



1926

## Committee on American Law Institute

Geo M. McKenna

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# WEDNESDAY AFTERNOON SESSION

2:00 Address - - Dean Pound of the Harvard Law School  
 Music  
 Report of Committee on Memorials - - H. A. Libby  
 Election of officers  
 Miscellaneous business  
 Adjournment

# WEDNESDAY EVENING SESSION

6:30 Banquet  
 All attorneys and their ladies are urged to attend the banquet.

## COMMITTEE ON AMERICAN LAW INSTITUTE

GEO. M. MCKENNA, CHAIRMAN

The committee reports further progress in the formulation of the re-statements of the law, the following being presented for analysis at the 1927 meeting:

In Contracts—Re-statement No. 3, including 45 new Sections, dealing with: (a) Contractual rights of persons not parties to the contract; (b) Assignment of contractual rights; (c) Delegation of the performance of contractual duties or conditions; (d) An accompanying volume of commentaries.

In Torts—Re-statement No. 3, including 57 Sections, dealing with: (a) Defense of the actor's interest in retaining possession of real or personal property; (b) Forcible entry; (c) Forcible taking of personal property; (d) Arrest; (e) An accompanying volume of commentaries.

In Agency—Re-statement No. 2, including 85 Sections, dealing with: (a) Termination of authority; (b) Apparent authority; (c) Power given as security; (d) Consent that a sub-agent may act; (e) An accompanying volume of commentaries.

In Conflict of Laws—Re-statement No. 3, including 206 Sections, dealing with: (a) Status, including marriage, legitimacy, adoption and custodianship; (b) Foreign corporations; (c) Property; (d) An accompanying volume of commentaries.

Two additional reporters have been employed by the Institute, Prof. Harry A. Bigelow of the University of Chicago, to take up the subject of Property, and Mr. Austin W. Scott of Harvard, to prepare the re-statement on Trusts.

The Model Criminal Code, down to trial, will be made public by January, 1928. This is intended for legislative adoption, being, therefore, entirely different from the other undertakings of the Institute.

It is expected that another year will see the re-statement of the Law of Business Associations, including Partnerships, Corporations, etc., ready for presentation. This work is under the supervision of Dr. William Draper Lewis.

Further co-operation is urged by the committee on the part of the Bar Association. Says the report:

"Several plans have been suggested. One which seems to have met with some approval is that the committees appointed by bar associations in several adjoining states meet at some central location and devote two or three days to a discussion of all the tentative drafts so far published on some one subject, as Contracts or Agency; if possible,

the Reporter, or one of his principal advisors or the Director, to be present on these occasions. Your committee suggests that the North Dakota Bar Association take the lead in the northwest by adopting resolutions looking toward the holding of such a joint meeting in this State."

Reverting to the purpose of the re-statements undertaken by the Institute, the committee again calls attention to the fact that the aim is "to promote the clarification and the simplification of the law and its better adaptation to social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work. Not that this restatement shall be adopted by the legislatures of the various states as a code, but that it may retain the flexibility and universality of the common law, and that the work shall be so pre-eminently well done that it shall be accepted by the bench and bar of the United States as persuasive authority; that the moral force of the lawyers and judges of the entire country shall be behind it; and so that he who disputes it shall have the burden of proving that it is inconsistent or erroneous."

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### COMMITTEE ON UNIFORM STATE LAWS

PAUL CAMPBELL, CHAIRMAN

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This committee makes an extended report, to which justice can not be done in the limited space at our disposal.

It deplores "lack of interest and lack of familiarity with the effort for uniformity, . . . that the incentive necessary to the sacrifice and work of accomplishment even among members of the committee is lacking, . . . and that we must find some means of arousing interest and getting behind this effort some agency, as to whom the necessary effort is not a complete sacrifice."

Attention is called to the necessity for changing the relationship of North Dakota to the National Conference on Uniform State Laws. "The commissioners are appointed from the several states by authority of the legislature, or in the absence of such by the executive authority; and in the case of the failure of each by the President of the Bar Association. There are usually three commissioners. In North Dakota, up to the present time, we have no legislative authority with reference to their appointment. The commissioners have heretofore been appointed by the Governor. As a result, their work, their time and even their actual expenses have been and must be met by the commissioners themselves. One of the first proposed acts desired is the legislative authority for the appointment of the commissioners, with provision at least for payment of their expenses, and, if possible, some allowance for their time and work, a very considerable amount of which is contemplated and required, if the work is to be carried on successfully. Your committee recommends that an effort be made, in which all of the various uniform law agencies and their representatives in this State co-operate, at the next session of the Legislature, to secure an act for the appointment of North Dakota Commissioners and with it some appropriation or provision to meet at least their expenses."

Continuing, the committee directs attention to the work required before an act, usually meritorious and desirable, can be placed upon the statute books of a state. "Somebody must do this work and some-