

# The Burger Court Opinion Writing Database

*United States v. International Minerals & Chemical Corp.*

402 U.S. 558 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

CHAMBERS OF  
THE CHIEF JUSTICE

May 26, 1971

No. 557 -- United States v. International Minerals and  
Chemical Corporation

Dear Bill:

Please join me.

Regards,

*WRB*

Mr. Justice Douglas

cc: The Conference

(3)

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

CHAMBERS OF  
JUSTICE HUGO L. BLACK

May 13, 1971

Dear Bill,

Re: No. 557 - United States v. International  
Minerals & Chemical Corp.

I agree.

Sincerely,

  
Hugo  
Black

Mr. Justice Douglas

cc: Members of the Conference

WD

file  
cir.  
5/12/71

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 557.—OCTOBER TERM, 1970

United States, Appellant, *v.* International Minerals & Chemical Corp. Certified Appeal From the United States District Court for the Southern District of Ohio.

[May —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The information charged that respondent shipped sulfuric acid and hydrofluosilicic acid in interstate commerce and "did knowingly fail to show on the shipping papers the required classification of said property, to wit, Corrosive Liquid, in violation of 49 CFR 173.427."

18 U. S. C. § 834 (a) gives the Interstate Commerce Commission power to "formulate regulations for the safe transportation" of "corrosive liquids" and 18 U. S. C. § 834 (f) states that whoever "knowingly violates any such regulation" shall be fined or imprisoned.

Pursuant to the power granted by § 834 (a) the regulatory agency\* promulgated the regulation already cited which reads:

"The Interstate Commerce Commission shall formulate regulations for the safe transportation within the United States of explosives and other dangerous articles including . . . corrosive liquids . . . which shall be binding upon all carriers engaged in inter-

\*The regulatory authority originally granted the Interstate Commerce Commission was transferred to the Department of Transportation by 80 Stat. 939, 49 U. S. C. § 1655 (e).

3B  
WD

*John D. B.* ✓  
*R*

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

2nd DRAFT

From: Douglas, J.

## SUPREME COURT OF THE UNITED STATES

No. 557.—OCTOBER TERM, 1970

5/13/71

United States, Appellant, v. International Minerals & Chemical Corp. } Certified Appeal From the  
United States District Court for the Southern District of Ohio.

[May —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The information charged that appellee shipped sulfuric acid and hydrofluosilicic acid in interstate commerce and "did knowingly fail to show on the shipping papers the required classification of said property, to wit, Corrosive Liquid, in violation of 49 CFR 173.427."

18 U. S. C. § 834 (a) gives the Interstate Commerce Commission power to "formulate regulations for the safe transportation" of "corrosive liquids" and 18 U. S. C. § 834 (f) states that whoever "knowingly violates any such regulation" shall be fined or imprisoned.

Pursuant to the power granted by § 834 (a) the regulatory agency\* promulgated the regulation already cited which reads in part:

"Each shipper offering for transportation any hazardous material subject to the regulations in this chapter, shall describe that article on the shipping paper by the shipping name prescribed in § 172.5 of this

\*The regulatory authority originally granted the Interstate Commerce Commission was transferred to the Department of Transportation by 80 Stat. 939, 49 U. S. C. § 1655 (e).

20  
LJF  
4-6

4-6  
LJF

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

4-6

3rd DRAFT

From: Douglas, J.

SUPREME COURT OF THE UNITED STATES

No. 557.—OCTOBER TERM, 1970

Recirculated: 5-21

United States, Appellant,  
v.  
International Minerals & Chemical Corp. } Certified Appeal From the  
United States District Court for the Southern  
District of Ohio.

[May —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The information charged that appellee shipped sulfuric acid and hydrofluosilicic acid in interstate commerce and "did knowingly fail to show on the shipping papers the required classification of said property, to wit, Corrosive Liquid, in violation of 49 CFR 173.427."

18 U. S. C. § 834 (a) gives the Interstate Commerce Commission power to "formulate regulations for the safe transportation" of "corrosive liquids" and 18 U. S. C. § 834 (f) states that whoever "knowingly violates any such regulation" shall be fined or imprisoned.

Pursuant to the power granted by § 834 (a) the regulatory agency<sup>1</sup> promulgated the regulation already cited which reads in part:

"Each shipper offering for transportation any hazardous material subject to the regulations in this chapter, shall describe that article on the shipping paper by the shipping name prescribed in § 172.5 of this

<sup>1</sup> The regulatory authority originally granted the Interstate Commerce Commission was transferred to the Department of Transportation by 80 Stat. 939, 49 U. S. C. § 1655 (e).

