehouse Receipts Act.

Through the courtesy of Commissioner Woolley, of Rhode Island, I have been furnished with reference to some cases bearing upon the Warehouse Receipts Act, now the law in nineteen states. A case interprets Section 18 of this act as to what constitutes a reasonable time to determine the validity of claims[25]

[24] Laws of Mass., c. 417, p. 23; Harvard Law Review for June, 1910, p. 603.

[25] Zuber *vs.* Mehrle, 112 N. Y. Supp. 1093 (Sup. Ct. App. Term).

as bearing upon Section 41 relating to the rights of a person to whom a receipt has been negotiated.[26]

Section 21 relating to liability for care of goods.[27]

Sections 17 and 18 relating to interpleader of adverse claimants and time to determine validity of claims.[28]

Section 27 defining what claims are included in a warehouseman's lien.[29]

THE NATIONAL CIVIC FEDERATION.

The cause of uniformity received great assistance by reason of the conference held under the auspices of the National Civic Federation, which began its sessions in Washington on January 17, 1910. The National Civic Federation is an organization which devotes itself to the advancement of the public interest by seeking through a comparison of views of representatives of all interests, to bring about a solution of the pressing questions that modern civilization has developed and our dual system of government in the United States has to some extent complicated. It seeks to bring together representatives of all organizations, whether of capital or labor, for a full, frank and amicable comparison of views, and it has already shown itself to have a powerful influence over public opinion. Following their own line of thought, some of the officers of this Federation conceived the idea of calling a conference on the subject of uniform legislation among the various states. Those who were not lawyers and some who were, were probably oblivious of the existence of the Conference of Commissioners on Uniform State Laws, but when their attention was called to its history and purposes, a very cordial co-operation in its work was promptly afforded it. The subject of the relations of this Conference to the work outlined by the Civic Federation on uniform laws was taken into careful con-

[26] Gross *vs.* Ajello, 116 N. Y. Supp. 380 (Sup. Ct. App. Div.).

[27] Buffalo Grain Co. *vs.* Sowervy *et al.*, 88 N. E. 569 (N. Y.); Levine *vs.* De Wolff & Co., 73 Atl. 73 (N. J.).

[28] New Jersey, etc., *vs.* Rector, 72 Atl. 968 (N. J.); Rector *vs.* New Jersey, etc., 75 Atl. 931.

[29] Alton *vs.* New York Taxicab Co., 121 N. Y. Supp. 221 (App. Div.).

sideration with the Executive Committee and, as a result, membership in the Federation was accepted by many of the Commissioners from the different states who were consulted in preparing the program and in the management of the Washington meeting. At that meeting, after the purpose of the Conference had been outlined by the Honorable Seth Low, of New York, and the large and intelligent body of delegates had listened to approving addresses by President Taft and Governor Willson, of Kentucky, the Honorable Alton B. Parker, of New York, was chosen President of the Conference. The business sessions were opened by an address from your President, who endeavored to present the full scope and significance of the national movement for uniform state laws as conceived by the American Bar Association and developed by this Conference. He explained in outline the five commercial acts, as well as the Divorce Act, and at the close of the Conference resolutions were adopted recommending to all of the states the adoption of four of the commercial acts as well as the Uniform Divorce Act, and urging that suitable appropriations be made for the Commissioners, and that the states that had not yet appointed them should appoint Commissioners. Not the least important of the resolutions was one recommending that wherever amendments to any of the uniform acts were proposed, they should first be submitted to the National Conference of Commissioners.

At the same time that this Conference was in session, the Governors of more than thirty of the states were also meeting in Washington, and the resolutions were submitted to that body by a committee from the Conference of the Civic Federation in a very strong and lucid address by Mr. Low as Chairman of the Committee on Resolutions. It is obviously of the first importance to the cause of uniformity that the Governors of the different states should be familiar with the purposes of this Conference and should lend their active aid to the work that it has in hand by urging upon their legislatures the passage of a law authorizing the appointment of Commissioners and appropriations for their expenses. Of the members of this Conference only those representing twenty-six states hold their offices by

reason of legislative action and only in twenty-four states are appropriations made for their expenses, leaving twenty-four states whose Commissioners pay their own expenses and who serve only on request of their Governors. It is, therefore, peculiarly gratifying to those who have the cause of uniformity at heart that this opportunity should have been afforded of presenting the subject personally to the Governors of so many of the states. The resolutions adopted by the Washington conference, indicating as they do the conclusions of thoughtful men and women representing such different interests, seemed to be of sufficient value in themselves to warrant their being made the subject of individual consideration by the members of this Conference, and I have, therefore, added them in the appendix to this address.

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It will be noted that the Washington conference refrained from expressing approval of the Transfer of Stock Act. This must not be interpreted as indicating any disapproval of the provisions of this act, but merely that it was withheld for further consideration owing to the fact that certain New York interests had not reached definite conclusions with regard to some of the provisions of the act, and other interests have done all in their power to defeat this and other of the commercial acts approved by this Conference because of the definition of value.[30] The same influences that have opposed the adoption of this definition before the Committee on Commercial Law and this Conference, presented their protest to the Washington conference and, therefore, it was with full knowledge that the principle was approved by that conference.

The Commercial Acts.

The whole subject has been so fully discussed during past sessions of this Conference, it is only necessary to refer to it now to show the line of cleavage. After years of careful thought,

[30] Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a certificate is taken either in satisfaction thereof or as security therefor. (Sec. 22, American Uniform Commercial Acts, p. 131.)

examination of authorities and comparison of views among those best qualified to pass judgment on the subject, it was decided by this Conference that the commercial interests of the country require uniform legislation on the subjects of bills of lading and certificates of stock, and that in drafting such legislation full negotiability ought to be given to these instruments of commerce if the Conference were to act in response to the business sentiment of the country and if the differing statutes as well as the decisions of the courts were to be brought into harmony. It is a matter of regret that opposition developed in the Conference has been carried before the public. We are bound to pay the tribute of respect to a minority, even though it be insignificant in numbers in comparison with the majority. Even where the views of but a single member conflict with those of his fellow Commissioners, his conscientious conviction based upon learning and observation will always challenge attention.

One of our colleagues, a Commissioner from New York, believes that he has found a divergence from the original and excellent plan adopted by this Conference of putting in the form of statutes only those principles of law on certain special subjects that have been crystallized into well settled principles and have been accepted by a preponderance of authority. He sees in the definition of value and in the definition that "a thing is done in good faith when it is done honestly, whether it be done negligently or not," such radical changes in the law as to exhibit not a codification of an existing law, but an endeavor to work a legal reform, and the latter endeavor he deems not only foreign to the purpose of this Conference, but dangerous as well.[a]

The general principle which has been consistently followed by this Conference has been in all cases to avoid attempting experiments and it would be a serious change if this principle were departed from. It is our main purpose, however, to adopt a rational basis of uniformity where uniformity of legislation is called for, and it will sometimes happen that there must be a departure from common law principles in order to attain the end in view, especially where statutes have been enacted in different

[a] Columbia Law Review, February, 1910, p. 118.

states where divergence has been brought about by interpretation of the courts.

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The intention of the Conference with regard to the Transfer of Stock Act and the Bills of Lading Act, after careful consideration, has been to make these instruments of commerce fully negotiable. Both of these documents of title were already clothed with a quasi negotiable character by mercantile usage and judicial decision, and the question presented to the Committee on Commercial Law and through them to the Conference was, whether or not uniformity could be best obtained by giving them full negotiable qualities. The test of the wisdom of their action is not to be found in any appeal to a theoretical standard or the authority of tradition, but whether or not they have acted in response to the prevailing sentiment among business interests. If by doing so they have taken a step in advance of the common law and pro tanto made themselves obnoxious to criticism as reformers, it is not for them to shrink from the designation. It is submitted, however, that it is not apposite to apply the criticisms very justly visited upon merely theoretical law reformers to such a body as this Conference, whose members have been appointed for the express purpose of bringing about uniform legislation harmonious with the preponderating sentiment of the entire country. It will hardly be contended that the wise rule which has tacitly been adopted in our work of adhering to the principles developed by judicial interpretation is not to be occasionally departed from, especially when unharmonious statutes exist among the different states, and a general rule is demanded by the business of the country, which is a step in advance of common law principles or even of former mercantile customs.

The Committee on Commercial Law has found that the commercial sentiment of the country demanded that bills of lading should be negotiable, not only in the same manner but to the same extent as promissory notes and bills of exchange. They found that statutes had been passed upon the subject in some of the states which were not in harmony. The courts differed in their interpretation of these acts. In 1880 the case of Shaw *vs.* Railroad Co., 101 U. S. 562, was decided, giving the view of the

Supreme Court as to the true interpretation of statutes of Pennsylvania and Missouri; and subsequently courts in Maryland and Louisiana showed the difference of statutory law in these states.[32] However these statutes may be approved or disapproved, they are not reconcilable. It was for the very purpose of bringing about one uniform standard of statutes as to the subjects dealt with that this Conference has been directing its efforts.

I do not propose to go over the arguments because, so far as this Conference is concerned, the matter is *res adjudicata,* but I feel it is not improper for me to note and to condemn the criticism that this Conference is showing a "tendency towards Benthamistic codification." Such an accusation will have a tendency to injure the Conference in the estimation of the profession, who are properly conservative of what has been established by the wisdom of generations of judicial decision, and may give the public the impression that mere notional theories have weight in our deliberations.

WORKMEN'S COMPENSATION.

Among the subjects most prominent before the public at this time is that of a proper workmen's compensation bill. Different expedients to meet admitted evils have been suggested and in some of the states, notably New York, statutes have been passed to alter the rules of the common law relating to negligence in the interest of justice to both employers and employees, but especially to the latter class. In an article written by P. Tecumseh Sherman, Esq.,[33] former Commissioner of Labor of New York State, he says:

"Injuries to employees of industry are due principally to the following causes:

(1) Negligence or fault of employer.
(2) Negligence or fault of employee injured.
(3) Negligence or fault of a fellow servant.
(4) Trade risks.

[32] American Uniform Commercial Acts, p. 244. Note to Sec. 31, Tiedeman *vs.* Knox, 53 Md. 612; Hardie *vs.* R. R. Co., 118 La. 254; Scheurman *vs.* Monarch Fruit Co., 123 La. 55.

[33] The Chronicle, July 28, 1910.

"According to the common law (which with many minor modifications by statute prevails generally throughout the United States) an injured employee is entitled to relief from his employer only for injuries due to the first of these four causes . . . . For injuries from accidents due to the three other causes injured employees are entitled to no relief from their employers."

It is further shown that accidents attributable to trade risks probably equal a minimum of about 70 per cent of all the accidents in factories. Both in Europe and in the United States the practical injustice of existing law is admitted by dispassionate thinkers.

It would seem to me that this Conference might well consider whether the time has not arrived for the preparation of a uniform law on this important subject, a law which should not impose too heavy a burden upon employers, one in which the interests of the public are carefully considered and where constitutional limitations are observed. In this connection the Conference will be interested to note the request of the Department on Compensation for Industrial Accidents and their Prevention of the National Civic Federation,[84] petitioning for the appointment of a special committee on the subject of compensation for industrial accidents. I recommend the subject of the appointment of such a committee to the careful consideration of the Conference.

[84] METROPOLITAN BUILDING, 1 MADISON AVENUE, NEW YORK CITY.
August 11, 1910.

Walter George Smith, Esq., President, Conference of Commissioners on Uniform State Laws, Land Title Building, Philadelphia, Pa.

MY DEAR SIR.—At a recent meeting of the Department on Compensation for Industrial Accidents and their Prevention of The National Civic Federation, it was unanimously resolved that we respectfully petition the Conference of Commissioners on Uniform State Laws to appoint a special committee on the subject of "Compensation for Industrial Accidents." It is our belief that this question is one which will be constantly before the people for the next few years—at least until a satisfactory solution is found. In view of the fact that a change from our present liability laws to the compensation principle will greatly increase the cost to employers of liability insurance, from present indications, it is rendered doubly essential that there be legislation practically uniform, especially in

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Uniform Divorce Bill.

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It is a source of disappointment that the jurisdictional clauses of the Uniform Divorce Bill failed to pass in the New York legislature, although they received the approval of the lower house of that body. So long as divorce statutes are to remain, it behooves the Commissioners to lend their efforts to obtaining the adoption of the jurisdictional provisions of the Uniform Act where public sentiment is not yet sufficiently educated to the acceptance of the entire act. The states being foreign to each other in all matters relating to divorce, there will remain uncertainty as to the validity of divorces with all the accompanying

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the industrial, competitive states. The Federation's Department on Compensation for Industrial Accidents, to which a large number of your members belong as individuals, is composed of four hundred employers, representative labor men, members of state compensation commissions, attorneys who have given special consideration to the subject, insurance experts, economists, state officials, and others concerned. This department is making an exhaustive study of the whole subject.

There are actively at work the three committees described below:

The "Legal Committee on Compensation," which is drafting a tentative compensation plan, the underlying principles already having been reported to this department.

The "Committee on Statistics and Cost" is securing data for the purpose of estimating the cost of substituting compensation for the present employers' liability laws.

The "Committee on Improvement of State Factory Inspection" has especially assigned to it the duty of recommending means to prevent accidents in commercial and manufacturing enterprises and uniform legislation covering safety devices.

Our Department on Compensation will be glad to furnish reports of its investigations and all information which may concern your committee, if one is appointed.

This work is of such interest to the entire industrial community that it is of immense importance to have whatever step we take in the right direction, and for that reason we hope the Commissioners on Uniform State Laws will take action along the line indicated and help to solve the problem.

Very truly yours,

August Belmont,

Chairman.

evils of a doubtful status of the parties and of danger to the legitimacy of children and property interests so long as the statutes of the states are not uniform on the subject of jurisdiction. In some states a foreign decree will not be recognized where no jurisdiction has been acquired from domicile or by personal service.[35] In the great majority of states it is not demanded that both parties should be subject to the jurisdiction either by reason of domicile or by personal service, and since the decision of the Supreme Court of the United States in Haddock *vs.* Haddock it leaves the status of the parties worse than doubtful.

As is well known, the Divorce Congress believed that they chose the lesser of the evils by adopting the theory that jurisdiction should be granted where one of the parties was a resident of the state, under careful restrictions as to the place where the cause arose and as to service of notice either personally or by publication. It is confidently believed that the adoption of these sections will put an end to those divorces known as migratory, which, while comparatively not great in number, are peculiarly redolent of scandal.

There is no problem before the public of more radical concern than divorce. Although the Uniform Act formulated by the Divorce Congress and approved by this Conference has made but slow progress, it has withstood criticism from all save those whose personal interest leads them to desire a continuance of present conditions, or the other and growing school of thinkers who look upon any regulation of divorce as a restriction which must be resisted as its eventual tendency may be the eradication of divorce itself. This, in their judgment, would be an evil and an evidence of social retrogression.

There are now three states where all of the principles of the Uniform Divorce Act are enacted into law, namely, Delaware, New Jersey and Wisconsin, while the statute of Illinois embodies essentially the same principles. Every provision of that act is

[35] Colvin *vs.* Reed, 55 Pa. 375; Haddock *vs.* Haddock, 201 U. S. 562, II; Bishop on Mar. & Div., Sec. 130, *et seq.*

drawn from statutes in force in some of the states. It cannot be considered experimental.

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The investigations of the Royal Commission now sitting in England will doubtless throw further light upon this vexed and difficult problem. For the present it would seem that the institution of marriage, life-long and monogamous, which has been looked upon for so many generations as peculiarly the test of a high civilization, is like all other things in the present critical age, undergoing a searching examination based upon the theory of certain modern philosophers who frankly reject the postulates upon which the structure of modern society is based.

Marriage and Desertion Laws.

The necessity for stricter marriage laws and improved desertion laws, so framed as to make the offence of wife desertion a crime, has been recognized by the Conference, and it is hoped that uniform bills upon these subjects when completed will do much towards preventing the causes upon which very many divorces are based.

The report of the Committee on Marriage and Divorce will be accompanied by tentative drafts of acts drawn upon principles that it is hoped will commend themselves to the Conference and to the communities of the different states.

State Appropriations for Uniformity.

This year is the twentieth since this Conference first assembled. Its activities were devoted at first to matters comparatively of minor importance, though it did not fail to formulate acts that embodied valuable principles. As year after year passed it was hoped that the value of its work would be appreciated in the different states and adequate financial support provided by them, but like many great movements, uniformity through the machinery afforded by this Conference has been of slow growth. Its members have been for the most part drawn from those who have been burdened with the cares of private practice or the exacting duties of judicial station. A very large proportion of the Com-

missioners have been expected to give not only their time, but to pay their personal expenses and the necessary incidental costs in the preparation of reports. One state in its act creating Commissioners provided that "The honor of performing such duties shall be sufficient compensation."[36] The Illinois Act provides that its Commissioners "shall serve without expense to the state and without salary." A large proportion of the Commissioners attend at the personal request of the Governors of the states without any legislative sanction at all. Only a very few provide for the expenses of their Commissioners and authorize them to contribute proportionately to the expenses of the Conference itself.

Under the circumstances it is remarkable that so much has been accomplished. By the closest economy and an occasional contribution, the Conference has succeeded in more than justifying its existence by giving to the community a series of laws drawn by experts in the first place and revised under a scrutiny that has enabled them to withstand severe criticism. Had the means at the disposal of the Conference been sufficient to enable them to obtain the services not alone of the accomplished gentlemen who have done so much as experts in the drafting of these acts, but a group of such men who could be employed to give constant and careful study to all the subjects that are awaiting our consideration, our progress would have been greater. The field of commercial law offers many subjects in which it is important that uniformity be brought about, and if financial means were adequate, the personnel of this Conference is sufficiently large and sufficiently strong to enable its committees to do much more work than they are now able to accomplish.

The trammels upon business activities that are the necessary consequence of our dual system of government in the United States are becoming less and less tolerable as the country expands. Lawyers are brought up from their years of studentship with a reverence for existing institutions. Their oath of admission requires that they shall uphold the Constitution of the United

[36] Laws of Florida, c. 4447, No. 126.

States as well as the Constitution of the commonwealth in which they live. The whole habit of their lives leads them to conservative habits of thought, and they are constantly going back to first principles in advising their clients and in argument before the courts. While business men are not less patriotic, the habits of their lives are very different. Government in all its forms is to them only a practical matter and when a rule of law, whether constitutional or otherwise, becomes obnoxious, they are restive under the restraint. Implicitly they feel a truth that the lawyer has a tendency at least to forget that all political constitutions and all laws of whatsoever kind are means to an end and not an end in themselves. The lawyer, by reason of his education and habit of mind, can see the evil consequences of removing a limitation that to the business man seems archaic. Here, as has been pointed out many times by the profoundest political thinkers, has been the great value of the legal profession in the United States. In many a crisis their influence upon the community has tempered and sobered a sentiment that might otherwise have led to serious danger.

I am tempted to make these observations by the reflection that has been not infrequently suggested by the work of this Conference that it is a patriotic undertaking. If we succeed measurably in bringing about uniformity on those subjects upon which uniformity is essential for the well being of all of the people of all of the states, we shall check a tendency that has of late become accentuated of turning to the federal government wherever and whenever a business or social problem presents itself.

The principle of local self-government as being the best upon which any political system can be founded has been accepted hitherto by the American people as an axiom. True, there have been and always will be differences of opinion as to where the line should be drawn between a powerful self-sustaining central government and the state, retaining its quasi sovereignty as the founders of our government designed. There are, however, respectable thinkers among American statesmen who do not fear the consequences of an all but complete surrender to the national

government of the direction of local affairs now vested in the respective states. Unless the demands of business interests for a certain uniform body of commercial law can be met under existing political conditions, there will be either by judicial interpretation, or by amendments to the national constitution, or by both, means found to attain the desired end, and the logical terminus of such a movement is a bureaucracy, the worst form of government known to man.

One of the most impressive facts to be observed in our republic, considering the rapidity of its growth, the vastness of its extent and the tide of foreign immigration that has poured into it and still comes on year by year, is its essential homogeneity. Climate, of course, has its effect, but in the main the habit of life of an American family is similar, whether it be in the extreme South or North or East or West. The causes of this phenomenon are, of course, not hard to seek. The rapid intercommunication of thought and the opportunities of personal association between representatives of the different communities have produced their natural results. While, the citizen of one of our newly formed states may not have so great a respect for precedent or reverence for authority as one who lives in an older community, yet in the main they differ but little in their ideals, and the same appeal, unless some local interest is specially affected, will move the one as strongly as the other.

It ought not to be difficult, therefore, to secure an adequate representation and support from all of the states in the union. A very small appropriation by each of them would give this Conference an abundance of means to meet the only expenses that are necessary for its usefulness—the payment of adequate fees to experts, the bills for printing, postage, stationery and the travelling expenses of the members of the committees. There have been found and always will be found men who are willing, if not for the honor of representing their states in such a body as this, then for the higher motive of giving service to their fellowmen, to accept the duties of Commissioners; but they ought not to be asked, in addition to time taken from their private work, to tax themselves for the support of the Commission. I

feel little doubt that if the Commissioners whose names are now upon our roll will take it upon themselves to present this subject to their legislatures, those bodies will see the propriety of passing the proper acts (first) to give the Commissioners the dignity of state officers, and (second) to appropriate sufficient to meet their expenses and a proper proportion of the expenses of this Conference.

Assistance from Other Organizations.

Reference has been made to the cordial support offered by the National Civic Federation to the work of this Conference. The action of that body has been typical of all others representing general or special interests to which the work of this Conference has been made known. The national and various local boards of trade, the American Bankers' Association, the National Association of Credit Men, Chambers of Commerce and representatives of the law schools have united in showing an interest in our work, which is most gratifying.

In some of the states, notably in Wisconsin, Pennsylvania and New York, legislative reference bureaus have been formed which are bringing to the mind of the average legislator the importance of studying the laws of other states before seeking to legislate on any given subject for his own state. My attention has been brought to an organization recently formed and endowed, known as the Legislative Drafting Association, which will no doubt prove of great value in bringing about, at least indirectly, uniformity and precision in the statute law of the different states and which may prove a valuable accessory to the work of this Conference.[87]

There seems to be a very general acceptance of the idea of uniform legislation that found expression in the act of the New York legislature which led to the formation of this Conference in

[87] Incorporated under the laws of New York by John Bassett Moore, Joseph P. Chamberlain, George Winfield Scott, Middleton Beaman and Thomas I. Parkinson. A statement of its charter provisions will appear in the appendix. Address 261 Broadway, New York.

1889. Therefore, there rests on this body an important and even a solemn duty. No man should accept membership who cannot give adequately of his time and attention to the work in the Conference and in committee. In the nature of things we cannot hasten the end we have in view, but we are bound to work steadily for its attainment. The coming year is that during which the great majority of the legislatures of the different states hold their meetings. It is the duty of the Commissioners and each of them to submit such of the uniform laws as have not yet been adopted for the consideration of their legislatures, and this will afford opportunity to make known the purposes and scope of this Conference and its need for support.

