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IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1977

74 NO. \_\_\_\_\_, ORIGINAL

STATE OF GEORGIA, *Plaintiff*,

v.

STATE OF SOUTH CAROLINA, *Defendant*.

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**MOTION FOR LEAVE TO FILE COMPLAINT  
AND COMPLAINT**

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**Supreme Court of the United States**  
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NO. \_\_\_\_\_, ORIGINAL

STATE OF GEORGIA, *Plaintiff*,

v.

STATE OF SOUTH CAROLINA, *Defendant*.

**MOTION FOR LEAVE TO FILE COMPLAINT**

Comes now the State of Georgia, by and through the Attorney General of Georgia, and respectfully asks leave of the Court to file its Complaint against the State of South Carolina, submitted herewith.

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ARTHUR K. BOLTON  
Attorney General

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AUGUST, 1977

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**COMPLAINT**

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Comes now the State of Georgia, by and through its Attorney General, and brings this suit against the Defendant, the State of South Carolina, and for its cause of action states:

1.

The jurisdiction of this Court is invoked pursuant to Art. III, Sec. 2, Clause 2 of the Constitution of the United States, and 28 U.S.C. § 1251(a)(1).

2.

On June 9, 1732, George II, King of Great Britain, France and Ireland, issued letters patent establishing the Colony of Georgia, and describing the boundary between the Colony of Georgia and the Colony of South Carolina as "the most northern Stream of a River there, commonly called the Savannah."

## 3.

On April 28, 1787, commissioners appointed by the two states executed a convention resolving a dispute between the two states as to their common boundary, which convention is hereafter referred to as the Treaty of Beaufort, which was properly ratified by the two states and by the Congress of the United States.

## 4.

The Treaty of Beaufort, which established the boundary between the State of Georgia and the State of South Carolina, provides in pertinent part as follows:

“Article first, The most northern branch or stream of the River Savannah, from the Sea or mouth of such stream, to the fork or confluence of the Rivers now called Tugoloo and Keowee, and from thence the most northern branch or stream of the said River Tugoloo ’till it intersects the Northern boundary line of South Carolina, if the said branch or stream of Tugoloo extends so far North, reserving all the islands in the said Rivers Savannah and Tugoloo to Georgia; but if the head spring or source of any branch or stream of the said River Tugoloo does not extend to the north boundary line of South Carolina, then a west line to the Mississippi, to be drawn from the head spring or source of the said branch or stream of Tugoloo river, which extends to the highest northern latitude, Shall forever hereafter form the separation, limit, and boundary between the States of South Carolina and Georgia.

“Article the second. The navigation of the River Savannah, at and from the bar, and mouth, along the Northeast side of Cockspur Island, and up the direct course of the main northern channel, along the northern side of Hutchinson’s Island opposite the town of Savannah, to the upper end of the said Island, and from thence up the bed or principal stream of the said River to the confluence of the Rivers Tugoloo and Keowee and from

the confluence up the Channel of the most northern stream of Tugoloo River to its source; And back again, by the same channel to the Atlantick Ocean, Is hereby declared to be henceforth equally free to the citizens of both States, and exempt from all duties, tolls, hindrance, interruption, or molestation whatsoever, attempted to be enforced by one State on the Citizens of the other; And all the rest of the river Savannah, to the southward of the foregoing description, is acknowledged to be the exclusive right of the State of Georgia."

## 5.

By the terms of the Treaty of Beaufort, all islands in the Savannah River are specifically reserved to Georgia. In addition, the Treaty of Beaufort, as construed by this Court in *Georgia v. South Carolina*, 257 U.S. 516 (1922), provides that the bed of the Savannah River, to the middle of the northernmost stream or branch thereof, is within the boundaries of the State of Georgia and subject to its jurisdiction.

## 6.

The State of South Carolina and the State of Georgia presently have a dispute concerning the location of the boundary between the two states in the lower reaches and mouth of the Savannah River, from approximately the City of Savannah, Georgia, downstream to the Atlantic Ocean. In addition, the parties are in dispute as to the location of the lateral seaward boundary between the two states.

