

# The Burger Court Opinion Writing Database

*United States v. Enmons*

410 U.S. 396 (1973)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



71-1193

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

CHAMBERS OF  
THE CHIEF JUSTICE

Harry

for fate!

Bill has done  
a really devastating job on the  
P.S. opinion on the Holt  
et case.

I am astonished it  
has not pulled W.J.B.  
and Byron over. I had  
asked W.H.Q. to do a dissent  
initially but Bill started in on  
his own & I'm glad he did. It's  
the best piece of work he's done this  
year. W.H.Q.

B  
My

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

CHAMBERS OF  
THE CHIEF JUSTICE

January 26, 1973

You joined 8/11/73

Re: No. 71-1193 - U. S. v. Enmons

Dear Bill:

Please join me in your dissent. I do not  
know how Congress could have made its intent clearer,  
not once but twice.

Regards,

LDG/B

Mr. Justice Douglas

Copies to the Conference

71-1193

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

CHAMBERS OF  
THE CHIEF JUSTICE

Dear Lewis  
Bravo!  
Try the same "medicine" on  
Emmons!  
Warren

B

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-1193

From: DOUGLAS, J.

Circulated: 1-17-73

United States, Appellant, } On Appeal from the United States District Court for Recirculated: \_\_\_\_\_  
v. \_\_\_\_\_  
Travis Paul Emmons et al. } the Eastern District of Louisiana.

[January —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

The Court today achieves by interpretation what those who were opposed to the Hobbs Act were unable to get Congress to do. The Court considers primarily the legislative history of a predecessor bill considered by the 78th Congress. The bill before us was considered and enacted by the 79th Congress; and, as I read the debates, the opposition lost in the 79th Congress what they win today. All of which makes pertinent Mr. Justice Holmes admonition in *Missouri K & T R. Co. v. May*, 196 U. S. 267, 270, that "it must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts."

In *United States v. Local 807*, 315 U. S. 521, we had before us the Anti-Racketeering Act of 1934, 48 Stat. 979, which made it a crime to use violence respecting interstate trade or commerce to obtain the "payment of money or other valuable considerations," excluding "the payment of wages by a bona fide employer to a bona fide employee." We held that the exception included demands for unwanted or superfluous services and covered those who wanted jobs, not only those who presently had them.

Congress in the Hobbs Act changed the law. The critical change was the exclusion of the employer-em-

3rd DRAFT

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

## SUPREME COURT OF THE UNITED STATES

No. 71-1193

From: Douglas, J.

Circulated:

United States, Appellant, } On Appeal from the United States District Court for  
v. { the Eastern District of Louisiana.  
Travis Paul Emmons et al. }

JAN 16 1973  
RECORDED

[January —, 1973]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST concur, dissenting.

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1, 2, 71  
3rd DRAFT

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

## SUPREME COURT OF THE UNITED STATES

No. 71-1193

From: Douglas, J.

United States, Appellant, v. Travis Paul Enmons et al. } On Appeal from the United States District Court for the Eastern District of Louisiana. Circulated: JAN 26 1973. Restricted:

[January —, 1973]

MR. JUSTICE DOUGLAS, with whom THE CHIEF JUSTICE, MR. JUSTICE POWELL, and MR. JUSTICE REHNQUIST concur, dissenting.

The Court today achieves by interpretation what those who were opposed to the Hobbs Act were unable to get Congress to do. The Court considers primarily the legislative history of a predecessor bill considered by the 78th Congress. The bill before us was considered and enacted by the 79th Congress; and, as I read the debates, the opposition lost in the 79th Congress what they win today. All of which makes pertinent Mr. Justice Holmes admonition in *Missouri K & T R. Co. v. May*, 196 U. S. 267, 270, that "it must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts."

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

December 11, 1972

MEMORANDUM TO THE CONFERENCE

RE: No. 71-1193 United States v. Enmons

This will confirm my assignment at Conference  
December 8 of the opinion in the above to Potter.

*Enil*  
W. J. B. Jr.

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

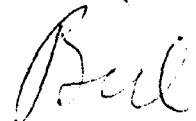
January 8, 1973

RE: No. 71-1193 - United States v. Enmons

Dear Potter:

I am happy to join your fine opinion in  
the above.

