

quantities; Lessee will on or before the expiration of twelve months from date of receipt of such notice, make his election whether he will develop such other mineral or minerals, and if he shall elect not to do so, Lessee will surrender this lease in so far as it covers such other mineral or minerals; and in the event of such surrender operations for any such mineral or minerals shall not interfere with the operations of Lessee for oil, gas or other minerals retained.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

\$.55 USIR Stamp attached Cancelled.

R. H. OSWELL  
WILLIE PEARLE OSWELL

STATE OF ALABAMA  
COUNTY OF MOBILE

I, Potter Yeend a Notary Public hereby certify that R. H. Oswell, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this 21 day of September A. D. 1942.

SEAL

Potter Yeend  
Notary Public in and for Mobile County  
Alabama

STATE OF ALABAMA  
COUNTY OF MOBILE

I, Potter Yeend a Notary Public do hereby certify that on the \_\_\_ day of September 1942, came before me the within named Willie Pearle Oswell, known to me to be the wife of the within named R. H. Oswell, who, being examined separate and apart from the husband touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord, and without fear, constraints or threats on the part of the husband. Given under my hand this 21 day of September A. D. 1942.

SEAL

Potter Yeend  
Notary Public in and for Mobile County,  
Alabama.

STATE OF ALABAMA  
BALDWIN COUNTY

Filed September 30, 1942 at 1:00 P. M. Recorded in Deed Book No. 78 N. S. at pages 95-7; and I certify that \$.50 Deed tax has been paid as required by law.

G. W. Robertson, Judge of Probate.

-----0000000000-----



to prorate the fuel consumed and the charges and deductions therefor on the basis of the service rendered to the leased premises by such plants; and after production is procured, in lieu of identical fuel produced from the premises, Lessee may use other fuel of no greater value and same against the production from the premises; and if it is more economical to use electric power instead of using fuel from the premises for operations, Lessee may use such power and cost thereof against the production from the premises.

4. If operations for drilling a well shall not be commenced on said land on or before one year from date hereof, this lease shall terminate as to both parties, unless on or before such anniversary date Lessee shall pay or tender to Lessor or to Lessor's credit in First National Bank at Mobile Alabama, (which bank and its successors are Lessor's agent, and shall continue as depository) rentals payable hereunder, regardless of the changes in ownership of said land or the rentals sum of Two Hundred and No/100 Dollars (\$200.00) herein called rental, which shall extend for twelve months the time within which such operations may be commenced. In like manner and upon like or tenders annually the commencement of such operations may be further deferred for successive periods of twelve months each during the primary term. All payments or tenders of rental may be made by Lessee's check or draft mailed to Lessor at 858 S. Broad St., Mobile Alabama, or delivered to Lessor, or mailed or delivered to said bank on or before such date of payment; all exchange collection or other service charges made by the bank on the check, or draft, or in giving Lessee credit on its books, to be borne by Lessor. If said bank (or any successor bank) should cease to exist, suspend business, liquidate, fail or be succeeded by another bank, or for any reason fail or refuse to accept rental, Lessee shall not be held in default for failure to make such payment or tender of rental until thirty days after Lessor shall deliver to Lessee a proper recordable instrument naming another bank as agent to receive such payments or tenders. The down cash payment is consideration for this lease according to its terms and shall not be allocated as rental for a period. Operations hereunder shall be deemed to be commenced when the first well is placed on the ground.

5. If at any time or times during the primary term and prior to discovery of oil or gas on said land Lessee shall drill a dry hole or holes thereon, or if at any time or times during the primary term after discovery of oil or gas the production thereof should cease from any cause, this lease shall not terminate if on or before the rental paying date next ensuing after the expiration of three months from the date of completion of dry hole or cessation of production, Lessee commences a new drilling or re-working operations or commences or resumes the payment or tender of rentals.

6. In the event a well or wells producing oil or gas in paying quantities should be brought in on adjacent land not more than one hundred fifty (150) feet from and draining the leased premises Lessee agrees to drill such offset well or wells as a reasonably prudent operator would drill under the same or similar circumstances, provided Lessee shall not be required to offset any gas well on adjacent land unless the gas therefrom is marketed; provided, further, in lieu of drilling an offset to such gas well, Lessee shall have the option of paying Lessor a royalty of one-sixteenth of the net revenue derived from the gas sold from such adjacent well, and as long as Lessee may elect to pay said royalty in lieu of drilling an offset, it will be considered that gas is being produced from the premises within the meaning of Paragraph 2 hereof. When required by Lessor, Lessee will bury pipe lines below ordinary plow depth and pay damage caused by Lessee's operations to growing crops. No well shall be drilled nearer than two hundred (200) feet of any residence now on said land without Lessor's consent. Lessee shall have the right at any time during, or after the expiration of this lease, to remove all property and fixtures placed by Lessee on said land, including the right to draw and remove all casing, whether from producing or non-producing wells.

7. The rights of either party hereto may be assigned in whole or in part and the provisions hereof shall extend to their heirs, successors and assigns, but no charge or divisions in the ownership of the land or rentals or royalties, however accomplished, shall operate to enlarge the obligations or diminish the rights of Lessee, and no such change in ownership shall be binding upon Lessee for any purpose until Lessee shall be furnished at least 60 days before any rental or royalty may be due with a certified copy of recorded instrument, or other legally authenticated written evidence of such change of ownership. In the event of assignment of this lease as to a segregated portion of said land, the rentals, if any, payable hereunder shall be apportionable as between the several leasehold owners ratably according to the surface area of each, and default in rental payment by one shall not affect the rights of other leasehold owners hereunder. Drilling on any portion shall inure to the benefit of the owners of this lease and of any and all portions thereof. If six or more parties become tenants in common to royalty hereunder, Lessee may withhold payment thereof unless and until furnished with a recordable instrument executed by all such parties designating an agent to receive payment for them.

8. Lessor hereby warrants and agrees to defend the title to said land and agrees that Lessee shall have the option to purchase or discharge, in whole or in part, any tax, mortgage or other lien upon said land and thereupon be subrogated to the rights of the holder thereof and may apply for and receive the same and royalties accruing hereunder toward satisfying same or toward reimbursing Lessee. If Lessee's title shall come into dispute or litigation, Lessee may withhold payment of rentals or royalties until final adjudication or other settlement of such dispute or litigation. Without any impairment of Lessee's rights under Lessor's warranty of title it is agreed that if Lessor owns an interest in said land less than the entire fee simple estate, the royalties and rentals to be paid Lessee shall be reduced proportionately. Lessee may at any time execute and deliver to Lessor or plat of record a release or releases covering any portion or portions of the above described premises and thereby surrender this lease as to such portion or portions and be relieved of all obligations as to the acreage surrendered, and thereafter the rentals, if any, payable hereunder shall be reduced in the proportion that the acreage covered hereby is reduced by said release or releases.

9. The breach by Lessee of any obligation arising hereunder shall not work a forfeiture or termination of this lease, nor cause a termination or reversion of the estate hereby created, nor be ground for cancellation hereof in whole or in part. If Lessor considers that operations are not at



## OIL, GAS AND MINERAL LEASE

THIS AGREEMENT, made this the 9th day of September, 1942, between R. H. Oswell and his wife, Willie Pearlé Oswell, whose address is 858 South Broad Street, Mobile, Alabama herein called Lessor (whether one or more), and Sun Oil Company whose address is Dallas, Texas, herein called Lessee. WITNESSETH:

1. Lessor, in consideration of Two Hundred and No/100 Dollars (\$200.00) the receipt of which is hereby acknowledged by Lessor, and the agreements of Lessee set forth herein, hereby GRANTS and LEASES exclusively to Lessee for the purpose of investigating, exploring, prospecting, drilling and mining for and producing oil, gas and all other minerals, laying pipe lines, building tanks, power stations, telephone lines and other structures and means thereon to produce, save, take care of, treat, store, transport and manufacture said minerals, and housing his employees, the following described land situated in Baldwin County, Alabama, to-wit:

That certain tract of land known as the Mim's Plantation, composed of and being the Southeast fractional quarter; and North and Middle Subdivision and the E $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 15; the SW $\frac{1}{4}$  and the Northwest Subdivision of Fractional Section 14; the SE $\frac{1}{4}$  of Fractional Section 10; and the SW $\frac{1}{4}$  of Fractional Section 11; all in Township 3 North, Range 2 East, and containing in all 800 acres, more or less

Section 10, 11, 14 & 15 Township 3 North Range 2 East containing 800 acres, more or less. And also, in addition to the above described land, any and all other land owned or claimed by Lessor in said section or sections in which the above described land is situated or in adjoining the above described land.

2. Subject to other provisions herein contained, this lease shall remain in force for a term of ten years from this date, called primary term, and as long thereafter as oil, gas or other mineral is produced from said land, or as long thereafter as Lessee shall conduct drilling or re-working operations thereon with no cessation of more than sixty consecutive days until production results, and if production results, so long as any such mineral is produced.

3. Royalties to be paid by Lessee are: (a) on oil, one-eighth of that produced and saved from said land, to be delivered at the wells or to the credit of Lessor into pipe line to which wells may be connected; Lessee may from time to time purchase any royalty oil, paying therefor the market price prevailing for the field where produced on the day it is run to the pipe line or storage tanks; (b) on gas, including casinghead gas or other gaseous substance, produced from said land and sold or used off the premises or in the manufacture of gasoline or other product therefrom, the market value at the well of one-eighth of the gas so sold or used, provided that on gas sold at wells the royalty shall be one-eighth of the amount realized, from such sales; where gas from a gas well is not sold or used, Lessee may pay as royalty One Hundred (\$100.00) Dollars per well per year, and upon such payment it will be considered that gas is being produced from said land within the meaning of Paragraph 2 hereof; and (c) on all other minerals mined and marketed one-tenth either in kind or value at the well or mine, at Lessee's election, except on sulphur the royalty shall be fifty cents per long ton. Lessee shall have free use of oil, gas, coal, wood and water from said land except water from Lessor's wells for all operations hereunder, and the royalty on oil, gas and coal shall be computed after deducting any so used. Lessor shall have the privilege, at his risk and expense, of using gas from any gas well on said land in stoves and inside lights in the principal dwelling thereon out of any surplus gas not needed for operations hereunder. Lessee shall have the right to operate the premises jointly with other premises through the use of central plants and

*See Assignment see Record 159, pages 457-72*

Exhibit "A"



Book 140, Pages 247-8 of the Probate Court records of Baldwin County, Alabama, a correct copy of which is attached hereto, and marked Exhibit "C", and by reference made a part hereof the same as if fully set out herein.

There is recorded in Deed Book 159, Page 171-3 of the Probate Court records of Baldwin County, Alabama, an instrument dated October 30, 1950, purporting to be an amendment of said oil, gas and mineral lease (Exhibit "A"), signed William Hamilton Oswell and Mary Tabbert Oswell, a correct copy of said instrument being attached hereto, marked Exhibit "D", and by reference made a part hereof the same as if fully set out herein.

There is recorded in Deed Book 159, Pages 174-6 of the Probate Court records of Baldwin County, Alabama, an instrument dated October 30, 1950, purporting to be an amendment of said oil, gas and mineral lease (Exhibit "A"), signed Charles Otis Oswell, Lucille B. Oswell and Charles Otis Oswell, a correct copy of said instrument being attached hereto, marked Exhibit "E", and by reference made a part hereof the same as if fully set out herein.

There is recorded in Deed Book 159, Pages 100-2 of the Probate Court records of Baldwin County, Alabama, an instrument dated November 9, 1950, purporting to be an amendment of said oil, gas and mineral lease (Exhibit "A"), signed Humble Oil and Refining Company, a correct copy of said instrument being attached hereto, marked Exhibit "F", and by reference made a part hereof the same as if fully set out herein.

On or about December 27, 1950, the Respondent Humble Oil and Refining Company entered into a pooling agreement with the Respondent Sun Oil Company, said agreement being recorded in Deed Book 162,



of the Probate Court records of Baldwin County, Alabama, a true and correct copy of which is attached hereto, marked Exhibit "H" and by reference made a part hereof the same as if fully set out herein."

And Complainants further amend said Bill of Complaint by adding thereto paragraph VII, reading as follows:-

VII

"Complainants further aver that the said instrument dated October 30, 1950, recorded in Deed Book 159, Page 171-3, referred to in paragraph II, hereinabove, attached hereto and marked Exhibit "D", purporting to be an amendment to the oil, gas and mineral lease referred to hereinabove in said paragraph II and attached hereto as Exhibit "A", is void, invalid and of no effect, and is apparent on the face of said instrument in that, among other defects, said instrument purports to have been executed by William Hamilton Oswell and Mary Tabbert Oswell, but the names of said Lessors do not appear elsewhere in said instrument.

Complainants further aver that the said instrument dated October 30, 1950, recorded in Deed Book 159, page 174-6, referred to in paragraph II, hereinabove, attached hereto and marked Exhibit "E", purporting to be an amendment to the oil, gas and mineral lease referred to hereinabove in said paragraph II and attached hereto as Exhibit "A", is void, invalid, and of no effect as is apparent on the face of said instrument in that, among other defects, said instrument purports to have been executed by Charles Otis Oswell, Lucille B. Oswell and Charles Otis Oswell, but the names of the Lessors do not appear elsewhere in said instrument.

Complainants further aver that the said instrument dated November 9, 1950, recorded in Deed Book 159, Page 100-2, referred to in paragraph II, hereinabove, attached hereto and marked Exhibit "F", purporting to be an amendment to the oil, gas and mineral lease referred to hereinabove in said paragraph II and attached hereto as Exhibit "A", is void, invalid and of no effect, as is apparent on the face of said instrument in that among other



defects, said instrument purports to have been executed by Humble Oil and Refining Company, but the name of said Lessor does not appear elsewhere in said instrument.

Complainants further aver that the said instrument purporting to be a pooling agreement, dated December 27, 1950, recorded in Deed Book 162, Page 413-7, referred to in Paragraph II hereinabove, and attached to the bill of complaint as Exhibit "G", and the said instrument purporting to be a pooling agreement dated May 18, 1951, recorded in Deed Book 159, page 304-5, referred to in Paragraph II hereinabove, and attached hereto as Exhibit "H", are void, invalid and ultra vires the authority of the said Respondent Humble Oil and Refining Company and the said Respondent Sun Oil Company."

And Complainants further amend said bill of complaint by adding thereto paragraph VIII, reading as follows:-

VIII

"Complainants further aver that since, to-wit, September 9, 1950, there has not been paid or tendered to them or to their credit any monies for the rental of said land, as provided in said lease, nor have any such monies been paid or tendered into the Registry of this court, and Complainants further aver that there has not been paid or tendered to them, or to their credit, nor has there been paid into the Registry of this court any funds or monies as royalties for the production of oil from said lands, or any part thereof."

HOLBERG, TULLY & ALDRIDGE  
Solicitors for Complainants

BY \_\_\_\_\_  
Member Appearing



THE STATE OF ALABAMA, { PROBATE COURT  
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the Lease from R. H. Oswell to

Sun Oil Company

as the same appears of record in my office in Deed Book No. 78

Page 95-7

Given under my hand and seal of office, this 13 day of Oct., 1951

WR Stuart

Judge of Probate



CHARLES OTIS OSWELL and  
WILLIAM HAMILTON OSWELL,

Complainants

vs

SUN OIL COMPANY, a  
corporation, and HUMBLE  
OIL & REFINING COMPANY,  
a corporation,

Respondents.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 2,677

// Come now the Complainants in the above entitled cause,  
CHARLES OTIS OSWELL and WILLIAM HAMILTON OSWELL, and, by leave  
of court first had and obtained, amend their bill of complaint  
in said cause as follows:-

Complainants amend paragraph numbered "II" so that the  
same shall read as follows:-

II

"On or about September 9, 1942, R. H. OSWELL and his wife,  
WILLIE PEARLE OSWELL, executed and delivered to the Respondent  
Sun Oil Company an oil, gas and mineral lease, a true and correct  
copy of which is attached hereto, marked Exhibit "A", and by  
reference made a part hereof the same as if fully set out herein.  
Said lease is recorded in Deed Book 78. Pages 95-7 of the Probate  
Court records of Baldwin County, Alabama.

Your complainants are the owners of an undivided interest  
in the oil, gas and other minerals in the lands described in said  
lease (Exhibit "A"), said lands and said minerals having been con-  
veyed by deed from the said R. H. OSWELL and wife, WILLIE PEARLE  
OSWELL, to your complainants, dated August 26, 1942, and recorded  
in Deed Book 78, Pages 374-5 of the Probate Court records of Baldwin  
County, Alabama, a correct copy of said deed being attached hereto,



THE STATE OF ALABAMA, { PROBATE COURT  
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the Pooling Agreement

Sun Oil Company and Humble Oil and Refining Company

as the same appears of record in my office in Deed Book No. 159

Page 304-6

Given under my hand and seal of office, this 13 day of Oct., 1951

W R Stuart  
Judge of Probate



STATE OF ALABAMA  
MOBILE COUNTY

-----000000000-----

KNOW ALL MEN BY THESE PRESENTS: That, R. H. Oswell and William Pearle Oswell his wife for an in consideration of One Dollar and other valuable considerations the receipt of which is hereby acknowledged from Charles Otis Oswell and William Hamilton Oswell, Do hereby grant, bargain, sell and convey unto the said Charles Otis Oswell and William Hamilton Oswell their heirs and assigns, Each an undivided one half interest in the following described real estate situated in Baldwin County, State of Alabama, to-wit:

East half of the Northeast east Quarter, the Northwest Quarter of the Northeast Quarter, and the Northeast Quarter of the Northwest Quarter, of Section Eighteen, in Township Three North Range Three East the St Stephens Meridian, containing One Hundred and Sixty Acres acres more or less, being the same land conveyed to R. H. Oswell and R. A. Smith by the S. B. Adams Lumber Co. the 24th. day of October 1931.

Also, All of the Harris Place, more particularly described as follows, Southwest fractional quarter and the southeast quarter of section twenty three; Northwest Quarter of Section Twenty six; Northeast Fractional Quarter of Fractional Section Twenty Two; North half of Fractional Section 23; West Half of the Northwest fractional Quarter of Section Twenty Four; Southeast Quarter of Northwest Quarter of Fractional Section 24; All being in Township Three North of Range two East; being 1000 acres more or less; excepting therefrom however, that certain piece or parcel of land belonging to said tract lying West of Frank Johnson slough in the fractional Southwest Quarter of Section 23 and Northwest of Mimm's Lake in the Northwest Quarter of said Section Twenty six

And, ALSO that certain tract of land known as the Mimm's Plantation being the Southeast fractional quarter north, and middle subdivision and the east half of the northeast quarter of section fifteen; the Southwest Quarter, Northwest subdivision of fractional section fourteen, Southeast Quarter of Fractional Section Ten; Southwest Quarter of Fractional Section 11; All in Township Three North of Range Two East, and containing in all eight hundred acres, more or less; and also Boatyard and Lake Lumber Landing and one acre in connection therewith and contained in land known as Wilkin's plantation;

And, Also, the tract of land situated on the Alabama River in said County of Baldwin known as the Thompson or George Weakley Tract, being in Section Thirty nine, in Township Three North of Range Two East, and containing one hundred and sixty acres.

Being the same land conveyed to R. H. Oswell by Herman H. Wefel-Jr. and Blanche E. Wefel his wife the 26th day of September 1932.

TO HAVE AND TO HOLD the above described property unto the said parties of the second part, their heirs and assigns, in fee simple forever.

Exhibit "B"



IN WITNESS WHEREOF, parties of first part have hereunto set their Hands and seals on the day and year first above written.

\$8.80 USIR Stamps attached. Cancelled

R. H. OSWELL SEAL  
WILLIE PEARLE OSWELL SEAL

STATE OF ALABAMA  
MOBILE COUNTY

I, Carl T. Martin, a Notary Public, in and for said County in said State hereby certify that R. H. Oswell and wife, Willie Pearle Oswell, whose names are signed to the foregoing conveyance and who are known to me, acknowledged before me on this date that, being informed of the contents of said conveyance, they executed the same voluntarily on on the day the same bears date. Given under my hand this 26 day of August in the year 1942.

SEAL

Carl T. Martin  
Notary Public, Mobile County, Ala.

STATE OF ALABAMA  
COUNTY OF MOBILE

I, Carl T. Martin, a Notary Public in and for said County in said State, hereby certify that on the 26 day of August, 1942, came before me the within named Willie Pearle Oswell, known to me to be the wife of the within named R. H. Oswell who being examined separte and apart from her husband, touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord, and without fear, constraint or threats on the part of her husband.

Given under my hand this \_\_\_ day of August in the year 1942.

SEAL

Carl T. Martin  
Notary Public, Mobile County, Alabama.

STATE OF ALABAMA  
BALDWIN COUNTY

Filed December 4, 1942 at 1:40 P. M. Recorded in Deed Book No. 78 N. S. at pages 374-5; and I certify that \$8.00 Deed tax has been paid as required by law.

G. W. Robertson, Judge of Probate.

-----0000000000-----



THE STATE OF ALABAMA, { PROBATE COURT  
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the Deed from R. H. Oswell and wife to

Charles O. Oswell and wife

as the same appears of record in my office in Deed Book No. 78

Page 374-5

Given under my hand and seal of office, this 13 day of Oct., 1951

W R Stuart  
Judge of Probate



11-15-49  
**MINERAL RIGHT AND ROYALTY TRANSFER**

(To Undivided Interest)

BOOK 140 PAGE 247

THE STATE OF ALABAMA,

COUNTY OF Baldwin

KNOW ALL MEN BY THESE PRESENTS:

That Charles Otis Oswell and wife, Lucile B. Oswell and William H. Oswell and  
wife, Mary A. Oswell

of Mobile County, State of Alabama, hereinafter called Grantor (whether one or more  
and referred to in the singular number and masculine gender), for and in consideration of the sum of  
Ten Dollars and other valuable considerations Dollars (\$ 10.00 )  
paid by Humble Oil & Refining Company, hereinafter called  
Grantee, the receipt of which is hereby acknowledged, has granted, sold and conveyed, and by these presents  
does grant, sell and convey unto said Grantee an undivided One-Half (1/2)  
interest in and to all of the oil, gas and other minerals of every kind and character in, on or under all of the  
following described land situated in the County of Baldwin, State of Alabama, to-wit:

IN TOWNSHIP 3 NORTH, RANGE 2 EAST:

All of the West One-Half (W 1/2) of Section Fourteen (14) lying South <sup>C.O.O.</sup> ~~and West~~ <sup>-W 1/2</sup> of  
Alabama River, containing approximately 308.75 acres.

All that part of Section Fifteen (15) lying East of Alabama River, containing  
approximately 311 acres.

All of Sections Ten (10) and Eleven (11) lying South of Alabama River in Baldwin  
County, Alabama, containing approximately 179.50 acres, and containing in the  
aggregate 799.25 acres, more or less.

Grantor herein reserves all rentals that may be paid on the existing lease now in  
force in favor of Sun Oil Company; however, this reservation shall not affect  
subsequent leases which may hereafter be made on this land.

This Mineral Right and Royalty Transfer ~~also~~ covers and includes all land owned or claimed by Grantor  
adjacent or contiguous to the land particularly described above, whether the same be in



the Undersigned Authority in and for said County in said State, do hereby certify that on the 27th day of June, A. D. 1949, came before me the within named Lucile B. Oswell and Mary A. Oswell, known to me to be the wives of the within named Charles Otis Oswell and William H. Oswell, who, being examined separate and apart from the husband touching her signature to the within instrument, acknowledged that she signed the same of her own free will and accord, and without fear, constraints or threats on the part of the husband.

Given under my hand and official seal this 27th day of June, A. D. 1949, Sam H. King, Notary Public, Mobile, County, Alabama.

the Undersigned Authority in and for said County in said State, do hereby certify that on the 27th day of June, A. D. 1949, came before me the within named Lucile B. Oswell and Mary A. Oswell, known to me to be the wives of the within named Charles Otis Oswell and William H. Oswell, who, being examined separate and apart from the husband touching her signature to the within instrument, acknowledged that she signed the same of her own free will and accord, and without fear, constraints or threats on the part of the husband.

Given under my hand and official seal this 27th day of June, A. D. 1949, Sam H. King, Notary Public, Mobile, County, Alabama.



NOTARY PUBLIC FOR THE COUNTY OF MOBILE, ALA. MY COMMISSION EXPIRES 3/14/53

the Undersigned Authority in and for said County in said State, STATE OF ALABAMA, BALDWIN COUNTY, Filed 7-21-49, Recorded, and who is/are known to me, acknowledged before me on this day that, being he executed the same voluntarily on the day the same bears date, and I certify that the foregoing has been paid, A. D. 194

Deed Tax 300, Mortgage Tax, Notary Public, County, Alabama, Judge of Probate, By

MINERAL RIGHT AND ROYALTY TRANSFER

FROM TO

THE STATE OF ALABAMA, COUNTY, ss.

I, Judge of the Probate Court in and for said County, do hereby certify that the foregoing instrument of writing, with its certificate of authentication, was filed for record in my office on the day of A. D. 194, at o'clock M., and was duly recorded on the day of A. D. 194, in Book No. of the Records of this office. Page Given under my hand and seal of office on the day and year last above written.

Judge of Probate, County, Alabama.

Recording fee \$ When recorded return to 18200, Huntsville, Ala. 60, Box 506, Dallas, Tex.

THE STATE OF ALABAMA, COUNTY, }

I, the Undersigned Authority in and for said County in said State, hereby certify that, whose names as President and Secretary, respectively, of a corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this day of, A. D. 194, Notary Public, County, Alabama.



