

The Burger Court Opinion Writing Database

McCain v. Lybrand

465 U.S. 236 (1984)

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

February 1, 1984
RECEIVED
SUPREME COURT OF THE U.S.
JUSTICE DEPT. MAIL

Re: 82-282 McCain v. Lybrand

'84 JAN 33 A10 :07

Dear John:

I join.

Regards,



Justice Stevens

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

RECEIVED
SUPREME COURT U.S.
JUSTICE Wm. J. BRENNAN, JR. January 9, 1984

'84 JAN -9 P2:34

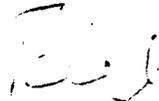
No. 82-282

McCain and Spencer, etc.
v. Charles E. Lybrand, et al.

Dear John,

I agree.

Sincerely,



Justice Stevens

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 10, 1984

Re: 82-282 - McCain and Spencer v. Lybrand

Dear John,

Please join me.

Sincerely yours,



Justice Stevens

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cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

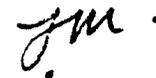
January 6, 1984

Re: No. 82-282-McCain and Spencer v. Lybrand

Dear John:

I await further writing.

Sincerely,


T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 23, 1984

Re: No. 82-282-McCain and Spencer v. Lybrand

Dear John:

Please join me.

Sincerely,



T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

RECEIVED
SUPREME COURT U.S.
JUSTICE HARRY A. BLACKMUN

January 11, 1984

'84 JAN 11 A9:56

Re: No. 82-282 - McCain & Spencer v. Lybrand

Dear John:

At the end of your opinion, will you please note me
as concurring in the result in this case.

Sincerely,



Justice Stevens

cc: The Conference

71AB

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 27, 1984

Re: No. 82-282 - McCain v. Lybrand

Dear John:

When your recirculation of January 20 arrived, I thought the addition on p. 21 was strange, indeed. I do not recall anything like this before.

Henry Lind tells me that either "concur in the result" or "concur in the judgment" is acceptable and has been used before but that "joins in the judgment" is something new. I shall go along with either of the former, but I have a mild preference for "concur in the result."

Sincerely,



Justice Stevens

cc: Justice Powell
Justice Rehnquist

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November 22, 1983

82-282 McCain v. Lybrand

Dear Bill:

This will confirm our talk that you will undertake the dissent in this case.

You have a good start on this in what you wrote last Term.

Sincerely,

Justice Rehnquist

lfp/ss

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 17, 1984

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SUPREME COURT U.S.
JUSTICE LEWIS F. POWELL

'84 JAN 18 A10:05

82-282 McCain v. Lybrand

Dear John:

As you will recall, I was a good deal less than enthusiastic about reviewing this case. This small county has had at large elections at least since 1966, and these were approved certainly in principle by the Attorney General when he considered the 1981 change.

But the case is here, and given the preclearance requirements of the Voting Rights Act, and our precedents, I think you have reached the correct result. I prefer not to join the decision, and therefore would appreciate your adding that: "Justice Powell joins in the judgment".

Sincerely,

Lewis

Justice Stevens

lfp/ss

cc: The Conference

January 27, 1984

82-282 McCain v. Lybrand

Dear John:

I have a preference for concurring in the "judgment", but do not object to "result".

Sincerely,

Justice Stevens

lfp/ss

cc: Justice Blackmun
Justice Rehnquist

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

RECEIVED
SUPREME COURT U.S.
JUSTICE STEVENS

January 9, 1984

'84 JAN -9 10:21

Re: No. 82-282 McCain & Spencer v. Lybrand

Dear John:

In due course I will circulate a dissent in this case.

Sincerely,

Wm

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 19, 1984

Re: No. 82-282 McCain v. Lybrand

Dear John:

I have given up the idea of writing in this case.
Please show me as concurring in the judgment.

Sincerely,



Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

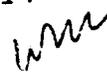
RECEIVED
SUPREME COURT U.S.
January 27 1984

Re: No. 82-282 McCain v. Lybrand '84 JAN 27 P3:26

Dear John:

Your comments about the various "concurrences in the result" at the end of your opinion for the Court in this case are apt. I would be happy to concur either "in the result" or "in the judgment," and hope that Harry, Lewis and I can all be shown the same way.

Sincerely,



Justice Stevens

cc: The Conference

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: **Justice Stevens**

Circulated: JAN 6 '84

Recirculated: _____

RECEIVED
SUPREME COURT U.S.
JUN 1984

'84 JAN -6 P2:09

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-282

THOMAS C. MCCAIN AND WILLIAM SPENCER, ETC.,
APPELLANTS *v.* CHARLES E. LYBRAND ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF SOUTH CAROLINA

[January —, 1984]

JUSTICE STEVENS delivered the opinion of the Court.

