The Law of Sales in the Uniform Commercial Code

NORMAN D. LATTIN*

The Uniform Sales Act which was recommended for adoption by the Commissioners on Uniform Laws in 1906 is in force at this date in thirty-four states, the District of Columbia, Alaska and Hawaii.[1] This Act, in both substance and form, followed for the most part the English Sale of Goods Act of 1893. Both acts were in large part a codification of the common law as it had developed in this field which, in the American scene, required some choice between common law concepts when different views found expression in different states. The English Act, like its American counterpart, has been adopted widely in the Commonwealth and Colonies with the result that today it constitutes the basic law which regulates a substantial part of the world's trade. And while there remain fourteen states of the United States which have not adopted the Uniform Act, it can be said that the common law of these states does not differ widely from the codification which is contained in the Act.

During the existence of these statutes there has been constant judicial interpretation of the various provisions and a great mass of case-law has glossed the code. In 1909 when Professor Williston, who was the draftsman of the American Act, wrote his first text on Sales, he found it necessary to use but one volume of 1,304 pages to elucidate the law; his second edition of this work, printed in 1924, took two volumes with 1,954 pages; and, in 1948 when he wrote his third edition it came from the publisher with four volumes of 3,281 pages and, by 1953, additional supplements to bring the notes to date added 312 more pages.

The ideal statute would be one so clearly and simply stated that in so far as its meaning is concerned it would need little interpretation. Its application to the particular factual pattern would, no doubt, be the subject of litigation. But many factual patterns can be anticipated and provided for without too great interference with some reasonable elasticity which will permit further expansion of the law. Precision and certainty are qualities which the business man and his lawyer would welcome and these qualities plus simplification and modernization have been the goals set by the framers of the Uniform Commercial Code.[2] Other objectives include the preservation of flexibility in commercial transactions and

* Professor of Law, College of Law, The Ohio State University.

[1] See: OHIO REV. CODE §§ 1315.01 (8456) to 1315.76 (8455), inclusive.

[2] Sec. 1-102 (2) (a). Citations are to the Uniform Commercial Code, Official Draft, Text and Comments Edition of 1952, unless otherwise indicated.

the encouragement of continued "expansion of commercial practices and mechanisms through custom, usage and agreement of the parties"; and, of course, uniformity of the law.[3]

The Article on Sales is but one of eight acts included in the Uniform Commercial Code.[4] It is perhaps the most controversial one, with serious mental hurdles which those trained in the traditional law of sales will find hard to take. Professor Williston recommends that it not be enacted into law because "fundamental and unwise changes in existing law" have been intentionally made. He deplores its "novel phraseology" which he claims will take much litigation to determine its meaning, the length of time it will take to obtain general enactment and in the meantime the serious conflict which will exist from jurisdiction to jurisdiction, and the impairment of the uniformity which has been obtained by the wide adoption of the English Sale of Goods Act and the Uniform Sales Act.[5] He deplores particularly the abandonment of the lump title concept, stating that "This departure (from long-established tests for determining title) presents the most striking and, as it seems to me, the most objectionable and irreparable feature of the part of the code relating to sales."[6] Professor Waite emphasizes the phraseology and position of certain provisions which will (in his opinion) necessitate much judicial interpretation to establish the meaning of various sections and, except to give lawyers fat fees, will not benefit the trade.[7]

On the other hand, Professor Corbin who, it must be said, aided in the project, warms enthusiastically to the draft, though

---

[3] Sec. 1-102 (2) (b) and (c).

[4] Article 1 contains general provisions and definitions applicable, with some exceptions, to the several articles; Article 10 concerns the effective date of statute and repealer; Article 2 is 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.

[5] Williston, *The Law of Sales in the Proposed Uniform Commercial Code*, 63 HARV. L. REV. 561, at 562, 563, 565 (1950). This article is on the 1949 draft of the Code. Much of his criticism holds as to the final, 1952 draft, but should be checked section by section, for the later draft had the benefit of earlier critical articles such as Professor Williston's and a number of changes were made in the final draft.

[6] Williston, *supra* note 5, at 571.

