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BOOK REVIEW: EUREKA! A PETROLEUM TRANSACTIONS GUIDE THAT DELIVERS

NORMAN NADORFF *

INTERNATIONAL PETROLEUM LAW AND TRANSACTIONS by
Owen Anderson et al. Rocky Mountain Mineral Law Foundation. 2020.

*“Success is no accident. It is hard work, perseverance, learning,
studying, sacrifice and most of all, love of what you are doing.”*

Pele¹

Love may seem a strange word to describe a book on the petroleum
business, but a certain kind of love exudes from every pore of *International*

* Counsel, Mayer Brown. Adjunct Professor, University of Houston Law Center and Distinguished Practitioner in Residence, The Ohio State University Moritz College of Law. Following graduation from the latter law school in 1980, Norman conducted constitutional law research in Brazil for a year under a Fulbright Fellowship. Upon his return, he worked for DuPont until his transfer in 1985 to its subsidiary, Conoco Inc. This began a 30-year career as an in-house international petroleum lawyer and legal manager, including two expatriate assignments to ARCO Indonesia and a nine-year assignment to BP Angola, where he wrapped up his in-house career in 2015. In Angola, Norman conceived of and helped implement a unique post-graduate petroleum law and commerce program which has graduated well over 300 professionals during its 14-year history. He created his first petroleum law classes for this program and subsequently has taught in several U.S. law schools as well as in Thailand, Mexico, Brazil, and Mozambique. Norman is a frequent lecturer on international petroleum transactions, anti-corruption law, contract drafting, and developing local talent. He received a B.A. (summa cum laude) in Political Science as well as an M.A. in Spanish and Portuguese from Saint Louis University, where he also taught Spanish. Norman is currently a Fulbright Specialist in Oil and Gas Law.

1. Pele Quotes. (n.d.). BrainyQuote.com. Retrieved January 3, 2021, from BrainyQuote.com Web site: https://www.brainyquote.com/quotes/pele_737774.

Petroleum Law and Transactions (“*IPLT*”). The love that seven distinguished law professors and practitioners² share for a complex and misunderstood industry with its fascinating history and outsized social and economic impacts. Surely it is this love (and dedication) that accounts for the masterpiece they have created for the benefit of countless petroleum students, professors, practitioners, and policy makers for decades to come.

Context

Some oil and gas professionals are born into the petroleum industry through family ties. Such individuals carefully plan and prepare for their careers from an early age, earning specialized degrees and certifications. Most petroleum professionals that I have known, however, stumbled, rather than planned, their way into our industry. Good examples of that are several *IPLT* authors whose personal stories I know well. I fall into that category as well, having been transferred from DuPont to Conoco following their merger. Within four months, I found myself in war-torn 1986 Angola working on various types of petroleum agreements having never studied petroleum law and lacking basic knowledge of the industry. By hit-or-miss, I eventually caught up and survived. Had I possessed a copy of *IPLT* in those days, I would have felt like Shakespeare with a laptop. Indeed, newcomers to industry willing to devour *IPLT*'s contents will soon have answers to all the questions they were afraid, or did not know, to ask.

2. The authors are Owen L. Anderson, Professor & Distinguished Oil and Gas Scholar at The University of Texas at Austin and Eugene Kuntz Chair Emeritus and George Lynn Cross Research Professor Emeritus at The University of Oklahoma; Jacqueline L. Weaver, A.A. White Professor of Law Emeritus at the University of Houston; John S. Dzienkowski, Professor & Dean John F. Sutton Chair in Lawyering and the Legal Process at The University of Texas at Austin; John S. Lowe, George W. Hutchison Chair in Energy Law and Professor of Law at Southern Methodist University; Keith B. Hall, Campanile Charities Professor of Energy Law and Director of the Mineral Law Institute at Louisiana State University; and Frédéric Gilles Sourgens, Senator Robert J. Dole Distinguished Professor of Law at Washburn University. The authors were assisted by Harry W. Sullivan, Jr., who acted as an editorial consultant and contributing author. Sullivan has had a distinguished career as an international petroleum lawyer and negotiator. He is Assistant General Counsel at Kosmos Energy Ltd., an Executive Professor at Texas A&M, and an Adjunct Professor at Southern Methodist University.

