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UNIFORM STATE LAWS—REASONS FOR THEIR FURTHER ENACTMENT IN WEST VIRGINIA

BY HENRY CRAIG JONES

A marked infirmity in the American legal system, practically unknown in other nations, is found in the extreme lack of uniformity existing in the statutory laws and the court decisions in the several states. Whatever early uniformity was derived from the common-law origin of the jurisprudence of the thirteen colonies was deeply affected in the pre-Revolutionary period by the wide differences between conditions in England and in America and was lessened by the great distances between the several colonies and by growing differences in life and thought among them. Further increase in this lack of uniformity was made possible after the Revolution by the adoption of a federal Constitution which created the peculiar dual system of government in the United States under which those matters not placed under federal jurisdiction remained for state courts and state legislatures to pass upon and deal with as they saw fit. Later causes tending to produce still further lack of uniformity were the hostility in some sections for a considerable time to whatever was of English origin and the incorporation as states of political units either possessing a jurisprudence based upon the Civil Law, such as Louisiana, or influenced thereby as in the case of Florida and the territory acquired through the Mexican War.

These differences in the law which are found in the United States are largely non-existent in other countries. It is largely

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1In the preparation of this article, free use has been made of the following material: Nathan William MacChesney, "Uniform State Laws—A means to Efficiency Consistent with Democracy," being the President's address at the Fortieth Annual Meeting of the Illinois State Bar Association; Walter George Smith, "Uniform Commercial Laws," being an address delivered before the North Carolina Bar Association in 1916, 18 North Carolina Bar Association Reports 168; Samuel Williston, "The Uniform Partnership Act, with Some Remarks on Other Uniform Commercial Laws," 63 Univ. Pa. L. Rev. 196; Proceedings of Twenty-ninth Annual Meeting of The National Conference of Commissioners on Uniform State Laws, Boston, 1919; W. O. Hart, "Uniformity of Legislation," an address delivered before the Colorado Bar Association in 1913.

2Dean of the College of Law, West Virginia University; Commissioner on Uniform State Laws from West Virginia.
obviated in Canada by reason of the power of the Supreme Court of Canada to review the decisions of the courts of the various provinces. Throughout the whole British Empire uniformity is promoted by the power of the Judicial Committee of the Privy Council sitting in London to review decisions rendered in the various colonies. Either through a supreme legislative body having unlimited legislative powers or through a single court of review having jurisdiction to pass upon the decisions of lower courts throughout the country, all great nations except the United States have achieved substantial uniformity and certainty in their law.

In the first half of the nineteenth century the divergences in state law which existed in the United States were not fully appreciated, but a more complete realization of their harmful effect came to be felt when brought to light by the commercial expansion following the Civil War. The extension of the great railroad systems of the country and the use of the telegraph brought points in far distant states closer together for commercial purposes than points in the same states had been before, and brought to the attention of the nation which prided itself upon being a practical and efficient people the fact that there were disturbing and unnecessary differences in the laws of the various states. One living in state A and familiar with its law as applied to given facts found that the law in state B where he had entered into or intended to enter into a contract was different from that of state A, or that the law of state B was uncertain and that it could not be determined whether its supreme court, when called upon to pass upon the question, would decide the same way as state A or would follow contra decisions in state C, or possibly a third holding supported by state D. Both layman and lawyer soon discovered that often one might find the law only by means of prolonged and expensive litigation.

As a natural result, these divergencies and uncertainties as to the law, generally without reason, often made commerce timid, always hampered progress, unduly increased the work of the courts, produced much wasteful and unproductive litigation, and illustrated the wisdom of Coke's saying that "The knowne certaintie of the law is the saftie of all," and of Burke's saying that uncertainty of the law is the "essence of tyranny" because no man can know it and every man feels oppressed by the hope-
less effort necessary either to become acquainted with it, or to attempt to obey its provisions.

