

The Burger Court Opinion Writing Database

NLRB v. Amax Coal Co.

453 U.S. 322 (1981)

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

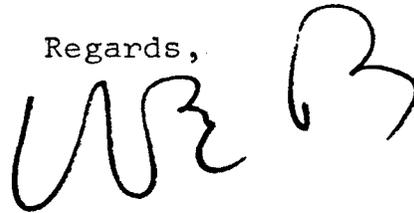
June 9, 1981

(80-289 - UMW v. NLRB
(
(80-692 - Amaz Coal Co. v. NLRB

Dear Potter:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'W. Stewart', with a large, stylized 'B' or '3' written to the right of the signature.

Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 28, 1981

RE: Nos. 80-289 and 692 UMW & Amax Coal Co. v. N.L.R.B.

Dear Potter:

I agree.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Justice Stewart

cc: The Conference

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

From: Mr. Justice Stewart
26 MAY 1981

Circulated: _____

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-289 AND 80-692

United Mine Workers of America,
Local No. 1854, et al.,
Petitioners,
80-289 v.
National Labor Relations Board
et al.
National Labor Relations Board,
Petitioner,
80-692 v.
Amax Coal Company, A Division
of Amax, Inc., et al.

On Writs of Certiorari to
the United States Court
of Appeals for the
Third Circuit,

[June — , 1981]

JUSTICE STEWART delivered the opinion of the Court.

This case concerns the relationship between two important provisions of the Labor-Management Relations Act of 1947.¹ Section 8 (b)(1)(B) of the Act makes it an unfair labor practice for a union "to restrain or coerce . . . an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances" ² Section 302 (c)(5) of the Act permits employers and unions to create employer-financed trust funds for the benefit of employees, so long as employees and employers are equally represented by the trustees of the funds.³ The question at issue is whether the employer-selected trustees of a trust fund cre-

¹29 U. S. C. § 141 *et seq.*

²29 U. S. C. § 158 (b)(1)(B).

³29 U. S. C. § 186 (c)(5).

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 28, 1981

Re: 80-289 and 80-692 - United Mine
Workers of America, Local No. 1854
v. NLRB, etc.

Dear Potter,

Please join me.

Sincerely yours,



Justice Stewart

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 28, 1981

Re: Nos. 80-289 and 692 - United Mine Workers v.
NLRB

Dear Potter:

Please join me.

Sincerely,



T.M.

Justice Stewart

cc: The Conference

May 29, 1981

Re: No. 80-289) UMW, Local No. 1854 v. NLRB
No. 80-692) NLRB v. Amax Coal Comapny

Dear Potter:

I am presumptuous in writing this, but I have a suggestion for your consideration.

The clerk, understandably, is wedded to the thought that, in a "double-header" situation, the lower number should always be listed first. On occasion, I have found this confusing, and I have been able to persuade the Clerk and the Reporter to reverse the numbers when such a reversal is indicated.

In the printed draft, the running head is taken from No. 80-289 and superficially it looks as though the the UMW and the NLRB are at odds. Actually, the real controversy we are deciding is between the NLRB (and the Union) and Amax. Would it make any sense to use No. 80-692 as the principal case and let No. 80-289 be relegated to the customary footnote on the first page of the syllabus?

This, of course, is a matter entirely for your decision.

Sincerely,

HAB

*As a piece
29 May 81*

Mr. Justice Stewart

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 29, 1981

Re: No. 80-289) UMW, Local No. 1854 v. NLRB
No. 80-692) NLRB v. Amax Coal Comapny

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 27, 1981

80-289 and 80-692 United Mine Workers v. NLRB

Dear Potter:

Please join me.

Sincerely,

A handwritten signature in cursive script that reads "Lewis". The signature is written in dark ink and is positioned to the right of the typed name "Mr. Justice Stewart".

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

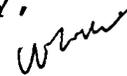
May 27, 1981

Re: Nos. 80-289 & 80-692 United Mine Workers of
America, Local No. 1854 v. NLRB

Dear Potter:

Please join me in your opinion of the Court.

Sincerely,



Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 28, 1981

Re: 80-289 & 80-692 - United Mine Workers,
Local 1854 v. NLRB

Dear Potter:

In due course, I will circulate a dissenting
opinion.

Respectfully,



Justice Stewart

Copies to the Conference

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

From: Mr. Justice Stevens

Circulated: JUN 23 '81

Recirculated: _____

80-289 - United Mine Workers of America, Local No. 1854 v. NLRB;

80-692 - NLRB v. Amax Coal Co.

JUSTICE STEVENS, dissenting.

The key to this case, in my judgment, is the distinction between the process by which a person is appointed to office and the manner in which he performs that office after he has been appointed. Congress has provided that labor and management shall each appoint the same number of representatives to serve as trustees of jointly-administered employee pension and welfare funds.¹ Giving each side of the bargaining table exclusive

¹ Section 302(a) of the Labor-Management Relations Act of 1947 generally prohibits payments by employers to representatives of their employees. 29 U.S.C. § 186(a). Section 302(c) (5) creates an exception to this general prohibition for payments to certain trust funds established for the sole benefit of employees. 29 U.S.C. § 186(c) (5). The statute contains detailed requirements that trust funds must satisfy to qualify for the exception:

"The provisions of this section shall not be applicable ... with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): Provided, That (A) such payments are

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

From: Mr. Justice Stevens

Circulated: _____

Recirculated: JUN 26 '81

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-692 AND 80-289

National Labor Relations Board,
 Petitioner,
 80-692 v.
 Amax Coal Company, A Division
 of Amax, Inc., et al.
 United Mine Workers of America,
 Local No. 1854, et al.,
 Petitioners,
 80-289 v.
 National Labor Relations Board
 et al.

On Writs of Certiorari to
 the United States Court
 of Appeals for the
 Third Circuit.

[June —, 1981]

JUSTICE STEVENS, dissenting.

The key to this case, in my judgment, is the distinction between the process by which a person is appointed to office and the manner in which he performs that office after he has been appointed. Congress has provided that labor and management shall each appoint the same number of representatives to serve as trustees of jointly-administered employee pension and welfare funds.¹ Giving each side of the bar-

¹Section 302 (a) of the Labor-Management Relations Act of 1947 generally prohibits payments by employers to representatives of their employees. 29 U. S. C. § 186 (a). Section 302 (c) (5) creates an exception to this general prohibition for payments to certain trust funds established for the sole benefit of employees. 29 U. S. C. § 186 (c) (5). The statute contains detailed requirements that trust funds must satisfy to qualify for the exception:

"The provisions of this section shall not be applicable . . . with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such