

November 1920

## Mines and Minerals—Right of Lessee Under an Oil and Gas Lease to Retain the Use of Gas Compressors and Pumps

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### Recommended Citation

*Mines and Minerals—Right of Lessee Under an Oil and Gas Lease to Retain the Use of Gas Compressors and Pumps*, 27 W. Va. L. Rev. (1920).

Available at: <https://researchrepository.wvu.edu/wvlr/vol27/iss1/15>

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**MINES AND MINERALS—RIGHT OF LESSEE UNDER AN OIL AND GAS LEASE TO RETAIN THE USE OF GAS COMPRESSERS AND PUMPS.**—In a bill to restrain the use of gas compressers and pumps on gas wells in such a way as to increase the flow of gas beyond the natural flow it was contended that there was an implied term of the lease that the lessee should not use improved methods of producing gas which were not in use when the lease was executed if the result would be to reduce the royalties the lessor would otherwise receive from the lease. It was alleged the royalties would be reduced because fewer wells would be required and because the life of the wells would be shortened. *Held*, the injunction should not be granted. *Bassell v. West Virginia Central Gas Co.*, 103 S. E. 116 (W. Va. 1920).

For a discussion of this case, see NOTES, p. 74.

**MUNICIPAL CORPORATIONS—LIABILITY FOR TORTS: GOVERNMENTAL FUNCTION—MAINTENANCE OF HIGHWAYS: WHAT CONSTITUTES BEING "OUT OF REPAIR."**—A statute made liable incorporated cities and towns for injuries caused by their streets being out of repair. (CODE W. VA. c. 43 § 56a XLIX). The plaintiff sought to recover from the defendant city for personal injuries sustained by falling on a raised place in a sidewalk caused by the root of a tree. This raised place had been made slippery by snow and ice and children coasting there. *Held*, Recovery denied. *Holsberry et al v. City of Elkins*, 103 S. E. 271 (W. Va. 1920).

The question in the principal case is whether the walk was out of repair within the meaning of the West Virginia statute. This statute has been interpreted to render municipalities liable for injuries sustained by defects in public streets or sidewalks. *Chapman v. Town of Milton*, 31 W. Va. 384, 7 S. E. 22; *Biggs v. Huntington*, 32 W. Va. 55, 9 S. E. 51; *Boylard v. City of Parkersburg*, 78 W. Va. 749, 90 S. E. 347. The word "defect," as used with reference to a street, has been held to mean a lack of reasonable safety, or failure to be in a reasonably safe condition for the purpose for which it was intended. *Peake v. City of Superior*, 106 Wis. 403, 82 N. W., 306; *Blivens v. City of Sioux City*, 85 Iowa 346, 52 N. W. 246. Under similar statutes courts have allowed recoveries for injuries sustained by falling on ice accumulated on sidewalks. *Street et ux. v. Inhabi-*