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INTRODUCTION

The 1990 Annual Meeting and Educational Conference of the American Agricultural Law Association (AALA) marked the tenth anniversary of the founding of this organization. From its relatively small beginnings, AALA has developed into a thriving association with over 800 members. Practicing attorneys, law and agriculture professors, bankers, accountants, other professionals involved with agricultural law, and students make up the membership. AALA performs a crucial role in linking professionals in different disciplines through their common interest in agricultural law. The monthly newsletter, *Agricultural Law Update*, provides current information to members, and the Annual Meeting and Educational Conference offers two full days of high-level educational programming to members and others.

The 1990 Educational Conference, held in Minneapolis, Minnesota, focused on a number of current agricultural law issues, including business and estate planning, agricultural finance, land use, the environment, ethics, and international agricultural law developments. Forty-five speakers and moderators participated in the two-day program, which included both general and concurrent sessions. Speakers prepared outlines for an extensive Conference Handbook presented to each of the more than 200 persons attending the Conference.

Each year, articles by speakers at the Annual Meeting and Educational Conference are published as a law review symposium, which is sent to AALA members. AALA is honored that this year's articles are published in the *Indiana Law Review*. The Association is grateful for the helpful cooperation of the *Indiana Law Review* Board of Editors.

The subjects of the articles in this symposium come from two general areas. The first group of articles focuses on the business and financial aspects of the agricultural enterprise, and the second group deals with agricultural resources, particularly land. One additional article was contributed by the winner of the 1990 AALA student writing competition.

In an article entitled "Should the Unique Treatment of Agricultural Liens Continue?" Professor Keith G. Meyer reviews some of the issues connected with judicial, statutory, and consensual liens on personal

property. The existence of a variety of state agricultural liens and the lack of uniform rules for creation, perfection, and priority (especially in connection with state statutory liens) raise numerous problems. And, although Article 9 of the Uniform Commercial Code governs consensual liens (security interests), it does not govern all agricultural liens, nor does it resolve priority problems between UCC liens and numerous other liens. Professor Meyer offers solutions to the problems of conflicting liens, including the possible accommodation of these liens within an amended Article 9 of the UCC.

Also in connection with the financial aspects of agriculture, Susan A. Schneider's article, "Recent Developments in Chapter 12 Bankruptcy," analyzes 1990 appellate decisions on several controversial issues arising in Chapter 12 (family farm) bankruptcy litigation. Her article focuses on the issues of the appropriate interest rate under a confirmed plan; the treatment of a contract for a deed as a mortgage or executory contract; the interaction of the Agricultural Credit Act of 1987 and bankruptcy legislation; and livestock operations and the lien retention requirement for plan confirmation.

Those involved in agriculture are faced with a number of estate planning issues. Roger A. McEowen and Professor Neil E. Harl discuss long-term health care in their article, "Estate Planning for the Elderly and Disabled: Organizing the Estate, to Qualify for Federal Medical Extended Care Assistance." The authors focus on the statutory requirements (particularly income and asset determinations) for Medicaid eligibility and related case law. In addition, they articulate estate planning techniques and considerations to mitigate the financial burden of long-term health care.

The crucial impact of federal tax law on the agricultural enterprise and the frequent changes in that law make issues of agricultural taxation particularly important. Professors C. Allen Bock and Philip E. Harris, assisted by John Deery-Schmitt, review significant new developments in their article, "Agricultural Taxation — Selected Issues." Among these developments are the potential tax traps involved in deferred payment grain sales; recent rules concerning depreciation; limitations on like-kind exchanges between related persons and deductions for term interests in property held by related persons; share leases and passive losses; and rent paid to a spouse.

Professor John D. Copeland provides an "Analysis of the Farmer's Comprehensive Liability Policy." After suggesting potential sources of liability and reviewing basic insurance law, Copeland discusses a number of common provisions of farmer's comprehensive liability policies and identifies problems arising from those provisions. He also focuses on some typical exclusions (for example, business pursuits and pollution) from the policies.

Federal farm subsidy payments are often crucial components of a farmer's income. On this subject, Alexander J. Pires, Jr. and Shelley L. Bagoly have contributed "Federal Court Jurisdiction Over USDA/ASCS Cases (How and in What Courts Farmers Can Seek Review of USDA Denials of Their Subsidy Payments)." After a summary of how USDA/ASCS subsidies are provided, the authors discuss the jurisdiction of the U.S. Claims Court and the U.S. District Court over farmers' cases seeking review of subsidy denials. Pires and Bagoly note that each venue presents difficulties for the farmer; the government often opposes District Court jurisdiction, and limited relief is available in Claims Court.