It was obvious that Congress was helpless to remedy the evil because its legislative power was restricted to those matters delegated to its control under the federal Constitution and they included very few of the matters crying out for certainty and uniformity. It was true that the federal courts, following Swift v. Tyson, had created a so-called "federal commercial law" but this had only added to the chaos and in no way tended to uniformity of decision by the state courts.

It was also equally obvious that relief through giving to the federal government by means of amendments to the Constitution of the United States, power over matters as to which divergencies were most harmful, was not only impossible of procurement but to most minds undesirable. Experience gained in attempts to procure a constitutional amendment placing questions of marriage and divorce under federal jurisdiction showed the futility of attempting to secure the necessary two-thirds majorities in House and Senate and ratification by three-fourths of the states. It was therefore necessary to turn to the states.

It was this realization that only through the states could uniformity be secured on matters demanding uniformity which led to the organization, by action of the American Bar Association, of the National Conference of Commissioners on Uniform State Laws, which first met in 1892. There have been twenty-nine sessions of the Conference, the last at Boston from August 27 to September 2, 1919. All of the forty-eight states, the two territories of Alaska and Hawaii, the District of Columbia, the Philippine Islands and Porto Rico, fifty-three jurisdictions in all, have delegates accredited to the Conferences. From thirty to forty jurisdictions are usually represented at each session. In a large majority of the states there are statutes giving express legislative authority for the appointment of the commissioners to represent the state and contributing a sum from the state treasury for the necessary expenses of the commissioners in attending the sessions of the Conference and for the expenses of the work of the Conference. West Virginia has not, as yet, given statutory recognition to the Conference, but commissioners from West Vir-

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16 Peters 1, 10 L. Ed. 865 (1842).

Virginia have participated in the work of the Conference for many years, the appointments being made by the Governor.

Since its organization the Conference has drafted and submitted thirty uniform acts to the states for adoption. The total number of enactments by states of acts submitted by the Conference for adoption has been 281, averaging 5.3 enactments for each of the fifty-three jurisdictions.

In most instances these uniform acts have been drafted by special committees of commissioners or by experts specially employed by the Conference. In drafting uniform laws no changes from existing law are made on points where the court decisions are already uniform in those states which have passed upon the question, and, where there is lack of uniformity, respect is paid to the majority holdings, great consideration also being given to commercial usage and the desires of those engaged in the business affected. The purpose is nothing more than to codify existing law and to embody in the short and succinct language of a statute the principles settled by generations of painful and expensive experience.

In some instances assistance has been derived from the consideration of acts adopted in foreign countries, such as the English Bills of Exchange Act, enacted in 1882, in drafting the Negotiable Instruments Law; the English Sale of Goods Act, passed in 1893, in drafting the Uniform Sales Act; and the English Partnership Act, enacted in 1890, in drafting the Uniform Partnership Act. Although the English acts named were helpful, it is not disputed that the American uniform acts on the same subjects possess a distinct superiority, due in part to the fact that the conflict of authority in the United States gave those drafting the American acts an opportunity to discard local decisions which were inharmonious with the general principles of the subject under treatment, while in England an exact restatement of the settled law of a single jurisdiction was necessary and no opportunity was offered of choosing from among the inharmonious cases of fifty jurisdictions those decisions which would best produce a uniform and coherent whole. The American acts possessed another advantage over the English models in that they were drawn later and thus gave an opportunity to the American draftsmen to take from the English acts whatever seemed helpful and to disregard or to im-

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prove upon the rest. "Moreover, the American Statutes have probably had a longer and more thorough examination by a greater number of competent persons, other than the draftsmen, than has been the case with the English Statutes."76

The Commissioners on Uniform Laws may fairly claim that in the framing of all of the laws which they have recommended for enactment no pains have been spared to secure the most scientific and exact statement of American law by means of expert talent, long study and essential criticism. Years were spent in the drafting of all important acts, and, as to most of them, numerous tentative drafts were prepared and submitted for the successive criticism of a committee of the commissioners, of the commissioners as a body, and of the outside public.

