

OCT 13 1967

JOHN F. DAVIS, CLERK

IN THE

**SUPREME COURT OF THE UNITED STATES.**

No. **33** ..... Original.

THE STATE OF ARKANSAS,  
Plaintiff,

vs.

THE STATE OF TENNESSEE,  
Defendant.

**MOTION**

**For Leave to File Complaint, Statement in Support of  
Motion, and Complaint.**

JOE PURCELL,  
Attorney General,  
Justice Building, Capitol Grounds,  
Little Rock, Arkansas,

and

DON LANGSTON,  
Assistant Attorney General,  
Justice Building, Capitol Grounds,  
Little Rock, Arkansas,  
Attorneys for the State of Arkansas.





## INDEX.

	Page
Motion for leave to file complaint .....	1
Statement in support of motion for leave to file complaint .....	2
Complaint .....	6

### Cases Cited.

Iowa v. Illinois, 147 U. S. 1, 18 Supreme Court 239, 37 Law Edition 55 .....	7
State of Arkansas v. State of Tennessee, 246 U. S. 158, 38 Supreme Court Reporter 301 .....	7

### Statutes Cited.

Constitution of the United States, Article III, Section 2 .....	2, 6
28 U. S. Code, Section 1251 (a) (1) (1948) .....	6



IN THE  
**SUPREME COURT OF THE UNITED STATES.**

---

No. .... Original.

---

THE STATE OF ARKANSAS,  
Plaintiff,

vs.

THE STATE OF TENNESSEE,  
Defendant.

---

**MOTION FOR LEAVE TO FILE COMPLAINT.**

---

The State of Arkansas, by Joe E. Purcell, its Attorney General, for the reasons set forth in the accompanying Statement in support of Motion for Leave to File a Complaint, and more fully set forth in the accompanying Complaint, prays leave of the Court to file its Complaint against the State of Tennessee under the authority of Article III, Section 2, of the Constitution of the United States.

JOE PURCELL,  
Attorney General,  
Justice Building, Capitol Grounds,  
Little Rock, Arkansas,

DON LANGSTON,  
Assistant Attorney General,  
Justice Building,  
Little Rock, Arkansas,  
Attorneys for the State of Arkansas.

## **STATEMENT IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT.**

The purpose of this litigation is to resolve a controversy between the State of Arkansas and the State of Tennessee, to be instituted under the authority of Article III, Section 2 of the Constitution of the United States. The relief prayed is for the establishment of a disputed interstate boundary, which is an action historically cognizable in equity and susceptible to judicial enforcement in this Court only.

The purpose of the proposed action is to establish the claim by the State of Arkansas to sovereignty over lands in Crittenden County, Arkansas, generally referred to as “Armstrong Bar” and areas immediately adjacent thereto embracing in excess of 5,000 acres which would be described (according to the original Land Office Surveys of Crittenden County and by extension southwardly of said township, range and section lines) as “all of Sections 24, 25, and 36, Township 5 North, Range 7 East; all of Sections 19, 20, 21, 28, 29, 30 and 31 of Township 5 North, Range 8 East, Crittenden County, Arkansas”.

The original jurisdiction of this court is invoked because the claims of sovereignty to all or part of the land above described heretofore exclusively exercised by the State of Arkansas is presently disputed by the State of Tennessee, and complete relief is possible only in this Court.

The complaint alleges that at the time of the admission into the union of the two States, their boundary line was declared by the act admitting each said State to be the middle of the main channel of commerce of the Mississippi River. At the time of admission of the State of Arkansas into the union, all of the area now in con-

troversy lay west of the main channel of the Mississippi River as it then flowed and was surveyed by the General Land Office as part of the territory of the State of Arkansas.

After the General Land Office Survey of 1834 and the Act of Admission of the State of Arkansas, the channel of the Mississippi River began a westward migration, eroding away in whole or in part some of the above described sections as originally surveyed, reaching its point of maximum westward recession into the State of Arkansas about the year 1890.

