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The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM
STATE LAWS

FOR THE

Year ending November 30, 1928



The Commonwealth of Massachusetts

TWENTIETH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—

The Commissioners on Uniform State Laws during the year ending November 30, 1928, have been Hollis R. Bailey, Chairman and Secretary, Prof. Samuel Williston and Joseph F. O'Connell. Under the provisions of General Laws, Chapter 6, Sections 26-28 as amended by Acts 1924, Chapter 200, the board is constituted a permanent one.

As required by law they submit this their annual report.

Hollis R. Bailey has been a commissioner since 1908; Prof. Samuel Williston since 1910, and Joseph F. O'Connell since 1914. Previous to 1910, Prof. James Barr Ames, Dean of the Harvard Law School, was chairman of the Board, 1902-1910.

MASSACHUSETTS UNIFORM LAWS.

The following is a list of those of the uniform laws which are now in force in Massachusetts:—

Uniform negotiable instrument act,	(1898)
Uniform sales act,	(1908)
Uniform warehouse receipts act,	(1909)
Uniform stock transfer act,	(1910)
Uniform bills of lading act,	(1910)
Uniform foreign wills act,	(1911)
Uniform desertion act,	(1911)
Uniform child labor act,	(1913)
Uniform marriage evasion act,	(1913)
Uniform partnership act,	(1922)
Uniform limited partnership act,	(1923)
Uniform fraudulent conveyance act,	(1924)

ANNUAL MEETING OF THE NATIONAL CONFERENCE

The Thirty-eighth annual meeting of the Conference of Commissioners on Uniform State Laws was held at Seattle, Washington in July, 1928.

A Uniform Business Corporation Act was finally approved by the Conference and the same is true of a Uniform Public Utilities Act; also a Uniform Reciprocal Taxes Transfer Act was considered and approved by the Conference. These acts were recommended for enactment by the Legislatures of the several states and were approved by the American Bar Association at its meeting held in July.

A Uniform Veterans Guardianship Act was also considered and approved by the Conference and subsequently approved by the American Bar Association.

The Uniform Mechanics Lien Act was further considered; several amendments to the Uniform Negotiable Instruments Act were considered; a Uniform State Air Licensing Act was considered, and several other uniform laws were the subject of discussion.

Jesse A. Miller, Esq., of Des Moines, Iowa, was elected President; F. M. Clevenger, Esq., of Wilmington, Ohio, was elected Vice-President; John H. Vorhees, Esq., of Sioux Falls, South Dakota, was elected Secretary; and the Hon. William M. Hargest of Harrisburg, Pennsylvania, was elected Chair-

mar of the Executive Committee; and W. O. Hart, Esq., of New Orleans, Louisiana, was re-elected Treasurer.

Professor Samuel Williston of Massachusetts was appointed Chairman of the Committee on Scope and Program.

ACTS RECOMMENDED THIS YEAR FOR ENACTMENT IN MASSACHUSETTS

The Commissioners recommend the enactment of the following uniform laws, namely:—

1. *Uniform Declaratory Judgments Act.*

This act has been recommended already several times in previous years. This act is so important and the reasons for its enactment are so convincing that we feel it our duty to again recommend its enactment in Massachusetts.

This act, after several years' consideration, was approved by the National Conference of Commissioners in 1922, and in 1923 was approved by the American Bar Association. The act was drafted after a careful study of English law and practice on the subject of declaratory judgments. The act has already been adopted in states. Its constitutionality has been considered and approved by the highest courts in several of the states, including New Jersey and Pennsylvania.

Professor Edwin M. Borchard, professor of law at Yale University, in an article published in the American Bar Association Journal for December 1928, gives a valuable account of the history and importance of declaratory judgments. We quote the following:—

“Since the adoption in 1922 by the Commissioners on Uniform State Laws of the Uniform Declaratory Judgments Act, this particular reform in the administration of justice has made rapid progress. In all, some twenty-three states have now adopted the procedure, and nearly three hundred cases from 1919 to 1928 have been reported. The declaratory judgment, it will be recalled, enables the courts to render final judgment between litigants, without attaching to that judgment a coercive degree for damages or injunction. Except for such coercive degree, judgment differs in no essential respect from any other judgment between opposing parties. The judgment merely declares the rights of the parties on formal complaint or petition, as in any other suit, without necessarily invoking the sheriff's process of execution. Its great advantage lies in the fact that it enables an issue to be narrowed and to be determined *before* breach or violence has occurred. It takes account of the fact that people may have controversies as to their legal rights under a written instrument, or otherwise, which require settlement by a court *prior* to the irretrievable destruction of economic and social relations consequent upon a breach or violence, and that in many cases grave doubt or uncertainty as to legal relations may disturb the social equilibrium and require prompt judicial settlement. In an economic world held together by a network of long-term contracts and governmental regulation and control, it seems crude to insist that a dispute arising between parties can only be judicially settled if one or the other acts at his peril upon his own interpretation of his rights and takes the fatal plunge. Relations once destroyed by open breach can rarely be knit together again.” “So important has the procedure for a declaratory judgment become in England that approximately 60 per cent of the equity cases have for decades been brought under that procedure.”

2. *Uniform Fiduciary Act.*

This act was approved by the conference in August, 1922. It is intended

to remove some of the dangers which now exist when business is transacted with trustees, especially by banks and trust companies. The rights of beneficiaries are not overlooked and are reasonably safeguarded.

This uniform law has been enacted in eleven or more states, including Colorado, Idaho, Indiana, Louisiana, Nevada, New Jersey, New Mexico, North Carolina, Pennsylvania, Utah and Wisconsin.

If enacted, this statute will clarify the law and prevent considerable litigation.

FINANCIAL STATEMENT

Amount of appropriation	\$ 750.00
Additional appropriation	400.00
	\$1150.00

Expenses

Paid Samuel Williston, for traveling and other expenses.....	\$360.16
Paid Joseph F. O'Connell, for traveling and other expenses....	415.42
Paid W. O. Hart, Treasurer of National Conference of Commissioners on Uniform State Laws, contribution toward expenses of National Conference.....	100.00
Paid for printing annual report.....	16.25
	\$ 891.83
Unexpended balance	\$ 258.17
Total	\$1150.00

HOLLIS R. BAILEY,
Chairman and Secretary.