

No. ¹⁰~~11~~ ORIGINAL

IN THE SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM, 1957-1958

UNITED STATES OF AMERICA.....Plaintiff

vs.

STATES OF LOUISIANA, TEXAS,
MISSISSIPPI, ALABAMA AND
FLORIDA

SEPARATE ANSWER OF THE STATE OF
MISSISSIPPI TO AMENDED COMPLAINT

JOE T. PATTERSON

Attorney General

New Capitol Building

Jackson, Mississippi

JOHN H. PRICE, JR.

Assistant Attorney General

New Capitol Building

Jackson, Mississippi

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SEPARATE ANSWER OF THE STATE OF MISSISSIPPI TO AMENDED COMPLAINT

Now comes the State of Mississippi, one of the defendants in the above entitled and numbered cause, by its Attorney General, and, for its separate answer to that portion of the amended complaint of the plaintiff which refers to and concerns this defendant and which is designated in said amended complaint as "Third Cause of Action (against the State of Mississippi)," says:

I.

The State of Mississippi admits the allegations contained in Paragraph I, Third Cause of Action, of said amended complaint.

II.

The State of Mississippi denies the allegations contained in Paragraph II, Third Cause of Action, of said amended complaint, except insofar as the allegation that the United States had possession of and dominion and power over the lands, minerals and other things under-

lying the Gulf of Mexico from the ordinary low-water mark and from the outer limits of inland waters on the coast of Mississippi to the edge of the continental shelf, "except as set forth in Paragraph III", when construed with the Submerged Lands Act of Congress, 67 Statutes at Large 29, Section 2 (b) and (c), Section 3 (a) and (b), quitclaiming to Gulf Coastal States a maximum of three marine leagues from Coast, within historic State boundaries, and the Act of Congress which admitted Mississippi as a State into the Union and fixed its gulfward boundary at six leagues from shore in the Gulf of Mexico on December 10, 1817, must be taken as an admission by plaintiff that the defendant, State of Mississippi, is the owner and is entitled to exclusive possession of all said submerged lands, minerals and other things underlying the Gulf of Mexico, within three marine leagues from said State's coast line, which is admitted.

III.

Said Submerged Lands Act recognized, confirmed and established title to and ownership of the submerged lands and resources in said defendant State, and "released and relinquished" unto said State "all right, title and interest of the United States, if any it has" thereto within said State's boundary as it existed at the time it became a member of the Union, or as approved by Congress, within three marine leagues from its coast line into the Gulf of Mexico, which three marine leagues from coast so quitclaimed is within the six leagues from shore limits of the gulfward boundary of the State of Mississippi as it existed when said State became a member of the Union. The State of Mississippi admits the allegations contained in Paragraph III, Third Cause of Action, of said amended complaint which are not in conflict with the above statement contained in this para-

graph, but denies all allegations therein contained in conflict with said above statement.

IV.

The State of Mississippi denies the allegations of Paragraph IV, Third Cause of Action, of the amended complaint, and, further answering, avers and says that it was admitted as a State into the Union by Act of Congress, 3 Statutes at Large 472, exercising the exclusive authority granted to Congress under Article IV, Section 3, Constitution of the United States to admit new states into the Union and to fix their boundaries, which said Act of Congress admitted the State of Mississippi into the Union on December 10, 1817, and fixed the boundaries of the State of Mississippi by reference to the Enabling Act of March 1, 1817, 3 Statutes at Large 348, as follows:

“That the said state shall consist of all the territory included within the following boundaries, to-wit:

Beginning on the river Mississippi at the point where the southern boundary line of the state of Tennessee strikes the same, thence east along the said boundary line to the Tennessee river, thence up the same to the mouth of Bear Creek, thence by a direct line to the north-west corner of the county of Washington, thence due south to the Gulf of Mexico, thence westwardly, *including all the islands within six leagues of the shore*, to the most eastern junction of Pearl river with Lake Borgne, thence up said river to the thirty-first degree of north latitude, thence west along the said degree of latitude to the Mississippi river, thence up the same to the beginning.” (Emphasis supplied).

That the original Constitution of the State of Mississippi, adopted in the year 1817, prior to its admission as a State into the Union, which said Constitution was

approved by Congress by the act of admitting said State into the Union, described the boundaries of the said State of Mississippi in the following manner, to-wit:

“We, the representatives of the people inhabiting the western part of the Mississippi Territory, *contained within the following limits*, to-wit: Beginning on the river Mississippi at the point where the southern boundary line of the state of Tennessee strikes the same; thence east along the said boundary line to the Tennessee River; thence up the same to the mouth of Bear Creek; thence, by a direct line, to the north-west corner of the county of Washington; thence due south to the Gulf of Mexico; thence westwardly, *including all islands within six leagues of the shore*, to the most eastern junction of Pearl River with Lake Borgne; thence up said river to the thirty-first degree of north latitude; thence west along the said degree of latitude to the Mississippi River, thence up the same to the beginning.” (Emphasis supplied).

That, therefore, when said State of Mississippi became a member of the Union, and prior thereto, its boundary extended six leagues from shore into the Gulf of Mexico, which gulfward boundary exceeds the maximum of three marine leagues from its coast line as provided for under the Submerged Lands Act of Congress, 67 Statutes at Large 29, and further that the boundaries of said State as designated at the time it became a member of the Union as aforesaid have not been diminished since that time.

V.

