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Chapter 1 : Bush v. Gore - Wikipedia

Online shoppers may find their purchases will cost more if the Supreme Court does away with a decades-old ruling limiting the ability of states to collect sales taxes on out-of-state internet.

But several justices, in an intense hour of oral arguments on Tuesday, expressed concern about overturning its precedent, despite the fact it was decided before the digital age. A coalition of small business owners, including many who offer their online goods from home offices, say their profits would evaporate if forced to comply with complex tax rules in all 50 states. But a majority of states say they are losing billions in revenue, and they are supported by many large so-called brick-and-mortar retailers like Wal-Mart that do pay sales taxes, regardless of whether their sales are done in stores or online. The stakes could be huge, since consumers now make about 10 percent of their purchases online "E-commerce is expanding, and companies like Amazon account for a large part of that. The problem you have to address is that the coverage in terms of collecting the taxes is expanding as well. Forty-one states back the effort, saying the problem is growing worse as e-commerce continues to grow nationwide. They argue tax collection software makes it easier for retailers big and small to comply with their tax obligations, which vary widely from state to state, and product to product. But many online sellers, such as Etsy or EBay, that serve as a third party portal for thousands of small homegrown businesses that do not pay sales taxes, point to confusing tax rules that could expose them to costly audits for any revenue shortfall. As an example, lawyers for the online retailers point out that in Illinois, a Snickers bar costs more in taxes than a Twix bar, since food items containing flour are not treated as candy for tax purposes. Customers in most cases are supposed to pay the tax themselves, but both sides of the debate admit few actually do. The high court for more than 50 years in various rulings has said states cannot collect taxes from sellers without a "physical presence" in those states. That precedent was preserved in a key ruling. Congress two decades ago exempted most online sellers. But as the e-commerce platform has evolved, more of the larger online retailers have begun paying sales taxes-- about 90 percent of the revenue owed. In arguments, the justices struggled to reach any consensus. Unusual coalitions seemed to develop between justices typically on either end of the ideological spectrum. All of these are questions that are wrought with difficulties," said Justice Sonia Sotomayor, who seemed to have the backing of Roberts. A court spokeswoman said the year-old Sotomayor would begin physical therapy and was not expected to miss any work. But one small retailer complained many states were engaging in "bullying tactics" with their tax requirements. It is in effect taxation without representation," she said. The case is South Dakota v. A ruling is expected by late June.

Chapter 2 : Chemerinsky: Same-sex marriage battle goes before the Supreme Court

Brett Kavanaugh was confirmed to the Supreme Court by the Senate on Saturday, following a bitter partisan battle and allegations of sexual assault that President Donald Trump's nominee angrily.

