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Annual Meeting of the National Conference of Commissioners on Uniform State Laws - 1948

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BENCH AND BAR

ANNUAL MEETING OF THE NATIONAL
CONFERENCE OF COMMISSIONERS ON
UNIFORM STATE LAWS — 1948

Judge John C. Pollock of Fargo and Dean O. H. Thormodsgard of Grand Forks attended the Fifty-Seventh Annual Meeting of the National Conference of Commissioners on Uniform State Laws, which was held at the Olympic Hotel, Seattle, Washington on August 30 to September 4, 1948. Ninety-six Commissioners were in attendance.

The President of the National Conference on Uniform State Laws, by the terms of the Constitution holds his office for two years. Dean Albert J. Harno of the University of Illinois School of Law is President of the Conference. The title to his address was "Uniform State Laws and The Federal System." In brief he referred to Bryce's book, *THE AMERICAN COMMONWEALTH*, (1911) wherein the author emphasized that due to the growth of population and the extension of commerce and communication, three significant changes in our form of government had taken place: "(1) The importance of the things which the national government does, has tended to increase as compared with the things which the states do. (2) Uniformity of regulation over the country has become more needful. (3) In the matters which are regulated by the national government and partly by the states, the inconvenience arising from a division and intermingling of powers becomes more evident and more serious." One of the major faults of the federal system is want of uniformity among the states in legislation and administration. The National Conference of Commissioners on Uniform State Laws was established for that one purpose of correcting that weakness of our federal system. There is a tremendous need for preparing uniform acts and a greater need for states to adopt the uniform acts as presented to them by the Conference. His address secured the approval of all members present.

Reports of General Committees and Special Committees were presented during the remaining portion of the first session. *The Uniform Reciprocal Judgment Act* and the *Model Act to Provide for an Administrator for State Courts* were

considered section by section at the second session. Each uniform act or model act includes the introductory notes to the acts and comments under the separate sections for the purpose of providing adequate historical and legal analysis for the benefit of the commissioners and eventually to assist the courts to adopt the construction suggested by the notes and comments, whereby, we may be assured of greater uniformity in judicial interpretation of those acts if and when enacted. Six sessions were devoted to the consideration of the *Uniform Commercial Code*. As previously reported, the National Conference in cooperation with the American Law Institute has been preparing a revised *Commercial Code*.

All uniform acts are prepared with extreme care, both as to subject matter and phraseology. Karl N. Llewellyn of the Columbia University Law School is the Chief Reporter on the *Commercial Code*. Soia Mentschikoff of the Law School of Harvard University is Associate Chief Reporter. They are assisted by able reporters who are assigned to specific topics. Dean William L. Prosser of the University of California School of Jurisprudence reported on Article III, Part VII dealing with Bank Collections. Tentative drafts were presented on Article IV, Foreign Banking, dealing with Letters of Credit and Foreign Remittances. Constructive criticism, suggestions, and recommendations were made by the Commissioners at these sessions. Frequently the reporter would request an expression of opinion of the Commissioners, which in many instances would be determined by a vote of all Commissioners present.

The Conference on Uniform State Law and The American Law Institute have definite plans and working arrangements whereby the *Uniform Commercial Code* will be completed by 1950. The magnitude of the undertaking should be fully appreciated in that the Code will be "applicable to every phase of a commercial transaction." Accompanying the publication of the Code, there will be commentaries making clear to lawyers and businessmen what changes were made and why.

At the Seattle Conference other Uniform Acts and Model Acts were under consideration. *Uniform Photographic Copies of Business and Public Records as Evidence Act*. The purpose of this proposed act is to provide for the admission in evidence of photographic, photostatic and microphotographic copies

of business records and to allow the voluntary destruction of the original if deemed expedient. Many large firms find the problem of storage of their business records unprofitable; however, they do preserve their business records by means of microphotographic, photostatic, photographic, etc. copies of their business records. This proposed act was returned to the committee for further study and to report back in 1949. *The Uniform Desertion and Non-Support Act* is a redraft of the uniform act of 1913. The purpose of this new act is to facilitate the enforcement, without extradition, when the obligor is in one state and the dependent is in another, by making enforcement available in the former state. The proposed act was returned to the committee for further study. A draft of *The Uniform Enforcement of Foreign Judgment Act* was presented for consideration. This proposed act sets up certain standards and practices as to the registration of a foreign judgment or decree in a state and to bring suit on that foreign judgment. The Conference demanded certain modification and changes before further consideration.

