LEGISLATION

THE UNIFORM FIDUCIARIES ACT—In the initial application of the equitable principle that he who participates in a breach of trust may be held liable to the *cestui que trust*,[1] the courts strictly construed the doctrine against the third party, readily implying notice of the intended breach, and requiring the utmost investigation of the trustee's acts. There could be no objection to a rigid enforcement of penalties against a trustee or other fiduciary, who had violated his fiducial relationship, nor likewise to an application of similar rules to one who participated knowingly; but the imposition upon third parties dealing with a fiduciary of a duty to supervise the conduct of the latter became intolerable, proving itself a moral injustice to third parties and resulting in a serious retardation of the administration of trusts.[2] Consequently there developed in the law, by means of the modifications of judicial exceptions and the complete alteration of legislative enactments, a trend favoring third persons. The most recent evidence of this is the *Uniform Fiduciaries Act*,[3] which is the *ultima thule* of constructive notice to third parties of a breach of trust.

Upon adoption by the various states, the acts drafted by the National Conference of Commissioners on Uniform State Laws [4] would seem to fulfil their obvious purpose of uniformity; but they also bestow the unmentioned benefit of advancing the law upon that subject to its most modern point. Having been drafted by experts, considered section by section by a special committee and the conference, they represent, not the law of the majority of jurisdictions, but what is deemed the most suitable remedy of the evil attacked. Therefore, this act, although not the subject of constant litigation, is worthy, nevertheless, of consideration as manifesting the future of the field.

The Act, despite the broad and indefinite scope of its title,[5] is limited to the liabilities of persons dealing with one, knowing him to be a fiduciary, and it disregards "constructive" notice of this fact.[6] Its sole purpose is to facilitate the performance by the fiduciaries of their obligations by establishing uni-

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[1] If one has received and still holds the trust property or its proceeds he may be held as a constructive trustee thereof; if he has never received or no longer holds the trust property or its proceeds, he may be held liable for damages. Indiana etc. Ry. Co. v. Swanell, 157 Ill. 616, 41 N. E. 989 (1895); Bundy v. Monticello, 84 Ind. 119 (1882); *In re* Champion, [1893] 1 Ch. 101.

[2] Sir William Grant expresses his dissatisfaction with the rule in Balfour v. Welland, 16 Ves. 151, 156 (Eng. 1809).

[3] The Act since its inception in 1922 has been adopted in the following 15 states: COLO. ANN. STAT. (Mills, 1930) §§ 403n-403a(1); D. C. CODE (1929) tit. 11, § 3; Idaho Laws (1925) c. 217; ILL. REV. STAT. (Cahill, 1931) c. 140a; IND. ANN. STAT. (Burns, Supp. 1929) §§ 8006.1-8006.14; LA. REV. STAT. ANN. (Marr, Supp. 1926) pp. 692-695; MD. ANN. CODE (Bagby, Supp. 1929) art. 37A; NEV. COMP. LAWS (Hillyer, 1929) §§ 2985-3000; N. J. COMP. STAT. (Supp. 1930) §§ 222-23a (1) to 222-23a (14); N. M. STAT. ANN. (Courtright, 1929) §§ 51-101 to 51-112; N. C. CODE ANN. (Michie, 1931) c. 36A; PA. STAT. ANN. (Purdon, 1930) tit. 20, §§ 3311-3414; Utah Laws (1925) c. 86; WIS. STAT. (1931) c. 11a; WYO. REV. STAT. ANN. (Courtright, 1931) c. 43. Compare somewhat similar statutes, KY. STAT. (Carroll, 1930) § 4707; R. I. Laws (1930) c. 1561.

[4] See HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (1931) 487 *et seq.*

[5] It is not the purpose of the conference "to back a complete code of law" at this time but "to prepare gradually smaller statutes, covering parts of the trust field, which might later be consolidated into a single comprehensive act." The commissioners are working in conjunction with the American Banker's Association on certain trust problems. Report of Committee on Uniform Trust Administrations Act, HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (1931) 347.

[6] See Commissioner's Notes on the Uniform Fiduciaries Act, 9 U. L. A. (1932) 147.

form and definite rules as to "constructive" notice of breaches of their obligations.[7]

The feature of importance in the definitive sections, which define bank,[8] fiduciary,[9] person,[10] principal,[11] and good faith,[12] is that the definition of good faith accords with the *Negotiable Instruments Law*,[13] adopting the subjective test of honesty rather than the objective one of negligence.