The larger number of the more important uniform laws drafted and adopted by the Conference have dealt with commercial subjects, because it was as to such matters that the need for uniformity was most severely felt. Ten of the uniform laws may be classified as Commercial Acts. Another group is composed of what may be termed the Social Welfare Acts, which are nine in number. Three of the uniform acts deal with the validity, execution, and probate of wills. Two uniform acts are concerned with acknowledgments. The two remaining acts to be considered are classified as miscellaneous.

Commercial Acts

Probably the greatest work of the Conference was the preparation, adoption and submission to the states in 1896 of the Negotiable Instruments Law. This law was first adopted in the State of New York and has now been enacted in forty-seven states, by Congress for the District of Columbia, in Alaska, Hawaii and the Philippine Islands. Peculiar local circumstances have prevented its adoption in Georgia and Porto Rico. It was enacted in West Virginia in 1907. Speaking of this Act a committee of the American Bankers' Association said in 1897 that "a more useful and more thoroughly prepared statute on commercial law would be difficult to find." The acknowledged benefits which have come to commerce and all industries, agriculture and manufactures alike, through the uniformity, certainty and clarity given thereby to the law of negotiable paper have truly proved the wisdom of the

76Samuel Williston, in 63 Univ. Pa. L. Rev. 196, 205.
minds which conceived and brought it and other uniform acts into being. To the lawyer with clients scattered throughout the country and to those having interstate commercial dealings, this act has been an indispensable help.

The Uniform Warehouse Receipts Act was adopted by the Conference in 1906, has been enacted in all but eight states, and has also been adopted in Alaska, the Philippine Islands, and by Congress for the District of Columbia. It was enacted as law in West Virginia in 1917. The effect of this law is to give a warehouse receipt the same legal effect in every state which has adopted the law. The deposit of goods in warehouses and the operations of warehouses are greatly impeded and curtailed where the law governing warehouse receipts is not uniform with that of other states. The advantages flowing from the enactment of this Act have been clearly pointed out as follows:7

"The passage of this Act makes warehouse receipts practically negotiable paper with very beneficial results, enabling the manufacturers and producers in slack times to continue to operate their plants, thus retaining at a proper degree of efficiency machinery and equipment which would otherwise have to stand idle, with great resultant benefit to the community in which the factories are located, and to the labor which is employed.8 The Federal Reserve Board has recognized this law as a prime factor in financing the cotton zone, and has done great service to the promotion of uniformity of legislation. "The Uniform Warehouse Receipts Act has demonstrated its usefulness as a vital factor in financing commerce and agriculture on a large economical scale in bringing in the wheat crop of the upper Mississippi Valley. Chicago and Minneapolis bankers testified before the Federal Reserve Board that in many respects they preferred the Warehouse Receipt on State inspected wheat to a Government Bond as security for commercial paper, because more fluid and readily marketable."9

In 1909, after several years discussion, the Uniform Bills of Lading Act was completed by the Conference and was sent to the states for adoption. Previously the Committee on Commercial Law of the Conference, at a meeting held in New York, had dis-

9See Statement of S. R. Child to United States Senate Committee on Rural Credits, Senate Document No. 351, 64th Congress, 1st Session, 1916.
cussed this Act with attorneys representing practically every great railroad system of the United States, who expressed themselves as satisfied with the Act as drafted. Although the Act as drafted was not, under the well-known "Cotton Cases," in accord with the law in quite a number of states in providing that a railroad or other common carrier should be liable for the value of the goods represented by the bill of lading to the holder of such bill acquired in good faith, without notice, and for value where the bill had been issued without receiving the goods, yet it was believed that the rule incorporated in the Act was the better, was in accord with the best commercial usage, and followed accepted principles as to other transactions of a similar nature. The Act provided that the carrier should be liable "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." Unfortunately, when Congress adopted the Act in 1916 for application in interstate commerce it made several changes the effect of which was to nullify the provisions above quoted so far as large cities are concerned in cases tried before the federal courts by inserting in the section above quoted a provision that the authority of the agent must not only be to issue bills of lading but also to receive the goods. Except in small places the clerk who receives the goods is not the clerk who issues the bill of lading. It is to be hoped that Congress will make its Act uniform. This difference between the laws of the twenty-three states, including the great commercial states of California, Illinois, Louisiana, Massachusetts, New York, Michigan, Ohio and Pennsylvania, which have adopted this Act, and the rule in the federal courts as to interstate commerce can only produce unfortunate results. The purpose of the Act, to give the fullest negotiability possible to bills of lading, is in accordance with the existing mercantile usage under which a negotiable bill of lading has become the sole representative of the goods irrespective of where the commodities which it calls for may be located. In view of this commercial usage and the tremendous use made of bills of lading, it

