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Supreme Court of the United States

OCTOBER TERM, 1949.

No. 12, Original.

UNITED STATES OF AMERICA, *Plaintiff,*

v.

STATE OF LOUISIANA.

ANSWER

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Of Counsel.

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ANSWER

Now comes the State of Louisiana, defendant herein, through its Attorney General, without abandoning but re-asserting, re-urging and reserving all rights under its Objections to The Filing of Complaint Herein, its Demurrer, or Motion to Dismiss on Jurisdictional Grounds, and its Conditional Motions; and without in any manner consenting to be sued, or submitting itself to the jurisdiction of this Court, answers said Complaint as follows, to-wit:

FIRST DEFENSE

Defendant moves to dismiss the Complaint of the United States of America for the reasons, (1) that the said Complaint fails to present a case or controversy under Article III, Section 2 of the Constitution of the United States or otherwise; (2) that this Court has no jurisdiction in equity herein; and (3)

that said Complaint fails to set forth a claim on which relief can be granted; all as hereinafter more particularly set forth, to-wit:

(a) That according to Statement filed with said Complaint, the purpose of the United States of America in this litigation is "to establish the rights of the United States to the lands, minerals and other things underlying the Gulf of Mexico adjacent to the coast of Louisiana" and within the territorial limits of the State; the said Complaint asking that the rights of the United States of America be established and declared by this Court.

(b) That the Complaint does not allege that Defendant has denied or denies, and Defendant does not deny but on the contrary admits, that the United States has paramount rights in, and full dominion and power over, the lands, minerals and other things underlying the Gulf of Mexico adjacent to the coast of Louisiana, to the extent of all governmental powers existing under the Constitution, laws and treaties of the United States.

(c) That the relief prayed for and sought in and by the Complaint depends on the existence of conflicting claims of governmental powers to authorize the use of the bed of the Gulf of Mexico within the territorial limits of the State of Louisiana for the purpose

of searching for and producing oil and other natural resources.

(d) That the Congress of the United States has not adopted nor is there now in force and effect any law of the United States asserting such Federal power or purporting to authorize the United States or any agency, lessee or licensee of the United States to search for and produce minerals and other things of value, including oil, in, on or under the bed of the Gulf of Mexico lying within the territorial limits of the State of Louisiana and particularly the area described in said Complaint.

(e) That there are no conflicting claims of governmental powers to authorize the use of the bed of the Gulf of Mexico within the territorial limits of Louisiana for the purposes herein stated; that there is no actual justiciable controversy between the United States and the State of Louisiana; this Court has no jurisdiction in equity herein; and the Complaint herein fails to state a claim upon which relief can be granted.

WHEREFORE, Defendant moves that upon consideration of said First Defense, it be sustained and that judgment be rendered in favor of the State of Louisiana and against the United States of America, dismissing the Complaint.

SECOND DEFENSE

In answer to Articles I to VII, inclusive, of said Complaint, Defendant:

I.

Denies that this Court has jurisdiction over the State of Louisiana, as alleged in Article I of the Complaint.

II.

Admits, that, to the extent of its Constitutional powers, Plaintiff has paramount rights in, and full dominion and power over, the lands, minerals, and other things underlying the Gulf of Mexico off the coast of Louisiana; but denies that Plaintiff ever was or now is the holder of fee simple title to such lands, minerals and other things underlying the Gulf of Mexico within the said limits of the State of Louisiana; and except as herein admitted, denies each and every allegation contained in Article II of the Complaint.

III.

Admits that the State of Louisiana claims to be and is the holder of fee simple title to the said lands, minerals and other things, subject to the Constitu-

tional powers of Plaintiff, and except as herein admitted, denies each and every allegation in Article III of the Complaint.

IV.

Admits that the State of Louisiana claims to be and is the holder of fee simple title to the said lands, minerals, and other things, as above, and has, by general law, authorized the leasing of said lands, but denies that said law and the authority therein conferred were or are adverse to or in conflict with the Constitutional powers of Plaintiff; and, except as herein admitted, denies each and every allegation in Article IV of the Complaint.

V.

Admits that the State of Louisiana claims to be and is the holder of fee simple title to, and pursuant to law, has negotiated and executed leases of lands underlying the Gulf of Mexico within its said limits with various persons and corporations; that wells have been drilled on such lands which are producing petroleum, gas and other hydrocarbon substances; and admits that over a period of many years, since 1812, it has granted leases and licenses for the purpose of removing shells, sand, and other things of value from said lands; that such leases and licenses have been

granted and all operations thereunder have been conducted subject to, consistently with, and with full recognition of the Constitutional powers of Plaintiff, as can and will be proven by competent evidence on the trial hereof; that neither the State of Louisiana nor its lessees have paid to the United States either the value of the petroleum and other things taken from the area or any royalties thereon; and, except as herein admitted, denies each and every allegation in Article V of the Complaint.

VI.

Denies the allegations set forth in Article VI of the said Complaint, and shows that, to the contrary, the State of Louisiana claims to be and is the holder of fee simple title to the lands in said area within its said limits, subject to Plaintiff's constitutional powers, as set forth in Article II hereof.

VII.

