

ascertain whether there is a probability that a proposed convention will receive their approval, to obtain their collaboration throughout the preparatory stage, and to avoid submitting to them definitive *projets* which as a result of the preliminary consultation there is good reason to believe would not be generally ratified. Such a procedure would also, it is believed, not only insure a more general ratification of League conventions, but would save the League from much wasted effort and expense and avoid a possible loss of prestige on its part resulting from the preparation and submission to governments of conventions of which there is little or no likelihood of ratification. By this procedure it is also hoped that the function and utility of the League as initiator of international legislation may be increased. It may be added that the committee emphasized throughout its report the desirability of more thorough preparatory work in the formulation of draft conventions, a desirability which was strongly reaffirmed by the Conference on Codification at the Hague in 1930.

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THE INTERNATIONAL CONFERENCE FOR THE  
UNIFICATION OF LAWS ON CHEQUES

The international unification of the laws on cheques was advanced many steps nearer ultimate achievement by the diplomatic conference which met at Geneva from February 23 to March 19, 1931. Officially it constituted the second session of the Conference for the Unification of the Laws on Bills of Exchange, Promissory Notes and Cheques, which met at Geneva, May-June, 1930, the results of which have already been discussed in this JOURNAL.<sup>1</sup>

The need for a separate conference and separate conventions for the regulation of cheques is to be found in the content of national legislation upon the subject. Systems of legislation outside the Anglo-American sphere require separate treatment for cheques because most of them regard the instrument as one *sui generis* and not merely as a demand bill of exchange drawn upon a bank or banker. On the other hand, the provisions of the Uniform Negotiable Instruments Law and of the English Bills of Exchange Act make the rules governing bills of exchange payable on demand also applicable to cheques, whereas under the various systems prevailing on the continent of Europe and in Latin America, this is not the case. In some countries, *e.g.*, in Austria, Belgium, Denmark, France, Germany, Hungary, Norway and Sweden, cheques are the subject of a special statute. Furthermore, under certain systems, notably the French and the German, a cheque is in effect an order for the repayment or transfer of funds held to the credit of the drawer, and hence gives no right arising out of the cheque itself against the drawer or prior holders. It is apparent, therefore, that the conventions elaborated in 1930 for the unification of the laws on bills of exchange would not serve to regulate cheques, even with restrictive modifications. The preparatory

<sup>1</sup> See Vol. 25 (1931), p. 318.

commission therefore wisely determined to follow the precedent of The Hague in 1912 in conducting the session on cheques as though it were a separate conference.

Notwithstanding this separation of subject matter, the legislative technique adopted for cheques followed that of the 1930 session on bills of exchange, and accordingly, instead of one inclusive convention, three conventions were elaborated and signed at Geneva on March 19, 1931, relating to cheques.<sup>2</sup>

The signatories undertake to introduce in their respective territories, either in one of the original texts (French and English), or in their respective national language, the Uniform Law constituting Annex I of Convention No. 1. This undertaking may be subject to such reservations as shall be notified to the Secretary General of the League at the time of ratification or accession, provided the reservations are among those specifically set out in Annex II of the convention. These reservations, 31 in all, relate to so many possible divergencies in national legislation that one would be inclined to doubt the efficacy of the convention as a whole in establishing international uniformity, were it not for the fact that the reservations are intended only as a catalogue of all the more important national particularisms constituting important legislative policy for one or more nations. Sincerity, if not good faith, would seem to demand that the number of reservations chosen at the time of ratification should be reduced to the lowest practicable.

The reservations of Annex II include such matters as the right of each state to determine the moment at which the drawer must have funds available with the drawee, the right of determining the legal effect of certifications and other declarations not amounting to acceptance, the right to determine whether a cheque may be drawn upon the drawer himself, the right to allow the stopping of a cheque even before the expiration of the time for presentment, or to prohibit the stopping even after such expiration, the right to dispense with presentment and protest within due time as a condition of recourse, and many other questions. Certain reservations can also be made effective even after ratification or accession, after ninety days' notice, and certain reservations may even be made effective within two days in exceptional circumstances connected with the rate of exchange of the currency or in the case of a moratorium. The motives for many of these reservations may be looked for not so much in legislative technique as in the maintenance of economic and fiscal policies with which the use of cheques is intimately related. In view of the wide number of possible reservations, it would have been useful to have incorporated some provision by which a party to the convention might notify its intention of conforming to the uniform law although originally adhering with reservations. Some reservations might very well prove later to be unnecessary or undesirable, and a procedure for

<sup>2</sup> The conventions are reprinted in *League of Nations Official Journal*, 12th year, No. 5, pp. 795-865.

waiving some or all would tend to promote the basic purpose of unification and assist progressive conformity. Instead of laying the foundation for a gradual reduction of divergencies, the conference preferred to allow the Council of the League to decide whether a conference shall be convened for the purpose of revision after the convention has been in effect for four years, provided six states so request.

