

**THE NEGOTIABLE
INSTRUMENTS LAW
OF KENTUCKY**

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The Negotiable Instruments Law of Kentucky by Charles M. Lindsay

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CHARLES M. LINDSAY

**THE NEGOTIABLE
INSTRUMENTS LAW
OF KENTUCKY**

Kentucky, Laws, statutes, etc. Banking Law ^{C+}

The Negotiable Instruments Law

OF KENTUCKY.

ANNOTATED

BY

CHARLES M. LINDSAY:

OF THE LOUISVILLE BAR.

LOUISVILLE

GEO. G. FETTER COMPANY,

1904.

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BY

CHARLES M. LINDSAY.

Rec. Jan. 17, 1905.

PREFACE.

In August, 1895, the Commissioners for the Promotion of Uniformity of Legislation in the United States caused to be prepared by Mr. John J. Crawford, of the New York bar, "a bill relating to commercial paper, based on the English statute on that subject, and on such other sources of information as may be deemed proper to consult."

A draft of such a bill to be known as the Negotiable Instruments Law was presented to the Commissioners in August, 1896, was examined by them, section by section during the three days of their session, and adopted as a whole.

The English Bills of Exchange Act, on which the Negotiable Instruments Law was based, had been adopted in 1882 and had in its preparation involved "the work of more than one hundred trained lawyers, the co-operation of the mercantile community for years in its evolution, and its critical consideration by both Houses of Parliament¹." The Negotiable Instruments Law in this country "has had the criticism of lawyers in the Commissioners from thirty-two States, who had it in consideration for more than a year during its preparation, and of leading text-writers and teachers on the subject of bills and notes."² The American Bankers' Association, through its Committee on Uniform Laws,

¹6 Yale Law Journal, 132. ²Yale Law Journal, January, 1901.

has said of it: "A more useful or thoroughly prepared statute on Commercial Law would be difficult to find³." It has met the approval of the Judiciary Committees of twenty-four jurisdictions, of many State and city bar associations and has not yet met adverse criticism from the courts in the jurisdictions in which it has been adopted. The facts warrant the statement that there is probably no statute in the English language which "has received a tithe of the elaborate work laid out on the Negotiable Instruments Law⁴."

It is not asserted that the law is a perfect one, but it is believed that its imperfections are almost insignificant, and that many of what seem to be imperfections will disappear under a fair and reasonable construction. The Act is emphatically a law in aid of negotiability. It is especially so in Kentucky in which the development of commercial law seems to have been almost arrested for the past generation.

Unfortunately the Kentucky Act is not exactly like the original law recommended by the Commissioners. Section 19 and sub-section 6 of section 120 have been changed, the former much for the worse; and there has been omitted a valuable aid to construction found in the provision adopted in all other States, that "in any case not provided for in this Act the rules of the law merchant shall govern."

This book is not a text-book on the law of negotiable instruments. It is an effort to present the Kentucky Act in a form in which it can be easily consulted, to show the constructions which have been put on various sections by the courts of other States, and to refer under each section to the Kentucky cases which bear on the

³*Ib.* 46 Yale Law Journal, 132.

subject treated in it. Many of these cases arose on non-negotiable notes, but the rules established by them apply as well to negotiable instruments. Decisions of the former Superior Court have not been cited except where there is no decision of the Court of Appeals directly in point. It is believed that the citations include all pertinent cases reported up to June 30, 1904.

Under each section there are references to Eaton and Gilbert on Commercial Paper, and in most cases also to Norton on Bills and Notes, and to Randolph on Commercial Paper, these being the latest text-books referring to the Negotiable Instruments Law.

As these books refer to the sections as numbered in the New York Act, and as the greater part of the cases which may be decided under the Negotiable Instruments Law will probably come from New York, there has been added as an appendix a Table of Corresponding Sections of New York and Kentucky Acts.

The titles of cases construing the Act in other States are printed *in italics*.

Considering how loosely many of the Kentucky decisions have been reported in syllabuses and digested, the task of dealing with them could not be otherwise than difficult; and this difficulty, together with the fact that this book has been written under the disadvantage of a pressure of many other obligations, may, perhaps, excuse its imperfections.

CHARLES M. LINDSAY.

Louisville, July, 1904.

The Negotiable Instruments Law has been adopted in the following jurisdictions:

Arizona, September 1, 1901.
Colorado, April 20, 1897.
Connecticut, April 5, 1897.
District of Columbia, January 12, 1890.
Florida, June 1, 1897.
Idaho, March 10, 1903.
Iowa, May 15, 1902.
Kentucky, June 13, 1904.
Maryland, March 29, 1898.
Massachusetts, January 1, 1899.
Montana, March 7, 1903.
New Jersey, April 4, 1902.
New York, October 1, 1897.
North Carolina, March 28, 1899.
North Dakota, March 7, 1899.
Ohio, January 1, 1903.
Oregon, February 16, 1899.
Pennsylvania, September 2, 1901.
Rhode Island, July 1, 1899.
Tennessee, May 13, 1899.
Utah, July 1, 1899.
Virginia, March 3, 1898.
Washington, March 22, 1899.
Wisconsin, May 15, 1899.

TABLE OF CONTENTS.

Title I.—NEGOTIABLE INSTRUMENTS IN GENERAL.

	Sections.
Article 1. Form and Interpretation.....	1-23
2. Consideration	24-29
3. Negotiation	30-50
4. Rights of the Holder.....	51-59
5. Liabilities of Parties.....	60-69
6. Presentment for Payment.....	70-88
7. Notice of Dishonor.....	89-118
8. Discharge of Negotiable Instru- ments	119-125

Title II.—BILLS OF EXCHANGE.

Article 1. Form and Interpretation.....	126-131
2. Acceptance	132-142
3. Presentment for Acceptance.....	143-151
4. Protest	152-160
5. Acceptance for Honor.....	161-170
6. Payment for Honor.....	171-177
7. Bills in a set.....	178-183

Title III.—PROMISSORY NOTES AND CHECKS.

Article 1.	184-189
-----------------	---------

Title IV.—GENERAL PROVISIONS.

Article 1.	190-195
-----------------	---------

APPENDIX.

Table of Corresponding Sections of New York and
Kentucky Acts.