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Uniformity in the Law—The National Conference of Commissioners on Uniform State Laws

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This Note is devoted to the work of "The World's Least-Known Legislature," The National Conference of Commissioners on Uniform State Laws. Probably every practitioner is acquainted with the substance of the Uniform Negotiable Instruments Law, the Uniform Partnership Act and other uniform laws. The origin and purpose of such acts, however, are not so well understood. It is believed that a more widespread understanding of the Uniform State Laws will cause members of the legislature, bench and bar to realize the desirability of greater participation in a program which offers great benefits.

The need for uniformity in certain phases of the law in the various jurisdictions of the United States has long been recognized. When the colonies were first founded, the common law of England was applied with little diversity. But geographic, economic, social, religious and political conditions differed and such differences naturally gave rise to a diversified jurisprudence. Transportation was slow, communication infrequent and commerce slight, and diversity was no problem so long as there was so little interstate business. However, when the country began its rapid physical and economic expansion, and interstate commerce increased, this diversity began to present complex problems. Today a single transaction may cross a dozen state lines and involve citizens of as many jurisdictions. This situation demands a degree of uniformity not required in earlier generations.

The need for uniformity in law is greatest in those transactions requiring steps to be taken in two or more jurisdictions. As to such transactions, diversity often presents difficult questions of conflict of laws which could have been avoided had the laws of these jurisdictions been the same.


3The diversity of the law among the states was caused only to a small extent by diverging court interpretation of the common law, as judge-made law generally tends toward uniformity. Instead, the diversity may be explained by the widely differing legislation among the colonies and by physical isolation to a degree which is difficult to imagine in times of modern communications. Cohn, Georgia and the Uniform Laws, 19 Ga. B.J. 457, 461-62 (1957).

4See Hargest, supra note 2, at 31-32.

5See Day, supra note 2, at 276.
The problem could be remedied in two ways. The first would be for the states to relinquish to the federal government exclusive authority to legislate on those subjects which should be uniform throughout the country. The other would be adoption by the individual states of identical laws on those subjects.

There has been opposition to both proposals. The principal objection to relinquishment of state power is the strong belief in "States' Rights" which has inhered in our republican system. Every proposal to enlarge the federal authority at the expense of the states is met by this reluctance to surrender the power retained by the states. Even if desirable, this solution is practically unattainable. However, there is also opposition to uniform state enactments. As one author puts it, ""Uniformity' has a sinister ring to American ears... [It] conjures up vistas of drabness, regimentation and curtailment of individualism. Two other arguments usually given are (1) that the local situation is sufficiently different from the situation elsewhere to justify a deviation and (2) that since the field is already adequately covered by local legislation there is no reason to experiment.

Nevertheless, the reluctance to permit an enlargement of federal authority is a stronger one than the hesitancy to achieve uniformity among the states. In fact this reluctance is a factor which tends to promote uniformity.

If we still believe in the form of government established by the Constitution of the United States, the need for uniformity of state law is more acute than ever.

If we are to be preserved from the epidemic of totalitarianism which seems to be sweeping the world, the powers reserved to the states must be retained by them. But in order to be retained, they must be exercised wisely and efficiently. And, certainly, in matters affecting the conduct of business on a nation-wide scale, efficient state government can be conducted only under uniform state laws.

Everyone is conscious of the fact that there is only a limited area of government within which the national administration is given any authority by the Constitution. Outside of that limited area, each state has authority as absolute as any foreign sovereign. Toll, Uniform State Laws, 26 Rocky Mt. L. Rev. 450, 452 (1954).

Connor, The Work of the National Conference of Commissioners on Uniform State Laws, 23 Tul. L. Rev. 518, 521 (1949). One such area is that of commercial paper. Another, and one that troubled the early-day Americans, was that of marriage and divorce. "At a time when today's eldest law school deans were preoccupied with their velocipedes, more than one lady was blushing from the discovery that although her status was regular in one state, there were other jurisdictions in which her marital relationship was on the bigamous side, and the legitimacy of any children of her then current marriage was correspondingly uncertain." Toll, supra note 6, at 450.

Connor, supra note 7, at 521.


Poldervaart, op. cit. supra note 2, at 4-5. It must be kept in mind that complete uniformity throughout the forty-eight states even of laws which should be uniform will likely never be achieved as local traditions, policies and provincialism will probably not be totally abandoned for the mere sake of such uniformity. Dew, The Urge for Uniformity in State Laws, 20 U. Kan. City L. Rev. 56, 59 (1952).

Address of President Schnader, HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS 56 (1940) (hereinafter cited as HANDBOOK).
It has been said that adoption by the states of uniform legislation has lessened the pressure for regulation by the national government.  

