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Hart-Willier: Forms and Procedures Under the Uniform Commercial Code

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the overlapping of benefits is potentially a critical problem. Nonetheless, its solution should await the consideration of more pressing matters. Only when the state acts meet their obligations to the victims of industrial accidents should any changes be contemplated in the social security system.

One possible approach which the federal government might take is to establish mandatory standards for workmen's compensation.¹⁶ Those states which meet these requirements would be free to administer their compensation system without federal co-operation. Those states which insist on short-changing the injured worker would be subjected to federal action. This alternative was unfortunately not explored by any of the essays under consideration.

Occupational Disability and Public Policy merits the careful attention of all who are concerned with the human overhead of industry. While the symposium offers no easy solutions, it is at least a beginning. In an area long characterized by stagnation, any intellectual movement is a welcome sign.

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Forms and Procedures Under the Uniform Commercial Code. By Frederick M. Hart and William F. Willier: Matthew Bender & Co., New York, 1963, \$30.00, pp. xxvii 1100.

American lawyers, even in states where the Uniform Commercial Code has not yet been, or may never be, adopted, will no longer be able to shrug off the Code as a well-intended but abortive piece of model legislation. With almost all of the commercial states now in the fold, it is inconceivable that practitioners anywhere could escape its influence.

Had law schools and, particularly, more teachers of commercial law subjects been doing their job properly, the bar would, on the whole, be considerably more familiar with the Code than it is in fact. The first final draft was published over ten years ago, thus at least the younger generation of attorneys should have had the benefit of an intimate examination of its objectives, methodology and provisions. But this does not appear to be true.

For those wishing to begin or add to their knowledge of the Code, there is a healthy body of literature available. Not all of it is worth the time for reading, but a careful selection can easily be made. Little in the way of form books or drafting aids has yet appeared. The Banker's Manual on the Uniform Commercial Code, published by the Massachusetts Bankers Association and the Lawyers Co-operative Publishing Company, first saw the light of day in 1958 and contains an appendix of ten forms dealing primarily with loans on equipment, inventory, accounts and farm products. It is not in-

¹⁶ See Brodie, *The Adequacy of Workmen's Compensation as Social Insurance: A Review of Developments and Proposals*, 1963 Wis. L. Rev. 57, 89.

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tended for use as a form book, but rather as a presentation of those Code principles and rules which have direct bearing on the banking business.

Often it is said, and it is true, that pre-Code forms may continue to be used after the effective date of the Code. Terms inconsistent with the Code will be excised by the court and the document will be enforced as it reads after this surgery has been performed. Because the Code generally liberalizes the technicalities of drafting the provisions which might be included in any given document, it is tempting to simply use up old forms. In the judgment of this observer, no worse general decision could be made. The Code has as its purpose the improvement of the law applied by courts in their interpretation of commercial agreements. If those drafting these agreements do not respond to that purpose, the Code will have failed and should not have been enacted in the first place.

The fact of the matter is that the Code does call for a reconsideration of present forms, not all of which, of course, will need revision. For example, the effect of section 2-202 on the admissibility of parol evidence to vary the terms of a written instrument makes it imperative to tighten the language of many merger clauses found in printed form sales contracts. The disclaimer rules relating to warranties (section 2-316) and the sections on limitation of damages (section 2-718) and limitation of remedies (section 2-719) call for a re-examination and, in many cases, a re-drafting of clauses affecting warranty and other liability. And it would be sheer folly for corporate counsel not to study the language of invoice and acknowledgment forms, as well as the habits of his client in the employment of such forms, in the light of the technical subtleties of sections 2-206 and 2-207.

These are just a few examples, all taken from the article on sales. Many others could be noted. Lawyers in search of material to aid them in this practical and important endeavor will be pleased with the recent publication of Matthew Bender & Company, *Forms and Procedures Under the Uniform Commercial Code*, written and compiled by two members of the Boston College Law School faculty. The volume has a threefold objective:

- (i) to suggest forms stripped of the irritating "legalese" which most forms and lawyers seem duty-bound to honor;
- (ii) to present a textual exploration of the forms suggested and to explain the salient substantive principles considered in their drafting and
- (iii) to relate each form to the relevant Code provision to which it is responsive.

Each of these objectives is adequately met. The authors have organized their volume according to the outline of the Uniform Commercial Code. The two most significant articles of the Code are two and nine, dealing respectively with sales and secured transactions. These topics have been given the most thorough treatment in the work, while the pages on articles four and five ("Bank Deposits and Collections" and "Letters of Credit") remain yet to come.

Basic forms are printed for the major commercial transactions under

each Code article, and these forms are immediately followed by a textual discussion. Additional, alternate and optional clauses are suggested and discussed within the text to fit varying circumstances that may require deviation from the basic form. In addition, selected printed forms actually in use are reproduced so that a total picture may be had or an actual form may be available for adaptation.

The format of the book may be at first a bit confusing. Paragraphs are related to the corresponding Code article, and each chapter is paginated separately and to the Code article to which it refers. Once familiar with its use, however, the technique is a practicable time saver.

Other form volumes are certain to appear—indeed, some have. These authors have set an admirable pattern in apprising the users of their volume when, how and why the forms should be used and the substantive results of their use. The book comes highly recommended indeed.

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