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*R. Miller Shows*<sup>58</sup> was not followed, that is, of insisting that the motion to dissolve be tried immediately before the merits proper and that separate records be maintained.

*John V. Parker\**

## Mineral Rights—Forced Pooling Under Louisiana Act 157 of 1940

In the field of mineral law, private ownership and contractual rights and obligations have been increasingly subjected to the needs of an advancing economy, a development typical of modern law. The passage of Act 157 of 1940<sup>1</sup> began a new chapter in Louisiana mineral law and some significant problems concerning the rights of landowners and owners of mineral rights have arisen in the slightly more than a decade since the enactment of this statute.

This comment will not discuss the basic constitutional issues of the act, which have already been well settled.<sup>2</sup> One of the most interesting problems in mineral conservation arises from the authority conferred by the act on the commissioner of conservation to establish compulsory drilling and production units.<sup>3</sup> This specific area is the main concern of this comment.

The overall purposes of this legislation and the resulting orders of the commissioner are to obtain the maximum possible production of oil and gas from underground pools and to prevent the drilling of unnecessary wells. The basis of the unitization orders is that there is a coequal right in landowners whose tracts cover a common pool to take from this source. Forced pooling is used to protect these common owners.<sup>4</sup>

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58. 17 So. 2d 67 (La. App. 1944). See also *Kavanaugh v. Frost-Johnson Lbr. Co.*, 149 La. 972, 90 So. 275 (1921); *Byrd v. Cooper*, 166 La. 402, 117 So. 441 (1928); *Albert Pick & Co. v. Stringer*, 171 La. 131, 129 So. 731 (1930); *Vidal v. Sterlington Gas Corp.*, 182 La. 19, 161 So. 6 (1935); *Southern Bell Tel. & Tel. Co. v. Louisiana Service Comm.*, 183 La. 741, 164 So. 786 (1935).

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1. La. R.S. (1950) 30:2-20.

2. The act was upheld as a valid exercise of the police power of the state and a proper delegation of authority to the commissioner of conservation in the case of *Hunter v. McHugh*, 202 La. 97, 11 So. 2d 495 (1942), appeal dismissed 320 U.S. 222 (1943).

3. La. R.S. (1950) 30:4(13), 9, 10.

4. *Louisiana Gas Lands, Inc. v. Burrow*, 197 La. 275, 1 So. 2d 518 (1941). For a complete explanation of the conservation program and its administra-

The pertinent provisions of the act are as follows:

Section 8(b)<sup>5</sup> provides:

"For the prevention of waste and to avoid the drilling of unnecessary wells, the Commissioner shall establish a drilling unit or units for each pool. . . . A drilling unit, as contemplated herein, means the maximum area which may be efficiently and economically drained by one well, and such unit shall constitute a developed area as long as a well is located thereon which is capable of producing oil or gas in paying quantities."

Section 8(d)<sup>6</sup> provides:

". . . a producer's just and equitable share of the oil and gas in the pool . . . is that part of the authorized production for the pool . . . which is substantially in the proportion that the quantity of recoverable oil and gas in the developed area of his tract or tracts bears to the recoverable oil and gas in the total developed area of the pool, in so far as these amounts can be practically ascertained. . . ."

It is provided by Section 9(a):<sup>7</sup>

"When two or more separately owned tracts of land are embraced within a drilling unit which has been established by the Commissioner as provided for in Section 8(b),<sup>8</sup> the owners thereof may validly agree to pool their interest and to develop their lands as a drilling unit. Where, however, such owners have not agreed to pool their interests, the Commissioner shall, if found by him to be necessary for the prevention of waste or to avoid the drilling of unnecessary wells, require such owners to do so and to develop their lands as a drilling unit. . . . The portion of the production allocated to the owner of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from such tract by a well drilled thereon. . . ."

Under the above provisions several cases have arisen in

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tion the reader is referred to the introduction to Title 30 in 17 West's La. Stat. Ann. (1950), by S. L. Digby, *The Conservation Laws and their Administration*.

5. La. R.S. (1950) 30:9B.

6. La. R.S. (1950) 30:9D.

7. La. R.S. (1950) 30:10A, 10A(1),(b).

8. La. R.S. (1950) 30:9B.

which landowner-lessors sued their lessees for cancellation because of the alleged failure of the lessees to comply with the stipulations of their contracts within the primary term. These cases can be divided into two main classes: (1) Those in which the lessor contended that a well, not on the lessor's land but within a unit in which the lessor's land had been placed, did not maintain the lease beyond the primary term on the land so placed in the unit; and (2) those in which the lessor contended that drilling and production within the unit did not maintain the lease on land outside the unit, although part of the land under the lease was actually in the unit.