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10 E., g., where a merchant gives his clerk authority to sign promissory notes, but instructs him that he shall not sign and deliver any note unless the money is received therefor and placed to the credit of the merchant. If the clerk in good faith and in violation of his instructions executes notes for accommodation to persons who negotiate them for value before maturity, the merchant is liable. The Uniform Warehouse Receipts Act follows this principle.

11 Section 23.

is of tremendous importance that bills of lading be governed by one uniform rule so that they may pass current in any part of the country with certainty as to the rights and obligations under them.

As to the law of partnership there has possibly been greater confusion and diversity of holding among the different states than as to any other branch of commercial law. This has been due in considerable part to the difference between the commercial conception of a partnership as an entity distinct from the partners and the legal conception which recognizes the partners alone as parties in interest.¹³

The drafting of a much-needed uniform partnership act was first entrusted to James Barr Ames, Dean of the Harvard Law School, but he passed away before the discussion of his draft was completed in the Conference. The work was then entrusted to William Draper Lewis, then Dean of the University of Pennsylvania Law School, and his draft was adopted by the Conference in 1914. The adoption in this Act of the common-law theory of ownership of the partnership property in common by the partners instead of the mercantile theory of the partnership as a legal entity was made desirable if not necessary by the fact that the adoption of the latter theory would, under the constitutions of many states, have resulted in making all partnerships into corporations. On none of the Uniform Acts has there been a greater expenditure of time, care and expert criticism than upon the Uniform Partnership Act. The Act covers the whole field of partnership law, strictly so-called, and fairly settles many vexed questions. In 1916 the Conference completed a uniform law as to limited partnerships, complementary to the Uniform Partnership Act. The Uniform Partnership Act has been adopted thus far in eleven states and the Uniform Limited Partnership Act in ten states. The very great advantages which come from the adoption of these acts and the considerable number of states which have already enacted them in the comparatively short period since their adoption by the Conference would appear to indicate that their wide enactment is probable as in the case of the Negotiable Instruments Law, the Warehouse Receipts Act, the Bills of Lading Act, the Sales Act and the Stock Transfer Act.

The Uniform Conditional Sales Act is another very important

¹³See Bouvier's Law Dictionary, Title "Partnership."
act. It was discussed in the Conferences of 1916 and 1917 and was finally approved in 1918. It has been adopted already in six states.

Another important commercial act, considered in 1917 and approved by the conference in 1918, is the Uniform Fraudulent Conveyance Act. It has been adopted already in eight states.

One of the most important acts drafted by the Conference is the Uniform Stock Transfer Act which was adopted in 1909. It has now been enacted in fourteen states, including the important commercial states of Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and another jurisdiction, Maine, which is the home of many corporations, but not including West Virginia. Certainty in the law regarding the rights of transferees and pledgees of stock certificates is much to be desired because of the immense and increasing volume of trading in stock certificates and in view of the considerable differences or uncertainties as to the law on this matter in those states which have not adopted this uniform law. The Act proceeds upon the theory that stock certificates should be negotiable in the same manner as negotiable instruments, so-called, bills of lading, and warehouse receipts are under the uniform acts and in commercial usage. The most conspicuous provision of this uniform law is that, unless, in accordance with the charter or by-laws of the corporation issuing the stock, some provision is printed on the certificate requiring notice to the corporation of a sale or pledge, or other restraint on negotiability, the sale or pledge is perfect by written transfer from the holder, without notice of any kind to the corporation. Another important provision is that no attachment or levy upon shares of stock for which a certificate is outstanding shall be valid unless the certificate is actually seized by the officer. This again gives effect to the central principle of the Act, which makes the certificate the sole muniment of title. The transfer on the books of the corporation becomes like the record of a deed of real estate under the registry system.

