THE *Illustrated* SUPREME COURT REVIEW



JAMES CRAVEN MARCUS FROST EMAN CASALLOS

THE

Illustrated

SUPREME COURT REVIEW

2025 — 2026

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THANK YOU FOR READING *THE ILLUSTRATED SUPREME COURT REVIEW.*

MANY IMPORTANT CASES CAME DOWN AT THE END OF THIS YEAR'S TERM, SO IT WAS QUITE A SCRAMBLE TO PREPARE THIS BOOK OVER THE SUMMER. STILL, EVERYONE PULLED THROUGH.

SOME OF THE CASES FEATURED THIS YEAR CONCERN CITIZENSHIP, TRADE, AND SURVEILLANCE. THE STATE SOUGHT TO CLAIM VAST NEW POWERS IN THESE DOMAINS, BUT THE SUPREME COURT REBUFFED IT AT EACH TURN.

NEW TO THIS EDITION, WE'VE ALSO COVERED A MAJOR DEVELOPMENT IN ELECTION LAW TOGETHER WITH THE SEMINAL ELECTION LAW CASE, *CITIZENS UNITED.* EARLY NEXT YEAR, WE'RE RELEASING A FULL TEXTBOOK OF COMIC BOOK ADAPTATIONS OF FOUNDATIONAL CASE LAW--THE VERY CASES REQUIRED BY THE AP U.S. GOVERNMENT CURRICULUM.

IT'S BEEN MY PLEASURE TO WORK WITH OUR ARTISTS AND SCHOLARS TO BRING YOU THESE CASES IN COMIC FORM. PLEASE ENJOY THE BOOK!

WARM REGARDS,

JAMES CRAVEN
EDITOR IN CHIEF



Learning Resources

Trump

★ ★ ★ ★ ★ ★ ★

Brent Skorup




WOULD TWEA'S REACH EXTEND TO TARIFFS?
US Gold Reserves
25,000
20,000
15,000
10,000
5,000
1960
1965
1970
1971
Tariffs
IN 1971, PRESIDENT RICHARD NIXON IMPOSED A 10 PERCENT TARIFF ON NEARLY ALL IMPORTS.
YOSHIDA INT'L ZIP
TARIFF SURCHARGE-10%
YOSHIDA INTERNATIONAL, A ZIPPER IMPORTER, SUED.
THE NIXON ADMINISTRATION DEFENDED THE TARIFFS UNDER TWEA, ARGUING THAT ITS AUTHORITY TO "REGULATE ... IMPORTATION" INCLUDED THE POWER TO TAX IMPORTS. YOSHIDA DISAGREED.
COURT OF CUSTOMS AND PATENT APPEALS
US Gold Reserves
Tariffs
THE CUSTOMS COURT AGREED WITH YOSHIDA AND REJECTED THE TARIFFS, BUT THE GOVERNMENT APPEALED.
THE COURT OF CUSTOMS AND PATENT APPEALS REVERSED--"REGULATE ... IMPORTATION" AUTHORIZED NIXON'S 10 PERCENT TARIFFS.
IN 1977, CONGRESS RESPONDED TO THE NOVEL USES OF TWEA WITH THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT--IEEPA--WHICH LIMITED THE PRESIDENT TO ONLY TEMPORARY AUTHORITY TO REGULATE FOREIGN COMMERCE DURING A NATIONAL EMERGENCY.
IEEPA-1977
An Act
...BUT IEEPA RETAINED THE "REGULATE IMPORTATION" LANGUAGE FROM TWEA.

FOR NEARLY 50 YEARS, PRESIDENTS USED IEEPA AS A "SANCTIONS" WEAPON IN FOREIGN RELATIONS--TO FREEZE ASSETS OF LEADERS AND BUSINESSPEOPLE OF HOSTILE NATIONS DURING DECLARED EMERGENCIES. NO PRESIDENT USED IT TO IMPOSE TARIFFS.

Iranian Revolution
1979
Kuwait Invasion
1990
Crimea Annexation
2014

THAT CHANGED IN 2025.

RECIPROCAL TARIFFS

China	34%
European Union	20%
Japan	24%
India	26%
South Korea	25%
Vietnam	

THE DAILY HERALD

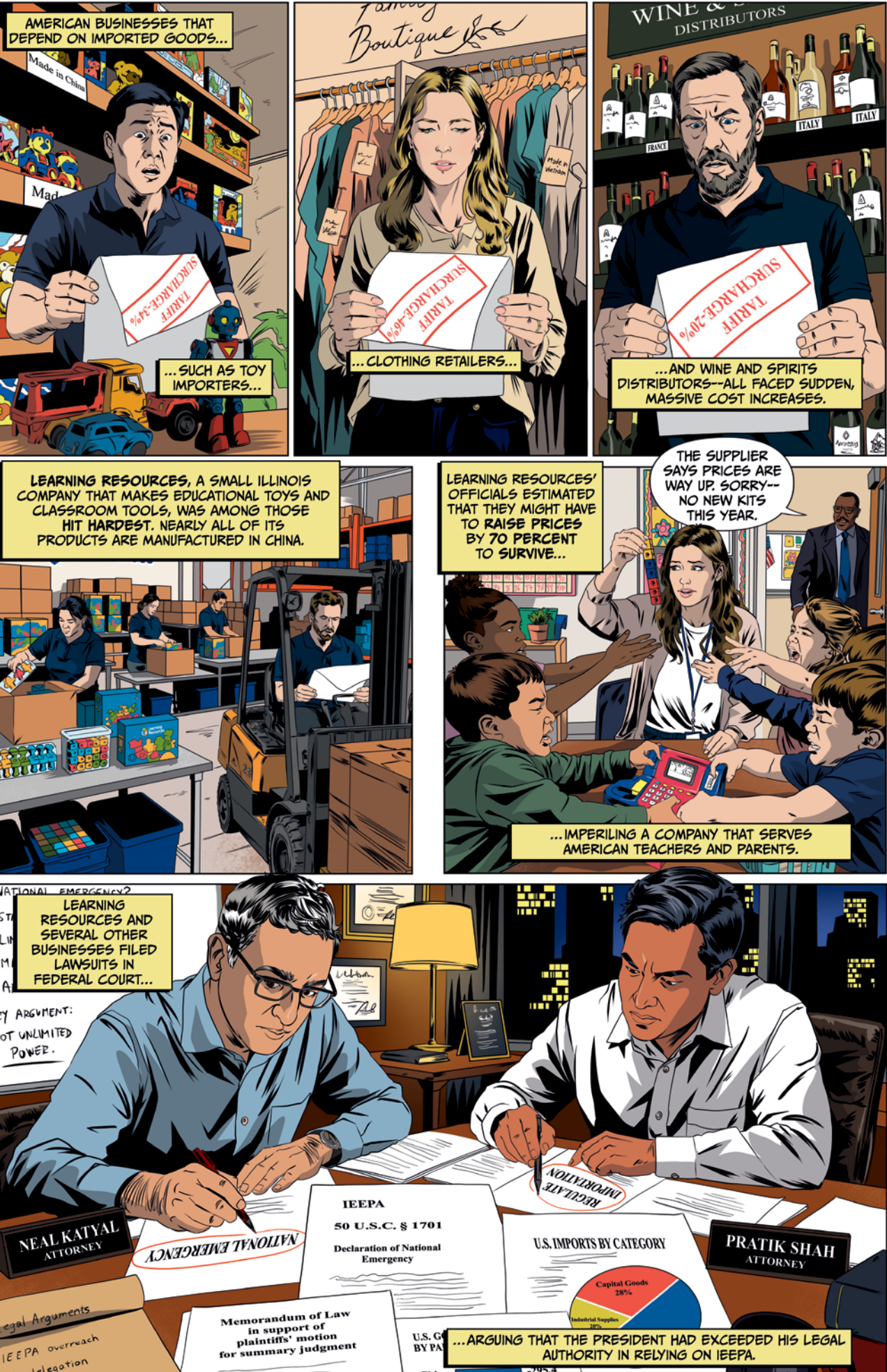
TRUMP DECLARES TRADE EMERGENCY, IMPOSES SWEEPING TARIFFS ON ALL IMPORTS

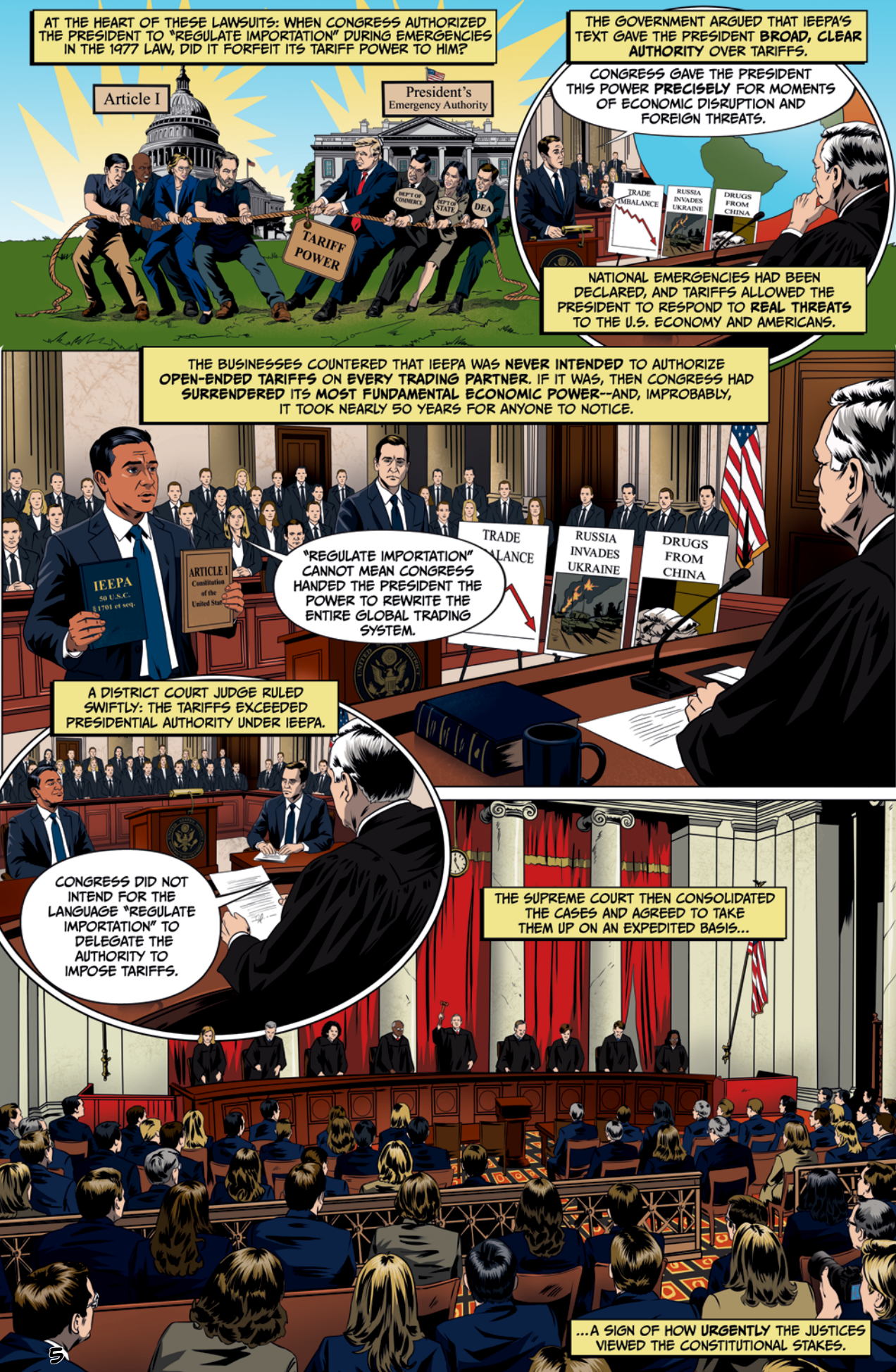
PRESIDENT TRUMP, CITING SEVERAL NATIONAL EMERGENCIES...

