

Louisiana Law Review

Volume 16 | Number 1
December 1955

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Repository Citation

The Effect of the Adoption of the Proposed Uniform Commercial Code on the Negotiable Instruments Law of Louisiana: A Student Symposium - Foreword, 16 La. L. Rev. (1955)
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COMMENTS

The Effect of the Adoption of the Proposed Uniform Commercial Code on the Negotiable Instruments Law of Louisiana: A Student Symposium

Foreword

Of all the uniform legislation proposed in recent years, none has attracted more attention than the Uniform Commercial Code,¹ undoubtedly because no other uniform act has proposed to affect and restate so wide an area of law. Prepared and adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws in 1952, the Code has been the subject of well over three hundred law review articles. It has been under study by legislative groups in California, Connecticut, Massachusetts, New Hampshire, New Jersey, New York, and Texas² and has been adopted in Pennsylvania.³ In addition, banks, insurance companies, and other business enterprises have made their views and criticisms known, chiefly before the New York Law Revision Commission which is currently considering whether or not to recommend adoption of the Code in that state. As a result of these studies and criticisms, and in light of the experience in Pennsylvania,⁴ the 1952

1. THE UNIFORM COMMERCIAL CODE, OFFICIAL DRAFT, TEXT AND COMMENTS EDITION (1952) as revised through 1955. Article 1 of the Code includes only general provisions. The remainder of the articles encompass every major segment of commercial activity: article 2, Sales; article 3, Commercial Paper; article 4, Bank Deposits and Collections; article 5, Documentary Letters of Credit; article 6, Bulk Transfers; article 7, Warehouse Receipts, Bills of Lading and Other Documents of Title; article 8, Investment Securities; article 9, Secured Transactions, Sales of Accounts, Contract Rights and Chattel Paper; and article 10, Effective Date and Repealer. For a general discussion of the scope and purpose of the Code see UCC introductory comment to title, at p. 1. In this symposium the Uniform Commercial Code will be referred to as UCC or the Code.

2. Goodrich, *Foreword* in SUPPLEMENT No. 1 to 1952 OFFICIAL DRAFT OF TEXT AND COMMENTS OF THE UNIFORM COMMERCIAL CODE iii (1955).

3. Pa. Laws 1953, P.L. 3, § 1-1101, 12A PA. STAT. ANN. § 1-101 *et seq.* (Purdon 1954).

4. Apparently no unusual difficulties have arisen in Pennsylvania as a result of enacting the UCC there. The Code has been commended by the Executive Board of the Pennsylvania State Chamber of Commerce. Goodrich, *Foreword* in SUPPLEMENT No. 1 to 1952 OFFICIAL DRAFT OF TEXT AND COMMENTS OF THE UNIFORM COMMERCIAL CODE iv (1955). Pennsylvania, more so than most states, has been quite active in adopting uniform laws. Thus it has adopted 45 of the uniform laws. 1954 HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS 311.

definitive draft of the Code, after undergoing minor revision by its two sponsoring bodies in 1953 and 1954, was rather extensively revised in 1955.⁵ Presumably other changes will be forthcoming, dependent on the final report of the New York Commission, expected to be issued early in 1956. Since New York plays so vital a role in commercial transactions in this country, most states are deferring adoption until New York determines what it will do.⁶

The Code endeavors to bring uniformity to several fields of commercial law, including the law of sales, commercial and investment paper, and bank deposits and collections. Its articles 3 and 4 are designed to replace the Uniform Negotiable Instruments Law⁷ currently in force in every state in the Union⁸ and the bank collection statutes⁹ which have been adopted by a number of states. Since the consequences of adoption of articles 3 and 4 of the Code by Louisiana would be far reaching in a considerable area of this state's statutory law and jurisprudence, the *Louisiana Law Review* feels a discussion of the effects the enactment of the Code would have on the subjects of negotiable instruments, bank collections, and bank deposits in Louisiana should be of general interest. The *Review* has already published two comments which discuss the changes that would be wrought

5. The 1955 changes were recommended by the Editorial Board which had been reactivated early in 1954 by the American Law Institute and the National Conference of Commissioners on Uniform State Laws to meet the avalanche of comments and criticism of the Code and were contained in *Supplement No. 1 to the 1952 Official Draft of Text and Comments of the Uniform Commercial Code*, Part I, which was issued in January 1955. They were officially adopted at the subsequent 1955 annual meetings of the two sponsoring organizations. Part II of the supplement contained changes in the text of comments and answers to criticisms leveled at the Code. See *Amending the Uniform Commercial Code — A Report on Valid Criticism and Suggested Change*, 28 TEMPLE L.Q. 511 (1955) for a symposium treatment of the 1955 amendments. Adoption of the amendments is presently under consideration by the Pennsylvania legislature.