Two articles in this issue discuss agricultural and environmental resources, especially land resources. The first of these articles, by Anthony N. Turrini, focuses on the federal wetland conservation provisions of the Food Security Act of 1985. In "Swampbuster: A Report from the Front," Turrini describes the effect of the federal swampbuster law and regulations in the field during the first five years of applicability. He focuses on defects in the statute and on problems with implementation and enforcement of the swampbuster provisions. Some of the problems Turrini identifies have resulted in amendments to the swampbuster provisions in the Food, Agriculture, Conservation, and Trade Act of 1990.

In the second article, Professor Wim Brussaard presents an international viewpoint entitled "Protecting Agricultural Resources in Europe: A Report from the Netherlands." Western European countries have a limited amount of agricultural land; its use is subject to geographic restrictions, competing uses, and increasing concern for the environment. In the Netherlands a limited agricultural land area faces competition from conflicting interests. Brussaard analyzes the Dutch legal-administrative land-use structure, including physical planning, land development, and management agreements. He also addresses legal approaches to current problems, in particular European Community and Dutch set-aside regulations and Dutch manure legislation.

Several articles in this symposium focus on an issue of increasing importance and interest in some parts of the United States: public access to rural land for recreational access. A continuing growth in demand for outdoor recreation has not been matched by increased federal and state support for recreational areas and facilities. This offers an opportunity to private landowners who may be interested in alternative uses of their land. A number of legal issues, including questions of liability, confront these landowners.

Cynthia Boyer Blakeslee's article addresses "Legal Concerns Triggered by Alternative Land Use—Subtle Issues and Potential Traps." She highlights some of the interesting and unexpected consequences of a change in land use. Among the issues about which an attorney must provide advice are the effect of zoning ordinances and deed restrictions,

the status of preferential tax assessments, and the impact of environmental regulation. Other issues, too, are relevant to the landowner's decision.

In his article, Winston I. Smart presents an "Economic and Financial Analysis of Alternative Uses of Agricultural Land." He identifies and discusses the types of economic and financial issues that will affect the profitability and liquidity of alternative agricultural land use. In addition, he makes some general recommendations to help ensure the financial success of the alternative land use.

Professor John C. Becker analyzes the impact of state recreational use statutes in his article, "Landowner or Occupier Liability for Personal Injuries and Recreation Use Statutes: How Effective is the Protection?" These statutes encourage private landowners to open their land to the public for recreational purposes by limiting liability of the landowner or occupier under certain circumstances. Becker's article focuses on model recreation use acts, state statutory approaches, and court decisions involving the statutes. In addition, he discusses the effectiveness of these recreational use statutes in limiting liability.

Landowners who open their land to recreational use will normally require insurance coverage. Martha L. Noble discusses insurance in her article, "Recreational Access to Agricultural Land: Insurance Issues." After a brief overview of potential landowner liability, Noble addresses issues connected with the applicability of standard farmer's comprehensive liability insurance policies, other standard insurance policies, specialty insurance, and alternatives to landowner insurance coverage.

To give wider perspective to the issues involved in recreational use of agricultural land, Professor Helge Wulff has contributed "Recreational Access to Agricultural Land: The European Experience." Wulff surveys experience in Europe, where public access to the countryside is an important problem. Basing his analysis on laws in England and Wales, France, Norway, Sweden, and his native Denmark, he focuses on the law of public access to privately owned farmland, the liability of farmers and of persons entering farmland, and the various voluntary and compulsory means of providing access to the public. Though European legal systems differ from American, many of the practical problems of public access to the countryside are similar.

The final article in this symposium issue is the winning entry in the 1990 American Agricultural Law Association student writing competition. Each year, this competition is open to law students and other students interested in agricultural law, and the award-winning entrant receives a cash prize. The 1990 winner is Martin J. Troshynski, then a student at the University of Wyoming College of Law, who wrote on the subject of "Corporate Ownership Restrictions and the United States Constitution." Troshynski's article analyzes state statutory and constitutional restrictions on corporate ownership of farmland, in light of the Equal Protection and Commerce Clauses of the United States Constitution.

The American Agricultural Law Association is grateful to all the participants in the 1990 Annual Meeting and Educational Conference and especially to those who contributed articles to this symposium issue of the *Indiana Law Review*.

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1991 President, AALA

