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BOOK REVIEW

Hawkland's Handbook on Chapter 9 Louisiana Commercial Laws. By William D. Hawkland. Deerfield, Illinois : Callaghan & Company, 1990. Pp. xv, 709. \$75.

*David S. Willenzik**

The goal of each man and woman during his or her short tenure on this Earth should be to leave some significant mark or improvement in the area of one's chosen field or profession. Seldom does this occur, but when it does, it is deserving of appreciation and gratitude by those most affected.

William D. Hawkland, Chancellor Emeritus and Boyd Professor of Law of the Louisiana State University Law Center, is deserving of such appreciation and gratitude. Chancellor Hawkland has left a mark on the law students that he taught for many years at the University of Illinois and for the past twelve years at LSU. Chancellor Hawkland has left a mark on the LSU Law Center, which he capably led in times of change and budget tightening. Chancellor Hawkland has indeed left a mark on the commercial laws of this nation as one of the foremost experts and scholars on the Uniform Commercial Code. We in Louisiana are particularly indebted to Chancellor Hawkland for finally bringing to us Article 9 of the UCC as applicable to security interests in personal or movable property.

THE UCC IN LOUISIANA

The first time Louisiana seriously considered adopting Article 9 of the Uniform Commercial Code was in 1967-68 when the Louisiana Law Institute summarily rejected the UCC in its entirety as being contrary to Louisiana civil law tradition.¹ The Law Institute changed its position, at least in part, five years later when it recommended the adoption of UCC Articles 1, 3, 4 and 5 as applicable to commercial paper/negotiable instruments, bank deposits and collections, and letters of credit. These articles were enacted under Title 10 of the Louisiana Revised Statutes,

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1. See Sachse, Report to the Louisiana Law Institute on Article 9 of the Uniform Commercial Code, 41 Tul. L. Rev. 505 (1967).

which is now known as the "Louisiana Commercial Laws."² Four years later, the legislature added Articles 7 and 8 of the UCC as applicable to warehouse receipts, bills of lading, other documents of title, and investment securities.³ However, no action was taken to adopt Articles 2, 6 and 9 of the UCC as applicable to sales, bulk transfers, and personal property security interests.⁴

Many attorneys and members of the legislature were of the belief that Louisiana would never enact Article 9 of the UCC. Others believed that inevitably Louisiana would be forced to adopt Article 9 in order to make the Louisiana law of security devices consistent with that of other states. These attorneys and members of the legislature worked over the years to modernize the Louisiana security device laws to mimic many of the features of the UCC, with the eventual goal being the enactment of Article 9 itself.

THE LOUISIANA VERSION OF UCC ARTICLE 9

Certain attorneys were of the opinion that Chancellor Hawkland's agenda when coming to the LSU Law Center as its Chancellor, included the adoption of UCC Article 9 in this state. He succeeded in achieving this goal in 1988 when with the support of Governor Roemer and Secretary of State McKeithen, and with the assistance of Professor Thomas E. Harrell, the Louisiana Bankers Association and others,⁵ Chancellor Hawkland led the effort to enact UCC Article 9 as Chapter 9 of the Louisiana Commercial Laws under Act 528 of 1988.⁶ Chancellor Hawkland also was instrumental in amending the Louisiana version of UCC Article 9 under Act 135 of 1989 prior to its implementation.⁷

As enacted, the Louisiana version of UCC Article 9, which became effective on January 1, 1990, replaced the prior existing Louisiana se-

2. La. R.S. 10:1-101, et seq., La. R.S. 10:3-101, et seq., La. R.S. 10:4-101, et seq., and La. R.S. 10:5-101, et seq., enacted under Act 92 of 1974, effective January 1, 1975.

3. La. R.S. 10:7-101, et seq., and La. R.S. 10:8-101, et seq., enacted under Acts 164 and 165 of 1978, effective January 1, 1979.

4. Louisiana has its own Bulk Sales Act (La. R.S. 9:2961, et seq.), which is somewhat similar in effect to UCC Article 6. There was no attempt after 1968 to enact UCC Article 2 applicable to "Sales" and UCC Article 9 applicable to "Security Interests," both of which were deemed to be inconsistent with Louisiana civilian concepts.

5. See Preface to Hawkland Handbook iii-vi.

6. La. R.S. 10:9-101, et seq. Act 528 of 1988 had an original effective date of July 1, 1989, which was subsequently delayed until January 1, 1990 as a result of Act 8 of the First Extraordinary Session of 1989.

