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A Critical Analysis of the Content of the Course of  
Study in Commerical Law for High Schools  
Appraised by Three Criteria of Value with Specific  
Recommendations for South Dakota

Dona Susan Brown

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**A CRITICAL ANALYSIS OF THE CONTENT  
OF THE COURSE OF STUDY IN COMMERCIAL LAW FOR HIGH SCHOOLS  
APPRAISED BY THREE CRITERIA OF VALUE  
WITH SPECIFIC RECOMMENDATIONS FOR SOUTH DAKOTA**

By

**Dona Susan Brown**

**Bachelor of Science Degree at South Dakota State College, 1931**

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**A Thesis**

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**of**

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**of**

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## Chapter I

### THE INTRODUCTION

#### Historical Development of Curriculum Construction

The curriculum of present day schools is the agency through which the educational system in a large part fulfills the function for which it was created. The early trend was to place the emphasis on how to teach instead of what to teach. Before 1920, the curriculum was considered more or less "fixed", and little time was devoted to research in curriculum content. In fact, less than 1500 courses of study had been published in the United States at that time.

Until 1750, the curricula of the pioneer schools were exact copies of the English system. The settlers had brought with them the formal subject matter and the memorization method of teaching. It was a process of molding the child to the curriculum with no thought of his individual needs. Earlier educational philosophy regarded the mind as composed of faculties and it was believed that any training in a subject would result in a strengthened development of the proper faculty. The curriculum was relatively inconsequential for it was the "learning" that was transferred and not the knowledge of subject matter. The concept of mental discipline was widely accepted. By the doing of difficult and disagreeable jobs, it was thought the child would gain strength of character and be better fitted to attempt difficult tasks. Any curriculum which was comprehensive and severe was well suited for the purpose.

From 1750 to 1850, minor changes were made in the curriculum to provide for the needs of both boys and girls in the schools. However, the curriculum and procedure, as well as the methods, were influenced by



tradition, and there was relatively little progress made in changing the curriculum to fit the needs of individuals. College entrance preparation was the main objective of secondary schools, and in the few larger systems that offered vocational courses, the work was largely theoretical in nature. The aims of the school were preparation for college and life, but preparation for entrance into college was the primary end in view.

By 1850, attacks on the methods of teaching and the content of the curriculum were being made by forward-looking educators. In the National Education Association meetings, discussions centered around the functions of the school, the types of school organization, suggested improvements in curricula, and new methods of teaching. An outgrowth of these discussions was the appointment of the "Committee of Ten" in 1892, to investigate some of these problems. The report of this committee in 1894 emphasized the need for better trained teachers, for optional curricula, and for a changed curriculum content. The committee, composed mostly of college professors, stressed the primary importance of a college preparatory curriculum. This report may appear to have contributed little when judged by standards of the present, but it did serve to bring educational issues before the public and served to stimulate discussions on questions of curriculum content.

After 1900, the National Education Association continued to stimulate research and experimentation, but because of lack of time for committee work and the inadequacy of funds, progress was slow. By 1920, thinking educators were uniformly of the opinion that there was a need of reorganization and scientific study in every branch of the school field. Since 1900, an almost inconceivable number of studies have been made, and the

scope of these researches embraces all types of problems associated with public and private education. Private, local, state, and national agencies have generously subsidized systematic and carefully controlled research on educational problems.

The writings of John Dewey are generally regarded to be the greatest single factor in effecting a fundamental change in the educational philosophy affecting the curriculum. He presented the idea that the curriculum should fulfill the needs and interests of the learner. His idea of "considering the child as the starting point, the center, and the end"<sup>1/</sup> of education proved to be a new viewpoint and it has had a tremendous influence in the process of curriculum change. This viewpoint suggested a two-fold objective; first, to provide a curriculum that would adequately bridge the gap between school and adult life, and second, to study the content of the curriculum from the objective rather than the subjective approach. Aided by research, these two objectives proved to be the basis for changing from the rigid formalism of the earlier curriculum to an enriched curriculum, so flexible as to challenge the interests of all pupils.

With a consciousness of changing social and economic conditions and of the need for a curriculum more adapted to the needs of the learner, the demands for curriculum revision gathered momentum. In the ten years, from 1925 to 1935, thirty thousand studies were collected in one laboratory alone. An army of curriculum authorities, supervisors, and teachers contributed significant data from the experience of the classroom. Changes

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<sup>1/</sup> Dewey, John, "Foundations and Technique of Curriculum Making", National Society for the Study of Education, Twenty-sixth Yearbook, Part II, Public School Publishing Company (1926), p. 170.

The curriculum of today is constantly in the state of revision. It is generally understood that the average life for most courses of study is from four to ten years. Draper says "Although the terms 'tentative course' and 'final course' are often used, one must bear in mind that no course of study is ever accepted as final or complete".<sup>2/</sup> When a curriculum problem arises, an investigation is made, and with due consideration to the findings, recommendations for revision are suggested and made.

#### Methods of Research in Curriculum Construction

Several methods of curriculum construction are used. It is impossible to state that one is superior to another for they are of variable merit. "Regardless of the reliability of each, one type of measurement can never supplant the other in curriculum work. Each has its own field of use, and the problem is to make it as effective as possible of the particular thing which it measures".<sup>3/</sup>

Two types of sources for curricular research are in use, the primary and the secondary. Each has been used extensively in educational research. Some of the primary sources of data are studies made of children's activities, project curricula, the social needs of the learner, general social needs, case groups, and the job analysis. Secondary sources of data include an analysis of newspapers and magazines, an analysis of social statistics and documents, an analysis of textbooks, and the opinions expressed by competent persons.

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<sup>2/</sup> Draper, Edgar Marian, "Principles and Techniques of Curriculum Making", Chicago, Century Book Company, 1936, p. 850.

<sup>3/</sup> Caswell, Hollis Leland, "Curriculum Development", Chicago, American Books Company, 1935, p. 275.

F. D. Curtis used the technique of the analysis of children's activities when he analyzed over 3,000 questions asked by children about the facts of science.<sup>4/</sup> An analysis of social needs was made by W. W. Charters, one of the early workers, when he analyzed the arithmetic involved in 7,337 charge checks, and 4,304 cash checks collected in a department store.<sup>5/</sup>

To arrive at a program of civic education for mid-western farmers, Mr. Clyde Moore made an analysis of groups who were interested in the same types of activities.<sup>6/</sup> This study is an example of the use of the case group method. The job analysis technique was used by Charters in his analysis of the duties and traits of secretaries.<sup>7/</sup>

An analysis of existing objectives, an example of the use of secondary data, is often used in constructing courses of study. O. W. Richards analyzed 59 courses of study as a basis for his study entitled, Present Status of Biology in Secondary Schools.<sup>8/</sup> Hopkins made an analysis of science magazines and newspapers in his attempt to find out the science content which should be taught in secondary schools, in order to enable the pupil to read science material of the present day press with understanding.<sup>9/</sup>

Lerrigo made use of the method of social statistics in his analysis

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<sup>4/</sup> Harap, Henry, "The Technique of Curriculum Making", New York, The Macmillan Company, 1932, p. 46.

<sup>5/</sup> Ibid, p. 59.

<sup>6/</sup> Ibid, p. 39.

<sup>7/</sup> Ibid, p. 71.

<sup>8/</sup> Ibid, p. 101.

<sup>9/</sup> Hopkins, L. Thomas, "Curriculum Principles and Practices", New York, Benjamin H. Sandborn and Company, 1931, p. 389.

of mortality statistics to identify the major health problems to which health education should contribute.<sup>10/</sup>

Bobbitt relied on the opinion of competent persons when he collected the opinions of his students over a period of ten years on what one should accomplish in school.<sup>11/</sup>

#### History of Curriculum Study in South Dakota

In the revision of the South Dakota courses of study, some attention has been given to data compiled by each of these techniques of curriculum study. In South Dakota, the problem of maintaining a challenging and functional curriculum has not escaped the attention of its educators. It was not until 1928 that the South Dakota State Department of Public Instruction, under the direction of E. C. Giffen, set up administrative machinery to plan for the revision of the curriculum of all branches of the state school system.

At that time, two executive committees were appointed. The Elementary Executive Committee was composed of eight county superintendents, four city school superintendents, six college professors, and the state secretary of the South Dakota Educational Association. The Secondary Executive Committee was made up of four college professors, three high school principals, five high school superintendents, two high school teachers, two state supervisors of vocational subjects, and the editor of the South Dakota Educational Association Journal.

During the years 1929-1930, these committees studied available material

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<sup>10/</sup> Hopkins, p. 390.

<sup>11/</sup> Harap, p. 39.

on curriculum construction and the courses of study from the different states. In 1930, they prepared a bulletin (Bulletin No. 1, Preliminary Reports of Executive Committees), in which the philosophy or platform to be used in building actual courses of study was presented.

In 1931, after a continuous study in which more than 800 teachers participated, definite recommendations for the revised courses of study were made. These new courses of study were published as fast as the committees completed them.

The Elementary Course of Study was first published in six volumes according to the various subjects. In 1933, these separate issues were revised, condensed and published in one volume called the Course of Study for Elementary Grades.

In the field of Secondary Education, the various committees published separate reports. The English Arts Course of Study published in 1932 was the first to appear. In 1933, the Mathematics Course of Study was published. Courses of study for foreign languages, music and fine arts, social studies, and commercial subjects were made available in 1934. In 1935, the course of study was published for industrial arts and trades. In 1936, the course of study for science, the course of study for homemaking, and the course of study for vocational agriculture appeared.

The course of study for commercial law appeared as a section of Bulletin No. 10, entitled Commercial Course of Study for Secondary Schools, published in 1933 by the committee on Commercial Education under the chairmanship of W. I. Early, acting superintendent of Sioux Falls, South Dakota. The personnel of the committee included the chairman and nine teachers of commercial law.

The following quotation taken from a letter written by Mr. C. C. Jacobson, research chairman of the committee, in answer to an inquiry regarding the activities of this committee reveals an indefiniteness concerning the completeness of their study.

As I recall our plans for the setting up of the courses of study for commercial work in South Dakota, various committees and schoolmen were used. I recall that in working out this syllabus I sent out questionnaires to various schools throughout the state, attempting to arrive at a course of study which would most closely fit all needs. I also had textbooks most commonly used in courses throughout the state when this work was offered, and the syllabus was based, to a certain extent, upon the work as offered in various standard textbooks. I also remember of examining various syllabi and courses of studies of different states. It is a number of years ago since that work was done and, consequently, the plans and materials used have apparently been destroyed.<sup>12/</sup>

All evidence of the facts gathered by this committee has either been destroyed or mislaid. Other than the work done by this committee which revised the course of study for commercial law, and published the bulletin in 1934, no systematic study has been made of the commercial law curriculum in this state.

#### Purposes of This Investigation

Because so little investigation on commercial law curriculum has been done in South Dakota, it seems important to undertake a study, carefully made, of the curriculum needs in the field of commercial law for the state of South Dakota. This study attempts to fulfill such a need. It purports:

1. To determine the curriculum content of a sample of commercial law textbooks.
2. To determine the relative importance of the various

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<sup>12/</sup> Appendix, page 86.

branches of the course of study in commercial law as judged by writers of commercial law texts.

3. To determine the relative importance of the various branches and topics of the law according to the opinion of commercial law teachers.
4. To determine the relative importance of the various branches and topics of commercial law according to the opinion of a selected sample of lawyers.
5. To construct a course of study in commercial law based on the findings of the above studies.
6. To make a comparison between the contents of this course of study and the South Dakota state course of study in commercial law.
7. To make certain recommendations for the retention or the revision of the content of the South Dakota state course of study in commercial law.
8. To discover certain information regarding the character of the average commercial law teacher in the state of South Dakota.
9. To discover certain facts regarding the grade placement and technique of teaching commercial law in South Dakota high schools.



## Chapter II

### THE PLAN OF PROCEDURE

#### Technique of Textbook Analysis

This study was begun in the winter of 1935-1936. After choosing the subject, the first step involved the selection of commercial law textbooks for the analysis, which would show the curriculum content of representative texts of commercial law. Seven textbooks were chosen for analysis. These texts were taken from the list suggested for use in South Dakota high schools by the committee which worked with the state course of study for commercial law. Three texts, Gano, Peters and Pomeroy, and Bogart, Goodman, and Moore, were chosen because they were in general use in South Dakota; and four texts, Weaver, Cole, the New Burgess, and Whigham, were chosen because they were recent publications and because they were highly recommended for use in secondary schools. A list of the texts chosen for analysis and the publishers of each may be found in the Appendix, page 84.

Each of the commercial law texts was analyzed to determine the amount of space devoted to each branch of the law and to the divisions of each branch. The number of lines devoted to each branch of the law were counted and tabulated, and lists were made of the points or topics included under each of the general branches. After the major branches of commercial law had been identified and the material classified by topics under each, this outline served as a basis for the formulation of the questionnaire which was sent to teachers and lawyers.

Only the space devoted to the actual subject matter content was measured in the analysis of textbooks. The vocabulary, supplementary

helps, suggestions for motivation, and illustrations appearing in the texts were not considered. The total number of lines was used as a basis for counting because the pages in all seven texts were of the average textbook size and the number of words to the line was quite uniform from text to text.

After the lines of the seven textbooks had been counted and placed under the branches of the law, the total number of lines in each text was ascertained by adding the totals of the respective branches. By dividing the total number of lines devoted to each branch of the law by the total number of lines in the textbook, the percentage of the total space devoted to each of the various branches of the law was found. These percentages were then ranked from highest to lowest to find which topics were considered the most important.

The writer acknowledges that the method of analysis just described is open to error; however, this method seemed to possess sufficient accuracy to fulfill the purposes for which it was used.

#### Technique of the Analysis of Questionnaire Sent to Teachers.

It was assumed that a valid appraisal of curriculum content for a course of study in commercial law could be obtained from questionnaires submitted to teachers of the subject. Hopkins in his book on curriculum principles and practices says "The reliability of the opinions of groups of individuals is dependent upon the definiteness of the standard and the training which the group has had in applying it".<sup>13/</sup> He adds "This matter of the reliability of the judgments of groups is of great importance in determining the organization for producing courses of

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<sup>13/</sup> Hopkins, p. 266.

study and for the review of such courses after they have once been made."<sup>14/</sup>

Every teacher of commercial law in South Dakota has had a minimum of one year of experience in high school, and most of these teachers have taken college course work in the subject. For these reasons, teacher judgement was accepted as one criterion of the worthwhileness of commercial law material to be taught in the high schools in South Dakota.

It was impossible to secure either a list of the South Dakota schools which offer commercial law, or a complete list of teachers of commercial law. The South Dakota Directory of Secondary Schools listed the teachers of this subject in the larger systems, but the list was incomplete. The textbook companies were consulted and they furnished a list of the towns in South Dakota in which their textbooks were in use or in which they had been used. Combining the two lists, the one of teachers listed in the Directory, and the other, of the towns listed by textbook companies, a list of approximately 120 towns was secured in which commercial law was being taught as a regular part of the program of studies of each school.

The sample of teachers was selected arbitrarily. All teachers of commercial law in schools with an enrollment of seventy-five or over, and the commercial law teachers in ten of the smaller schools comprised the sample. Smaller schools usually include a one-semester course in commercial law every two years. As a rule, the teachers are not specialists in the field. Larger towns tend to have better trained teachers, and such teachers instruct in a narrower range of subject matter fields than do those in smaller towns; consequently they have more time to devote to preparation and study in the subjects they do teach. It was to improve

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<sup>14/</sup> Hopkins, page 267.

the reliability of the results of the questionnaire study, that the sample was limited to schools with an enrollment of 75 or over, as described above.

Using the analysis of the seven textbooks as a basis, a three page questionnaire for teachers was constructed.<sup>15/</sup> This questionnaire was divided into two parts: the first part asked for general information about the training, teaching experience, and methods of teaching of the teacher; the second part of the questionnaire included a check list regarding the relative worth of the content of the branches of the law and of the divisions under each branch.

In part two, the teacher was asked to rate these branches by checking the number which would indicate his appraisal of the relative value of the branches of the law included in the textbooks used in this study. The questionnaire provided for six steps of rating, ranging in importance from one to five.