**ANSWERING THE NEED—THE HISTORY OF THE NATIONAL CONFERENCE**

In 1881 a committee of the Alabama Bar Association stressed the need for uniformity in certain fields of the law in a letter sent to the American Bar Association and other state bar associations. The committee rejected, for practical reasons, amendment of the Federal Constitution as a means of attaining this goal. It concluded that it seemed "preferable to confine our efforts to securing uniformity in law questions of national importance to independent State action." At the twelfth annual meeting of the American Bar Association, in 1889, a Tennessee member moved, and the American Bar Association adopted, the following resolution:

Recognizing the desirability of uniformity in the laws of the several states, especially those relating to marriage and divorce, descent and distribution of property, acknowledgment of deeds, execution and probate of wills; there be it

Resolved, That the President of this Association appoint a committee, consisting of one from each state, who shall meet in convention at a time and place to be fixed by the President, and compare and consider the laws of the different states relating to these subjects, and prepare and report to this association such recommendations and measures as will bring about the desired result.

The New York legislature, in 1890, authorized the governor to appoint, with the consent of the senate, three commissioners

... to examine the subjects of marriage and divorce, insolvency, the form of notarial certificates and other subjects; to ascertain the best means to effect ... uniformity in the laws of the states, and especially to consider whether it would be wise ... for the state of New York to invite the other states ... to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several states. ... 

Later that same year the American Bar Association, at the instance of its Committee on Uniform State Laws, adopted a resolution recommending...
the passage by each state, and by Congress for the District of Columbia and the territories, of an act similar to the one that New York had adopted.17

By 1891, Pennsylvania, Michigan, Massachusetts, New Jersey and Delaware had followed New York's example and created Commissions on Uniform State Laws, and the first conference of the commissions so named was held at Saratoga, New York, on August 24-26, 1892. Three uniform acts were considered, adopted and recommended to the states.18 Other proposals were made which met with little success.

Since that first meeting there has been a meeting every year, with the exception of 1945 when war conditions made it impracticable; and since 1912 all of the states and territories and the District of Columbia have been represented in the Conference.19

In 1896 the Conference received its present name of "National Conference of Commissioners on Uniform State Laws" and adopted, after considerable debate, its Negotiable Instruments Act.20

As early as 1897 it became apparent that the work of the Conference could not be properly carried out merely by preparing drafts of uniform acts, and a resolution was adopted which provided:

That each commissioner be earnestly requested to give his personal attention to the introduction into the legislature of his state of such laws as have been proposed by the Conference of Commissioners, and that he give such personal attention to such proposed law from its introduction to its enactment and approval.21

By 1900, Commissioners had been appointed from 32 states and two territories.22 Of eight proposed uniform acts which had been drafted and adopted by that time, all but one had been enacted by one or more state legislatures.23 The Conference was now firmly established. If it had done nothing more than prepare the Negotiable Instruments Law, later to be adopted in all 53 jurisdictions, it would have fully justified its existence.

At the close of 1920, after the Conference had withdrawn some of its outstanding acts and declared others obsolete as a result of their failure to meet with legislative favor, there were 26 acts deemed desirable for uniform enactment. The Conference continued to broaden the scope of its activities. Many acts, covering a wide range of topics, were prepared, adopted and presented to the states, and several acts which it had not prepared, such as the Federal Pure Food Act of 1906, were indorsed.

In 1936 the Conference made a significant change in its constitution. The purpose of the Conference had previously been stated to be "the promotion of uniformity in state laws on all subjects where uniformity is deemed desirable and practicable." The amendment included two addi-

17Schnader, supra note 11, at 36.
18They were an Acknowledgments Act, which was recommended by the Conference until 1939 when a new act was promulgated, and two acts on the validity of wills executed and probated in another state, which were superseded.
19HANDBOOK 4 (1925).
20Schnader, supra note 11, at 39-40.
21REPORT OF PROCEEDINGS 6 (1897).
22PROCEEDINGS 12 (1900).
23Id. at 16.
tional objectives: (1) the drafting of Model Acts on subjects suitable for interstate compacts, or on subjects in which uniformity would make more effective the exercise of state powers and promote interstate cooperation; and (2) the promotion of uniformity of judicial decisions throughout the United States.

