law. And such a legal inquiry should be coupled with the sociological investigation of how the American community is reacting to civil liberties. Without this investigation, an author's value judgments concerning "weak" or even "bad" law are strictly subjective. What is needed, therefore, is a sort of Kinsey report on the average attitude of the American populace toward this or that freedom ideal. This of course might bring us back both to Mephistopheles and his deeper counterpart, the Grand Inquisitor, with whom this review started.

REGINALD PARKER†

CASES AND MATERIALS ON BILLS AND NOTES. By William D. Hawkland. Brooklyn: Foundation Press. 1956. Pp. xxix, 504. $9.00.

Professor Hawkland's book dealing with less than 100 cases in 500 pages is a refreshing compromise to law schools that are interested in removing the "fat" from an expanding and over-crowded curriculum, and to teachers who now try to conduct the course in two hours from casebooks designed for twice that much time. This book deals almost wholly with instruments and transactions falling within the ambit of the Negotiable Instruments Law and in its organization falls somewhere between the functional approach of Steffen on one side, and the conceptual analysis to be found in the casebooks of Aigler, Britton, and Beutel. It is unique in that an effort is made to sketch the law of suretyship in seventy pages with dual objects of plugging the gap in a curriculum that does not make suretyship available and to facilitate an understanding of suretyship problems that overlap with bills and notes. In brief, this casebook deals separately with (a) promissory notes where the formalities of negotiable paper, defenses, and transfer are considered in sufficient detail; (b) drafts, preceded by an excellent introduction, but omitting decisions adequately illustrating some of the important problems arising where a draft is accompanied by documents of title, and (c) checks, where the risks of the paying bank are presented in a manner that makes this the best part of the book. Explanations in the footnotes are complete and well written. The author has performed a commendable service in carefully annotating the problems raised by his cases and footnotes into the changes achieved by the Commercial Code, a service that will be appreciated by the skeptic who hesitates to plunge head-long into the language of the new law.

† Professor of Law, Willamette University.

This reviewer is genuinely sympathetic with the author's attempt to present some coverage of suretyship along with bills and notes, and is hopeful that this effort will pioneer some further work in the same direction. However, it is believed that this project is inadequate to plug the gap in curriculum arising from the neglect of suretyship in the law school. There are a number of reasons for this belief, but the pressures of space will allow the consideration of only two. First, suretyship, which plays an extremely important role in the commercial life of this country, arises out of transactions where non-negotiable instruments are widely used. Its study requires a good working knowledge of negotiable instrument law, but it by no means ends at that point. A creditor who has the security of surety owns an obligation of greater value than one which is unsecured, and in this sense it can be more readily discounted or traded. If his obligation is negotiable it is of greater value because payors and transferees are given extra-ordinary protection against defenses and claims of prior parties. Negotiability and suretyship thus are compatible to the extent that an obligation which is both negotiable and secured by a surety is more acceptable to bankers and thus is more likely to become a part of the flow of money in the banking system. At this point, however, the relation ends. The law of suretyship as a general rule furnishes the surety with extra-ordinary defenses in direct opposition to the basic policy of the law of negotiable instruments which strives to eliminate defenses. Codification of the NIL made no real effort to reduce the defenses of the surety and in fact it expressly retained the more important ones. The result is that we have in our system of jurisprudence two bodies of law that seem to work at cross purposes. In terms of logical progression, the study of negotiable instruments ought to precede the study of suretyship. This is not to imply that they cannot or should not be studied together in a broader commercial law course, but only that the reduction of suretyship to a minor role within the framework of bills and notes will leave a distorted and confusing picture.

Second, if suretyship is to be allotted but a small space in the study of negotiable instruments, as this book has done, a greater evil lies in the fact that it must be approached conceptually to the exclusion of its very real place in the business world. A multi-million dollar business is done in construction, fidelity, and, of special interest to the lawyer, judicial bonds. Suretyship arising in connection with the sale of goods, especially letters of credit, the transfer of interests in real and personal property, including negotiable and quasi-negotiable paper, the relations of husband and wife, corporation and shareholder, and between partners and joint owners present functional problems to which the student ought to be exposed if he is to obtain a liberal education in commercial law.

Minor crimes of omission may be found by instructors with special interests and idiosyncracies because of the author's effort to compress the subject of bills and notes within limited space. In truth this is a virtue in that the reasonable length of this book will promote an opportunity for experimentation for those who care to embark upon supplemental assignments. On this basis several matters excluded or receiving but cursory treatment have attracted the attention of this reviewer. Somewhere in the curriculum a student out to be exposed to the Uniform Stock Transfer Act and some of the important problems and practices associated with stock transfers. The adviser of even the smallest corporation must be acquainted with some of the mechanical and legal pitfalls involved in the process of issuing and re-issuing stock certificates, including the dangers incurred by repurchase and other shareholder agreements extrinsic to the certificates. A lawyer should know the difference between a "street certificate" and a "fly power," be familiar with the practice of guaranteeing signatures, and understand why corporate officials or transfer agents insist upon such strict requirements when fiduciaries are involved. There is reason for insisting that these matters belong in the same atmosphere with bills and notes.

A teacher of bills and notes deals with a long series of problems—most of them with almost unlimited technical ramifications—typified by the case where an unsuspecting home owner by trick or fraud is induced to sign a promissory note by a person who discounts the paper with a bank or financial institution, and the latter presses its claim against the maker who can ill afford the loss. At some place along the line he has to acquaint himself and his students with the consequences when one party or the other prevails, and a philosophy as to what the law ought to achieve. A faint glimmer of the author's views is reflected in his comment upon the formal requirements of negotiability to the effect that, "The ideal would seem to be a middle ground where the standards are not so rigidly construed as to stunt the development of commerce, yet are interpreted with sufficient rigidity to insure the promotion of commerce through a high degree of predictability." That his philosophy may fall a little to the right of his professed "middle ground" is indicated by a footnote[1] characterizing as "brilliant" an article[2] which, by its own confession, would drive trust mortgage bonds from the market with a dictionary. Those who feel that the technical problems of negotiable in-

1. P. 27.
2. Beutel, *Common Law Technique and the Law of Negotiable Instruments*, 9 TUL. L. REV. 64 (1934).

strument law should be projected into the role that commercial paper plays in making credit available through our system of banking will have to develop this theme in class. Sponsors of the Uniform Commercial Code are motivated by this line of thinking, and their ability to sell the law to the public at large will depend upon the success with which this point can be driven home. Professor Hawkland is not to be condemned for this omission because he redeems himself by his careful consideration of the relevant provisions of the new code. This book should be seriously considered in every school where the time allotted to the subject is two semester hours.

R. BRUCE TOWNSEND†

---

† Professor of Law, Indiana University School of Law, Indianapolis Division.