The complaint alleges that thereafter the channel reversed its trend of migration by erosion from westward to eastward laying down behind it new made lands by way of accretions and relictions to the Arkansas shore. By this process all of the land lost by erosion to the State of Arkansas was restored to it.

The complaint further alleges that at all times mentioned herein the State of Arkansas has exercised its sovereignty and dominion over all of the original and new made lands, enforced its laws thereon, exacted and collected taxes thereon, provided public schools for the inhabitants thereof, provided and maintained roads of access for the inhabitants thereof, enforced its Game and Fish Regulations thereon, and collected severance taxes upon raw materials removed therefrom. Its inhabitants and persons claiming by and under the State of Arkansas have occupied the same placing the same in cultivation and making large investments of capital thereon. The State of Arkansas has at all times claimed the same as part of its territorial domain, during all of which time the State of Tennessee has acquiesced therein. However, the State of Tennessee is now attempting to exercise all those acts of sovereignty and dominion theretofore exercised exclusively by the State of Arkansas. Citizens of the State

of Tennessee, claiming under the authority of the State of Tennessee, and of its courts, have attempted to enter upon some portion of said lands under claim of title originating from the State of Tennessee and interfered with the exercise of the rights of ownership granted and guaranteed by the State of Arkansas to the inhabitants thereof. The State of Tennessee has attempted to exercise sovereignty, dominion, jurisdiction and control over the said area and its citizens and has done other acts of interference with the rights of the State of Arkansas claimed and exercised by it from the date of its admission into the union.

The claim of Tennessee is based upon assertion by it that the area in controversy first arose on the east or Tennessee side of the channel as a bar or island and was subsequently, in about the year 1913 by avulsive change in the river's channel severed from the Tennessee shore and the river thereafter ran to the east of the severed land where it now runs. It is claimed that this change by avulsion worked no change in boundary and established said lands as belonging to the State of Tennessee. It has attempted or threatened to tax the same and deprive the State of Arkansas of its rightful revenue and all other incidents of sovereignty over said land and enforce the laws of Tennessee thereon. Pursuant to this assertion the Courts of Tennessee have entertained suits to quiet title to said lands and exercised other jurisdiction with respect thereto as to the inhabitants of the State of Arkansas claiming under a chain of title from said State and apply as to them the laws of Tennessee in favor of its own citizens. To this extent the State of Tennessee is interfering with the rights of the citizens of the State of Arkansas secured to them under the laws of the State of Arkansas, and is attempting to exercise the jurisdiction of the State of Tennessee extra territorially upon lands and persons subject only to the sovereignty of the State of Arkansas. The Complaint seeks to restrain and enjoin the State of



Tennessee from further interfering with the exercise of sovereignty by the State of Arkansas over the areas in controversy; prays that the interstate boundary between the two States be determined to be the main channel of the Mississippi River as it now flows or may hereafter flow as a result of migration by erosion and accretion; and that the State of Arkansas be declared to be the Sovereign entitled to exercise dominion and sovereignty over said area to the exclusion of the State of Tennessee.

JOE E. PURCELL,  
Attorney General of the State of  
Arkansas,  
Justice Building, Capitol Grounds,  
Little Rock, Arkansas,

DON LANGSTON,  
Assistant Attorney General,  
Justice Building,  
Little Rock, Arkansas,  
Attorneys for the State of  
Arkansas.

In the Supreme Court of the United States,  
..... Term, A. D. 1967,  
No. ...., Original.

State of Arkansas,  
Plaintiff,

vs.

State of Tennessee,  
Defendant.

### **COMPLAINT.**

The State of Arkansas, by its Attorney General, brings this action against the Defendant, the State of Tennessee, and for its cause of action, states:

#### **I.**

This court has jurisdiction as an original action under Article III, Section 2, of the Constitution of the United States, and 28 U. S. Code, Section 1251 (a) (1) (1948).

#### **II.**

The State of Arkansas was admitted into the union under Act of June 15th, 1836, 5 Stat. 50, Ch. 100, under which act its eastern territorial boundaries from the Louisiana State Line to the 36th degree of North latitude, was declared to be "the middle of the main channel of the Mississippi River". The area in controversy lies between those two points.