THE STATE OF ALABAMA, { PROBATE COURT  
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the Transfer from Charles O. Oswell etal  
to Humble Oil And Refining Company

as the same appears of record in my office in Deed Book No. 140  
Page 247-8

Given under my hand and seal of office, this 13 day of Oct., 1951

W R Stuart  
Judge of Probate



## Amendment to Oil, Gas and Mineral Lease

BOOK 159 PAGE 171

WHEREAS, on the 9th day of September, 1942,

R. H. OSWELL and his wife, WILLIE PEARLE OSWELL

as lessor, executed and delivered to SUN OIL COMPANY, Dallas, Texas, as lessee,

a certain oil, gas and mineral lease covering 800 acres, more or less, being

That certain tract of land known as the Mim's Plantation, composed of and being the Southeast fractional quarter; and North and Middle Subdivision and the E $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 15; the SW $\frac{1}{4}$  and the Northwest Subdivision of Fractional Section 14; the SE $\frac{1}{4}$  of Fractional Section 10; and the SW $\frac{1}{4}$  of Fractional Section 11; all in Township 3 North, Range 2 East,

which lease is recorded in Volume 78, page 95-7, of the Deed Records of Baldwin County, Alabama, to which lease and the record thereof reference is here made for all purposes; and

WHEREAS, said lease is now owned and claimed by Sun Oil Company, a corporation with an office at Dallas, Texas; and,

WHEREAS, the undersigned, in severalty or in separate tracts or in indivision, are the owners of the surface and/or the oil, gas and other mineral rights and royalties in and to the lands covered by the above described lease; and,

WHEREAS, it is mutually desirable and advantageous that the above mentioned lease be amended as hereinafter set out.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) cash in hand paid by Sun Oil Company to each of the undersigned, receipt of which is hereby acknowledged, the undersigned owners of the above described land and mineral and royalty interests therein do hereby amend said lease by adding thereto and incorporating therein the following provisions, to-wit:

"Lessee is hereby given the right, power and option at any time and from time to time to pool and combine the acreage covered by this lease or any portion thereof with other land, lease or leases in the vicinity thereof when in Lessee's judgment it is necessary or advisable to do so in order properly to develop and operate said premises in compliance with any lawful spacing rules which may be applicable or when to do so would in the judgment of Lessee, promote the conservation of oil or gas in and under and that may be produced from said premises.

"Such pooling may include all oil, gas and other minerals or may be limited to one or more such substances and may extend to all such production or may be limited to one or more strata or formations. Any such pooling shall be into a unit or units not exceeding 40 acres each by more than 10% for the exploration, development and production of oil and not exceeding 80 acres each by more than 10% for the exploration, development and production of gas, condensate and other hydrocarbons. The effective date and terms of such pooling shall be as set forth by Lessee in an instrument filed for record in the county or counties in which the pooled land is situated which instrument shall describe the acreage and the substances pooled.

"Drilling or reworking operations or the existence of a well capable of producing a pooled substance on the pooled acreage or production of a pooled substance therefrom shall be treated as the drilling, reworking, existence of a well, or production on the land covered by this lease regardless of whether or not a well is in fact located on said land. In lieu of the royalties elsewhere herein specified royalties payable to Lessor on a pooled substance shall be only such portion of the royalty so specified as the amount of Lessor's acreage (or his royalty interest therein on an acreage basis) bears to the total acreage so pooled into such unit. Reduction in the size of or in the interest covered by any unit resulting from loss or failure of title or other cause shall not of itself terminate the pooling, the term of the pooling being designated as aforesaid. In the event of any such reduction in the unit no retroactive apportionment of royalties will be required; nor shall royalties be payable thereafter on production from a tract, or production attributable to an interest therein, title to which has been thus lost.

"If a well capable of producing gas is drilled on a unit created hereunder in which gas is a pooled substance but gas is not sold or used off the unit for any period of three months or longer, Lessee may pay as royalty to the owners of royalty under this lease (in the same proportions as their royalties on production from the unit are payable) for each period of three months during which no such sale or utilization is made a sum calculated at the rate of One Dollar (\$1.00) per annum for each acre of this lease contained in such unit. Any amount payable hereunder may be paid by check and sent by mail and shall be payable on or before sixty (60) days after the last day of the three months period for which it is due to be paid, and upon such payment or upon tender of such payment it shall be considered that gas is or was being produced in paying quantities from this lease during the period covered by the payment or tender. If gas is being sold or utilized off the unit and the sale or utilization off the unit should cease for a period of three months or more, then the three months period shall commence on the day following the date of such cessation. If such sale or utilization should be first commenced or in case of cessation should be resumed within any such three months period then no payment shall be due for such three months period in which it was so commenced or was so resumed and it shall be considered that gas is being produced in paying quantities from this lease during such lesser period."

The foregoing pooling authority and, as to any unit created thereunder, the foregoing shut-in royalty provisions shall be in lieu of any other pooling and shut-in royalty provisions contained in said lease.

The undersigned hereby declare said lease, as herein amended, to be in full force and effect, and for the

Exhibit "G"



same consideration hereby grant, demise, lease and let unto Sun Oil Company, its successors and assigns, the lands described in said lease, upon all the terms and conditions set out in said lease as hereby amended.

The failure of any one or more persons owning an interest in and to the oil, gas and other minerals in, under or that may be produced from the premises covered by the above mentioned lease to sign this instrument shall not in any manner affect the validity of same as to the parties who execute same.

This agreement shall be binding upon the parties hereto and upon their heirs, successors, legal representatives and assigns.

IN TESTIMONY WHEREOF, this instrument is executed as of the 30<sup>th</sup> day of October, A. D., 1950.

William Hamilton Powell  
Mary Tabbert Powell

STATE OF ALABAMA, BALDWIN COUNTY  
Filed 1-25-51 8a.m.  
Recorded 8a.m.  
and I c 8a.m.  
has be 8a.m.  
Deed To 50  
Mortgage 50  
MR. [Signature]  
Judge of Probate  
By [Signature]



STATE OF Alabama  
COUNTY OF Baldwin

BOOK 159 PAGE 173

I, Dorothy Martin, Notary Public,  
hereby certify that William Hamilton, whose name  
is signed to the foregoing conveyance, and who is known to me,  
acknowledged before me on this day, that, being informed of the  
contents of the conveyance, he executed the same voluntarily on  
the day the same bears date.

Given under my hand this 30 day of October, A.D.  
1950.

Dorothy Martin  
Notary Public in and for Baldwin  
County Alabama.

STATE OF Alabama  
COUNTY OF Baldwin

I, Dorothy Martin, Notary Public,  
do hereby certify that on the 30 day of October, 1950,  
came before me the within named Mary Talbot,  
known to me to be the wife of the within named William Hamilton,  
who, being examined separate and apart from  
the husband touching her signature to the within conveyance,  
acknowledged that she signed the same of her own free will and  
accord, and without fear, constraints or threats on the part of  
the husband.

Given under my hand this 30 day of October, A.D.  
1950.

Dorothy Martin  
Notary Public in and for Baldwin  
County Alabama.

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for  
said County and State, hereby certify that \_\_\_\_\_ of the  
\_\_\_\_\_, whose name as \_\_\_\_\_ is signed to the foregoing instru-  
ment, and who is known to me, acknowledged before me on this day  
that, being informed of the contents of the conveyance he, as  
such officer and with full authority, executed the same voluntar-  
ily for and as the act of said corporation.

GIVEN UNDER MY HAND this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public in and for \_\_\_\_\_  
County \_\_\_\_\_.

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for said  
County and State, hereby certify that \_\_\_\_\_, is signed  
whose name as Secretary of the \_\_\_\_\_, is signed  
to the foregoing instrument, and who is known to me, acknowledged  
before me on this day that, being informed of the contents of the  
conveyance he, as such officer and with full authority, executed  
the same voluntarily for and as the act of said corporation.

GIVEN UNDER MY HAND this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public in and for \_\_\_\_\_  
County \_\_\_\_\_.



THE STATE OF ALABAMA, { PROBATE COURT  
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the Lease Amendment from William H.

Oswell etux to Sun Oil Company

as the same appears of record in my office in Deed Book No. 159

Page 171-3

Given under my hand and seal of office, this 13 day of Oct., 1951

W R Stuart  
Judge of Probate



# BOOK 159 PAGE 174 Amendment to Oil, Gas and Mineral Lease

WHEREAS, on the 9th day of September, 1942,

R. H. OSWELL and his wife, WILLIE PEARLE OSWELL

as lessor, executed and delivered to SUN OIL COMPANY, Dallas, Texas, as lessee,

a certain oil, gas and mineral lease covering 800 acres, more or less, being

That certain tract of land known as the Mim's Plantation, composed of and being the Southeast fractional quarter; and North and Middle Subdivision and the E $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 15; the SW $\frac{1}{4}$  and the Northwest Subdivision of Fractional Section 14; the SE $\frac{1}{4}$  of Fractional Section 10; and the SW $\frac{1}{4}$  of Fractional Section 11; all in Township 3 North, Range 2 East,

which lease is recorded in Volume 78, page 95-7, of the Deed Records of Baldwin County, Alabama, to which lease and the record thereof reference is here made for all purposes; and

WHEREAS, said lease is now owned and claimed by Sun Oil Company, a corporation with an office at Dallas, Texas; and,

WHEREAS, the undersigned, in severalty or in separate tracts or in indivision, are the owners of the surface and/or the oil, gas and other mineral rights and royalties in and to the lands covered by the above described lease; and,

WHEREAS, it is mutually desirable and advantageous that the above mentioned lease be amended as hereinafter set out.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) cash in hand paid by Sun Oil Company to each of the undersigned, receipt of which is hereby acknowledged, the undersigned owners of the above described land and mineral and royalty interests therein do hereby amend said lease by adding thereto and incorporating therein the following provisions, to-wit:

"Lessee is hereby given the right, power and option at any time and from time to time to pool and combine the acreage covered by this lease or any portion thereof with other land, lease or leases in the vicinity thereof when in Lessee's judgment it is necessary or advisable to do so in order properly to develop and operate said premises in compliance with any lawful spacing rules which may be applicable or when to do so would in the judgment of Lessee, promote the conservation of oil or gas in and under and that may be produced from said premises.

"Such pooling may include all oil, gas and other minerals or may be limited to one or more such substances and may extend to all such production or may be limited to one or more strata or formations. Any such pooling shall be into a unit or units not exceeding 40 acres each by more than 10% for the exploration, development and production of oil and not exceeding 80 acres each by more than 10% for the exploration, development and production of gas, condensate and other hydrocarbons. The effective date and terms of such pooling shall be as set forth by Lessee in an instrument filed for record in the county or counties in which the pooled land is situated which instrument shall describe the acreage and the substances pooled.

"Drilling or reworking operations or the existence of a well capable of producing a pooled substance on the pooled acreage or production of a pooled substance therefrom shall be treated as the drilling, reworking, existence of a well, or production on the land covered by this lease regardless of whether or not a well is in fact located on said land. In lieu of the royalties elsewhere herein specified royalties payable to Lessor on a pooled substance shall be only such portion of the royalty so specified as the amount of Lessor's acreage (or his royalty interest therein on an acreage basis) bears to the total acreage so pooled into such unit. Reduction in the size of or in the interest covered by any unit resulting from loss or failure of title or other cause shall not of itself terminate the pooling, the term of the pooling being designated as aforesaid. In the event of any such reduction in the unit no retroactive apportionment of royalties will be required; nor shall royalties be payable thereafter on production from a tract, or production attributable to an interest therein, title to which has been thus lost.

"If a well capable of producing gas is drilled on a unit created hereunder in which gas is a pooled substance but gas is not sold or used off the unit for any period of three months or longer, Lessee may pay as royalty to the owners of royalty under this lease (in the same proportions as their royalties on production from the unit are payable) for each period of three months during which no such sale or utilization is made a sum calculated at the rate of One Dollar (\$1.00) per annum for each acre of this lease contained in such unit. Any amount payable hereunder may be paid by check and sent by mail and shall be payable on or before sixty (60) days after the last day of the three months period for which it is due to be paid, and upon such payment or upon tender of such payment it shall be considered that gas is or was being produced in paying quantities from this lease during the period covered by the payment or tender. If gas is being sold or utilized off the unit and the sale or utilization off the unit should cease for a period of three months or more, then the three months period shall commence on the day following the date of such cessation. If such sale or utilization should be first commenced or in case of cessation should be resumed within any such three months period then no payment shall be due for such three months period in which it was so commenced or was so resumed and it shall be considered that gas is being produced in paying quantities from this lease during such lesser period."

The foregoing pooling authority and, as to any unit created thereunder, the foregoing shut-in royalty provisions shall be in lieu of any other pooling and shut-in royalty provisions contained in said lease.

The undersigned hereby declare said lease, as herein amended, to be in full force and effect, and for the



same consideration hereby grant, demise, lease and let unto Sun Oil Company, its successors and assigns, the lands described in said lease, upon all the terms and conditions set out in said lease as hereby amended.

The failure of any one or more persons owning an interest in and to the oil, gas and other minerals in, under or that may be produced from the premises covered by the above mentioned lease to sign this instrument shall not in any manner affect the validity of same as to the parties who execute same.

This agreement shall be binding upon the parties hereto and upon their heirs, successors, legal representatives and assigns.

IN TESTIMONY WHEREOF, this instrument is executed as of the 30th day of October, A. D., 1950.

Charles O. Osnell  
Lucile A. Osnell  
Charles O. Osnell

STATE OF ALABAMA, BALDWIN COUNTY  
 Filed 1-25-51 8:00 PM  
 Recorded        book        page         
 and        of the following Franchise Tax  
 has been paid 50  
 Mortgage Tax       

W. H. Hunt  
 Judge of Probate

By



159 PAGE 176  
BOOK

STATE OF Alabama  
COUNTY OF Mobile

I, Ruth Clair Stevens,  
hereby certify that Louelle B. Oswell whose name  
is signed to the foregoing conveyance, and who is known to me,  
acknowledged before me on this day, that, being informed of the  
contents of the conveyance, he executed the same voluntarily on  
the day the same bears date.

Given under my hand this 30 day of October, A.D.  
1950.

Mrs Ruth Clair Stevens  
Notary Public in and for Mobile  
County Ala.

STATE OF Alabama  
COUNTY OF Mobile

I, Ruth Clair Stevens,  
do hereby certify that on the 30 day of October, 1950,  
came before me the within named Louelle B. Oswell,  
known to me to be the wife of the within named Charles Otis Oswell,  
who, being examined separate and apart from  
the husband touching her signature to the within conveyance,  
acknowledged that she signed the same of her own free will and  
accord, and without fear, constraints or threats on the part of  
the husband.

Given under my hand this 30 day of October, A.D.  
1950.

Mrs Ruth Clair Stevens  
Notary Public in and for Mobile  
County Alabama

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for  
said County and State, hereby certify that \_\_\_\_\_ of the  
\_\_\_\_\_, whose name as \_\_\_\_\_ is signed to the foregoing instru-  
ment, and who is known to me, acknowledged before me on this day  
that, being informed of the contents of the conveyance he, as  
such officer and with full authority, executed the same voluntar-  
ily for and as the act of said corporation.

GIVEN UNDER MY HAND this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public in and for \_\_\_\_\_  
County \_\_\_\_\_.

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for said  
County and State, hereby certify that \_\_\_\_\_ is signed  
whose name as Secretary of the \_\_\_\_\_, is signed  
to the foregoing instrument, and who is known to me, acknowledged  
before me on this day that, being informed of the contents of the  
conveyance he, as such officer and with full authority, executed  
the same voluntarily for and as the act of said corporation.

GIVEN UNDER MY HAND this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public in and for \_\_\_\_\_  
County \_\_\_\_\_.



THE STATE OF ALABAMA, { PROBATE COURT  
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the Lease Amendment from Charles  
O. Oswell etal. to Sun Oil Company

as the same appears of record in my office in Deed Book No. 159  
Page 174-6

Given under my hand and seal of office, this 13 day of Oct., 1951

W R Stuart  
Judge of Probate



Amendment to Oil, Gas and Mineral Lease

WHEREAS, on the 9th day of September, 1942

R. H. OSWELL and his wife, WILLIE PEARLE OSWELL

as lessor, executed and delivered to SUN OIL COMPANY, Dallas, Texas

a certain oil, gas and mineral lease covering 800 acres, more or less, being

That certain tract of land known as the Mim's Plantation, composed of and being the Southeast fractional quarter; and North and Middle Subdivision and the E $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 15; the SW $\frac{1}{4}$  and the Northwest Subdivision of Fractional Section 14; the SE $\frac{1}{4}$  of Fractional Section 10; and the SW $\frac{1}{4}$  of Fractional Section 11; all in Township 3 North, Range 2 East,

which lease is recorded in Volume 78, page 95-7, of the Deed Record of Baldwin County, Alabama, to which lease and the record thereof reference is here made for all purposes; and

WHEREAS, said lease is now owned and claimed by Sun Oil Company, a corporation with an office at Dallas, Texas; and,

WHEREAS, the undersigned, in severalty or in separate tracts or in indivision, are the owners of the surface and/or the oil, gas and other mineral rights and royalties in and to the lands covered by the above described lease; and,

WHEREAS, it is mutually desirable and advantageous that the above mentioned lease be amended and hereinafter set out.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) cash in hand paid by Sun Oil Company to each of the undersigned, receipt of which is hereby acknowledged, the undersigned owners of the above described land and mineral and royalty interests therein do hereby amend said lease by adding thereto and incorporating therein the following provisions, to-wit:

"Lessee is hereby given the right, power and option at any time and from time to time to pool and combine the acreage covered by this lease or any portion thereof with other land, lease or leases in the vicinity thereof when in Lessee's judgment it is necessary or advisable to do so in order properly to develop and operate said premises in compliance with any lawful spacing rules which may be applicable or when to do so would in the judgment of Lessee, promote the conservation of oil or gas in and under and that may be produced from said premises.

"Such pooling may include all oil, gas and other minerals or may be limited to one or more such substances and may extend to all such production or may be limited to one or more strata or formations. Any such pooling shall be into a unit or units not exceeding 40 acres each by more than 10% for the exploration, development and production of oil and not exceeding 80 acres each by more than 10% for the exploration, development and production of gas, condensate and other hydrocarbons. The effective date and terms of such pooling shall be as set forth by Lessee in an instrument filed for record in the county or counties in which the pooled land is situated which instrument shall describe the acreage and the substances pooled.

"Drilling or reworking operations or the existence of a well capable of producing a pooled substance on the pooled acreage or production of a pooled substance therefrom shall be treated as the drilling, reworking, existence of a well, or production on the land covered by this lease regardless of whether or not a well is in fact located on said land. In lieu of the royalties elsewhere herein specified royalties payable to Lessor on a pooled substance shall be only such portion of the royalty so specified as the amount of Lessor's acreage (or his royalty interest therein on an acreage basis) bears to the total acreage so pooled into such unit. Reduction in the size of or in the interest covered by any unit resulting from loss or failure of title or other cause shall not of itself terminate the pooling, the term of the pooling being designated as aforesaid. In the event of any such reduction in the unit no retroactive apportionment of royalties will be required; nor shall royalties be payable thereafter on production from a tract, or production attributable to an interest therein, title to which has been thus lost.

"If a well capable of producing gas is drilled on a unit created hereunder in which gas is a pooled substance but gas is not sold or used off the unit for any period of three months or longer, Lessee may pay as royalty to the owners of royalty under this lease (in the same proportions as their royalties on production from the unit are payable) for each period of three months during which no such sale or utilization is made a sum calculated at the rate of One Dollar (\$1.00) per annum for each acre of this lease contained in such unit. Any amount payable hereunder may be paid by check and sent by mail and shall be payable on or before sixty (60) days after the last day of the three months period for which it is due to be paid, and upon such payment or upon tender of such payment it shall be considered that gas is or was being produced in paying quantities from this lease during the period covered by the payment or tender. If gas is being sold or utilized off the unit and the sale or utilization off the unit should cease for a period of three months or more, then the three months period shall commence on the day following the date of such cessation. If such sale or utilization should be first commenced or in case of cessation should be resumed within any such three months period then no payment shall be due for such three months period in which it was so commenced or was so resumed and it shall be considered that gas is being produced in paying quantities from this lease during such lesser period."

The foregoing pooling authority and, as to any unit created thereunder, the foregoing shut-in royalty provisions shall be in lieu of any other pooling and shut-in royalty provisions contained in said lease.

The undersigned hereby declare said lease, as herein amended, to be in full force and effect, and for the



same consideration hereby grant, demise, lease and let unto Sun Oil Company, its successors and assigns, the lands described in said lease, upon all the terms and conditions set out in said lease as hereby amended.

The failure of any one or more persons owning an interest in and to the oil, gas and other minerals in, under or that may be produced from the premises covered by the above mentioned lease to sign this instrument shall not in any manner affect the validity of same as to the parties who execute same.

This agreement shall be binding upon the parties hereto and upon their heirs, successors, legal representatives and assigns.

IN TESTIMONY WHEREOF, this instrument is executed as of the 9TH day of NOVEMBER, A. D., 1950

ATTEST:

By: Elizabeth M. Kenney  
ASS'T Secretary

HUMBLE OIL AND REFINING COMPANY

By: Morgan J. Davis  
President  
CHAIRMAN OF THE BOARD

APPROVED  
cm  
TRADE O.K.  
MORGAN J. DAVIS  
By: Blus

STATE OF ALABAMA, BALDWIN COUNTY  
Filed 12-7-50 1 P.M.  
Recorded Deed 161 page 7-4  
and 161 page 7-4 Tax  
has been paid.  
Deed Tax 50  
Mortgage Tax \_\_\_\_\_  
M. B. Stewart  
Judge of Probate  
By 2



BOOK 159 PAGE 102

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_.

Notary Public in and for \_\_\_\_\_  
County \_\_\_\_\_.

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, came before me the within named \_\_\_\_\_, known to me to be the wife of the within named \_\_\_\_\_, who, being examined separate and apart from the husband touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord, and without fear, constraints or threats on the part of the husband.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_.

Notary Public in and for \_\_\_\_\_  
County \_\_\_\_\_.

STATE OF TEXAS

COUNTY OF HARRIS

I, JOHN D. MULVHILL, a Notary Public in and for said County and State, hereby certify that I. I. BARROW, whose name as CHAIRMAN OF THE BOARD of the HUMBLE OIL & REFINING COMPANY is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN UNDER MY HAND this 12 day of \_\_\_\_\_, 1940.

My Commission Expires June 1, 1951

JOHN D. MULVHILL  
Notary Public in and for HARRIS  
County TEXAS.

STATE OF TEXAS

COUNTY OF HARRIS

I, JOHN D. MULVHILL, a Notary Public in and for said County and State, hereby certify that \_\_\_\_\_, whose name as Secretary of the HUMBLE OIL & REFINING COMPANY is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN UNDER MY HAND this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My Commission Expires June 1, 1951

JOHN D. MULVHILL  
Notary Public in and for HARRIS  
County TEXAS.



THE STATE OF ALABAMA, { PROBATE COURT  
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the Lease Amendment from Humble Oil  
and Refining Co. to Sun Oil Co.

as the same appears of record in my office in Deed Book No. 159  
Page 100-102

Given under my hand and seal of office, this 13 day of Oct., 1951

W R Stuart

Judge of Probate



THE STATE OF ALABAMA, { PROBATE COURT  
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify  
that the within and foregoing \_\_\_\_\_ pages

contain a full, true and complete copy of the Pooling Agreement

Sun Oil Company and Humble Oil and Refining Company

as the same appears of record in my office in Deed Book No. 162

Page 413-17

Given under my hand and seal of office, this 13 day of Oct., 1951

W. R. Stuart

Judge of Probate



STATE OF ALABAMA

COUNTY OF BALDWIN AND

COUNTY OF CLARKE

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, Humble Oil & Refining Company, a corporation, is the owner of the following described oil, gas and mineral leases, to-wit:

1. That certain oil, gas and mineral lease dated November 8, 1940, executed by Marion Wall Davies, et vir, et al, as Lessor, to Humble Oil & Refining Company, as Lessee, which said lease is recorded in Deed Book No. 285 at Page 401-6 in the office of the Judge of Probate Court, Clarke County, Alabama.

2. That certain oil, gas and mineral lease dated May 5, 1949, executed by the State of Alabama, as Lessor, to Humble Oil & Refining Company, as Lessee, which said lease is recorded in Deed Book No. 140 at Pages 256-264 in the office of the Judge of Probate Court, Baldwin County, Alabama, and in Deed Book No. 350 at Pages 21-24 in the office of the Judge of Probate Court of Clarke County, Alabama.

WHEREAS, Sun Oil Company, a corporation, is the owner of the following described oil, gas and mineral lease, to-wit:

1. That certain oil, gas and mineral lease dated September 9, 1942, executed by R. H. Oswell, et ux, et al, as Lessor, to Sun Oil Company, as Lessee, which said lease is recorded in Deed Book No. 78 at Page 95-7 in the office of the Judge of Probate Court of Baldwin County, Alabama,

reference to each of said leases and to any and all amendments of same and to the record of said leases and amendments being here made for all purposes; and

WHEREAS, under the terms of said leases as amended the Lessee has the right, power and option to pool and combine all or a portion of the acreage covered thereby with other land, lease or leases in the immediate vicinity whenever to do so would in the judgment of Lessee promote the conservation of oil or gas in and under and that may be produced from said premises; and

WHEREAS, in the judgment of each of the undersigned Lessees the conservation of oil and gas in and under and that may be produced from said premises would be promoted by creation of the unit hereinafter described; and



WHEREAS, said Lessees desire and have elected to exercise said right, power and option and to execute this instrument for the purpose of evidencing such election and of describing the acreage and substances pooled and of setting forth the effective date and terms of such pooling, all in accordance with the terms and provisions of said leases as amended;

NOW, THEREFORE, acting under the provisions of said leases as amended, the undersigned Lessees do hereby declare and create a pooled unit, as hereinafter described, to be designated as the South Carlton Unit No. 1. The acreage covered by such unit shall be the SE 1/4 of the NW 1/4 of Section 15, Township 3 North, Range 2 East, in Clarke and Baldwin Counties, Alabama, containing 40.37 acres. The substances pooled shall be all oil and gas in and under and to be produced from said premises and there shall be allocated to each tract within the unit only such portion of the pooled substances as the amount of surface acres in such tract bears to the total surface acres in the unit. The unit thus created shall become effective as of the date of this Declaration and shall remain in force until the termination of all the above described leases as to acreage within the unit or until the Lessees shall sooner terminate the unit by filing for record in both of said counties as instrument signed by Lessees declaring such termination; provided, however that this right of earlier termination may only be exercised by Lessees at a time when there is no well on the unit capable of producing a pooled substance in paying quantities.