[7] Waite, *The Proposed New Uniform Sales Act*, 48 MICH. L. REV. 603 (1950). Professor Waite feels that the changes made in the new Code are not fundamental enough to warrant a new draft with a different phraseology subject to judicial misinterpretation. See particularly pp. 604-605. The changes, he contends (as does Williston), can be made by amendments to the present Uniform Sales Act. Like Williston's article *supra*, Professor Waite's is upon the earlier draft of the Code.

not personally agreeing to some parts of it, and sees in the Sales Article a product superior to the Uniform Sales Act.[8] Likewise, Professor Latty finds much merit in the Sales Article and favors it over the Uniform Sales Act.[9] There is no need to count heads for there will be much honest difference of opinion among those who have not as yet studied the final draft when they have had the chance to examine it. But let no one say that the Uniform Commercial Code was framed by legal mechanics working from ivory towers. The list of names of practicing lawyers and judges, of merchants and bankers, of practical men working at the practical jobs they know best, who participated in this venture, attests to the contrary.[10]

The strongest argument in favor of the adoption of the Sales Article (and the remainder of the Uniform Commercial Code for that matter) is that this is merchants', and not lawyers' law. If merchants favor the unusual terminology that occasionally turns up in the draft on Sales, if merchants proceed on concepts different from that of lump-title, if merchants distinguish between dealings between merchants and merchants, and merchants and non-merchants, if merchants consider some transactions involving agreements seriously entered into as being binding without the consideration which the law — *i.e.*, lawyers' law — has insisted upon, then a new uniform statute is justified. The lawyer and the judge may have to learn a new language, may have to abandon some of their lawyers' law, may even have to consult the merchant to find out what it means as did the English courts when they applied the law merchant to transactions not covered by statute, but the fact remains that lawyers and judges should be the last ones to object to it, rather than the first.

Few who have struggled through the myriad cases in which "title" was thought to be the controlling factor decisive of risk of loss, or of the point at which damages should be figured, or for some other reason, will regret the abandonment of this approach to sales problems. The certainty which the presumptions of Sec-

---

[8] Corbin, *The Uniform Commercial Code — Sales: Should it be Enacted?* 59 YALE L. J. 821 (1950). This article, too, is based upon the earlier draft of the Code.

[9] Latty, *Sales and Title and the Proposed Code,* 16 LAW & CONTEMP. PROB. 3 (1951). Professor Latty wrote on the May 1950 Proposed Final Draft as modified by the September 1950 Revision of the Code. The first 343 pages of 16 LAW & CONTEMP. PROB. contain excellent critical essays on the various Articles contained in the Code. Similar treatment of the Code will be found in 1952 WIS. L. REV. 197-392, with an article, *Sales — "From Status to Contract"?,* pp. 209-229, by Professor Howard L. Hall, containing a good deal of adverse criticism in line with much of what Professor Williston has written. His article is based upon the Final Text Edition, November 1951.

[10] Uniform Commercial Code, pp. 3-6.

tion 19 of the Uniform Sales Act seemed to guarantee was as illusory as a will-o'-the-wisp. Seldom were there not some factors which would warrant a contrary result in a particular case and whether the case went one way or the other depended upon the discretion of choice of a judge or group of judges who decided it. What is surprising is that lawyers did not place in contracts and forms devised for general use by their merchant-clients a clause that "the parties to this agreement intend risk of loss to pass at point A" or that "title is intended to pass at point B." By such a method the risk of judicial interpretation out of line with the real intent of sellers and buyers, and perhaps unreasonable on the basis of the statutory inferences, might have been avoided.

The Uniform Commercial Code abandons the emphasis on title and "deals with the issues between seller and buyer in terms of step by step performance or non-performance under the contract for sale and not in terms of whether or not 'title' to the goods has passed."[11] The buyer obtains an insurable interest in the goods by "identification" of goods to his contract and he has this insurable interest even if nonconforming goods are so identified. "Identification" is a new word and, while it may suggest "appropriation" under the Uniform Sales Act, it is not equivalent to it. The term "appropriation" is not used in the new Code, though it has slipped into some of the official Comments on various sections. The parties can agree that identification will take place at a certain time and in a certain manner, but if they do not explicitly agree, then identification occurs immediately when the contract is for a sale of goods already existing and identified; if the contract is for future goods, then identification takes place when the goods are shipped, or marked, "or otherwise designated by the seller as goods to which the contract refers"; and in case of a sale of crops to be grown or young of animals to be conceived, identification occurs when the crops are planted or become growing crops and, in case of the animals, when they are conceived if to be born within 12 months after contracting, with a like term for crops " or the next normal harvest season after contracting whichever is longer."[12] From the identification of goods to the contract certain legal results follow. While the buyer has an insurable interest, the seller retains the risk of loss until he has completed his duties as to the goods. Where goods are to be shipped to the buyer, with no requirement to deliver at destination, risk of loss passes to the buyer when the goods are delivered to the carrier; and, if he is to deliver at destination, the risk passes to the buyer when the goods arrive *and are duly tendered.* "In neither case does risk of loss turn on the time of de-

[11] Comment to Sec. 2-401, at 144.