A rating of "one" meant the "most important". A rating of "five" meant the "least important" and an "x" meant that in the judgment of the rater, the branch should not be included in a course of study in commercial law.

These ratings were tabulated and weighted as follows:

<u>Rating</u>	<u>Weighting</u>
1. very important	1
2. important	2
3. less important	3
4. of little importance	4
5. of very little importance	5
x. to be omitted from the course	6

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<sup>15/</sup> Appendix, pages 87,88 89.

As a basis for estimating the relative importance of each topic in the summary of the findings from all the questionnaires, the frequency of each rating was found, and weightings were made as shown in the table above. The frequency times the weighting gave the total weighted frequency. The total weighted frequency was then divided by the total number of teachers responding to the questionnaire. By this method, an average weighted measure of the relative importance of the general branches of the law was derived.

A perfect rating of "one" for any branch of the law would mean that a teacher would rate the branch as "one". When a branch of the law has an average rating of a low integer the raters consider it to be most important and in their judgment should be included in the course of study. Logically, these are the branches which should receive the most emphasis, and a relatively greater amount of instructional time, assuming the difficulty of learning to be the same.

On this basis, an arbitrary scale of relative importance was set up. Branches rating from "1" to "2" were considered very important. Branches rating from "2" to "3" were considered important but would not merit either the emphasis or time that the group with a rating of from "1" to "2" should receive. The subject matter would be handled more generally and without as much detailed elaboration. Branches rating from "3" to "4" would include those branches of such doubtful value to the secondary school curriculum of commercial law that they could be treated incidentally or omitted entirely.

On page 3 of the questionnaire, there appeared a list of all topics included under the general branches as found in the analysis of text-

books. These topics were rated and treated in the same manner as described in the treatment of the branches mentioned above. A single difference in the ratings occurred. It was deemed advisable to rate on a five point scale instead of a six point scale since for minor classification the six point scale was considered too refined.

The ratings were weighted as follows:

<u>Rating</u>	<u>Weighting</u>
1. very important	1
2. important	2
3. less important	3
4. of very little importance	4
5. to be omitted from the course	5

The relative importance of these sub-topics was found in the same manner as was the relative importance of the major branches of commercial law.

#### Technique of the Analysis of the Questionnaires Sent to Lawyers

The opinion of members of the law profession engaged in active practice in South Dakota was the third criterion of curricular validity used in this study. The lawyer was chosen because of his professional training and because he possesses intimate knowledge of the needs of the ordinary citizen in matter of law. His opinion was considered to be more accurate and reliable than that of the ordinary layman. He was asked to keep in mind the actual "use value" of the content, for as Hopkins says "Content should be selected because of the high frequency of occurrence in the common activities of present social life."<sup>16/</sup>

Admittedly, the lawyers interviewed in this study prove to be a highly selected sample. These men were actively engaged in the practice of law in eastern South Dakota. It was impossible to include all of the

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<sup>16/</sup> Hopkins, p. 135.

lawyers in the state in the selection of the sample because the expense of travel for interviews prohibited attempting such a plan. For the most part, the lawyers interviewed were personal acquaintances of the writer. It is felt that they showed more interest and gave a more serious consideration to their judgments than would have been the case had the sample been selected at random.

Due to the proximity of the group, it was possible for the writer to interview each lawyer personally and to explain the purpose of the study. After a few explanatory remarks, the lawyer was asked to answer the questions included in the questionnaire. In most cases, the form was filled out at the time of the interview.

The content of the questionnaire submitted to lawyers was the same as that of the questionnaire submitted to teachers; the organization of the material had a slightly different arrangement to facilitate the work of rating. This was done because it was assumed that the lawyer would, in all probability, have less time to devote to the questionnaire than the teacher would have. The lawyers were not asked to rate the general branches of the law but rather the material or the topics included under these large general groupings. This eliminated one group of answers. Also, he was asked to use a four-point scale rather than a five or six point scale. This minimized the time needed for answering the questionnaire. The scale was explained as follows: the rating "1" meant "very important"; "2" meant "important", "3" was "less important", and "x" meant, that in the judgment of the rater, "the topic should not be included in the course of study". When the rater gave a rating of "x", he was asked to check one of the following three reasons for his de-

cision: "too impractical", "too theoretical", or "too difficult".

The ratings of the topics were weighted in the following manner:

<u>Rating</u>	<u>Weighting</u>
1. very important	1
2. important	2
3. less important	3
4. to be omitted from the course	4

In analyzing the results from the questionnaire sent to lawyers, an attempt was made to secure some basis for estimating the relative importance of each topic and for each branch of the law. To do this, the frequency of each rating of each topic was found and weightings were made as shown above. This same procedure was used in the questionnaires sent to teachers. The total weighted frequency was then divided by the total number of lawyers answering the questionnaire. By this method, a weighted measure of relative importance of each topic was secured.

These weighted ratings of the topics were ranked under the correct branch of the law. An average of these weighted ratings was obtained by dividing the total of the weighted ratings of the topics under each branch by the number of the topics rated. A ranking of these showed the relative importance of the branches of the law in the judgment of the group of lawyers answering the questionnaire.

On the basis of this arbitrary scale of relative importance, a branch which rated from "1" to "2" was considered very important. A branch which rated from "2" to "3" was considered important, and a rating of "x" indicated a branch of such minor value to the curriculum that it could be omitted from the course of study. The reasons for omitting certain branches or topics from the curriculum were tabulated.



The three criteria of validity of subject matter in commercial law for the state of South Dakota and heretofore set forth in this chapter are as follows: (1) an analysis of textbooks of commercial law in frequent use, (2) the judgments of qualified teachers, (3) the opinions of competent lawyers.

### Chapter III

#### THE FINDINGS

##### Criteria of Curriculum Content in Commercial Law

As set forth in Chapter II, the criteria used in this study to determine the curriculum content of a course of study in commercial law for South Dakota were: (1) an analysis of textbooks in commercial law, (2) an analysis of a questionnaire from teachers of commercial law in South Dakota, and (3) an analysis of a questionnaire from lawyers engaged in active practice in eastern South Dakota.

##### The Analysis of Textbooks of Commercial Law

From an analysis of tables of contents of the textbooks for commercial law used in this study, a list of general branches of law and sub-topics of these branches was constructed. The results of this analysis of topics appear in the outline of topics in Table I.

Table I

##### Topical Distribution of the Curriculum Content of Commercial Law in N Texts

- I. Law in General
  - 1. origin of law
  - 2. development of law
  - 3. the trial
  - 4. society and law
  - 5. written and unwritten law
  - 6. history of law (United States)
  
- II. Agency
  - 1. duties
  - 2. liabilities
  - 3. termination
  - 4. principles
  - 5. master and servant
  - 6. employee and employer

Table I (Continued)  
Topical Distribution of the Curriculum  
Content of Commercial Law in N Texts

- III. Partnership
  - 1. formation
  - 2. kinds
  - 3. rights
  - 4. duties
  - 5. powers
  - 6. liabilities
  
- IV. Guaranty and Suretyship
  - 1. rights of surety
  - 2. rights of guaranty
  
- V. Negotiable Instruments
  - 1. elements
  - 2. notes
  - 3. promises to pay
  - 4. drafts
  - 5. bills of exchange
  - 6. checks
  - 7. endorsements
  - 8. defenses
  - 9. I.O.U.
  - 10. presentment
  - 11. holder in due course
  - 12. dishonor and protest
  
- VI. Real Property
  - 1. fixtures
  - 2. principles
  - 3. landlord and tenant
  - 4. titles
  - 5. mortgages
  - 6. property rights
  - 7. deeds
  - 8. liens
  - 9. wills
  - 10. interest
  - 11. bankruptcy
  
- VII. Contracts
  - 1. formation
  - 2. parties
  - 3. subject matter
  - 4. consideration
  - 5. forms
  - 6. operation
  - 7. discharge
  - 8. assignment

Table I (Continued)

Topical Distribution of the Curriculum  
Content of Commercial Law in N Texts

VII. Contracts (Continued)

9. damages
10. agreement
11. competent parties
12. Statute of Frauds
13. reality of consent
14. legality of object
15. termination
16. remedies for breach

VIII. Corporation

1. formation
2. stockholders
3. powers
4. administration
5. dissolution

IX. Sales of Personal Property

1. conditional sales
2. rights of parties
3. Statute of Frauds
4. transfer of title
5. warranties
6. remedies
7. vendor and vendee

X. Bailment

1. types
2. innkeepers
3. common carriers
4. bailments in general

XI. Insurance

1. general
2. fire
3. property
4. life
5. annuities
6. social insurance

XII. Business Crimes

1. torts
2. negligence
3. punishments
4. arson
5. extortion
6. larceny

### Analysis of Topical Content in N Texts

The analysis of curriculum content included in the seven textbooks was based on the space devoted to the various branches of the law. The number of lines which each textbook devoted to the elaboration of each branch of the law was counted and tabulated.

Individual tables which show the results of the analysis of each textbook are shown in the series of tables II-A to II-G. These tables reveal the number of lines and the percentage of the total space in the text devoted to any branch of the law. This percentage was found by dividing the number of lines devoted to the branch by the total number of lines in the text. To determine the percentage of space, the number of lines included under each branch was divided by the total lines in the book.

Table II-A

#### Analysis of Topical Content in Textbook A

Rank According to Linear Content	Branches of Law	Total Number of Lines	Percentage of Total Space
1	Contracts	2,310	22.3%
2	Negotiable Instruments	1,873	18.1%
3	Real Property	952	9.2%
4	Agency	888	8.6%
5	Sales of Personal Property	856	8.3%
6	Law in General	784	7.6%
7	Bailment	727	7.0%
8	Corporations	669	6.4%
9	Insurance	625	6.0%
10	Partnership	445	4.3%
11	Guaranty and Surety	225	2.2%
12	Business Crimes	0	0
		<u>10,354</u>	<u>100.0%</u>

Out of the 10,354 lines in Textbook A, 2,310 lines were devoted to the treatment of the topic of Contracts which represents 22.3 per cent of the total content of the book. Contracts ranks first in linear treatment. Guaranty and Surety, with 225 lines or 2.2 per cent of the total

Rank According To Linear Content	Branches of Law	Total Number of Lines	Percentage of Total Space
1	Contracts	1,653	19.8%
2	Sales of Personal Property	800	9.6%
3	Agency	783	9.4%
4	Bailments Table II-B	773	9.3%
5	Negotiable Instruments	728	8.7%
6	Real Property	625	7.5%
7.5	Business Crimes	601	7.2%
7.5	Law in General	585	7.0%
9	Insurance	501	6.0%
10	Corporations	480	5.9%
11	Partnership	297	5.7%
12	Guaranty and Surety	225	3.0%
		<u>8,351</u>	<u>100.0%</u>

Rank According To Linear Content	Branches of Law	Total Number of Lines	Percentage of Total Space
1	Contracts	1,905	23.0%
2	Law in General	1,138	13.8%
3	Negotiable Instruments	1,048	12.7%
4	Real Property	1,013	12.2%
5	Agency	652	7.9%
6	Business Crimes	589	7.1%
7	Bailments	433	5.2%
8	Partnership	378	4.6%
9	Corporations	367	4.4%
10	Insurance	325	3.9%
11	Sales of Personal Property	223	2.7%
12	Guaranty and Surety	209	2.5%
		<u>8,280</u>	<u>100.0%</u>

Rank According To Linear Content	Branches of Law	Total Number of Lines	Percentage of Total Space
1	Contracts	1,653	19.8%
2	Sales of Personal Property	800	9.6%
3	Agency	783	9.4%
4	Bailments Table II-B	773	9.3%
5	Negotiable Instruments	728	8.7%
6	Real Property	625	7.5%
7.5	Business Crimes	601	7.2%
7.5	Law in General	585	7.0%
9	Insurance	501	6.0%
10	Corporations	480	5.9%
11	Partnership	297	5.7%
12	Guaranty and Surety	225	3.0%
		<u>8,351</u>	<u>100.0%</u>

Table II-F  
Analysis of Topical Content in Textbook F

Rank According To Linear Content	Branches of Law	Total Number of Lines	Percentage of Total Space
1	Contracts	3,195	23.9%
2	Negotiable Instruments	1,840	13.8%
3	Real Property	1,509	11.3%
4.5	Bailments	1,223	9.1%
4.5	Agency	1,196	8.9%
6	Business Crimes	837	6.3%
7	Insurance	759	5.7%
8	Partnership	663	4.9%
9	Sales of Personal Property	651	4.9%
10	Corporations	624	4.7%
11	Law in General	578	3.9%
12	Guaranty and Surety	352	2.6%
		<u>13,357</u>	<u>100.0%</u>

Table II-G

Analysis of Topical Content in Textbook G

Rank According to Linear Content	Branches of Law	Total Number of Lines	Percentage of Total Space
1	Contracts	3,037	31.6%
2	Corporations	1,116	11.6%
3.5	Law in General	898	9.4%
3.5	Negotiable Instruments	897	9.3%
5	Real Property	858	8.9%
6	Business Crimes	850	8.9%
7	Agency	560	5.8%
8	Partnership	414	4.3%
9	Bailment	328	3.4%
10	Insurance	238	2.5%
11	Guaranty and Surety	231	2.4%
12	Sales of Personal Property	278	1.9%
		<u>9,585</u>	<u>100.0%</u>

In order to facilitate ready reference in the making of comparisons of the treatment given to the branches in W texts, a summary table, Table is presented.

Summary of the Foregoing Tables Showing Linear Treatment of Branches in N Textbooks

<u>Textbooks</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>Range</u>	<u>Average</u>
<u>Law in General</u>									
Number of Lines	784	585	1,138	513	184	518	898		
Percentage of Total	7.6%	7.0%	13.8%	4.6%	2.0%	3.9%	9.4%	2.0% - 13.8%	6.90%
<u>Agency</u>									
Number of Lines	888	783	652	822	607	1196	560		
Percentage of Total	8.6%	9.4%	7.9%	7.4%	6.7%	8.9%	5.8%	5.8% - 9.4%	7.81%
<u>Partnership</u>									
Number of Lines	445	497	378	637	585	663	414		
Percentage of Total	4.3%	5.7%	4.6%	5.7%	6.5%	4.9%	4.3%	4.3% - 6.5%	5.14%
<u>Guaranty and Surety</u>									
Number of Lines	225	324	209	279	210	352	231		
Percentage of Total	2.2%	3.9%	2.5%	2.5%	2.3%	2.6%	2.4%	2.2% - 3.9%	2.63%
<u>Negotiable Instruments</u>									
Number of Lines	1873	728	1048	2124	1162	1840	897		
Percentage of Total	18.1%	8.7%	12.7%	18.9%	12.3%	13.8%	9.3%	8.7% - 18.9%	13.47%
<u>Real Property</u>									
Number of Lines	952	625	1013	946	1227	1509	853		
Percentage of Total	9.2%	7.5%	12.2%	8.4%	13.6%	11.3%	8.9%	7.5% - 13.6%	10.16%
<u>Contracts</u>									
Number of Lines	2310	1653	1905	3015	1944	3195	3037		
Percentage of Total	22.3%	19.8%	23.0%	26.9%	21.5%	23.9%	31.6%	19.8% - 31.6%	24.14%
<u>Corporations</u>									
Number of Lines	669	480	367	692	484	624	1116		
Percentage of Total	6.4%	5.9%	4.4%	6.2%	5.3%	4.7%	11.6%	4.4% - 11.6%	6.36%
<u>Sales of Personal Property</u>									
Number of Lines	356	800	233	485	745	651	178		
Percentage of Total	3.3%	9.6%	2.7%	4.3%	8.2%	4.9%	1.9%	1.9% - 9.6%	5.7%
<u>Bailments</u>									
Number of Lines	727	773	433	1175	889	1223	328		
Percentage of Total	7.0%	9.3%	5.2%	10.5%	9.8%	9.1%	3.4%	3.4% - 10.5%	7.76%
<u>Insurance</u>									
Number of Lines	625	501	325	334	577	759	238		
Percentage of Total	6.0%	6.0%	3.9%	3.0%	6.4%	5.7%	2.5%	2.5% - 6.4%	4.78%
<u>Business Crimes</u>									
Number of Lines	0	601	589	183	445	837	850		
Percentage of Total	0%	7.2%	7.1%	1.6%	4.9%	6.3%	8.9%	1.6% - 8.9%	6.0%



Table III should be read as follows: the branch of the law,

Contracts, had:

2,310 lines or 22.3% of the space in Textbook A;  
1,653 lines or 19.7% of the space in Textbook B;  
1,905 lines or 23.0% of the space in Textbook C;  
3,015 lines or 26.9% of the space in Textbook D; etc.

