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Report of the Law Revision Committee of the State of New York,
by John W. MacDonald

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REPORT OF THE LAW REVISION COMMISSION OF THE STATE OF NEW YORK.¹ 1941 Legislative Document (1941) No. 65. John W. MacDonald, Executive Secretary and Director of Research, Albany, New York.

This report, and its supplementary documents, should be of great value to state legislators, to law revision commissions and legislative councils, to "reform" groups, and to practicing lawyers generally. The report is in two divisions: (1) The Proceedings of the Commission during 1940, and (2) The Commission's Program for 1941.

In 1940 the New York Commission caused the introduction of eleven substantive bills, seven of which became law, and twenty-three revision bills, twenty of which were enacted. The seven bills which were enacted concern: (1) Issuance of new stock certificates to replace lost or destroyed certificates; (2) Advising person charged with non-indictable crime of his right to counsel; (3) Service of process on non-resident natural persons doing business within the state; (4) Recording of land contracts; (5) Alimony in annulment actions; (6) Acknowledgments taken outside the state; and (7) Investments by guardians or wards of the veterans' bureau.

Pursuant to its announced program for 1941, the Commission prepared additional bills for submission to the legislature. Each was printed in a separate pamphlet, which contains not only a copy of the proposed bill, or the former act with its proposed amendments, but also summaries of the existing law, digests of pertinent cases, and an explanation of the reasons for the proposal. These pamphlets, whose topics follow, are designated by indicating first the number of the 1941 Report, followed by a letter, thus: Legislative Document No. 65 (A): Contribution among tort-feasors; (B) Infancy as a defense to a contract (to remove the power of rescission from minors over 18 under certain circumstances); (C) Purchaser from factor who obtains possession by fraud; (D) Action for dissolution of marriage on ground of insanity; (E) Action for death or injuries occurring

¹ The New York Law Revision Commission was organized in 1934, and authorized to examine the common law, statutes, and current court decisions, to recommend changes so as to remove defects, anachronisms, and inequitable rules, and to keep the law of the state in harmony with modern conditions. Because of the excellent personnel of the Commission, it is faithfully and expertly performing the difficult duties assigned to it.

after the death of the person responsible; (F) Liability of carriers for nonreceipt and misdescription of goods; (G) Conveyance of land out of possession; (H) Attornment by a tenant of mortgaged property upon foreclosure of the mortgage; (I) Right of stockholders of a foreign corporation to bring an action on its behalf without joining it as a party defendant; (J) Conditional sales of goods for resale; (K) Constitutionality of certain sections of the public health laws (to remove penalty provisions in proceedings to abate public nuisance which were held to violate right of trial by jury); (L) Recovery of damages in addition to rescission; (M) The seal and enforcement of certain written contracts; and (N) Amendment to clarify the law providing for service of process on nonresident natural persons doing business within the state. Documents 65 (A), (B), (C) and (D) were resubmitted in 1941, having been defeated when first submitted for consideration in 1940. Eight of the bills listed above were enacted by the 1941 Legislature, namely: (B), (F), (G), (H), (K), (L), (M) and (N).²

The Commission reports that it is continuing consideration and study upon the following subjects: (1) Law of fixtures, especially in conditional sales aspects; (2) Recovery by plaintiff in action on contract, the plaintiff being in default; (3) Restitution of money paid under mistake of law; (4) Recovery of interest on tort claims and generally; (5) Allocation of principal and income; (6) Totten trusts, including defeat of inchoate right of spouse by transfer before death; (7) Rights of adopted children and duties of natural and adoptive parents; (8) Statute of Limitations; (9) Immunity from prosecution secured by testimony in civil action; (10) Intestate succession of illegitimate children; (11) Remedy of landowner against encroaching structures; (12) Application of Statute of Frauds to contracts containing arbitration clause; (13) Compromise with plaintiff stockholder in class actions.

These are live legal topics in most states. The Commission's proposals and recommendations in these fields should be available early in 1942. Lawyers and legislators in every state will profit greatly by an examination and thorough study of the New York documents.

² New York Laws, 1941, §§1-955.

