DOWNLOAD PDF THE BUSINESS AND HABITS OF THE SUPREME COURT

Chapter 1 : The Supreme Court and Business - SCOTUSblog

*The Business of the Supreme Court: A Study in the Federal Judicial System (Library of Liberal Thought) [Felix Frankfurter, James M. Landis, Richard G. Stevens] on racedaydvl.com *FREE* shipping on qualifying offers.*

Conventional wisdom holds that the Supreme Court, and especially the Roberts Court, has been sympathetic to business interests. Yes, certain rulings favoring business interests that split acquire a high profile Ledbetter v. Goodyear, Citizens United, Walmart v. Dukes , but others go the other way Wyeth v. Levine , and still others particularly antitrust and telecom cases feature businesses on both sides. If this is a pro-business Court, or at least if the conservative majority is hell-bent on serving corporate masters, it has an odd way of showing it. But the falsity of the claim is beside the point, for three basic reasons: This may well be true, but the claim is extremely difficult to validate empirically. First, it fails to account for the varying significance of the different decisions. Second, it fails to control for the nature of the questions presented. The pool of cases the Court ultimately decides may well be biased. And doing uncovers some interesting facts. During the Obama administration, the Chamber of Commerce and the federal government have clashed more frequently than during the Bush administration. And perhaps as a result, the interests of business have gained at the Court relative to the Solicitor General. And what are the numbers? Constitutional Accountability Center has put together several empirical studies addressing this very question, using the success of the U. Chamber of Commerce before the Court as a proxy for business. Moreover, in close cases those decided by a five-Justice majority the Court has become more divided than ever. Chief Justice Roberts expressed when he joined the Court that his goal was to make the Court less divisive. One pattern that suggests a pro-business edge is the limiting of access to the court system by plaintiffs. This trend has been reflected in decisions such as Ashcroft v. Iqbal and its precursor, Twombly , Wal-Mart v. All of these decisions were sharply divided and warrant sharp criticism. Instead, each suffers from its own kind of overreaching and all are highly contestable legal decisions. In earlier decisions like Swierkiewicz v. Like Iqbal, the Wal-Mart decision will make it less likely that plaintiffs will be able to challenge misconduct by businesses. If claims cannot be pursued through class litigation, some are unlikely to be pursued at all. In many situations, the low value of the individual claim weighed against the risk of pursuing that claim as a lone plaintiff will lead a person actually injured by misconduct to conclude that seeking redress is not worth it. Class actions have provided an important vehicle for fair and efficient resolution of alleged systematic injuries of this sort â€” the kinds that large businesses may cause. As with the Iqbal decision, this part of Wal-Mart imported novel requirements into a procedural rule and thus essentially re-wrote that rule. Concepcion also limited the availability of collective resolution of claims, this time in the context of arbitration. Concepcion is also part of the large number of recent cases in which the Court has expanded the ability of companies to require arbitration of claims, thus moving much dispute resolution out of the court system entirely. With these and other decisions, the Court is gradually decreasing access to the legal system as a forum for seeking redress of injuries. It is this kind of decisional pattern that gives the Roberts Court its pro-business reputation â€” not a tally of decisions by which party won or lost. Please login or register to participate in the discussion Featured Posts.

Chapter 2 : How Business Fares in the Supreme Court â€“ Minnesota Law Review

Chapter 1 examines the Court as a governmental and political institution devoting attention to the Court's business and habits, i.e., the processes by which the Court receives bankruptcy cases and decides them and the rules it promulgates to regulate bankruptcy courts and practice.

