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# *Mineral and Tidelands Law*

Edited By

RALPH SLOVENKO

Baton Rouge: Claitor's Book Store, 1963

Pp. xxiv, 216, \$7.50

The United States has been blessed with generous deposits of valuable substances, which are indiscriminately deposited in various locations at various depths and heights with varying degrees of accessibility. The technical difficulties and problems which confront the enterprising people who explore for and extract such substances are legion. Such difficulties and problems are not, however, greater in number nor more difficult in nature than the legal problems which arise from the activity of exploring for and extracting such substances and from the relations created by parties engaging in such activity. The seventh annual institute on "Mineral and Tidelands Law," conducted on March 1, 1963, by the Program of Professional Study of the Tulane University School of Law, explored many of these legal problems. *Mineral and Tidelands Law* is a publication of the papers given at the institute.

The materials presented in the publication cover a wide variety of subjects, with emphasis upon those problems which are peculiarly related to leasing of submerged lands and offshore drilling operations. The subjects are broadly classified as involving conservation and preservation, ownership of water bottoms, leasing of public lands and tidelands, royalty payments, taxation and tidelands operations, drilling insurance, and admiralty and the offshore operator. Each paper in the compilation is excellent and merits comment, but the unusual value of the publication lies in the special treatment given to the unique problems which have arisen from the leasing of submerged lands and from offshore operations.

Any oil and gas attorney who uses the publication will share readily the restrained impatience expressed by Mr. Murray with respect to Texas' archaic conservation legislation; he will be impressed with Mr. Feierabend's persuasive opposition to the Wilderness Bill; and he will readily appreciate the alarm expressed by Mr. Davidson over the trend in Louisiana with respect to the effect of delays in the payment of royalties. He will not, however, be prepared for the surprise at learning of the multitude of intricate prob-

lems created by offshore operations, unless he practices in a littoral state near its coast line. Likewise, he will not be prepared for the incongruity of equating a drilling operation with a ship and of adding admiralty law as a subdivision of oil and gas law. After having read the materials contained in the publication, however, he will appreciate the labyrinth which offshore operations present to an attorney and will perhaps rejoice that he does not have to travel it.

The subject of offshore drilling operations is introduced by a summary of the applicable statutes by Mr. Sims. Such statutes are: state workmen's compensation acts (compensation for shore employees); the Longshoremen's and Harbor Workers' Compensation Act<sup>1</sup> (compensation for maritime employees); the Jones Act<sup>2</sup> (damages for death or injury to seamen); and the Death Act<sup>3</sup> (damages for death of a non-employee occurring on the high seas). Mr. Carrere then examines the Jones Act and its application to offshore operations more thoroughly. The reader will undoubtedly be surprised to learn that the question of whether or not a submersible drilling barge is a vessel, and therefore subject to the Jones Act if other elements are present, is a question of fact for the jury. The paper which follows is by Mr. Kierr and contains an explanation of the doctrine of "unseaworthiness," which exists independent of statute and is a "waterborne species of liability without fault." Mr. Kohlmeyer then discusses the *Calbeck* case<sup>4</sup> and the "twilight zone" doctrine which it represents under which an injured employee has a choice of remedies between recovery under the compensation act or for tort. The next paper is by Mr. Vickery, who describes and analyzes the "Ryan doctrine,"<sup>5</sup> under which a stevedoring company may be required to indemnify the shipowner for damages arising out of an injury to the stevedoring company's own employee. In the paper which follows, Mr. Reese shows the possible application of this doctrine to drilling barge operations. Mr. Yancey then discusses the *Cushing* case<sup>6</sup> and its aftermath, which involves solving a conflict between state law, which permits direct action against a ship's underwriter, and a federal statute which extends a limitation of liability to shipowners.

From a reading of the papers contained in *Mineral and Tide-*

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1. 44 Stat. 1424 (1927).

2. Ch. 250, § 20, 41 Stat. 1007 (1920).

3. 41 Stat. 537 (1920).

4. *Calbeck v. Travelers Ins. Co.*, 370 U.S. 114 (1962).

5. *Ryan Stevedoring Co. v. Pan-Atlantic S.S. Corp.*, 350 U.S. 124 (1956).

6. *Maryland Cas. Co. v. Cushing*, 347 U.S. 409 (1954).

*lands Law*, one concludes that offshore drilling operations present more than the usual number of new problems which can be expected to accompany a new type of operation. In the past, it has been necessary to reconcile oil and gas practices and concepts with vestiges of feudal land law. In the area of offshore drilling, another body of old law is encountered, and an understatement by Mr. Kierr bears repeating: "When we engraft the age-old maritime law onto twentieth century oil exploration there may be need to clarify it."<sup>7</sup>

*Mineral and Tidelands Law* is a publication which all attorneys will find interesting. Attorneys who have clients engaged in offshore drilling operations will undoubtedly find that this publication is invaluable.

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7. *Mineral and Tidelands Law* 159 (Slovenko ed. 1963).

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