HOW THE CONFERENCE FUNCTIONS

The National Conference is composed of commissioners, usually three in number, from each of the states, the District of Columbia, the Territories of Alaska and Hawaii, and the Commonwealth of Puerto Rico. Although some states have more than three commissioners each jurisdiction is entitled to one vote on the adoption of proposed acts. The term of appointment is usually three years. The commissioners are chosen by the chief executive from among leading lawyers, judges and teachers of law. They serve without compensation, and in some instances pay their own expenses. They are united in a permanent organization which maintains its permanent headquarters in the American Bar Center in Chicago. The commissioners meet annually at the same place as does the American Bar Association, usually for five or six days immediately preceding the meeting of that association. The funds necessary for carrying on the work of the National Conference are derived from contributions from some of the states, from appropriations made by the American Bar Association, and from contributions of various state bar associations. The record of the activities of the Conference, the reports of its committees, and its approved acts are printed in the Annual Proceedings (also called the Handbook). The acts, sometimes with annotations, are also printed in separate pamphlet form.

The quality and faithfulness of Conference personnel through the years has been outstanding. Included among those who have participated in its work are James Barr Ames, Louis D. Brandeis, John W. Davis, William Draper Lewis, Roscoe Pound, Wiley Rutledge, John H. Wigmore, Samuel Williston and Woodrow Wilson. One commissioner, Judge Peter W. Meldrim of Georgia, served from the first meeting until the time of his death in 1934, a total of 42 years. A 1939 survey showed that the 156
commissioners who were members of the Conference that year had a record of service averaging nine and one half years. It is not only apparent that the appointing authorities of the various states have attempted to select the best men available, but also that they have seldom changed appointees for political reasons.

A high degree of anonymity of those who do the actual drafting of the acts reflects the unselfishness with which much of the difficult work is done. Under the by-laws of the Conference "no complimentary resolution with reference to any living officer or member for any service performed, paper read, or address delivered shall be considered by the National Conference."

Under the constitution, a Standing Committee on Scope and Program "shall recommend to the Executive Committee the work which the Conference should undertake and the general plan and scope of its activities." This committee has recommended, among other things, that no act should be drafted by the Conference unless (1) there is demand for a uniform act on the subject, (2) there is strong likelihood of enactment by a substantial number of legislatures, (3) there is a real practical need for uniformity, and (4) it relates to subjects that are neither politically controversial nor involve controverted trade or professional standards.

The Conference is divided by its president into seven sections, and no commissioner serves as a member of more than one section at a time. After the Conference has decided upon subject matter proper for a uniform act, the president appoints a special committee to investigate and perhaps to draft the act under consideration. For more important acts, an expert draftsman is sometimes employed. The degree of care which attends the drafting of a proposed act has been well stated as follows:

During the preparation of the act, the committee consults with the appropriate committee of the American Bar Association or, if there is no such committee or section, with the secretary of that organization. In appropriate situations, it confers also with officers of the Council of State Governments and the Interstate Commission on Crime, with representatives of trade, financial, labor, and similar organizations, and with individuals who are conversant with the field in which the proposed act lies. The contributions of those who are called upon in this fashion are frequently of inestimable value.24

22See Schnader, supra note 11, at 49-50.
23Cohn, supra note 3, at 463; Connor, supra note 7, at 523.
24CONFERENCE BY-LAWS 3, par. 2, (1957), HANDBOOK 330 (hereinafter cited BY-LAWS; Cohn, supra note 3, at 463-64.
25CONF. art. III, § 1, cl. 2.
26HANDBOOK 347 (1957.)
27CONF. art. III, § 2.
28CONF. art. III, § 3(3).
29See Cohn, supra note 3, at 465.
30BY-LAWS § 21.
31Day, supra note 2, at 281. All of the Conference’s work, however, is not done at its annual meetings, productive as they may be. All during the year sections and sub-committees are carrying on their projects, corresponding and conferring to the end that acceptable reports of proposed drafts may be available for the consideration of the Conference during its annual sessions. Connor, supra note 7, at 523-24.
The chairman of the committee in charge of the act presents his draft, section by section, before a meeting of the section of the Conference to which his committee is assigned. At this meeting designated individuals, not members of the Conference, and representatives of appropriate organizations are frequently invited to participate in the consideration of the act. Extensive revision often is made in this meeting. After each section is approved it is referred to the Committee on Style for revision as to phraseology and similar matters.\footnote{\textit{ConSt.} art. III, § 3(1), (d).}

After the Conference section has approved the draft it is mimeographed and placed on the agenda for the next annual meeting. When the act comes up for consideration the Conference as a committee of the whole considers the proposed draft line by line. Here, too, selected individuals and representatives of associations not affiliated with the Conference are frequently invited to participate in the discussion. Each commissioner evaluates the various provisions generally and from the legal, economic and social background of his own jurisdiction and suggests such changes as he deems desirable. Such suggestions, and amendments proposed from the floor, are first passed upon by the committee which has the act in charge. If the committee rejects a proposed amendment, its proponent may call for a determinative vote of the entire committee of the whole. After the act has been thoroughly considered in this manner, it is returned again to the special committee which sponsored it and is revised and redrafted during the ensuing year in the light of the discussion which took place at the annual meeting. Sometimes this procedure is repeated in several annual meetings before the tentative approval of the Conference is obtained.\footnote{The Executive Committee may waive the requirement that an act be considered at more than one meeting. This is very rarely done, however. \textit{ConSt.} art. VIII (3). See Connor, \textit{supra} note 7, at 524.}