Photo Gallery The outpouring of millions of ballots for the Democratic ticket reflected the enormous admiration for what FDR had achieved in less than four years. Farmers were grateful for government subsidies dispensed by the newly created Agricultural Adjustment Administration AAA. Over the ensuing three years, the cavalcade of alphabet agencies had continued: In a second burst of legislation in , Roosevelt had introduced the welfare state to the nation with the Social Security Act, legislating old-age pensions and unemployment insurance. In the spring of , a fifth justice, Hoover-appointee Owen Robertsâ€”at 60 the youngest man on the Supreme Courtâ€”began casting his swing vote with them to create a conservative majority. Little more than seven months later, in a 6 to 3 ruling, it annihilated his farm program by determining that the Agricultural Adjustment Act was unconstitutional. These decisions drew biting criticism, from inside and outside the court. Fury at the court intensified when, in its final action of the term, it handed down a decision in the Tipaldo case. Until that point, defenders of the court had contended that the justices were not opposed to social legislation; the jurists merely wanted such laws to be enacted by the states, not the federal government. But early in June , the court, by 5 to 4, struck down a New York state law providing a minimum wage for women and child workers. Laundry owner Joe Tipaldo, said the court, could continue to exploit female workers in his Brooklyn sweatshop; the state was powerless to stop him. That ruling, the historian Alpheus T. President, they mean to destroy us. We will have to find a way to get rid of the present membership of the Supreme Court. These explorations proceeded stealthily; the president never mentioned the court during his campaign for reelection. Roosevelt, however, had concluded that he could not avoid a confrontation with the court; it had already torpedoed the two principal recovery projects of his first term. Legal analysts anticipated that the court would strike down both laws. Roosevelt surmised that he would be unable to take advantage of his landslide to sponsor new measures, such as a wagesand- hours law, because that legislation, too, would be invalidated. In the days following the election, FDR and Cummings put the final touches on an audacious plan to reconfigure the court. Dissents by Stone and other justices, notably Louis Brandeis and Benjamin Cardozo, persuaded Roosevelt that he need not undertake the arduous route of a constitutional amendment, for it was not the Constitution that required changing but the composition of the bench. Naming a few more judges like Stone, the president believed, would do the trick. FDR recognized, though, that a direct assault on the court must be avoided; he could not simply assert that he wanted judges who would do his bidding. Six of the justices were 70 or older; a scurrilous book on the court, The Nine Old Men, by Drew Pearson and Robert Allen, was rapidly moving up the bestseller lists. But Roosevelt kept Congressional leaders, his cabinet save for Cummings and the American people in the dark, deceiving even the shrewdest experts. He asked Congress to empower him to appoint an additional justice for any member of the court over age 70 who did not retire. He sought to name as many as six additional Supreme Court justices, as well as up to 44 judges to the lower federal courts. Aconstant and systematic addition of younger blood will vitalize the courts. It also triggered the most intense debate about constitutional issues since the earliest weeks of the Republic. For days, the country was mesmerized by the controversy, which dominated newspaper headlines, radio broadcasts and newsreels, and spurred countless rallies in towns from New England to the PacificCoast. Members of Congress were so deluged by mail that they could not read most of it, let alone respond. Both sides believed the future of the country was at stake. If Roosevelt lost, his supporters countered, a few judges appointed for life would be able to ignore the popular will, destroy programs vital to the welfare of the people, and deny to the president and Congress the powers exercised by every other government in the world. Despite widely publicized expressions of hostility, political pundits expected the legislation to be enacted. Roosevelt had high expectations, too, for the House of Representatives, where Democrats held a 4 to 1 advantage. That argument, however, was more subtle and harder to explain to the public. They saw it as a

ruse to conceal his real, and in their eyes, nefarious objective, and as a display of gross disrespect for the elderly. One critic wrote in a letter to the Washington Post: Can you calculate the loss to the world if such as these had been compelled to retire at 70? One is to take them out and shoot them, as they are reported to do in at least one other country. The other way is more genteel, but no less effective. They are kept on the public payroll but their votes are canceled. In a letter read by the Montana Democratic senator Burton K. The court, however, would spring some surprises of its own. Parrish, it validated a minimum wage law from the state of Washington, a statute essentially no different from the New York state act it had struck down only months before. As a result, a hotel in Wenatchee, Washington, would be required to pay back wages to Elsie Parrish, a chambermaid. Two weeks later, in several 5 to 4 rulings, the court sustained the National Labor Relations Act. A tribunal that in had held that coal mining, although conducted in many states, did not constitute interstate commerce, now gave so broad a reading to the Constitution that it accepted intervention by the federal government in the labor practices of a single Virginia clothing factory. On May 24, the court that in had declared that Congress, in enacting a pension law, had exceeded its powers, found the Social Security statute constitutional. This set of decisions came about because one justice, Owen Roberts, switched his vote. Ever since, historians have argued about why he did so. Since there is no archival evidence to account for his abrupt change on the minimum wage cases, scholars have been reduced to speculation. Perhaps he was affected by the biting criticism from within the legal community. It is even harder to account for why Roberts, in his subsequent votes in the Wagner Act and Social Security cases, supported such a vast extension of federal powerâ€”but the pressure exerted by the court-packing bill may very likely have been influential. The president could rejoice that his program might now be safe, as indeed it was. Never again would the court strike down a New Deal law. Why, senators asked, continue the fight after the court was rendering the kinds of decisions the president had been hoping for? Washingtonians regaled one another with a reworking of an old proverb that speedily made the rounds of movers and shakers: The defeat of the bill meant that the institutional integrity of the United States Supreme Court had been preservedâ€”its size had not been manipulated for political or ideological ends. On the other hand, Roosevelt claimed that though he had lost the battle, he had won the war. And in an important sense he had: The day contest also has bequeathed some salutary lessons. It instructs presidents to think twice before tampering with the Supreme Court. At the same time, it teaches the justices that if they unreasonably impede the functioning of the democratic branches, they may precipitate a crisis with unpredictable consequences.

Chapter 3 : The US Supreme Court: Who are the justices? - BBC News

Studies have shown that the court, led by Chief Justice John G. Roberts Jr., is the most business-friendly court in nearly a century, and the cases decided this term only buttress that finding. Of.

