January 1920

Enactment in West Virginia of More of the United States Laws

H. C. J.
West Virginia University College of Law

Follow this and additional works at: https://researchrepository.wvu.edu/wvlr

Part of the Legislation Commons, and the State and Local Government Law Commons

Recommended Citation

This Editorial Note is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact ian.harmon@mail.wvu.edu.
Enactment in West Virginia of More of the Uniform State Laws.—Many West Virginia lawyers and business men believe it to be desirable that several of the more important Uniform State Laws not already adopted in this State should be enacted at the next regular session of the West Virginia Legislature. Among these should be the Uniform Sales Act, already law in twenty-three states, the Uniform Bills of Lading Act, already enacted in twenty-three states, the Uniform Stock Transfer Act, now law in fourteen states, the Uniform Partnership Act and the Uniform Limited Partnership Act, already adopted in eleven and ten states respectively, as well as other uniform acts.

An article printed in this number of the QUARTERLY sketches the work done by the Conference of Commissioners on Uniform State Laws since its organization in 1892 and points out the general advantages following from the enactment of laws adopted and submitted by the Conference. It is the intention of the editors to publish in subsequent numbers of the QUARTERLY the texts of several of the more important uniform acts which have not been adopted in West Virginia, with annotations indicating in what respects, if at all, they would change the existing law in this State and pointing out the salient merits of each Act.

It is believed that the object sought would be furthered at the next regular session of the Legislature, if a special Committee
on Uniform State Laws would be appointed in each branch of the Legislature, as has been done in many states, if THE WEST VIRGINIA BAR ASSOCIATION at its next meeting would provide for a standing Committee on Uniform Laws, as has been done by several state bar associations, and if commercial organizations such as bankers associations, commercial associations, and boards of trade would give the matter special consideration.

—H. C. J.

WHAT CONSTITUTES A PUBLIC SERVICE.—While the law of public service is admittedly one of the oldest branches of the law, dating as it does from the time of our earliest reports, it is still perhaps the most unsettled branch of the law, being, in many respects, law still in the making, and the courts and commissions, in an ever-increasing number of cases, are constantly called upon to answer the elusive and elastic question: What constitutes public service justifying state regulation? In the leading case on the question\(^1\)—a case often referred to as the most important case ever decided by the United States Supreme Court—there was very vigorous and voluminous dissent by two of the judges on the question whether the storage of grain in elevators under the circumstances in question was public service justifying state regulation. And quite recently the United States Supreme Court, in a very important case,\(^2\) was still farther from unanimity on a very similar question, viz., whether the business of fire insurance as generally conducted is a public service justifying governmental regulation of rates. And in a very recent case,\(^3\) presenting the general problem in an apparently novel form, the decision by the Supreme Court of Appeals of West Virginia, while unanimous and perhaps correct, seems to be of sufficient importance to justify a consideration not only of the soundness of the decision but also of the fundamental principles which determine whether a given business or part of a given business is a public service and, therefore, subject to state regulation under the police power, or a purely private business and, therefore, under the "due process" clause of the

\(^1\)Munn v. Illinois, 94 U. S. 113, 24 L. Ed. 77 (1876).
\(^2\)German Alliance Insurance Co. v. Kansas, 288 U. S. 393, 53 L. Ed. 1011, 34 S. Ct. 612 (1914).
\(^3\)Clarksburg Light & Heat Co. v. Public Service Commission, 100 S. E. 551 (W. Va. 1919).