
A History of Service:

The Washington State Uniform Legislation Commission

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Abstract

This article charts the activities and accomplishments of the Washington State Uniform Legislation Commission during its one hundred of years of existence. The article records the successes—as well as the challenges—the Commission has experienced in securing passage of nearly one hundred uniform laws through the halls of the Washington State Legislature.

To provide the framework in which those accomplishments can be best understood, the article first outlines the activities and accomplishments of the Commission's parent body, the National Conference of Commissioners on Uniform State Laws. Here, the article outlines the National Conference's function and purpose, its distinguished membership over the years, the procedural steps the Conference has employed to promulgate uniform/model laws, and finally its major historical accomplishments.

After outlining the activities and accomplishments of the National Conference, the article then documents the activities and accomplishments of the Washington State Uniform Legislation Commission itself. To document these activities and accomplishments, the article delineates the Commission's historical origins, its legislative charge, its membership over the years, the procedures and processes it has used to procure passage of uniform/model laws in the Washington State Legislature, and finally, the major accomplishments of the Commission during its one hundred years of existence. Here, particular attention is placed upon the Commission's historic work in securing passage of the Uniform Commercial Code in 1965.

The article also includes a *Table of Uniform Laws Adopted in the State of Washington*. The *Table* charts the individual history of each uniform/model law ever codified in Washington. Additionally, the article includes an alphabetical listing of the commissioners, a chronological listing of the commissioners, biographies of the commissioners, and finally, a selective bibliography of the relevant literature concerning the National Conference of Commissioners on Uniform State Laws and the Washington State Uniform Legislation Commission.

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I. INTRODUCTION

Now celebrating one hundred years of service, the Washington State Uniform Legislation Commission has made significant contributions to the life and law of the state.² During its existence, the Commission has procured codification of nearly one hundred uniform/model laws,³ placing Washington among the top echelon of states in passing uniform laws. Roughly eighty of those uniform laws remain codified today.⁴

The significance of these laws to Washington law cannot be overestimated. No Washington resident has been untouched by them. The uniform and model laws passed by the Washington Legislature have involved basic issues of human life, everything from marriage and divorce, to a simple transaction in the local grocery store, to the rights of the terminally ill. If for no other reason than the codification of these laws, the Commission warrants appropriate historical recognition.

Yet, the Commission's contribution becomes even more noteworthy in light of the hardships through which the Commission has nevertheless persevered. At times, the Commission, because of severe deficits in the State budget, has had its very existence threatened.⁵ What is more, members of Washington's

²The Washington State Uniform Legislation Commission first came into existence upon the approval of the Commission's enabling act on March 3, 1905. Act of Mar. 3, 1905, ch. 59, 1905 Wash. Laws 111.

³See Appendix A, *Table of Uniform Laws Adopted in Washington*. The Table was created using NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, UNIFORM LAWS ANNOTATED (1968-) [hereinafter ULA], the NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (1892-) [hereinafter HANDBOOK], and the biennially published WASHINGTON STATE UNIFORM LEGISLATION COMMISSION, REPORT OF THE WASHINGTON COMMISSIONERS ON UNIFORM STATE LAWS (1905-1987), and finally, the REVISED CODE OF WASHINGTON (1992). Where there were consistencies between the first three sources, the REVISED CODE OF WASHINGTON was used as the final arbiter.

⁴*Id.*

⁵Internal memoranda exist in the Commission's Archives which indicate not only that the Commission's existence was threatened because of crises in the state's budget but that the commissioners were so committed to the work of the National Conference of Commissioners on Uniform State Laws that they were willing to underwrite personally the costs of their participation in the work of the Commission, especially their attendance at the National Conference's Annual Meeting.

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Uniform Legislation Commission, not receiving any compensation for their work with the Commission,⁶ have made great personal sacrifices in service to the Commission's work. Often already occupying highly demanding, if not taxing jobs in the Washington legal community, members of the Commission over the years have nevertheless served the State of Washington with distinction and sacrifice. The magnitude of their dedication is surely another reason for telling the story of the Commission's history.

Needless to say, the story of the Washington State Uniform Legislation Commission cannot be told apart from the work and major accomplishments of the National Conference of Commissioners on Uniform State Laws, of which Washington's Uniform Legislation Commissioners are also active, integral members. Nonetheless, the history of the Washington State Uniform Legislation Commission cannot be gleaned merely from a history of the National Conference itself. In one sense, the history of Washington's Uniform Legislation Commission exceeds, and thus adds to, the already rich history of the National Conference. Members of Washington's Uniform Legislation Commission have made their own unique contributions--contributions unable to be fully told in a history of the National Conference alone.⁷ Washington's commissioners have committed their own personal efforts to the development of uniform laws—laws which have been central in the National Conference's work. Moreover, Washington's commissioners have contributed in unique ways to the passage of those uniform laws through the halls of the Washington Legislature. These unique contributions, along with the work of the National Conference, tell the *whole* story of the valuable work of the Washington State Uniform Legislation Commission in its one hundred years of existence.

⁶WASH. REV. CODE ANN. § 43.56.040 (West 1983). The proscription against compensation for the Commissioner's services has remained largely in tact since passage of the Commission's original enabling act. *Supra* note 2.

⁷*See e.g.*, WALTER P. ARMSTRONG, JR., A CENTURY OF SERVICE: A CENTENNIAL HISTORY OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (1991). Armstrong's monograph is an excellent history of the National Conference in its first century of service. Nonetheless, Armstrong's history understandably pays little attention to the histories of individual state commissions, not only the work they have uniquely contributed to the National Conference, but also the work they performed in securing passage of uniform and model laws in their respective state legislative bodies.

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II. THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

The National Conference of Commissioners on Uniform State Laws has played an integral role in the development of American law since the Conference's inception in 1892. The Conference's impact has been most felt in state law. But its impact on federal law has been no less true. Since its inception, the Conference has promulgated well over two hundred and fifty uniform laws, fifty model laws, and some twenty laws promulgated for specific states having need for common legislation.⁸

To be sure, many of the laws passed by the National Conference have not been uniformly adopted by the states. Many of the Conference's laws have been adopted by ten or fewer states. As Professor White has accurately noted, "many of the Commissioners' seed has fallen on barren ground."⁹ Nonetheless, many of the states have passed a substantial number of these laws.¹⁰ Even more significantly, a clear majority of the states have passed a small but significant constellation of the Conference's laws.¹¹

⁸See HANDBOOK, *supra* note 3.

⁹James J. White, *Ex Proprio Vigore*, 89 MICH. L. REV. 2096 (1991).

¹⁰See HANDBOOK, *supra* note 3.

¹¹A list of acts codified (or formerly codified) in forty or more jurisdictions includes: NEGOTIABLE INSTRUMENTS LAW, (1896), *superseded* by the UNIF. COMMERCIAL CODE, 1 U.L.A. 1 (2004); REV. UNIF. CRIMINAL EXTRADITION ACT, 11 U.L.A. 63 (2003), *superseded* by UNIF. EXTRADITION AND RENDITION ACT, 11 U.L.A. 87 (2003); REV. UNIF. ENFORCEMENT OF FOREIGN JUDGMENTS ACT, 13 U.L.A. 155 (2002); REV. UNIF. RECIPROCAL ENFORCEMENT OF SUPPORT ACT, 9C U.L.A. 81 (2001); UNIF. ACT TO SECURE THE ATTENDANCE OF WITNESSES FROM WITHOUT A STATE IN CRIMINAL PROCEEDINGS, 11 U.L.A. 1 (2003); UNIF. ANATOMICAL GIFT ACT, 8A U.L.A. 3 (2003); UNIF. ARBITRATION ACT (1955), 7 Pt. I U.L.A. 1 (1997) *superseded* by the UNIF. ARBITRATION ACT (2000), 7 Pt. I U.L.A. (SUPP. 2004); UNIF. CHILD CUSTODY JURISDICTION ACT, 9A Pt. I U.L.A. 261 (1998) *superseded* by UNIF. CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT, 9A Pt. I U.L.A. 649 (1998); UNIF. CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT *supra*; UNIF. COMMERCIAL CODE - ARTICLE 9; UNIF. COMMERCIAL CODE, *supra*; UNIF. COMMERCIAL CODE- ARTICLE 8; UNIF. CONTROLLED SUBSTANCES ACT, 9 Pt. IV U.L.A. 643 (1997); UNIF. DECLARATORY JUDGMENTS ACT, 12 U.L.A. 309 (1996); UNIF. DURABLE POWER OF ATTORNEY, 8A U.L.A. 233 (2003); UNIF. ELECTRONIC TRANSACTIONS ACT, 7A Pt. I U.L.A. 211 (2002); UNIF. INTERSTATE FAMILY SUPPORT ACT (1996), 9 Pt. IB U.L.A. 235 (2005) *superseded* by the UNIF. INTERSTATE FAMILY SUPPORT ACT (2001), 9 Pt. IB (Supp. 2004); UNIF. LIMITED PARTNERSHIP ACT (1916), 6A U.L.A. 551 (2003) *superseded* by REV. UNIF. LIMITED PARTNERSHIP ACT (2001), 6A U.L.A. 1 (2003); UNIF. NARCOTIC DRUG ACT, 9B U.L.A. 7 (2001), *superseded* by UNIF. CONTROLLED SUBSTANCES ACT, *supra*; UNIF. PARTNERSHIP ACT (1914), 6 Pt. I U.L.A. 275 (2002) *superseded* by REV. UNIF. PARTNERSHIP ACT (1997), 6 Pt. I U.L.A. 1 (2002); UNIF. SIMULTANEOUS DEATH ACT (1943), 8B U.L.A. 159 (2001) *superseded* by the UNIF. SIMULTANEOUS DEATH ACT (1993), 8B U.L.A. 141 (2001); UNIF. STOCK TRANSFER ACT, (1909), *superseded* by the UNIF. COMMERCIAL CODE, *supra*; UNIF. TESTAMENTARY ADDITIONS TO TRUSTS ACT (1960), 8B U.L.A. 367 (2001) *superseded* by the UNIF. TESTAMENTARY ADDITIONS TO TRUSTS ACT (1991), 8B U.L.A. 355 (2001); UNIF. VETERAN'S GUARDIANSHIP ACT, 8C U.L.A. 281 (2001); UNIF. WAREHOUSE RECEIPTS ACT (1906), *superseded* by the UNIF. COMMERCIAL CODE, *supra*.

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Amongst the Conference's more prominent achievements have been the successes of the Uniform Probate Code,¹² the Marriage and Divorce Act,¹³ and the two Partnerships Acts.¹⁴ Yet most pre-eminently among the Conference's work stands one hallmark piece of legislation, the Uniform Commercial Code—decidedly the Conference's signature product.¹⁵ The Uniform Commercial Code stands as the foundation upon which the Conference has solidified its standing in American law.

Yet what accounts for the success of the National Conference? Why has the Conference been so influential, particularly in areas where the often highly guarded sovereignty of the states seems so directly impinged?

Answering these questions entails understanding (1) the Conference's historical founding, (2) its function and purpose, (3) its often distinguished membership, (4) the rigorous procedures it has employed to promulgate its laws, and finally (5) the highly, if not universally, respected position these uniform laws have come to hold in American law. Understanding these realities affords the opportunity to appreciate the meaning and contribution, not only of the National Conference itself, but even more importantly for our purposes, the Washington State Uniform Legislation Commission.

¹²UNIF. PROBATE CODE, 8 Pt. I U.L.A. 1 (1998). Admittedly, the Uniform Probate Code, unlike the Uniform Commercial Code, has not been adopted *in toto* in very many states. In fact, the Uniform Probate Code has been presently adopted in its entirety in only fifteen jurisdictions. *See Table of Jurisdictions Wherein Code Has Been Adopted*, 8 Pt. I U.L.A. 1 (Supp. 2004). Nonetheless, this fact does not diminish the impact the Uniform Probate Code has had upon state probate law. Many states have incorporated individual parts of the Uniform Probate Code into their own probate codes. Short of that, many have incorporated into law concepts derived from the Uniform Code. As we shall see, this influence of the Uniform Probate Code upon Washington law is no less true. While never adopting the Uniform Probate Code in its entirety, Washington has nonetheless adopted many of its individual parts. Moreover, Washington has incorporated many concepts derived from the Uniform Probate Code into Title 11 of the *Revised Code of Washington*. *Infra* p. 45.

¹³UNIF. MARRIAGE AND DIVORCE ACT, 9A Pt. II U.L.A. 159 (1998).

¹⁴UNIF. PARTNERSHIP ACT, *supra* note 11; UNIF. LIMITED PARTNERSHIP ACT, *supra* note 11.

¹⁵*Supra* note 11.

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A. HISTORICAL FOUNDING

The National Conference of Commissioners on Uniform State Laws was founded over hundred years ago in 1892 at the Grand Union Hotel in Saratoga Springs, New York. The gathering took place just prior to the annual summer meeting of the American Bar Association, a tradition which continues to this day. First assuming the name of the "Conference of the State Boards of Commissioners on Promoting Uniformity of Law in the U.S.,"¹⁶ the gathering brought together delegates from seven states—including Delaware, Georgia, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania.¹⁷ The purpose of the gathering was clear: to achieve uniformity and cooperation amongst the states where such uniformity and cooperation was possible and desirable.¹⁸

No less clear was the importance of the gathering. Such a meeting of representatives from the various states had not arguably occurred since the framers of the Constitution met in Philadelphia one hundred and four years earlier.¹⁹ The Conference's self-estimation of its own significance was therefore not without justifiable grounding: "It is probably not too much to say," the Conference's first report proclaimed, "that this is the most important juristic work undertaken in the United States since the adoption of the Federal Constitution."²⁰

Still, the 1892 Saratoga Springs gathering—however historic and momentous it was—was not without its prior historical preparation. To be sure, the exact historical origins of the Conference still remain obscure, even today.²¹ Nonetheless, general consensus exists upon the following historical outline.

¹⁶STATE BOARD OF COMMISSIONERS FOR PROMOTING UNIFORMITY OF LEGISLATION IN THE UNITED STATES, REPORT OF PROCEEDINGS OF THE FIRST CONFERENCE (1892)

¹⁷*Id.* at p. 3.

¹⁸*Id.*

¹⁹See Richard B. Long, *100 Years of Uniformity of Laws, the Story of the National Conference of Commissioners on Uniform State Laws*, N.Y. ST. B. J., January 1992, at page 12.

²⁰*Id.* at p. 4.

²¹See James J. White, *supra* note 9, at 2097.

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In 1878, upon the founding of the American Bar Association, the Bar immediately stated as one of its objectives to promote "uniformity of legislation throughout the Union,"²² a union at that time consisting of thirty-eight states. In turn, the Alabama State Bar Association in 1881 created a committee to "examine the law for the purpose of making recommendations about uniformity between the states."²³ Seven years later, legislators in New York introduced legislation to create a commission for the promotion of uniformity of legislation in the United States.²⁴ Just two years later in 1890, the American Bar Association passed a resolution recommending that each state adopt legislation similar to the New York initiative.²⁵ Finally, and perhaps most significantly, in 1890, the New York Legislature actually adopted the legislative initiative originally offered in 1888, thus preparing the final groundwork for the founding of the Conference. The legislative mandate stipulated that the governor appoint three commissioners:

To examine the subject of marriage and divorce, insolvency, the form of notarial certificates, and other subjects; and to ascertain the best means to effect an assimilation and uniformity in the laws of the states, and especially to consider whether it would be wise and practicable for the State of New York to invite other states of the Union to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several states...²⁶

Subsequently, in 1892, New York's then Governor Roswell Flower, exercising the power granted him, appointed the first three New York Commissioners on Uniform State Laws.

²²*Constitution*, 1 A.B.A. REP. 30 (1878)(reprinting original Constitution of the American Bar Association). Article 1 of the Constitution states: "This Association shall be known as 'The American Bar Association.' Its object shall be to advance the science of jurisprudence, promote the administration of justice and *uniformity of legislation throughout the Union*, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar." (my emphasis)

²³*See Origin, Nature and Scope of the National Conference of Commissioners on Uniform State Laws*, HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS AND PROCEEDINGS OF THE FORTY-EIGHTH CONFERENCE 427 (1938). *See also* George B. Young, *Uniform State Laws*, 8 A.B.A. J. 181, 182 (1922).

²⁴*Id.*

²⁵*Report of the Committee on Uniform State Laws, Appointed Under Mr. Collier's Resolution Adopted at Chicago, August, 1889*, 8 A.B.A. REP. 336 (1890).

²⁶Act of April 28, 1890, ch. 205, § 1-5, 1890 N.Y. Laws 413, *amended* by Act of May 13, 1892, ch. 538, § 1, 1892 N.Y. Laws 1072.

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With these initiatives by Alabama, New York, and the American Bar Association in place, the stage was set for the subsequent historic 1892 gathering in Saratoga Springs, New York of the "Conference of State Boards of Commissioners on Promoting Uniformity of Law in the U.S." Although representatives from only seven of the forty-four states then in existence attended the first gathering, the Conference's popularity among the states was quick and ultimately all-inclusive. By the turn of the century, thirty-three states and two territories had appointed commissioners on uniform state laws. In 1905, when incidentally the Conference assumed the name it still employs today, namely the National Conference of Commissioners on Uniform State Laws,²⁷ the State of Washington followed, appointing its own Commissioners by way of legislative enactment.²⁸ In 1910, only Nevada and the Territory of Alaska had not appointed commissioners to attend and participate in the Annual Meeting of the National Conference. Yet by 1912, they too had joined the ranks of their fellow states and territories in appointing Commissioners on Uniform State Laws. By 1915, all of the states and territories then existing had joined ranks. Today, all of the fifty states, including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, send representatives to the Annual Meeting of the National Conference of Commissioners on Uniform State Laws.

B. FUNCTION AND PURPOSE

The National Conference's contributions to American law over the years have been due to many factors. But fundamental among these factors has been the Conference's function and purpose. As we have already seen, the Conference was initially founded in order to gain uniformity and cooperation amongst the states where such uniformity and cooperation was deemed practicable and desirable.²⁹ Although the

²⁷See STATE BOARD OF COMMISSIONERS FOR PROMOTING UNIFORMITY OF LEGISLATION IN THE UNITED STATES, REPORTS AND PROCEEDINGS OF THE COMMISSIONERS ON UNIFORM STATE LAWS (1905).

