Supreme Court of the United States

OCTOBER TERM, 1949

No. 12, Original

UNITED STATES OF AMERICA, *Plaintiff*

v.

STATE OF LOUISIANA

DEMURRER,

OR

MOTION TO DISMISS ON JURISDICTIONAL GROUNDS, AND CONDITIONAL MOTIONS.

BOLIVAR E. KEMP, JR.,
Attorney General, State of Louisiana

JOHN L. MADDEN,
Assistant Attorney General
State of Louisiana.

L. H. PEREZ,
New Orleans, La.,

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

Appearing Specially.

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STATE OF LOUISIANA

DEMURRER,

OR

MOTION TO DISMISS ON JURISDICTIONAL GROUNDS.

Now comes the State of Louisiana, through its Attorney General, and with full reservation of all rights under the objections heretofore filed to the granting of leave for the filing of the bill of complaint herein, now moves to dismiss the bill of complaint herein filed by the United States of America against the State of Louisiana, for the following reasons and causes:

I.

That the Supreme Court of the United States does not have original jurisdiction over any controversy between the United States of America and the State of Louisiana, under Article III, Section 2, Clause 2 of the Constitution of the United States, or under any other provision of the

Constitution of the United States, and, therefore, this Court does not have original jurisdiction of the parties herein, or of the subject matter presented by the bill filed herein by the United States.

II.

In the alternative, defendant, State of Louisiana, shows that it has objected to be sued, and that it has not consented to be sued by the United States of America herein, and this Court does not have jurisdiction *ratione personae.*

WHEREFORE, the premises considered, the State of Louisiana prays that the first ground of its demurrer or motion to dismiss, set out in paragraph I above, be sustained; that in the event the Court should overrule the first ground of defendant's motion, set out in paragraph I above, then in the alternative, defendant prays that the alternative ground of its motion to dismiss, set out in paragraph II above, be sustained; and that the complaint of the United States of America against the State of Louisiana herein be dismissed.

Oral argument is requested.

BOLIVAR E. KEMP, JR.,
Attorney General, State of Louisiana.

JOHN L. MADDEN,
Assistant Attorney General
State of Louisiana.

L. H. PEREZ,
New Orleans, La.,

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

Appearing Specially.

STATEMENT IN SUPPORT OF MOTION TO DISMISS ON JURISDICTIONAL GROUNDS.

I.

This Court Has No Jurisdiction Over a Controversy Between the Federal Government and a State.

This Court granted leave to the United States of America to file a bill of complaint herein against the State of Louisiana. The bill of complaint was filed and the State of Louisiana was served with subpoena to answer thereto.

By the filing of the bill and the service of subpoena against the State of Louisana, it is sought to subject the State of Louisiana to the original jurisdiction of this Court.

It must be conceded that if it were not for the existence of the Constitution of the United States, there would be no judicial power to be exercised by the United States, nor would there be a Supreme Court of the United States, because it is the Constitution of the United States which brought into being both the judicial power and the very existence of this Court.

The record of the Constitutional Convention, which wrote the Constitution of the United States, is sufficiently extant for authoritative reference as to what judicial power was granted to the United States and what original jurisdiction was conferred upon the Supreme Court of the United States, as well as to what judicial power and jurisdiction were denied to the United States and to this Court.

First: On June 17, 1787, the Convention had before it the Paterson Plan (H. Doc. 398, 69th Cong.; 1st Session; pp. 769 and 973; 1 Elliott's Debates, p, 177).

Included in the plan was a striking recommendation which read as follows:

> "Provision ought to be made for hearing and deciding upon all disputes arising between the United States and an individual state, respecting territory."

On June 19, 1787, *the Convention adopted a motion* by a vote of 7 to 3, 1 state divided, *to reject the Paterson Plan.* This rejection included the above proposition. (1 Elliott's Debates 180).

Second: Mr. Pinckney submittted several propositions to the Convention on August 20, 1787, and they were referred to the Committee of Detail. One of the propositions reads as follows:

> "The jurisdiction of the Supreme Court shall be extended to all controversies between the United States and an individual state; or the United States and the citizens of an individual state" (the Madison Papers, Vol. III, p. 1366; H. Doc. 398, 69th Cong.; 1st Sess.; p. 572).

No action was taken on the proposition.

Third: On August 22, 1787 Mr. Rutledge for the Committee of Detail, submitted a report to the Convention, suggesting the following amendment to the Randolph or Virginia Plan, then before the Convention:

> "Between the fourth and fifth lines of the third section of the eleventh article, after the word 'controversies', insert 'between the United States and an individual state, or the United States and an individual person' " (The Madison Papers, Vol. III, p. 1399; H. Doc. 398, 69th Cong.; 1st Sess.; p. 595-6).

The record shows that *no action was taken on this proposition.*

Fourth: Mr. Carroll made the following motion to the Convention on August 30, 1787:

> "Nothing in this Constitution shall be construed to alter the claims of the United States, or of the individual states, to the western territory; but all such claims shall be examined into, and decided upon, by the Supreme Court of the United States." (The Madison Papers, Vol. III, p. 1465; H. Doc. 398, 69th Cong.; 1st Sess.; p. 644).

