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## Forms For Commercial Transactions Under Theuniform Commercial Code. David W. Carroll And Frederickw. Whiteside, Jr., Editors.

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FORTE ET DURE" which describes "how and why" over the centuries until 1772 the judicially imposed torture of pressing to death was used to compel a defendant to plead to an indictment for felony. The only person in America to suffer this "ancient English penalty," the author writes, was one Giles Corey whose death at Salem in 1692 inspired a moving poem which is reproduced in the text, together with the Reverend Cotton Mather's condemnation of the practice.

Another chapter, spanning five centuries, traces the interesting story of the ancient privilege of "BENEFIT OF CLERGY," with the subtitle "Reading Tests and Penal Reform," its development, in Blackstone's words, "into a merciful mitigation of the general law with respect to capital punishment," and its beneficent assistance in the settlement of the Colonies by "felons" who "prayed their clergy" and were thereupon sentenced to transportation hither or thither.

Finally there is the chapter entitled: "ASHFORD v. THORNTON<sup>13</sup>—THE LAST TRIAL BY BATTLE" (1818) with the subtitle: "A most unusual nineteenth century trial which finally caused the abolition of a strange [English] legal practice."

Professor Marke's volume is complemented by illustrations, a table of statutes, a table of cases, and an index. The printing is clear, the type easy to read. This is a book the reviewer is happy to have in his library.

CHARLES P. LIGHT, JR.\*

FORMS FOR COMMERCIAL TRANSACTIONS UNDER THE UNIFORM COMMERCIAL CODE. David W. Carroll and Frederick W. Whiteside, Jr., Editors. *Banks-Baldwin Law Publishing Company*. 1,000 pp. Forms (Publisher's Count). Looseleaf form. Replacement Parts. \$32.00.

If the promulgation of the Uniform Commercial Code did nothing more, it at least has caused lawyers to review their knowledge of commercial law, and in the process to re-examine the commercial forms they have been using. Consequently, considerable interest has developed as to the forms authorized, permitted, or required by the Uniform Commercial Code. This book is a reference book of forms for use in commercial transactions.

The publication, in loose-leaf form, contains three analytical

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<sup>13</sup>1 B. & Ald. 405, 106 Eng. Rep. 149 (K.B. 1818).

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tables, which provide information in tabular form. Table I lists state variations from the official text; Table II is a chart of state filing requirements; and Table III shows the analogous provisions of former business laws. The 1966 Replacement Part brings the information in these tables up-to-date as respects all forty-four jurisdictions that have adopted the Code. These tables provide the principal source of information as regards particular states, to the extent that their adoptions vary from the official text.

The book is specifically directed to Kentucky. In the words of the Explanatory Note, "Realizing that it would be impossible to cover laws and cases of each Commercial Code state in a one volume form book, the authors have cited the statutes and decisions of one representative state—Kentucky." The result is a book that should be of great value to the legal profession of Kentucky.

In a few instances the Uniform Commercial Code authorized the adoption of alternative provisions, as for commercial paper payable at a bank,<sup>1</sup> and the place of filing of security interests;<sup>2</sup> and optional provisions, as in the case of bulk transfers.<sup>3</sup> Some measure of the usefulness of this book outside of Kentucky may be found by examining the handling of these alternative and optional provisions.

The alternatives as regards instruments payable at a bank do not appear to be noted insofar as text and forms are presented.<sup>4</sup> Kentucky has adopted the application-of-proceeds option for bulk transfers, and the discussion and forms relate to this option, while cautioning the user to check the Code in any other state in which he is interested.<sup>5</sup> The discussion and forms regarding secured transactions are similarly based on the Kentucky adoption. Table II provides a Chart of State Filing Requirements, showing in summary form the variations in this area. The handling of these alternative and optional provisions indicate that this book does not provide final answers in every state.

Since a uniform law, such as the Uniform Commercial Code, is supposed to be uniform, a form that may be used in one state, such as Kentucky, should be equally useful in another state, unless affected by an alternative or optional provision. Consequently the forms in this book, many of which are based on forms originally developed in Pennsylvania and Massachusetts, should be useful in any state.

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<sup>1</sup>UCC 3-121.

<sup>2</sup>UCC 9-401.

<sup>3</sup>UCC 6-106, 6-107(2)(3), 6-108(3)(c), 6-109(2).

<sup>4</sup>They are noted in Table I: State Variations from the Official Text of the Uniform Commercial Code.

<sup>5</sup>Ch. 121(2), p. 288.

At best a form book is suggestive, rather than providing forms to be slavishly followed. The lawyer, whether in Kentucky or elsewhere, will find the suggested ones to be of great value in developing his own set of forms.

WILFRED J. RITZ\*

EQUAL JUSTICE UNDER LAW, *The Supreme Court in American Life*. The Foundation of the Federal Bar Association. Washington, D.C. School and Student Edition, 1965. pp., 143. \$2.75.

Decisions of the Supreme Court of the United States have, from time to time, given rise to national debates and even national storms of anger.

Undoubtedly the debates (including scholarly writings) have brought about a change in the interpretation given federal statutes and provisions of the Federal constitution.<sup>1</sup> Without question, national reaction to decisions by the Supreme Court has brought about amendments to the Federal Constitution itself.<sup>2</sup>

The storms of anger which have resulted from decisions by the Supreme Court have seldom resulted in anything but the hurling at the Court of vindictive charges which have tended more to arouse emotions and cloud the basic problems than to arouse an intelligent

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<sup>1</sup>E.g., see *Murphy v. Waterfront Comm'n*, 378 U.S. 52, 55 (1964), overruling *Feldman v. United States*, 322 U.S. 487 (1944), and quoting with approval the statement made in *Griswold, The Fifth Amendment Today* 7 (1955), that the privilege against self-incrimination is "one of the great landmarks in man's struggle to make himself civilized."

<sup>2</sup>E.g.: *Pollock v. Farmer's Loan & Trust Co.*, 157 U.S. 429 (1895). "This decision gave rise to a great amount of controversy, both at the time, and subsequently." *Griswold, Cases and Materials on Federal Taxation*, note p. 42 (3d ed. 1950). Cf. the Sixteenth Amendment, ratified in 1913.

It may be said that it is difficult to amend the Constitution. To some extent that is true. Obviously the Founders wanted to guard against hasty and ill-considered changes in the basic charter of government. But if the necessity for alteration becomes pressing, or if the public demand becomes strong enough, the Constitution can and has been promptly amended. The Eleventh Amendment was ratified within less than two years after the decision in *Chisholm v. Georgia*, 2 Dall. 419. And more recently the Twenty-First Amendment, repealing nationwide prohibition, became part of the Constitution within ten months after congressional action. On the average it has taken the States less than two years to ratify each of the twenty-two amendments which have been made to the Constitution.

*Reid v. Covert*, 354 U.S. 1, 14 n.27 (1957).