

# MAINE STATE LEGISLATURE

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# Seventieth Legislature.

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SENATE.

No. 1

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## STATE OF MAINE.

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AUGUSTA, January 9, 1901.

*To the President of the Senate and Speaker of the House:*

I have the honor to herewith transmit the report of the commission on Uniformity of Legislation.

Very respectfully,

Your obedient servant,

BYRON · BOYD,

*Secretary of State.*

*To His Excellency, Llewellyn Powers, Governor of Maine:*

The undersigned, who were appointed Commissioners for the State of Maine for the promotion of Uniformity of Legislation in the United States, in pursuance of Chapter 138 of the Laws of 1895, beg leave to submit their third biennial report.

Since the last report, which was made in January, 1897, two National Conferences have been held, one at Buffalo, New York, in August, 1899, the other at Saratoga, New York, in August of the present year.

These two conferences have been mainly engaged in perfecting a bill relating to procedure in divorce cases, a copy of which is hereto annexed, and which will also be found in the printed reports of the above conferences which are herewith presented. An examination of this bill will show that it attempts to furnish a remedy for some of the evils that have attended divorce procedure in the different states, and especially the evil of what is known as "migratory" or "carpet-bag" divorces. This bill will tend to prevent a change of residence which is made in order to procure a divorce for a cause that arose in another state, and was not a cause of divorce in that state, and will thus cut off a large number of divorces which have been a reproach to our laws. It also attempts to introduce uniformity as to length of residence required in the various states on the part of persons applying for divorce and attempts to deal with the difficult element of good faith in connection with such residence. Personal service is also required wherever feasible, and in case the residence of the absent party is alleged to be unknown, proof is required of reasonable inquiry and search to ascertain the residence, continued for one year, before a divorce can be procured. The bill attempts to prohibit star-chamber divorces by requiring all hearings in such cases to be before a Court in open session. In cases where no defendant has appeared and notice is given by publication only, a decree *nisi* is to be entered which is not to become final until after an interval of six months. This will give an opportunity to the absent party to show cause, if any exists, why the bonds of matrimony should not be dissolved, and will serve as an available safeguard where untrustworthy testimony has been introduced.

The Negotiable Instruments Act, which was reported by the Conference in 1896, has now been adopted by fifteen states and by Congress, and there is reason to expect that it will be adopted by other large commercial states during the present winter.

To the report, which was made by the undersigned to the Governor in November, 1896, a copy of this bill was annexed and the report and the bill were printed as a Senate Document.

A hearing was had before the Judiciary Committee at that session and also in 1899, but it was deemed best to postpone the matter until a sufficient number of states had adopted it to show that it was likely to become a uniform law, and the matter now stands referred to the incoming Legislature.

The importance of this bill to the business interests of the country is so great, that it would seem as if it would recommend itself to all lawyers and legislators as a subject on which Uniformity of Legislation was desirable, and in view of the fact that the bill represents the prevailing law of the United States, and is not an attempt to deal with it in a novel or original way, it would seem as if it were wise for our State to follow the lead of such commercial states as New York, Massachusetts, Connecticut and Illinois in this matter.

The advantages to be derived from Uniformity of Legislation on this and other subjects has been so fully and ably set forth by Hon. Lyman D. Brewster, Chairman of the Conference, in the report to the American Bar Association in 1898, that little more can be said, and a copy of the same is appended hereto. We may add that the Maine Bankers' Association has approved of this bill, and has printed the same for general circulation, and has also appointed a committee to appear before the legislature and urge its passage.

Respectfully submitted,

CHARLES F. LIBBY,

FRANK M. HIGGINS,

HANNIBAL E. HAMLIN,

*Commissioners.*

December, 1900.

AN ACT to establish a law uniform with the laws of other states relative to Divorce Procedure and Divorce from the Bonds of Marriage.

Section 1. No divorce shall be granted for any cause arising prior to the residence of the complainant or defendant in this State, which was not a ground for divorce in the state where the cause arose.

Sect. 2. No person shall be entitled to a divorce for any cause arising in this State, who has not had actual residence in this State for at least one year next before bringing suit for divorce, with a bona fide intention of making this State his or her permanent home.

Sect. 3. No person shall be entitled to a divorce for any cause arising out of this State unless the complainant or defendant shall have resided within this State for at least two years next before bringing suit for divorce, with a bona fide intention of making this State his or her permanent home.

Sect. 4. No person shall be entitled to a divorce unless the defendant shall have been personally served with process, if within this State, or if without this State, shall have had personal notice duly proved and appearing of record, or shall have entered an appearance in the case; but if it shall appear to the satisfaction of the court that the complainant does not know the address nor the residence of the defendant and has not been able to ascertain either, after reasonable and due inquiry and search, continued for six months after suit brought, the court or judge in vacation may authorize notice by publication of the pendency of the suit for divorce, to be given in manner provided by law.

Sect. 5. No divorce shall be granted solely upon default  
2 nor solely upon admissions by the pleadings nor except upon  
3 hearing before the court in open session.

Sect. 6. After divorce either party may marry again, but  
2 in cases where notice has been given by publication only, and  
3 the defendant has not appeared, no decree or judgment for  
4 divorce shall become final or operative until six months after  
5 hearing and decision.

Sect. 7. Wherever the word "divorce" occurs in this act,  
2 it shall be deemed to mean divorce from the bonds of marriage.

Sect. 8. All acts and parts of acts inconsistent herewith  
2 are hereby repealed.





STATE OF MAINE.

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IN SENATE, January 8, 1901.

On motion by Mr. WHITE of Androscoggin, laid on table to be printed,  
pending reference.

KENDALL M. DUNBAR, *Secretary*.