The branch Business Crimes was not treated in Textbook A; 601 lines or 7.2 per cent of the space in Textbook B was devoted to this branch; 589 lines or 7.1 per cent of the space was given it in Textbook C, etc.

The range of the percentages of lines devoted to the branches of law by the individual textbooks shows a wide variance in some instances and a very little fluctuation in other instances. Some fluctuation is shown under each branch; however, this fluctuation is slight in the cases of Guaranty and Suretyship with a 1.7 per cent variance, Partnerships with 2.2 per cent, Agency with 3.6 per cent, Insurance with 3.9 per cent, and Real Property with a 6.1 per cent variance.

Bailments with a 7.1 per cent variance, Business Crimes with 7.3 per cent, Corporations with 7.2 per cent, Sales of Personal Property with 7.7 per cent, Negotiable Instruments with 10.2 per cent, Law in General with 11.8 per cent and Contracts with 11.8 per cent show the greatest fluctuations in the percentage of space devoted to these branches by the various textbooks.

Table IV shows the results of the foregoing textbook analysis in summary form. The total number of lines devoted to each branch of commercial law by each of the seven textbooks was listed and the sum was computed to determine the total number of lines devoted to the treatment of a branch by all texts combined. The total number of lines devoted

to each branch was then divided by the total number of lines in each text to determine the percentage of the total space devoted to each of the various branches. These branches were then ranked in importance according to percentage of spatial treatment in all texts.

Table IV

Summary Showing Relative Linear Treatment  
of Combined Topical Law Content in N Textbooks  
Combined

Rank	Branch	Lines	Percentage
1	Contracts	17,057	24.3%
2	Negotiable Instruments	9,672	13.8%
3	Real Property	6,310	9.0%
4	Bailments	5,548	7.9%
5	Agency	5,509	7.8%
6	Law in General	5,248	7.5%
7	Sales of Personal Property	4,755	6.8%
8	Corporations	4,432	6.3%
9	Partnerships	3,617	5.2%
10	Insurance	3,359	4.8%
11	Business Crimes	2,877	4.0%
12	Guaranty and Surety	<u>1,830</u>	<u>2.6%</u>
	Total Lines in All Textbooks	70,214	100.0%

Table IV shows the branch of Contracts ranks first in the total amount of space assigned to it by seven textbooks combined. Out of the total of 70, 214 lines, 7,057 lines or 24.3 per cent was devoted to this branch. Guaranty and Surety ranks twelfth with 1,830 out of 70,214 lines or a total of 2.6 per cent.

Contracts which ranks first and Negotiable Instruments which ranks second are branches which by virtue of their position in the scale of ranks are considered of major importance by textbook writers. By this criterion, they should be included in every course of study and probably should receive major emphasis.

Real Property, Bailments, Agency, Law in General, Sales of Personal Property, Corporations and Partnerships, ranking 3, 4, 5, 6, 7, 8 and 9

in order, should receive less emphasis than the branches mentioned above. The second group will receive a more general treatment.

Insurance, Business Crimes, and Guaranty and Surety, share the last ranks in the order named. On the basis of the relative space assigned to these branches in textbooks, these should receive little, if any, emphasis or may be taught incidentally.

The Analysis of Questionnaires  
Sent to Commercial Law Teachers

The second criterion used in this study to judge the value of curriculum content in commercial law was the questionnaire which was sent to commercial law teachers in the state of South Dakota. Table V shows a description of the returns of the sample of teachers' questionnaires.

Table V

Description of the Returns of the Sample  
of Teachers' Questionnaires.

	Number of Teachers	Percentages
Not qualified to answer	4	6.0%
Commercial Law no longer taught	5	7.5%
Questionnaires not returned	9	13.4%
Questionnaires completed and returned	<u>49</u>	<u>73.1%</u>
Total Sample	67	100.0%

Of the sixty-seven questionnaires which were sent out to teachers in all parts of the state, forty-nine teachers responded, or 73.1 per cent of the questionnaires were returned. Five questionnaires or 7.5 per cent were returned because commercial law had been dropped from the schedule; and four teachers or 6.0 per cent returned unanswered questionnaires because they felt incapable of answering the questions due to the

fact that they had had no previous experience in teaching commercial law. Actually 86.5 per cent of the questionnaires were returned; however, only 73.1 per cent were used in the analysis of results.

#### Description of Commercial Law Teachers Included in the Returned Sample

The general information tabulated from the first page of the questionnaire serves only as a background for evaluating the information taken from pages two and three. It is vital, therefore, that certain facts be presented in description of the sample of teachers' questionnaires in order better to judge the value of the information about the commercial law curriculum to be presented later.

#### Sex

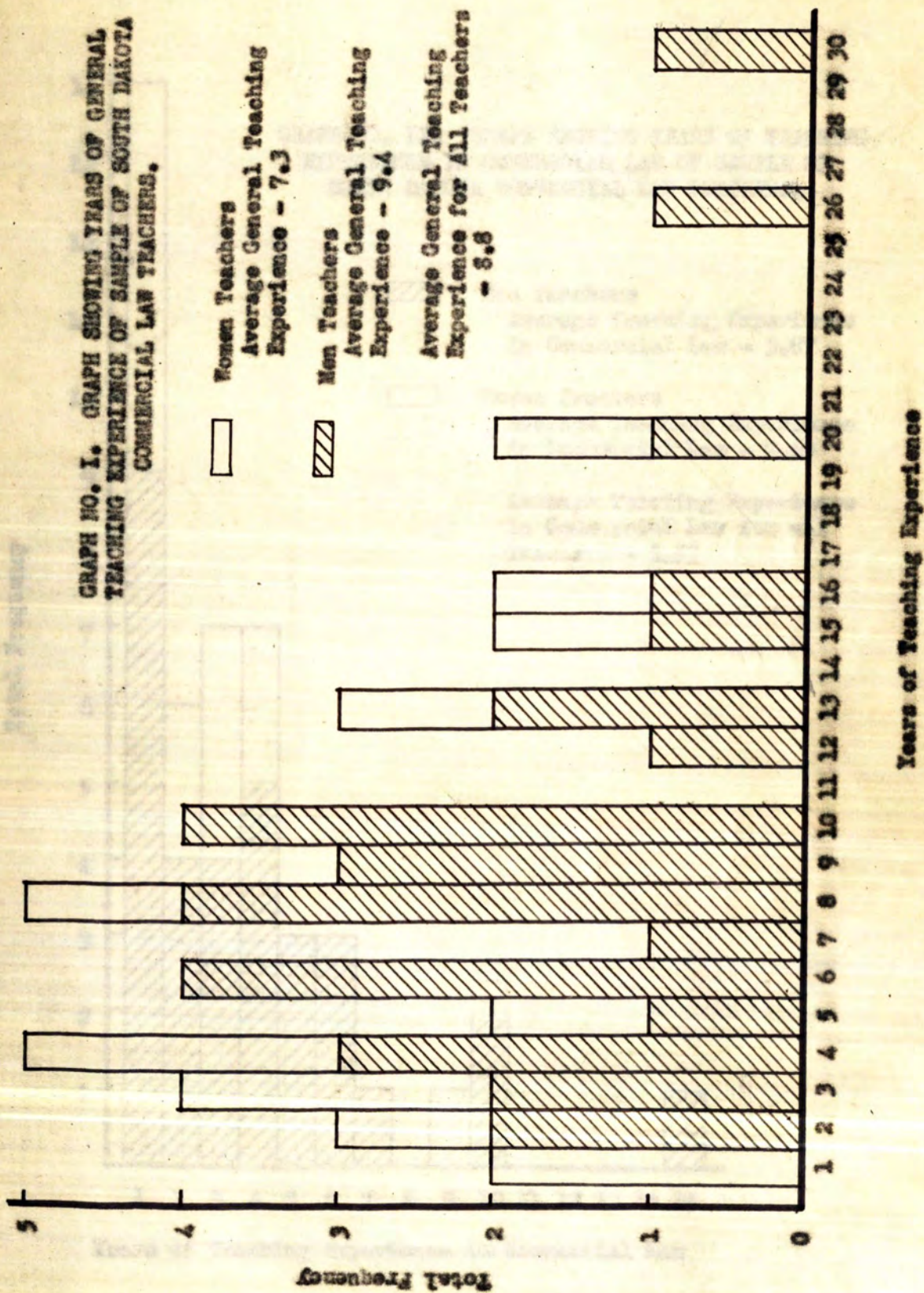
Of the forty-nine teachers who returned the questionnaire, 71.0 per cent were male and 29.0 per cent were female. From this study it is impossible to state accurately in regard to the distribution of men and women teachers of commercial law in this state. Probably this percentage represents a close approximation to the true sex distribution of commercial law teachers in this state.

#### Teaching Experience

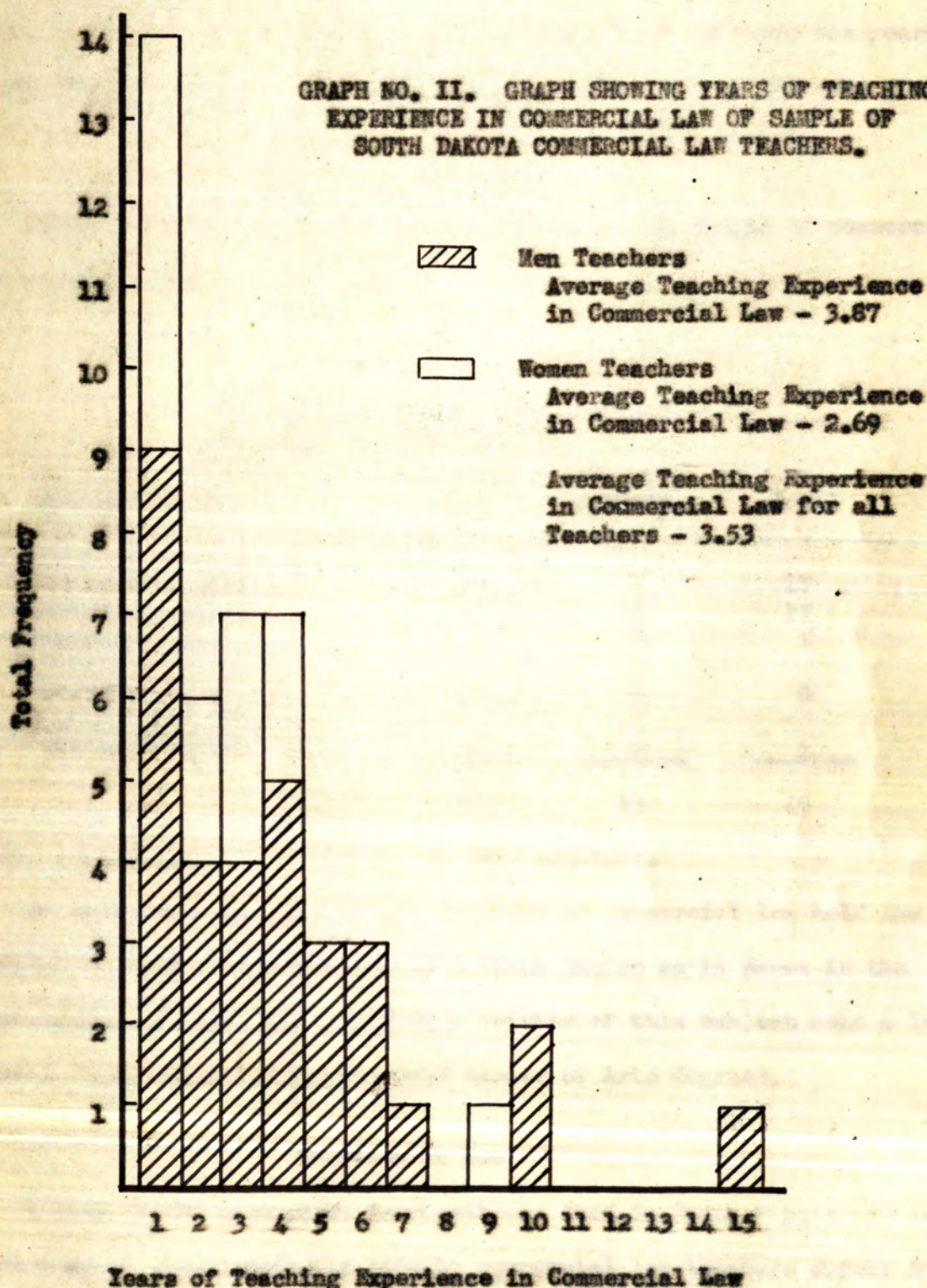
The average teacher of commercial law has had 8.82 years of general teaching experience. The range of years taught is from one to thirty. The average teacher had taught commercial law for 3.53 years, the range being from one to fifteen years.

For the men teachers in the field of commercial law, the average general teaching experience is 9.43 years and the average teaching experience in the field of commercial law is 3.87 years. The average teaching

GRAPH NO. 1. GRAPH SHOWING YEARS OF GENERAL TEACHING EXPERIENCE OF SAMPLE OF SOUTH DAKOTA COMMERCIAL LAW TEACHERS.



GRAPH NO. II. GRAPH SHOWING YEARS OF TEACHING EXPERIENCE IN COMMERCIAL LAW OF SAMPLE OF SOUTH DAKOTA COMMERCIAL LAW TEACHERS.



experience of women teachers of commercial law is 7.3 years, and the average teaching experience in commercial law is 2.69 years. Graph I shows the general experience of commercial law teachers; Graph II shows the years of teaching experience in the field of commercial law for the same group.

### Professional Training

Table VI shows the professional training of the sample of commercial law teachers used in this study.

Table VI

#### The College Degrees Held by Commercial Law Teachers\*

College Degree	Male	Female	Total
Bachelor of Arts	13	4	17
Bachelor of Science	9	8	17
Bachelor of Law	1	0	1
Bachelor of Arts and Master of Arts	8	1	9
Bachelor of Science and Master of Arts	<u>1</u>	<u>0</u>	<u>1</u>
Total	32	13	45

\* Four teachers failed to respond to this question.

At least 75.5 per cent of the teachers of commercial law hold the Bachelor of Arts or the Bachelor of Science degree as is shown in the above table. In only one case does a teacher of this subject hold a law degree. Nine men and one woman hold Master of Arts degrees.

### Textbook In Use

A list of the commercial law textbooks used in South Dakota and the criticisms of these textbooks made by commercial law teachers appear in Table VII.

Table VII

Textbooks Used in South Dakota  
with Criticisms Made by Commercial Law Teachers\*

Textbook Used in South Dakota**	Frequen- cy	Satis- factory	Percent- age of Satis- faction	Not Satis- factory	Cause of Dissatisfaction		
					Theoret- ical	Imprac- tical	Diffi- cult
Textbook A	2	1	50.0%	1	0	1	1
Textbook B	11	8	72.7%	3	1	1	1
Textbook C	1	1	100.0%	0	0	0	0
Textbook D	6	0	0.0%	6	5	3	6
Textbook E	19	11	57.8%	8	5	4	5
Textbook F	6	6	100.0%	0	0	0	0
	45	27		18	11	9	13

\* Four teachers failed to respond to this question.

\*\* The textbooks are referred to by symbols. The names of the authors are filed with the original data and may be obtained from the Department of Education, South Dakota State College.

Table VII should be interpreted as follows: Of the forty-five teachers responding to these questions on textbooks, twenty-seven found their text satisfactory, a percentage of 60%; eighteen, or 40%, found their text unsatisfactory. In the case of Textbook D, six texts were used and all six were considered unsatisfactory by the teachers. In criticism of this text considered to be unsatisfactory, five teachers found it too theoretical, three found it too impractical and six found it too difficult.

#### Specific Criticism of Textbooks.

The eighteen teachers who rated their text unsatisfactory were asked to tell why the textbook used was not satisfactory. Table VIII lists their criticisms.