Danforth was to be instrumental in championing Thomas for the Supreme Court. In , he joined the Reagan administration. As Chairman, he promoted a doctrine of self-reliance, and halted the usual EEOC approach of filing class-action discrimination lawsuits, instead pursuing acts of individual discrimination. He developed warm relationships during his 19 months on the federal court, including with fellow federal judge Ruth Bader Ginsburg. Ultimately, after consulting with his advisors, Bush decided to hold off on nominating Thomas, and nominated Judge David Souter of the First Circuit instead. Marshall had been the only African-American justice on the court. Both liberal interest groups and Republicans in the White House and Senate approached the nomination as a political campaign. She testified that Thomas had subjected her to comments of a sexual nature, which she felt constituted sexual harassment or at least "behavior that is unbefitting an individual who will be a member of the Court. This is a circus. You will be lynched, destroyed, caricatured by a committee of the U. Senate rather than hung from a tree. However, she said she did not feel his behavior was intimidating nor did she feel sexually harassed, though she allowed that "[s]ome other women might have". Nancy Altman, who shared an office with Thomas at the Department of Education, testified that she heard virtually everything Thomas said over the course of two years, and never heard any sexist or offensive comment. Altman did not find it credible that Thomas could have engaged in the conduct alleged by Hill without any of the dozens of women he worked with noticing it. Simpson questioned why Hill met, dined with, and spoke by phone with Thomas on various occasions after they no longer worked together. Thomas was confirmed by a 52â€”48 vote on October 15, , the narrowest margin for approval in more than a century. He said in There are a number of explanations for this phenomenon. The first is grounded in race and ethnicity. The fact that Justice Thomas is black has undoubtedly played a similar role in how he has been assessed, no matter how much we may hate to admit it. Stare decisis in the U. Fantasy , U. Lopez and United States v. Morrison , the court held that Congress lacked power under the Commerce Clause to regulate non-commercial activities. In these cases, Thomas wrote a separate concurring opinion arguing for the original meaning of the Commerce Clause. Subsequently, in Gonzales v. Raich , the court interpreted the Interstate Commerce Clause combined with the Necessary and Proper Clause to empower the federal government to arrest, prosecute , and imprison patients who used marijuana grown at home for medicinal purposes, even where the activity is legal in that particular state. Thomas dissented in Raich, again arguing for the original meaning of the Commerce Clause. That doctrine bars state commercial regulation even if Congress has not yet acted on the matter. Proponents of broad national power such as Professor Michael Dorf deny that they are trying to update the constitution. Instead, they argue that they are merely addressing a set of economic facts that did not exist when the constitution was framed. Thomas granted the federal government the "strongest presumptions" and said "due process requires nothing more than a good-faith executive determination" to justify the imprisonment of Hamdi, a U. Rumsfeld , which held that the military commissions set up by the Bush administration to try detainees at Guantanamo Bay required explicit congressional authorization, and held that the commissions conflicted with both the Uniform Code of Military Justice UCMJ and "at least" Common Article Three of the Geneva Convention. Louisiana , Thomas dissented from the majority opinion that required the removal from a mental institution of a prisoner who had become sane. Thornton , he authored the dissent defending term limits on federal house and senate candidates as a valid exercise of state legislative power. Justice Thomas voted to overturn federal laws in 34 cases and Justice Scalia in 31, compared with just 15 for Justice Stephen Breyer. Holder case, Thomas was the sole dissenter, voting in favor of throwing out Section Five of the Voting Rights Act. Section Five requires states with a history of racial voter discriminationâ€”mostly states from the old Southâ€”to get Justice Department clearance when revising election procedures. Although Congress had reauthorized Section Five in for another 25 years, Thomas said the law was no longer necessary, pointing out that the rate of black voting in seven Section Five states was higher than the national average.