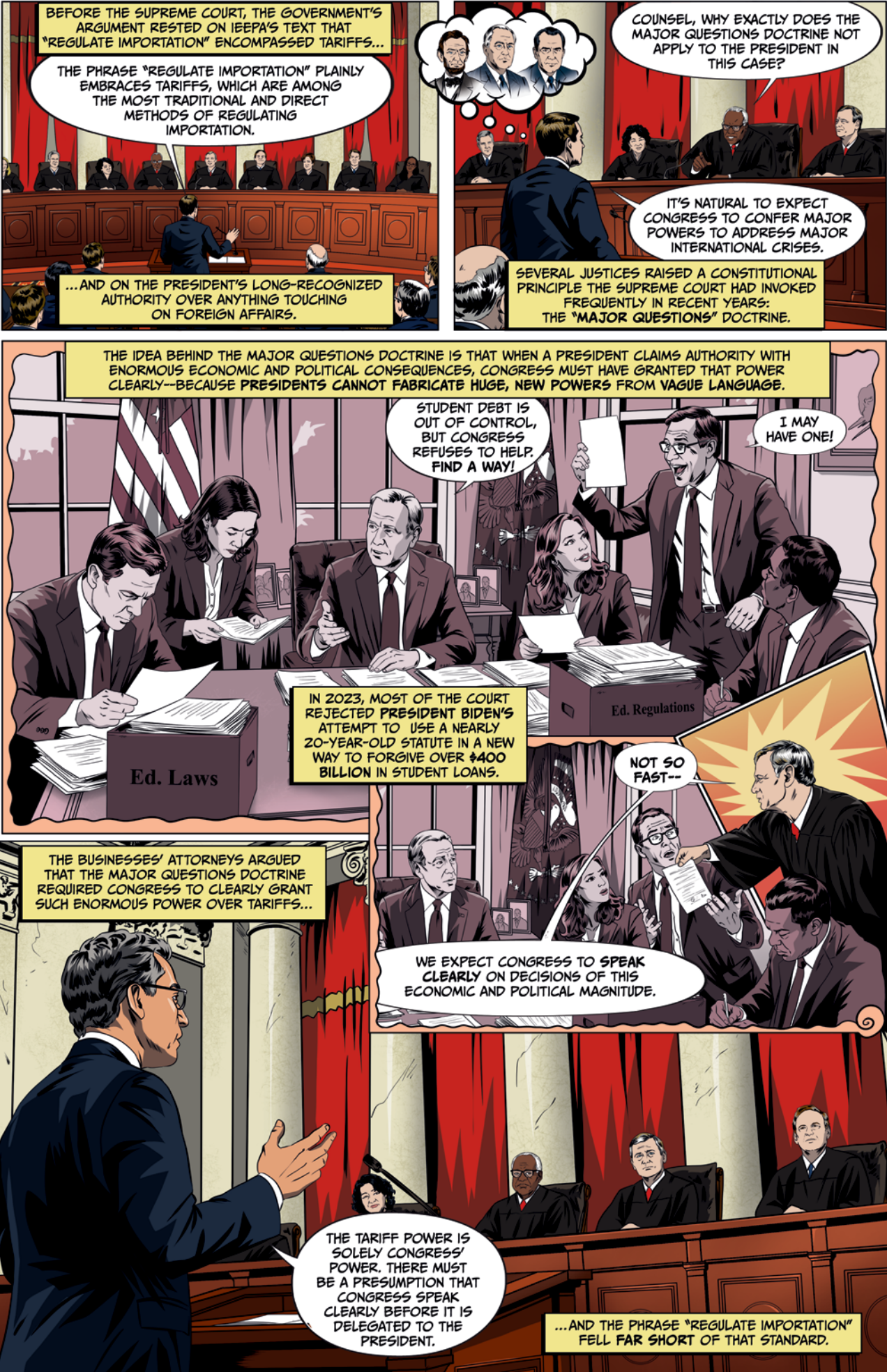
IEEPA TARIFFS

China	34%
EU	20%
Japan	24%
India	26%

...RELIED ON IEEPA TO IMPOSE TARIFFS ON GOODS FROM NEARLY EVERY COUNTRY ON EARTH-- AS HIGH AS 145 PERCENT ON SOME CHINESE IMPORTS.


AMERICAN BUSINESSES THAT DEPEND ON IMPORTED GOODS...
Made in China
TARIFF SURCHARGE-34%
...SUCH AS TOY IMPORTERS...
Boutique
Made in Vietnam
TARIFF SURCHARGE-46%
...CLOTHING RETAILERS...
WINE & SPIRITS DISTRIBUTORS
FRANCE
ITALY
ITALY
TARIFF SURCHARGE-20%
...AND WINE AND SPIRITS DISTRIBUTORS--ALL FACED SUDDEN, MASSIVE COST INCREASES.
LEARNING RESOURCES, A SMALL ILLINOIS COMPANY THAT MAKES EDUCATIONAL TOYS AND CLASSROOM TOOLS, WAS AMONG THOSE HIT HARDEST. NEARLY ALL OF ITS PRODUCTS ARE MANUFACTURED IN CHINA.
LEARNING RESOURCES' OFFICIALS ESTIMATED THAT THEY MIGHT HAVE TO RAISE PRICES BY 70 PERCENT TO SURVIVE...
THE SUPPLIER SAYS PRICES ARE WAY UP. SORRY--NO NEW KITS THIS YEAR.
...IMPERILING A COMPANY THAT SERVES AMERICAN TEACHERS AND PARENTS.
LEARNING RESOURCES AND SEVERAL OTHER BUSINESSES FILED LAWSUITS IN FEDERAL COURT...
NATIONAL EMERGENCY?
ARGUMENT:
UNLIMITED POWER.
NEAL KATYAL
ATTORNEY
NATIONAL EMERGENCY
IEEPA
50 U.S.C. § 1701
Declaration of National Emergency
REGULATE IMPORTATION
U.S. IMPORTS BY CATEGORY
Capital Goods 28%
Industrial Supplies 28%
PRATIK SHAH
ATTORNEY
Memorandum of Law in support of plaintiffs' motion for summary judgment
egal Arguments
IEEPA overreach
...ARGUING THAT THE PRESIDENT HAD EXCEEDED HIS LEGAL AUTHORITY IN RELYING ON IEEPA.


AT THE HEART OF THESE LAWSUITS: WHEN CONGRESS AUTHORIZED THE PRESIDENT TO "REGULATE IMPORTATION" DURING EMERGENCIES IN THE 1977 LAW, DID IT FORFEIT ITS TARIFF POWER TO HIM?
Article I
President's Emergency Authority
TARIFF POWER
DEPT OF COMMERCE
DEPT OF STATE
DEA
THE GOVERNMENT ARGUED THAT IEEPA'S TEXT GAVE THE PRESIDENT BROAD, CLEAR AUTHORITY OVER TARIFFS.
CONGRESS GAVE THE PRESIDENT THIS POWER PRECISELY FOR MOMENTS OF ECONOMIC DISRUPTION AND FOREIGN THREATS.
TRADE IMBALANCE
RUSSIA INVADES UKRAINE
DRUGS FROM CHINA
NATIONAL EMERGENCIES HAD BEEN DECLARED, AND TARIFFS ALLOWED THE PRESIDENT TO RESPOND TO REAL THREATS TO THE U.S. ECONOMY AND AMERICANS.
THE BUSINESSES COUNTERED THAT IEEPA WAS NEVER INTENDED TO AUTHORIZE OPEN-ENDED TARIFFS ON EVERY TRADING PARTNER. IF IT WAS, THEN CONGRESS HAD SURRENDERED ITS MOST FUNDAMENTAL ECONOMIC POWER--AND, IMPROBABLY, IT TOOK NEARLY 50 YEARS FOR ANYONE TO NOTICE.
IEEPA 50 U.S.C. § 1701 et seq.
ARTICLE I Constitution of the United States
"REGULATE IMPORTATION" CANNOT MEAN CONGRESS HANDED THE PRESIDENT THE POWER TO REWRITE THE ENTIRE GLOBAL TRADING SYSTEM.
TRADE IMBALANCE
RUSSIA INVADES UKRAINE
DRUGS FROM CHINA
A DISTRICT COURT JUDGE RULED SWIFTLY: THE TARIFFS EXCEEDED PRESIDENTIAL AUTHORITY UNDER IEEPA.
CONGRESS DID NOT INTEND FOR THE LANGUAGE "REGULATE IMPORTATION" TO DELEGATE THE AUTHORITY TO IMPOSE TARIFFS.
THE SUPREME COURT THEN CONSOLIDATED THE CASES AND AGREED TO TAKE THEM UP ON AN EXPEDITED BASIS...
...A SIGN OF HOW URGENTLY THE JUSTICES VIEWED THE CONSTITUTIONAL STAKES.


BEFORE THE SUPREME COURT, THE GOVERNMENT'S ARGUMENT RESTED ON IEEPA'S TEXT THAT "REGULATE IMPORTATION" ENCOMPASSED TARIFFS...
THE PHRASE "REGULATE IMPORTATION" PLAINLY EMBRACES TARIFFS, WHICH ARE AMONG THE MOST TRADITIONAL AND DIRECT METHODS OF REGULATING IMPORTATION.
...AND ON THE PRESIDENT'S LONG-RECOGNIZED AUTHORITY OVER ANYTHING TOUCHING ON FOREIGN AFFAIRS.
COUNSEL, WHY EXACTLY DOES THE MAJOR QUESTIONS DOCTRINE NOT APPLY TO THE PRESIDENT IN THIS CASE?
IT'S NATURAL TO EXPECT CONGRESS TO CONFER MAJOR POWERS TO ADDRESS MAJOR INTERNATIONAL CRISES.
SEVERAL JUSTICES RAISED A CONSTITUTIONAL PRINCIPLE THE SUPREME COURT HAD INVOKED FREQUENTLY IN RECENT YEARS: THE "MAJOR QUESTIONS" DOCTRINE.
THE IDEA BEHIND THE MAJOR QUESTIONS DOCTRINE IS THAT WHEN A PRESIDENT CLAIMS AUTHORITY WITH ENORMOUS ECONOMIC AND POLITICAL CONSEQUENCES, CONGRESS MUST HAVE GRANTED THAT POWER CLEARLY--BECAUSE PRESIDENTS CANNOT FABRICATE HUGE, NEW POWERS FROM VAGUE LANGUAGE.
STUDENT DEBT IS OUT OF CONTROL, BUT CONGRESS REFUSES TO HELP. FIND A WAY!
I MAY HAVE ONE!
Ed. Laws
Ed. Regulations
IN 2023, MOST OF THE COURT REJECTED PRESIDENT BIDEN'S ATTEMPT TO USE A NEARLY 20-YEAR-OLD STATUTE IN A NEW WAY TO FORGIVE OVER $400 BILLION IN STUDENT LOANS.
NOT SO FAST--
WE EXPECT CONGRESS TO SPEAK CLEARLY ON DECISIONS OF THIS ECONOMIC AND POLITICAL MAGNITUDE.
THE BUSINESSES' ATTORNEYS ARGUED THAT THE MAJOR QUESTIONS DOCTRINE REQUIRED CONGRESS TO CLEARLY GRANT SUCH ENORMOUS POWER OVER TARIFFS...
THE TARIFF POWER IS SOLELY CONGRESS' POWER. THERE MUST BE A PRESUMPTION THAT CONGRESS SPEAK CLEARLY BEFORE IT IS DELEGATED TO THE PRESIDENT.
...AND THE PHRASE "REGULATE IMPORTATION" FELL FAR SHORT OF THAT STANDARD.

IT DEFIES COMMON SENSE THAT THE PRESIDENT CAN SHUT DOWN ALL TRADE BUT NOT IMPOSE EVEN 1 PERCENT TARIFFS.

THAT'S AN ODD DONUT HOLE IN THE STATUTE.

I SUBMIT, YOUR HONOR, THE TARIFF POWER IS A DIFFERENT KIND OF PASTRY.

KATYAL

SHAH

BUT SOME JUSTICES POINTED OUT THAT IEEPA PROVIDED BROAD POWER TO THE PRESIDENT.

THE SUPREME COURT RULED **6-3** THAT THE PRESIDENT HAD **EXCEEDED HIS AUTHORITY** UNDER IEEPA.

THE GOVERNMENT READS THE WORDS "REGULATE" AND "IMPORTATION" TO AUTHORIZE THE PRESIDENT TO IMPOSE TARIFFS OF UNLIMITED AMOUNT AND DURATION, ON ANY PRODUCT FROM ANY COUNTRY.

THOSE WORDS **CANNOT BEAR SUCH WEIGHT.**

"REGULATE IMPORTATION" DID NOT CLEARLY GRANT THE POWER TO IMPOSE SWEEPING TARIFFS.

JUSTICE ROBERTS

THE MAJOR QUESTIONS DOCTRINE DOES NOT LET THE EXECUTIVE READ **EXTRAORDINARY DELEGATIONS OF POWER** INTO **AMBIGUOUS OLD STATUTES.**

IN IEEPA'S HALF-CENTURY HISTORY, NO PRESIDENT HAS INVOKED IT TO IMPOSE ANY TARIFFS--LET ALONE **$4 TRILLION** IN TARIFFS. THESE STAKES DWARF THE $430 BILLION STUDENT LOAN CASE.

