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Supreme Court, U. S.
FILED

MAY 20 1972

MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971
NO. 54, Original

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATES OF FLORIDA AND TEXAS

ANSWER AND AFFIRMATIVE DEFENSES

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C I T A T I O N S

Constitution, Treaty and Statutes	
Act of June 25, 1868, 15 Statutes 73	2, 3
Constitution of the State of Florida, 1868	3, 4, 5
Constitution of the United States, Art. III, §2, cl. 2	1
Federal Fisheries Act of 1966	3
Submerged Lands Act of 1953, 67 Statutes at Large 29	3
28 U.S.C. 1251(b) (2)	1

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ANSWER AND AFFIRMATIVE DEFENSES

The sovereign State of Florida (hereinafter referred to as "Florida"), Defendant in the above styled cause, in answer to the allegations contained in the Plaintiff's Complaint admits, denies, and alleges as follows:

I

In answer to Paragraph I of the Plaintiff's Complaint, Defendant Florida admits that jurisdiction is invoked under Article III, §2, Clause 2, of the Constitution of the United States; see also 28 U.S.C. 1251(b)(2).

II

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

III

In answer to Paragraph III of the Plaintiff's Complaint, Defendant Florida admits the allegations contained in said paragraph.

IV

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

AFFIRMATIVE DEFENSES

By Way of Affirmative Defenses Florida alleges:

I

That by Act of June 25, 1868, 15 Statutes 73, Congress approved Defendant Florida's marine boundaries and in so doing did expressly or impliedly convey and grant to Florida whatever interest the United States possessed in the maritime territory within said boundaries of Defendant Florida without prejudice to any claim

of ownership, dominion and control obtaining to Defendant Florida from the time of such conveyance and grant.

II

That Defendant Florida's marine boundaries exceed three (3) geographical miles, in part or in whole, that the historic boundaries granted to Florida by the Act of June 25, 1868, 15 Statutes 73, exceeds three (3) geographical miles, that Public Law 31 of the 83rd Congress, referred to as the Submerged Lands Act of 1953, 67 Statutes at Large 29, does not limit Florida's interest to a marine boundary of three (3) geographical miles but rather grants Defendant Florida at least a three-marine-league belt of land under the Gulf, seaward from its coastline, as described in Florida's 1868 Constitution, and that Florida's rights are not diminished by the Federal Fisheries Act of 1966, by the Submerged Lands Act of 1953 or otherwise where such seaward boundaries have been heretofore approved by Congress.

III

The Defendant Florida's marine boundaries exceed three (3) geographical miles in the Gulf of Mexico and extend there to a three-marine-league belt under the Gulf of Mexico, seaward from

its coastline, as described in Florida's 1868 Constitution.

IV

That the rights and powers of Defendant Florida beyond three (3) geographical miles and within the three-marine-league belt under the Gulf of Mexico, seaward from its coastline, as described in Florida's 1868 Constitution, includes the right to exercise control over fishing vessels and their crews, to the same extent that Defendant Florida may exercise control over fishing vessels and their crews within three (3) geographical miles of its coastline.

V

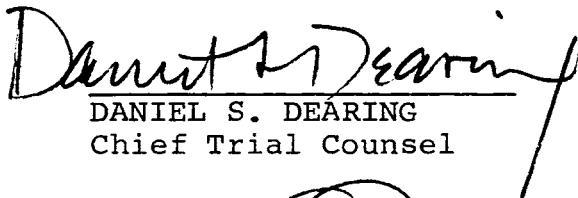
That the rights and powers of Defendant Florida as alleged in Paragraph IV of its affirmative defenses extend to foreign fishing vessels and their crews as well as to domestic fishing vessels and their crews.

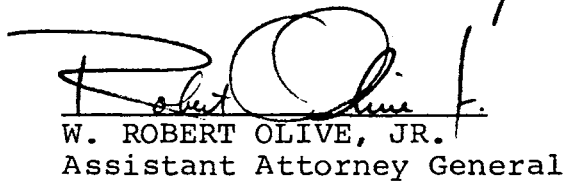
WHEREFORE, Defendant Florida prays that a decree be entered declaring that Defendant Florida does have a right to control fishing by foreign vessels and their crews in the sea more than three (3) geographical

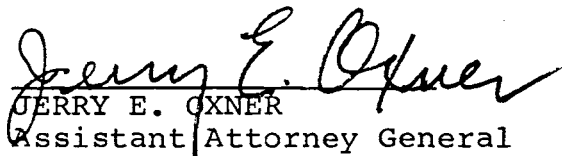
miles from and within three marine leagues of its coastline, to the extent of the boundaries as described in Florida's 1868 Constitution.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Answer and Affirmative Defenses was furnished by U. S. Mail, postage prepaid to the Honorable Richard Kleindienst, Attorney General of the United States; Honorable Erwin N. Griswold, Solicitor General of the United States, Department of Justice, Washington, D. C. 20530; and Honorable Crawford C. Martin, Attorney General of Texas, Supreme Court Building, Austin, Texas 78711, this 18th day of May, 1972.


JERRY E. OXNER
Assistant Attorney General

