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JOHN F. DAVIS, CLERK

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, MASSACHU-
SETTS, RHODE ISLAND, NEW YORK, NEW JERSEY,
DELAWARE, MARYLAND, VIRGINIA, NORTH
CAROLINA, SOUTH CAROLINA, GEORGIA AND
FLORIDA.**

ANSWER OF THE STATE OF DELAWARE.

DAVID P. BUCKSON,
*Attorney General,
State of Delaware,*

FLETCHER E. CAMPBELL, JR.,
Deputy Attorney General.

No. 35, Original.

IN THE
SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1968.

UNITED STATES OF AMERICA,
Plaintiff
v.

STATE OF MAINE, ET ALS.

Answer of the State of Delaware.

Comes now the sovereign State of Delaware, a defendant in this cause, by and through its Attorney General, David P. Buckson, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading *Seventh Cause of Action*, admits, denies and alleges as follows:

I.

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

II.

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

III.

In answer to Paragraph III of the Plaintiff's complaint, Delaware alleges that insofar as the allegations in Paragraph III may be construed to imply that prior to the effective date of the Submerged Lands Act, 67 Stat. 29 (1953), Delaware 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, Delaware denies them in their entirety.

IV.

In answer to Paragraph IV of the Plaintiff's complaint, Delaware 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 imply that the Plaintiff is empowered, in the exercise of its alleged sovereign rights in the above described submerged lands, to assert any claim with respect thereto which is adverse to Delaware, Delaware denies them in their entirety.

V.

In answer to Paragraph VI of the Plaintiff's complaint, Delaware denies each and every allegation in said paragraph contained; and, answering further, alleges that Delaware 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, Delaware alleges that the portion of the Outer Con-

tinental Shelf Lands Act, 67 Stat. 462 (1953), cited by the Plaintiff, speaks for itself; denies that any action taken by Delaware 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 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, Delaware 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, Delaware alleges that as successor in title to certain grantees of the Crown of England, Delaware is now, and ever since its formation as a separate colony, 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 Delaware by the Constitution of the United States, has never in fact or by operation of law been delegated by Delaware to the Plaintiff; and that any

attempt by the Plaintiff to assert such power with respect to Delaware violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

PRAYER.

WHEREFORE, Delaware prays that the Plaintiff's complaint be dismissed with prejudice, and for its costs.

STATE OF DELAWARE,

DAVID P. BUCKSON,

Attorney General,

FLETCHER E. CAMPBELL, JR.,

Deputy Attorney General.