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Introduction

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INTRODUCTION

The current uranium boom has resulted in a renewed interest in mining law. The relative significance of mining law as a field of study and practice prior to this renewal of interest is indicated by the fact that the most recent text on the subject, Morrison on *Mining Rights* (16th ed.), was published in 1936 and by the fact that Lindley on *Mines*, published in 1914, is frequently cited as an authority. As a subject of study mining law has been crowded out of the curricula of most law schools and where retained has frequently been integrated with other natural resources courses such as oil and gas law. A reflection of this trend is the only comparatively modern casebook in the field, Martz, *Cases on Natural Resources* (1951), published by West Publishing Co., which combines water law, oil and gas law, mining law and miscellaneous legal aspects of public domain management and disposition. While Martz's book is a casebook, because of the excellent selection of cases and inclusion of note and text material, it is also an excellent modern reference source for the practitioner concerned with mining law.

This symposium is an effort to bridge the gap between available reference sources and current mining law problems. The student notes outline the location procedure essential to initiating the rights of the mining claimant, the assessment work requirements necessary to retain those rights against others and the patent application procedure available to the mining claimant who desires to acquire title to the surface as well as to the minerals and to provide a greater degree of certainty to his title. Because of the important title examination problems resulting from mining descriptions and from the discovery requirements, separate student notes deal respectively with these particular phases of the location procedure. Although the notes and articles deal generally with mining law, the emphasis throughout is on the application of such law to uranium development; one student note is concerned exclusively with the problems peculiar to uranium mining resulting from the necessity of selling all fissionable source materials to the Atomic Energy Commission or its licensees.

The notes and articles contained herein may be of interest to the oil and gas lawyer as well as the mining lawyer in that conflicts between mining claims and federal oil and gas leases present problems requiring some understanding of mining law. The conflict between the federal oil and gas lessee and the uranium mining claimant and the legislation enacted to resolve the conflict are discussed in one of the articles.

Also included in this symposium is an article by Mr. Krakover considering the very important impact of the federal tax laws on mining operations, and an article by Mr. Lohf discussing the blue-sky laws of the western states. The practitioner needs no reminder of the fact that to an increasing extent he must consider tax consequences in planning mining

transactions and operations. Nor in the case of publicly-financed corporations can the requirements of the federal securities laws or appropriate state blue-sky laws be disregarded. As originally planned this symposium would have included a discussion of the federal securities laws, but because of space limitations such discussion has been omitted. For the lawyer advising clients engaged in public financing, Loss on *Securities Regulation* (with 1955 supplement) published by Little, Brown and Company of Boston, is an indispensable reference source.

The general mining law of 1872 remains the basic statute relating to the development of metalliferous and some non-metalliferous minerals on the public domain. It provides in effect a system that permits the location and development of mining claims on the unappropriated public domain without interference by any governmental official or agency. It has been a reasonably successful system from the standpoint of promoting exploration and discovery of minerals. However, it creates title problems of such significance and complexity that ensuing litigation conceivably could ultimately result in destroying the incentives the system purports to offer to the locator of minerals. It also raises important questions concerning the proper management and disposition of our natural resources particularly with respect to our national forests and grazing lands.* Unfortunately efforts to revise the statute engender such emotional responses on the part of those concerned over the possibility that such revision will result in a leasing system that objective evaluation has not been forthcoming from the appropriate Congressional Committees. What is badly needed is an objective appraisal of the system and revision of the statutes within the framework of the location system.

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*Since this was written Congress has enacted Public Law 167, 84th Cong. 1st Sess. 1955, which should permit better management of surface resources on lands covered by an unpatented mining claim.