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If it once becomes known that here is a body uninfluenced by political considerations, unbiased by any local interest, seeking alone to bring about on any given subject a sound uniform law, the community will turn with hope to its support. The perplexing questions relating to child labor, the hours of work for women, the liability of employers and employees for accidents occurring in industrial establishments, on railroads, in mines and wherever the relation exists, the divergent and oppressive insurance laws, the regulation of water power and many other subjects that require uniform legislation for the whole or for large sections of the country, will be brought before this Conference, not perhaps for complete solution, but to draft uniform statutes embodying the best thoughts on each subject. It is the only body now in existence that offers the proper methods for attaining these ends.

We may look forward with reasonable hope that the twenty-first birthday of this organization will show it to have attained a commanding position among the beneficial agencies of the republic.

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APPENDIX

STATE OF NEW YORK, EXECUTIVE CHAMBER.

ALBANY, June 25, 1910.

Memorandum filed with Assembly Bill No. 2597 entitled, "An act to amend the personal property law, relative to transfers of shares of stock in corporations."

Not Approved.

This bill is intended to embody one of the "uniform laws" which it is desired should be adopted by all the states. It relates to an important subject upon which there should be uniformity among the states, and I regret that I cannot approve the bill. But an examination discloses certain informalities and defects which should not be ignored. For example, in section 166, it is provided as follows:

"The delivery of a certificate to transfer title in accordance with the provisions of section one is effectual, except as provided in section seven, though made by one having no right of possession and having no authority from the owner of the certificate or from the person purporting to transfer the title."

There is no "section one" and there is no "section seven" to which the section can refer. It may be supposed that in some drafts the sections were numbered differently, but this does not appear from the bill or from the legislative records.

There are other defects and certain informalities which can readily be cured.

For example, in one place the word "not" is wrongly inserted so that the reading is exactly opposite to the intention.

If the statute as here proposed is to form a part of the Personal Property Law, the adjustment of the statute to that law should be made by appropriate references. In the present bill the descriptions are inapt.

In a matter of this importance it is better to wait a few months and to have the statute in proper form, than to place it upon the books as it is proposed by this bill.

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Purposes of Legislative Drafting Association.

The purposes for which it is formed are as follows:

To promote precision and uniformity in the written law and to render technical aid to the advancement of the legislation which best conforms to the needs of the American people.

To collect, analyze and index existing laws, American and foreign, with a view to making them more accessible and intelligible to students, lawyers, legislators and others concerned in the orderly development and administration of the law.

To collect, classify and interpret information in respect to the operation of the laws.

To collect, index and co-ordinate administrative regulations and ordinances, American and foreign, and to index-digest and interpret administrative rulings.

To report, publish and make available to individuals and associations interested in the improvement of legislation the data collected, including the publication of a periodical review of comparative legislation and international law.

To encourage researches and practices tending to the development and application of method and form in the drafting of written law and of sound canons in its interpretation.

To furnish instruction in research to students of law and of the other social sciences by maintaining a laboratory of legislation and administration.

RESOLUTIONS PASSED BY THE NATIONAL CONFERENCE ON UNIFORM STATE LEGISLATION OF THE NATIONAL CIVIC FEDERATION.

Endorse Bills Prepared by Commissioners on Uniform State Laws.

Resolved, That this National Conference on Uniform Laws advise the Governors of the states now in session at Washington that it endorses the acts prepared under the direction of and

recommended by the Commissioners on Uniform Laws as stated below, and that this body hopes that the states which have not already done so will without delay enact these measures into law, viz.:

The Negotiable Instruments Act.
The Warehouse Receipts Act.
The Sales Act.
The Bill of Lading Act.
The Uniform Divorce Act.

URGE SUITABLE APPROPRIATIONS FOR COMMISSIONERS ON UNIFORM STATE LAWS.

Resolved, That every state and territory which has made no appropriation for the work of the Commissioners on Uniform State Laws be urged to make suitable appropriations annually for the efficient conduct of that work.

URGE REMAINING STATES TO NAME COMMISSIONERS.

Resolved, That the states and territories which have not already appointed Commissioners on Uniform State Laws be urged to appoint such Commissioners as soon as practicable.

UNIFORM AMENDMENTS.

Resolved, That, if any persons or organizations, after studying the laws submitted by the Conference on Uniform State Laws, think that any of them need amendment, such persons and organizations be earnestly urged to try to bring about such amendment through the National Conference of Commissioners on Uniform State Laws, to the end that, even in amendment, uniformity may be preserved.

COMMISSION FOR OTHER THAN TECHNICAL OR LEGAL SUBJECTS.

Resolved, That in the opinion of this Conference it seems advisable that in the matter of a uniform tax law and in that relating to certain labor subjects upon which this Conference favors uniformity and upon other subjects not technically of a legal nature, it is the opinion of this body that the drafting of these laws may well be considered by Commissions specially appointed in the different states, the membership of which shall not be restricted to members of the legal profession, and that this action be communicated to the Governors.

UNIFORMITY BY GROUPS OF STATES.

Resolved, That we commend to the attention of the administration of the various states of the union, whenever a subject of

legislation affects the interests of a group of contiguous states, the possibility of joint and uniform action upon such subjects by interstate agreement or convention to become effective upon ratification by the legislatures of the states involved.

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Legislative Reference Bureaus.

Resolved, That we recognize the system of Legislative Reference Bureaus as one of the important agencies to bring about greater uniformity of legislation, and that we urge the states which have established such bureaus to develop them further and those which have not yet done so to forthwith establish them.

Uniformity in Legal Procedure.

Whereas, the system in vogue for the trial of causes in the criminal, equity and law courts of the United States and of the several states is the subject of much current discussion, both lay and professional, and is severely criticised for its technicalities and its useless expense and delay; and

Whereas, the matter of procedural reform is receiving the thoughtful consideration of the American Bar Association through a special committee created for that purpose; therefore be it

Resolved, That this Conference recognizes the need for radical changes in the administration of the law both in criminal and civil action;

Resolved, That a committee of fifteen on Reform in Legal Procedure be created and appointed by the Chairman of the Committee on Uniform Legislation of the National Civic Federation, and that such committee be instructed to co-operate with the committee of the American Bar Association to suggest remedies and formulate proposed laws to prevent delay and unnecessary cost in litigation, and to use the influence and power of The National Civic Federation to simplify, cheapen and expedite judicial procedure.

Pure Food and Drug Regulations.

Whereas, Congress in June, 1906, passed the National Food and Drugs Act, which law has since been adopted in all substantial provisions by upwards of twenty-six (26) states,

Resolved, That this Convention recommend the adoption of this model uniform statute by the legislatures of all states which have not already so acted, and urge upon the Governors and legislatures of all states that they approve and pass only such food and drug laws, or amendments thereto, as are modeled after the provisions of the national law.

Control of Sales of Narcotics.

Resolved, That all states be urged to enact such uniform laws in regard to controlling the sale of narcotic and habit-forming drugs that the sale of these drugs will be confined to their proper channels and uses.

Vital Statistics.

Resolved, That this Conference recommend uniform state legislation on the subject of gathering and preservation of vital statistics.

Regulation of the Practice of Medicine.

Whereas, uniformity in regulating the practice of medicine is of the utmost importance to the public health of the nation and to the peoples of the several states.

Resolved, That it is requested of the Committee on Public Health, or other appropriate committee of the Commissioners on Uniform State Laws, that they cause to be prepared a model act for regulating the practice of medicine in the several states.

Compensation for Industrial Accidents.

Whereas, the present remedies for compensation for industrial accidents throughout the various states are slow, uncertain, and wasteful, and

Whereas, there is not, and cannot be, any equitable solution thereof, based only on the fault of the employer, and

Whereas, twenty-three of the more progressive commercial nations abroad have bettered, and in some instances solved, the problem on the basis of Workmen's Compensation Acts, and

Whereas, we believe that such acts can be adequately substituted for our present laws and applied to our institutions with equal satisfaction and profit,

Now, therefore, be it

Resolved, That this Conference recommend to the Governors of the several states now assembled in this city, and to the states, that workmen's compensation acts fair to the employer and employee and just to the state, be uniformly substituted for the present system of Employers' Liability for injuries received in and arising out of the course of employment.

Bureau of Mines.

Whereas, the increasing loss of life in American mining operations and the enormous waste of resources essential to both the present and future welfare of the nation, plainly indicate the

need of more uniform, rational, and enforceable mining laws and regulations in each of the several mining states; and

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WHEREAS, there is now pending before the Congress of the United States a bill to establish a Bureau of Mines in the Department of the Interior, for inquiry and investigation, to aid in the accomplishment of these purposes,

Now, therefore, be it resolved by the National Conference on Uniform Legislation that we earnestly urge upon the Governors of the several states the importance of co-operating with the federal government to procure uniformity upon which intelligent state legislation may be based.

CONSERVATION OF AMERICAN FORESTS.

Resolved, That this Conference endorses the Conservation of American Forests and

WHEREAS, The effective handling of forest land in private ownership depends mainly upon uniform state laws, providing for right methods of forest taxation and for the effective protection of forests from fire,

Resolved, That this matter be referred to the Commission on Uniform State Laws.

REGULATION OF WATER POWER.

WHEREAS, the development of water powers is a subject of growing public importance, and the regulation looking to the uniform control of these powers by state and nation is a matter of public concern.

Therefore, be it resolved, That this Conference recommend to the Commissioners on Uniform State Laws of the respective states the importance of the consideration of this subject, with a view to securing uniformity of state laws as to the regulation of water power on non-navigable streams, and the necessity of uniformity of state regulations as to water power on navigable streams, with the object of securing proper and uniform co-operation between each state and the federal government in the development and control of water power.

TAXATION.

Resolved, That every state ought to have constitutional powers to classify property for taxation and that all the states ought to impose their taxes in conformity with such a system of comity between the states that there shall be no double taxation which shall be unfair or oppressive to any citizen.

Uniform Insurance Code.

Resolved, That we favor a Uniform Insurance Code for adoption in the several states.

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Child Labor.

Resolved, That this Conference recommend to the Governors the adoption of uniform laws for the protection of children employed in industries.

Execution and Probation of Wills.

Resolved, That we recommend to the Governors of the several states and to the Commissioners on Uniform State Laws—uniform state legislation on the general subjects of the execution and probate of wills and the form of acknowledgments; and the manner of the conveyance of real estate.

Uniform Governmental Accounting.

Whereas, the National Municipal League, the League of American Municipalities, the American Association of Public Accountants, the American Economic Association, the American Statistical Association, the Association of Municipal Comptrollers and Accounting Officers, the Government Accountants' Association and various other national and state bodies have endorsed the principles of uniform governmental accounting and standard governmental reports, and

Whereas, the states of Ohio, New York, Massachusetts, Indiana, Rhode Island, Colorado, West Virginia and Wyoming have recognized this principle and have enacted legislation establishing Uniform Accounting Bureaus or Boards of Control and similar legislation is under consideration in various other states,

Therefore, be it resolved, by this Conference upon Uniform Legislation that the Governors and legislatures of the several states are hereby urged to enact such measures upon conformitory lines, departing only so far as may be necessary from a standard form which shall thereby tend to become uniform throughout the country.

Public Accountants.

Whereas, some twenty-one states have enacted laws regulating the profession of public accountancy, all of which seek to attain the same ends but differ in important particulars as to standards and requirements, and

Whereas, the proper regulation of the profession of accountancy is a subject of rapidly growing importance to the business community, therefore be it

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Resolved, that this Conference heartily commends the principle of uniformity in certified public accountancy legislation, which should in every case require adequate standards as to education and training for admission and should provide suitable punishment for unprofessional conduct.

White Slave Traffic.

Resolved, That this National Conference on Uniform Legislation recommend to the Governors' Conference that efficient and uniform legislation should be adopted to suppress and prevent the procurement of women for immoral purposes—known generally under the name of the White Slave traffic; and that the Commissioners on Uniform State Laws be requested to draft a bill which will carry into effect the foregoing recommendation.

Resolved, That the National Civic Federation be requested to promote state organizations for the advancement of uniform legislation and that it be also requested, if deemed advisable, to arrange for annual national conferences upon the same subject to the end that the work may take more definite and concrete form.

Resolved, That this Conference on Uniform State Legislation offers its thanks to the President of the United States for his deep interest in the objects of this Convention, and to the Governors and commercial and civic organizations who have appointed delegates to this body; and,

Resolved, That this Conference offers its thanks to the Conference of Governors now in session in Washington, for their courtesy in giving a place upon their program for the purpose of receiving reports from this Conference; and,

Resolved, That the thanks of the Conference be also offered to Senator Root, of New York, for his instructive and valuable address.

Note.—Neither the states nor the organizations represented at the Conference are committed by the action of the Conference; but the action taken does represent the judgment of the Conference itself.

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REPORT OF TREASURER

OF THE

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, AUGUST 14, 1909, TO AUGUST 20, 1910.

Receipts.

Date	Item	Amount	Total
1909.			
Aug. 14.	Amount on hand as per last report......	$ 723.19	
Oct. 2.	Contribution, State of Maryland	250.00	
Oct. 20.	Contribution, Louisiana Commissioners..	100.00	
Oct. 26.	Contribution, State of Rhode Island.....	100.00	
Nov. 2.	Contribution, State of Pennsylvania.....	300.00	
1910.			
Feb. 12.	Contribution, New York State Bar Association	100.00	
April 1.	Contribution, American Bar Association.	500.00	
June 16.	Contribution, State of Connecticut......	300.00	
June 27.	Contribution, State of Massachusetts....	100.00	
	Amount realized from sale of American Uniform Commercial Acts: 7795 copies at 10 cents 2630 copies at 12 cents..............	1,095.10	
	Total Receipts		$3,568.29

Disbursements.

Date	Item	Amount
1909.		
Aug. 27.	James Barr Ames, for printing first tentative draft of Partnership Act in 1906..	$ 45.00
Sept. 7.	Charles A. Morrison, stenographic report of proceedings at Detroit Conference..	150.00
Sept. 27.	Francis B. James cash expenses attending conference of bankers, shippers, etc., at Chicago, Sept. 13 and 14, on the matter of Bills of Lading.................	40.00
Oct. 11.	Charles A. Morrison, extra copies of proceedings at Detroit furnished to Mr. James and Mr. Smith................	20.00

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	The Gibson & Perin Company, 150 copies of Partnership Act, also stamped envelopes, cards, etc.	$ 66.04
	Record Printing Company, printing 1000 copies of annual report of Committee on Commercial Law, boxing and expressage	131.75
Oct. 18.	The George H. Buchanan Company, printing and postage of letters sent Executive Committee	19.75
	Lewis Hopper, report of proceedings of Executive Committee, Aug. 13, 1909	10.00
Dec. 16.	The Gibson & Perin Company, printing 200 letters, 350 copies Bills of Lading Act, 750 clasp envelopes	46.40
1910.		
Jan. 5.	Francis A. Hoover, Asst. Secy., postage and expressage	34.41
	Walter George Smith, for stamped envelopes and postage	16.05
Jan. 28.	W. D. Crocker, Special Secy. Committee on Marriage and Divorce, expense of attending conference at Washington in behalf of the Committee	36.90
Jan. 29.	The Gibson & Perin Company, printing circular letters and bill heads, also express paid on American Uniform Commercial Acts	41.51
Feb. 7.	Charles Thaddeus Terry, postage, envelopes and cash paid for addressing and mailing copies of Uniform Incorporation Act to the various Commissioners	7.94
Feb. 10.	Lord Baltimore Press, printing 1000 copies of Uniform Incorporation Act	32.50
	The Gibson & Perin Company, on account of bill for printing American Uniform Commercial Acts	610.00
Feb. 14.	Adams Express Company, for distribution of Uniform Commercial Acts and the 19th Annual Report of the Conference to Commissioners	47.45

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Feb. 15.	Albert H. Barclay, attorney for National Surety Company. Premium on $1000 bond of Talcott H. Russell as Treasurer ....$	10.00
Feb. 19.	Charles F. Libby, expense of journey to New York to attend meeting of Executive Committee and Committees on Commercial Law and Insurance......	38.10
Feb. 21.	The Gibson & Perin Company, expressage paid on American Uniform Commercial Acts	9.88
Mar. 8.	C. W. Smith, expense of attending meeting of Executive Committee in Washington	96.95
Mar. 26.	The Gibson & Perin Company, for printing, express, etc.....................	28.45
April 1.	Lord Baltimore Press, for printing report of Conference in the American Bar Association Report	155.00
April 5.	The Gibson & Perin Company, on account.	300.00
May 12.	The Gibson & Perin Company, on account.	200.00
June 5.	W. D. Crocker, Special Secretary of Committee on Marriage and Divorce. Expenses connected with the redrafting of the Family Non-Support and Desertion Bill, and the Marriage License Law Bill	67.87
June 14.	Charles P. Young Company, printing report of Committee on Insurance; envelopes	23.75
June 27.	The Gibson & Perin Company, on account.	200.00
Aug. 16.	Francis M. Burdick, expense of printing circulars and post cards in connection with the Committee on the Torrens System	3.45
Aug. 18.	W. D. Crocker, Secretary Committee on Marriage and Divorce. Postage, printing, stationery, etc., and expense of trip to Cape May to attend meeting of the Committee....................	130.01

Total Disbursements	$2,619.16
Amount on hand August 20, 1910...........	$ 949.13

TALCOTT H. RUSSELL,
Treasurer.

Mr. President, your Auditing Committee has carefully examined the foregoing Treasurer's report and the vouchers exhibited therewith and reports as follows:

Amount on hand at beginning of said report agrees with the amount of balance at close of the next previous annual report of Treasurer	$ 723.19
Total receipts, as shown by said report	2,845.10
Total funds in treasury during year	$3,568.29
The Treasurer has exhibited to us vouchers for his expenditures, upon which are endorsed the approvals of the Chairman of the Executive Committee, amounting to	2,619.16
Leaving balance now on hand	$ 949.13

As shown by said report to be correct, and we, therefore, do move the approval of the report of the Treasurer.

Walter R. Leeds,
S. H. Allen,
S. N. Hawkes,
Auditing Committee.

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REPORT OF THE SECRETARY

OF THE

COMMISSIONERS ON UNIFORM STATE LAWS, AUGUST, 1910.

To the Conference of Commissioners on Uniform State Laws:

Your Secretary begs to report some of his activities in behalf of the Conference, since its last annual meeting, held in Detroit, Michigan, August, 1909, as follows:

First: As a member of the Committees on Program and upon Uniform Legislation of the National Civic Federation, your Secretary attended various meetings of those committees, held numerous conferences with the Chairman of the Executive Committee of the Federation, kept up a considerable correspondence with that Chairman and with various parties with whom he put your Secretary in touch, and constantly kept in communication with the officers of the Federation, and persistently urged upon them the desirability of a campaign on the part of the Federation to secure the enactment of the uniform laws approved by the Conference of Commissioners in the various states of the union. At the meeting of the Federation, held in conjunction with other bodies, in January, 1910, in Washington, D. C., the Negotiable Instruments Law, the Sales Act, the Warehouse Receipts Act and the Bills of Lading Act were approved, and resolutions were adopted endorsing the acts for passage in all the states where they had not already been enacted into law. Your Secretary attended the convention referred to and took part in its proceedings.

Second: An extended correspondence and several conferences were had by your Secretary with the United States delegate to the conference at The Hague called by the government of the Netherlands, on International Bills of Exchange, and such aid as was possible was rendered to him and to the cause which he represented. The literature and information relating to the work of the Commissioners, particularly in connection with

negotiable paper, was given to the delegate in question, and the relation of the movement with which he was engaged to the Negotiable Instruments Act approved by the Commissioners, was discussed at length, and your Secretary expressed his present view to the effect that it would be unavailing at this time to attempt to change the Negotiable Instruments Act approved by the Conference and enacted into law in thirty-eight states, territories and federal districts, but that the advisable course would be to model the regulations, relating to International Bills of Exchange, at the conference to be held at The Hague, as far as possible after the provisions of the Negotiable Instruments Act of this country.

Third: Throughout the year, your Secretary has kept up a very considerable correspondence with the Commissioners of the various states and with those outside the Conference, who manifested an interest in its proceedings and the work which it is attempting to accomplish. In numerous instances, literature and information were supplied both to Commissioners and to interested persons other than Commissioners relating to the Conference and the measures which it has in hand. The attempt has been made to arouse interest in states where such interest seemed to be at a low ebb, and to induce the Governors of such states to secure the attendance of their Commissioners, to urge legislation providing at least for the payment of their expenses and to secure the enactment into law of the various acts approved by the Conference. In the case of Porto Rico, these matters were taken up actively with Governor Colton, and he has appointed three Commissioners, with whom your Secretary has had an extended correspondence with reference to the workings of the Conference, and whom he has supplied with full information and literature relating thereto.

In the case of the Philippine Islands, your Secretary has furnished the Committee on Codes with full information and literature upon their request that they be assisted in the preparation of a code of laws for that jurisdiction.

Your Secretary is also pleased to report that Governor Frear, of Hawaii, has appointed three Commissioners to represent Hawaii in our Conference.

Fourth: In behalf of the Committee on Uniform Incorporation Law, your Secretary co-operated with the Chairman of the committee in the preparation of a report to accompany the draft of the proposed act and attended to the printing of such report and draft of act in a separate pamphlet and distributed the same to all the Commissioners, and in that connection wrote letters enclosing copies of the report to all those persons who might be assumed to be interested in the subject and who might be assumed to have such knowledge, experience or skill as would be of assistance to the Conference in dealing with the draft of this act, said letter urging that criticisms and suggestions with regard to the act be made.

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Fifth: In order to facilitate the work of the Committee on Insurance of the Conference, and upon its request, your Secretary sent copies of the full report of the proceedings of the Conference held at Detroit, Michigan, August, 1909, containing the report of the Committee on Insurance, to fifty of the leading fire, life and casualty insurance companies, with a letter requesting their suggestions and criticisms respecting the Insurance Committee's report. This aroused such a considerable interest, and there was such a demand from other sources for information with regard to the report and its contents that your Secretary later had one hundred copies of the report of the Committee on Insurance printed in a separate pamphlet and distributed most of them among the various state officials and state Commissioners having authority in insurance matters, with a letter requesting comments, suggestions and criticisms.

Sixth: On behalf of the New York State Commissioners, your Secretary purchased a considerable number of the volumes entitled "American Uniform Commercial Acts," and has distributed such copies to all persons who might be deemed to be interested in the contents thereof, and who, by their influence, could aid in bringing about the passage by the New York State legislature and other legislatures of the various acts proposed therein.

Seventh: In order to bring the work of the Conference into greater prominence, and likewise to provide a ready means by

which any interested person might secure knowledge of the work of the Conference, copies of the last report of the proceedings of the Conference and copies of the American Uniform Commercial Acts were sent by your Secretary to all the various state and other libraries contained upon a list prepared by him for the purpose; and copies were similarly freely distributed to commercial organizations and others who might be able to actively further the aims of the Conference.

Eighth: Your Secretary has prepared and sets forth herewith data which summarizes the present status of the Conference and the work accomplished by it in respect of Commissioners appointed, whether with or without legislative authority, whether with or without provision for their expenses, the number of states which has passed each of the acts approved by the Conference, and like information.

