

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

Jan 18
Late!

Harry

Bill has done
a really devastating job on the
P.S. opinion on the Hobbs
Act case.

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

W.S.B.

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

CHAMBERS OF
THE CHIEF JUSTICE

January 26, 1973

You joined 08/1/79
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,
WJD

Mr. Justice Douglas

Copies to the Conference

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U. S. DEPARTMENT OF CONGRESS

71-1193

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

CHAMBERS OF
THE CHIEF JUSTICE

Dear Lewis
Bravo!

Try the same "medicine" on
Enmons! *Warren*

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SSBPCNOC BU ADVBLL I N

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
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
v. } States District Court for
Travis Paul Enmons 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-

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

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 71-1193

Circulated:

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

JAN 10 1973

[January —, 1973]

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

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3 —
1, 2, 7
rejoined P.S.

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

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-1193

From: Douglas, J.

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

Circulated: _____
Recorded: **JAN 26 1973**

[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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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.

Bail
W. J. B. Jr.

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U.S. SUPREME COURT MANUSCRIPTS

5
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,

Bill

Mr. Justice Stewart

cc: The Conference

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U.S. DEPARTMENT OF JUSTICE

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

SUPREME COURT OF THE UNITED STATES

Recirculated: _____

No. 71-1193

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]

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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U.S. SUPREME COURT

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

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT MANUSCRIPTS

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: 1/18/73

Reocirculated:

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,

Lewis

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

Re: ¹¹⁹³
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

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U.S. DEPT. OF JUSTICE

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, 

Mr. Justice Douglas

Copies to the Conference

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SECRET NO. 100-447411-1