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The Editor's Page

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THE EDITOR'S PAGE

With the discovery of oil and gas rapidly increasing in Nebraska, attorneys are finding themselves deluged with inquiries about oil and gas leases, well-spacing requirements, implied and express covenants and royalties. And because the oil and gas industry is still in its infancy in this state and our case law negligible, many members of the Bar feel ill-equipped to cope with these inquiries.

In response to the many requests made to help alleviate this problem, this issue of the *Nebraska Law Review* contains three articles which should provide an excellent starting point in the research of oil and gas law.

The first article, on oil and gas leases, by Maurice H. Merrill, Research Professor of Law at the University of Oklahoma, contains a complete study of who may lease and what a lease should contain in regard to duration, royalties, covenants and transferability. All relevant Nebraska cases and statutes have been cited where applicable. No one is more eminently qualified to discuss leases than Professor Merrill as attested by his numerous treatises and articles.

Lowell C. Davis, a member of the Nebraska Bar from Sidney, has written an article describing the function of the new-

ly created Nebraska Oil and Gas Conservation Commission and he helpfully suggests procedures for presenting applications to that body.

The final article on oil and gas law is a study of the recently enacted Nebraska oil and gas lien statute by Richard E. Young of the Colorado Bar. Because the lien statute has not yet been interpreted by the Nebraska Supreme Court, Mr. Young's analysis of various problems of construction is timely.

The final two leading articles are contributions by members of the Nebraska Law College faculty. Lawrence Berger, an Assistant Professor of Law, discusses the Rule Against Perpetuities as it relates to powers of appointment. Professor Berger first agrees with Professor Simes that the proper rationale of the Rule is not that property can only be kept productive if freely alienable, but is that excessive control of property by the dead should be avoided. In analyzing the Rule as it relates to powers of appointment, Professor Berger concludes that if the dead hand control can be broken during the period of the Rule, then the control is not offensive to the Rule Against Perpetuities. This article should stimulate a re-examination of several powers of appointment cases.

Finally, David Dow, Dean of the College of Law, examines the recent federal case of *KLM v. Tuller* and its effect on the law of admissibility of prior statements of a witness. *Tuller* held that a prior statement of a witness was admissible as an exception to the hearsay rule. The court did not point to any specific exception, however, but reached its holding on the ground of reliability. Dean Dow, after summarizing exceptions to the hearsay rule, concludes that the *Tuller* case has extended the normal exceptions.

Our final issue for this year in June is now entering the final stages. Two articles of note to look for—an article on administrative law reform and an article

on the proposed constitutional amendment for changing the method of electing Nebraska judges.

The *Review* is now processing manuscripts for publication next year and welcomes any contribution by members of the Nebraska Bar and law students at the Law College. In submitting a manuscript certain procedures should be followed to facilitate selection. Manuscripts should be typewritten or printed and double-spaced. Two copies should be submitted if at all possible. Send manuscripts to

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