The number of states, territories and federal districts which have appointed Commissioners, is as follows:

States	44
Territories	2
Federal District	1
Possessions	3
Total	50

NOTE.—Annexed hereto is a statement of the names of states, territories, federal districts, etc., which have appointed Commissioners.

The number of states which have passed the Negotiable Instruments Act is thirty-eight.

NOTE.—Annexed hereto is a statement of the names of states, territories, federal districts, etc., which have passed said act.

The number of states which have passed the Warehouse Receipts Act is twenty.

NOTE.—Annexed hereto is a statement of such states.

The number of states and territory which have passed the Sales Act is seven.

NOTE.—Annexed hereto is a list of such states and territory.

The number of states which have passed the Divorce Act is three.

NOTE.—Annexed hereto is a list of such states.

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The number of states which have passed the Stock Transfer Act is three.

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NOTE.—Annexed hereto is a list of such states.

The number of states which have passed the Bills of Lading Act is two.

NOTE.—Annexed hereto is a list of such states.

You will find annexed hereto a list of states in which Commissioners have been appointed under legislative authority, a list of states in which Commissioners have been appointed without such legislative authority, and a list whose legislatures have provided for the appointment of Commissioners, but which have made no provision for the payment of their expenses, all of which lists your Secretary has endeavored to make as accurate as possible, consistent with the information which he has in hand.

CHARLES THADDEUS TERRY,
Secretary.

States, territories and federal districts which have appointed Commissioners:

States.

Alabama,
Arkansas,
California,
Colorado,
Connecticut,
Florida,
Georgia,
Idaho,
Illinois,
Indiana,
Iowa,
Kansas,
Kentucky,
Louisiana,
Maine,
Maryland,
Massachusetts,
Michigan,
Minnesota,
Mississippi,
Missouri,
Montana,
Nebraska,
New Hampshire,
New Jersey,
New York,
North Carolina,
North Dakota,
Ohio,
Oklahoma,
Oregon,
Pennsylvania,
Rhode Island,
South Carolina,
South Dakota,
Tennessee,
Texas,
Utah,
Vermont,
Virginia,
Washington,
West Virginia,
Wisconsin,
Wyoming.

Territories.

Arizona,
New Mexico.

Federal District.

District of Columbia.

Possessions.

Philippine Islands, Hawaii, Porto Rico.

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States which have passed the Negotiable Instruments Law:

States.

Alabama,
Colorado,
Connecticut,
Florida,
Idaho,
Illinois,
Iowa,
Kansas,
Kentucky,
Louisiana,
Maryland,
Massachusetts,
Michigan,
Missouri,
Montana,
Nebraska,
Nevada,
New Hampshire,
New Jersey,
New York,
North Carolina,
North Dakota,
Ohio,
Oklahoma,
Oregon,
Pennsylvania,
Rhode Island,
Tennessee,
Utah,
Virginia,
Washington,
West Virginia,
Wisconsin,
Wyoming.

Territories.

Arizona, New Mexico.

Federal District.

District of Columbia.

Possession.

Hawaii.

States which have passed the Warehouse Receipts Act:

States.

California,
Connecticut,
Illinois,
Iowa,
Kansas,
Louisiana,
Maryland,
Massachusetts,
Michigan,
Nebraska,
New Jersey,
New Mexico,
New York.
Ohio,
Pennsylvania,
Rhode Island,
Tennessee,
Virginia,
Wisconsin.

Federal District.

District of Columbia.

States which have passed the Sales Act:

States.

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Connecticut,
Maryland,
Massachusetts,
New Jersey,
Ohio,
Rhode Island

Territory.

Arizona.

States which have passed the Divorce Act:

Delaware,
New Jersey,
Wisconsin.

States which have passed the Stock Transfer Act:

Louisiana,
Maryland,
Massachusetts.

States which have passed the Bills of Lading Act:

Maryland,
Massachusetts.

List of States where Commissioners have been appointed under legislative authority:

Arizona,
Colorado,
Connecticut,
Florida,
Georgia,
Illinois,
Iowa,
Louisiana,
Maine,
Maryland,
Massachusetts,
Michigan,
Mississippi,
New Hampshire,
New Jersey,
New York,
Ohio,
Oklahoma,
Pennsylvania,
Porto Rico,
Rhode Island,
South Carolina,
Utah,
Virginia,
Washington,
Wisconsin.

List of States where Commissioners have been appointed without legislative authority:

Alabama,
Arkansas,
California,
District of Columbia,
Hawaii,
Idaho,
Indiana,
Kansas,
Kentucky,
Minnesota,
Missouri,
Montana,
Nebraska,
New Mexico,
North Carolina,
North Dakota,
Oregon,
Philippine Islands,
South Dakota,
Tennessee,
Texas,
Vermont,
West Virginia,
Wyoming.

List of states whose legislatures have provided for the appointment of Commissioners, but where no provision has been made for the payment of their expenses:

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Arizona,
Colorado,
Florida,
Georgia,
Illinois,
Iowa,
Michigan,
Mississippi,
New Hampshire,
Oklahoma,
Wisconsin.

No appointees:

Alaska,
Delaware,
Nevada.

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REPORT

OF THE

EXECUTIVE COMMITTEE.

To the President and Commissioners attending the Twentieth Annual Conference of Commissioners on Uniform State Laws:

Your Executive Committee would respectfully report:

At the Nineteenth Annual Conference held in Detroit, in the State of Michigan, on August 19, 20, 21 and 23, 1909, in the County Building, thirty states were represented by fifty-nine Commissioners. Others in attendance at the Conference were:

Michigan: Wade Willis, Detroit; Frank R. Hamburger, Detroit; Henry Russell, General Counsel Michigan Central Railway Co., Detroit; John H. Johnson, Detroit.

Ohio: W. A. Greenland, Cleveland.

Wisconsin: John B. Sanborn, Madison.

There were also present by invitation: Professor Samuel Williston, of the Harvard Law School; Thomas B. Paton, Counsel of the American Bankers' Association; Albert M. Read, President of the American Warehousemen's Association; and Adolph Sloman, of the National Association of Credit Men; E. C. Van Huson, Chairman Special Committee on Uniform Laws, National Association of Real Estate Exchanges.

The following action of the Conference should be specially noted:

First: The Committee on Conveyances should report upon the action taken by it on the communication of the National Association of Real Estate Exchanges, 1216 Penobscot Building, Detroit, Michigan, dated August 18, 1909, found upon pages 27 and 28 of the proceedings of the Nineteenth Annual Conference.

Second: The Committee on Commercial Law, in conjunction with Professor Williston, to correct any possible verbal inaccuracies in the draft of an act to make uniform the laws of transfer of title to shares of stock in corporations, with the amendments as reported; to publish the act; and to request the legislatures of the several states to enact the said act into law.

Third: The Committee on Uniform Incorporation Laws was directed to print the report and draft of the act submitted to the Nineteenth Conference, mail copies thereof to the members of the Conference and others, and that said draft should be considered for action at this Twentieth Annual Conference.

Fourth: The Chairman of the Executive Committee has approved of a bond in the sum of $1000 with the National Surety Company, executed by the Treasurer of the Conference, and has deposited the same with the President of the Conference.

Fifth: The Special Committee on Uniform Legislation in all the States to Regulate the Employment of Child Labor, appointed at the last Conference, is to report a draft of a uniform child labor act to be recommended for adoption in the several states.

Sixth: The report of the Committee on Insurance, which was to be printed and distributed to the members of the Conference and to the more important insurance companies and the several State Insurance Commissioners, is to be considered at this Conference.

Seventh: The Committee on Marriage and Divorce is to submit a tentative draft of an act relating to marriages and licenses to marry, for the consideration of this Conference.

Eighth: The Committee on Commercial Law was authorized to attend the Conference in Chicago on September 17, 1909, in reference to forms of bills of lading, and to report thereupon to this Conference.

The Chairman of the Executive Committee, on behalf of the committee, addressed a circular letter to each Commissioner in the following form:

OFFICE OF THE CHAIRMAN OF THE EXECUTIVE COMMITTEE.
ROOM 648, CITY HALL.

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PHILADELPHIA, PA., June 24, 1910.

HON.

Commissioner from the State of

DEAR MR. COMMISSIONER: Will you please promptly report to me on the receipt of this communication "the enactment of any laws, or the filing of any judicial decisions in your state upon the subject of uniform legislation in the United States," since the last meeting of the Commissioners on Uniform State Laws, at Detroit, Michigan, August 19, 20, 21 and 23, 1909.

I make this request under Section 1, Article IV, of the Constitution of the Commissioners on Uniform State Laws, which provides:

ARTICLE IV.

Duties of Members.

SECTION 1. It shall be the duty of the Commissioners from each state, at least thirty days before each Annual Conference, to report to the Chairman of the Executive Committee the enactment of any laws or the filing of any judicial decisions in the state from which they are appointed, upon the subject of uniform legislation in the United States.

SEC. 2. Also makes it the duty of the Commissioners from each state to attend the Annual Conference or to arrange for the attendance of at least one Commissioner.

SEC. 3. To report to the President, Hon. Walter George Smith, Land Title Building, Philadelphia, the death or resignation of any Commissioner from their state.

SEC. 4. To endeavor to secure from the legislature of their state an appropriation towards defraying the annual expenses of the National Conference.

SEC. 5. To file with the President, Secretary and members of the Executive Committee a copy of their reports to the Governor or legislature of their respective states.

I also advise you that the Twentieth Annual Conference of the Commissioners will take place in the Hotel Patten, Chattanooga, Tennessee, August 25, 26, 27 and 29, 1910, beginning at 10.30 A. M., Thursday, August 25. It is earnestly urged that every Commissioner shall be present at this important Conference, which precedes the annual meeting of the American Bar Association at the same place, August 30, 31 and September 1, 1910.

In view of the great interest being manifested throughout the nation in the subject of uniformity of state legislation, evidenced by the co-operation of the National Civic Federation, the organization of state councils to assist the Federation in its efforts to support our National Conference of Commissioners, the officers of the Conference and the members of the Executive Committee trust every Commissioner will feel an obligation to be present at Chattanooga, at this Twentieth Annual Conference.

Your kind attention to the matters herein noted is respectfully requested by

Yours, very truly,
WILLIAM H. STAAKE,
Chairman, Ex. Com.

Replies to this circular letter were received from Commissioners John M. Moore, Arkansas; Frederick G. Bromberg, Alabama; Edward Kent, Arizona; Gurney E. Newlin, California; Talcott H. Russell, Connecticut; Francis L. Siddons and Aldis B. Browne, of the District of Columbia; General Peter W. Meldrim and Reuben R. Arnold, Georgia; W. W. Woods, Idaho; James W. Noel, Indiana; Emlin McClain, Iowa, S. H. Allen, Kansas; T. L. Edelen, Kentucky; W. O. Hart, Louisiana; Charles F. Libby and Hannibal E. Hamlin, Maine; George Whitelock and Jacob Rohrback, Maryland; H. R. Bailey, Massachusetts; Rome G. Brown and Howard S. Abbott, Minnesota; Edwin A. Krauthoff, Missouri; Ralph W. Breckenridge, Nebraska; Charles Thaddeus Terry, New York; John E. Green, North Dakota; Walter George Smith, Robert Snodgrass and William H. Staake, Pennsylvania; Amasa M. Eaton, Clarence N. Woolley and William R. Tillinghast, Rhode Island; T. Moultrie Mordecai, South Carolina; J. H. Voorhees, South Dakota; W. M. Crook and Hiram Glass, Texas; H. H. Ingersoll, Tennessee; A. A. Hall, Vermont; James R. Caton, Virginia; Charles W. Dillon, of West Virginia; E. Ray Stevens and Edward W. Frost, of Wisconsin; and Chief Justice Dunn, of Oklahoma; all of which replies were, in accordance with a resolution of the Executive Committee, sent to the President to be referred to in his annual report, with the view of preventing duplication or triplication of the same material in other reports.

A circular letter was also sent by the Chairman of the Executive Committee to the Chairman of each of the standing and special committees in the following form:

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ROOM 648, CITY HALL.

PHILADELPHIA, June 20, 1910.

HON. CHAIRMAN OF THE COMMITTEE ON

....

....

DEAR MR. COMMISSIONER: With great respect I call your attention to Section 14 of the By-laws of the Commissioners on Uniform State Laws, reading as follows:

SECTION 14. "Each committee whose province is some branch of law shall report annually what, if any, recommendations it desires to make; what progress has been made in securing the adoption of bills, within its province, already recommended by the Conference; and what difficulties have been met in securing the adoption of such bills. It shall be the duty of the Executive Committee to call the attention of the Chairman of each such committee to this rule a reasonable time before each annual meeting of the Conference."

Will you please send to me "a statement of the work of your committee" since the Annual Conference at Detroit, Michigan, August 19, 20, 21 and 23, 1909, and any other information required to be furnished under the provisions of the above By-law.

Very respectfully yours,

Chairman, Ex. Com.

Replies to this circular letter have been received from Chairman W. O. Hart, of the Committee on Wills, Descent and Distribution and of the Committee on Publicity; Chairman Edward W. Frost, of the Committee on Marriage and Divorce; Chairman Amasa M. Eaton, of the Committee on Conveyances; Chairman Aldis B. Browne, of the Committee on Congressional Action; Chairman Francis M. Burdick, of the Committee on "The Torrens System and Registration of Land Titles"; and Chairman Hollis R. Bailey, of the Special Committee on Child Labor Legislation.

The Executive Committee met in the City of Washington on January 18, 1910, during the sessions of the Conference on the

subject of uniformity of legislation, called by the National Civic Federation, which was attended by very many of our Commissioners, a reference to which will be made by the President in his annual report.

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The Committee has received a copy of the first annual report of the Commissioners of the State of Massachusetts through the courtesy of Commissioner Hollis R. Bailey, and of the Commissioners of Louisiana through the courtesy of Commissioner W. O. Hart.

Communications have also been received by the committee as follows:

An address on the Importance of Uniformity between National and State Legislation, delivered by H. N. McKinney, before the Credit Men's Association in Philadelphia, January 25, 1910.

The report of the proceedings of the Twelfth Annual Meeting of the Rhode Island Bar Association, December 6, 1909, containing an address by James M. Beck, former Assistant Attorney-General of the United States, on "Nullification by Indirection."

The bulletin of the Commercial Law League of America, containing references to our meeting at Detroit last year.

Report of the Committee on Uniform State Laws of the Pennsylvania Bar Association.

The prospectus of the Committee on Commercial Law in connection with the publication of the American Uniform Commercial Acts.

The bulletin of the Committee of One Hundred on National Health, together with a copy of the speech of the Honorable Robert L. Owen in the Senate of the United States, Thursday, March 24, 1910, on the subject of a department of public health.

A communication from the National Board of Trade giving an extract from the records of the Fortieth Annual Meeting of the Board in Washington, D. C., January 25, 26 and 27, 1910, endorsing the action of the Commissioners on Uniform State Laws on the Uniform Sales Act, the Uniform Stock Transfer Act, the Uniform Negotiable Instruments Act, the Uniform Warehouse Receipts Act and the Uniform Bills of Lading Act, which they commend to the people of the United States and urge

upon the constituent members of the National Board that their influence be directed toward the enactment of these acts in their respective states in all cases where it has not already been done.

A further communication from the National Board of Trade upon the subject of State Laws to Secure a Uniform System of Accounting by Corporations, the preamble and resolution being as follows:

WHEREAS, The formation of public service commissions by the various states of the union for the control and supervision of corporations, such as fire and life insurance, transportation, gas and electric lighting, has been made without the consideration for a uniform system of accounting, which should include an identity of date in each state when reports are to be made to the Commissioners; and

WHEREAS, Corporations doing an interstate business are required to file reports to the various state commissions according to the laws of each state and subject to their interpretations, so that those required to file reports are put to such unnecessary duplication of work and to many misunderstandings and to the doing away of any uniform system of bookkeeping; therefore be it

Resolved, That the National Board of Trade recommends to the several public service commissions now in existence and to the state legislatures, which will, in the future, create public service commissions, that as far as possible, a uniform system of bookkeeping be allowed and promoted, and that a uniform date shall be adopted, preferably the calendar year, on which reports are to be made by corporations to state commissions.

The Executive Committee has also received a printed copy of the communication of the Alabama State Bar Association, addressed to the various State Bar Associations, dated August 20, 1886, signed by our colleague, Mr. Frederick G. Bromberg, as Chairman, upon the subject of Uniformity of State Laws and the Methods of Securing the Same, which it is recommended be filed among the records of the Conference.

A communication was also received from Benjamin P. Moore, of the State of Maryland, as follows:

To the Commissioners on Uniform State Laws:

The undersigned would respectfully ask your attention to a proposition embraced in a report of your Executive Committee

at the Annual Conference of the Commissioners in 1907, suggesting the adoption by all the states of a form of oath prescribed by the legislature of Maryland in 1898, which abolishes and prohibits the use of imprecatory words, and substitutes the raising of the hand for the kissing of the Bible.

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The act and the form prescribed, which was also adopted by the United States Courts sitting in Maryland, is as follows:

"The form of judicial and all other oaths to be taken or administered in this state shall be as follows:

"'In the presence of Almighty God I do solemnly promise (or declare), etc.,' and it shall not be lawful to add to any oath the words 'so help me God' or any imprecatory words whatever.

"The manner of administering oaths shall be by requiring the person taking the same to hold up his hand in token of his recognition of the solemnity of the act, except in those cases when it shall appear that some other mode is more binding upon the conscience of the swearer."

Your petitioner would earnestly ask that consideration be given to this proposal at the Conference of 1910.

Very respectfully,

BENJAMIN P. MOORE.

This communication was forwarded to the President of the Commission by Commissioner George Whitelock, of Maryland. Mr. Harry Shelmire Hopper, of Philadelphia, Pennsylvania, presented a communication in reference to the utility and desirability of a uniform law upon the subject of the use and legal effect of seals after an individual signature. Your committee gave considerable attention during the year to the finances of the Conference and considered a number of suggestions by correspondence with members of the committee. The suggestions were as follows:

1. That State Bar Associations might be applied to for appropriations.

2. That by special effort a large number of the Uniform American Commercial Acts might be disposed of.

3. Assessing each Commissioner ten dollars for general expenses.

4. "To put one's hand into one's pocket"; the gentleman making the suggestion stating that he was willing to do so to the extent of fifty dollars, if that would help the treasury out.

5. Circularize the various Commissioners requesting them to make application at once for the appropriation which would enable them to make a contribution to the general treasury, and that they invoke the aid of the National Civic Federation to that end; submitting, if possible, to their Governors and legislatures copies of the strong resolutions passed in that behalf by the National Civic Federation.

Your committee desires to express their appreciation of the courtesy of Commissioners Ingersoll, of Tennessee, and Whitelock, of Maryland, and to W. B. Swaney, Esq., and Lewis N. Coleman, Esq., of the Chattanooga Bar in connection with the arrangements for the Twentieth Annual Conference of the Commissioners.

Your committee has received from the Chairman of the Executive Council of the National Civic Federation, Ralph M. Easley, a number of letters enclosing clippings showing the strenuous efforts which the National Civic Federation is making for the organization, in the various states, of a local council to co-operate with it and with our Commissioners in promoting a sentiment in favor of uniformity of legislation in the various states and for efficient co-operation with the work of the National Conference of Commissioners.

All of which is respectfully submitted,

WILLIAM H. STAAKE,
Chairman of Committee.

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REPORT

OF THE

COMMITTEE ON COMMERCIAL LAW.

To the Conference of Commissioners on Uniform State Laws:

The committee reports as follows:

This committee has had before it for consideration the matter of a uniform partnership act, but owing to the deeply lamented death during the year of Dean Ames, the expert who was preparing the act on this subject, the committee was unable to make any progress during the past year. Prof. Wm. Draper Lewis and Mr. James B. Lichtenberger have prepared a draft of a partnership act drawn on the same lines as the drafts submitted by Dean Ames and embodying the so-called legal entity idea. In preparing this act, they have had before them the various drafts or partial drafts prepared by Dean Ames and also his notes on the subject. They have also submitted a draft of a proposed uniform act embodying the theory that a partnership is an aggregate of individuals associated in business, which is that at present accepted in nearly all the states of the union. These acts, together with the last draft prepared by Dean Ames, with notes which had been added thereto by him, have been printed in a pamphlet copies of which have been submitted to the members of this committee. The work of these gentlemen is of great value and will be very helpful to your committee in completing their work. Owing to the fact that these drafts had so recently been seen by the members of the committee, it was deemed better that the consideration of the matter should be postponed to a subsequent meeting in order that the drafts might be carefully examined by the committee before a hearing. The committee, therefore, voted that copies of this pamphlet be distributed to members of the Conference, law instructors and other experts,

and that the matter of the Uniform Partnership Act be taken up at a subsequent meeting of the committee.

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It has been suggested to the committee that notwithstanding the extreme care with which the Negotiable Instruments Law was prepared as a result of the experience since it was submitted by the Conference in 1896, some cases have been found where the language of the act might with advantage be made more clear so as to avoid the possibility of misunderstanding. The committee deem it advisable that this subject be taken up by it so that they may ascertain whether any ambiguities in the act exist, and if so, that it recommend such changes as may be necessary in order that they may be removed. It was thought better that such amendments, if any were necessary, should emanate directly from this Conference rather than that the work of correction be left to the legislators of the various states without the aid of this Conference.

The committee were directed by the Executive Committee to cause to be printed the various acts submitted by the Conference generally known as the American Uniform Commercial Acts, including the Uniform Sales Act, Uniform Stock Act, Uniform Stock Receipt Act, Uniform Transfer Act, Uniform Negotiable Bills Act, Uniform Warehouse Receipt Act and Uniform Bills of Lading Act, and cause the same to be distributed. In accordance with this direction, the committee had printed an edition of 9000 of said acts, and subsequently 3000 more, making 12,000 in all, the greater part of which has been already distributed in accordance with the directions.

Respectfully submitted,

TALCOTT H. RUSSELL, *Chairman*,
SAMUEL WILLISTON,
W. O. HART,
CHARLES THADDEUS TERRY,
A. T. STOVALL,

Committee.

Dated August 25, 1910.

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REPORT

OF THE

COMMITTEE ON WILLS, DESCENT AND DISTRIBUTION.

To the Conference of Commissioners on Uniform State Laws:

Your undersigned committee is of the opinion that it cannot do better than to again recommend to the various states the two laws heretofore recommended by the Conference at its session in New York City, on November 15 and 16, 1892. The laws read as follows:

I.

"*An Act to Establish a Law Uniform with the Laws of Other States Relative to the Execution of Wills.*

"A last will and testament, executed without this state in the mode prescribed by the law, either of the place where executed or of the testator's domicile, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state; provided, said last will and testament is in writing and subscribed by the testator."

II.

"*An Act to Establish a Law Uniform with the Laws of Other States Relative to the Probate in this State of Foreign Wills.*

"That any will duly admitted to probate without this state, and in the place of testator's domicile, may be duly admitted to probate and recorded in this state by duly filing an exemplified copy of said will and of the record admitting the same to probate; and such will shall then have the same force and effect as if originally proved and allowed in this state."

