

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SEVENTY-SECOND LEGISLATURE

SENATE.

No. 8

STATE OF MAINE.

To His Excellency, John F. Hill, 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, respectfully submit their fifth biennial report.

Since our last report two national conferences of the commissioners from the several states have been held, one in Hot Springs, Virginia, in August, 1903, the other in St. Louis, Missouri, in September of the present year, and the printed reports of the proceedings at these conferences accompany this report.

State boards of commissioners have now been established in thirty-one states and territories, and the annual conference of the commissioners from the several states has been productive of much good, not only in the bills actually reported and recommended for adoption, but in calling the attention of the public to the importance of uniform laws between the states of the Union in matters affecting the commerce and welfare of the whole country. The negotiable instruments act has been adopted since our last report by the following additional states and territories, viz.: Idaho, Kentucky, Louisiana and Montana. The act had previously been adopted by the states of Colorado,

Connecticut, Florida, Iowa, Maryland, Massachusetts, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Virginia, Washington, Wisconsin, Territory of Arizona and by Congress for the District of Columbia. This act has not yet been adopted by the legislature of Maine, but several hearings have been had before the Judiciary Committee at different sessions since its introduction and the bill was deemed of such importance by the Maine Bankers Association that a committee was specially appointed to appear before the last legislature in its support. Of the importance of this act to the commercial interests of our State there can be no question, as uniformity and not diversity of legislation is needed in aid of inter-state commerce. The merits of the act have been discussed in our last report to which reference is respectfully made, and it is hoped that the present legislature, to whom this act was referred by the legislation of 1903, will find it expedient to add Maine to the large number of important commercial states which have already adopted the law.

At the session, held at the Hot Springs in 1903, a draft of an act relating to the sale of goods, drawn by Professor Samuel Williston of the Harvard Law School was presented in print, and three days of the conference in St. Louis was devoted to the examination, discussion and amendment of this act, which is based upon the English act in relation to the same subject which was passed by the English parliament in 1893. In order that the act might have the benefit of the criticism of the profession throughout the country, including judges, professors of law and practitioners, to whom copies of the act in its present draft will be submitted, the final consideration of the act was postponed until the next annual conference.

Attention is again called to a bill recommended by the commissioners at its meeting in Denver in 1901 entitled "an act to establish a law uniform with the laws of other states relative to insurance policies," which is as follows:

Section 1. No policy of insurance shall be rendered invalid by any statement made by the insured unless the same shall be material to the risk or made with intent to defraud.

Section 2. No policy of insurance shall contain any condition, provision or agreement which shall directly or indirectly deprive the insured, or the beneficiary, of the right to trial by

jury on any question of fact arising under said policy, and all such conditions or agreements shall be void.

Section 3. This act shall apply to certificates of fraternal and mutual benefit associations as well as to all other forms of insurance.

The first section is substantially a re-enactment of what was the law of this State from 1861 up to the time of the passage of what is known as the Maine Standard Fire Insurance Policy Act in 1895, and is believed to be a just and wise provision in the interests of the insured.

The provisions of section two are intended to restore the right of trial by jury on questions of fact arising under fire insurance policies, and especially the important question of the amount of loss suffered under such policies. The insured was deprived of this right of trial by jury by the adoption of the Standard Fire Insurance Policy Act, although the effect of the act in this particular was not generally known at the time of its passage. Why fire insurance companies should be granted a privilege denied to all other corporations, it is not easy to understand, and the propriety of such legislation may be justly criticised. Without entering further into the objectionable features of such legislation we respectfully refer to the discussion of the same contained in our last report.

Reference is also made to the previous reports of the undersigned with accompanying exhibits for details of bills which have been recommended from time to time by the national conference.

Respectfully submitted,

(Sd) CHARLES F. LIBBY,

(Sd) FRANK M. HIGGINS,

(Sd) H. E. HAMLIN,

Commissioners.

December, 1904.

STATE OF MAINE.

IN SENATE, January 17, 1905.

Presented by Mr. POTTER of Cumberland, and on motion by same
Senator laid on the table to be printed, pending reference.

KENDALL M. DUNBAR, *Secretary*.