These problems will be considered in the above order. One of the first cases in the former category was *Hood v. Southern Production Company*,<sup>9</sup> in which the lessee had agreed to drill offset wells if a producing well should be brought in on adjacent land, in order to prevent the draining of oil and gas from under the lessor's land. When gas wells were brought in on adjacent lands and the lessee had made no attempt to drill on the lessor's land, and in fact, had been prohibited from doing so by the commissioner's unitization orders, the lessor called upon his lessee to drill thereon and then sued to annul the lease for non-performance. It was conceded that the orders were valid and equitable. As in most of the cases to be considered here, the dispute involved the effect of the commissioner's orders upon the obligations of the parties.

The court held that the offset clause was not applicable to this case, "especially where the well that is said to be draining the leased premises is on land within the 640 acre drilling unit of which the leased land forms a part, and where the lessee is forbidden by the orders of the Department of Conservation . . . to drill a well on the leased premises."<sup>10</sup>

To counter this argument the plaintiff had relied upon the principle that where the performance of a contractual obligation is precluded by the adoption of a prohibitory law both parties to the contract are discharged. This contention was appropriately rejected by the court because there was no obligation on the lessee to drill offset wells once the plaintiff's land had been placed in a unit with a producing well therein even though the well was not actually on the plaintiff's land. The court pointed

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9. 206 La. 642, 19 So. 336 (1944).

10. 206 La. 642, 655, 19 So. 2d 336, 341.

out that the lessor was receiving his proportionate share of the production from the unit and that he would receive no more than this if the well allotted to that unit had actually been drilled on his land. The other landowners in the unit would still be able to share ratably in the production. Therefore, the plaintiff's land was not being drained of gas without compensation to him.

It is apparent that the offset clause was placed in the lease to protect the lessor from losing the oil and gas beneath his land to adjacent lands. Since this was not happening, this clause did not ripen into an existing obligation. Therefore, the commissioner's order could not render the defendant incapable of performing this obligation.

The court further pointed out that if the lease were annulled the lessor could not drill on his own land because of the conservation order, and, therefore, the revenue he would receive from the production of his land would remain unchanged. It was also held that this lease was signed by the parties with the knowledge that the commissioner could and might establish compulsory units and, further, that the deletion of the voluntary pooling clause by the parties to the lease did not interfere with the authority of the commissioner.

Substantially the same problem was presented in *Hardy v. Union Producing Company*<sup>11</sup> and in *Crichton v. Lee*.<sup>12</sup> In these cases the plaintiffs attempted to annul oil and gas leases because their lessees did not drill wells on the leased premises within the primary terms of the leases. The same defense was raised against the claims of both plaintiffs: that the tract covered by each lease had been placed in a drilling and production unit by the commissioner of conservation prior to the expiration of the primary term of the lease, and that a well capable of producing gas in paying quantities had been completed therein; therefore, the defendant-lessees argued, this well had maintained the lease in full force and effect. In the *Hardy* case, quoted at great length in *Crichton v. Lee*, the plaintiff argued that under the terms of the lease the defendants were merely given the right to go upon the land and drill for oil and gas and retain the stipulated portion of any oil and gas recovered, and that, since this had not been done within the primary term of five years, the lease had expired. The court held that there was no obligation on the lessee to drill

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11. 207 La. 137, 20 So. 2d 734 (1944).

12. 209 La. 561, 25 So. 2d 229 (1946).

a well on the plaintiff's land once it had been placed in this producing unit.<sup>13</sup> The position taken by the court is more realistic than that urged by the plaintiff. The latter's argument seems to say that the consideration the lessee bargained for in entering into the lease was limited to the right to perform the act of going upon the plaintiff's land and drilling a well. But the opinions of the court in these two cases convey the thought that the act of drilling is only the means to an end, and that, basically, the parties bargained for and gave as consideration stipulated portions of any production obtained from the lessor's land. Therefore, when production began and the lessor was receiving his stipulated portion from the pool he got what he had bargained for and it should make no difference to him whether or not a well was actually drilled on his land.<sup>14</sup> The result is that the performance of the obligations under the leases was not prevented by the commissioner's orders, but, in effect, the obligations were fulfilled thereby.<sup>15</sup>

The court stated that the pooling order literally tied the hands of the defendant-lessee and prevented his drilling a well on the lessor's land. This is true, of course, if this language is restricted to the actual drilling operations on the plaintiff's land, but it should not be taken to mean that the lessee was prevented from fulfilling its obligations under the contract.