JUSTICE KAGAN

IEEPA'S KEY PHRASE--"REGULATE IMPORTATION"--SAYS NOTHING ABOUT IMPOSING TARIFFS. WHEN CONGRESS DELEGATES THE TAXING POWER, IT USES DIFFERENT WORDS: "DUTY," "TARIFF," AND "SURCHARGE." NONE APPEAR HERE.

AND WHEN CONGRESS PUT "REGULATE IMPORTATION" IN IEEPA IN 1977, **IT KNEW WHAT THOSE WORDS MEANT.** COURTS HAD JUST UPHELD THE SAME LANGUAGE TO AUTHORIZE NIXON'S TARIFFS IN *YOSHIDA*.

JUSTICE KAVANAUGH

THE MAJOR QUESTIONS DOCTRINE SHOULD NOT APPLY IN FOREIGN AFFAIRS CASES IN WHICH CONGRESS HAS LONG GIVEN PRESIDENTS BROAD AUTHORITY. THE PRESIDENT NEEDS FLEXIBLE TOOLS--INCLUDING TARIFFS--TO DEAL WITH ALLIES AND ADVERSARIES ALIKE.

THE DISSENT SAYS THE DOCTRINE SHOULDN'T APPLY HERE BECAUSE FOREIGN AFFAIRS IS TOO IMPORTANT. BUT **THERE IS NO MAJOR QUESTIONS EXCEPTION** TO THE **MAJOR QUESTIONS DOCTRINE.**

A SINGLE LOWER COURT DECISION ABOUT TWEA HAS **NO BEARING** ON IEEPA'S MEANING.

TARIFF POWER

IT WAS A RARE CASE OF THE SUPREME COURT RULING **AGAINST** A PRESIDENT IN FOREIGN AFFAIRS...

TARIFF POWER

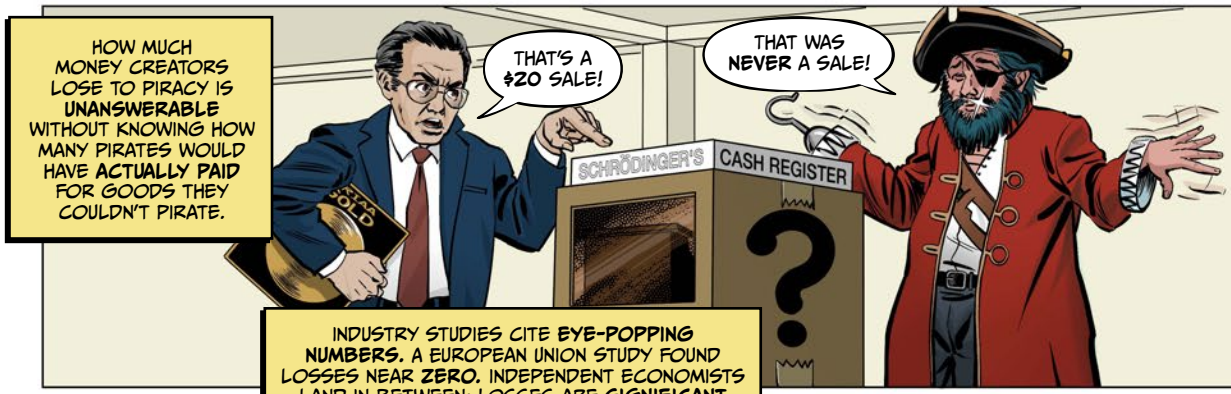
...BUT THE RULING REAFFIRMED THAT ON QUESTIONS OF SWEEPING NATIONAL CONSEQUENCE, AMBIGUOUS AND ANTIQUATED LANGUAGE CANNOT **SILENTLY STRIP** CONGRESS OF ITS **MOST FUNDAMENTAL** POWERS--NOT EVEN IN AREAS TOUCHING ON FOREIGN AFFAIRS, LIKE TRADE.