The Uniform Law itself consists of 57 articles. The formalistic system has been adopted by which the essential requisites of a cheque and the parties by whom and against whom it may be drawn are set forth in detail. Differing from the English rule, a cheque cannot be drawn "without recourse" and any stipulation by which the drawer releases himself shall be disregarded (Art. 12). Another notable difference is the adoption of fixed periods for presentment, eight days for inland cheques, twenty or seventy days for foreign cheques according to whether the place of issue and the place of payment are situated in the same or different continents, with a curious exception in favor of countries bordering the Mediterranean (Art. 29). On the other hand, the English system of "cross cheques" has been adopted, which has become part of banking practice almost everywhere. The American system of certified cheques is not recognized, at least to the extent that certification is equivalent to acceptance as provided by the Negotiable Instruments Law (Sec. 187) of the American States. The doctrine of cover (*provision*) as found in French legislation is left outside the scope of the convention (Annex II, Art. 19).

The conference adopted the practice already followed in regard to bills of exchange, of separating provisions upon substantive law from those upon the conflict of laws. The numerous possible reservations will leave many divergencies, and matters collateral to the instrument itself will also give rise to conflicts of law. These are covered in Convention No. 2, but even as to this, the parties reserved the right not to apply its principles to an obligation undertaken outside the territory of any of the parties, or as to any law which is not in force in the territory of any of them (Art. 9).

Convention No. 3 provides that the signatories shall, if necessary, alter their stamp laws so that obligations arising out of cheques shall not be deemed invalid for lack of stamps, but only suspended until the duties or penalties are paid.

Twenty states had signed all three of the conventions prior to May 1, 1931.<sup>3</sup> All nations, whether members of the League or not, may accede to the conventions after July 15, 1931. Ratifications must be deposited before September 1, 1933, and the conventions come into force when ratified or acceded to on behalf of seven nations, three of which must be members of the League permanently represented on the Council.

The rapidly widening use of cheques and their significance in facilitating payments and credits in international commerce give an immediate and

<sup>3</sup> U. S. Treaty Information Series, Bulletin No. 21, p. 15.

present significance to the movement for the unification of the laws of cheques. The present divergence of legislation has been referred to as creating a condition comparable to a Tower of Babel. This is due perhaps to the comparatively brief period during which cheques have been in general use. If the progress towards complete unification promised by the proposed conventions may appear to some to be very modest, it nevertheless represents a definite advance which should lead to encouragement in view of the magnitude of the task and the number of national legislative prepossessions to be overcome.

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THE HAGUE ACADEMY OF INTERNATIONAL LAW

Interest in the Academy of International Law founded in 1923 continues to increase. At the ninth session held in July and August of the present year, more than 400 auditors were inscribed, in spite of the general financial depression which it was believed would lead to a falling off of the attendance. This number has been exceeded only twice during the history of the Academy. Naturally the Netherlands, as formerly, led with the largest number of students (more than 160). Germany, the United States, Poland, France, Italy and Belgium followed in the order mentioned. Altogether 34 countries were represented among the students in attendance. Of the professions represented, that of the law furnished the largest number. Next came functionaries of the diplomatic and consular service, judges and university professors.

Several governments have adopted the practice of encouraging by different means young men of their countries to take advantage of the facilities which the Academy offers in the way of instruction. During the present year the German Government sent to the Academy several councillors of legation and other functionaries. The Governments of Prussia, Baden and Wurttemberg adopted a similar policy. So did the Governments of Poland, Turkey, Lithuania, and Czechoslovakia. The Government of Italy offered two fellowships to Italian students, and since 1924 the Dutch Government has appropriated annually 2000 florins for five fellowships to be awarded by the Curatorium to students of non-Dutch nationality. In addition, the Curatorium itself offers annually five fellowships with a stipend of 400 florins each. Several universities and other institutions have likewise provided for a certain number of fellowships for their students.

At the recent session of the Academy, courses were given by 25 professors representing ten different countries, the subjects dealt with covering a wide range, including public and private international law, criminal law, administrative law, economics, finance, international organization, international jurisprudence, etc. The recently adopted practice of requiring professors to prepare in advance for distribution among the students a summary or synopsis of their lectures with a brief bibliography, has proved