New Deal Following the Wall Street Crash of and the onset of the Great Depression , Franklin Roosevelt won the presidential election on a promise to give America a "New Deal" to promote national economic recovery. The election also saw a new Democratic majority sweep into both houses of Congress, giving Roosevelt legislative support for his reform platform. Both Roosevelt and the 73rd Congress called for greater governmental involvement in the economy as a way to end the depression. It soon became clear that the overall constitutionality of much of the New Deal legislation, especially that which extended the power of the federal government, would be decided by the Supreme Court. As Interior Secretary Harold Ickes complained, Attorney General Homer Cummings had "simply loaded it [the Justice Department] with political appointees" at a time when it would be responsible for litigating the flood of cases arising from New Deal legal challenges. History of the Supreme Court of the United States and Lochner era Popular understanding of the Hughes Court, which has some scholarly support, has typically cast it as divided between a conservative and liberal faction, with two critical swing votes. While it is true that many rulings of the s Supreme Court were deeply divided, with four justices on each side and Justice Roberts as the typical swing vote, the ideological divide this represented was linked to a larger debate in U. As William Leuchtenburg has observed: Some scholars disapprove of the terms "conservative" and "liberal", or "right, center, and left", when applied to judges because it may suggest that they are no different from legislators; but the private correspondence of members of the Court makes clear that they thought of themselves as ideological warriors. In the fall of , Taft had written one of the Four Horsemen, Justice Butler, that his most fervent hope was for "continued life of enough of the present membership One of the most famous proponents of this concept, known as the Living Constitution , was U. Holland the "case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago". Constitution as a static, universal, and general document not designed to change over time. Examples of these judicial principles include: The courts were generally moving away from what has been called "guardian review" â€” in which judges defended the line between appropriate legislative advances and majoritarian encroachments into the private sphere of life â€” toward a position of "bifurcated review". This approach favored sorting laws into categories that demanded deference towards other branches of government in the economic sphere, but aggressively heightened judicial scrutiny with respect to fundamental civil and political liberties. With the Judiciary Bill, Roosevelt sought to accelerate this judicial evolution by diminishing the dominance of an older generation of judges who remained attached to an earlier mode of American jurisprudence. The balance of the Supreme Court in caused the Roosevelt administration much concern over how Roberts would adjudicate New Deal challenges. Roosevelt was wary of the Supreme Court early in his first term, and his administration was slow to bring constitutional challenges of New Deal legislation before the court. Blaisdell [32] and Nebbia v. New York [33] at the start of At issue in each case were state laws relating to economic regulation. While not tests of New Deal legislation themselves, the cases gave cause for relief of administration concerns about Associate Justice Owen Roberts, who voted with the majority in both cases. Congress to regulate commerce. Hughes believed the primary objection of the Supreme Court to the New Deal was its poorly drafted legislation. Just three weeks after its defeat in the railroad pension case, the Roosevelt administration suffered its most severe setback, on May 27, Radford , and Schechter Poultry Corp. His failure to prevent poorly-drafted New Deal legislation from reaching Congress is considered his greatest shortcoming as Attorney General. A legal opinion authored by McReynolds in , while U. The coming conflict with the court was foreshadowed by a campaign statement Roosevelt made: After March 4, , the Republican party was in complete control of all branches of the governmentâ€”the legislature, with the Senate and Congress; and the executive departments; and I may add, for full measure, to make it complete, the United States Supreme Court as well. Roosevelt inquired about the rate at which the Supreme Court denied certiorari , hoping to attack the Court for the small number of cases it

heard annually. Corwin in a December 16, letter. Judges of the United States Courts, at the age of 70, after having served 10 years, may retire upon full pay. In the past, many judges have availed themselves of this privilege. Some, however, have remained upon the bench long beyond the time that they are able to adequately discharge their duties, and in consequence the administration of justice has suffered. I suggest an act providing that when any judge of a federal court below the Supreme Court fails to avail himself of the privilege of retiring now granted by law, that the President be required, with the advice and consent of the Senate, to appoint another judge, who would preside over the affairs of the court and have precedence over the older one. This will insure at all times the presence of a judge sufficiently active to discharge promptly and adequately the duties of the court. Contents[edit] The provisions of the bill adhered to four central principles: Roosevelt wanted to present the legislation before the Supreme Court began hearing oral arguments on the Wagner Act cases, scheduled to begin on February 8, ; however, Roosevelt also did not want to present the legislation before the annual White House dinner for the Supreme Court, scheduled for February 2. The administration wanted to introduce the bill early enough in the Congressional session to make sure it passed before the summer recess, and, if successful, to leave time for nominations to any newly created bench seats.

Chapter 3 : NPR Choice page

FILE - In this Jan. 25, , file photo, the Capitol in Washington at sunrise. he coming battle over a Supreme Court nominee promises to be a bruising one.