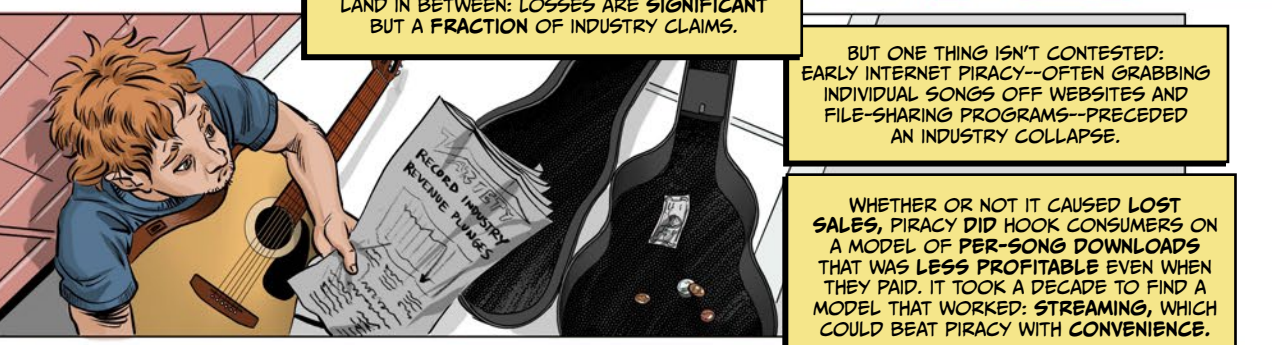
Cox
u
Sony

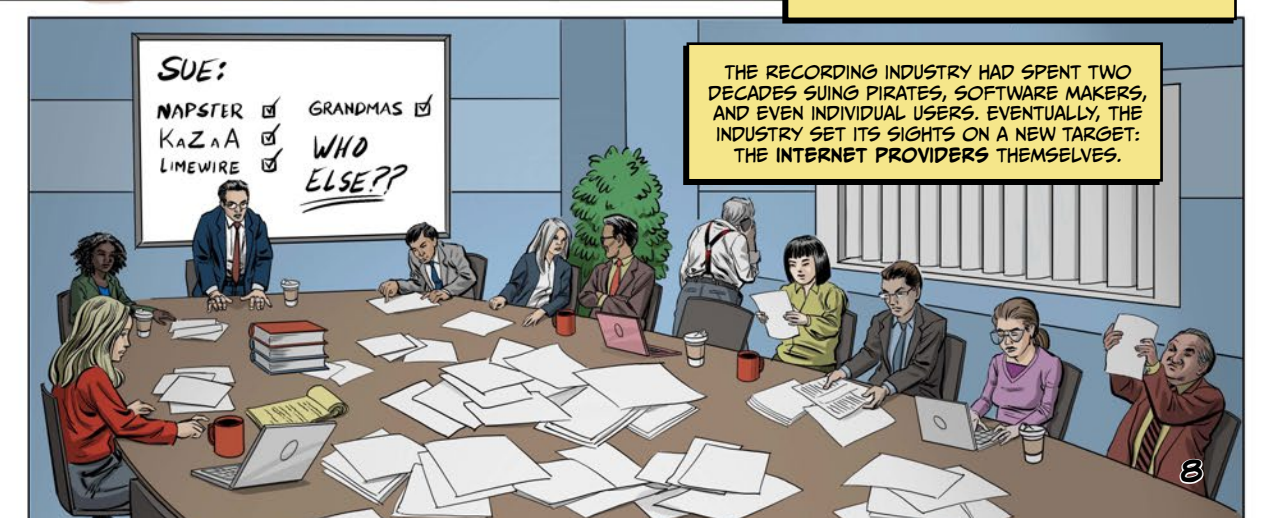
★ ★ ★ ★ ★ ★ ★

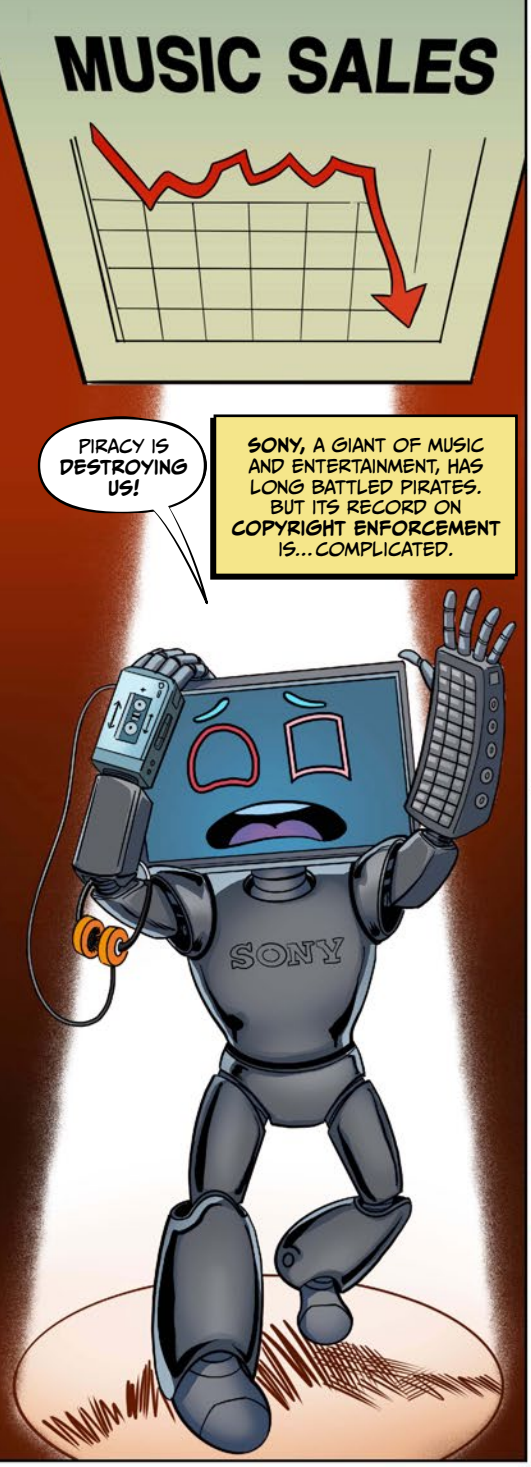
James Craven

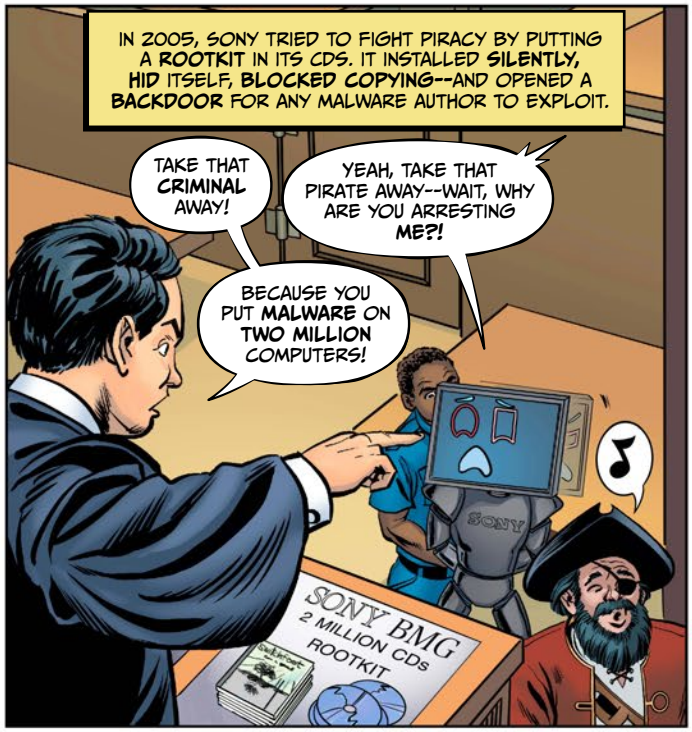


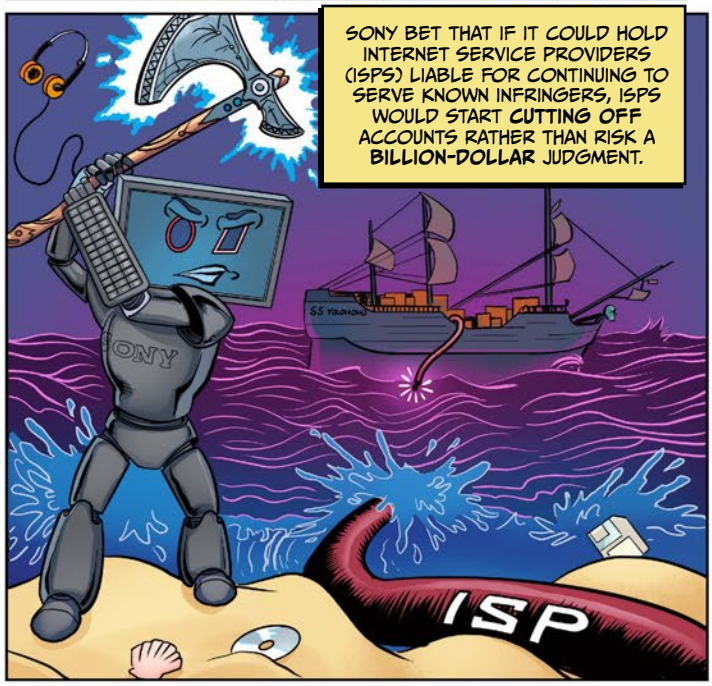




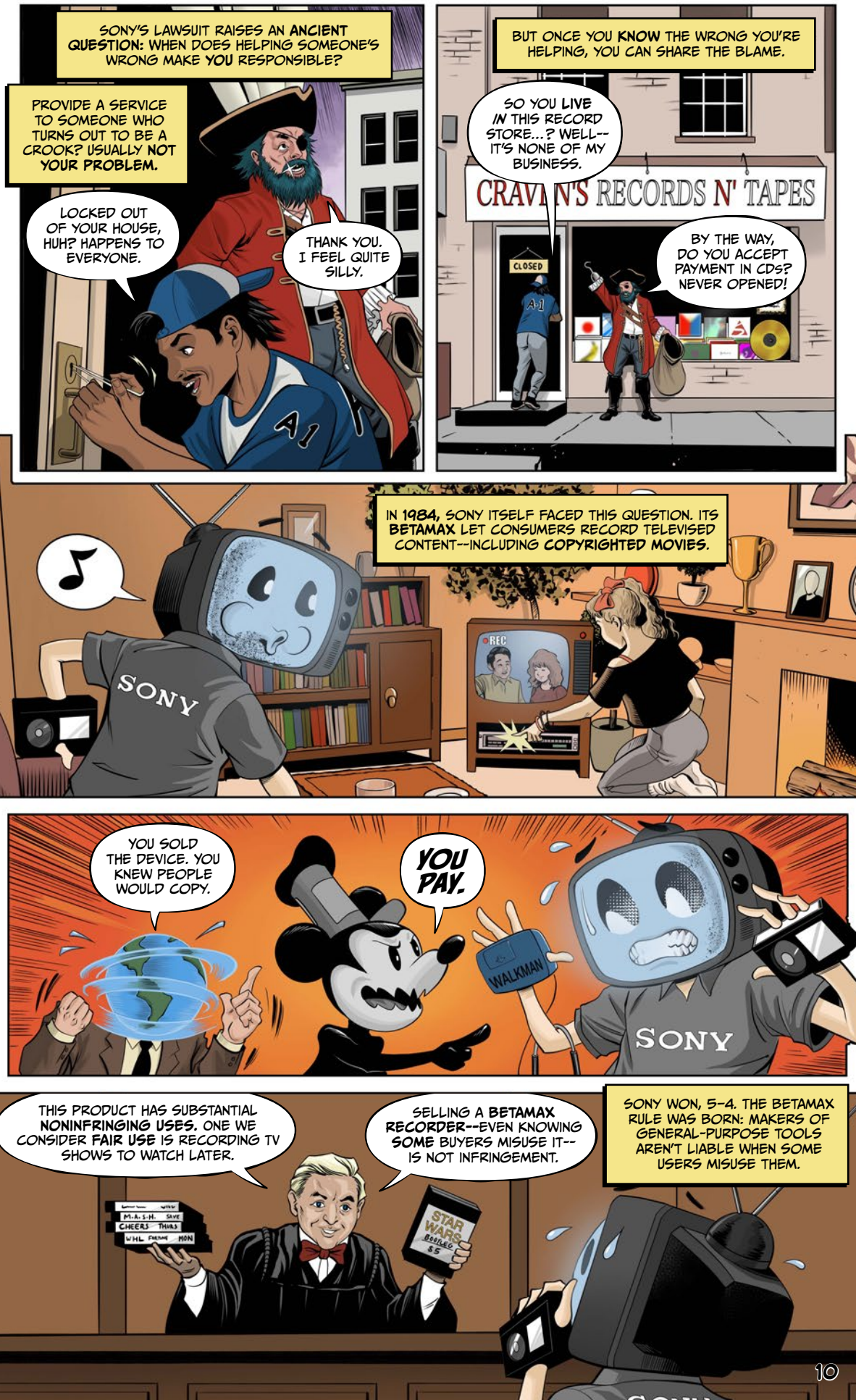


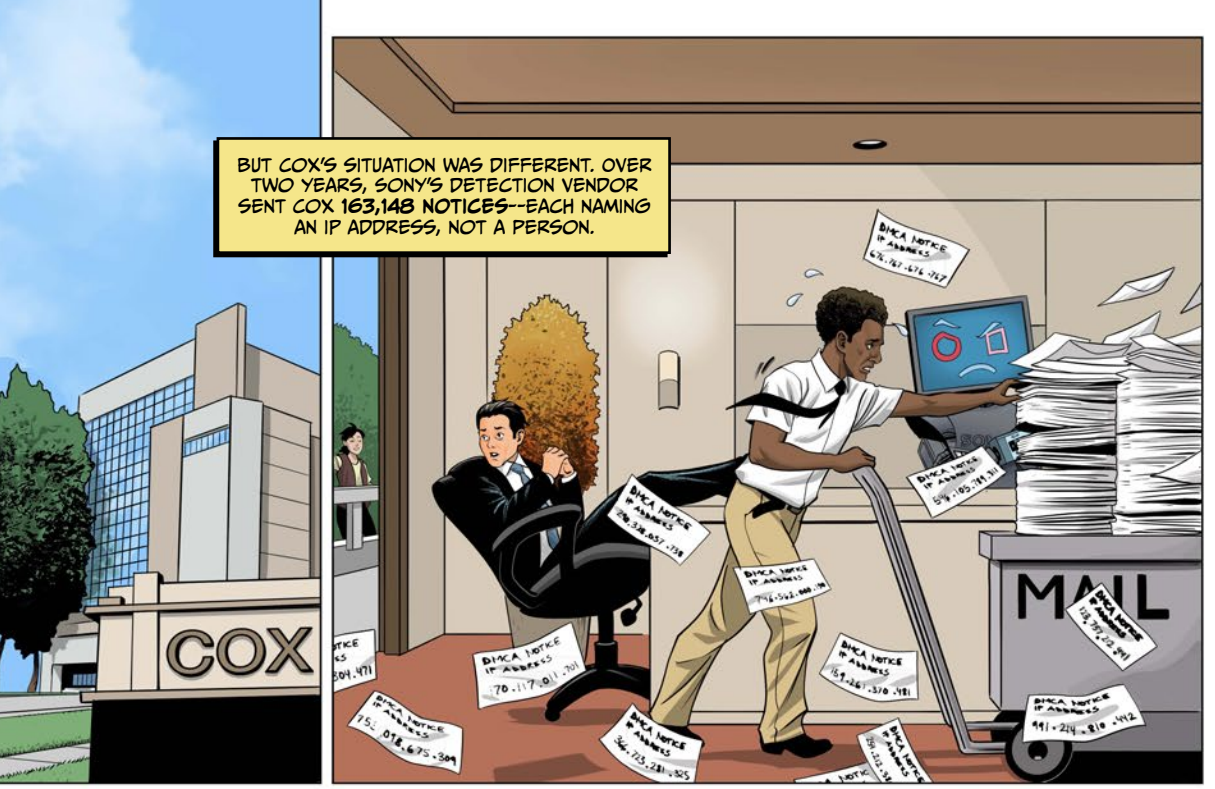

MUSIC SALES
PIRACY IS DESTROYING US!
SONY, A GIANT OF MUSIC AND ENTERTAINMENT, HAS LONG BATTLED PIRATES. BUT ITS RECORD ON COPYRIGHT ENFORCEMENT IS...COMPLICATED.
SONY


IN 2005, SONY TRIED TO FIGHT PIRACY BY PUTTING A ROOTKIT IN ITS CDS. IT INSTALLED SILENTLY, HID ITSELF, BLOCKED COPYING--AND OPENED A BACKDOOR FOR ANY MALWARE AUTHOR TO EXPLOIT.
TAKE THAT CRIMINAL AWAY!
YEAH, TAKE THAT PIRATE AWAY--WAIT, WHY ARE YOU ARRESTING ME?!
BECAUSE YOU PUT MALWARE ON TWO MILLION COMPUTERS!
SONY BMG
2 MILLION CDs
ROOTKIT
SONY


SONY BET THAT IF IT COULD HOLD INTERNET SERVICE PROVIDERS (ISPS) LIABLE FOR CONTINUING TO SERVE KNOWN INFRINGERS, ISPS WOULD START CUTTING OFF ACCOUNTS RATHER THAN RISK A BILLION-DOLLAR JUDGMENT.
SONY
ISP


YOUR SUBSCRIBERS ARE PIRATING MY MUSIC. YOU'RE RESPONSIBLE.
S-SEEMS LIKE MORE OF A YOU PROBLEM?
SONY MUSIC
V. COX COMMUNICATIONS
SONY
COX

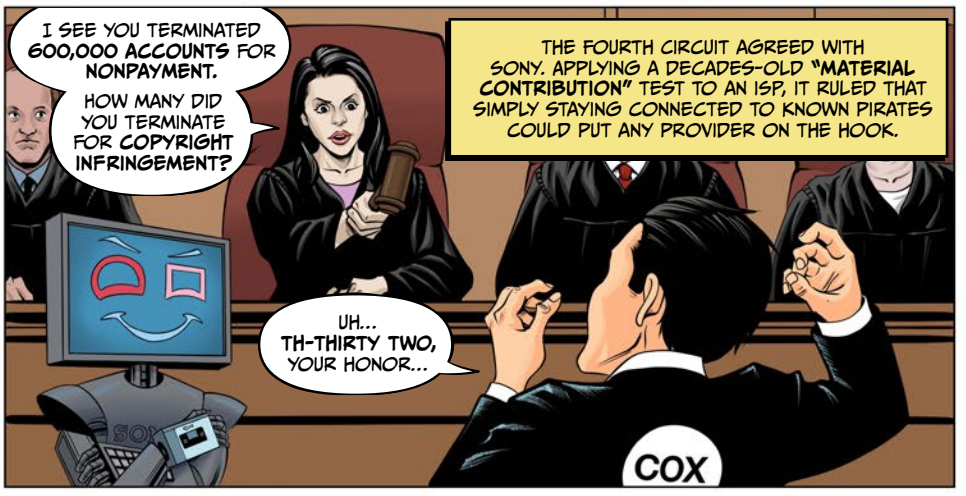

SONY'S LAWSUIT RAISES AN **ANCIENT QUESTION:** WHEN DOES HELPING SOMEONE'S WRONG MAKE **YOU** RESPONSIBLE?
PROVIDE A SERVICE TO SOMEONE WHO TURNS OUT TO BE A CROOK? USUALLY **NOT YOUR PROBLEM.**
LOCKED OUT OF YOUR HOUSE, HUH? HAPPENS TO EVERYONE.
THANK YOU. I FEEL QUITE SILLY.
A1
BUT ONCE YOU **KNOW** THE WRONG YOU'RE HELPING, YOU CAN SHARE THE BLAME.
SO YOU **LIVE** *IN* THIS RECORD STORE...? WELL-- IT'S NONE OF MY BUSINESS.
CRAVEN'S RECORDS N' TAPES
CLOSED
A-1
BY THE WAY, DO YOU ACCEPT PAYMENT IN CDS? NEVER OPENED!
IN **1984,** SONY ITSELF FACED THIS QUESTION. ITS **BETAMAX** LET CONSUMERS RECORD TELEVISED CONTENT--INCLUDING **COPYRIGHTED MOVIES.**
SONY
REC
YOU SOLD THE DEVICE. YOU KNEW PEOPLE WOULD COPY.
YOU PAY.
WALKMAN
SONY
THIS PRODUCT HAS SUBSTANTIAL **NONINFRINGING USES.** ONE WE CONSIDER **FAIR USE** IS RECORDING TV SHOWS TO WATCH LATER.
SELLING A **BETAMAX RECORDER**--EVEN KNOWING **SOME** BUYERS MISUSE IT-- IS NOT INFRINGEMENT.
SONY WON, 5-4. THE BETAMAX RULE WAS BORN: MAKERS OF GENERAL-PURPOSE TOOLS AREN'T LIABLE WHEN SOME USERS MISUSE THEM.
M.A.S.H. SAVE
CHEERS THURS
WHL FRIENDS MON
STAR WARS BOOTLEG $5
SONY