²⁸*Supra* note 2

²⁹See STATE BOARD OF COMMISSIONERS FOR PROMOTING UNIFORMITY OF LEGISLATION IN THE UNITED STATES, REPORTS AND PROCEEDINGS OF THE FIRST CONFERENCE (1892)(reprinting original Constitution of the National Conference.)

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Conference's focus has shifted over the years-- from isolated, piecemeal solutions to comprehensive ones-- the Conference has in large part remained true to its primary purpose. According to the Conference's present Constitution, the Conference's primary purpose is, as it has been, "to promote uniformity in the law among the several states on subjects as to which uniformity is desirable and practicable."³⁰

No doubt, the purpose to achieve uniformity in statutory law, by itself, accounts for a great deal of the Conference's success. In situations where Congress was either unable to act or chose not to do so, uniform state action was vital, particularly as the nation developed from a largely agrarian society into an increasingly industrialized society, where the lives of the individual states continually merged with one another. Without some uniformity, the life of the nation, and the life of its constituent states, would have petrified. Accordingly, the National Conference, upon its founding in the late nineteenth century, provided one significant conduit through which a burgeoning country could indeed become a nation. Throughout the twentieth century—and now into the twenty-first century—the Conference has served this vital function for the nation.

Still, the purpose to achieve uniformity does not in and of itself explain all of the Conference's success. An underlying concern in all of its activities completes the accounting of the Conference's success. In all of its activities, the Conference has been centrally concerned to achieve uniformity only by way of the states' *voluntarily* cooperating in a mutually beneficial enterprise. Which is to say, the Conference's success has rested not so much on its purpose to achieve uniformity but on its attempt to achieve uniformity only by way of *voluntary* cooperation amongst the states.

Understandably, early in the Conference's history, many feared that uniformity would be externally imposed, despite the appearance of voluntary cooperation among the states. Detractors feared that the Conference would become a "superlegislature,"³¹ i.e. a pseudo-federal legislature dictating its notions of law upon the sovereignty of the states. Yet, because of the Conference's continual emphasis upon voluntary

³⁰NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, 2004-2005 REFERENCE BOOK 93 (2004)[hereinafter REFERENCE BOOK](reprinting National Conference of Commissioners on Uniform State Laws Constitution).

³¹See WALTER P. ARMSTRONG, JR., *supra* note 7, at 21.

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cooperation amongst the states, many of the Conference's initial detractors were wrong. The Conference, as a voluntary cooperative enterprise amongst the states, did not essentially become the feared "superlegislature." In no significant sense did the Conference become a vehicle through which the sovereignty of the states, theoretically protected by the Tenth Amendment of the United States Constitution, became further eroded. On the contrary, the Conference in fact became, and continues to be, a mitigating factor against this centralizing force. The Conference's focus on maintaining voluntary state participation in a cooperative enterprise has insured its substantial success, from its beginning in 1892 to the present.

The Conference's success is perhaps no more evident than in its avoidance of federal legislation, in areas of laws where Congress could have conceivably imposed its will upon the states. True, a significant portion of the Conference's purpose has been to enact appropriate uniform laws which are in the exclusive jurisdiction of the states. However, a significant portion of the Conference's work has also been to promulgate laws which are in the concurrent jurisdiction of the Congress and which have not been pre-empted by Congress. And indeed, on many occasions, the Conference, by first acting in the field, has in fact supplanted the need for federal legislation. In so doing, the Conference's work has permitted the States to protect the sovereignty they so often resolutely cherish vis-a-vis the federal government. Ironically, the Conference has protected state sovereignty by way of its goal for uniformity.

Admittedly, the Conference's continued emphasis upon individual state sovereignty has not been without its risks. This continued stress on maintaining individual state sovereignty, even to the point of allowing individual state commissioners to recommend passage of individually amended uniform laws, has raised the possibility of emasculating the benefits of this cooperative enterprise, thus also raising the specter of possible federal intervention. Nevertheless, the record of the Conference—in most instances—has demonstrated otherwise.

In fact, the record of the Conference's signature product, the Uniform Commercial Code,³² stands as a prime example. The Code, arguably the most individually amended uniform law, has demonstrated that uniformity can nevertheless exist in the midst of plurality, and that this uniformity, even if individually

³²*Supra* note 11.

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amended, can nevertheless obviate the need for federal legislation. The Code, despite the nuances of its expression in various state codes, has acted as a national piece of legislation permitting uniformity in an area vital to the nation's economy. Its overwhelming success has obviated any need for Congress to intervene in an area largely seen by the federal courts to be within congressional domain.

As the experience of the Uniform Commercial Code has demonstrated, the Conference's purpose of attaining uniformity precisely within the limits of voluntary state cooperation has been crucial to the Conference's success. With its continual stress on voluntary participation, the Conference has provided the context in which the states have been encouraged to cooperate with one another to solve national problems. In so doing, the Conference has permitted the states to achieve national solutions, and hence avoid federal encroachment upon state sovereignty.

C. MEMBERSHIP

Another reason for the contributions of the Conference has been the distinguished character of its members, not to mention their seemingly untiring, if not sacrificial dedication to the work of the Conference. Typically, each state has been represented by three to four Commissioners appointed by the governors of the individual states. Remarkably, no specific level of qualification has generally been delineated in the various authorizing statutes. Washington's authorizing statute for example has been typical. The legislative mandate merely directs the Governor to appoint as Commissioners "suitable persons."³³ To be sure, the National Conference has traditionally required that Commissioners be "members of a bar of a state."³⁴ And this requirement has gone along way in making sure that Commissioners are minimally competent. Still, the possibility has existed that members lacking distinction—not to mention dedication to the high demands of Conference's work—will be chosen.

Yet, that possibility has by and large not become reality. On the contrary, highly distinguished men

³³WASH. REV. CODE ANN. § 43.56.010 (West 1983).

³⁴See REFERENCE BOOK *supra* note 30, at 94.

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and women have served the National Conference. In fact, the distinguished character of the Conference's membership can be demonstrated by a select cadre of luminary members who have served the Conference. President Woodrow Wilson, as well as United States Supreme Court Justices Louis D. Brandeis, Wiley B. Rutledge, and William F. Rehnquist, have served the Conference with distinction. Similarly, Roscoe Pound, George Bogert, Samuel Williston, John Wigmore, and William Prosser—undisputed luminaries from the world of legal academia—have also served the Conference with distinction.

Currently, the Conference includes approximately three hundred members of similarly distinguished character—members richly drawn from the ranks of law school deans and professors, judges, state legislators and practicing attorneys. The distinguished character of the Conference's members has been a major reason for its success over the years.

D. HOW A UNIFORM LAW BECOMES PROMULGATED

Still, another major reason for the Conference's high standing in American law has been the rigorous procedural methods the Conference has employed over the years to insure the high quality of the laws it promulgates.

The Conference's rigorous procedural methods have essentially remained the same in its century of service, with the exception of one major change in the late thirties. Beginning in 1939, the President of the Conference was no longer required to request the American Bar Association's endorsement of any uniform acts approved and recommended by the Conference for enactment by the states.³⁵ Aside from this change, however, the Conference's long and arduous process of promulgating an uniform or model law has remained largely intact.³⁶

³⁵For an extended discussion of this change, see WALTER P. ARMSTRONG, JR., *supra* note 7, at 54-56. Although approval by the American Bar Association was no longer required after 1939, the Conference, in subsequent years, has nonetheless submitted—as a matter of practice—proposed uniform laws to the American Bar Association for approval.

³⁶For a general overview of the National Conference's procedural steps in promulgating uniform/model laws, see REFERENCE BOOK, *supra* note 30 (reprinting Constitution of the National Conference of Commissioners on Uniform State Laws). See especially Article 8 of the Constitution, entitled "Final Approval of Acts." *Id.*, at 99.

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The process, though long and arduous, has involved relatively few steps. Traditionally, the Conference's Committee on Scope and Program has first assessed whether a need in fact exists for a uniform or model law in a particular area. Is there a need for a law which every state should be urged to adopt? Alternatively, in terms of a model law, is there a need for a law which should be recommended to the states but does not require uniformity? Here, in the answering of these questions, the Committee on Scope and Program over the years has made many important determinations on behalf of the Conference.

Once the Committee on Scope and Program has decided that various uniform or model laws should be pursued, the Conference has then traditionally selected drafting committees from its membership. Members of the drafting committees have been typically chosen to insure diversity within a pool of high expertise.

Once formed, the various drafting committees have then performed a great deal of Conference's basic groundwork. Initially, the individual drafting committees have sought the requisite information necessary for the appropriate consideration of a uniform or model law. Almost invariably, the drafting committees have sought information not only internally but also externally, from various outside individuals, groups, etc. having specialized knowledge in that area. The input of such groups as the American Bar Association, the American Law Institute, and the Council of State Governments, has been particularly solicited. Similarly, the often invaluable input from distinguished legal experts in specific areas of the law has also been actively solicited.

At this stage in the process, the importance of the work of the official reporters for the drafting committees cannot be overstated. The reporters' work in gathering—and digesting—this information has played a key role in the development of many a successful uniform act. The reporters' work in researching various options and consequences—as well as the reporters' skill in drafting well-crafted pieces of legislation—have been vital to the drafting committees' work. To be sure, the same reporters have also traditionally played a vital role once a uniform law has worked its way beyond the drafting committee stage—namely, in advising other committees, assisting the Committee of the Whole as it considers the uniform law, and finally in preparing the Official Comments that are so central in the interpretation of the acts. Nonetheless, the importance of the reporters' work in first gathering relevant information and then

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crafting a uniform act cannot be overstated.

Once all the information has been gathered and carefully considered—a process often taking many years—the various drafting committees, under the guidance of the official reporters, have then typically debated the merits of the proposed law. The debates themselves have been traditionally thorough and exhaustive. If still affirming the need for Conference involvement in this area, the drafting committees—according to the Conference's procedure—have submitted the proposed law for "initial consideration" to the Conference as a whole.

Traditionally, the Conference has "initially" considered the various drafting committees' proposals during its annual meeting—which, as we have observed, typically meets prior to the American Bar Association's annual summer meeting. Of course, many might conclude that the Conference has merely rubber-stamped the work of the drafting committees during its annual meetings. On most accounts, however, the opposite has been true. Many a spirited and intense debate has occurred on the floor of the Conference's annual meeting. The proposed law has traditionally been thoroughly examined from top to bottom—not only line by line, but quite often word by word. The thoroughness of the Conference's deliberation on proposed laws is no doubt what led former Commissioner, now Chief Justice Rehnquist, to remark in 1991, "I have seen many deliberative bodies before and since, but in none were the discussions of the same high quality."³⁷

After the often intense debate, the uniform/model law has then been traditionally submitted to a vote by the Conference as a whole. If failing to acquire the requisite approval, the proposed law has traditionally died. However, if acquiring the requisite majority vote, the proposed law has remained alive.

Yet, even if the law survives the initial consideration by the Conference, the proposed law's journey has not been traditionally considered complete. To insure that the law is indeed "desirable and practicable," the proposed law has been required to survive still another intense debate on the floor of the Conference at its Annual Meeting the following year.³⁸ Only if the law survives that second vote by the Conference

³⁷William F. Rehnquist, *Foreword* to WALTER P. ARMSTRONG, JR., *supra* note 7.

³⁸*Id.*, at 99 (reprinting National Conference of Commissioners on Uniform State Laws Constitution § 8.1(a)(3))

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as a whole as a has the law then been submitted to final vote by the states. In the vote, each state and territory has one vote, and success is procured through majority approval.³⁹ Only if the proposed law survives this final vote by the states has it then been finally recommended by the Conference for adoption in the states. Only then have the Commissioners been obligated and charged by the Conference's Bylaws to then "endeavor to procure consideration by the legislature of the state, unless the Commissioners deem the act unsuitable or impracticable for enactment in their state."⁴⁰ Once the state commissioners have deemed an act suitable and practicable for enactment in their states, those commissioners have then frequently found themselves in a lengthy and arduous process of securing passage in their respective states—a process often requiring numerous years.

As we can see, the Conference's procedural steps in promulgating acts have been long and arduous. Its procedures have been a central factor in the Conference's work in first promulgating and then enacting numerous uniform/model acts around the country.

To be sure, the process is not without its faults. Critics over the years have enumerated several weaknesses.⁴¹ The drafting procedure, critics have argued, is too susceptible to capture by special interests. What's more, the process is not entirely—or at least sufficiently—open to the public. It does not include a sufficient array of all parties who will be affected by the legislation. In turn, the process is all too cumbersome, requiring meeting upon meeting, draft upon draft. On a related note, the process is far too long. On too many occasions, the critics argue, by the time a uniform law is promulgated, the reason for the piece of legislation—or at least a significant component of it—no longer exists. To a certain extent,

³⁹REFERENCE BOOK, *supra* note 30, at 100 (reprinting National Conference of Commissioners on Uniform State Laws Constitution § 8.3). "An Act may be finally approved by the affirmative vote of 20 or more states which must also constitute a majority of the states voting on the question."

⁴⁰*Id.*, at 104 (reprinting National Conference of Commissioners on Uniform State Laws Bylaws, Article 27.1).

⁴¹For a nice, recent rendition of many of the criticisms that follow, see Andrew C. Spiropoulos, *Essay: the Uniform Law Process: Observations of a Detached Participant*, 27 OKLA. CITY U. L. REV. 585 (2002)(outlining, and in part agreeing, with these criticisms but ultimately casting the process employed by the National Conference in a positive light).

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all of these criticisms carry some weight.

Still, it is hard to deny that the rigorous process the Conference employs has not been a primary factor in the high quality of the uniform/model laws it has promulgated. That process—in some very significant ways—has played a key role in permitting the Conference to produce the high quality laws it has promulgated in its one hundred plus years of existence. The high quality of those laws bears positive witness to the process the Conference has employed. The Conference’s process—however flawed—has been a pivotal factor in its own success.

E. HISTORIC LAWS PROMULGATED BY THE CONFERENCE

Nothing, however, accounts more for the success of the Conference than the historic laws it has promulgated. To be sure, the Conference's purpose of achieving uniformity to protect state sovereignty, its distinguished membership, and the rigorous procedural steps it has employed to promulgate laws, have all been pivotal in establishing the Conference's position in American law. Yet, nothing accounts more for the Conference's success than the highly regarded laws it has produced in its century-plus of service. Those laws, and perhaps ultimately those laws alone, account for the high standing the Conference has occupied, and continues to occupy, in American law.

Admittedly, the Conference has withdrawn numerous acts, either because they have become obsolete or because they have been superseded. Yet, this observation does not necessarily cast a negative light on the Conference's work. In fact, it may illuminate one positive hallmark, namely its adaptability. In its hundred and ten years of work, the Conference has continually recognized the fluidity of American Society—a fluidity requiring constant response to ever-changing legal circumstances. The Conference's adaptability to this change over the years has arguably secured its own success..

In the early years of the twentieth century, the Conference understandably focused on issues raised by a burgeoning national economy and society as well as developments of new technologies heretofore unknown, namely such technologies as the now commonplace automobile and airplane. Accordingly, the Conference drafted laws to permit interstate cooperation in such areas as commerce, transportation, and

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interstate procedural law, and interstate domestic law. Amongst its more notable acts were the Uniform Stock Transfer Act,⁴² the Uniform Negotiable Instruments Act,⁴³ the Uniform Sales Act,⁴⁴ the Uniform Warehouse Receipts Act,⁴⁵ the Uniform Declaratory Judgments Act,⁴⁶ the Uniform Act to Secure the Attendance of Witnesses from without a State in Criminal Proceedings,⁴⁷ and numerous acts regarding divorce.⁴⁸ Also noteworthy was the Conference's pioneering work in partnerships, trusts, torts, and child labor. The Conference, responding to specific issues arising in a burgeoning economy and national life, chartered the course of the adopting specific, often piecemeal laws in specific problematic areas of the law.

Nonetheless, beginning in the forties, the Conference adopted a decidedly new approach to the drafting of uniform laws. The approach was quintessentially embodied in the drafting of the Conference's signature product, the Uniform Commercial Code.⁴⁹ The Conference, as we have seen, had promulgated arguably piecemeal laws regarding commerce in the various states. The Uniform Sales Act⁵⁰ and the Uniform Warehouse Receipts Act⁵¹ were two prime examples. Yet, now the Conference, in close cooperation with the American Law Institute, attempted to approach the problems of an even more intricate interstate commerce situation by an even more comprehensive solution. The solution, the Conference believed, would come in the guise of one code, treating everything from everyday sales transactions to the

⁴²*Supra* note 11.

⁴³*Supra* note 11.

⁴⁴UNIF. SALES ACT (1906), *superseded* by the UNIF. COMMERCIAL CODE, *supra* note 11.

⁴⁵*Supra* note 11.

⁴⁶*Supra* note 11.

⁴⁷*Supra* note 11.

⁴⁸AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATIVE TO DIVORCE PROCEDURE AND DIVORCE FROM THE BONDS OF MARRIAGE (1900); AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAW OF OTHER STATES RELATIVE TO MIGRATORY DIVORCE (1901); AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATIVE TO DIVORCE PROCEDURE AND DIVORCE FROM THE BONDS OF MARRIAGE (1901); and finally, AN ACT REGULATING ANNULMENT OF MARRIAGE AND DIVORCE (1907).

⁴⁹*Supra* note 11.

⁵⁰*Supra* note 11.

⁵¹*Supra* note 11.

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more complex areas such as secured transactions and commercial instruments. Remarkably, over a span of roughly thirteen years, the Conference was able to draft just such a comprehensive, formidable piece of legislation.

The overwhelming success of the Uniform Commercial Code cannot be questioned. Within fifteen years of its promulgation, a majority of the states codified the Uniform Act within its commercial laws. Only the State of Louisiana, with its tradition of the French Civil Code, was slow in adopting the Code. Yet, it too by the mid-seventies had in large part adopted the Code,⁵² thus substantially making the fifty states uniform with respect to commercial legislation.

To be sure, as we have noted, the Code was individually amended by most of the states, thus making it somewhat less than ideally uniform. Nonetheless, the Code stood, as it still stands today, as a uniform law which in fact attained uniformity despite the minor state nuances. Very early after its promulgation, the Code stood as the hallmark success of the National Conference, and aptly demonstrated the Conference's new emphasis, now well established in the fifties, to attack problems by way of comprehensive solutions.

