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# KUNTZ—THE LEGAL SCHOLAR AND TEACHER

GARY B. CONINE\*

Only on rare occasions does one have the opportunity to meet and become associated with an individual possessing the intellect and concern for people necessary for a truly outstanding teacher and scholar. For years, which now seem to have passed all too quickly, those who have been among the students and faculties of the University of Oklahoma and the University of Wyoming have had a chance to experience the friendship and instruction of one such individual who clearly merits recognition for his commitment, dedication, service, and contribution to both the teaching and legal professions. In the forty-one years of his membership in the bar, thirty-four of which were also in association with the academic community, Eugene Kuntz has proven himself to be one of those individuals who has mastered these professions, combining the requisite abilities to analyze, distill, and communicate the law in a way that is uniquely his own.

His accolades include Dean Emeritus, George Lynn Cross Research Professor of Law, and Alfred P. Murrah Professor of Law. But these are only conclusory statements that do not totally reveal an underlying career rich in contributions to others. The most meaningful of these contributions have been as a teacher and legal scholar, for it is in these pursuits that Professor Kuntz has directly touched the lives of so many and guided the development of one of our most fundamental institutions.

The positions of teacher and scholar are in some ways distinct but essentially inseparable. One contributes to and promotes the other. Without the probing, inquisitive mind of the scholar painstakingly reviewing, sorting, weighing, and analyzing the law and its results, the subject matter and the classroom become stale and lose contact with the society intended to be benefited. Without the demands of the classroom, stimulated largely by the instructor and his concern and commitment to his students, scholarship can lose its momentum and drive. Professor Kuntz has grasped the challenge of both and endowed his students and the legal profession with the benefit of his life's efforts.

Although his teaching career has called upon him to lecture on a variety of legal subjects, Eugene Kuntz, for obvious reasons, will

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always be associated with the law as it relates to oil and gas and oil and gas taxation. His entry into academia in 1947 took him to the College of Law at the University of Wyoming<sup>1</sup> with a faculty of five, where specialization was restricted by the demands on the faculty. Nevertheless, a division of subjects between Frank Trelease and Eugene Kuntz has led each to concentrate on water law and the law of oil and gas, respectively.<sup>2</sup> It is to that origin that we owe so much of the contributions which have flowed from the thoughts and ideas of Professor Kuntz.

The commencement of a life's work on the subject of oil and gas law was begun with Kuntz's first article on the subject in the *Wyoming Law Journal*.<sup>3</sup> It was the beginning of labors that would lead to numerous law review articles and presentations and result in an eleven-volume treatise<sup>4</sup> on oil and gas law addressing virtually every phase of the law as it relates to the oil and gas industry from the nature of the mineral estate to the terms of the oil and gas lease to the government regulation of production and marketing. Each of his efforts has exhibited the qualities of thoroughness and reliability essential to true scholarly effort. His legal analyses and conclusions have been logical and practical, creative yet always linked to major precepts in the law. His results have always commanded the respect of his profession.

In 1952, Professor Kuntz joined the College of Law faculty at the University of Oklahoma, where he was to replace Professor Kulp as the University's instructor on the law of oil and gas. It was at the University of Oklahoma that Professor Kuntz began his association with the *Oil and Gas Reporter* and entered a contract with Anderson Publishing Company for a much-needed revision of *Thornton on Oil and Gas*, which led to the treatise that is by far his most noted and lasting work. Commenced in 1956 and concluded in 1978 with the eleventh volume, this treatise stands today as the most scholarly

<sup>1</sup> Professor Kuntz joined the Wyoming faculty upon receiving his LL.M. degree from the Harvard Law School in 1947. His J.D. and A.B. degrees were from Baylor University.

<sup>2</sup> The import of this decision at the University of Wyoming on the law of natural resources should not be overlooked. Both Professor Kuntz and Professor Trelease are now nationally recognized authorities in their respective specialties. The decision was based at least in part on Professor Kuntz's prior experience with oil and gas law in private practice in Amarillo in the early 1940's.

<sup>3</sup> Kuntz, *The Law Relating to Oil and Gas in Wyoming*, 3 Wyo. L.J. 107 (1949). Among the article's principal contributions was an analysis of the term "mineral" as used in conveyances. The analysis was both unique and practical and led to its adoption in at least one jurisdiction. See *Acker v. Guinn*, 464 S.W.2d 348 (Tex. 1971) (wherein the Texas Supreme Court commented with regard to Kuntz's early suggestions on this matter, "In our opinion the basic approach there suggested is entirely sound.").