This Declaration is executed by each of the undersigned in consideration of the mutual benefits accruing and to accrue therefrom and other good and valuable considerations acknowledged to have been paid, and the terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto, their heirs,



legal representatives, successors and assigns.

IN WITNESS WHEREOF, this instrument is executed this 27<sup>th</sup>  
day of ~~November~~, A. D. 1950.  
December

ATTEST:

[Signature]  
Assistant Secretary

HUBBLE OIL & REFINING COMPANY

By \_\_\_\_\_

Form Approved  
By [Signature]

TRADE  
MORGAN J  
By [Signature]

SUN OIL COMPANY

By [Signature]  
Agent and Attorney-in-Fact Emb

OK  
[Signature]



STATE OF TEXAS  
COUNTY OF HARRIS

I, WANDA D. BECK

the undersigned authority in and for said county in said state, hereby certify that L. T. BARROW, whose names as CHAIRMAN OF THE BOARD and B. P. BARRETT, JR., President and Secretary, respectively, of HUMBLE OIL & REFINING COMPANY, a corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this date that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 12<sup>th</sup> day of January, A. D. 1950.

Wanda D. Beck  
Notary Public WANDA D. BECK

My Commission Expires:

6-1-51

STATE OF TEXAS  
COUNTY OF DALLAS

I, T. F. HILL

the undersigned authority in and for said county in said state, hereby certify that S. M. GAINES, whose name as Agent and Attorney-in-Fact of SUN OIL COMPANY, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledge before me on this date that, being informed of the contents of the instrument, he, in such capacity and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 27<sup>th</sup> day of November, A. D. 1950.

My Commission Expires:

6-1-51

T. F. Hill  
Notary Public

Recorded

Judge of Probate



THE STATE OF ALABAMA,  
CLARKE COUNTY }

Office of the Judge of Probate Court

I, Court Clerk, do, Judge of said court in and for said County and State, certify that the within in-  
dexed as was filed in this office for record on the  
18 day of January 51 o'clock

M., 1951, that the same is duly

booked in record Book 162 Page 405-406

and duly returned.  
Witness my hand this 11 day of January

1951.

*Orin Barrett Jr.*

JUDGE OF PROBATE, CLARKE COUNTY

P-205  
Humble Oil Co. Pay. Co.  
Post 506  
Dallas, Texas



150 304

STATE OF ALABAMA  
COUNTY OF BALDWIN AND  
COUNTY OF CLARKE

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, Humble Oil & Refining Company, a corporation,  
is the owner of the following described oil, gas and mineral leases,  
to-wit:

1. That certain oil, gas and mineral lease dated November 8, 1940, executed by Marion Wall Davies, et vir, et al, as Lessor, to Humble Oil & Refining Company, as Lessee, covering, among other lands, 1.77 acres out of the NE/4 of NW/4 of Section 15, T-3-N, R-2-E, Clarke County, Alabama, which land is more fully described in said lease of record in Deed Book No. 285, at Page 401-6 in the office of the Judge of Probate Court, Clarke County, Alabama.

2. That certain oil, gas and mineral lease dated May 5, 1940, executed by the State of Alabama, as Lessor, to Humble Oil & Refining Company, as Lessee, covering, among other lands, 22.30 acres out of the NE/4 of NW/4 of Section 15, T-3-N, R-2-E, Clarke and Baldwin Counties, Alabama, which land is more fully described in said lease of record in Deed Book No. 140 at Pages 256-264 in the office of the Judge of Probate Court, Baldwin County, Alabama, and in Deed Book No. 250 at Pages 21-24 in the office of the Judge of Probate Court of Clarke County, Alabama.

WHEREAS, Sun Oil Company, a corporation is the owner of the following described oil, gas and mineral lease, to-wit:

1. That certain oil, gas and mineral lease dated September 9, 1942, executed by R. H. Oswell, et ux, et al, as Lessor, to Sun Oil Company, as Lessee, covering, among other lands, 16.40 acres out of the NE/4 of NW/4 of Section 15, T-3-N, R-2-E, Baldwin County, Alabama, which land is more fully described in said lease of record in Deed Book No. 78 at Pages 95-97 in the office of the Judge of Probate Court of Baldwin County, Alabama,

reference to each of said leases and to any and all amendments of same and to the record of said leases and amendments being here made for all purposes; and

WHEREAS, under the terms of said leases as amended the Lessee has the right, power and option to pool and combine all or a portion of the acreage covered thereby with other land, lease or leases in the immediate vicinity whenever to do so would in the judgment of Lessee promote the conservation of oil or gas in and under and that may be produced from said premises; and

STATE OF ALABAMA, BALDWIN COUNTY  
Filed 5-28-51 4:00 P.M.

W. R. Stewart



WHEREAS, in the judgment of each of the undersigned Lessees the conservation of oil and gas in and under and that may be produced from said premises would be promoted by creation of the unit hereinafter described; and

WHEREAS, said Lessees desire and have elected to exercise said right, power and option and to execute this instrument for the purpose of evidencing such election and of describing the acreage and substances pooled and of setting forth the effective date and terms of said pooling, all in accordance with the terms and provisions of said leases as amended;

NOW, THEREFORE, acting under the provisions of said leases as amended, the undersigned Lessees do hereby declare and create a pooled unit, as hereinafter described, to be designated as the South Carlton Unit No. 6. The acreage covered by such unit shall be the NE/4 of the NW/4 of Section 15, Township 3 North, Range 2 East, in Clarke and Baldwin Counties, Alabama, containing 40.47 acres. The substances pooled shall be all oil and gas in and under and to be produced from said premises and there shall be allocated to each tract within the unit only such portion of the pooled substances as the number of surface acres in such tract bears to the total surface acres in the unit. The unit thus created shall become effective as of the date of this Declaration and shall remain in force until the termination of all the above described leases as to acreage within the unit or until the Lessees shall sooner terminate the unit by filing for record in both of said counties as instrument signed by Lessees declaring such termination; provided, however that this right of termination may only be exercised by Lessees at a time when there is no oil or gas in the unit capable of producing a pooled substance in paying quantities.

This Declaration is executed by each of the undersigned in consideration of the equal benefits hereinafter to be received by them and other good and valuable considerations as aforesaid, and for the sum paid, and the terms and provisions hereof shall be binding on the parties inure to the benefit of the heirs, assigns and assigns of the parties.



BOOK 159 PAGE 306

representatives, successors and assigns.

IN WITNESS WHEREOF, this instrument is executed this 18  
day of May, A. D. 1951.

ATTEST:

Elizabeth M. Kenney  
ASS'T Secretary

HUMBLE OIL & REFINING COMPANY

BY Morgan J. Davis  
Vice President

TRADE O.K.

By Ellis

Form Approved

By Ellis

SUN OIL COMPANY

BY T. F. Hill  
Agent and Attorney-in-Fact

Embo  
OK  
H

THE STATE OF TEXAS,

County of Dallas

Before me, the undersigned authority, on this day personally appeared T. F. Hill

known to me to be the identical person whose name are/is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the 23d day of May A. D., 1951

Kathryn Hughes KATHRYN HUG  
Notary Public in and for Dallas County, Texas.

THE STATE OF TEXAS,

County of \_\_\_\_\_

THE STATE OF TEXAS,

County of HARRIS

CORPORATION ACKNOWLEDGMENT

Before me, the undersigned authority, on this day personally appeared

MORGAN J. DAVIS



1053  
JAN 19 1953

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM 1952-1953.

1 Div. 521.

Sun Oil Company, et al.

v.

Charles Otis Oswell, et al.,

Appeal from Baldwin Circuit Court,  
In Equity.

FOSTER, Justice.

This case comes here on appeal by the respondents from a decree overruling their separate demurrer to an original bill in equity filed by appellees.

In substance the bill alleges that on September 9, 1942, R. H. Oswell and his wife executed and delivered to the Sun Oil Company, to which we will refer as Sun, an oil, gas and mineral lease, a true copy of which is alleged to be attached to the original bill. We are particularly interested in the oil feature of the lease.



2.

The bill alleges that by deed executed August 26, 1942, the said R. H. Oswell and his wife granted and conveyed to the complainants the land which is covered by the oil lease to Sun. We note here a discrepancy which neither the bill nor the briefs undertake to explain. That is, that the oil lease, above mentioned, is alleged to be dated September 9, 1942, whereas prior to that time, on August 26, 1942, it is alleged that the lessors deeded the land to the complainants. These complainants are two sons of said lessors. According to those allegations it would appear that R. H. Oswell did not own the land at the time he made the lease, but that it was owned by the complainants. However, complainants recognize the validity of the lease as if it was executed before they obtained title to the land. This could of course result from the fact that the deed was not delivered until after September 9th, although the bill alleges that it was executed on August 26th, and the execution of the deed implies a delivery. The deed does not appear to have been recorded until December 4, 1942, which was after the execution of the lease and, therefore, the complainants may recognize the Sun as an innocent purchaser for value.

Moreover, the bill alleges that after the execution of the lease complainants on October 30, 1950, each separately agreed to an amendment of the lease, and thereby declared it to be in full force. So we will not refer to that situation as being influential on this appeal.

The bill also alleges that on June 27, 1949, these complainants conveyed to respondent Humble Oil and Refining Company, to which we will refer as Humble, an undivided half interest in all the oil, gas and other minerals in the land described in the lease to Sun.



3.

We will not at this time refer to the salient features of the oil lease for there is an important preliminary question which seems to be necessary for decision regardless of the terms of the lease and the conditions in regard to it. For that purpose, it is necessary for us to observe that the bill was filed against Sun and Humble by these complainants who, as we have said, are the grantees of the land, but subject to Sun's lease, and it alleges that Sun had violated the implied and expressed covenants in the lease to such extent that complainants were entitled to a cancellation of the lease to Sun, and it prayed the court to adjudge and decree, (a) that Sun had abandoned and forfeited all its right, title and interest in and to the land described in said lease, (see, Shannon v. Long, 180 Ala. 128, 60 So. 273); (b) that the lease be declared void and of no effect; (c) that Sun and its successors in interest under said lease be enjoined and restrained from asserting any right by virtue of the same, and (d) for general relief. There is no prayer in respect to Humble.

There was an amendment to the bill, as to which it is not necessary to refer immediately. Demurrer was separately filed by Sun and Humble. The cause was submitted on demurrers and the decree merely overruled the same. The appeal was taken by Sun and Humble jointly. There was a severance in the assignment of errors wherein Sun assigned as error the overruling of this demurrer to the bill, and Humble did likewise.

The first question to which we wish to call attention is that, so far as the oil and other minerals are concerned, the complainants and Humble are tenants in common subject to the lease of Sun, whereby the complainants own an undivided half interest in the oil and other minerals as well as all the surface rights, and Humble owns an undivided half interest in the oil and other minerals.



4.

So we have a status whereby tenants in common, owning an undivided half interest in the subject of the lease, seek to have this Court declare the lease abandoned and forfeited in its entirety and declared to be void and of no effect, and that notwithstanding the fact that Humble owning the other half interest in the oil is opposing that result. The complainants do not specifically seek to have the oil lease to Sun abandoned and forfeited in so far as it affects only their undivided half interest in it.

We have had occasion to refer to the rights and interests of tenants in common in respect to a cancellation of a lease, which they had entered into, on account of fraud in procuring its execution. It was shown that a tenant in common, in respect to such a claim, occupies a status which gives him that personal right so far as his interest is concerned without reference to whether the others participate in the suit or not. We refer to the case of Glass v. Cook, Ala. \_\_\_\_\_, 57 So. 2d 505, where we supported that principle. We there justified such equitable relief in favor of some tenants in common to cancel a lease executed by all of them, each for his own interest, for the use of store property, where the contract of lease was obtained by fraud as to the complaining cotenants. In that case one of the cotenants who joined in the lease was alleged to be a party to the fraud and he was made a party respondent, but his interest was not subject to be cancelled. The fraud in procuring the execution of the lease was as to each a personal and severable transaction, and each could, acting for himself, elect either to cancel as to his interest or ratify and confirm it regardless of what the others might elect to do. We also referred to this principle in Cooper v. Peak, 61 So. 2d 62 (11), where there was no indivisible covenant involved.



5.

With reference to the right of cotenants to act severally on account of the breach of covenants by the lessee, it is said in the case of Howard v. Manning, 192 Pac. 358 (Okla.), 12 A. L. R. 819, that a "lessor could not fractionize or apportion the lessee's covenant by either conveying the lands to several parties as tenants in common or dying and leaving it to a number of heirs. The death of the lessor did not apportion or divide the covenant. The lessee's contract was not altered, modified or affected by the death of the lessor other than with respect to the payment of rent. After passing out of the hands of the lessor's administrator (if he had one) each heir had the right to receive his part of the rent, but that did not apportion the indivisible covenants in the lease. Upon the death of the lessor the lessee's covenants in question run to the heirs jointly and indivisibly." On the other hand, it is there also said: "In theory a lease of land by two or more tenants in common is not regarded as one lease by all of them of the premises in its entirety, but as several leases by the tenants in common of their undivided separate and respective shares." But it is pointed out that there is a distinction when the lease is by joint tenants, saying: "If all the joint tenants unite in the execution of a lease, it is regarded in law as but one lease made by one lessor, whereas a lease executed by several tenants in common is regarded as several leases of their respective and separate shares." (In Alabama of course we have no principle of "joint" ownership as distinguished from tenants in common. — Title 47, section 19, Code; Hill v. Jones, 65 Ala. 214, 220.) But as respects the divisibility of the lessee's covenants it is said: "Under the American authorities, the lessee's covenants, unless expressed otherwise, are joint and indivisible under a lease executed jointly by all tenants in common," also that "one of them, or two representing one interest, could not maintain an action for a breach of it by the lessee," citing Calvert v. Bradley, 16 How. 581, 14 L. ed. 1066. The clause last above quoted is the subject of much discussion and seems not to apply to



6.

the claim of rent. - See, 12 A. L. R. pp. 828, 830; 34 A. L. R. p. 795.

In the case of Utilities Production Corp. v. Riddle, 161 Okla. 99, 16 Pac. 2d 1092, we find there was a lease executed by Mr. and Mrs. Riddle who were the owners of an eighty acre tract of land. Thereafter they made conveyances of certain interests in the land. The court held, in a suit to cancel the lease for the breach of an implied covenant to develop the operations, that Mr. and Mrs. Riddle being then tenants in common of the oil and mineral interests with others, to whom they had conveyed an interest subject to the lease, could not maintain such a bill without the participation of the other tenants in common with them, and that it could not be done until after all of those tenants in common had joined in a notice to the lessee of an intention to declare a forfeiture of the lease, and demand that the lessee comply with the implied covenant. This conclusion was reached upon the basis of another case in Oklahoma of Hawkins v. Klein, 124 Okla. 162, 255 Pac. 570. In that case the owner of the land executed an oil and mineral lease, similar to the one we are considering, and then died leaving several heirs. It was held that all the heirs must concur and unite in the election to enforce a forfeiture on account of the breach of the entire and indivisible covenants and that no one of the heirs, by virtue of his cotenancy, is authorized to act for his cotenants in enforcing a forfeiture. In the Riddle case, as in the Hawkins case, emphasis was placed on the fact that the covenant made by the lessee was entire and indivisible. That was so because at the time of the execution of the lease the lessor was the sole owner and as such made the contract and then died and thereby passed the title to his heirs subject to the lease. The subsequent



7.

change in the ownership of the lessor's interest did not thereby affect the indivisibility of the contract between the original lessor and lessee. In the Hawkins case, supra, there was in the lease a requirement of notice similar to the duty when no such requirement is expressed in the lease. One tenant in common gave the notice. It was held to be insufficient because all of them did not unite in it.

Applying the principle of those cases to the present situation, it is easy to hold that the lease when made with complainants' grantor was indivisible as to the lessee's covenants expressed or implied, and that status was not changed because the title to the reversion was broken into shares, if there was no agreement thereafter made between the shareholders and Sun, the lessee.

It is our view however that the indivisibility of the covenants contained in the original lease was severed by reason of the subsequent separate and respective amendments to the lease, to which we have referred. That is to say, that these complainants and Humble, each separately, entered into said amendment to the lease, thereby effecting a severance of the indivisibility of the covenants expressed or implied in the lease. And therefore that the notice required by the lease could be given by complainants alone and, if given, a suit could be maintained by them in so far as their separate rights were affected if the covenants expressed or implied by the lessee were not performed in accordance with the restrictions of the lease. If this is accomplished, the result would be that complainants would own a half interest in the oil but subject to a lease, and Humble would own a half interest also subject to Sun's lease. Is there any legal objection to that status? We think not.



8.

Many authorities hold that without the consent of the other tenants in common to that effect each may on his separate account execute an effective lease of oil and other mineral interests in the land. - Earp v. Mid-Continent Petroleum Corp., 27 Pac. 2d (Okla.) 855, 91 A. L. R. 188. The annotation begins on page 205, and shows the difficulty which states have in respect to mineral interests owned by tenants in common. From the annotation it seems that the majority of the states take the view expressed by the Supreme Court of Oklahoma in the last cited case. To the same effect is the case of Prairie Oil and Gas Co. v. Allen, 2 Fed. 2d 566, 40 A.L.R. 1389. The A. L. R. annotation directs attention to the fact that West Virginia seems to be quite extreme in holding it is waste and a tort for one tenant in common to take oil from the land without the consent of the other. In other cases, as in Kansas, it is held that the separate tenants in common may make separate leases and that each lessee is entitled to the possession of the premises for the purpose of mining oil and other mineral, but neither is entitled to the exclusive possession. - Compton v. Peoples Gas Co., 75 Kan. 572, 89 Pac. 1039.

In this State we have likewise given consideration to the respective rights and interests of tenants in common of land as the same affects mining for oil and other mineral. We have cases which hold that if the tenant in common uses the mineral (or timber) in the land for commercial purposes by severing it from the soil and reaping the benefit of such severance, he does not commit a tort but the other tenants in common have a cause of action against him to the extent of a disproportionate use of it. When this is done without the consent of the non-participating tenants in common, we call it waste as other authorities do and justify a recovery in an action of waste at law or an accounting in equity. - Section 101, Title 7, Code; Clark v. Whitfield, 218 Ala. 593, 119 So. 633; Clark v. Whitfield, 213 Ala. 441, 105 So. 200.



Therefore, the question which arises in that connection is whether the bill is subject to demurrer in praying for a cancellation of the lease in toto where the allegations of the bill show that if they are entitled to relief it is only to the extent of their undivided half interest in the oil. But we note that, although the bill prays for a cancellation of the lease in its entirety, it also prays in the alternative for such further and different relief as in equity complainants may be entitled to receive.

A bill is not subject to demurrer because one feature of the prayer is for relief to which complainants are not entitled under the allegations of the bill, when other relief under the general prayer is available on those allegations and it is of the same character as that specifically prayed. - Wood v. Cantrell, 224 Ala. 294 (8), 140 So. 345; Endsley v. Darring, 249 Ala. 381, 31 So. 2d 317.

We think that is the status of the bill in the instant suit.

We come now to other important questions which counsel argue. Some of the essential features of the lease are in paragraph two. The consideration is expressed as a present payment of \$200.00, receipt of which is acknowledged and the agreements of the lessee as set forth in the lease, although the lessee does not sign the lease or anyone for the lessee so far as any showing in the record discloses.

The lease does not grant the ownership of the oil and other minerals, but grants and leases to Sun the land described for the purpose of investigating, exploring, prospecting, drilling, mining for and producing oil and other minerals. - Rechard v. Cowley, 202 Ala. 337, 80 So. 419.



In said paragraph two of the lease it is also provided that it "shall remain in force for a term of ten years from this date, called primary term, and as long thereafter as oil and other mineral is produced from said land, and as long thereafter as said lessee shall conduct drilling or re-working operations thereon with no cessation of more than sixty consecutive days until production results, and if production results, so long as any such mineral is produced."

Paragraph three of the lease provides for the amount of royalties to be paid and contains other provisions not necessary to recite.

Paragraph four is as follows:

"If operations for drilling a well shall not be commenced on said land on or before one year from date hereof, this lease shall terminate as to both parties, unless or before such anniversary date lessee shall pay or tender to lessor or to lessor's credit in First National Bank at Mobile, Alabama, (which bank and its successors are lessor's agent, and shall continue as depository for rentals payable hereunder, regardless of the changes in ownership of said land or the rentals) the sum of Two Hundred and No/100 Dollars (\$200.00) herein called rental, which shall extend for twelve months the time within which such operations may be commenced. In like manner and upon like payments or tenders annually the commencement of such operations may be further deferred for successive periods of twelve months each during the primary term. All payments or tenders of rental may be made by lessee's check or draft mailed to lessor at 858 S. Broad St., Mobile, Alabama, or delivered to lessor, or mailed or delivered to said bank on or before such date of payment".

Paragraph six in pertinent part is as follows:

"In the event a well or wells producing oil or gas in paying quantities should be brought in on adjacent land not more than one hundred fifty (150) feet from and draining the leased premises, lessee agrees to drill such offset well or wells as a reasonably prudent operator would drill under the same or similar circumstances, provided lessee shall not be required to offset any such gas well on adjacent land unless the gas therefrom is marketed; provided, further, in lieu of drilling an offset to such gas well, lessee shall have the option of paying lessor a royalty equal to one-sixteenth of the net revenue derived from the gas sold from such adjacent well, as long as lessee may elect to pay said royalty in lieu of drilling an offset, it will be considered that gas is being produced from the premises within the meaning of paragraph 2 hereof."



11.

Paragraph nine of said lease to Sun is in the following language:

"The breach by lessee of any obligation arising hereunder shall not work a forfeiture or termination of this lease, nor cause a termination or reversion of the estate hereby created, nor be grounds for cancellation hereof in whole or in part. If lessor considers that operations are not any time being conducted in compliance with this lease, lessor shall notify lessee in writing of the facts relied upon as constituting a breach hereof, and lessee shall have sixty days after receipt of such notice in which to commence the compliance with the obligations imposed by the lease; but neither the giving of said notice nor the doing of any act by lessee to remedy any breach by lessor shall raise a presumption or be deemed an admission that lessee failed to perform any of its obligations hereunder. After discovery of oil or gas in paying quantities on the premises, lessee shall reasonably develop the acreage retained hereunder, but in discharging this obligation it shall in no event be required to drill more than one well per twenty (20) acres of the area retained hereunder and capable of producing oil, gas or other mineral in paying quantities."

The amendments of the lease, dated October 30, 1950 referred to above, give authority to the lessee to pool the acreage covered by said lease or any portion thereof with other land in their vicinity into units, not exceeding forty acres each. Thereafter, on December 27, 1950, Humble and Sun entered into a pooling agreement creating a pooled unit known as South Carlton Unit No. 1, covering the S.E. 1/2 of N.W. 1/4, section 15, Township 3 North, Range 2 East; and on or about the 18th day of May, 1951, they entered into another pooling agreement which created a pooled unit known as South Carlton Unit No. 6 and covered the N.E. 1/4 of N.W. 1/4 of section 15, Township 3, Range 2 East.

The bill then alleges that Humble is the lessee of the land surrounding all those lands embraced in the lease to Sun, involved in the instant case, and is also the lessee of the oil and mineral in the bed of the Alabama River, and that Humble has been drilling and developing the oil in said adjacent and surrounding lands and has brought in a number of producing oil wells; and also has brought in a well on the South Carlton Unit No. 1, being located on the lands of complainants in Baldwin County, in the instant case.



12.

And that all of said wells are producing in paying quantities. The bill further alleges that Humble proposes to continue the drilling and development of said adjacent surrounding lands and particularly on said South Carlton Unit No. 6 and on other pooled units, and that if this is done without the concurrent drilling and development of the lands of complainants, their lands would be completely surrounded by wells on adjacent land, draining their land and without any benefit or protection to complainants. The bill further alleges that Sun has wholly failed, neglected and refused to drill and develop the lands of complainants described in said lease, "and your complainants have repeatedly called upon said respondent to drill upon and develop said lands, and particularly to drill an offset well to said producing well in Carlton Unit No. 1, but all of said requests have been denied or refused by said respondent Sun". Complainants also have demanded of Sun to know whether or not it had any plan for the drilling and development of said lands and have been advised by Sun that they have no such plan; that Sun has not taken any steps indicating a purpose to proceed with said drilling and development. That "the continued drilling and development of said adjacent and surrounding lands, as hereinabove shown, and without the concurrent development of complainants' land, will leave your complainants without the benefit of royalties from production from their lands."