With the success of the Code substantially secured by the mid-sixties, the Conference continued its move toward comprehensive solutions. Now, however, the Conference moved its emphasis in different directions. Indeed, as Professor Hogan has noted, the conference, in the sixties, moved "somewhat from its traditional mission of providing a means to unify state law, particularly in commercial transactions, toward a role of developing more extensive acts related to perceived social problems and their control."⁵³ As Professor Hogan has also aptly noted, the Conference subsequently promulgated, in accordance with

⁵²Louisiana in the mid-seventies did not adopt the Uniform Commercial Code as such. However, Louisiana substantially adopted then Articles 1, 3, 4, 5, 7 and 8 of the Code. Act of July 8, 1974, Act No. 92, 1974 La. Acts 267; Act of June 29, 1978, Act No. 164, 1978 La. Acts 450; Act of June 29, 1978, Act No. 165, 1978 La. Acts 476. Similarly, Louisiana has also in large part adopted Article 9. Act of July 8, 1988, Act No. 528, 1988 La. Acts 1367.

⁵³William E. Hogan, *The NCCUSL: With a Name like That It Must Be Useful*, 6 CORNELL L. F. 2 (1979).

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this new direction, laws concerning consumer credit,⁵⁴ unfair sales practices,⁵⁵ class actions,⁵⁶ and debtor's exemptions.⁵⁷ Similarly, the Conference also addressed issues of uniformity in the last bastion of traditionally understood state sovereignty—namely real property law.⁵⁸ Accordingly, the Conference, in the late sixties and into the seventies, promulgated the Uniform Landlord-Tenant Act,⁵⁹ the Uniform Land Transactions Act,⁶⁰ the Uniform Simplification of Land Transfers Act,⁶¹ and the Uniform Condominium Act.⁶² In turn, the Conference also addressed such areas as uniformity regarding rules of evidence⁶³ as well as criminal law and procedure.⁶⁴

Yet, finally and perhaps most notably, the Conference attempted uniformity in the area of probate in the attempt to attain simpler, more expeditious means of dealing with testamentary and non-testamentary transmissions of wealth. This latter comprehensive solution, namely the Uniform Probate Code,⁶⁵ which culminated in the eighties and exemplified the work of the Conference during this time, arguably assumes second place only to the Uniform Commercial Code as one of the Conference's major achievements in its first century of service.

The Conference's recent work has continued this history of service and distinguished work product—albeit not necessarily always approaching issues with a broad brush but instead focusing on

⁵⁴UNIF. CONSUMER CREDIT CODE (1968), 7 Pt. III U.L.A. 285 (2002).

⁵⁵UNIF. DECEPTIVE TRADE PRACTICES ACT, 7A Pt. I U.L.A. 140 (2002).

⁵⁶UNIF. LAW COMMISSIONERS' MODEL CLASS ACTIONS [ACT][RULE], 12 U.L.A. 99 (1996).

⁵⁷UNIF. EXEMPTIONS ACT, 13 Pt. 1 U.L.A. 276 (2002).

⁵⁸Hogan, *supra* note 53.

⁵⁹UNIF. RESIDENTIAL LANDLORD AND TENANT ACT, 7B U.L.A. 527 (2000).

⁶⁰UNIF. LAND TRANSACTIONS ACT, 13 Pt. II U.L.A. 160 (2002).

⁶¹UNIF. SIMPLIFICATION OF LAND TRANSFERS ACT, 14 U.L.A. 249 (1990).

⁶²UNIF. CONDOMINIUM ACT, 7 Pt. II U.L.A. 450 (2002).

⁶³UNIF. RULES OF EVIDENCE, 13A U.L.A. 211 (2004).

⁶⁴*E.g.*, UNIF. CODE OF MILITARY JUSTICE, 11 U.L.A. 197 (2003).

⁶⁵UNIF. PROBATE CODE, *supra* note 12.

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smaller, more specific issues.

In the early nineties, the Conference tackled specific challenges arising from an increasingly global and technological society. In order "to keep pace with technology and a rapidly changing global market," the Conference "reworked laws covering electronic transmission of letters of credit, investment practices and limited liability companies."⁶⁶ The Conference approved amendments to Articles 5 and 8 of the Uniform Commercial Code,⁶⁷ amendments to the Uniform Common Interest Ownership Act,⁶⁸ and revisions to both the Uniform Limited Liability Company Act⁶⁹ and the Uniform Prudent Investor Act.⁷⁰ The Conference also amended Article 2 of the Uniform Commercial Code, particularly to insure that the Code adequately addresses a wide range of disputed issues stemming from software licensing not then currently handled by existing Article 2.⁷¹ Other notable Conference's contributions include the Revised Uniform Partnership Act,⁷² the Model Employment Termination Act,⁷³ the Uniform Correction or Clarification of Defamation Act,⁷⁴ the Uniform Health-Care Decisions Act,⁷⁵ and the Uniform Interstate Family Support Act.⁷⁶

In the mid-to-late nineties, the Conference addressed such issues as arbitration, electronic commerce, adoption, computer transactions, and secured transactions. In response, the Conference

⁶⁶Randall Sandborn, *Model Business Laws Get Commission Make-Over: Uniform Codes Covering Security Practices, Electronic Transmission of Letters of Credit and More are Updated*, 8/15/94 NAT. L. J. B1 (col.2).

⁶⁷Articles 5 and 8, Unif. Commercial Code

⁶⁸UNIF. COMMON INTEREST OWNERSHIP ACT (1994), 7 Pt. I U.L.A. 471 (2002).

⁶⁹UNIF. LIMITED LIABILITY COMPANY ACT (1996), 6A U.L.A. 553 (2003).

⁷⁰UNIF. PRUDENT INVESTOR ACT 7B U.L.A. 280 (2000).

⁷¹Sandborn, *supra* note 66.

⁷²REV. UNIF. PARTNERSHIP ACT, 6 Pt. 1 U.L.A. 1 (2002).

⁷³UNIF. LAW COMMISSIONERS' MODEL EMPLOYMENT TERMINATION ACT, 7A Pt. I U.L.A. 300 (2002).

⁷⁴UNIF. CORRECTION OR CLARIFICATION OF DEFAMATION ACT, 12 U.L.A. 291 (1996).

⁷⁵UNIF. HEALTH CARE DECISIONS ACT, 9. Pt. 1B U.L.A. 143 (2005).

⁷⁶UNIF. INTERSTATE FAMILY SUPPORT ACT (1992), 9 Pt. 1B U.L.A. 393 (2005).

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promulgated such acts as the Uniform Arbitration Act,⁷⁷ the Uniform Electronic Transactions Act,⁷⁸ the Uniform Adoption Act,⁷⁹ and Revised Article 9 of the Uniform Commercial Code.⁸⁰

In the early 2000's, the Conference completed its decade-long project of updating and revising the Uniform Commercial Code. The Conference also returned to its approach of drafting comprehensive acts to address a whole body of law, this time in the area of trusts, putting the finishing touches on the Uniform Trust Code.⁸¹ Similarly, the Conference devoted considerable energy to the completion of the Uniform Securities Act.⁸² Perhaps most well known—and controversial—was the Conference's Uniform Computer Information Transactions Act promulgated in 2002.⁸³ Also noteworthy was the Conference's focus on a number of family issues, with the Conference working to enact various domestic-related acts, including the Uniform Child Custody Jurisdiction and Enforcement Act,⁸⁴ the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act,⁸⁵ the Uniform Interstate Family Support Act,⁸⁶ and the Uniform Parentage Act.⁸⁷

In the last few years, the Conference has been quite successful in enacting many of its initiatives.⁸⁸ Topping the list of recent legislative enactments are: revisions to Articles 1 and 7 of the Uniform

⁷⁷UNIF. ARBITRATION ACT (2000), 7 Pt. I U.L.A. (Supp. 2004).

⁷⁸UNIF. ELECTRONIC TRANSACTIONS ACT, 7A Pt. 1 U.L.A. 211 (2002).

⁷⁹UNIF. ADOPTION ACT (1994), 9 Pt. IA U.L.A. 11 (1999).

⁸⁰UNIF. COMMERCIAL CODE (Revised Article 9)

⁸¹UNIF. TRUST CODE, 7C U.L.A. (Supp. 2004).

⁸²UNIF. SECURITIES ACT (2002), 7C U.L.A. (Supp. 2004).

⁸³UNIF. COMPUTER INFORMATION TRANSACTIONS ACT, 7 Pt. II U.L.A. 195 (2002).

⁸⁴UNIF. CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT, 9 Pt. IA U.L.A. 649 (1999).

⁸⁵UNIF. INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE PROTECTION ORDERS ACT, 9 Pt. IB U.L.A. (Supp. 2004).

⁸⁶UNIF. INTERSTATE FAMILY SUPPORT ACT (2001), 9 Pt. 1B U.L.A. (Supp. 2004).

⁸⁷UNIF. PARENTAGE ACT (2000), 9B U.L.A. 295 (2001).

⁸⁸NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, ANNUAL REPORT 6 (2003-2004).

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Commercial Code,⁸⁹ the Uniform Athlete Agents Act,⁹⁰ the Uniform Electronic Transactions Act,⁹¹ and the Uniform Securities Act.⁹²

At its most recent Annual Meeting in 2004 in Portland Oregon, the Conference passed four new uniform/model acts. They include the Uniform Real Property Electronic Recording Act,⁹³ the Uniform Residential Mortgage Satisfaction Act,⁹⁴ The Model Entity Transactions Act,⁹⁵ and the Uniform Wage Withholding and Unemployment Insurance Procedure Act.⁹⁶

Currently, the Conference has a number of Drafting Committees endeavoring to draft anew, amend, revise or supplement thirteen different acts, including the Agricultural and Agricultural Related Cooperatives Act, the Uniform Anatomical Gift Act, the Uniform Assignment of Rents Act, the Business Trust Act, the Certificate of Title Act, the Uniform Common Interest Ownership Act, the Consumer Debt Counseling Act, the Uniform Durable Power of Attorney Act, the Model Entity Transactions Act, the Uniform Foreign Country Money Judgments Recognition Act, the Uniform Limited Liability Company Act, the Uniform Management of Institutional Funds Act, the Standards for the Protection of Children from International Abduction Act, the Role of Attorneys in Representing Children in Child Custody Disputes Act, and finally an the Model State Administrative Procedures Act.⁹⁷

Clearly, the National Conference appears quite committed to continue, if not enhance, its record of service. The Conference appears primed to contribute even more to the numerous significant uniform/model laws it has promulgated in its century-plus years of service.

⁸⁹Unif. Commercial Code (Articles 1 and 7)

⁹⁰UNIF. ATHLETE AGENTS ACT, 7 Pt. I U.L.A. (Supp. 2004).

⁹¹UNIF. ELECTRONIC TRANSACTIONS ACT, *supra* note 11.

⁹²UNIF. SECURITIES ACT (2002), 7C U.L.A. (Supp. 2004).

⁹³UNIF. REAL PROPERTY ELECTRONIC RECORDING ACT (2004).

⁹⁴UNIF. RESIDENTIAL MORTGAGE SATISFACTION ACT (2004)

⁹⁵THE MODEL ENTITY TRANSACTIONS ACT (2004).

⁹⁶UNIF. WAGE WITHHOLDING AND UNEMPLOYMENT INSURANCE PROCEDURE ACT (2004).

⁹⁷NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, ANNUAL REPORT 14-15 (2003-2004).

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In light of all of these accomplishments during its 112 year history, the Conference's contribution to American law cannot be overestimated. Nor can the promise of its future contributions. The highly regarded character of its uniform and model laws has solidified the Conference's high standing in American law. Those laws form the context in which the Conference's work, both past and future, can be appreciated. Yet, even more importantly for our purposes, they also form the context in which the work of the Washington State Uniform Legislation Commission—now celebrating its centennial—can also be recognized and appreciated.

III. THE WASHINGTON STATE UNIFORM LEGISLATION COMMISSION: TOWARD A SECOND CENTURY OF SERVICE

The existence of the Washington State Uniform Legislation Commission roughly mirrors the existence of the State of Washington itself. The Commission became a contributing entity just sixteen years after the Territory of Washington itself obtained Statehood. As such, the Commission has had the unique opportunity of influencing the development of Washington law since early Statehood.

The Washington State Uniform Legislation Commission came into existence in 1905, under the auspices of House Bill 120, passed by the Washington State Legislature in February of 1905 and subsequently approved by then Governor Albert E. Mead in March of the same year.⁹⁸

The legislative mandate stipulated that "the Governor shall appoint three suitable persons" as commissioners.⁹⁹ The mandate moreover stipulated that "they and their successors are hereby constituted 'A Board of Commissioners for the Promotion of Uniformity of Legislation in the United States.'"¹⁰⁰ Yet, perhaps most significantly, the legislative mandate also stipulated four primary duties incumbent upon the Commissioners and their successors. First, the Board of Commissioners shall "examine the subject of marriage of divorce, insolvency, the descent and distribution of property, the execution of probate of wills

⁹⁸*Supra* note 2.

⁹⁹*Id.*, § 1.

¹⁰⁰*Id.*

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and other subjects upon which uniformity of legislation in the various States and Territories of the Union is desirable, but which are outside of the jurisdiction of the Congress of the United States."¹⁰¹ Second, the Board shall "confer upon these matters with the Commissioners appointed by other States and Territories for the same purpose."¹⁰² Third, the Board shall "consider and draft uniform laws to be submitted for approval and adoption by the several States."¹⁰³ Finally, the Board shall generally "devise and recommend such other and further course of action as shall accomplish the purposes of this act."¹⁰⁴ On perhaps a more mundane level, the legislative mandate also stipulated that the Board "shall keep a record of all its transactions, and shall, at each biennial session of the Legislature...make a report of its doings and of its recommendations to the Legislature."¹⁰⁵ Perhaps most significantly, however, the legislative mandate also stipulated that "no member...shall receive compensation for his services" but shall receive reimbursement for "actual traveling and other necessary expenses," etc.¹⁰⁶ As we can see, the legislative mandate of the Commission was firmly codified in 1905. With the commissioners appointed soon thereafter, the stage was set for the Commission's long history of service.

Over the years, very little has changed regarding the legislative mandate itself. In 1965, the Commission's mandate was recodified. Yet only minor changes in the statutory text occurred, one of which included eliding reference to the statutory name of the Board, thus leaving room for the Commission's adoption of the name Washington State Uniform Legislation Commission, which it employs to this day.¹⁰⁷ Similarly, in 1975 and 1976, minor changes were also made to the Commission's statutory authority concerning reimbursement for necessary expenditures.¹⁰⁸ In 1987, the legislative mandate requiring the

¹⁰¹*Id.* § 2

¹⁰²*Id.*

¹⁰³*Id.*

¹⁰⁴*Id.*

¹⁰⁵*Id.* § 3.

¹⁰⁶*Id.* § 4.

¹⁰⁷Act of Mar. 5, 1965, ch. 8, § 43.56.010, 1965 Wash. Laws 650.

¹⁰⁸Act of Feb. 20, 1976, ch. 34, § 118, sec. 43.56.040, 1975-76 Wash. Laws 2d. Ex. Sess. 124.

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Commission to keep records and report to the Legislature at least biennially "in every odd year" was abolished.¹⁰⁹ Finally, in 2001, the composition of the commission was altered to include the Code Reviser of the State as a full voting member.¹¹⁰ The addition formalized participation of the Code Reviser in the Commission's deliberation—a role the Reviser had already informally played (without a vote) since 1960 as an associate member. To be sure, the amendment enriched the Commission with a full new member with specialized expertise in statutory uniformity and construction. The amendment also helped the Commission avoid the cumbersome requirements of the Open Public Meetings Act,¹¹¹ which triggered public access whenever a quorum of the Commission met or communicated—in this instance just when two of the three members of the Commission met.¹¹² With the addition of the fourth member, those cumbersome requirements were avoided in the event only two Commissioners met or communicated. In any event, the amendment—like the few others that have occurred in the one hundred year history of the commission—did not substantially change the legislative mandate itself. Little, if any, substantial change has occurred over the years regarding that mandate.

The same, however, cannot be said of the Commission's membership. The Commission's membership has included a wide array of dynamic individuals over the years—all of whom, in their own unique ways, have insured the success of the Commission in contributing the life and law of Washington.

A. MEMBERSHIP

Mirroring the National Conference, the Commission's accomplishments have in large part due to

¹⁰⁹Act of May 19, 1987, ch. 505, § 88, 1987 Wash. Laws 2306.

¹¹⁰Act of May 7, 2001, ch. 205, 2001 Wash. Laws

¹¹¹WASH. REV. CODE ANN. §§ 42.30.010 et seq.

¹¹²*Id.*

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its distinguished members over the years. In its one hundred years of service, the Commission has had a total of twenty-four Commissioners, including three lifetime members and two associate members. See Appendix B for an alphabetical listing of the Commissioners.¹¹³ Members over the years have included seven law school professors, eight practitioners, five legislators, two judges, and two State Code Revisers. Two of the Commission's members, after their service on the Commission, later became Justices of the Washington State Supreme Court.¹¹⁴

The first "Board of Commissioners for the Promotion of Uniformity of Legislation in the United States" included Charles E. Shepard, Ira P. Englehart, and Alfred Battle. Other members over the years have included: Robert Aronson, Richard Cosway, Arthur W. Davis, Fred H. Dore, Alfred Harsch, Francis E. Holman, Charles Horowitz, R.J. Hudson, Cynthia Imbrogno, W.G. McLaren, Richard S. Munter, Rosselle Pekelis, George V. Powell, Dix H. Rowland, George N. Stevens, W.B. Tanner, John B. Van Dyke, and Richard O. White. See Appendix C for a chronological listing of the Commissioner's service in the Commission's one hundred years of existence. Currently, the Commission's members are: Martin J. Appelwick, Judge, Washington State Court of Appeals; John M. Cary, Attorney, Law Offices of John M. Cary; Dennis Cooper, Code Reviser for the State of Washington; and Anita Ramasastry, Associate Professor of Law, University of Washington School of Law. Professor Ramasastry currently serves as the Commission's Chair, as she has done since 2003. Noteworthy for length of service are Charles E. Shepard (1905-1927), Dix H. Rowland (1922-1958), Alfred Battle (1905-1921), Francis E. Holman, Seattle, WA (1967-91), Richard Cosway (1969-1995), Robert Aronson (1989 - 2004), and Marlin Appelwick (1985 - date). Regardless of length of service, however, all of Washington's Commissioners have served the State with dignity and dedication.