Sincerely,



Mr. Justice Stewart

cc: The Conference

3  
B  
To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

From: Stewart, J.

2nd DRAFT

Circulated: JAN 8 1973

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

## SUPREME COURT OF THE UNITED STATES

No. 71-1193

United States, Appellant, v. On Appeal from the United States District Court for the Eastern District of Louisiana.  
Travis Paul Enmons et al.

[January —, 1973]

MR. JUSTICE STEWART delivered the opinion of the Court.

A one-count indictment was returned in the United States District Court for the Eastern District of Louisiana charging the appellees with a violation of the Hobbs Act, 18 U. S. C. § 1951. In pertinent part, that Act provides:

"Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both."

"Extortion" is defined in the Act, as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear . . ." 18 U. S. C. § 1951 (b)(2).

At the time of the alleged conspiracy, the employees of the Gulf States Utilities Company were out on strike. The appellees are members and officials of labor unions that were seeking a new collective-bargaining agreement

9,15

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

3rd DRAFT

From: Stewart, J.

**SUPREME COURT OF THE UNITED STATES**

No. 71-1193

Recirculated: JAN 19 1973

United States, Appellant, } On Appeal from the United  
v. } States District Court for  
Travis Paul Enmons et al. } the Eastern District of  
Louisiana.

[January —, 1973]

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At the time of the alleged conspiracy, the employees of the Gulf States Utilities Company were out on strike. The appellees are members and officials of labor unions that were seeking a new collective-bargaining agreement

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

January 9, 1973

Re: No. 71-1193 - United States v. Enmons

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

January 9, 1973

Re: No. 71-1193 - U. S. v. Enmons

Dear Potter:

Please join me.

Sincerely,



T.M.

Mr. Justice Stewart

cc: Conference

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Powell  
Mr. Justice Rehnquist

## 1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 71-1193

Circulated: 4/18/73

Recirculated:

United States, Appellant, } On Appeal from the United  
v. { States District Court for  
Travis Paul Enmons et al. } the Eastern District of  
Louisiana.

[February —, 1973]

MR. JUSTICE BLACKMUN, concurring.

I join the Court's opinion. I readily concede that my visceral reaction to immaturely conceived acts of violence of the kind charged in this indictment is that such acts deserve to be dignified as federal crimes. That reaction on my part, however, is legislative in nature rather than judicial. If Congress wishes acts of that kind to be encompassed by a federal statute, it has the constitutional power in the interstate context to effect that result. The appellees so concede. Tr. of Oral Arg. 18-19. But MR. JUSTICE STEWART has gathered the pertinent and persuasive legislative history demonstrating that Congress did not intend to exercise its power to reach these acts of violence.

The Government's posture, with its concession that certain strike violence (which it would downgrade as "incidental" and the dissent as "low level," *post* 7 n. 17), although aimed at achieving a legitimate end, is not covered by the Act, necessarily means that the legislation would be enforced selectively or, at the least, would embroil all concerned with drawing the distinction between major and minor violence. That, for me, is neither an appealing prospect nor solid support for the position taken.

This type of violence, as the Court points out, is subject to state criminal prosecution. That is where it must remain until the Congress acts otherwise in a manner far more clear than the language of the Hobbs Act.

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

January 17, 1973

Re: No. 71-1193 UNITED STATES v. ENMONS

Dear Bill:

Please join me in your excellent dissenting opinion.

I was particularly impressed by your analysis of the legislative history.

Sincerely,



Mr. Justice Douglas

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 11, 1973

1193  
Re: No. 71-1371 - United States v. Enmons

Dear Potter:

The Chief has asked me to prepare a dissenting opinion on behalf of the dissenters in this case, and I shall undertake to do so with reasonable promptness.

Sincerely,

WM

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 17, 1973

Re: No. 71-1193 - United States v. Enmons

Dear Bill:

I find your dissent so persuasive that I have abandoned my previously expressed intention of writing myself, and ask to be joined in yours.

Sincerely, *W*

Mr. Justice Douglas

Copies to the Conference