May 10, 1971

Re: No. 857 - United States v. International  
Minerals

Dear Patten:

Please join me in your dissent.  
Sincerely,

J. M. H.

Mr. Justice Stevens

cc: The Conference

*✓ Sent to [unclear]*  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

May 19, 1971

RE: No. 557 - United States v. International  
Minerals, etc.

Dear Potter:

I voted the other way but your dissent  
has changed my mind. Won't you please  
join me.

Sincerely,

*W.J.B.*  
W. J. B. Jr.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

May 17, 1971

MEMORANDUM TO THE CONFERENCE

Re: No. 557 - United States v. Intl Minerals  
and Chemicals Corp.

Within the next couple of days I shall be  
circulating a dissenting opinion in this case.

P.S.

B  
1

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Stewart, J.

Circulated MAY 18 1971

No. 557.—OCTOBER TERM, 1970

Recirculated:

United States, Appellant, | Certified Appeal From the  
v. | United States District  
International Minerals & | Court for the Southern  
Chemical Corp. | District of Ohio.

[May —, 1971]

MR. JUSTICE STEWART, dissenting.

This case stirs large questions—questions that go to the moral foundations of the criminal law. Whether postulated as a problem of “mens rea,” of “willfulness,” of “criminal responsibility,” or of “scienter,” the infliction of criminal punishment upon the unaware has long troubled the fair administration of justice. See, e. g., *Morissette v. United States*, 342 U. S. 246; *Lambert v. California*, 355 U. S. 225; *Scales v. United States*, 367 U. S. 203. Cf. *Durham v. United States*, 214 F. 2d 862. But there is no occasion here for involvement with this root problem of criminal jurisprudence, for it is evident to me that Congress made punishable only knowing violations of the regulation in question. That is what the law quite clearly says, what the federal courts have held, and what the legislative history confirms.

The statutory language is hardly complex. Section 834 (a) of Title 18, U. S. C., gives the regulatory agency power “to formulate regulations for the safe transportation of,” among other things, “corrosive liquids.” Section 843 (f) provides that “[w]hoever knowingly violates any such regulation shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both.” In dismissing the information in this case because it did not charge the appellee shipper with knowing violation of

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

2nd DRAFT

From: Stewart, J.

Circulated:

Recirculated: MAY 25 1971

SUPREME COURT OF THE UNITED STATES

No. 557.—OCTOBER TERM, 1970

United States, Appellant, v. International Minerals & Chemical Corp. Certified Appeal From the United States District Court for the Southern District of Ohio.

[June —, 1971]

MR. JUSTICE STEWART, with whom MR. JUSTICE HARLAN and MR. JUSTICE BRENNAN join, dissenting.

This case stirs large questions—questions that go to the moral foundations of the criminal law. Whether postulated as a problem of “mens rea,” of “willfulness,” of “criminal responsibility,” or of “scienter,” the infliction of criminal punishment upon the unaware has long troubled the fair administration of justice. See, e. g., *Morissette v. United States*, 342 U. S. 246; *Lambert v. California*, 355 U. S. 225; *Scales v. United States*, 367 U. S. 203. Cf. *Durham v. United States*, 214 F. 2d 862. But there is no occasion here for involvement with this root problem of criminal jurisprudence, for it is evident to me that Congress made punishable only knowing violations of the regulation in question. That is what the law quite clearly says, what the federal courts have held, and what the legislative history confirms.

The statutory language is hardly complex. Section 834 (a) of Title 18, U. S. C., gives the regulatory agency power “to formulate regulations for the safe transportation of,” among other things, “corrosive liquids.” Section 843 (f) provides that “[w]hoever knowingly violates any such regulation shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both.” In dismissing the information in this case because it did not charge the appellee shipper with knowing violation of

May 18, 1971

Re: No. 557 - U.S. v. International  
Minerals & Chemical Corp.

Dear Bill:

Please join me.

Sincerely,

B.R.W.

Mr. Justice Rogers

cc: Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

May 17, 1971

Re: No. 557 - United States v. International Minerals

Dear Bill:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Douglas

cc: The Conference

May 13, 1971

*BR*  
*Q*

Re: No. 557 - U. S. v. International Minerals  
and Chemicals Corp.

Dear Bill:

**Please join me in your opinion.**

**Sincerely,**

**H. A. B.**

**Mr. Justice Douglas**

**cc: The Conference**