¹¹³I would like to thank Martin Cerjan, now Assistant Dean for Library and Information Technology, Vanderbilt University School of Law, formerly Reference Librarian, Gallagher Law Library, University of Washington School of Law, for help in constructing this table as well as the table found in Appendix C, which lists annual composite membership of the Washington State Uniform Legislation Commission. Additional thanks go to Mr. Cerjan for his assistance in compiling the biographies of the commissioners, located in Appendix D.

¹¹⁴Commissioners Fred Dore and Charles Horowitz, subsequent to their respective tenures on the Washington State Uniform Legislation Commission, served on the Washington State Supreme Court.

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B. ACTIVITIES OF COMMISSIONERS AND PROCEDURES EMPLOYED TO SECURE PASSAGE OF PROMULGATED LAWS

The activities of the State Commission's members have of course included the statutorily defined duties. Admirably, however, the Commissioners have far exceeded them. The Commissioner's members, we have seen, are under statutory mandate to complete a set of explicit duties, i.e. considering laws applicable for uniformity amongst the states, working with the National Conference, etc. Yet, the Commissioners' activities have laudably extended far beyond those positively defined. For to fulfill those expressly delegated duties with distinction, the Commissioners have had to fulfill another set of subsidiary, but no less important tasks.

The activities of the Commissioners—including those extending far beyond the statutorily defined duties—can perhaps be best understood by tracing the Commissioner's activities in the life of a successful uniform/model law, from its initial consideration by the National Conference to its passage through the halls of the Washington Legislature.

Washington's Commissioners have been involved over the years in the very initial stages of a uniform law, namely consideration of proposals offered as laws fit for promulgation by the National Conference. Here, Washington's Commissioners have been particularly attentive to the expression of the Washington State Bar Association, other specialized Washington legal associations, and last but not least, non-legal organizations concerned with developing uniformity of law amongst the States in various, and often times problematic, areas of the law. Not only have the Commissioners received and considered advice from such groups; they have actively solicited it. Washington's Commissioners, as a part of their duty, have been attentive to suggestions which they in turn could suggest to the National Conference's Committee on Steering and Program as possible candidates for uniform/model laws.

Once proposals have been approved by the Committee on Steering and Program, Washington's Commissioners have then been deeply involved the work of the drafting committees and their consideration of uniform laws possibly suitable for recommendation to the Conference as a whole. Here, Washington's Commissioners have participated in the solicitation and consideration of viewpoints regarding proposed

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uniform laws—viewpoints not just representing the interests of Washington State but those representing interests from all over the nation. Also, the Commissioners have been involved at this stage in creating the analytical papers and correspondences necessary to the drafting committees fulfilling their function. The Commission's archives are replete with such papers and correspondences.¹¹⁵ Perhaps most importantly, however, Washington's Commissioners have been deeply involved in the very heart of the Drafting Committee's function, the intense debate necessary to insure the quality of uniform laws offered for consideration by the Conference as a whole. Washington's Commissioners have vigorously participated in the meetings of the various drafting committees, meetings which regularly occur several times a year. The work of Charles Horowitz as Co-Chair of the Drafting Committee for the National Conference's historic Uniform Probate Code is but one notable example.¹¹⁶ Commissioner Horowitz also participated on the Drafting Committees of the Uniform Succession Without Administration Act¹¹⁷ and the Uniform Law Commissioners' Health-Care Consent Act.¹¹⁸ Other notable examples include: Commissioner George Powell's participation in the drafting of the Uniform Division of Income for Tax Purposes Act¹¹⁹ and the Revised Uniform Estate & Tax Apportionment Act of 1964;¹²⁰ Commissioner Francis E. Holman's work on the Uniform Criminal History Records Act¹²¹ and the Uniform Extradition & Rendition Act;¹²² Commissioner Alfred Harsch's work on the Uniform Foreign Money- Judgments Act;¹²³ Commissioner

¹¹⁵*See, e.g.*, the Commission's archival material relating to the Uniform Probate Code; Commissioner Charles Horowitz, acting as Co-Chairman of Drafting Committee for the Code, contributed greatly to the numerous analyses of the proposed Code. In addition, the archives include innumerable analyses of numerous proposed uniform/model acts, to which Washington's Commissioners have contributed over the years (on file with the Washington State Office of Archives).

¹¹⁶UNIF. PROBATE CODE, *supra* note 12.

¹¹⁷UNIF. SUCCESSION WITHOUT ADMINISTRATION ACT, 8B U.L.A. 321 (2001).

¹¹⁸UNIF. LAW COMMISSIONERS' HEALTH-CARE CONSENT ACT, 9 Pt. 1B U.L.A. 119 (2005).

¹¹⁹UNIF. DIVISION OF INCOME FOR TAX PURPOSES ACT, 7A Pt. I U.L.A. 141 (2002).

¹²⁰REV. UNIF. ESTATE & TAX APPORTIONMENT ACT OF 1964, 8A U.L.A. 261 (2003).

¹²¹UNIF. CRIMINAL HISTORY RECORDS ACT, 11 U.L.A. 65 (2003).

¹²²UNIF. EXTRADITION & RENDITION ACT, 11 U.L.A. 87 (2003).

¹²³UNIF. FOREIGN MONEY - JUDGMENTS ACT, 13 Pt. II U.L.A. 39 (2002).

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Robert H. Aronson's work on the Uniform Rules of Evidence,¹²⁴ Commissioner Marlin J. Appelwick's work on the Uniform Interstate Family Support Act,¹²⁵ and finally Commissioner Anita Ramasastry's work as official reporter for the Uniform Money Services Act.¹²⁶

Washington's Commissioners, of course, have also been deeply involved in the next stage of the uniform law process, namely the intense and often spirited debate which has often occurred as the Conference as a whole considers laws recommended by the various Drafting Committees. Although the attendance of Washington's Commissioners at the Conference's annual summer meeting has at times been threatened, due in large part to fiscal crises in the State Budget,¹²⁷ the Commissioners have managed, often by way of their own funding in times of crisis,¹²⁸ to participate in these debates so crucial to the work of the National Conference. And indeed, Washington's Commissioners have contributed greatly to these debates. Their voice has often been a contributing factor in the Conference's consideration of various proposed uniform laws.

Still, the great bulk of the Commissioners work has come once a proposed uniform law has been approved and then adopted by the National Conference. First, the Commissioners have been required to determine as a whole whether the uniform law promulgated by the National Conference is in fact fit for incorporation into Washington law. To be sure, the Bylaws of the National Conference, for most of its existence, have required that each commissioner procure consideration of the promulgated act by the Washington State legislature.¹²⁹ However, those same Bylaws have traditionally permitted, if not required,

¹²⁴UNIF. RULES OF EVIDENCE (1999), 13A U.L.A. 1 (2004).

¹²⁵UNIF. INTERSTATE FAMILY SUPPORT ACT (1992), 9 Pt. 1B U.L.A. 393 (2005).

¹²⁶UNIF. MONEY SERVICES ACT, 7A Pt. II U.L.A. 100 (Supp. 2004).

¹²⁷*Supra* note 5.

¹²⁸*Id.*

¹²⁹*See e.g.* NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS CONSTITUTION, HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS AND PROCEEDINGS OF THE FORTY-EIGHTH ANNUAL CONFERENCE 447 (1938) (reprinting the National Conference of Commissioners on Uniform State Laws Bylaws, § 18). Section 18 (b) provided in relevant part that "It shall be the duty of the Commissioners from each state to endeavor...to procure enactment by the legislature of the state of such acts recommended by the National Conference as are deemed by the Commissioners suitable and practicable for enactment therein." Admittedly, this

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the commissioners to determine if the promulgated law is in fact practicable or suitable for enactment in their own individual states.¹³⁰ Moreover, the Washington State Legislative mandate of the Commission arguably also requires this initial determination.¹³¹ Accordingly, much time and energy, including the development of detailed analyses of the suitability of promulgated laws for the state of Washington, have been spent on this very important task of the Commission. Again, the archives of the Commission are replete with such analyses.¹³²

Nonetheless, once having made the initial determination that a uniform law promulgated by the National Conference is in fact suitable for incorporation into Washington law, the Commission has then pursued many a unique and original path in procuring its consideration and passage in the Washington State Legislature. Here, the Commissioners have had to devote considerable energy, often devising unique and original means to procure passage of the uniform law by the Washington State Legislature. The unique and original paths have arisen precisely because no formal means of procuring consideration and passage have ever existed. There has never been a requirement, for example, that the Commission first secure approval from the Washington State Bar Association of a uniform law before the Commission submits it to the Washington State Legislature. To be sure, the Commission has actively solicited the support of the State Bar and other relevant associations and organizations over the years, but there has never been a formal, or arguably informal, requirement that it do so.

Accordingly, the process by which the Commission has procured the consideration and passage of a uniform law by the Legislature has been largely *ad hoc*, and hence often creative. Quite often, the Commission, apropos the proposed uniform law, has strategically elicited the support of relevant interest groups. The Commission over the years has displayed considerable ingenuity in choosing the requisite

bylaw in no longer a constituent part of the National Conference's present Constitution and Bylaws. Nevertheless, because the explicitly delineated duty remained within the National Conference's charge, the practice still arguably remains in force today. Commissioners from each state, although not formally required, in all probability first assess whether a promulgated uniform/model act is indeed "suitable and practicable for enactment therein."

¹³⁰*Id.*

¹³¹*Supra* note 2.

¹³²*Supra*, note 115.

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constellation of concerned citizenry and interest groups necessary not only to acquire the necessary votes in both Houses but to obtain the Governor's signature without the exercise of the line-item veto, a power granted to the Governor in Washington, a power fraught with danger, particularly for a uniform law.

C. PASSAGE OF THE UNIFORM COMMERCIAL CODE

The Commission's ingenuity has perhaps been no more evident than in securing passage of the Uniform Commercial Code in 1965. Although Washington's experience in passing the Code was not as long and arduous as it was in many other states, passage of the Code nevertheless required countless hours and energy on the part of the Commission. Over roughly a ten year period, the Commissioners labored diligently to secure passage of the Code through the appropriate Committees of the Legislature, through both Houses, and finally as then Governor Daniel J. Evans considered signing Senate Bill 122, the legislative form of the Code.¹³³

Serious preliminary work for the passage of the Uniform Commercial Code in Washington started some six years after its initial promulgation by the National Conference in 1951. In 1957, then Commissioners Alfred Harsch, George Powell, and Dix H. Rowland began introducing the concept of a new Uniform Commercial Code to various members of the Washington legal and political communities. Most important within this introduction was simply attaining publicity for the Code itself. This publicity was vital because the Code was simply not known to many even within the political and legal communities, let alone the public at large. At this time, the Code had been adopted by a handful of states, and those states primarily resided in the east. Of course, in retrospect this lack of awareness concerning the Code seems somewhat inscrutable, given the wide popularity of the Code today. Still, the Code at the time was still largely obscure. Accordingly, much of the Commission's activities during 1957 and 1958 were largely spent in educating Washington's concerned citizenry in the superiority of having a commercial code uniform with respect to all of the states.

¹³³S.B. 122, 39th Legislature (1965).

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Here, the educational agenda included dissemination of the Code and various assorted informational pieces associated with it to various selected interested groups, contacting various key members within these groups, and finally, attaining wider publicity of the Uniform Commercial Code by way of various articles published in the Washington Law Review, articles either written by the Commissioners themselves or at their behest.¹³⁴ The Law Review articles were particularly seen as vital, inasmuch as experience from states having passed the code had demonstrated that some form of annotations to the code indicating how the code affected existing law was absolutely necessary for the its passage.¹³⁵

Although the educational component of the Commission's activities never ceased to exist during the long and arduous process, the Commission soon turned to another vital task. The Commission subsequently sought the explicit endorsement of various, relevant interest groups in the Washington legal and political communities. Here, the Commission roughly modeled the political/tactical agenda suggested

¹³⁴See, e.g., articles written by Professor Warren L. Shattuck on Article 9 of the Code. Warren L. Shattuck, *Secured Transactions (Other than Real Estate Mortgages)- A Comparison of the Law in Washington and the Uniform Commercial Code, Article 9*, 29 WASH. L. REV. 1 (1954), 29 WASH. L. REV. 195 (1954), and 29 WASH. L. REV. 263 (1954). Professor Ralph W. Johnson also contributed an introductory analysis of Article 2 of the Code. Ralph W. Johnson, *Sales- A Comparison of the Law in Washington and the Uniform Commercial Code*, 34 WASH. L. REV. 78 (1959). Finally Professor Cosway, at the time, was working on the remaining parts of the Sales Article. E.g. Richard Cosway, *Sales- A Comparison of the Law in Washington and the Uniform Commercial Code*, 35 WASH. L. REV. 412 (1960), 35 WASH. L. REV. 617 (1960) and 36 WASH. L. REV. 50 (1961);. Richard Cosway, *Negotiable Instruments- A Comparison of Washington Law and this Article*, 38 WASH. L. REV. 501 (1963) and 38 WASH. L. REV. 719 (1963). Subsequent analyses after the Code's passage in 1965 include Richard Cosway and Warren L. Shattuck, *Changes Made in the Code as Enacted in Washington*, 40 WASH. L. REV. 874 (1965); and Richard Cosway, *Negotiable Instruments- A Comparison of Washington Law and the Uniform Commercial Code*, 43 WASH. L. REV. 499 (1968).

¹³⁵For an ultimately negative view of these law review articles, however, see correspondence between William Schnader and the Commission, indicating that the law review articles were not ultimately sufficient, and may indeed have been a factor in the subsequent failure to pass the Code in the 1959 Legislative Session. In September of 1959, Schnader bluntly expressed to Dean George N. Stevens that "One of the difficulties in your state is that no annotations have been prepared showing what changes in the law of your state the enactment of the Code would effect. Letter from William A. Schnader to Dean George Neff Stevens (Sept. 14, 1959)(on file with the Gallagher Law Library, University of Washington). Dean Stevens promptly replied that Schnader's observation "is not quite accurate," citing that law review articles had indeed been written. Letter of Dean George Neff Stevens to William A. Schnader (Sept. 28, 1959)(on file with the Gallagher Law Library, University of Washington). Nonetheless, Schnader promptly and curtly responded to Steven's reply, stating "Frankly, I do not think the annotations on two articles of the Code are adequate." Schnader sternly urged the Commissioner's to produce fully developed annotations like other states had produced. Letter of William Schnader to George Powell (Oct. 8, 1959)(on file with the Gallagher Law Library, University of Washington). Ultimately, as we shall see, the Commission did in fact secure a fully developed, annotated volume. *Infra* note 160.

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by the National Conference.¹³⁶ The Commission first sought the official approval of those groups thought to be the primary constituents in the political process, namely the relevant bar associations, most notably the Washington State Bar Association,¹³⁷ bankers associations, most notably the Washington Bankers Association,¹³⁸ and finally labor organizations, primarily the AFL-CIO. The Commission also sought the support of secondary players in the challenge to secure approval of the Code, namely the Chamber of

¹³⁶ Among the Commission's 1958 archives, one can find an undated memorandum listing steps necessary for passage of the Code in individual states. Subtitled, "Malcolm's Suggestion," these are presumably suggestions offered by Walter D. Malcolm, Chairman, Executive Committee, National Conference of Commissioners on Uniform State Laws. One of the Washington Commissioners, or possibly the Commission as a whole, transcribed these as notes, presumably as an agenda the Commission itself would follow as it attempted to lead the Code through the Legislature. The nine-point plan as it appears in the archives is as follows:

- 1) a manager or coordinator of legislative efforts
- 2) a team of 5 or 6 experts to explain & discuss
- 3) Support of Organizations
Primary:
 - a) Bar Assoc'ns
 - b) Banking Assoc'n
 - c) Labor- AFL-CIOSecondary:
 - d) Chamber of Commerce
 - e) Retail Trade Board
 - f) Motor Carriers
 - g) Agricultural Groups
 - h) Lawyers
- 4) Governor
- 5) Bipartisan
- 6) Newspapers
 - a) Editorial Support
 - b) Feature Articles
- 7) Sponsors- legislators
 - a) Strong
 - b) Bipartisan
- 8) Prep'n in Advance
- 9) Meeting & Overcoming opposition quickly

(on file with the Gallagher Law Library, University of Washington).

¹³⁷Letter from Washington State Uniform Law Commissioners to the Washington State Bar Association (Oct. 16, 1957)(on file with the Gallagher Law Library, University of Washington).

¹³⁸Letter from Washington State Uniform Law Commissioners to Washington Bankers Association (Oct. 21, 1957)(on file with the Gallagher Law Library, University of Washington).

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Commerce, retail trade boards, motor carrier associations, agricultural groups, and finally lawyers.¹³⁹ Interestingly, retail trade boards, which included the state's credit men associations, were at this time still viewed as secondary constituents whose support was not viewed as absolutely vital. As we shall see, the credit men, to the arguable dismay of the Commissioners, came to occupy a key role in the debate over the Code, expressing much vocal, if not almost decisive, opposition to it.

In any event, the initial response of the Washington State Bar Association was timely and supportive. To be sure, the Association as a whole did not initially endorse enactment of the Code in Washington. In fact, the Association considered it wise to defer wholesale support of the Code until after other states, particularly New York, evaluated and approved the Code for their economies.¹⁴⁰ Nevertheless, the Washington State Bar Association, even before 1957, had already offered much support to the Code. In 1956, the Bar had passed a resolution supporting the general principles of the Code.¹⁴¹ Perhaps even more importantly, the Bar had already established a committee specifically devoted to the study of the Code in relation to Washington law. Chaired at the time by Warren Shattuck, Professor of Law at the University of Washington School of Law and also incidentally a member of the American Bar Association's Banking Section Subcommittee on the Code, the Committee on the Uniform Commercial Code made great headway in evaluating and introducing the Code to the Washington legal community. And perhaps most importantly, in July of 1958, the Committee strongly proclaimed that "the time has arrived for support of the Code by the Washington State Bar Association".¹⁴² "It is...," the committee continued, "our recommendation that the Association actively support enactment of the Uniform Commercial Code in Washington."¹⁴³ Very

¹³⁹*Id.*

¹⁴⁰*Report of the Committee on Uniform Commercial Code*, WA. ST. B. N., July 1954, at 26.