Table VIII

Critisms of Texts  
as Offered by Teachers

Text	Remarks
<u>Textbook A.</u>	1. The chief difficulty with any text is that in order to be salable through the United States it is too general.
<u>Textbook B.</u>	1. Not difficult enough.
<u>Textbook C.</u>	1. Wording at times. 2. Cases are difficult for students.
<u>Textbook D.</u>	1. Too many theories and not enough application. 2. Not enough discussion of most common problems of law which average students meet. 3. All texts of business law will be quite hard. 4. Too technical. 5. Not human. 6. Not applied to life. 7. Numerous details without sufficient examples. 8. With an insufficient background, parts of texts seem vague. 9. I believe that the course should make use of more actual civil cases that originate in this area and about which students may know some facts in dispute.
<u>Textbook E.</u>	1. Cannot cover so much. 2. Students have difficulty in comprehending. 3. Of no value in life situations. 4. Too much to learn from memory. 5. Too difficult for underclassmen. 6. Book is not adjusted to child studying law for first time. 7. Written on old basis of outline. 8. Wording and phraseology difficult. 9. Too legalistic. 10. Illustrations should be more practical 11. Cases are old and not applicable. Their presentation is uninteresting. It isn't that I don't realize the value of old citations, but I mean the case problems are uninteresting. They deal with fifteen year old conditions.
<u>Textbook F.</u>	1. None

Textbook D was found unsatisfactory by all teachers using it. This situation is perhaps due to the fact that Textbook D was copyrighted in 1925. This edition was completely revised and reorganized in 1934 and

now goes under the title Textbook F. Textbook F was rated as satisfactory by all teachers using it.

Textbook E was copyrighted in 1931 and perhaps the fact that the book is six or seven years old accounts for the large number of teachers rating it unsatisfactory.

Teacher criticism on this group of texts shows evidence that textbooks of recent copyright are more satisfactory than texts published a number of years ago.

#### New Approach to the Course of Study

In response to the question "Do you feel that there should be a new approach to commercial law for high school students?", thirty-one teachers felt that a new approach to subject matter was necessary, while eighteen said that they found the present approach satisfactory. The reasons given for their answers are tabulated below.

#### No New Approach Necessary

1. No. Need for emphasis on laws in general as apply to South Dakota Statutes.
2. No. Cannot suggest any better approach--no doubt changes might be made.
3. No. Case problem method quite satisfactory.
4. No. It is well liked by the students as it is, and it also is a good course.

#### New Approach Necessary

1. Yes. Because I believe a case method makes the subject more easy to grasp even for high school students.
2. Yes. Although the ..... text is good, I feel that it might be simplified somewhat and more concrete examples used.
3. Yes. It should contain more elementary terms at the first to acquaint the student with new terminology.
4. Yes. Subject made more real life like.
5. Yes. It must be vitalized and made to be of most practical value to those who will never study advanced courses.
6. Yes. Classroom discussions should be more socialized.

New Approach Necessary

7. Yes. Modern trend of business has changed. A more practical book should be used.
8. Yes. More practical subject matter needed.
9. Yes. The aim in teaching commercial law should be to teach the student rights of and respect for the property of others.
10. Yes. The old texts do not have enough social flavor in the explanations; the words like "consideration" are not used in a conversational tone enough to show their real place in the students' talk on business.
11. Yes. Present texts contain too much technical material suitable only for a technical law course.
12. Yes. The approach is not vital enough; not interesting; leaves too much to the teacher.
13. Yes. Students seem to fail to understand what they read--it should fit more into experiences with which they are familiar.
14. Yes. It should be more practical. Now it is too theoretical and cannot be applied to the situation which the average student meets.
15. Yes. The introduction could contain more cases and not be too theoretical.
16. Yes. Business Law should be made as practical as possible for the student, so that when he graduates he may get a real benefit from it. Many will never go to college to get any further knowledge of mistakes.
17. Yes. I think the approach should be through general business viewpoint. We require it in our school.
18. Yes. Make more practical.
19. Yes. The subject matter is so concrete and full of facts, that an attempt is made to teach them too much during a short time.
20. Yes. It needs something to arouse interest when students enter the course.
21. Yes. Approaches in most high school texts are too remote and difficult for high school students.
22. Yes. Pupils seem to acquire a better understanding of law by the case and discussion method than by studying rules in the abstract form. There is more interest.
23. Yes. I am not so sure that there ought to be a new approach as I am that only a selected group should take the course.
24. Yes. Course too impractical for those who do not wish to further their study along those lines.
25. Yes. Believe there should be a reversed approach from what is now used. From "cases" to "theoretical law" as colleges teach it.

The most frequent criticism of textbooks by teachers is that texts are impractical, are too difficult, and are too theoretical. Several teachers felt that more cases should be included in texts, and several indicated

that there was a need for new forms of motivation.

### Agencies of Motivation

The teachers were asked to state the means of motivation used and to suggest other means to be used in teaching commercial law. Table IX presents the results of the analysis of these data.

Table IX

#### Means of Motivation in Teaching Commercial Law

<u>Means of Motivation</u>	<u>Frequency of Actual Occurrence</u>	<u>Frequency of Suggestion</u>
Textbook cases	44	29
Hypothetical cases	37	
Visits to court room and court cases	32	
Mock courts	30	
Outside speakers	53	
Insurance men	20	
Lawyers	17	
Business men	<u>16</u>	
	53	
State code of laws		3
Newspapers and magazines		4
Individual projects		3
Experiences of pupils		13
Legal forms		4
Supplementary helps in texts		6

The teachers made a better response in answer to definite questions regarding means of motivation in actual use than they did in suggesting desirable techniques of motivation. Only seven suggestions were made, and out of these only one, namely textbook cases, occurred with sufficient frequency to be significant, it being suggested by twenty-nine of the teachers concerned.

In answer to definite questions regarding the motivation used, forty-four reported that they used cases prepared by the texts and thirty-seven

reported that they used hypothetical cases, which would indicate widespread use of the case study technique as a teaching device. Thirty teachers used mock courts at least once a semester. Thirty-two teachers reported that they had visited the courtroom and remained to hear at least a part of a court case. Eight teachers stated that although they considered visitations at court desirable, the location of the town in which they taught made it impossible to go to a courtroom.

The use of outside speakers is a general practice with commercial law teachers. Twenty reported having had insurance men speak; seventeen have had lawyers speak; and sixteen have had business men from the community speak. Fourteen reported that they had not used outside speakers because they were not available in the community.

Time Allotted Case Work

The time devoted to case work by teachers of commercial law varies. Table X shows the percentage of time spent in case work and the frequency with which it is used.

Table X

Time Allotted Case Work  
by Commercial Law Teachers\*

<u>Percentage of time allotted by teachers</u>	<u>Frequency</u>
0 - 4%	0
5 - 9%	1
10 - 14%	3
15 - 19%	3
20 - 24%	3
25 - 29%	2
30 - 34%	3
35 - 39%	3
40 - 44%	2
45 - 49%	0
50 - 54%	10
55 - 59%	4
60 - 64%	3
65 - 69	1
70 - 74%	2
75 - 79%	1
80 - 84%	0
85 - 89%	0
90 - 94%	<u>1</u>
	42

\* Seven failed to answer this question.

Teachers show a range of from 10 to 90 percent of the class hour time spent in the discussion of cases. The average teacher spends 40.6 per cent of the class period, or reduced to an hourly basis, 24.3 minutes of each classroom hour in the discussion of case work.

Commercial Law in the Curriculum

There is a wide variance of opinion as to the grade level at which commercial law should be offered to high school students. Table XI shows the opinion of commercial law teachers in response to this question.

Table XI

Grade Placement of Commercial Law  
in the Curriculum\*

<u>Grade Placement</u>	<u>Frequency</u>
9th and 10th grades	3
11th grade	7
11th and 12th grades	17
12th grade	<u>21</u>
	48

\* One teacher did not answer this question.

Three teachers said commercial law should be given in the ninth and tenth grades in order that the pupils might have a good background for sociology and economics. Seven said it should be taught in the eleventh grade, and seventeen said it should be taught in the eleventh and twelfth grades. Twenty-one said it should be taught only in the twelfth grade since only then is the high school student capable of comprehending such a course. Commercial law was found to be offered in the ninth, tenth, eleventh, and twelfth grades in South Dakota. However, it is most characteristic to place it in the eleventh and twelfth grades, particularly in schools that combine classes, and in the twelfth grade in other schools.

o Branches of the Law

Page two of the teachers' questionnaire listed the various general branches of the law as included in the analyzed textbooks. Each teacher was asked to rate these branches of the law by checking one of six ratings as follows: "1" most important, "2" important, "3" less important, "4" of little importance, "5" of practically no importance, and "0" if the branch under no condition should be included in the course of study for commercial law.

The ratings of the branches of the law checked by the teachers were tabulated under the correct category and weighted. The branches of the law with their averaged weighted frequencies appear in Table XII.



Table XII

The Averaged Weighted Frequencies  
Of the General Branches of the Law  
As Rated by the Teachers

Branch of Law	Rating						Pre- quency	Weighted Frequency	Average Weighted Frequency (Average Rating)
	1*	2*	3*	4*	5*	0*			
	Weighting								
	1	2	3	4	5	6			
Partnership	18	22	5	2	0	2	49	97	1.979
Corporations	14	21	5	3	2	4	49	117	2.385
Negotiable Instruments	41	7	1	0	0	0	49	58	1.183
Guaranty and Surety	13	16	6	4	2	8	49	137	2.795
Bailments	18	15	10	4	1	1	49	105	2.142
Agency	24	13	10	1	0	1	49	90	1.836
Contracts	47	0	0	1	0	1	49	57	1.163
Courts and Procedure	7	16	11	11	1	3	49	139	2.836
Torts and Negligence	9	21	10	5	4	0	49	121	2.469
General Property	20	11	6	3	7	2	49	119	2.428
Law in General	14	10	10	6	3	5	48	133	2.770
Insurance	24	17	5	0	1	2	49	90	1.836
Sales of Personal Property	32	10	6	0	0	1	49	76	1.551
Criminal Law	9	6	10	6	4	14	49	179	3.653
Transfer of Real Property	30	8	6	3	1	1	49	87	1.775
Real Property	20	18	5	4	2	0	49	97	1.979
Personal Property	26	14	4	2	1	1	48	85	1.770
Business Crimes	11	10	9	7	5	7	49	153	3.122

1\* indicates of greatest importance to the course of study.

2\* indicates of great importance.

3\* indicates important.

4\* indicates less important.

5\* indicates of little importance

0\* indicates that the branch should be omitted from the course of study.

Table XII should be interpreted as follows: in the analysis of the questionnaires sent to teachers to determine the relative importance of the branches of the law, it was found that eighteen teachers rated Partnership "1", or gave it a rating of "very important". Twenty-two teachers rated it "2" or "important". Five rated it "3" or "less important". None rated it "5", or of "very little importance". Two rated it "0", indicating that they considered the branch of such little importance as to warrant its omission from the course of study. These ratings were weighted and divided by the frequency (49) or the number of teachers answering the questionnaire. The averaged weighted frequency indicated the average of ratings of all teachers. These ratings appear in Table XIII.

Table XIII

The Branches of Commercial Law  
As Rated by Commercial Law Teachers

Branch	Average Rating
Contracts	1.163
Negotiable Instruments	1.183
Sales of Personal Property*	1.551
Personal Property*	1.770
Agency	1.836
Insurance	1.836
Partnerships	1.979
Real Property**	1.979
Transfer of Real Property**	1.775
General Property**	2.428
Bailments	2.142
Corporations	2.385
Guaranty and Surety	2.795
Law in General***	2.770
Courts and Procedure***	2,836
Business Crimes****	3,122
Criminal Law****	3.653
Torts and Negligence****	2.469

In Table XIV, the following branches have been combined:

- \* Sales of Personal Property and Personal Property under the heading Sales of Personal Property.
- \*\* Real Property, Transfer of Real Property and General Property under the heading Real Property.
- \*\*\* Law in General and Courts and Procedure under the heading Law in General.
- \*\*\*\* Business Crimes, Criminal Law and Torts and Negligence under Business Crimes.

Table XIII should be read as follows: Contracts rated first in importance with a weighted frequency of 1.163. Criminal Law rated last in importance with a weighted frequency of 3.653.

An extension of the divisions of the various branches of commercial law was made for the sake of clarity when the teachers' questionnaire was constructed. Because of this fact, there appears in the foregoing Table XIII, eighteen categories in place of twelve.

It is necessary to combine these sub-branches under the main branch as indicated in the footnote on page 44. This was done in order to make possible a uniformity of treatment of branches of commercial law according to the three criteria.

Table XIV

The Ranking of the Twelve Branches of the Law  
As Rated by Teachers

<u>Rank</u>	<u>Branch</u>	<u>Average Weighted Frequency</u>
1	Contracts	1.163
2	Negotiable Instruments	1.163
-----		
3	Sales of Personal Property	1.660
4.5	Agency	1.836
4.5	Insurance	1.836
-----		
6	Partnerships	1.979
7	Real Property	2.061
8	Bailments	2.142
9	Corporations	2.385
-----		
10	Guarenty and Surety	2.795
11	Law in General	2.803
12	Business Crimes	3.081

Contracts and Negotiable Instruments have an almost perfect score with an averaged weighted frequency of 1.1. These branches are considered most important in the judgment of teachers of commercial law and in no case should they be omitted from the course. Sales of Personal Property should be classed with Agency and Insurance in the group considered to be important but not as important as those in group 1.

Group 3 is made up of four branches, Partnerships, Real Property, Bailments, and Corporations, and are considered of less importance but they should be included in the course of study.

Group 4 includes Guaranty and Surety, Law in General, and Business Crimes. This group, which is considered of very little importance, should be stressed after the above branches have been taught.

Page three of the teachers' questionnaire presented the topics that were included under the general branch headings. This list of topics was obtained from the analysis of the frequently used textbooks of commercial law in present use in the state of South Dakota. The teacher was asked to rate the topics, included under each branch, in the same manner as she had rated the branches on the previous page of the questionnaire. The same procedure was used in the treatment of topics as was used with the branches. The ratings were tabulated and weighted, then divided by the total number responding to the questionnaire (49). The averaged weighted frequencies were then arranged as shown in Table XV.