Kavanaugh denies the allegations. For now, the court is evenly divided between conservative and liberal justices. Now, fewer than frogs remain in a trio of ponds in Mississippi. To save the frog, the US Fish and Wildlife Service FWS wants to restore ponds on 2, hectares of land in Louisiana owned by timber companies, and then move the animals there. But the timber companies, who first sued the FWS in , argue that the pond plan oversteps the bounds of the Endangered Species Act. Three environmental groups filed suit in August, arguing that the wall would disrupt crucial migration corridors and habitat for jaguars, butterflies and other threatened species. A case now before the Supreme Court could decide whether this ban applies to people who were mentally capable when they committed a crime but later developed cognitive impairments. On 2 October, the court heard arguments in the case of Vernon Madison, who was sentenced to death for murdering an Alabama police officer in Madison suffered several strokes on death row that left him with vascular dementia. He is now unable to remember committing the crime, and his lawyers say that executing Madison would constitute cruel and unusual punishment. The state of Alabama argues that Madison can understand its reasoning for putting him to death if the situation is explained to him. But experts say that this understanding is limited. They say that brain imaging and cognitive tests prove that Madison, who is unable to walk or care for himself, cannot truly comprehend the rationale behind his punishment. Pollution Another case pits the state of Virginia against companies that want to mine uranium there. Several energy companies want to extract the uranium for use as nuclear fuel, but Virginia has banned uranium mining since because of environmental and public-health concerns. Virginia says that it can regulate public-safety matters related to mining, even though the Atomic Energy Act of gives the federal government oversight over nuclear issues. The court has not said whether it will hear several cases that could tighten regulations to prevent groundwater pollution. Federal law requires companies and municipalities to obtain permits before they release contaminants into surface water, but that rule does not apply to groundwater. It is not clear who is liable if pollutants released into groundwater leach into protected waters. Three lower federal courts have issued five conflicting rulings on the issue in the past year. The 9th Circuit court in San Francisco, California, ruled that Maui County, Hawaii, was responsible for sewage that leaked from injection wells into the ocean, but the 4th Circuit in Richmond, Virginia, ruled that coal-mining companies were not liable if arsenic from coal ash discharged into private ponds ended up in protected rivers. A ruling on the issue from the Supreme Court would supercede this tangle of lower-court decision. Merck says that it had proposed adding a warning about fracture risk to the label before the injuries occurredâ€”but the US Food and Drug Administration FDA had asked for more data supporting a causal link between Fosamax and bone fractures. The government has filed a brief in support of Merck. Deciding what to include on a drug label is something of a balancing act, says Patricia Zettler, a law professor at Georgia State University in Atlanta. Climate change The Supreme Court has not yet agreed to hear any cases this term involving climate change, but legal experts say that this could change. Earlier this year, the agency said it would no longer require companies to address the climate impact of burning the gas in their licence applications. The law, which took effect in , banned the use of chemicals called chlorofluorocarbons CFCs that destroy the ozone layer. If Kavanaugh is confirmed to the Supreme Court, and it agrees to hear the case, he will likely recuse himselfâ€”increasing the likelihood of a split decision.

Chapter 4 : Ex-Roger Stone aide prepared for Supreme Court battle in challenge to Mueller: Lawyer - ABC

Supreme Court Battle Lines. A vigil was held in Brooklyn on Wednesday to protest Brett Kavanaugh's nomination to the Supreme Court.

The voters are actually voting for a slate of electors, each of whom pledges to vote for a particular candidate for each office, in the Electoral College. Constitution provides that each state legislature decides how electors are chosen. Today, state legislatures have enacted laws to provide for the selection of electors by popular vote within each state. Any candidate who receives an absolute majority of all electoral votes nationally since wins the Presidential or Vice Presidential election. Election ; Close-up view of satellite trucks parked by the Florida State Capitol during the Presidential election vote dispute On November 8, , the Florida Division of Elections reported that Bush won with Volusia , Palm Beach , Broward and Miami-Dade , which are counties that traditionally vote Democratic and would be expected to garner more votes for Gore. Gore did not, however, request any recounts in counties that traditionally vote Republican. The four counties granted the request and began manual recounts. However, Florida law also required all counties to certify their election returns to the Florida Secretary of State within seven days of the election, [9] and several of the counties conducting manual recounts did not believe they could meet this deadline. On November 14, the statutory deadline, the Florida Circuit Court ruled that the seven-day deadline was mandatory, but that the counties could amend their returns at a later date. The court also ruled that the Secretary, after "considering all attendant facts and circumstances," had discretion to include any late amended returns in the statewide certification. Four counties submitted statements, and after reviewing the submissions Harris determined that none justified an extension of the filing deadline. She further announced that after she received the certified returns of the overseas absentee ballots from each county, she would certify the results of the presidential election on Saturday, November 18, Supreme Court voted 5â€”4 to stay the Florida recount, because according to Justice Scalia: It suffices to say that the issuance of the stay suggests that a majority of the Court, while not deciding the issues presented, believe that the petitioner has a substantial probability of success. The issue is not, as the dissent puts it, whether "counting every legally cast vote can constitute irreparable harm. Count first, and rule upon legality afterwards, is not a recipe for producing election results that have the public acceptance democratic stability requires. Counting every legally cast vote cannot constitute irreparable harm Preventing the recount from being completed will inevitably cast a cloud on the legitimacy of the election. Rapid developments[edit] Supporters for the Gore-Lieberman ticket outside the U. Supreme Court on December 11 The oral argument in Bush v. Gore occurred on December New York lawyer David Boies argued for Gore. During the brief period when the U. Supreme Court was deliberating on Bush v. Gore, the Florida Supreme Court provided clarifications [16] that the U. Supreme Court had requested on December 4 in the case of Bush v. Palm Beach County Canvassing Board. Supreme Court issued its opinion in Bush v. Gore on December 12, , less than a day after hearing oral argument. Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors Of particular relevance [17] to this case was the so-called " safe harbor " provision, which allows states to appoint their electors without Congressional interference if done by a specified deadline: If any State shall have provided According to 28 U. Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States Issues considered by the Court[edit] The Court had to resolve two different questions to fully resolve the case: Were the recounts, as they were being conducted, constitutional? Equal Protection Clause[edit] Bush argued that recounts in Florida violated the Equal Protection Clause of the Fourteenth Amendment , because Florida did not have a statewide vote recount standard. Each county was on its own to determine whether a given ballot was an acceptable one. Two voters could have marked their ballots in an identical manner, but the ballot in one county would be counted while the ballot in a different county would be rejected, due to the conflicting manual recount standards. A voter in a "punch-card" county