While the proposed extension of jurisdiction would have only applied to the United States and individual states regarding western territory, it represents, nevertheless, the same basic proposition which is now under consideration.

The Carroll motion was postponed, and the record shows that *the Convention never took action on it.*

Turning from definitive rejection by inaction to peremptory rejection by action, we come to the proceedings of the Convention on August 30, 1787.

Fifth: On August 30, 1787, the Convention was considering Article XVII of the Randolph Plan (H. Doc. 480), regarding the admission of new states, and a discussion arose in regard to claims of the United States and individual states to territory (The Madison Papers; Vol. III, pp. 1465-1466; H. Doc. 398, 69th Cong.; 1st Sess.; pp. 644-645).

The following proposition was submitted as an addition to the draft of the Constitution:

> "The Legislature shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States; and nothing in this Constitution shall be construed as to prejudice any claims, either of the United States or of any particular state."

Thereupon, a motion was made to amend said proposal so as to add the following sentence:

> "But all such claims may be examined into, and decided upon, by the Supreme Court of the United States."

This motion to amend was peremptorily rejected by a vote of 8 States against and only 2 States for the motion (H. Doc. 398, p. 645, 1 Elliott's Debates 275, 276).

Thus, there were before the Federal Constitutional Convention propositions to grant Original jurisdiction to the United States to controversies between the United States

and an individual state and to examine into and decide upon the claims of the United States and an individual state to territory or property, none of which was incorporated into the Constitution and *the last of which was peremptorily rejected.*

Nowhere in the action of the Constitutional Convention, nor in any provision adopted as a part of the United States Constitution can it be shown that the original jurisdiction of this Court was made to extend either to controversies between the United States and any particular state or to the claim of any territory or property between the United States and any particular state.

By the action of the Constitutional Convention on August 30, 1787 in peremptorily rejecting the proposition that the Supreme Court of the United States should be given original jurisdiction to examine into and decide territorial claims of the United States and individual states, this Court was denied the very jurisdiction which the bill of complaint here seeks to have it exercise, because this Court does not have jurisdiction over the subject matter of this suit.

In view of the incontrovertible fact that the original jurisdiction of this Court stems from the Constitution of the United States, and from no other source or authority, it cannot be successfully argued or urged upon this Court, that the original jurisdiction of this Court extends to the present case which involves a controversy between the United States and the State of Louisiana, over a claim to territory or other property.

The early decisions of this Court, when the proceedings and history of the Constitutional Convention were fresh in the minds of the jurists, some of whom had either served as delegates or advocated ratification, bear out the fact that the Constitution does not give this Court original jurisdiction of a suit by the United States against a state, and, further, that the original jurisdiction conferred upon this Court by the Constitution cannot be extended.

Marbury v. *Madison,* (1803) 1 Cranch 137, held an Act of Congress unconstitutional, for the first time, because it sought to extend the original jurisdiction of this Court to suits against officials (Secretary of State) of the United States.

In *Cohens* v. *Virginia* (1821) 6 Wheat. 262, it was held that the original jurisdiction of this Court depended on the character of parties designated in the Constitution—and that after passage of the 11th Amendment, the original jurisdiction of this Court still extended to cases between two or more States, or between a State and a foreign State. (Not the United States).

In *Cherokee Nation* v. *Georgia,* (1831) 5 Peters 1, this Court held that the original jurisdiction of this Court extends only to cases in which both the Plaintiff and the Defendant are designated in the class of parties specified in the Constitution.

In this case, this Court held (p. 15):

> "Before we can look into the merits of the case, a preliminary inquiry presents itself. *Has this Court jurisdiction of the cause?*"

The Court referred to the third Article of the Constitution which describes the extent of the judicial power, Section 2 of which reads:

> "2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of Admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and citizens of another State; — between Citizens of different States; — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects."

and said (p. 15):

> "A subsequent clause of the same section gives the Supreme Court original jurisdiction in all cases in which a State shall be a party. The party defendant may then unquestionably be sued in this Court. *May the plaintiff sue in it?* Is the Cherokee Nation a foreign State in the sense in which the term is used in the Constitution?"

There it was held by the Court that the Cherokee Indian tribe within the United States is not a foreign State in the sense of the Constitution, and cannot maintain an action in the Courts of the United States.

By the same reasoning and authority, therefore, the United States is not a state, or a foreign State which may sue in the Supreme Court, in the sense in which the terms are used in the Constitution.

In *Rhode Island* v. *Massachusetts,* (1838), 12 Peters 657, this Court held that the sovereign States in Convention assembled made a grant to the United States of *judicial power* over controversies between two or more States, and it was ordained that the Supreme Court should have original jurisdiction in cases where a State was party *"in the cases specified"* (p. 720).

In *Florida* v. *Georgia,* (1854) 17 Howard 478, the Court held that while the United States could not intervene as party plaintiff or defendant in a suit between two States, its Attorney General would be permitted to file evidence for the information of the Court (as a sort of amicus curiae), and the Attorney General for the United States formally, in his brief, admitted that this Court is not empowered by the Constitution to entertain an original suit between the United States and a State, and that it is a settled rule of law that where the jurisdiction depends on the character of the parties, each party must be competent to sue or be sued in this Court.