After an act has been tentatively approved, amended copies are printed and distributed to the members of the Conference. It is again considered by the committee of the whole at a subsequent annual meeting in the same fashion. It will then be submitted formally to the Conference for final approval and recommendation to the House of Delegates of the American Bar Association, for adoption by the several states. The approval itself must be based upon a majority of the states voting and upon the affirmative vote of at least twenty states.\footnote{\textit{ConSt.} art. VIII (6) ; Day, \textit{supra} note 2, at 281-82.}

These rules illustrate the extreme care with which a uniform act is drafted and approved by the Conference. When one considers that the Conference is extremely well attended and that representatives from not less than forty jurisdictions will be found at each meeting, it is evident that a finally approved act reflects the considered opinion of a geographical cross section of highly respected legal scholars, judges and practitioners. Thus an act proposed for adoption in the respective state legislatures carries with it a persuasive endorsement.\footnote{Connor, \textit{supra} note 7, at 524. \textquoteleft\textquoteleft The Conference is a quasi-legislative body which contains so many eminent practitioners, judges and law school deans, that in the composite the body has a caliber which has probably never been equaled by that of any state legislature. The result should be, and doubtless is, a more perfect product than any state could hope to produce single-handed.'\textquoteright\ Toll, \textit{supra} note 6, at 458.}

\footnote{\textit{ConSt.} art. VIII (6) ; Day, \textit{supra} note 2, at 281-82.}
Since the work of the Conference is really successful only through adoption of its uniform acts in a considerable number of jurisdictions, the commissioners of the respective states are urged to take an active part in having the acts introduced in their own legislatures. Because they are usually familiar with the reasons for enacting the law and for the particular wording they can be very influential in getting the acts adopted exactly as they have been drafted, thus achieving the primary step toward uniformity among the states.

The second object of the Conference, the drafting of model acts, has been de-emphasized recently in favor of greater efforts to secure adoption of the existing recommended uniform acts.

The third and final object of the Conference, promoting uniformity of judicial construction, is all important. Even though the acts are prepared with extreme care, the uncertainty inherent in human language often causes courts to make different interpretations of the same statutory provisions. The Conference has attempted various methods of minimizing this problem. Inserted in every proposed act are the following sections: "This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it," and ""This act may be cited as the Uniform... Act." Still another section is inserted to repeal any conflicting state statutes. It is essential that a program of education be sponsored to help lawyers and judges realize that, when confronted with a question of first impression, they may and should resort to judicial construction of such uniform acts in other states.

The position of the courts has varied from the extreme of refusing to recognize that uniform acts were intended to change the previous law to the other extreme of holding that the decisions of other jurisdictions interpreting the same uniform act have the binding force of stare decisis on such points as have not been decided by the courts of the forum. Between these, however, the courts have generally given serious consideration to construction by courts of other jurisdictions. The United States Supreme Court has long recognized the purpose and desirability of the "uniformity"
sections inserted in the acts." Of substantial assistance in determining construction of uniform acts is Uniform Laws Annotated, a reference work giving the text of adopted acts, along with any local deviations from the recommended draft, and digests of thousands of cases interpreting the acts, arranged section by section. Tables and explanatory notes by the commissioners are also helpful.

In 1956 the Executive Committee adopted two recommendations to help further the third objective. They were: (1) to provide appellate court judges with copies of uniform acts which have been enacted in their respective states, calling special attention to the explanatory comments; and (2) to prepare a report each year for the Conference of conflicting decisions in the several states which reveal the necessity of amendment."

In its 66 years of existence, the Conference has amassed an amazing record. According to the 1957 Handbook," the Conference has drafted and approved 154 acts, not including amendments. It has also approved some acts drafted by other organizations. Some of its own acts have been declared obsolete, have been superseded or have been withdrawn, leaving at present 92 acts recommended for adoption." Of these, the Conference lists 53 uniform acts currently recommended for adoption by all jurisdictions, 13 model acts, and 26 acts originally promulgated as uniform or model acts but which, due to existing coverage of the field or opposition, have not received wide adoption. They are still recommended for consideration, however, in states having need for such legislation. Although 32 of the 53 uniform acts on the "current" list have been promulgated since 1950, the 53 jurisdictions have adopted an average of approximately 15 such acts. Of these acts 20 have been enacted in 20 or more jurisdictions, while only 8 (all of which were promulgated since 1950) have not been adopted by any legislature."