Thomas said "the violence, intimidation and subterfuge that led Congress to pass Section 5 and this court to uphold it no longer remains. Holder , voting with the majority and concurring with the reasoning which struck down Section Five. For example, he dissented in Virginia v. Black , a case that struck down part of a Virginia statute that banned cross burning. Concurring in Morse v. Frederick , he argued that the free speech rights of students in public schools are limited. The government was enjoined from enforcing it, pending further proceedings in the lower courts. Ohio Elections Commission , U. Playboy Entertainment Group Newdow , Thomas wrote: Wilkinson , Thomas wrote: The four justices in the plurality opinion specifically rejected incorporation under the privileges or immunities clause, "declin[ing] to disturb" the holding in the Slaughter-House Cases , which, according to the plurality, had held that the clause applied only to federal matters. He would have voted to grant certiorari in Friedman v. City of Highland Park , which upheld bans on certain semi-automatic rifles, Jackson v. San Francisco , which upheld trigger lock ordnances similar to those struck down in Heller, Peruta v. San Diego County , which upheld restrictive concealed carry licensing in California, and Silvester v. Becerra , which upheld waiting periods for firearm purchasers who have already passed background checks and already own firearms. For example, his opinion for the court in Board of Education v. Earls upheld drug testing for students involved in extracurricular activities, and he wrote again for the court in Samson v. California , permitting random searches on parolees. He dissented in the case Georgia v. In cases involving schools, Thomas has advocated greater respect for the doctrine of in loco parentis , which he defines as "parents delegat[ing] to teachers their authority to discipline and maintain order. Redding illustrates his application of this postulate in the Fourth Amendment context. School officials in the Safford case had a reasonable suspicion that year-old Savana Redding was illegally distributing prescription-only drugs. All the justices concurred that it was therefore reasonable for the school officials to search Redding, and the main issue before the court was only whether the search went too far by becoming a strip search or the like. In contrast, Thomas said, "It is a mistake for judges to assume the responsibility for deciding which school rules are important enough to allow for invasive searches and which rules are not" [] and that "reasonable suspicion that Redding was in possession of drugs in violation of these policies, therefore, justified a search extending to any area where small pills could be concealed. United States , the defendant had technically been a fugitive from the time he was indicted in until his arrest in Our Constitution neither contemplates nor tolerates such a role. Virginia and Roper v. Simmons , which held that the Eighth Amendment to the United States Constitution prohibits the application of the death penalty to certain classes of persons. Marsh , his opinion for the court indicated a belief that the constitution affords states broad procedural latitude in imposing the death penalty, provided they remain within the limits of Furman v. Georgia and Gregg v. Georgia , the case in which the court had reversed its ban on death sentences if states followed procedural guidelines. McMillian , a prisoner had been beaten, garnering a cracked lip, broken dental plate, loosened teeth, cuts, and bruises. Although these were not "serious injuries", the court believed, it held that "the use of excessive physical force against a prisoner may constitute cruel and unusual punishment even though the inmate does not suffer serious injury. In concluding to the contrary, the Court today goes far beyond our precedents. Harlan II a generation earlier, but editorial criticism rained down on him". Well, one must either be illiterate or fraught with malice to reach that conclusion Under a federal statute, 18 U. Thomas noted that the case required a distinction to be made between civil forfeiture and a fine exacted with the intention of punishing the respondent. He found that the forfeiture in this case was clearly intended as a punishment at least in part, was "grossly disproportional", and was a violation of the Excessive Fines Clause. In Adarand Constructors v. Government cannot make us equal; it can only recognize, respect, and protect us as equal before the law. That [affirmative action] programs may have been motivated, in part, by good intentions cannot provide refuge from the principle that under our Constitution, the government may not make distinctions on the basis of race.

Chapter 4 : About the Supreme Court | United States Courts

He succeeded Anthony Kennedy, who was the Supreme Court's swing vote, often casting the deciding opinion in cases, consolidating a conservative majority at the top court.

Congress first exercised this power in the Judiciary Act of This Act created a Supreme Court with six justices. It also established the lower federal court system. The Justices Over the years, various Acts of Congress have altered the number of seats on the Supreme Court, from a low of five to a high of Shortly after the Civil War, the number of seats on the Court was fixed at nine. Like all federal judges, justices are appointed by the President and are confirmed by the Senate. They, typically, hold office for life. The salaries of the justices cannot be decreased during their term of office. These restrictions are meant to protect the independence of the judiciary from the political branches of government. The Court has original jurisdiction a case is tried before the Court over certain cases, e. Some examples include cases to which the United States is a party, cases involving Treaties, and cases involving ships on the high seas and navigable waterways admiralty cases. Cases When exercising its appellate jurisdiction, the Court, with a few exceptions, does not have to hear a case. The Certiorari Act of gives the Court the discretion to decide whether or not to do so. In a petition for a writ of certiorari, a party asks the Court to review its case. The Supreme Court agrees to hear about of the more than 7, cases that it is asked to review each year. Judicial Review The best-known power of the Supreme Court is judicial review, or the ability of the Court to declare a Legislative or Executive act in violation of the Constitution, is not found within the text of the Constitution itself. In this case, the Court had to decide whether an Act of Congress or the Constitution was the supreme law of the land. A suit was brought under this Act, but the Supreme Court noted that the Constitution did not permit the Court to have original jurisdiction in this matter. In subsequent cases, the Court also established its authority to strike down state laws found to be in violation of the Constitution. Before the passage of the Fourteenth Amendment , the provisions of the Bill of Rights were only applicable to the federal government. Therefore, the Court has the final say over when a right is protected by the Constitution or when a Constitutional right is violated. Role The Supreme Court plays a very important role in our constitutional system of government. First, as the highest court in the land, it is the court of last resort for those looking for justice. Second, due to its power of judicial review, it plays an essential role in ensuring that each branch of government recognizes the limits of its own power. Third, it protects civil rights and liberties by striking down laws that violate the Constitution. In essence, it serves to ensure that the changing views of a majority do not undermine the fundamental values common to all Americans, i. Impact The decisions of the Supreme Court have an important impact on society at large, not just on lawyers and judges. The decisions of the Court have a profound impact on high school students. In fact, several landmark cases decided by the Court have involved students, e.

