

No. 35. Original

Office Supreme Court, U.S.
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JOHN F. DAVIS, CLERK

Supreme Court of the United States

OCTOBER TERM, 1968

UNITED STATES OF AMERICA, PLAINTIFF,

versus

STATE OF MAINE, ET AL.

ANSWER OF THE STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA,
DANIEL R. McLEOD,
Attorney General,

EDWARD B. LATIMER,
Assistant Attorney General,
Hampton State Office Bldg.,
P. O. Box 11537,
Columbia, S. C. 29211.

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ANSWER OF THE STATE OF SOUTH CAROLINA

Comes now the sovereign State of South Carolina (hereinafter for brevity called "South Carolina"), a defendant in this cause, by and through its Attorney General, Daniel B. McLeod, 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, South Carolina alleges that such paragraph in its entirety alleges nothing requiring answer.

II

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

III

In answer to Paragraph III of the Plaintiff's complaint, South Carolina alleges that the provisions of the Submerged 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 South Carolina 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, South Carolina denies them in their entirety.

IV

In answer to Paragraph IV of the Plaintiff's complaint, South Carolina 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 claim with respect thereto which is adverse to South Carolina, South Carolina denies them in their entirety.

V

In answer to Paragraph VI of the Plaintiff's complaint, South Carolina denies each and every allegation in

said Paragraph contained; and, answering further, alleges that South Carolina 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, South Carolina 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 by South Carolina 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, South Carolina 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.

Comes now the sovereign State of South Carolina (hereinafter for brevity called "South Carolina"), a defendant in this cause, by and through its Attorney General, Daniel R. McLeod, 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:

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

AFFIRMATIVE DEFENSE

By way of affirmative defense, South Carolina alleges that as successor in title to certain grants and grantees of the Crown of England, South Carolina is now, 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 South Carolina by the Constitution of the United States, has never in fact or by operation of law been delegated by South Carolina to the Plaintiff; and that any attempt by the Plaintiff to assert such power with respect to South Carolina violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

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

THE STATE OF SOUTH CAROLINA,

/s/ DANIEL R. McLEOD,

Attorney General,

/s/ EDWARD B. LATIMER,

Assistant Attorney General.

Hampton State Office Building,
P. O. Box 11537,
Columbia, South Carolina 29211.
15 September, 1969.

CERTIFICATION

I hereby certify that copies of this Answer have been served upon counsel for all parties by depositing the same in the United States Post Office, with first-class postage prepaid, this date, pursuant to the provisions of the Rules of the Supreme Court of the United States, as follows: Honorable John F. Davis, Clerk, U. S. Supreme Court, Washington, D. C., 20543; Honorable John N. Mitchell, Attorney General of the United States, Department of Justice, Washington, D. C. 20530; Honorable Erwin N. Griswold, Solicitor General of the United States, Justice Department, Washington, D. C. 20530; Honorable James S. Erwin, Attorney General of Maine, Department of the Attorney General, Augusta, Maine 04330; Honorable Arthur J. Sills, Attorney General of New Jersey, State Capitol, Trenton, New Jersey; Honorable David P. Buckson, Attorney General of Delaware, Kirk Building, P. O. Box 752, Dover, Delaware 19901; Honorable Arthur K. Bolton, Attorney General of Georgia, 132 State Judicial Building, Atlanta, Georgia, 30334; Honorable Francis B. Burch, Attorney General of Maryland, One Charles Center, Baltimore, Maryland 21201; Honorable Robert H. Quinn, Attorney General of Massachusetts, State House, Boston, Massachusetts 02133; Honorable Robert Morgan, Attorney General of North Carolina, Justice Building, Raleigh, North Carolina 27602; Honorable Louis J. Lefkowitz, Attorney General of New York, State Capitol, Albany, New York 12225; Honorable Robert Y. Button, Attorney General of Virginia, Supreme Court Building, Richmond, Virginia 23219; Honorable Herbert F. DeSimone, Attorney General of Rhode Island, Providence County Court House, Providence, Rhode Island 02903; Honorable Earl Faircloth, Attorney General of Florida, State Capitol, Tallahassee, Florida 32304; and Honorable George S. Pappa-

gianis, Attorney General of New Hampshire, State House Annex, Concord, New Hampshire 03301.

STATE OF SOUTH CAROLINA,

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