In this case the United States of America, through its Attorney General, formally admitted that this Court did

not have original jurisdiction of a suit in which the United States was plaintiff against a State of the Union, as follows: (*15 L. Ed. p. 184*)

> "The United States cannot be made a party in any form to an original suit in this court between two states.
>
> * * * *
>
> (Citing Clause 2 of Section 2 of Article III of the Constitution).
>
> "But if the United States enter the suit as a technical party plaintiff, by bill of interpleader or otherwise, that would be to put an end to the suit, according to the constitutional doctrine of parties.
>
> "The court has jurisdiction in this case only in virtue of the clause of the Constitution which authorizes it to adjudicate on 'controversies between two or more states.'
>
> "To be sure, afterward, it is said, that 'in all cases . . . in which a state shall be a party the Supreme Court shall have original jurisdiction.' But this is not the delegation of a new class of jurisdiction as to subject matter. The clauses are to be taken together so as to signify that the original jurisdiction shall embrace either of the foregoing enumerated cases in which the jurisdiction attaches to a state.
>
> "*The court is not empowered by the Constitution to entertain an original suit between the United States and a state,* or the United States and two states.
>
> "*It is the settled rule of law that where the jurisdiction of the courts of the United States depends on the character of the parties,* and each party, either plaintiff or defendant, consists of a number of individuals *each one must be competent to sue or be sued in those courts;* and *otherwise jurisdiction cannot be entertained.*" (Emphasis added).

The Supreme Court of the United States is not empowered by any theory of inherent power to delegate to itself jurisdiction which the Constitution does not grant to it and

which the Convention, that wrote the United States Constitution, specifically refused to grant.

The constitutional question submitted to this Court by the above demurrer, or motion to dismiss is presented for the first time by special appearance in any suit filed by the United States against a particular state.

Regardless of the fact that this Court may have rendered judgments in other cases of the United States against particular states, such does not constitute *stare decisis* or precedent prejudicial to the State of Louisiana herein.

We are not unmindful in making this argument of the case of *United States* v. *West Virginia,* 295 U. S. 463, and the other cases therein cited; however, it has been the declared policy of this Court to interpret the language of the constitution *itself* free from the gloss that may have been placed upon it by earlier decisions, particularly where the precise issue was never raised by the defendants in the other cases.

In such cases the fact that other states either by design or oversight consented to be sued or failed to raise the constitutional objection to lack of jurisdiction in this Court to entertain such action by the United States against a particular state cannot be considered as authority over-riding the action of the Constitutional Convention in refusing to grant this Court original jurisdiction in such controversies.

The Constitution as originally written and the action of the Constitutional Convention in refusing to give this Court jurisdiction in such cases, has not been changed or overridden by any amendment to the United States Constitution adopted in any manner prescribed for amendment to the Constitution.

II.

This Court Has No Jurisdiction Over the Sovereign State of Louisiana Because She Has Not Consented To Be Sued.

In the event this Court should hold that it has original jurisdiction of a controversy between the United States of America and the State of Louisiana, nevertheless it has no jurisdiction *ratione personae,* that is, over Louisiana as a party, because the sovereign State of Louisiana has not consented to be sued herein.

In the case of *Kansas* v. *United States,* 204 U. S. 331, this Court held that the United States as a sovereign could not be sued by a State in the original jurisdiction of this Court *without its consent;* and in the case of *Monaco* v. *Mississippi,* 292 U. S. 313, this Court held that since a foreign nation, as a sovereign, could not be sued by a State in the original jurisdiction of this Court, *without its consent,* the State of Mississippi, as a sovereign, could not be sued by a foreign nation in the original jurisdiction of this Court, *without its consent.*

Moreover, in *Duhne* v. *New Jersey,* 251 U. S. 311, this Court categorically held that since a state could not be sued outside of this Court, without its consent, it could not be sued in this Court *without its consent;* and that the second clause of section 2 of Article 3 of the Constitution conferring jurisdiction upon this Court "in all cases . . . in which a state shall be a party" withheld the consent of a state to be sued *by anybody.* The Court held that the said second clause of section 2 of Article 3 merely distributed into original and appellate jurisdiction the jurisdiction previously conferred, and did not of itself confer additional jurisdiction.

These decisions were rendered under the identical provision of the United States Constitution, Article III, Section 2, Clause 2, under which the United States pretends to have jurisdiction in filing its bill of complaint

against the State of Louisiana. Therefore, this Court does not have original jurisdiction over the sovereign State of Louisiana *ratione personae,* because it has not consented to be sued herein. The United States has no more power or authority to institute suit against the State of Louisiana, *without its consent,* in the original jurisdiction of this Court, than the State of Louisiana has to institute suit against the United States in the original jurisdiction of this Court, *without its consent.*

This ground of the motion is the substantial equivalent of the motion to dismiss for lack of jurisdiction over a state as a party, that is, *ratione personae,* which was made and sustained in *Hans* v. *Louisiana,* 134 U. S. 1, the Court saying, *"The suability of a state without its consent was a thing unknown to the law"* (p. 16).