The case of *Hunter Company v. Vaughn*<sup>16</sup> went one step further, the facts being similar to those in the *Hardy* and *Crichton* cases, except that no production was obtained from the unit

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13. The order of the commissioner followed the theory of La. Act 157 of 1940, § 9(a) (La. R.S. [1950] 30:10), providing that "... for all purposes of the leases and sub-lease contracts covering the unit, so far as they affect the production of gas . . . shall be treated, developed and operated as one lease, one unit, one property and one tract; and that drilling operations, drilling and production on any of the tracts included within the unit shall constitute drilling operations, drilling and production under the terms of each and every one of the leases or sub-leases." 207 La. 137, 141-142, 20 So. 2d 734, 735. In *Crichton v. Lee*, 209 La. 561, 567, 25 So. 2d 229, 231 (1946), the court quoted the language of the unitizing order involved therein: "... said areas shall be treated as one lease, one property and one tract, and all oil, gas and other hydrocarbons within said areas . . . hereby unitized, and the lands, royalties and lease interests containing same are hereby pooled and communized."

14. Justice McCaleb, speaking for the court in *Everett v. Phillips Petroleum Co.*, 218 La. 835, 850, 51 So. 2d 87, 93 (1950), emphasized this as follows: "But we think that the drilling which occurred on the unit was more than a mere fiction. It was an actual extraction of the minerals under plaintiff's land based upon geophysical and scientific findings. . . . Hence, what difference, then, that the well does not stand upon plaintiff's property?"

15. La. Act 157 of 1940, § 9a (La. R.S. [1950] 30:10A[1][b]) should be reconsidered in connection with this.

16. 217 La. 459, 46 So. 2d 735 (1950).

which included the plaintiff-lessor's land until after the primary terms had expired. However, since the commissioner's order had become effective prior to the expiration of the primary term the defendant contended and the court held that the *force majeure* clause prevented the lease from being cancelled because of the lessee's failure to drill on the plaintiff's tract. The reasoning was that the order was such an obstacle to performance as to come within the *force majeure* clause. It is submitted that an important factor in this case was the lessee's performance of his obligation as soon as possible; that is, the lessee began construction of a cycling plant and pressure maintenance system immediately after the commissioner had issued the order, and production within the unit was commenced within a reasonable time thereafter. Then the principles of *Crichton v. Lee* came into play; this case was cited by the court in holding that the production within the unit, since it had begun, maintained the lease in full force and effect. This seems to be a logical and equitable step in the jurisprudence on this aspect of mineral law. It is interesting to speculate on what the holding of the court would have been had the lessee waited an unreasonable length of time after the expiration of the primary term before commencing operations to obtain production, especially when considered in connection with the cases to be dealt with below.

The case of *Ohio Oil Company v. Kennedy*<sup>17</sup> should be considered with the *Crichton v. Lee* line of cases, although it involved a mineral servitude rather than a lease. The controversy was between the owner of a ten acre tract of land and his vendor, who had reserved all mineral rights at the time of the sale, and concerned the ownership of royalties which had been deposited in the registry of the court by the lessee. The tract had been placed in a producing unit by the commissioner's order just prior to the running of the ten year liberative prescription. The landowner had two contentions: (1) The drilling on the land other than his, and the pooling order, did not affect the running of prescription; and (2) If prescription did not continue to run, Act 157 of 1940 and the resulting order of the commissioner changed the law of prescription and thus were unconstitutional. The case of *Crichton v. Lee* was a sufficient answer. If the well had actually been drilled on the tract in question the owner would have had no complaint under the terms of his agreement with his vendor.

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17. 28 So. 2d 504 (La. App. 1946).

Therefore, as the land was participating in the production from the well in the unit, it made no difference whether or not the well was actually on the land. Of course, it is probable that this result was not contemplated by the vendor and vendee when the sale and reservation were made several years before Act 157 was passed. However, the act and order were based on scientific facts: the land actually was producing oil, and unitization was effecting the conservation program.