At common law the *bona fide* purchaser of trust property was held liable in equity to the *cestui que trust* if the trustee misappropriated the purchase price. The reason was that, at equity, a receipt to be valid must be that of the real owner, who, in such jurisprudence, is the *cestui que trust*.[14] The result was twofold: the purchaser hesitated to deal with a trustee unless the trust instrument provided for freedom from liability, and the courts attempted to evade the rule. Wherever it was possible to imply in the terms of the trust an intention[15] that the trustee was to have the power to give a valid receipt, the courts did so. Such an intention was inferred from the fact that the trustee could use his discretion in the application of the purchase price,[16] or that he was required to reinvest[17] or generally distribute it,[18] or to pay debts in general,[19] or to pay debts and legacies,[20] or to pay debts and apply the balance to the support of

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[7] *Ibid.*

[8] Section 1 (1) "'Bank' includes any person or association of persons, whether incorporated or not, carrying on the business of banking." 9 U. L. A. 147; *cf.* N. I. L. § 191.

[9] Section 1 (1) "'Fiduciary' includes a trustee under any trust, expressed, implied, resulting or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust or estate." 9 U. L. A. 147.

[10] Section 1 (1) "'Person' includes a corporation, partnership, or other association, or two or more persons having a joint or common interest." 9 U. L. A. 147. *Cf.* N. I. L. § 191; UNIFORM SALES ACT § 76; UNIFORM WAREHOUSE RECEIPTS ACT § 58; UNIFORM BILLS OF LADING ACT § 53; UNIFORM STOCK TRANSFER ACT § 22; UNIFORM PARTNERSHIP ACT § 2.

[11] Section 1 (1) "'Principal' includes any person to whom a fiduciary as such owes an obligation." 9 U. L. A. 147.

[12] Section 1 (2) "A thing is done 'in good faith' within the meaning of this act, when it is in fact done honestly, whether it be done negligently or not." 9 U. L. A. 147. *Cf.* Acts cited *supra* note 10.

[13] N. I. L. § 56, "To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith." See Note (1933) U. OF PA. L. REV. 617. For citation of cases upon interpretation of this section of the N. I. L., see BRANNAN, NEGOTIABLE INSTRUMENTS LAW (Beutel's ed. 1932) 572 *et seq.*

[14] Duffy v. Calvert, 6 Gill 487, 517 (Md. 1848); Weatherby v. St. Giorgio, 2 Hare 624 (Eng. 1843).

[15] But see Stroughill v. Anstey and Forbes v. Peacock (1853) 17 JURIST, pt. 2, 242, at 252, where it is asserted that prior to the decision of the latter case [11 Sim. 152 (1840)] the rule was founded on necessity, because it would be impossible to satisfy a purchaser.

[16] Wormley v. Wormley, 8 Wheat. 421 (U. S. 1823); Law Guarantee and Trust Co. v. Jones, 103 Tenn. 245, 58 S. W. 219 (1900); Doran v. Wiltshire, 3 Swans. 699 (Eng. 1792).

[17] Keister v. Scott, 61 Md. 507 (1883); Turner v. Hoyle, 95 Mo. 337, 8 S. W. 157 (1888); Clairborne v. Holland, 88 Va. 1046, 14 S. E. 915 (1892); Locke v. Lomas, 5 De G. & S. 326 (Eng. 1852).

[18] Grant v. Hook, 13 S. & R. 259 (Pa. 1825); Hannum v. Spear, 1 Yeates 553 (Pa. 1795).

[19] Potter v. Gardner, 12 Wheat. 498 (U. S. 1827); Grotenkemper v. Bryson, 79 Ky. 353 (1881); Dewey's Executors v. Ruggles, 25 N. J. Eq. 35 (1874); Conover v. Stothoff, 38 N. J. Eq. 55 (1884); Hauser v. Shore, 5 Ired. Eq. 357 (N. C. 1848); Williamson v. Curtis, 3 Bro. C. C. 95 (Eng. 1790).