This well settled principle that a state cannot be sued without her consent is discussed at length in Louisiana's Objections, Supplemented Memorandum, Brief and Petition for Rehearing on the Federal Government's Motion for Leave to file a complaint, to which documents the Court's attention is respectfully referred.

The cases above cited demonstrate with striking force that there simply is no provision in the Constitution which grants the consent of a State to be sued by the Federal Government. They are unanswerable. **Indeed, we here challenge the Federal Government, if it opposes this motion, to cite, in quotation marks, any phrase or clause in the Constitution which it contends grants any such consent.**

We confidently assert that this is a challenge which the Federal Government has not met and canont now meet.

And if not, then this Court has no jurisdiction over Louisiana and the complaint must be dismissed.

All of which is respectfully submitted,

BOLIVAR E. KEMP, JR.,
Attorney General, State of Louisiana.

JOHN L. MADDEN,
Assistant Attorney General
State of Louisiana.

L. H. PEREZ,
New Orleans, La.,

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

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Supreme Court of the United States

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UNITED STATES OF AMERICA, *Plaintiff*

v.

STATE OF LOUISIANA

THE CONDITION OF THE ENSUING MOTIONS.

The foregoing motion to dismiss the complaint is confined to jurisdictional grounds only, the State of Louisiana appearing specially.

In the usual process of litigation, a defendant may appear specially and move to dismiss on jurisdictional grounds before being required to survey the merits or deficiencies of the complaint. Thus a motion to dismiss on the ground that indispensable parties have not been joined, and a motion for a bill of particulars, should only be made after jurisdictional questions have been finally determined. And when a complaint is dismissed for lack of jurisdiction, defendant is relieved from pleading to the merits.

In this case, however, the State of Louisiana is under a peculiar handicap. It is forced to file the ensuing two motions at this time under protest, and only under protest, and solely because of the order rendered by this court on June 13, 1949, directing the State of Louisiana to answer the complaint on or before September 1, 1949, "otherwise the plaintiff may proceed *ex parte*."

Hence, the ensuing two motions are submitted at this time, without in any sense waiving the defects of juris-

diction set forth in the preceding motion, and without consenting to be sued, and without in any manner submitting itself to the jurisdiction of this court or acknowledging that this court has original jurisdiction herein, as heretofore set forth in its said motion.

Accordingly, the State of Louisiana requests that the ensuing two motions be not presented to the court pending decision of the motion to dismiss for lack of jurisdiction.

BOLIVAR E. KEMP, JR.,
Attorney General,
State of Louisiana.

JOHN L. MADDEN,
Assistant Attorney General,
State of Louisiana.

L. H. PEREZ,
New Orleans, La.

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

Appearing Specially.

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UNITED STATES OF AMERICA, *Plaintiff*

v.

STATE OF LOUISIANA

CONDITIONAL DEMURRER,

OR

MOTION TO DISMISS FOR LACK OF INDISPENSABLE PARTIES.

Subject to its motion to dismiss on jurisdictional grounds, and to "The Condition of the Ensuing Motions," as above set forth, the State of Louisiana moves to dismiss the complaint on the following ground:

I.

That, under the allegations and prayer of the bill of complaint of the United States herein, the lesses of the State of Louisiana therein referred to are indispensable parties, and this cause cannot be properly determined nor can any judgment or decree be rendered as prayed for in said bill without making said lessees parties defendant herein; and, therefore, this Court should not assume jurisdiction of this cause unless and until said lessee are made parties defendant herein.

WHEREFORE, the premises considered, the State of Louisiana prays that its foregoing demurrer, or motion to

dismiss be sustained, and that the bill of complaint of the United States of America against the State of Louisiana herein be dismissed.

BOLIVAR E. KEMP, JR.,
Attorney General,
State of Louisiana.
JOHN L. MADDEN,
Assistant Attorney General,
State of Louisiana.

L. H. PEREZ,
New Orleans, La.

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

Appearing Specially.

STATEMENT IN SUPPORT OF MOTION TO DISMISS FOR LACK OF INDISPENSABLE PARTIES.

I.

In Article V of the bill of complaint of the United States herein, it is alleged that the State of Louisiana has negotiated and executed such "leases with various persons and corporations, and those persons and corporations have, in violation of the rights of the United States, paid to the State substantial sums of money, entered upon said lands and drilled wells for the recovery of petroleum, gas and other hydrocarbon substances. Such wells have been producing quantities of petroleum, gas and other hydrocarbon substances, which the lessees of the State have taken and converted to their own uses * * *, but neither the State nor its lessees have recognized the rights of the United States nor have they paid to the United States either the value of the petroleum and other things taken from the area, or any royalties thereon."