[12] Sec. 2-501.

livery of documents of title."[13] This last provision Professor Williston has criticised as being out of line with present law,[14] but since present law is based upon the passing of title at least at the point of the delivery of documents, and usually sooner, the shift of emphasis and the reasonableness of the proposed rule warrant a change. I assume, too, that merchants have been consulted on this point and have affirmed that it is in agreement with their understanding — that is, it is merchants' law rather than lawyers' law. Where the contract calls for delivery of the goods at the seller's place of business or at the point where the goods then rest, a "merchant seller" keeps the risk of loss until the buyer has actually received the goods, and this in spite of full payment by the buyer prior thereto. By others than merchants, tender of delivery passes the risk.[15] While some may think this extreme, it is pointed out that the merchant seller will usually carry insurance which will protect him until actual receipt by the buyer, but that the latter will normally be without insurance on goods in the possession of the seller.[16] There is also the practical matter of control of the goods by the seller while they remain in his possession. There is certainly nothing startling in keeping the risk of loss in the merchant seller until receipt by the buyer even if "title" has passed to him. Would not *Tarling* v. *Baxter*[17] have been better decided had the court taken the position that retention of possession of the stack of hay by the seller after the sale, even for the purpose of securing the payment of the price, kept risk of loss in him unless there had been assumption of risk by agreement of the buyer?

While the Uniform Commercial Code specifically provides that the rights, obligations and remedies of seller, buyer, and third parties shall apply irrespective of where title is "except where the provision refers to such title," Section 2-401 contains a few specific provisions on the title matter. Where title becomes material and the situations are not covered by other provisions in the Article, any reservation by the seller of title to goods delivered or otherwise identified to the contract has the effect solely of retaining a security interest.[18] In the "cash sale," where title has been held not to pass until payment of the price, the good faith purchaser from the vendee whose check (not accepted as "payment") has bounced back because of insufficient funds is protected under the new Code,

---

13 Sec. 2-509(1) (a) and (b).

14 See Williston, *supra* note 5, at 582.

15 Sec. 2-509(2). But where goods are held by a bailee and are to be delivered without being moved, Sec. 2-503(4) applies.

16 Comment to Sec. 2-509, at 171.

17 6 B. & C. 360 (K.B. 1827).

18 Sec. 2-401(1) (a).

as he should have been from the start.[19] But the most important provision by far is that which states that "unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though document of title is to be delivered at a different time or place; . . ."[20] When he is to ship goods to the buyer but without obligation to deliver at destination, title passes to the buyer at time and place of shipment; where the seller is under contract to ship and deliver at destination, title passes there upon tender.[21] But if the goods are not to be moved and if the seller is under contract to deliver a document of title, the time and place of delivery of the document of title controls, and if the goods are identified and no documents are to be delivered, title passes at the time and place of contracting.[22] But since risk of loss is dealt with elsewhere in the Article and since these provisions for title-passing cover only situations in so far as they are not covered by other provisions of the Article, it is important not to stop with the determination of title as has generally been the case under the Uniform Sales Act.

A novel provision in the passing of title section reads: "A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance revests title to the goods in the seller. Such revestment occurs by operation of law and is not a 'sale'."[23] Under the Uniform Sales Act where title was overemphasized many cases resulted in a left-handed sort of specific performance, for once title was determined to have passed to the buyer he was under obligation to pay the purchase price and take the goods. Having deemphasized the matter of title-finding, the provision quoted above is understandable. If title can be revested in the seller under the named circumstances, specific performance through a title-finding concept will be displaced and the usual remedy at law for the breach of a contract for the sale of chattels not unique, that is an action for damages caused by the breach, will be substituted therefor. By Section 2-709 (1) (b), the seller may recover the price where goods have been identified to the contract if the seller has been unable to resell them for a reasonable price after reasonable effort on his part or where the indications are that his efforts to resell will be un-

[19] Sec. 2-401 (1) (b). And see Sec. 2-511(3) and Comment at 148. But see Williston, *supra* note 5, at 570, where he states a hypothetical situation which, from the policy angle, might well be held either way and not simply his way.