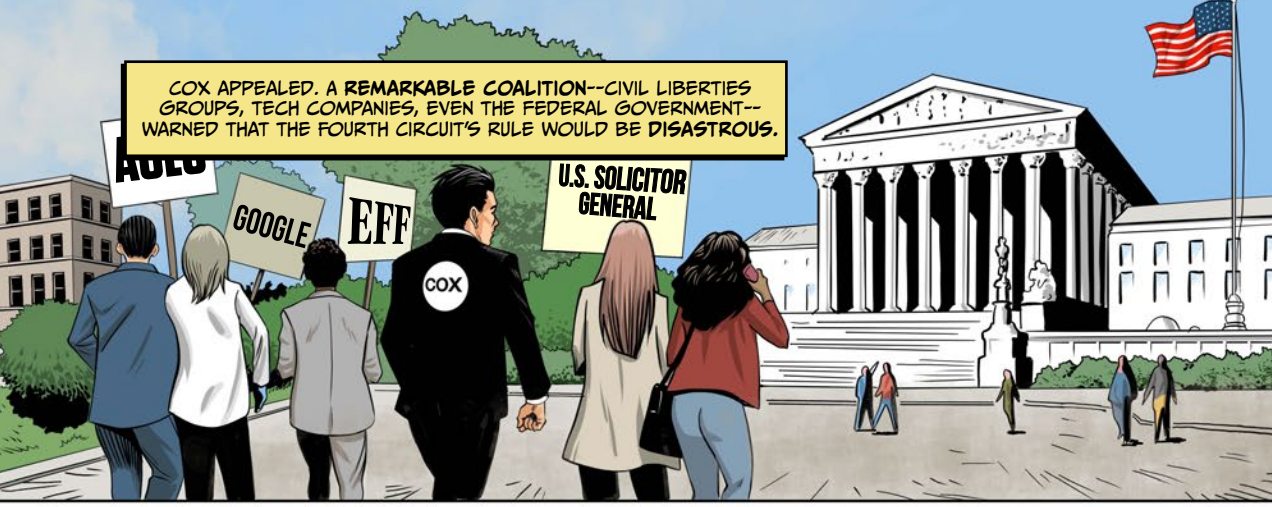

COX
BUT COX'S SITUATION WAS DIFFERENT. OVER TWO YEARS, SONY'S DETECTION VENDOR SENT COX **163,148 NOTICES**--EACH NAMING AN IP ADDRESS, NOT A PERSON.
DMCA NOTICE IP ADDRESS
MAIL


DON'T TERMINATE. WE **NEED** THE CUSTOMERS...


...WE NEED MORE REVENUE.
YOU GOT IT, **BOSS!**
COX


SLAM!

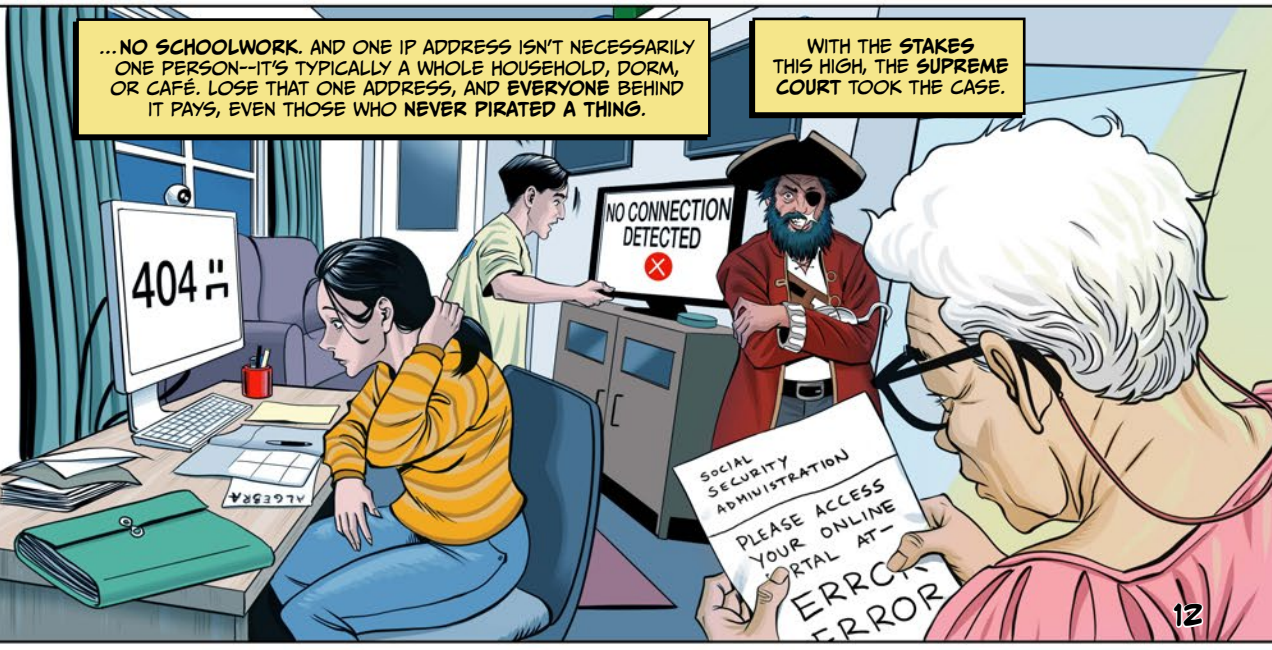

I SEE YOU TERMINATED **600,000 ACCOUNTS** FOR **NONPAYMENT.**
HOW MANY DID YOU TERMINATE FOR **COPYRIGHT INFRINGEMENT?**
THE FOURTH CIRCUIT AGREED WITH SONY. APPLYING A DECADES-OLD **"MATERIAL CONTRIBUTION"** TEST TO AN ISP, IT RULED THAT SIMPLY STAYING CONNECTED TO KNOWN PIRATES COULD PUT ANY PROVIDER ON THE HOOK.
UH... **TH-THIRTY TWO,** YOUR HONOR...
COX

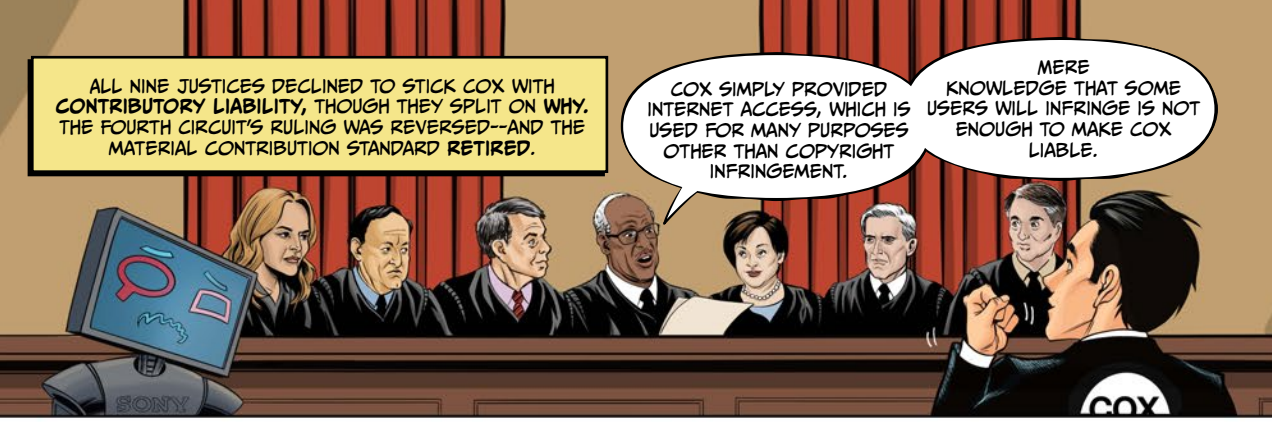

COX APPEALED. A REMARKABLE COALITION--CIVIL LIBERTIES GROUPS, TECH COMPANIES, EVEN THE FEDERAL GOVERNMENT--WARNED THAT THE FOURTH CIRCUIT'S RULE WOULD BE DISASTROUS.
GOOGLE
EFF
COX
U.S. SOLICITOR GENERAL

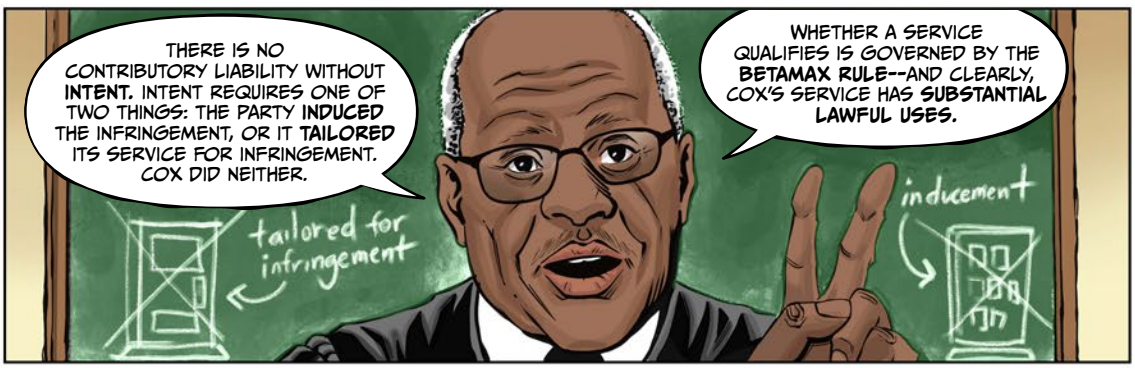

TODAY, CUTTING OFF A HOUSEHOLD'S INTERNET SEVERS IT FROM MODERN LIFE. NO CONNECTION MEANS NO REMOTE WORK...
ERROR 404: WORK NOT FOUND

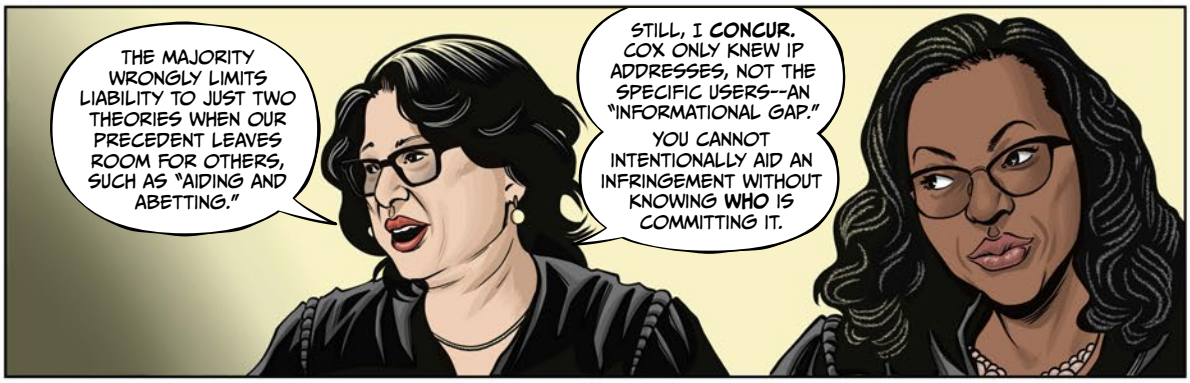

...NO BANKING OR PAYING BILLS...
ERROR 404 MONEY NOT FOUND
$300
9/15/2010


...NO TELEHEALTH OR PRESCRIPTION REFILLS...
DIGITAL HOSPITAL
CONNECTION REQUIRED!


...NO SCHOOLWORK. AND ONE IP ADDRESS ISN'T NECESSARILY ONE PERSON--IT'S TYPICALLY A WHOLE HOUSEHOLD, DORM, OR CAFÉ. LOSE THAT ONE ADDRESS, AND EVERYONE BEHIND IT PAYS, EVEN THOSE WHO NEVER PIRATED A THING.
WITH THE STAKES THIS HIGH, THE SUPREME COURT TOOK THE CASE.
404
NO CONNECTION DETECTED
ALGEBRA
SOCIAL SECURITY ADMINISTRATION
PLEASE ACCESS YOUR ONLINE
ERROR

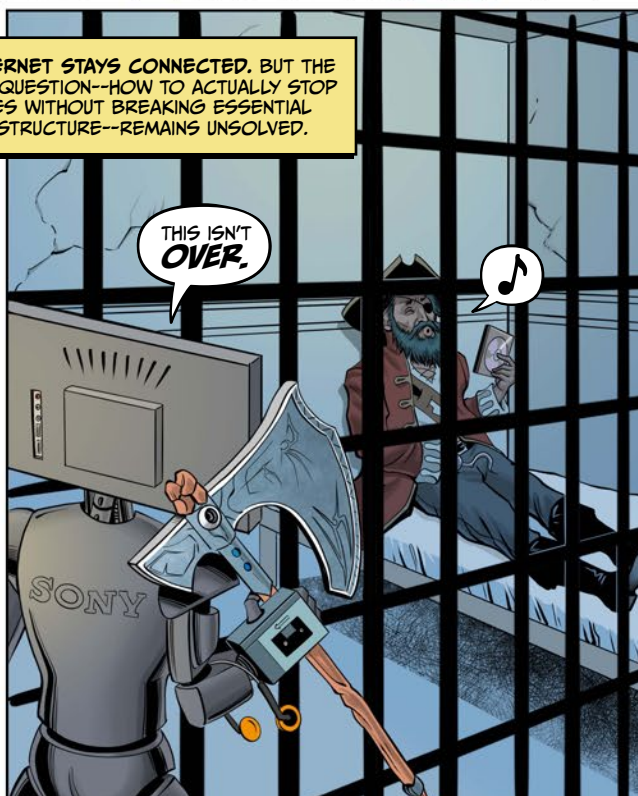








THE INTERNET STAYS CONNECTED. BUT THE DEEPER QUESTION--HOW TO ACTUALLY STOP PIRATES WITHOUT BREAKING ESSENTIAL INFRASTRUCTURE--REMAINS UNSOLVED.