In Article VII of said bill of complaint, it is alleged that, * * * "The State will continue to claim such ownership for itself and to exercise the rights incident to such ownership through its officers, agents and employees, and will continue to aid, abet and encourage others, as its *lessees,* to tresspass upon and to take and use the minerals and other things of value in the area, in violation of the rights of the United States, from which the United States will suffer irreparable injury, and for which it has no adequate remedy except by this action."

In the prayer of said bill of complaint, *Plaintiff prays that a "decree be entered* adjudging and declaring the rights of the United States as against the State of Louisiana in the area herein described, *enjoining* the State of Louisiana and *all persons claiming under it from continuing to trespass upon the area in violation of the rights of the United States."* etc. (Emphasis added)

By the above allegations in the bill of complaint of the United States as plaintiff herein, its action is as much an

action against the State's lessees as it is against the State of Louisiana, itself, and the remedy sought in the prayer specifically asks for injunction to issue against these lessees as persons claiming under the State of Louisiana, and they allege that the lessees have failed to pay to the United States the value of the petroleum, etc., taken from the area,—i.e., the full value of the 8/8th of the oil and "other things."

It is inescapable, therefore, that any judgment or decree rendered in accordance with said allegations or prayer of said bill must necessarily adjudicate upon the rights and interest of the State's lessees referred to in said bill of complaint,—although said lessees referred to are not named or made parties defendant in the bill of complaint.

As a matter of law, the rights of parties alleged against in the bill of complaint should not be adjudicated upon without said parties being brought before the court as parties defendant, especially, as in this case, where lessees are indispensable parties who not only have a most substantial interest in the subject matter of the controversy, but an interest of such nature that a final decree cannot be rendered between the other parties to the suit without radically and injuriously affecting the interest of said lessees, and in such a situation its final determination would be inconsistent with equity and good conscience. (*Lawrence* v. *Sun Oil Co.;* (C.C.A. 5th, 1947) 76 F. Supp. 155; *Ducker* v. *Butler,* 1939, 104 Fed. 236, 78 App. D.C. 103; *Shields* v. *Barrow,* 17 How. 130, 139, 15 L. Ed. 158; *Shell Development Co.* v. *Universal Oil Products Co.,* C.C.A. Del. 1946, 157 Fed 421; *Shuckman* v. *Rubenstein,* C.C.A., Ohio 1947, 164 F. 2d 952, cert. den. 333 U. S. 875; *Wesson* v. *Crain,* C.C.A. Ark. 1948, 165 F. 2d 6; *Steinberg* v. *American Bantam Car Co.,* D. C. Pa. 1948, 76 F. Supp. 426, appeal dismissed, 173 F. (2d) 179.)

Indeed, in *Lawrence* v. *Sun Oil Co.,* 76 F. Supp. 155, Affirmed 166 Fed. 2d 466, it was held that where rights of parties as lessees are dependent upon the strength of their titles as against adverse claimants to the fee, all lessors

and lessees should be before the court so that a judgment binding upon all may be had.

In its decision affirming the District Court, the Appellate Court in the above case, said (p. 469):

> "(3) In an early case, the Supreme Court of the United States, *Shields* v. *Barrow,* 17 How. 130, 139, 15 L. Ed. 158, said:
>
> 'Persons who not only have an interest in the controversy but an interest of such a nature that a final decree cannot be made without either affecting that interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience (are indispensable parties.)* * *'
>
> "Since then, in numerous adjudications it has been held that the test of indispensability is whether the absent party's interest in the subject matter of the litigation is such that no decree can be entered in the case which will do justice between the parties actually before the court without injuriously affecting the rights of the absent party."

See also: *Barney* v. *Baltimore,* 73 U. S. 280; *Boaurdieu* v. *Pacific Western Oil Co.,* 299 U. S. 65; *Keegan* v. *Humble Oil & Refining Co.* (C. C. A. 5th), 155 F. (2d) 971; *Calcote* v. *Texas Pacific Co. & Oil Co.* (C. C. A. 5th), 157 F. (2d) 216, cert. den. 67 Sup. Ct. 205.

The allegations of the bill of complaint herein show that the parties in possession of the lands in the area complained of are the State's lessees.

As a matter of fact, the rights and interests of the State's lessees referred to and alleged against in the bill of complaints herein are more substantial monetarily than even the rights and interests of the State of Louisiana in the area covered by said leases for the reason that the lessees are holders and owners of record of mineral leases under which said lessees are entitled to approximately seven-eighths of the minerals which may be produced from said area, whereas, the State of Louisiana is entitled to only approximately

one-eighth of said minerals, and the lessees, as alleged trespassers, could be held to payment of the full value of all oil and "other things" taken from said area.

Furthermore, said lessees have paid millions of dollars of cash bonuses and rentals for their said leases, under which they were granted by the State of Louisiana the right to explore, develop and produce whatever oil or other minerals there may be in their respective acreages in said area of the Gulf of Mexico within the boundaries of the State of Louisiana. Some of said State lessees have invested millions of dollars in exploration, development, construction and operations for the production of oil and other minerals under their said leases.

