

DEC 9 1962

JOHN F. DAVIS, CLERK

No. 12, Original

In the Supreme Court of the United States

OCTOBER TERM, 1962

STATE OF HAWAII, PLAINTIFF

v.

DAVID E. BELL, DEFENDANT

ANSWER

ARCHIBALD COX,

Solicitor General,

Department of Justice,

Washington 25, D.C.

In the Supreme Court of the United States

OCTOBER TERM, 1962

No. 12, ORIGINAL

STATE OF HAWAII, PLAINTIFF

v.

DAVID E. BELL, DEFENDANT

ANSWER

Defendant, David E. Bell, Director of the Bureau of the Budget, by the Solicitor General, for his answer says:

First Defense

The complaint fails to state a claim upon which relief can be granted.

Second Defense

The complaint presents a suit against the United States to which it has not consented.

Third Defense

The United States is an indispensable party to a suit upon the claim alleged in the complaint.

Fourth Defense

I

The allegations in Paragraph I are statements of purpose and intent and require no answer.

II

The allegations in Paragraph II are admitted.

III

Paragraphs III through VIII consist of phrases of the statutes, executive orders, circulars, and memoranda that are attached as Exhibits A through J to the complaint. Defendant admits that Exhibits A through J are true copies of the documents reproduced. The paraphrase of the exhibits in Paragraphs III through VIII requires no answer. The allegations in Paragraphs VI and VII that the circulars and memoranda there described were unlawful or unauthorized are denied.

IV

The allegations in Paragraph VIII are admitted.

V

In response to Paragraphs IX and X, defendant admits that the Department of the Navy has stated in reports to the Bureau of the Budget, which appear as Exhibit K to the complaint, that it has "no present or foreseeable requirement" for the four specific parcels mentioned in Paragraph IX of the complaint, but defendant is without information sufficient to form a belief as to the truth or falsity of the allega-

tion that these tracts are no longer needed by the United States. Defendant is without information sufficient to form a belief with respect to the truth or falsity of the allegations in the second sentence of Paragraph X.

VI

In response to Paragraph XI, defendant admits that the four tracts referred to in Paragraph IX of the complaint were originally acquired by the United States through the institution of condemnation proceedings; that they were acquired at a total cost of less than \$200,000; that they were acquired because they were needed for defense purposes; and that the United States owned them on the date Hawaii was admitted to the Union. Defendant admits that Items II through IV of Exhibit L to the complaint constitute true copies of the documents reproduced, but denies knowledge whether the proceedings they reflect were "representative." The remaining allegations of Paragraph XI are legal characterizations requiring no answer and are in any event denied.

VII

The allegations in the first two sentences of Paragraph XII are admitted. Defendant is without information sufficient to form a belief with respect to the truth or falsity of the remaining allegations.

VIII

In response to Paragraph XIII, defendant admits that he issued Transmittal Memorandum No. 1 to Bureau of the Budget Circular No. A-52, a true copy

of which appears as Exhibit G to the complaint. The remaining allegations of that paragraph are legal characterizations of the effect and legality of that action and require no answer.

IX

In response to Paragraph XIV, defendant admits that Transmittal Memorandum No. 1 to Bureau of the Budget Circular No. A-52 does not prevent the properties described in that paragraph from being declared surplus and sold by the responsible agencies. Defendant denies knowledge whether Government agencies having power to take that action will do so.

X

The allegations in Paragraph XV are denied.

WHEREFORE, defendant demands that the complaint be dismissed.

ARCHIBALD COX,
Solicitor General.

DECEMBER 1962.