In 1966, South Carolina enacted a statute that altered Edgefield County's election practices but the statute was not submitted to federal officials for their approval as required by the Voting Rights Act of 1965.¹ In 1971, the statute was amended, modifying the 1966 election practices, and State officials submitted the amendment to the Attorney General for his approval. In response to a request from the Attorney General, State officials provided him with additional documentation in support of their submission, including the 1966 statute. The Attorney General approved the submission, stating that he did not object to the change in question. The question in this case is whether the Attorney General's approval of the 1971 submission can be deemed to have the effect of ratifying the changes embodied in the 1966 enactment. We hold that the 1966 changes have not been approved.

¹The Voting Rights Act of 1965 requires certain States and political subdivisions to submit all changes in election practices to a three-judge panel of the United States District Court for the District of Columbia or the Attorney General of the United States. Covered jurisdictions may not implement any new election practices until the three-judge panel enters a declaratory judgment approving the changes or the Attorney General accepts the changes by either explicitly stating he does not object to them or by failing to interpose an objection within a prescribed time period. See *post*, at — — —.

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✓ P.S.
David [unclear] [unclear]
M

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

B. 7, 12, 17, 20

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SUPREME COURT U.S.
JAN 13 1984

From: Justice Stevens

Circulated: _____

'84 JAN 13 9:53

Recirculated: JAN 12 11

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-282

THOMAS C. MCCAIN AND WILLIAM SPENCER, ETC.,
APPELLANTS v. CHARLES E. LYBRAND ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF SOUTH CAROLINA

[January —, 1984]

JUSTICE STEVENS delivered the opinion of the Court.

In 1966, South Carolina enacted a statute that altered Edgefield County's election practices but the statute was not submitted to federal officials for their approval as required by the Voting Rights Act of 1965.¹ In 1971, the statute was amended, modifying the 1966 election practices, and State officials submitted the amendment to the Attorney General for his approval. In response to a request from the Attorney General, State officials provided him with additional documentation in support of their submission, including the 1966 statute. The Attorney General approved the submission, stating that he did not object to the change in question. The question in this case is whether the Attorney General's approval of the 1971 submission can be deemed to have the effect of ratifying the changes embodied in the 1966 enactment. We hold that the 1966 changes have not been approved.

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To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: Justice Stevens

Circulated: _____

Recirculated: JAN 20 1984

~~175~~
Please join
7.21

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-282

THOMAS C. MCCAIN AND WILLIAM SPENCER, ETC.,
APPELLANTS *v.* CHARLES E. LYBRAND ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF SOUTH CAROLINA

[January —, 1984] .

JUSTICE STEVENS delivered the opinion of the Court.

In 1966, South Carolina enacted a statute that altered Edgefield County's election practices but the statute was not submitted to federal officials for their approval as required by the Voting Rights Act of 1965.¹ In 1971, the statute was amended, modifying the 1966 election practices, and State officials submitted the amendment to the Attorney General for his approval. In response to a request from the Attorney General, State officials provided him with additional documentation in support of their submission, including the 1966 statute. The Attorney General approved the submission, stating that he did not object to the change in question. The question in this case is whether the Attorney General's approval of the 1971 submission can be deemed to have the effect of ratifying the changes embodied in the 1966 enactment. We hold that the 1966 changes have not been approved.

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 25, 1984

Re: 82-282 - McCain v. Lybrand

Dear Harry, Lewis, and Bill:

Perhaps I have no standing to raise the question, but I wonder if you might not prefer to agree on one formulation for your respective concurrences in the result or the judgment. (The present circulating draft simply carries out what each of you literally request.)

Respectfully,



Justice Blackmun
Justice Powell
Justice Rehnquist

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 30, 1984

Re: 82-282 - McCain v. Lybrand

Dear Harry, Lewis and Bill:

I selected "concur in the judgment" since Lewis' preference for that form was unqualified, whereas Harry's preference for "concur in the result" was "mild."

Respectfully,



Justice Blackmun
Justice Powell
Justice Rehnquist

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

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STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 21

From: Justice Stevens

'84 JAN 30 P3:35

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-282

THOMAS C. MCCAIN AND WILLIAM SPENCER, ETC.,
APPELLANTS *v.* CHARLES E. LYBRAND ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF SOUTH CAROLINA

[January —, 1984]

JUSTICE STEVENS delivered the opinion of the Court.

In 1966, South Carolina enacted a statute that altered Edgefield County's election practices but the statute was not submitted to federal officials for their approval as required by the Voting Rights Act of 1965.¹ In 1971, the statute was amended, modifying the 1966 election practices, and State officials submitted the amendment to the Attorney General for his approval. In response to a request from the Attorney General, State officials provided him with additional documentation in support of their submission, including the 1966 statute. The Attorney General approved the submission, stating that he did not object to the change in question. The question in this case is whether the Attorney General's approval of the 1971 submission can be deemed to have the effect of ratifying the changes embodied in the 1966 enactment. We hold that the 1966 changes have not been approved.

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

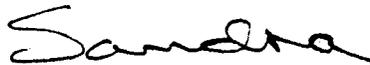
January 19, 1984

Re: No. 82-282 McCain and Spencer v. Lybrand

Dear John,

Please join me.

Sincerely,



Justice Stevens

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