The court stated that "Appellant's demand to be paid the fund on deposit is inconsistent with his contention that no use has been made of the servitude."<sup>18</sup> If the royalty could be claimed by the landowner it would mean that the land was producing; but if there was production, prescription for nonuser would be "interrupted."<sup>19</sup>

A relatively recent case, *Everett v. Phillips Petroleum Company*,<sup>20</sup> involved a clause in a lease requiring the lessee to drill offset wells on the lessor's land when wells were drilled within a stipulated distance from the lessor's land. In lieu of these offset wells, under the terms of the lease, the lessee was required to pay the lessor a certain portion of the former's production from the wells drilled within the specified distance from the lessor's land. The problem was novel inasmuch as part of the plaintiff's land under lease to the defendant was pooled with lands under lease to another oil company and a well was drilled within the stipulated distance from the plaintiff's land. However, the principles applicable here are the same as in the above cases because this provision was included in the lease to prevent the draining of the plaintiff's land without compensation to him; and, since the

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18. *Id.* at 507.

19. The language of the court is as follows: "... we are constrained to hold that the completion of the well and continuous production of oil had the effect of *interrupting* the running of prescription." (Italics supplied.) *Id.* at 508. However, a *per curiam* opinion in the more recent case of *Sanders v. Flowers*, 218 La. 472, 498, 49 So. 2d 858, 867 (1950), states: "Counsel for [plaintiff] contend . . . that this court has never considered the question of whether the orders of the Commissioner of Conservation could validly have the effect of interrupting or suspending the liberative prescription."

"The conclusion we have reached in this case necessarily reflects that we have given consideration to this question, and whether the order of the Commissioner unitizing the area had the effect of suspending the running of prescription by placing an obstacle to drilling on defendants' property, or of interrupting the prescription by the drilling of a producing well within the unit, in which defendants' property is included is immaterial in this case." So it seems that the supreme court has left this question unsettled, although the previous court of appeal case, *Ohio Oil Co. v. Kennedy*, expressed an opinion on this matter.

20. 218 La. 835, 51 So. 2d 87 (1950). See note 14, *supra*,

plaintiff was receiving his portion of the production from the unit, this was not happening.

To summarize at this point, there seems to be no doubt as to the correctness of the decisions which have held that leases (and servitudes) on all land included in a unit are maintained by drilling and production at any place within the unit. The objectives of the conservation program as expressed by Act 157 of 1940 are attained through a valid exercise of the police power and the rights and obligations under the leases (and servitudes) affected are not impaired.

The second category of cases set forth above will now be considered. In *Hunter Company v. Shell Oil Company* the problem was presented as follows: "When an oil and gas lease covers land both within and without a drilling unit pooled by order of the Commissioner of Conservation during the primary term of such lease, and when production in paying quantities is secured while such lease is in effect by payment of delay rentals from a well within the pooled unit but not on any portion of the leased land, does such production maintain the lease in effect beyond its primary term as to the part of the land leased which lies outside such unit?"<sup>21</sup> The case of *LeBlanc v. Danciger Oil and Refining Company*<sup>22</sup> involved substantially the same facts as the *Hunter Company* case and quoted at great length therefrom, and the two can be considered together.

The validity of the commissioner's order and its authority were not questioned, but the plaintiff contended that the defendant's lease should be cancelled insofar as it applied to the land not included in the unit, on the ground that the order had the effect of segregating the land under lease within the unit from that outside, and that the well in the unit could have no effect on the latter tract. It was argued by the plaintiff that no consideration was being received for the holding of the lease insofar as it covered the land located outside the unit. The court stated that this argument leads to the conclusion that the order of the commissioner divided the obligations under the lease. The majority opinion then denied that this division resulted and held that the lessee's obligation to drill a well was indivisible in its nature and that the grantor's corresponding obligation to deliver up the land for development was likewise indivisible. Therefore, if the

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21. 211 La. 893, 897-898, 31 So. 2d 10, 12 (1947).

22. 218 La. 463, 49 So. 2d 855 (1950).

obligation of one of the parties was to be fulfilled in its entirety, the obligations of the other contracting party must likewise be fulfilled in whole.<sup>23</sup> Thus, when the lessee performed its obligation by drilling a well within the pooled area, the lessor must likewise perform; hence, the lease on the entire tract was maintained in full force and effect.

