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JOHN F. DAVIS, CLERK

No. 35, Original

**In the  
Supreme Court of the United States**

OCTOBER TERM, 1968

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UNITED STATES OF AMERICA, PLAINTIFF

*v.*

STATE OF MAINE, ET ALS.

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Answer of the State of Maine

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STATE OF MAINE,  
JAMES S. ERWIN,  
*Attorney General,*  
ROBERT G. FULLER, JR.,  
*Assistant Attorney General,*  
State House,  
Augusta, Maine 04330

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Answer of the State of Maine

Comes now the sovereign State of Maine (hereinafter for brevity called "Maine"), principal defendant in this cause, by and through its Attorney General, James S. Erwin, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading *First Cause of Action*, admits, denies and alleges as follows:

I.

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

II.

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

III.

In answer to Paragraph III of the Plaintiff's complaint, Maine 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 Maine 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, Maine denies them in their entirety.

#### IV.

In answer to Paragraph IV of the Plaintiff's complaint, Maine 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 Maine, Maine denies them in their entirety.

#### V.

In answer to Paragraph V of the Plaintiff's complaint, Maine denies each and every allegation therein contained; but alleges that it has granted to a private corporation a conditional license to explore for minerals, oil and gas in, and to take the same from, certain lands submerged in the Atlantic Ocean, some portion of which lands may lie more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters.

#### VI.

In answer to Paragraph VI of the Plaintiff's complaint, Maine denies each and every allegation in said Paragraph contained; and, answering further, alleges

that Maine has received no sums derived from said area for which any accounting, even if due, could be made.

#### VII.

In answer to Paragraph VII of the Plaintiff's complaint, Maine 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 Maine 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.

#### VIII.

In answer to Paragraph VIII of the Plaintiff's complaint, Maine 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, Maine alleges that as successor in title to certain grantees of the Crown of England, Maine 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 Maine by the Constitution of the United States, has never in fact or by operation of law been delegated by Maine to the Plaintiff; and that any attempt by the Plaintiff to assert such power with respect to Maine violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

### PRAYER

WHEREFORE, Maine prays that a decree be entered that, as against Maine, 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 sea bed and subsoil underlying the Atlantic Ocean adjacent to its coastline and to the limit of national seaward jurisdiction; and for its cost.

STATE OF MAINE,  
JAMES S. ERWIN,  
*Attorney General*

ROBERT G. FULLER, JR.,  
*Assistant Attorney General*

Dated: September 15, 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.

ROBERT G. FULLER, JR.,  
*Assistant Attorney General*  
State of Maine.

Dated: September 15, 1969