¹⁴¹The 1956 Resolution was not published in *The Washington State Bar News*. However, references to the 1956 approving resolution exist in several places. *See e.g.*, the attachment to Commissioner Horowitz's letter to Commissioner Harsch, referring to the "1956 approving resolution of the Washington State Bar Association, based on study and presentation to the annual meeting of the Association. Letter from Charles Horowitz, Commissioner, Washington State Uniform Legislation Commission, to Alfred Harsch, Commissioner, Washington State Uniform Legislation Commission (March 11, 1965)(on file with the Gallagher Law Library, University of Washington).

¹⁴²*Report, Committee on Uniform Commercial Code*, WA. ST. B. N. , July 1958, at p.23.

¹⁴³*Id.*

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early then, the Commission thereby had attained the backing of one of the most powerful brokers in the Washington legal community.

Initially, the Commission could not obtain immediate and clear backing from the banking community and various associations of credit men in the state. Nevertheless, in 1958, the Commission felt that neither of these two groups were substantial threats to the Code. The Code, the Commission concluded, given the lack of opposition from any significant player in the Washington political community, would not encounter significant resistance.¹⁴⁴ In fact, on Commissioner George Powell's account, the Code could be successfully introduced and passed at the next session of the legislature, the 1959 Legislative Session.¹⁴⁵ With assumed strong bipartisan support in the legislature, the support of then Governor Albert D. Rossellini (whose support the Commission explicitly elicited in 1958¹⁴⁶), editorial support from the major newspapers- the Code, on the Commission's view, would proceed easily through the Legislature without incident. Accordingly, the Commission, having sought and obtained the sponsorship of Senators Sutherland, Foley, and Ryder, secured the introduction of Senate Bill 45, the first legislative form of the Code in Washington.¹⁴⁷

Nonetheless, in the 1959 Legislative Session, the Commission confronted many unforeseen roadblocks, roadblocks which could not have been easily predicted either because of the nature of the Code itself or because too few states had passed the Code from whose successful experience Washington's commissioners could have richly drawn. For one, the Code itself was simply too voluminous for any one legislative committee, let alone any one legislator, to digest adequately in course of a sixty day legislative session, a session which at that time, unlike today, met only every other year. No comparable piece of legislation, requiring such substantive appraisal, had arguably ever been considered in the halls of the

¹⁴⁴Letter from George V. Powell, Commissioner, Washington State Uniform Legislation Commission, to Albert D. Rossellini, Governor, Washington State (December 5, 1958) (on file with the Gallagher Law Library, University of Washington).

¹⁴⁵*Id.*

¹⁴⁶*Id.*

¹⁴⁷S.B. 45, 36th Legislature (1959).

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Washington Legislature. In turn, the Commissioners, understandably, did not anticipate that such a voluminous law would require full printing before the session began in order that every legislator had ample opportunity to review such a formidable piece of legislation. Finally, the various associations of credit men began to voice concern over the effects of the Code on existing Washington law, particularly in the area of secured transactions, embodied in Article 9 of the Code. Consequently, given these problems, it was not surprising that S.B. 45 died in Committee at adjournment of the 1959 legislative session. To be sure, the Code was not killed completely. All-importantly, the Code was referred to the Legislature's Statute Law Committee, thus keeping the Code alive for future review of the Washington Legislature.¹⁴⁸ More specifically, the Statute Law Committee was "requested to study the bill, give wide publicity to its provision, encourage public inquiry, and make a recommendation to the 37th Legislature."¹⁴⁹ Nonetheless, the Code experienced an expectedly quick and decisive demise in the 1959 Session of the 36th Legislature.

Still, the Commission persevered as it looked forward to the next regular legislative session in 1961. The Commission, now constituted by Alfred Harsch, George Powell, and Charles Horowitz, continued its educational efforts as well as its efforts to solicit the support of various key constituents within Washington's legal and political communities. Yet, now, the Commission employed additional means to garner even more support for the safe passage of the Code through the Legislature.

As the 1961 legislative session neared, concentrated efforts were now targeted toward the legislative process itself, that is toward actively lobbying the legislature for passage of the Code. To this end, the code was pre-printed before the 1961 session to insure that every legislator, particularly those on the House and Senate Judiciary Committees to which the code was typically referred, had a ready copy on hand for immediate appraisal. In turn, many more witnesses were secured to participate in the committee hearings in which testimony concerning the advantages and disadvantages of the Code was heard. Finally, the Commissioners began the vital process of personally participating in the legislative process at each step of the Code's way through the halls of the Legislature. Personal phone calls were made and letters sent to

¹⁴⁸S. Res. #, 36th Legislature, Wash. Leg. Rec. (Adopted March 1959)(introduced by Senators Foley, Neill and Gissberg).

¹⁴⁹*Id.*

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various key members of the Legislature, not only at the code's introduction in bill form, but now as the bill was considered in committee.

Despite all of these efforts in the 1961 session, however, the Code, now embodied in Senate Bill 72,¹⁵⁰ failed passage in the Senate. Not coming up for consideration in the Senate until the last day for considering Senate bills, a motion was made to send the S.B. 72 to the foot of the calendar. Unfortuitously for the Code, the motion prevailed by a vote of 22 to 21.¹⁵¹

The failure was no doubt due to increased doubts about the Code expressed by one major constituent in the legislative process. Now, the opposition of the various associations of credit men, particularly the Seattle Credit Mens Association, became even more vehement. The opposition of the credit men largely centered around Article 9 of the Code, dealing with secured transactions. Put simply, the credit men questioned whether the Code, unlike existing law, "would dry up unsecured credit."¹⁵² The credit men had concluded that the Code's "provisions are all in favor of the secured creditor to the detriment of the unsecured creditor."¹⁵³ Because of this concern, the credit men insisted that if the Code were to be passed, it should become law only if protective amendments, unique to Washington, were incorporated into the Code. In so insisting, the Credit Men started a debate which would endure for nearly four more years.

Quite naturally, the debate, largely created by the credit men, doomed passage of the Code in the 1961 session. Washington's Uniform Legislation Commission could only be satisfied with the Senate Judiciary Committee's referring the matter for more detailed analysis to the Washington State Statute Revision Committee.¹⁵⁴ The bill was essentially dead for purposes of the 1961 Session. Nonetheless, the Code, because of the committee assignment, was still significantly kept alive for future consideration.

¹⁵⁰S.B. 72, 37th Legislature (1961).

¹⁵¹This summary of the Code's demise in the 1961 Legislative Session is taken from WILLIAM A. SCHNADER, CHAIRMAN, GEORGE R. RICHTER, JR., & WALTER P. ARMSTRONG, JR., COMMERCIAL CODE COMMITTEE, REPORT OF THE COMMERCIAL CODE COMMITTEE TO NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS 8 (1961).

¹⁵²*Id.*, at 9.

¹⁵³*Id.*

¹⁵⁴37th Legislature, 1961 Wash. Leg. Rec. #.

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The debate the credit men initiated in 1961 was not just limited to the opposition between those supporting the Code as promulgated by the National Conference and those supporting the credit men amendments to the Code. The credit men amendments also touched off a debate within the Commission itself, and ultimately included a discussion between the Commission and its parent body, the National Conference. Should the Commissioners only lobby for the version of the Code as promulgated by the National Conference? Should the Commissioners withdraw their support if amendments supported by the credit men are successful? Would those amendments, unique to Washington, destroy the desired uniformity, the very purpose of a uniform law? Or, should the Commissioners permit the amendments inasmuch those changes to the Code were not substantial and thus would not affect the desired uniformity?

Many subsequent discussions between the Commissioners naturally occurred to solve this dilemma.¹⁵⁵ Equally important, numerous discussions occurred between the Commissioners and the National Conference, particularly with William Schnader, Chairman of the National Conference's Permanent Editorial Board for the Uniform Commercial Code, and Walter D. Malcolm, Chairman, Executive Committee, National Conference of Commissioners on Uniform State Laws. On numerous occasions, Schnader and Malcolm urged the Commissioners to resist the amendments of the credit men inasmuch as they represented a vital blow to the desired uniformity.¹⁵⁶ On Schnader's and Malcolm's

¹⁵⁵See Letter of Warren Shattuck, Professor of Law, University of Washington, to George V. Powell, Commissioner, Washington State Uniform Legislation Commission, October 1, 1962 (On file with the Gallagher Law Library, University of Washington)(outlining a possible response to the credit men which included an arguably fundamental amendment to Article 9 of the Code). For discussion about the amendments between the commissioners themselves, see for example Letter from George Powell, Commissioner, Washington State Uniform Legislation Commission, to Alfred Harsch and Charles Horowitz, Commissioners, Washington State Uniform Legislation Commission, October 2, 1962 (On file with the Gallagher Law Library, University of Washington)(in which George Powell expressed his extreme reluctance to acquiesce in the amendments, "unless we all feel that this concession is required by tactical and political factors.")

¹⁵⁶See Letter of George Powell, Commissioner, Washington State Uniform Legislation Commission, to William Schnader, Chairman, Permanent Editorial Board for the Uniform Commercial Code (October 11, 1962)(on file with the Gallagher Law Library, University of Washington)(seeking Schnader's advice on how to deal with the proposed amendments by the credit men). Schnader's response came by way of a short letter of his own, accompanied by a longer response by Walter D. Malcolm, Chairman, Executive Committee, National Conference of Commissioners on Uniform State Laws, in which Schnader, along with Malcolm, expressed strong opposition to the amendments and urged the Washington Commissioners to "hold the line regardless of the consequences." Letter of William A. Schnader to George Powell (October 24, 1962), which included a letter of Walter D. Malcolm to William A. Schnader (October

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account, the Commissioners would be failing in their obligation to the National Conference if they acquiesced in the credit men amendments. The amendments had to be resisted, even if that entailed withdrawing support for further legislative action with respect to the Code. In large part, the Commissioners accepted the National Conference's view.

Needless to say, however, this adamant stance did not bode well for procuring passage of the Code in the next legislative session, the 1963 session. To be sure, this time, the code, now embodied in House Bill 129,¹⁵⁷ was reported out of the House Judiciary Committee. Nevertheless, the bill came to the floor of the House all too late in the legislative session. Not having the time to consider adequately a bill not only of such magnitude but one which was now being hotly contested by proponents on both sides, the legislature could simply not consider it before adjournment, and the bill understandably died. The Code, some four years after its initial introduction into the legislature, still could not obtain the adequate votes necessary for approval and codification into Washington Law.

Yet, the 1963 Legislative Session was not for naught. During the session, the Commissioners developed a politically expedient strategy with respect to opponents of the Code, a strategy which arguably played a key role in the 1965 Legislative Session.¹⁵⁸ The aim of the strategy was simple: the Commissioners would publicly acquiesce in the amendments, even supporting the legislature's passing of the Code with those amendments. Yet privately they would lobby the governor to exercise his line-item veto in order to delete the amendments, thus rendering the Code uniform with respect to other codes passed

23, 1962)(on file with the Gallagher Law Library, University of Washington). See also Letter of Walter D. Malcolm to George Powell (February 21, 1963)(on file with the Gallagher Law Library, University of Washington)(once again outlining the necessity of resisting amendments proposed by the credit men).

¹⁵⁷H.B. 129, 38th Legislature (1963).

¹⁵⁸Letter from George V. Powell, Commissioner, Washington State Uniform Legislation Commission, to Charles Horowitz, Commissioner, Washington State Uniform Legislation Commission (February 22, 1963) (on file with the Gallagher Law Library, University of Washington School of Law). As Powell stated, "In this connection we have an idea which should be kept in strict confidence, namely, that the Code pass with the amendment, and then persuade the Governor to veto the amendment." Noting the political volatility of such a strategy, Powell concluded: "If this solution became known before the Code was passed, the result would be disastrous, because the Legislature would merely refuse to pass the Code at all."

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by other states.¹⁵⁹ Pragmatically, the Commission developed a politically expedient strategy which employed the line-item veto to its advantage. Ironically, but quite expediently, they capitalized upon a gubernatorial power typically fraught with danger for any uniform law having passed through the legislature in tact.

With this new strategy in place, the 1965 Legislative Session proved to be far more conducive to passage of the Code. Even beyond the new strategy, numerous political, economic, and legal realities now existed favoring the Commission's procuring passage of the Code in the Washington Legislature. For one, a near majority of states had already passed the Code into law. The promise of attaining a national law rendering the states uniform with respect to commercial appeared even more enticing. Additional pressure was naturally exerted on the remaining states, including Washington, to join ranks. In turn, one of the Commission's new members, Senator Fred Dore, also occupied a strategic position with the legislature from which he could lobby even more effectively for passage of the Code. Moreover, the educational efforts of the Commissioners were beginning to pay off. More and more of Washington's concerned citizenry was convinced of the contribution the Code could make to life in Washington, if not the nation as a whole. This increased knowledge of the Code was no doubt in large part to *The Uniform Commercial Code: Comments for the State of Washington*, a book produced by Professor Warren Shattuck at the University of Washington detailing with great specificity the effects of the Code on existing Washington Law.¹⁶⁰

Because of all of these realities, the ingenuity and seemingly tireless dedication of the Commissioners finally paid off in early 1965. To be sure, passage of the Code, now embodied in Senate Bill 122,¹⁶¹ required an Extraordinary Session, called by then Governor Dan Evans. Moreover, the bill narrowly passed in both houses. In turn, the Code was nearly overshadowed by the Legislature's preoccupation with reapportionment. Nevertheless on April 29, 1965, Governor Evans approved Senate Bill 122 with the desired modifications. The session law, so modified, highly resembled the version of the

¹⁵⁹*Id.*

¹⁶⁰WASHINGTON STATE UNIFORM LAW COMMISSION, UNIFORM COMMERCIAL CODE: COMMENTS FOR THE STATE OF WASHINGTON (1963).

¹⁶¹*Supra* note 133.

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Code promulgated by the National Conference, thus achieving the desired uniformity. Upon Governor Evans signature, Washington had joined the ranks of other states which had already adopted the Code, a code vital to state cooperation in an increasingly complex area of the law.

The process employed to secure passage of the National Conference's signature product typifies the ingenuity and dedication the Commission has employed to fulfill its task of acquiring uniformity amongst the states where practicable and desirable. Of course, the process has not been so prolonged nor so complicated in the case of other successful uniform or model laws. Nevertheless, the ingenuity and dedication, displayed vividly in the case of the Uniform Commercial Code, have always been a steadfast constituent of the Commission's activities as it has sought passage of laws promulgated by the National Conference.

D. HISTORICAL ACCOMPLISHMENTS OF THE WASHINGTON UNIFORM LEGISLATION COMMISSION: KEY ENACTMENTS

The accomplishments of the Commission's often ingenious, *ad hoc* method of procuring consideration and passage of laws have been impressive over the one hundred years of the Commission's existence. Since its inception, the Commission has secured the Legislature's approval of nearly one hundred uniform and model laws promulgated by its parent body, the National Conference. Although the exact number of uniform and models passed by the Washington Legislature is not easily determinable, given the incongruence in reporting between the generally reputable sources, namely *Uniform Laws Annotated* and the *Handbook of the National Conference of Commissioners on Uniform State Laws*, closer inspection of those sources in light of the *Revised Code of Washington* permits a closer accounting.¹⁶² Over the years the Commission has promulgated some eighty original and revised uniform acts, seven model acts, and some ten laws considered by the National Conference to be substantially similar to its

¹⁶²*Supra* note 3

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promulgated laws.¹⁶³ That is, the Commission has secured passage of nearly one hundred of the some two hundred and fifty uniform laws promulgated by the National Conference.¹⁶⁴ Similarly, it has secured passage of seven model laws promulgated by the Conference. Of those uniform acts adopted by Washington and later withdrawn from Conference promulgation, the Commission has secured repeal of eighteen of those acts. Presumably, but still open to examination, the Commission has determined that the remaining superseded or withdrawn laws are still suitable for codification as subsequently amended in Washington law.¹⁶⁵

Although Washington has adopted just under one hundred of the two hundred plus uniform and model laws promulgated by the Conference, the Commission has nevertheless secured passage of the arguably most significant laws promulgated by the Conference. In so doing, Washington's Commission has chartered on the state level the same course which the National Conference has chartered on the national level. The high standing the National Conference has achieved in American law the Washington Commission has likewise acquired in Washington law.

In the early years, the Commission was quite successful in securing passage of laws dealing with a burgeoning national economy and society as well as laws dealing with new technologies heretofore unknown before the early twentieth century. In its first decades of existence, the Commission secured most

¹⁶³See *Table of Uniform Laws Adopted in Washington*, located in Appendix A..

¹⁶⁴The total number of uniform acts adopted in Washington would be even higher if the National Conference's counting criteria were slightly more liberal. The Conference grants credit to a state for adopting a uniform act only if the state enacts the act without amendments that the Conference deems significant. Washington, however, has adopted parts, or significant portions, of uniform acts in ways not meeting the Conference's strict adoption criteria. One good example of this is Washington's "adoption" of the Uniform Interstate Enforcement of Domestic Violence Orders Act. Foreign Protection Order Full Faith and Credit Act, ch. 184, 1999 Wash. Laws. Washington actually preceded the National Conference in promulgating the uniform act in 2002. And arguably, Washington's law helped develop the Conference's uniform act. However, since the Washington law differs from the uniform act in ways deemed significant by the Conference, Washington does not receive credit for adoption of the uniform law.

¹⁶⁵Arguably, however, the Commission may need to re-examine, retrospectively, those uniform laws still codified which the National Conference no longer recommends. Thirty some uniform laws, it will be remembered, remain codified even though the National Conference has deemed them either superseded or obsolete. See *Table of Uniform Laws Adopted in Washington*, located in Appendix A. Should the Legislature repeal these laws? Or, despite the general recommendation of the National Conference, should the Legislature continue their codification inasmuch as those laws still contribute to Washington law?

