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Norman W. Thorson*

Agricultural Law Symposium: An Introduction

In November of 1993, the American Agricultural Law Association (AALA) held its Annual Meeting and Educational Conference in San Francisco, California. Each year, the Association seeks to publish a selection of presented papers as a law review symposium issue that is sent to all members. This year, we are honored to have our symposium issue published by the NEBRASKA LAW REVIEW. The Association gratefully acknowledges the extraordinary efforts of the Board of Editors in making this symposium issue a reality, including the Board's decision to send three editors to San Francisco to monitor presentations and meet with prospective authors.

The Annual Educational Conference of the AALA consists of general sessions devoted to recent developments in agricultural law and specialized sessions designed to explore selected topics in some depth. Specialized sessions at the 1993 meeting focused on the proposed reorganization of the United States Department of Agriculture (USDA) and a streamlining of its appeal procedures; the impact of technology, including biotechnology, on the organization of agricultural production; transfers and reallocations of agricultural water supplies, including due diligence concerns; business and tax planning for agriculture; the growing impact of environmental, health, and safety programs on agricultural producers; the use of mediation in resolving agricultural disputes; and the legal and ethical issues facing attorneys who represent elderly clients with long-term health care concerns. Over the course of three days, attendees heard presentations by more than thirty speakers from government, academia, and private practice.

This year's symposium issue includes a selection of articles from our specialized sessions and a selection from our annual update sessions. It also includes a student essay contributed by the winner of the 1993 AALA Student Writing Competition, and an address by the outgoing president of the Association. The articles illustrate the diversity of issues faced by those who represent agricultural clients.

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Agricultural supply and marketing firms have made great strides in developing improved genetic material through genetic engineering and the application of biotechnology. In an article entitled "Why Own the Farm if You Can Own the Farmer (And the Crop)?: Contract Production and Intellectual Property Protection of Grain Crops," Professor Neil Hamilton, Director of the Agricultural Law Center at Drake University Law School, explores the impact of changing technology on the organization of agricultural production. Historically, agricultural supply and marketing firms sold their improved genetic products directly to farmers. Sensitive to the need to protect their intellectual property rights in plants and seeds, however, these firms increasingly eschew direct sales and negotiate "value added" or "identity-preserved" production contracts with farmers. As Professor Hamilton illustrates, such contractual relationships challenge traditional notions of what it means to be a farmer.

One of the more persistent problems faced by agricultural practitioners is transferring the agricultural business to a successor generation. An aspect of this problem is the subject of University of Montana Law Professor Steven Bahls' article entitled "Judicial Approaches to Resolving Dissension Among Owners of the Family Farm." Many problems could be resolved by adequate succession planning. Unfortunately, Professor Bahls argues, parents assume that family members will treat each other with trust and respect. Consequently, when developing succession plans, they fail to address issues that arise when heirs cannot agree on the proper course of action. When the disputes are litigated, courts have little to guide them in fashioning a fair remedy. In his thoughtful article, Professor Bahls offers such guidance.

A related planning problem is the subject of Professor Roger McEowen's article, "Estate Planning for Farm and Ranch Families Facing Long-Term Health Care." The potentially devastating impact of long term health care costs on individuals is an ongoing topic of national debate. In agriculture, health care expenses have the potential to thwart the desired transfer of the farm or ranch business to the next generation. Professor McEowen, Assistant Professor of Agricultural Economics and Extension Specialist in Agricultural Law and Policy at Kansas State University, details planning options available to attorneys whose clients are facing health care and business transfer dilemmas.

Alternative dispute resolution techniques have been used extensively in agricultural situations, particularly situations involving loan delinquencies. One of the San Francisco sessions involved a role play demonstration of the mediation of a delinquent agricultural loan. Two articles in this symposium relate to that session. In an article entitled "Representing Agricultural Clients in Mediation," Gary Condra, Pro-

ject Leader for the Agricultural Dispute Resolution Project at Texas Tech University, explores the interesting question of how a client's attorney participates in the mediation process. In a related article entitled "The Role of Mediation in the USDA," Chester Bailey, Mediation Coordinator for the Farmers Home Administration, reviews the use of mediation programs by federal farm lenders.

As part of the symposium issue, we are pleased to include the Presidential Address of Terry Centner, a professor in the College of Agricultural and Environmental Sciences at the University of Georgia. In his luncheon address to the Association, "The Internalization of Agriculture: Preparing for the Twenty-First Century," Professor Centner argued that the internationalization of agriculture will inevitably and profoundly affect domestic agricultural policy. Among the changes he foresees are reductions in the level of government assistance to agriculture, revisions in the mission of land grant universities, and a broadening of the views of agricultural support groups with respect to contemporary international and social issues.

We are also pleased to include in the symposium issue the winning essay in the Association's 1993 Student Writing Competition. Justin Lamunyon, a law student at the University of Oklahoma, submitted the winning paper entitled "Wetlands and the Swampbuster Provisions: The Delineation Procedures, Options, and Alternatives for the American Farmer." Environmental law has arrived in rural America, challenging the traditional way of conducting farm and ranch business. In his timely essay, Mr. Lamunyon explores the delicate issue of wetland conversions in light of Swampbuster legislation and command and control regulation under the Clean Water Act.

Four symposium selections were originally part of the recent developments sessions of the San Francisco Educational Conference. James Massey, founder of the Farmer's Legal Action Group and now engaged in a national legal practice from his offices in Sisters, Oregon, served as lead counsel in national class action litigation challenging foreclosure procedures used by the Farmers Home Administration during the 1980s. In his "Farmers Home Administration and Farm Credit System Update," Mr. Massey draws on the perspective gained from his past experiences as he reviews the history, purposes, structure, funding, and regulation of federal agricultural lending programs, including the dramatic changes that have taken place during the last decade.

James Dean, founding partner of Dean, McClure, Eggleston and Husney of Denver, Colorado, prepared "Agricultural Cooperatives: An Update." Mr. Dean, a nationally known expert in the highly specialized field of agricultural cooperatives, examines recent changes with respect to the taxation, financing, membership in, and corporate structure of agricultural cooperatives.

Professor David Purnell, Assistant Professor of Agricultural Law in the Department of Agricultural Economics at the University of Illinois, authored the "1993 International Trade Update: The GATT and NAFTA." In his update he examines the recently concluded North American Free Trade Agreement and the conclusion to the Uruguay Round of GATT negotiations, questioning whether changes wrought by the Uruguay Round will diminish the importance of regional free trade agreements to agriculture.

Finally, the symposium includes an update entitled "Recent Uniform Commercial Code Cases Affecting Agricultural Lenders and Borrowers" prepared by Gordon Tanner and Eugenie Mansfield from the Seattle offices of Stoel Rives Boley Jones & Grey. Among areas highlighted are problems posed by unique forms of agricultural collateral, the sometimes murky line between real and personal property in an agricultural setting, complexities posed by farm program and crop insurance payments, and the Food Security Act's de facto preemption of the UCC's "farm products rule."

The American Agricultural Law Association is grateful to all participants in the 1993 Annual Meeting and Educational Conference, and especially to those who contributed articles to this symposium issue of the NEBRASKA LAW REVIEW. On behalf of the Association, I invite all interested persons to attend the 1994 Annual Meeting and Educational Conference to be held in Memphis, Tennessee, October 21-22, 1994.