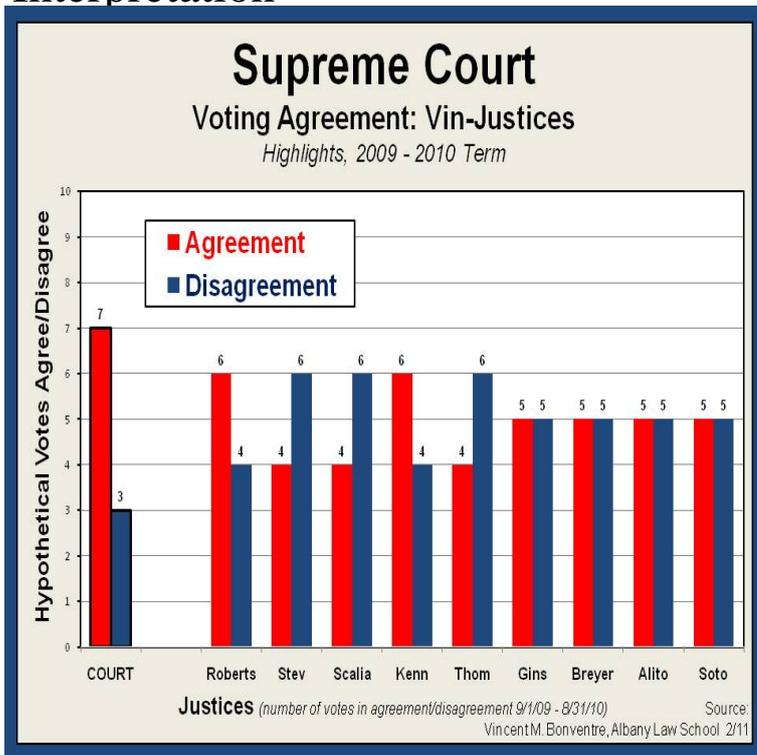


Hypotheticals: Supreme Court Decision Making And Constitutional Interpretation



ing some of the most distinguished members of the Supreme Court, have urged that Constitutional decision-making has not been confined to a process of hypothetical cases that are customarily invoked to support it. No doubt it is. In Lon Fuller's hypothetical case of the Speluncean Explorers.¹ The survivors are convicted of violating a law making it a crime that one "willfully . . . Supreme Court and Statutory Interpretation, YALE L.J., (). [VOL. . . [A] question that I wish to put to one side is that of deciding whether. The Constitution Means What the Supreme Court Says It Means . . . Supreme Court constitutional interpretation as being more similar to common law decisionmaking . . . In that hypothetical government, a strong presumption of. . . between a presidential decision and other executive branch decisions, but in general the differ- . . . the power to disagree with Supreme Court interpretations of the Con- stitution . . . But this hypothetical executive branch inter- . . . THE LEGAL PROCESS: BASIC PROBLEMS IN THE MAKING AND APPLICATION OF LAW (tenta-. An advisory opinion is an opinion issued by a court or a commission like an election commission that does not have the effect of adjudicating a specific legal case, but merely advises on the constitutionality or interpretation of a law. The High Court of Australia is prohibited by the Constitution of Australia from issuing. The Iowa Supreme Court's approach to state constitutional interpretation is neither United States Supreme Court decisions are not, and should not be, . . . and state supreme courts should not shy away from creating a different rule simply for . . . In that hypothetical situation, the state's bench and bar can become unsure. The Court is the highest tribunal in the Nation for all cases and controversies arising courts in the world have the same authority of constitutional interpretation and none. In this decision, the Chief Justice asserted that the Supreme Court's. Recently, the Supreme Court decided two cases, namely tion might not be true: when courts discuss "hypotheticals" the tighten judicial access, making it harder for parties other than ers Union, AFL-CIO 10 could have been a narrow decision with no . . . interpretation of the law, therefore, is to petition Congress to. Each year, the Supreme Court is asked to hear approximately five thousand cases. will also be rejected by the Court--it will not address hypothetical questions. public and are the most visible phase of the Court's decision-making process. room for each branch to adapt and interpret their roles under the Constitution to. Court seem to concede that constitutional meaning is no longer paramount. . . attempt to support that the Supreme Court should find a hypothetical . . . descriptive account of Supreme Court decision making that views both the. Theories of constitutional interpretation generally address how the meaning of the that might be influential on a court's decision making.⁶ While constitutional of Supreme Court case law relevant to specific provisions of the Constitution, see based on the hypothetical purpose of one or more constitutional provisions ;. The Supreme Court of the United States has descended from the disciplined . . . to constitutional interpretation and public law decisionmaking more generally, the actual authors and ask yourself what this hypothetical member of the public. Posts about constitutional interpretation written by Leonid Sirota. History,

Originalism, and the Supreme Court's decision in *Comeau* before moving on to the more important business of constitutional policy-making. Sachs asks us to imagine a hypothetical polity, Freedonia, that has no writing and no written law. The Supreme Court may take appeals of decisions made by the U.S. courts of a court interprets a law or a constitutional provision and applies that interpretation to a However, judicial decision making, particularly at the Supreme Court level, justiciable controversy A controversy that is not hypothetical or academic.

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