We, therefore, report the following resolution:

Resolved by the Conference of Commissioners on Uniform State Laws, in annual session convened at Chattanooga, Tennessee, on August 25, 1910, That the Conference approves the laws relative to the execution and probate of foreign wills, heretofore adopted in 1892, and recommends to the Commissioners

from the different states that they secure the adoption thereof in their respective states.

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Respectfully submitted,

W. O. HART, Louisiana, *Chairman;*
ROBERT W. WILLIAMS, Florida;
FRANCIS M. BURDICK, New York;
GEORGE W. BATES, Michigan;
HANNIBAL E. HAMLIN, Maine;
JOHN L. WEBSTER, Nebraska;
WALTER R. LEEDS, California;

Committee.

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REPORT

OF THE

COMMITTEE ON DEPOSITIONS AND PROOFS OF STATUTES OF OTHER STATES.

To the Conference of Commissioners on Uniform State Laws:

In examining, as well as I could, at second hand, the statutes of the various states prescribing forms of acknowledgment I find, that the word "free" is used in only twelve states, namely, Connecticut, Florida, Illinois, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, New Mexico, Oklahoma and Vermont.

The words "freely and voluntarily" are used by two states, namely, Nevada and Oregon.

The words "free and voluntary act and deed" are used by one state, namely, Rhode Island.

The words "free and voluntary act" are used by two states, namely, Washington and Wyoming.

It appears, therefore, that out of the entire number of states and territories of the union, only seventeen use the words "free" or "freely."

Some other states, like Alabama, require the word "voluntarily" to be used.

The State of Kansas requires no special form of acknowledgment and any common form is sufficient for that state.

If the important State of Kansas prescribes no special form of acknowledgment, but permits any common form, whatever, to be used, it seems to the writer that it is worth while to consider whether or not this Conference had not better revise its recommendations and substitute in place of Sections 1, 2 and 3 of the draft of the act recommended by it, the Kansas law.

The result would be greater simplicity of law, and there would

be, also, much greater probability of its acceptance, than there is of the present recommendations of the Conference, which have so little *vis a tergo* to support them, judging from the fewness of the states requiring the use of the word "free."

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It seems to the writer, also, that the requirements in Sections 4 and 5, that the clerk of a court of record or the secretary of state certify that they are well acquainted with the hand writing of every officer within their jurisdiction having authority to take acknowledgments of deeds, etc., is the requirement of an impossibility. It may be said that the requirement exists in some states now, without appearing to be impracticable; but I believe it will be found, upon examination, that the requirement has come to be treated as form only. I mean, that the certificate is signed with those words in, notwithstanding the clerk or secretary, is in fact, unacquainted with the handwriting of the officer he certifies to.

If the writer is correct, the clause just criticised should be stricken out of Sections 4 and 5 of the bill as recommended for enactment.

F. G. BROMBERG,
Chairman.

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REPORT

OF THE

COMMITTEE ON APPOINTMENT OF NEW COMMISSIONERS.

To the Conference of Commissioners on Uniform State Laws:

Your undersigned Committee on Appointment of New Commissioners begs leave to report as follows:

That since the last Conference, Commissioners have been appointed under Act of the Assembly, by the Governor of Porto Rico, and Commissioners have been appointed by the Governors of Delaware and Hawaii, leaving now unrepresented in the Conference the District of Alaska and the State of Nevada, and while efforts have been made during the year to have these two represented, no appointments have yet been made for them, but it is to be hoped that they will be made before we meet in 1911. The Commissioners appointed from Delaware are Mr. P. Q. Churchman, of Wilmington; Mr. J. M. Satterfield, of Dover; and Mr. Chas. M. Cullen, of Georgetown.

The Commissioners appointed from Hawaii are Mr. David L. Withington, of Honolulu; Mr. Charles F. Clemens, of Honolulu; and Mr. Carl S. Smith, of Hilo, the first two of whom we understand expect to attend the Conference. Some years ago Hawaii was represented in the Conference by Mr. Withington, and we are glad to have him back on our roll.

The original appointments from Porto Rico were Mr. H. F. Hord and Mr. Jose Hernandez Usera, both of San Juan. Mr. Usera found it necessary to resign and Mr. Manuel Rodriguez Serra, also of San Juan, was appointed to succeed him, and expects to attend the Conference. Mr. Foster V. Brown, of San Juan, the attorney-general of Porto Rico, has also been appointed a Commissioner, and we understand expects to be present.

In California, Mr. Oscar A. Trippet, of Los Angeles, has been appointed an additional Commissioner.

In Massachusetts, the vacancy caused by the death of our esteemed colleague, Prof. James Barr Ames, has been filled by the appointment of Prof. Samuel Williston, well known to all the members of the Conference, which he has attended for many years, being the draughtsman of the last four acts recommended by the Conference.

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In Maine Judge Levi Turner, of Portland, who has attended many of our Conferences as a visitor, has been appointed a Commissioner to succeed Mr. Charles F. Libby, resigned.

In Rhode Island, Mr. Thos. A. Jenckes, of Providence, has been appointed a Commissioner to succeed Mr. W. R. Tillinghast.

In Minnesota, the terms of all the Commissioners appointed in 1906 having expired, new appointments have been made as follows: Mr. Rome G. Brown, of Minneapolis, re-appointment; Mr. C. A. Severance, of St. Paul, and Mr. Henry Deutsch, of Minneapolis.

In New York, to fill a vacancy, Mr. C. C. Alden, of the Buffalo Law School, has been appointed.

From Ohio we regret to lose Mr. Francis B. James, for many years Chairman of the Committee on Commercial Law, who was compelled by press of personal business to resign as a Commissioner. No appointment has been made of his successor.

We have endeavored to have additional appointments made in Colorado of some Commissioner or Commissioners who would attend, as that is the only state which has never been represented at a Conference, though it has had Commissioners on the rolls for a good many years.

As most of the states have three Commissioners, we have endeavored during the year to have an additional Commissioner appointed from states which now have only two Commissioners, being New Hampshire, North Dakota, Oregon and Vermont, but have received notice of no new appointments, though we have been informed by Mr. H. R. Turner, of North Dakota, that a new Commissioner will be appointed from that state.

Respectfully submitted,

W. O. Hart,

Acting Chairman.

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REPORT

OF THE

COMMITTEE ON MARRIAGE AND DIVORCE.

To the Conference of Commissioners on Uniform State Laws:

The Committee on Marriage and Divorce respectfully reports:

At the last meeting of the Conference a tentative draft of an act relating to family desertion and non-support was reported, and after consideration it was referred back to this committee with certain suggested amendments for further consideration. Similar action was taken with regard to the tentative act on the subject of marriages and licenses to marry.

The new committee has given consideration to both the acts and has caused new drafts to be prepared, with such modifications as were found necessary or desirable in the light of the discussions of the Conference and suggestions from competent critics. Meetings of the committee have been held in Washington in January, in Philadelphia in May, and in Cape May in June, when consideration was given to each of the acts by those members of the committee who were able to attend in person and other members by correspondence. Some differences of opinion were developed in regard to both of the acts. It was finally concluded to report them in their present form with the understanding, however, that each member of the committee reserves to himself the right to support, oppose or modify any of the provisions as his final judgment might dictate.

The committee has been materially aided in its labors by William H. Baldwin, Esq., of Washington, who appeared before it in person and submitted carefully prepared suggestions and criticisms. William D. Crocker, Esq., of Williamsport, Pennsylvania, whose services were of so much value to the committee last year, by authority of the Executive Committee was appointed

its special Secretary and has carefully annotated both the acts proposed, redrafting and enlarging the notes heretofore made, and adding new ones.

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In the absence of the Chairman of the committee, who was abroad for several months, the President of the Conference acted as Chairman *pro tem.*

It is confidently believed that the work of the committee is now in such form as to make it susceptible of completion by the Conference with very little change.

All of which is respectfully submitted.

EDWARD W. FROST, *Chairman,*
J. R. THORNTON,
SENECA N. TAYLOR,
F. L. SIDDONS,
ROBERT SNODGRASS,
JOHN R. EMERY,
ERNST FREUND,
Committee.

I.

AN ACT

Relating to and regulating marriage and marriage licenses; and to promote uniformity between the states in reference thereto.

[Defining the essential elements of a marriage contract; prescribing the manner of contracting marriages, requiring the consent of parents or guardians of minors; requiring a marriage license in all cases; providing for the issuance thereof, the recording thereof, the form thereof, and the form, delivery and recording of the certificate of marriage; imposing penalties for solemnizing marriages without a license, or without authority of law, for refusing to return or record the certificate of marriage, for refusal or neglect by any marriage license clerk of the duties prescribed by this act; providing that a certified copy of the record shall be *prima facie* evidence of any marriage; prohibiting common law marriages; providing for the legitimation of chil-

dren by *ex post facto* marriages; requiring returns by marriage license clerks to the .... of this state; fixing the fees of marriage license clerks; and repealing, consolidating and extending existing laws in relation to these subjects. (1)]

1. The constitutions of all the states excepting the New England States, North Carolina and Mississippi, contain the following provision: "No bill shall contain more than one subject which shall be (clearly) expressed in its title." Some of the states omit the word "clearly." The purpose of such provision is to prevent the joining together of several independent and incongruous subjects, or matters, of which the title gives no intimation. Such provisions do not, however, prohibit the legislature from adopting by a single act a code or compilation of laws. Therefore, if the title fairly indicates the general subjects of the act, is comprehensive enough to cover all the provisions thereof, and is not calculated to mislead either the legislature or the public, it is sufficient. It would seem, then, that the general title above given, to wit, "An Act Relating to and Regulating Marriage and Marriage Licenses," is sufficiently indicative of all the provisions of this act. With one exception, namely, the section relating to the legitimising of children by *ex post facto* marriage. If it be decided that such provisions are not germane or cognate to the phrase "relating to and regulating marriage," then the title to the act would *pro tanto* be defective. Therefore, it has been thought better for purposes of discussion to bring to the attention of the committee by way of enumeration of the various provisions of the act the specific subject matter of each section or group of sections. If the general title alone be adopted, there would be the possibility of objection that it did not sufficiently indicate the intention of the act to deal with the question of legitimacy and illegitimacy of children; but if such purpose be expressed in the foregoing synopsis of the provisions of the act, then the only objection to the sections relating to legitimacy or illegitimacy of children would be that they were not germane or cognate to the subject of marriage. Such an objection is more easily answered than would be an objection to the indefiniteness of the title. The question of sufficiency or insufficiency of title is fully discussed in 26 Amer. and Eng. Encyc. (2d Ed.), pages 572-590.

Since the object of the Commissioners on Uniform Laws is to formulate and present a bill that will tend to uniformity between the states, it seems desirable, in those states where a general title is sufficient, to add at the end of line 1 the words "and to promote uniformity between the states in reference thereto." These same words can be added at the end of the longer title if such longer form be desired.

SECTION I. Be it enacted, etc., that marriage may be validly contracted in this state only after a license has been issued therefor, in the manner following:

1. Before any person authorized by the laws of this state to celebrate marriages (1) (and hereinafter designated as the officiating person), by declaring in the presence of at least two (2) competent (3) witnesses other than such officiating person, that they take each other as husband and wife (4) or

2. In accordance with the customs, rules and regulations of any religious society, denomination or sect to which either of the parties may belong, (5) by declaring in the presence of at least two competent witnesses, that they take each other as husband and wife. (6)

1. Clause 1 of Section II, as printed on page 36 of the report of the committee at Detroit, was stricken out at the meeting of the committee at Washington, it being deemed wiser to employ the general phrase "by or before any person authorized," etc.; thus leaving to each state the qualifications of the persons who may celebrate the marriage ceremony.

2. The number of witnesses required varies in different states. Varying from one to three. The committee at Washington adopted the majority rule of two.

3. The report of the committee as printed required "adult" witnesses. The committee at Washington substituted the word "competent," being of the opinion that minors were as competent as parties *sui juris*.

4. A large majority of the states which have legislated upon the subject of mode or form of ceremony, require as an essential to the marriage contract that the parties shall "declare in the presence of witnesses that they take each other as husband and wife."

5. Thirty-seven states provide for marriage ceremonies according to the customs, rules and regulations of Quakers, Jews and other religious societies. The committee at Washington, therefore, directed the insertion of a Clause 2 of Section I to cover such ceremonies, which are in a sense merely marriage contracts in the presence of witnesses, without being performed by or before an officiating person. One of the chief purposes of this act being the procuring of a license in proper legal form, and the registration of said license, it is, of course, immaterial whether the marriage ceremony be performed by a minister or civil official or in the presence of the proper number of witnesses in conformity with the rules and regulations of the proper religious society.

6. Just as under Clause 1 there should be two competent witnesses, so also should there be under Clause 2.

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SEC. II. No persons shall be joined in marriage within this state until a license shall have been obtained for that purpose from the .... (1) of the county where the marriage ceremony is to be performed.

1. The official title of the person whose duty it is to issue marriage licenses to be inserted here. The practice varies in the different states; in New England it is generally the town clerk, in New York it is the town or city clerk, who makes return to the county clerk; in the rest of the Middle States, and almost universally in the South and West, the license is issued either by the county clerk, or the clerk of the probate court, or the probate judge, and sometimes by the county judge. Prof. Howard, in Vol. III, 193-4, recommends very strongly the division of every county into marriage districts, for each of which a registrar should be authorized to license, solemnize and register all marriages civilly contracted therein, and to license, attend and register all religious celebrations; the authority of such registrar to be restricted to his district, and each district registrar to report to the county registrar, and each county registrar, in turn to the state registrar. This system seems admirable for its theoretical simplicity, but the popular objection to the multiplication of officers would undoubtedly prevent its adoption.

SEC. III. Application for a marriage license must be made at least five days before the license shall be issued; provided that in cases of emergency, or extraordinary circumstances, the judge of the court having probate jurisdiction may authorize the license to be issued at any time before the expiration of said five days. (1)

1. Wisconsin seems to be the only state requiring the license to be taken out several days before the marriage. In Maine "notice of intention" to apply for a license must be made at least five days before the issuing of the license, and provision is made for filing the protest against the issuing of a license. But if the license is once issued, the marriage ceremony may be performed at once. In Maryland no license is required if banns are published on three several Sundays before the marriage. In Ohio a license is not required if banns are published at least ten days before marriage. But as the custom of publishing of banns survives in so few states, it seems preferable to adopt the Wisconsin phraseology. The re-

quirements of a previous notice of an intended marriage obtains very generally in Europe. In England and Wales a marriage can be celebrated only after the publication of banns, or by virtue of a license, general or special, or by virtue of a registrar's certificate.

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In Scotland a regular marriage must be preceded by the publication of banns or the issuance of a registrar's certificate.

On the continent nearly every country requires publication as a prerequisite to marriage. This may be either by banns, as in Austria, or by civil publication:—In Switzerland, for instance, either by notice posted in public places or by a single insertion in the official newspaper. The term of publication, whether by banns or by the civil authorities, varies from three weeks to two weeks.

It is apparent, therefore, that in Europe previous notice of intention of marriage by the publication of banns by the religious authorities or an application to the civil authorities several days in advance of the issuing of the license, is the mode adopted to secure notice to the public and prevent hasty and unlawful marriages. As stated above, this method obtains in only three states. In forty states the license issues immediately on the making of the application in proper form. In theory the European method is perhaps more desirable as preventing violation of the time period between the issuing of the license and the marriage, and also as affording an opportunity for the orderly presentation and disposition of any objections that may be raised by reason of impediments.

SEC. IV. No license shall be issued unless both of the contracting parties shall be identified to the satisfaction of the ...., who shall further require of the parties, either separately or together, a statement under oath relative to the legality of the contemplated marriage, the date of same, the names, relationship, if any, age, nationality, color, residence and occupation of the parties, the names of the parents, guardians or curators of such as are under the age of legal majority, any prior marriage or marriages of the parties, or either of them, the manner of the dissolution thereof, and if there be no legal objection thereto, such .... shall issue a marriage license in the form hereinafter prescribed. Or, the parties intending marriage may, either separately or together, appear before any ...., magistrate, alderman or justice of the peace of the county (whether in this or any other state) wherein either of the contracting parties resides, or of the county where the marriage is to

be performed, who shall require of them a statement under oath as above provided; and such statement, having been duly subscribed and sworn to, and the parties having been duly identified, shall be forwarded to the .... of the county where the marriage is to be performed, who, if satisfied after an examination thereof, that the same is in proper legal form, and that no legal objection to the contemplated marriage exists, shall issue a license therefor. (1)

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1. The terms of this section follow, in substance, the Pennsylvania acts of assembly, and each state may change the phraseology. But the two essential features of the section are, first, that no license shall be issued until proper proof has been made before the marriage license clerk, and, second, that, as marriages are to be encouraged rather than prohibited, the requirement that the parties shall appear in person before the marriage license clerk is modified so as to permit the same proofs to be made before some official residing outside of the county seat. This latter provision may be peculiar to Pennsylvania, but it works very well in practice, since the record of the license and of the marriage ceremony is just as fully provided for by the subsequent sections of the act. The second paragraph of this section also provides for a case where one of the parties, say the woman, resides in this state, and the other resides in another state, but cannot spare the time to appear in person before the marriage license clerk five days before the intended ceremony of marriage. Under this section he can make the necessary proofs in advance before some magistrate of his place of residence.

A few states forbid the issuing of a license to imbeciles, paupers, epileptics, or persons afflicted with a transmissible disease. But as the determination of such facts would require expert testimony before the marriage license clerk, and as the interval of five days between the application for and the issuing of the license gives opportunity to relatives and friends to object to the marriage, it is thought hardly necessary to insert such restrictions in this act.

SEC. V. No license shall be issued if either or both of the contracting parties be under the marriageable age of consent as established by law. If either or both of the contracting parties be between the marriagable age of consent as established by law and the age of legal majority, to wit, between .... years and .... years, if a male, and between .... years and .... years, if a female, no license shall be issued without

the consent of his or her parents, guardian or curator, or of the parent having the actual care, custody and control of such minor or minors, given before the .... under oath, or certified under the hand of such parents, guardian or curator as aforesaid, and properly verified by affidavit before a notary public or other official authorized by law to take affidavits, which certificate shall be filed of record in the office of said .... and entered by him on the marriage license docket before issuing said license; (1) provided, that if there be no guardian or curator of either or both of such minors, or if there be no person having the actual care, custody and control of such minor or minors, then the judge of the county of the residence of the minor having probate jurisdiction may, after hearing, upon proper cause shown, make an order allowing the marriage of such minor or minors. (2)

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1. At common law the ages of 14 and 12 years for male and female, respectively, were the ages at which either might enter into a binding contract of marriage. Thirty states, including the District of Columbia, have by statute prescribed a higher age limit for marriageable consent, and in those states the marriage of a minor between the common law age of consent and the statutory age of consent is voidable by the minor on arriving at the statutory age of consent. See Beggs *vs.* State, 55 Ala. 108; Eliot *vs.* Eliot (Wisc.), 46 N. W. 806; State *vs.* Cone (Mich.), 57 N. W. 50; Scott *vs.* Lowell (Minn.), 80 N. W. 877.

In Minnesota and Wisconsin the statutory age of consent is fixed at 18 for the male and 15 for the female, but the statute does not declare that marriages under such ages shall be void, therefore the courts have held them to be voidable only. In the remaining 17 states the ages of consent remain the same as at common law. Three of those states, Kentucky, Louisiana and Virginia, having adopted said ages by statute.

Every state except South Carolina requires the consent of parents, etc., for the marriage of minors above the marriageable age of consent and under a given age. In 40 states that age is fixed at 21 for the male. In 3 states at 18, and in 1 state at 16. In the 2 remaining states, Georgia and Michigan, no age is fixed for the parental consent for the male. But as in Georgia the statutory age of consent for the male is 17, and in Michigan 18, parental consent is apparently not considered necessary in those states, although re-

quired for the female up to the age of 18. The age below which parental consent is required for the marriage of the female is fixed at 21 in 9 states, at 18 in 34 states (including D. C.), and at 16 in 3 states. www.libtool.com.cn

"The age of legal majority" of the male corresponds with the age below which parental consent must be obtained in 40 states as above mentioned. If this phrase be retained in the text, then the remaining 6 states would be required to repeal their existing provisions. In a few states the age of 18 is made by statute the age of legal majority of the female. In the rest it remains 21. For the sake of uniformity, it is desirable that 21 be fixed as the age below which parental consent must be obtained for the female as well as for the male; but the section has been worded so as to permit those states which have made 18 the legal age of majority for the female to retain such age.

2. A few states, notably Massachusetts, have a provision authorizing the court of proper jurisdiction to make an order allowing the marriage of minors, where the parents, or one of them, lives out of the state, or has deserted his family, or where the parents being dead, no guardian or curator has been appointed. Inasmuch, however, as the text of this section uses the phrase "parent having the legal care, custody or control of such minors," it would seem as though the case of absent parents was sufficiently provided for, and that there is no need to invoke the consent of the court except where, the parents being dead, no guardian, or curator has been appointed. In many states a guardian *ad litem* would be appointed.

SEC. VI. Immediately upon entering an application for a license, the .... shall post in his office a notice giving the names and residences of the parties applying therefor, and the date of the application. Any person believing that the statements of the application are false or insufficient, or that the applicants or either of them are incompetent to marry, may file with the court having probate jurisdiction in the county in which the license is applied for, a petition under oath setting forth the grounds of objection to the marriage, and asking for a rule upon the parties making such application to show cause why the license should not be refused. (1) Whereupon, said court, if satisfied that the grounds of objection are *prima facie* valid, shall issue a rule to show cause as aforesaid, returnable as the court may direct, but not more than ten days from and after the date of said rule. If, upon hearing, the objections be sustained, the court

shall make an order refusing the license, the costs to rest in the discretion of the court; but if the objections be overruled, the party or parties filing the same shall be liable for all costs of the proceedings. (2)

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1. Only two states, Louisiana and Maine, appear to have any provision for the filing of objections, by parents, guardians or others, to a contemplated marriage. In Louisiana the license issues immediately upon the making of the application. In Maine notice of intention to apply for a license must be made at least five days before the issuing of the license. The procedure in either of those states, in case of opposition to the marriage, is rather crude. The committee at Washington having recommended that the license be taken out at least three days before the date of the marriage, it was further recommended that provision be made for the public posting of a notice of the issuing of the license, and for the filing of a protest by parents, guardians or others, with the proper court of the county in which the license was issued, and for a hearing upon such protest after notice to the parties interested. The committee at its Cape May meeting adopted the plan of requiring the application to be made five days before the issuing of the license, and the notice to be posted differs accordingly.

2. The question of liability for costs where the license is revoked should depend upon the circumstances of each case. The party at fault might be the intended husband, possibly the wife, possibly a pretended parent or guardian. As in a sense the public is a party interested, the costs, if small, might justly be imposed upon the county; on the other hand, if much testimony were taken, the county should not be liable. It is therefore suggested that the costs in such cases be left in the discretion of the court.

Cases might arise where either liquidated damages, or unliquidated damages as to reputation, etc., might be suffered by the parties to the intended marriage, but it is very doubtful whether such damages should be recognized in this section, because creating a new statutory cause of action sounding in tort. Therefore the parties are left to recovery of their costs.