[20] Sec. 2-401(2).

[21] Sec. 401(2) (a) and (b).

[22] Sec. 2-401(3) (a) and (b).

[23] Sec. 2-401(4).

availing. The buyer is given a reciprocal right in case of goods identified to the contract if he is unable to effect "cover" for such goods, or if the indications are that he cannot effect cover, or if the seller has shipped goods but retained a security interest and the buyer has tendered payment therefor.[24]

Another bit of progress that has been made in the Sales Article is to confine sales to things which are movable at the time of their identification to the contract, the unborn young of animals and growing crops, and other identified things atached to realty which are capable of severance without material injury thereto.[25] A present sale cannot be made of standing timber, minerals to be taken from the earth or structures to be removed from the land though severance is to be immediate. If the *seller* is to do the severing, a *contract* for the sale of goods results — but no sale results until severance. If the buyer is to sever under the contract, it is a contract for the sale of reality and the Statute of Frauds and recording statutes will have to be complied with. A contract for the sale of crops (and there is no distinction between those which are *fructus industriales and fructus naturales*) and other identified things attached to the realty but capable of severance without material harm (other than timber, minerals and structures mentioned above) amounts to a contract for the sale of goods whether severance is to be by the buyer or seller and, subject to third party rights arising from the law relating to real property records, they may work a constructive severance by identification at the time of contracting. Such contracts may be recorded in real property recording offices and this constitutes notice to third parties of the buyer's contractual rights.[26] The word "fixtures" does not appear "because of the diverse definitions of this term, the test of 'severance without material harm' being substituted."[27] Under the Uniform Sales Act there may be a present sale of "emblements, industrial growing crops, and things attached to or forming a part of the land which are agreed to be severed before sale or under the contract of sale."[28] Thus, the buyer obtains a *title* to the timber or fruit then on the trees or building to be presently severed under the agreement but he stands the risk of losing his interest to a purchaser of the land. It is believed that the Uniform Commercial Code provision handles real property severance and fixture problems more satisfactorily than does the Uniform Sales Act.

---

[24] Sec. 2-716(3). See also Sec. 2-502(1) where the buyer is given a limited right to specific performance in spite of competition with general creditors of the seller.

[25] Sec. 2-105.

[26] Secs. 2-105 and 2-107.

[27] Comment, pp. 53-54.

[28] Uniform Sales Act, Sec. 76 defining "Goods."

Serious criticism has been aimed at the Statute of Frauds section of the Code, Section 2-201. Indeed, Professor Williston has called the section "the most iconoclastic in the Code."[29] He believes that after 250 years of interpretation of the English Statute of Frauds "reasonable certainty has been achieved as to the formalities essential for the enforceability of a sale or a contract to sell."[30] The official comment to this section indicates its breadth: "The required writing need not contain all the material terms of the contract and such material terms as are stated need not be precisely stated. All that is required is that the writing afford a basis for believing that the offered oral evidence rests on a real transaction. It may be written in lead pencil on a scratch pad. It need not indicate which party is the buyer or which the seller. The only term which must appear is the quantity term which need not be accurately stated but recovery is limited to the amount stated. The price, time and place of payment or delivery, the general quality of the goods, or any particular warranties may all be omitted."[31] As Professor Williston says, "The present section widely departs both in language and in substance from every statute that now exists or ever has existed."[32] He points out that, to date, statutes of fraud have followed pretty much the English phrasing and that the requirements have been three: "(1) a memorandum signed by the parties to be charged, or (2) acceptance and receipt of at least part of the goods, or (3) payment of at least part of the price."[33]

