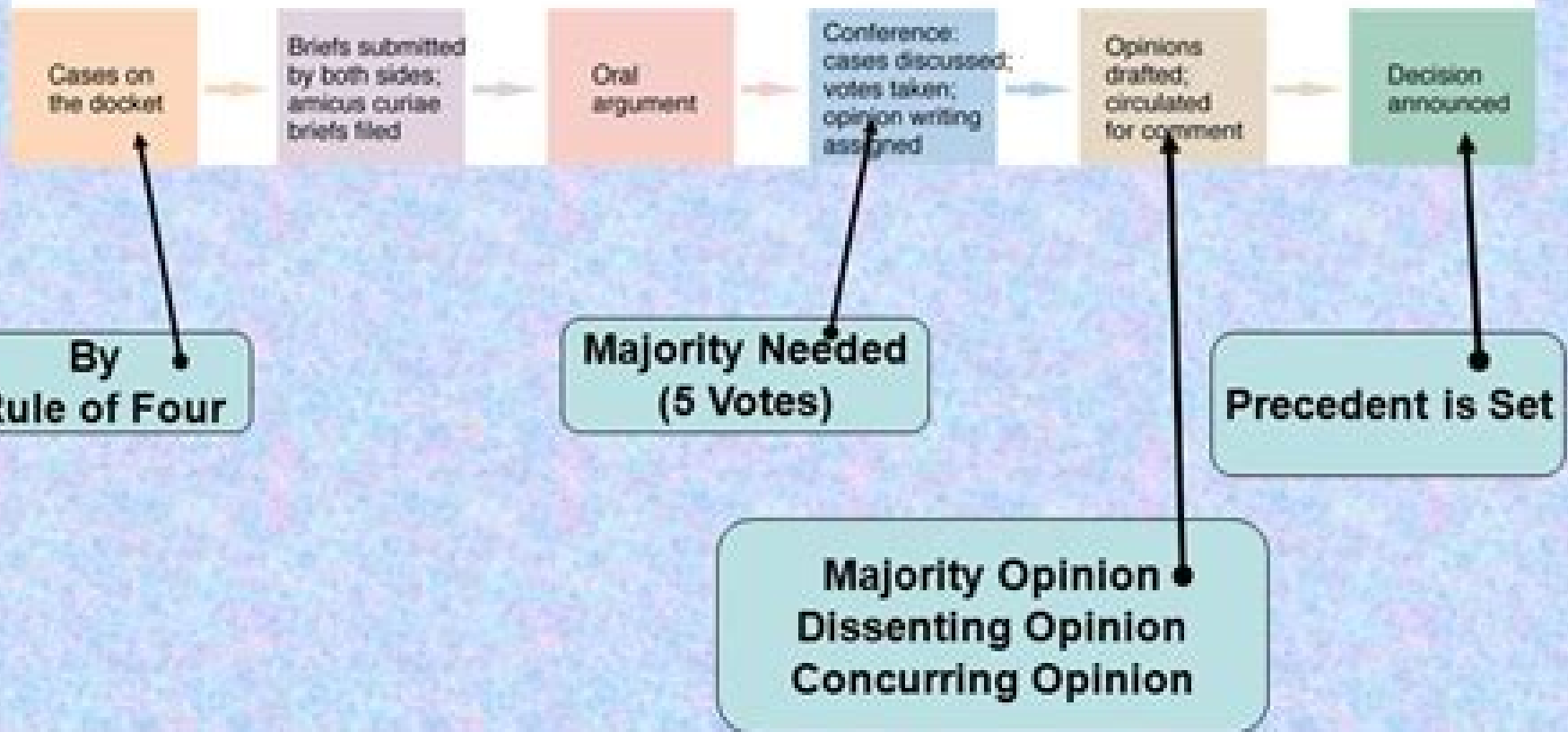


Supreme Court Decision Making Process

Figure 13.5
The Supreme Court's Decision Making Process



Supreme Court Decision Making

Rachel S Tattersall



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the Supreme Court makes constitutional law *Constitutional Process* Maxwell L. Stearns, 2002 This is the first comprehensive analysis of how the collective nature of Supreme Court decision making affects the transformation of the justices preferences into constitutional doctrine Analyzing the Supreme Court from the perspective of social choice theory Maxwell L Stearns offers new insights into Supreme Court decision making that have profound implications for understanding the outcomes in a number of cases and the resulting doctrinal development within constitutional law which traditional analyses have proven ill equipped to explain The book models several important process based Supreme Court rules including outcome voting the narrowest grounds rule stare decisis and justiciability with a particular emphasis on standing These doctrines have each had a significant impact upon the evolution of modern constitutional law including but not limited to the following areas affirmative action school desegregation racial gerrymandering obscenity and abortion Each model is presented in nontechnical language with several concrete illustrations drawn from recent Supreme Court case law The book offers a new understanding of two apparently paradoxical situations first cases in which there are separate majorities on specific issues in the case that suggest logically that there should be a majority for the dissenting result and second cases in which discrete minorities as opposed to the apparent majority control the identification and resolution of dispositive case issues In addition the book sheds new light on why the Court employs stare decisis even though the doctrine grounds the evolution of legal doctrine on the order in which cases are presented and decided and on how the modern standing doctrine ameliorates the incentives for interest groups to time the litigation of cases in a way that will exert a disproportionate influence over the direction of constitutional doctrine This book will appeal to scholars of the Supreme Court or judicial decision making It should also be of interest to students of social choice and of law and economics who have not previously considered the Supreme Court or constitutional law as fertile ground for their disciplines Maxwell L Stearns is Professor of Law George Mason University School of Law *Values in the Supreme Court* Rachel Cahill-O'Callaghan, 2020-02-20 This book examines the significance of values in Supreme Court decision making Drawing on theories and techniques from psychology it focuses on the content analysis of judgments and uses a novel methodology to reveal the values that underpin decision making The book centres on cases which divide judicial opinion Dworkin's hard cases in which the result is not clearly dictated by statute or precedent In hard cases there is real uncertainty about the legal rules that should be applied and factors beyond traditional legal sources may influence the decision making process It is in these uncertain cases where legal developments can rest on a single judicial decision that values are revealed in the judgments The findings in this book have significant implications for developments in law judicial decision making and the appointment of the judiciary **The Psychology of Judicial Decision Making** David E. Klein, Gregory Mitchell, 2010-02-08 Over the years psychologists have devoted uncountable hours to learning how human beings make judgments and decisions As much progress as scholars have made in explaining what judges do over the past few decades there remains a certain lack

of depth to our understanding Even where scholars can make consensual and successful predictions of a judge s behavior they will often disagree sharply about exactly what happens in the judge s mind to generate the predicted result This volume of essays examines the psychological processes that underlie judicial decision making **Strategic Behavior and Policy Choice on the U.S. Supreme Court** Thomas H. Hammond,Chris W. Bonneau,Reginald S. Sheehan,2005 This book presents the first comprehensive model of policymaking by strategically rational justices who pursue their own policy preferences in the Supreme Court s multi stage decision making process

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