

Order.

STATE OF OKLAHOMA v. STATE OF TEXAS.

UNITED STATES, INTERVENER.

IN EQUITY.

No. 18, Original.

Order entered June 4, 1923.

Order directing Commissioners, heretofore appointed for locating and marking the boundary between Texas and Oklahoma on the south bank of Red River, to survey and plat also the medial line between that boundary and the northerly bank, in the vicinity of the oil wells; with provisions for report, objections, approval, and costs.

The commissioners heretofore designated herein to run, locate and mark portions of the boundary between the States of Texas and Oklahoma on and along the south bank of Red River are hereby ordered and directed also to survey, and run upon the ground and to delineate upon a suitable plat the medial line between such state boundary and the northerly bank of such river for a total length of three miles at and in the vicinity of the river bed oil wells. In so surveying, running and platting such medial line the commissioners shall conform to the fifth paragraph of the decree entered herein March 12, 1923 [261 U. S. 345], entitled, "Supplement to Partial Decree of June 5, 1922," and shall ascertain and show on such plat the exact location of all oil wells which are within three hundred feet of such medial line. The commissioners shall make a separate report of their action under this order, and shall include therein a statement of the time employed and the expenses incurred in that work. The work and report of the commissioners hereunder shall be subject to the approval of the Court. Copies of the report shall be promptly delivered to the two States and the United States, and exceptions or objections thereto,

if there be such, on the part of either State, the United States or any private intervener herein, shall be presented to the Court, or, if it be not in session, filed with the Clerk, within forty days after the report is made. The cost of executing this order shall be borne and paid as part of the expenses of the receivership.

SONNEBORN BROTHERS *v.* CURETON, ATTORNEY GENERAL OF THE STATE OF TEXAS, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS.

No. 20. Argued March 24, 1922; restored to docket for reargument May 29, 1922; reargued October 5, 1922.—Decided June 11, 1923.

1. A state occupation tax, levied on all wholesale dealers in oil and measured by a per cent. of the gross amount of their respective sales made within the State, is not invalid, as a burden on interstate commerce, when applied to local sales in the original packages, of oil previously shipped into the State and stored by the dealer as part of his stock in trade. P. 508.
2. As regards immunity from state taxation, the distinction between imports and articles in original packages in interstate commerce, is that, in the one case, the immunity attaches to the import itself before sale, while, in the other, it depends on whether the tax regulates or burdens interstate commerce. P. 509.

Woodruff v. Parham, 8 Wall. 123, followed. *Standard Oil Co. v. Graves*, 249 U. S. 389; *Askren v. Continental Oil Co.*, 252 U. S. 444; *Bowman v. Continental Oil Co.*, 256 U. S. 642, and *Texas Co. v. Brown*, 258 U. S. 466, qualified.

Affirmed.

APPEAL from a decree of the District Court dismissing, on final hearing, the appellants' bill, which sought to enjoin the enforcement of penalties for failure to make reports of sales of oil and for failure to pay a state tax, in respect