The law is that without an express stipulation the duty is implied that the lessor in such a contract, if he wishes to declare a forfeiture, should give notice to the lessee of an intention to forfeit it for a failure to comply with the covenants expressed or implied, if any, and call upon him to perform. - 3 Summers Oil and Gas, section 469, page 164; Utilities Production Corp. v. Riddle, supra; Hawkins v. Klein, supra; 58 Corpus Juris Secundum 395, section 184 (3). But a contract itself may provide such a requirement. If so, it will take the place of that which the law implies if it is of a different and contradictory nature. - Freeport Sulphur Co. v. American Sulphur Realty Co., 6 S.W. 2d (Tex.) 1039, 60 A.L.R. 890,



annotation on pages 908, et seq.; Warren v. Amerada Petroleum Corp., 211 S. W. 2d (Tex.) 314; Brimmer v. Union Oil Co., 81 Fed. 2d 437, 105 A. L. R. 454; 21 Corpus Juris Secundum 904.

It is our view that the lease to Sun, here in question, contains such an effective requirement which supersedes the notice which the law would otherwise require. So that our problem is whether or not the bill shows a sufficient compliance with that feature of the lease. We have quoted its terms in that respect. We also have quoted the allegations of the bill with respect to the giving of notice. We think the bill does not show a sufficient compliance with the requirements of the lease as to said notice.

We think that conclusion alone requires a reversal of the decree which overruled the demurrer to the bill of complaint, and that without regard to whether Sun has complied with the covenants expressed in the lease and those implied by law in respect to the development of the oil in the land involved.

Another contention made by Sun is that if it had failed to perform its expressed or implied covenants, such failure was waived on two distinct theories, both of which are separately effective to that end. That means as to one theory, that under the terms of the lease when the lessee first paid \$200.00 on September 9, 1942, it had one year from that time in which to perform such duty as the law, as well as the contract, required of it under said lease. And when September 9, 1943 arrived and no steps had been taken by Sun, who then offered to pay a like sum, complainants, if they had wished to seek a forfeiture of the lease by reason of a breach of its implied or expressed covenants, should not have accepted payment of the \$200.00 on said date, but should have given notice as required by the lease. That situation existed



on the anniversary of the lease each year thereafter, and the payment and acceptance of said sum of \$200.00 on said anniversary during the primary term of the lease extended by its terms the right of the Sun as the lessee to perform its duty under the lease for another year, and was a waiver of any ground for forfeiture known to the complainants which then may have existed by reason of any past default of the lessee in the performance of its duty. - Kern Sunset Oil Co. v. Good Roads Oil Co., 214 Calif. 425, 6 Pac. 2d 71, 80 A. L. R. 453; 3 Summers Oil and Gas, pp. 171-2; Stewart v. Cross, 66 Ala. 22; Zirkle v. Ball, 171 Ala. 568, 54 So. 1000; France v. Ramsey, 214 Ala. 327, 107 So. 816; Gatewood v. Hughes, 214 Ala. 674, 108 So. 562; Bessemer Coal, Iron and Land Co. v. Bullard, 215 Ala. 433, 111 So. 5.

This lease is distinguishable from that involved in Blair v. Clear Creek Oil and Gas Co., 148 Ark. 301, 230 S. W. 286, 19 A. L. R. 430. That case states the rule which is applicable to a contract such as we have here, but there not applicable. That is, "that the acceptance of delayed rental precludes the lessor from forfeiting the lease for failure to develop during the term covered by the delayed rental. In such a case the lessor still has the gas and has received the reserved rent for a delay in drilling." The circumstances which relieved the Blair case from the operation of that rule do not obtain with respect to the lease in the instant case. - See, 24 Am. Jur. 565, section 60, notes 17 and 18.

The allegations of the bill mean that on September 9, 1950, a payment was made by the lessee Sun and received by the complainants of their part of the \$200.00 under said lease. That circumstance, as heretofore stated, was a waiver of any default which had existed up to that time, if there was any, and by express terms in the lease extended the right of the lessee for another twelve months within which to perform its duty which arose under the contract, whether expressed or implied. Within twelve months after September 9, 1950, and on the 2nd day of July, 1951, this bill was filed. So that at the time the bill was filed the lessee Sun was not in such default under the terms of the contract as to justify a forfeiture thereof and that without regard to whether it had failed up to that time to comply with the same.



Another theory is that the parties may by express stipulation waive all past defaults of expressed or implied duties whether they show an abandonment or ground for forfeiture, if there is a difference in the meaning of those terms. - Masterson v. Amarillo Oil Co., 253 S.W. (Tex. Civ. App.) 908. We have shown that complainants, each separately, on October 30, 1950, declared the original lease in full force and effect, and then and there expressly "grant(ed), demise(d), lease(d) and let unto Sun, its successors and assigns, the lands described in said lease, upon all the terms and conditions set out in said lease as hereby amended." Apart from other considerations, that contract had the effect of establishing the lease as thus amended. It extended the duty of the lessee for a year from September 9, 1950. It is without doubt that an abandonment or forfeiture cannot be predicated in a pending suit on a failure of the lessee to comply with his obligations while the suit is pending. - 3 Summers Oil and Gas, section 470, p. 171, note 3.

We need not make a study of the law relating to the implied duty of the lessee in such a lease to develop the production of oil in the land and the extent to which a failure to comply with that duty may justify a forfeiture or be an abandonment, since the express stipulations of the lease as amended October 30, 1950, and the payment of the annual rental control the effect of such failure to comply, which had theretofore occurred. A waiver of default applies to covenants which are implied as well as those expressed. So that the lessee was not in default in respect to any such covenant when this bill was filed July 2, 1951.

We need not try to analyze the distinction between an abandonment and forfeiture. For present purposes they both contain, as an element, a default in the performance of a duty arising under the contract. - 3 Summers Oil and Gas, section 469, pp. 168, 169; Doss Oil Royalty Co. v. Texas Co., 192 Okla. 359, 137 Pac. 2d 934; 3 Summers Oil and Gas, p. 197, n. 6

Appellant also insists on his ground of demurrer that the bill does not offer to do equity. But such an offer is not necessary unless the bill shows some duty on the part of complainants as a condition to the granting of relief. - Davis v. Anderson, 218 Ala. 557, 119 So. 670; Summers v. Jordan, 220 Ala. 402, 125 So. 642; Sims



Chancery Practice, section 292, p. 185. The cases cited by appellant showed such a duty on the part of complainant. - Shamblee v. Wilson, 233 Ala. 164, 170 So. 769; Harris v. Nichols, 223 Ala. 58, 134 So. 798. These cases involved a quieting of title or cancellation of some instrument in which complainants were due to make restitution or satisfy some claim of defendants. The rules there appertaining are set forth in cases digested in 4 Ala. Digest 144, 145 (Cancellation), section 37 (4), Pocket Part; 16 Ala. Dig. 517 518 (Quieting Title), section 34 (4); Grayson v. Roberts, 229 Ala. 245, 156 So. 552. We see nothing in this bill which requires an offer to do equity.

Appellees allege in their amendment to the bill of complaint that the amendments of October 30, 1950 to the lease by complainants and November 9, 1950 by Humble are void on their face because the names of the lessors do not appear as such in the body of those instruments. They are signed each separately, but in the body of the lease no name appears as a lessor executing it, but the following words are used: "the undersigned, in severalty or in separate tracts or in in-division" and "the undersigned owners of the above described land and mineral." The principle relied on is that where an instrument in writing purports on its face to be made by certain parties named therein, and the signature of a party not named appears signed to the instrument, it is not the contract of the last named party. - Brown v. O'Byrne, 153 Ala. 621, 45 So. 129. But when the body of the instrument does not purport to set out the names of the grantors, all the signers are to be considered as such. - Bowles v. Lowery, 181 Ala. 603, 62 So. 107; St. Clair Springs Hotel v. Balcomb, 215 Ala. 12, 108 So. 858. We think that principle is here controlling and that these contracts are not void on that claim.



17.

As we have said, there is no prayer as to Humble. But being a cotenant with complainants, Humble is a proper party to enable it to enforce such rights as it may desire to do in respect to the subject of the litigation. (See, Wood v. Wood, 134 Ala. 557, 562, 33 So. 347.) A decree in equity may be against any one or more defendants. - Equity Rule 67. Humble has seen fit to resist the relief sought by complainants. That relief primarily is to cancel the lease in its entirety, including Humble's interest. To that extent Humble is a necessary party. Since we think the bill is subject to Sun's demurrer, it is also subject to Humble's demurrer. So that, the decree is reversed on the assignments of Sun and Humble, separately.

Reversed and remanded.

All the Justices concur.



THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1 Div., No. 521

Sun Oil Company et al.

, Appellants

vs.

Charles Otis Oswell et al.

, Appellees

From Baldwin  
in Equity

Circuit Court.

The State of Alabama,  
City and County of Montgomery,

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to 17 inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme  
Court of Alabama, this the 19th day of

January, 1953

*J. Render Thomas*  
Clerk of the Supreme Court of Alabama.



---

THE SUPREME COURT OF ALABAMA

October Term, 1952-53

1 Div., No. 521

Sun Oil Company et al.,  
Appellants

vs.

Charles Otis Oswell et al.,  
Appellees

From Baldwin Circuit Court.  
in Equity

---

COPY OF OPINION

---

BROWN PRINTING CO., MONTGOMERY 1951



CHARLES OTIS OSWELL, and  
WILLIAM HAMILTON OSWELL,

Complainants,

VS.

SUN OIL COMPANY, a corporation,  
and HUMBLE OIL AND REFINING  
COMPANY, a corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 2677.

SECURITY FOR COSTS OF APPEAL.

Comes now Sun Oil Company, a corporation, and Humble Oil & Refining Company, a corporation, respondents in the above styled cause, as Principals, and Hartford Accident & Indemnity Company, a corporation, as surety, and hereby acknowledge themselves as security for costs of appeal of said Sun Oil Company and said Humble Oil & Refining Company to the Supreme Court of Alabama from the Decree of the Circuit Court of Baldwin County, Alabama, dated the 25th day of June, 1952, and filed and entered in Court the 25th day of June, 1952, in and by which the Demurrer of said respondents to the Complainants' Amended Bill of Complaint were overruled.

Executed this 9th day of July, 1952.

SUN OIL COMPANY

(SEAL)

By

Gessner T. McCorvey  
(Gessner T. McCorvey) Attorney

HUMBLE OIL & REFINING COMPANY

(SEAL)

By

Gessner T. McCorvey  
(Gessner T. McCorvey) Attorney  
AS PRINCIPALS.

HARTFORD ACCIDENT & INDEMNITY COMPANY (SEAL)

By

F. M. Beckes, Jr.  
(F. M. Beckes, Jr.)  
Attorney in Fact,  
AS SURETY.

TAKEN AND APPROVED

this 10<sup>th</sup> day of July, 1952.

Alfred L. Hatcher  
Register of the Circuit Court of  
Baldwin County, Alabama.



# Hartford Accident and Indemnity Company

HARTFORD, CONNECTICUT

8

## POWER OF ATTORNEY

Know all men by these Presents, That the HARTFORD ACCIDENT AND INDEMNITY COMPANY, a corporation duly organized under the laws of the State of Connecticut, and having its principal office in the City of Hartford, County of Hartford, State of Connecticut, does hereby make, constitute and appoint

F. B. PATRICK, P. M. JACKSON, JR., W. P. GURP, and W. P. JACKSON,  
of MOBILE, ALABAMA,

its true and lawful Attorney(s)-in-fact, with full power and authority to each of said attorneys-in-fact to sign, execute and acknowledge any and all bonds and undertakings in penalties not exceeding the sum of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) each, on behalf of the Company in its business of guaranteeing the fidelity of persons holding places of public or private trust; guaranteeing the performance of contracts other than insurance policies; guaranteeing the performance of insurance contracts where surety bonds are accepted by states or municipalities, and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings or by law allowed,

and to bind the HARTFORD ACCIDENT AND INDEMNITY COMPANY thereby as fully and to the same extent as if such bonds and undertakings and other writings obligatory in the nature thereof were signed by an Executive Officer of the HARTFORD ACCIDENT AND INDEMNITY COMPANY and sealed and attested by one other of such officers, and hereby ratifies and confirms all that its said Attorney(s)-in-fact may do in pursuance hereof.

This power of attorney is granted under and by authority of the following By-Law adopted by the Stockholders of the HARTFORD ACCIDENT AND INDEMNITY COMPANY at a meeting duly called and held on the 10th day of February, 1943.

### ARTICLE IV

Section 8. The President or any Vice-President, acting with any Secretary or Assistant Secretary, shall have power and authority to appoint, for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, one or more Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-fact and at any time to remove any such Resident Vice-President, Resident Assistant Secretary, or Attorney-in-fact, and revoke the power and authority given to him.

Section 11. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power of attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company thereto any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested by one other of such Officers.

In Witness Whereof, the HARTFORD ACCIDENT AND INDEMNITY COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to be hereto affixed, duly attested by its Assistant Secretary, this 14th day of April, 1952.

Attest:

HARTFORD ACCIDENT AND INDEMNITY COMPANY

*Walter P. Gurp*

Vice-President

*W. P. Gurp*  
Assistant Secretary

STATE OF CONNECTICUT,

SS.

COUNTY OF HARTFORD,

On this 14th

day of

WALLACE STEVENS

April

, A. D. 1952

, before me personally came

and say: that he resides in the County of Hartford, State of Connecticut; that he is the Vice-President of the HARTFORD ACCIDENT AND INDEMNITY COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

*L. A. Reeves*  
Notary Public

### CERTIFICATE

STATE OF CONNECTICUT,

SS.

COUNTY OF HARTFORD,

I, the undersigned, Assistant Secretary of the HARTFORD ACCIDENT AND INDEMNITY COMPANY, a Connecticut Corporation, DO HEREBY CERTIFY that the foregoing and attached POWER OF ATTORNEY remains in full force and has not been revoked; and furthermore, that Article IV, Sections 8 and 11, of the By-Laws of the Company, set forth in the Power of Attorney, is now in force.

Given under my hand and the seal of the company, at the City of Hartford, on July 8, 1952

*W. P. Gurp*  
Assistant Secretary

Div. No. \_\_\_\_\_

CERTIFICATE OF APPEAL. (Equity Cases.)

No. 2677

CHARLES OTIS OSWELL ET AL

Complainant.

VS.

SUN OIL CO., a corp. and

HUMBLE OIL & REFINERY COMPANY

Respondent.

I, Alice J. Duck Register of the Circuit Court In Equity,  
Baldwin County, Alabama, hereby certify that in the cause of  
Charles Otis Oswell et al. Complainant,

VS.

Sun Oil Co., a corp. and Humble Oil & Refinery Company Respondent,  
which was tried and determined in this Court on the 25th day of  
June 19 52, in which there was a decree in favor of the  
Plaintiff

On the 9th day of July 19 52, the Defendants  
took an appeal to the  
Supreme Court of Alabama, to be holden of and for said State.

I further certify that Defendants  
filed security for cost of appeal, to the Supreme C Court,  
on the 10th day of July 19 52, and that Hartford Accident and  
Indemnity Company  
are sureties on the appeal bond.

I further certify that notice of said appeal was on the 9th  
day of July, 19 52, served on Holberg, Tully & Aldridge  
as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_

Register of the Circuit Court In Equity of

Baldwin

County, Alabama.



COPY

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS  
ATTORNEYS AT LAW  
NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

GESSNER T. MCCORVEY  
BEN D. TURNER  
C. M. A. ROGERS  
C. A. L. JOHNSTONE, JR.  
R. F. ADAMS

P. O. BOX 1070  
MOBILE 6, ALABAMA

JAMES L. MAY, JR.  
CHAUNCEY MOORE

November 10th, 1951.

Mr. Albert J. Tully,  
Attorney at Law,  
First National Bank Bldg.,  
Mobile, Alabama.

Dear Albert:-

I am herewith enclosing copy of demurrer of The Sun Oil Company  
to the amended bill of complaint in the Oswell case.

I will forward to you on Monday a copy of the demurrer of  
the Humble Oil & Refining Company.

Sincerely yours,

(Gessner T. McCorvey).

Copies to  
Mrs. Alice Duck, Register,  
Circuit Court of Baldwin County,  
Bay Minette, Ala.

Mr. J. B. Blackburn,  
Sun Oil Company,  
Humble Oil & Refining Company.

COPY

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS  
ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

GESSNER T. MCCORVEY  
BEN D. TURNER  
C. M. A. ROGERS  
C. A. L. JOHNSTONE, JR.  
R. F. ADAMS

P. O. BOX 1070  
MOBILE 6, ALABAMA

November 28th, 1951.

JAMES L. MAY, JR.  
CHAUNCEY MOORE

Mr. Albert J. Tully,  
Attorney at Law,  
First National Bank Bldg.,  
Mobile, Alabama.

Dear Albert:- In re: Oswell, et al. vs. Sun Oil Company, et al.

I am herewith enclosing for your file a copy of a motion of the Humble Oil & Refining Company, requesting the Court to extend the time for answering interrogatories propounded to the Humble Oil & Refining Company by complainants, until thirty days after the demurrer has been finally disposed of.

I have attached to this motion an affidavit by Mr. Douglas E. Bell, Head Production Geologist of the Humble Oil & Refining Company, and I am attaching to your office copy of this motion, a copy of Mr. Bell's affidavit.

With kindest regards and all good wishes, I am,

Sincerely yours,

GTM-S.

(Gessner T. McCorvey).

Copies to

✓ Mrs. Alice Duck, Register,  
Circuit Court of Baldwin County,  
Bay Minette, Ala.  
Mr. J. B. Blackburn,  
Sun Oil Company,  
Humble Oil & Refining Company.



LAW OFFICES  
HOLBERG, TULLY AND ALDRIDGE  
SUITE 631-636 - FIRST NATIONAL BANK BLDG.  
P. O. BOX 47  
MOBILE 1, ALABAMA

RALPH G. HOLBERG, JR.  
ALBERT J. TULLY  
HENRI M. ALDRIDGE

JACK W. SPRINKLE

Oct.  
31,  
1951

Mrs. Alice J. Duck  
Register in Chancery  
Baldwin County Cour House  
Bay Minette, Alabama

Re: Oswell vs. Sun Oil Company, et al. Equity No. 2,677.

Dear Mrs. Duck:

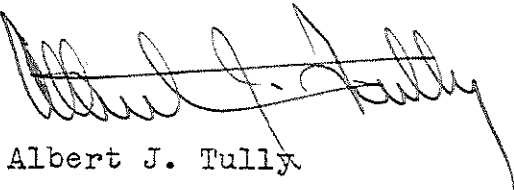
Enclosed herewith we are handing to you interrogatories propounded by the complainants to the Respondent Humble Oil and Refining Company. A copy of these interrogatories has already been furnished to Honorable Gessner T. McCorvey, of counsel for this respondent, and you will notice that the solicitors for the respondents have accepted service of these interrogatories.

We shall be glad if you will cause these interrogatories to be filed in the above entitled proceedings.

With kindest personal regards, we remain

Very sincerely yours,

HOLBERG, TULLY & ALDRIDGE



Albert J. Tully

AJT:lp

encl: 1

cc: Hon. Gessner T. McCorvey

COPY

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS  
ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING  
P. O. BOX 1070

MOBILE 6, ALABAMA

GESSNER T. MCCORVEY  
BEN D. TURNER  
C. M. A. ROGERS  
C. A. L. JOHNSTONE, JR.  
R. F. ADAMS

JAMES L. MAY, JR.  
CHAUNCEY MOORE

November 20th, 1951.

Mr. Albert J. Tully,  
Attorney at Law,  
First National Bank Bldg.,  
Mobile, Alabama.

Dear Albert:-

I am herewith enclosing for your file copies of the following motions which we are filing in the Oswell case, on the Equity side of the Baldwin County Circuit Court:

1. Motion of Sun Oil Company to amend the demurrer heretofore filed to the bill of complaint as amended, by adding thereto Ground No. 35 which raises the point that in the bill of complaint as amended the Complainants do not offer to do equity.

2. Similar motion of Humble Oil & Refining Company.

3. Motion of Sun Oil Company to request the Court to extend the time for answering interrogatories propounded to Sun Oil Company by the complainants until thirty days after the demurrer has been disposed of.

With kindest regards and all good wishes, I am,

Sincerely yours,

(Gessner T. McCorvey).

GTM-S.

/ Copies to  
Mrs. Alice Duck, Register,  
Circuit Court of Baldwin County,  
Bay Minette, Alabama.  
Mr. J. B. Blackburn,  
Sun Oil Company,  
Humble Oil & Refining Company.



McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

P.O. BOX 1070

MOBILE 6, ALABAMA

GESSNER T. McCORVEY  
BEN D. TURNER  
C. M. A. ROGERS  
C. A. L. JOHNSTONE, JR.  
R. F. ADAMS

JAMES L. MAY, JR.  
CHAUNCEY MOORE

August 3rd, 1951.

Mrs. Alice J. Duck, Register,  
Circuit Court of Baldwin County,  
Bay Minette, Alabama.

Dear Mrs. Duck:

Enclosed herewith we hand you demurrer of Sun Oil Company to the complaint filed against it and the Humble Oil & Refining Company by Charles Otis Oswell, et al., being Case No. 2,677 on your Equity Docket. Kindly file this promptly and advise us in the self-addressed, stamped envelope herewith enclosed, the filing date.


We are sending a copy of this demurrer to Messrs. Holberg, Tully and Aldridge, the solicitors for the complainants.

With kindest regards and thanking you for your many courtesies, we are,

Sincerely yours,

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By

  
(Gessner T. McGorvey).

GTM-S.

Encl.

Copies to  
Mr. Martin A. Row, First Assistant,  
Sun Oil Company,  
Dallas, Texas.

Mr. J. B. Blackburn,  
Attorney at Law,  
Bay Minette, Alabama.

Messrs. Holberg, Tully and Aldridge,  
Mobile, Alabama.  
Attention: Mr. Albert J. Tully.

COPY

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS  
ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

P. O. BOX 1070

MOBILE 6, ALABAMA

GESSNER T. McCORVEY  
BEN D. TURNER  
C. M. A. ROGERS  
C. A. L. JOHNSTONE, JR.  
R. F. ADAMS

JAMES L. MAY, JR.  
CHAUNCEY MOORE

November 12, 1951

Mr. Albert J. Tully  
Attorney at Law  
First National Bank Building  
Mobile, Alabama

Dear Albert:

I am herewith enclosing copy of demurrer of The  
Humble Oil & Refining Company to the amended bill of  
complaint in the Oswell case.

Sincerely yours,

(Gessner T. McCorvey)

GTM-S.

cc: Mrs. Alice Duck, Register  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Mr. J. B. Blackburn

Sun Oil Company

Humble Oil & Refining Company



LAW OFFICES  
HOLBERG, TULLY AND ALDRIDGE  
SUITE 631-636 - FIRST NATIONAL BANK BLDG.  
P. O. BOX 47  
MOBILE 1, ALABAMA

RALPH G. HOLBERG, JR.

ALBERT J. TULLY

HENRI M. ALDRIDGE

JACK W. SPRINKLE

Oct.  
23,  
1951

Mrs. Alice J. Duck  
Register in Chancery  
Baldwin County Court House  
Bay Minette, Alabama

Re: Oswells vs. Sun Oil Company and Humble Oil and Refining  
Company.

Dear Mrs. Duck:

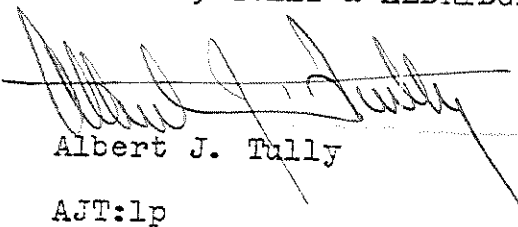
Enclosed herewith we are handing you interrogatories propounded by the complainants to the Respondent Sun Oil Company in the above entitled cause. You will note that Messrs. McCorvey, Turner, Rogers, Johnstone and Adams, solicitors for the respondents, have accepted service and acknowledged receipt of a copy of these interrogatories.

We shall be most grateful if you will attend to the filing of these interrogatories in this cause.

With kindest personal regards, I remain

Very sincerely yours,

HOLBERG, TULLY & ALDRIDGE



Albert J. Tully

AJT:lp

encl:

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS  
ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

P. O. BOX 1070

MOBILE 6, ALABAMA

August 28th, 1951.

GESSNER T. McCORVEY  
BEN D. TURNER  
C. M. A. ROGERS  
C. A. L. JOHNSTONE, JR.  
R. F. ADAMS

JAMES L. MAY, JR.  
CHAUNCEY MOORE

Mrs. Alice J. Duck, Register,  
Circuit Court of Baldwin County,  
Bay Minette, Alabama.

Dear Mrs. Duck:-

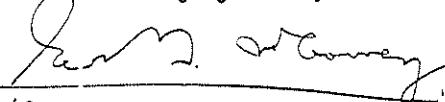
Enclosed herewith I hand you demurrer of Humble Oil & Refining Company to the complaint filed against it and the Sun Oil Company by Charles Otis Oswell, et al., being Case No. 2677 on your Equity Docket.

Kindly file this demurrer promptly, and advise us in the self-addressed, stamped envelope herewith enclosed, the filing date.

Let us add that we are forwarding a copy of this demurrer to Messrs. Holberg, Tully & Aldridge, the Solicitors for the Complainants.

With kindest regards and assuring you of our appreciation of your many courtesies, I am,

Sincerely yours,

  
(Gessner T. McCorvey).

GTM-S.

Copies to  
Humble Oil & Refining Co.,  
P. O. Box 2180,  
Houston 1, Texas.

Mr. J. B. Blackburn,  
Attorney at Law,  
Bay Minette, Ala.  
Messrs. Holberg, Tully & Aldridge,  
Attention Mr. Albert J. Tully,  
Mobile, Alabama.



