

Mr. William Pincus (cont.)

practicable". Where ever a subject matter is customarily left to state law, in that area the Conference has a duty to draft legislation. In the 1880's when organization of the commissioners on uniform state laws was being discussed, confusing and inconsistent divorce and marriage laws, as well as laws on commercial subjects, were the most frequently cited illustrations of the need for national uniformity of state law. A committee to draft a uniform law in the field of divorce was formed in 1892, the first year of the National Conference and the Conference approved a limited act in 1900. Intermittently since that date other and newer acts on various aspects of marriage and divorce have been drafted and approved. The last was the Uniform Divorce Recognition Act promulgated by the Conference in 1947 and thereafter approved by the American Bar Association. In its long history the Conference has drafted family laws acts on its own initiative and has collaborated with others, such as the National Congress on Uniform Divorce Laws called by President Theodore Roosevelt in 1906.

Nonetheless, the efforts of the Conference in the field of family law have not been as successful as in commercial law. Periodically presidents of the Conference have commented on the slowness of our progress in this field. In 1939 a group of distinguished teachers of domestic relations law informed the Conference that while uniformity was desirable, it was not practically obtainable. Yet the Uniform Divorce Recognition Act drafted after that date has gained greater acceptance than earlier Conference endeavors in this field.

Although this discouraging record suggests the possibility of another failure, the National Conference believes that a new attempt should be made at this time. Since, as state officials, it is the duty of the Commissioners to seek uniformity of state law, past failure where uniformity is obviously so desirable is no excuse for not making an attempt.

For reasons which will appear later in this letter, the Conference believes that the time is auspicious for a reform in family law. Moreover, the experience gained by the Conference in drafting the monumental Uniform Commercial Code and in securing its enactment in more states than those which had accepted the many piecemeal acts on which it was based can now be applied to this family law project. For the Uniform Commercial Code the Conference sought a comprehensive coverage of the subject, after an outline had been carefully constructed; it used reporters or draftsmen drawn from the academic community to assist the Commissioners in maintaining a comprehensive approach and to undertake research in depth; it established panels of expert advisors to aid the generalists provided by the Conference in drafting.