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03-20-1972 Opinion of the Court

William O. Douglas
US Supreme Court Justice

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 50, Orig.

From: Douglas, J.

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State of Vermont,
Plaintiff,
v.
State of New York et al.

On Motion for Leave to File
Bill of Complaint.

[March —, 1972]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

This is a motion by Vermont for leave to file a complaint invoking our original jurisdiction against New York and against International Paper Company, a New York corporation doing business in New York, and seeking to abate a public nuisance caused by a long-term discharge of wastes and sewage into Lake Champlain by way of Ticonderoga Creek.

It is alleged that New York is the owner of the bed of Lake Champlain to the deepest point in the channel which marks the New York-Vermont boundary. See *Massachusetts v. New York*, 271 U. S. 65, 89.

It is alleged that the discharge of wastes and sewage into the lake by International Paper has continued for approximately 45 years and has created a sludge bed on the bottom of the lake covering approximately 300 acres and containing 802,000 cubic feet of wood chips, cinders, and organic material in state of anaerobic (septic) decay, the sludge bed being up to 12 feet in depth. It is alleged that the pollution has rendered Vermont waters in the lake unfit for drinking, fishing, swimming, boating, and all other reasonable uses. It is also alleged that the presence of the sludge bed unlawfully alters the boundary between the two States.