LAW OFFICES  
HOLBERG, TULLY AND ALDRIDGE  
SUITE 631-636 - FIRST NATIONAL BANK BLDG.  
P. O. BOX 47  
MOBILE 1, ALABAMA

RALPH G. HOLBERG, JR.  
ALBERT J. TULLY  
HENRI M. ALDRIDGE  
JACK W. SPRINKLE

Oct.  
22,  
1951

Mrs. Alice J. Duck  
Register in Chancery  
Baldwin County Court House  
Bay Minette, Alabama

RE: Oswell, et al vs. Sun Oil Company and Humble Oil and  
Refining Co. Equity No. 2,677.

Dear Mrs. Duck:

We are enclosing to you herewith the original of our amend-  
ment to the bill of complaint in the above entitled cause.

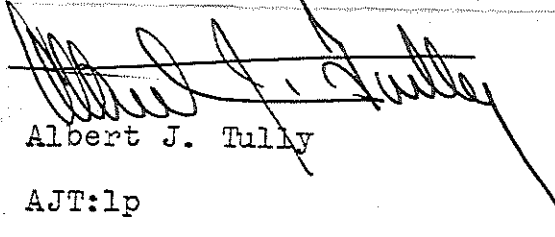
We are handing to Hon. Gessner T. McCorvey, solicitor for  
both respondents, a copy of this letter together with two  
copies of this pleading, with all exhibits attached.

We shall be glad if you will cause this pleading to be filed  
in the above entitled cause.

With kindest personal regards, I remain

Very sincerely yours,

HOLBERG, TULLY & ALDRIDGE



Albert J. Tully

AJT:lp

cc; Hon. Gessner T. McCorvey.

CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,  
Complainants,

- VS. -

SUN OIL COMPANY, a corporation,  
and HUMBLE OIL & REFINING COMPANY,  
a corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,

IN EQUITY.

NO. 2,677.

Comes Humble Oil & Refining Company, a corporation, one of the Respondents in this cause, and its motion for leave to amend the demurrer heretofore filed by it to the bill of complaint as amended, having been granted by the Court, does now amend the demurrer heretofore filed by it to the bill of complaint as amended, by adding under Paragraph "I" ground Number 36, as follows:

"36. Because in the bill of complaint as amended the complainants do not offer to do equity".

This Respondent further amends Paragraphs Numbers II, III, IV, V, VI, VII and VIII, respectively, by substituting the figure "36" for the figure "35", wherever the same appears in each of said Paragraphs Numbers II, III, IV, V, VI, VII and VIII, respectively.

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By Gessner T. McCorvey  
(Gessner T. McCorvey)

Attorneys for Humble Oil & Refining Company.



LAW OFFICES  
HOLBERG, TULLY AND ALDRIDGE  
SUITE 631-636 - FIRST NATIONAL BANK BLDG.  
P. O. BOX 47  
MOBILE 1, ALABAMA

RALPH G. HOLBERG, JR.  
ALBERT J. TULLY  
HENRI M. ALDRIDGE  
JACK W. SPRINKLE

Dec.  
4th  
1951

Mrs. Alice J. Duck  
Register In Chancery  
Baldwin County Courthouse  
Bay Minette, Alabama

RE: Oswell, et al vs Sun Oil Company & Humble Oil & Refining  
Company.

Dear Mrs. Duck:

Enclosed herewith I am handing you the originals of  
motions against each of the Respondents in the above  
entitled cause to require them to answer interroga-  
tories. A copy of each motion, together with a copy  
of this letter is being handed to counsel for each  
of said Respondents.

With kindest regards, I remain

Very sincerely yours,

HOLBERG, TULLY & ALDRIDGE

By

  
Albert J. Tully

AJT/s

C. C. McCorvey, Turner, Rogers, Johnstone & Adams  
Attorneys at Law  
Merchants National Bank Bldg.  
Mobile, Alabama

CHARLES OTIS OSWELL, ET AL,  
Complainants,  
VS.

SUN OIL COMPANY, a Corpora-  
tion, ET AL,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 2677

DECREE AUTHORIZING AMENDMENT OF DEMURRER

This cause coming on to be heard on this date is sub-  
mitted on respondents' motion for leave to amend their respective  
demurrers to complainants' amended Bill of Complaint, upon consid-  
eration of which, it is, therefore, ORDERED, ADJUDGED AND DECREED  
by the Court that the said respondents and each of them are hereby  
granted leave to amend their said demurrer.

ORDERED, ADJUDGED AND DECREED on this the 20th day of  
December, 1951.

*Jelfair H. Maslberg*  
Judge.



DECREE AUTHORIZING AMENDMENT  
OF DEMURRER.

CHARLES OTIS OSWELL, ET AL,

Complainants,  
VS.

SUN OIL COMPANY, a Corporation,  
ET AL,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 2677

12-20-51

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 2677

DECREE EXTENDING TIME FOR RESPONDENTS TO  
ANSWER INTERROGATORIES.

This cause was submitted by consent of the parties on December 20, 1951 on the motion of the Respondents, Sun Oil Company, a Corporation, and on the motion of Humble Oil and Refining Company, a Corporation, to be allowed additional time to answer the interrogatories propounded to the said respondents by the complainants in this cause, upon consideration of all of which, the Court is of the opinion that the said motions of each of the said respondents should be granted; WHEREUPON, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The respondent, Sun Oil Company, a Corporation, shall be and it is hereby allowed until thirty days after the pleadings in this cause are settled and this cause is at issue as to the said respondent to answer the interrogatories propounded to the said respondent by the complainants in this cause.

2. The respondent, Humble Oil and Refining Company, a Corporation, shall be and it is hereby allowed until thirty days after the pleadings in this cause are settled and this cause is at issue as to the said respondent to answer the interrogatories propounded to the said respondent by the complainants in this cause.

ORDERED, ADJUDGED AND DECREED on this the 18<sup>th</sup> day of

April, 1952.

Telford G. Washburn, Jr.  
Judge.



CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,

Complainants,

-VS.-

SUN OIL COMPANY, a corporation,  
and HUMBLE OIL & REFINING COMPANY,  
a corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,

IN EQUITY.

NO. 2,677.

Now comes Sun Oil Company, a corporation, one of the respondents in this cause, and moves the Court for leave to amend the demurrer heretofore filed by it to the bill of complaint as amended, by adding under Paragraph "I" ground No. 35 as follows:

"35. Because in the bill of complaint as amended the complainants do not offer to do equity".

This ~~complainant~~<sup>respondent</sup> further moves the Court for leave to amend paragraphs numbers II, III, IV, V, VI, VII and VIII, respectively, by substituting the figure "35" for the figure "34" wherever the same appears in each of said paragraphs numbers II, III, IV, V, VI, VII and VIII, respectively.

Respectfully submitted,

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By Gessner T. McCorvey  
(Gessner T. McCorvey)

Attorneys for Sun Oil Company.

CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,

Complainants,

-VS.-

SUN OIL COMPANY, a corporation,  
and HUMBLE OIL & REFINING COMPANY,  
a corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,

IN EQUITY.

NO. 2677.

Comes Sun Oil Company, a corporation, one of the Respondents in this cause, and its motion for leave to amend the demurrer heretofore filed by it to the bill of complaint as amended, having been granted by the Court, does now amend the demurrer heretofore filed by it to the bill of complaint as amended, by adding under Paragraph "I" ground Number 35, as follows:

"35. Because in the bill of complaint as amended the complainants do not offer to do equity".

This Respondent further amends Paragraphs Numbers II, III, IV, V, VI, VII and VIII, respectively, by substituting the figure "35" for the figure "34", wherever the same appears in each of said Paragraphs Numbers II, III, IV, V, VI, VII and VIII, respectively.

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By Gessner T. McCorvey  
(Gessner T. McCorvey)

Attorneys for Sun Oil Company.



CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,  
Complainants,

-vs.-

SUN OIL COMPANY, a corpora-  
tion and HUMBLE OIL & REFINING  
COMPANY, a corporation,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
IN EQUITY.

NO. 2,677.

Now comes Humble Oil & Refining Company, a corporation, one of the respondents in this cause and demurs to the bill of complaint as amended, and as grounds for demurrer assigns separately each of the following:

I.

1. There is no equity in the bill.
2. Said bill of complaint does not allege a ground for equitable relief.
3. The bill of complaint as amended fails to contain any averment to the effect that lessors had notified lessee in writing of the facts relied upon as constituting an alleged breach of any obligation arising under the lease and that lessee failed for sixty days after the receipt of such notice to commence compliance with any obligations imposed upon lessee by the lease.
4. For aught that appears from the bill of complaint as amended, six or more parties have become entitled to royalty under the said lease, and the bill of complaint as amended fails to aver that lessee has been furnished with a recordable instrument executed by all such parties, designating an agent to receive payment for all.
5. The allegations of the bill of complaint as amended fail to show any basis for abandonment of the lease, as contended for by the complainants.
6. The allegations of the bill of complaint as amended show that there has been no abandonment of the lease by respondents.
7. The allegations of the bill of complaint as amended wholly fail to allege any basis for a forfeiture of the lease.
8. The allegations of the bill of complaint as amended show that there has been no forfeiture of the lease by respondents.
9. The allegations of the bill of complaint as amended affirma-

tively show that the lease is not capable of being abandoned during the primary term of ten years.

10. The allegations of the bill of complaint as amended show affirmatively that the lease is not subject to forfeiture on any of the grounds set up in the amended bill of complaint.

11. The bill of complaint as amended affirmatively shows that the instruments, copies of which are attached as Exhibit "D", Exhibit "E" and Exhibit "F", respectively, to the amended bill of complaint are properly executed and are not void or invalid or of no effect, as averred by complainants.

12. Because paragraph No. 9 of the lease in question expressly provides that the breach by lessee of any obligation arising thereunder shall not work a forfeiture or termination of the lease, nor cause a termination or reversion of the estate thereby created, nor be grounds for cancellation of the said lease either in whole or in part.

13. The said bill of complaint as amended fails to aver that any well or wells producing oil or gas in paying quantities has been brought in on adjacent lands not more than 150 feet from and draining the leased premises.

14. For aught that appears from the bill of complaint as amended the lessee has not failed to drill such offset well or wells as a reasonably prudent operator would drill under the same circumstances as involved in this case, or under similar circumstances.

15. Because the bill of complaint as amended fails to aver any facts showing that since September 9th, 1950, and prior to the filing of the bill of complaint in this cause, respondents were under an obligation or duty to pay or tender, or should have paid or tendered, to complainants any rentals or royalties in order to keep the said lease in full force and effect.

16. Because it affirmatively appears from the bill of complaint as amended that complainants cannot raise the question of ultra vires upon which the complainants seek to rely in the bill of complaint as amended.

17. The said bill of complaint does not allege any contractual obligations, express or implied, of Humble Oil & Refining Company which have been violated by this respondent in any respect.



18. The said bill of complaint does not allege in what manner the respondent Sun Oil Company, has violated its obligations under the aforesaid lease and the amendments thereto.

19. The bill of complaint does not allege with any degree of certainty the duties required of the respondent, Sun Oil Company, in drilling or operating under said lease and, therefore, the allegations that the Sun Oil Company has failed to meet its duties and obligations in said lease is merely a conclusion of the pleader and unsupported by any alleged facts.

20. The allegations of the bill of complaint show that there is now located on the area covered by the lease a well, drilled and operated by the respondents, under the terms and provisions of said lease, as amended, and said allegations further show that said well is now producing oil in paying quantities, and because of those allegations, the statement that the respondent, Sun Oil Company, has wholly failed, neglected and refused to drill and develop the lands described in said lease, is contrary to the alleged facts and is merely a conclusion of the pleader.

21. It does not appear from the allegations of the bill of complaint whether the complainants own all of the rights, titles and interests of the lessors in or under the oil, gas and mineral lease which complainants seek in this suit to cancel. For the lack of such allegations it does not appear that all of the necessary parties have been brought into the proceedings, either as complainants or respondents.

22. For aught that appears from the allegations of the complaint, all necessary parties to this action have not been made parties complainant or respondent.

23. It is not alleged that any of the acts done or permitted as alleged in paragraph III of the bill are contrary to the provisions of the said lease or the amendments thereto.

24. The allegation appearing in Paragraph III of the bill of complaint that if developments upon adjacent and surrounding lands are continued "without the concurrent drilling and development of the lands of your complainants, the lands of your complainants will be completely surrounded by wells on adjacent lands, draining the lands of your complainants and without any benefit or protection to your

complainants" are merely conclusions of the pleader and unsupported by any alleged facts.

25. The allegations appearing in Paragraph IV of the bill of complaint that "the continued drilling and development of said adjacent and surrounding lands, as hereinabove shown, and without the concurrent development of complainants' lands, will leave your complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil which lies in and under the lands of your complainants" are merely conclusions of the pleader and are unsupported by any alleged facts.

26. There are no facts alleged in the bill of complaint which, under the law and facts, would require the drilling of the offset well, to which plaintiffs refer as not having been drilled.

27. The statement appearing in the bill of complaint in which the alleged failure of respondents to drill an offset well to the well now located on property described in the lease, producing oil, in effect, calls upon the respondents to drill an offset well in order to offset oil now being produced on plaintiffs' lands by the respondents.

28. For aught appearing from the allegations of paragraph IV, the statement to the effect that the respondent, Sun Oil Company, "has wholly failed, neglected and refused to drill and develop the lands of your complainants described in said lease attached hereto as Exhibit A", is a mere conclusion of the pleader and is not supported by the allegations of the bill of complaint in that the bill of complaint does affirmatively allege that there is already one producing oil well, drilled by the respondents, on the property described in said lease, and under the terms and provisions of said lease as amended, and there is no allegation in the bill of complaint as to wherein the respondent has violated any specific and pointed out provision contained in said lease, as amended.

29. The bill of complainant is defective in that that part of paragraph IV alleging that "the continued drilling and development of said adjacent and surrounding lands as hereinabove shown, and without the concurrent development of complainants' lands, will leave your complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil



which lies in and under the lands of your complainants", is but the statement of a conclusion of the pleader, and is based on the premise that wells drilled on adjacent and surrounding lands will be producing wells, and on the premise that each and all such wells will drain oil from under the lands described in the lease, and is further defective in that it does not take into account the fact that, for aught appearing, complainants themselves benefit from such producing wells as might be brought in on adjacent and surrounding lands through the pooled units to which reference is made in the bill of complaint.

30. For that the allegation that the failure of the respondent, Sun Oil Company, to drill and develop said lands and to drill an off-set well to the producing well now located on said lands constitutes waste as defined under the laws of Alabama, is but the statement of a conclusion of the pleader.

31. For that it affirmatively appears from the allegations of the complaint that the only reason complainants would not have an adequate remedy at law is because their only damages are speculative damages, which damages are not admitted.

32. The relief sought in the bill of complaint is wholly inconsistent with the facts alleged therein and contrary and contradictory to the No. 9 paragraph of said lease, said lease by reference being made a part of the bill of complaint, in that said paragraph 9 in said lease specifically provides that "the breach by lessee of any obligation arising hereunder shall not work a forfeiture or termination of this lease, nor cause a termination or reversion of the estate hereby created, nor be grounds for cancellation hereof in whole or in part."

33. The allegation appearing in paragraph VI of the bill of complaint to the effect that complainants have no adequate remedy at law and have no other remedy available to them except through the processes of this Court, are made in total disregard of the allegations of the bill of complaint when taken in connection with the exhibits thereto and are false in that the remedy sought is expressly excluded by the very terms of the lease which is sought to be cancelled.

34. The prayer for relief in its entirety is wholly at variance with and contrary to the provisions and terms of the lease which has been made a part of the complaint.

35. Because the bill of complaint as amended seeks no relief against this respondent, Humble Oil & Refining Company.

II.

Now comes the respondent, Humble Oil & Refining Company, and demurs to the allegations of Paragraph II of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 35, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

III.

Now comes the respondent, Humble Oil & Refining Company, and demurs to the allegations of Paragraph III of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 35, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

IV.

Now comes the respondent, Humble Oil & Refining Company, and demurs to the allegations of Paragraph IV of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 35, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

V.

Now comes the respondent, Humble Oil & Refining Company, and demurs to the allegations of Paragraph V of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 35, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

VI.

Now comes the respondent, Humble Oil & Refining Company, and demurs to the allegations of Paragraph VI of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 35, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just



as if each of said grounds of demurrer were specifically re-written here.

VII.

Now comes the respondent, Humble Oil & Refining Company, and demurs to the allegations of Paragraph VII of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 35, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

VIII.

Now comes the respondent, Humble Oil & Refining Company, and demurs to the allegations of Paragraph VIII of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 35, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By Gessner T. McCorvey  
(Gessner T. McCorvey)

Attorneys for Humble Oil & Refining Company.

CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,

Complainants,

-vs-

SUN OIL COMPANY, a corpora-  
tion and HUMBLE OIL & RE-  
FINING COMPANY, a corpora-  
tion,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 2,677

Now comes Humble Oil & Refining Company, a corporation, one of the respondents in this cause and demurs to the bill of complaint filed against it and the other respondent herein and as grounds for demurrer assigns separately each of the following:

1. There is no equity in the bill.
2. Said bill of complaint does not allege a ground for equitable relief.
3. The allegations of the bill do not show that the complainants, or either of them, at the time of the filing of the bill of complaint, owned such an interest in the subject matter of the bill as to entitle them, or either of them, to maintain this action.
4. Said bill of complaint is defective in that it is alleged in Paragraph II therein that certain amendments to the oil, gas and mineral lease were executed by complainants to the Sun Oil Company, but the terms of said amendments are not set out with such certainty as will inform either the court or the respondent, Sun Oil Company, as to the terms of said amendments.
5. Said bill of complaint is defective in that it is alleged in Paragraph II therein that a certain amendment to the aforesaid lease was executed by Humble Oil & Refining Company, but the terms of said amendment are not set out with such certainty as will inform the court as to the terms of said amendments.
6. The said bill of complaint does not allege any contractual obligations of Sun Oil Company which have been violated by this respondent in any respect.



7. The said bill of complaint does not allege in what manner the respondent, Sun Oil Company, has violated its obligations under the aforesaid lease and the amendments thereto.

8. The bill of complaint does not allege with any degree of certainty the duties required of the respondent, Sun Oil Company, in drilling or operating under said lease and, therefore, the allegations that the Sun Oil Company has failed to meet its duties and obligations in said lease is merely a conclusion of the pleader and unsupported by any alleged facts.

9. The allegations of the bill of complaint show that there is now located on the area covered by the lease a well, drilled and operated by the respondents, under the terms and provisions of said lease, as amended, and said allegations further show that said well is now producing oil in paying quantities, and because of those allegations, the statement that the respondent, Sun Oil Company, has wholly failed, neglected and refused to drill and develop the lands described in said lease, is contrary to the alleged facts and is merely a conclusion of the pleader.

10. It does not appear from the allegations of the bill of complaint whether the complainants own any of the rights, titles or interests of the lessors in or under the oil, gas and mineral lease which complainants seek herein to cancel; for the lack of such allegations it does not appear that complainants are entitled to bring this suit.

11. It does not appear from the allegations of the bill of complaint whether the complainants own all of the rights, titles and interests of the lessors in or under the oil, gas and mineral lease which complainants seek in this suit to cancel. For the lack of such allegations it does not appear that all of the necessary parties have been brought into the proceedings, either as complainants or respondents.

12. For aught that appears from the allegations of the complaint, all necessary parties to this action have not been made parties complainant or respondent.

13. For aught that appears from the allegations of the complaint, the complainants did not own any of the oil, gas and mineral rights in and under the lands described in the lease referred to in the bill of complaint.

14. It is not alleged that any of the acts done or permitted in paragraph III of the bill are contrary to the provisions of the said lease or the amendments thereto.

15. The allegation appearing in Paragraph III of the bill of complaint that if developments upon adjacent and surrounding lands are continued "without the concurrent drilling and development of the lands of your complainants, the lands of your complainants will be completely surrounded by wells on adjacent lands, draining the lands of your complainants and without any benefit or protection to your complainants" are merely conclusions of the pleader and unsupported by any alleged facts.

16. The allegations appearing in Paragraph IV of the bill of complaint that "the continued drilling and development of said adjacent and surrounding lands, as hereinabove shown, and without the concurrent development of complainants' lands, will leave your complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil which lies in and under the lands of your complainants" are merely conclusions of the pleader and are unsupported by any alleged facts.

17. There are no facts alleged in the bill of complaint which, under the law and facts, would require the drilling of the offset well, to which complainants refer as not having been drilled.

18. The statement appearing in the bill of complaint in which the failure of respondents to drill an offset well to the well now located on property described in the lease, producing oil, in effect, calls upon the respondents to drill an offset well in order to offset oil now being produced on complainants' lands by the respondents.

19. For aught appearing from the allegations of Paragraph IV, the statement to the effect that the respondent, Sun Oil Com-



pany, "has wholly failed, neglected and refused to drill and develop the lands of your complainants described in said lease attached hereto as Exhibit A", is a mere conclusion of the pleader and is not supported by the allegations of the bill of complaint in that the bill of complaint does affirmatively allege that there is already one producing oil well, drilled by the respondents, on the property described in said lease, and under the terms and provisions of said lease as amended, and there is no allegation in the bill of complaint as to wherein the respondent has violated any specific and pointed out provision contained in said lease, as amended.

20. The bill of complaint is defective in that that part of Item IV alleging that "the continued drilling and development of said adjacent and surrounding lands as hereinabove shown, and without the concurrent development of complainants' lands, will leave your complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil which lies in and under the lands of your complainants", in that it is but the statement of a conclusion of the pleader, and is based on the premise that wells drilled on adjacent and surrounding lands will be producing wells, and on the premise that each and all such wells will drain oil from under the lands described in the lease, and is further defective in that it does not take into account the fact that, for aught appearing, complainants themselves benefit from such producing wells as might be brought in on adjacent and surrounding lands through the pooled units to which reference is made in the bill of complaint.

21. For that the allegation that the failure of the respondent, Sun Oil Company, to drill and develop said lands and to drill an offset well to the producing well now located on said lands constitutes waste as defined under the laws of Alabama, is but the statement of a conclusion of the pleader.

22. For that it affirmatively appears from the allegations of the complaint that the only reason complainants would not have an adequate remedy at law is because their only damages are speculative damages, which damages are not admitted.

23. The relief sought in the bill of complaint is wholly inconsistent with the facts alleged therein and contrary and contradictory to the No. 9 paragraph of said lease, said lease by reference being made a part of the bill of complaint, in that said paragraph 9 in said lease specifically provides "that the breach by lessee of any obligation arising hereunder shall not work a forfeiture or termination of this lease, nor cause a termination or reversion of the estate hereby created, nor be grounds for cancellation hereof in whole or in part."

24. The allegation appearing in paragraph VI of the bill of complaint to the effect that complainants have no adequate remedy at law and have no other remedy available to them except through the processes of this Court, are made in total disregard of the allegations of the bill of complaint when taken in connection with the exhibits thereto and are false in that the remedy sought is expressly excluded by the very terms of the lease which is sought to be cancelled.

25. The prayer for relief in its entirety is wholly at variance with and contrary to the provisions and terms of the lease which has been made a part of the complaint.

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

By Gessner T. McGorvey  
(Gessner T. McGorvey)

Attorneys for Humble Oil & Refining Company



CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,

Complainants,

-VS.-

SUN OIL COMPANY, a corporation, and  
HUMBLE OIL & REFINING COMPANY, a  
corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,

IN EQUITY.

NO. 2,677.

Now comes Sun Oil Company, a corporation, one of the respondents in this cause, and moves the Court to extend the time for this respondent to answer the voluminous interrogatories propounded to it by the complainants until thirty days after the demurrer to the bill of complaint is finally disposed of.

And in support of this motion, this respondent, Sun Oil Company, respectfully shows unto the Court that a general demurrer for want of equity has been filed to the bill of complaint as amended, and until complainants have a good bill of complaint, it would work a great hardship and a great injustice on this respondent to be put to the expense of preparing answers to the voluminous interrogatories propounded to it.

This respondent further shows unto the Court that it is attaching hereto, as Exhibit "A" and expressly making the same a part hereof, an affidavit of A. S. Rhea, Chief Petroleum Engineer, and <sup>Assistant</sup> Superintendent of Production of the Sun Oil Company, which affidavit sets out in some detail a statement of the tremendous burden which will be placed upon this respondent, and the tremendous expense that will be incurred, to answer the voluminous interrogatories propounded to it by the complainants.

Respectfully submitted,

  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By

  
(Gessner T. McCorvey)

Attorneys for Sun Oil Company.

EXHIBIT "A".

CHARLES OTIS OSWELL and  
WILLIAM HAMILTON OSWELL,

Complainants

vs.

SUN OIL COMPANY, a  
corporation, and HUMBLE OIL  
& REFINING COMPANY, a  
corporation,

Respondents

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY No. 2,677

A F F I D A V I T

My name is A. S. Rhea. I am employed by Sun Oil Company in its Southwest Division Office at Dallas, Texas, as Chief Petroleum Engineer and Assistant Superintendent of Production. In such capacity I am familiar in general with the records, production personnel and drilling operations of Sun Oil Company.

I have read and examined the Interrogatories propounded to Sun Oil Company by complainants in the above styled case. Shortly after service of these Interrogatories we put several men on the job of finding, assembling and, where necessary, making photostatic copies of the material called for. This has involved and will continue to involve the expenditure of considerable sums of money in salaries, transportation, and similar expenses. It has now become apparent that if we are required to answer each and every one of these interrogatories, it will not be physically possible to give full and correct answers within the allotted period of thirty (30) days after service.

Sun Oil Company has thousands of employees located in offices scattered over the United States and Canada. Of these there may be fifty or there may be hundreds who could recall statements or correspondence dealing with some phase of the questions propounded in the Interrogatories. We have already discovered several instances where employees who had some connection with the Oswell lease in Alabama have been transferred to other areas or have left the employ of the Company.