In 1906, after several years of discussion, the Conference completed a uniform act covering sales of personal property, which has been adopted thus far in twenty-three jurisdictions, but not including West Virginia. The need for this law, the care with which it was drafted, and the large number of jurisdictions which

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14Section 13.
have adopted it indicate that its ultimate enactment may in a few years become practically unanimous. If enacted in West Virginia it would make an important change by introducing into West Virginia law what is known as the Seventeenth Section of the Statute of Frauds by requiring that contracts for the sale of personal property of the value of $500 or upwards, with certain exceptions, shall be in writing. It seems clear that this Act has already done very much to unify and simplify the law of sales and that its universal adoption is highly desirable.

The other uniform commercial act is the Uniform Cold Storage Act which was adopted by the Conference in 1914 and has been enacted in six states. The adoption of this Act was due to the fact that the diversity between the laws of the various states regulating the cold storage of certain articles of food was causing great embarrassment, and, in some instances, unmerited prosecution of the business interests concerned.

**SOCIAL WELFARE ACTS**

The most widely adopted of the so-called Social Welfare Acts as framed and submitted by the Conference is the Uniform Family Desertion Act which was adopted in 1910 and has now been enacted by eleven states, including West Virginia where it became law in 1917.

Two other social welfare laws of great interest which have been adopted by the Conference are the Uniform Child Labor Law, completed in 1911 and now adopted in four states, and the Uniform Workmen’s Compensation Law, completed in 1914 and now adopted in four states, including the great industrial states of Pennsylvania and Indiana. The Uniform Child Labor Law is based almost entirely upon legislation already in force in other states. In view of the constitutional limitations upon the power of Congress to legislate on the subject and the vital import of the subject matter, the enactment of adequate and progressive legislation, based upon the uniform act, is of high importance. If not widely adopted, the two uniform laws last mentioned will be, at least, of great assistance to other states as model laws to be used with such modifications as local conditions may seem to require. The words of Charles Thaddeus Terry respecting the Uniform Workmen’s Compensation Law apply to both acts:
"In this, as in other matters, the National Conference refused to be driven into a panic of haste by the rapidity with which the States were adopting Acts of their own, and could not, and would not offer to the States a measure upon this subject until it had gone through the refining process to which the work of the National Conference, is, without exception, subjected, and every last word of advice, criticism, with suggestion had been obtained from every authority available in this and other countries."

In 1912 the Conference adopted the Uniform Marriage Evasion Act which has now been enacted in five states. This Act is intended to prevent persons forbidden to marry by law of the state where they reside from marrying in any other state whose laws would permit their marriage. If adopted in West Virginia it would cover many cases of persons forbidden to marry by the law of West Virginia, where they reside, but who go to Maryland and there marry under the laxer laws of that jurisdiction.

Other social welfare acts are: The Migratory Divorcee Act, adopted in 1901 and enacted only in Wisconsin; the Uniform Divorce Procedure Act, also adopted in 1901 and enacted only in Wisconsin and Delaware; the Uniform Annullment of Marriage and Divorce Act, which was drafted by the National Divorce Congress of 1906, approved by the Conference in 1907 and has been enacted in only three states; the Uniform Marriage License Act, adopted in 1911 and enacted in two states; and the Uniform Act for Extradition of Persons of Unsound Mind, adopted by the Conference in 1916 and enacted in seven states.