## 7.

The boundary dispute between the State of Georgia and the State of South Carolina is illustrated generally by maps published by the United States Geological Survey, which are attached hereto as Exhibits A and B. Exhibit A

is a reduction of a composite of the United States Geological Survey quadrangle sheets for Savannah, Ga.-S.C.; Fort Pulaski, S.C.-Ga.; and Savannah Beach North, S.C.-Ga., which quadrangle sheets were published by the United States Geological Survey in 1955. Exhibit B is a reduction of a composite of the 1971 revisions of the same three quadrangle sheets. Exhibit A, published in 1955, shows the boundary line in the location argued for by the State of South Carolina. Exhibit B, published in 1971, correctly relocates the boundary in certain areas.

## 8.

The lower reaches and mouth of the Savannah River, from the City of Savannah to the Atlantic Ocean, have been extensively altered by the actions of the United States Army Corps of Engineers in improving the Savannah River for navigation. The topographical changes resulting from actions of the United States Army Corps of Engineers are avulsive changes in the river and do not change the location of the boundary line between Georgia and South Carolina.

## 9.

By operation of the Treaty of Beaufort, all islands and former islands in the Savannah River, such as Pennyworth Island, Barnwell Island(s), Jones Island, Oyster Bed Island, and several unnamed islands, are within the boundaries of the State of Georgia and are subject to the jurisdiction of the State of Georgia, even though these islands may now be affixed to the mainland of South Carolina as a result of artificial man-made changes. In addition, there are certain areas now located on the northern bank of the Savannah River which were originally located south of the middle of the northernmost stream or branch of the Savannah River; where the river has



changed course because of artificial man-made changes, such areas remain within the boundaries of the State of Georgia.

## 10.

The boundary between Georgia and South Carolina runs north of the peninsula of land generally referred to as Oyster Bed Island, as shown on Exhibit B, and continues in a northeasterly direction to a midpoint between Tybee Island, Georgia and Hilton Head Island, South Carolina, which is the middle of the mouth of the Savannah River.

## 11.

The lateral seaward boundary between Georgia and South Carolina runs from a midpoint between Tybee Island, Georgia and Hilton Head Island, South Carolina, which is the middle of the mouth of the Savannah River, easterly in a due east direction along a parallel of latitude to the three-mile limit.

## 12.

Since 1787 the State of Georgia has continuously claimed and asserted jurisdiction and sovereignty over all islands in the Savannah River, over the Savannah River and the bed thereof north to the middle of the northernmost stream or branch thereof, and over all waters and waterbottoms lying south of the middle of the mouth of the Savannah River.

## 13.

The State of South Carolina has acquiesced in the State of Georgia's exercise of jurisdiction and sovereignty over all islands in the Savannah River, over the Savannah River and the bed thereof north to the middle of the

northernmost stream or branch thereof, and over all waters and waterbottoms lying south of the middle of the mouth of the Savannah River.

## 14.

The 1977 Session of the General Assembly of South Carolina passed a concurrent resolution, stating in pertinent part as follows:

“WHEREAS, the boundary between South Carolina and our sister state Georgia has for many years been in question; and

“WHEREAS, the location of the boundary is of importance regarding the management of natural resources, the location of industry and many other items of interest to both States; and

“WHEREAS, there exists no document or other historical record which would support the placement of the boundary as presently delineated by the United States Geological Survey; and

“WHEREAS, the General Assembly finds the United States Geological Survey to be in error regarding the agency's delineation of the boundary on the Fort Pulaski and Savannah topographic maps as updated in 1971. . . .”

## 15.

The Boundary Commission of South Carolina, established by the South Carolina General Assembly, has stated in correspondence with the United States Geological Survey that the State of South Carolina contends that the boundary is as shown on Exhibit A, and that the location of the boundary is presently in dispute in the areas of Barnwell Island and Oyster Bed Island.