[20] Andrews v. Sparhawk, 13 Pick. 393 (Mass. 1833); Grant v. Hook, 13 S. & R. 259 (Pa. 1825); Stroughill v. Anstey, 1 De G., M. & G. 635 (Eng. 1852).

someone,[21] or to pay to one unborn or under age or otherwise not having legal capacity or existence.[22] In fact there were so many exceptions to the rule that the rule became the exception.[23] In England at an early date immunity was given by statute.[24] Similar statutes were enacted in most of those states of the United States in which this doctrine gained a foothold.[25]

Section 2 [26] of the *Fiduciaries Act* is based upon these statutes, being applicable to all fiduciaries, not merely trustees, and to all transfers not merely payments of money. However, it must be remembered that this applies only when the fiduciary is authorized to receive such payments.[27]

In the United States, a corporation which, having notice that shares are held in trust,[28] registers the transfer of them without reasonable inquiry as to the powers and obligations of the trustee, is liable for the proximate consequences [29] of its participation in the breach of trust if such occurs.[30] The corporation must decide correctly whether it should register the transfer; if it is wrong, either the *cestui que trust* or purchaser may recover.[31] This doctrine, which never prevailed in England,[32] has been repudiated by modern statutes in certain states of the United States.[33]

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[21] Stall v. Cincinnati, 16 Ohio St. 169 (1865).

[22] Woodwine v. Woodrum, 19 W. Va. 67 (1881); *cf.* Balfour v. Welland, *supra* note 2; Groom v. Booth, 1 Drew. 548, 566 (Eng. 1853).

[23] *Cf.* STORY, EQUITY JURISPRUDENCE (11th ed. 1873) § 1135, "These are some of the most important and nice distinctions which have been adopted by courts of equity upon this intricate topic; and they lead strongly to the conclusion, to which not only eminent jurists but also eminent judges have arrived, that it would have been far better to have held in all cases, that the party, having the right to sell, had also the right to receive the purchase money . . . "

[24] Trustee Act, 56 and 57 VICT. c. 53 § 20 (1893); 22 and 23 VICT. c. 35 § 23 (1859).

[25] ALA. CIV. CODE (Michie, 1928) § 6916; CAL. CIV. CODE (Deering, 1931) § 2244; IND. ANN. STAT. (Burns, 1926) § 13457; KAN. REV. STAT. ANN. (1923) c. 67 § 409; KY. STAT. (Carroll, 1930) c. 128 § 4707; Mass. Laws (1918) v. 68, § 2; MICH. COMP. LAWS (1929) § 12988; MINN. STAT. (Mason, 1927) § 8101; MO. REV. STAT. (1929) c. 26 § 3144; MONT. REV. CODE (Choate, 1921) c. 49 § 7901; N. J. COMP. STAT. (1910) p. 2267; N. Y. REAL PROP. LAW (1918) § 108; N. D. COMP. LAWS ANN. (1913) § 6294; R. I. GEN. LAWS (1923) c. 303 § 4410; S. D. COMP. LAWS (1929) § 1208; WIS. STAT. (1931) § 231.22. *Cf.* DEL. REV. CODE (1915) c. 98 § 3395; 3 OHIO GEN. CODE (Throckmorton, 1930) c. 4 § 11027.

[26] UNIFORM FIDUCIARIES ACT § 2, 9 U. L. A. 149.

[27] In the absence of statute, a trustee has no implied power of sale, and a purchaser who has notice that he is purchasing trust property is bound to inquire as to the authority of the trustee (except as limited by the laws of negotiable instruments). O'Herron v. Gray, 168 Mass. 573, 47 N. E. 429 (1897); Gibney v. Allen, 156 Mich. 301, 120 N. W. 811 (1909); Ludington v. Mercantile National Bank, 102 App. Div. 251, 92 N. Y. Supp. 454 (1905); PERRY, TRUSTS AND TRUSTEES (7th ed. 1929) § 800. An executor has an implied power of sale, Shaw v. Spencer, 100 Mass. 382 (1868); Russell v. Plaice, 18 Beav. 21 (Eng. 1854); McLeod v. Drummond, 14 Ves. 353 (1807); Nugent v. Gifford, 1 Atk. 463 (Eng. 1738).

[28] The addition to the name of the holder of the corporate securities of words indicating a fiduciary capacity give notice of the existence of a trust, Shaw v. Spencer, *supra* note 27; Kenworthy v. Equitable Trust Co., 218 Pa. 286, 67 Atl. 469 (1907).

[29] It is possible that the registration of the corporation may have done no injury to the *cestui que trust.* Crawford v. Provincial Ins. Co., 8 U. C. C. P. 263 (Canada, 1858); Hildyard v. South Sea Co., 2 P. Wms. 76 (Eng., 1722); *cf.* Case v. Bank, 100 U. S. 446 (1879).

