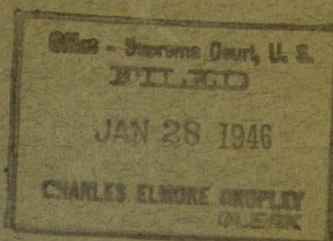


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No. 12 Original

In the Supreme Court of the United States

OCTOBER TERM, 1945

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF CALIFORNIA

MEMORANDUM IN OPPOSITION TO MOTION OF MASSA-
CHUSETTS FOR LEAVE TO INTERVENE

In the Supreme Court of the United States

OCTOBER TERM, 1945

No. 12 ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF CALIFORNIA

MEMORANDUM IN OPPOSITION TO MOTION OF MASSACHUSETTS FOR LEAVE TO INTERVENE

Massachusetts has moved for leave to intervene in this action, which was brought by the United States against California to settle the question of rights in the bed of the marginal sea off the coast of California.

Contrary to the better practice, *Chandler Co. v. Brandtjen, Inc.*, 296 U. S. 53, 56, the application of Massachusetts for intervention did not present a proposed answer. The nature of the claims which that state wishes to assert is, therefore, largely a matter of speculation. It is clear, however, that Massachusetts neither has nor claims any interest in the bed of the Pacific Ocean off the coast of California. Hence, Massachusetts cannot be affected by any judgment which may be entered in the suit. Accordingly, it is not entitled to intervene as of

right. *Chandler Co. v. Brandtjen, Inc., supra*; cf. *Credits Commutation Co. v. United States*, 177 U. S. 311, 315-316; *Radford Iron Co. v. Appalachian Electric Power Co.*, 62 F. 2d 940, 942 (C. C. A. 4, 1933).

Moreover, as a matter of judicial discretion the motion should be denied. The only apparent interest of Massachusetts in the suit arises from the possibility that a decision favorable to the United States may constitute a precedent unfavorable to the claims of the state to the marginal sea off its own coasts. The state cannot, by the device of intervention, broaden the scope of the litigation between the original parties to include the coast of Massachusetts. *Chandler Co. v. Brandtjen, Inc., supra*. Since the state has no interest in the lands off the coast of California, intervention, if allowed, would permit Massachusetts only to contest issues of law. Its interests in that connection can be adequately protected by an appearance as *amicus curiae* without encumbering the record with pleadings, etc., incidental to intervention.

For these reasons, it is respectfully submitted that the motion should be denied.

J. HOWARD McGRATH,
Solicitor General.

JANUARY 1946.

