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JOHN F. DAVIS, CLERK

Supreme Court of the United States

October Term, 1968

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF MAINE, ET AL.,

Defendants.

ANSWER OF THE COMMONWEALTH OF VIRGINIA

ROBERT Y. BUTTON

Attorney General of Virginia

R. D. McILWAINE, III

First Assistant Attorney General

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Supreme Court Building
Richmond, Virginia 23219

September 15, 1969

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v.

STATE OF MAINE, ET AL.,
Defendants.

ANSWER OF THE COMMONWEALTH OF VIRGINIA

Now comes the Commonwealth of Virginia, one of defendants herein, by and through her Attorney General, and in answer to the allegations contained in the numbered paragraphs of the plaintiff's complaint in the Ninth Cause of Action, answers and says:

1. For answer to Paragraph I of the complaint this defendant admits that the plaintiff seeks to invoke the jurisdiction of this Court under the provisions of law set forth in said paragraph.

2. The allegations of Paragraph II of the complaint are denied.

3. For answer to Paragraph III of the complaint this defendant says that the provisions of the Submerged Lands Act, Public Law 31 of the 83d Congress, 67 Statutes at Large 29, speak for themselves and no answer to the allegations of said paragraph is required of this defendant.

4. The allegation of Paragraph IV of the complaint is admitted.

5. The allegations of Paragraph VI of the complaint are denied.

6. For answer to Paragraph VII of the complaint this defendant says that the provisions of the Outer Continental Shelf Lands Act, Public Law 212 of the 83d Congress, 67 Statutes at Large 462, 468, speak for themselves and no answer to said allegations of Paragraph VII of the complaint is required of this defendant. The remaining allegations of said Paragraph VII are denied.



7. For answer to Paragraph VIII of the complaint this defendant admits that plaintiff seeks to invoke the original jurisdiction of this Court but denies the existence of any urgent need for prompt and final settlement of the issues sought to be raised by the complaint and denies that any aspect of the plaintiff's foreign policy is herein involved.

AFFIRMATIVE DEFENSE

By way of affirmative defense, the Commonwealth of Virginia alleges that as successor in title to certain grantees of the Crown of England, she is now, and ever since the formation of 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 her coast line to the exclusion of any other political

entity whatsoever, including the plaintiff; that the power to exercise dominion and control is not prohibited to the Commonwealth of Virginia by the Constitution of the United States, has never in fact or by operation of law been delegated by the Commonwealth of Virginia to the plaintiff; and that any attempt by the plaintiff to assert such power with respect to the Commonwealth of Virginia violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

Now having fully answered, the Commonwealth of Virginia prays to be hence dismissed with her costs in this behalf expended.

COMMONWEALTH OF VIRGINIA

 ROBERT Y. BUTTON
Attorney General of Virginia

 R. D. McILWAINE, III
First Assistant Attorney General

W. H. RYLAND
Assistant Attorney General

Supreme Court Building
 Richmond, Virginia 23219

September 15, 1969

CERTIFICATE OF SERVICE

I, R. D. McIlwaine, III, an Assistant Attorney General of Virginia, a member of the Bar of the Supreme Court of the United States and one of the counsel for the Commonwealth of Virginia in the above-captioned matter, hereby certify that copies of this Answer of the Commonwealth of Virginia have been served upon counsel for the United States by depositing the same in the United States Post Office, with first-class postage prepaid, this 15th day of September, 1969, pursuant to the provisions of Rule 33(1) of the Rules of the Supreme Court of the United States, as follows: Honorable Erwin N. Griswold, Solicitor General of the United States, Department of Justice, Washington, D. C. 20530. All parties required to be served have been served.

A handwritten signature in cursive script that reads "R. D. McIlwaine, III". The signature is written in dark ink and is positioned above the printed name.

R. D. McILWAINE, III

First Assistant Attorney General