[30] Marbury v. Ehlen, 72 Md. 206, 19 Atl. 648 (1890); Bayard v. Farmers and Mechanics Bank, 52 Pa. 232 (1866); Chapman v. City Council, 28 S. C. 373, 63 S. E. 158 (1887). The origin of this view is usually attributed to Mr. Justice Taney in Lowry v. Com'l and Farmer's Bank, Fed. Cas. No. 8581, at 1040, 1047 (C. C. D. Md. 1848); Behrends and Elliott, *Responsibilities and Liabilities of the Transfer Agent and Registrar* (1931) 4 So. CALIF. L. REV. 203.

[31] LOWELL, TRANSFER OF STOCK (1884) § 155.

[32] Hartga v. Bank of England, 3 Ves. 55 (1796); Bank of England v. Parsons, 5 Ves. 665 (1800).

[33] DEL. REV. CODE (1915) c. 98, § 3396; ILL. REV. STAT. (Cahill, 1931) c. 32, § 29; MASS. GEN. LAWS (Tercentenary ed. 1932) ch. 203, § 21; KY. STAT. (Carroll, 1930) c. 128, § 4707; PA. STAT. ANN. (Purdon, 1930) tit. 4, § 7.

The view of these statutes has been adopted by the Uniform Act in Section 3,[34] thereby freeing the corporation from liability where it acts without knowledge of the intended breach or without such knowledge as amounts to bad faith. This applies only where the stock is registered in the fiduciary's name and not where registered in the name of the principal, decedent, or *cestui que trust*. Therefore, it constitutes no interference with provisions as to inheritance taxes. The Act not only protects the corporation but should render obsolete such undesirable practices as trustees registering stock in their own names without disclosing the trust.

Although the *Negotiable Instruments Law* applies the test of good faith in determining whether the holder of an instrument has notice of an infirmity,[35] most courts will not recognize a *bona fide* purchaser for value as a holder in due course, if having knowledge of the trust he did not use reasonable care to investigate the authority of the trustee.[36] This rule is applied irrespective of whether the transaction was for the personal benefit of the trustee or not. Yet in other situations the fact of negligence has not been a bar.[37] The *Uniform Fiduciaries Act* attempts to bring the law of trusts into conformity with the *Negotiable Instruments Law*.[38] Where the instrument is not given in a transaction known by the taker to be for the personal benefit of the fiduciary, the transaction is presumed proper, and the taker is not bound to inquire. This is rebutted only by evidence of actual knowledge or bad faith. However, where the transaction is known to be for the personal benefit of the fiduciary, and the instrument is drawn by a third person payable to the principal or fiduciary as such, and then endorsed to the creditor,[39] or drawn by the fiduciary payable to the creditor,[40] the presumption established by the *Uniform Fiduciaries Act* is that the act was a breach of trust and the taker is liable for participation if this in fact occurs. But Section 6 provides that where the instrument is drawn by a fiduciary payable to himself personally, or to a third person and by him transferred to the fiduciary, and is thereafter transferred, the taker is not charged with notice [41] even though the transaction may be for the known benefit of the fiduciary, unless, of course, there is actual notice of the breach or bad faith. The principle underlying this rule has been most aptly set forth by Justice Loring in *Johnson Kettel Co. v. Longley Luncheon Co.*:[42]

> "The distinction seems to be this: Where the corporation note or other negotiable instrument is payable to the creditor of the individual, the transaction which on the face of the note or other instrument is represented to have taken place is an appropriation of the corporation's money to the payment of the individual's debts and is bad unless shown good. Since the transaction is bad unless shown to be good and since the purchaser took with notice (given on the face of the note or other instrument), his rights depend upon the transaction's being or not being in fact what it purports on the face of the note or instrument to be and no question of a purchase

[34] UNIFORM FIDUCIARIES ACT § 3, 9 U. L. A. 149.

[35] See *supra* note 13.

[36] Third National Bank v. Lange, 51 Md. 138 (1878); Ward v. City Trust Co., 192 N. Y. 61, 84 N. E. 585 (1908); Ford v. Brown, 114 Tenn. 467, 88 N. W. 1036 (1905).