"It is apparent that if these uniform acts are construed in the several states adopting them according to former local views upon analogous subjects, we shall miss the desired uniformity, and we shall erect upon the foundation of uniform language separate legal structures as distinct as were the former varying laws." Commercial National Bank v. Canal-Louisiana Bank and Trust Co., 239 U.S. 520, 528 (1916).


"At pages 320, 365-70.

"Certainly everyone connected with the Conference is aware that its work is not perfect. Particularly is it impossible in drafting an act to foresee subsequent changes of conditions that may affect its desirability at a future period. Many of the instances in which a uniform or model act has later been amended, superseded by a new act or declared obsolete are attributable to this factor. At times, too, the functioning of an act after its adoption in one or more jurisdictions focuses attention upon matters that were overlooked in its preparation and leads the Conference to amend the act or to replace it with a more perfect version. . . ." Day, supra note 2, at 285.

"However, only two acts, the Negotiable Instruments Law, and the Warehouse Receipts Act have been enacted by all jurisdictions. Both of these have been superseded by the Uniform Commercial Code. "The Uniform Reciprocal Enforcement of Support Act is a good example of the value of a Uniform Act. Promulgated by the Conference in 1952, . . . the Act has been adopted in forty-eight jurisdictions. The Los Angeles Times of March 20, 1957, recited that the 10,000th petition for child support under the Act had been filed in the Los Angeles Superior Court the preceding day. As a result of those 10,000 petitions, according to the newspaper item, fathers who had fled from California in disregard of their family obligations to support their children, had been forced to pay an average of $519,798.21 a year through that court, while fathers located within the jurisdiction of that court with
The greatest undertaking of the Conference has been the promulgation of the Uniform Commercial Code. The idea of such a sweeping compilation of commercial law was put before the Conference at least as early as 1940 in the presidential address of William A. Schnader. The "Code," a project on which the American Law Institute has given its full cooperation, was promulgated in 1952 and revised in 1957. It supersedes 8 of the Conference's previously recommended acts. The Conference Commercial Code Committee stated in its 1957 report:

We doubt if at any time in the history of the world as much effort has been devoted to a piece of legislation as has been expended on the Uniform Commercial Code.

To date this legislative colossus has become the law of but three jurisdictions. The original draft took effect in Pennsylvania in July, 1954, and the Massachusetts and Kentucky legislatures have adopted the "1957 Official Edition." At the present time there are plans in at least nine states to introduce the code in their legislatures in 1959. The experience of Pennsylvania under the Code has been excellent, and the outlook for its wide adoption appears favorable.

MONTANA'S POSITION

To date Montana has adopted 26 of the 154 acts, and four of the amendments, drafted and approved by the Conference since its formation. Of family obligations elsewhere, had been required to pay an average of $2,227,267.78 a year. By those amounts the Act has reduced the sum which taxpayers otherwise would have been forced to provide for the support of needy children, so far as reflected by the records of just one court in one state. Add to these figures the saving effected in other courts, not only in California, but in forty-seven other jurisdictions and the value of the Act is apparent." Wilbert, To Have or Have Not: The Kansas Experience With the Uniform State Laws, 6 Kan. L. Rev. 338, 339-40 (1958).

Negotiable Instruments Law (1896), Uniform Warehouse Receipts Act (1906), Uniform Sales Act (1906), Uniform Bills of Lading Act (1909), Uniform Stock Transfer Act (1909), Uniform Conditional Sales Act (1918), Uniform Chattel Mortgage Act (1926), Uniform Trust Receipts Act (1932).

The great number of suggestions for modification of the Uniform Commercial Code which were made by the New York Law Revision Commission, and other agencies and organizations which had been studying the Code, resulted in the reactivation of the Joint Editorial Board and the appointment by it of subcommittees on every Article. These subcommittees carefully considered every proposal received and made detailed reports to the Editorial Board in the fall of 1956. The Editorial Board in turn considered these reports in detail. So many recommendations for change were accepted by the Board that the Code as now recommended could now more properly be called the Revised Uniform Commercial Code. Report of Commercial Code Committee, Handbook 171 (1957).