Quaere.—Does this section in any wise offend against constitutional provisions forbidding special legislation regulating the practice or jurisdiction of courts? It would seem not, since the act applies to all proceedings of this character in every county in the state.

SEC. VII. Any person who shall, in any affidavit or statement required or provided for by Sections IV, V and VI of this act, wilfully and falsely swear or who shall procure another to wil-

fully and falsely swear in regard to any material fact relating to the competency of either or both of the parties applying for a marriage license, or as to the ages of such parties, if minors, or who shall falsely pretend to be the parent, guardian or curator, having authority to give consent to the marriage of such minors, shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not less than .... or more than .... dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. (1)

1. Colorado, Illinois, Massachusetts, Michigan, New York and Utah make such false swearing a penal offense. In Colorado, Michigan, New Jersey, New York and Utah it is perjury and punishable as such. The Illinois phraseology defining the punishment in the section creating the offense seems preferable.

SEC. VIII. Any .... who shall knowingly issue a marriage license contrary to or in violation of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not less than $100.00 or more than $500.00, or imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. (1)

1. Some eighteen states impose severe penalties upon marriage license clerks who issue licenses contrary to the provisions or the prohibitions of the statute. Nine of these use, in substance, the language of the text. Three impose a penalty only for issuing to persons incompetent to marry. Four states impose a penalty only for issuing a license to minors without parental consent. Two other states for issuing a license without an affidavit to the facts required to be stated in the application. All of these acts of misfeasance or non-feasance are of serious importance and should be severely punished, since the functions of the marriage license clerk are at least quasi-judicial, and it is very proper that a severe penalty should be imposed to insure a careful exercise of such powers. In addition to the foregoing acts, there may be also clerical mistakes of a less serious nature, *e. g.*, a license may be granted by the clerk of the wrong county, either through oversight of the law, or through collusion; or the clerk may himself be ignorant of the provisions of the law as to consanguinity or affinity or other impediments to marry; or he may be careless in identification of the parties or in filling out the blanks in the application or in omitting to attach his seal, etc., etc. For such clerical mistakes perhaps a smaller

penalty should be imposed. If so, it is suggested that such end can be obtained by reducing the minimum fine, rather than by introducing a separate section covering clerical mistakes only, for the following reasons: First, in the case of the more serious offenses, the error can be corrected by protest filed within the five days elapsing between the making of the application and the issuing of the license. Second, a majority of the states have statutory provisions in one form or another to the effect that marriages consummated in good faith by the parties, and otherwise legal, shall be valid notwithstanding the fact that the license may have been issued by the wrong marriage clerk or that certain formalities have not been complied with. Provision is made for these matters in a subsequent section. It is to be remembered that if any of the parties to the application for the license make false representations to the marriage license clerk, upon the strength of which he issues a license, they are, by Section VII, *supra*, made liable to a severe penalty. The amount of fine in this section is fixed at the same amount as in said Section VII. As to whether marriages based upon false representations made by the parties themselves, should be treated as void or voidable is a question requiring careful consideration.

SEC. IX. Model forms for blank applications, statements, consent of parents, affidavits, licenses and marriage certificates and such other forms as shall be necessary to comply with the provisions of this act shall be prescribed by .... at the expense of the state; and a sample copy of each of said forms shall be furnished to the .... of each county of the state. The county officials shall furnish, at the cost of said county, to the .... all of the aforesaid blanks, together with a suitable book to be called the marriage license docket, which said .... shall keep in his office among his records and enter therein a complete record of the applications for and the issuing of all marriage licenses, and of all matters which he is required by this act to ascertain relative to the rights of any person to obtain a license. Said marriage license docket shall be open for public inspection or examination at all times during office hours. (1)

1. The foregoing section needs no explanation.

Section IX of the Detroit Bill relating to inspection by the public also made it lawful for any person to make a copy or abstract of the entries contained in the marriage license docket for the purpose

of publication. This provision was taken from the Pennsylvania act of May 22, 1895, P. B. 99, which act was passed because of a decision by one of the common pleas courts of Pennsylvania, *in re* Marriage License Docket, 4 Dist. Rep. 284, holding that since the earlier marriage license act of June 23, 1885, did not direct publication of any kind in regard to the intention of marriage, it did not confer upon persons without special interest the right to inspect the marriage records, and therefore that a newspaper reporter had no right to such inspection. The argument of the court was, that in the absence of statutory directions the marriage license was not a public record in the sense that it is open to the public to inspect and copy therefrom as a matter of right. This seems a narrow interpretation, and yet the authorities cited in the opinion of the court seem to sustain the position there taken. But since by the foregoing section it is provided that the marriage license docket shall be open for public inspection, it would seem unnecessary to add a provision legalizing publication of the facts there appearing.

SEC. X. The license shall authorize the marriage ceremony to be performed only in the county in which the license is issued. (1) The license shall be directed "to any person authorized by the laws of this state to solemnize marriages," and shall authorize him to solemnize marriages between the parties therein named, at any time not more than one year (2) from and after the date thereof. If the marriage is to be solemnized by the parties without the presence of an officiating person, as provided by paragraph 2 of Section I of this act, the license shall be directed to the parties to the marriage. If either of the parties be not of the age of legal majority, then his or her age shall be stated, and the fact of the consent of his or her parents, guardian or curator shall likewise be stated; and if either of said parties shall have been theretofore married, then the number of times he or she shall have been previously married and the manner in which the prior marriage or marriages was or were dissolved shall be stated. The officiating person shall satisfy himself that the parties presenting themselves to be married by him are the parties named in the license; and if he knows of any legal impediment to such marriage, he shall refuse to perform the ceremony. (3) The issue of a license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition

rendering marriage between the parties illegal, and the license shall contain a statement to that effect. (4)

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1. In some states, *e. g.*, Pennsylvania, the license issued authorizes the marriage ceremony to be performed in any county of the state. This provision was adopted in Section XII of the printed bill, but the committee at Washington decided to confine the place of ceremony to the county where the license should be issued, see Section II, *supra*.

2. North Carolina and Wisconsin seem to be the only states fixing a time limit to the marriage license, but there is much to be said in its favor. In Austria the life of a marriage license is six months, in England three months, in Germany six months, and in Switzerland six months.

3. These provisions also are necessary for the protection of the officiating person.

4. This last clause appears in no existing statute, but has been suggested by a member of the committee. Being declaratory of the existing law, there may be no objection to its adoption.

SEC. XI. Said license shall be in form substantially as follows:

State of .... }
County of .... } ss. No. ....

To any person authorized by the laws of this state to solemnize marriage:

You are hereby authorized at any time not more than one year from and after the date hereof, within the county of .... (not knowing any legal impediment thereto) (1) to join together in marriage in accordance with the laws of this State A....... B......., aged ...., and never heretofore married (or married on the ...... day of ......, A. D. ......, to E........ F........, said E........ F........ having died on the .... day of ...., A. D. ....; or, said A....... B....... having been divorced from said E....... F........ by the Court of .... of the County of ...., State of ...., on the .... day of ...., A. D. ....), and C........ D........, aged ...., and never heretofore married (or married on the .... day of ...., A. D. ...., to G........ H........, said G........ H........ having died on the .... day of

........, A. D. ....; or said C........ D........ having been divorced from said G........ H........ by the Court of .... of the County of ...., State of ...., on the .... day of ...., A. D. ....). The consent of ...., the .... of the said A........ B........, and of ...., the .... of the said C........ D........, having been duly given. The issue of this license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition rendering marriage between the parties illegal. (2)

Given under my hand and the seal of the .... Court of .... at ...., State of ...., this .... day of ...., Anno Domini one thousand nine hundred and ....

....

[Seal] Marriage License Clerk.

1. This clause in parenthesis appears in the New York form of license, and seems to be a very proper warning to the officiating person as to impediments to the marriage within his knowledge

2. As stated in Note 4 of Section X this is a novel provision. But it is a very proper notice where the license is issued to the parties themselves in case there be no officiating person, and for the sake of uniformity should be included in the more general form of license.

The foregoing form of license has been filled out in detail for the purpose of showing in concrete form the requirements of Section X. The form of license issued in most states is quite brief. In Pennsylvania it consists merely of the first five lines ending with the words "the laws of this state," and omitting the two clauses in parenthesis, following which are several blank lines for filling in the names of the parties, of the parents or guardians of minors, the fact of former marriage, if any, mode of dissolution, and cause of divorce, if any, according to the facts of each particular case. It is deemed worth while to submit for the consideration of the committee a full form of the license.

SEC. XII. If the marriage is to be solemnized by the parties without an officiating person, as provided by paragraph 2 of Section I of this act, the license shall be in form substantially as follows:

State of .... }
County of .... } ss. No. ....

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To A........ B........, aged ...., and C........ D........, aged ....

This is to certify that legal evidence having been furnished to me as required by law, and the consent of ...., the .... of the said A........ B........, and of ...., the .... of the said C........ D........, having been duly given, I am satisfied there is no legal impediment to your joining yourselves in marriage in accordance with the customs, rules and regulations of the religious society, denomination or sect to which you, or either of you, may belong, at any time not more than one year from and after the date hereof, within the County of ....

The issue of this license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition rendering marriage between you illegal.

Given under my hand and the seal of the .... Court of .... at ...., State of ...., this .... day of ...., Anno Domini one thousand nine hundred and ......

....

[Seal] Marriage License Clerk.

SEC. XIII. The license shall have appended to it three certificates numbered to correspond with the license (one marked "original," one marked "duplicate" and one marked "triplicate"), which shall be in form substantially as follows:

MARRIAGE CERTIFICATE.

I, ..., hereby certify that on the .... day of ...., Anno Domini one thousand nine hundred and ...., at ...., in the County of ...., State of ...., A........ B........, of ...., State of ...., and C........ D........, of ...., State of ...., were by me united in marriage as authorized by a marriage license issued for that purpose by the .... of .... County and State

of ...., numbered .... and dated the .... day of .... A. D. 19....
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Signed ....

Minister of the Gospel, Justice of the Peace or ....

We, the undersigned, were present at the marriage of A....... B........ and C........ D........, as set forth in the foregoing certificate, at their request, and heard their declarations that they took each other for husband and wife.

D........ E........
F........ G........

But if, as provided by Section XII of this act, the license has been issued to the parties themselves, then the certificate (in triplicate) shall be in form substantially as follows:

MARRIAGE CERTIFICATE.

We hereby certify that on the .... day of ...., Anno Domini one thousand nine hundred and ...., we united ourselves in marriage in accordance with the customs, rules and regulations of the .... (1) at .... in the County of .... and State of ...., having first obtained from the .... of the County of ...., State of ...., a marriage license numbered .... and dated the .... day of ...., A. D. 19...., certifying that he was satisfied that there was no legal impediment to our so doing.

A........ B........
C........ D........

We, the undersigned, were present at the marriage of A....... B........ and C........ D........, as set forth in the foregoing certificate, at their request, and heard their declarations that they took each other as husband and wife.

D........ E........
F........ G........

1. This blank to be filled in with the name of the religious society to which the parties or either of them may belong, to wit, Jews, Quakers, Anabaptists, etc., as the case may be.

SEC. XIV. The marriage certificates marked "original" and "duplicate," duly signed, shall be given by the officiating person to the persons married by him; and the certificate marked "triplicate" shall be returned by such officiating person, or, in the case of a marriage ceremony performed without an officiating person, then by the parties to the marriage contract, or either of them, to the .... who issued the license, within thirty days after the date of said marriage. (1)

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1. The Maine, Massachusetts and New Hampshire statutes have the following provisions: "If a marriage be solemnized in another state between parties living in this commonwealth, who return to dwell here, they shall, within seven days after their return, file with the clerk or registrar of the city or town in which either of them lived at the time of their marriage, a certificate or declaration of their marriage, including the facts relative to marriage which are required by law, and for neglect thereof shall forfeit ten dollars."

Unquestionably, complete registration of all marriages is greatly to be desired. But such a provision as the foregoing has been omitted from this draft because it would seem impractical in the present day and generation, when, owing to the demands of business and ease of transportation, hundreds and thousands of families are constantly on the move, to enforce such a provision. However, any state whose present code contains such a clause may readily re-insert it, the question being really a matter of local concern.

SEC. XV. The said ...., upon receiving such triplicate certificate, shall immediately enter the same on the docket where the marriage license of said parties is recorded, and place such certificate on file.

SEC. XVI. If any officiating person shall solemnize a marriage unless the contracting parties shall first have obtained a proper license as hereinbefore provided; or unless the parties to such marriage declare that they take each other as husband and wife; or without the presence of two competent witnesses; or in the case of a minor or minors, unless the consent as hereinbefore provided of the parent, guardian or curator of such minor or minors be stated in such license; or shall solemnize a marriage knowing of any legal (1) impediment thereto; or shall solemnize a marriage more than one year from and after the date of the

license; or shall falsely certify to the date of a marriage solemnized by him; or shall solemnize a marriage in a county other than the county in which the license was issued—he shall forfeit and pay a sum not exceeding $500.00 to and for the use of the county in which the license was issued, or, in case of no license, of the county in which the marriage was solemnized. (2)

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1. The offense here is confined to knowledge of *legal* impediments. Violation of a church canon forbidding the remarriage of divorced persons would be an ecclesiastical and not a legal offense; therefore, the qualifying adjective "legal" is necessary.

2. All of these offenses are of a serious nature, and should be severely punished. As, however, they are offenses against the public and not against the parties themselves, a penalty in the sum named, for the use of the county concerned, will perhaps be as efficacious as to make the offense a misdemeanor punishable by fine or imprisonment, because more certain of being enforced.

***Mem.*—Some ten states require either that ministers of the Gospel be licensed by some authority within the state, or that they have an active charge within the state, or that they be residents of the state, thus practically forbidding a marriage ceremony to be performed by a clergyman of another state. This is a matter for each state to regulate for itself. This act does not pretend to define the persons who shall be authorized to solemnize marriages, or their qualifications.**

SEC. XVII. Where a marriage is solemnized without the presence of an officiating person, then, and in that case, if the parties to such marriage shall solemnize the same more than one year from and after the date of the license; or shall falsely certify to the date of such marriage; or shall solemnize the same in a county other than the county in which the license was issued, they or either of them shall forfeit and pay a sum not exceeding $500.00 to and for the use of the county in which the license was issued. (1)

1. The prohibitions of this section are formal rather than substantive, and a marriage solemnized in violation thereof would not, and should not, be rendered void by reason of such violation.

SEC. XVIII. If any person, not being duly authorized by the laws of this state, shall undertake to solemnize a marriage in this state, he shall be guilty of a misdemeanor, and on conviction

thereof, shall be punished by a fine of not less than $100.00 or more than $1000.00, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. (1)

1. This being a serious offense against both public policy and the parties to the marriage, the penalty should be severe.

SEC. XIX. Every officiating person, or persons, marrying without the presence of an officiating person as provided by paragraph 2 of Section I of this act, who shall neglect or refuse to transmit the triplicate certificate of any marriage solemnized by him or them to the ...... issuing the license within thirty days after the date of such marriage, shall forfeit and pay the sum of one hundred dollars for the use of the county in which the marriage license was issued.

SEC. XX. Any .... who shall refuse or neglect to enter upon the marriage license docket a complete record of each application and of each marriage license issued from his office, upon or immediately after the same shall have been made or issued, as the case may be, or to enter the triplicate certificate of any marriage upon the marriage license docket as required by Section XV of this act, or shall fail to keep such marriage license docket open for inspection or examination by the public, or shall prohibit or prevent any person from making a copy or abstract of the entries in the marriage license docket, shall for each such illegal act, omission or denial, forfeit and pay the sum of fifty dollars for the use of the county in which the marriage license was issued.

SEC. XXI. Any fine or forfeiture accruing to any county under the provisions of this act may be recovered by an action of debt in the name of said county, in the same manner as other debts are recovered by law, with the usual costs, in any court of record in any county in this state in which the defendant or defendants may be found.

SEC. XXII. A copy of the record of the marriage license, and marriage certificate, certified under the hand of said .... and the seal of the court, shall be received in all courts of this

state as *prima facie* evidence of such marriage between the parties therein named. (1)

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1. The purpose of this section is simply to provide that certified copies of the marriage license and certificate may be received in evidence as *prima facie* proof of a marriage in lieu of the originals themselves. A number of the states have statutory provisions similar to this which are generally found in their "marriage" codes and not in their "evidence" codes.

SEC. XXIII. All marriages hereafter contracted in violation of any of the requirements of Section I of this act (1) shall be null and void (except as provided in Sections XXIV and XXV of this act) and the issue thereof illegitimate; provided that the parties to any such void marriage may at any time validate such marriage by complying with the requirements of this act, and the issue thereof, if any, shall thereupon become legitimate, as provided by Section XXVIII of this act.

1. The purpose of this section is to abolish what are known as common law marriages, which end can best be effected by declaring such marriages void, as has already been done in some twelve or thirteen states. In as many more there are provisions requiring a license, proper solemnization of the marriage, and consent of the parents, etc., of minors. But the courts of those states have construed such requirements as directory only and not mandatory, because of the absence of language declaring marriages performed in violation thereof void.

The requirements of this act may be divided into two classes: First, those which, on grounds of public policy, may be considered as substantive, affecting the validity of the marriages, the observance of which should be strictly insisted upon, and any violation thereof, being necessarily wilful on the part of the contracting parties, should be severely punished; second, those which may arise from no fault of the parties themselves, but be due to fraud or carelessness of others, and may therefore be regarded as merely formal. Of the first class are those requiring (a) the issue of a license; (b) that the marriage be solemnized before an officiating person duly authorized by law, or according to the rites and ceremonies of any religious society or denomination to which either of the parties may belong; (c) the declaration by the parties that they take each other as husband and wife; (d) the presence of at least two competent witnesses. Of the second class are those relating to (a) the

jurisdiction of the marriage license clerk; (b) to omissions, informalities or irregularities of form, either in the application for the license or in the license itself; (c) to incompetency of the witnesses to the marriage; (d) to the solemnization of a marriage in a county other than that in which the license was issued; (e) to false assumption of authority or jurisdiction of the officiating person, whether wilful or innocent; (f) that the marriage shall not be solemnized more than one year after the date of the license; (g) and, in the case of minors, requiring the consent of the parents, guardian or curator of such minor before issuing a license.

For violation of the first class of requirements the marriage itself should be declared void as provided by this section. For violation of the second class of requirements it is sufficient that in addition to the penalties imposed upon the offending party such marriages should be regarded as voidable only, as the divorce laws of each state may provide. As to such laws, it is sufficient to say that such marriages can be annulled only upon the ground of fraud, force or coercion, at the suit of the innocent and injured party; and not even then if the marriage has been confirmed by the acts of such injured party after knowledge of the facts.

SEC. XXIV. No marriage hereafter contracted shall be void by reason of want of authority or jurisdiction in the officiating person solemnizing such marriage, if the marriage is in other respects lawful and is consummated with the full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. If only one of the parties was ignorant of such want of authority, the marriage shall be voidable by such party, if proceedings to annul the same shall be brought within one year after such want of authority has come to his or her knowledge. (1)

1. The last clause of this section introduces a cause of annulment that does not appear in the Uniform Divorce Bill, nor, indeed, in the divorce laws of any state, unless such cause be included within the general provision relating to marriages obtained by "fraud, force or coercion."

SEC. XXV. No marriage hereafter contracted shall be void either by reason of the license having been issued without the consent of the parents, guardian or curator of a minor, or by a .... not having jurisdiction to issue the same, or by reason

of any omission, informality or irregularity of form in the application for the license or in the license itself, or by reason of the incompetency of the witnesses to such marriage, or because the marriage may have been solemnized in a county other than the county in which the license was issued, or more than one year after the date of the license, if the marriage is in other respects lawful and is consummated with the full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

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1. The exceptions specified in the last two sections embody the suggestions of the committee at its meeting at Washington to the effect that marriage contracted in good faith by the parties should not be invalid by reason of mere formalities, etc., or because solemnized before an officiating person unlawfully assuming authority or jurisdiction to solemnize the marriage. Many states have similar provisions. The exceptions contained in these sections are thought to cover every necessary provision of this character.

SEC. XXVI. A marriage contracted by a person requiring the consent of a parent, guardian or curator, without such consent, shall be voidable upon the application of such person, or of the parent, guardian or curator of such person; but no such application shall be made after the party requiring consent has reached the age of legal majority and has voluntarily cohabited with the other party, nor in any event more than one year after such party has reached the age of legal majority. If the application is made by the parent, guardian or curator, the court may refuse to grant the same, if such refusal shall appear to be to the interest of the party who required the consent, and such party does not join in the application. Any court having jurisdiction to grant divorces shall have power to annul a marriage as provided by this section. (1)

1. While this section introduces into the marriage code a ground of annulment that does not appear in the Uniform Divorce Bill adopted by the Conference of Commissioners, yet it seems to be a very proper protection of minors who may have been inveigled into a marriage without full understanding of the importance of such step. Such cause of annulment being created, it is, of course, necessary to confer jurisdiction upon the courts to annul such marriages.

SEC. XXVII. If a person during the lifetime of a husband or wife with whom the marriage is in force, enters into a subsequent marriage contract in accordance with the provisions of Section I of this act, and the parties thereto live together thereafter as husband and wife, and such subsequent marriage contract was entered into by one of the parties in good faith, in the full belief that the former husband or wife was dead, or that the former marriage had been annulled by a divorce, or without knowledge of such former marriage, if they continue to live together as husband and wife in good faith on the part of one of them, they shall be held to have been legally married from and after the removal of such impediment, and the issue of such subsequent marriage shall be considered as the legitimate issue of both parents. (1)

1. This provision is copied from a similar provision in the Massachusetts statutes, and possibly may be found in a few other states. The principle underlying this section is that of estoppel. That is to say, such a marriage should not be voidable at the instance of the party at fault any more than the marriage of a minor who has freely cohabited after attaining his or her majority, or a marriage induced by fraud if the marriage has been confirmed by the innocent party after acquiring knowledge of the fraud.

SEC. XXVIII. In any and every case where the father and mother of an illegitimate child or children shall enter into the bonds of lawful wedlock, in the manner prescribed by this act, such child or children shall thereby become legitimated, and enjoy all the rights and privileges of legitimacy as if they had been born during the wedlock of their parents; and this section shall be taken to apply to all cases prior to its date, as well as those subsequent thereto; provided, that no estate already vested shall be divested by this act.

1. This section is derived from two or three acts of assembly in force in Pennsylvania. Many other states have similar provisions. The language of this section is intended to cover all of the principles involved in the question.

SEC. XXIX. The .... of each county shall, on or before the first day of February in each year, make return to the ....of this state, upon suitable blank forms to be provided

by the state, of a statement of all marriage licenses issued by him during the preceding calendar year, including all the facts required to be ascertained by him upon the issuing of each license; and shall also make return of a statement of all marriage certificates which shall have been returned to him during such period; and upon neglect or refusal so to do, such .... shall forfeit and pay the sum of one hundred dollars for the use of the proper county. (1)

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1. Twenty-five states have made statutory provisions for state registration of marriage. The United States Census Bureau has been at great expense, owing to the lack of state registration, in its effort to secure accurate statistics concerning marriage and divorce in the United States, and all who are interested in this matter recognize the necessity of an adequate and uniform system of state registration. Such registration is simply the next step beyond the keeping of a record in the proper county of all licenses issued in that county; therefore, it is very properly the subject of a marriage license bill. The requirements of this section correspond with the information asked for by the United States Census Bureau.