## 16.

In the 1977 Session of the General Assembly of Georgia,

the House of Representatives and the Georgia State Senate passed identical resolutions providing that the State of Georgia and the State of South Carolina presently are in dispute concerning the location of the boundary between the two states in the lower reaches and the mouth of the Savannah River and further stating in pertinent part as follows:

"1. That the Georgia House of Representatives [Senate] hereby expresses its desire that the boundary line between the State of Georgia and the State of South Carolina be precisely located in the lower reaches and in the mouth of the Savannah River;

"2. That such boundary line should be precisely located only as established by the Charter, the Convention of Beaufort and applicable principles of law;

"3. That the boundary line between the State of Georgia and the State of South Carolina in the lower reaches and in the mouth of the Savannah River is not the middle of the present navigational channel of the Savannah River, artificially created by the Corps of Engineers;

"4. That the peninsula of land known as 'Oyster Bed Island' lies within the boundaries of the State of Georgia; and

"5. That the Governor and the Attorney General are hereby requested and directed to take whatever measures are necessary, including negotiation, litigation, or both, to resolve the dispute concerning the boundary line between the State of Georgia and the State of South Carolina in the lower reaches and the mouth of the Savannah River."

17.

The boundary line dispute between Georgia and South Carolina involves over 10,000 acres of waters and water-

bottoms and more than three thousand acres of high ground and marshland.

## 18.

Representatives from the State of Georgia and the State of South Carolina have met on several occasions since 1968 in an effort to resolve the dispute concerning the boundary line in the lower reaches and the mouth of the Savannah River and concerning the lateral seaward boundary between the two states. Such efforts at negotiation have not been successful, and it appears highly unlikely that any agreement as to the boundary dispute can be reached.

## 19.

The existence of the dispute between Georgia and South Carolina as to the boundary line in the area of Barnwell Island and other tracts now on the north bank of the Savannah River has created serious problems for the State of Georgia. Barnwell Island and other tracts now on the north bank of the Savannah River are prime sites for port and industrial development, and the uncertainty as to the jurisdiction over and title to these areas prevents their development.

## 20.

The existence of the dispute between Georgia and South Carolina as to the location of the boundary line in the mouth of the Savannah River and out to the three-mile limit has created serious problems for both states and for the citizens of both states in regard to the enforcement of laws, particularly laws relating to commercial fishing. The State of Georgia has made diligent efforts to reach a temporary agreement concerning enforcement of these laws in the disputed area, but all such efforts at agreement have failed.

## 21.

On June 29, 1977, a resident of South Carolina licensed as a commercial shrimp fisherman under South Carolina law was apprehended by law enforcement officers of the Georgia Department of Natural Resources while engaged in illegal commercial fishing in Georgia waters. The South Carolina shrimp fisherman resisted arrest, assaulted the Georgia Conservation Rangers, and fled to South Carolina. On July 15, 1977, the Governor of Georgia requested the Governor of South Carolina to extradite the South Carolina fisherman to Georgia to stand trial on charges of obstruction of officers, simple battery, and illegal commercial fishing. On July 22, 1977, the Governor of South Carolina refused the request for extradition, basing his refusal on the existence of the boundary dispute.

## 22.

Continued existence of the boundary dispute has caused and will continue to cause serious problems and inconvenience to the State of Georgia, the State of South Carolina, and citizens of both states with regard to the enforcement of laws in the disputed area and the determination of property rights as to land and waterbottoms within the disputed area.

## 23.

The original jurisdiction of this Court is invoked because there is a pressing need for prompt and final settlement of the controversy, and because the question in issue, the location of the boundary between the State of Georgia and the State of South Carolina, can be resolved by this Court alone.

WHEREFORE, the State of Georgia prays:

(1) That process be issued against the State of South

Carolina and that the State of South Carolina be required to answer this Complaint;

- (2) That a decree be entered declaring the true and correct boundary line between the State of Georgia and the State of South Carolina in the lower reaches and the mouth of the Savannah River and in the territorial sea to the three-mile limit;
- (3) That the boundary be declared to be the middle of the northernmost stream or branch of the Savannah River, as such river existed in 1787, as changed by natural accretion and erosion but not as altered by avulsions, reserving all islands, including Barnwell Island, Jones Island, and Oyster Bed Island, to Georgia, thence running to a point midway between Tybee Island, Georgia and Hilton Head Island, South Carolina, and thence due east to the three-mile limit;
- (4) That the Court issue a preliminary injunction prohibiting the State of South Carolina from enforcing its laws or asserting jurisdiction within the area in dispute; and

- (5) For such other and further relief as this Court may deem to be proper.

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AUGUST, 1977

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# EXHIBIT A











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