

IN THE

Supreme Court of the United States

OCTOBER TERM, 1959

No. 10, Original

UNITED STATES OF AMERICA

Plaintiff,

v.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI,
ALABAMA and FLORIDA,

Defendants.

**SUPPLEMENTAL MEMORANDUM OF ADDITIONAL
RESEARCH CONCERNING UNITED STATES RECOGNITION OF TEXAS' THREE LEAGUE
BOUNDARY, AND MOTION FOR
LEAVE TO FILE**

WILL WILSON

Attorney General of Texas

JAMES N. LUDLUM

First Assistant Attorney General

HOUGHTON BROWNLEE, JR.

JAMES H. ROGERS

JOHN FLOWERS

Of Counsel:

PRICE DANIEL

Governor of Texas

Austin, Texas

JAMES P. HART

Brown Building

Austin, Texas

J. CHRYS DOUGHERTY

ROBERT J. HEARON, JR.

Capital National Bank Building

Austin, Texas

October 12, 1959

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ALABAMA and FLORIDA,

Defendants.

**MOTION FOR LEAVE TO FILE MEMORANDUM OF
ADDITIONAL RESEARCH CONCERNING UNITED
STATES RECOGNITION OF TEXAS'
THREE LEAGUE BOUNDARY**

The State of Texas desires to present to the Court the attached supplemental memorandum of historical material discovered on the eve of oral argument and moves for leave to file the same.

Respectfully submitted,

WILL WILSON

Attorney General of Texas

JAMES N. LUDLUM

First Assistant Attorney General

HOUGHTON BROWNLEE, JR.

JAMES H. ROGERS

JOHN FLOWERS

Of Counsel:

PRICE DANIEL

Governor of Texas Assistant Attorneys General

Austin, Texas

Capitol Station

JAMES P. HART

Austin, Texas

Brown Building

Austin, Texas

J. CHRYS DOUGHERTY

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**SUPPLEMENTAL MEMORANDUM OF ADDITIONAL
RESEARCH CONCERNING UNITED STATES REC-
OGNITION OF TEXAS' THREE LEAGUE
BOUNDARY**

The most solemn act of foreign policy of any nation is its declaration of war.

In his message of May 11, 1846, calling upon the Congress to declare war against Mexico, President Polk said in part:

“ . . . On the 10th of November, 1845, Mr. John Slidell, of Louisiana, was commissioned by me as envoy extraordinary and minister plenipotentiary of the United States to Mexico, and was entrusted with full powers to adjust both the questions of the Texas boundary and of indemnification to our citizens. The redress of the wrongs of our citizens naturally and inseparably blended itself with the question of boundary. The settlement of the one question,

in any correct view of the subject, involves that of the other. I could not, for a moment, entertain the idea that the claims of our much injured and long suffering citizens, many of which had existed for more than twenty years, should be postponed or separated from the settlement of the boundary question. . . .

“Meantime Texas, by the final action of our Congress, had become an integral part of our Union. The Congress of Texas, by its act of December 19, 1836, had declared the Rio del Norte to be the boundary of that republic. Its jurisdiction had been extended and exercised beyond the Nueces. The country between that river and the Del Norte had been represented in the congress and in the convention of Texas; had thus taken part in the act of annexation itself; and is now included within one of our congressional districts. Our own Congress had, moreover, with great unanimity, by the act approved December 31, 1845, recognized the country beyond the Nueces as a part of our territory, by including it within our own revenue system; and a revenue officer, to reside within that district, has been appointed, by and with the advice and consent of the Senate. It became, therefore, of urgent necessity to provide for the defense of that portion of our country. Accordingly, on the 13th of January last, instructions were issued to the general in command of these troops to occupy the left bank of the Del Norte. . . . Had we acted with vigor in repelling the insults and redressing the injuries inflicted by Mexico at the commencement, we should doubtless have escaped all the difficulties in which we are now involved.

“Instead of this, however, we have been exerting our best efforts to propitiate her good

will. Upon the pretext that Texas, a nation as independent as herself, thought proper to unite its destinies with our own, she has affected to believe that we have severed her rightful territory, and in official proclamations and manifestoes has repeatedly threatened to make war upon us, for the purpose of reconquering Texas. In the meantime, we have tried every effort at reconciliation. The cup of forbearance had been exhausted, even before the recent information from the frontier of the Del Norte; but now, after reiterated menaces, Mexico has passed the boundary of the United States, has invaded our territory, and shed American blood upon the American soil. She has proclaimed that hostilities have commenced, and that the two nations are now at war. . . .

“In further vindication of our rights, and defence of our territory, I invoke the prompt action of Congress to recognize the existence of the war, and to place at the disposition of the Executive the means of prosecuting the war with vigor, and thus hastening the restoration of peace. . . .” House Ex. Doc. 60, 30th Cong. 1st Sess. 4-10, Serial 520.

After the war Nicolas Trist (who since 1845 had been Chief Clerk of the Department of State) was sent as Peace Commissioner to Mexico with instructions from Secretary Buchanan, dated April 15, 1847, directing him to deliver to the Mexican Commissioners a draft of a proposed peace treaty, Article IV of which began:

“The boundary line between the two republics shall commence in the Gulf of Mexico, three

leagues from land opposite the mouth of the Rio Grande; from thence up the middle of that river . . . House Ex. Doc. 69, 30th Cong., 1st Sess. at 43, 48, Serial 521.

Later, on July 19, 1847, Secretary Buchanan wrote Trist again directing him to use that same three-league beginning point but with a modification in the western part of the boundary so as to make it follow the 32nd parallel of latitude. *Id.* at 53.

As we have already pointed out (Texas Br. 102), Trist said that he was instructed to “agree that the line shall be established along the boundary defined by the Act of Congress of Texas, approved December 19, 1836. . . .’ Papers of Nicolas P. Trist, Vol. 33, Miscellaneous, Library of Congress, 1917, p. 62071.

That both the Executive and the Congress clearly understood that Texas came into the Union with its boundary intact as set forth in the Act of December 19, 1836, is evident from President Polk’s Message to Congress on December 7, 1847. He said:

“The terms of a treaty proposed by the Mexican commissioners were wholly inadmissible. They negotiated as if Mexico were the victorious, and not the vanquished party. They must have known that their ultimatum could never be accepted. It required the United States to dismember Texas, by surrendering to Mexico that part of the territory of that State lying between the Nueces and the Rio Grande, included within her limits by her laws when she was an independent republic, and when she was annexed to the United States and admitted by

Congress as one of the States of our Union.
...” House Ex. Doc. 8, 30th Cong., 1st Sess. 9,
Serial 515.

In the light of these documents there can be no doubt that the United States, as a deliberate act of foreign policy, admitted Texas with full knowledge and recognition of her three-league boundary in the Gulf of Mexico. It waged war to protect a part of the boundary declared in that boundary act. There is no room for the implication of any limitation on that boundary drawn from what the State Department may have written in other situations before or since Texas’ annexation and this national approval of her boundary immediately thereafter.

Respectfully submitted,

WILL WILSON

Attorney General of Texas

JAMES N. LUDLUM

First Assistant Attorney General

HOUGHTON BROWNLEE, JR.

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JOHN FLOWERS

Assistant Attorneys General

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I certify that I have served copies of the foregoing motion and the attached memorandum by delivering them to the offices of the Attorney General and the Solicitor General of the United States, Washington, D. C., this the..... day of October, 1959.

Will Wilson