#### **III.**

The State of Tennessee was admitted to the union by an Act of June 1st, 1796, under which act its western boundary (coincidental with that of Arkansas in the area of controversy) was described as "the middle of the River Mississippi".

#### IV.

In **Iowa v. Illinois**, 147 U. S. 1, 18 Supreme Court 239, 37 Law Edition 55, this Court has declared that where the location of an interstate boundary is made with reference to a navigable river, the boundary is determined to be the middle of the “main channel of commerce”. This boundary line between the State of Tennessee and State of Arkansas under their respective Acts of Admission has been expressly so decreed by the Supreme Court of the United States in Original Action No. 4, the **State of Arkansas v. State of Tennessee**, 246 U. S. 158, 38 Supreme Court Reporter 301.

#### V.

That at the time of the admission of the State of Arkansas into the union all those lands described in the Original General Land Office Survey of 1834 and which would be described if the Section Lines be extended southward therefrom as Sections Twenty-Four (24), Twenty-Five (25) and Thirty-Six (36) of Township Five (5) North, Range Seven (7) East, and Sections Nineteen (19) Twenty (20), Twenty-One (21) Twenty-Eight (28), Twenty-Nine (29), Thirty (30) and Thirty-One (31), Township Five (5) North, Range Eight (8) East, in Crittenden County, Arkansas, lay to the West of Channel of Navigation of the Mississippi River as defined in said Acts of Admission.

#### VI.

Thereafter the boundary between the State of Arkansas and the State of Tennessee migrated westwardly by process of accretion, eroding away in whole or in part portions of the land hereinabove described. Following said process of erosion new lands were laid down by process of accretion to the Tennessee shore to such an extent that by the year 1900 those accretion lands to the Tennessee shore then occupied the geographic situs of some portions of the above described land as originally surveyed.

## VII.

Thereafter the migration of the channel of the river marking the boundary between the two States reversed its trend and turned eastwardly eroding away the new lands previously laid down by it. Following this eastward erosion new lands were laid down by process of accretion to the westward bank of the Mississippi River which continued until all of the lands lost to the State of Arkansas by prior erosion had been restored to it by accretion which accretions have now extended south of the meander line of the original General Land Office Survey. All of this area, as same now exists, formed and lies west of the main channel of navigation of the Mississippi River and never at any time lay or had its origin east thereof.

## VIII.

That at all times the State of Arkansas has exercised complete sovereignty over the area in controversy, levying and collecting taxes thereon providing for the health, welfare and education of its inhabitants, enforcing its laws thereon, and doing all such other acts of dominion as are ordinarily exercised by a sovereign, and during all of which period the citizens of the State of Arkansas have actually occupied, claimed and utilized said lands, a large portion of which is now in cultivation and has been for forty (40) years or more.

## IX.

That the State of Tennessee now is asserting rights of sovereignty and dominion over said area. The Courts of Tennessee have undertaken to apply the laws of that State to said area including the laws pertaining to the ownership of real estate and other acts which interfere with the sovereignty of the State of Arkansas, and with the rights of its citizens thereon. The claims and actions of the Defendant, the State of Tennessee, have caused and

will continue to cause irreparable injury to the Plaintiff, the State of Arkansas, and to its sovereignty for which there is now no remedy at law.

Wherefore, the Plaintiff prays that a decree be entered declaring the boundary line between the State of Arkansas and the State of Tennessee to be the main channel of the Mississippi River as it now flows, or may hereafter flow by erosion and accretion; that the sovereignty of the State of Arkansas over the area herein described be declared; that the State of Arkansas be declared to be the sovereign entitled to exercise sovereignty and dominion over said land and adjudging that the Defendant, the State of Tennessee, has no sovereign right or interest in or to any said land or any part thereof.

JOE PURCELL,

Attorney General of the State of Arkansas,  
Justice Building, Capitol Grounds,  
Little Rock, Arkansas,

DON LANGSTON,

Assistant Attorney General,  
Justice Building,  
Little Rock, Arkansas,  
Attorneys for the State of Arkansas.