<sup>4</sup> E. KUNTZ, OIL AND GAS.

publication available on the law of oil and gas.<sup>5</sup> It is a source to which the bar and the courts repeatedly turn, not merely for an explanation of the law as it has evolved but for a study of the groundwork of the law on oil and gas and for an aid in determining its proper direction of development. It is the result of efforts that required the careful study of countless cases to distill a single concept and innumerable hours of thought to find a common thread to bind the law of oil and gas together as a consistent whole and harmonize it with our common law heritage. Indeed, it is a product that is the result of a lifetime of dedicated effort for the benefit of a profession to which its author has been wholly committed.

But the work of a scholar is very personal work, removed from others except in its final product. Consequently, it is as a teacher that most of us have come to know Professor Kuntz and to appreciate him as an individual. In this very special capacity he has not only imparted the benefit of his knowledge derived from his research and study, he has also trained us to understand, analyze, and apply the law to the varying situations the world can create. He has thus given to us not only his knowledge but, perhaps more important, his method. By his questioning, his example, his encouragement, and his enthusiasm, he has conveyed to each of us who were privileged to study under him an idea of what the law is and what it can be. He has instilled in each of us a greater respect for the law and the ethical principles of the legal profession.

As teacher of a specific subject, Professor Kuntz has taken one of the most complicated areas of the law, to which there seems to be no convenient beginning, and organized it in such a way as to make it comprehensible to the student. Perhaps only others who have attempted such a task can fully appreciate the effort, concern, and patience this required. When done well, it is an incomparable gift that is seldom appreciated by others amidst the rush for class preparation and final exams.

However, as any student knows, teaching is more than the organization of material. It is communication. And effective communication necessitates a technique adapted to both the subject and the student. The technique we have viewed in Professor Kuntz's classroom is all his own and, without question, fully as effective as his organization. Given the complexity of the subject matter and its place-

<sup>5</sup> In 1956, it was anticipated that the work would require three years for completion. The rapid development of oil and gas law and Professor Kuntz's commitment to the publication of a reliable, thorough treatment of the subject matter delayed completion of the entire treatise until 1978. In itself it is a tribute to his dedication and persistence.

ment as an advanced course, he has uniquely combined the socratic method with the lecture and the hypothetical to sustain the interest of the student while explaining the law and training the mind. Moreover, he has always managed to so do with a sprinkling of humor uniquely his and with an openness and concern for each student and his or her development that can come only from one who is genuinely interested in the lives of those around him.

It is an impressive moment when a person of the stature of Professor Kuntz enters a classroom. It is not often that one becomes associated so closely with a person who not only knows the law and its methods but who has helped shape a facet of the law during one of its most active periods of development. To watch the intricacies and interrelations of the law unfold can be inspiring when done at the hands of a master such as Professor Kuntz. But despite the credit and respect which is due him, he has never lost touch with his students or lacked patience or concern with their development.

Nevertheless, in the classroom, as in his research, the ability of this man to analyze new and difficult questions of law is the feature that stands out above all others. So often the "unanswerable" question has been typically followed by a pause, a brief glance about the room, a moment of reflection, and then a thorough analysis of the matter going straight to the point, reciting the most obscure but relevant of cases, drawing upon features of the law never anticipated, and always yielding a reasonable and rational result.

It has been to our benefit that Professor Kuntz selected the professional course which has led him our way. To commit one's life to teaching and research is by no means the way to financial reward. It is to other rewards and associations that such people commit their lives and only we are the richer for such commitment.

Upon his retirement from teaching, Professor Kuntz leaves two enduring legacies. The first is his research, which is best evidenced by his treatise. The efforts on updating and revising that work will, of course, continue. Its impact on the law will endure and can only increase with the scarcity of the resource that is its subject. The second legacy is his gift to those of us who learned directly from him in the classroom. The latter is the gift which shall no longer continue, save in the lives and work of his students. For this past opportunity and future challenge we are grateful. The teaching profession will be diminished by his retirement, but it has been made immeasurably greater by his service. His work and efforts will always be remembered and represent a standard by which excellence can be measured.