has a greater chance of having his vote undercounted than a voter in an "optical scanner" county. If Bush wins, Gore argued, every state would have to have one statewide method of recording votes to be constitutional. David Boies represented Gore This was the most closely decided issue in the case. The arguments presented by counsel did not extensively address what the Court should do if the Court were to find an Equal Protection violation. However, Gore did argue briefly that the appropriate remedy would not be to cancel all recounts, but rather would be to order a proper recount. Since this "new law" had not been directed by the Florida legislature, it violated Article II. Bush argued that Article II gives the federal judiciary the power to interpret state election law in presidential elections to ensure that the intent of the state legislature is followed. Seven justices the five Justice majority plus Souter and Breyer agreed that there was an Equal Protection Clause violation in using different standards of counting in different counties. Justices Souter and Breyer wanted to remand the case to the Florida Supreme Court to permit that court to establish uniform standards of what constituted a legal vote and then manually recount all ballots using those standards. This ruling was by a 7â€”2 vote. The Court held that the Equal Protection Clause guarantees to individuals that their ballots cannot be devalued by "later arbitrary and disparate treatment". Even if the recount was fair in theory, it was unfair in practice. The record, as weighed by the Florida Supreme Court, suggested that different standards were seemingly applied to the recount from ballot to ballot, precinct to precinct, and county to county, even when identical types of ballots and machines were used. Two of these, Breyer and Souter, acknowledged that the counting up until December 9 had not conformed with Equal Protection requirements. Otherwise, their position is wholly without merit. The endorsement of that position by the majority of this Court can only lend credence to the most cynical appraisal of the work of judges throughout the land. It is confidence in the men and women who administer the judicial system that is the true backbone of the rule of law. One thing, however, is certain. The per curiam opinion in Bush v. Gore did not technically dismiss the case, and instead "remanded for further proceedings not inconsistent with this opinion. So quit bothering us. Usually, federal courts do not make that type of assessment, and indeed the per curiam opinion in this case did not do so. After addressing this aspect of the case, Rehnquist examined and agreed with arguments that had been made by the dissenting justices of the Florida Supreme Court. The critical remedial issue[edit] The most closely decided aspect of the case was the key question of what remedy the Court should order, in view of an Equal Protection Clause violation. Gore had argued for a new recount that would pass constitutional muster, but the Court instead chose to end the election, asserting that "the Florida Supreme Court has said that the Florida Legislature intended to obtain the safe-harbor benefits of 3 U. Gore has proven very controversial. McConnell has written that the U. In the case of the presidential election, the determination of reasonableness must be circumscribed by the provisions of 3 U. As always, it is necessary to read all provisions of the elections code in pari materia. In this case, that comprehensive reading required that there be time for an elections contest pursuant to section However, according to Nelson Lund, a former official of the first Bush administration, [42] one might argue that the Florida Supreme Court was discussing the "protest provisions of the Florida Election Code, whereas the issues in Bush v. Gore arose under the contest provisions. Gore did remand the case instead of dismissing it, but the remand did not include another request for clarification. Louise Weinberg argues that, even giving the Court the benefit of the doubt that it acted appropriately in intervening in Florida state law, its actions should be deemed unconstitutional because its intervention was not coupled with any kind of remedy aimed at determining the actual outcome of the election. Critics, however, interpreted the sentence as stating that the case did not set precedent in any way and could not be used to justify any future court decision, and some suggested that this was evidence the majority realized its holding was untenable. This was cheating, and a violation of the judicial oath. Not only is that claim inconsistent with the position of Justices Breyer and Souter, it is inconsistent with the position of three of the Florida justices who dissented. No Justice on the Florida Supreme Court was a Republican appointee, but three of them concluded that the recount that Vice President Gore wanted was unconstitutional. Three of the seven Florida Supreme Court justices also found an Equal Protection violation when the manual ballot-counters used different procedures to examine identical ballots and count them differently. On several occasions, William Rehnquist had expressed interest in retiring under a Republican administration; one study found that press reports "are equivocal on

