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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.*

ANSWER OF THE STATE OF RHODE ISLAND

STATE OF RHODE ISLAND

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Providence, Rhode Island

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Answer of the State of Rhode Island

Now comes the State of Rhode Island and Providence Plantations (hereinafter for brevity "Rhode Island"), defendant in the above entitled matter, acting by and through its Attorney General, Herbert F. De Simone and answers the allegations contained in the fourth cause of action in the complaint as follows:

I

First Defense

1. Rhode Island admits that the complaint, by Paragraph I, sufficiently invokes the subject matter jurisdiction of this Honorable Court.

2. Rhode Island denies each and every allegation contained in paragraph II of the complaint.

3. Rhode Island admits the enactment and approval of Public Law 31, 83rd Congress, known as the Submerged Lands Act, 67 stat. 29 (1953); Rhode Island denies that by such enactment and approval, P.L. 31, 83rd Congress had the legal effect alleged in Paragraph III of the complaint, except as to the release of claims alleged in said paragraph. Rhode Island further answers that to the extent P.L. 31, 83rd Congress purports on its face to reserve to the United States of America title and ownership of Submerged Lands said Act is void as repugnant to the United States Constitution, Articles of Amendment, Article X.

4. Rhode Island admits the allegations contained in Paragraph IV of the complaint except that to the extent the allegations of Paragraph IV of the complaint may be construed to infer that the plaintiff is empowered to assert any claim in the above described submerged lands which is adverse to Rhode Island, denies them in their entirety.

5. Rhode Island denies each and every allegation contained in Paragraph VI of the complaint.

6. Rhode Island admits the enactment and approval of P.L. 212, 83rd Congress known as the Outer Continental Shelf Lands Act, 67 stat. 462, 468 and further answers that said act speaks for itself.

Rhode Island denies that it is unlawfully interfering with or will unlawfully obstruct the plaintiff as alleged in Paragraph VII of the complaint, it denies that it unlawfully threatens to obstruct or interfere with the orderly and effective exploration, leasing and development of mineral resources as alleged in said paragraph and denies that a threatened action of Rhode Island will damage the plaintiff.

7. In answer to Paragraph VIII of the plaintiff's com-

plaint, Rhode Island 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.

II

Second Defense

Rhode Island alleges, as an affirmative defense, that on March 14, 1643 and on July 8, 1663 the then King of England granted to diverse persons (constituting by those grants the body politic then and thereafter named Rhode Island and Providence Plantations) charters; granted to Rhode Island, military and proprietary autonomy over the abutting portion of the Atlantic Ocean. Rhode Island further alleges that by those charters, Rhode Island was thereby authorized to defend and safeguard itself by force of arms, as well as by sea as by land.

Rhode Island further alleges that the power and authority hereinabove affirmatively alleged was not so delimited by its ratification of the Constitution of the United States as to exclude Rhode Island from dominium and ownership over the submerged lands of the Atlantic Ocean adjacent to it.

Further, Rhode Island alleges that it has never in fact or by operation of law delegated or granted to the plaintiff, dominium or ownership over the submerged lands of the Atlantic Ocean adjacent to Rhode Island; any act of Congress arrogating to the plaintiff such submerged lands is void as repugnant to United States Constitution, Articles of Amendment, Article X.

III

Third Defense

Rhode Island alleges, as an affirmative defense, that on May 4, 1776 it declared itself independent of the Crown of England and thereafter exercised wholly and entirely sovereign imperium and dominium over the submerged lands and waters of the Atlantic Ocean adjacent to it. Rhode Island further alleges that it never thereafter in fact or by operation of law granted or delegated to the plaintiff dominium or ownership over the submerged lands of the Atlantic Ocean adjacent to it. Rhode Island further alleges that an act of Congress arrogating to the United States dominium or ownership over the submerged lands of the Atlantic Ocean adjacent to Rhode Island is void as repugnant to United States Constitution, Articles of Amendment, Article X.

Prayer

Wherefore, Rhode Island prays that a decree be entered declaring that Rhode Island have the rights of ownership and control of sub-soil, sea bed and natural resources underlying the Atlantic Ocean within and without any point three (3) geographical miles seaward from the ordinary low water mark, subject only to reasonable regulation by the plaintiff in the exercise of its rights of regulating intererstate and foreign commerce, the waging of war, the making of treaties, and the defense of the shores.

STATE OF RHODE ISLAND

(s) HERBERT F. DE SIMONE

Attorney General

(s) F. DE SIMONE

(s) W. SLATER ALLEN, JR.

Assistant Attorney General