Table XV

The Averaged Weighted Frequencies  
For the Topics Under the Branches of the Law  
As Found in the Analysis of the Teachers' Questionnaire  
Ranked in Order of Importance

Division	Rating					Fre- quency	Weighted Fre- quency	Average Weighted Fre- quency
	1	2	3	4	0			
	Weighting							
	1	2	3	4	5			
<b>I. Law in General</b>								
1. Society and Law	20	11	7	7	4	49	111	2.265
2. Origin of Law	17	8	12	5	7	49	124	2.530
3. Written and Unwritten	11	10	21	2	5	49	127	2.591
4. The Trial	14	13	7	6	9	49	130	2.653
5. Development of Law	7	11	16	7	8	49	145	2.959
6. History of U. S. Law	8	9	11	8	13	49	156	3.182
<b>II. Agency</b>								
1. Liabilities	34	11	2	1	1	49	71	1.448
2. Duties	32	12	4	0	1	49	73	1.489
3. Employer and Employee	31	12	2	2	2	49	75	1.612
4. Termination	26	16	4	1	2	49	84	1.714
5. Principles	19	20	5	5	0	49	94	1.918
6. Master and Servant	22	13	10	0	4	49	98	2.000
<b>III. Partnership</b>								
1. Liabilities	30	13	3	1	2	49	79	1.612
2. Rights	27	15	4	1	2	49	83	1.693
3. Formation	31	10	3	1	4	49	84	1.714
4. Duties	23	18	5	1	2	49	88	1.795
5. Powers	24	13	8	1	3	49	98	1.897
6. Kinds	16	18	10	2	3	49	105	2.142
<b>IV. Guaranty and Surety</b>								
1. Rights of Surety	15	16	8	3	7	49	118	2.408
2. Rights of Guaranty	13	18	7	4	7	49	121	2.469
<b>V. Negotiable Instruments</b>								
1. Checks	47	2	0	0	0	49	51	1.040
2.5 Notes	40	7	1	1	0	49	61	1.244
2.5 Endorsements	40	6	3	0	0	49	61	1.244
4. Promises to Pay	36	9	2	1	1	49	69	1.408
5. Elements	37	8	0	1	3	49	72	1.469
6. Drafts	33	10	5	0	1	49	73	1.489
7. Bills of Exchange	25	14	7	1	2	49	88	1.795
8. Holder in due course	26	10	6	4	2	49	90	1.873
9. Defenses	21	16	6	3	3	49	98	2.000
10. Presentments	20	13	11	4	1	49	100	2.040
11. I. O. U.	17	14	8	6	4	49	113	2.306
12. Dishonor and Protest	16	13	10	6	3	48	111	2.312

Table XV  
(Continued)

The Averaged Weighted Frequencies  
For the Topics Under the Branches of the Law  
As Found in the Analysis of the Teachers' Questionnaire  
Ranked in Order of Importance

Division	Rating					Fre- quency	Weighted Fre- quency	Average Weighted Fre- quency
	1	2	3	4	0			
	Weighting							
	1	2	3	4	5			
<b>VI. Real Property</b>								
1. Landlord and Tenant	36	10	2	0	1	49	67	1.367
2. Mortgages	34	13	1	0	1	49	68	1.387
3. Property Rights	33	8	7	1	0	49	74	1.510
4. Titles	28	13	5	1	2	49	83	1.693
5. Fixtures	23	16	5	2	0	46	78	1.695
6. Deeds	26	13	6	3	1	49	87	1.775
7. Interest	16	24	4	3	0	49	88	1.795
8. Principles	20	18	7	1	0	47	86	1.829
9. Liens	21	14	11	2	0	48	90	1.874
10. Wills	17	20	7	4	1	49	99	2.020
<b>VII. Contracts</b>								
1. Formation	47	2	0	0	0	49	51	1.040
2. Parties	40	8	0	0	1	49	61	1.244
3. Agreement	37	8	3	0	0	48	62	1.289
4. Competent Parties	37	8	1	1	1	48	65	1.354
5. Consideration	37	9	1	1	1	49	67	1.367
6. Subject Matter	36	9	1	1	2	49	71	1.448
7.5 Discharge	30	16	2	1	0	49	72	1.469
7.5 Termination	32	11	6	0	0	49	72	1.469
9. Operation	25	23	1	0	0	49	74	1.510
10. Legality of Object	31	14	2	0	2	49	75	1.530
11. Statute of Frauds	33	8	4	1	2	48	75	1.562
12. Assignment	25	15	7	1	0	48	80	1.666
13. Forms	22	22	4	1	0	49	82	1.673
14. Reality of Consent	26	16	3	0	3	48	82	1.708
15. Remedies for Breach	26	12	8	2	1	49	87	1.775
<b>VIII. Sales of Personal Property</b>								
1. Transfer of Title	37	9	2	0	1	49	66	1.346
2. Rights of Parties	35	10	0	0	2	47	65	1.382
3. Conditional Sales	36	9	1	0	3	49	72	1.469
4. Statute of Frauds	29	14	3	1	2	49	80	1.632
5. Remedies	22	17	5	3	0	47	83	1.765
6. Warranties	28	15	6	1	1	48	85	1.770
7. Vendor and Vendee	22	18	6	3	0	49	88	1.795
<b>IX. Corporation</b>								
1. Stockholders	15	23	7	1	2	48	96	2.000
2. Formation	13	23	8	1	4	49	107	2.183

Table XV  
(Continued)

The Averaged Weighted Frequencies  
For the Topics Under the Brances of the Law  
As Found in the Analysis of the Teachers' Questionnaire  
Ranked in Order of Importance

Division	Rating					Fre- quency	Weighted Fre- quency	Average Weighted Fre- quency
	1	2	3	4	5			
	Weighting							
<b>IX. Corporation (Cont'd)</b>								
3. Powers	11	24	8	1	6	48	117	2.437
4.5 Administration	9	16	14	4	6	49	129	2.632
4.5 Dissolution	7	19	14	3	6	49	129	2.632
<b>X. Bailment</b>								
1. Types	20	21	3	2	1	47	84	1.755
2. Common Carriers	17	25	3	3	1	49	93	1.897
3. Bailment in General	18	16	10	3	2	49	102	2.081
4. Innkeepers	9	25	9	3	1	47	103	2.191
<b>XI. Insurance</b>								
1. Life Insurance	40	8	1	0	0	49	59	1.204
2.5 General Insurance	37	11	0	0	1	49	64	1.306
2.5 Property Insurance	35	13	1	0	0	49	64	1.306
4. Fire Insurance	32	15	1	0	1	49	73	1.428
5. Annuities	29	11	4	1	4	49	87	1.775
6. Social Insurance	23	12	7	3	4	49	100	2.040
<b>XII. Business Crimes</b>								
1. Torts	19	19	4	4	3	49	100	2.040
2. Larceny	14	20	7	6	2	49	109	2.224
3. Negligence	18	20	4	4	5	49	111	2.265
4. Extortion	9	22	10	6	2	49	117	2.387
5. Arson	9	20	12	5	3	49	120	2.448



Table XV should be interpreted as follows: Of the forty-nine teachers responding to Branch VII of commercial law, Contracts, in the questionnaire, the topic Formation of Contracts received a perfect rating of "1" or "very important" by forty-seven teachers and a rating "2" or "important" by two teachers.

When these two frequency ratings are multiplied by their weightings, the combined frequency is 5.1. When the weighted frequency is divided by 49, the total number of teachers responding to the item, the average weighted frequency is 1.040. This leads in importance all other topics included under the branch of Contracts.

**Analysis of Questionnaire  
Sent to Forty Lawyers  
in Eastern South Dakota**

The third criterion used in this study to judge the value of curriculum content in commercial law was the analysis of the questionnaire which was sent to lawyers in the eastern part of South Dakota. Forty lawyers responded to the request for information about the relative importance of the branches of the law to be included in a secondary course of study.

The lawyers were asked for neither general nor personal information. They were not asked to rate the general branches of the law as taken from the textbook analysis, but they were asked to rate the topics included under the general branches of the law as taken from the textbook analysis. Because the element of time played such a large part in getting busy lawyers to take the time to answer the questionnaire, repetition was eliminated as far as possible.

**Evaluation of Topics in Commercial Law**

The lawyer was asked to rate these topics in much the same manner

that the teacher was asked to rate these same topics. However, in the interest of brevity, only four classifications were used: "1" indicated that the topic was very important, "2" indicated the topic was important, "3" indicated the topic was of little importance, and "X" indicated that the topic should not be included in a secondary course of study. The lawyer was, however, asked to check one of three reasons, too impractical, too theoretical, or too difficult, if he rated any topic "X" in order to indicate that in his estimation the topic should be omitted from the course of study in commercial law.

The results of the returned questionnaires were tabulated, weighted, and averaged. The procedure used was such the same as that used in the analysis of the questionnaire sent to teachers, with the exception to be indicated later in this chapter. The ranked topics and their averaged weighted frequencies appear in Table XVI.

In interpreting the data which deals with the importance attached to the branches and topics under the branches as rated by lawyers, it should be explained that in answering questionnaires in personal conferences with the writer, the lawyers in general commented on their attitude toward teaching commercial law in high schools. They maintained that the students felt that they could handle their own legal problems after a one-semester course; that commercial law was too difficult; and that if any branches were taken up, all of them (12) should be. They maintained that all branches should be taught very generally with an idea of introducing the subject rather than giving the child specific knowledge of the branch.

This attitude undoubtedly resulted in a lower rating assigned to branches and topics than would be ordinarily justified by an unbiased and impartial group.

Table XVI

The Averaged Weighted Frequency  
Of the Topics of the General Branches of Commercial Law  
As Rated by Forty Lawyers of Eastern South Dakota

Rank	Topic	Weighting				Frequency	Frequency	Averaged Weighted Frequency (Average Rating)*	Reason for Omission		
		1	2	3	4				Too Inprac- tical	Too Theoret- ical	Too Diffi- cult
<b>I. Law in General</b>											
1.	Society and Law	15	13	7	5	40	82	2.283	1	2	2
2.	Development	15	11	7	7	40	86	2.050	2	2	3
3.	Origin	15	10	7	8	40	88	2.150	2	2	4
4.	History	13	9	12	6	40	91	2.200	1	1	4
5.	Written and Unwritten	12	9	10	9	40	96	2.275	2	2	4
6.	The Trial	8	12	7	13	40	105	2.400	4	2	5
<b>II. Agencies</b>											
1.	Principles	15	12	6	7	40	85	2.625	1	0	7
2.	Duties	8	15	11	6	40	87	2.291	1	0	6
3.	Liabilities	12	15	4	9	40	90	2.125	1	0	5
3.5	Employer and Employee	14	11	7	13	40	90	2.175	2	0	7
5.	Terminations	12	11	6	11	40	96	2.250	2	0	11
6.	Master and Servant	9	12	7	12	40	102	2.250	2	0	9
<b>III. Partnership</b>											
1.	Formation	12	12	3	13	40	97	2.400	4	0	8
2.	Liabilities	14	7	6	13	40	98	2.550	6	0	7
3.	Rights	11	11	5	13	40	100	2.425	3	1	9
4.	Kinds	10	11	6	13	40	102	2.450	4	0	9
4.5	Powers	10	11	6	13	40	102	2.500	5	0	8
6.	Doubles	10	10	7	12	40	103	2.550	5	0	8
<b>IV. Guaranty and Surety</b>											
1.	Principles	6	6	2	26	40	128	3.200	4	0	9
								3.200	2	3	21

The Averaged Weighted Frequency  
Of the Topics of the General Branches of Commercial Law  
As Rated by Forty Lawyers of Eastern South Dakota

Rank	Topic	Weighting				Frequency	Averaged Weighted Frequency (Average Rating)*	Reason for Omission	Too Impractical	Too Theoretical	Too Difficult
		1	2	3	4						
<b>V. Negotiable Instruments</b>											
1.	Checks	27	5	2	6	40	2.065	0	0	0	6
2.	Notes	27	5	1	7	40	1.675	1	0	0	6
3.	Endorsements	25	6	3	6	40	1.700	0	0	0	6
4.	Elements	25	6	2	7	40	1.750	2	0	0	5
5.	Drafts	23	7	3	7	40	1.775	0	0	0	7
6.	Promises to Pay	22	7	3	8	40	1.850	2	1	1	5
7.	Bills of Exchange	18	8	6	8	40	1.925	2	0	0	7
8.	Presentment	16	7	7	10	40	2.100	1	0	0	7
9.5	Defenses	15	9	4	12	40	2.275	0	2	2	8
9.5	Holder in Due Course	16	7	5	12	40	2.325	0	3	3	9
11.	Dishonor and Protest	15	7	6	12	40	2.325	1	3	3	8
12.	I. O. U.	14	5	9	12	40	2.375	1	2	2	9
<b>VI. Real Property</b>											
1.	Mortgages	17	7	2	14	40	2.475	4	2	2	6
2.	Principles	15	9	1	15	40	2.625	0	0	0	14
3.	Deeds	14	9	1	16	40	2.325	0	0	0	12
4.	Landlord and Tenant	13	11	3	15	40	2.400	3	0	0	16
5.	Fixtures	10	10	5	15	40	2.475	0	0	0	16
6.	Wills	11	9	2	18	40	2.600	2	2	2	11
7.	Liens	10	10	2	18	40	2.625	1	0	0	14
8.	Titles	12	6	2	20	40	2.675	3	0	0	15
9.	Property Rights	9	9	2	20	40	2.700	2	0	0	16
10.	Interest	8	7	7	18	40	2.750	0	2	2	18
							2.825	0	3	3	17
							2.875	1	0	0	17

(Continued)

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Table XVI  
(Continued)

The Averaged Weighted Frequency  
Of the Topics of the General Branches of Commercial Law  
As Rated by Forty Lawyers of Eastern South Dakota

Rank	Topic	Weighting				Frequency	Averaged Weighted Frequency (Average Rating)*	Reason for Omission	Total	Difficult
		1	2	3	4					
<b>VII. Corporations</b>										
1.5	Formation	9	5	8	18	40	115	3	1	14
1.5	Stockholders	8	7	7	18	40	115	5	1	12
3.	Powers	6	6	8	20	40	122	5	4	11
4.	Administration	4	7	9	20	40	125	6	3	12
5.	Dissolution	4	4	11	21	40	129	6	0	12
<b>VIII. Sales of Personal Property</b>										
1.5	Conditional Sales	19	8	6	7	40	81	0	1	6
1.5	Transfer of Title	21	6	4	9	40	81	1	1	7
3.	Rights of Parties	19	5	7	9	40	86	0	1	8
4.	Warranties	18	6	4	12	40	90	1	0	11
5.	Rights of Vendor and Vendee	17	5	6	12	40	93	1	1	10
6.	Statute of Frauds	16	6	6	12	40	94	0	0	12
7.	Remedies	12	7	5	16	40	105	2	2	12
<b>IX. Bailment</b>										
1.	Types	8	7	8	17	40	114	4	2	11
2.	Common Carriage	5	9	8	18	40	119	5	0	13
3.	In General	3	10	9	18	40	122	4	0	14
4.	Innkeepers	5	6	9	20	40	124	5	0	15
<b>X. Insurance</b>										
1.5	In General	13	17	4	6	40	83	1	0	5
1.5	Life	16	12	5	7	40	83	0	0	7
3.	Property	14	15	4	7	40	84	1	0	6
4.	Fire	14	16	3	7	40	86	1	0	6
5.	Social Insurance	14	6	9	11	40	88	3	1	7
6.	Annuities	11	12	6	11	40	92	1	1	9

The Averaged Weighted Frequency  
Of the Topics of the General Branches of Commercial Law  
As Rated by Forty Lawyers of Eastern South Dakota

Rank	Topic	Weighting				Fre- quency	Weighted Fre- quency	Averaged Weighted Frequency (Average Rating)*	Reason for Omission		
		Rating							Too Imprac- tical	Too Theoret- ical	Too Diffi- cult
		1	2	3	4						
<b>XI. Business Crimes</b>											
1.	Negligence	13	9	3	15	40	100	2.500	1	2	12
2.	Larceny	13	6	5	16	40	104	2.600	4	0	12
3.	Torts	10	9	5	16	40	107	2.675	1	3	12
4.	Arson	11	7	5	17	40	108	2.700	3	0	14
5.	Extortion	10	8	5	17	40	109	2.725	5	0	12
<b>XII. Contracts</b>											
1.	Formation	26	3	5	6	40	71	1.775	0	0	6
2.	Parties	24	5	5	6	40	73	1.825	1	0	5
3.5	Subject Matter	24	4	6	6	40	74	1.850	1	0	5
3.5	Consideration	25	4	3	8	40	74	1.850	1	0	7
5.	Competent Parties	23	5	5	7	40	76	1.900	1	0	5
6.	Legality of Object	22	5	4	9	40	80	2.000	1	0	8
7.	Termination	19	8	6	7	40	81	2.025	0	0	7
8.	Operations	21	4	6	9	40	83	2.075	1	0	8
9.	Forms	20	3	9	8	40	85	2.125	3	0	5
10.	Discharge	18	6	6	10	40	88	2.200	2	0	8
11.	Agreement	19	5	4	12	40	89	2.225	2	0	10
12.	Statute of Frauds	18	6	3	13	40	91	2.275	2	0	11
13.	Assignments	18	4	6	12	40	92	2.300	2	0	10
14.	Remedies for Breach	13	7	7	13	40	100	2.500	1	2	10
15.	Reality of Consent	14	6	5	15	40	101	2.525	2	0	13

\* The method of determining the average weighted frequency of the larger branches of commercial law is described on page 56.

Table XVI should be interpreted as follows: According to the analysis of the questionnaires returned by lawyers, under that branch of commercial law entitled Law in General, Society and Law ranks of first importance with a weighted frequency of 2.050. In other words, of the forty lawyers answering the questionnaire, 15 rated this topic of "great importance" to the course of study, 13 rated it as "important," 7 rated it of "less importance," and 5 indicated that the topic should not be included under the branch called Law in General.