Admits that the State of Louisiana claims to be and is, and will continue to claim to be, the holder of fee simple title to the lands in said area with all the incidents thereof, subject to the Constitutional powers of Plaintiff; denies that the State of Louisiana has ever denied or interfered with or is now denying or interfering with any of the Constitutional powers

of Plaintiff over said area; and except as herein admitted, denies each and every allegation contained in Article VII of the Complaint.

FIRST AFFIRMATIVE DEFENSE

The State of Louisiana is the holder of fee simple title to all the lands, minerals and other things underlying all navigable waters within the territorial limits of the State, subject to the Constitutional Powers of the United States in such area, the fee simple title so held by Louisiana having become vested in the State in the following manner:

(a) Prior to July 4, 1776, the Crown of England had and exercised full territorial jurisdiction and sovereignty in and over, and held fee simple title to, all lands under navigable waters within the territorial limits of the thirteen colonies in America lying on the Atlantic Coast.

(b) By the Declaration of Independence of July 4, 1776, as confirmed by (1) the Articles of Confederation of July 9, 1778, (2) the Treaty of Peace with Great Britain of 1783 and (3) the Constitution of the United States, the said thirteen colonies in America became separate, free and independent Sovereign States and exercised and do now exercise territorial jurisdiction and sovereignty in and over, and held and

now hold fee simple title to, all lands under navigable waters within their territorial limits.

(c) By the treaty between the French Republic and the United States concerning the cession of Louisiana, signed at Paris, April 30, 1803, the territory of Louisiana, with all its rights and appurtenances was ceded to the United States, subject to the condition that the ceded territory and the appurtenances thereof be incorporated as a Sovereign State in the Union of the United States and admitted as such as soon as possible, according to the principles of the Federal Constitution.

(d) By Act of Congress of October 31, 1803, the President of the United States, pursuant to said treaty with the French Republic, was authorized to take possession of and occupy the territory so ceded and was directed to maintain and protect the inhabitants of Louisiana in the free enjoyment of liberty, property and religion.

(e) By Act of Congress of March 26, 1804, that portion of the country ceded by France to the United States under the name of Louisiana lying South of the Mississippi Territory and of an East and West line to commence on the Mississippi River at the Thirty-Third Degree of North Latitude and to extend West to the Western boundary of said cession, was constituted a

territory of the United States under the name of Territory of Orleans.

(f) By Act of February 20, 1811, the inhabitants of all that part of the territory ceded under the name of Louisiana by the said treaty made at Paris on April 30, 1803, within the following limits, that is to say:

“Beginning at the mouth of the river Sabine; thence by a line to be drawn along the middle of the said river, including all islands, to the thirty-second degree of north latitude; thence due north to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence, along the middle of the said river and Lakes Maurepas and Pontchartrain, to the Gulf of Mexico; thence bounded by the said gulf to the place of beginning, including all islands within three leagues of the coast . . .”

were authorized to form for themselves a Constitution and State Government in the manner and under the conditions therein mentioned.

(g) Pursuant to said Act of February 20, 1811, the Constitution of Louisiana of 1812 was adopted by the representatives of the people within that part of the territory ceded by the treaty of Paris under the name of Louisiana, with the same boundaries set forth in said Act of Congress of February 20, 1811; and said Constitution of Louisiana, adopted by the repre-

sentatives of the people, was submitted to Congress and approved and ratified by it by Act of April 8, 1812, by which Louisiana was admitted as a Sovereign State into the Union on an equal footing with the original states.

(h) By Act of Congress of April 14, 1812, all that part of the said territory of Louisiana ceded by the French Republic within the following boundaries, to-wit:

“Beginning at the junction of the Iberville with the river Mississippi; thence along the middle of the Iberville, the river Amite, and of the Lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl river; thence up the eastern branch of Pearl river to the thirty-first degree of north latitude; thence along the said degree of latitude to the river Mississippi; thence down the said river to the place of beginning . . .”

became a part of said State of Louisiana, subject to the Constitution and laws thereof in the same manner, and for all intents and purposes as if it had been included within the original boundaries of the said State.

(i) Upon the admission of Louisiana as one of the Sovereign States of the United States by Act of Congress of April 8, 1812, on an equal footing with the original states, the State of Louisiana became vested with and exercised and at all times since said date

has exercised, full territorial jurisdiction and sovereignty in and over, and became vested with and held, and at all times since that date has held and now does hold, fee simple title to, all lands under all navigable waters within its territorial limits, all subject to the Constitutional powers of the United States.

SECOND AFFIRMATIVE DEFENSE

That, acting in conformity with and under its fee simple title and sovereignty and, at all times herein material, since the admission of Louisiana into the Union in 1812, the State of Louisiana has exercised continuous, undisturbed and unchallenged sovereignty over, and has had open, complete, notorious, peaceful, unquestioned, undisturbed and unchallenged possession of all the lands, minerals and other things underlying the Gulf of Mexico within the area described in the Complaint; and that such sovereignty and possession have been and are now being exercised and maintained subject to, consistently with and with full recognition of the Constitutional powers of the United States; and that as a result of the exercise of such sovereignty and possession by the State of Louisiana for more than one hundred years after the admission of the State into the Union in 1812 there has existed the general conviction that Louisiana had and has territorial jurisdiction and sovereignty over and fee

simple title to the said lands, minerals and other things in said area.

WHEREFORE, Defendant demands that this cause be transferred to the law side of this Court and prays for judgment dismissing the Complaint.

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