

FILED

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JOHN F. DAVIS, CLERK

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**In The  
Supreme Court of the United States  
October Term, 1964**

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**No. 17 Original**

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STATE OF NEBRASKA, PLAINTIFF,

V.

STATE OF IOWA, DEFENDANT.

ROY M. HARROP, INTERVENOR.

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**MOTION BY ROY M. HARROP, INTERVENOR, FOR  
RECONSIDERATION OF THE PETITION OF  
INTERVENTION, DENIED BY THE COURT,  
ENTERED IN THE ABOVE ENTITLED  
CASE, NOVEMBER 16, 1964.**

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ROY M. HARROP, Atty.-At-Law  
1822 Emmet Street,  
Omaha, Nebraska 68110  
Member of the Bar, Supreme  
Court of the United States,  
State of Nebraska  
State of Iowa  
*Counsel for Intervenor*



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Comes now Roy M. Harrop, Intervenor, in the above entitled action (citizen of the United States and resident of the State of Nebraska,) and moves this Court for a re-hearing of the Order of this Court, entered in the case November 16, 1964, for the following reasons, and each separately, which were overlooked by the Court:

1. For the sole purpose of directing the attention of this Court to the fact that this intervenor requested permission from Justice Byron White to file this Motion for Leave to File Petition of Inter-

vention in support of Motion and Petition of Intervenor, which was granted by said Justice Byron White.

2. That this Intervenor did file said Motion and Petition of Intervention, consisting of 23 pages setting out statement of the Case by the Intervenor.

3. That the jurisdiction of the Supreme Court of the United States and individuals is exclusive and original in actions to construe property rights of citizens in a boundary compact between states, i.e. the Iowa-Nebraska Boundary Compact of 1943, ratified by the Congress of the United States, also ratified by the Nebraska Legislature, which provides: (Sec. 3) "Titles, mortgages and other liens good in Iowa shall be good in Nebraska as to any lands Iowa may cede to Nebraska and any pending suits or actions concerning said lands may be prosecuted to final judgment in Iowa and such judgment shall be accorded full force and effect in Nebraska. And is applicable in intervenor's case of Schroeder, Et Al., Case No. 18,376 of the District Court of Harrison County, Iowa, as shown by Appendix B—attached thereto and made a part thereof, that portion applicable and necessary thereto being the judgment and decree of the District Judge of Harrison County, Iowa, filed December 30, 1952, and is res adjudicata and Stare Decisis to the World.

4. That in intervenor's statement of the case on P. 5, Par. 2: "That the District Court of Washington County, Nebraska, under date of April 12, 1960, in Case No. 5648 . . . . . See p. 6, line 5: 'and said Court thereby committed prejudicial error and perpetrated a fraud invading intervenor's property rights when they took intervenor's land in violation of the Declaratory Judgment entered in Case No. 18,376 . . . . . and the Court denied full faith and credit under Section 3 of the Iowa-Ne-

braska Boundary Compact of 1943 . . . . . and in violation of Article 4, Section 1, also Article 14, Section 1 of the Constitution of the United States took the Intervenor's property without due process of law and denied the intervenor equal protection of the law, and also in violation of Title 28, U. S. C. 1738, Title 43 U.S.C., Sec. 751.752, by use of a fictitious, fraudulent, overlapping metes and bounds private survey, made by Stuart A. Smith, Surveyor for defendants Ned Tyson, Et. Al, which was super-imposed over the original government survey, contradicting and collaterally attacking the original government survey of Twp. 79 North, R. 45 West of the 5th P. M., Harrison County, Iowa; on lands owned by the Intervenor, Et Al., claiming the same to be Tax Lot 1 in Sec. 7, Twp. 19 North, R. 12, East of the 6th P. M., Intervenor alleges no such land exists within the territorial jurisdiction of the Nebraska courts in the State of Nebraska; and the Court committed prejudicial error in admitting this fictitious, fraudulent survey in evidence (over the objection of this intervenor) and we ask this Court to take judicial notice thereof and rule thereon (see P.7) on this matter which was overlooked by the Supreme Court of Nebraska in its opinion of June 3, 1963, and vacate and modify said decision in favor of this Intervenor; and intervenor alleges that this is sufficient to require a hearing on this matter, which has never been ruled on, as the Nebraska courts lacked jurisdiction over the subject matter and denied the intervenor equal protection of the laws and due process of law in violation of Article 14, Section 1 of the Constitution of the United States and denied full faith and credit to Section 3 of the Iowa-Nebraska Boundary Compact of 1943.'