Chapter 5 : Opinions of the Court -

The Business of the Supreme Court: A Study in the Federal Judicial System () is a book published by Felix Frankfurter (future U.S. Supreme Court justice) and his former student James McCauley Landis.

Currently, there are nine Justices on the Court. Before taking office, each Justice must be appointed by the President and confirmed by the Senate. Justices hold office during good behavior, typically, for life. The Constitution states that the Supreme Court has both original and appellate jurisdiction. Original jurisdiction means that the Supreme Court is the first, and only, Court to hear a case. The Constitution limits original jurisdiction cases to those involving disputes between the states or disputes arising among ambassadors and other high-ranking ministers. Appellate jurisdiction means that the Court has the authority to review the decisions of lower courts. Most of the cases the Supreme Court hears are appeals from lower courts. Writs of Certiorari Parties who are not satisfied with the decision of a lower court must petition the U. Supreme Court to hear their case. The primary means to petition the court for review is to ask it to grant a writ of certiorari. This is a request that the Supreme Court order a lower court to send up the record of the case for review. In fact, the Court accepts of the more than 7, cases that it is asked to review each year. Typically, the Court hears cases that have been decided in either an appropriate U. Court of Appeals or the highest Court in a given state if the state court decided a Constitutional issue. The Supreme Court has its own set of rules. According to these rules, four of the nine Justices must vote to accept a case. Five of the nine Justices must vote in order to grant a stay, e. Under certain instances, one Justice may grant a stay pending review by the entire Court. Law Clerks Each Justice is permitted to have between three and four law clerks per Court term. These are individuals who, fairly recently, graduated from law school, typically, at the top of their class from the best schools. Often, they have served a year or more as a law clerk for a federal judge. Among other things, they do legal research that assists Justices in deciding what cases to accept; help to prepare questions that the Justice may ask during oral arguments; and assist with the drafting of opinions. The participating Justices divide their petitions among their law clerks. The law clerks, in turn, read the petitions assigned to them, write a brief memorandum about the case, and make a recommendation as to whether the case should be accepted or not. Briefs If the Justices decide to accept a case grant a petition for certiorari , the case is placed on the docket. This brief is also not to exceed 50 pages. If not directly involved in the case, the U. Government, represented by the Solicitor General, can file a brief on behalf of the government. With the permission of the Court, groups that do not have a direct stake in the outcome of the case, but are nevertheless interested in it, may file what is known as an amicus curiae Latin for "friend of the court" brief providing their own arguments and recommendations for how the case should be decided. Oral Arguments By law, the U. The Court hears oral arguments in cases from October through April. From October through December, arguments are heard during the first two weeks of each month. From January through April, arguments are heard on the last two weeks of each month. During each two-week session, oral arguments are heard on Mondays, Tuesdays, and Wednesdays only unless the Court directs otherwise. Oral arguments are open to the public. Typically, two cases are heard each day, beginning at 10 a. Each case is allotted an hour for arguments. During this time, lawyers for each party have a half hour to make their best legal case to the Justices. The Justices tend to view oral arguments not as a forum for the lawyers to rehash the merits of the case as found in their briefs, but for answering any questions that the Justices may have developed while reading their briefs. The Solicitor General usually argues cases in which the U. Government is a party. During oral arguments, each side has approximately 30 minutes to present its case, however, attorneys are not required to use the entire time. The petitioner argues first, then the respondent. If the petitioner reserves time for rebuttal, the petitioner speaks last. After the Court is seated, the Chief Justice acknowledges counsel for the petitioner, who already is standing at the podium. The attorney then begins: Chief Justice, and may it please the Court. Modifications of Procedure Justices, typically, ask questions throughout each presentation. The petitioner â€" not the Court â€" is responsible for keeping track of the time remaining for rebuttal. In typical program simulations, more than one student attorney argues each side. In that instance, they should inform the student Marshal before the court

