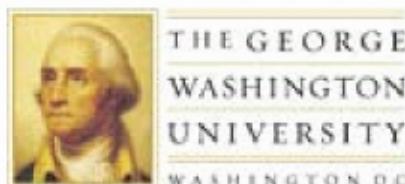


# The Burger Court Opinion Writing Database

*Butz v. Glover Livestock Commission Co.*  
411 U.S. 182 (1973)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University  
Forrest Maltzman, George Washington University



9  
Supreme Court of the United States  
Washington, D. C. 20542

CHAMBERS OF  
THE CHIEF JUSTICE

March 22, 1973

Re: 71-1545 - Butz v. Glover Livestock Comm. Co.

Dear Bill:

Please join me.

Regards,

WRB

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

March 16, 1973

Dear Potter:

Please join me in your dissent  
in No. 71-1545 - Butz v. Glover Livestock  
Commission Co.

W. O. D.

Mr. Justice Stewart

cc: 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

1st DRAFT

From: Brennan, J.

**SUPREME COURT OF THE UNITED STATES**

3-14-73

No. 71-1545

Recirculated:

Earl L. Butz, Secretary of Agriculture, et al., Petitioners, v. Glover Livestock Commission Company, Inc. } On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[March —, 1973]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The Judicial Officer of the Department of Agriculture, acting for the Secretary of Agriculture, found that respondent, a registrant under the Packers and Stockyards Act, 7 U. S. C. § 181 *et seq.*, wilfully violated §§ 208 and 213 (a) of the Act by incorrect weighing of livestock, and also breached § 221 by entries of false weights. An order was entered directing that respondent cease and desist from the violations and keep correct accounts, and also suspending respondent as a registrant under the Act for 20 days. Upon review of the decision and order, the Court of Appeals for the Eighth Circuit upheld, as supported by substantial evidence, the findings that respondent violated the Act by short-weighing cattle, and also sustained the cease-and-desist order and the order to keep correct accounts. The Court of Appeals, however, set aside the 20-day suspension. 454 F. 2d 109 (1972). We granted certiorari to consider whether, in doing so, the Court of Appeals exceeded the scope of proper judicial review of administrative sanctions. 409 U. S. 947 (1972). We conclude that the setting aside of

Place for me  
2/29

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:

No. 71-1545

Recirculated: 3-20-73

Earl L. Butz, Secretary of  
Agriculture, et al.,  
Petitioners,  
v.  
Glover Livestock Commis-  
sion Company, Inc.

On Writ of Certiorari to the  
United States Court of  
Appeals for the Eighth  
Circuit.

[March —, 1973]

MR. JUSTICE BRENNAN delivered the opinion of the  
Court.

The Judicial Officer of the Department of Agriculture, acting for the Secretary of Agriculture, found that respondent, a registrant under the Packers and Stockyards Act, 7 U. S. C. § 181 *et seq.*, wilfully violated §§ 307 (a) and 312 (a) of the Act, 7 U. S. C. §§ 208 (a) and 213 (a), by incorrect weighing of livestock, and also breached § 401, 7 U. S. C. § 221, by entries of false weights. An order was entered directing that respondent cease and desist from the violations and keep correct accounts, and also suspending respondent as a registrant under the Act for 20 days. Upon review of the decision and order, the Court of Appeals for the Eighth Circuit upheld, as supported by substantial evidence, the findings that respondent violated the Act by short-weighing cattle, and also sustained the cease-and-desist order and the order to keep correct accounts. The Court of Appeals, however, set aside the 20-day suspension. 454 F. 2d 109 (1972). We granted certiorari to consider whether, in doing so, the Court of Appeals exceeded the scope of proper judicial review of administrative sanctions. 409 U. S. 947 (1972). We conclude that the setting aside of

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

CHAMBERS OF  
JUSTICE POTTER STEWART

March 14, 1973

MEMORANDUM TO THE CONFERENCE

Re: No. 71-1545 - Butz v. Glover Livestock

In due course I shall circulate a  
dissenting opinion in this case.