Some of the correspondence, opinions, maps and other documentary material requested may be found in a number of our various offices. Until an exhaustive search is made of the files and records in such offices the questions relating to such material cannot be fully and correctly answered.


On the basis of a study of the material already collected and on the basis of the foregoing analysis of the job remaining to be done it is apparent that we will need an extension of time if we are required to answer in detail each of the questions listed in the Interrogatories.

---

A. S. Rhea

SUBSCRIBED and sworn to before me this 15th day of  
November, 1951.

---

Ruth S. Witt  
Notary Public in and for Dallas County,  
Texas.

CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,

Complainants,

-VS.-

SUN OIL COMPANY, a corporation, and  
HUMBLE OIL & REFINING COMPANY, a  
corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

No. 2,677.

Now comes Humble Oil & Refining Company, a corporation, one of the respondents in this cause, and moves the Court to extend the time for this respondent to answer the voluminous interrogatories propounded to it by the complainants until thirty days after the demurrer to the bill of complaint is finally disposed of.

And in support of this motion, this respondent, Humble Oil & Refining Company, respectfully shows unto the Court that a general demurrer for want of equity has been filed to the bill of complaint as amended, and until complainants have a good bill of complaint, it would work a great hardship and a great injustice on this respondent to be put to the expense of preparing answers to the voluminous interrogatories propounded to it.

This respondent further shows unto the Court that it is attaching hereto, as Exhibit "A" and expressly making the same a part hereof, an affidavit of Douglas E. Bell, Head Production Geologist of the Humble Oil & Refining Company, which affidavit sets out in some detail a statement of the tremendous burden which will be placed upon this respondent, and the tremendous expense that will be incurred, to answer the voluminous interrogatories propounded to it by the complainants.

Respectfully submitted,

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By Gessner T. McCorvey  
(Gessner T. McCorvey)

Attorneys for Humble Oil & Refining Company.



EXHIBIT "A"

CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,  
Complainants

vs.


SUN OIL COMPANY, a corporation, and  
HUMBLE OIL & REFINING COMPANY, a  
corporation,  
Respondents

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY No. 2,677

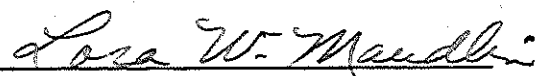
A F F I D A V I T

My name is Douglas E. Bell and I am employed by  
Humble Oil & Refining Company as Head Production Geologist.  
My office is in Houston, Texas.

I have examined the interrogatories propounded to  
Humble Oil & Refining Company, respondent in the above cap-  
tioned suit. I am familiar generally with the files and  
records of the Exploration Department of Humble Oil & Refin-  
ing Company and I know that, in order to answer these inter-  
rogatories, we will be required to make an extensive search and  
examination of our records and to interview a number of employees.  
The volume of work involved in such an investigation is such  
that we shall be unable to answer these interrogatories within  
the allotted period of thirty days after service. It will  
require us approximately three months from this date to complete  
answers to all of the interrogatories propounded.

  
Douglas E. Bell.

SUBSCRIBED AND SWORN TO before me, this 23d day of  
November, 1951.

  
Rosa W. Maudlin  
Notary Public in and for  
Harris County, Texas.

CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,  
Complainants,

-VS.-

SUN OIL COMPANY, a corporation,  
and HUMBLE OIL & REFINING COMPANY,  
a corporation,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,

IN EQUITY.

NO. 2,677.

Now comes Humble Oil & Refining Company, a corporation, one of the respondents in this cause, and moves the Court for leave to amend the demurrer heretofore filed by it to the bill of complaint as amended, by adding under Paragraph "I" ground No. 36 as follows:

"36. Because in the bill of complaint as amended the complainants do not offer to do equity".

This ~~complainant~~<sup>respondent</sup> further moves the Court for leave to amend paragraphs numbers II, III, IV, V, VI, VII and VIII, respectively, by substituting the figure "36" for the figure "35" wherever the same appears in each of said paragraphs numbers II, III, IV, V, VI, VII and VIII, respectively.

Respectfully submitted

J. B. Blackburn  
(J. B. Blackburn)

McCORMEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By

Gessner T. McCormey  
(Gessner T. McCormey)

Attorneys for Humble Oil & Refining Company.



CHARLES OTIS OSWELL and  
WILLIAM HAMILTON OSWELL,

Complainants,

VS.

SUN OIL COMPANY, a Cor-  
poration, and HUMBLE OIL  
& REFINING COMPANY, a  
Corporation,

Respondents.

)  
)  
) IN THE CIRCUIT COURT OF  
) BALDWIN COUNTY, ALABAMA  
) IN EQUITY. NO. 2677  
)  
)

DECREE SUSTAINING DEMURRERS TO ORIGINAL BILL OF COMPLAINT

This cause coming on to be heard on this date is sub-  
mitted by consent of the parties on the demurrer of the respondent,  
Sun Oil Company, a Corporation, to the complainants' original Bill  
of Complaint and on the demurrer of the respondent, Humble Oil & Re-  
fining Company, a Corporation, to the complainants' original Bill  
of Complaint, upon consideration of which it is, therefore, Ordered,  
Adjudged and Decreed by the Court as follows:

1. The demurrer of the respondent, Sun Oil Company, a Corporation, to the complainants' original Bill of Complaint in this cause shall be and it is hereby sustained.
2. The demurrer of the respondent, Humble Oil & Refining Company, a Corporation, to the complainants' original Bill of Complaint in this cause shall be and it is hereby sustained.
3. The complainants are allowed twenty (20) days in which to amend their said Bill of Complaint, if they shall desire so to do.

ORDERED, ADJUDGED AND DECREED on this the 4th day of  
October, 1951.

Julius A. Madlener, Jr.  
Judge.

DECREE SUSTAINING DEMURRERS TO  
ORIGINAL BILL OF COMPLAINT.

CHARLES OTIS OSWELL and WILLIAM  
HAMILTON OSWELL,

Complainants,

VS.

SUN OIL COMPANY, a Corporation,  
and HUMBLE OIL & REFINING COM-  
PANY, a Corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 2677

*Filed 10-5-51*  
*Alfred J. French*  
*Register*

CHARLES OTIS OSWELL and  
WILLIAM HAMILTON OSWELL

Complainants

vs.

SUN OIL COMPANY, a corpora-  
tion, and HUMBLE OIL AND  
REFINING COMPANY, a corporation

Respondents.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 2,677

INTERROGATORIES PROPOUNDED TO THE RESPONDENT HUMBLE OIL AND  
REFINING COMPANY, A CORPORATION, BY THE COMPLAINANTS.

Come now the Complainants in the above entitled cause and  
propound the following separate and several interrogatories to  
the Respondent Humble Oil and Refining Company, a corporation:-

1. Are you now engaged or have you been engaged in explora-  
tion and drilling operations for oil, gas or other minerals in  
or about the lands referred to in this suit? (a) Is that area  
generally known and referred to as the South Carlton Field?

(b) Describe by tract or parcel, or by exterior boundary, all  
of the area which you claim to have under lease in the South  
Carlton Field, giving the name of the Lessor as to each such  
tract.

2. State all actions taken and things done by you, prior  
to the filing of this suit, to discover the existence of oil,  
gas or other minerals under the lands within the South Carlton  
Field including, particularly, the lands which are the subject  
of this suit, hereinafter referred to as the Oswell lands; showing  
as to each such action taken or thing done the date when taken or  
done.

3. As to the lands referred to in Interrogatory No. 2, state  
all actions taken and things done by you, prior to the filing of  
this suit, and the date when taken or done, to develop said lands  
for the production of oil, gas or other minerals.

4. As to the lands referred to in Interrogatory No. 2,  
state what geologic or geophysical tests were made of said lands,  
the dates when made, by whom made, and the information obtained  
from such



tests, attaching to this answer the original or a correct copy of all maps, records or other documents showing the information obtained by such tests, and stating as to each such map, record or other document the date when the same was received or obtained by you. (a) As to each map, record or other document referred to by you in your answer to this Interrogatory No. 4, state whether the same was furnished or exhibited by you to any agent, servant or employee of the Sun Oil Company in the same or similar form, and in a different or changed form as attached to this answer, and the date when so furnished or exhibited, and the name and job title of the person to whom so furnished or exhibited. (b) If you state as to any such map, record or other document, that the same was furnished or exhibited to any agent, servant or employee of the Sun Oil Company in a changed or different form, state the nature of the change or difference and attach to this answer the original or a correct copy of each such map, record or other document in the changed or different form in which each such instrument was so furnished or exhibited. (c) State whether any agent, servant or employee of the Sun Oil Company ever requested of you that you furnish or exhibit to him or to said company any such map, record, or other document, or other information, obtained or resulting from any such geologic or geophysical tests of said lands. (d) State whether you ever refused or failed following request to furnish or exhibit to any agent, servant or employee of the Sun Oil Company any such map, record or other document, or other information obtained or resulting from any such geologic or geophysical tests.

5. As to the lands referred to in Interrogatory No. 2, state what seismographic tests or surveys were made of said lands, the dates when made, by whom made and the information obtained from such tests or surveys, attaching to this answer the original or a correct copy of all maps, records or other documents showing the information obtained from such tests and surveys, and stating as to each such map, record or other document the date when the same was received or obtained by you.

(a) As to each map, record or other document referred to by you in your answer to this Interrogatory No. 5, state whether the same was furnished or exhibited by you to any agent, servant, or employee of the Sun Oil Company in the same or similar form or in a different or changed form as attached to this answer, the date when so furnished or exhibited, and the name and job title of the person to whom so furnished or exhibited. (b) If you state as to any map, record or other document that the same was furnished or exhibited to any agent, servant or employee of the Sun Oil Company in a changed or different form, state the nature of the change or difference and attach to this answer the original or a correct copy of each such map, record or other document in the changed or different form in which each such instrument was so furnished or exhibited. (c) State whether any agent, servant or employee of the Sun Oil Company ever requested of you that you furnish or exhibit to him or to said company any such map, record or other document, or other information, obtained or resulting from any such seismographic tests or surveys of said lands. (d) State whether you ever refused or failed following request to furnish or exhibit to any agent, servant or employee of the Sun Oil Company any such map, record or other document, or other information obtained or resulting from any such seismographic tests or surveys.

6. Prior to the filing of this suit, did your geologist or geological department, or any other employee of your company, express or state to any other agent, servant or employee of your company any opinion or information as to the probability or possibility of the existence of oil, gas or other minerals under the Oswell lands? (a) If your answer to the foregoing interrogatory was in the affirmative, state by whom such expression or statement was made and whether such statement was verbal or written. (b) If your answer to Interrogatory No. 6(a) was that such statement was verbal, state the date or dates when made, by whom made, to whom made, and the substance of each such statement, and attach to this answer the

original or a correct copy of any maps, records or other documents used or referred to in connection with each such statement. (c) If your answer to Interrogatory No. 6(a) was that such statement was written, attach to this answer the original or a correct copy of each such statement and of each map, record or other document used or referred to in connection with each such statement. (d) If your answer to Interrogatory No. 6 was in the negative, state whether any opinion or information was requested by any agent, servant or employee of your company or any geologist, geological department or any other employee of your company as to the probability or possibility of the existence of oil, gas or other minerals under the Oswell lands.

7. Prior to the filing of this suit, did your geologist or geological department, or any other employee of your company express or state to any agent, servant or employee of the Sun Oil Company any opinion or information as to the probability or possibility of the existence of oil, gas or other minerals under the Oswell lands? (a) If your answer to the foregoing interrogatory was in the affirmative, state by whom such expression or statement was made and whether such statement was verbal or written. (b) If your answer to Interrogatory No. 7(a) was that such statement was verbal, state the date or dates when made, by whom made, to whom made and the substance of each such statement, and attach to this answer the original or a correct copy of any maps, records or other documents used or referred to in connection with each such statement. (c) If your answer to Interrogatory No. 7(a) was that such statement was written, attach to this answer the original or a correct copy of each such statement and of each map, record or other document used or referred to in connection with each such statement. (d) State whether any opinion or information was requested by any agent, servant or employee of the Sun Oil Company or any geologist, geological department or any other employee of Humble Oil and Refining Company as to the probability or possibility of the existence of oil, gas or other minerals under the Oswell lands. (e) If your answer to Interrogatory No. 7(d) was in the



affirmative, state the name and job title of each agent, servant or employee of the Sun Oil Company by whom such request was made, the name and job title of each agent, servant or employee of Humble Oil and Refining Company to whom such request was addressed, when the request was made, whether it was made verbally or in writing, and stating the substance of each verbal request and attaching the original or a correct copy of each written request.

8. Prior to the filing of this suit, did your geologist or geological department, or any agent servant or other employee of your company express or state to the Complainants, or either of them, any opinion or information as to the probability or possibility of the existence of oil, gas or other minerals under the Oswell lands? (a) If your answer to the foregoing interrogatory was in the affirmative, state by whom such expression or statement was made and whether such statement was verbal or written. (b) If your answer to Interrogatory 8(a) was that such statement was verbal, state the date or dates when made, by whom made, to whom made, and the substance of each such statement, and attach to this answer the original or a correct copy of any maps, records or other documents used or referred to in connection with such statement. (c) If your answer to Interrogatory No. 8(a) was that such statement was written, attach to this answer the original or a correct copy of each such statement and of each map, record or document used or referred to in connection with each such statement.

9. Prior to the filing of this suit, did your geologist or geological department, or any other employee of your company express or state to any other agent, servant or employee of your company any opinion or information as to the probability or possibility of the existence of oil, gas or other minerals under the lands within the South Carlton Field surrounding and adjacent to the Oswell lands? 9(a) If your answer to the foregoing interrogatory was in the affirmative, state by whom such expression or statement was made and whether such statement was verbal or written. (b) If your answer to Interrogatory

No. 9(a) was that such statement was verbal, state the date or dates when made, by whom made, to whom made, and the substance of each such statement, and attach to this answer the original or a correct copy of any maps, records or other documents used or referred to in connection with each such statement. (c) If your answer to Interrogatory No.9(a) was that such statement was written, attach to this answer the original or a correct copy of each such statement and of each map, record or other document used or referred to in connection with each such statement. (d) If your answer to Interrogatory No. 9 was in the negative, state whether any opinion or information was requested by any agent, servant or employee of your company of any geologist, geological department or any other employee of your company as to the probability or possibility of the existence of oil, gas or other minerals under the Oswell lands.

10. Prior to the filing of this suit, did your geologist or geological department, or any other employee of your company express or state to any agent, servant or employee of the Sun Oil Company any opinion or information as to the probability or possibility of the existence of oil, gas or other minerals under the lands within the South Carlton Field surrounding and adjacent to the Oswell lands? (a) If your answer to the foregoing interrogatory was in the affirmative, state by whom such expression or statement was made and whether such statement was verbal or written. (b) If your answer to Interrogatory No. 10(a) was that such statement was verbal, state the date or dates when made, by whom made, to whom made and the substance of each such statement, and attach to this answer the original or a correct copy of any maps, records or other documents used or referred to in connection with each such statement. (c) If your answer to Interrogatory No. 10(a) was that such statement was written, attach to this answer the original or a correct copy of each such statement and of each map, record or other document used or referred to in connection with each such statement.

(d) State whether any opinion or information was requested by any agent, servant or employee of the Sun Oil Company of any geologist, geological department or any other employee of Humble Oil and Refining Company as to the probability or possibility of oil, gas or other minerals under the Oswell lands. (e) If your answer to Interrogatory No. 10(d) was in the affirmative, state the name and job title of each agent, servant or employee of the Sun Oil Company by whom such request was made, the name and job title of each agent, servant or employee of Humble Oil and Refining Company to whom such request was addressed, when the request was made, whether it was made verbally or in writing, and stating the substance of each verbal request and attaching the original or a correct copy of each written request.

11. Prior to the filing of this suit, did your geologist or geological department, or any other agent, servant or employee of your company express or state to the Complainants, or either of them, any opinion or information as to the probability or possibility of the existence of oil, gas or other minerals under the lands within the South Carlton Field surrounding or adjacent to the Oswell lands? (a) If your answer to the foregoing interrogatory was in the affirmative, state by whom such expression or statement was made and whether such statement was verbal or written. (b) If your answer to Interrogatory 11(a) was that such statement was verbal, state the date or dates when made, by whom made, to whom made and the substance of each such statement, and attach to this answer the original or a correct copy of any maps, records or other documents used or referred to in connection with each such statement. (c) If your answer to Interrogatory No. 11(a) was that such statement was written, attach to this answer the original or a correct copy of each such statement, and of each map, record or document used or referred to in connection with each such statement.

12. As to each oil, gas or mineral well drilled on the Oswell lands, state the following:-(a) The date when drilling



operations were commenced; (b) The date when drilling operations were concluded; (c) Attach the original or a correct copy of all drillers logs; (d) Attach the original or a correct copy of all Schlumberger logs; (e) Attach the original or a correct copy of all paleontological reports; (f) Attach the original or a correct copy of all reports of cores and cuttings; (g) The depth to which drilled; (h) The depth, thickness, nature and location of all oil bearing strata; (i) The strata from which oil is being produced; (j) The date when production was obtained; (k) The date when oil, gas or other minerals were discovered; (l) The production capacity; (m) The conservation capacity; (n) Attach correct copies of all production reports and records; (o) Attach correct copies of all potential test forms; (p) Attach correct copies of all other records, reports, maps, documents, data, memoranda, and writings, not already stated, relating to the drilling of and production from such well; (q) The pumping schedule of each well, and the number of hours per day and days per week each well is pumped; (r) The amount of each sum of money paid or tendered to Charles Otis Oswell and William Hamilton Oswell, or either of them, or to their credit or to the credit of either of them, as royalties from the production of each such well, showing the dates when and the persons or firms to whom each such payment or tender was made; (s) The amount of each sum of money paid to or received by you for the account of Charles Otis Oswell and William Hamilton Oswell, or either of them, as their royalties from the production of each such well, showing the dates when paid to or received by you; (t) The amount of each sum of money paid to Sun Oil Company for the account of Charles Otis Oswell and William Hamilton Oswell, or either of them, as their royalties from the production of each such well, showing the dates when so paid by you; (u) The amount of oil delivered at each such well or to the credit of the Complainants into the pipe line to which each such well may be connected, showing the dates of each such delivery. (v) Whether each such well is producing oil, gas or other minerals in paying

quantities as that term is commonly used; (w) The amount of each sum of money paid to or received by you, or to your credit, for your proportionate share of the costs of drilling, completing and operating each such well; (x) The person, firm or corporation by whom such well was drilled; (y) The location of each such well; (z) The Owner and the Operator of each well, and the Owner of the land upon which located; (aa) The market price prevailing for the South Carlton Field at each such well during the period of operation of each such well.

13. As to each oil, gas or mineral well drilled in the South Carlton Field on lands other than the Oswell lands, state the following:-(a) The date when drilling operations were commenced; (b) The date when drilling operations were concluded; (c) Attach the original or a correct copy of all drillers logs; (d) Attach the original or a correct copy of all Schlumberger logs; (e) Attach the original or a correct copy of all paleontological reports; (f) Attach the original or a correct copy of all records of cores and cuttings; (g) The depth to which drilled; (h) The depth, thickness, nature and location of all oil bearing strata; (i) The strata from which oil is being produced; (j) The date when production was obtained; (k) The date when oil, gas or other minerals were discovered; (l) The production capacity; (m) The conservation capacity; (n) Attach correct copies of all production records and reports; (o) Attach correct copies of all potential test forms; (p) Attach correct copies of all other records, reports, maps, documents, data, memoranda and writings, not already stated, relating to the drilling of and production from each such well; (q) The pumping schedule of each well, and the number of hours per day and days per week each well is pumped; (r) Whether each such well is producing oil, gas or other minerals in paying quantities as that term is commonly used; (s) The person, firm or corporation by whom such well was drilled; (t) The location of each such well; (u) The Owner and Operator of each well, and the Owner of the land upon which located; (v) The market price prevailing for the South Carlton Field at each such well during

the period of operation of each such well.

14. Attach to this answer the original or a correct copy of every other map, document or record which you may have, not already produced in answer to some other interrogatory, and which was or could have been used by you in determining the nature, location and type of all geological formations and strata in and around the South Carlton Field, and in determining the existence or probable existence of oil, gas or other minerals in the South Carlton Field, and the location or probable location thereof, in said field; and whether said oil, gas or other minerals existed or probably existed in paying quantities, stating as to each such map, document and record when and by whom made, and the date when known to or received by you. (a) As to each map, record or other document referred to in your answer to this interrogatory state whether the same was furnished or exhibited by you to any agent, servant or employee of the Sun Oil Company in the same or similar form, or in a different or changed form as attached to this answer, the date when so furnished or exhibited, and the name and job title of the person to whom so furnished or exhibited. (b) If you state as to any such map, record or other document that the same was furnished or exhibited to any agent, servant or employee of the Sun Oil Company in a changed or different form, state the nature of the change or difference and attach to this answer the original or a correct copy of each such map, record or other document in the changed or different form in which each such instrument was so furnished or exhibited. (c) State whether any agent, servant or employee of the Sun Oil Company ever requested of you that you furnish or exhibit to him or to said company any such map, record or other document, or other information. (d) State whether you ever refused or failed following request to furnish or exhibit to any agent, servant or employee of the Sun Oil Company any such map, record or other document, or other information.

15. Have you entered into any Joint Operating Contract as that term is commonly used, with Sun Oil Company, prior to the filing of this suit, as to any oil well or drilling operation on the



Oswell lands? (a) If your answer to the foregoing interrogatory is in the affirmative, attach to this answer the original or a correct copy of each such contract, with all amendments thereto.

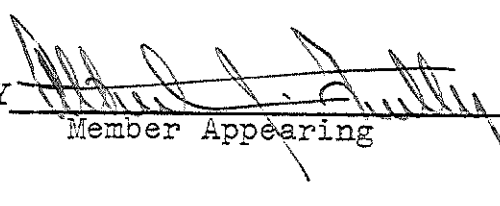
16. Have you prepared any mounds or locations for drilling sites in the South Carlton Field? (a) If your answer to the foregoing interrogatory is in the affirmative, state the location of each mound and the date when prepared.

17. Have you constructed or prepared any road or access route into or upon the Oswell lands? If your answer to the foregoing interrogatory is in the affirmative, state the time when so constructed or prepared and the location of any such road or access route.

18. Prior to the filing of this suit, what steps were taken or things done by you, if any, to drill an off-set well to that well known and referred to as South Carlton Unit No. 1?

19. Prior to the filing of this suit, what steps were taken or things done by you, if any, to protect the Oswell lands against the drainage of oil therefrom?

HOLBERG, TULLY & ALDRIDGE  
Solicitors for Complainants

BY   
Member Appearing

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before me, the undersigned authority in and for said state and county, personally appeared ALBERT J. TULLY, known to me and who, having been by me first duly sworn, deposes and says that he is the attorney for the Complainants in the above entitled cause, and that the answers to the foregoing interrogatories propounded by the complainants to the Respondent Humble Oil and Refining Company, a corporation, if truthfully answered, will be material testimony for the complainants in said cause.

Subscribed and Sworn to before me  
this the 31<sup>st</sup> day of October, 1951.

  
Notary Public, Mobile County, Alabama.

October  
31<sup>st</sup>,  
1951

We do hereby accept service of, and acknowledged receipt  
of a copy of the foregoing interrogatories.

McCORVEY, TURNER ROGERS, JOHNSTONE & ADAMS  
Solicitors for the Respondent Humble Oil  
and Refining Company.

BY

*N. F. Adams*

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19 52-53

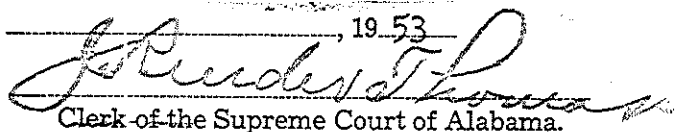
To the Register of the Circuit Court of Baldwin  
County, Greeting:

Whereas, the Record and Proceedings of the Circuit Court  
of said county, in a certain cause lately pending in said Court between  
Sun Oil Company, et al., Appellant \$  
and  
Charles Otis Oswell, et al., Appellee S,  
wherein by said Court it was considered adversely to said appellant, were brought before our  
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

Now, it is hereby certified, That it was thereupon considered, ordered, adjudged, and decreed by  
our Supreme Court on the 19th day of January, 19 53, that said decree  
of said Circuit Court be reversed and annulled, and the cause remanded to said court  
for further proceedings therein; and that it was further considered, ordered, adjudged, and decreed  
that the appellees pay Charles Otis Oswell and William Hamilton Oswell  
pay

the costs accruing on said appeal in this Court and in the Court below, for which costs let execution  
issue.

Witness, J. Render Thomas, Clerk of the Supreme  
Court of Alabama, at the Judicial Department  
Building, this the 19th day of January

19 53  
  
Clerk of the Supreme Court of Alabama.



## THE SUPREME COURT OF ALABAMA

October Term, 19 52-53

1 Div., No. 521Sun Oil Company et al.,  
Appellant,s

vs.

Charles Otis Oswell et al.,  
Appellee.sFrom Baldwin Circuit Court.  
in EquityCERTIFICATE OF  
REVERSAL

The State of Alabama,

Baldwin County.

} Filed

this 22 day of Jan 1953Herbert J. Smith

CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,

Complainants,

-vs.-

SUN OIL COMPANY, a corpora-  
tion and HUMBLE OIL &  
REFINING COMPANY, a  
corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,

IN EQUITY.

NO. 2,677.

Now comes Sun Oil Company, a corporation, one of the respondents in this cause and demurs to the bill of complaint as amended, and as grounds for demurrer assigns separately each of the following:

I.