[37] Link v. Jackson, 158 Mo. App. 63, 139 S. W. 588 (1911); see Hotchkiss v. National Banks, 88 U. S. 354, 359 (1874).

[38] The Missouri statute foreshadowing the Uniform Fiduciaries Act, required actual notice to create liability in the payee for breach of trust. Mo. Laws 1917, 144.

[39] UNIFORM FIDUCIARIES ACT § 4. 9 U. L. A. 150.

[40] UNIFORM FIDUCIARIES ACT § 5. 9 U. L. A. 151.

[41] UNIFORM FIDUCIARIES ACT § 6. 9 U. L. A. 151.

[42] 207 Mass. 52, 56, 92 N. E. 1035, 1037 (1910).

in good faith can arise . . . But on the other hand where the note or other instrument is payable to the treasurer or to a third person, and after being indorsed by the payee in blank is used by the treasurer in paying his individual debt, the transaction which on the face of the instrument is represented to have taken place is a payment by the corporation to the treasurer (where the note or other instrument was payable to him) and a payment by the corporation to the third person and another payment by the third person to the treasurer (where the note or other instrument was payable to a third person as stated above). In each of these last two cases the transaction is good unless it is proved to be bad. In that case, if the corporation proves that the application of the note or other instrument of the corporation was a wrongful one, the rights of the creditor depend upon his having acted in good faith."

In the majority of jurisdictions, a bank is not bound to inquire into the authority of a fiduciary to make a deposit.[43] This extends so far as to permit a fiduciary to credit to his personal account a check payable to him as trustee without creating in the bank any duty to make inquiry. This latter result has been specifically approved by the *Uniform Fiduciaries Act*,[44] for the purpose of abolishing the exceptions adopted in several states. Likewise, both under numerous decisions [45] and under the Act,[46] the bank is not liable for payments of checks either from an account in the name of the fiduciary as such, or in the name of the principal, or from the fiduciary's personal account when trust funds have been deposited there. But where the check is payable to the drawee bank and delivered in payment of or as security for the personal debt of the fiduciary to it, the bank is liable if the act is in fact a breach of trust.[47] It is obvious in such case that the bank stands in a position as creditor and the same rules must apply. Therefore the rule of Section 6, that a check payable to the fiduciary personally requires no inquiry, should discharge the bank in such case; but the decisions apparently have made no distinction.[48]

The final substantive section of the Act [49] considers a deposit by two or more trustees, with authorization to one or more of the trustees to draw checks, and relieves both the bank and holders of a duty to inquire whether such authorization is a breach of trust.[50]

To date there have been three decisions in which a court definitely cited the Act as controlling,[51] all three in the Supreme Court of Pennsylvania. The

[43] Allen v. Puritan Trust Co., 211 Mass. 409, 97 N. E. 916 (1912); Kendall v. Fidelity Trust Co., 230 Mass. 238, 119 N. E. 861 (1918); Havana Central R. R. Co. v. Knickerbocker Trust Co., 198 N. Y. 422, 92 N. E. 12 (1910); Brookhouse v. Union Publishing Co., 73 N. H. 368, 62 Atl. 219 (1905).

[44] UNIFORM FIDUCIARIES ACT § 9. 9 U. L. A. 153.

[45] Havana Central R. R. Co. v. Central Trust Co., 204 Fed. 546 (C. C. A. 2d, 1913); City of Newburyport v. First National Bank, 216 Mass. 304, 103 N. E. 782 (1914); Hood v. Kensington National Bank, 230 Pa. 508, 79 Atl. 714 (1911); Gray v. Johnston, L. R. 3 H. L. 1 (1868).

[46] Section 9. *Supra* note 44.

[47] UNIFORM FIDUCIARIES ACT §§ 7-8. 9 U. L. A. 153. See section 9, *supra* note 44. Decisions in accord with the Act are: Union Stock Yards Bank v. Gillespie, 137 U. S. 411, 11 Sup. Ct. 118 (1890); U. S. F. and G. Co. v. Union Bank, 228 Fed. 448 (C. C. A. 6th, 1915); Bischoff v. Yorkville Bank, 218 N. Y. 106, 112 N. E. 759 (1916).

[48] Pennsylvania Co. for Ins. etc. v. Ninth Bank and Trust Co., 306 Pa. 148, 158 Atl. 251 (1932), and cases cited *supra* note 47.

[49] UNIFORM FIDUCIARIES ACT § 10. 9 U. L. A. 155.