They are as follows with dates of adoption: Acknowledgments act*; Acknowledgments Act Amendment (1943); Act to Provide for the Appointment of Commissioners* (1945); Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings (1937); Aeronautics Act* (1929); Business Records as Evidence Act (1937); Common Trust Fund Act (1935); Criminal Extradition Act as Revised (1957); Declaratory Judgments Act (1935); Federal Tax Lien Registration Act (1927); Fraudulent Conveyance Act (1947); Gifts to Minors Act (1957); Judicial Notice of Foreign Law Act (1937); Limited Partnership Act (1947); Machine Gun Act (1935); Narcotic Drug Act (1937); Narcotic Drug Act Amendments (1953), (1955); Negotiable Instruments Act (1903); Official Reports as Evidence Act (1937); Partnership Act (1947); Photographic Copies of Business and Public Records as Evidence Act (1953); Reciprocal Enforcement of Support Act (1951); Simultaneous Death Act (1951); Stock Trans-
these, only 18 are on the list of 61 acts and amendments which the Conference is presently recommending for adoption by all jurisdictions as uniform acts.\textsuperscript{a} Our remaining enactments include: one model act,\textsuperscript{b} one act on the Conference's list of acts recommended only for states having need for the particular legislation,\textsuperscript{c} one on the Conference list of acts inactive pending further study,\textsuperscript{d} and nine acts which have been withdrawn by the

fer Act (1943); Trust Receipts Act (1945); Veterans' Guardianship Act (1929); Veterans' Guardianship Act as Revised (1943); Vital Statistics Act (1943); Warehouse Receipts Act (1917). Total 30. The asterisk indicates that the uniform act has been adopted only substantially or with modifications. For a discussion of each of the individual uniform and model acts recommended as of 1953, and of their Montana statutory counterparts, if any, see Toelle, \textit{Montana and the Uniform Laws}, 15 \textit{MONTANA L. REV.} 15 (1954). A substantial portion of the Uniform Adoption Act was also passed by the 1957 legislature, but this is not mentioned in the 1957 Handbook as a Montana adoption. See R.C.M. 1947, §§ 61-201 to 61-217 (supp. 1957).

\textsuperscript{a}HANDBOOK 320 (1957).

\textsuperscript{b}Id. at 365-66, Table I.

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\textsuperscript{a}Act to Provide for the Appointment of Commissioners. This act was promulgated by the Conference in 1944. The passage of a substantial portion of the act in Montana in 1945 makes us one of 13 enacting jurisdictions. Twelve other model acts promulgated by the Conference are being currently recommended, 6 of which were prepared at the request and with the collaboration of the American Bar Association and sponsored by it for presentation to the state legislatures. Of the 12, only 6 have been adopted by any jurisdiction, and none by more than 4 jurisdictions. HANDBOOK 366-67 (1957).

\textsuperscript{b}Official Reports as Evidence Act—one of 26 acts on the list, none of which has been enacted by more than 8 jurisdictions due to existing coverage of the field or opposition. \textit{Id.} at 367, Table III.

\textsuperscript{c}The Machine Gun Act. \textit{Id.} at 368, Table IV.
Conference because obsolete or superseded." Several acts have also been adopted by Montana which have been drafted and promulgated by other organizations but endorsed by the National Conference. Out of the 53 jurisdictions which have adopted one or more of the acts, 25 have more adoptions than Montana, 24 have less, and 3 the same number. It is somewhat disconcerting to note, however, that of 14 other western states, many with economies very much like our own, 11 show a greater number of adoptions than our state. Where have we fallen down?

It is, of course, apparent that in order for Montana to take full advantage of the benefits to be derived from the Conference it must have active representation at the annual meetings.

Although, since the turn of the century, Montana has had from two to five appointed commissioners, between 1924 and 1957 this state was represented in the Conference annual meeting only half time, and then by only one of the Commissioners. This situation is not due to disinterest on the part of the commissioners, but rather to the continued refusal of the legislature to provide any funds to defray their expenses, or to support the work of the Conference itself.

The commissioners serve without remuneration, and this is perhaps

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<td>1906</td>
<td>53</td>
<td>1951</td>
<td>Superseded*</td>
</tr>
<tr>
<td>Transfer of Dependents Act</td>
<td>1928</td>
<td>38</td>
<td>1942</td>
<td>Superseded</td>
</tr>
<tr>
<td>Veterans' Guardianship Act</td>
<td>1906</td>
<td>53</td>
<td>1951</td>
<td>Superseded*</td>
</tr>
</tbody>
</table>

*Superseded by the Uniform Commercial Code. Id. at 368-70, Table V.

For instance, certain sections of the Vehicle Code.

