

# The Burger Court Opinion Writing Database

## *Nebraska v. Iowa*

406 U.S. 117 (1972)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



3  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

April 20, 1972

Re: No. 17 Orig. - Nebraska v. Iowa

Dear Bill:

Please join me in the above opinion for the Court.

Regards,

1/3203

Mr. Justice Brennan

Copies to the Conference

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38  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

April 12, 1972

Dear Bill:

Please join me in your opinion in

No. 17 -Orig. - Nebraska v. Iowa.

W. O. D.

Mr. Justice Brennan

cc: The Conference

B/11

Please join me  
HJ

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall ✓  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

1st DRAFT

From: Brennan, J.

Circulated: 4/12/72  
Recirculated: \_\_\_\_\_

SUPREME COURT OF THE UNITED STATES

No. 17, Orig.

State of Nebraska, Plaintiff, }  
v. } On Exceptions to Report  
State of Iowa. } of Special Master.

[April —, 1972]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

Both Iowa and Nebraska have filed Exceptions to the Report submitted by the Special Master in this original action brought by Nebraska against Iowa for construction and enforcement of the Iowa-Nebraska Boundary Compact of 1943.<sup>1</sup>

The Missouri River is the boundary between the two States. In 1892, in another suit brought by Nebraska against Iowa, this Court held that the boundary line in

<sup>1</sup> Iowa Code Ann. Vol. I, p. 85; Iowa Acts 1943 (50 G. A.) c. 306; Nebraska Laws 1943, c. 130; Act July 12, 1943, 57 U. S. Stat. at Large, 494.

Leave to file the action was granted in 1965. 379 U. S. 876 (1964); 379 U. S. 996 (1965). There have been successive Special Masters. See 380 U. S. 968 (1965); 392 U. S. 918 (1968); 393 U. S. 910 (1968). Senior Judge Joseph P. Wilson completed the case after extensive hearings and filed his Report on November 9, 1971, 404 U. S. 933 (1971). The Exceptions of the States were orally argued before this Court on March 29, 1972.

Iowa's Exception I reviews the objection to the Court's jurisdiction which was overruled when leave to file was granted. We overrule the Exception. "Just as this Court has power to settle disputes between states where there is no compact, it must have final power to pass upon the meaning and validity of compacts." *West Virginia ex rel. Dyer v. Sims*, 341 U. S. 22, 28 (1951); Constitution Art. III, § 2; 28 U. S. C. A. § 1251.

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3 —  
1, 3-10  
minor stylistic changes  
joined

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

2nd DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: \_\_\_\_\_

Recirculated: \_\_\_\_\_

4/12

No. 17, Orig.

State of Nebraska, Plaintiff, }  
v. } On Exceptions to Report  
State of Iowa. } of Special Master.

[April —, 1972]

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See Pages 3, 5, 6 & 7

Joined

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Stewart  
Mr. Justice White  
✓ Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

From: Brennan, J.

3rd DRAFT

Circulated: \_\_\_\_\_

SUPREME COURT OF THE UNITED STATES

ReCirculated: 4-14-72

No. 17, Orig.

State of Nebraska, Plaintiff, }  
v. } On Exceptions to Report  
State of Iowa. } of Special Master.

[April —, 1972]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

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U. S. DEPARTMENT OF JUSTICE

3  
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p8  
Jensen

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 17, Orig.

From: Brennan, J.

Circulated: \_\_\_\_\_

State of Nebraska, Plaintiff,  
v.  
State of Iowa. } On Exceptions to Report  
of Special Master.

Recirculated: 4/18/72

[April —, 1972]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

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The Missouri River is the boundary between the two States. In 1892, in another suit brought by Nebraska against Iowa, this Court held that the boundary line in

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Leave to file the action was granted in 1965. 379 U. S. 876 (1964); 379 U. S. 996 (1965). There have been successive Special Masters. See 380 U. S. 968 (1965); 392 U. S. 918 (1968); 393 U. S. 910 (1968). Senior Judge Joseph P. Willson completed the case after extensive hearings and filed his Report on November 9, 1971, 404 U. S. 933 (1971). The Exceptions of the States were orally argued before this Court on March 29, 1972.

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U. S. DEPARTMENT OF JUSTICE

3  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

April 12, 1972

17 Orig., Nebraska v. Iowa

Dear Bill,

I am glad to join your opinion for the  
Court in this case.

Sincerely yours,

P.S.  
/

Mr. Justice Brennan

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3  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 13, 1972

Re: No. 17, Orig. - Nebraska v.  
Iowa

Dear Bill:

Please join me - and thanks.

Sincerely,

*Byron*

Mr. Justice Brennan

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U.S. SUPREME COURT RECORDS

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 12, 1972

Re: No. 17, Orig. - Nebraska v. Iowa

Dear Bill:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Brennan

cc: The Conference

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U.S. SUPREME COURT RECORDS

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 13, 1972

Re: No. 17 Orig. - Nebraska v. Iowa

Dear Bill:

Please join me.

Sincerely,

*H.A.B.*

Mr. Justice Brennan

cc: The Conference

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U.S. SUPREME COURT RECORDS

3  
1  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 13, 1972

Re: 17 Orig. Nebraska v. Iowa

Dear Bill:

I am more than glad to join your fine opinion especially since I did not find the Special Master's report an easy one to understand.

Sincerely,

*Lewis*

Mr. Justice Brennan

lfp/ss

cc: The Conference

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U.S. DEPARTMENT OF JUSTICE

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST


April 20, 1972

Re: No. 17, Orig.-Nebraska v. Iowa

Dear Bill:

Please join me in your opinion for the Court in  
this case.

Sincerely,



Mr. Justice Brennan

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U.S. SUPREME COURT