SEC. XXX. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SEC. XXXI. Each marriage license clerk shall be entitled to receive the following fees. (1)

1. Each state to fix its own fees.

SEC. XXXII. Repealing clause.

SEC. XXXIII. This act shall take effect the .... day of ...., Anno Domini 19....

II.

AN ACT

Relating to desertion and non-support of wife or children.

SECTION I. Be it enacted etc., (1) that any person who shall, without just cause, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or

necessitous circumstances; or any person who shall, without lawful excuse, (2) desert or wilfully neglect or refuse to provide for the support and maintenance of his or her legitimate or illegitimate (3) minor child or children under the age of sixteen years in destitute or necessitous circumstances, shall be guilty of a misdemeanor (4) and, on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment, not exceeding two years, (5) or both, with or without hard labor, in the discretion of the court. (6) And it is hereby made the duty of the parent of any illegitimate child or children under the age of sixteen years to provide for the support and maintenance of such illegitimate child or children. (7)

1. This act, throughout, follows very closely the Act of Congress of March 23, 1906, for the District of Columbia, the principles of which are very fully discussed in the monograph of William H. Baldwin, Esq., of the Board of Managers of the Associated Charities of Washington, D. C., entitled "Family Desertion and Non-Support Laws." Nearly every state has some provision relating to this subject. The acts of assembly in many states are quite full and comprehensive. The act adopted by Congress for the District of Columbia was the result of correspondence by the Board of Associated Charities of Washington, with governors, attorneys-general, district-attorneys, and prominent lawyers of many states. This act of Congress works very satisfactorily in the District of Columbia. At the meeting of the committee in Washington in January, 1910, Mr. Baldwin was present, and greatly assisted the committee with advice and suggestions and information as to the practical workings of the act in the District of Columbia.

Acts of Congress differ very much from acts of assembly of the various states, in that they are much more concise, and generally embrace, by way of proviso, matters that the legislatures of the various states are inclined to express in separate sections. Each mode of expression has its advantages. But, in view of the fact that the courts of each separate state are so often called upon to determine the constitutionality of various parts of acts of assembly, and since one part of an act may be sustained as constitutional, and another part rejected as unconstitutional, it seems preferable for state legislatures to divide every act into separate and distinct sections. Therefore, the provisions of Section I of the District of Columbia act have been divided into several sections.

2. It will be observed that in line 1, "wife desertion" must be

"without just cause," whereas in line 5 "child desertion" must be "without lawful excuse." The reason for the distinction is this: Wife desertion is a cause of divorce as well, and in divorce proceedings such desertion must have been "without just cause" on the part of the *deserted* wife. But in the case of child desertion there must be a "lawful excuse" on the part of the *deserting* parent. In other words, in the first instance the ground justifying the desertion must be furnished or occasioned by the deserted party. In the second instance the excuse or ground for desertion must be furnished by the deserting party.

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3. The inclusion of illegitimate as well as legitimate children was omitted from the District of Columbia act, but is strongly recommended by Mr. Baldwin and approved by the committee. Nebraska and Ohio seem to be the only states whose desertion laws apply to illegitimate as well as legitimate children. A bill is now pending in Congress to bring illegitimate children within the provisions of the District of Columbia act.

4. "Family desertion," according to the tables prepared by Mr. Baldwin, is made a felony in five states—namely, Michigan, Nebraska, New York, Ohio and Wisconsin; a misdemeanor in forty states, including the District of Columbia; while in five states there is no law on the subject, to wit, in Iowa, Nevada, Oregon, Tennessee and Texas. Some states, like Pennsylvania, treat family desertion in two ways, either as a quasi-criminal offense, as under the act of April 13, 1867, P. L. 78, where the offender is haled before the court of quarter sessions on information made before a justice of the peace or other magistrate, and after hearing, without a jury, the court may order him to pay a certain sum for the support and maintenance of his wife or children; or as a misdemeanor, as under the act of March 13, 1903, P. L. 26. Under this latter act, which is cumulative, the offender is entitled to trial by jury. The penalty is imprisonment or fine, or both; the fine, if any, to be paid or applied in whole or in part to the wife or children, as the court may direct. In Pennsylvania a civil remedy is also granted to the wife against the husband by the act of April 27, 1909, P. L. 182. Such civil remedy obtains in many other states.

As pointed out by Mr. Baldwin in his study on "Family Desertion and Non-Support," it is very essential that the offense of desertion and non-support be raised to the grade of a crime, in order that it may become an extraditable offense, as many instances occur where the husband removes to another state, leaving his family helpless and destitute. But as forty states and territories have made it a misdemeanor, and since under the act of Congress of February 12, 1793, any person charged with the commission of a felony *or other*

crime, is subject to extradition, it seems advisable to make the offense a misdemeanor rather than a felony. In one state at least, South Carolina, and probably others, a misdemeanor is not punishable by confinement at hard labor.

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5. Unless there is a constitutional provision in any state limiting the term of imprisonment for a misdemeanor to one year or less, this clause "not exceeding two years" is clearly within the power of the legislature. The committee, when at Washington, adopted by way of amendment to Section IV of the printed report, now Section IV, the words "for a period not exceeding two years," but omitted to make a similar amendment to Section I. This clause is therefore added that Sections I and IV may correspond. While "twelve months" is the maximum term of imprisonment fixed by the District of Columbia act, it has been found in practice that it often becomes necessary to begin proceedings *de novo* at the end of the first year. It was therefore thought best to increase the time to two years.

6. As stated above in Note 4, confinement at hard labor is never imposed in some states where the offense is only a misdemeanor. In other states the penalty "at hard labor" is not imposed except where the imprisonment is in the penitentiary, or a reformatory, or house of correction. It rarely obtains where the imprisonment is in the county jail; partly for the practical reason that in them there are neither appliances, nor space nor opportunities for what is actually known as "convict labor." But as the penalty provided in this section reads, "with or without hard labor," the question will rest in the discretion of the court according to the penal provisions of the laws of each state. In some states "convict labor" has been either abolished or limited as the result of the influence of the labor unions.

In Maryland, at the Baltimore penitentiary, "contract labor" is permitted by law. Recent investigations show that the labor of the prisoners enures not only to the benefit of the state, but of the prisoners themselves, who by working overtime earn for themselves or for the support of their families, fully as much as goes to the state. In the District of Columbia, which is under control of Congress, and therefore in a sense *sui generis*, prisoners at hard labor may be compelled to work upon the streets of the city of Washington at a fixed wage per diem, and of their wages, under the act of Congress of 1906, an amount equal to fifty cents a day is paid over to, or for the benefit of, the prisoner's family. It would be impracticable, perhaps, to insert a clause in this bill providing for the employment of offenders under this act upon the streets or highways of the several municipalities or counties of each state under the

term "at hard labor." Nevertheless, it is evident that if such provision could be adopted by each state, it would relieve the public at large from the expense of supporting the families of such offenders. Such a provision is well worth the consideration of every state.

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7. At common law no obligation rests upon a putative father to support his illegitimate child; yet nearly every state imposes a statutory liability upon such father by what are known as its bastardy laws. This statutory liability can of course be enforced only to the extent and in the manner indicated by the statute, and it goes without saying, that the legislature has the power to create and increase this liability by statute.

In perhaps a majority of the states proceedings under the bastardy laws are considered in substance as civil suits. They are, however, often spoken of as quasi-criminal, and many courts have been inclined to treat them more as a criminal proceeding than otherwise; see "Cyc.", Vol. 5, page 644. The object of bastardy proceedings, as well as of this bill, *is to compel a father to provide for the support of his children*, and thus secure the public, as well as the mother, against such support. Non-support is the gravamen of this section; and since, as stated above, a statutory obligation must be imposed to render a father liable for the support of his illegitimate child, this last clause was added by the committee at their meeting at Cape May. In proceedings under this act, just as under the bastardy acts, it will, of course, be necessary that the fatherhood of any child be proven by jury trial before sentence can be imposed. The remedy provided by this act is cumulative, and not exclusive of bastardy proceedings. The chief difference lies in the fact that the penalty in bastardy cases are more often a fine and order of support than imprisonment. But the character of the sentence rests in the discretion of the court, and there would seem to be no good reason why the father of an illegitimate child whose parentage has been proven should not *contribute to its support* just as much as the father of a legitimate child.

Prof. Ernst Freund (of the committee) was strongly opposed in committee to the advisability of placing illegitimate children within the purview of the act, and reserved the right to object thereto in full conference, the grounds of his objection being as follows:

(a) "The problem of the desertion or non-support of wife and children is a specific one, and widely differs from the problem of the non-support of illegitimate children. Family desertion is the violation of an already established and acknowledged status relation, and as a rule indicates a special type of character; a man of shiftless or dissolute habits, who may at any time drift into vagrancy,

one who may very properly be subjected to measures of disciplinary control such as are contemplated by this bill. The person who refuses to support an illegitimate child, may be industrious and efficient, and his refusal may be simply due to doubts which he entertains as to his paternity, and which may be well justified. Moreover, he may owe a primary duty of support to his legitimate wife and children, which may be interfered with by the proceedings taken under the proposed bill. These proceedings may, in fact, be entirely unsuited to compulsory support of the illegitimate child by the reputed father.

(b) "Nearly every state has statutes which provide for bastardy proceedings. For this reason all states that have enacted family desertion laws have confined them to wife and legitimate children, with the exception of Ohio and Nebraska. Inquiries made in Chicago of persons competent to judge, confirm the opinion that it would be unwise to deal by one measure with the two widely disparate evils. The attorney of the Legal Aid Society of Chicago writes: 'Any attempt to combine the two would, in my judgment, result only in confusion.' The assistant county attorney of Cook County, who has charge of the non-support cases arising in Chicago, writes: 'I do not think it advisable the law should be changed, and do not see how it is possible to pass any law making it an offense for a reputed father to desert his illegitimate child.'

"These two gentlemen have a wide experience in non-support cases, and their judgment carries great weight.

(c) "If the present bastardy laws are inadequate, their amendment should be separately considered. Bastardy legislation has had a history extending back to the colonial times, and to disturb the long-settled policy of the states without very full consideration of the difficulties and problems involved looks very much like a leap in the dark. The present bill should be confined to the definite subject of family desertion, and not mixed up with entirely extraneous matters."

SEC. II. Proceedings under this act may be instituted upon complaint made under oath or affirmation by the wife or child or children, or either of them, or by any other person or persons, or organization, against any person guilty of either of the above named offenses. (1)

1. The provisions of this section formed part of Section II of the desertion bill as reported at Detroit in 1909. But said section was there stricken out because it defined the forum before which proceedings should be instituted. Upon further consideration by the com-

mittee at Cape May, it was deemed necessary to re-adopt the provisions of this section as it now stands.

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SEC. III. (1) At any time before the trial, upon petition of the complainant and upon notice to the defendant the court, or a judge thereof in vacation, may enter such temporary order as may seem just, providing for support of the deserted wife or children, or both, *pendente lite,* and may punish for violation of such order as for contempt. (2)

1. Sections II and III of the printed bill, as reported at Detroit in August, 1909, were stricken out by the committee at its meeting at Washington in January, 1910, for the reason that they related solely to matters of administrative procedure, the forms of which would necessarily vary in each state, and therefore it would be useless to attempt to hope for the adoption of a uniform clause which related to methods of procedure. The committee therefore thought it better to omit these sections and simply recommend by way of suggestion in a note, that the initial proceedings in all desertion cases should be instituted before the court of lowest jurisdiction. In some states this is a justice of the peace, in others a municipal court, in others a county or district court. The point to be borne in mind in this regard is that the remedy be as simple and speedy as possible.

2. This section is in form the same as an amendment to Section IV of the printed bill offered at Detroit by Mr. Noel, of Indiana, and was adopted by the committee at its meeting in Washington. The purpose of the section is plain; namely to provide for support for the family pending the beginning of the proceedings and the final order of the court. Where the proceedings are begun before a court of record, the application, of course, can be made at any time. Where the proceedings are begun before a justice of the peace, or other magistrate, who must make his return to the court, it follows that the application under this section cannot be made until such return has been filed with the clerk of the court. But that is a minor matter of procedure.

SEC. IV. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, instead of imposing the penalty hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances, and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall

be subject to change by the court from time to time, as circumstances may require, directing the defendant to pay a certain sum weekly, for a period not exceeding two years, (1) to the wife or to the guardian, curator or custodian of the said minor child or children, or to an organization or individual approved by the court as trustee; (2) and shall also have the power to release the defendant from custody on probation for the period so fixed, upon his or her entering into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation, may order and approve. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so, and shall farther comply with the terms of such order of support, or of any subsequent modification thereof, then such recognizance shall be void, otherwise of full force and effect. (3)

1. The term of one year in Section IV of the bill as printed was changed by the committee at Washington to read "not exceeding two years," for reasons stated in Note 5 to Section I.

2. Section I makes the offense of desertion a crime, and prescribes the penalty; Section III secures support for the family by an order *pendente lite;* but as the main purpose of a desertion act is the protection and maintenance of the family, it is apparent that additional remedies are required. This section endeavors to meet that need: (a) By an order of support entered before trial with the consent of the defendant; (b) by an order of support made if a plea of guilty be entered to the indictment; (c) by an order of support made after conviction. All of these orders to be in lieu of, or in addition to, the penalties prescribed by Section I.

3. This clause providing for release on probation is taken from the District of Columbia act. The desertion acts of many states contain a similar provision which is found in practice to be very effective. The penalty of imprisonment, especially at hard labor, soon brings the wife deserter to a willingness to give surety for the support of his family, and a means is thus secured for enforcing the order of support authorized by the first paragraph of this section.

SEC. V. If the court be satisfied by information and due proof under oath, that at any time during said period of two years the defendant has violated the term of such order, it may forthwith proceed with the trial of the defendant under the

original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case of www.libtool.com.cn forfeiture of recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid, in whole or in part, to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children. (1)

1. **This provision is taken from the District of Columbia act which follows the acts of Illinois, Louisiana and Virginia.**

SEC. VI. No other or greater evidence shall be required to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, whether legitimate or illegitimate, than is or shall be required to prove such facts in a civil action. (1) In no prosecution under this act shall any existing statute or rule (2) of law prohibiting the disclosure of confidential communications between husband and wife apply, (3) and both husband and wife shall be competent and compellable (4) witnesses to testify against each other (5) to any and all relevant matters, including the fact of such marriage and the parentage of such child or children; (6) provided that neither shall be compelled to give evidence incriminating himself or herself. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect or refusal to provide for the support and maintenance of such wife, child or children shall be *prima facie* evidence that such desertion, neglect or refusal is wilful. (7)

1. **While under the Constitution of the United States, and probably of each state, no defendant can be compelled to incriminate himself, yet both in criminal and civil actions the issue of legitimacy or illegitimacy of children is a matter of frequent occurrence. This clause relating to a proceeding where a wife or husband, necessarily by the fault of the other, is forced to protect life or reputation, as a stranger would, confines the character of the proof to such as would be required in a civil action.**

2. **Section VI, *as formerly printed*, refers simply to "existing provisions of law"; no change of this wording was made by the committee at Washington. But the secretary suggests that "existing**

provisions of law" might be construed as including only statutory provisions and as not being broad enough to include judicial utterances upon *The Rule of Law* relating to confidential communications. The phrase is therefore changed to read "Existing Statute or Rule of Law."

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3. This clause relating to disclosure of confidential communications between husband and wife opens a field for wide discussion. Under the common law the fiction of unity of husband and wife, and the farther fiction forbidding parties in interest to testify either for or against each other long obtained. The latter fiction has been abolished in most states. The former fiction has been abolished in many states, both in criminal and civil proceedings where—

(a) The consent of the other party is given at the trial; or (b) where the marital relation has been so violated by the act of either as to abolish the reason for the rule. The Constitution of the United States provides that "no person can be compelled in any criminal case to be a witness against himself." The constitutions of many states provide that no person can be compelled in any criminal case "to give evidence against himself." But these constitutional provisions do not apply to or limit the power of the state legislatures to require the disclosure of confidential communications between husband and wife. The forbidding of such disclosures was the policy of the law; but if the confidential marital relation has been violated by the act of either party, the reason of the rule ceases. In such case the communications do not arise from the confidence of the parties in each other, but from the want thereof; and therefore even without statutory authority either party may testify to the same. Seitz *vs.* Seitz, 170 Pa. 171.

4. An exception to the rule excluding testimony of husband and wife against each other is to be found in cases of personal outrage by one on the other. 30 Amer. and Eng. Cyc. 954.

This exception being based on public policy it follows that the injured spouse is not only competent but is compellable to testify if unwilling.

30 Amer. and Eng. Cyc. 955; Johnson *vs.* State, 94 Ala. 53; Turner *vs.* State, 60 Miss. 351; S. C., 45 Amer. Rept. 412; Bramlette *vs.* State, 21 Tex. App. 611; see also "Cyc.", pp. 961-2, (2)-(b); 46 Amer. Rep. 241. In Pennsylvania, by the act of May 23, 1887, P. L. 158, Section 2, it is provided that in criminal cases neither husband nor wife shall be competent to testify against each other "except in proceedings for desertion and maintenance, and in any criminal proceeding against either for bodily injury or violence attempted, done or threatened upon the other; and also that neither shall "be competent or permitted to testify to confidential communications

made by one to the other, unless this privilege be waived upon the trial." A similar provision will be found in the statutes of many states. It is therefore apparent that it lies in the power of the legislatures of each state to abrogate the common law rule forbidding husband or wife to testify against each other (whether in criminal or civil proceedings), and forbidding the disclosure of confidential communications. No constitutional prohibition is violated thereby.

There are two very strong reasons why a wife should be made a compellable as well as competent witness. First, because of possible duress or menace on the part of the husband. Second, because if the proceedings are begun by outsiders, she should, in the interests of the state, be compelled to testify. And if the wife is made compellable, there would seem to be no valid reason why the husband should not also, if the circumstances require.

5. In Section VI of the Detroit report the clause read, "testify to any and all relevant matters." At the meeting at Detroit in August, 1909, the words "against each other" were inserted after the word "testify." This amendment was adopted by the committee at its meeting in Washington. The reasons for such amendment have been given in Notes 3 and 4, *supra*.

6. Since, as explained in Note 1, the first paragraph of this section limits the proof of the parentage of children to the character of proof required in civil actions, it would seem that this last clause relating to "the fact of marriage and the parentage of any child or children" cannot be construed to compel either parent to incriminate himself or herself, but to avoid all doubt upon this point the committee have thought it wiser to add the proviso.

7. Section VI of the Detroit bill included only the words "desertion" and "neglect," whereas Section I included the words "desert, neglect or refuse." The words "desert, neglect or refuse" are well established and generally adopted in statutes of this character; therefore, the committee at Washington thought it better to adopt in this section the same terminology as obtained in Section I.

SEC. VII. It shall be the duty of the sheriff, warden or other official in charge of the county jail, or of the custodian (1) of the reformatory, workhouse or house of correction, in which any person is confined on account of a sentence at hard labor, under this act, to pay over to the wife, or to the guardian, curator or custodian of his or her minor child or children, or to an organization or individual approved by the court as trustee, at the end of each week, for the support of such wife, child or children, a sum equal

to .... for each day's hard labor performed by said person so confined. (2)

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1. The term "custodian" is generic. In each state the proper title of the official in charge of the reformatory, workhouse or house of correction should, perhaps, be substituted.

2. This section is copied from Section III of the District of Columbia act, with one or two verbal changes adopted by the committee.

In order to carry out the provisions of this section there must, of course, be additional legislation in each state specifically providing for "contract" or "convict" labor. And a fund provided, from which to draw for the purposes covered by this section. As stated before, the District of Columbia is *sui generis* in this regard. Congress makes an annual appropriation to this end. In the District of Columbia desertion offenders are put at "hard labor" upon the streets under "contract labor." The method there in vogue of treating desertion offenders is worthy of study and imitation by every state.

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REPORT

OF THE

COMMITTEE ON BANKS AND BANKING.

To the Conference of Commissioners on Uniform State Laws:

The Committee on Banks and Banking of the Commissioners on Uniform State Laws, in national Conference, beg leave to submit the following report:

Many of the subjects which affect the banking interests of the country have been so ably and exhaustively handled by the Committee on Commercial Law of this Conference, as to make doubtful the necessity or desirability of a separate committee on banks and banking.

The chaotic condition of the law regarding bills and notes has been wholly changed by the widespread acceptance and enactment of the Uniform Negotiable Instruments Act, and the uniform acts upon sales, warehouse receipts, partnership, certificates of stock, bills of lading and other matters dealt with by that committee and the Conference, in our opinion cover the field within which this committee can find opportunity for public service.

The bank guarantee legislation in Oklahoma, Kansas and Nebraska, has been before the courts.

The Nebraska case was heard before United States Circuit Judge Van Devanter and United States District Judge Thomas C. Munger, and their opinion holding the Nebraska law unconstitutional, is reported in 172 Fed. 999.

The Kansas statute was held unconstitutional, in an opinion written by United States District Judge Pollock, and reported in 175 Fed. 365.

The Oklahoma case is before the Supreme Court of the United States, as we understand.

We recommend that this committee be discontinued.

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RALPH W. BRECKENRIDGE, *Chairman,*
OLIVER A. HARKER,
S. S. WHEELER,
HOLLIS R. BAILEY,
J. R. THORNTON,
CHARLES N. POTTER,
Committee.

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REPORT

OF THE

PUBLICITY COMMITTEE.

To the National Conference of Commissioners on Uniform State Laws:

The undersigned Committee on Publicity beg to report as follows:

That they have endeavored during the past year throughout the press and otherwise to keep the public fully informed as to the work of the Conference and its purposes. Through this publicity the Conference was specially recognized by the National Civic Federation, and many of our members, on invitation, took part in the National Congress of that body, held in Washington City in January last.

The work of the Conference has been laid before the Governors of those parts of the United States not now represented in the Conference, with the result that Commissioners have been appointed from Delaware, Porto Rico and Hawaii, leaving now unrepresented in the Conference only the District of Alaska and the State of Nevada.

The Chairman of your committee has made addresses on uniform legislation before the Louisiana Bankers' Association, the Mississippi Bar Association and the Arkansas Bar Association, but, owing to want of time, was compelled to decline invitations to address the Georgia legislature and the Missouri Bar Association. The President of the Conference addressed the Mississippi legislature, and other members of the Conference have appeared before other legislatures, Bar Associations and other bodies.

The National Association of Credit Men, at its convention in New Orleans, and the American Institute of Banking, at its meeting in Chattanooga, took cognizance of the work of the Con-

ference and endorsed the Bill of Lading Law and the Transfer of Stock Act.

The committee will endeavor at this Conference to have the work done, thoroughly disseminated throughout the country by means of the Associated Press.

