

Decree.

267 U. S.

an income tax from which foreign corporations are exempted. It charges invalidity on the same grounds as those set up in No. 320, [266 U. S. 373,] and brought suit to recover the amount of the tax. Its complaint was dismissed on motion of the District Attorney upon the authority of *National Paper & Type Company v. Edwards, Collector of Internal Revenue*, 292 Fed. 633, and judgment went on the merits.

The cause was submitted with No. 320, just decided. It presents the same contentions, based upon the same grounds. And upon the authority of our decision in that case, the judgment below is

Affirmed.

STATE OF OKLAHOMA *v.* STATE OF TEXAS.

UNITED STATES, INTERVENER.

IN EQUITY.

No. 13, Original. Decree entered March 9, 1925.

Decree reciting and confirming the report by commissioners of the survey, location and marking of a part of the boundary between Texas and Oklahoma, along the Fort Augur Area; adjudging that the line shown by the report and maps be established as the true boundary between the two States along the part of Red River so designated, subject to future changes by erosion and accretion; and directing transmission of authenticated copies of the decree and maps to the chief magistrates of the two States.

Announced by Mr. Justice Van Devanter: ¹

On consideration of the report of the commissioners, heretofore selected to run, locate and mark portions of the boundary between the States of Texas and Oklahoma along the south bank of the Red River, showing

¹ Other orders in the case of this date will be found among the *per curiam* decisions, *post*, pp. 580, 582.

that they have run, located and marked the portion of such boundary along the Fort Augur Area—such report being as follows:

“To the Chief Justice and the Associate Justices of the Supreme Court of the United States:

“Continuing our work as commissioners designated in the decree of March 12, 1923 (261 U. S., 340), in the above entitled cause, we have run, located and marked upon the ground the boundary between the States of Texas and Oklahoma along the Red River from the Big Bend Area westward to a southerly extension of the west line of range sixteen west in Oklahoma, in accordance with the decree and the principles announced in the opinion delivered January 15, 1923 (260 U. S., 606), and in the manner stated in our report of April 25, 1924 on the Big Bend Area. We have called this portion of the boundary the ‘Fort Augur Area.’

“The maps, which accompany and are made a part of this report, are identified as follows:

Map No. 4: Cadastral Map of the Texas and Oklahoma Boundary, Fort Augur Area, scale 2,000 feet to the inch;

Map No. 5: Topographic Map of Texas and Oklahoma Boundary, Fort Augur Area, in four sheets, Nos. 1, 2, 3 and 4, scale 500 feet to the inch, contour interval 2 feet; and, a

Road Map: Showing location of Reference Monuments, scale one mile to the inch.

“There are no oil wells within three hundred feet of the boundary in the Fort Augur Area.

“The survey of this area was begun June 13, 1923, and completed October 10, 1924, the triangulation being done in 1923 and the other work being done after June 1, 1924.

“The location of the boundary, reported herein, is that position which existed on September 3, 1924.

“The field notes of the boundary survey and tabulations of technical data follow: ²

“Five copies each of the report and maps have been today sent by registered mail to the Attorney General of the United States, the Attorney General of Texas and the Attorney General of Oklahoma. We have also filed with the clerk of the court fifty copies of the report and maps for the use of such private interveners as may apply for them. Thirty additional copies of the report and maps have been filed with the clerk for such disposition as the court may direct.

“The originals of the three maps hereinbefore named are bound with the original report, and appear in the following order: Road Map showing location of Reference Monuments; Map No. 4; and, Map No. 5, Sheets Nos. 1, 2, 3 and 4.

“Respectfully submitted,

“ARTHUR D. KIDDER,

“ARTHUR A. STILES,

“Commissioners.

“Washington, D. C., January 5, 1925.”

And no objection or exception to such report being presented, although the time therefor has expired;

It is now adjudged, ordered and decreed that the said report be in all respects confirmed.

It is further adjudged, ordered and decreed that the line delineated and set forth in the report and on the maps accompanying the same and referred to therein be established and declared to be the true boundary between the States of Texas and Oklahoma along the part of the Red River designated in such report subject however to such changes as may hereafter be wrought by the

² The field notes and tabulations, covering 30 pages of the report, are here omitted; as are also the maps. Copies of these matters, when desired, may be obtained in the Clerk's Office; or in the offices of the Chief Executives of the States of Oklahoma and Texas.

natural and gradual processes known as erosion and accretion as specified in the second, third and fourth paragraphs of the decree rendered herein March 12, 1923, 261 U. S. 340.

It is further ordered that the Clerk of this court do transmit to the chief magistrates of the States of Texas and Oklahoma copies of this decree, duly authenticated under the seal of this court, together with copies of the maps which accompanied the report of the commissioners.

SANFORD & BROOKS CO. *v.* UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

No. 175. Argued January 15, 1925.—Decided March 9, 1925.

1. Where a Government contract for dredging expressly required prompt, written protest against any order for work outside the specifications, written modification of the contract if altered materially, and written orders for extra work, *held* that oral protests by the contractor, a claim for additional compensation and a favorable advisory opinion thereon by a government official, were insufficient to establish that these contract provisions were inapplicable or waived, or that a new, oral agreement for compensation *quantum meruit* was substituted by implication. P. 457.
2. A motion to remand to the Court of Claims for further findings should be submitted at the first term of the entry of the case so that the Court may determine whether the motion shall be passed upon in advance, or postponed until the hearing on the merits. P. 458.

58 Ct. Cls. 158, affirmed.

APPEAL from a judgment of the Court of Claims rejecting a claim for additional compensation for dredging.

Mr. William L. Marbury, with whom *Mr. Horace S. Whitman* and *Mr. Charles Clagett* were on the brief, for appellant.