

SEP 13 1969

JOHN F. DAVIS, CLERK

(3533)

No. 35, Original

IN THE

## Supreme Court of the United States

October Term, 1968

UNITED STATES OF AMERICA,  
*Plaintiff,**v.*STATES OF MAINE, NEW HAMPSHIRE, MASSA-  
CHUSETTS, RHODE ISLAND, NEW YORK, NEW  
JERSEY, DELAWARE, MARYLAND, VIRGINIA,  
NORTH CAROLINA, SOUTH CAROLINA, GEORGIA  
and FLORIDA,  
*Defendants.*ANSWER OF DEFENDANT, THE STATE  
OF NEW YORKLOUIS J. LEFKOWITZ  
Attorney General of the State  
of New York  
*Attorney for Defendant,  
The State of New York*RUTH KESSLER TOCH  
Solicitor General of the State  
of New YorkJULIUS L. SACKMAN  
Assistant Attorney General of the State  
of New York  
The Capitol  
Albany, New York 12224



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UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

STATES OF MAINE, NEW HAMPSHIRE, MASSACHUSETTS, RHODE ISLAND, NEW YORK, NEW JERSEY, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA and FLORIDA, *Defendants.*

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**ANSWER OF DEFENDANT, THE STATE  
OF NEW YORK**

Comes now the sovereign State of New York (hereinafter for brevity called "New York"), one of the defendants in this cause, by and through its Attorney General, Louis J. Lefkowitz, and in answer to the allegations contained in paragraphs of the Plaintiff's complaint numbered I through IV and VI through VIII thereof, as repeated and realleged in paragraph XII thereof under the heading *Fifth Cause of Action*, admits, denies and alleges as follows:

I.

As to Paragraph II of the Plaintiff's complaint, New York denies that Plaintiff has any proprietary rights over

the area therein described and asserts that New York now has and always has had full title thereto or full property interest therein.

## II.

As to Paragraph III of the Plaintiff's complaint, New York alleges that the provisions of the Submerged Lands Act, 67 Stat. 29 (1953), speak for themselves, and, insofar as the allegations in said Paragraph III may imply that prior to the effective date of the Submerged Lands Act New York was without power to exercise dominion and control over the exploration of the seabed and subsoil underlying the marginal sea adjacent to its coast and the development of such natural resources as might be found in, on or about the same, New York denies them in their entirety.

## III.

As to Paragraph IV of the Plaintiff's complaint, New York admits that it claims State sovereignty as well as a proprietary interest (subject to the National sovereignty) in the seabed and subsoil of the continental shelf underlying the Atlantic Ocean more than three geographic miles seaward from ordinary low-water mark and from the outer limit of inland waters; and, insofar as the said Paragraph IV may imply that the Plaintiff is empowered to assert any proprietary interest or claim in the above described submerged lands which is adverse to New York, New York denies them in their entirety.

## IV.

As to Paragraph VI of the Plaintiff's complaint, New York admits that the Plaintiff is entitled to exercise National sovereignty over the area there described, but denies that Plaintiff has any proprietary rights therein; New York further alleges that it has received no sums of money from said area for which any accounting, even if due, could be made.

## V.

As to Paragraph VII of the Plaintiff's complaint, New York denies that the Plaintiff has any proprietary interest in the area of the Outer Continental Shelf which can be injured or affected by any action by New York; and denies that any action has been taken by New York which interferes with or obstructs or threatens to obstruct the orderly and effective exploration, leasing and development of any natural resources in, on or about the Outer Continental Shelf.

## VI.

As to Paragraph VIII of the Plaintiff's complaint, New York denies the existence of any urgent need for prompt and final settlement of the issues raised by this proceeding, and denies that any aspect of the Plaintiff's foreign policy is involved herein.

**Affirmative Defense**

By way of Affirmative defense, New York alleges:

## VII.

That, as successor in title to the Crown of Holland and the Crown of England or to the successors in title of said sovereigns, New York, prior to its admission to the Union, ever since its admission to the Union, and at the present time, is and has been entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line to the exclusion of any other political entity whatever, including the Plaintiff (subject, however, to the limits of National seaward sovereign jurisdiction of the Plaintiff); that the holding of title by New York and the power to exercise concomitant dominion and control is not prohibited by the Constitution of the United States; that the said title and power of New York has never, in fact or by operation of law, been delegated by New York to the Plaintiff; and that any attempt by the Plaintiff to assert such title or power with respect to New York constitutes a violation of the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

WHEREFORE, NEW YORK prays that a decree be entered declaring the title and rights of the State of New York, both proprietary and sovereign, as against the Plaintiff, subject only to the latter's National sovereignty (which does not include any proprietary title, rights or powers), in the subsoil, seabed and natural resources underlying the Atlantic Ocean lying more than three geographical miles seaward from the ordinary low water mark and from the outer limit of inland waters to the edge of the Con-

tinental Shelf, and for such other and further relief as may be proper in the premises.

September 12, 1969.

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of New York  
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