whether facts existed that would have created a conflict of interest" for Rehnquist. The study was conducted over a period of 10 months. The consortium examined , ballots that vote-counting machines had rejected. In each alternative way of recounting the rejected ballots, the number of additional votes for Gore was smaller than the vote lead that state election officials ultimately awarded Bush. Under the strategy that Al Gore pursued at the beginning of the Florida recount â€" filing suit to force hand recounts in four predominantly Democratic counties â€" Bush would have kept his lead, according to the ballot review conducted by the consortium. On the other hand, the study also found that if the official vote-counting standards had not rejected ballots containing overvotes where a voter selects more than one candidate in a race where each voter may only choose one candidate a statewide tally would have resulted in Gore emerging as the victor by 60 to votes. These tallies conducted by the NORC consortium are caveated with the statement: Florida officials rejected these overseas ballots, mostly from members of the United States Armed Forces. By rejecting those ballots, Florida provided Gore a vote lead in the state. The United States District Court for the Northern District of Florida on December 8, , overturned these rejections and ordered that all federal write-in ballots previously rejected be counted. The effect of these additional overseas ballots provided Bush with a vote lead in the state. The ruling also noted: The sacrifice should not go beyond the surrender of rights that are incompatible with military duties. These men and women of our Armed Forces should be able to expect as much and no less, because of their induction into military service, than those of us who remain at home pursuing normal activities. It certainly would appear unnecessary that our soldiers and sailors and merchant marines must make a special effort to retain the right to vote. The subsequent analysis revealed that black-majority precincts had three times as many rejected ballots as white precincts. But a recount could have restored the votes of thousands of older voters whose dimpled and double-voted ballots were indecipherable to machines but would have been clear in a ballot-by-ballot review. March Part of the reason recounts could not be completed was the various stoppages ordered by the various branches and levels of the judiciary, most notably the Supreme Court itself. No one familiar with the jurisprudence of Justices Rehnquist, Scalia, and Thomas could possibly have imagined that they would vote to invalidate the Florida recount process on the basis of their own well-developed and oft-invoked approach to the Equal Protection Clause. Gore more likely, not less likely, either in Florida or elsewhere.

Chapter 5 : Kavanaugh battle overshadows start of Supreme Court term - CBS News

The confirmation battle over the nomination of Judge Brett M. Kavanaugh to the Supreme Court has left the country as it was before President Trump selected him: deeply divided, politically.

