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JOHN F. DAVIS, CLERK

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

No. 17, Original

STATE OF NEBRASKA, PLAINTIFF,

V.

STATE OF IOWA, DEFENDANT.

ANSWER TO COUNTERCLAIM

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ANSWER TO COUNTERCLAIM

Comes now the plaintiff, the State of Nebraska, and for answer to the Counterclaim of defendant, State of Iowa, denies generally all matters pleaded in defendant's Amended Answer which are incorporated in the Counterclaim except as such allegations admit the allegations of the Complaint and Plaintiff further alleges in Answer to the Counterclaim:

I.

Plaintiff admits the allegations contained in Paragraph I of the Counterclaim.

II.

Plaintiff admits the allegations contained in Paragraph II of defendant's Counterclaim.

III.

Plaintiff admits the allegations contained in Paragraph III of defendant's Counterclaim except plaintiff denies that part which states "The dividing line between plaintiffs' and defendant Krimlofski's accretion lands was defined as the thread of a dried-up chute of the Missouri River, a chute which had been the main channel of the river until the U.S. Army Corps of Engineers caused it to move from the west side to the east side of the island in the late 1930's." The quoted sentence of the Counterclaim refers to parts of the opinion not a critical consideration in the proceedings and not determinative of the question of the location of the Iowa-Nebraska Boundary in the 1930's or prior thereto.

IV.

Plaintiff admits the allegations contained in paragraph IV of the Counterclaim.

V.

Plaintiff denies the allegations contained in paragraph V of the Counterclaim. Plaintiff is without present complete information as to the nature and extent of the evidence adduced in the two Krimlofski cases referred to. Plaintiff further alleges that the issues in those cases being different from the issues herein, the evidence in those cases is neither conclusive nor determinative. Plaintiff further specifically denies that the island referred to formed east of the main channel of the Missouri River, that the island remained east of the main channel until late in the 1930's, or that the chute between the island and the Nebraska bank was the main channel.

VI.

Plaintiff denies the allegations contained in Paragraph VI of the Counterclaim that any "boundary line" between the States of Iowa and Nebraska has ever been determined except in the area of Carter Lake, Iowa, and plaintiff admits the remaining allegations of Paragraph VI of the Counterclaim.

VII.

Plaintiff denies the allegations contained in Paragraph VII of the Counterclaim. As stated in Paragraph V hereinabove, plaintiff denies that the islands and accretions thereto referred to in the two Krimlofski cases formed within the State of Iowa or that the boundary line was in the channel west of the island. Plaintiff further denies that the island was owned by the State of Iowa before 1943 or that the lands are owned by the State of Iowa today. In this regard, plaintiff further alleges on information and belief that in the cases of *Burkett v. Krimlofski* and *Krimlofski v. Matters*, proper jurisdiction was obtained over any parties having or claiming any interest in the land involved including the State of Iowa. After the passage of ten years from the effective date of the Compact, the State of Iowa was subject to defeasance of any title or claim of title it may have had to lands within the jurisdiction of the State of Nebraska, as these lands were, according to defendant's admission.

VIII.

Plaintiff denies the allegations contained in Paragraph VIII of defendant's Counterclaim except as such allegations may constitute admissions of plaintiff's Complaint. The last sentence of such paragraph is contrary to defendant's Exhibit "F" and is also immaterial.

IX.

Plaintiff denies the allegations in paragraph IX of defendant's Counterclaim that the State of Nebraska violated the Compact of 1943 in the cases of *Burkett v. Krimlofski* and *Krimlofski v. Matters* and plaintiff denies the rest of the allegations of Paragraph IX for the reason that such allegations are not sufficiently definite to permit plaintiff to ascertain the truth or accuracy thereof.

X.

Plaintiff denies the allegation contained in paragraph X of defendant's Counterclaim for the reason that the decisions in the two cited cases are not contrary to the Constitution of the United States and for the further reason that plaintiff is unable to determine from the Counterclaim the "Public Acts, Records and Judicial Proceedings" to which the defendant has reference.

WHEREFORE, plaintiff, State of Nebraska, prays for dismissal of the Counterclaim and renews the Prayer of the original Complaint herein.

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Attorneys for Plaintiff.

PROOF OF SERVICE

I, Clarence A. H. Meyer, Attorney General of the State of Nebraska, and a member of the Bar of the Supreme Court of the United States, hereby certify that on February —, 1966, I served a copy of the foregoing Answer to Counterclaim by depositing same in a United States Post Office, with first class postage prepaid, addressed to:

HONORABLE HAROLD E. HUGHES,
Governor of the State of Iowa
State Capitol
Des Moines, Iowa

HONORABLE LAWRENCE F. SCALISE
Attorney General of the State of Iowa
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ROBERT B. SCISM
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Onawa, Iowa

such being their post office addresses.

Clarence A. H. Meyer
Attorney General
State of Nebraska
State Capitol Building
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