Book

General

IPLT is an exquisitely organized and richly detailed summary of the petroleum industry and its technology, laws, economics, and agreements. As such, it serves as both a one-stop textbook for International Petroleum Transaction (“IPT”) courses as well as an authoritative desk guide for practitioners and policy makers. *IPLT* is hardly the first book of its kind, but it beats its precursors hands down. Previous textbooks either followed the impractical U.S. casebook format, were poorly organized or contained huge gaps in coverage. Thus, I have never used a textbook in my skills-based IPT courses. Rather, I typically supplement my PowerPoint presentations with various scholarly articles on discrete subjects. Thanks to *IPLT*, those ad hoc days are over, and I fully intend to make significant sections of *IPLT* mandatory reading henceforth. I suspect that my students who eventually specialize or even dabble in petroleum law and transactions will, over time, heavily rely on *IPLT* for initiation into, or refreshment on, its wide range of topics.

Contents

IPLT is organized in the following order:

1. Overview of the International Petroleum Industry
2. Sovereignty and Host Government Control of Petroleum and Minerals
3. Domestic Extraterritorial Law
4. Petroleum Legal Regimes
5. Host Government Fiscal Systems
6. Host Government Contracts—Non-Fiscal Provisions
7. Oil Spills, Offshore Safety Systems, and Decommissioning
8. Sustainable Development: Indigenous Rights, Human Rights, and Community Impacts
9. Dispute Resolution—Investment and Commercial
10. Intra-Industry Contracts
11. Seismic, Drilling, and Well-Services Contracts
12. Crude Oil Marketing and Sales
13. Natural Gas Marketing and Sales
14. The Future of the Petroleum Industry and Climate Change

As the reader can see, *IPLT* covers the gamut of petroleum-related technology, laws, contracts, and social issues in a logical sequence. The text

is peppered with numerous graphs, excerpts, tables and, as discussed below, useful internet links. If there are gaps in *IPLT*'s content, they are not obvious. In any case, anyone who diligently reads *IPLT* in its entirety will emerge with a huge volume of useful knowledge about our industry. Or for less ambitious souls, serious immersion into a single section will provide a more than adequate foundation for delving into it confidently.

Versions

IPLT is available in both hardcover and ebook versions. I suspect that serious IPT specialists will want both versions and will find them worth every dollar. Everyone enjoys the comfort of having, reading, and displaying a handsome textbook of this nature. But who wants to travel with it? The e-book provides the convenience of laptop access and so much more. Its handy features allow the reader to highlight and comment on text and to even share it with others. If I had to choose, I would probably choose the e-book. Luckily, I do not have to choose.

Links

In recognition of the digital age, *IPLT* provides the reader ample links to online sources that dramatically enhance its written descriptions. One can lecture endlessly about the fracking process, for instance, and even show two-dimensional depictions, but most students will still not visualize how it really works. And not everyone who will need to deal with fracking will have a chance to observe such operations firsthand. The ample updated links found throughout *IPLT* provide professors and students a powerful didactic tool for understanding complex processes and notions. I have long used YouTube videos as a preferable alternative to me lecturing about oil field technology to students, some of whom are seasoned experts. For sure, several of the *IPLT* links will find their way into my classes.

The book contains a comprehensive index and chapter bibliographies.

Potential users of *IPLT* extend well beyond law professors and students and include: (1) students in other petroleum-related disciplines, (2) in-house lawyers, (3) outside counsel, (4) commercial managers, (5) negotiators, (6) economists, (7) financial and tax advisors, (8) engineers, (9) geoscientists, and (10) policy makers. I will now describe how *IPLT* will prove especially useful to some of these potential user groups.

Professors and Students

Many law schools offer a one-semester IPT course. Typically, such courses (1) briefly describe the industry, (2) outline petroleum law

principles, (3) dissect the major petroleum agreements, (4) teach ancillary areas of law (anti-corruption, environmental, antitrust, etc.), and (5) discuss the impact of the industry on society (sustainable development, local content, petroleum curse, etc.). Some business schools offer classes that emphasize commercial and economic matters. *IPLT* deftly covers all these areas and more in a remarkably well-organized and complete fashion from both a legal and business vantage point. In short, *IPLT* should become the go-to textbook for international petroleum law and business courses. Law schools, business schools, and other colleges (Engineering, Finance, Economics and Geosciences) offer a wide range of other petroleum courses on specific themes. In some cases, (such as my contract drafting and negotiations class) *IPLT* will be an ideal stand-alone textbook. In others, it could conceivably be a second required textbook, or one to which students will flock for certain discrete sections. In any case, *IPLT* is destined to become a ubiquitous shelf item in advanced petroleum education circles.

Petroleum education is not limited to universities. Indeed, there exist numerous petroleum educational programs catering to a wide range of petroleum industry participants. The purveyors of such courses might well wish to consider integrating parts of *IPLT* into their curricula. I certainly contemplate doing so. Purchasers may buy individual chapters of the electronic book *a la carte*. For my money, I would go with the full course menu to avoid frustration and later regrets.

