

# The Burger Court Opinion Writing Database

*Labine v. Vincent*

401 U.S. 532 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

RR  
JG  
CHAMBERS OF  
THE CHIEF JUSTICE

March 22, 1971

Re: No. 5257 - Labine v. Vincent

Dear Hugo:

Please join me in the above.

Regards,

WRB

Mr. Justice Black

cc: The Conference

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

2nd DRAFT

From: Black, J.

Circulated: FEB 9 1971

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

**SUPREME COURT OF THE UNITED STATES**

No. 5257.—OCTOBER TERM, 1970

Lou Bertha Labine, Natural  
Tutrix of Minor Child, Rita  
Nell Vincent, Petitioner,      } On Appeal From the  
    v.      Supreme Court of  
Simon Vincent, Administrator      } Louisiana.  
    of the Succession of Ezra  
    Vincent.

[February —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

In this appeal the guardian of an illegitimate minor child attacks the constitutionality of Louisiana's laws that bar an illegitimate child from sharing equally with legitimate children in the estate of their father who died without a will. To understand appellant's constitutional arguments and our decision, it is necessary briefly to review the facts giving rise to this dispute. On March 15, 1962, a baby girl, Rita Vincent, was born to Lou Bertha Patterson (now Lou Bertha LaBine) in Calcasieu Parish, Louisiana. On May 10, 1962, Lou Bertha Patterson and Ezra Vincent, as authorized by Louisiana law, jointly executed before a notary a Louisiana State Board of Health form acknowledging that Ezra Vincent was the "natural father" of Rita Vincent.<sup>1</sup> This public acknowledgement of parentage did not, under Louisiana law, give the child a legal right to share equally with legitimate children in the parent's estate but it did give her a right to claim support from her parent or their heirs.

<sup>1</sup> See Brief for Appellant, Appendix, p. 8.

*Major changes  
throughout*

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

## 5th DRAFT

From: Black, J.

Circulated:

MAR 11 1971

## SUPREME COURT OF THE UNITED STATES

No. 5257.—OCTOBER TERM, 1970

Recirculated:

Lou Bertha Labine, Natural  
Tutrix of Minor Child, Rita  
Nell Vincent, Appellant,  
v.  
Simon Vincent, Administrator  
of the Succession of Ezra  
Vincent.

On Appeal From the  
Supreme Court of  
Louisiana.

[March —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

In this appeal the guardian (tutrix) of an illegitimate minor child attacks the constitutionality of Louisiana's laws that bar an illegitimate child from sharing equally with legitimate children in the estate of their father who had publicly acknowledged the child, but who died without a will. To understand appellant's constitutional arguments and our decision, it is necessary briefly to review the facts giving rise to this dispute. On March 15, 1962, a baby girl, Rita Vincent, was born to Lou Bertha Patterson (now Lou Bertha LaBine) in Calcasieu Parish, Louisiana. On May 10, 1962, Lou Bertha Patterson and Ezra Vincent, as authorized by Louisiana law, jointly executed before a notary a Louisiana State Board of Health form acknowledging that Ezra Vincent was the "natural father" of Rita Vincent.<sup>1</sup> This public acknowledgement of parentage did not, under Louisiana law, give the child a legal right to share equally with legitimate children in the parent's estate but it did give her a right to claim support from her parents or their

<sup>1</sup> See Brief for Appellant, Appendix, p. 8.

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

• The other Justice  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

**NOTICE:** This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

From: Black, J.

Circulated:

MAR 26 1971

SUPREME COURT OF THE UNITED STATES.

No. 5257.—OCTOBER TERM, 1970

Lou Bertha Labine, Natural  
Tutrix of Minor Child, Rita  
Nell Vincent, Appellant,  
v.  
Simon Vincent, Administrator  
of the Succession of Ezra  
Vincent. } On Appeal From the  
Supreme Court of  
Louisiana.

[March 29, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

In this appeal the guardian (tutrix) of an illegitimate minor child attacks the constitutionality of Louisiana's laws that bar an illegitimate child from sharing equally with legitimates in the estate of their father who had publicly acknowledged the child, but who died without a will. To understand appellant's constitutional arguments and our decision, it is necessary briefly to review the facts giving rise to this dispute. On March 15, 1962, a baby girl, Rita Vincent, was born to Lou Bertha Patterson (now Lou Bertha LaBine) in Calcasieu Parish, Louisiana. On May 10, 1962, Lou Bertha Patterson and Ezra Vincent, as authorized by Louisiana law, jointly executed before a notary a Louisiana State Board of Health form acknowledging that Ezra Vincent was the "natural father" of Rita Vincent.<sup>1</sup> This public acknowledgement of parentage did not, under Louisiana law, give the child a legal right to share equally with legitimate children in the parent's estate but it did give her a right to claim support from her parents or their

<sup>1</sup> See Brief for Appellant, Appendix, p. 8.

February 9, 1971

Re: No. 6957 - Labine v. Vincent

Dear Hugo:

I agree with you.