session begins how they wish to divide their time. Usually, the first student attorney to speak also handles the rebuttal. Conference When oral arguments are concluded, the Justices have to decide the case. Two Conferences are held per week when Court is in session, on Wednesday and Friday afternoons. The Justices vote on cases heard on Mondays and Tuesdays of a given week at their Wednesday afternoon Conference. The Justices vote on cases heard on Wednesday at their Friday afternoon Conference. When Court is not in session, usually only a Friday Conference is held. Before going into the Conference, the Justices frequently discuss the relevant cases with their law clerks, seeking to get different perspectives on the case. At the end of these sessions, sometimes the Justices have a fairly good idea of how they will vote in the case; other times, they are still uncommitted. According to Supreme Court protocol, only the Justices are allowed in the Conference room at this timeâ€”no police, law clerks, secretaries, etc. The Chief Justice calls the session to order and, as a sign of the collegial nature of the institution, all the Justices shake hands. After the petitions for certiorari are dealt with, the Justices begin to discuss the cases that were heard since their last Conference. According to Supreme Court protocol, all Justices have an opportunity to state their views on the case and raise any questions or concerns they may have. Each Justice speaks without interruptions from the others. The Chief Justice makes the first statement, then each Justice speaks in descending order of seniority, ending with the most junior justiceâ€”the one who has served on the court for the fewest years. When each Justice is finished speaking, the Chief Justice casts the first vote, and then each Justice in descending order of seniority does likewise until the most junior justice casts the last vote. After the votes have been tallied, the Chief Justice, or the most senior Justice in the majority if the Chief Justice is in the dissent, assigns a Justice in the majority to write the opinion of the Court. The most senior justice in the dissent can assign a dissenting Justice to write the dissenting opinion. Any Justice may write a separate dissenting opinion. When there is a tie vote, the decision of the lower Court stands. This can happen if, for some reason, any of the nine Justices is not participating in a case e. With the exception of this deadline, there are no rules concerning when decisions must be released. Typically, decisions that are unanimous are released sooner than those that have concurring and dissenting opinions. While some unanimous decisions are handed down as early as December, some controversial opinions, even if heard in October, may not be handed down until the last day of the term. Justices do this by "signing onto" the opinion. The Justice in charge of writing the opinion must be careful to take into consideration the comments and concerns of the others who voted in the majority. If this does not happen, there may not be enough Justices to maintain the majority. On rare occasions in close cases, a dissenting opinion later becomes the majority opinion because one or more Justices switch their votes after reading the drafts of the majority and dissenting opinions. No opinion is considered the official opinion of the Court until it is delivered in open Court or at least made available to the public. On days when the Court is hearing oral arguments, decisions may be handed down before the arguments are heard. During the months of May and June, the Court meets at 10 a. During the last week of the term, additional days may be designated as "opinion days.

Chapter 6 : Justices share how food feeds Supreme Court civility | National Museum of American History

As Supreme Court nominee Brett Kavanaugh prepares to be confirmed to the nation's highest court in a final Senate vote on Saturday, Democrats have already begun considering the possibility of.

Rise of the Corporate Court: Gore to Citizens United v. They then answered it, announcing that private businesses â€" including for-profit corporations â€" have a right to spend as much money as they want to elect or defeat candidates in political campaigns at all levels. Since the Rehnquist Court, there have been at least five justicesâ€"and sometimes moreâ€"who tilt hard to the right when it comes to a direct showdown between corporate power and the public interest. During the Roberts Court, this trend has continued and intensified. Whereas Article II of the real Constitution provides that the president shall name Supreme Court justices with the advice and consent of the Senate, Galbraith saw that the unwritten bylaws of our country now apparently authorized the Supreme Court to name the president. For more than a century, of course, the private business corporation has been a major force in our economy and society. Because corporations are chartered by the states and interact continuously with government regulators, employees in the workplace, consumers and investors in the marketplace, and our land, air and water, they are frequently in court. When they go to the Supreme Court as parties, sometimes they win, as surely they should, and sometimes they lose, which is also to be expected. What is striking today, however, is how often the Roberts Court, like its predecessor the Rehnquist Court, hands down counter-intuitive victories to corporations by ignoring clear precedents, twisting statutory language and distorting legislative intent. When it comes to political democracy and social progress, the Supreme Court today is the most dangerous branch. The road back to strong democracy requires sustained attention to how the Court is thwarting justice and the rule of law in service of corporate litigants. The American Workplace Dirty Work: There, five justices Alito, Roberts, Scalia, Thomas and Kennedy held that, under Title VII, the female victim of decades of pay discrimination on the job who only learned of her biased treatment at the end of her career could not sue since the discrimination had begun more than days before her court filing and the statute of limitations had therefore run. The four dissenters argued in vain that, given that Ledbetter was unaware that she was being paid less than men on the job, each discriminatory paycheck renewed the cause of action and the days should be measured from the point at which she first learned of the salary double standard. Hulteen ,5 a a majority produced a fitting sequel to the Ledbetter decision. Thus, corporations were permitted to discriminate because they discriminated before. Here, the Court tortured out a sharp distinction in the meaning of identical language in similar anti-discrimination statutes and effectively created a patchwork of different approaches, reducing the effect of the ADEA and the coherence of civil rights law generally. Under the Act, the National Labor Relations Board NLRB has the power to require employers to reinstate workers who were fired for union activity and give them back pay for the period they were unfairly dismissed. In this case, the corporate employer, Hoffman Plastic Compounds, Inc. After investigating the dismissals, the Board determined that the firings were an unfair labor practice and ordered the company to offer reinstatement and back pay to the four workers. The company initially accepted the discipline. When it came time to pay up, the company argued that it should not have to compensate one of the workers, a blending machine operator named Jose Castro who was owed tens of thousands of dollars in back pay, because he was an undocumented alien. However, the Board found that Hoffman Plastic knew Castro was undocumented and continued to employ him for a period of more than three years after it learned of his status. The Board ruled that the award was necessary to satisfy both the remedial purpose of the statute and its deterrent purpose of keeping employers from hiring undocumented aliens to take advantage of their labor and then firing them if they join a union drive. Attorney General , who is the official actually charged with enforcing immigration law. Downward pressure on the organizing and bargaining rights of American workers is constant on the Court. Pyett 12, five corporate-minded justices â€"Thomas, Roberts, Scalia, Kennedy and Alitoâ€"dealt a blow not only to Service Employees International Union members in New York but millions of workers across the country when they upheld compulsory arbitration claims provisions that clearly undermine statutory anti-discrimination protections. Justice Souter and Justice Stevens, in stinging dissents, castigated Justice

