

SEP 30 1955

HAROLD B. WILLEY, CL

NO. 7, ORIGINAL

**In the
Supreme Court of the United States**

OCTOBER TERM, 1955

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA

**DEFENDANT'S SUPPLEMENTAL BRIEF IN
OPPOSITION TO PLAINTIFF'S MOTION
TO MODIFY DECREE**

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There is an additional point which merits consideration by the Court in passing on plaintiff's motion for the modification of this court's decree entered on December 11, 1950 (340 U.S. 899, 95 L.Ed. 651). This point grows out of the wording of the decree itself.

Paragraph 1 of the decree declares that the United States is possessed of paramount rights in the lands and minerals underlying the Gulf of Mexico, lying seaward of the ordinary low water mark on the coast of Louisiana, and that the State

of Louisiana has no title thereto or property interest therein.

Section 2 of the decree reads as follows:

“The State of Louisiana, its privies, assigns, lessees, and other persons claiming under it, are hereby enjoined from carrying on any activities upon or in the submerged area described in paragraph 1 hereof for the purpose of taking or removing therefrom any petroleum, gas, or other valuable mineral products, and from taking or removing therefrom any petroleum, gas, or other valuable mineral products, *except under authorization first obtained from the United States. . . .*”
(Emphasis supplied)

Paragraph 3 orders the State of Louisiana to account to the United States for monies received from the lands in question.

Paragraph 4 of the decree reserves jurisdiction in this Court to enter such further orders as may be necessary “to give full force and effect to this decree.”

No orders whatever are necessary to carry out the provisions of Paragraph 1 of the decree and the Defendant has fully complied with Paragraph 3. As stated in our original brief Louisiana has

rendered a full and complete accounting to the United States for money derived from the property in question and no controversy exists in this respect. However, we would call the Court's attention to the language of Section 2 of the decree which enjoins the State of Louisiana, its lessees and assigns from carrying on any activities for the removal of mineral products from these submerged lands "*except under authorization first obtained from the United States.*" The State of Louisiana has obtained authorization from the United States to enter upon and assert ownership and control over the lands and minerals in the Gulf of Mexico lying seaward a distance not exceeding 3-leagues from its coast. This authority has been granted by the Congress of the United States in the Submerged Lands Act on May 22, 1953 (67 Stat. 29, 43 USC 1301, et seq.). Not only has Congress granted this authorization to the State of Louisiana and other coastal states but it has undertaken to determine relative rights of the states and of the United States in the entire Continental Shelf. The Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462, 43

USC 1331, et seq.), takes up where the Submerged Lands Act leaves off and sets forth the relative rights of the states and of the United States beyond the 3-league limit in the Gulf of Mexico. Congress has thus completely covered all of the lands and waters which were the subject matter of this Court's decree of December 11, 1950 and has given the authorization referred to in Paragraph 2 of that decree.

The right of Congress to limit Louisiana's boundaries to three leagues from its coast is not conceded, because the boundaries of the State cannot be changed without its consent. This, however, is a question that might be raised in an independent original proceeding involving an interpretation of the Acts of Congress. It is not in any way related to the decree of this Court.

There is therefore no controversy at this time over the wording or meaning or application of this Court's decree. Having completely served its purpose the decree has become *functus officio*. Any controversy or question which may now exist

or may hereafter arise will grow out of the Acts of Congress—not the decree of the Court.

For these reasons plaintiff's motion to modify the decree presents a moot question.

Respectfully submitted,

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PROOF OF SERVICE

I, _____, one of the attorneys for the State of Louisiana, defendant herein, and a member of the Bar of the Supreme Court of the United States, certify that on the _____ day of _____, 1955, I served copies of the foregoing Supplemental Brief in Opposition To Plaintiff's Motion to Modify Decree, by leaving copies thereof at the offices of the Attorney General and of the Solicitor General of the United States, respectively, in the Department of Justice Building, Washington, D. C.

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