The court assumed that the lessee had fulfilled in whole its obligations under the lease. The lessee's obligations which are pertinent here were (1) to drill a well on the lessor's land, and (2) to pay the lessor the stipulated portion of the production obtained therefrom. It was seen in the *Crichton v. Lee* line of cases that whether the well in the unit was on the lessor's tract or on other land, it is considered as having been drilled on the lessor's land. But under the order of the commissioner the land outside the unit is not considered to be producing and therefore, the lessor is not receiving any royalty from this land. However, according to the terms of the lease there must be production to maintain the lease in effect beyond the primary term; nevertheless, the decision of the court entitled the lessee to demand full performance from the lessor. Here the lessor participates in production according to the provisions of the pooling order but is forced to render performance of its obligations under the terms of the lease.<sup>24</sup> The plaintiff in the *Hunter Company* case pointed this out by contending that it was receiving no consideration for

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23. For this doctrine of divisibility the court relied upon *Murray v. Barnhart*, 117 La. 1023, 42 So. 489 (1906), and *Cochran v. Gulf Refining Co.*, 139 La. 1010, 72 So. 718 (1916). Attention should be called to the fact that the doctrine as applied in those cases and in the instant case is more akin to the common law doctrine of divisibility than to the doctrine as found in Arts. 2108-2112, La. Civil Code of 1870. Under the code divisibility is only applicable as between the heirs of the creditor and debtor, while, according to the common law concept, "A contract is divisible where by its terms, (1) performance of each party is divided into two or more parts, and (2) the number of parts due from each party is the same, and (3) the performance of each part by one party is the agreed exchange for a corresponding part by the other party." Restatement, Law of Contracts § 266(3) comment (1932). It seems that this is more in line with what is involved in the cases now being considered. In other words, the question is: were the obligations of the lessee susceptible of being divided into several parts, with each part having its corresponding part to be performed by the lessor?

24. Art. 2725, La. Civil Code of 1870, provides: "The lessee has the right to underlease, or even to cede his lease to another person, unless this power has been expressly interdicted.

"The interdiction may be for the whole, or for a part; and this clause is always construed strictly."

On the subject of "Assignment and Sublease" see Daggett, *Mineral Rights in Louisiana*, 191-196 (1949), and cases discussed there.

Furthermore, under a usual clause in mineral leases the lessee has the right to assign all or part of the lease to third parties. Oakes, *Standard Oil and Gas Forms*, 28-29 (1952).

the holding of the lease on the land outside the unit. In answer the court said that "this contention presents only the question of whether the producing well drilled in the unit . . . is a reasonable, sufficient, and adequate development of the entire leased premises" and that if there was not adequate development thereby the plaintiff still had a remedy at law. But it is submitted that this does not answer this particular contention of the plaintiff. It seems that what the plaintiff was urging was that the production from the unit would not maintain the entire lease, *no matter how much production was being obtained*, that is, that the order had the same effect as if the land was covered by two separate leases. The answer of the court would apply only to the sufficiency of the production to maintain the lease on the land within the unit.

It has been contended by those sympathetic to the *Hunter Company* and *LeBlanc* rulings that a contrary holding would be exceedingly harsh on the lessee. First, it is urged that the lessee would be required to drill more than one well in order to maintain the entire lease on the plaintiff's land. However, in the instant cases the units included lands other than those owned by the plaintiffs. If there had been no unitization order the lessees would have been obligated to drill at least one well on each of the tracts of the various landowners. But, under the orders of the commissioner, one well maintained in effect the leases on the lands of more than one lessor. Therefore, it does not appear that under ordinary circumstances any undue hardship would be placed on the lessee with respect to the number of wells that must be drilled.

It is further argued by those conforming to the lessee's views in these cases that inequities would result because the establishment of a unit by the commissioner would cause the lessee to suffer immediate loss of its lease on the land left outside the unit. To point up this contention its proponents pose problems similar to the following: Suppose the lessee holds a lease on 80 acres of A's land, drills a well thereon and obtains production in paying quantities. Then, after the expiration of the primary term of the lease on A's land, this well and 20 acres of A's 80 acres are combined with 20 acres of landowner B's land to form a 40 acre unit. The contention is that the lessee would be faced with immediate loss of its lease on A's remaining 60 acres not placed in the unit. However, it is submitted that this would not occur under the

normal contract of lease. In this situation the commissioner's order has had the effect of stopping production from the land outside the unit; that is, it is scientifically discovered that this land was not contributing to the production from the well, but that part of the production was being drawn from under *B's* land. Mineral leases customarily contain a clause which provides that if production ceases after the primary term has expired the lessee has a reasonable time, or a certain, stipulated time within which it may begin drilling another well.<sup>25</sup> Therefore, the lessee would not automatically lose its lease on the land outside the unit.