Thomas and the majority for mangling precedent and undermining the rights of American workers. A Thoroughly Corporate Environment: Oil Spills and Punitive Damages In , in one of the worst environmental accidents in history, a foot long Exxon supertanker called the Exxon Valdez, which was carrying over a million barrels of crude oil 53 million gallons grounded on a reef off of Alaska, releasing a toxic flood of oil into Prince William Sound, in the process destroying vast amounts of marine wildlife and the livelihood of many fishing communities and native Alaskans. The catastrophic crash ensued. He had completed part of an alcohol treatment program but dropped out of its concluding segment and had stopped going to Alcoholics Anonymous meetings. Indeed, the only thing that stopped them from deleting the award altogether was that they were one vote short of being able to find that a corporation is not responsible for the reckless acts of its own managers acting in the scope of their employment What the 5-justice majority found, over the objections of dissenting liberal justices who accused them of legislating from the bench, was that it would impose in maritime tort cases a ratio between compensatory and punitive damagesâ€”a formula found nowhere in the statute and essentially pulled out of a hat made by a big corporation. Watering Down Environmental Protection: A Steady Drip Although the facts of the Exxon oil spill case are unusually striking, the decision is typical indeed. Also last Term, in Coeur Alaska, Inc. Corporations Prevail Over Consumers It is hard to think of too many industries that concealed the truth about their product more aggressively, or misled the consuming public more deviously, than Big Tobacco did for decades. So, to see how far judicial corporatism has gone, consider how conservatives swung into action three years ago to protect the profits of the Philip Morris corporation in a fraud case brought by a widow who lost her husband, a long-term three-pack-a-day smoker, to the ravages of lung cancer. This is a startling victory not for honest business but for those large corporations that inject dangerous products into the stream of commerce. Philip Morris USA v. Iqbal 19 â€” a decision that imposes stiflingly difficult new pleading standards on plaintiffs generally seeking access to justice. With every passing year, the courthouse door is getting harder and harder to open for ordinary human plaintiffs. It dramatically shifts the center of gravity in American democracy. Of course, the company also has thick contingents of lobbyists, public relations personnel, and government relations specialists on hand too. This seems fair enoughâ€”the individuals who run the company have a right to give and participate in politics as citizens by putting their own money into a voluntary political fund. This would have been more than was spent by the Obama campaign, the McCain campaign, every U. House and Senate candidate and every state legislative candidate in the country combined. Imagine what the Fortune could unleash on us. In order to remake our politics in this way, the Supreme activists first had to completely redefine the question in the case. But, alas, it was not nearly enough for them. After oral argument, they insisted that the parties go back and re-brief and reargue the entire case to focus on a sweeping question that had not been raised before: Michigan Chamber of Commerce20 was wrong and private corporations enjoy the same constitutional rights as actual human beings in electoral politics. This was the working assumption of not only progressive justices but deeply conservative ones who were faithful to the text of the Constitution and not under the spell of corporate power. Chief Justice John Marshall, the great hero of prior generations of judicial conservatives, wrote in the Dartmouth College21 case that: Being the mere creature of law, it possesses only those properties which the charter of creation confers upon it. Consider the lucid views of Chief Justice William Rehnquist, who was of course no great friend on the Court to consumers, workers or the environment but at least never tried to invent constitutionally-anchored political rights for business corporations. Indeed, the States might reasonably fear that the corporation would use its economic power to obtain further benefits beyond those already bestowed. It goes without saying that the people must act over time to rebuild the wall of separation that the Court has torn down. Large majority opposes Supreme Court decision on campaign financing, Wash. Justice Alito took no part in the case. Although he provided no reason his recusal, nor is he required to, his financial disclosure statement at the time indicated that he owned Exxon stock.