Lawyers

The petroleum industry is massive. As a result, many lawyers, both internal and external, are exposed to it at some point in their careers. As a reference book, *IPLT* will enable such attorneys to understand and speak authoritatively about the issues to which they must quickly acclimate.

To be successful, in-house attorneys need to see the big picture so that they can better identify legal risks and solutions and communicate these to in-house clients in their jargon and mindset. Lawyers who do not grasp the big picture may survive, but they do not thrive. The ultimate spoils—legal management positions and cross-discipline transfers—typically go to those who thoroughly understand their company and its business. Given its breadth and depth, *IPLT* is an outstanding departure point for that quest.

Due to the ominous presence of the billing clock, outside counsel are typically pigeonholed in terms of the work assignments they receive. Often, they are given highly defined tasks and judged on their ability to deliver quality work in minimum billable hours. Thus, they typically do not have the luxury enjoyed by in-house lawyers to learn the business on the job.

And yet, they need to understand the business to effectively serve their clients. Once again, *IPLT* fits the bill as a convenient place to begin mastering relevant industry segments,

Negotiators

Successful petroleum negotiators typically share certain common traits: (1) in-depth knowledge of the industry, (2) solid grasp of petroleum transactional models and underlying legal principles, (3) numerical competency, and (4) outstanding people skills. In larger organizations, negotiators are teamed with petroleum attorneys who can significantly ease the burdens associated with (1) and (2). In smaller enterprises, negotiators may well be lawyers by training and in effect wear both a commercial and legal hat. In either case, *IPLT* can serve as a valuable resource to the negotiator (or commercial manager) either as an introduction to a new area of endeavor or a refresher (or update) for areas in which her knowledge may have become stale. Even when on the road, *IPLT* can serve as an instantaneous source of crucial information.

Specialists

As with petroleum lawyers, other specialists such as engineers, geoscientists, financial analysts, and human resource advisors can find their niche and pursue a satisfying career within the confines of their specialty. Many, however, prefer to leave their comfort zones for greater challenges, experiences, and rewards. Indeed, some of the best petroleum negotiators I have worked with are engineers by trade, and ARCO's last pre-merger CEO began in Human Resources. Besides possessing ambition and demonstrating leadership, such individuals must acquire broad-based knowledge of the industry and the nature of its transactions. Fortunate individuals may be provided intensive training or given broadening assignments. Less fortunate, but equally ambitious, employees may find *IPLT* to be an immediately accessible substitute for broadening their knowledge, as a first step toward broadening their careers.

Policy Makers

Every petroleum producing country has a group of government technocrats entrusted with the proper and efficient administration of its petroleum industry. They must establish policy, guide legislation, inform the public and negotiate the terms of long-range pivotal agreements with savvy petroleum industry negotiators intent on securing favorable terms for their clients. Some countries rely heavily on foreign advisors, while others

prefer developing and relying on national cadres to protect their interests. Even where foreign advisors are heavily engaged, their national clients must thoroughly understand financial models, policy goals, and the like, in order to second-guess advice received and set the final course of action. *IPLT* can provide to these civil servants a comprehensive, detailed, and balanced view of the complex and critical facts and issues they must grapple with in protecting the vital interests of their nation and its citizens.

Conclusion

“One important key to success is self-confidence. An important key to self-confidence is preparation.”

Arthur Ashe³

I do not remember lacking self-confidence during my legal career. I do recall lacking preparation. To some extent this may have reflected a tendency to jump in with both feet before testing the water. On the other hand, it may have been a symptom of emerging professionally in a pre-digital world when information was not at our fingertips and knowledge was often more easily gained through conversation than research. Whatever the case, I wish *IPLT* had been available when I was unexpectedly uprooted from chemicals and plastics and thrust into the world of drilling, development plans, and downhole liabilities. The same holds for when I hurriedly assembled my first IPT course, for the innovative LLM program of Angola’s Agostinho Neto University (in which, incidentally, three *IPLT* authors eventually lectured). I quickly surmised that the existing textbooks did not fit my vision for a practice-based IPT course and thus began building it from scratch. My task would have been infinitely easier had *IPLT* provided the rock upon which to build my course. I suspect many instructors of petroleum related courses will likewise consider *IPLT* to be a sound foundation from which to build theirs.

I gratefully tip my hat to my esteemed colleagues who have assembled a remarkably well organized and thoroughly researched book. *IPLT* will surely enable scores of professors to teach thousands of students about our intriguing industry and allow countless professionals to enhance their knowledge and careers.

3. Arthur Ashe Quotes. (n.d.). BrainyQuote.com. Retrieved January 3, 2021, from BrainyQuote.com Web site: https://www.brainyquote.com/quotes/arthur_ashe_109755.