

Sup. Court, U.S.
E D

FEB 4 1971

ROBERT SEAYER, C

IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

NO. 35, Original

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

STATE OF FLORIDA,

Defendant.

=====

AMENDED ANSWER OF
THE STATE OF FLORIDA

=====

ROBERT L. SHEVIN
Attorney General

STUART L. SIMON
Deputy Attorney General

W. ROBERT OLIVE, JR.
RONALD W. SABO
Assistant Attorneys General

The Capitol
Tallahassee, Florida 32304

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1968
NO. 35, Original

UNITED STATES OF AMERICA,

Plaintiff,

-v-

STATE OF FLORIDA,

Defendant.

AMENDED ANSWER OF
THE STATE OF FLORIDA

COMES NOW the sovereign State of Florida (hereafter for brevity called "Florida"), defendant in this cause by and through its Attorney General, Robert L. Shevin, and in answer to the allegations contained in the numbered paragraph 20 of the plaintiff's Complaint under the heading Thirteenth Cause of Action admits, denies and alleges as follows:

I

In answer to Paragraph I of the plaintiff's Complaint, Florida alleges that such paragraph in its entirety alleges nothing requiring an Answer.

II

In answer to Paragraph II of the plaintiff's Complaint, Florida denies each and every allegation contained in said paragraph.

III

In answer to Paragraph III of the plaintiff's Complaint, Florida denies each and every allegation contained in said paragraph, except as to the existence of Public Law 31 of the 83d Congress, known as the Submerged Lands Act, 67 Statutes at Large 29.

IV

In answer to Paragraph IV of the plaintiff's Complaint, Florida admits that it claims some interest in the seabed, natural resources and subsoil of the continental shelf underlying the Atlantic Ocean and superadjacent waters more than three geographic miles seaward from ordinary low watermark 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 Florida, Florida denies such claims by plaintiff entirely.

V

The allegations contained in Paragraph V of the plaintiff's Complaint are not asserted against Florida, and Florida otherwise is without knowledge of any of the allegations contained therein.

VI

In answer to Paragraph VI of the plaintiff's Complaint, Florida denies the allegations contained in said paragraph.

VII

In answer to Paragraph VII of the plaintiff's Complaint, Florida denies the allegations contained in said paragraph, except as to the existence of Public Law 212 of the 83d Congress, known as the Outer Continental Shelf Lands Act, 67 Statutes at Large 462, which speaks for itself.

VIII

In answer to Paragraph VIII of the plaintiff's Complaint, Florida admits that said paragraph, in its entirety is an argument in support of invocation of this Court's jurisdiction, but denies the fundamental question in issue relates to the foreign policy of the United States.

IX

In answer to Paragraph XX not heretofore answered by Paragraphs I through VIII of this Answer, Florida denies the "Atlantic Ocean" includes the straits of Florida.

AFFIRMATIVE DEFENSES

By way of affirmative defenses, Florida alleges as follows:

I

That the body of water referred to in plaintiff's Complaint as the "Straits of Florida" is an arm of the Gulf of Mexico or in the alternative the islands commonly referred to as the Florida Keys, which islands are transgressed by the U. S. Highway No. 1, but also including Elliott Key, Old Rhodes Key, Marquesas Key, Dry Tortugas Islands, and all named and unnamed areas of land above the mean low watermark in this insular chain, are located in the Gulf of Mexico. That because the aforementioned land area of Florida is within the Gulf of Mexico, Florida is entitled to a southern seaward boundary of three (3) marine leagues from its coastline wherever located in this area.

II

That by Act of June 25, 1868, 15 Statutes 73, Congress approved Florida's marine boundaries and that Congress in so approving such boundaries, pursuant to Article IV, Section 3, Clause 2 of the U. S. Constitution and other law existing at that time, did expressly or impliedly convey and grant to Florida whatever interest the United States possessed in the maritime territory within such boundaries without prejudice whatsoever to any constitutional claim to ownership, dominion and control that may have obtained to Florida from said conveyance and grant.

III

That Florida's marine boundaries exceed three (3) geographical miles in part in the Atlantic Ocean and that Public Law 31 of the 83d Congress, known as the Submerged Lands Act, 67 Statutes at Large 29, does not limit a state's interest under said act to three (3) geographical miles in the Atlantic, but instead provides that any state's seaward boundary beyond three (3) geographical miles is not prejudiced or questioned by said act where such seaward boundaries have been heretofore approved by Congress.

WHEREFORE, Florida prays that a decree be entered declaring its rights

as against the plaintiff in the seabed subsoil and superadjacent waters of the Atlantic Ocean adjacent to its coastline and to the limit of its congressionally approved boundary; and for its cost.

COUNTERCLAIM

The defendant, State of Florida, hereby files this claim against the plaintiff United States of America and as grounds therefore, alleges:

1. The Congress of the United States, by the aforementioned act of readmission of Florida to representation to Congress did thereby, subsequent to Florida's admission to the Union, grant to the State of Florida the submerged lands and superadjacent waters within the marine boundaries specifically set forth in the constitution approved by said act of readmission.

2. Title to said submerged lands, covering at least 509,224 square acres in the Atlantic Ocean, was thus vested in the State of Florida.

3. By now denying said title of the State of Florida, the United States of America is seeking to take said property without just compensation.

WHEREFORE, the State of Florida asks damages from the United States of America in excess of \$51,000,000 (fifty-one million dollars) and hereby demands

trial by jury on said claim pursuant to
28 U.S.C. §1872. See Georgia v.
Brailsford, 3 Dall. 1 (1794).

DATED this 28th day of January, 1971.

Respectfully submitted,

ROBERT L. SHEVIN
Attorney General

STUART L. SIMON
Deputy Attorney General

W. ROBERT OLIVE, JR.
Assistant Attorney General

RONALD W. SABO
Assistant Attorney General

Attorneys for Defendant
Dept. of Legal Affairs
The Capitol
Tallahassee, Florida
32304

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of January, 1971, a copy of this Amended Answer, Affirmative Defenses and Counterclaim was mailed, postage prepaid, to Honorable John N. Mitchell, Attorney General of the United States, and Honorable Erwin N. Griswold, Solicitor General of the United States, Department of Justice, Washington, D. C. 20530.

W. ROBERT OLIVE, JR.
Assistant Attorney General