

The Burger Court Opinion Writing Database

*Federal Maritime Commission v. Seatrail
Lines, Inc.*

411 U.S. 726 (1973)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

May 8, 1973

Re: No. 71-1647 - Federal Maritime Commission v.
Seatrail Lines, Inc. et al

Dear Thurgood:

I like your opinion and will join it but I think there is much merit in Harry's May 3 memo suggestion. I think it is implicit in your opinion but it would do no harm to make it explicit. I will be guided by your analysis.

Regards,
WRB

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

May 11, 1973

Re: No. 71-1647 - Federal Maritime Commission
v. Seatrain Lines, Inc.

109-6

Dear Thurgood:

To complete your files, please treat this
memo as my confirmation of joining your opinion.

Regards,

W. B.

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

May 3, 1973

Dear Thurgood:

Please join me in your
Seatrain opinion, 71-1647.

W.O.D.
William O. Douglas

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 3, 1973

RE: No. 71-1647 Federal Maritime Comm.
v. Seatrain Lines, Inc., et al.

Dear Thurgood:

I agree.

Sincerely,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 3, 1973

No. 71-1647 - FMC v. Seatrain Lines

Dear Thurgood,

I think your opinion in this case is a good one, and persuasive. I expressed a contrary view at the Conference, but my notes indicate that I was alone in doing so. The issue seems a close one to me, and I have concluded that not many souls would be saved by any dissenting opinion I might be able to produce. Accordingly, I acquiesce in your opinion -- a "graveyard dissent," as we used to say on the 6th Circuit.

Sincerely yours,

PS

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 7, 1973

Re: No. 71-1647 - Federal Maritime Comm'n
v. Seatrain Lines, Inc.

Dear Thurgood:

I am in accord with the opinion you have
circulated in this case.

Sincerely,



Mr. Justice Marshall

Copies to Conference

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

2nd DRAFT

From: Marshall, J.

Circulated: MAY 2 197

SUPREME COURT OF THE UNITED STATES

No. 71-1647

Recirculated:

Federal Maritime Commission, Petitioner, v. Seatrain Lines, Inc., et al.

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

[May —, 1973]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Section 15 of the Shipping Act of 1916, as amended, 46 U. S. C. § 814, requires all persons subject to the Act to file with the Federal Maritime Commission¹ every agreement within specified categories reached with any other person subject to the Act. The section further empowers the Commission to disapprove, cancel, or modify any such agreement which it finds to be unjustly discriminatory, to the detriment of the commerce of the United States, contrary to the public interest, or violative of the terms of the Act.² The Commission is directed to

¹ Originally, the Shipping Act conferred jurisdiction on the United States Shipping Board. See 39 Stat. 728, 729, 733. Over the years the jurisdiction here at issue has been shifted to the United States Shipping Board Bureau of the Department of Commerce, see Exec. Order No. 6166, § 12, the United States Maritime Commission, see 49 Stat. 1985, the Federal Maritime Board, see 64 Stat. 1273, and finally, the Federal Maritime Commission, see 75 Stat. 840. For convenience, we will follow the practice of the parties and the court below and refer throughout to the "Commission."

² The Act provides in pertinent part,
"Every common carrier by water, or other person subject to this chapter, shall file immediately with the Commission a true copy, or,

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CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

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

May 3, 1973

Re: No. 71-1647 - FMC v. Seatrain Lines, Inc.

Dear Thurgood:

Please join me.

I wondered about the desirability of including a brief disclaimer of the Court of Appeals' suggestion (see 460 F.2d 945) that the mere presence of an agreement not to compete would lead to the opposite result. I am sure you have considered this in the drafting of the opinion and may intend that the first sentence on page 4 covers the situation.

Sincerely,

H. A. B.

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 2, 1973

No. 71-1647 FPC v. Seatrain Lines

Dear Thurgood:

Please join me.

Sincerely,

Lewin

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 4, 1973

Re: No. 71-1647 - FPC v. Seatrain Lines

Dear Thurgood:

Please join me.

Sincerely,

W.W.

Mr. Justice Marshall

Copies to the Conference