According to the constitution of the Conference, at least one year must elapse between the introduction of the act and its final approval. When the Conference votes on a proposed act for final approval, the vote is by state and each state has one vote. If approved by the Conference, the Uniform Act is submitted to the House of Delegates of the American Bar Association for approval. If approved by the American Bar Association, the act then is recommended to the several states for adoption.

The House of Delegates of the American Bar Association approved *The Uniform Divorce Recognition Act*, which provides that if a person obtains a decree of divorce from a court of another jurisdiction and was domiciled in this state within twelve months prior to obtaining the final decree and resumes residence in this state within eighteen months after obtaining the decree, it shall be prima facie evidence that such person did not abandon his or her domicile in this state prior to obtaining the decree. This Act is now recommended to the several states for adoption. *The Uniform Ancillary Administration of Estates Act* was referred to the Section on Real Property, Probate and Trust Law by the House of Delegates.

The Section moved to consider the proposed Act at its next meeting.

The Conference realized the importance of systematic campaign in every state to encourage the introduction of the Uniform Acts. The Conference is cooperating with Council of State Government and with a special committee on state legislation appointed by the president of the American Bar Association. The American Bar Association Committee on State Legislation for 1948-49 for the State of North Dakota is A. R. Bergesen, Esq. of Fargo and H. A. Mackoff, Esq. of Dickinson.

O. H. Thormodsgard
Commissioner.

NOTICE

The term of the Honorable C. J. Murphy, as a member of the State Bar Board expires January 1, 1949. Despite the insistence of many members of the Bar, Mr. Murphy has declined to permit his name to be presented for re-appointment.

Article VIII of the By-Laws of the State Bar Association of North Dakota provides that the Executive Committee shall select twice as many names as there are nominees to be submitted to the Supreme Court.

The Executive Committee has nominated for appointment to the Bar Board, Mr. Philip R. Bangs and Mr. Charles F. Shafer.

Our By-Laws also provide that attorneys may make additional nominations by a petition signed by ten members and filed with our Secretary. Thereafter the Association will be polled and the two nominees receiving the highest number of votes will be presented to the Supreme Court as the nominees of the State Bar Association of North Dakota.

Pursuant to our By-Laws you are hereby notified that nominations may be made, under Article VIII, by petition, for Member, State Bar Board, for the six (6) year term commencing January 1, 1949, and that such nominations must be filed with the Secretary of this Association, Mr. Eugene A. Burdick, at Williston, North Dakota, not later than February 10, 1949.

NOTICE OF ORDER

Pursuant to R. C. 1943, Section 38-0601, as amended, the State Coal Mine Inspector has issued an Order making it unlawful to operate or maintain internal combustion engines in any underground mine, shaft or tunnel within the State of North Dakota. This Order became effective November 12, 1948, according to information received recently by the Secretary-Treasurer.

NOTES

Mr. Maurice E. Garrison has opened an office for the general practice of law in Wahpeton, North Dakota.

Mr. Ray R. Friederich, a graduate of the North Dakota University Law School, recently commenced the practice at Rugby, North Dakota, and has his offices with one of our Past State Presidents, L. R. Nostdal.

In order that our records may be kept up to date, please report changes of address promptly to the Executive Director, Box 327, Grand Forks, N. D.

JUDGE CHARLES WILSON BUTTZ

Senior judge of the Second Judicial District passed from earthly judicial duties on October 25, 1948 at the age of seventy-three years. Born in New Jersey in 1875, he came to old Dakota Territory with his parents, and attended common school and then High School in Ransom County. He then attended the Agricultural College in Fargo, then taking his law degree at the Law Department of the University of Minnesota. He began the practice of law in Benson County where he held the office of States Attorney and assistant; was appointed as District Judge of the Second District of North Dakota by the Honorable John Burke, which position he was reelected to and held until the time of his passing.

A pioneer of the great prairies, and in the building of the substantial law of our commonwealth, he nevertheless found time to become interested in the social and fraternal affairs of our community; a Mason, an Odd Fellow, a M. W. A. a Kiwanian, a leader in the sheep industry of the prairie and valleys of North Dakota, he was always looking for additional ways in which to aid humanity.

A great jurist, a great man, a great citizen, American and Dakota Pioneer, the prairie, the law, and the State is better for his having lived among us. To him the State Bar Association pays tribute.

E. T. Conmy, Chairman
L. R. Nostdal
John Knauf

Committee