

Opinion of the Court.

NEW MEXICO *v.* TEXAS.

IN EQUITY. ON PETITION FOR REHEARING.

No. 2, Original. Decided April 9, 1928.

Correction of the opinion delivered in this case December 5, 1927.

The corrections specified by the following memorandum are embodied in the original opinion as printed in 275 U. S. 279.

Mr. J. Harry Covington submitted the petition for rehearing, on behalf of the complainant.

Mr. W. A. Keeling, Attorney General of Texas, with whom *Messrs. John C. Wall, Wallace Hawkins*, Assistant Attorneys General, and *W. W. Turney* were on the briefs, for defendant.

Memorandum opinion by MR. JUSTICE SANFORD.

A petition for rehearing has been presented by the State of New Mexico, which we think must be denied. But it points to an error in our opinion announced December 5, 1927, which, while not affecting the ultimate decision, requires correction. The petition invites special attention to some evidence which shows that the statements made in the opinion to the effect that the State of Texas and the United States had prior to 1912 recognized and acquiesced in the line of the Rio Grande River as it was located in 1850, as the boundary between the Territory of New Mexico and Texas, without reference to subsequent changes by accretion, are not accurate, and, with the observations based on them, should be recalled. The order will be that the fifth paragraph of that portion of the opinion under the heading "Accretions" and the

first part of the next paragraph down to and including the words "in its own Constitution," be stricken from the opinion, and the following substituted:

New Mexico, when admitted as a State in 1912, explicitly declared in its Constitution that its boundary ran "along said thirty-second parallel to the Rio Grande . . . as it existed on the ninth day of September, one thousand eight hundred and fifty; thence, *following the main channel of said river, as it existed on the ninth day of September, one thousand eight hundred and fifty*, to the parallel of thirty-one degrees, forty-seven minutes north latitude." This was confirmed by the United States by admitting New Mexico as a State with the line thus described as its boundary; and Texas has also affirmed the same by its pleadings in this cause.

Opinion modified; rehearing denied.

NEW MEXICO v. TEXAS.

IN EQUITY.

No. 2, Original. Decree entered April 9, 1928.

Decree overruling the exceptions of New Mexico to the master's report and sustaining those of Texas; dismissing the bill and sustaining the cross bill; declaring the boundary between the two States at the place in question; appointing a commission to run, locate and mark it as so defined, subject to the approval of the Court; with other incidental provisions touching the qualification of the Commissioner, his work, his report, exceptions thereto, costs, etc.

For the opinions in this case, see 275 U. S. 279, and p. 557 of this volume.

Announced by Mr. JUSTICE SANFORD.

This cause having been heard and submitted upon the pleadings, the report of the special master and the ex-