1. There is no equity in the bill.
2. Said bill of complaint does not allege a ground for equitable relief.
3. The bill of complaint as amended fails to contain any averment to the effect that lessors had notified lessee in writing of the facts relied upon as constituting an alleged breach of any obligation arising under the lease and that lessee failed for sixty days after the receipt of such notice to commence compliance with any obligations imposed upon lessee by the lease.
4. For aught that appears from the bill of complaint as amended, six or more parties have become entitled to royalty under the said lease, and the bill of complaint as amended fails to aver that lessee has been furnished with a recordable instrument executed by all such parties, designating an agent to receive payment for all.
5. The allegations of the bill of complaint as amended fail to show any basis for abandonment of the lease, as contended for by the complainants.
6. The allegations of the bill of complaint as amended show that there has been no abandonment of the lease by respondents.
7. The allegations of the bill of complaint as amended wholly fail to allege any basis for a forfeiture of the lease.
8. The allegations of the bill of complaint as amended show that there has been no forfeiture of the lease by respondents.
9. The allegations of the bill of complaint as amended affirmatively show that the lease is not capable of being abandoned during the primary term of ten years.

10. The allegations of the bill of complaint as amended show affirmatively that the lease is not subject to forfeiture on any of the grounds set up in the amended bill of complaint.

11. The bill of complaint as amended affirmatively shows that the instruments, copies of which are attached as Exhibit "D", Exhibit "E" and Exhibit "F", respectively, to the amended bill of complaint are properly executed and are not void or invalid or of no effect, as averred by complainants.

12. Because paragraph No. 9 of the lease in question expressly provides that the breach by lessee of any obligation arising thereunder shall not work a forfeiture or termination of the lease, nor cause a termination or reversion of the estate thereby created, nor be grounds for cancellation of the said lease either in whole or in part.

13. The said bill of complaint as amended fails to aver that any well or wells producing oil or gas in paying quantities has been brought in on adjacent lands not more than 150 feet from and draining the leased premises.

14. For aught that appears from the bill of complaint as amended the lessee has not failed to drill such offset well or wells as a reasonably prudent operator would drill under the same circumstances as involved in this case, or under similar circumstances.

15. Because the bill of complaint as amended fails to aver any facts showing that since September 9th, 1950, and prior to the filing of the bill of complaint in this cause, respondents were under an obligation or duty to pay or tender, or should have paid or tendered, to complainants any rentals or royalties in order to keep the said lease in full force and effect.

16. Because it affirmatively appears from the bill of complaint as amended that complainants cannot raise the question of ultra vires upon which the complainants seek to rely in the bill of complaint as amended.

17. The said bill of complaint does not allege any contractual obligations, express or implied, of Sun Oil Company which have been violated by this respondent in any respect.

18. The said bill of complaint does not allege in what manner the respondent, Sun Oil Company, has violated its obligations under the aforesaid lease and the amendments thereto.

19. The bill of complaint does not allege with any degree of



certainly the duties required of the respondent, Sun Oil Company, in drilling or operating under said lease and, therefore, the allegations that the Sun Oil Company has failed to meet its duties and obligations in said lease is merely a conclusion of the pleader and unsupported by any alleged facts.

20. The allegations of the bill of complaint show that there is now located on the area covered by the lease a well, drilled and operated by the respondents, under the terms and provisions of said lease, as amended, and said allegations further show that said well is now producing oil in paying quantities, and because of those allegations, the statement that the respondent, Sun Oil Company, has wholly failed, neglected and refused to drill and develop the lands described in said lease, is contrary to the alleged facts and is merely a conclusion of the pleader.

21. It does not appear from the allegations of the bill of complaint whether the complainants own all of the rights, titles and interests of the lessors in or under the oil, gas and mineral lease which complainants seek in this suit to cancel. For the lack of such allegations it does not appear that all of the necessary parties have been brought into the proceedings, either as complainants or respondents.

22. For aught that appears from the allegations of the complaint, all necessary parties to this action have not been made parties complainant or respondent.

23. It is not alleged that any of the acts done or permitted in paragraph III of the bill are contrary to the provisions of the said lease or the amendments thereto.

24. The allegation appearing in Paragraph III of the bill of complaint that if developments upon adjacent and surrounding lands are continued "without the concurrent drilling and development of the lands of your complainants, the lands of your complainants will be completely surrounded by wells on adjacent lands, draining the lands of your complainants and without any benefit or protection to your complainants" are merely conclusions of the pleader and unsupported by any alleged facts.

25. The allegations appearing in Paragraph IV of the bill of complaint that "the continued drilling and development of said adjacent and surrounding lands, as hereinabove shown, and without

the concurrent development of complainants' lands, will leave your complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil which lies in and under the lands of your complainants" are merely conclusions of the pleader and are unsupported by any alleged facts.

26. There are no facts alleged in the bill of complaint which, under the law and facts, would require the drilling of the offset well, to which plaintiffs refer as not having been drilled.

27. The statement appearing in the bill of complaint in which the alleged failure of respondents to drill an offset well to the well now located on property described in the lease, producing oil, in effect, calls upon the respondents to drill an offset well in order to offset oil now being produced on plaintiffs' lands by the respondents.

28. For aught appearing from the allegations of paragraph IV, the statement to the effect that the respondent, Sun Oil Company, "has wholly failed, neglected and refused to drill and develop the lands of your complainants described in said lease attached hereto as Exhibit A", is a mere conclusion of the pleader and is not supported by the allegations of the bill of complaint in that the bill of complaint does affirmatively allege that there is already one producing oil well, drilled by the respondents, on the property described in said lease, and under the terms and provisions of said lease as amended, and there is no allegation in the bill of complaint as to wherein the respondent has violated any specific and pointed out provision contained in said lease, as amended.

29. The bill of complaint is defective in that that part of paragraph IV alleging that "the continued drilling and development of said adjacent and surrounding lands as hereinabove shown, and without the concurrent development of complainants' lands, will leave your complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil which lies in and under the lands of your complainants", is but the statement of a conclusion of the pleader, and is based on the premise that wells drilled on adjacent and surrounding lands will be producing wells, and on the premise that each and all such wells will drain oil from under the lands described in the lease, and is

further defective in that it does not take into account the fact that, for aught appearing, complainants themselves benefit from such producing wells as might be brought in on adjacent and surrounding lands through the pooled units to which reference is made in the bill of complaint.

30. For that the allegation that the failure of the respondent, Sun Oil Company, to drill and develop said lands and to drill an offset well to the producing well now located on said lands constitutes waste as defined under the laws of Alabama, is but the statement of a conclusion of the pleader.

31. For that it affirmatively appears from the allegations of the complaint that the only reason complainants would not have an adequate remedy at law is because their only damages are speculative damages, which damages are not admitted.

32. The relief sought in the bill of complaint is wholly inconsistent with the facts alleged therein and contrary and contradictory to the No. 9 paragraph of said lease, said lease by reference being made a part of the bill of complaint, in that said paragraph 9 in said lease specifically provides "that the breach by lessee of any obligation arising hereunder shall not work a forfeiture or termination of this lease, nor cause a termination or reversion of the estate hereby created, nor be grounds for cancellation hereof in whole or in part."

33. The allegation appearing in paragraph VI of the bill of complaint to the effect that complainants have no adequate remedy at law and have no other remedy available to them except through the processes of this Court, are made in total disregard of the allegations of the bill of complaint when taken in connection with the exhibits thereto and are false in that the remedy sought is expressly excluded by the very terms of the lease which is sought to be cancelled.

34. The prayer for relief in its entirety is wholly at variance with and contrary to the provisions and terms of the lease which has been made a part of the complaint.



II.

Now comes the respondent, Sun Oil Company, and demurs to the allegations of Paragraph II of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 34, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

III.

Now comes the respondent, Sun Oil Company, and demurs to the allegations of Paragraph III of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 34, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

IV.

Now comes the respondent, Sun Oil Company, and demurs to the allegations of Paragraph IV of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 34, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

V.

Now comes the respondent, Sun Oil Company, and demurs to the allegations of Paragraph V of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 34, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

VI.

Now comes the respondent, Sun Oil Company, and demurs to the allegations of Paragraph VI of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 34, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

VII.

Now comes the respondent, Sun Oil Company, and demurs to the allegations of Paragraph VII of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 34, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

VIII.

Now comes the respondent, Sun Oil Company, and demurs to the allegations of Paragraph VIII of said amended bill of complaint, and assigns as separate and several grounds therefor each of the grounds of demurrer from 1 to 34, both inclusive, hereinabove separately and severally assigned to the amended bill of complaint as a whole, just as if each of said grounds of demurrer were specifically re-written here.

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By Gessner T. McCorvey  
(Gessner T. McCorvey)  
Attorneys for Sun Oil Company.

CHARLES OTIS OSWELL, and  
WILLIAM HAMILTON OSWELL

Complainants,

vs

SUN OIL COMPANY, a corpora-  
tion and HUMBLE OIL & REFINING  
COMPANY, a corporation,

Respondents.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

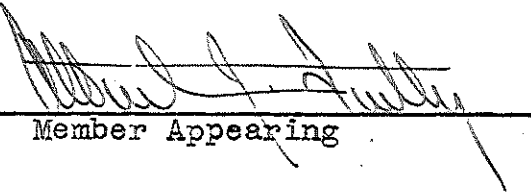
IN EQUITY. NO. 2,677

Come now the Complainants in the above entitled cause and show unto your Honors that more than thirty days have elapsed since interrogatories were propounded to and served upon the Respondent Sun Oil Company, a corporation, and that said Respondent Sun Oil Company, a corporation, has not answered said interrogatories within the time required by law and by the rules and practices of this honorable court.

WHEREFORE, Complainants respectfully pray that this honorable court will render a decree granting a decree pro confesso against said Respondent or granting such other appropriate relief to the Plaintiffs and against such Respondent as may seem meet and proper under the rules and practices of this honorable court.

HOLBERG, TULLY & ALDRIDGE  
Solicitors for Complainants

BY

  
Member Appearing



5  
CHARLES OTIS OSWELL, and  
WILLIAM HAMILTON OSWELL,

Complainants,

VS.

SUN OIL COMPANY, a Corporation,  
and HUMBLE OIL AND REFINING  
COMPANY, a Corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 2677.

DECREE

This cause coming on to be heard is submitted on Respondents' Demurrers to Complainant's Amended Bill of Complaint, and the same being considered by the Court, and the Court being of the opinion that said Demurrers are not well taken and should be overruled, IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That Respondents' Demurrers to the Complainants' Amended Bill of Complaint be, and the same are hereby overruled.

2. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Respondents be given twenty days in which to file further pleadings should they so desire.

Done this 25th day of June, 1952.

Julius J. Maslowsky Jr.  
Judge

*M* DECREE

CHARLES OTIS OSWELL, et al

Complainants,

vs.

SUN OIL COMPANY, a Corporation,  
et al

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY.

NO. 2677.

*Filed*

*6-27-52*

*W. J. French*  
*W. J. French*

*M* DECREE

CHARLES OTIS OSWELL, et al  
Complainants,

vs.

SUN OIL COMPANY, a Corporation,  
et al

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN EQUITY. NO. 2677.

*Filed*

*6-27-57*

*Wm. French  
Register*



CHARLES OTIS OSWELL, et al

VS.

SUN OIL CO., a corp. and  
HUMBLE OIL & REFINING CO.

IN THE CIRCUIT COURT OF

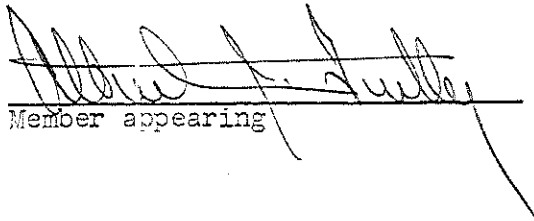
BALDWIN COUNTY, ALABAMA

IN EQUITY. No. 2677

Come now the complainants in the above entitled cause and move that  
said cause be dismissed without prejudice.

HOLBERG, TULLY & ALDRIDGE  
Solicitors for Complainants

by

  
Member appearing

CHARLES OTIS OSWELL ET AL

VS

SUN OIL CO., a corp. and  
HUMBLE OIL & REFINERY CO.

)  
)  
)  
IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

On motion of the Complainants this cause is hereby dismissed  
without prejudice.

Dated this the 26th day of January, 1953.

*Herice L. Smith*  
~~Judge~~ of the Circuit Court  
*Register*

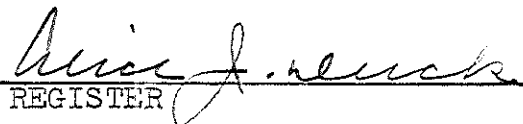
STATE OF ALABAMA)

COUNTY OF BALDWIN)

TO ANY SHERIFF OF THE STATE OF ALABAMA:-

You are hereby commanded to summon Sun Oil Company, a corporation, to appear within thirty (30) days from the service of this writ in the Circuit Court to be held for said County, Equity side, at the place of holding of same, then and there to answer the bill of complaint filed against it by Charles Otis Oswell and William Hamilton Oswell.

Witness my hand this 2<sup>nd</sup> day of July, 1951.

  
REGISTER

Service of this summons and complaint may be had upon Sun Oil Company, a corporation, by service upon Hon. Fred S. Ball, Jr., or Hon. Richard A. Ball, First National Bank Building, Montgomery, Alabama.



STATE OF ALABAMA )

COUNTY OF BALDWIN)

TO ANY SHERIFF OF THE STATE OF ALABAMA:-

You are hereby commanded to summon Humble Oil and Refining Company, a corporation, to appear within thirty (30) days from the service of this writ in the Circuit Court to be held for said County, Equity side, at the place of holding of same, then and there to answer the bill of complaint filed against it by Charles Otis Oswell and William Hamilton Oswell.

Witness my hand this 2<sup>nd</sup> day of July, 1951.

Richard L. Russell  
REGISTER

Service of this summons and complaint may be had upon Humble Oil and Refining Company, a corporation, by service upon Hon. Gessner T. McCorvey, Merchants National Bank Building, Mobile, Alabama.

CHARLES OTIS OSWELL and  
WILLIAM HAMILTON OSWELL,  
  
Complainants

vs

SUN OIL COMPANY, a  
corporation and HUMBLE  
OIL & REFINING COMPANY,  
a corporation,

RESPONDENTS

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 2677

TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE OF SAID COURT,  
SITTING IN EQUITY:-

11 Come now CHARLES OTIS OSWELL and WILLIAM HAMILTON OSWELL  
and present this, their bill of complaint, and respectfully  
show unto Your Honor as follows:-

VI

Complainants are each over the age of twenty one years  
and are resident citizens of Mobile County, Alabama. The  
Respondent Sun Oil Company is a non resident corporation,  
qualified to do business in the State of Alabama and whose  
designated agent for the purpose of receiving service of  
process in the State of Alabama is Honorable FRED S. BALL, JR.,  
and RICHARD A. BALL, First National Bank Building, Montgomery,  
Alabama. The Respondent Humble Oil and Refining Company is a  
non resident corporation, qualified to do business in the State  
of Alabama, and whose designated agent for the purpose of re-  
ceiving service of process in the State of Alabama is Honorable  
Gessner T. McCorvey, Merchants National Bank Building, Mobile,  
Alabama. 11

II

On or about September 9, 1942, R. H. OSWELL and his wife,  
WILLIE PEARLE OSWELL, executed and delivered to the Respondent  
Sun Oil Company an oil, gas and mineral lease, a true and  
correct copy of which is attached hereto, marked Exhibit "A",  
and by reference made a part hereof the same as if fully set  
out herein. Said lease is recorded in Deed Book 78, Pages  
95-7 of the Probate Court records of Baldwin County, Alabama.

The lands described in said lease (Exhibit "A") were granted and conveyed to your Complainants by the said R. H. OSWELL and wife, WILLIE PEARLE OSWELL, by deed executed August 26, 1942, and recorded in Deed Book 78, Pages 374-5 of the Probate Court records of Baldwin County, Alabama.

By instrument dated June 27, 1949, and recorded in Deed Book 140, Pages 247-8 of the Probate Court records of Baldwin County, Alabama, Complainants conveyed to the Respondent Humble Oil & Refining Company an undivided one-half of all the oil, gas and other minerals in the lands described in said lease (Exhibit "A").

By instrument dated October 30, 1950, and recorded in Deed Book 159, Pages 171-3, and by instrument dated October 30, 1950, and recorded in Deed Book 159, Pages 174-6, all in the Probate Court records of Baldwin County, Alabama, the said Complainants executed to the Sun Oil Company amendments to said lease (Exhibit "A") giving to the said lessee the right to pool the acreage covered by said lease, or any portion thereof, with other lands in the vicinity thereof into units not exceeding forty acres each. A similar amendment was executed by the Respondent Humble Oil and Refining Company by instrument dated November 9, 1950, and recorded in Deed Book 159, Pages 100-2 of the Probate Court records of Baldwin County, Alabama.

On or about December 27, 1950, the Respondent Humble Oil and Refining Company entered into a pooling agreement with the Respondent Sun Oil Company, said agreement being recorded in Deed Book 162, Pages 413-7 of the Probate Court records of Baldwin County, Alabama, creating a pooled unit, to be known as South Carlton Unit No. 1, and covering the Southwest Quarter of the Northwest Quarter of Section 15, Township 3 North, Range 2 East, in Clarke and Baldwin Counties, Alabama.

On or about May 18, 1951 the Respondent Humble Oil and Refining Company entered into a pooling agreement with the Respondent Sun Oil Company, said agreement being recorded in Deed Book 159, Pages 304-5 of the Probate Court records of Baldwin County, Alabama, creating a pooled unit to be known as



South Carlton Unit No. 6, and covering the Northeast Quarter of the Northwest Quarter of Section 15, Township 3 North, Range Two East, in Clarke and Baldwin Counties, Alabama.

### III

Your Complainants are informed and believe and on such information and belief aver that the Respondent Humble Oil and Refining Company is the lessee of the lands surrounding on all sides those of your Complainants (Complainants' lands being more particularly described in said lease Exhibit "A") and is also the lessee of the bed of the Alabama River. Said Respondent Humble Oil and Refining Company has been actively drilling and developing said adjacent and surrounding lands, and has brought in on said lands a number of producing oil wells, to-wit, a well on the Northeast Quarter of the Northwest Quarter of Section 22; a well on the Southeast Quarter of the Southwest Quarter and a well on the Southwest Quarter of the Northwest Quarter of Section 15; a well on the Northwest Quarter of the Southwest Quarter and a well on the Southeast Quarter of the Northwest Quarter, and a well on the Southeast Quarter of the Northeast Quarter of Section 10; and a well on the Southwest Quarter of the Northwest Quarter of Section 11; all in Township 3 North, Range 2 East, Clarke County, Alabama. The said Respondent Humble Oil & Refining Company has further brought in a well on said South Carlton Unit No. 1., said well being located on the lands of your complainants in said Unit and said well being located in Baldwin County, Alabama. All of said wells are producing oil in paying quantities.

Complainants are further informed and believe and upon such information and belief aver that the said Respondent Humble Oil and Refining Company proposes to continue the drilling and development of said adjacent and surrounding lands, and particularly to drill on said South Carlton Unit No. 6, and on other pooled Units, and to drill on other locations south, west, north and east of the lands of your complainants. Complainants aver that

if this be done, and without the concurrent drilling and development of the lands of your Complainants, the lands of your Complainants will be completely surrounded by wells on adjacent lands, draining the lands of your Complainants and without any benefit or protection to your Complainants.

#### IV

Your Complainants now aver that their lessee, the said Respondent Sun Oil Company, has wholly failed, neglected and refused to drill and develop the lands of your complainants described in said lease attached hereto as Exhibit "A". Your Complainants have repeatedly called upon said Respondent to drill upon and develop said lands, and particularly to drill an off set well to said producing well in Carlton Unit No. 1, but all of said requests have been denied and refused by said Respondent Sun Oil Company. Your Complainants have demanded of said Respondent whether or not it had any plan for the drilling and development of said lands, and your Complainants have been advised by said Respondent Sun Oil Company that it has no definite plan for the drilling or development of said lands. The said Respondent has prepared no location for drilling on said lands, has built no drilling mound, has constructed no road or access routes into or upon said lands and has done nothing to comply with the requirements of said lease and to drill and develop said lands although, as your Complainants have shown, a producing well is already located upon said lands and other producing wells are located upon lands adjacent and surrounding those of your Complainants. The continued drilling and development of said adjacent and surrounding lands, as hereinabove shown, and without the concurrent development of complainants' lands, will leave your Complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil which lies in and under the lands of your Complainants.

#### V.

Complainants aver that the failure of the Respondent Sun Oil Company to drill and develop said lands, and to drill an off set well to the producing well now located on said lands, constitutes waste as defined by the laws of Alabama and particularly General

Acts of Alabama, 1945, Page 1, Section 1 et seq. (1940 Code of Alabama, Title 26, Supp. Section 179 (24) et seq.)

VI.

Your Complainants have no adequate remedy at law and have no other remedy available to them except through the processes of this court.

PRAYER FOR PROCESS

WHEREFORE, the premises considered, Complainants pray that the said Sun Oil Company, a corporation, and the said Humble Oil and Refining Company, a corporation, be made parties Respondent to this bill of complaint and that they be required to plead, answer or demur within the time required by law and by the practices of this Honorable Court.

PRAYER FOR RELIEF

Complainants pray that, upon a hearing of this cause, Your Honor will be pleased to ascertain, order, adjudge and decree as follows:-

(A) That the said Sun Oil Company has abandoned and forfeited all its right, title and interest in and to the lands described in said lease attached hereto as Exhibit "A", and to the oils, gases and minerals mentioned therein.

(B) That the said lease described and referred to as Exhibit "A" be declared to be void and of no effect.

(C) That the said Respondent Sun Oil Company and any and all persons, firms and corporations claiming by, through or under it be forever enjoined and restrained from claiming or asserting any rights under and by virtue of said lease described and referred to as Exhibit "A".

(D) That, in the event your Complainants be mistaken in the character of relief herein prayed for, your Honor will then grant to them such other, further and different relief as in equity and good conscience they may be entitled to receive, and in duty bound they will ever pray.

Charles O. Oswell  
COMPLAINANT


William Hamilton Oswell  
COMPLAINANT



STATE OF ALABAMA)

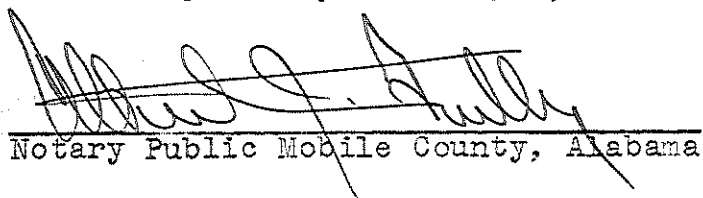
COUNTY OF MOBILE)

Before me, the undersigned authority in and for said State and County, personally appeared Charles Otis Oswell and William Hamilton Oswell, known to me and who, being by me first duly sworn, doth depose and say that they are the Complainants in the foregoing bill of complaint, that they have read the same and that the matters and things therein stated are true and correct as alleged except as to such matters as are alleged on information and belief, as to which matters they are informed and verily believe the same to be true.

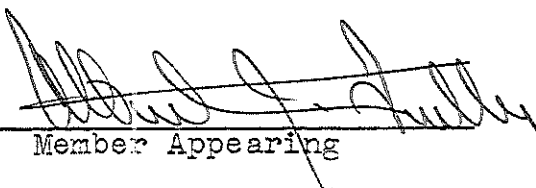


Subscribed and sworn to before me

this the 30th day of June, 1951.

  
Notary Public Mobile County, Alabama

HOLBERG, TULLY & ALDRIDGE  
Solicitors for Complainants

BY   
Member Appearing

Service may be had on the Respondent Sun Oil Company, a corporation, by serving a copy upon Hon. Fred S. Ball, Jr. or Hon. Richard A. Ball, First National Bank Building, Montgomery, Alabama. Service may be had upon Respondent Humble Oil & Refining Co., a corporation, by service upon Hon. Gessner T. McCorvey, Merchants National Bank Building, Mobile, Alabama.

Exhibit - A

THIS ACTORR IDENT. MADE THE 9th day of September

Mr. J. Oswell and wife, Willie Pearl Oswell

252-3 Broad St., Mobile, Alabama

herein called Lessor (whether one or more), and Sino Oil Co.

Address: Dallas, Texas

called Louie. ~~WAS ASSASSINATED~~

L. Lessor, in consideration of Two Hundred and 00/100

11200.00

**Ball**

the receipt of which is hereby acknowledged by Lessor, and the agreements of Lessee set forth herein, hereby GRANTS and conveys exclusively to Lessee for the purpose of investigating, exploring, prospecting, drilling and mining for and producing oil, gas and all other minerals, laying pipe lines, building tanks, power stations, telephone lines and other structures, and means thereon to produce, save, take care of, treat

store, transport, and manufacture said minerals, and housing his employees, the following described land situated in Bellevue

County, Alabama, to-wit: That certain tract of land known as the Mimm's Plantation being the southeast fractional quarter north, and middle subdivision and the east half of the northeast quarter of section fifteen; the southwest quarter, northwest subdivision of fractional section fourteen, southeast quarter of fractional section ten; southwest quarter of fractional section 11; All in township three north, of range two east, and containing in all eight hundred acres, more or less

Secs. 10-11-14-15 Township 3 North Range 2 East Containing 800

1995 1000 00 100

And also, in addition to the above described land, any and all other land owned or claimed by Lessor in said section or sections in which the above described land is situated or in adjoining sections, and adjoining the above described land.

2. Subject to other provisions herein contained, this lease shall remain in force for a term of ten years from this date, called primary term, and as long thereafter as oil, gas or other mineral is produced from said land, or as long thereafter as Lessee shall conduct drilling or re-working operations thereon with no cessation of more than sixty consecutive days until production results, and if production results, so long as any such mineral is produced.