District Court for the Northern District of California challenging the constitutionality of Proposition 8. In the summer of , federal District Judge Vaughn Walker declared Proposition 8 unconstitutional as violating the fundamental right to marry and denying equal protection to gays and lesbians. Supporters of Proposition 8 intervened to appeal. After briefing and oral argument, the 9th U. Circuit Court of Appeals certified to the California Supreme Court the question of whether under California law the supporters of an initiative have standing to appeal when state officials refuse to do so. The California Supreme Court said that this is permissible and the 9th Circuit, in February , declared Proposition 8 unconstitutional. The 9th Circuit emphasized that California had extended the right to marry to both same-sex and opposite-sex couples, but Proposition 8 took this right away only from same-sex couples; the court said that denied equal protection. They bought a house together on Long Island and shared an apartment in Manhattan. They were married in Toronto in Windsor and Spyer provided for one another in their wills. But Section 3 of the Defense of Marriage Act says that for purposes of federal law marriage must be between a man and a woman. Shortly before the answer from the United States was due, Attorney General Eric Holder announced that it was the position of the United States government that it would enforce Section 3 of DOMA, but not defend its constitutionality in the courts. In October , the 2nd U. The Issues First, in each case there is a significant procedural issue which may cause the court to dismiss without reaching the merits of the right to marriage equality. Perry the question is whether the supporters of an initiative have standing to appeal to defend it when the defendant state officials refuse to do so. The California Supreme Court said that under California law the supporters of an initiative may represent the interests of the state in such circumstances. But the question is whether that is sufficient to meet the standing requirements of Article III of the Constitution. The Supreme Court long has said that Article III requires a concrete injury for standing; an ideological interest is not sufficient. Do the supporters of Proposition 8 suffer any injury, other than an ideological one, if it is invalidated? In United States v. The court appointed Harvard law professor Vicki Jackson as an amicus to brief and argue these jurisdictional questions and she contends that the court lacks jurisdiction. If the court dismisses one or both cases on standing grounds, the question then will be the effect of the dismissals. In Hollingsworth, the answer seems clear: But in Windsor, the effect of dismissing the appeal for lack of standing would be that Windsor would prevail, but Section 3 of DOMA would otherwise seem to be in effect. Second, assuming the court does not dismiss on standing grounds, there are both equal protection and due process challenges to the denial of marriage equality before the court. Both the 9th Circuit in declaring Proposition 8 unconstitutional and the 2nd Circuit in striking down Section 3 of DOMA focused on the denial of equal protection for gays and lesbians. The briefs raise the question of what level of scrutiny should be used for sexual orientation discrimination. The United States, for example, argues for heightened scrutiny. Of course, the court could find an equal protection violation without reaching the question of the appropriate level of scrutiny by concluding that laws denying marriage equality fail rational basis review. Also before the court is the question of whether the right to marry, which the court has deemed a fundamental right, is violated by limiting marriage to opposite-sex couples. The district court in the Proposition 8 case found the initiative unconstitutional on this basis, as well as it denying equal protection to gays and lesbians. Third, the court will need to decide whether there is a sufficient government interest in denying gays and lesbians of the right to marry. The supporters of Proposition 8 and DOMA argue that marriage has historically been between a man and a woman. Their central argument is that marriage is primarily about procreation. The brief by the petitioners in Hollingsworth v. Because relationships between persons of the same sex do not have the capacity to produce children, they do not implicate this interest in responsible procreation and childrearing in the same way. The Equal Protection Clause does not require the state to ignore this difference. Moreover, same-sex couples will have children whether or not they can marryâ€”gay couples through surrogacy and

adoption, lesbian couples through artificial insemination and adoption. If marriage is desirable for family stability, as petitioners claim, then children of these relationships are better off with married parents. If the court reaches the merits, it will have to decide whether it is persuaded by the justifications offered by the supporters of Proposition 8 and DOMA. There are a large range of possibilities. The court could dismiss one or both cases on standing grounds. The court could write its opinion relatively narrowly, so that it just invalidated Section 3 of DOMA and left for each state to decide for itself whether to allow marriage equality. Or the court could write its opinion broadly to indicate that all laws denying gays and lesbians of the right to marry are unconstitutional. The court could strike down Proposition 8 in a number of different ways. It could take the approach urged by the United States and find that there is a constitutional right to marry for gays and lesbians only in states that have created civil unions or domestic partnerships. This would extend the right to marry for gays and lesbians to eight additional states. Or it could find that laws denying gays and lesbians the right to marry are unconstitutional, which would extend the right to marry to all 50 states. Perhaps the oral arguments will give some indication as to what the court is going to do, but almost certainly we will have to wait until at least June to know the results in these momentous cases. His casebook, Constitutional Law, is one of the most widely read law textbooks in the country. He frequently argues appellate cases, including matters before the U. Supreme Court and the U. Court of Appeal, and regularly serves as a commentator on legal issues for national and local media. He holds a J.

Chapter 6 : Senate confirms Brett Kavanaugh to Supreme Court after bitter partisan battle

In historical terms, nothing like this has ever happened before, a Supreme Court nominee using partisan language to describe not just the senators but all of his opponents and couching the.