THE CATO ILLUSTRATED SUPREME COURT REVIEW

Chatrie v. *United States*

Laura Bondank-Harmon



ON MAY 20, 2019, A MAN **ROBBED** THE **CALL FEDERAL CREDIT UNION** IN MIDLOTHIAN, VIRGINIA.



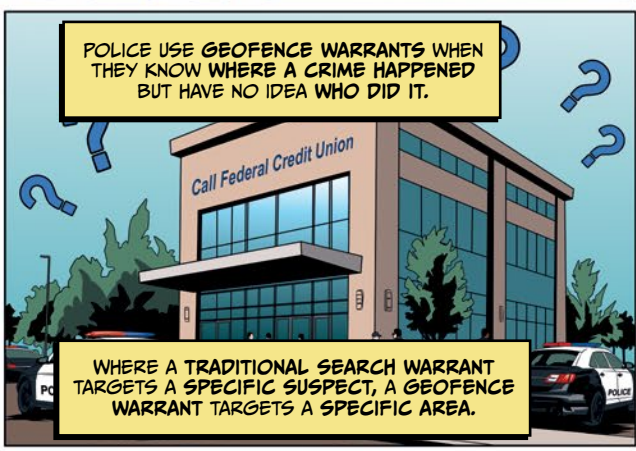
LOCAL POLICE **RESPONDED TO THE SCENE.** THEY INTERVIEWED WITNESSES AND REVIEWED SURVEILLANCE FOOTAGE BUT CAME UP **LARGELY EMPTY-HANDED.**



MORE THAN A MONTH INTO THE INVESTIGATION, POLICE HAD MADE **LITTLE PROGRESS**--SO THEY DECIDED TO TAKE A **LESS CONVENTIONAL** APPROACH.

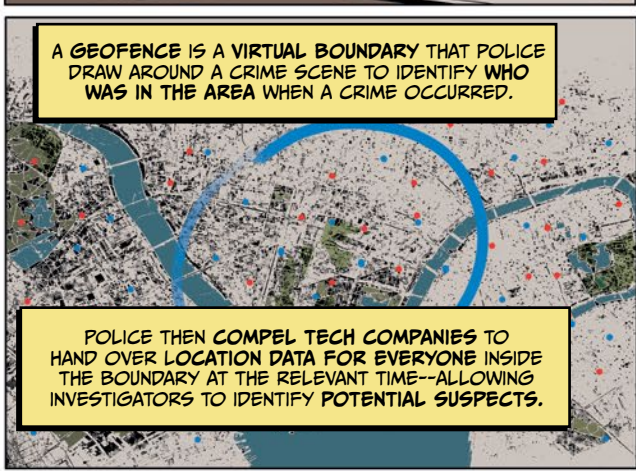
WE'VE LOOKED THROUGH **ALL THE EVIDENCE,** AND WE STILL HAVE **NO LEADS.**

I HAVE AN **IDEA.** HAVE YOU HEARD OF A **GEOFENCE WARRANT?**



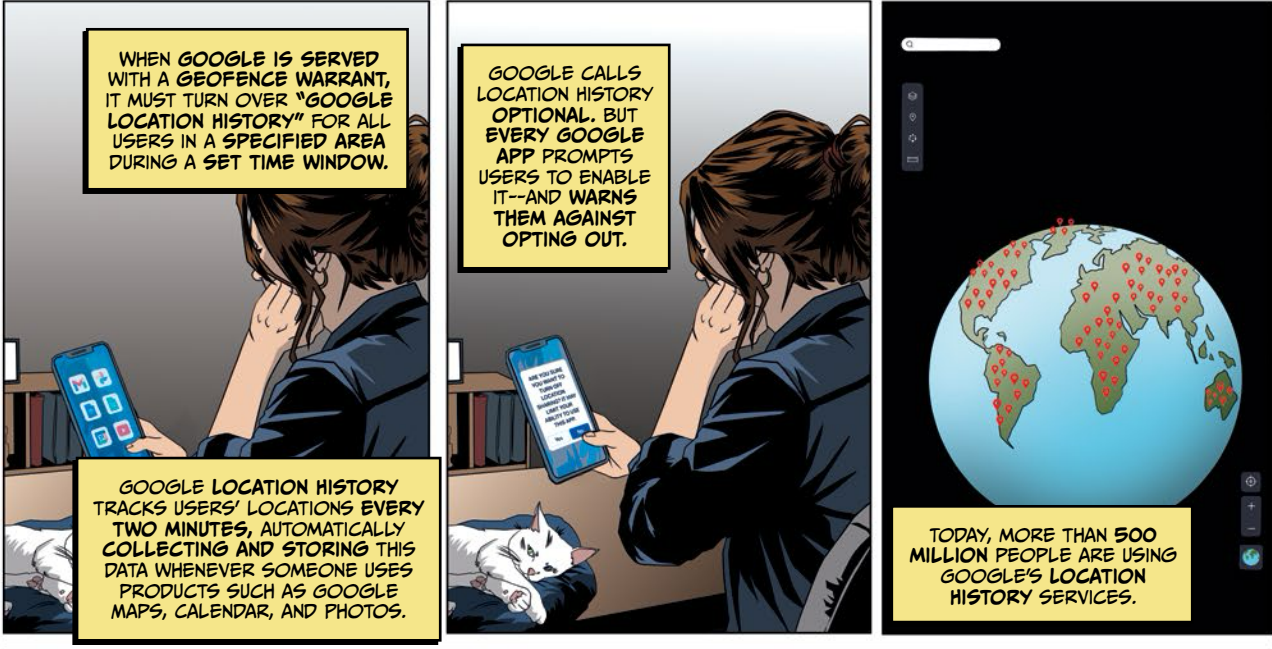
POLICE USE **GEOFENCE WARRANTS** WHEN THEY KNOW **WHERE A CRIME HAPPENED** BUT HAVE NO IDEA **WHO DID IT.**

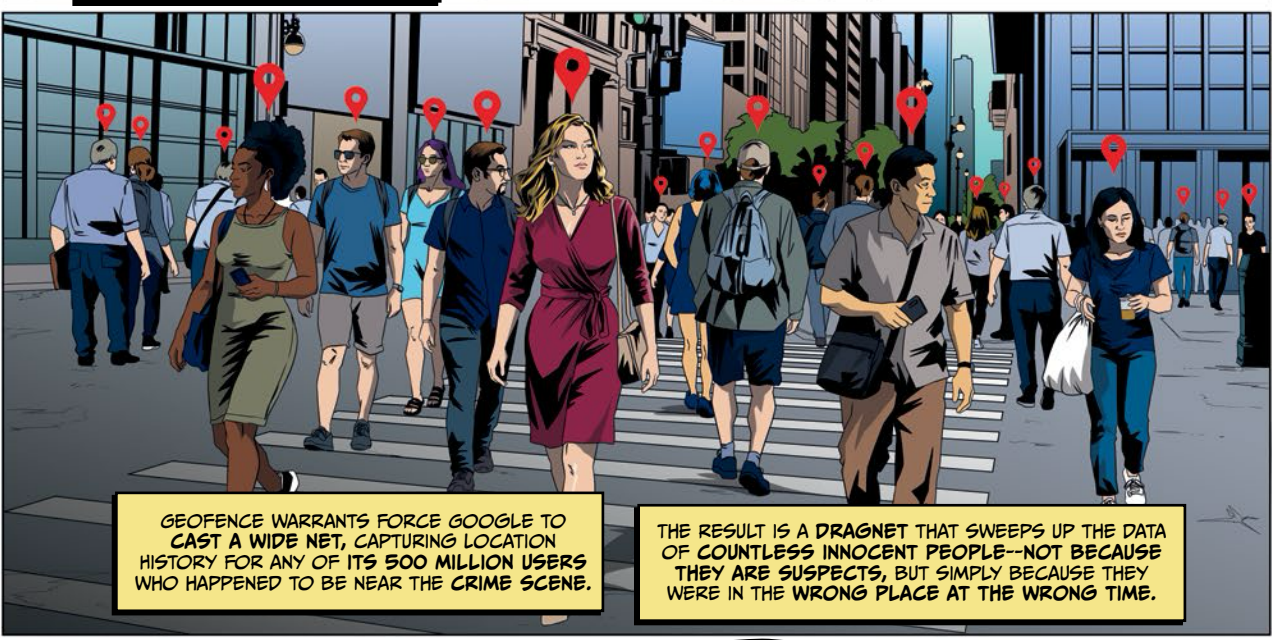
WHERE A **TRADITIONAL SEARCH WARRANT** TARGETS A **SPECIFIC SUSPECT,** A **GEOFENCE WARRANT** TARGETS A **SPECIFIC AREA.**

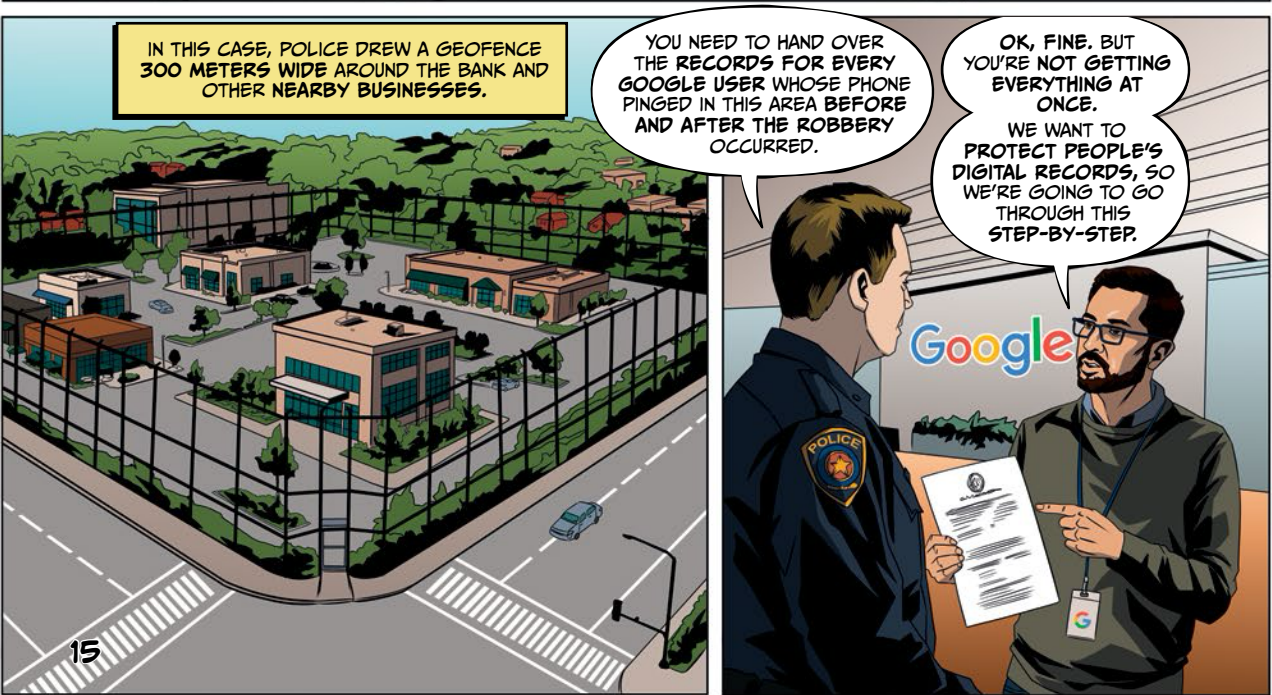


A **GEOFENCE** IS A **VIRTUAL BOUNDARY** THAT POLICE DRAW AROUND A CRIME SCENE TO IDENTIFY **WHO WAS IN THE AREA** WHEN A CRIME OCCURRED.