All said leases are public records in the State of Louisiana and include the names of the State's lessees, the acreages under mineral lease to them in the area alleged upon in said bill of complaint and the considerations paid by them to the State of Louisiana for said leases. Said facts of public record have at all times been available to the plaintiff, the United States of America and its legal officers, representing plaintiff herein, and there was no justification in fact or in law for said lessees to have been omitted as parties defendant herein.

A list of the names of said lessees, referred to in the bill of complaint herein, and against whom plaintiff alleges, the acreages of lands or water bottoms in the Gulf area alleged upon in the bill of complaint herein, and the considerations paid for said leases are as follows:

OFFSHORE LEASING ACTIVITIES BY COMPANIES.

Company	Acreage	Bonus	Rental
Barnsdall Oil Company	9,989.10	$ 35,808.00	Not Due
Barnsdall, Seaboard and Callery	62,268.36	477,652.00	$ 222,775.00
The California Company	188,857.89	2,354,670.00	664,437.50
Continental Oil Company	40,000.00	374,800.00	Not Due
Continental, Cities Service, Tidewater, and Atlantic	468,522.62	1,900,744.00	442,106.00
I. J. Goode	18,611.00	139,936.10	Not Due
Gulf Refining Company	18,374.00	228,217.25	55,153.88
Humble Oil Company	208,485.90	3,920,505.51	1,694,100.21
Hunt Oil Company	9,462.18	247,196.78	Not Due
W. B. Jayred	1,248.64	25,000.00	Cancelled
Kerr-McGee Oil Industries, Inc.	72,262.00	828,051.00	468,525.50
Kerr-McGee, Phillips, & Stanolind	15,000.00	110,000.00	Not Due
Magnolia Petroleum Company	289,272.98	1,558,972.65	1,369,205.81
Pan-American, & Seaboard Company	119,008.51	1,036,579.73	19,363.16
Phillips Petroleum Company	78,888.42	1,653,432.00	Not Due
Phillips, Kerr-McGee	2,500.00	20,000.00	Not Due
Pure Oil Company	168,375.54	1,122,625.00	532,225.00
Shell Oil Company	315,226.62	2,135,512.80	591,071.69
Sohio Petroleum Company	7,207.00	38,269.17	19,134.59
Stanolind Oil and Gas Company	214,946.39	2,773,728.79	825,931.07
Sun Oil Company	55,942.50	888,937.95	Not Due
Superior Oil Company	116,514.66	2,763,215.92	708,158.56
The Texas Company	100,857.51	950,118.02	422,895.39
Union Oil Company of California	17,909.13	206,249.92	99,999.96

DATA OF OFFSHORE LEASING ACTIVITIES EXCLUDING CHANDELEUR SOUND, BRETON SOUND, MAIN PASS, SOUTH PASS AND THE PORTION OF SOUTH TIMBALIER IN CAILLOU BAY.

Company	Acreage	Bonus	Rental
The California Company	137,786.15	$2,123,334.00	$ 554,409.50
Continental Oil Company	40,000.00	374,800.00	Not Due
Continental, Cities Service, Tidewater & Atlantic Oil Company	468,522.62	1,900,744.00	442,106.00
I. J. Goode	18,611.00	139,936.10	Not Due
Humble Oil Company	205,985.90	3,905,255.51	1,686,475.21
Hunt Oil Company	9,462.18	247,196.78	Not Due
Kerr-McGee Oil Industries, Inc.	72,262.00	828,051.00	468,525.50
Kerr-McGee, Phillips, & Stanolind	15,000.00	110,000.00	Not Due
Magnolia Petroleum Company	289,272.98	1,558,972.65	1,369,205.81
Pan American & Seaboard Oil Co.	119,008.51	1,037,199.73	19,363.16
Phillips Petroleum Company	78,888.42	1,653,432.00	Not Due
Phillips, Kerr-McGee Oil Industries	2,500.00	20,000.00	Not Due
The Pure Oil Company	168,375.54	1,122,625.00	532,225.00
Shell Oil Company	56,122.82	282,008.36	34,904.18
Sohio Oil Company	7,207.00	38,269.17	19,134.59
Stanolind Oil Company	214,946.39	2,773,728.79	825,931.07
Sun Oil Company	55,942.50	888,937.95	Not Due
Superior Oil Company	116,514.66	2,763,215.92	708,158.56
The Texas Company	59,763.35	497,590.00	322,570.00

DATA ON MAIN PASS, SOUTH PASS, CHANDELEUR SOUND, BRETON SOUND, AND THE PORTION OF SOUTH TIMBLIER IN CAILLOU BAY BY COMPANIES.

Company	Acreage	Bonus	Rental
Barnsdall Oil Company	9,989.10	$ 35,808.00	Not Due
Barnsdall, Seaboard & Callery	62,268.36	477,652.00	$ 222,775.00
The California Company	51,071.74	431,336.00	110,028.00
Gulf Refining Company	18,374.00	228,217.25	55,153.88
Humble Oil & Refining Company	2,500.00	15,250.00	7,625.00
W. B. Jayred	1,248.64	25,000.00	Cancelled
Shell Oil Company	259,103.80	1,853,504.44	556,167.51
The Texas Company	41,094.16	452,527.61	100,325.39
Union Oil Company of California	17,909.13	206,249.92	99,999.96

All of the above lessees referred to and alleged against in the bill of complaint and against whom judgment and decree are prayed for by the United States are available and can be served with regular process of this Court in this matter.