Anyone who has studied the decisions under the various statutes of frauds has discovered the fallacy that the statute prevents frauds. At least this new provision, made in the hope that it will reach just results more frequently than the present Uniform Sales Act section, requires some writing which cannot be avoided by paying a part of the price or receiving part of the goods except to a very much more limited degree. The writing must indicate a contract for sale between the parties and must be signed "by the party against whom enforcement is sought or by his authorized agent or broker." There may be terms incorrectly stated in the memorandum but as far as the quantity of goods is concerned, there can be no enforcement beyond the quantity of goods stated. It is clear that partial performance validates the contract only to the extent that goods have been received and accepted or payments made and accepted. It would seem pretty obvious that, this being so, one party cannot come in and claim (falsely or truthfully) that

---

[29] Williston, *supra* note 5 at 573.
[30] Williston, *supra* note 5, at 573.
[31] Comment to Sec. 2-201, at 56.
[32] Williston, *supra* note 5, at 573.
[33] Williston, *supra* note 5, at 574.

the contract was for 100,000 items (unless they have been received or payment for them accepted) as he may under a statute which requires no writing if there has been partial receipt and acceptance of the goods or of the price. Under the Code draft a quantity term must be stated and there must be a signing by the party "against whom enforcement is sought" or the enforcement drops to the level stated above. But under the Uniform Sales Act there is no limit as to what perjured witnesses may testify is the contract when goods have been received in any amount or a token payment has been accepted. After he had written one volume on the Statute of Frauds as part of his great work on Contracts, Professor Corbin came to the conclusion "1. that belief in the certainty and uniformity in the application of any presently existing statute of frauds is a magnificent illusion; 2. that our existing judicial system is so much superior to that of 1677 that fraudulent and perjured assertions of a contract are far less likely to be successful; 3. that from the very first, the requirement of a signed writing has been at odds with the established habits of men, a habit of reliance upon the spoken word in increasing millions of cases; 4. that when the courts enforce detailed formal requirements they foster dishonest repudiation without preventing fraud; 5. that in innumerable cases the courts have invented devices by which to 'take a case out of the statute'; 6. that the decisions do not justify some of the rules laid down in the Restatement of Contracts to which the present writer assented some twenty years ago."[34] He brings out the fact that the Code section on frauds was intentionally framed to get away from the old statute and its interpretations. He is enthusiastically in favor of the new statute of frauds which has been written into this Code. We are in need of a new approach and the old statute, he feels, should not be readopted.

There is another change in the statute of frauds section to the effect that, as between merchants, a failure to answer a confirmation within ten days after its receipt where "the party receiving it has reason to know its contents," satisfies the requirement of a writing. Written notice of rejection within the ten-day period will prevent the application of the above.[35]

Contracts for goods specially manufactured for the buyer which "are not suitable for sale to others in the ordinary course of the seller's business" do not require a writing if, before repudiation by the buyer, the seller has indicated that the goods are for the buyer and "has made either a substantial beginning of their manufacture or commitments for their procurement."[36] This places

---

[34] Corbin, *supra* note 8, at 829.

[35] Sec. 2-201(2).

[36] Sec. 2-201(3)(a).

limitations upon the proof of an oral contract which do not, under Section 4 of the Uniform Sales Act,[37] exist. An admission in court or in a pleading by the party against whom enforcement is sought of a contract of sale also suffices to make the contract provable.

It seems to the present writer that there is less chance of fraudulent contracts being proved under the Code section than under the English statute of nearly three centuries ago and its counterparts.

There are other approaches in this new Article on Sales which either clarify existing law, extend it, or cut it down. The manner of treating merchants as a class has been mentioned and has its justification in what merchants do. There may be some difference of opinion as to who is a merchant under the definition, particularly as to one who holds himself out as "having knowledge or skill peculiar to the practices or goods involved in the transaction."[38] Awkward language now and then turns up in the most carefully drafted acts and this particular provision ought to take some sort of prize.[39] Definitions of "lot," "commercial unit," "cancellation," "F.O.B. and F.A.S.," "C.I.F. and C.A.F.," "letter of credit," "sales on approval" and "sales or return," "unconscionable" and a number of others give direction to the act and make it easier to interpret.[40] The price is payable in goods, money, realty or otherwise,[41] thus making better sense than Section 9 of the Uniform Sales Act[42] which specifically states that the realty-price-transaction takes the case out of the statute, and services and barter are not within the act.