Republicans are eager for conservatives to gain a firm majority on the court. Democrats are voicing alarm about what the new justice could mean for charged issues such as abortion rights and gay rights. A look at what to expect: Doug Jones of Alabama has replaced Republican Sen. That increases the focus on two Republicans: Wade decision establishing abortion rights. All three voted to confirm Gorsuch and are up for re-election in states that Trump won handily. Whatever they decide will upset a large group of voters in their home states. If McCain were to miss the vote, only one GOP defection would be needed to block the nomination if all Democrats were opposed. McConnell has rejected that, saying the decision to not fill the vacancy under Obama was prefaced on it being a presidential election year. Democrats say McConnell is being hypocritical in moving forward. For lawmakers who are not on the Judiciary Committee, it may be their only chance to talk with the nominee personally before a final vote. Gorsuch met with nearly three-quarters of the Senate before his hearings. Kavanaugh said his meetings begin Tuesday. The process is arduous. Private meetings give way to days of testimony before the Judiciary Committee, which has 11 Republicans and 10 Democrats. On average, for Supreme Court nominees who have received hearings, the hearing occurred 39 days after the nomination was formally submitted, according to the Congressional Research Service. The Judiciary Committee need not approve the nomination for it to advance. A negative recommendation or no recommendation merely alerts the Senate that a substantial number of committee members have reservations. The spot was to launch Tuesday night and will run for one week. The group says it has reserved air time nationally and in those same states for four more weeks.

Chapter 7 : National | Comeau booze battle before the Supreme Court

The battle over states' power to collect sales taxes on internet sales will be front and center at the Supreme Court next month.

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 8 : Judicial Procedures Reform Bill of - Wikipedia

Never before has a Supreme Court nominee joined the court at a time when a fellow judge has concluded that misconduct claims against that nominee warrant review.

Kavanaugh was sworn in by Chief Justice John Roberts in a private ceremony, accompanied by his wife and children. The ceremonial swearing in is expected to happen on Monday evening at the White House. It means that now-Justice Kavanaugh will begin hearing cases before the court on Tuesday. The Senate voted to confirm Kavanaugh, mostly along party lines, after a weeklong FBI probe helped settle concerns among most wavering senators about the sexual assault allegations that nearly derailed his nomination and led to a dramatic second hearing. Democrats reacted to the vote by urging supporters to turn out to the polls in November for the midterms. At a rally in Topeka, Kansas, President Trump hailed the confirmation as a "tremendous victory" and slammed Democrats for their treatment of Kavanaugh during the contentious confirmation hearing. The confirmation vote was all but secured Friday night when undecided Sens. The explosive battle over his seating as the ninth justice extended Saturday into the vote itself, with protesters shouting from the gallery and packing the Capitol and Supreme Court grounds â€" vowing to inflict payback against Republicans in November, and indicating Kavanaugh will be a lightning rod for years to come. While emerging from his formal confirmation hearing largely unscathed, Kavanaugh faced a late burst of sexual assault allegations from multiple women from when he was in high school and college. At the hastily convened second hearing that also featured accuser Christine Blasey Ford, he furiously and at-times emotionally denied the claims and attacked Democrats and left-wing activists for their handling of the allegations. Democrats said the claims were credible and called for further investigation, or even for Kavanaugh to withdraw. After she first came forward, prodded into the public eye by press leaks, another woman, Deborah Ramirez, said Kavanaugh exposed himself to her when they were at Yale. Kavanaugh and Judge adamantly denied it all. They also slammed Democrats, accusing them of politicizing the accusations and trying to destroy Kavanaugh. God, I hope you never get it. Republicans conceded to the demand for a limited FBI investigation by Sen. Democrats had been demanding such an investigation into the assault claims, but criticized this one as not being thorough enough even before it had finished earlier this week. On the Senate floor Saturday, Sen. Mazie Hirono, D-Hawaii, said the investigation was not comprehensive, and was "a sham, a fig leaf for the Republicans to hide behind. Wade and rule from the extreme right. Dianne Feinstein, D-Calif, said Friday. Protesters and activists had been a ubiquitous presence on Capitol Hill in recent days. McConnell meanwhile, told the Washington Post that the Democratic and left-wing opposition was a "great political gift for us. Adam Shaw is a reporter covering U. He can be reached here.

Chapter 9 : Science and the Supreme Court: Cases to Watch in - Scientific American

The Senate confirmed Brett Kavanaugh as the Supreme Court's th justice on Saturday in a historic vote â€" one that divided the nation and now tilts the highest court to the right for.