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notably the passage of the Model Desertion and Non-Support Act,¹⁶⁶ the Uniform Motor Vehicle Operators and Chauffeurs License Act,¹⁶⁷ the Uniform Limited Partnership Act,¹⁶⁸ the Uniform Partnership Act,¹⁶⁹ the Uniform Regulating Traffic on Highways Act,¹⁷⁰ and many of the then separately existing commercial acts, namely the Uniform Sales Act,¹⁷¹ the Uniform Bills of Lading Act,¹⁷² and the Uniform Warehouse Receipts Act.¹⁷³

Quite understandably, the Commission followed the National Conference's move in the mid-twentieth century toward securing comprehensive solutions to increasingly complicated national problems. Most notably, of course, the Commission followed the National Conference's move in this direction by procuring the passage of the National Conference's signature product-- the Uniform Commercial Code. Although as we have seen the Code was passed with slight modification and moreover not until 1965, the Commission by and large secured passage of the bulk of the Code, thus achieving its goal of uniformity in an area so vital to the nation's economy.

Similarly, the Commission then followed the National Conference's lead of formulating appropriate comprehensive solutions outside purely the commercial sector toward areas of law related to perceived "social problems and their control."¹⁷⁴ Additionally, the Commission followed the National Conference's lead in tackling the problem of the lack of uniformity in the real property law of the individual states.¹⁷⁵ Accordingly, the Commission, during the sixties, seventies and into the eighties, secured the passage of

¹⁶⁶Act of Mar. 6, 1913 , ch. 28, 1913 Wash. Laws 71.

¹⁶⁷Washington Highway License Act, ch. 188, 1937 Wash. Laws 782.

¹⁶⁸Act of Mar. 15, 1945, ch. 92, 1945 Wash. Laws 246.

¹⁶⁹Act of Mar. 15, 1945, ch. 137, 1945 Wash. Laws 349.

¹⁷⁰Washington Motor Vehicle Act, ch. 189, 1937 Wash. Laws 835.

¹⁷¹Uniform Sales Act, ch. 142, 1925 Wash. Laws Ex. Sess. 355.

¹⁷²Uniform Bills of Lading Act, ch. 159, 1915 Wash. Laws 462.

¹⁷³Act of Mar. 17, 1913, ch. 99, 1913 Wash Laws. 279.

¹⁷⁴Hogan, *supra* note 53.

¹⁷⁵*Id.*

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significant laws such as the Uniform Child Custody Jurisdiction Act,¹⁷⁶ the Uniform Controlled Substances Act,¹⁷⁷ the Uniform Comparative Fault Act,¹⁷⁸ and the Uniform Marriage and Divorce Act.¹⁷⁹ In the area of real property law, the Commission was successful in obtaining passage of the Uniform Condominium Act¹⁸⁰ and the Uniform Dormant Mineral Interests Act.¹⁸¹ Also significantly, the Commission, during this time, was successful in securing approval by the Washington State Supreme Court of the Uniform Rules of Evidence.¹⁸²

Admittedly, the Commission, during the seventies and well into the late eighties, did not follow the Conference's lead in securing passage of the Conference's second most comprehensive uniform law, namely the Uniform Probate Code. Of course, the Commission considered lobbying for passage of the Uniform Probate Code as promulgated. Yet, it soon became apparent that too much opposition existed within the Washington legal/political communities. Relevant groups in the Washington legal/political environment opposed altering the existing provisions concerning the testamentary and non-testamentary transmissions of wealth. In fact, as the Washington State Bar Association forcefully argued, the existing probate code in Washington "was one of the best in the country." On the Bar's account, existing law should be further improved rather than totally abandoned.¹⁸³

Nonetheless, the Commission was highly successful in securing passage of parts of the Uniform Probate Code which were indeed recognized as containing desirable concepts richly capable of improving existing law. For instance, many of the 1974 amendments to Title 11 of the *Revised Code of Washington*

¹⁷⁶Uniform Child Custody Jurisdiction Act, ch 98, 1979 Wash. Laws 343.

¹⁷⁷Uniform Controlled Substances Act, ch. 308, 1971 Wash. Laws 1st. Ex. Sess. 1795.

¹⁷⁸Act of Apr. 17, 1981, ch. 27, 1981 Wash. Laws 112.

¹⁷⁹Act of Apr. 24, 1973, ch. 157, 1973 Wash. Laws 1st Ex. Sess. 1215.

¹⁸⁰Condominium Act, ch. 43, 1989 Wash. Laws 188.

¹⁸¹Act of Mar. 28, 1984, ch. 252, 1984 Wash. Laws 1271.

¹⁸²*Order of December 19, 1978, effective April 2, 1979*, 91 Wash. 2d 1117 (1979).

¹⁸³*See* Robert Beschel, *Probate Code Improved*, W.A. ST. B. N., Apr. 1974, at 6.

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were in fact modeled on concepts originating from the National Conference's Uniform Probate Code.¹⁸⁴ Similarly, the Commission was later successful in securing passage of Parts I, II, and III of Article 6 of the Uniform Probate Code, dealing with provisions relating to the effects of death,¹⁸⁵ multiple persons accounts,¹⁸⁶ and transfer on death securities.¹⁸⁷ Hence, the Commission, even if not securing passage of the entire Uniform Probate Code, nevertheless contributed to Washington law by securing passage of concepts derived from the uniform act, concepts seen as significant improvements to an already generally-sound probate code.

Other noteworthy uniform acts passed in the eighties include the revised Limited Partnership Act,¹⁸⁸ the Trade Secrets Act,¹⁸⁹ amended Article 8 of the Uniform Commercial Code,¹⁹⁰ amended Article 9 of the Uniform Commercial Code,¹⁹¹ and finally, the Revised [Model] State Administrative Procedure Act.¹⁹²

In the early nineties, the Commission turned its attention toward the National Conference's now decade-long project of revising and updating the Uniform Commercial Code in preparation for the 21st Century. The Commission was successful in securing passage of several relevant acts, including Revised Article 2A of the UCC,¹⁹³ Revised Article 3 of the UCC,¹⁹⁴ Amended Article 4 of the UCC,¹⁹⁵ Article 4A

¹⁸⁴*Id.*

¹⁸⁵ Act of February 19, 1974, ch. 117, 1974 Wash. Laws 1st Ex. Sess. 284 *superseded* by Act of May 12, 1993, ch. 291, 1993 Wash. Laws 1134.

¹⁸⁶ Financial Institution Individual Account Deposit Act, ch. 192, 1981 Wash. Laws 866.

¹⁸⁷ Transfer on Death Security Registration Act, ch. 287, 1993 Wash. Laws 1119.

¹⁸⁸ Act of date, ch. 51, 1981 Wash. Laws.

¹⁸⁹ Trade Secrets Act, ch. 286, 1981 Wash. Laws.

¹⁹⁰ Act of date, ch. 35, 1986 Wash. Laws.

¹⁹¹ Act of date, ch. 41, 1981 Wash. Laws.

¹⁹² Act of date, ch. 288, 1988 Wash. Laws.

¹⁹³ Act of May 7, 1993, ch. 230, 1993 Wash. Laws 782.

¹⁹⁴ Act of May 7, 1993, ch. 229, 1993 Wash. Laws 691.

¹⁹⁵*Id.*

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of the UCC.¹⁹⁶ Other notable acts included the Interstate Family Support Act,¹⁹⁷ the Uniform Foreign-Money Claims Act,¹⁹⁸ the Uniform Health-Care Information Act,¹⁹⁹ and finally, the Uniform Transfers to Minors Act.²⁰⁰

In the mid to late nineties, the Commission—continuing its efforts to revise and update the U.C.C. in the State—helped to pass amendments and modifications to Article 9 of the Uniform Commercial Code,²⁰¹ amendments to the Uniform Commercial Code regarding security agreements,²⁰² and modifications to Article 5 of the Uniform Commercial Code with respect to letters of credit.²⁰³ Other notable enactments included the revised Uniform Interstate Family Support Act (1996)²⁰⁴ and adoption of the revised Partnership Act (1997), which includes provisions relating to limited liability companies.²⁰⁵

Early in this decade, the Commission set its eyes on completion of a totally revised Uniform Commercial Code, mirroring the National Conference’s completion of the decade-long project of revising the U.C.C. in 2003. On this front, the Commission experienced success in passing conforming amendments

¹⁹⁶Act of July 2, 1991, ch. 21, 1991 Wash. Laws Sp. Sess. 2824.

¹⁹⁷Uniform Interstate Family Support Act (UFISA), ch. 318, 1993 Wash. Laws 1221. In 1996, Congress passed legislation to require that all states adopt UIFSA by 1998 to remain eligible for applicable federal funding. *See* Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 321, 110 Stat. 2105, 2221 (codified as amended at 42 U.S.C. 666 (2000)).

¹⁹⁸Uniform Foreign-Money Claims Act, ch. 153, 1991 Wash. Laws 717.

¹⁹⁹Unif. Health Care Information Act, ch. 335, 1991 Wash. Laws 1840. The act was later superseded by Congress’ adoption of the Health Insurance Portability and Accountability Act (HIPAA) in 1996. Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996). Prior to the enactment of HIPAA, only Washington and Montana had enacted the uniform act in their jurisdictions. Since the act was superseded by HIPAA, the National Conference subsequently withdrew the proposed legislation from its target list of acts to be adopted by the states.

²⁰⁰Unif. Transfers to Minors Act, ch. 193, 1991 Wash. Laws 855.

²⁰¹Act of Mar. 15, 1996, ch. 77, 1996 Wash. Laws.

²⁰²Act of Apr. 22, 1997, ch. 138, 1997 Wash. Laws.

²⁰³Act of Apr. 16, 1997, ch. 56, 1997 Wash. Laws.

²⁰⁴Act of Apr. 17, 1997, ch. 58, 1997 Wash. Laws.

²⁰⁵Act of Mar. 23, 1998, ch. 103, 1998 Wash. Laws.

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to Revised Article 9 of the Uniform Commercial Code²⁰⁶ and Revised 9A of the Uniform Commercial Code.²⁰⁷ On other fronts, the Commission also successfully helped to secure passage of the Uniform Child Custody Jurisdiction and Enforcement Act,²⁰⁸ the Statutory Rule Against Perpetuities Act,²⁰⁹ the Uniform Parentage Act,²¹⁰ the Uniform Athlete Agents Act,²¹¹ the Revised Principal and Income Act (1997),²¹² the Revised Interstate Family Support Act (2001),²¹³ the Uniform Money Services Act,²¹⁴ and amendments to the Uniform Transfer on Death Security Registration Act.²¹⁵ Finally, in its most recent legislative success, the Commission was able to secure passage of further revisions to Article 9A of the Uniform Commercial Code.²¹⁶

On the basis of all these acts passed over the years—from 1905, when the Commission first came into existence, to the current legislative session in 2005—the Commission has secured its place in Washington Law. Over its century of service, the Commission has secured passage of nearly one hundred uniform/model acts—arguably the most important of the entire corpus of uniform laws promulgated by its parent body, the National Conference. Those one hundred acts have been vital to the development of law in the State. They have touched the lives of every Washingtonian during the last one hundred years.

Admittedly, the Commission’s efforts have not been without their failures. Although the

²⁰⁶Act of Mar. 31, 2000, ch. 250, 2000 Wash. Laws.

²⁰⁷Act of Apr. 16, 2001, ch. 32, 2001 Wash. Laws.

²⁰⁸Unif. Child Custody and Jurisdiction Enforcement Act, ch. 65, 2001 Wash. Laws.

²⁰⁹Act of Apr. 18, 2001, ch. 60, 2001 Wash. Laws.

²¹⁰Unif. Parentage Act, ch. 302, 2002 Wash. Laws 1470.

²¹¹Unif. Athlete Agent Act, ch. 131, 2002 Wash. Laws.

²¹²Act of Apr. 3, 2002, ch. 345, 2002 Wash. Laws (with a number of non-uniform provisions).

²¹³Interstate Family Support Act (2001), ch. 198, 2002 Wash. Laws.

²¹⁴Unif. Money Services Act, ch. 287, 2003 Wash. Laws.

²¹⁵Act of May 7, 2003, ch. 118, 2003 Wash. Laws.

²¹⁶Act of Apr. 23, 2003, ch.87, 2003 Wash. Laws.

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Commission has procured passage of nearly one hundred uniform laws, it nevertheless has failed in securing passage of many of the other vital acts promulgated by the National Conference. On many occasions, the Commission has simply encountered stiff and often insurmountable resistance, thus failing in its efforts at uniformity. We saw this stiff resistance in the Commission's struggle to pass the Uniform Probate Code in the seventies and eighties. More recently, the resistance can be seen in attempts to secure passage of the Uniform Computer Information Transactions Act.²¹⁷ Here, the challenges the Commission has faced largely mirror those the National Conference has faced on the national level. In many instances, a uniform law has fell victim to special interest politics. On other occasions, the prolonged time it takes to first promulgate a uniform law has arguably rendered many a uniform law obsolete, thus dissolving interest in passing those laws in Washington. Finally, in still other occasions, the State Legislature has beaten the National Conference—and hence the Commission—to the punch in passing a relevant law in a pressing area of the law. These factors—together or alone—have sounded the death knell for many a uniform law over the years.

Despite these failures, however, the contributions of the Commission to the life and law of the State of Washington cannot be gainsaid. In passing nearly one hundred uniform and model acts, the Commission has contributed greatly to shaping the life and law of the State. In its endeavors to pass these acts, the Commission has responded with great creativity and adaptability to legal problems, vexing not only Washington but the remaining states of the union. Clearly, the Commission has been a major institution in the Washington legal community throughout its one hundred years of service to the state.

IV. FUTURE PROSPECTS

On all accounts, the Commission appears primed to continue play this vital role in the Washington legal community. The future appears bright for the Commission's second century of service to the life and law of the State. If past is prologue, the Commission appears primed to continue securing passage of

²¹⁷Unif. Computer Information Transactions Act, *supra* note 83.

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uniform laws, contributing even more to the life of both the State and the Nation.

Still, the Commission confronts numerous challenges as it begins its second century—just as it did throughout its first centennial. One challenge is a recurring one, namely maintaining sufficient funds to do its work. The Commission, as we have noted, is funded completely by state appropriations. In times of economic downturns, the Commission’s funding is always been at risk. A state commission doing important work largely under the radar, the Commission can easily be placed on the State’s budgetary chopping block. The Commission faces—and will no doubt continue to face—the challenge of securing its funding crises in times of economic crisis for the State.

On a more substantive level, the Commission faces the challenge of responding appropriately to complex social and technological developments rapidly unfolding in the early 21st Century. On the immediate horizon, concerns over health care, the increasing power of science, problems associated with the new digital age, evolving family relationships, and other complex social developments, will continue to preoccupy many sectors of society in Washington. The Commission, in conjunction with its parent body, the National Conference of Commissioners on Uniform State Law, will perforce have to formulate and offer appropriate legal responses to these ever-changing social and technological developments.

On a related note, the Commission also faces the challenge of fashioning means to respond to these rapid developments in a timely manner. The Commission confronts the challenge of procuring passage of uniform laws that respond to *current* problems arising in an increasingly ever-changing and rapidly developing society. As we saw earlier, critics of the National Conference have highlighted the deleterious effects of having such a long and drawn-out process in promulgating uniform acts. In some aspects, this lengthy process is highly valuable. Through such a process, well-considered, well-vetted pieces of legislation can be drafted. Yet, given the rapid developing society in which we live, the long drawn-out process means that many a uniform law can be potentially obsolete even before it can be passed in the states. The Commission will perforce have to confront the challenge of sheparding uniform acts through the halls of the Washington Legislature that are truly relevant and timely.

A host of questions, indeed, confront the Commission as it enters its second centennial. Can the Commission continue to respond to developments in Washington that are relevant and germane? Can it do

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so in timely manner? And can the Commission do this in a fashion that highlights its importance to the life and law of the State of Washington, thus subverting any attempt to cut its budget in economic hard times? These questions, of course, will be answered by a new generation of Commissioners, shepherding the Commission in its second century of existence. But perhaps even more accurately, they will be answered by the Washington legal community as a whole.

V. TABLE OF UNIFORM LAWS ADOPTED IN WASHINGTON

Current through 2004 Regular Session

(*italics* = laws adopted by Washington and presently recommended by NCCUSL)
 (* = not a uniform law but one considered by NCCUSL to be substantially similar)

Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
<i>Alcoholism and Intoxication Treatment Act</i>	1971	1972, c. 122	RCW §§ 70.96A.010-70.96A.930	Recommended	Codified as Amended
Anatomical Gift Act	1968	1969, c. 80	RCW §§ 68.50.340-68.50.420	Superseded, Withdrawn 1987	Repealed, 1993, c. 228
<i>Anatomical Gift Act, Revised</i>	1987	1993, c. 228	RCW §§ 68.50.520-68.50.650 & 68.50.901-68.50.903	Recommended	Codified
<i>Athlete Agents Act</i>	2000	2002, c. 131	RCW §§ 19.225.010-19.225.903.	Recommended	Codified
<i>Attendance of Witnesses from without the State in Criminal Proceedings, Act to Secure</i>	1936	1943, c. 218	RCW §§ 10.55.010-10.55.130	Recommended	Codified
Automobile Liability Security Act	1932	1939, c. 158	RCW §§ 46.29.010-46.29.920.	Obsolete, Withdrawn 1943	Codified as Amended
Bills of Lading Act	1909	1915, c. 159	RCW §§ 81.32.011-81.32.561	Superseded, Withdrawn 1951	Repealed, 1965, Ex. Sess. c. 157

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Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
Business Corporation Act [Model] ²¹⁸	1928	1933, c. 185	RCW §§ 23.01.010- 23.90.900	Superseded, Withdrawn 1957	Substantially Repealed, 1965, c. 53
Business Records as Evidence Act	1936	1947, c. 53	RCW §§ 5.45.010- 5.45.920	Superseded, Withdrawn 1966	Codified
<i>Certification of Questions of Law*</i>	1967	1965, c. 99	RCW §§ 2.60.010- 2.60.900	Recommended	Codified
Child Custody Jurisdiction Act	1968	1979, c. 98	RCW §§ 26.27.010- 26.27.930	Recommended	Repealed, 2001, c.65
<i>Child Custody Jurisdiction and Enforcement Act</i>	1997	2001, c. 65	RCW §§ 26.27.011- 26.27.931.	Recommended	Codified
<i>Commercial Code</i>	1962	1965, Ex. Sess., c.157	RCW §§ 62A.1-101 to 62A.11-112	Recommended	Codified as Amended ²¹⁹
<i>Commercial Code-- Article 2A</i>	1987	1993, c. 230	RCW §§ 62A.2A.101 to 62A.2A.532	Recommended	Codified
<i>Commercial Code-- Revised Article 3</i>	1990	1993, c. 229	RCW §§ 62A.3-101 to 62A.3-605	Recommended	Codified
<i>Commercial Code-- Amended Article 4</i>	1990	1993, c. 229	RCW §§ 62A.4-101 to 62A.4-504	Recommended	Codified

²¹⁸The National Conference of Commissioners on Uniform State Laws withdrew its Model Business Corporation Act in 1957. However, the act was replaced by the Model Business Corporation Act prepared by the American Bar Association in 1965, which in turn was replaced by the 1984 Revised Business Corporation Act, also prepared by the American Bar Association. The present Business Corporation act is now codified at RCW §§ 23B.01.010-23B.900.050 (1992).