Respectfully submitted,

W. O. Hart, *Chairman,*
Charles Thaddeus Terry,
Amasa M. Eaton,
Committee

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REPORT

OF THE

SPECIAL COMMITTEE ON A UNIFORM CHILD LABOR LAW.

To the Commissioners on Uniform State Laws in Twentieth National Conference:

The Special Committee on a Uniform Child Labor Law respectfully reports as follows:

The committee met in Detroit in August, 1909, and completed its organization by electing Hon. Amasa M. Eaton, of Rhode Island, as Secretary. It was voted to hold meetings in Washington in January, 1910, in connection with the conference arranged for by the National Civic Federation.

In January, 1910, all of the committee except Mr. MacChesney, who was unavoidably detained, met in Washington, and had several meetings and public hearings. These hearings were well attended, several officers of the National Child Labor Committee and of the Southern Child Labor Committee being among those present.

The committee decided to use the so-called Standard Child Labor Law, prepared by the National Child Labor Committee, as its starting point, and voted that the Chairman and Secretary send out a considerable number of printed circulars containing interrogatories, and accompanied by a copy of the so-called Standard Child Labor Law, for the purpose of obtaining suggestions and information.

The following is a copy of the circular aforesaid:

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

Special Committee on a Uniform Child Labor Law.

HOLLIS R. BAILEY, of Cambridge, *Chairman.*
AMASA M. EATON, of Providence, R. I., *Secretary.*
FREMONT WOOD, of Idaho.
N. W. MACCHESNEY, of Illinois.
A. T. STOVALL, of Mississippi.

Questions concerning a Uniform Child Labor Law.

The above-named special committee was appointed at the last Conference of Commissioners on Uniform State Laws, and was given the duty of preparing a uniform child labor law, to be submitted for consideration at the next Conference, to be held in August, 1910, at Chattanooga.

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The enclosed draft of an act was prepared for the National Child Labor Committee, and we understand is favored by that organization.

The special committee aforesaid has taken said draft as a good basis for it to work upon, and is very desirous of obtaining suggestions as to any additions or changes needed to make said act better or more effective, or nearer what a uniform child labor law should be.

The special committee has framed the following questions, which it hopes may be answered by all to whom they are sent. Answers must be received by June 1, 1910, and should be sent to the undersigned.

AMASA M. EATON, *Secretary,*
Providence, R. I.

Question 1.—What changes are needed in the enclosed act to make it suitable for adoption as a uniform child labor law?

Question 2.—What objections are there to the act in its present form?

Question 3.—What serious omissions, if any, are there in the act as framed?

Question 4.—What further provisions, if any, are needed to make the act more capable of enforcement?

Question 5.—What provisions are there in the act which may be deemed unreasonable?

Question 6.—What provisions, if any, are there in the act which should be made more stringent?

Question 7.—Is it desirable to have a uniform child labor law in the different states, and if so, why?

Question 8.—What objections are there to having a uniform child labor law in the different states?

Please send answers before June 1, 1910, to AMASA M. EATON, Providence, R. I.

Over one thousand copies of this circular were distributed by mail to persons and organizations throughout the country believed to be interested, including a considerable number believed to be hostile to child labor legislation.

The Chairman and Secretary of your committee next made a careful examination and analysis of the Standard Child Labor Law aforesaid, and prepared a tentative draft of a uniform child labor law. This tentative draft was then submitted to the officers of the National Child Labor Committee and to all the members of your committee.

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A little later, a considerable number of very valuable suggestions having been received in response to the circular sent out, a new draft of a uniform law was prepared by the Chairman and Secretary of your committee.

This draft of a law your committee now submits for your consideration the same being appended hereto. The members of the committee being widely scattered, it has been impossible for any of them, other than the Chairman and Secretary, since the meeting in Washington to get together for personal conference as to the details of the law. Your committee does not consider that the draft submitted is yet perfect, and each member reserves to himself the right to suggest changes and additions.

The draft appended is accompanied by a preface and notes which it is believed will be of service in considering the act itself.

The whole matter of the employment of child labor is being considered throughout the country in a way and to an extent which we believe is unparalleled.

Besides the National Child Labor Committee, there are numerous state committees and other organizations which are taking an active interest in the matter of the conservation of the children of the country.

During the year efforts were made in Massachusetts and Louisiana to repeal existing laws prohibiting the employment of children in theaters. In each instance the legislatures, after full discussion, refused to alter the existing laws.

New laws in favor of the child have been passed during the year in Rhode Island, Massachusetts, New York, Ohio, Virginia, Maryland and Kentucky.

It is becoming more and more recognized that the welfare of our children is a matter of national importance, to be zealously safeguarded. The manufacturers are beginning to see that it is

important that the laws regulating child labor should be uniform in the different states. In the absence of such uniformity one manufacturer can gain an unfair advantage over another.

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HOLLIS R. BAILEY, *Chairman*,
AMASA M. EATON,
FREMONT WOOD,
NATHAN WILLIAM MACCHESNEY,
A. T. STOVALL,

Committee.

August 1, 1910.

PREFACE TO THE UNIFORM CHILD LABOR LAW.

This law is based upon the so-called Standard Child Labor Law, prepared by the National Child Labor Committee. Its provisions for the most part are already in force in a considerable number of states. The theory upon which the law is framed is that it should embody the best features of the laws now in force, and at the same time be fair and reasonable.

In some few instances the law may go beyond what has as yet been enacted, but for the most part the law has already been tested.

The committee has aimed to present a law which any state can adopt without lowering its present standard.

The notes which are interspersed throughout the law will furnish information concerning the history, origin and purpose of some of the sections. These references do not purport to be a complete list.

UNIFORM CHILD LABOR LAW.

Be it enacted, etc., as follows:

CHILDREN UNDER FOURTEEN.

SECTION 1. No child under fourteen years of age shall be employed, permitted or suffered to work in, about or in connection with any—

Mill,
Factory,

Workshop,
Quarry,
Mercantile establishment,
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Tenement-house manufactory or workshop,
Store,
Business office,
Telegraph or telephone office,
Restaurant,
Bakery,
Hotel,
Barber shop,
Apartment house,
Bootblack stand or parlor, or in the
Distribution or transmission of merchandise or messages.

This section, with slight modifications, is in force in the following states:

Delaware, Acts of 1909, Chapter 121, Section 1 (applies to "any gainful occupation").

District of Columbia, Acts of United States Congress, 1907-1908, Chapter 209, Section 1.

Illinois, Revised Statutes, 1905, Chapter 48, Section 20.

Louisiana, 1908, Act 301, Section 1 ("nor in any other occupation not herein enumerated which may be deemed injurious or unhealthful").

New York Laws of 1909, Chapter 36, Section 70.

Oklahoma, Child Labor Law, 1908, Section 1.

Pennsylvania, Acts of 1905, Act 226, Section 2 ("no child under fourteen years shall be employed in any establishment").

In the Supreme Court of the United States, Feb. 28, 1898, in the case of Holden *vs.* Hardy, 169 U. S. 366 (Utah case), the sections of the statute (Laws of 1896, page 219) are upheld, which among other regulations prohibit "the employment of women, and of children under the age of fourteen years, in underground mines."

In the case of Lenahan *vs.* Pittston Coal Mining Co., 67 Atl. 642, the Supreme Court of Pennsylvania said: "The legislature, under its police power, can fix an age limit below which boys should not be employed, etc."

In the case of State *vs.* Shorey, 86 Pac. 881, the Supreme Court of Oregon, referring to the inability of the state to inter-

fere with contract in the employment of adult males, said: "But laws regulating the right of minors to contract do not come within this principle. They are not sui juris, and can only contract to a limited extent. They are wards of the state and subject to its control. As to them the state stands in the position of parens patriæ, and may exercise unlimited supervision and control over their contracts, occupation and conduct, and the liberty and right of those who assume to deal with them. This is a power which inheres in the government for its own preservation, and for the life, person, health and morals of its future citizens, etc."

SEC. 2. It shall be unlawful for any person, firm or corporation to employ any child under fourteen years of age in *any business or service whatever* during any part of the term during which the public schools of the district in which the child resides are in session.

This section is copied, slightly altered, from the following statutes:

District of Columbia, Acts of United States Congress, 1907-1908, Chapter 209, Section 1.
Colorado, Laws of 1904, Section 417.
Illinois, Revised Statutes, 1905, Chapter 48, Section 20.
Kansas, Laws of 1909, Chapter 65, Section 1.
Kentucky, Acts of 1908, Chapter 66, Section 1.
Massachusetts, Acts of 1902, Chapter 44, Section 1.
Minnesota, General Law, 1907, Chapter 299, Section 1.
Ohio, Annotated Statutes, 1904, Sections 4022-5.

CHILDREN UNDER SIXTEEN.

SEC. 3. No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or in any of the following positions:

Sewing machine belts in any workshop or factory, or assisting therein in any capacity whatever;
Adjusting any belt to any machinery;
Oiling, wiping or cleaning machinery or assisting therein;
Operating or assisting in operating—
Circular or band saws;
Wood shapers;

Wood jointers;
Planers;
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Sandpaper or wood-polishing machinery;
Picker machines;
Machines used in picking wool;
Machines used in picking cotton;
Machines used in picking hair;
Machines used in picking any upholstering material;
Paper-lacing machines;
Leather-burnishing machines;
Burnishing machines in any tannery or leather manufactory;
Job or cylinder printing presses operated by power other than foot power;
Emery or polishing wheels used for polishing metal;
Woodturning or boring machinery;
Stamping machines used in sheet-metal and tinware manufacturing;
Stamping machines in washer and nut factories;
Corrugating rolls, such as are used in roofing and washboard factories;
Steam boilers;
Steam machinery; or other
Steam-generating apparatus;
Dough brakes; or
Cracker machinery of any description;
Wire or iron straightening machinery;
Rolling mill machinery, punches or shears;
Washing, grinding or mixing mills;
Calendar rolls in rubber manufacturing;
Laundering machinery.

Sections 3 and 4 are substantially in effect in the following states:

Illinois, Revised Statutes, 1905, Chapter 48, Section 20*j*.
Minnesota, General Law, 1907, Chapter 299, Section 11.
New York, Laws of 1909, Chapter 36, Section 93.
Oklahoma, Child Labor Law, 1908, Section 2.

SEC. 4. No child under the age of sixteen years shall be employed, permitted or suffered to work in any capacity in, about or in connection with the—

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Preparing any composition in which dangerous or poisonous acids are used;

Manufacture of paints, colors or white lead;

Dipping, drying or packing matches;

Manufacturing, packing or storing powder, dynamite, nitroglycerine compounds, fuses or other explosives;

Manufacture of goods for immoral purposes;

Nor in, about or in connection with any—

Mine;

Coal breaker;

Laundry;

Tobacco warehouse;

Cigar factory; or other

Factory where tobacco is manufactured or prepared;

Distillery;

Brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled;

Hotel;

Theater;

Concert hall;

Drug store;

Saloon, or place of amusement;

Nor in operating any automobile, motor car or truck;

Nor in bowling alleys;

Nor in any other employment declared by the state board of health to be dangerous to lives or limbs, or injurious to the health or morals of children under the age of sixteen.

Cf. Minnesota, General Law, 1907, Chapter 299, Section 11.
Montana, Laws of 1907, Chapter 99, Section 1.
New York, Laws of 1909, Chapter 36, Section 93.
Oklahoma, Child Labor Law, 1908, Sections 2 and 3.

SEC. 5. The state board of health may from time to time determine whether or not any particular trade, process of manufacture or occupation, or any particular method of carrying on

such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of minors under sixteen years of age employed therein to justify their exclusion therefrom, and may prohibit their employment therein.

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Cf. Kentucky, 1906, Chapter 52, Section 2 (duty of city and county physician, applied to minors under sixteen years).
Massachusetts, Acts of 1902, Chapter 106, Section 44.
Oklahoma, General Labor Law, 1908, Article V, Section 2.

In the case of State *vs.* Shorey, 86 Pac. 881, the Supreme Court of Oregon defended the constitutionality of the law regulating the hours for employment of children under sixteen, and said: "It is competent for the state to forbid the employment of children in certain callings, merely because it believes such prohibition for their best interest, although the prohibited employment does not involve a direct danger to morals, decency, or of life or limb."

SEC. 6. Females under the age of sixteen years shall not be employed, permitted or suffered to work in any capacity where such employment compels them to remain standing constantly. Every person who shall employ any female under the age of sixteen in any place or establishment mentioned in Section 1 shall provide suitable seats, chairs or benches for the use of the females so employed, which shall be so placed as to be accessible to said employees; and shall permit the use of such seats, chairs or benches by them when they are not necessarily engaged in the active duties for which they are employed, and there shall be provided at least one chair to every three females.

Many states require provision of seats for all female employees, *e. g.*:

California, Code of 1906, Act 1098, Section 5.
Colorado, Annotated Statutes, Section 3604.
Delaware, Revised Code, 1893, Chapter 127, Section 1.
District of Columbia, Acts of United States Congress, 1894-1895, Chapter 192, Section 1.
Georgia, Code, 1895, Section 127.
Indiana, Statutes of 1901, Section 2246.

Iowa, Code, Section 4999.
Kansas, Laws of 1901, Section 3842.
Kentucky, 1906, Chapter 52, Section 6 ("girls or adult women").
Louisiana, 1908, Act 301, Section 13.
Massachusetts, Acts of 1902, Chapter 106, Section 41.
Nebraska, Criminal Code, Section 6942*c*.
Ohio, Annotated Statutes, Section 4364-4369.
Oklahoma, General Labor Law, 1908, Article V, Section 17.
Oklahoma, Child Labor Law, 1908, Section 3.
Pennsylvania, Digest, 1895, page 902, Section 1.

Florida makes same provision relating to all employees. See General Statute, 1906, Section 3235.

See also Minnesota, General Law, Chapter 299, Section 11.
New York, Laws of 1907, Chapter 36, Sections 93 and 170.

SEC. 7. No child under sixteen years of age shall be employed, permitted or suffered to work in, about or in connection with any place or establishment named in Section 1 unless the person, firm or corporation employing such child procures and keeps on file, and accessible to any truant officer or inspector of factories, mercantile establishments or mines or other authorized inspector, an employment certificate as hereinafter prescribed; and keeps two complete lists of all such children employed therein, one on file and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed.

This section substantially is in effect in the following states:
California, Laws of 1906, Chapter 1611, Section 3.
Indiana, Annotated Statutes of 1901, Section 7087*b*.
Massachusetts, Acts of 1902, Chapter 106, Section 29.
Minnesota, General Law, 1907, Chapter 299, Sections 2 and 8.
Nebraska, Acts of 1907, Chapter 66, Section 2.
New York, Laws of 1909, Chapter 36, Sections 75 and 76.
Oklahoma, General Labor Law, 1908, Article V, Section 3.
Oklahoma, Child Labor Law, 1908, Section 8.

Sections 7 to 15 follow in part Pennsylvania, Acts of 1905, Act 226, Sections 5 and 6.

Note.—Court ruling "The duty of obtaining a certificate devolves absolutely on the employer, and the parents' failure to

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inform him of the age of child unlawfully employed is no excuse." 71 N. E. Rep. 922.

In the case of American Car & Foundry Co. *vs.* Amentraut, 73 N. E. 766, the Supreme Court of Illinois held "that the employer must ascertain, at his peril, that his employees are over fourteen years of age, etc."

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SEC. 8. Inspectors of factories, mercantile establishments or mines, and other authorized inspectors and truant officers, may require that the employment certificates and lists provided for in this act shall be produced for their inspection.

Cf. California, 1906, Act 1828, Section 5.
Minnesota, General Law, 1907, Chapter 299, Section 10.
New York, Laws of 1909, Chapter 36, Section 76.

SEC. 9. On termination of the employment of a child whose employment certificate is on file, such certificate shall be forthwith surrendered by the employer to the person who issued the same.

Cf. Minnesota, General Law, 1907, Chapter 299, Section 2.
Nebraska, Acts of 1907, Chapter 66, Section 2.
Ohio, Laws of 1910. "The school authority shall not issue age and schooling certificates without the written pledge of the employer to employ the child legally, and also his written agreement to return to the school authority the child's age and schooling certificate within two days from the date of the child's leaving his service, stating the reason for such withdrawal or dismissal."

SEC. 10. An employment certificate shall be issued only by the superintendent of schools or by a person authorized by him in writing, or, where there is no superintendent of schools, by a person authorized by the School Committee: provided, that no member of a School Committee or other person authorized as aforesaid shall have authority to issue such certificate for any child then in or about to enter such person's own employment or the employment of a firm or corporation of which he is a member, officer or employee.

Sections 10 to 16 are enforced with slight changes in the following states:

California, 1906, Chapter 1611, Section 3.
District of Columbia, Acts of United States Congress, 1907-1908, Chapter 209, Sections 2, 3 and 4.
Louisiana, 1908, Act 301, Section 2.
Minnesota, General Law, 1907, Chapter 299, Section 3.
Nebraska, Acts of 1907, Chapter 66, Sections 3 to 10.

SEC. 11. The person authorized to issue an employment certificate shall not issue such certificate until he has received, examined, approved and filed the following papers, duly executed:

(1) The school record of such child properly filled out and signed, as provided in this act.

(2) A passport or duly attested transcript of the certificate of birth or baptism or other religious record, showing the date and place of birth of such child.

(3) The affidavit of the parent or guardian or custodian of a child (which shall be required, however, only in case no one of the above-mentioned proofs is obtainable), showing the place and date of birth of such child. Said affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath without demanding or receiving any fee therefor.

Cf. Iowa, Laws of 1905, Chapter 145, Section 1.
Massachusetts, Acts of 1902, Chapter 106, Section 30.
Minnesota, General Law, 1907, Chapter 299, Section 4.
Nebraska, Acts of 1907, Chapter 66, Section 3.
New York, Laws of 1909, Chapter 36, Section 71.

SEC. 12. A duly attested transcript of the birth certificate, filed according to law with a registrar of vital statistics or other officer charged with the duty of recording birth, shall be prima facie evidence of the age of such child for the purposes of this act.

Cf. New York, Laws of 1909, Chapter 36, Section 71*a*.

SEC. 13. No employment certificate shall be issued until the child in question has personally appeared before and been examined by the officer issuing the certificate, nor until such officer, after making such examination, has signed and filed in his office a statement that the child can read and legibly write simple

sentences in the English language, and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sufficiently sound health and physically able to perform the work which it intends to do, which shall be stated.

In all cases such normal development, sound health and physical fitness shall be determined by a medical officer of the board or department of health or by a physician appointed by the School Committee.

Section 13 is substantially in force in many states, *e. g.:*
Massachusetts, Acts of 1902, Chapter 106, Section 28 (2).
Minnesota, General Law, 1907, Chapter 299, Section 4.
New York, Laws of 1909, Chapter 36, Section 73.
Oklahoma, Child Labor Law, 1908, Section 10.

SEC. 14. Every such employment certificate shall state the name, sex, the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding sections have been duly examined, approved and filed, and that the child named in such certificate has appeared before the officer signing the certificate and has been examined.

Every such certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued. It shall show the date of its issue.

The provisions of Sections 14 and 15 are substantially in effect in the following states:
Minnesota, General Law, 1907, Chapter 299, Section 5.
New York, Laws of 1909, Chapter 36, Section 72.
Oklahoma, Child Labor Law, 1908, Section 10.

SEC. 15. The school record required by this act shall be signed by the principal or chief executive officer of the school which such child has attended, and shall be furnished on demand to a child entitled thereto.

It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and sixty days

during the year previous to his arriving at the age of fourteen years, or during the year previous to applying for such school record, and is able to read and write simple sentences in the English language, and has received during such period instruction equivalent to five yearly grades in reading, spelling, writing, English grammar and geography, and is familiar with the fundamental operations of arithmetic up to and including fractions.

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Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian.

Cf. Minnesota, General Law, 1907, Chapter 299, Section 6.
New York, Laws of 1909, Chapter 36, Section 73.
Ohio.
Illinois.

SEC. 16. The superintendent of schools or other person authorized to issue employment certificates shall transmit between the first and tenth days of each month, to the office of the factory inspector or other authorized inspector, upon blanks to be furnished by him, a list of the names of the children to whom certificates have been issued, and also a list of the names of the children to whom certificates have been refused, together with the ground for refusal. Such lists shall give the name of the prospective employer and the nature of the occupation the child intends to engage in.

Cf. Minnesota, General Law, 1907, Chapter 299, Section 7

CHILDREN APPARENTLY UNDER SIXTEEN.

SEC. 17. The inspector of factories or other authorized inspector or the truant officer shall make demand on any employer in or about whose place or establishment a child apparently under the age of sixteen years is employed, or permitted or suffered to work, and whose employment certificate is not filed as required by this act, that such employer shall either furnish him within ten days satisfactory evidence that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such factory. The inspector of factories or other authorized inspector or the truant officer shall require from such

employer the same evidence of age of such child as is required on the issuance of an employment certificate, and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child.

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This section is substantially in force in the following states:
Minnesota, General Law, 1907, Chapter 299, Section 2.
Nebraska, Acts of 1907, Chapter 66, Section 2.
New York, Laws of 1909, Chapter 36, Sections 76 and 167.
Oklahoma, Child Labor Law, 1908, Section 8.

CHILDREN UNDER EIGHTEEN.

SEC. 18. No child under the age of eighteen years shall be employed, permitted or suffered to work in, about or in connection with—

Blast furnaces;
Docks;
Wharves;
In the outside erection and repair of electric wires;
In the running or management of elevators, lifts or hoisting machines;
In oiling hazardous and dangerous machinery in motion;
At switch tending;
Gate tending;
Track repairing;
As brakeman;
Firemen;
Engineers;
Motormen;
Conductors upon railroads;
Pilots;
Firemen; or
Engineers upon boats or vessels engaged in the transportation of passengers or merchandise;
In or about establishments wherein nitroglycerine—
Dynamite,
Dualin,
Guncotton,
Gunpowder, or

Other high or dangerous explosives are manufactured, compounded or stored;

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Nor in any other employment declared by the state board of health to be dangerous to the lives or limbs or injurious to the health or morals of children under the age of eighteen.

With a slightly different list of prohibited employments this section is in force in New York, Laws of 1909, Chapter 36, Section 93.

Cf. Massachusetts, Acts of 1902, Chapter 350, Section 1 (elevators).
Michigan, Acts of 1907, Act 169, Section 3 (any dangerous employment).

SEC. 19. The state board of health may from time to time determine whether or not any particular trade, process of manufacture or occupation, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of minors under eighteen years of age employed therein to justify their exclusion therefrom, and may prohibit their employment therein.

The employment of a minor in violation of this statute is negligence, and the employee does not assume the risk of injury. 105 N. W. Rep. 755.

Nor does the fellow-servant doctrine apply to one whose employment the law forbids. 116 N. W. Rep. 1107.

But he may be charged with contributory negligence. 112 N. W. Rep. 691.

Cf. Massachusetts, Acts of 1902, Chapter 106, Section 44.
Michigan, Acts of 1907, Act 169, Section 3.

SEC. 20. No female under the age of eighteen years shall be employed, permitted or suffered to work in or about any mine, quarry or coal breaker.