WILLS ACTS

In 1892 the Conference approved two uniform laws relating to wills. One is known as the Execution of Wills Act and the other as the Probate of Foreign Wills Act. Each was recalled by the Conference in 1910 and referred back to a committee for redrafting. The former was again presented to the Conference with amendments in 1911 and the latter in 1915. In 1915 the Conference adopted a Uniform Foreign Probated Wills Act. These acts make valid in every state adopting them, a will valid where made or valid at the testator's domicile, and recognize the probate of wills granted at the domicile of the testator. The first act has been adopted in six states, the second in seven states, and the third in four states. The need of such laws is very obvious in view of
the fact that as the law now stands a will which is good at the place of making or at the place of domicile may be invalid in other states where real property of the testator is situated unless it complies with the laws of that state.

ACNOWLEDGMENTS

Uniform laws under this classification are the Uniform Domestic Acknowledgments Act, adopted by the Conference in 1892 and enacted in nine states, and the Uniform Foreign Acknowledgments Act, adopted in 1914 and now law in five states. If adopted generally these acts would obviate the great trouble and expense now caused by the fact that the forms of execution and acknowledgment to deeds of real estate vary in all the states.

MISCELLANEOUS UNIFORM LAWS

The Torrens System of Land Registration is now the law in at least seventeen states, all of which, except six, have adopted it since 1904 when the subject was first taken up by the Conference. The need for some system of state guaranty of titles which would lessen the expense and obviate the uncertainty respecting the determination of titles experienced in many states and the publicity given to this need through the investigations and educational campaign conducted by the Conference's Committee on the Torrens System and Registration of Land Titles, were strong moving causes of the adoption of the Torrens law in several states. In 1916 the Conference adopted a Uniform Land Registration Act which has now been enacted in three states, one of which is Virginia. Not the least of the advantages resulting from the adoption of the Uniform Land Registration Act in West Virginia would be the greater ease in floating corporate bond issues secured by West Virginia property and the increased facility with which West Virginia farmers might procure loans from the Farm Loan Banks.

Only one other Uniform Act needs mention and that is the Uniform Flag Law which was adopted by the Conference in 1917 and has been enacted in six states. It covers the use of the flag for advertising purposes and the defaming or defiling of the flag.

UNIFORM ACTS UNDER CONSIDERATION BUT NOT ADOPTED

The National Divorce Congress of 1906, in which every state but two was represented, prepared and recommended to the states
for enactment an elaborate law of divorce and annulment of marriage, which was approved in 1907 by the Conference of Commissioners on Uniform State Laws. Up to the present time it has been enacted in only three states and in two of the three it has been considerably modified or amended, thus destroying its uniformity. For several reasons, partly due to certain provisions of the Act, it seems clear that it will be impossible to procure wide adoption of this Act in its present form. A federal divorce law is not feasible and all effort to procure the passage of the necessary constitutional amendment would be futile. As a consequence, the Conference in 1916 advised its special Committee on Marriage and Divorce that it would be proper for it to consider and report to the Conference amendments to this law. It is believed that if certain amendments to the Act are adopted, it will be enacted in many states.

For many years the Conference has had under consideration a uniform incorporation act, but, owing to the great diversity of opinion on this important subject, the law has not yet been completed. The failure thus far to complete the proposed uniform law is entirely in line with the policy of the Conference never to send an act out to the states until every possible objection thereto has been considered and reconsidered, and, as far as possible, all conflicting views brought into harmony, so that the act when completed will represent the best thought on the subject as found in the decisions of the various courts of last resort.

Still other uniform laws are being considered by the Conference, the work of drafting between sessions of the Conference being either in the hands of special committees or, sometimes, of experts specially employed. Among these proposed uniform acts now under consideration are: A Uniform Declaratory Judgment Act; a Uniform Act for the Taking of Depositions in One State to be Used in Another State; a Uniform Vital and Penal Statistics Act; a Uniform Act for the Proof of Statutes of Other States and Countries; a Uniform Act for Providing One Day’s Rest in Seven; a Uniform Occupational Diseases Act; a Uniform Separate Maintenance Act; and others.