Under the same branch, Law in General, the Trial ranked of least importance with a weighted frequency of 2.625. Only 8 rated this topic to "great importance," 12 rated it "important," 7 rated it "less important," and 13 indicated that the topic should not be included in the course of study.

All topics under the various branches of the law in Table XVI may be read in this manner.

#### Evaluation of Branches of Commercial Law

Since the general branches of the law were not rated by the lawyers, an average of the topics which were rated by this group was taken to find which branches of the law they considered most important and which branches they considered least important.

The averages of the weighted frequencies of the topics rated by lawyers were arranged under the correct branch of the law and the sum of these averages was divided by the number of topics under each branch. The results showed the average of the averaged weighted frequency of the branches. These data are presented in Table XVII.

Table XVII

The Branches of Commercial Law  
 Ranked According to the Averaged Weighted Frequency of the Topics  
 As Rated by Lawyers in Eastern South Dakota

<u>Rank</u>	<u>Branch</u>	<u>Average Weighted Frequency</u>	<u>Average Rating Assigned to Branches By Lawyers</u>
1	Negotiable Instruments	81.83	2.05
2	Contracts	83.86	2.10
3	Insurance	86.00	2.17
4	Sales of Personal Property	88.57	2.25
5	Law in General	91.33	2.28
6	Agency	91.66	2.29
7	Partnership	100.33	2.51
8	Real Property	105.00	2.62
9	Business Crimes	105.60	2.66
10	Bailment	119.75	2.99
11	Corporations	121.20	3.03
12	Guaranty and Surety	128.00	3.20

Table XVII should be interpreted in the following manner: The branch of the law, Negotiable Instruments, ranks first in importance with an average weighted frequency of topics of 81.83 and an average weighted rating of 2.0458, while Guaranty and Surety placed thirteenth or of least importance with a total weighted frequency of topics of 128.00 and an average weighted rating of 3.20.

Summary

A summary of the rankings of the general branches of commercial law as found in three criteria is shown in Table XVIII.



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Table XVIII

Composite Summary of Rankings  
Assigned to Branches of Commercial Law

Rank	Branch	Text Analysis	Teacher Questionnaire	Lawyer Questionnaire	Range	Frequency	Average Rank
1	Contracts	1	1	2	1-2	3	1.33
2	Negotiable Instruments	2	2	1	1-2	3	1.66
3	Sales of Personal Property	7	3	4	3-7	3	4.66
4	Agency	5	4.5	6	4.5-6	3	5.16
5	Insurance	10	4.5	3	3-10	3	5.83
6	Real Property	3	7	8	3-8	3	6.00
7	Bailment	4	8	10	4-10	3	7.33
8	Law in General	6	11	5	5-11	3	7.33
9	Partnership	9	6	7	6-9	3	7.33
10	Corporation	8	9	11	8-11	3	9.33
11	Business Crimes	11	12	9	9-12	3	10.66
12	Guaranty and Surety	12	10	12	10-12	3	11.33

This table should be read as follows: The branch, Contracts, received place of first importance due to the fact that textbook writers ranked first, as did the teacher's questionnaire. Lawyers ranked it second. Average rank was 1.33 ("1" being a perfect score). On the basis of the criteria of value used in this study, it can be concluded that this branch of the law is of greater importance than any other branch.

The branch, Guaranty and Surety, which ranked last with an average of 11.33 on the same basis can be considered of least importance.

The final summary of the rankings of the branches of the law as rated by textbook writers, teachers, and lawyers shows little variance of opin-

ion in rating Contracts and Negotiable Instruments. Each of these branches showed a ranking of from "1" to "2" by the three groups. Agency ranked from "4.5" to "6", showing a fluctuation of one and one-half places, while Guaranty and Surety ranked from "10" to "12", a fluctuation of two places.

Partnerships, Corporations, and Business Crimes showed a range of three places, while Sales of Personal Property showed a variance of four places. The greatest variance in opinion appeared in the cases of Real Property with a range of five places, Law in General with a range of six places, and in the case of Insurance with a variation of seven places.

Table XVIII shows that there is marked consistency of opinion in judging the branches considered of greatest importance and those of least importance, while those branches judged of importance and less importance showed a diversity of opinion in the minds of the three groups.

The Averaged Rankings of the Topics  
Of the Branches of Commercial Law  
As Rated by Teachers and Lawyers

Table XIX shows the averaged ranks of the various topics of the law as rated by teachers of commercial law and lawyers. They are arranged on the basis of importance in descending order. The ratings from these two analysis have been combined and an average rating determined in order to effect a composite rating. This average is used in the construction of a suggested course of study in commercial law for use in South Dakota.

Table XIX

Presentation of the Average Ranking and Final Ranks  
Assigned to the Topics Under the Branches of Commercial Law  
As Rated by Teachers and Lawyers

<u>Final Rank</u>	<u>Topic</u>	<u>Teachers' Questionnaire</u>	<u>Lawyers' Questionnaire</u>	<u>Frequency</u>	<u>Average Ranks</u>
<u>I. Contracts</u>					
1.	Formation	1	1	2	1
2.	Parties	2	2	2	2
3.5	Consideration	5	3.5	2	4.25
3.5	Subject Matter	6	3.5	2	4.25
5.	Competent Parties	4	5	2	4.5
6.	Agreement	3	11	2	7
7.	Termination	7.5	7	2	7.25
8.	Legality of Object	10	6	2	8
9.	Operation	9	8	2	8.5
10.	Discharge	7.5	10	2	8.75
11.	Forms	13	9	2	11
12.	Statute of Frauds	11	12	2	11.5
13.	Assignments	12	13	2	12.5
14.5	Reality of Consent	14	15	2	14.5
14.5	Remedies for Breach	15	14	2	14.5

II. Negotiable Instruments

1.	Checks	1	1	2	1
2.	Notes	2.5	2	2	2.25
3.	Endorsements	2.5	3	2	2.75
4.	Elements	5	4	2	4.5
5.	Promises to Pay	4	6	2	5
6.	Drafts	6	5	2	5.5
7.	Bills of Exchange	7	7	2	7
8.	Holder in Due Course	8	9.5	2	8.75
9.	Presentment	10	8	2	9
10.	Defenses	9	9.5	2	9.25
11.	Dishonor and Protest	11	11	2	11
12.	I. O. U.	12	12	2	12

III. Sales of Personal Property

1.	Transfer of Title	1	1.5	2	1.25
2.	Conditional Sales	3	1.5	2	2.25
3.	Rights of Parties	2	3	2	2.5
4.5	Statute of Frauds	4	6	2	5
4.5	Warranties	6	4	2	5
6.5	Remedies	5	7	2	6
6.5	Vendor and Vendee	7	5	2	6

Table XIX  
(Continued)

Presentation of the Average Ranking and Final Ranks  
Assigned to the Topics Under the Branches of Commercial Law  
As Rated by Teachers and Lawyers

<u>Final Rank</u>	<u>Topic</u>	<u>Teachers' Questionnaire</u>	<u>Lawyers' Questionnaire</u>	<u>Frequency</u>	<u>Average Ranks</u>
<u>IV. Agency</u>					
1.	Duties	2	2	2	2
2.	Liabilities	1	3.5	2	2.25
3.	Principles	5	1	2	3
4.	Employer and Employee	3	3.5	2	3.25
5.	Termination	4	5	2	4.5
6.	Master and Servant	6	6	2	6
<u>V. Insurance</u>					
1.	Life Insurance	1	1.5	2	1.25
2.	General	2.5	1.5	2	2
3.	Property	2.5	3	2	2.75
4.	Fire	4	4	2	4
5.5	Annuities	5	6	2	5.5
5.5	Social	6	5	2	5.5
<u>VI. Real Property</u>					
1.	Mortgages	2	1	2	1.5
2.	Landlord and Tenant	1	4	2	2.5
3.	Deeds	6	3	2	4.5
4.5	Fixtures	5	5	2	5
4.5	Principles	8	2	2	5
6.5	Property Rights	3	9	2	6
6.5	Titles	4	8	2	6
8.5	Liens	8	7	2	8
8.5	Wills	10	6	2	8
10.	Interest	7	10	2	8.5
<u>VIII. Bailments</u>					
1.	Types	1	1	2	1
2.	Common Carriers	2	2	2	2
3.	In General	3	3	2	3
4.	Innkeepers	4	4	2	4
<u>VIII. Law In General</u>					
1.	Society and Law	1	1	2	1
2.	Origin of Law	2	3	2	2.5
3.	Development	5	2	2	3.5
4.	Written and Unwritten	3	5	2	4
5.5	The Trial	4	6	2	5
5.5	History	6	4	2	5

Table XIX  
(Continued)

Presentation of the Average Ranking and Final Ranks  
Assigned to the Topics Under the Branches of Commercial Law  
As Rated by Teachers and Lawyers

<u>Final Rank</u>	<u>Topic</u>	<u>Teachers' Questionnaire</u>	<u>Lawyers' Questionnaire</u>	<u>Frequency</u>	<u>Average Ranks</u>
<u>VIII. Partnerships</u>					
1.	Liabilities	1	2	2	1.5
2.	Formation	3	1	2	2
3.	Rights	2	3	2	2.5
4.	Powers	5	4.5	2	4.75
5.	Duties	4	6	3	5
6.	Kinds	6	4.5	2	5.25
<u>X. Corporations</u>					
1.	Stockholders	1	1.5	2	1.25
2.	Formation	2	1.5	2	1.75
3.	Powers	3	5	2	3
4.	Administration	4.5	4	2	4.25
5.	Dissolution	4.5	5	2	4.75
<u>XI. Business Crimes</u>					
1.	Torts	1	3	2	2
2.	Larceny	2	2	2	2
3.	Negligency	3	1	2	2
4.5	Extortion	4	5	2	4.5
4.5	Arson	5	4	2	4.5

XII. Guaranty and Surety

(No Topics)

Using the information obtained from the various analyses of this study, it is now possible to present a summary table which includes the following information: (1) a composite ranking of the branches of the law, (2) the average ratings given the branches and topics by teachers and lawyers, (3) whether or not the branches and topics appear in the present course of study, (4) the treatment of the branches and topics in the present course of study, (5) whether or not the branches and topics are included in the proposed course of study, and (6) the treatment given the branches and topics in the proposed course of study for commercial law in South Dakota.

**Recommendations**  
for a Proposed S.D. State Course  
of Study in Commercial Law

**Appears in**  
S. D. Course  
Treatment in South Dakota  
Course of Study

**Average Ratings**  
1- 2- 3-  
of Study

**Com-  
posite**  
Rank

Com- posite Rank	Branches and Topics***	Average Ratings 1- 2- 3- of Study	Appears in S. D. Course Treatment in South Dakota Course of Study	Recommendations for a Proposed S.D. State Course of Study in Commercial Law
		1.99 2.99 3.99	Yes-No	Yes-No Proposed Treatment
I*	Contracts	T	Yes	I. Contracts
1**	Formation	T-L	Yes	1. Formation
2.	Parties	T-L	Yes	2. Parties
3.5	Consideration	T-L	Yes	3. Consideration
3.5	Subject matter	T-L	Yes	4. Subject matter
5.	Competent parties	T-L	Yes	5. Competent parties
6.	Agreement	T	Yes	6. Agreement
7.	Termination	T	Yes	7. Termination
8.	Legality of object	T	No****	8. Legality of object
9.	Operation	T	No	9. Operation
10.	Discharge	T	No	10. Discharge
11.	Forms	T	Yes	11. Forms
12.	Statute of Frauds	T	No	12. Statute of Frauds
13.	Assignments	T	No	13. Assignments
14.5	Remedies for Breach	T	No	14. Remedies for breach
14.5	Reality of Consent	T	Yes	15. Reality of Consent

1. Introductory: Purpose, Importance, etc. 2. What is a contract? Parties to a contract. Consideration How to write a contract Competent parties

a. Who are competent parties?  
b. Who are not competent parties?  
    1. Minors

Agreement  
How contracts are terminated

a. By performance  
b. By impossibility  
c. By breach

1. Remedies  
    (a) Courts of law  
    (b) Courts of equity

d. By bankruptcy  
    1. Recourse for creditors and debtors.

e. Torts

\* Refers to composite rank determined by analyses of textbooks and teachers' and lawyers' questionnaires.  
\*\* Refers to composite rank determined by analyses of teachers' and lawyers' questionnaires.  
\*\*\* T - refers to a rating by teachers. L - refers to a rating by lawyers.  
\*\*\*\* This topic occurs in the analysis of texts, teachers' and lawyers' questionnaires, but not in the state course of study.

Table XX  
(Continued)

Com- posite Rank	Branches and Topics**	Average Ratings	Appears in S.D. Course of Study	Average Ratings		Appears in S.D. Course of Study	Recommendations for a Proposed S.D. State Course of Study
				1- 2- 3- 3.99	Yes-No		
<b>II. Negotiable Instruments</b>							
1.	Checks of title	T-L	T-L	Yes	Yes	Yes	1. Negotiable Instruments
2.	Checks of title	T-L	T-L	Yes	Yes	Yes	2. Checks of title
3.	Endorsements	T-L	T-L	No	Yes	Yes	3. Notes on sale
4.	Elements	T-L	T-L	Yes	Yes	Yes	4. Endorsements
3.	Rights of parties	T	T	No	Yes	Yes	5. Elements
4.5	Statute of Frauds	T	T	No	No	Yes	3. Rights of parties
4.5	Warranties	T	T	Yes	Yes	Yes	4. Statute of Frauds
5.	Promises to pay	T-L	T-L	No	No	Yes	5. Warranties
6.	Drafts	T-L	T-L	Yes	Yes	Yes	5. Promises to pay
				Yes	Yes	Yes	6. Drafts
							8. Liens
<b>IV. Bills of Exchange</b>							
7.	Bills of Exchange	T	T	No	Yes	Yes	7. Bills of Exchange
8.	Defenses	T-L	T-L	Yes	Yes	Yes	8. Defenses
9.	Holder in Due Course	T	T	No	Yes	Yes	9. Holder in Due Course
10.	Presentment	T-L	T-L	Yes	Yes	Yes	10. Presentment
11.	Dishonor and protest	T-L	T-L	Yes	Yes	Yes	11. Dishonor and protest
12.	I. O. U.	T-L	T-L	No	Yes	Yes	12. I. O. U.
3.	Principals	T	T	Yes	Yes	Yes	3. Principals
4.	Employer and employee	T	T	Yes	Yes	Yes	4. Employer and employee
5.	Termination	T	T	Yes	Yes	Yes	5. Termination
6.	Master and servant	T-L	T-L	No	Yes	Yes	6. Master and servant
				Yes	Yes	Yes	7. Power of attorney
				Yes	Yes	Yes	8. Promises

Notes: \* See page 10 for details of the survey. \*\* See page 11 for details of the survey. \*\*\* See page 12 for details of the survey.





Table XI  
(Continued)

Com- posite Rank	Branches and Topics	Average Ratings			Appears in S.D. Course of Study Yes-No	Treatment in South Dakota Course of Study	Recommendations for a Proposed S.D. State Course of Study in Commercial Law	
		1- 1.99	2- 2.99	3- 3.99			Included Yes-No	Proposed Treatment
<b>VI</b>	<b>Real Property</b>		<b>T-L</b>		<b>Yes</b>	<b>Real estate and law of in- heritance</b>	<b>Yes</b>	<b>VI. Real Property</b>
	1. Mortgages	T	L		Yes	Mortgages	Yes	1. Mortgages
	2. Landlord and tenant	T	L		Yes	Landlord and tenant	Yes	2. Landlord and tenant
	3. Deeds	T	L		No		Yes	3. Deeds
	4.5 Fixtures	T	L		No		Yes	4. Fixtures
	4.5 Principles	T	L		Yes	1. Definition 2. How acquired 3. Transfer 4. Courtesy and dower 5. Inheritance 6. Heirs	Yes	5. Principles
	6.5 Titles	T	L		Yes	Titles	Yes	6. Titles
	6.5 Property rights	T	L		No		Yes	7. Property rights
	8.5 Wills		T-L		Yes	1. In case of a will 2. In case of no will	Yes	8. Wills
	8.5 Liens	T	L		No		Yes	9. Liens
	10. Interest	T	L		No		Yes	10. Interest
<b>VIII</b>	<b>Bailments</b>		<b>T-L</b>		<b>Yes</b>		<b>Yes</b>	<b>VII. Bailments</b>
	1. Types	T	L		Yes	1. Bailment for benefit of lender 2. Bailment for benefit of borrower 3. Bailment for benefit of both parties	Yes	1. Types
	2. Common carriers	T	L		No		Yes	2. Common carriers
	3. In general		T L		No		Yes	3. In general
	4. Innkeepers		T L		No		Yes	4. Innkeepers*

\*Innkeepers is included in the interest of completeness; however, it may or may not be taught.