Wis. (59) ; S.D. (54) ; Md. (48) ; Utah (47) ; Pa. (47) ; Tenn. (43) ; Nev. (43) ; Mich. (42) ; N.D. (38) ; La. (38) ; Idaho (38) ; Hawaii (37) ; Cal. (37) ; Wash. (36) ; Ove. (35) ; Ill. (35) ; Vt. (35) ; Ariz. (35) ; N.Y. (34) ; Minn. (32) ; Wis. (31) ; N.H. (31) ; Ind. (31) ; Ark. (31).

P.I. (2) ; P.R. (10) ; D.C. (14) ; Miss. (15) ; Ga. (18) ; S.C. (21) ; W. Va. (21) ; Conn. (22) ; Fla. (22) ; Okla. (22) ; Tex. (22) ; Ky. (23) ; Me. (25) ; Ala. (26) ; Alaska (26) ; Colo. (26) ; Del. (26) ; Iowa (26) ; Kan. (26) ; Va. (26) ; Mo. (27) ; Ohio (27) ; Mass. (28) ; N.C. (29).

Nebraska, New Jersey, Rhode Island.


Only Colorado, Oklahoma and Texas have fewer.

The author's available information dates back only to 1924.

Raymond T. Nagle, Helena, attended meetings from 1934 to 1938; Mrs. Margaret Young, Forayth, in 1940; William J. Jameson in 1944, 1947-48, 1950-56; Chief Justice Harrison and Dean Sullivan in 1957.

Chief Justice Howard A. Johnson and Professor J. Howard Toelle of the Law School, appointed by Governor Ford in 1944, never attended an annual meeting because their expenses would not be paid and were later dropped from the Conference pursuant to a by-law providing for expulsion after two unexcused absences. Letter from Hon. William J. Jameson to the author, March 25, 1958.
not too much imposition on public spirited men, but in Montana and some other states they even have to pay their own expenses," though as early as 1894 the Committee on Uniform Laws of the American Bar Association recommended that no state appoint commissioners without providing for expenses.

The constitution and by-laws of the Conference make it the duty of the Commissioners to endeavor to procure from each state legislature an act providing an annual appropriation for the National Conference and for their own expenses." To date they have been unsuccessful in Montana. The Model Act to Provide for the Appointment of Commissioners was not adopted in toto by our legislature.

As originally introduced [section 5 of] the bill provided an appropriation for a contribution from Montana to the work of the National Conference . . . and for . . . reimbursement of the expenses of the Montana commissioners in attending the Conference. . . . The appropriation was deleted in the Senate Committee on Finance and Claims. At subsequent sessions of the Legislature, bills have been introduced to provide for an appropriation, and a few times the bills have passed the House, but each time the appropriation was deleted by the Senate Committee. Accordingly, no appropriation has ever been made for the work of the National Conference or to defray any portion of the expenses of the Montana Commissioners."

The amount that each state is asked to contribute is based by the Executive Committee upon the state's population and financial ability. The apportioned amounts range from a low of $600 per annum for Montana and 16 other jurisdictions, to a high of $2750 for New York State." The American Bar Association makes a yearly contribution of $6,000. Overall the Conference is very economically run. Only Montana and eight other jurisdictions failed to contribute to the Conference in any way in 1957."

It is submitted that Montana should contribute her share to the National Conference, which has performed a great service to this state and to the nation as a whole, and which continues to be engaged in a worthy cause. It is urged that the 1959 legislature seriously consider the enactment of an appropriation bill."

"Day, supra note 2, at 279 n. 30-33.
"CONST. art. IV(d-e) ; BY-LAWS, § 18(c).
"Letter from Judge Jameson to Governor Aronson, May 6, 1957. "We tried to interest the legislature in an appropriation for this purpose without success, and thereafter under the presidency of Jim McCain, we tried to get provision through the State Board of Education for this, but the Attorney-General of the time opposed on the ground this was not a legitimate educational expense. . . ." Toelle, supra note 91.
"This could be done by amendment of R.C.M. 1947, title 12, chapter 4, to include a section 405—such section to correspond to section 5 of the Model Act to Provide for the Appointment of Commissioners which was deleted when the Model Act was adopted. See Model Act to Provide for the Appointment of Commissioners § 5, 9 U.LA.
As previously mentioned, Montana's representation at the annual meetings of the Conference has been inadequate, but some of our appointed commissioners, though unable to attend the meetings for financial reason, have backed the work of the Conference in this state through correspondence and appearances before the legislature and in other ways. The present commissioners, appointed in 1957 by the Governor to four year terms are Alex Blewett, practicing attorney from Great Falls, Honorable James T. Harrison, Chief Justice of the Montana Supreme Court, and Robert E. Sullivan, dean of the Montana State University School of Law. They have already undertaken their work with energy.

