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No. 35, ORIGINAL

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In the Supreme Court of the United States

OCTOBER TERM, 1968

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATES OF MAINE, NEW HAMPSHIRE, MASSACHUSETTS,
RHODE ISLAND, NEW YORK, NEW JERSEY, DELAWARE,
MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH
CAROLINA, GEORGIA AND FLORIDA

ANSWER OF THE COMMONWEALTH OF MASSACHUSETTS

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ANSWER OF THE COMMONWEALTH OF MASSACHUSETTS

Now comes the Commonwealth of Massachusetts (hereinafter called "Massachusetts"), a defendant in this cause, by and through its Attorney General, Robert H. Quinn, and in answer to the allegations contained in the Plaintiff's complaint under the heading *Third Cause of Action*, paragraph X, admits, denies and alleges as follows:

I.

In answer to Paragraph I of the Plaintiff's complaint, Massachusetts alleges that such paragraph alleges nothing requiring answer.

II.

In answer to Paragraph II of the Plaintiff's complaint,

Massachusetts denies each and every allegation in said Paragraph in its entirety.

III.

In answer to Paragraph III of the Plaintiff's complaint, Massachusetts neither admits nor denies the allegations of said Paragraph but alleges that the provisions of Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large (1953), speak for themselves.

IV.

In answer to Paragraph IV of the Plaintiff's complaint, Massachusetts admits that it claims some right, title or interest in the seabed and subsoil of the continental shelf underlying the Atlantic Ocean more than three (3) geographic miles seaward from the 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 such described submerged lands, to assert any claim with respect thereto which is adverse to Massachusetts, Massachusetts denies them in their entirety.

VI.

In answer to Paragraph VI of the Plaintiff's complaint, Massachusetts denies each and every allegation in said Paragraph in its entirety, and further answering, states that it has granted no rights in the area lying more than three (3) geographical miles seaward from the ordinary low-water mark and from the outer limit of inland waters

on the coast, and has received no sums for which any accounting could be made.

VII.

In answer to Paragraph VII of the Plaintiff's complaint, Massachusetts alleges the provisions of Public Law 212 of the 83rd Congress, known as the Outer Continental Shelf Lands Act, 67 Statutes at Large 462, 468 (1953), speak for themselves, and further answering, Massachusetts denies that it, by its conduct or claims is interfering with and obstructing, or threatens to obstruct the orderly and effective exploration, leasing and development of said mineral resources, or will continue to so interfere or obstruct or so threaten to obstruct; and further answering, Massachusetts denies that any such action will cause any injury to the Plaintiff; and further answering, Massachusetts neither admits nor denies the statement "The United States has no other adequate remedy" but calls upon the Plaintiff to prove the same.

VIII.

In answer to Paragraph VIII of the Plaintiff's complaint, Massachusetts denies there is urgent need for prompt and final settlement of the controversy, denies that the fundamental question in issue relates to aspects of the foreign policy of the United States, and admits the allegation that only in this Court is it possible to join all defendant States whose participation is necessary to the orderly adjudication of issues in which they have a common interest.

AFFIRMATIVE DEFENSE

By way of the affirmative defense, Massachusetts alleges that as successor in title to certain royal charters of the

Crown of England, Massachusetts is now, and since its entry into the Union has been, entitled to exercise exclusive 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, subject to the limits of national seaward jurisdiction established by the Plaintiff; and further, that the power to exercise such exclusive dominion and control is neither delegated to the Plaintiff nor prohibited to Massachusetts by the Constitution of the United States and that any attempt by the Plaintiff to assert any power to exercise any such dominion and control with respect to Massachusetts violates the provision of the Tenth Amendment to the Constitution of the United States and is therefore void and of no effect.

WHEREFORE, Massachusetts prays that a decree be entered declaring the rights of Massachusetts as against the Plaintiff to exercise exclusive dominion and/or control in, on, or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coastline, and further that the Plaintiff's complaint be dismissed, that Massachusetts be awarded its costs, and for such other and further relief as may be proper in the premises.

COMMONWEALTH OF MASSACHUSETTS

ROBERT H. QUINN

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THOMAS J. CROWLEY

Assistant Attorney General

HAROLD PUTNAM

Assistant Attorney General

SEPTEMBER, 1969