

CASES ADJUDGED
IN THE
SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 1977

NEW HAMPSHIRE *v.* MAINE

ON JOINT MOTION FOR ENTRY OF FINAL DECREE

No. 64, Orig. Decided June 14, 1976—Decree entered October 3, 1977

Joint motion for the entry of a final decree is granted, and a final decree is entered.

Opinion reported: 426 U. S. 363.

DECREE

The joint motion for entry of a final decree is granted.

IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. The Report of the Special Master is hereby approved, and the motion for entry of judgment by consent of plaintiff and defendant is granted.

2. This judgment determines the lateral marine boundary line between New Hampshire and Maine from the inner Portsmouth Harbor to the breakwater at the end of the inner Gosport Harbor in the Isles of Shoals.

3. The Order of the King in Council of April 9, 1740, in pertinent part, provided:

“And as to the Northern Boundary between the said Provinces, the Court Resolve and Determine, That the Dividing Line shall pass up thrô the Mouth of Piscataqua

Harbour and up the Middle of the River into the River of Newichwannock (part of which is now called Salmon Falls) and thrô the Middle of the same to the furthest Head thereof and from thence North two Degrees Westerly until One Hundred and Twenty Miles be finished from the Mouth of Piscataqua Harbour aforesaid or until it meets with His Majestys other Governments And That the Dividing Line shall part the Isles of Shoals and run thrô the Middle of the Harbour between the Islands to the Sea on the Southerly Side; and that the Southwesterly part of the said Islands shall lye in and be accounted part of the Province of New Hampshire And that the North Easterly part thereof shall lye in, and be accounted part of the Province of the Massachusets Bay and be held and enjoyed by the said Provinces respectively in the same manner as they now do and have heretofore held and enjoyed the same"

4. The terms "Middle of the River" and "Middle of the Harbour," as used in the above-quoted Order, mean the middle of the main channel of navigation of the Piscataqua River and the middle of the main channel of navigation of Gosport Harbor.

5. The middle of the main channel of navigation of the Piscataqua River, commencing in the vicinity of Fort Point, New Hampshire, and Fishing Island, Maine, proceeding southward, is as indicated by the range lights located in the vicinity of Pepperrell Cove, Kittery Point, Maine, and it follows the range line as marked on the Coast and Geodetic Survey Chart 211, 8th Edition, Dec. 1, 1973.

6. The main channel of navigation of the Piscataqua River terminates at a point whose position is latitude $43^{\circ}02'42.5''$ North and longitude $70^{\circ}42'06''$ West. Said point has a computed bearing of $194^{\circ}44'47.47''$ true and a computed distance of 1,554.45 metres (1,700 yards) from the Whaleback Lighthouse, No. 19, USCG-158, whose position is latitude

43°03'31.213'' North and longitude 70°41'48.515'' West (reference National Geodetic Survey).

7. The middle of the main channel of navigation of Gosport Harbor passes through a point indicated by the bottom of the BW "IS" Bell Buoy symbol as shown on Coast and Geodetic Survey Chart 211, 8th Edition, Dec. 1, 1973. The position of this point is latitude 42°58'51.6'' North and longitude 70°37'17.5'' West as scaled from the above-described chart.

8. The main channel of navigation of Gosport Harbor terminates at a point whose position is latitude 42°58'55'' North and longitude 70°37'39.5'' West. Said point has a computed bearing of 394°08'52.81'' true and a computed distance of 1,674.39 metres (1,831 yards) from the Isles of Shoals Lighthouse, No. 20, USCG-158, whose position is latitude 42°58'01.710'' North and longitude 70°37'25.590'' West (reference National Geodetic Survey).

9. The lateral marine boundary between New Hampshire and Maine connecting the channel termination points described in paragraphs (6) and (8) above has been determined on the basis of the "special circumstances" exception to Article 12 of the Convention on the Territorial Sea and the Contiguous Zone (15 U. S. Treaties 1608) and of the location of the Isles of Shoals which were divided between the two States in their colonial grants and charters.

10. The lateral marine boundary line between New Hampshire and Maine connecting the channel termination points described above is the arc of a great circle (appears as a straight line on a Mercator projection) whose computed length is 9,257.89 metres (10,124.53 yards).

11. The lateral marine boundary line between New Hampshire and Maine from the Piscataqua River channel termination point proceeds toward Gosport Harbor channel termination point on a computed bearing of 139°20'27.22'' true.

12. The lateral marine boundary line between New Hampshire and Maine from the Gosport Harbor channel termination

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point proceeds toward Piscataqua River channel termination point on a computed bearing of $319^{\circ}17'25.43''$ true.

13. All positions in the preceding paragraphs are referred to the North American Datum of 1927.

14. The boundary line delimited hereinabove is depicted by a heavy black line with the words "Maine" and "New Hampshire" above and below that line on the Coast and Geodetic Survey Chart 211, 8th Edition, Dec. 1, 1973, filed with the Motion for Entry of Judgment by Consent.

15. The State of Maine, its officers, agents, representatives and citizens, are perpetually enjoined from disputing the sovereignty, jurisdiction and dominion of New Hampshire over the area adjudged to her by this decree; and the State of New Hampshire, its officers, agents, representatives and citizens, are perpetually enjoined from disputing the sovereignty, jurisdiction and dominion of Maine over the area adjudged to her by this decree.

16. The costs of this action shall be equally divided between the two States, and this case is retained on the docket for further orders, in fulfillment of the provisions of this decree.