²¹⁹Amendments to the original Uniform Commercial Code include a total repeal of Article 6 (Wash. Rev. Code §§ 62A.6-101 to 62A.6-111). Act of May 15, 1993, ch. 395, 1993 Wash. Laws 1582. In repealing Article 6, the Washington State Legislature failed to adopt the NCCUSL's 1989 revision of Article 6.

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Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
<i>Commercial Code-- Article 4A</i>	1989	1991, Sp. Sess., c. 21	RCW §§ 62A.4A-101 to 62A.4A-507	Recommended	Codified
<i>Commercial Code-- Amended Article 8</i>	1977	1986, c. 35	RCW §§ 62A.8-102 to 62A.8-408	Recommended	Codified
<i>Commercial Code-- Amended Article 9</i>	1972	1981, c.41	RCW §§ 62A.9-101 to 62A.9-507	Recommended	Codified as Amended
<i>Common Trust Fund Act</i>	1938	1943, c. 55	RCW §§ 11.102.010-11.102.050	Recommended	Codified as Amended
<i>Comparative Fault Act*</i>	1979	1981, c. 27	RCW §§ 4.22.005-4.22.925	Recommended	Codified as Amended
<i>Condominium Act*</i>	1980	1989, c. 43	RCW §§ 64.34.010-64.34.950	Recommended	Codified as Amended
<i>Conflict of Laws-Limitations Act</i>	1982	1983, c.152	RCW §§ 4.18.010-4.18.904	Recommended	Codified
<i>Controlled Substances Act</i>	1990	1993, c. 187	RCW §§ 69.50.101-69.50.608	Recommended	Codified
Controlled Substances Act	1970	1971, Ex. Sess. c. 308	RCW §§ 69.50.101-69.50.608	Superseded	Codified as Amended
Court Administrator Act [Model]	1948	1957, c. 259	RCW §§ 2.56.010-2.56.120	Obsolete, Withdrawn 1984	Codified as Amended
<i>Criminal Extradition Act, Revised</i>	1936	1971, Ex. Sess. c.46	RCW §§ 10.88.200-10.88.930	Recommended	Codified as Amended
<i>Declaratory Judgments Act</i>	1922	1935, c. 113	RCW §§ 7.24.010-7.24.144	Recommended	Codified as Amended
Desertion and Non-Support Act [Model]	1910	1913, c. 28	RCW §§ 26.20.030-26.20.080	Obsolete, Withdrawn 1966	Codified as Amended
Disposition of Unclaimed Property Act	1954	1955, c. 385	RCW §§ 63.28.070-63.28.920	Superseded, Withdrawn 1984	Repealed, 1983, c.179

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Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
<i>Division of Income for Tax Purposes Act</i>	1957	1967, c.125	RCW §§ 82.56.010 art. IV.	Recommended	Codified
Divorce Recognition Act	1947	1949, c. 215	RCW §§ 26.08.010-26.08.230	Obsolete, Withdrawn 1978	Repealed, 1973 1st Ex. Sess., c. 157
<i>Dormant Mineral Interests*</i>	1986	1984, c. 252	RCW §§ 78.22.010-78.22.090	Recommended	Codified
<i>Durable Power of Attorney Act</i>	1979	1985, c. 30	RCW §§ 11.94.010-11.94.900	Recommended	Codified as Amended
<i>Durable Power of Attorney Act*</i> <i>UPC, Article V, Part 5</i>	1979	1984, c.149	RCW §§ 11.94.010-11.94.900	Recommended	Codified as Amended
Enforcement of Foreign Judgments Act	1948	1953, c. 191	RCW §§ 6.36.010-6.36.910	Superseded, Withdrawn 1964?	Substantially Repealed, 1971 Ex. Sess. c. 45.
<i>Enforcement of Foreign Judgments Act, Revised</i>	1964	1971 Ex. Sess. c. 45	RCW §§ 6.36.010-6.36.910	Recommended	Codified as Amended
Escheat of Postal Savings Act [Model]	1970	1971 Ex. Sess. c. 68	RCW §§ 63.48.010-63.48.060	Obsolete, Withdrawn 1981	Codified
<i>Estate Tax Apportionment Act, Revised</i>	1964	1986, c. 63	RCW §§ 83.110.010-83.110.904	Recommended	Codified as Amended
<i>Evidence, Rules of</i>	1974	Order April 2, 1979	Rul. Evid. 101-1103 ²²⁰	Recommended	In force as Amended
<i>Facsimile Signature of Public Officials Act</i>	1958	1969, c. 86	RCW §§ 39.62.010-39.62.920	Recommended	Codified
<i>Federal Lien Registration Act</i>	1978	1988, c. 73	RCW §§ 60.68.005-60.68.902	Recommended	Codified as Amended

²²⁰Rules of Evidence, 1994 Washington Rules of Court.

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Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
Firearms Act	1930	1935, c.172	RCW §§ 9.41.010-9.41.310	Superseded, Withdrawn 1940	Codified as Amended
Flag Act	1917	1919, c. 107	RCW §§ 9.86.010-9.86.050	Obsolete, Withdrawn 1966	Codified as Amended
<i>Foreign-Money Claims Act</i>	1989	1991, c. 153	RCW §§ 6.44.010-6.44.904	Recommended	Codified
<i>Foreign Money-Judgments Recognition Act</i>	1962	1975, 1st Ex. Sess. c. 240	RCW §§ 6.40.010-6.40.915	Recommended	Codified
Foreign Probated Wills Act of 1895	1895	1917, c. 156	RCW § 11.12.020	Obsolete, Withdrawn 1915	Codified as Amended
Fraudulent Conveyance Act	1918	1945, c. 136	RCW §§ 19.40.010-19.40.130	Recommended	Substantially Repealed, 1987, c. 444
<i>Fraudulent Transfer Act</i>	1984	1987, c. 444	RCW §§ 19.40.011-19.40.903	Recommended	Codified
Gifts to Minors Act	1956	1959, c. 202	RCW §§ 21.24.010-21.24.900	Superseded, Withdrawn 1965	Repealed, 1967, c.88
Gifts to Minors Act, Revised	1965	1967, c. 88	RCW §§ 11.93.010-11.93.920	Superseded, Withdrawn 1984	Repealed, 1991, c. 193
<i>Health-Care Information Act</i>	1985	1991, c. 335	RCW §§ 70.02.005-70.02.904	Recommended	Codified as Amended
<i>Insurers Liquidation Act [Model]</i>	1939	1947, c. 79	RCW §§ 48.31.110-48.31.180 ²²¹	Recommended	Codified as Amended
Interstate Arbitration of Death Taxes	1943	1959, c. 46	RCW §§ 83.14.010-83.14.070	Recommended	Repealed, 1981, 2d Ex. Sess. c. 7

²²¹Some sections originally codified at §§ 48.31.110-48.31.180 have been subsequently recodified in scattered parts in Chapter 48.99.

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Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
Interstate Compromise of Death Taxes	1944	1959, c. 46	RCW §§ 83.14.010-83.14.070	Recommended	Repealed, 1981, 2d Ex. Sess. c. 7
Interstate Family Support Act	1992	1993, c. 318	RCW §§ 26.21.005-26.21.916	Superseded	Codified
Interstate Family Support Act (1996)	1996	1997, c. 58	RCW §§ 26.21.005-26.21.916	Superseded	Repealed, 2002, c. 198
<i>Interstate Family Support Act (2001)</i>	2001	2002, c. 198	RCW §§ 26.21A.005-26.21A.915	Recommended	Codified
Judicial Notice of Foreign Laws Act	1936	1941, c. 82	RCW § 5.24.010-5.24.070	Superseded, Withdrawn 1966	Codified as Amended
Limited Partnership Act	1916	1945, c. 92	RCW §§ 25.08.010-25.08.310	Superseded, Withdrawn 1976	Repealed 1981, c. 51
<i>Limited Partnership Act, Revised</i>	1976	1981, c. 51	RCW §§ 25.10.010-25.10.690	Recommended	Codified as Amended
<i>Management of Institutional Funds Act</i>	1972	1973, c. 17	RCW §§ 24.44.010-24.44.900	Recommended	Codified
<i>Marriage and Divorce Act, Amended* (Only Parts III & IV)</i>	1973	1973, 1st Ex. Sess. c. 157	RCW §§ 26.09.002-26.09.914	Recommended	Codified as Amended
<i>Military Justice, Code of</i>	1961	1963, c. 220	RCW §§ 38.38.004-38.38.888	Recommended	Codified as Amended
<i>Minor Student Capacity to Borrow Act [Model]²²²</i>	1969	1970, 1st Ex. Sess. c.4	RCW §§ 26.30.010-26.30.920	Recommended	Codified
Money Services Act	2000	2003, c. 287	RCW §§ 19.230.005-19.230.905.	Recommended	Codified

²²²Became a Model Law in 1975

APPENDIX A

Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
Motor Vehicle Operators and Chauffeurs License Act	1930	1937, c. 188	Rem. Rev. Stat. 1932 §§ 6312-1 to 6312-73 ²²³	Obsolete, Withdrawn 1943	Codified as Amended
Narcotic Drug Act	1932	1953, c. 88	RCW §§ 69.33.220-69.33.950	Superseded, Withdrawn 1970	Repealed, 1971, Ex. Sess. c. 308
Negotiable Instruments Act (1899)	1896	1899, c. 149	RCW §§ 62.01.001-62.01.191 & 62.98.010-62.98.050	Superseded, Withdrawn 1951	Repealed, 1965, Ex. Sess. c. 157
<i>Nonprobate Transfers on Death Act</i>	1991	1993, c.287	RCW §§ 21.35.005-21.35.901, 30.22.010-30.22.900.	Recommended	Codified
Parentage Act	1973	1975-76 Ex. Sess., c. 42	RCW §§ 26.26.010-26.26.905	?	Repealed, 2002, c. 302
<i>Parentage Act (2000)</i>	2000	2002, c. 302	RCW §§ 26.26.011-26.26.913	Recommended	Codified
Partnership Act	1914	1945, c. 137	RCW §§ 25.04.010-25.04.430	?	Repealed, 1998, c. 103
<i>Partnership Act</i>	1997	1998, c. 103	RCW §§ 25.05.005-25.05.907.	Recommended	Codified
<i>Photographic Copies of Business & Public Records as Evidence Act</i>	1949	1953, c. 273	RCW §§ 5.46.010-5.46.920	Recommended	Codified as Amended
Principal and Income Act	1962	1971, c. 74	RCW §§ 11.104.010-11.104.940	Withdrawn	Repealed, 2002, c. 345

²²³Subsequently recodified in scattered parts in RCW Title 46

APPENDIX A

Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
<i>Principal and Income Act (1997)</i>	1997	2002, c.345	RCWA §§ 11.104A.001-11.104A.905	Recommended	Codified
Probate Code (UPC) Article VI, Part I	1969	1974 Ex. Sess. c. 117	RCW § 11.02.090	Superseded, Withdrawn 1989	Repealed, 1993, c. 291
<i>Probate Code (UPC) Article VI, Part I, Revised</i> * ²²⁴	1989	1993, c. 291	RCW § 11.02.091	Recommended	Codified
Probate Code (UPC) Article VI, Part 2 Multiple-Persons Accounts *	1969	1981, c. 192	RCW §§ 30.22.010-30.22.900	Superseded, Withdrawn 1989	Codified as Amended
Proof of Statutes Act	1920	1917 ²²⁵	RCW §§ 5.44.050	Superseded, Withdrawn 1966	Codified as Amended
<i>Prudent Investor Act</i>	1994	1995, c. 307	RCW §§ 11.100.010 to 11.100.140.	Recommended	Codified
Reciprocal Enforcement of Support Act	1950	1951, c. 196	RCW §§ 26.21.010-26.21.910	Superseded, Withdrawn	Repealed, 1993, c. 318
Reciprocal Transfer Tax Act	1928	1929, c. 202	Rem Rev. Stat. 1932 §§ 11203-1 to 11203-5	Obsolete, Withdrawn 1984	Repealed 1935, c. 180
Regulating Traffic on Highways	1926	1937, c. 189	Rem. Rev. Stat. 1932 §§ 6360-1 to 6360-159 ²²⁶	Obsolete, Withdrawn 1943	Codified as Amended

²²⁴Presently, Article 6 of the Unif. Probate Code consists of three parts. Part I deals with provisions relating to the effects of death, Part II with multiple persons accounts, and Part III with transfer on death securities. To make matters complex, these three parts also appear, collectively or individually, in two other independent uniform laws. First, all three parts appear in, and collectively comprise, the Unif. Non-Probate Transfers on Death Act. Second, Part 3 appears in, and exclusively comprises, the Unif. Transfer on Death Securities Act. To make matters even more complex, Washington has separately adopted each of the three parts. Moreover, presumably because Washington has not adopted the Unif. Probate Code, these three sections are not codified together in the Probate Code. Still more confusingly, WA has adopted two of the three presently recommended parts of Article VI, but not one of them, namely Part II, dealing with Multiple Persons Account. Instead of adopting in toto the 1989 revised version of the Part II, Washington has instead elected to remain with 1969 precursor. Finally, only Washington's adoption of the Transfer on Death Securities Act is considered to be a true adoption of the uniform law, while Washington's adoption of Parts I and II is considered to be substantially similar by the NCCUSL.

²²⁵The date of adoption, 1917, is taken from the Commission's Biennial Reports as well as the National Conference's Handbook. However, several inconsistencies exist regarding this date. First, the date of adoption precedes the date of promulgation by the Conference. Second, the Revised Code of Washington Annotated does not refer to any session law or enacted code subsequent to 1881, even though the RCW states that § 5.44.050 is based, in part, on the Uniform Proof of Statutes Act, § 1. Finally, Uniform Laws Annotated does not list a session law for Washington in its table of Jurisdictions Adopting the uniform law.

²²⁶Subsequently recodified in scattered parts at RCW Title 46.

APPENDIX A

Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
<i>Rendition of Accused Persons Act</i>	1967	1971 1st Ex. Sess. c. 17	RCW §§ 10.91.010-10.91.920	Recommended	Codified
<i>Residential Landlord-Tenant Act*</i>	1972	1973 1st Ex. Sess. c. 207	RCW §§ 59.18.010-59.18.911	Recommended	Codified as Amended
<i>Rights of Terminally Ill Act, Revised</i>	1989	1992, c. 98	RCW §§ 70.122.010-70.122.920	Recommended	Codified
Sales Act, Amended	1922	1925 Ex. Sess. c. 142	RCW §§ 63.04.010-63.04.780	Superseded, Withdrawn 1951	Repealed, 1965 Ex. Sess. c. 157
Securities Act	1956	1959, c. 282	RCW §§ 21.20.005-21.20.940	Superseded, Withdrawn 1985	Codified as Amended
<i>Simplification of Fiduciary Security Transfers Act</i>	1958	1961, c. 150	RCW §§ 21.17.010-21.17.910	Recommended	Codified as Amended
<i>Simultaneous Death Act</i>	1940	1943, c. 113	RCW §§ 11.05.010-11.05.910	Recommended	Codified
State Administrative Procedure Act [Model]*	1946	1959, c. 254	RCW §§ 34.04.010-34.04.950	Superseded, Withdrawn 1981	Amended and Recodified 1988, c. 288
<i>State Administrative Procedure Act , Revised [Model]*</i>	1981	1988, c. 288	RCW §§ 34.05.001-34.05.902	Recommended	Codified as Amended
Stock Transfer Act	1909	1939, c. 100	RCW §§ 23.80.010-23.80.250	Superseded, Withdrawn 1951	Repealed, 1965, Ex. Sess. c. 157
<i>Testamentary Additions to Trusts Act *</i>	1960	1965, c. 145	RCW § 11.12.250	Recommended	Codified as Amended
<i>Trade Secrets Act</i>	1979	1981, c. 286	RCW §§ 19.108.010-19.108.940	Recommended	Codified

APPENDIX A

Uniform Law	Date Promulgated by NCCUSL	Date of Adoption in Washington	Most Recent Codification	Present Status with NCCUSL	Present Status in Washington
Traffic Cases, Rules Governing Procedure in	1957	Order February 13, 1963	IRLJ §§ 1.1-6.6	Obsolete, Withdrawn 1980	In force as Amended ²²⁷
<i>Transfer on Death Securities Act</i>	1989	1993, c. 287	RCW §§ 21.35.005-21.35.901	Recommended	Codified as amended
<i>Uniform Transfer on Death Security Registration Act</i>		2003, c. 118	RCW §§ 21.35.005-21.35.901.	Recommended	Codified
<i>Transfers to Minors Act</i>	1983	1991, c. 193	RCW §§ 11.114.010-11.114.904	Recommended	Codified
Trust Receipts Act	1933	1943, c. 71	RCW §§ 61.20.010-61.20.190	Superseded, Withdrawn 1951	Repealed, 1965, Ex. Sess. c. 157
Trustees Accounting Act, Amended	1936	1941, c. 229	RCW §§ 30.30.010-30.30.110	Obsolete, Withdrawn 1966	Repealed, 1951, c. 226 ²²⁸
<i>Unclaimed Property Act</i>	1981	1983, c. 179	RCW §§ 63.29.010-63.29.905	Recommended	Codified as Amended
<i>Veterans Guardianship Act, Revised</i>	1943	1951, c. 53	RCW §§ 73.36.010-73.36.190	Recommended	Codified
Warehouse Receipts Act	1906	1913, c. 99	RCW §§ 22.04.010-22.04.610	Superseded, Withdrawn 1951	Repealed 1965, Ex. Sess. c. 157

Explanations:

Three acts reported by both the Washington State Uniform Legislation Commission and the NCCUSL to be uniform laws adopted in Washington, but not included in this table require further explanation:

²²⁷Initially, the Rules Governing Procedure in Traffic Cases were first entitled *Traffic Rules for Courts of Limited Jurisdiction* by Order of February 12, 1963, effective July 1, 1963. By an Order of December 2, 1980, effective January 1, 1981, those rules were amended and renamed *Justice Court Traffic Infraction Rules (JTIR)*. Most recently, those rules were again amended and renamed the *Infraction Rules for Courts of Limited Jurisdiction (IRLJ)*.