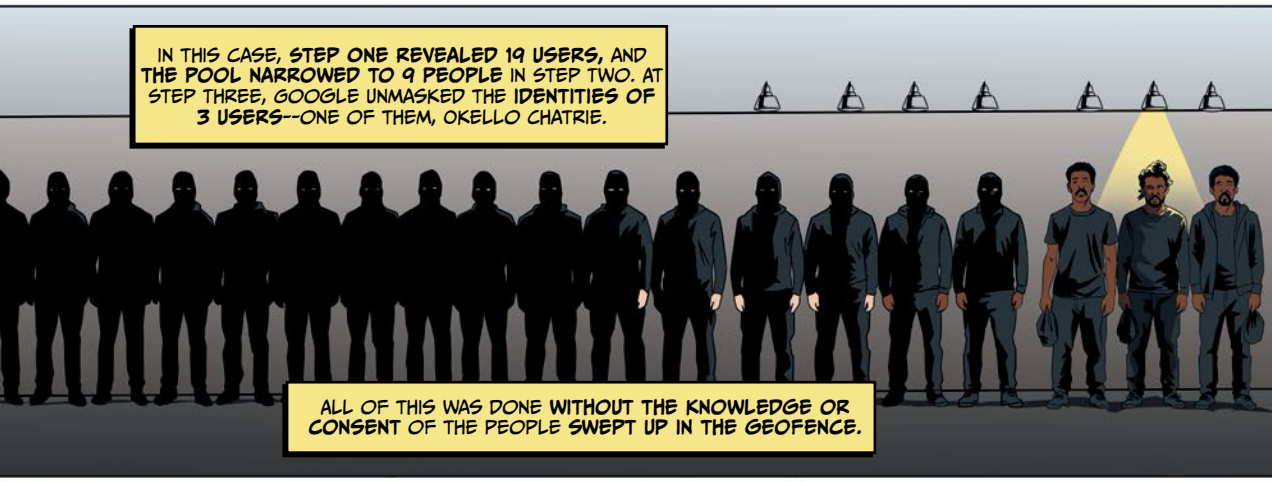
POLICE THEN **COMPEL TECH COMPANIES** TO HAND OVER **LOCATION DATA FOR EVERYONE** INSIDE THE BOUNDARY AT THE RELEVANT TIME--ALLOWING INVESTIGATORS TO IDENTIFY **POTENTIAL SUSPECTS.**


WHEN GOOGLE IS SERVED WITH A GEOFENCE WARRANT, IT MUST TURN OVER "GOOGLE LOCATION HISTORY" FOR ALL USERS IN A SPECIFIED AREA DURING A SET TIME WINDOW.
GOOGLE LOCATION HISTORY TRACKS USERS' LOCATIONS EVERY TWO MINUTES, AUTOMATICALLY COLLECTING AND STORING THIS DATA WHENEVER SOMEONE USES PRODUCTS SUCH AS GOOGLE MAPS, CALENDAR, AND PHOTOS.
GOOGLE CALLS LOCATION HISTORY OPTIONAL. BUT EVERY GOOGLE APP PROMPTS USERS TO ENABLE IT--AND WARNS THEM AGAINST OPTING OUT.
TODAY, MORE THAN 500 MILLION PEOPLE ARE USING GOOGLE'S LOCATION HISTORY SERVICES.

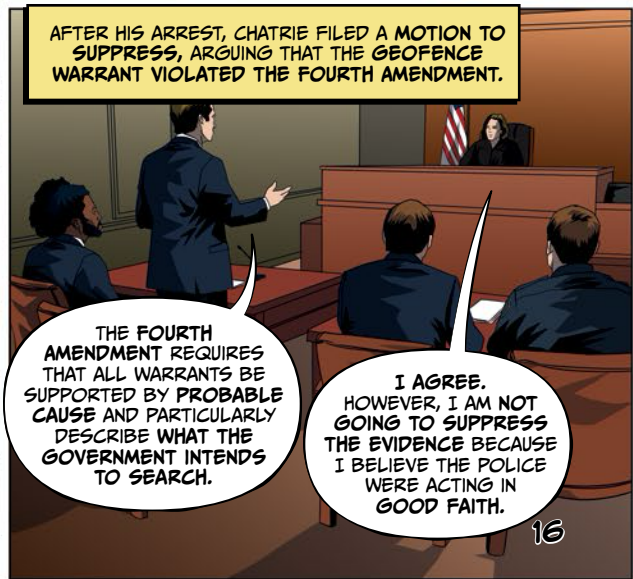

GEOFENCE WARRANTS FORCE GOOGLE TO CAST A WIDE NET, CAPTURING LOCATION HISTORY FOR ANY OF ITS 500 MILLION USERS WHO HAPPENED TO BE NEAR THE CRIME SCENE.
THE RESULT IS A DRAGNET THAT SWEEPS UP THE DATA OF COUNTLESS INNOCENT PEOPLE--NOT BECAUSE THEY ARE SUSPECTS, BUT SIMPLY BECAUSE THEY WERE IN THE WRONG PLACE AT THE WRONG TIME.

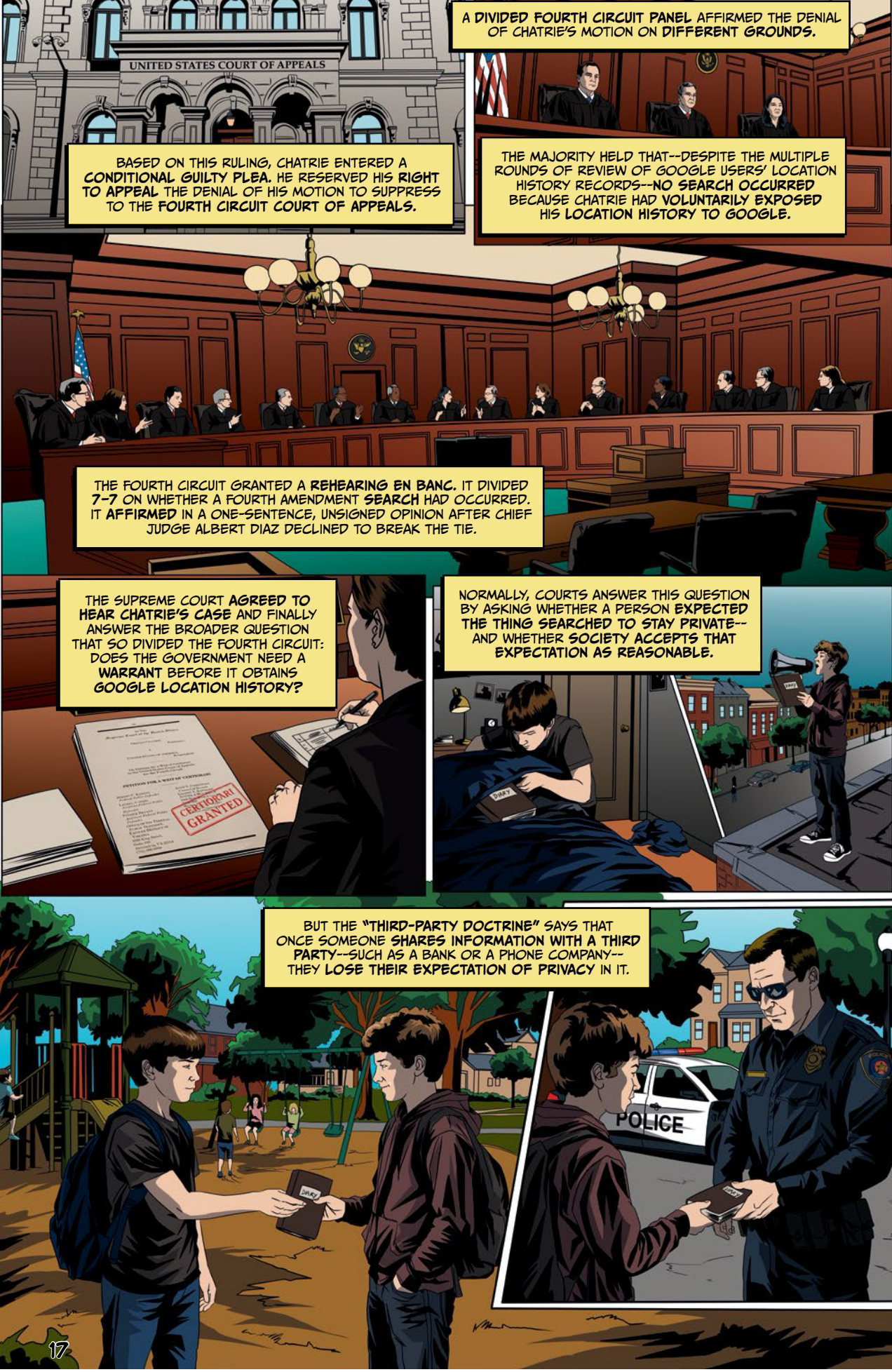

IN THIS CASE, POLICE DREW A GEOFENCE 300 METERS WIDE AROUND THE BANK AND OTHER NEARBY BUSINESSES.
YOU NEED TO HAND OVER THE RECORDS FOR EVERY GOOGLE USER WHOSE PHONE PINGED IN THIS AREA BEFORE AND AFTER THE ROBBERY OCCURRED.
OK, FINE. BUT YOU'RE NOT GETTING EVERYTHING AT ONCE.
WE WANT TO PROTECT PEOPLE'S DIGITAL RECORDS, SO WE'RE GOING TO GO THROUGH THIS STEP-BY-STEP.
Google
POLICE

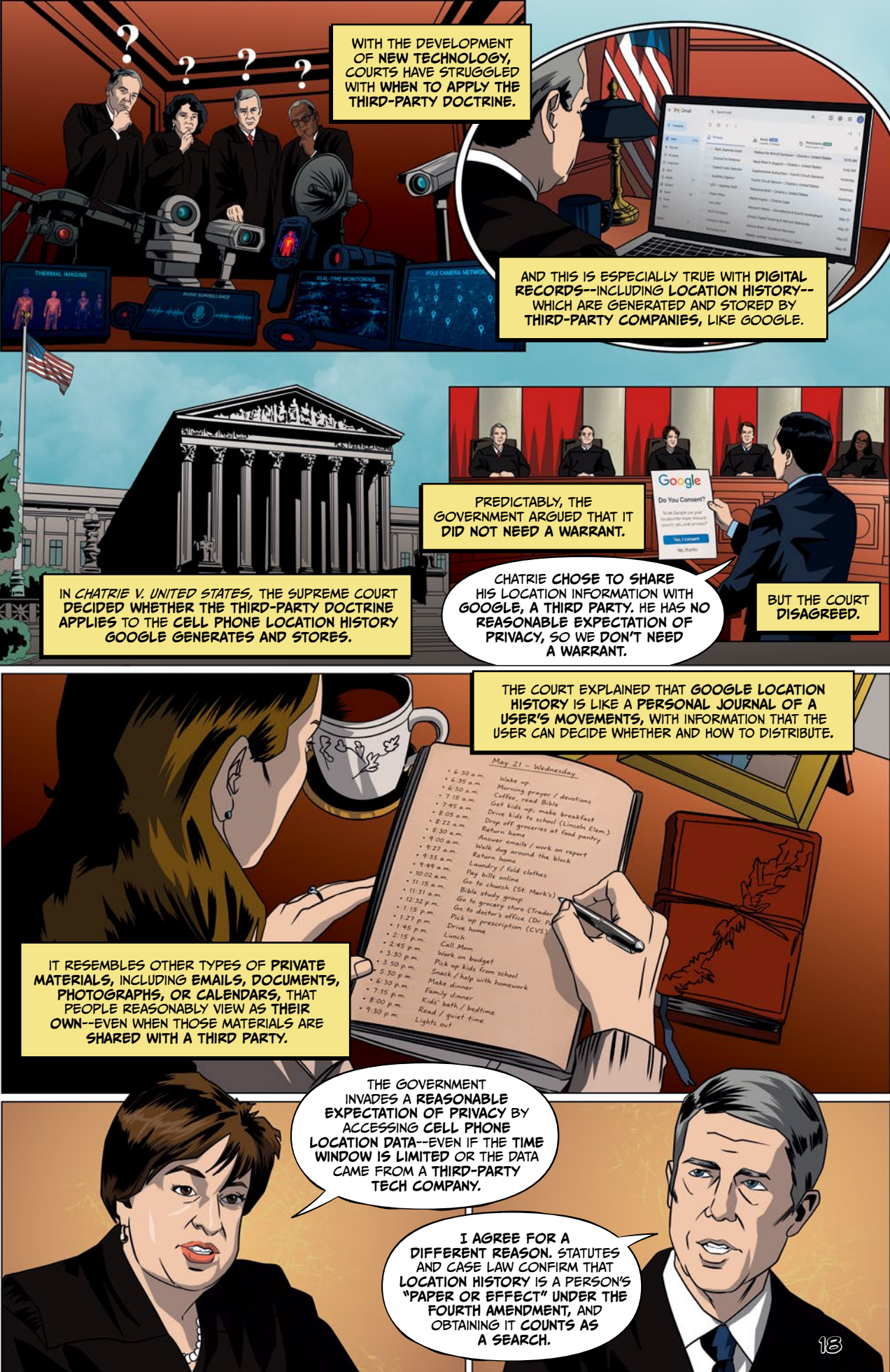

GOOGLE'S THREE-STEP PROCESS LOOKED LIKE THIS.
IN STEP TWO, POLICE COULD REQUEST MOVEMENT DATA FOR CERTAIN USERS IDENTIFIED IN STEP ONE. THIS TIME, THEY COULD FOLLOW THE USERS' MOVEMENTS INSIDE AND OUTSIDE THE PERIMETER OVER A TWO-HOUR WINDOW.
IN STEP ONE, GOOGLE PRODUCED ANONYMIZED INFORMATION FOR EVERY ACCOUNT INSIDE THE GEOFENCE DURING THE 30 MINUTES BEFORE AND AFTER THE ROBBERY.
Google
LOCATION HISTORY RECORDS
1. Okello Chatrie
1847 Cedar Lane, Richmond, VA
2. James Madison
62 Constitution Court, Fairview, VA
3. Marcus Frost
371 Union Street Springfield, VA
POLICE
EVIDENCE
IN STEP THREE, GOOGLE UNMASKED SPECIFIC USERS WHOM THE POLICE IDENTIFIED IN STEP TWO: THE POTENTIAL SUSPECT AND ANY INNOCENT PEOPLE SWEPT UP IN THE GEOFENCE.