Sincerely,

J. M. H.

Mr. Justice Black

CC: The Conference

SPJ: JV

March 15, 1971

Re: No. 5357 - Labine v. Vincent

Dear Hugo:

I agree with your resolution of March 11.

Sincerely,

J. M. H.

Mr. Justice Black

cc: The Conference

RE  
R. G. T. B.

B /

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas ✓  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

No. 5257.—OCTOBER TERM, 1970

Circulated: MAR 19 1971

Lou Bertha Labine, Natural  
Tutrix of Minor Child, Rita  
Nell Vincent, Petitioner, { On Appeal From the  
v. { Supreme Court of  
Simon Vincent, Administrator Louisiana.  
of the Succession of Ezra  
Vincent.

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

[March —, 1971]

MR. JUSTICE HARLAN, concurring.

In joining the opinion of the Court, I wish to add a few words, prompted, I may say, by the dissenting opinion, which in my view evinces extravagant notions of what constitutes a denial of "equal protection" in the constitutional sense.

It is surely entirely reasonable for Louisiana to provide that a man who has entered into a marital relationship undertakes obligations to the resulting offspring which he does not owe to those begotten of a casual liaison, whether or not he admits the fact of fatherhood in the latter case. With respect to a substantial portion of a man's estate, these greater obligations stemming from marriage are imposed by the provision of Louisiana law making a man's legitimate children his forced heirs. For the remainder of his estate, these obligations are not absolute, but are conditional upon his not disposing of his property in other ways. With all respect to my dissenting Brethren, I deem little short of frivolous the contention that the Equal Protection Clause prohibits recognition of marital obligations, in either the manda-

6/19/71

3rd DRAFT

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

**SUPREME COURT OF THE UNITED STATES**  
From: Harlan, J.

No. 5257.—OCTOBER TERM, 1970 Circulated:

Recirculated:

MAR 26 1971

Lou Bertha Labine, Natural  
Tutrix of Minor Child, Rita  
Nell Vincent, Petitioner,  
v.  
Simon Vincent, Administrator  
of the Succession of Ezra  
Vincent.

On Appeal From the  
Supreme Court of  
Louisiana.

[March —, 1971]

MR. JUSTICE HARLAN, concurring.

In joining the opinion of the Court, I wish to add a few words, prompted, I may say, by the dissenting opinion, which in my view evinces extravagant notions of what constitutes a denial of "equal protection" in the constitutional sense.

It is surely entirely reasonable for Louisiana to provide that a man who has entered into a marital relationship thereby undertakes obligations to any resulting offspring beyond those which he owes to the products of a casual liaison, and this whether or not he admits the fact of fatherhood in the latter case.\* With respect to a substantial portion of a man's estate, these greater obligations stemming from marriage are imposed by the provision of Louisiana law making a man's legitimate children

\*Louisiana law authorizes illegitimate children to claim support not only from both parents but from the parents' heirs. See p. 2, n. 2 *ante*. It thus goes considerably beyond the common law and statutes generally in force at the time the Fourteenth Amendment was adopted. These rarely did more than authorize public officials to bring an action directing the putative father to support a child who threatened to become a public charge. See 2 Kent's Commentaries \*215 and nn. (b) and (c) (12th ed. O. W. Holmes 1873).

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

February 16, 1971

RE: No. 5257 - Labine v. Vincent

Dear Hugo:

I am thinking of writing a dissent in  
the above case. I'll make up my mind  
shortly.

Sincerely,



W. J. B. Jr.

Mr. Justice Black

cc: The Conference

B

To: The Chief Justice  
Mr. Justice Black  
✓ Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 5257.—OCTOBER TERM, 1970

From: Brennan, J.

Circulated: 3/8/71

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

Lou Bertha Labine, Natural  
Tutrix of Minor Child, Rita  
Nell Vincent, Petitioner.  
v.  
Simon Vincent, Administrator  
of the Succession of Ezra  
Vincent.

On Appeal From the  
Supreme Court of  
Louisiana.

[March —, 1971]

MR. JUSTICE BRENNAN, dissenting.

In my view, Louisiana's intestate succession laws, insofar as they treat illegitimate children whose fathers have publicly acknowledged them differently from legitimate children, plainly violate the Equal Protection Clause of the Fourteenth Amendment. The Court today reaches a contrary conclusion by attempting to convert Louisiana's state-imposed discrimination against publicly acknowledged illegitimate children into a benign effort to further the wishes of dead men. That proposition is constructed, *first*, by erroneously stating Louisiana law; *second*, by overlooking the total absence of *any* legitimate *state* interest which might justify the discrimination involved, thus rendering this discrimination even more indefensible than that held unconstitutional in *Levy v. Louisiana*, 391 U. S. 68 (1968), and *Glona v. American Guarantee Co.*, 391 U. S. 73 (1968); and, *third*, by giving effect to the untenable and discredited moral prejudice of a century or more ago which presumed that even fathers who have publicly acknowledged their illegitimate children take out their guilt feelings upon their hapless offspring by punishing them through automatic disinheritance. I respectfully dissent.

1, 3, 5, 10

Please from me  
JH

3rd DRAFT

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

## SUPREME COURT OF THE UNITED STATES

From: Brennan, J.

