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COMMENTS

Mineral Rights and Forced Pooling

The only geological concept considered by the courts in the early formulation of mineral law principles was a somewhat blurred notion of the fugitive nature of oil and gas.¹ From this belief developed the "law of capture,"² a rule that minerals were incapable of being owned separately from the surface rights, and would be subjected to ownership only when reduced to physical possession. With this beginning, the courts followed the policy that, since the minerals were likely to migrate from beneath a particular tract of land, the interests of the holders of mineral rights would best be served by prompt exploration, and the rules of law were construed to reach that purpose. This judicial atti-

1. "The decisions of this court are . . . 'in accord with the general law' that the fugitive minerals, oil and gas, while at large beneath the surface of the earth, are not, and in their very nature cannot be, the subject of private ownership." O'Niell, J., in *Frost-Johnson Lumber Co. v. Salling's Heirs*, 150 La. 756, 770, 91 So. 207, 212 (1922).

2. DAGGETT, MINERAL RIGHTS IN LOUISIANA 419 (rev. ed. 1949).