²²⁸In repealing the Uniform Law, the Washington Legislature enacted in its place a new Trustees Accounting Act no longer considered by the National Commission to be an Uniform Law. The new law was later recodified at RCW §§ 11.106.010-11.106.110.

APPENDIX A

Acknowledgment Act:

Both the REFERENCE BOOK and the HANDBOOK of the National Conference of Commissioners on Uniform State Laws maintains that Washington adopted this act; yet neither the ULA nor finally the RCW confirms this contention. Moreover, a memorandum exists in the archives of the Washington State Uniform Legislation Commission which indicates that, at least to the then present commissioners, Washington had never adopted, even substantially the National Conference's Uniform Acknowledgment Act, either originally or in one of its amended versions.

Arbitration Act:

Again, the HANDBOOK maintains that Washington adopted this act; yet neither the ULA nor finally the RCW confirms this contention.

Determination of Death Act:

Once again, the HANDBOOK maintains that Washington adopted this act; yet neither the ULA nor finally the RCW confirms this contention.

**VI. COMMISSIONERS OF THE
WASHINGTON STATE UNIFORM
LEGISLATION COMMISSION
AND DATES SERVED**

Marlin J. Appelwick, Seattle, WA (1985-)
Robert H. Aronson, Seattle, WA (1989-2004)
Alfred Battle, Seattle, WA (1905-21)
John M. Cary, Seattle, WA (2004-)
*Dennis Cooper, Olympia, WA (1978-2001**, 2001-)**
Richard Cosway, Seattle, WA (1966-1995)*
Arthur W. Davis, Spokane, WA (1919-1926)
Fred H. Dore, Seattle, WA (1964-67)
Ira P. Englehart, North Yakima, WA (1905-07)
Alfred Harsch, Seattle, WA (1957-65)
Francis E. Holman, Seattle, WA (1967-91)*
Charles Horowitz, Seattle, WA (1960-88)*
R.J. Hudson, Tacoma, WA (1908)
Cynthia Imbrogno, Spokane, WA (1997-2001)
W.G. McLaren, Seattle, WA (1940-51)
Richard S. Munter, Spokane, WA (1928-40)
Rosselle Pekelis, Seattle, WA (1990-97)
George V. Powell, Seattle, WA (1952-63)
Anita Ramasastry, Seattle, WA (2002-)
Dix H. Rowland, Tacoma, WA (1922-1958)*
Charles E. Shepard, Seattle, WA (1905-27)
George N. Stevens, Seattle, WA (1955-57, 1959)
W.V. Tanner, Olympia, WA (1909-18)
John B. Van Dyke, Seattle, WA (1928-39)
Richard O. White, Olympia, WA (1960-77)**

* Lifetime Member
** Associate Member
Italics Present Member

VII. COMMISSIONERS BY YEAR

1905

Charles E. Shepard
Ira P. Englehart
Alfred Battle

1906

Charles E. Shepard
Ira P. Englehart
Alfred Battle

1907

Charles E. Shepard
Ira P. Englehart
Alfred Battle

1908

Charles E. Shepard
Alfred Battle
R. G. Hudson

1909

Charles E. Shepard
Alfred Battle
W. B. Tanner

1910

Charles E. Shepard
Alfred Battle
W. B. Tanner

1911

Charles E. Shepard
Alfred Battle
W. B. Tanner

1912

Charles E. Shepard
W. B. Tanner
Alfred Battle

1913

Charles E. Shepard
W. B. Tanner
Alfred Battle

1914

Charles E. Shepard
W. B. Tanner
Alfred Battle

1915

Charles E. Shepard
W. V. Tanner
Alfred Battle

1916

Charles E. Shepard
W. V. Tanner
Alfred Battle

1917

Charles E. Shepard
W. V. Tanner
Alfred Battle

1918

Charles E. Shepard
W. V. Tanner
Alfred Battle

1919

Charles E. Shepard
Arthur W. Davis
Alfred Battle

1920

Charles E. Shepard
Arthur W. Davis
Alfred Battle

1921

Charles E. Shepard
Arthur W. Davis
Alfred Battle

1922

Charles E. Shepard
Arthur W. Davis
Dix H. Rowland

1923

Charles E. Shepard
Arthur W. Davis
Dix H. Rowland

1924

Charles E. Shepard
Arthur W. Davis
Dix H. Rowland

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Charles E. Shepard
Arthur W. Davis
Dix H. Rowland

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Charles E. Shepard
Arthur W. Davis
Dix H. Rowland

1927

Charles E. Shepard
Dix H. Rowland

1928

Dix H. Rowland
Richard S. Munter
John B. Van Dyke

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Dix H. Rowland
Richard S. Munter
John B. Van Dyke

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Richard S. Munter
Dix H. Rowland
John B. Van Dyke

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Richard S. Munter
Dix H. Rowland
John B. Van Dyke

1932

Richard S. Munter
Dix H. Rowland
John B. Van Dyke

1933

Richard S. Munter
Dix H. Rowland
John B. Van Dyke

1934

Richard S. Munter
Dix H. Rowland
John B. Van Dyke

APPENDIX C

1935

Richard S. Munter
Dix H. Rowland
John B. Van Dyke

1936

Richard S. Munter
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John B. Van Dyke

1937

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Dix H. Rowland
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Richard S. Munter
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John B. Van Dyke

1940

William G. McLaren
Richard S. Munter
Dix H. Rowland

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Alfred Harsch
George V. Powell
Dix H. Rowland

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Dix H. Rowland

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George V. Powell
George N. Stevens

1960

Alfred Harsch
Charles Horowitz
George V. Powell
Richard O. White**

1961

Alfred Harsch
Charles Horowitz
George V. Powell
Richard O. White**

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Charles Horowitz
George V. Powell
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Alfred Harsch
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Richard O. White**

1964

Fred H. Dore
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Charles Horowitz
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APPENDIX C

1965

Fred H. Dore
Alfred Harsch
Charles Horowitz
Richard O. White**

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Richard Cosway
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Charles Horowitz
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Dennis Cooper**

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Francis E. Holman
Charles Horowitz

1985

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Richard Cosway
Charles Horowitz
Francis E. Holman*
Dennis Cooper**

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Marlin J. Appelwick
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Charles Horowitz
Francis E. Holman*
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Charles Horowitz
Francis E. Holman*
Dennis Cooper**

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Charles Horowitz
Francis E. Holman*
Dennis Cooper**

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Francis E. Holman*
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Francis E. Holman*
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Dennis Cooper**

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Rosselle Pekelis
Richard Cosway*
Dennis Cooper**

1993

Marlin J. Appelwick
Robert H. Aronson
Rosselle Pekelis
Richard Cosway*
Dennis Cooper**

* Life Member

APPENDIX C

1994

Marlin J. Appelwick
Robert H. Aronson
Rosselle Pekelis
Richard Cosway*
Dennis Cooper**

1995

Marlin J. Appelwick
Robert H. Aronson
Rosselle Pekelis
Richard Cosway*
Dennis Cooper**

1996

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Robert H. Aronson
Rosselle Pekelis
Dennis Cooper**

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Cynthia Imbrogno
Dennis Cooper**

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Cynthia Imbrogno
Dennis Cooper**

2001

Marlin J. Appelwick
Robert H. Aronson
Dennis Cooper
Cynthia Imbrogno

2002

Marlin J. Appelwick
Robert H. Aronson
Dennis Cooper
Anita Ramsastry

2003

Marlin J. Appelwick
Robert H. Aronson
Dennis Cooper
Anita Ramsastry

2004

Marlin J. Appelwick
John M. Cary
Dennis Cooper*
Anita Ramsastry

2005

Marlin J. Appelwick
John M. Cary
Dennis Cooper*
Anita Ramsastry

*Life Member
**Associate Member

VIII. BIOGRAPHIES OF THE COMMISSIONERS

Appelwick, Marlin J. (1953-)

Judge, Washington Court of Appeals (1998-present). Representative from the 46th Legislative District, Seattle, King County (1983-1998); chair of Judiciary Committee, member of Appropriations and Revenues Committees. Partner in Seattle law firm of *Appelwick, Trickey and Spicer*. Bachelor of Arts and Bachelor of Science Degrees from Minnesota State University. Legal Education at University of Washington School of Law.

Aronson, Robert H. (1947-)

Undergraduate studies at the University of Virginia (B.A. 1969). Legal education at the University of Pennsylvania Law School (J.D. 1973). Clerk for the United States Court of Appeals, Ninth Circuit (1974-1975). Professor of Law at the University of Washington School of Law since 1975. From 1977 to 1983, chaired hearing tribunals of the Washington Human Rights Commission and was appointed by the Chief Justice of the Washington Supreme Court to the Board of Directors, Washington Appellate Defenders Association. Author of numerous works on professional responsibility and evidence. Member of the California bar.

Battle, Alfred (1858-1935)

Native of McLennan County, Texas. Attended Waco University (now Baylor) and graduated as class Valedictorian in 1878. Legal Education at Vanderbilt University and in his father's practice. Moved to Washington in the mid 1880s. Noted as a specialist in Tide-Land litigation and appeared as counsel in many of the cases following the Seattle Fire of 1889. Partner in *Battle Hulbert & Helsell* of Seattle. Member of Seattle (President), Washington State, and American Bar Associations.

Cary, John M. (1942 -)

Attorney, Law Office of John M. Cary. B.A. Stanford University; M.B.A. Columbia; J.D. University of Washington. President, King County Bar Association, 2004.

Cooper, Dennis (1944 -)

Washington State Code Reviser (1978-present). BA Western Washington University 1966. JD Stanford School of Law 1969. Past chair of the Legal Services Staff Section of the National Conference of State Legislatures. Active in Olympia, WA Rotary and St. John's Episcopal Church.

Cosway, Richard (1917-1995)

Native of Ohio. Attended Denison University as an undergraduate, receiving his A.B. in 1935. Studied law at the University of Cincinnati, receiving his L.L.B. in 1942. Professor of Law at the University of Washington (1958-1984). Taught courses in the law of contracts and commercial transactions.

APPENDIX D

Davis, Arthur W. (1873- ?)

Born in Maynard, Iowa. Received his B.S. from Upper Iowa University at Fayette. Teacher and principal. Studied law at the State University of Iowa and was admitted to the Iowa bar in January 1901. Moved to Spokane in the fall of 1905. Specialized in property law. Partner in *Davis & Rhodes* of Spokane. Member of the Spokane Board of Education.

Dore, Fred H. (1925 - 1996)

Native of Seattle, Washington. Graduate of O'Dea High (salutatorian) and Seattle University. Graduate and legal studies at Georgetown Foreign Service School and Georgetown Law School. Member of the Washington State Bar (1949-present). Member of Washington State House of Representatives (1952-59). Member of Washington State Senate (1959-72). Judge, Washington Court of Appeals (1978-80). Justice, Washington Supreme Court (1980-1993).

Englehart, Ira P. (1867-1916)

Born in Knight's Ferry, Stanislaus County, California. Studied law at Harvard for one year. Moved to North Yakima in July of 1893. Served two years as prosecuting attorney. Speaker of the House in the Washington State Legislature (1898). Represented the Northern Pacific Railroad. President of the Yakima County Bar Association. Authority on Irrigation Law. Large land owner.

Harsch, Alfred (1902-1990)

Native of Chicago Illinois. Attended the University of Washington, receiving his A.B. in 1926 and his L.L.B. 1928. Also later received a L.L.M. from Columbia in 1940. Professor of Law at the University of Washington from 1928 until his retirement in 1967. Also served as Acting Dean in 1953. Taught courses primarily in business law.

Holman, Francis E. (1915-1991)

Born in Salt Lake City, Utah. Graduate of Garfield High (Seattle); Stanford University (A.B. 1936); Oxford University (England)(B.A. in Jurisprudence, 1938; M.A., 1942); and Harvard Law School (LL.B., 1940). Member of Seattle-King County, Washington and American Bar Associations. Served as King County Superior Court Judge, Washington State Senator and Mayor of Lake Forest Park, Washington.

Horowitz, Charles (1905-1989)

Native of Brooklyn, New York. Moved to Washington around 1913. Graduate of the University of Washington (A.B., 1925) and the University of Washington Law School (LL.B., 1927). B.A. in Jurisprudence from Oxford, 1929; M.A. 1952. Partner in *Preston Thorgrimson Horowitz Starin & Ellis*. Lecturer, University of Washington Law School, 1932-33, 1939, 1945. Member of Seattle-King County (President 1957), Washington State, and American Bar Associations; American Law Institute. Judge, Washington Court of Appeals (1969-1974). Justice of the Washington Supreme Court from 1974 until mandatory retirement. Co-Chair, Drafting Committee on the Uniform Probate Code.

Hudson, Robert G. (1848-1911)

Native of Louisville, Mississippi. A.B. from University of Mississippi (Oxford). Studied and practiced law with his father. Delegate to the Mississippi Constitutional Convention (1890). Moved to Tacoma in 1891. President of the Washington State Bar Association.

APPENDIX D

Imbrogno, Cynthia (1948 -)

United States Magistrate Judge, United States District Court for the Eastern District of Washington (1991 - present). J.D. 1979 Gonzaga University (Associate Editor of Law Review); B.A. 1970 Indiana University of Pennsylvania.

McLaren, William G. (1875-1969)

Native of Jasper County, Iowa. A.B. from Grinnel College in 1898. Legal studies at Iowa State University. Admitted to the Washington State Bar in 1902. Practiced in Everett; Everett City Attorney (1906-1910). Assistant U.S. District Attorney, Western District of Washington (1908-1912). Member of State Board of Law Examiners (1926-29). Member of Seattle-King County (President, 1920), Washington State (President, 1936), and American (Member, Board of Governors, 1937-40) Bar Associations; American Law Institute.

Munter, Richard S. (1893-1973)

Native of Spokane, Washington. Bachelor's Degree from University of Michigan. LL.B. from the University of Michigan. Practitioner in Spokane, Washington. Member of Board of Trustees of the Eastern Washington College of Education (1926-45; President 1926-27). Member of Spokane County (President, 1926-27), Washington State (President, 1947), and American Bar Associations.

Pekelis, Rosselle (1938-)

Initial undergraduate studies at Vassar in the late fifties. Subsequently completed her undergraduate studies at Stephens College in Missouri in 1971. Attended law school at the University of Missouri, receiving her J.D. in 1974. Moved shortly thereafter to Seattle, where she soon became a member of the Washington Bar. First practiced as a clerk for the Seattle-King County Public Defenders Office, 1973. Then practiced law in private firms until appointed as a Superior Court Judge in King County in 1981. Served there until appointed in 1986 to the Washington Court of Appeals, where she served for nearly ten years. Sat one year of the State Supreme Court. Now practices as a mediator.

Powell, George V. (1910-1996)

Native of Seattle, Washington. B.A. from Princeton, 1931. LL.B. from the University of Washington Law School, 1934. Member of the Washington State House of Representatives. President, University of Washington Board of Regents during campus unrest of 1971. Partner, *Evans McLaren Lane Powell & Beeks*. Member of Seattle-King County, Washington State, and American Bar Associations.

Ramasastry, Anita (1967-)

Director, Shidler Center for Law, Commerce and Technology and Associate Professor of Law, University of Washington, School of Law (1996- present). Assistant Professor, Legal Studies Department, Central European University, Budapest, Hungary. Staff Attorney, Federal Reserve Bank of New York. B.A. Harvard University 1988; M.A. University of Sydney 1990; J.D. Harvard Law School 1992.

Rowland, Dix H. (1872 -1959)

Born in Wellsboro, Pennsylvania. Undergraduate studies at Syracuse University (Bachelor of Philosophy, 1895). Graduate of Syracuse University Law School (Bachelor of Laws, 1897). Admitted to New York bar in 1897 and practiced in Syracuse for five years. Moved to Tacoma in 1902 and formed partnership with his brother, H.G., and practiced in Pierce County for over thirty years. Special counsel for City of Tacoma over Lake Cushman power sites. Member Washington State Legislature, 1913. Co-author of original Mothers Pension Law. Vice President of National Conference on

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Uniform State Laws, 1946. President of Pierce County Bar Association.

Shepard, Charles E. (1848-1928)

Native of Dansville, Livingston County, New York. Attended Dansville Seminary, Canadigua Academy and received his B.A. from Yale College in 1876. Clerked in Dansville and Rochester, New York. Moved to Fond du Lac, Wisconsin in 1872 and practiced law with his brother. Served in Wisconsin as Library Commissioner and in the State Legislature (Republican). Relocated in Seattle in 1890. Prominent member of Seattle Bar for nearly forty years. Unsuccessful bid for Washington Supreme Court on a nonpartisan ticket. Author of "A Digest of Wisconsin Reports" among other works.

Stevens, George N. (1909- 1998)

Native of Pennsylvania. Undergraduate Studies at Dartmouth College. Legal Education at Cornell University. Additional graduate work in law at the University of Louisville and the University of Michigan. Professor of Law and Dean at the University of Buffalo Law School. Professor of Law and Dean at University of Washington School of Law. Chairman, Bar Examinations Committee of the Association of American Law Schools. Member of American Bar Association.

Tanner, W. Vaughn (1881-1953)

Native of Fairmont, Minnesota. Admitted to Washington State Bar in 1902. Assistant Attorney General of Washington (1908-1911). Attorney General of Washington (1911-1919). Publisher of the Seattle *Post-Intelligencer* (1931-36). Private practice in Seattle from 1919 to 1953. General Counsel and a director of the Washington Mutual Savings Bank (1928-1953).

Van Dyke, John B. (1863-c.1940)

White, Richard O. (

Code Reviser, State of Washington, 1951-1978. Native from California. Law degree from Hastings College of Law, University of California. Deputy District Attorney, Yolo County, California. Assistant Attorney General, State of Washington.

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JAMES J. WHITE,

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