Justice Hamiter dissented from the majority opinion in *Hunter Company v. Shell Oil Company* (and also in *LeBlanc v. Danciger Oil and Refining Company* on the grounds expressed in the *Hunter Company* case) emphasizing the language of the order of the commissioner. The dissent quoted the pertinent part of the order: ". . . drilling operations, drilling and production on any of the tracts included *within said unit* shall constitute drilling operations, drilling and production under the terms of each and every one of said leases or sub-lease contracts *affecting the property* included within said unit." The dissent is very persuasive in stating that by the very terms of the order its application should be restricted to the land within the unit.

Justice Hamiter also pointed out the important fact that *Hardy v. Union Producing Company* and *Crichton v. Lee* are not applicable to the basic problem here. He further stated that the order in the instant case did not prevent the lessee from drilling on the land in question.

The majority opinion relies upon the *Hardy* and *Crichton* cases in holding that the plaintiff was receiving the same royalties from the well that would be received if the well were actually on his tract. However, this does not answer any of the problems presented by the *Hunter Company* and *LeBlanc* cases. Even though the well within the unit had been on the lessor's land it would not be considered as draining oil from that part of the land not in the unit, and this latter tract should be open to development, independently of the adjoining unit.<sup>26</sup>

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25. Oakes, *op. cit.* supra note 24, at 26.

26. Justice Hamiter also discussed the question of the divisibility of the obligations of the parties to the lease. In short, he maintained that the doctrine of divisibility did not apply here because this doctrine is only applicable as between the contracting parties, their heirs or assigns, and the situation here was caused by the intervention of a third party, the Commissioner of Conservation. But, in the alternative, the dissent said that if the doctrine did

It seems that the more equitable and logical solution to the *Hunter Company* and *LeBlanc* cases would have been contrary to that of the Louisiana Supreme Court.<sup>27</sup>

Of course, it is possible to prevent this uncompensated tying up of the lessor's mineral rights by the inclusion of a provision in the lease to the effect that if any part of the land leased therein is included in a unit, production from the unit will not operate to relieve the lessee from having to pay the yearly rentals on land not so included; and, further, that unitization shall not maintain the lease in full force and effect beyond the primary term on the land not included in a unit. However, the lessor is not always in a favorable enough bargaining position to insist upon the inclusion of such a provision in the lease. It is suggested that the best and most unifying solution would be an overturning of the present law on this matter. It is very doubtful that this change will come from the judiciary, especially in view of the supreme court's firm stand in the initial decision, the *Hunter Company* case, and its equally firm adherence to this position more than three years later in the *LeBlanc* case.<sup>28</sup>

The more foreseeable solution is a legislative overruling of these cases, although at the time of this writing, two bills in the Louisiana legislature substantially to this effect have already been defeated.<sup>29</sup>

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apply here, there was a division of the obligation of the lease. 211 La. 893, 910-912, 31 So. 2d 10, 16 (1947).

27. In his dissent in *Hunter Co. v. Shell Oil Co.*, 211 La. 893, 911, 31 So. 2d 10, 17, Justice Hamiter quoted the following extreme, but useful, hypothetical proposition from the brief of plaintiff's counsel: "Under the defendants' contention, if a lease contained 1000 acres and only one acre happened to be placed within a unit and no well was drilled on that particular acre, nevertheless, the entire 1000 acres would be held indefinitely beyond the primary term but would share in only  $1/640 \times 1/8$ , or  $1/5120$ ths of the production from the unit." (Of course, under the writer's views expressed above, the proposition would become even more extreme because it would make no difference whether the well was drilled "on that particular acre" or elsewhere within the unit.)

28. It is possible that there would be substantial grounds for finding the provisions of Act 157 of 1940 which are pertinent here to be unconstitutional under the interpretation given to them and the resulting commissioner's orders in the *Hunter Company* and *LeBlanc* cases. One basis for a decision to this effect would be a finding that the state has impaired the obligations of contracts without a public purpose. It has also been argued that the decisions result in the orders being a denial to the lessor of the equal protection of the laws and a taking of the lessor's property without due process of law.

29. Senate Bills Nos. 180, 181, introduced by Senators Guidry, Barham, Crothers, and Tooke, Fiftieth Regular Session of the Louisiana Legislature of 1950.