Composite Rank	Branches and Topics	Average Ratings			Appears in S.D. Course of Study Yes-No	Treatment in South Dakota Course of Study	Recommendations for a Proposed S.D. State Course of Study in Commercial Law	
		1-1.99	2-2.99	3-3.99			Included Yes-No	Proposed Treatment
<u>VIII</u>	<u>Law in General</u>	<u>T-L</u>			<u>Yes</u>		<u>Yes</u>	<u>VIII Law in General</u>
1.	Society and law	T-L			Yes	1. Purpose of a course in Commercial Law 2. Its place in the life of the average individual	Yes	1. Society and law
2.	Origin of law	T-L			Yes	Sources	Yes	2. Origin of law
3.	Development	T-L			Yes	Subdivisions of law	Yes	3. Development
4.5	History	T-L		T	Yes	Enacted law; common law	Yes	4. History
4.5	The trial	T-L		Yes	Yes	Courts and commissions a. Courts--functions and types b. Commissions--their places and functions	Yes	5. The trial
6.	Written and unwritten	T-L			Yes	Written and unwritten	Yes	6. Written and unwritten*
<u>VIII</u>	<u>Partnerships</u>	<u>T</u>	<u>L</u>		<u>Yes</u>		<u>Yes</u>	<u>IX Partnerships</u>
1.	Liabilities	T	L		Yes	Obligations of partners	Yes	1. Liabilities
2.	Formation	T	L		Yes	Formation on partnerships	Yes	2. Formation
3.	Rights of partners	T	L		No		Yes	3. Rights of partners
4.	Powers	T	L		No		Yes	4. Powers
5.	Duties of Partners	T	L		No		Yes	5. Duties of partners
6.	Kinds		T-L		Yes	Logical Use	Yes	6. Kinds
					Yes	Dissolution	Yes	7. Dissolution

\* Optional subject matter.

Com- posite Rank	Branches and Topics	Average Ratings			Appears in S.D. Course of Study Yes-No	Treatment in South Dakota Course of Study	Recommendations for a Proposed S.D. State Course of Study in Commercial Law	
		1- 1.99	2- 2.99	3- 3.99			Included Yes-No	Proposed Treatment
<u>X</u>	<u>Corporations</u>	<u>T</u>	<u>L</u>	<u>Yes</u>		<u>Yes</u>	<u>X. Corporations*</u>	
1.	Stockholder	T-L		No		Yes	1. Stockholder	
2.	Formation	T-L		Yes	Formation	Yes	2. Formation	
3.	Powers	T	L	No		Yes	3. Powers	
4.	Administration	T	L	Yes	Control of Corporation	Yes	4. Administration	
5.	Dissolution	T	L	Yes	Dissolution	Yes	5. Dissolution	
<u>XI</u>	<u>Business Crimes</u>	<u>L</u>	<u>T</u>	<u>No</u>		<u>Yes</u>	<u>XI. Business Crimes*</u>	
2.	Torts	T-L		No		Yes	1. Torts	
2.	Larceny	T-L		No		Yes	2. Larceny	
2.	Negligence	T-L		No		Yes	3. Negligence	
4.5	Arson	T-L		No		Yes	4. Arson	
4.5	Extortion	T-L		No		Yes	5. Extortion	
<u>XII</u>	<u>Guaranty and Surety</u>	<u>T</u>	<u>L</u>	<u>No</u>		<u>No</u>		

\* Corporations and Business Crimes are both optional. Business Crimes is considered of average importance by both teachers and lawyers, and both criteria consider Stockholders and Formation under Corporations of average importance. Therefore, these branches are recommended with the provision that only in the case there is sufficient time left after the other branches of the law have been covered, should they be taught, and then treatment should be very general.

Chapter IV

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The purpose of this investigation was (1) to determine the curriculum content of a sample of commercial law textbooks, (2) to determine the relative importance of the various branches of the course of study in commercial law as judged by writers of commercial law texts, (3) to determine the relative importance of the various branches and topics of the law according to the opinion of commercial law teachers, (4) to determine the relative importance of the various branches and topics of commercial law according to the opinion of a selected sample of lawyers, (5) to construct a course of study in commercial law based on the findings of the above studies, (6) to make a comparison between the contents of this course of study and the South Dakota state course of study in commercial law, (7) to make certain recommendations for the retention or the revision of the content of the South Dakota state course of study in commercial law, (8) to discover certain information regarding the character of the average commercial law teacher in the state of South Dakota, and (9) to discover certain facts regarding the grade placement and technique of teaching commercial law in South Dakota high schools.

An analysis of textbooks of commercial law was used as a basis for the construction of a questionnaire which was sent to commercial law teachers in South Dakota, and for a questionnaire which was sent to lawyers in eastern South Dakota.

The data were analyzed and the findings were used as a basis for the construction of a course of study to be recommended for use in the high schools of South Dakota.

The questionnaire sent to teachers requested general information as to the status of teacher, textbooks, and supplementary aids in teaching. This information when tabulated served as a background for interpretation of the findings on curriculum content.

In addition to the analysis of commercial law textbooks, the findings are based upon forty-nine questionnaires from teachers, a return of 73.1 per cent, and upon forty questionnaires submitted to lawyers, a return of 100 per cent.

1. In the seven texts analyzed, with the exception of the omission of Business Crimes in one text, there was complete uniformity in the number and nature of the branches of commercial law which were treated.

2. In the judgment of textbook writers, the branches Contracts and Negotiable Instruments are of greatest importance. Negotiable Instruments received approximately one-half the spatial treatment that Contracts was given. Real Property, Bailments, Agency, Law in General, and Sales of Personal Property, ranking in the order given, are considered important, each extending over approximately one-third the space that Contracts was given. Corporations, Partnerships, Insurance, and Business Crimes ranked next and in that order. They are considered of minor importance with from one-fourth to one-sixth as much spatial treatment as Contracts. Guaranty and Surety ranks last in importance with only one-twelfth as much linear treatment as Contracts.

3a. In the judgment of teachers, as revealed by the results of the analysis of the teachers' questionnaire, Contracts and Negotiable Instruments are considered very important, while Sales of Personal Property, Agency, and Insurance are considered important. Partnerships, Real Property, Bailments, and Corporations are considered of minor importance.

Guaranty and Surety, Law in General and Business Crimes are considered of negligible importance.

3b. The ratings by teachers of the topics under the branches of commercial law show a surprisingly close internal consistency with the ratings of the branches of which they are a part. In the cases of Contracts, Sales of Personal Property, Guaranty and Surety, and Corporations, the ratings of all topics closely paralleled the ratings assigned to branches. Only one topic was rated greatly different than the branches in the branches of Law in General, Agency, Partnership, Real Property, and Insurance. The ratings of the topics under Bailments were different than the ratings of the branch in two instances, and in four instances under Negotiable Instruments. Business Crimes presents a case wherein the topics showed considerable fluctuation among themselves and with the whole branch.

4a. In the judgment of lawyers, as revealed by the analysis of the lawyers' questionnaire, Negotiable Instruments and Contracts ranked of great importance, while Insurance, Sales of Personal Property, Law in General, and Agency rank important. Partnerships, Real Property, Business Crimes are ranked of minor importance, and Bailments, Corporations, and Guaranty and Surety rank of negligible importance.

4b. Because of the method of determining the ratings assigned by lawyers to the branches of commercial law, the topics under the general branches show almost perfect uniformity with the branches. Real Property, Law in General, Agency, Partnership, Guaranty and Surety, Sales of Personal Property, Insurance, and Business Crimes have no topics under them that are not rated the same as the branch ratings. However, two topics under Corporations, two under Bailments, six under Negotiable Instruments

and five under Contracts are rated differently than the branch under which they are included.

5. A suggested course of study in commercial law for South Dakota constructed in view of the findings, appears in the section of recommendations in this chapter. It represents a composite judgment of the criteria involved. Probably it includes too much subject matter for a single semester course. The relative emphasis assigned to branches and the contents of these units of work if taught could well be determined by reference to the relative importance assigned. Any deletions necessary in the teaching of these units should be omitted on the basis of respective merit established by the results of this study. The suggested course of study appears in this chapter, page 76.

6. The South Dakota course of study contains the ten branches of the law recommended in the proposed course of study. It does not refer to Business Crimes nor Guaranty and Surety. Perhaps the greatest difference between the South Dakota course of study and the proposed course of study lies in the treatment of topical subject matter. This fact is shown very clearly in Table XX. The recommended course of study suggests the inclusion of thirty-four topics that are not found in the South Dakota course of study.

7. The results of this study suggest that in general, teachers regard it necessary to offer a more extensive offering of subject matter content in commercial law than is provided for in the South Dakota course of study. Undoubtedly teachers are attempting to teach the entire offering of the various textbooks. Whenever deletion of curriculum content is found necessary, the teacher can be guided in making such deletions by referring to the suggestions for inclusions and omissions to be found in

Table XX, Chapter III, The Findings.

8. The typical teacher of commercial law in South Dakota has had 8.8 years of general teaching experience and 3.53 years of teaching experience in the field of commercial law. He has had at least four years training in a college or university and has earned the degree of either Bachelor of Arts or Bachelor of Science.

The typical man teacher of commercial law in South Dakota has had 9.4 years of general teaching experience and 3.87 years teaching experience in the field of commercial law. The typical woman teacher has had 7.3 years of general teaching experience and 2.69 years experience in the field of commercial law.

9. It is most characteristic of the schools of South Dakota to place commercial law in the eleventh or twelfth grades. It is probable that it is offered to the eleventh or twelfth grades particularly in those high schools that practice the combining of the work of the junior and senior years in certain classes. In other schools it is very generally offered in the twelfth grade.

10. In general, it is true that teachers are dissatisfied with the basic textbook they use in teaching commercial law. Dissatisfaction was most frequently centered upon textbooks of older copyright date. This probably means that the writers of the newer textbooks in commercial law recognize the presence of defects in former textbooks and have remedied these defects in more recent writing.

Teachers as a group feel that a new approach is needed for commercial law as taught in secondary schools. The most frequent reasons given are that the approach is beyond the grasp of the high school student,



that the treatment of subject matter places too great an emphasis upon the technical and theoretical aspects, and that the subject matter has lacked concrete application within the everyday experiences of boys and girls.

11. The most frequent forms of motivation used by teachers are the use of textbook cases and hypothetical cases. Many teachers visited courtrooms and held mock courts. A surprisingly large number used outside speakers. A more frequent use of pupil experiences and the use of textbook cases were suggested most frequently as desirable agencies of motivation.

12. The average teacher of commercial law in South Dakota spends 40.6 per cent of the class period, or 24.3 minutes of the classroom hour in the discussion of cases, which indicates that the trend in commercial law is definitely toward a more extended use of the discussion method, and an emphasis upon the practical rather than in the stressing of meaningless memorization.

### Recommendations

On the basis of the evidence compiled in this study the outline of subject matter appearing on the following pages is a suggested course of study arranged according to branches and topics, constructed in the light of the findings contained in this study. Points marked "1" should be thoroughly mastered; points marked "2" should receive more general treatment for informational value; and points marked "3" should receive only incidental treatment and without serious loss could be omitted from the course of study entirely.

#### The Proposed South Dakota State Course of Study For Commercial Law

##### Unit I. Contracts<sup>1</sup>

1. Formation<sup>1</sup>
2. Parties<sup>1</sup>
3. Consideration<sup>1</sup>
4. Subject matter<sup>1</sup>
5. Competent parties<sup>1</sup>
6. Agreement<sup>2</sup>
7. Termination<sup>2</sup>
8. Legality of object<sup>2</sup>
9. Operation<sup>2</sup>
10. Discharge<sup>2</sup>
11. Forms<sup>2</sup>
12. Statute of Frauds<sup>2</sup>
13. Assignment<sup>2</sup>
14. Remedies for breach<sup>2</sup>
15. Reality of consent<sup>2</sup>

##### Unit II. Negotiable Instruments<sup>1</sup>

1. Checks<sup>1</sup>
2. Notes<sup>1</sup>
3. Endorsements<sup>1</sup>
4. Elements<sup>1</sup>
5. Promises to pay<sup>1</sup>
6. Drafts<sup>1</sup>
7. Bills of exchange<sup>2</sup>
8. Defenses<sup>2</sup>
9. Holder in due course<sup>2</sup>
10. Presentment<sup>2</sup>
11. Dishonor and protest<sup>2</sup>
12. I. O. U.<sup>2</sup>

Unit IX. Partnerships<sup>2</sup>

1. Liabilities<sup>2</sup>
2. Formation<sup>2</sup>
3. Rights of partners<sup>2</sup>
4. Powers<sup>2</sup>
5. Duties of partners<sup>2</sup>
6. Kinds<sup>2</sup>
7. Dissolution<sup>3</sup>

Unit X. Corporations<sup>3</sup>

1. Stockholder<sup>2</sup>
2. Formation<sup>2</sup>
3. Powers<sup>3</sup>
4. Administration<sup>3</sup>
5. Dissolution<sup>3</sup>

Unit XI. Business Crimes<sup>3</sup>

1. Torts<sup>3</sup>
2. Larceny<sup>3</sup>
3. Negligence<sup>3</sup>
4. Arson<sup>3</sup>
5. Extortion<sup>3</sup>

Unit I.

Contracts was considered by all three criteria to be a branch of the greatest importance. In no case was any topic under this branch given less than an important rating by teacher or lawyer. The teachers considered every topic with exception of Remedies for Breach of greatest importance, and the lawyers rated the first five topics of greatest importance. Consequently, it is recommended that this subject be taught intensively for thorough mastery. In addition to the topics included under this branch in the South Dakota course of study, it is recommended that the topics Legality of Object, Operation, Discharge, Statute of Frauds and Assignment be added.

Unit II.

Negotiable Instruments ranks in the most important group with Contracts. This branch, too, had no topic rated less than important. Eight topics

were considered of the greatest importance by teachers and six were so considered by lawyers. In no case should any of these topics be omitted from the course of study, although more time and more intensive teaching should be allowed those topics which are rated "1" to "2".

In addition to the present topics included under the branch Negotiable Instruments it is recommended that Notes, Promises to Pay, Bills of Exchange, and Holder in Due Course be added. It is entirely possible that these topics are meant to be included under some of the topics in the present course of study. However, the rating they received as separate units merits the inclusion naming them as a definite part of the recommended course of study. I O U's should be included if time permits but the treatment should be entirely incidental.

#### Unit III.

The branch Sales of Personal Property ranks third in importance to the course of study and no topic rated by teacher or lawyer was considered by them to be less than important. All topics should be included in the course of study. In addition to the topics now a part of the South Dakota course of study, the topics Rights of Parties, Statute of Frauds, and Remedies should be added. The South Dakota course of study includes Liens but as Liens are also considered important to Real Property, this topic is included in teaching either branch or in both.

#### Unit IV.

All topics included under Agency were rated either important or very important by teachers and lawyers. Each topic should be included in the course of study, and specific treatment should be given all with the

exception of Master and Servant which should receive only general treatment. In addition to those topics included in the present course of study it is recommended that Termination and Master and Servant be added. Powers of Attorney and Proxie now included may be retained; however, these topics are often included under Contracts or Corporations.

#### Unit V.

Insurance ranked fifth in importance among branches and the topics rated by the teachers and lawyers fell into the classes of important and very important. The teachers considered all topics except Social Insurance very important while the lawyers rated all topics as important. Therefore, no topics should be omitted from the course of study. The South Dakota course of study makes mention of the topic Benefit to Old Age which may include Annuities. From the rating given this topic by teachers and lawyers, it seems advisable to include this in the recommended course of study.

