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IN THE

Supreme Court of the United States

OCTOBER TERM, 1949

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No. 14, Original

UNITED STATES OF AMERICA,  
*Plaintiff*

*v.*

STATE OF TEXAS,  
*Defendant*

ANSWER OF THE STATE OF TEXAS

PRICE DANIEL  
Attorney General of Texas



IN THE

**Supreme Court of the United States**

OCTOBER TERM, 1949

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No. 14, Original

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UNITED STATES OF AMERICA,  
*Plaintiff*

*v.*

STATE OF TEXAS,  
*Defendant*

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MOTION FOR LEAVE TO FILE

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The State of Texas, by its Attorney General, asks leave of the Court to file its answer to the complaint filed herein by the United States of America.

PRICE DANIEL  
Attorney General of Texas

## ANSWER

Now comes the State of Texas, by its Attorney General, and says in answer to the complaint herein:

### I

Answering paragraph I of the complaint, defendant denies that this Court has jurisdiction of this cause under Article III, Section 2, Clause 2, of the Constitution of the United States.

### II

Answering paragraph II of the complaint, defendant denies:

1. That plaintiff now is, or ever has been, the owner of the lands, minerals, or other things underlying the Gulf of Mexico within the area described in the complaint, except such specifically described tracts or parcels thereof as have been acquired by plaintiff from defendant by deeds of conveyance or condemnation;

2. That plaintiff now is, or ever has been, possessed of paramount rights in, or full dominion or power over, the lands, minerals, or other things underlying the Gulf of Mexico within the area described in the complaint, except those same paramount governmental rights and the same dominion and power which, under the Constitution of the United States, plaintiff possesses over privately owned lands and over lands beneath all other navigable waters within the United States.

### III

Answering paragraph III of the complaint, defendant admits that it claims rights, title, and interests in said lands, minerals, and other things, subject to the paramount governmental rights and powers which, under the Constitution of the United States, plaintiff possesses over privately owned lands and over lands beneath all other navigable waters within the United States. Except as to those specific tracts or parcels acquired by plaintiff from defendant by deeds of conveyance or condemnation, defendant admits that its title and rights are adverse to the claim of ownership which the Attorney General seeks to assert on behalf of the United States. Defendant admits that its claims are adverse to any other rights which the Attorney General claims for the United States in excess of the governmental rights, dominion, and power which, under the Constitution of the United States, the plaintiff possesses over privately owned lands and over lands beneath all other navigable waters within the United States. Defendant denies that its claims are adverse to, or that they have been held or exercised adversely to, the aforesaid constitutional rights, dominion, or power of the United States. On the contrary, defendant says that its title and rights have been held and exercised subject to, and without any interference with, any paramount constitutional right or power possessed, exercised, or properly sought to be exercised, by the United States.

IV

Defendant admits the allegations contained in paragraph IV of the complaint.

V

Answering paragraph V of the complaint, defendant admits that it has negotiated and executed leases with various persons and corporations covering certain lands and minerals in the area described in the complaint. Defendant admits that these lessees have paid to the State substantial sums of money, entered upon said lands, and drilled wells for the recovery of such minerals, but denies that these acts, or any of them, were in violation of any rights of the United States. Defendant admits that some, but denies that all, of the wells drilled on these lands have been producing petroleum, gas, or other hydrocarbon substances, which the lessees of defendant have removed, taken, and used, paying defendant the royalties and other considerations as specified in the respective leases. Defendant denies that any of such acts of these lessees constituted a conversion of such petroleum, gas, or other hydrocarbon substances. As fully set forth in paragraph III hereof, defendant denies that the State has not recognized the constitutional rights of the United States. Defendant admits that the State has not paid to the United States either the value of, or any royalties on, any petroleum or other things taken from such lands. Defendant denies that the United States is entitled to the value of, or any royalties on, any

petroleum or other things taken from such lands, or to any other monies derived by the State from the area. Defendant denies that it has knowledge or information sufficient to form a belief as to the truth of the averments that its lessees have not recognized the rights of the United States and that these lessees, or any of them, have not paid to the United States either the value of, or any royalties on, any petroleum or other things taken from the lands described in the complaint.

## VI

Defendant denies each and every allegation contained in paragraph VI of the complaint.

## VII

Answering paragraph VII of the complaint, defendant admits that the State of Texas has claimed, and does now claim, full and complete ownership of the lands, minerals, and other things underlying the Gulf of Mexico within the boundaries of the State of Texas, except such specifically described tracts or parcels thereof as have been acquired by plaintiff from defendant by deeds of conveyance or condemnation, and that this claim is subject to those paramount governmental rights and the same dominion and power which, under the Constitution of the United States, plaintiff possesses over privately owned lands and over lands beneath all other navigable waters within the United States. Defendant admits that the State of Texas will continue to claim such ownership for itself and to exercise all the

rights incident thereto. Defendant denies that any of the acts of the State or of any of its lessees or of any other person acting under or pursuant to State authority constituted, or will constitute, a trespass upon the lands alleged to be in controversy, or any part thereof. Defendant denies that it or any of its lessees or anyone acting under authority of the State of Texas will be in violation of any rights of the United States in taking or using the minerals or other things from, in, or under the lands alleged to be in controversy. Defendant denies that the United States will suffer irreparable, or any, injury and that there is no adequate remedy except by this action.

### VIII

Defendant denies each and every allegation in the complaint not herein admitted, controverted, or specifically denied.

### Affirmative Defense of Prescription

Under its claim of ownership and of sovereign rights as an independent nation, the Republic of Texas, from March 2, 1836, to December 29, 1845, had open, adverse, exclusive, and uninterrupted possession and exercised jurisdiction and control over the lands, minerals, and other things underlying that part of the Gulf of Mexico within its boundaries, established at three marine leagues from shore by Act of its First Congress on December 19, 1836. This



claim and the rights so exercised were recognized and acquiesced in by the United States and other major nations of the world.

Thereafter, the terms of the annexation agreement between the United States and Texas recognized and preserved Texas' claim and its rights thereunder. The State of Texas, as successor to the Republic of Texas, not having ceded, transferred, or relinquished its claim or rights to the United States, has continued to assert and exercise them, subject to and without interference with those constitutional powers which the Federal Government possesses over these and all other lands beneath navigable waters within the United States. During this period of more than 100 years, the State of Texas, subject to and in full recognition of the aforesaid constitutional powers of the Federal Government, has continued to hold open, adverse, exclusive, and uninterrupted possession over the lands, minerals, and other things lying beneath the Gulf of Mexico within the original boundaries of the State, and has continued to exercise jurisdiction and control thereover without dispute, challenge, or objection by the United States. On the contrary, the United States, both in international agreements and in its domestic affairs, has recognized and acquiesced therein. The United States is thereby precluded from asserting or claiming any right, title, or interest adverse to the ownership and rights of the State of Texas as thus recognized and acquiesced in by the United States both while Texas was an independent nation and since it has been a member of the Union.

Therefore, in addition to its other defenses, defendant says that the State of Texas, under the doctrine of prescription, has established such ownership and sovereign rights in the area as preclude the granting of the relief prayed for by the Federal Government in this case.

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Wherefore, the defendant prays that the plaintiff take nothing by its complaint herein, that plaintiff's suit be dismissed with prejudice, and that defendant recover its costs and expenses herein incurred.

PRICE DANIEL  
Attorney General of Texas

November 9, 1949.