The State of Mississippi denies the allegations contained in Paragraph V, Third Cause of Action, of said amended complaint to the effect that the United States is entitled to an accounting for all sums of money derived

from the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Mississippi, extending seaward to the edge of the Continental Shelf by said State of Mississippi, after June 5, 1950, and further denies that the United States is entitled to an accounting for any period of time and in any sum whatsoever from said State of Mississippi. The State of Mississippi further denies the allegations of said Paragraph V insofar as the United States claims that it is entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, lying within three marine league from the coast line of the State of Mississippi. Except as herein specifically denied, the State of Mississippi admits the allegations of said Paragraph V.

VI.

The State of Mississippi admits the allegation contained in Paragraph VI, Third Cause of Action, of the amended complaint to the effect that it has not accounted to the United States for all or any sums of money derived from the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Mississippi, and, answering further, denies that it has any legal or equitable duty to account to the United States for all or any sums of money derived from the lands, minerals and other things so situated as aforesaid. The State of Mississippi denies the other allegations contained in said Paragraph VI, Third Cause of Action, and avers and says that the State of Mississippi claims

and exercises its right, title and interest in the lands, minerals and other things underlying the Gulf of Mexico included within its gulfward boundary as it existed at the time said State became a member of the Union, as shown in Paragraph IV above, lying within three marine leagues from its coast line, under the provisions of said Submerged Lands Act of Congress, and as referred to in the outer Continental Shelf Lands Act, 67 Statutes at Large 462, which said Submerged Lands Act specifically acknowledged and confirmed in the State of Mississippi ownership of the submerged lands and resources beneath its navigable waters as defined in Section 2 of said Submerged Lands Act, within three marine leagues from its coast line into the Gulf of Mexico as designated and defined in accordance with applicable Acts of Congress, and the claim made herein on behalf of the United States adverse to such right, title or interest of the defendant, State of Mississippi, is in conflict with and in violation of the above applicable Acts of Congress and provisions of the Constitution of the United States.

VII.

The State of Mississippi admits the allegations contained in Paragraph VII, Third Cause of Action, of the amended complaint. Answering further, however, the State of Mississippi denies any allegations contained in said First Cause of Action against the State of Louisiana which are opposed to or in conflict with the claims and contentions of the State of Mississippi contained in this answer, whether explicitly or by inference, and particularly denies the plaintiff's allegations found in Paragraph IX of said First Cause of Action that the "fundamental question in issue is the width of the marginal sea within the jurisdiction of the United States, which involves inquiry into and application of the foreign policy

of the United States," and, on the contrary, avers and says that the issues herein are wholly internal matters, the Congress and the President of the United States having declared, and no other nation having challenged or here challenging, the extent of the boundaries of the United States.

VIII.

Answering further, in the alternative, the State of Mississippi avers and says that in the event its said primary contention that its territorial boundary extends three marine leagues from its coast line into the Gulf of Mexico and that it is the owner and holder of title to the lands underlying said Gulf of Mexico within three marine leagues from its said coast line and the natural resources within said lands and waters should not prevail, then it is the alternative position of the State of Mississippi that at least it is the owner of or has the right to the natural resources within said area under the provisions of said Submerged Lands Act, with the exclusive right of management, administration, leasing, use and development of such lands and natural resources, including the exclusive right to explore for and extract such natural resources from said submerged lands.

IX.

The State of Mississippi makes no answer to the First, Second, Fourth and Fifth Causes of Action contained in said amended complaint of the plaintiff herein since said named Causes of Action are directed solely and exclusively against the States of Louisiana, Texas, Alabama and Florida, respectively, and none of said Causes of Action are directed against or in any way involve the State of Mississippi.

WHEREFORE, the State of Mississippi prays that the demands of plaintiff be rejected and that judgment be rendered herein in favor of said State of Mississippi decreeing that said State has exclusive title to and ownership of the lands beneath navigable waters within three marine leagues from its coast line into the Gulf of Mexico and the natural resources within such lands and waters, as provided in said Submerged Lands Act, 67 Statutes at Large 29.

In the alternative, in the event its prayer contained in the next preceding paragraph does not prevail, the State of Mississippi prays that this Honorable Court decree that said State at least is the owner of or has the right to the natural resources within said area, with the exclusive right of management, administration, leasing, use and development of such lands and natural resources, including the exclusive right to explore for and extract such natural resources from said submerged lands.

In the event it is mistaken in the relief prayed for, the defendant, State of Mississippi, prays for such other, further, different or more general relief as the Court may deem meet and proper.

JOE T. PATTERSON,
Attorney General of Mississippi
JOHN H. PRICE, JR.
Assistant Attorney General

December 1957.

PROOF OF SERVICE

I, Joe T. Patterson, Attorney General of the State of Mississippi, and a member of the bar of the Supreme Court of the United States, hereby certify that on the _____ day of December, 1957, I served copies of the foregoing answer to Amended Complaint on the several parties to said cause, as follows:

(1) On the United States, by mailing copies in duly addressed envelopes, with air mail postage prepaid, to the Attorney General and the Solicitor General of the United States, respectively, at the Department of Justice Building, Washington 25, D. C., and

(2) On the States of Texas, Louisiana, Alabama and Florida, by mailing copies in duly addressed envelopes, with air mail postage prepaid, to their respective Attorneys General at their respective addresses as follows: Capitol Building, Austin, Texas; Capitol Building, Baton Rouge, Louisiana; Judicial Building, Montgomery, Alabama; and Capitol Building, Tallahassee, Florida.

JOE T. PATTERSON

Attorney General of Mississippi