7. Act 135 of 1989 (which is included in Appendix A of the Hawkland Handbook) repealed and completely re-enacted UCC Article 9 before Article 9 went into effect. An accompanying bill, Act 137 of 1989, was also enacted by the legislature. Act 137 included extensive amendments to the then existing security device laws that were designed to facilitate implementation of UCC Article 9 in Louisiana. (Act 137 of 1989 is also included as Appendix C of the Hawkland Handbook.).

curity device laws applicable to chattel mortgages, collateral chattel mortgages, pledges and collateral assignments of rights,⁸ and had an additional effect upon Louisiana law governing collateral real estate mortgages⁹ and certain types of liens and privileges.¹⁰

The Louisiana version of UCC Article 9 differs somewhat from the standardized version of the statute found in the other forty-nine states and the District of Columbia.¹¹ The Louisiana version contains several non-standard provisions that were necessitated by differences in Louisiana terminology¹² and Louisiana's treatment of certain types of property and rights.¹³ The Louisiana version also contains a number of intended improvements and enhancements to the standard multi-state version of Article 9.¹⁴ Certain of these improvements are now being studied by a special committee formed under the auspices of the Permanent Editorial Board of the Uniform Commercial Code which is presently considering modernization amendments to Article 9. Chancellor Hawkland was instrumental in drafting many of the Louisiana enhancements to Article 9 and serves as a member of the UCC Permanent Editorial Board and its Article 9 Study Committee.

HAWKLAND'S HANDBOOK ON CHAPTER 9 LOUISIANA COMMERCIAL LAWS

Chancellor Hawkland designed his Handbook on Chapter 9 of the Louisiana Commercial Laws to achieve two essential goals. First, the Hawkland Handbook explains Article 9 to Louisiana attorneys in rather simple elementary terms, that may be readily understood by lawyers who do not regularly practice in the area of secured transactions. The Hawkland Handbook also explains Article 9 using Louisiana terminology and particularly highlights the differences in the rules and practices

8. See La. R.S. 9:3112, La. R.S. 9:4323.1, La. R.S. 9:5373 and La. Civ. Code art. 3133.1. See also 1989 La. Acts No. 137, § 20.

9. See La. R.S. 9:5550, et seq., enacted under 1989 La. Acts No. 137.

10. See La. R.S. 9:4770, enacted under 1989 La. Acts No. 137.

11. UCC Article 9 as now enacted in all states is in no way uniform. Most states have made minor changes to the Code, with the Louisiana version being the newest and most progressive.

12. See La. R.S. 10:9-102(4).

13. See La. R.S. 10:9-105(h), which excludes security interests in growing crops and standing timber from coverage under the statute, both of which are considered to be types of immovable property under La. Civ. Code art. 463. The default remedy provisions of Chapter 9 (La. R.S. 10:9-501-508) are also different from those found under the standard multi-state version of the UCC. See in particular La. R.S. 10:9-508, which provides for executory process remedies in connection with non-possessory collateral in lieu of the standard multi-state self-help remedies under UCC § 9-504.

14. Perhaps the most significant improvement is the filing-perfection rules and procedures of La. R.S. 10:9-401, et seq. Louisiana has adopted a fully computerized "local filings/central registry" system, which is the most advanced in the nation.

under the UCC as compared to the past rules and practices under the prior existing Louisiana security device laws. The *Hawkland Handbook* further contains a number of useful examples of hypothetical situations that are particularly helpful in enabling Louisiana attorneys to understand the various changes that were made in the law.

Second, the *Hawkland Handbook* is designed to assist both Louisiana and non-Louisiana attorneys in better understanding the differences between the Louisiana version of UCC Article 9 and the standardized version of the statute found in other states.¹⁵ The Handbook explains the different and enhanced features of the Louisiana version of Article 9 in some detail, giving particular insight as to the intent of the drafters to avoid and correct many of the problems under the UCC that have been experienced in other states. Chancellor *Hawkland* also freely points out the areas in which he philosophically disagreed with the committee of lawyers that drafted many of the Louisiana enhancements to UCC Article 9 as finally enacted by the legislature.¹⁶

The *Hawkland Handbook* is further designed to be a Louisiana supplement to Volumes 8 and 9 of Chancellor *Hawkland's* monumental nine volume treatise on the Uniform Commercial Code published by Callaghan & Company.¹⁷ The format of the Handbook is consistent with that of the Treatise, thus permitting cross-access to the Treatise's more detailed explanation of the standardized UCC provisions effective in other states. Attorneys may also cross-reference the Treatise for a listing and explanation of relevant case law interpreting and applying such UCC principles.

Every lawyer who deals with secured transactions in Louisiana should obtain a copy of the *Hawkland Handbook* as the definitive explanation of the Louisiana version of UCC Article 9. The Handbook may be purchased individually, or with the *Hawkland* nine volume UCC Treatise.

CONCLUSION

The *Hawkland Handbook* is a tribute to Chancellor *Hawkland* as a distinguished educator and UCC scholar and as the person most responsible for bringing UCC Article 9 to Louisiana. The legal community of this state owes much to Chancellor *Hawkland* for the depth

15. This is particularly helpful in light of the fact that the Louisiana Law Institute has yet to prepare a Louisiana commentary under Chapter 9 of the Louisiana Commercial Laws.

16. While others who worked on the Article 9 project may disagree with some of the statements and conclusions included in the *Hawkland Handbook*, the members of the task force had and continue to have great respect for Chancellor *Hawkland's* views and legal insight.

17. *Hawkland Commercial Code Series*, Callaghan & Company, 9 Vol. (1982).

of his knowledge, his vision, his leadership and his fortitude. The legal community also owes a debt of gratitude to Chancellor Hawkland for providing us with such an excellent and useful Handbook to guide and assist us in better understanding the provisions of UCC Article 9 as in effect in this state.

