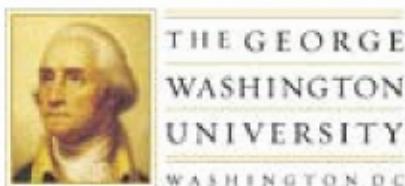


# The Burger Court Opinion Writing Database

*Moe v. Confederated Salish and Kootenai Tribes of Flathead Reservation*

425 U.S. 463 (1976)

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



Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

April 14, 1976

Re: (74-1656 - Moe v. Confederated Salish & Kootenai Tribes  
(75-50 - Confederated Salish & Kootenai Tribes v. Moe

Dear Bill:

I join your April 1 circulation.

Regards,

WB B

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

April 22, 1976

RE: Nos. 74-1656 & 75-50 Moe v. The Confederated Salish and Kootenai Tribes of the Flathead Reservation, et al.

Dear Bill:

I agree.

Sincerely,

*Bill*

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

April 5, 1976

Re: Nos. 74-1656 and 75-50  
Moe v. Salish & Kootenai Tribes

Dear Bill,

I am glad to join your opinion for  
the Court in these cases.

Sincerely yours,

P.S.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 9, 1976

Re: Nos. 74-1656 & 75-50 - Moe v. Confederated  
Salish and Kootenai Tribes

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Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 22, 1976

Re: Nos. 74-1656 and 75-50, Moe v. Salish &  
Kootenai Tribes

Dear Bill:

Please join me.

Sincerely,



T. M.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 8, 1976

Re: No. 74-1656 - Moe v. Confederated Salish and Kootenai  
Tribes of Flathead Reservation  
No. 75-50 - Confederated Salish and Kootenai Tribes of  
Flathead Reservation v. Moe

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Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 3, 1976

No. 74-1656 Moe v. Confederated Salish and  
Kootenai Tribes

No. 75-50 Confederated Salish and Kootenai  
Tribes v. Moe

Dear Bill:

Please join me.

Sincerely,

Mr. Justice Rehnquist  
CC: The Conference

*L. Lewis*

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Stevens

From: Mr. Justice Rehnquist

Circulated: 4/11/1976

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

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 74-1656 AND 75-50

John C. Moe, etc., et al.,)  
Appellants,

74-1656 *v.*

The Confederated Salish  
and Kootenai Tribes of  
the Flathead Reserva-  
tion et al.

The Confederated Salish  
and Kootenai Tribes of  
the Flathead Reserva-  
tion et al., Appellants,

75-50 *v.*

John C. Moe, etc., et al.

On Appeals from the United  
States District Court for  
the District of Montana.

[April —, 1976]

MR. JUSTICE REHNQUIST delivered the opinion of the  
Court.

We are called upon in these appeals to resolve several  
questions arising out of a conflict between the asserted  
taxing power of the State of Montana and the immunity  
claimed by the Confederated Salish and Kootenai Tribes  
(Tribe) and its members living on the tribal reservation.  
Convened as a three-judge court,<sup>1</sup> the District Court for  
the District of Montana considered separate attacks on  
the State's cigarette sales and personal property taxes as  
applied to reservation Indians. After finding that the  
suits were not barred by the prohibition of 28 U. S. C.

<sup>1</sup> See 28 U. S. C. § 2281.

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Stevens

From: Mr. Justice REHNQUIST

Circulated \_\_\_\_\_

Recirculated: APR 21 1976

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 74-1656 AND 75-50

John C. Moe, etc., et al.,  
Appellants,

74-1656 *v.*

The Confederated Salish  
and Kootenai Tribes of  
the Flathead Reserva-  
tion et al.

The Confederated Salish  
and Kootenai Tribes of  
the Flathead Reserva-  
tion et al., Appellants,

75-50 *v.*

John C. Moe, etc., et al.

On Appeals from the United  
States District Court for  
the District of Montana.

[April —, 1976]

MR. JUSTICE REHNQUIST delivered the opinion of the  
Court.

We are called upon in these appeals to resolve several questions arising out of a conflict between the asserted taxing power of the State of Montana and the immunity claimed by the Confederated Salish and Kootenai Tribes (Tribe) and its members living on the tribal reservation. Convened as a three-judge court,<sup>1</sup> the District Court for the District of Montana considered separate attacks on the State's cigarette sales and personal property taxes as applied to reservation Indians. After finding that the suits were not barred by the prohibition of 28 U. S. C.

<sup>1</sup> See 28 U. S. C. § 2281.

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

April 22, 1976

Re: Nos. 74-1656 and 75-50 - Moe v. The Confederated  
Salish and Kootenai Tribes, et al.

Dear Bill:

Thanks for your note of April 22nd regarding the suggested deletion of the reference to Zahn at the end of footnote 7 in the opinion. Perhaps a cite to Zahn without any "signal" would portend a possible answer to the questions discussed in your letter, but it seems to me that the way the citation is referenced now, "See e.g.," sufficiently diffuses the reference so as to make it perfectly consistent with other parts of the opinion. This far down the road I am not disposed to delete it.

Sincerely,

*Bill*

Mr. Justice Brennan

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

April 2, 1976

Re: 74-1656 and 75-50 - Moe v. The Confederated  
Salish and Kootenai Tribes, etc., et al.

Dear Bill:

Please join me.

Respectfully,



Mr. Justice Rehnquist

Copies to the Conference