When necessary or indispensable parties are omitted, the Court should not assume jurisdiction.

All of which is respectfully submitted.

BOLIVAR E. KEMP, JR.,
Attorney General,
State of Louisiana.

JOHN L. MADDEN,
Assistant Attorney General,
State of Louisiana.

L. H. PEREZ,
New Orleans, La.

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

Appearing specially.

Supreme Court of the United States

OCTOBER TERM, 1949

No. 12, Original

UNITED STATES OF AMERICA, *Plaintiff*

v.

STATE OF LOUISIANA

CONDITIONAL MOTION FOR A MORE DEFINITE STATEMENT AND FOR A BILL OF PARTICULARS.

Subject to its motion to dismiss, on jurisdictional grounds, and to "The Condition of the Ensuing Motions," as above set forth, the State of Louisiana moves the Court for an order requiring the plaintiff to make a more definite statement and to file a bill of particulars of the following items:

I.

Full and Complete Statements:

(a) As to what times are referred to in the phrase "all times herein material," as alleged in paragraph II of the complaint. Specifically, defendant is entitled to know:

(b) At what time or times the plaintiff contends it became "the owner in fee simple of . . . the lands, minerals and other things" in the area described in the complaint;

(c) At what time or times the plaintiff contends that it became "possessed of paramount rights in, and full dominion and power over the lands, minerals and other things" in the area described in the complaint;

(d) From whom, and in what manner, plaintiff acquired its ownership "in fee simple * * * of the lands, minerals, and other things" underlying the area, as alleged in paragraph II of the complaint;

(e) Of the precise character of the "paramount rights in, and full dominion and power over the lands, minerals and other things" claimed by plaintiff in the area described, as alleged in Paragraph II of the complaint.

(f) Whether the "paramount rights in, and full dominion and power over, the lands, minerals and other things" in the area of the Gulf of Mexico, as alleged in Paragraph 2 of the complaint, are specially applicable to said area only, or generally applicable to inland water areas, air lanes, and land areas of the State of Louisiana and of the other States of the Union, as well as to said area.

(g) From whom, in what manner, and by what authority plaintiff acquired such "paramount rights in, and full dominion and power over the lands, minerals and other things" in the area, as alleged in Paragraph II of the complaint.

(h) A full and clear description of the lands lying seaward of the ordinary low-water mark, "at all times herein material," on the coast of Louisiana and outside of the inland waters, of which plaintiff is "the owner in fee simple of or possessed of paramount rights in, and full dominion and power over," as alleged in Paragraph II of the complaint, accompanied by available United States Coast and Geodetic maps, suitably marked to delineate and identify such lands.

II.

Full and Clear Statements:

(a) Of the precise character of the "right, title, or interest in said lands, minerals and other things" the State of Louisiana "claims" which are "adverse to the United States," as alleged in paragraph III of the complaint.

(b) In what manner or respect the "right, title or interest in said lands, minerals, and other things," "claimed" by the State of Louisiana, are "adverse to the United States," as alleged in paragraph III of the complaint.

III.

Full and Clear Statements:

(a) Of the precise character of the "rights of the United States" which the State of Louisiana and its lessees have violated or failed to recognize, as alleged in paragraph V of the complaint.

(b) What "persons and corporations," and who on behalf of such "persons and corporations," have, in violation of the rights of the United States, paid to the State of Louisiana substantial sums of money, entered upon said lands and drilled wells for the recovery of petroleum, gas and other hydrocarbon substances, as alleged in paragraph V of the complaint.

(c) What lessees of the State of Louisiana, and who on behalf of such lessees, "have taken and converted to their own uses" "petroleum, gas and other hydrocarbon substances" and "have paid to the State substantial sums of money in bonuses, rents and royalties reserved under the leases," as alleged in paragraph V of the complaint.

(d) Who on behalf of the State of Louisiana, and which of its lessees, have not "recognized the rights of the United States" and have not "paid to the United States either the value of the petroleum and other things taken from the area, or any royalties thereon," as alleged in paragraph V of the complaint.

(e) What "other things" the State of Louisiana and its lessees have taken from the area, as alleged in paragraph V of the complaint, whether fish, shrimp, clams, oysters, shells, gravel, sand or other non-mineral substances.

(f) Of the location and description of the lands on which each of the "persons and corporations" has, "in vio-

lation of the rights of the United States," entered, drilled wells and produced petroleum, gas and other hydrocarbon substances, and from which "other things" have been taken, as alleged in paragraph V of the complaint.

(g) An itemized and detailed statement of the "substantial sums of money in bonuses, rents and royalties reserved under the leases," which each lessee has paid to the State, as alleged in paragraph V of the complaint.

(h) An itemized and detailed statement of the "value of the petroleum and other things taken from the area," which the State of Louisiana and its lessees have not paid to the United States, as alleged in paragraph V of the complaint.