6. See, e.g., the *Report of the Committee on the Uniform Commercial Code of the Mississippi State Bar*, 26 MISS. L.J. 324 (1955) which recommends that Mississippi take no action until New York and other commercial states have done so.

7. LA. R.S. 7:1 *et seq.* (1950). In this symposium, the Uniform Negotiable Instruments Law will be referred to as the NIL.

8. The NIL was promulgated by the National Conference of Commissioners on Uniform States Laws in 1896, and was subsequently enacted in every American jurisdiction. Since Pennsylvania has adopted the UCC, the NIL is no longer in force there. See note 3 *supra*.

9. Louisiana has not adopted the Uniform Bank Collection Act which has been accepted in several states. For criticism of that act, see Beutel, *The Proposed Uniform Bank Collection Act and Possibility of Recodification of the Law on Negotiable Instruments*, 9 TUL. L. REV. 378 (1935).

on the formal requisites for negotiability¹⁰ and the rights of a holder in due course.¹¹ The present series of comments¹² discuss other sections of articles 3 and 4. The subjects which are considered are transfer and negotiation,¹³ material alterations,¹⁴ the "impostor rule,"¹⁵ the doctrine of *Price v. Neal*,¹⁶ the doctrine of *Young v. Grote*,¹⁷ certification,¹⁸ and deferred posting.¹⁹ It is hoped these papers may be of some assistance to the legislators and bar of Louisiana whenever the Uniform Commercial Code is considered for adoption by this state.

The Effect of the Adoption of the Proposed Uniform Commercial Code on the Negotiable Instruments Law of Louisiana—Transfer and Negotiation

The Uniform Commercial Code, if adopted in Louisiana, will effectuate many changes in the law as it exists under the Negotiable Instruments Law.¹ A number of these proposed changes occur in the field of transfer and negotiation and this Comment is limited in scope to those matters. To facilitate the discussion, each of the applicable Code² provisions is set out,³ followed by an analysis of its effect on the present law.⁴

10. Comment, *The Effect of the Adoption of the Proposed Uniform Commercial Code on the Negotiable Instruments Law of Louisiana—Formal Requisites of Negotiability*, 15 LOUISIANA LAW REVIEW 403 (1955).

11. Comment, *The Effect of the Adoption of the Proposed Uniform Commercial Code on the Negotiable Instruments Law of Louisiana—Rights of a Holder*, 15 LOUISIANA LAW REVIEW 419 (1955).

12. The comments in this symposium were originally prepared as research papers in the course on Commercial and Investment Papers conducted by Dean Paul M. Hebert in the Spring Semester, 1955. The papers have been extensively revised, under Dean Hebert's supervision, for publication.

13. See page 91 *infra*.

14. See page 105 *infra*.

15. See page 115 *infra*.

16. See page 128 *infra*.

17. See page 134 *infra*.

18. See page 141 *infra*.

19. See page 164 *infra*.

1. La. Acts 1904, No. 64, p. 147; LA. R.S. 7:1-195 (1950).

2. The UNIFORM COMMERCIAL CODE, OFFICIAL DRAFT, TEXT AND COMMENTS EDITION (1952). Amendments made through 1955 as reflected in SUPPLEMENT No. 1 TO THE 1952 OFFICIAL DRAFT OF TEXT AND COMMENTS OF THE UNIFORM COMMERCIAL CODE (1955) bearing on the subject matter of the Comment are set out and discussed where applicable.

3. UCC 3-207, 3-208, dealing with rescission and reacquisition respectively, will not be discussed in this Comment.

4. Unless otherwise noted, Louisiana courts are in accord with the majority of other jurisdictions in its interpretations of the sections of the NIL herein discussed. Consequently, on many points no reference will be made to Louisiana jurisprudence.