5. Intervenor further alleges that he paid taxes on the land in question from 1938 to 1959 in Harrison County, Iowa, as shown by statement of the Harri-

son County, Iowa, Assessor, Walter Noble, and that the acreage of said land amounts to 1912 acres in Harrison County, Iowa; See also *Schroeder v. Freeland*, 188 Fed. 2d 517 (CCA 8th Dist. 1951) in which this Court held the land was not in Nebraska and reversed and dismissed said case and upheld the sovereignty of the State of Iowa, relating to Section 3 of the Iowa-Nebraska Boundary Compact of 1943; which was overlooked by the Nebraska Court in its Opinion of June 3, 1963.

The intervenor further shows to this court that a certificate of service of the Motion for Leave to File a Petition of Intervention was made by Walter A. Nielsen, one of the attorneys for the Intervenor, by depositing same in a United States Post Office, with first class postage prepaid, addressed to the following:

Hon. Harold E. Hughes, Governor of the  
State of Iowa, Defendant, State Capitol,  
Des Moines, Iowa;

Hon. Evan L. Hultman, Attorney General of the  
State of Iowa, Attorney for State of Iowa,  
Defendant, State Capitol, Des Moines, Iowa;

Hon. Frank B. Morrison, Governor of the State  
of Nebraska, Plaintiff, State Capitol Building  
Lincoln, Nebraska;

Hon. Clarence A. H. Meyer, Attorney General  
of Nebraska, Attorney for the State of Nebraska,  
Plaintiff, State Capitol Building,  
Lincoln, Nebraska.

THEREFORE, for the above reasons the Intervenor prays and urges that the Supreme Court of the United States, reconsider the Petition of Intervention filed herein and that the Order entered by this Court be

modified to permit the Intervenor to be heard in this case and that a special master be appointed and the Intervenor be permitted to take evidence to the extent deemed necessary and report to this Court as to whether the lands involved in the Intervenor's case referred to herein above, and were a part of the State of Iowa, were lands ceded to Nebraska under the Iowa-Nebraska Boundary Compact of 1943 and upon taking such report that the Court find that neither the State of Iowa or State of Nebraska acquired any adverse claim of ownership or title to such lands owned by this Intervenor in Harrison County, Iowa. And intervenor further shows to this Court that no objections or answer has ever been filed by State of Nebraska, Plaintiff, by Hon. Clarence A. H. Meyer, Attorney-General of State of Nebraska; or by State of Iowa, Defendant, by Hon. Evan L. Hultman, Attorney General of the State of Iowa, against the Intervenor's MOTION FOR LEAVE TO FILE PETITION OF INTERVENTION or the PETITION OF INTERVENTION filed in this case.

Respectfully Submitted,

By ROY M. HARROP  
Attorney for Intervenor

**CERTIFICATE OF COUNSEL**

Roy M. Harrop, one of the attorneys for the aforesaid Intervenor hereby respectfully certifies that the foregoing Motion for Reconsideration of the Petition of Intervention is submitted in good faith and believes it to be meritorious.

ROY M. HARROP  
One of the Attorneys for  
Intervenor

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**CERTIFICATE OF MAILING  
PROOF OF SERVICE**

I, Roy M. Harrop, one of the attorneys for Intervenor, hereby certify that on November 25, 1964, I served a copy of the foregoing MOTION BY ROY M. HARROP, Intervenor, FOR RECONSIDERATION OF THE PETITION OF INTERVENTION, by depositing same in the United States Post Office, Lincoln, Nebraska, with first class postage prepaid, addressed to:

Hon. Harold E. Hughes, Governor of the  
State of Iowa, Defendant, State Capitol,  
Des Moines, Iowa;

Hon. Evan L. Hultman, Attorney General of the  
State of Iowa, Attorney for State of Iowa,  
Defendant, State Capitol, Des Moines, Iowa;

Hon. Frank B. Morrison, Governor of the State  
of Nebraska, Plaintiff, State Capitol Building  
Lincoln, Nebraska.

Hon. Clarence A. H. Meyer, Attorney General  
of Nebraska, Attorney for the State of Nebraska,  
Plaintiff, State Capitol Building,  
Lincoln, Nebraska

such being their post office addresses.

ROY M. HARROP  
One of the Attorneys for  
Intervenor