In 1915 the Conference created a new standing committee, called the "Legislative Committee," whose duty is to bring to the attention of the legislatures of the several states the importance of enacting the uniform laws.
Much of the benefit derived from the adoption of uniform laws may be lost by divergent decisions among the several states in interpreting a uniform act. An example of this is found in decisions in various states as to section 120, clauses 5 and 6, of the Negotiable Instruments Law. Such divergencies make the law uncertain in some jurisdictions and not uniform in the others notwithstanding the adoption of the uniform law on the subject. It is sought to remedy this, so far as possible, by incorporating in the later acts adopted by the Conference a separate section providing:

"This act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it."

Considerable assistance in procuring uniformity of interpretation will be given by a recent book edited by Prof. Charles Thaddeus Terry of the Columbia Law School, who is chairman of the Conference's special committee on "Uniformity of Judicial Decisions," which will contain not only the texts of the various uniform acts but annotate these acts with the decisions which have construed them. The Committee just referred to, by an elaborate system of card indexes, has heretofore placed at the disposal of the judges and lawyers of the United States every decision wherein any provision of any of the uniform laws has been construed. This index is so arranged according to acts and sections that in a moment the cases construing any section may be found.

The Library of Congress has arranged for a department "On Uniform Laws," and with separate classifications and indexes has made it easy to discover the available literature on subjects covered by uniform laws.

That uniformity of interpretation is essential has also been recognized by the courts in construing uniform acts. In Union Trust Co. v. McGinty, construing a section of the Negotiable Instruments Act, the Supreme Judicial Court of Massachusetts, speaking by Chief Justice Rugg, says:

"The design [of the Negotiable Instruments Act] was to obliterate State lines as to the law governing instrumentali-

15 W. VA. CODE, c. 98A, § 120.
16 212 Mass. 205, 98 N. E. 670 (1912).
ties so vital to the conduct of interstate commerce as promissory notes and bills of exchange, to remove the confusion or uncertainty which might arise from conflict of statutes or judicial decisions amongst the several States, and to make plain, certain and general the controlling rules of law. Diversity was to be molded in uniformity ... Simplicity and clearness are ends especially to be sought. The language of the act is to be construed with reference to the object to be attained. Its words are to be given their natural and common meaning and the prevailing principles of statutory interpretation are to be employed. Care should be taken to adhere as closely as possible to the obvious meaning of the act, without resort to that which had theretofore been the law of this commonwealth, unless necessary to dissolve obscurity or doubt, especially in instances where there was a difference in the law in the different states. . . .

"In the interpretation of a statute widely adopted by the states to the end of securing uniformity in a department of commercial law, we should be inclined to give great weight to harmonious decisions of courts of other states, even if we were less clear than we are in this instance as to the soundness of our own conclusion."

The Supreme Court of the United States also has recognized this in Commercial National Bank v. Canal-Louisiana Bank and Trust Company, which reversed on the ground of uniformity a decision of the Circuit Court of Appeals relating to the interpretation of the Uniform Warehouse Receipts Act. The Court, through Mr. Justice Hughes, says:

"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. It was to prevent this result that the Uniform Warehouse Receipts Act expressly provides (§ 57): '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.' This rule of construction requires that in order to accomplish the beneficial object of unifying, so far as this is possible under our dual system, the commercial law of the country, there should be taken into consideration the fundamental purpose of the Uniform Act and that it should not be regarded merely as an offshoot of local law. The cardinal principle of the Act—which has been adopted in

\[239 \text{ U. S. } 520, \text{ 60 L. Ed. } 417, \text{ 36 Sup. Ct. Rep. } 194 \text{ (1916)}.\]
many States—is to give effect, within the limits stated, to the mercantile view of documents of title. There had been statutes in some of the States dealing with such documents, but there still remained diversity of legal rights under similar commercial transactions. We think that the principle of the Uniform Act should have recognition to the exclusion of any inconsistent doctrine which may have previously obtained in any of the States enacting it.’’

