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## Foreword

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## FOREWORD

In the spring of 2018, *Barry Law Review* hosted a symposium entitled *A Half-Century of Article 2 of the Uniform Commercial Code*. The symposium was part of the Thirteenth Annual International Conference on Contracts, hosted by Barry University, Dwayne O. Andreas Law School on February 23 and 24, 2018. The conference is the largest annual scholarly and educational conference devoted to contract law and related areas of commercial law, and brings together leading contracts scholars from the United States and beyond. The law school's hosting of this conference provided the perfect opportunity for a symposium dedicated to contract law.

The symposium's topic (Article 2 of the U.C.C.) was a fitting one—Professors James J. White and Robert S. Summers were recognized at the conference with lifetime achievement awards for their work on Article 2 of the U.C.C., and the symposium was dedicated to their achievements. Further, with Article 2 having been adopted by state legislatures in the 1950s and 1960s, the Code has now been applied in the courts for over half a century, making a retrospective on the Code timely.

The symposium included presentations by Article 2's leading scholars: Lisa Bernstein, the Wilson-Dickenson Professor of Law, and Aaron Director Research Scholar, at the University of Chicago Law School, and International Research Fellow, Said School of Business, at the University of Oxford; Henry Gabriel, Professor of Law at Elon University; Victor P. Goldberg, the Jerome L. Greene Professor of Transactional Law at Columbia Law School; Robert A. Hillman, the Edwin H. Woodruff Professor of Law at Cornell Law School; Steven Walt, the Percy Jones Jr. Professor of Law and Class of 1948 Professor of Scholarly Research in Law at the University of Virginia School of Law; and James J. White, the Robert A. Sullivan Professor of Law Emeritus at the University of Michigan Law School. One attendee remarked that of all the symposiums he had attended, this one included the greatest collection of scholars. The *Barry Law Review* staff now proudly presents the articles by these distinguished scholars who presented at the symposium.

Professors Bernstein and Goldberg, in their papers, are critical of Article 2, or at least certain portions of it. Professor Bernstein, in *The Myth of Trade Usages: A Talk*, is critical of courts considering trade usage in resolving commercial disputes, asserting that there is little, if any, empirical evidence to support that such usages exist, that their substance can be proven in court at a reasonable cost, or that merchants even want courts to rely on trade usage. Professor Goldberg, in *Remedies in the UCC: Some Critical Thoughts*, takes aim at several of Article 2's remedies provisions, as well as courts' and scholars' interpretations of those provisions, and argues that the canon of interpretation that absurd results should be avoided can be used to correct these mistakes.

Professors White and Gabriel, in their papers, look at the past, and discuss the failed attempt to revise Article 2. Professor White, in *The Revision of Article 2: Commercial Sellers vs. Consumer Buyers*, discusses how the Uniform Law Commission

unintentionally stumbled into the fight between consumers and commercial sellers during its revision attempt, and provides insight into why the attempt failed. Professor Gabriel, the Reporter for the revisions from 1999 to 2003 and a member of the Drafting Committee from 1992 to 1999, explains in *Uniform Commercial Code Article Two Revisions: The View of the Trenches*, why a second drafting committee was created and what it attempted to accomplish with the 2003 revisions. He also explains the reasons why the political impediments to law revision prevented the revisions' enactment, concluding that the most important lesson might be that there was not a real need for the changes they sought to bring about.

Professors Hillman and Walt, in their papers, look to the future. Professor Hillman, in *Article 2 of the UCC: Some Thoughts on Success or Failure in the Twenty-First Century*, discusses whether Article 2 can succeed in the twenty-first century. He argues that some Code sections have worked better than others and some are better suited for the future than others, and any revision attempt should only include problematic sections, rather than a wholesale revision. Professor Walt, in *Importing Uniform Sales Law into Article 2*, evaluates the potential impact of the United Nations Convention on Contracts for the International Sale of Goods on domestic sales law, and argues for the use of interpretations of uniform sales law to interpret comparable defaults in Article 2.

This symposium has shown that after more than half a century of Article 2 of the U.C.C., it still evokes strong opinions among scholars. The *Barry Law Review* is proud to have played a part in this continuing debate over the Code.

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