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A Treatise on the Law of Oil and Gas

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and habit will keep it there. In a society where every man's place is easily defined and he accepts it with resignation, crime is much less frequent than in a growing society full of changing ideas and changing economic status.

The proper treatment of insanity cases by the criminal law is discussed at much length. This problem, however, is viewed as it should be, not so much as a factor in causing or preventing crime as in the light of a moral obligation of society to treat these unfortunate people fairly. As the author points out, insanity is a very minor cause of crime because the average professional criminal is an intelligent rather than a sub-normal person.

The book should be of great interest to anyone interested in the problems of criminal law. Dean Wigmore who writes an introduction to the book says that it is the first comprehensive work to contest the one-sided theories of crime advanced by modern psychiatrists.

—T. W. ARNOLD.

A TREATISE ON THE LAW OF OIL AND GAS. By Walter L. Summers. Kansas City: Vernon Law Book Company. pp. 863. (1927).

Until Mr. Summers' book was published there was no text on the law of oil and gas which could be said to be more than a digest of cases. Most of the cases were distributed in the encyclopedia under the heading of mining law and other allied subjects. Mr. Summers' book however is the only practically outlined and scientifically constructed text which has been published. It covers the legal nature of the minerals, oil and gas and the problems arising out of their production. The last chapter contains a few well selected forms, annotated with footnotes.

The fourteen chapters dealing with oil and gas leases are the main portion of the book. In these chapters the author follows the actual legal development of these leases as it took place in courts. In the development of the law on the subject of oil and gas leases one can observe the operation

of a principle or policy of production which is used again and again by the courts in construing the provisions of drilling leases or contracts. Courts have considered that it is to the highest public interest that oil and gas be produced as rapidly as possible so that the public may have the use of them. The desire of the lessee to delay development has been generally considered not only as against the interests of the lessor but also as against the public interest. It is for that reason that formulas have been developed to the effect that oil and gas leases are to be construed most strongly against the lessee; that equity favors the forfeiture of oil and gas leases; that the primary consideration for the oil and gas lease is the expected royalties; and that the lessee should not hold leases for speculative purposes. Courts have implied covenants that the lessee must test for oil and gas and if found must develop diligently, even where particular leases contain express language to the contrary. In such cases the courts have said that the primary consideration was the royalties and that a cash consideration of from one to five dollars an acre paid annually was nominal. This policy of production is approved by Mr. Summers in his book.

Mr. Simonton of the faculty of the West Virginia University Law School has taken what appears to the reviewer to be a more correct view on the question. He believes that the policy of the courts in favoring increased production has led to unfortunate economic results. The period of over-production of oil and gas which is hampering the operations of the largest companies illustrates the dangers into which this policy has led the oil and gas industry. There is no logical reason why the lessors' desire for royalties should be given any particular consideration by implying covenants in a lease or by disregarding express language in a lease, excepting where drainage is either occurring or imminent. Further than that, according to Mr. Simonton's view, the courts in protecting the lessor or not, as a matter of fact, protecting the individual who originally owned the land, but ordinarily some other oil company which has purchased his rights. This policy of production, fortified by the judicial formula that the oil and gas lease is to be construed most strongly against the lessee is, ac-

ording to Mr. Simonton, at least one of the contributing factors to the present over-production of oil and gas. Courts have forced development of fields at times when economic consideration which indicate that their development should be delayed. The reviewer is inclined to favor Mr. Simonton's views, rather than those of Mr. Summers, who seems to assume that the so-called policy of production is one which is beneficial. The time has already come when legislation attempting to limit production will be urged by those interested in the orderly economic development of the oil industry.

The book is an unusually able contribution to the subject and is invaluable to a lawyer interested in the problems discussed.

—T. W. ARNOLD.