(i) An itemized and detailed statement of the royalties on the "value of the petroleum and other things taken from the area," which the State of Louisiana and its lessees have not paid to the United States, as alleged in paragraph V of the complaint.

(j) An exact description of the part or parts of the alleged area for which substantial sums were paid to the State of Louisiana, and how much was paid for each said part of the area by each lessee, as alleged in Article V of the complaint.

(k) What sums does the United States claim it was or is entitled to under law from the State of Louisiana and from each of its lessees, and from which of its lessees by name, "in bonuses, rents and royalties," or as "the value of the petroleum and other things taken from the area," with an exact description of the part or parts of the area from which plaintiff claims it is entitled to each said sum claimed by it, as alleged in paragraph V of the complaint.

IV.

Full and Clear Statements:

(a) Of who, on behalf of the State of Louisiana, has "frequently and publicly denied the rights and powers of the United States" in the area described in the complaint,

and "has claimed full and complete ownership for itself," as alleged in paragraph VII of the complaint; whether each such denial and claim was oral or in writing; if in writing, attach a copy thereof; if oral, state the substance thereof; and state the time and place of each such denial and claim.

(b) Of the precise character of the "rights and powers of the United States in the area," which have been "denied" by the State, as alleged in paragraph VII of the complaint.

(c) Of the precise character of the "full and complete ownership of the area," which the State of Louisiana "has claimed" for itself, as alleged in paragraph VII of the complaint.

WHEREFORE, defendant prays that an order be entered directing plaintiff to file a more definite statement and a bill of particulars as above set forth, and that defendant's time to answer or otherwise plead be extended to and including sixty (60) days after the filing by plaintiff and service upon the defendant of said definite statement and bill of particulars.

BOLIVAR E. KEMP, JR.,
Attorney General,
State of Louisiana.

JOHN L. MADDEN,
Assistant Attorney General,
State of Louisiana.

L. H. PEREZ,
New Orleans, La.

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

Appearing Specially.

STATEMENT IN SUPPORT OF MOTION.

There are tremendous issues and vast sums of money, according to the claim of the Federal Government, bound up in this law suit. The Federal Government claims that it has either "fee simple," or what it describes as "paramount rights in, and full dominion and power over" the lands, minerals and other things underlying the marginal sea off the coast of Louisiana.

Yet the complaint of the Federal Government is a very brief document, the allegations of which do not exceed three pages, and which are couched in the most vague, general and indeed, ambiguous terms.

It is an elementary rule of pleading that a defendant must be informed of the particulars of the claim upon which plaintiff relies. And if plaintiff's complaint fails to allege the particular facts of the claim, defendant is entitled to an order requiring the plaintiff to make his complaint more definite and certain and to furnish the necessary particulars of his claims. The purpose of these particulars is (1) to enable the defendant properly to file a responsive pleading; (2) to delineate the issues in clear and unmistakable terms, and (3) to enable the defendant to properly prepare for trial.

The basic theory of a law suit is to bring out the truth. The extravagant and vague claims of this complaint emphasize the need for this particular plaintiff to state its claims clearly and with definiteness, and the essential particulars thereof, in order that this defendant may properly plead and may know with certainty the precise nature

of the plaintiff's claim and the specific issues which the defendant will have to meet.

BOLIVAR E. KEMP, JR.,
Attorney General,
State of Louisiana.

JOHN L. MADDEN,
Assistant Attorney General,
State of Louisiana.

L. H. PEREZ,
New Orleans, La.

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

Appearing Specially.

Supreme Court of the United States

OCTOBER TERM, 1949

No. 12, Original

UNITED STATES OF AMERICA, *Plaintiff*

v.

STATE OF LOUISIANA

CONDITIONAL MOTION FOR EXTENSION OF TIME TO ANSWER OR OTHERWISE PLEAD.

Subject to its motion to dismiss on jurisdictional grounds, and to the "Condition of the Ensuing Motions" as above set forth, the State of Louisiana moves for an extension of time to answer or otherwise plead as hereinafter set forth.

This defendant is filing herewith a conditional motion to require plaintiff to file and serve a more definite statement and a bill of particulars.

This motion is made only out of an abundance of caution. Rule 12(a) of the Federal Rules of Civil Procedure, adopted by the United States Supreme Court, clearly provides that a motion directed to a complaint automatically defers the requirement of serving an answer to the complaint until after disposition of the motion.

WHEREFORE, the defendant moves:

1. In the event that its motion for a more definite statement and a bill of particulars is granted, for an order extending its time to answer or otherwise plead to and including 60 days from the date of filing and service of said statement and bill of particulars;

2. In the event of denial of such motion, for an order extending its time to answer or otherwise plead to same to and including 30 days from the date of the order denying such motion.

BOLIVAR E. KEMP, JR.,
Attorney General,
State of Louisiana.

JOHN L. MADDEN,
Assistant Attorney General,
State of Louisiana.

L. H. PEREZ,
New Orleans, La.

BAILEY WALSH,
F. TROWBRIDGE VOM BAUR,
Washington, D. C.,
Of Counsel.

Appearing Specially.