In *Century Bank v. Breitbart* the Court says:

‘‘In determining this question, I have endeavored to make a careful examination of reported decisions in many of the forty-eight states and territories which have adopted the Negotiable Instruments Law, but I find no indication in other commonwealths of views at variance with those deducible from decided cases in this state. I have made this scrutiny of decisions under the parallel sections of the Negotiable Instruments Law in other states, because of the great public importance that this statute ‘shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it.’ Not only is this rule of interpretation of the so-called ‘uniform statutes’ one which should be followed in all good faith by the courts whenever questions of the interpretation of such a statute are presented, but counsel in such cases should feel it as important and necessary to bring to judicial attention the corresponding decisions of sister states as those of the courts of this jurisdiction. Except where courts of this state have passed upon the same question, decisions of the courts of other states, interpreting identical provisions of ‘uniform statutes,’ should be accepted by our trial courts with the same authority as though rendered by our own tribunals. Unless both courts and counsel act with this mutual appreciation of the peculiar status of these ‘uniform statutes’ and the salutary purposes sought in their enactment, it will hardly be possible to avoid that peril of conflicting adjudications by the courts of different states, based upon identical provisions of these uniform laws—a peril ‘that has the potency to reduce to wreck-age the efforts of both (uniform law) commissioners and state Legislatures towards uniformity.’’”

The Supreme Court of Ohio also has recognized the need for uniformity of interpretation by holding:19

‘‘It is so much a matter of common knowledge as to make

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it proper to take judicial notice of the fact, that the act herein considered was enacted because of an effort on the part of the bar of many, if not all of the states of the Union, to bring about a uniform system of law respecting negotiable instruments . . . The purpose of the act is to bring Ohio into harmony with the other states of the Union on so important a branch of the law as the relation of parties to commercial paper."

These decisions from courts of high standing are encouraging, the more so because the lower courts have often ignored the uniform acts. The clear recognition of the purpose of the acts, particularly by the Supreme Court of the United States, will have great effect in lessening divergency.

**ADOPTION OF UNIFORM LAWS IN WEST VIRGINIA**

Thus far the Legislature of West Virginia has adopted only two of the more important uniform laws and one of the lesser important laws. Those adopted are the Negotiable Instruments Law, enacted in 1907, the Warehouse Receipts Act, enacted in 1917, and the Family Desertion Act, enacted in 1917. In its adoption of uniform laws, West Virginia lags far behind most other states. Wisconsin has adopted twenty-one of the uniform acts; Massachusetts has adopted thirteen; Maryland has adopted twelve; Illinois, Tennesee and Alaska have each adopted eleven; Louisiana and Michigan have each adopted ten; New Jersey and Utah have each adopted nine; New York, Pennsylvania, Minnesota, Iowa, Idaho, and Nevada have each adopted seven. The average for the forty-eight states, Alaska, Hawaii, the District of Columbia, the Philippines and Porto Rico is between five and six acts per jurisdiction. Careful examination of the various uniform acts adopted by the Conference and recommended for enactment in the various states fails to reveal good reasons why the large majority of the uniform acts not enacted already in West Virginia, should not be enacted. On the other hand there are sufficient reasons why they should be enacted. It is important to all, but particularly to the commercial interests of West Virginia that the law of West Virginia be made uniform with the law of other states on matters where local considerations do not demand differences. On many questions covered by uniform laws there are no statutes or controlling decisions by the West Vir-
Virginia Supreme Court of Appeals. The uncertainty of the law which results therefrom is undesirable and should be settled in some other manner than through costly litigation. Trouble and expense will be saved and the timidity which results from uncertainty in the law will be removed by the enactment of uniform laws. Paraphrasing the words of Professor Williston, uniform acts produce uniformity of law, state the law in a compendious form in which it is susceptible of easier reference and more exact determination than if sought from decisions, settle uncertain questions of law without litigation, and harmonize into a more consistent whole a body of doctrines, many of which have grown up, if not at haphazard, at least without particular reference to one another.

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