[illegible]

4. If operations for drilling a well shall not be commenced on said land on or before one year from date hereof, this lease shall terminate as to both parties, unless on or before such anniversary date Lessee shall pay or tender to Lessor or to Lessor's credit in First National Bank Bank at Mobile, Ala.

Two Hundred and 00/100

payments or tenders annually the commencement of such operations may be further deferred for \_\_\_\_\_ months beyond the date of the expiration of the term of the lease, which shall extend for twelve months the time within which such operations may be commenced. Dollars \$ 200.00

10. All payments or tenders of rental may be made by Lessee's check or draft mailed to Lessor or delivered to Lessor or mailed or delivered to said bank on or before such date of payment. If said bank (or any successor bank) shall refuse to accept rental, Lessor shall not be held in default for failing to make such payment on tender until thirty days after Lessor shall deliver written notice to Lessee's proper recordable instrument naming another bank to which to make such payment or tender. Cash down cash payment is consideration for this lease according to its terms and shall not be allocated to Lessee's proper recordable instrument naming another bank to which to make such payment or tender. Operations hereunder shall be deemed to be commenced when the first material is placed on the ground.

5. If at any time or times during the primary term and prior to discovery of oil or gas on said land Lessee shall drill a dry hole or holes thereon, at any time or times during the primary term and after discovery of oil or gas the production thereon should cease from any cause, this Lease shall terminate if on or before the next paying date next ensuing after the expiration of three months from the date of completion of dry hole or cessation of production, Lessee commences additional drilling or re-working operations or commences or resumes the payment of rentals or royalties.

[illegible][illegible][illegible][illegible]

10. When drilling or other operations are delayed or interrupted by lack of water, lack of materials, or by fire, storm, flood, war, rebellion, riot, strike, or any other cause beyond the control of the contractor, the time so lost shall not be counted against the contractor, and the contract shall not be deemed to have been suspended or terminated by such delay.

Exhibit "A"



IN WITNESS WHEREOF, this instrument is executed on the date first above written.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

WITNESSES:

By R. H. Oswell Lessor  
John C. Harington Agent

STATE OF ALABAMA.

COUNTY OF Mobile I, Patterson Friend a Notary Public

do hereby certify that R. H. Oswell whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this 9 day of September 1942

STATE OF ALABAMA.

COUNTY OF Mobile I, Patterson Friend a Notary Public

do hereby certify that on the 9 day of September 1942 came before me the within named Willie Pearl Oswell known to me to be the wife of the

within named R. H. Oswell who, being examined separate and apart from the husband touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord, and without fear, constraints or threats on the part of the husband.

Given under my hand this 9 day of September 1942

Patterson Friend  
Notary Public, Mobile Co. Ala.

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 1942 at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
County, Ala.

THE STATE OF ALABAMA,  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, Judge of the Probate Court of said County, do hereby certify the above instrument of writing was filed for record in this office the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 1942, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and duly recorded the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 1942, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., in the \_\_\_\_\_ records of said County, in volume \_\_\_\_\_ on pages \_\_\_\_\_

Witness my hand and seal of the Probate Court of said County at office in \_\_\_\_\_, Ala., the \_\_\_\_\_ day and year last above written.

Judge Probate Court \_\_\_\_\_ County, Ala.



CHARLES OTIS OSWELL and  
WILLIAM HAMILTON OSWELL,

Complainants

vs.

SUN OIL COMPANY, a corpora-  
tion, and HUMBLE OIL &  
REFINING COMPANY, a corpora-  
tion,

Respondents.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 2,677

INTERROGATORIES PROPOUNDED TO THE RESPONDENT SUN OIL COMPANY,  
A CORPORATION, BY THE COMPLAINANTS

Come now the Complainants in the above entitled cause and propound the following separate and several interrogatories to the Respondent Sun Oil Company, a corporation:-

1. State all actions taken and things done by you, prior to the filing of this suit, to discover the existence of oil, gas or other minerals under the lands which are the subject of this suit, hereinafter referred to as the Oswell lands.

2. State all actions taken and things done by you, prior to the filing of this suit, to develop the Oswell lands for the production of oil, gas or other minerals.

3. State what geologic or geophysical tests were made of the Oswell lands, the dates when made, by whom made, and the information obtained from such tests, attaching to this answer the original or a correct copy of all maps, records and other documents showing the information obtained by such tests, and stating as to each such map, record and other documents the date when the same was received or obtained by you.

4. State what seismographic tests or surveys were made of the Oswell lands, the dates when made, by whom made, and the information obtained from such tests or surveys, attaching to this answer the original or a correct copy of all maps, records and other documents showing the information obtained by such tests, and stating as to each such map, record and other documents the

date when the same was received or obtained by you.

5. What officer, agent or board of your corporation had the authority to authorize the prosecution of drilling operations at the South Carleton Field? (a) Prior to the filing of this suit, did any such officer, agent or board of your corporation authorize the prosecution of drilling operations at the South Carleton Field? (b) If your answer to Interrogatory 5. (a) is in the affirmative, state when and by whom such authorization was made, and what actions were done or had in pursuance of such authority. (c) State in exact and complete detail any program or plan adopted, approved or authorized by you prior to the filing of this suit, providing for the prosecution of drilling operations on the Oswell lands, stating when and by whom approved. (d) State whether any drilling operation started or planned by you was delayed or interrupted by lack of water, labor or materials, or by fire, storm, flood, war, rebellion, insurrection, riot, strike, difference with workmen, or failure of carriers to transport or furnish facilities for transportation, or as a result of some order, requisition or necessity of the government, or as the result of any cause whatsoever beyond your control. (e) If your answer to Interrogatory 5 (d) was in the affirmative, please state the nature of the cause of delay or interruption, and the dates during which you claim said cause to have existed.

6. Is it or not true that the prosecution of the drilling operations by you at the South Carleton Field required the approval of your Board of Directors? (a) If your answer to the foregoing interrogatory is in the affirmative, state whether your Board of Directors, prior to the filing of this suit, authorized the prosecution of drilling operations at the South Carleton Field. (b) State whether, prior to the filing of this suit, your Board of Directors refused to authorize the prosecution of drilling operations by you at the South Carleton Field. (c) State whether, prior to the filing of this suit, your Board of Directors discussed the prosecution of drilling operations by you at the South Carleton

Field. (d) Attach to this answer a certified copy of that portion of the minutes of each meeting of your Board of Directors at which there was discussed the prosecution of drilling operations by you at the South Carleton Field. (e) Attach to this answer a certified copy of so much of the constitution and by-laws of your corporation, and of any resolution adopted by the stockholders of your corporation, and any resolution adopted by the Board of Directors of your corporation, in force and effect during the period of time from the 9th day of September, 1942, up to the date of the filing of this suit, relating to the prosecution of drilling operations by your corporation.

7. Is it or not true that the prosecution of drilling operations by your corporation required the appropriation or budgeting of the funds to be expended for any such drilling operation? (a) If your answer to the foregoing interrogatory is in the affirmative, state whether or not any funds were appropriated or budgeted for the prosecution of drilling operations at the South Carleton Field prior to the filing of this suit, the amount so appropriated or budgeted and the date when appropriated or budgeted. (b) If your answer to the foregoing interrogatory was in the negative, state how and by what authority the expense of the prosecution of drilling operations at the South Carleton Field by you were to be met.

8. Attach to this answer the original or a correct copy of all correspondence and inter-office memoranda, by and between officers, agent, servants and employees of your company, made or written prior to the filing of this suit, and having reference to the prosecution or conduct of drilling operations on the South Carleton Field by you.

9. Prior to the filing of this suit, did your geologist or geological department, or any other employee, express or state to you any opinion or information as to the probability or possibility of the existence of oil, gas or other minerals under the Oswell lands? (a) If your answer to the foregoing interrogatory was in the affirmative, state by whom made and whether such statement was verbal or written. (b) If your answer to Interrogatory 9 (a) was



that such statement was verbal, state the date or dates when made, by whom made, to whom made and the substance of each such statement, and attach to this answer the original or a correct copy of any maps, records or other documents used or referred to in connection with each such statement. (c) If your answer to Interrogatory 9 (a) was that such statement was written, attach to this answer the original or a correct copy of each such statement and of each map, record or other document used or referred to in connection with each such statement. (d) If your answer to Interrogatory No. 9 was in the negative, state whether any opinion or information was requested by you of any geologist, geological department or any other employee as to the probability or possibility of the existence of oil, gas or other minerals under the Oswell lands. (e) If your answer to Interrogatory 9 (d) was in the affirmative, state the name and office title of each employee to whom such request was addressed, when the request was made, whether it was made verbally or in writing, and stating the substance of each verbal request and attaching the original or a correct copy of each written request.

10. As to each oil, gas or mineral well drilled on the Oswell lands, state the following:-(a) The date when drilling operations were commenced; (b) The date when drilling operations were concluded; (c) Attach the original or a correct copy of all drillers logs; (d) Attach the original or a correct copy of all Schlumberger logs; (e) Attach the original or a correct copy of all paleontological reports; (f) Attach the original or a correct copy of all records of cores and cuttings; (g) The depth to which drilled; (h) The depth, thickness, nature and location of all oil bearing strata; (i) The date when production was obtained; (j) The date when oil, gas or other minerals was discovered; (k) The production capacity; (l) The conservation capacity; (m) Attach correct copies of all production records and reports; (n) Attach correct copies of all potential test forms; (o) Attach correct copies of all other records, reports, maps, documents, data, memoranda and writings, not already stated, relating to the drilling of and production from each such well; (p) The pumping schedule of each well, and

the number of hours per day and days per week each well is pumped; (q) The amount of each sum of money paid or tendered to Charles Otis Oswell and William Hamilton Oswell, or either of them, or to their credit or to the credit of either of them, as royalties from the production of each such well, showing the dates when and the persons to whom each such payment or tender was made; (r) The amount of each sum of money paid to or received by you for the account of Charles Otis Oswell and William Hamilton Oswell, or either of them, as their royalties from the production of each such well, showing the dates when paid to or received by you; (s) The amount of oil delivered at each such well or to the credit of the complainants into the pipe line to which each such well may be connected, showing the dates of each such delivery; (t) Whether each such well is producing oil, gas or other minerals in paying quantities as that term is commonly used; (u) The amount of each sum of money paid to or received by you, or to your credit, for your proportionate share of the costs of drilling, completing and operating each such well; (v) The person, firm or corporation by whom such well drilled; (w) The location of each such well; (x) the Owner and the Operator of each well, and the Owner of the land upon which located; (y) The market price prevailing for the South Carleton Field at each such well and during the period of operation of each such well.

11. As to each oil, gas or mineral well drilled in the South Carleton Field on lands other than the Oswell lands, state so much of the following as may be known to you and, if unknown to you, so stating:-(a) The date when drilling operations were commenced; (b) The date when drilling operations were concluded; (c) Attach the original or a correct copy of all drillers logs; (d) Attach the original or a correct copy of all Schlumberger logs; (e) Attach the original or a correct copy of all paleontological reports; (f) Attach the original or a correct copy of all records of cores and cuttings; (g) The depth to which drilled; (h) The

depth, thickness, nature and location of all oil bearing strata; (i) The date when production was obtained; (j) The date when oil, gas or other minerals was discovered; (k) The production capacity; (l) The conservation capacity; (m) Attach correct copies of all production records and reports; (n) Attach correct copies of all potential test forms; (o) Attach correct copies of all other records, reports, maps, documents, data, memoranda and writings, not already stated, relating to the drilling of and production from each such well; (p) The pumping schedule of each well, and the number of hours per day and days per week each well is pumped; (q) Whether each such well is producing oil, gas or other minerals in paying quantities as that term is commonly used; (r) The person, firm or corporation by whom such well was drilled; (s) The location of each such well; (t) the Owner and the Operator of each well, and the Owner of the Land upon which located; (u) The market price prevailing for the South Carleton Field at each such well and during the period of operation of each such well.

12. Attach to this answer the original or a correct copy of every other map, document or record which you may have, not already produced in answer to some other interrogatory, and which was or could have been used by you in determining the nature, location and type of all geological formations and strata in and around the South Carleton Field, and in determining the existence or probable existence of oil, gas or other minerals in the South Carleton Field, and the location or probable location thereof in said field; and whether said oil, gas or other minerals existed or probably existed in paying quantities, stating as to each such map, document and record when and by whom made, and the date when known to or received by you.

13. Have you entered into any Joint Operating Contract as that term is commonly used, with Humble Oil and Refining Company, or any other company, prior to the filing of this suit? (a) If your answer to the foregoing interrogatory is in the affirmative, attach to this answer the original or a correct copy of each such



contract, with all amendments thereto.

14. Describe by tract or parcel all the lands which you claim to have under lease in the South Carleton Field, giving the name of the Lessor as to each such tract, and attaching the original or a correct copy of each lease under which you claim.

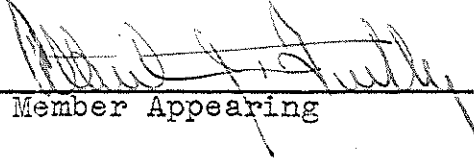
15. Prior to the filing of this suit, did you prepare any mounds or locations for drilling sites? (a) If your answer to the foregoing interrogatory is in the affirmative, state the location of each such mound and the date when prepared.

16. Prior to the filing of this suit, what steps were taken or things done by you to drill an off-set well to that well known and referred to Carleton Unit No. 1?

17. Prior to the filing of this suit, did you construct or prepare any road or access route into or upon the Oswell lands?

18. Prior to the filing of this suit, what steps were taken or things done by you to protect the Oswell lands against disproportionate drainage of oil therefrom?

HOLBERG, TULLY & ALDRIDGE  
Solicitors for Complainants

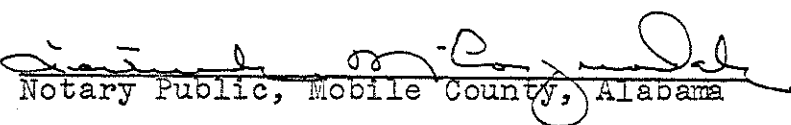
BY   
Member Appearing

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before me, the undersigned authority in and for said state and county, personally appeared ALBERT J. TULLY, known to me and who, having been by me first duly sworn, deposes and says that he is the attorney for the complainants in the above entitled cause, and that the answers to the foregoing interrogatories propounded by the complainants to the respondent Sun Oil Company, a corporation, if truthfully and fully answered, will be material testimony for the complainants in said cause.

Subscribed and sworn to before me,  
this the 23<sup>rd</sup> day of October, 1951.

  
Notary Public, Mobile County, Alabama

October 26, 1951.

We do hereby accept service of, and acknowledge receipt of a copy of, the foregoing interrogatories.

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS  
Solicitors for the Respondent Sun Oil Company

BY

N. F. Adams

CHARLES OTIS OSWELL, and  
WILLIAM HAMILTON OSWELL,  
Complainants,

VS.

SUN OIL COMPANY, a corporation,  
and HUMBLE OIL AND REFINING  
COMPANY, a corporation,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,

IN EQUITY. NO. 2677.

APPEAL OF RESPONDENTS.

Come now Sun Oil Company, a corporation, and Humble Oil & Refining Company, a corporation, the respondents in the above styled cause, and hereby appeal to the Supreme Court of Alabama from the Decree of the Circuit Court of Baldwin County, Alabama, dated the 25th day of June, 1952, and filed and entered in Court the 25th day of June, 1952, in and by which the demurrer of these respondents to the Complainants' Amended Bill of Complaint was overruled.

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

By Gessner T. McCorvey  
(Gessner T. McCorvey),  
Solicitors for Respondents.

We, Holberg, Tully & Aldridge, the Solicitors for the Complainants in the above styled cause, do hereby accept service of Notice of Appeal in the above styled cause, and waive all further notice thereof.

This 9th day of July, 1952.

HOLBERG, TULLY & ALDRIDGE,

By Alfred J. Tully  
Solicitors for Complainants.



CHARLES OTIS OSWELL AND  
WILLIAM HAMILTON OSWELL,

Complainants,

-vs

SUN OIL COMPANY, a corpora-  
tion and HUMBLE OIL &  
REFINING COMPANY, a  
corporation,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
IN EQUITY.

NO. 2,677

Now comes Sun Oil Company, a corporation, one of the respondents in this cause and demurs to the bill of complaint filed against it and the other respondent herein and as grounds for demurrer assigns separately each of the following:

1. There is no equity in the bill.
2. Said bill of complaint does not allege a ground for equitable relief.
3. The allegations of the bill do not show that the plaintiffs, or either of them, at the time of the filing of the bill of complaint, owned such an interest in the subject matter of the bill as to entitle them, or either of them, to maintain this action.
4. Said bill of complaint is defective in that it is alleged in Paragraph II therein that certain amendments to the oil, gas and mineral lease were executed by complainants to the Sun Oil Company, but the terms of said amendments are not set out with such certainty as will inform either the court or the respondent, Sun Oil Company, as to the terms of said amendments.
5. Said bill of complaint is defective in that it is alleged in Paragraph II therein that a certain amendment to the aforesaid lease was executed by Humble Oil & Refining Company, but the terms of said amendment are not set out with such certainty as will inform either the court or the respondent, Sun Oil Company, as to the terms of said amendments.
6. The said bill of complaint does not allege any contractual obligations of Sun Oil Company which have been violated by this respondent in any respect.

7. The said bill of complaint does not allege in what manner the respondent, Sun Oil Company, has violated its obligations under the aforesaid lease and the amendments thereto.

8. The bill of complaint does not allege with any degree of certainty the duties required of the respondent, Sun Oil Company, in drilling or operating under said lease and, therefore, the allegations that the Sun Oil Company has failed to meet its duties and obligations in said lease is merely a conclusion of the pleader and unsupported by any alleged facts.

9. The allegations of the bill of complaint show that there is now located on the area covered by the lease a well, drilled and operated by the respondents, under the terms and provisions of said lease, as amended, and said allegations further show that said well is now producing oil in paying quantities, and because of those allegations, the statement that the respondent, Sun Oil Company, has wholly failed, neglected and refused to drill and develop the lands described in said lease, is contrary to the alleged facts and is merely a conclusion of the pleader.

10. It does not appear from the allegations of the bill of complaint whether the complainants own any of the rights, titles or interests of the lessors in or under the oil, gas and mineral lease which complainants seek herein to cancel; for the lack of such allegations it does not appear that complainants are entitled to bring this suit.

11. It does not appear from the allegations of the bill of complaint whether the complainants own all of the rights, titles and interests of the lessors in or under the oil, gas and mineral lease which complainants seek in this suit to cancel. For the lack of such allegations it does not appear that all of the necessary parties have been brought into the proceedings, either as complainants or respondents.

12. For aught that appears from the allegations of the complaint, all necessary parties to this action have not been made parties complainant or respondent.

13. For aught that appears from the allegations of the complaint, the complainants did not own any of the oil, gas and mineral rights in and under the lands described in the lease referred to in the bill of complaint.

14. It is not alleged that any of the acts done or permitted in paragraph III of the bill are contrary to the provisions of the said lease or the amendments thereto.

15. The allegation appearing in Paragraph III of the bill of complaint that if developments upon adjacent and surrounding lands are continued "without the concurrent drilling and development of the lands of your complainants, the lands of your complainants will be completely surrounded by wells on adjacent lands, draining the lands of your complainants and without any benefit or protection to your complainants" are merely conclusions of the pleader and unsupported by any alleged facts.

16. The allegations appearing in Paragraph IV of the bill of complaint that "the continued drilling and development of said adjacent and surrounding lands, as hereinabove shown, and without the concurrent development of complainants' lands, will leave your complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil which lies in and under the lands of your complainants" are merely conclusions of the pleader and are unsupported by any alleged facts.

17. There are no facts alleged in the bill of complaint which, under the law and facts, would require the drilling of the offset well, to which plaintiffs refer as not having been drilled.

18. The statement appearing in the bill of complaint in which the failure of respondents to drill an offset well to the well now located on property described in the lease, producing oil, in effect, calls upon the respondents to drill an offset well in order to offset oil now being produced on plaintiffs' lands by the respondents.

19. For aught appearing from the allegations of paragraph IV, the statement to the effect that the respondent, Sun Oil Com-



pany, "has wholly failed, neglected and refused to drill and develop the lands of your complainants described in said lease attached hereto as Exhibit A", is a mere conclusion of the pleader and is not supported by the allegations of the bill of complaint in that the bill of complaint does affirmatively allege that there is already one producing oil well, drilled by the respondents, on the property described in said lease, and under the terms and provisions of said lease as amended, and there is no allegation in the bill of complaint as to wherein the respondent has violated any specific and pointed out provision contained in said lease, as amended.

20. The bill of complaint is defective in that that part of Item IV alleging that "the continued drilling and development of said adjacent and surrounding lands as hereinabove shown, and without the concurrent development of complainants' lands, will leave your complainants without the benefit of royalties from production from their lands, and without any protection against the draining away of the oil which lies in and under the lands of your complainants", in that it is but the statement of a conclusion of the pleader, and is based on the premise that wells drilled on adjacent and surrounding lands will be producing wells, and on the premise that each and all such wells will drain oil from under the lands described in the lease, and is further defective in that it does not take into account the fact that, for aught appearing, complainants themselves benefit from such producing wells as might be brought in on adjacent and surrounding lands through the pooled units to which reference is made in the bill of complaint.

21. For that the allegation that the failure of the respondent, Sun Oil Company, to drill and develop said lands and to drill an offset well to the producing well now located on said lands constitutes waste as defined under the laws of Alabama, is but the statement of a conclusion of the pleader.

22. For that it affirmatively appears from the allegations of the complaint that the only reason complainants would not have an adequate remedy at law is because their only damages are speculative damages, which damages are not admitted.

23. The relief sought in the bill of complaint is wholly inconsistent with the facts alleged therein and contrary and contradictory to the No. 9 paragraph of said lease, said lease by reference being made a part of the bill of complaint, in that said paragraph 9 in said lease specifically provides "that the breach by lessee of any obligation arising hereunder shall not work a forfeiture or termination of this lease, nor cause a termination or reversion of the estate hereby created, nor be grounds for cancellation hereof in whole or in part."

24. The allegation appearing in paragraph VI of the bill of complaint to the effect that complainants have no adequate remedy at law and have no other remedy available to them except through the processes of this Court, are made in total disregard of the allegations of the bill of complaint when taken in connection with the exhibits thereto and are false in that the remedy sought is expressly excluded by the very terms of the lease which is sought to be cancelled.

25. The prayer for relief in its entirety is wholly at variance with and contrary to the provisions and terms of the lease which has been made a part of the complaint.

J. B. Blackburn  
(J. B. Blackburn)

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,

By Gessner T. McCorvey  
(Gessner T. McCorvey),  
Attorneys for Sun Oil Company.

CHARLES OTIS OSWELL, and  
WILLIAM HAMILTON OSWELL,  
Complainants,

VS.

SUN OIL COMPANY, a corpora-  
tion, and HUMBLE OIL AND  
REFINING COMPANY, a corpora-  
tion,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 2677.

### STIPULATION

It is hereby stipulated between the Solicitors of record of the parties to the above styled cause, that on the appeal taken to the Supreme Court of Alabama by the Respondents from the decree of the Circuit Court of Baldwin County, Alabama, overruling Respondents' demurrer to the Complainants' Amended Bill of Complaint, that the Transcript of the Record to be filed in the Supreme Court of Alabama shall consist of the following:

1. Organization of the Court.
2. Complainants' Amended Bill of Complaint.
3. Respondents' Demurrer to the Bill of Complaint as Amended.
4. Decree of the Circuit Court of Baldwin County, Alabama entered on June 25th, 1952, overruling Respondents' Demurrer to the Bill of Complaint as Amended.
5. Appeal of Respondents and Complainants' Waiver of Notice thereto attached.
6. Security for Costs of Appeal of Respondents.
7. This Stipulation.
8. Register's Certificate to Transcript.

Executed this 9th day of July, 1952.

J. B. Blackburn  
(J. B. Blackburn)

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS.

By Gessner T. McCorvey  
(Gessner T. McCorvey)  
Solicitors for Respondents.

HOLBERG, TULLY & ALDRIDGE.

By Wm. J. Tully  
Solicitors for Complainants.

CHARLES OTIS OSWELL and  
WILLIAM HAMILTON OSWELL,

Complainants

vs

SUN OIL COMPANY, a corpora-  
tion, and HUMBLE OIL &  
REFINING COMPANY, a corpora-  
tion,

Respondents.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

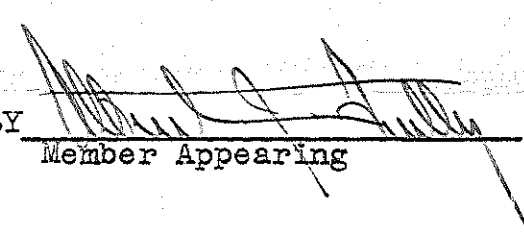
IN EQUITY. NO. 2,677

Come now the Complainants in the above entitled cause and show unto your Honors that more than thirty days have elapsed since interrogatories were propounded to and served upon the Respondent Humble Oil and Refining Company, a corporation, and that said Respondent Humble Oil and Refining Company, a corporation, has not answered said interrogatories within the time required by law and by the rules and practices of this honorable court.

WHEREFORE, Complainants respectfully pray that this honorable court will render a decree granting a decree pro confesso against said Respondent or granting such other appropriate relief to the Plaintiffs and against such Respondent as may seem meet and proper under the rules and practices of this honorable court.

HOLBERG, TULLY & ALDRIDGE  
Solicitors for Complainants

BY

  
Member Appearing