Note.—All states with mining laws prohibit employment of all females. Minors are here specified, as all reference to regulation of adult labor is avoided in this draft.

HOURS OF LABOR.

SEC. 21. In cities of the first or second class no person under the age of twenty-one years shall be employed or permitted to work as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day.

See New York, Laws of 1910, Chapter 342, Section 161*a*.

A law regulating the hours of labor and fixing the maximum of ten hours a day for women in laundries was held constitutional in 1908 by the Supreme Court of the United States in the case of Muller *vs.* Oregon. 208 U. S. 412.

In the case of Broad *vs.* Woydt, 78 Pac. 1004, the Supreme Court of Washington decided that a city ordinance making eight hours a day's work on any work of municipal construction, etc., is not repugnant to the 14th amendment of the Constitution of the United States.

SEC. 22. No boy under the age of sixteen years and no girl under the age of eighteen years shall be employed, permitted or suffered to work at any gainful occupation other than domestic service or work on a farm more than forty-eight hours in any one week, nor more than eight hours in any one day; or before the hour of seven o'clock in the morning or after the hour of seven o'clock in the evening. The presence of a child in any establishment during working hours shall be prima facie evidence of its employment therein.

This section, prohibiting night work and limiting to an eight-hour day for children under sixteen, applies with slight variations in the following states:

Colorado, Laws of 1904, Section 1801*e*2.

District of Columbia, Acts of United States Congress, 1907-1908, Chapter 209, Section 8.

Illinois, Revised Statutes of 1905, Chapter 48, Section 20*i*.

Kansas, Acts of 1909, Chapter 65, Section 2 (hours, 7 A. M. to 6 P. M.).

Kentucky, 1906, Chapter 52, Section 1 (sixteen years for both sexes; hours forbidden, 7 P. M. to 6 A. M.).

Louisiana, 1908, Act 301, Section 9 "Presence of child prima facie evidence."

Massachusetts, Revised Laws of 1902, Chapter 106, Sections 27, 28 (prohibits night work for children under fourteen in all occupations and for minors under eighteen and all women in textile factories).

Michigan, 1901, Act 113, Section 2 (age, sixteen years; hours, 6 P. M. to 7 A. M.).

New York, Laws of 1909, Chapter 36, Section 77 (1) (age sixteen for both sexes; hours of work limited between 8 A. M. and 5 P. M.).

Ohio, Acts of 1904, page 321, Sections 6986-6988.

The constitutionality of the law regulating hours of employment of women and children has been recognized since its establishment by the Supreme Court of Massachusetts in 1876 (120 Mass. 385). So well established was this principle that although many cases have been tried under a similar law in New York, no case has been carried to the Court of Appeals of New York.

The regulation of hours for the employment of women has been involved in many cases. In 1895 the Supreme Court of Illinois, Ritchie *vs.* The People, 55 Ill. 98, declared the law unconstitutional in its application to women as "a purely arbitrary restriction upon the fundamental rights of citizens to control their own time, and substitute the judgment of the legislature for the judgment of the employer and employee in matters about which they are competent to agree with each other." But this decision did not affect the validity of the law in relation to the employment of minors. The words "competent to agree with each other" are significant.

The case of Low *vs.* Printing Co., 59 N. W. 362, decided by the Supreme Court of Nebraska in 1894, made clear that the objection to the law was that it aimed to prevent "persons legally competent to enter into contracts, etc." The fact seems clearly recognized that a minor child is not such a person. The Illinois court decision, above referred to, concluded by saying: "We do not wish to be understood by anything herein said as holding that Section 5 would be invalid if it was limited in its terms to females who are minors."

The Supreme Court of California, in holding void an ordinance of the City of Los Angeles which would regulate the hours of labor on all contracts, says: "If the service to be performed were . . . . against public policy . . . . or such as might be unfit for certain persons, for example, females or infants, the ordinance might be upheld, etc."

Wenham *vs.* State, 5 Neb. 394.

State *vs.* Buchanan, 29 Wash. 603.

In the case of Cantwell *et al. vs.* State of Mo., 179 Mo. 245, the Supreme Court of Missouri held that the Missouri eight-hour law for minors was valid, and its decision was affirmed by the Supreme Court of the United States on authority of 169 U. S. 366; 197 U. S. 11; 3 Pet. 280 and 179 Mo. 245.

Held constitutional. Commonwealth *vs.* Hamilton Mfg. Co., 120 Mass. 383.

Pennsylvania law limiting hours of labor for adult females is constitutional. State *vs.* Beatty, 15 Superior Court, 5.

SEC. 23. Every employer shall post in a conspicuous place in every room where any boy under the age of sixteen years or any girl under the age of eighteen years is employed, permitted or suffered to work, a printed notice stating the hours required of them each day of the week, the hours of commencing and stopping work, and the hours when the time or times allowed for dinner or for other meals begin and end. The printed form of such notice shall be furnished by the inspector of factories or other authorized inspector, and the employment of any minor for a longer time in any day so stated or at any time other than as stated in said printed notice shall be deemed a violation of the provisions of this act.

Applying to minors under eighteen years, in force in:

California, Laws of 1906, Act 1611, Section 3.

Connecticut, Laws of 1909, Chapter 220, Section 1.

Kentucky, 1906, Chapter 52, Section 1 (applies to minors under sixteen years).

Massachusetts, Acts of 1902, Chapter 106, Section 23 (applies to minors under eighteen years and all women).

Court ruling No. 120 Massachusetts, 383.

STREET TRADES.

SEC. 24. No male child under ten and no girl under sixteen years of age shall, in any city of the first or second class, sell or expose or offer for sale newspapers, magazines, periodicals or other merchandise in any street or public place. No child shall work as a bootblack in any street or public place unless he is over ten years of age.

Sections 24 to 29. The employment of children in street trades has not received the attention it deserves in this country.

Many states are at present without any provision for its regulation. The most advanced steps have been taken in New York, Massachusetts, Oklahoma, Wisconsin, in the District of Columbia and in Cincinnati, Ohio.

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District of Columbia, Acts of United States Congress, 1907-1908, Chapter 209, Section 11.

New York, Acts of 1907, Chapter 588, Section 174.

Oklahoma, Child Labor Law, 1908, Section 4.

Wisconsin, Acts of 1909, Section 1728 (*p*), (*q*) and (*r*).

See also Ordinances of City Council, Cincinnati, Ohio, 1909.

SEC. 25. No male child under fourteen years of age shall sell or expose or offer for sale in any street or public place any of the articles mentioned in Section 24, or work as a bootblack therein, unless a permit and badge as hereinafter provided shall have been issued to him by the superintendent of schools or by a person authorized by him in writing, or, where there is no superintendent of schools, by a person authorized by the School Committee, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian, then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age of ten years or upwards, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Principals or chief executive officers of schools in which

children under fourteen years of age are pupils shall keep complete lists of all children in their schools to whom a permit and badge as herein provided have been granted.

Cf. District of Columbia, Acts of United States Congress, Chapter 209, Sections 12, 13 and 14 (applies to children under sixteen).
Massachusetts, Acts of 1902, Chapter 65, Section 17.
New York, Acts of 1907, Chapter 588, Section 175.
Wisconsin, Acts of 1909, Section 1728 (*s*) and (*t*).

SEC. 26. Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and shall describe the color of hair and eyes, the height and weight, and any distinguishing facial mark of such child, and shall further state that the papers required by the preceding section have been duly examined and filed, and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding to the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued.

Cf. New York, Acts of 1907, Chapter 588, Section 176.
Wisconsin, Acts of 1909, Section 1728*u*.

SEC. 27. The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city of the first or second class as a newsboy or bootblack, or shall sell or expose or offer for sale newspapers, magazines, periodicals or other merchandise in any street or public place without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police or truant officer.

Cf. New York, Acts of 1907, Chapter 588, Section 177.
Wisconsin, Acts of 1909, Section 1728*v*.

SEC. 28. No child to whom a permit and badge are issued as provided for in Sections 24, 25, 26 and 27 of this act shall work as a bootblack, sell or expose or offer for sale any newspapers, magazines, periodicals or other merchandise in any street or public place after eight o'clock in the evening or before six o'clock in the morning.

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Cf. New York, Acts of 1907, Chapter 588, Section 178 (prohibited hours, 10 P. M. to 6 A. M.).
Wisconsin, Acts of 1909, Section 1728*w* (prohibited hours for newsboys, 10 P. M. to 6 A. M.; for bootblacks and other street trades, 7 P. M. to 7 A. M.).

SEC. 29. Any child who shall work in any city of the first or second class in any street or public place as a bootblack or newsboy, or who shall sell or expose or offer for sale newspapers, magazines, periodicals or other merchandise, in violation of the provisions of this act, shall be arrested and brought before the juvenile court or a court or magistrate having jurisdiction to commit a child to an incorporated charitable reformatory or other institution, to be dealt with according to law. The permit and badge of any child who violates the provisions of this article may be revoked by the officer issuing the same, upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any police officer or truant officer, and such child shall surrender the permit and badge so revoked upon the demand of any truant officer or police officer charged with the duty of enforcing the provisions of this article. The refusal of any child to surrender such permit and badge, upon such demand, or the working as a bootblack, or the sale or offering for sale of newspapers, magazines, periodicals or other merchandise in any street or public place by any child after notice of the revocation of such permit and badge, shall be deemed a violation of this article and shall subject the child to the penalties provided for in this act.

Cf. Massachusetts, Acts of 1906, Chapter 151, Section 18.
New York, Acts of 1907, Chapter 588, Sections 179 and 179*a*.
Ohio, Annotated Statutes, Sections 4022-4025.

GENERAL PROVISIONS.

SEC. 30. Inspectors of factories and other authorized inspectors and truant officers may visit any place of employment mentioned in either Section 1, 3, 4, 18, 20 or 22, and ascertain whether any minors are employed therein contrary to the provisions of this act; and they shall report any cases of such illegal employment to the school authorities; and truant officers shall also report the same to the inspector of factories or other authorized inspector.

It shall be the duty of factory and other duly authorized inspectors to make complaints for offenses under this act and prosecute the same.

This shall not be construed as a limitation upon the right of other persons to make and prosecute such complaints.

This section, adapted to the enforcing agencies in various states, is substantially in force in:

District of Columbia, Acts of United States Congress, 1907-1908, Chapter 209, Section 7.
Illinois, Revised Statutes, 1905, Chapter 48, Section 20*l*.
Kansas, Acts of 1905, Chapter 278, Section 3.
Massachusetts, Acts of 1906, Chapter 499, Section 2.
Minnesota, General Law, 1907, Chapter 299, Section 10.
Ohio, Annotated Statutes, Sections 4022-4025.

In the case of State *vs.* Vickens, 84 S. W. 908, the Supreme Court of Missouri held that the law authorizing the appointment of factory inspectors is a valid exercise of the police power of the state.

PENALTIES.

SEC. 31. Whoever employs any child, and whoever having under his control as parent, guardian or otherwise, any child, permits or suffers such child to be employed or to work in violation of any of the provisions of this act, shall for such offense be fined not less than five nor more than two hundred dollars, or be imprisoned for not less than ten days nor more than thirty days, or both, in the discretion of the court.

Sections 31 to 41 are slightly altered from laws in force in the following states:

California, Laws of 1906, Chapter 1611, Sections 3 and 4.

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Illinois, Revised Statutes of 1905, Chapter 48, Section 20*m.*
Iowa, Acts of 1906, Chapter 103, Section 6.
Kansas, Acts of 1905, Chapter 278, Section 4.
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Louisiana, 1908, Act 301, Section 7.
Massachusetts, Acts of 1906, Chapter 499, Section 1.
Minnesota, General Law of 1907, Chapter 299, Section 9 (provides fines, but not imprisonment).
Ohio, Acts of 1904, page 321, Sections 6986-9.

Sections 31 to 41. Compare New York penal law, Article 120, Laws of 1909, Chapter 88, Section 1275.

It has been the policy of those drafting this uniform law to make the minimum penalty small, with a view to a more rigid enforcement of the various penalty sections. In nearly every state having well-established departments of factory inspection the penalties are heavier, both as to fines and imprisonments. In some instances it has been observed that the heavy minimum penalty tended to thwart the purpose of the law by causing courts or juries to fail to convict.

SEC. 32. Whoever continues to employ any child in violation of any of the provisions of this act, after being notified thereof by a truant officer or an inspector of factories or other authorized inspector, shall for every day thereafter that such employment continues be fined not less than five nor more than twenty dollars.

Cf. Massachusetts, Acts of 1906, Chapter 499, Section 1.

SEC. 33. Any person, firm or corporation retaining an employment certificate in violation of Section 9 of this act shall be fined not less than five dollars nor more than fifty dollars.

Cf. Massachusetts, Acts of 1906, Chapter 499, Section 4.

SEC. 34. Any person authorized to sign any certificate, affidavit or paper called for by this act, who knowingly certifies to any materially false statement therein, shall be fined not less than five dollars nor more than one hundred dollars.

SEC. 35. A failure by an employer to produce to a truant or factory officer or authorized inspector any employment certificate or list required by this act shall be prima facie evidence of the illegal employment of any child whose employment certificate is not produced or whose name is not so listed.

Cf. New York, Laws of 1909, Chapter 36, Section 167.
Indiana, Annotated Statutes, 1901, Section 7770 (general penalty clause).
Louisiana, 1908, Act 301, Section 11.
Massachusetts, Acts of 1906, Chapter 499, Section 4.

SEC. 36. In case any employer shall fail to produce and deliver to a factory inspector or other authorized inspector or truant officer, within ten days after demand made pursuant to Section 17 of this act, the evidence of age therein required, and shall thereafter continue to employ such child or permit or suffer such child to work in such place or establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence of the illegal employment of such child in any prosecution brought therefor.

Cf. New York, Laws of 1909, Chapter 36, Section 177.

SEC. 37. Any child working in or in connection with any of the establishments or places or in any of the occupations mentioned in either Sections 1, 3, 4, 18, 20 or 22, who refuses to give to the factory inspector or other authorized inspector or the truant officer his or her name, age and place of residence, shall be forthwith conducted by the inspector or truant officer before the judge of the juvenile or probate court, or other proper municipal or police authority, for examination and to be dealt with according to law.

SEC. 38. Any employer who fails to post the printed notice required by Section 23 of this act in the manner therein specified shall be fined not less than ten nor more than fifty dollars.

SEC. 39. Any superintendent of schools or other person issuing employment certificates who fails to comply with the provisions of this act shall be fined not less than five dollars nor more than twenty-five dollars.

SEC. 40. Every employer who fails to provide suitable seats, chairs or benches, as provided in Section 6 of this act, shall be fined not less than ten dollars nor more than fifty dollars.

SEC. 41. Every employer who fails to procure and keep or file employment certificates or who fails to keep and post lists, as provided in Section 7 of this act shall be fined not less than ten dollars nor more than fifty dollars.

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REPORT

OF THE

COMMITTEE APPOINTED BY THE NATIONAL CONFERENCE OF UNIFORM STATE LAWS COMMISSIONERS TO CO-OPERATE WITH THE AMERICAN INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY.

To the Conference of Commissioners on Uniform State Laws:

Your committee reports as follows:

There should be a Standing Committee on Criminal Law, to consist of three or more members. At present no specific measure should be taken up for investigation or for drafting by that committee; nor until further instructions by the Conference.

The reasons for the above report are as follows: The subject of criminal law will ultimately call for uniformity of measures. But at present so many principles and measures are under discussion that it would be unlikely to find unanimous agreement among those best qualified to judge; and until there is a fair agreement, it would be undesirable to attempt to legislate for uniformity.

Nor is there indeed any special haste. That uniformity which is desirable in criminal law is merely the widespread of sound principles and just measures, and not uniformity intrinsically for its own sake. Apart from the lack of extradition (which properly falls in international interstate law) no particular disadvantage results from contrariety of criminal law or procedure as such. The criminal law is administered by each state with practical independence. Nor, except for the system of criminal identification, which is usually arranged by police regulations, is there any interstate intercourse, such as demands uniformity as an intrinsic merit, regardless of the nature of the rule itself. For these reasons, criminal law stands somewhat by itself in respect

to the policy of this Conference. From time to time, as the principles and measures may become fairly well accepted by the best authorities, this Conference could lend its aid in the drafting of measures suited for uniform adoption. But in the determination of these measures for drafting the committee believes it best to wait for the judgment of the American Institute of Criminal Law and Criminology, whose special province it is to investigate and formulate measures in that field.

Our proposal, therefore, is that a standing committee be appointed to take care of such matters whenever they may be presented through the Institute, or some similar body; but that in the meantime the committee shall not be charged with any specific measures to be drafted.

Respectfully submitted,

JOHN H. WIGMORE, *Chairman,*
TALCOTT H. RUSSELL,
JOHN D. LAWSON,
Committee.

April 28, 1910.

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REPORT

OF THE

COMMITTEE ON TORRENS SYSTEM AND REGISTRATION OF TITLES.

To the Honorable Wm. H. Staake, Chairman Executive Committee:

DEAR SIR: As Chairman of the Committee on the Torrens System and Registration of Titles, I have the honor to report:

Owing to the absence from the country of the Chairman, during much of the period, since the Annual Conference at Detroit, the members of the committee were not convened, nor was any connected effort made to secure the adoption of the Torrens System in the various states.

Your Chairman, however, has sought information on the subject from the various states and territories. He sent to each secretary of state a request that he answer on an enclosed postal, the following questions:

1. Has the Torrens System for the Registration of Titles been adopted by your legislature?

2. If it has been adopted, what is the date of its adoption?

3. If the system has been adopted, has it proved successful?

As a result of this effort, your Chairman is able to report:

First: That the only jurisdictions within the United States which have adopted and retain the Torrens System are: California, Colorado, Hawaii, Illinois, Massachusetts, Minnesota, New York, Oregon, the Philippines and Washington. Ohio adopted the system, but the statute was declared unconstitutional, because it undertook to confer judicial powers on certain non-judicial officers. The legislature of Utah, in 1909; passed an act on the subject, but it was vetoed by the Governor.

Second: But little information was elicited by the third question. Apparently, the system has not aroused much interest, even in the jurisdictions which have adopted it. In Massachusetts it is said to have proved successful. An article on the topic will be found in Vol. 31 of the New York State Bar Association Reports. The Director of the Legislative Reference Bureau for Pennsylvania cites an article in 71 Central Law Journal, on the subject.

All of which is respectfully submitted.

FRANCIS M. BURDICK,
Chairman.

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REPORT

OF THE

COMMITTEE ON PURITY OF ARTICLES OF COMMERCE.

To the Conference of Commissioners on Uniform State Laws:

Great progress has been made by the states in enacting uniform legislation on food laws during the past three years, until there are now twenty-eight states that have adopted uniform laws upon this subject, based upon the national law. The Association of State and National Food and Dairy Departments at the Denver Convention last autumn adopted the Federal Food and Drugs Act as a basis of legislation to be proposed to the several states for legislation on this subject. The federal government has actively enforced the Food and Drugs Act and there are now several hundred decisions and judgments construing the various provisions of the federal law and the regulations issued thereunder. There has been some tendency, during the course of legislation by the states on this subject, to diverge from the national law. Among provisions either proposed or enacted in some states, at variance with the national law, we note the proposition to establish by statute food standards for several hundred food products. As such statutes are certain to differ in the several states, it is thought best by your committee to call attention to the matter that this Conference may recommend to the several states that they do not attempt to establish food standards by statute, in order to preserve uniformity in all pure food legislation throughout the states. The federal law of June 30, 1906, did not incorporate standards for food products, though, as a practical matter, standards previously published by the United States Department of Agriculture are used as guides and are sometimes referred to in the food decisions or notices of judgment of the United States

Agricultural Department, which practice should be the rule adopted by the several states for the sake of uniformity.

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Your committee, therefore, recommend that this Conference, as it has previously done, urge that all states that have not done so enact laws upon this subject in conformity with the Federal Food and Drugs Act of June 30, 1906.

Respectfully submitted,

WALTER E. COE,
Chairman.

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AN ACT

RELATING TO DESERTION AND NON-SUPPORT OF WIFE BY HUSBAND, OR OF CHILDREN BY EITHER FATHER OR MOTHER, AND PROVIDING PUNISHMENT THEREFOR; AND TO PROMOTE UNIFORMITY BETWEEN THE STATES IN REFERENCE THERETO.

SECTION I. *Be it enacted, etc.,* That any husband who shall, without just cause, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances; or any parent who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his or her child or children under the age of sixteen years in destitute or necessitous circumstances, shall be guilty of a crime and, on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the ...., not exceeding two years, or both, with or without hard labor, in the discretion of the court.

SEC. II. Proceedings under this act may be instituted upon complaint made under oath or affirmation by the wife or child or children, or by any other person, against any person guilty of either of the above named offenses.

SEC. III. At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court, or a judge thereof in vacation, may enter such temporary order as may seem just, providing for support of the deserted wife or children, or both, *pendente lite,* and may punish for violation of such order as for contempt.

SEC. IV. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, instead of imposing the penalty hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances, and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by the court from time to time, as circumstances may require, directing the defendant to pay a cer-

tain sum periodically, for a term not exceeding two years, to the wife or to the guardian, curator or custodian of the said minor child or children, or to an organization or individual approved by the court as trustee; and shall also have the power to release the defendant from custody on probation for the period so fixed, upon his or her entering into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation, may order and approve. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so, and shall further comply with the terms of such order of support, or of any subsequent modification thereof, then such recognizance shall be void, otherwise of full force and effect.

SEC. V. If the court be satisfied by information and due proof under oath, that at any time during said period of two years the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case of forfeiture of recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid, in whole or in part, to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children.

SEC. VI. No other or greater evidence shall be required to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, than is or shall be required to prove such facts in a civil action. In no prosecution under this act shall any existing statute or rule of law prohibiting the disclosure of confidential communications between husband and wife apply, and both husband and wife shall be competent witnesses to testify against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children; provided that neither shall be compelled to give evidence incriminating himself or herself. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect or refusal to provide for the support and maintenance of such wife, child or children

shall be *prima facie* evidence that such desertion, neglect or refusal is wilful.

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SEC. VII. It shall be the duty of the sheriff, warden, or other official in charge of the county jail, or of the custodian of the reformatory, workhouse, or house of correction, in which any person is confined on account of a sentence at hard labor, under this act, to pay over to the wife, or to the guardian, curator or custodian of his or her minor child or children, or to an organization or individual approved by the court as trustee, at the end of each week, for the support of such wife, child or children, a sum equal to .... for each day's hard labor performed by said person so confined.

SEC. VIII. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SEC. IX. Repealing clause.

SEC. X. This act shall take effect the .... day of ...., Anno Domini 19...

AN ACT

RELATIVE TO WILLS EXECUTED WITHOUT THIS STATE, AND TO PROMOTE UNIFORMITY AMONG THE STATES IN THAT RESPECT, IN FINAL FORM APPROVED BY THE CONFERENCE, AUGUST, 1910.

SECTION I. *Be it enacted, etc.,* That a last will and testament, executed without this state in the mode prescribed by the law, either of the place where executed or of the testator's domicile, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state, provided, said last will and testament is in writing and subscribed by the testator.

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