No. 5257.—OCTOBER TERM, 1970

Circulated:

Recirculated: 3/9/71

Lou Bertha Labine, Natural  
Tutrix of Minor Child, Rita  
Nell Vincent, Petitioner,  
v.  
Simon Vincent, Administrator  
of the Succession of Ezra  
Vincent.

On Appeal From the  
Supreme Court of  
Louisiana.

[March —, 1971]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE WHITE join, dissenting.

In my view, Louisiana's intestate succession laws, insofar as they treat illegitimate children whose fathers have publicly acknowledged them differently from legitimate children, plainly violate the Equal Protection Clause of the Fourteenth Amendment. The Court today reaches a contrary conclusion by attempting to convert Louisiana's state-imposed discrimination against publicly acknowledged illegitimate children into a benign effort to further the wishes of dead men. That proposition is constructed, *first*, by erroneously stating Louisiana law; *second*, by overlooking the total absence of *any* legitimate *state* interest which might justify the discrimination involved, thus rendering this discrimination even more indefensible than that held unconstitutional in *Levy v. Louisiana*, 391 U. S. 68 (1968), and *Glona v. American Guarantee Co.*, 391 U. S. 73 (1968); and, *third*, by giving effect to the untenable and discredited moral prejudice of a century or more ago which presumed that even fathers who have publicly acknowledged their illegitimate children take out their guilt feelings

3

Revisions throughout.  
Major additions at  
1, 7-12, 16-17

5th DRAFT

To: The Chief Justice  
Mr. Justice Black  
 Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

## SUPREME COURT OF THE UNITED STATES

From: Brennan, J.  
No. 5257.—OCTOBER TERM, 1970

Circulated:

Recirculated: 3/17/71

Lou Bertha Labine, Natural Tutrix of Minor Child, Rita Nell Vincent, Appellant. v. Simon Vincent, Administrator of the Succession of Ezra Vincent.	On Appeal From the Supreme Court of Louisiana.
--	--

[March —, 1971]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL join, dissenting.

In my view, Louisiana's intestate succession laws, insofar as they treat illegitimate children whose fathers have publicly acknowledged them differently from legitimate children, plainly violate the Equal Protection Clause of the Fourteenth Amendment. The Court today effectively concedes this, and, to reach its result, resorts to the startling measure of simply excluding such illegitimate children from the protection of the Clause, in order to uphold the untenable and discredited moral prejudice of bygone centuries which vindictively punished not only the illegitimates' parents, but also the hapless, and innocent, children. Based upon such a premise, today's decision cannot even pretend to be a principled decision. This is surprising from Justices who have heretofore so vigorously decried decision-making rested upon personal predilections, to borrow the Court's words, of "life-tenured judges of this Court." *Ante*, p. 7. I respectfully dissent.

WF

11, 13-14

7th DRAFT

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

## SUPREME COURT OF THE UNITED STATES

No. 5257.—OCTOBER TERM, 1970

From: Brennan, J.

Circulated:

Lou Bertha Labine, Natural  
Tutrix of Minor Child, Rita  
Nell Vincent, Appellant,  
v.  
Simon Vincent, Administrator  
of the Succession of Ezra  
Vincent.

On Appeal From the  
Supreme Court of  
Louisiana.

Recirculated: 3/25/71

[March —, 1971]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL join, dissenting.

In my view, Louisiana's intestate succession laws, insofar as they treat illegitimate children whose fathers have publicly acknowledged them differently from legitimate children, plainly violate the Equal Protection Clause of the Fourteenth Amendment. The Court today effectively concedes this, and, to reach its result, resorts to the startling measure of simply excluding such illegitimate children from the protection of the Clause, in order to uphold the untenable and discredited moral prejudice of bygone centuries which vindictively punished not only the illegitimates' parents, but also the hapless, and innocent, children. Based upon such a premise, today's decision cannot even pretend to be a principled decision. This is surprising from Justices who have heretofore so vigorously decried decision-making rested upon personal predilections, to borrow the Court's words, of "life-tenured judges of this Court." *Ante*, p. 7. I respectfully dissent.

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

CHAMBERS OF  
JUSTICE POTTER STEWART

February 9, 1971

No. 5257 - Labine v. Vincent

Dear Hugo,

I am glad to join your opinion for  
the Court in this case.

Sincerely yours,

P.S.

Mr. Justice Black

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

March 9, 1971

Re: No. 5257 - Labine v. Vincent

Dear Bill:

Please join me in your  
excellent dissenting opinion in this  
case.

Sincerely,



Mr. Justice Brennan

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20549

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

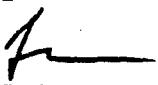
March 11, 1971

Re: No. 5257 - Labine v. Vincent

Dear Bill:

Please join me in your dissent.

Sincerely,

  
T.M.

Mr. Justice Brennan

cc: The Conference

February 12, 1971

Re: No. 5257 - Labissé v. Vincent

Dear Hugo:

I agree.

Sincerely,

H. A. B.

cc: Justice Black

cc: The Conference