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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

October Term, 1968

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff

v.

STATE OF MAINE, *et als.*,

Defendants

Answer of the State of New Hampshire

STATE OF NEW HAMPSHIRE
GEORGE S. PAPPAGIANIS
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Concord, New Hampshire 03301

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ANSWER OF THE STATE OF NEW HAMPSHIRE

Comes now the sovereign State of New Hampshire (hereinafter for brevity called "New Hampshire"), Defendant in this cause, by and through its Attorney General, George S. Pappagianis, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading *Second Cause of Action*, admits, denies and alleges as follows:

I.

In answer to Paragraph I of the Plaintiff's complaint, New Hampshire alleges that such Paragraph in its entirety alleges nothing requiring answer.

II.

In answer to Paragraph II of the Plaintiff's complaint, New Hampshire denies each and every allegation in said Paragraph contained.

III.

In answer to Paragraph III of the Plaintiff's complaint, New Hampshire alleges that the provisions of the Sub-

merged Lands Act, 67 Stat. 29 (1953), speak for themselves, and, insofar as the allegations in said Paragraph may be construed to infer that prior to the effective date of the Submerged Lands Act New Hampshire 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 Hampshire denies them in their entirety.

IV.

In answer to Paragraph IV of the Plaintiff's complaint, New Hampshire admits that it claims some interest 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 allegations in said Paragraph may be construed to infer that the Plaintiff is empowered, in the exercise of its alleged sovereign rights in the above described submerged lands, to assert any claims with respect thereto which is adverse to New Hampshire, New Hampshire denies them in their entirety.

V.

In answer to Paragraph VI of the Plaintiff's complaint, New Hampshire denies each and every allegation in said Paragraph contained; and, answering further, alleges that New Hampshire has received no sums derived from said area for which any accounting, even if due, could be made.

VI.

In answer to Paragraph VII of the Plaintiff's complaint, New Hampshire alleges that the portion of the Outer Continental Shelf Lands Act, 67 Stat. 462 (1953), cited

by the Plaintiff, speaks for itself; denies that any action taken or contemplated by New Hampshire 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; denies that any such action will cause any injury to the Plaintiff; and alleges that the statement "The United States has no other adequate remedy" is a conclusion of law and requires no answer.

VII.

In answer to Paragraph VIII of the Plaintiff's complaint, New Hampshire alleges that such Paragraph, in its entirety, is argument in support of the Plaintiff's invocation of this Court's jurisdiction; 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 Hampshire alleges that it antedates the United States of America and that as successor in title to certain grantees of the Crown of England, New Hampshire is now and, prior to and ever since its admission to the Union, 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 whatsoever, including the Plaintiff (subject, however, to the limits of national seaward jurisdiction established by the Plaintiff;) that the power to exercise dominion and control is not prohibited to New Hampshire by the Constitution of the United States, has never in fact or by operation of law been delegated by New Hampshire to the Plaintiff; and that any attempt by the Plaintiff to

assert such power with respect to New Hampshire violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

PRAYER

WHEREFORE, New Hampshire prays that a decree be entered that, as against New Hampshire, the Plaintiff possesses no right to exercise dominion and control over the exploration and development of such natural resources as may be found in, on and about, the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line and to the limit of national seaward jurisdiction; and for its costs.

STATE OF NEW HAMPSHIRE

GEORGE S. PAPPAGIANIS
Attorney General

WILLIAM F. CANN
Deputy Attorney General

DONALD A. INGRAM
Assistant Attorney General

September 11, 1969

CERTIFICATE OF SERVICE

I certify that in compliance with Supreme Court Rule 33(2) (a) I have this day served a copy of the foregoing answer upon the Plaintiff, United States of America, by mailing such copy by air mail, with postage prepaid, to the Solicitor General, Department of Justice, Washington, D.C. 20530, and that all parties have been served with a copy of the foregoing answer.

GEORGE S. PAPPAGIANIS
Attorney General
State of New Hampshire

Dated: September 11, 1969