Many state bar associations have committees on uniform legislation which work closely with the commissioners in securing the adoption of the uniform acts in their respective jurisdictions. These state bar committees, whose members are sometimes also commissioners in the National Conference, can be invaluable in furthering the work of the Conference, especially in familiarizing the bar members with the advantages of the proposed enactments so as to eliminate their opposition.

For some years the Montana Bar Association has had a Committee on Uniform Laws. It keeps no permanent records, and seems to have been active only sporadically.

The newly appointed chairman of this committee, however, is Dr. David R. Mason of the law school faculty. Professor Mason, attempting to inject new life into the committee, has stated that it should try, in conjunction with the national commissioners, to prepare for discussion at each annual Montana Bar Association meeting a minimum of four uniform laws for possible enactment. However, before recommending an act for approval, the committee will consider its: (1) currency (year promulgated by the Conference), (2) acceptability (number of jurisdictions which have enacted it), and (3) need (the condition of existing Montana law on the subject).

At the present time the following acts are being particularly considered by the Montana commissioners and the bar committee members for possible adoption in this state: the Contribution Among Tortfeasors Act (as revised), the Fiduciaries Act, the Model Rule Against Perpetuities Act, the Principal and Income Act, the Reciprocal Enforcement of Support Act.

In the past, the Commissioners have appeared before the Judiciary committee of the Senate and comparable committee of the House in behalf of their current recommendations. They generally have an eight to ten page statement of the history of the act in question and the need therefore, together with ways the new law would change our existing law, what should be repealed, etc. Some acts, of course, need more explaining than others. For some, no amount of urging is sufficient.” Letter from J. Howard Toelle to the author, March 26, 1958.


[T]his Committee has been quite helpful at some past sessions of the Montana Legislature. Other years, it has been inactive.” Jameson, supra note 74.

The other members are Jerome Anderson, Billings; Thomas Dignan, Glasgow; James Felt, Billings; J. E. McKenna, Lewistown.

Five uniform acts were introduced in the 1957 legislature. The Uniform Fiduciaries Act, the Uniform Principal and Income Act, the Model Rule Against Perpetuities Act, and the Uniform Trusts Act all failed of passage, while the Uniform Gifts to Minors Act was enacted. Report of Legislative Committee, Handbook 159 (1957).
(superseding the act which Montana adopted), the Single Publication Act, and the Trusts Act.

A major goal, however, of both the commissioners and the bar committee is to secure adoption by Montana of the Uniform Commercial Code. Of course a proposed enactment of such scope deserves careful consideration. It is, therefore, the intention of this Review to publish in forthcoming issues a series of articles designed to show how the Code will affect Montana law.

CONCLUSION

The work of the National Conference of Commissioners on Uniform State Laws, "The World's Least-Known Legislature," continues to expand. The 1957 annual meeting drew the largest attendance in the organization's history. The final tally showed the attendance of 119 commissioners and 8 associate members, representing 47 of the 53 jurisdictions. In addition there were 88 guests registered. At the meeting four uniform acts and two model acts were approved and some 16 acts are now in committees. Over the years uniform laws have touched almost every phase of the law, from commercial transactions to declaratory judgments. Legislative approval has been manifest to a considerable degree (in 1957, for instance, of the 121 uniform and model acts introduced into the various lawmakers bodies, 60 were passed). It is deplorable that an organization so vital to a decentralized legal system must be "overworked and underpaid" and that some states (including Montana) continue to reap where they have not sown. The reason the Conference has done so much with so little financing is that the commissioners unselfishly give of their time, and in many instances their money, with the satisfaction of accomplishment and service as their only reward. However, the Conference must soon be better financed by the various state legislatures if it is to keep pace with the governmental and legislative developments of our times.

Codification and partial codification are always difficult; and the very fact that the Conference never permits pride of authorship to interfere with subsequent modernization, improvement or even repudiation of acts previously approved further augments the confidence that can be placed in its recommendations. The necessity for occasional later modifications of this type is attributable to the fluidity that must be maintained in the law in an ever-changing environment and to the difficulty, which only too frequently is brought home to lawyers, of always attaining perfection in matters pertaining to the law.

It would indeed be difficult to devise a system that would ensure the subjection of proposed acts to a more careful scrutiny than they receive under the procedure established by the Conference. . . .

"The Conference . . . is a lobby without an axe to grind, and without


Wilbert, supra note 55, at 340-41.

Day, supra note 2, at 286.
a special interest to represent. It has nothing to sell but uniformity... It is in itself a powerful force, but it is only with the understanding and earnest cooperation of the legislature, bench and bar that the National Conference can achieve its underlying purpose—the betterment of the law.

JOHN F. BLACKWOOD

Armstrong, supra note 78.