

The Burger Court Opinion Writing Database

Seatrail Shipbuilding Corp. v. Shell Oil Co.

444 U.S. 572 (1980)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

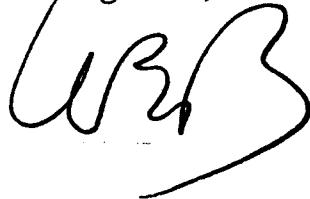
February 1, 1980

Re: 78-1651 - Seatrain Shipbuilding Corp. v. Shell Oil Co.

Dear Bill:

I join.

Regards,



Mr. Justice Brennan

Copies to the Conference

Re: The Chief Justice
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

From: Mr. Justice Brennan

Circulated: JAN 29 1980

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1651

Seatrain Shipbuilding Corporation
 et al., Petitioners,
 v.
 Shell Oil Company et al. } On Writ of Certiorari to
 } the United States Court
 } of Appeals for the Dis-
 } trict of Columbia Cir-
 } circuit.

[February —, 1980]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

In 1972 petitioner Seatrain Shipbuilding Corporation (Seatrain) received a construction-differential subsidy (CDS) of \$27.2 million pursuant to Title V of the Merchant Marine Act, 1936, 46 U. S. C. § 1151 *et seq.*, to construct the 225,000-deadweight-ton supertanker *Stuyvesant*. As required by Section 506 of the Act, 46 U. S. C. § 1156, Seatrain and its affiliate, petitioner Polk Tanker Corporation, the initial owner of the *Stuyvesant*, agreed to operate the supertanker exclusively in the foreign trade except as otherwise authorized in that section. By the time the vessel was completed in 1977, however, petitioners wanted to operate it in the domestic trade. Accordingly, they asked the Secretary of Commerce permanently to lift all restrictions on the *Stuyvesant*'s operation in domestic commerce in exchange for their fully secured, 20-year interest bearing note repaying in full the vessel's CDS. The Secretary granted the application, accepted the promissory note, and deleted the applicable restrictions from the CDS contract. The primary question for decision is whether the Secretary of Commerce may terminate the restrictions imposed pursuant to § 506 when the owners of a vessel constructed with a CDS repay that subsidy in full. The District Court for the District of Columbia concluded that the Secretary had such

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

January 31, 1980

RE: No. 78-1651 - Seatrain Shipbuilding Corporation
v. Shell Oil Company

Dear Byron:

Thank you for your join in this case. I will change the word "domestic" in the phrase to which you refer on page 16 to "unsubsidized." This will eliminate any misleading implication. Although I doubt as a practical matter that the owner of a vessel which has repaid its subsidy would ever engage in foreign trade (unless he enjoys losing money), you are certainly right that the law would not forbid him from doing so.

Thanks for catching it.

Sincerely,



Mr. Justice White

REPLACEMENT CHANGES

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

From: Mr. Justice Brennan

Circulated: _____

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1651

Seatrail Shipbuilding Corporation
et al., Petitioners,
v.
Shell Oil Company et al.

On Writ of Certiorari to
the United States Court
of Appeals for the Dis-
trict of Columbia Cir-
cuit.

[February —, 1980]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

In 1972 petitioner Seatrail Shipbuilding Corporation (Seatrail) received a construction-differential subsidy (CDS) of \$27.2 million pursuant to Title V of the Merchant Marine Act, 1936, 46 U. S. C. § 1151 *et seq.*, to construct the 225,000-deadweight-ton supertanker *Stuyvesant*. As required by Section 506 of the Act, 46 U. S. C. § 1156, Seatrail and its affiliate, petitioner Polk Tanker Corporation, the initial owner of the *Stuyvesant*, agreed to operate the supertanker exclusively in the foreign trade except as otherwise authorized in that section. By the time the vessel was completed in 1977, however, petitioners wanted to operate it in the domestic trade. Accordingly, they asked the Secretary of Commerce permanently to lift all restrictions on the *Stuyvesant*'s operation in domestic commerce in exchange for their fully secured, 20-year interest bearing note repaying in full the vessel's CDS. The Secretary granted the application, accepted the promissory note, and deleted the applicable restrictions from the CDS contract. The primary question for decision is whether the Secretary of Commerce may terminate the restrictions imposed pursuant to § 506 when the owners of a vessel constructed with a CDS repay that subsidy in full. The District Court for the District of Columbia concluded that the Secretary had such

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Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

January 30, 1980

Re: 78-1651 - Seatrail Shipbuilding Corp. v. Shell Oil Co.

Dear Bill:

At our Conference discussion of this case, I expressed considerable doubt as to the question of appellate jurisdiction. While this doubt lingers, I think you have dealt admirably with the issue in Part II of your proposed opinion of the Court. Accordingly, since I agree with your convincing disposition of the merits of the case, I shall join your opinion unless somebody else writes in dissent on the issue of appellate jurisdiction.

Sincerely yours,

P. S.

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 30, 1980

Re: 78-1651 - Seatrail Shipbuilding
Corporation, et al, v.
Shell Oil Company, et al.

Dear Bill,

Please join me.

Sincerely yours,



Mr. Justice Brennan

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

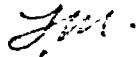
January 30, 1980

Re: No. 78-1651 - Seatrain Shipbuilding Corp.
v. Shell Oil Co.

Dear Bill:

Please join me.

Sincerely,



T.M.

Mr. Justice Brennan

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20542

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 6, 1980

Re: No. 78-1651 - Seatrain Shipbuilding Corp.
v. Shell Oil Co.

Dear Bill:

Please join me.

Sincerely,

Harry

—

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 31, 1980

No. 78-1651 Seatrail Shipbuilding Corp. v. Shell Oil Co.

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Brennan

Copies to the Conference

LFP/lab

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 1, 1980

Re: No. 78-1651 - Seatrain Shipbuilding Corp. v.
Shell Oil Co.

Dear Bill:

I was the second of your colleagues, in addition to Potter, who expressed doubt as to the question of appellate jurisdiction in this case. Like Potter, I think the question is a close call, but I think you have treated it well and consistently with prior precedents. I therefore join.

Sincerely,

WB

Mr. Justice Brennan

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

February 5, 1980

Re: 78-1651 - Seatrain v. Shell Oil

Dear Bill:

Please join me.

Respectfully,



Mr. Justice Brennan

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