

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



M
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,

W. Brennan

Mr. Justice Brennan

Copies to the Conference

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

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.

1st DRAFT

Circulated: 4/12/72

STATES
Regulated:

No. 17. Orig.

State of Nebraska, Plaintiff,
v.
State of Iowa. } On Exceptions to Report
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 1943.¹

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

¹ 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.

3 —
1, 3-10
numerous ~~stylistic~~ charges
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^{Circuit}

givenated:

Recirculated:

4/12

No. 17, Orig.

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

[April —, 1972]

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See Pages 3, 5, 6 + 7

3
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.

ATES Recirculated: 4-14-72

No. 17, Orig.

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

[April —, 1972]

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

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 17, Orig.

From: Brennan, J.

State of Nebraska, Plaintiff,)

71

State of Iowa.

On Exceptions to Report of Special Master.

LITERATURE SURVEY

4/18/72

[April —, 1972]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

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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.
P.

Mr. Justice Brennan

Copies to the Conference

B
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

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

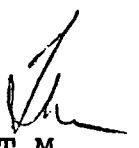
April 12, 1972

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

Dear Bill:

Please join me.

Sincerely,


T.M.

Mr. Justice Brennan

cc: The Conference

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

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 you fine opinion especially since I did not find the Special Master's report an easy one to understand.

Sincerely,



Mr. Justice Brennan

lfp/ss

cc: The Conference

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

Copies to the Conference