P.S.

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

1st DRAFT

From: Stewart, J.

No. 71-1545

Circulated: MAR 16 1973

Earl L. Butz, Secretary of Agriculture, et al., Petitioners,  
v.  
Glover Livestock Commission Company, Inc.

On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

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

[March —, 1973]

MR. JUSTICE STEWART, dissenting.

The only remarkable thing about this case is its presence in this Court. For the case involves no more than the application of well-settled principles to a familiar situation, and has little significance except for the respondent. Why certiorari was granted is a mystery to me—particularly at a time when the Court is thought by many to be burdened by too heavy a caseload. See Rule 19, Rules of the Supreme Court of the United States (1970).

The Court of Appeals did nothing more than review a penalty imposed by the Secretary of Agriculture that was alleged by the respondent to be discriminatory and arbitrary. In approaching its task, the appellate court displayed an impeccable understanding of the permissible scope of review:

"The scope of our review is limited to the correction of errors of law and to an examination of the sufficiency of the evidence supporting the factual conclusions. The findings and order of the Judicial Officer must be sustained if not contrary to law and if supported by substantial evidence. Also, this Court may not substitute its judgment for that of

p.1

3  
Joint w/ SC

2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

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

From: Stewart, J.

No. 71-1545

Circulated:

Earl L. Butz, Secretary of Agriculture, et al.,  
Petitioners,  
v.  
Glover Livestock Commission Company, Inc.

On Writ of Certiorari to the  
United States Court of  
Appeals for the Eighth  
Circuit.

Recirculated: MAR 22 1973

[March —, 1973]

MR. JUSTICE STEWART, with whom MR. JUSTICE DOUGLAS joins, dissenting.

The only remarkable thing about this case is its presence in this Court. For the case involves no more than the application of well-settled principles to a familiar situation, and has little significance except for the respondent. Why certiorari was granted is a mystery to me—particularly at a time when the Court is thought by many to be burdened by too heavy a caseload. See Rule 19, Rules of the Supreme Court of the United States (1970).

The Court of Appeals did nothing more than review a penalty imposed by the Secretary of Agriculture that was alleged by the respondent to be discriminatory and arbitrary. In approaching its task, the appellate court displayed an impeccable understanding of the permissible scope of review:

"The scope of our review is limited to the correction of errors of law and to an examination of the sufficiency of the evidence supporting the factual conclusions. The findings and order of the Judicial Officer must be sustained if not contrary to law and if supported by substantial evidence. Also, this Court may not substitute its judgment for that of

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

March 15, 1973

Re: No. 71-1545 - Butz v. Glover Livestock  
Commission Co., Inc.

Dear Bill:

Please join me.

Sincerely,

*Byron*

Mr. Justice Brennan

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

March 21, 1973

Re: No. 71-1545 - Butz v. Glover Livestock

Dear Bill:

Please join me.

Sincerely,



T.M.

Mr. Justice Brennan

cc: Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

October 5, 1972

Re: No. 71-1545 - Butz v. Glover Livestock  
Commission Co.

Dear Chief:

May I ask that this case, which appears on  
page 13 of the October 2 list, be relisted for October 13.

Sincerely,

H.A.B.

—

The Chief Justice

cc: The Conference  
Mr. Rodak

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

March 15, 1973

Re: No. 71-1545 - Butz v. Glover Livestock Comm. Co.

Dear Bill:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Brennan

cc: The Conference

37  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

March 14, 1973

Re: No. 71-1545 Butz v. Glover

Dear Bill:

Please join me.

Sincerely,

*L. Lewis*

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

March 15, 1973

Re: No. 71-1545 - Butz v. Glover Livestock Commission

Dear Bill:

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

Sincerely,

WW

Mr. Justice Brennan

Copies to the Conference