[50] A trustee cannot bind his co-trustees unless expressly authorized and then only as to ministerial acts. A payment from principal is probably ministerial, but not one from income, *cf.* LORING, TRUSTEE'S HANDBOOK (1898) 87. The act relieves the third person of the duty of solving these problems.

[51] The Act was cited but not applied (since it is not adopted in Minnesota) in Rodger v. Banker's Nat. Bank, 179 Minn. 197, 229 N. W. 90 (1930).

first, *Norristown-Penn Trust Co. v. Middleton*,[52] was a case in which a treasurer of a bank, embezzling funds, drew checks on the bank's funds to pay his own debt. One of the checks was drawn to a fictitious person, endorsed with said name, and then delivered to a third party. The court applied Section 6, holding that this was not notice of a breach of trust and left it to the jury upon the question of bad faith.[53] The other checks were drawn directly to the creditor who was bound at his peril to inquire as to the right of the maker.

The decision as a whole may well be taken as a precedent in the other states which have adopted the Act.

Unfortunately, the next decision was a blow to the essential purpose of the Act. In *Pennsylvania Company for Insurances on Lives, etc. v. Ninth Bank and Trust Company*,[54] a trustee wrongfully drew a check on a trust account to the order of himself and deposited it in the drawee bank in payment of an overdraft. The court held the bank liable both in its capacity of creditor and as depository. Whether through fault of counsel, or the court's disagreement with the legislature, Section 6[55] enacting that a check by the fiduciary to his own order, even in payment of a personal debt, imputes no notice was neither distinguished nor applied, but rather the rule necessitating inquiry where checks are drawn payable to a creditor (Section 5).[56] Having thus imputed notice of the intended breach, the bank was also liable as a depository for paying the check. It cannot be argued that the particular facts of this case constitute notice, since there are no other facts but those specifically stated in the Act as constituting constructive notice. Nor was the question of actual knowledge or bad faith decided by a jury, since judgment was rendered for want of a sufficient affidavit of defense. How can the movement of uniformity,[57] attempting to make practically binding the decision of any state on a uniform act, flourish when such a decision is rendered in one of the first interpretations of an Act?

The third case, *Union Bank and Trust Company v. Girard Trust Company*,[58] held that where a teller and assistant treasurer of a bank, duly authorized and registered to execute clearing house due bills, issue such a bill upon the instruction of the vice-president in payment of stock purchased by the president, the payee was not put upon inquiry. Section 5[59] imputes notice where the transaction is for the personal benefit of the fiduciary drawer; but here the drawers were not the president but the teller and assistant treasurer. Since it was not in payment of their personal debt, the payee was not put upon notice. The decision illustrates a literal interpretation of the Act.

By means of the foregoing principles, it is the purpose of the draftsmen of the *Uniform Fiduciaries Act* to facilitate the performance by fiduciaries of their obligations. The ancient rules often cast a heavy burden on honest fiduciaries, and yet were of little value in restraining dishonest ones. The serious penalties which overhung the head of a purchaser regardless of his good faith, and the uncertain duties arising from particular situations, made prudent men unwilling to transact business with fiduciaries. The Act should remedy both evils, being very liberal in not imputing constructive notice, and establishing

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[52] 300 Pa. 522, 150 Atl. 885 (1930).

[53] The fact that the transaction occurred in an unusual manner was sufficient evidence to sustain the verdict of the jury that bad faith was present.

[54] *Supra* note 48.

[55] Section 6, *supra* note 41.

[56] Section 5, *supra* note 40.

[57] See Report of the Committee on Uniformity of Judicial Decisions, HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (1931) 202.

[58] 307 Pa. 488, 161 Atl. 865 (1933), (1933) 81 U. OF PA. L. REV. 333.

[59] *Supra* note 40.

uniformity by its universal adoption. But decisions such as that in *Pennsylvania Company, etc. v. Ninth Bank and Trust Company,*[60] will render the Act useless. For a court to disagree with the policy of the legislature or at least to be unwitting of it, and arrive at the opposite conclusion, will keep the law uncertain in that state, as well as destroy uniformity with states strictly construing the Act. It remains for the future to disclose whether the courts will interpret the Act in accordance with their personal opinions of justice or construe it as written and thereby effectuate the beneficial purposes of the Commissioners.

T. K. W., Jr.

[60] *Supra* note 48.