"Firm" offers which are signed need no consideration,[43] nor does an agreement modifying a contract.[44] Open price terms are provided for and specific results spelled out,[45] and while there is some change of the law involved, it is all to the good. Output and requirements contracts are specifically provided for and the section gives some indication to a court of what happens when output or requirements increase unreasonably.[46] Unconscionable contracts are provided for, as they should be.[47] "Merchantability," as used

---

37 OHIO REV. CODE § 1315.05(8384).

38 Sec. 2-104(1).

39 See Professor Waite's criticism of this and his hypothetical case, *supra* note 7, at pp. 618-619.

40 In their order of statement, see Secs. 2-105(5) and (6); 2-106(4); 2-319; 2-320; 2-321; 2-325; 2-326; 2-327; 2-302.

41 Sec. 2-304.

42 OHIO REV. CODE § 1315.10(8389).

43 Sec. 2-205.

44 Sec. 2-209.

45 Sec. 2-305.

46 Sec. 2-306.

47 Sec. 2-302.

in implied warranties, is defined.[48] It needed definition as there was no uniformity in holdings involving the meaning of "merchantability." When warranties clash there is a section telling how the conflict is to be decided.[49] There is a section which, in a conservative manner, extends warranties " to any natural person who is a guest in his (the buyer's) home if it is reasonable to expect that such person may use, consume or be affected by the goods and who is injured in person by breach of the warranty," and there may be no disclaimer of this provision by the seller.[50] This section should also have extended to injury to property as the same danger exists and it is simply a question of policy as to where to draw the line. The power given a vendee in a cash sale to pass better "title" than he has to a bona fide purchaser, and to a merchant who has been entrusted with the possession of goods of the kind in which he deals "to transfer all rights of the entruster to a buyer in ordinary course of business" even if he was entrusted with the goods because of representations which would have made his taking larcenous by the criminal law, express matters of policy which make good sense in spite of the customary practice of the common law to protect to the last ditch the owner who has entrusted his chattels to another.[51]

A buyer who has paid part or all of the price and who has acquired an insurable interest in the goods may, if the seller becomes insolvent within ten days after the receipt of the first installment of the price, recover them from the seller upon tendering any unpaid portion of the price.[52] The policy of not permitting one man's goods to pay another man's debts is here recognized to a limited extent, as it is in a later section permitting the seller to reclaim goods received by the buyer on credit, within ten days after their receipt, if the seller discovers the buyer to be insolvent and there have been no intervening subvendees in ordinary course, or other good faith purchasers or lien creditors.[53] And both parties have additional protection by the giving of a right of adequate assurance of performance when reasonable grounds for insecurity arise.[54]

A provision anticipating the difficulties of proof of breach gives

---

[48] Sec. 2-314.

[49] Sec. 2-317.

[50] Sec. 2-318. Professor Williston thinks that giving a cause of action to one not in privity is questionable policy. *Supra* note 5 at 579.

[51] See footnote 19, *supra;* Sec. 2-403(2) and (3); Sec. 2-511(3). And see Sec. 2-326(2) where protection is given the buyer's creditors, except in the exceptions stated, where goods are sold on consignment.

[52] Sec. 2-502.

[53] Sec. 2-702(1)(b) "[B]ut if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten day limitation does not apply."

[54] Sec. 2-609.

either party the right, upon reasonable notification to the other, to inspect, test, and sample the goods including any that may be in the possession of the other party.[55]

There are other provisions, some of them widely different from what the Uniform Act provides and some making new law out of the whole cloth, but as this reviewer sees it, with reason. I do not view with alarm either the redrafting of parts of the Uniform Sales Act in the attempt to simplify and clarify, nor do I feel that this Code, if adequately studied, will require the amount of interpretation that some of its critics fear. It seems to me that the things which are good in this draft are so fine and so many as compared with the things that are mediocre or downright bad that the Uniform Sales Act can well be replaced by the Uniform Commercial Code provisions on Sales. No one who believes in the new Uniform Commercial Code has put it better than Professor Corbin when he wrote: "The new Code should be enacted because it builds soundly on the existing Uniform Sales Act, because it rebuilds freely upon the decisions and mercantile customs of the 50 years since that Act, and because more than any previous code or restatement it provides within itself a method and principle of future growth."[56]

[55] Sec. 2-515.

[56] Corbin, *supra* note 8, at 836. It should be said that Pennsylvania has already adopted the Code and that its provisions will become effective on July 1, 1954. See Penn. Stats. (Purdon's), Title 12 A, Commercial Code — Uniform.