Chapter 7 : Supreme Court Procedures | United States Courts

The taxman cometh Amazon wins from a Supreme Court ruling Bricks-and-mortar retailers may benefit only modestly from the court's ruling on sales tax Business and finance.

On the Supreme Court, nine justicesâ€”each with different backgrounds, legislative experiences, and understandings of the Constitutionâ€”determine the final interpretation and application of the law in the most pressing cases impacting the nation. There seems little doubt that the stakes are high, and so too might run tensions. But in sharing meals together, explained Smithsonian Secretary David J. Skorton, the diverse justices "enhance cordiality and cooperation. Supreme Court curator, and Clare Cushman, publications director at the Supreme Court Historical Society, detailed the early history of food in the courts. In the early s, under Chief Justice John Marshall, the justices not only dined together but lived together in a boarding house during their short terms. Deliberations over dinner were not uncommon. Fitts and Cushman recounted tales of justices, hearing long oral arguments, slipping behind the bench to enjoy a meal out of sightâ€”but not unheard. The clatter of dishwareâ€”and, as one story goes, the pop of a champagne corkâ€—could be heard within the courtroom. This practice ended in with the introduction of a half-hour lunch break. With time limited, many justices brought lunch from home. This need for midday repast even influenced the planning of the U. Supreme Court building, as Chief Justice William Howard Taft required it have a cafeteria and a dining room for justices. Sometimes guests are invited to the luncheons to enliven discussion. Only two, Ginsburg said, have received repeat invitations: Ginsburg and Sotomayor also described the collegial way that food is shared between the justices: Ginsburg and Sotomayor spoke of the care the justices take in planning grand welcoming receptions and farewell parties for their colleagues, as well as the everyday congenial lunches. In discussion of the lunch break observed by the modern court, the topic turned to the eating habits of the justices. Justice Louis Brandeis enjoyed a sandwich of spinach and wheat bread. And Justice David Souter, Ginsburg recounted with a shake of the head, ate plain yogurt. The justices present for the panel were not spared from this discussion of dining proclivities. Sotomayor shared that she likes the variety of salads and sandwiches, and occasionally orders out from a local Japanese restaurant and a local Indian restaurant. Ginsburg opts for a simple lunch, and made several jokes throughout the evening about her limited abilities in the kitchen. Her husband, lawyer and law professor Martin Ginsburg, was the chef of the family. He passed away in By all accounts that evening, he was an accomplished baker and cook, and part of a long history of dining and hosting by court spouses. The panelists recalled Martin fondly, sharing stories about how the "Chef Supreme" contributed significantly to the dining traditions of the court, impacting its food culture. He would bake birthday cakes for the justices and clerks, join other court spouses in preparing the traditional dinner before the State of the Union, and participate in the luncheons the court spouses host four times a year.

Chapter 8 : Clarence Thomas - Wikipedia

The Supreme Court has been trending in a pro-business direction for quite some time. In the most recent session, for example, the U.S. Chamber of Commerce joined 10 cases and was on the.

The nine justices of the U. Kavanaugh was officially confirmed by the Senate on Oct. The newest judge on the Supreme Court is filling the vacant seat of retired Justice Anthony Kennedy, Kennedy, who announced his retirement in July after 30 years of service, held the key vote on high-profile issues, such as abortion, affirmative action, gay rights, guns, campaign finance and voting rights. Prior to joining the Supreme Court, Roberts served on the U. Roberts is considered to be a conservative judge on the bench. However, he has angered some Republicans with certain decisions, particularly concerning ObamaCare. With approximately opinions issued in 12 years as a judge and a raft of legal articles and speaking engagements, Kavanaugh was the most prolific of the nominees Trump was said to be considering for the role. Ultimately, Kavanaugh was confirmed with a vote. It was the closest roll call to confirm a justice since â€" when Stanley Matthews was approved by , according to Senate records. Associate Justice Samuel A. Justice Samuel Alito, Jr. Alito, 68, is a Republican. Before joining the Supreme Court, he was a former assistant to the Solicitor General and worked with the Department of Justice. Previously, Breyer served as an assistant special prosecutor for the Watergate Special Prosecution Force and special counsel of the Senate Judiciary Committee. Breyer is a Democrat. He is its newest member. He is a Republican. She was nominated by former President Barack Obama. Sotomayor, 64, was nominated by former President Barack Obama in Sotomayor, a Democrat, was also appointed to the U. The year-old was appointed by former President George H. Thomas, 69, attended seminary school from to before graduating from Holy Cross College and Yale Law School, according to his court biography. Equal Employment Opportunity Commission. The Associated Press contributed to this report. Kaitlyn Schallhorn is a Reporter for Fox News. Follow her on Twitter:

Chapter 9 : The Business of the Supreme Court - Wikipedia

In the spring of , a fifth justice, Hoover-appointee Owen Robertsâ€"at 60 the youngest man on the Supreme Courtâ€"began casting his swing vote with them to create a conservative majority.