

SUPREME COURT OF THE UNITED STATES

No. 91-119

WISCONSIN DEPARTMENT OF REVENUE, PETITIONER
v. WILLIAM WRIGLEY,
JR., CO.

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF WISCONSIN
[June 19, 1992]

JUSTICE O'CONNOR, concurring in Parts I and II, and concurring in the judgment.

I join sections I and II of the Court's opinion. I do not agree, however, that the replacement of stale gum served an independent business function. The replacement of stale gum by the sales representatives was part of ensuring the product was available to the public in a form that may be purchased. Making sure that one's product is available and properly displayed serves no independent business function apart from requesting purchases; one cannot offer a product for sale if it is not available. I agree, however, that the storage of gum in the State and the use of agency stock checks were not ancillary to solicitation and were not *de minimis*. On that basis, I would hold that Wrigley's income is subject to taxation by Wisconsin.