#### Unit VI.

Real Property ranked sixth in importance and no topic under this branch rated less than important. All topics with exception of Principles and Wills were rated by teachers as being very important. Consequently, this branch should be taught thoroughly and every topic should be included. Deeds, Fixtures, Property Rights, Liens and Interest should be added to the present course of study. Their ratings by the teachers and lawyers warrants inclusion of them in the course of study as separate units.

#### Unit VII.

The branch Bailments ranks eighth in importance to the course of study and the ratings of the topics show a greater variance than any group

of topics previously described. The teachers rated Types and Common Carriers as very important and Bailment in General and Innkeepers as important. However, lawyers rated Types and Common Carriers as important and Bailment in General and Innkeepers of so little importance that it should be dropped from the course of study. Consequently, it is recommended that if Bailment in General and Innkeepers are taught these should receive incidental treatment.

#### Unit VIII.

The branch Law in General ranks eighth in importance to the course of study. All topics under this branch with exception of the History of Law were rated important by teachers and all topics were rated important by lawyers. By virtue both of its rank in importance among the branches and because of the ratings assigned to the topics this branch merits a general treatment.

#### Unit IX.

The branch Partnerships ranks eighth in importance to the course of study. The teachers rated all topics but Kinds as being very important, while the lawyers rated all topics as being important. It is recommended that Rights of Partners, Powers, Duties of Partners and Kinds be included in addition to the topics listed in the South Dakota course of study. In the case of Obligations of Partners, it may be that Liabilities and Duties are considered synonymous with Obligations; if such is the case, Duties may be omitted from the course. Dissolution should receive only incidental teaching.

#### Unit X.

The branch Corporations ranks tenth in importance to the course of

study. The teachers rated all five topics as being important; however, the lawyers rated only Stockholder and Formation as important, and Powers, Administration and Dissolution of little importance to the course of study. The teaching of this branch can be left to the discretion of the instructor.

#### Unit XI.

Business Crimes ranks eleventh in importance to the course of study. It is not included in the South Dakota course of study. Torts are included under the branch Contracts; there is no other reference to Business Crimes. All topics under this branch are rated as important by both teachers and lawyers. However, these topics should be treated incidentally. It is recommended that this branch be added to the South Dakota course of study. Depending on the amount of time available, it can be taught or omitted.

#### Unit XII.

The branch Guaranty and Surety was rated as important by teachers, but lawyers considered it of so little importance as to warrant its omission. Consequently, this branch may or may not be omitted from the course of study, depending on the opinion of the supervisor or teacher. It can be included only for its informational value.

**APPENDIX**



Commercial Law Textbooks Used in the Analysis  
of the Curriculum Content of the Course of Study  
for Commercial Law for South Dakota

1. Gano's Commercial Law, Revised  
by Ralph E. Rogers, Lecturer at Albany Law School  
and  
Clyde O. Thompson, Supervisor of Commercial Education  
at Mount Vernon, New York.  
Published by the American Book Company  
Copyright, 1931.
2. Business Law  
by Samuel P. Weaver, Spokane Bar, Gonzaga University  
and  
Nellie M. Catton, High School, Spokane, Washington  
and  
J. R. Barton, Superintendent of Schools of Oklahoma  
City, Oklahoma, (formerly)  
Published by Allyn and Bacon  
Copyright, 1934
3. Elements of Commercial Law  
by Charles B. Cole, New York Law School Lecturer  
and  
Thomas Conyington, Author  
Published by Houghton Mifflin Company  
Copyright, 1934
4. The New Burgess' Commercial Law  
by Kenneth F. Burgess, Member of Chicago Bar  
and  
James A. Lyons, Author  
and  
John H. Cox, Author  
Published by Lyons and Carnahan  
Copyright, 1933
5. Essentials of Commercial Law  
by Wallace Whigan  
Lloyd L. Jones  
James William Moody  
Published by the Gregg Company  
Copyright, 1935
6. Introduction to Business Law  
by George Gleason Bagard, Professor, University of Chicago  
and  
Kennard E. Goodman, Teacher, Cleveland, Ohio  
and  
William L. Moore, Principal of the High School, Cleveland  
Published by Ginn and Company  
Copyright, 1934

7. Business Law

by P. B. S. Peters, Missouri Bar, Kansas City  
and

Dwight A. Pomeroy, University of Chicago  
Published by South-Western Publishing Company  
Copyright, 1932

CANTON  
Public Schools  
--  
Canton, South Dakota

June 18, 1936

Miss Dona Susan Brown  
317 Second Avenue  
Brookings, South Dakota

Dear Miss Brown:

My reply to your recent letter will necessarily have to be very brief.

As I recall our plans for the setting up of the courses of study for commercial work in South Dakota, various committees and schoolmen were used. I recall that in working out this syllabus I sent out questionnaires to various schools throughout the state, attempting to arrive at a course of study which would most closely fit all needs. I also had textbooks most commonly used in courses throughout the state where this work was offered, and the syllabus was based, to a certain extent, upon the work as offered in standard textbooks. I also remember of examining various syllabi and courses of studies of different states. It is a number of years ago since that work was done and, consequently, the plans and materials used have apparently been destroyed.

In the work which I did I assumed that the teachers who were going to teach commercial law knew their subject matter and did not need a long, detailed, informational type of course of study. My conception of the thing was a brief minimum outline, leaving the subject material and application extensively to the teacher.

I cannot tell you where to secure a copy of Bulletin No. 10. I have a vague impression that the bulletin referred to a study that might have been issued by the Department of Superintendents, but I do not say this for sure.

I am leaving the city tomorrow for six weeks of summer school, and cannot at this time give you further information pertinent to the present course of study.

Yours very truly,

(Signed)

C. C. Jacobson, Superintendent

Questionnaire on the Commercial  
Law Course of Study.  
Teachers

1. Name \_\_\_\_\_ 2. Teaching address \_\_\_\_\_
3. Years teaching experience \_\_\_\_\_ 4. Years teaching Com. Law \_\_\_\_\_
5. Degrees \_\_\_\_\_ 6. Graduate of what college \_\_\_\_\_
- 
7. Text used \_\_\_\_\_ 8. Is your text satisfactory \_\_\_\_\_
8. Do you feel that there should be a new approach to business law for high school students \_\_\_\_\_ 10. Why \_\_\_\_\_
- 
11. Is your text too theoretical \_\_\_\_\_ Why \_\_\_\_\_
12. Is your text too impractical \_\_\_\_\_ Why \_\_\_\_\_
13. Is your text too difficult \_\_\_\_\_ Why \_\_\_\_\_
14. How do you motivate your teaching \_\_\_\_\_
- 
15. Should Business Law be taught one or two semesters \_\_\_\_\_
16. Should Business Law be taught the 9th, tenth, eleventh or twelfth year \_\_\_\_\_  
Why \_\_\_\_\_
17. Do you use hypothetical cases \_\_\_\_\_ or cases prepared by the text \_\_\_\_\_
- 
18. Do you have mock courts \_\_\_\_\_ how many times a year \_\_\_\_\_
19. Do you visit actual courts \_\_\_\_\_
20. What percentage of the time do you spend on cases \_\_\_\_\_
21. Do you bring in outside speakers \_\_\_\_\_ insurance men \_\_\_\_\_  
lawyers \_\_\_\_\_ business men \_\_\_\_\_
- 
- 

Remarks:

Questionnaire on the Commercial  
Law Course of Study

Using your personal opinion, based on experience, as a guide, please check the following. (1) Place a check in the "0" column if you think the subject should not be included in the course. (2) Rate the topics not followed by a "0" in the following manner: 1-very important, 2-important, etc., -5 being of practically no value.

SUBJECT	0	1	2	3	4	5
partnership						
corporations						
negotiable instruments						
guaranty and suretyship						
bailment						
agency						
contracts						
courts and procedure						
torts and negligence						
general property						
law in general						
insurance						
sales of personal property						
criminal law						
transfer of real property						
real property						
personal property						
business crimes						

Remarks

1. Please go through the following sub-headings and check "0" after any you consider too theoretical, too difficult or of no value to high school students. 2. Please rate the material that is not followed by "0" by checking in the columns under the different numbers. 1 stands for very important and 4 for the least important.

	0	1	2	3	4		0	1	2	3	4
<b>Law in General</b>						<b>Contracts</b>					
origin of law.....						formation.....					
development of law..						parties.....					
the trial.....						subject matter.....					
society and law.....						consideration.....					
written-unwritten...						forms.....					
history of U.S. law.						operation.....					
<b>Agency</b>						discharge.....					
duties.....						assignment.....					
liabilities.....						damages.....					
termination.....						agreement.....					
principles.....						competent parties....					
master and servant.						Statute of Frauds....					
employee and employer						agreement.....					
<b>Partnership</b>						reality of consent...					
formation.....						legality of object...					
kinds.....						termination.....					
rights.....						remedies for breach..					
duties.....						<b>Corporation</b>					
powers.....						formation.....					
liabilities.....						stockholders.....					
<b>Guaranty and Suretyship</b>						powers.....					
rights of surety....						administration.....					
rights of guaranty..						dissolution.....					
<b>Negotiable Instruments</b>						Sales of Personal Property					
elements.....						conditional sales....					
notes.....						rights of parties....					
promises to pay....						Statute of Frauds....					
drafts.....						transfer of title....					
bills of exchange...						warranties.....					
checks.....						remedies.....					
endorsements.....						vendor and vendee....					
defenses.....						<b>Bailment</b>					
I. O. U.....						types.....					
presentment.....						innkeepers.....					
holder in due course						common carriers.....					
dishonor and protest						bailment in general..					
<b>Real Property</b>						<b>Insurance</b>					
fixtures.....						general.....					
principles.....						fire.....					
landlord and tenant.						property.....					
titles.....						life.....					
mortgages.....						annuities.....					
property rights.....						social insurance.....					
deeds.....						<b>Business Crimes</b>					
liens.....						torts.....					
wills.....						negligence.....					
interest.....						punishment.....					
bankruptcy.....						arson.....					
						extortion.....					
						larceny.....					

Questionnaire for Lawyers

1. Please go through the following topics and place a check in the "X" column if you think the subject should be excluded from the high school course of study. Check the appropriate reason (too impractical, too theoretical, or too difficult).
2. Rate the topics you would include in a high school course by checking the columns after the double line, as follows: (1) very important, (2) important, (3) less important.

SUBJECT	X	too impractical	too theoretical	too difficult	1	2	3
<u>Law in General</u>							
origin							
development							
the trial							
society and law							
written and unwritten							
history							
<u>Agency</u>							
duties							
liabilities							
termination							
principles							
master and servant							
employee and employer							
<u>Partnership</u>							
formation							
kinds							
rights							
duties							
powers							
liabilities							
<u>Guaranty and Suretyship</u>							
rights							
<u>Negotiable Instruments</u>							
elements							
notes							
promises to pay							
drafts							
bills of exchange							
checks							
endorsement							
defenses							
IOU							
presentment							
holder in due course							
dishonor and protest							

Questionnaire for Lawyers

SUBJECT	X	too impractical	too theoretical	too difficult	1	2	3
Real Property							
fixtures							
principles							
landlord and tenant							
titles							
mortgages							
property rights							
deeds							
liens							
wills							
interest							
bankruptcy							
contracts							
formation							
parties							
subject matter							
consideration							
forms							
operation							
discharge							
assignment							
damages							
agreement							
competent parties							
Statute of Frauds							
reality of consent							
legality of object							
termination							
remedies for breach							
corporations							
formation							
stockholders							
powers							
administration							
dissolution							
things of Personal Property							
conditional sales							
rights of parties							
Statute of Frauds							
transfer of title							
warranties							
remedies							
vendor and vendee							
rights of vendor and vendee							



Questionnaire for Lawyers

SUBJECT	:	:	too	:	too	:	too	:	:	:	:	:		
	:	X	imprac-	:	theoret-	:	diffi-	:	1	:	2	:	3	:
	:	:	tical	:	ical	:	cult	:	:	:	:	:	:	:
lment	:	:		:		:		:		:		:		:
ypes	:	:		:		:		:		:		:		:
nnkeepers	:	:		:		:		:		:		:		:
ommon carriers	:	:		:		:		:		:		:		:
n general carriers	:	:		:		:		:		:		:		:
urance	:	:		:		:		:		:		:		:
eneral	:	:		:		:		:		:		:		:
ire	:	:		:		:		:		:		:		:
roperty	:	:		:		:		:		:		:		:
ife	:	:		:		:		:		:		:		:
nnuities	:	:		:		:		:		:		:		:
ocial	:	:		:		:		:		:		:		:
iness Crimes	:	:		:		:		:		:		:		:
orts	:	:		:		:		:		:		:		:
egligence	:	:		:		:		:		:		:		:
embezzlement	:	:		:		:		:		:		:		:
arceny	:	:		:		:		:		:		:		:
xtortion	:	:		:		:		:		:		:		:
rson	:	:		:		:		:		:		:		:

do you feel that there should be any other TOPICS added to the list on the preceding pages?

Present South Dakota State Course of Study for Commercial Law Entitled  
"Suggested Subject Content of Course in Commercial Law"  
Commercial Course of Study for Secondary School,  
Course of Study Bulletin, Number Ten.

Unit I. Introduction

1. Purpose of a course in Commercial Law.
2. Its place in life of average individual.
3. Sources and subdivisions of law.
4. Enacted law and common law.
  - a. Written and unwritten.
5. Courts and Commissions.
  - a. Courts—functions and types.
  - b. Commissions—their place and functions.

Unit II. Contracts

1. Introductory: Purpose, importance, etc.
2. What is a contract?
3. Parties to a contract.
  - a. Who are competent parties?
  - b. Who are not competent parties?
    - (1) Minors.
4. Essentials of legal contracts.
  - a. Agreements.
  - b. Competent parties.
  - c. Consideration.
  - d. Forms.
  - e. Freedom.
5. How to write a contract.
6. How contracts are terminated.
  - a. By performance.
  - b. By impossibility.
  - c. By breach.
    - (1) Remedies.
      - (a) In court of law.
      - (b) In court of equity.
  - d. By bankruptcy.
    - (1) Recourse for creditors and debtors.
  - e. Torts

Unit III. Sales of Goods

1. Possession vs. title.
2. Duties of buyer and seller.
3. Warrants.
4. Liens .
5. Sales on approval.
6. Sales on installment.
7. Terms.

**Unit IV. Negotiable Instruments**

1. Elements.
  - a. Parties
  - b. Form
  - c. Payment, etc.
2. Checks.
  - a. Of bank.
3. Drafts.
  - a. Of drawer.
  - b. Of maker.
4. Liabilities.
5. Endorsing.
6. Acceptance and payment.
7. Protest.
8. Defender.

**Unit V. Bailment and Agency.**

1. Bailment for benefit of lender.
2. Bailment for benefit of borrower.
3. Bailment for benefit of both parties.
4. Ways of securing agency.
5. Power of attorney.
6. Proxies.
7. Duties of principal and agent.
8. Liabilities of principal and agent.

**Unit VI. Partnerships and Corporations.**

1. Formation of partnerships.
2. Obligations of partners.
3. Logical use of partnerships.
4. Formation of corporations.
5. Control of corporations.
6. Dissolutions of partnerships and corporations.

**Unit VII. Employers' and Employees' Liability.**

1. Principal and agent
2. Formation of relations.
3. Obligations of parties.
4. Termination of relationships
5. Employers' liability for injuries to employees.

**Unit VIII. Insurance.**

1. Uses and purposes.
2. Kinds.
  - a. Fire.
  - b. Life.
  - c. Marine.
  - d. Hail.
  - e. Tornado.

Unit VIII. Insurance (Cont'd.)

2. Kinds.

f. Automobile.

- (1) Public liability and property damage.
- (2) Collision.
- (3) Fire.
- (4) Theft.
- (5) Tornado.

g. Health and accident.

3. Insurance to benefit in old age.

Unit IX. Real Estate.

1. Definition.
2. How acquired.
3. Title.
4. Landlord and tenant.
5. Mortgages.
6. Transfer.

Unit X. Law of Inheritance.

1. In case of a will.
2. In case of no will.
3. Heirs.
4. Courtesy and Dower.
5. Inheritance laws of state and nation.

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