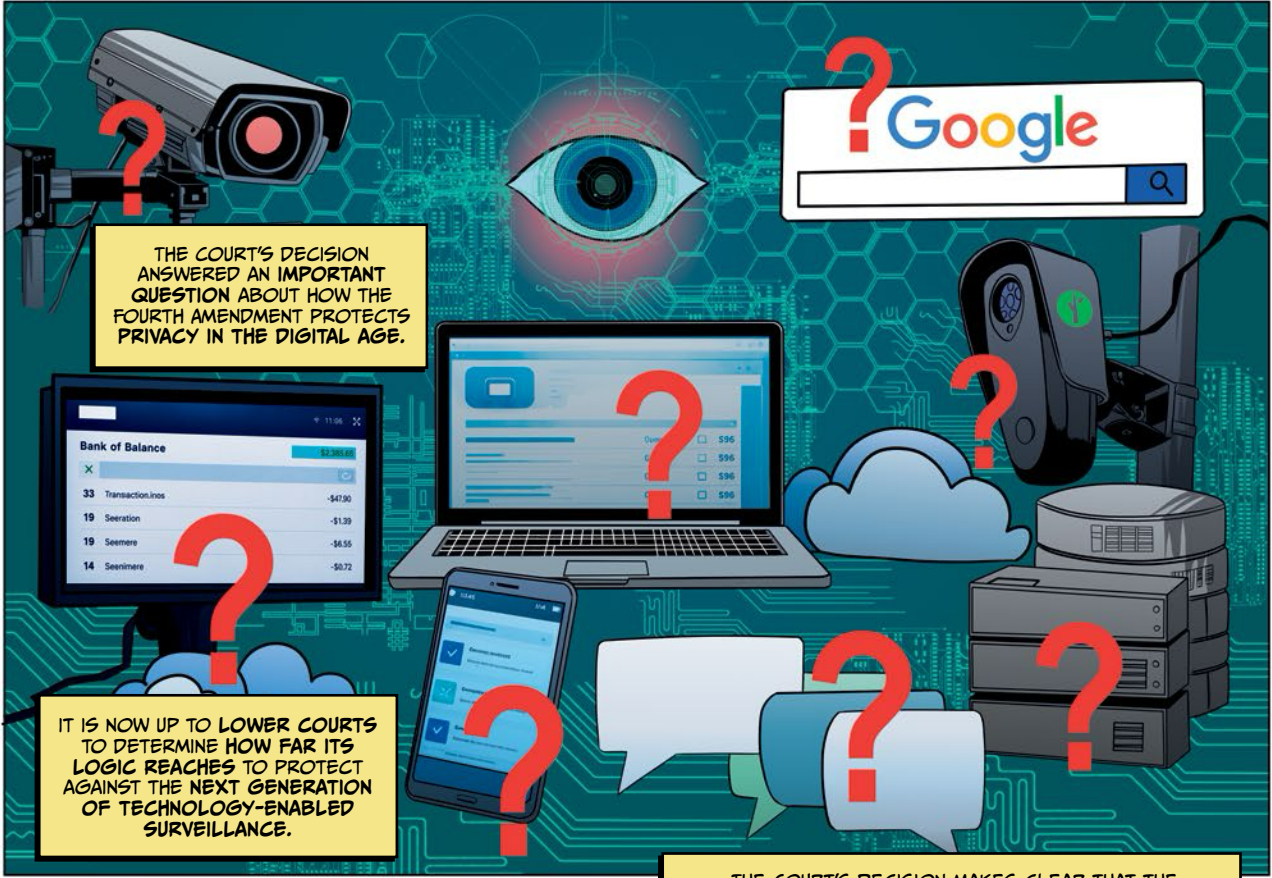

IN THIS CASE, STEP ONE REVEALED 19 USERS, AND THE POOL NARROWED TO 9 PEOPLE IN STEP TWO. AT STEP THREE, GOOGLE UNMASKED THE IDENTITIES OF 3 USERS--ONE OF THEM, OKELLO CHATRIE.
ALL OF THIS WAS DONE WITHOUT THE KNOWLEDGE OR CONSENT OF THE PEOPLE SWEPT UP IN THE GEOFENCE.


CHATRIE WAS ARRESTED AND CHARGED WITH THE BANK ROBBERY.
ESTERFIELD COUNTY JAIL


AFTER HIS ARREST, CHATRIE FILED A MOTION TO SUPPRESS, ARGUING THAT THE GEOFENCE WARRANT VIOLATED THE FOURTH AMENDMENT.
THE FOURTH AMENDMENT REQUIRES THAT ALL WARRANTS BE SUPPORTED BY PROBABLE CAUSE AND PARTICULARLY DESCRIBE WHAT THE GOVERNMENT INTENDS TO SEARCH.
I AGREE. HOWEVER, I AM NOT GOING TO SUPPRESS THE EVIDENCE BECAUSE I BELIEVE THE POLICE WERE ACTING IN GOOD FAITH.

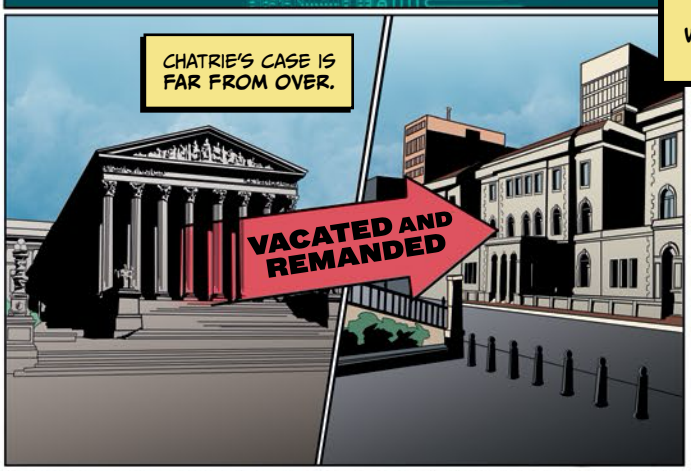

UNITED STATES COURT OF APPEALS
A DIVIDED FOURTH CIRCUIT PANEL AFFIRMED THE DENIAL OF CHATRIE'S MOTION ON DIFFERENT GROUNDS.
BASED ON THIS RULING, CHATRIE ENTERED A CONDITIONAL GUILTY PLEA. HE RESERVED HIS RIGHT TO APPEAL THE DENIAL OF HIS MOTION TO SUPPRESS TO THE FOURTH CIRCUIT COURT OF APPEALS.
THE MAJORITY HELD THAT--DESPITE THE MULTIPLE ROUNDS OF REVIEW OF GOOGLE USERS' LOCATION HISTORY RECORDS--NO SEARCH OCCURRED BECAUSE CHATRIE HAD VOLUNTARILY EXPOSED HIS LOCATION HISTORY TO GOOGLE.
THE FOURTH CIRCUIT GRANTED A REHEARING EN BANC. IT DIVIDED 7-7 ON WHETHER A FOURTH AMENDMENT SEARCH HAD OCCURRED. IT AFFIRMED IN A ONE-SENTENCE, UNSIGNED OPINION AFTER CHIEF JUDGE ALBERT DIAZ DECLINED TO BREAK THE TIE.
THE SUPREME COURT AGREED TO HEAR CHATRIE'S CASE AND FINALLY ANSWER THE BROADER QUESTION THAT SO DIVIDED THE FOURTH CIRCUIT: DOES THE GOVERNMENT NEED A WARRANT BEFORE IT OBTAINS GOOGLE LOCATION HISTORY?
PETITION FOR A WRIT OF CERTIORARI
CERTIORARI GRANTED
NORMALLY, COURTS ANSWER THIS QUESTION BY ASKING WHETHER A PERSON EXPECTED THE THING SEARCHED TO STAY PRIVATE--AND WHETHER SOCIETY ACCEPTS THAT EXPECTATION AS REASONABLE.
DIARY
BUT THE "THIRD-PARTY DOCTRINE" SAYS THAT ONCE SOMEONE SHARES INFORMATION WITH A THIRD PARTY--SUCH AS A BANK OR A PHONE COMPANY--THEY LOSE THEIR EXPECTATION OF PRIVACY IN IT.
POLICE


WITH THE DEVELOPMENT OF NEW TECHNOLOGY, COURTS HAVE STRUGGLED WITH WHEN TO APPLY THE THIRD-PARTY DOCTRINE.
THERMAL IMAGING
AUDIO SURVEILLANCE
REAL-TIME MONITORING
AND THIS IS ESPECIALLY TRUE WITH DIGITAL RECORDS--INCLUDING LOCATION HISTORY--WHICH ARE GENERATED AND STORED BY THIRD-PARTY COMPANIES, LIKE GOOGLE.
IN CHATRIE V. UNITED STATES, THE SUPREME COURT DECIDED WHETHER THE THIRD-PARTY DOCTRINE APPLIES TO THE CELL PHONE LOCATION HISTORY GOOGLE GENERATES AND STORES.
PREDICTABLY, THE GOVERNMENT ARGUED THAT IT DID NOT NEED A WARRANT.
Google
Do You Consent?
Yes, I consent
No, thanks
CHATRIE CHOSE TO SHARE HIS LOCATION INFORMATION WITH GOOGLE, A THIRD PARTY. HE HAS NO REASONABLE EXPECTATION OF PRIVACY, SO WE DON'T NEED A WARRANT.
BUT THE COURT DISAGREED.
THE COURT EXPLAINED THAT GOOGLE LOCATION HISTORY IS LIKE A PERSONAL JOURNAL OF A USER'S MOVEMENTS, WITH INFORMATION THAT THE USER CAN DECIDE WHETHER AND HOW TO DISTRIBUTE.
May 21 – Wednesday
• 6:30 a.m. Wake up
• 6:35 a.m. Morning prayer / devotions
• 6:50 a.m. Coffee, read Bible
• 7:15 a.m. Get kids up, make breakfast
• 7:45 a.m. Drive kids to school (Lincoln Elem.)
• 8:05 a.m. Drop off groceries at food pantry
• 8:22 a.m. Return home
• 8:30 a.m. Answer emails / work on report
• 9:00 a.m. Walk dog around the block
• 9:27 a.m. Return home
• 9:35 a.m. Laundry / fold clothes
• 9:49 a.m. Pay bills online
• 10:02 a.m. Go to church (St. Mark's)
• 11:15 a.m. Bible study group
• 11:31 a.m. Go to grocery store (Trader
• 12:32 p.m. Go to doctor's office (Dr. P
• 1:15 p.m. Pick up prescription (CVS)
• 1:27 p.m. Drive home
• 1:45 p.m. Lunch
• 2:15 p.m. Call Mom
• 2:45 p.m. Work on budget
• 3:30 p.m. Pick up kids from school
• 3:50 p.m. Snack / help with homework
• 5:30 p.m. Make dinner
• 6:30 p.m. Family dinner
• 7:15 p.m. Kids' bath / bedtime
• 8:00 p.m. Read / quiet time
• 9:30 p.m. Lights out
IT RESEMBLES OTHER TYPES OF PRIVATE MATERIALS, INCLUDING EMAILS, DOCUMENTS, PHOTOGRAPHS, OR CALENDARS, THAT PEOPLE REASONABLY VIEW AS THEIR OWN--EVEN WHEN THOSE MATERIALS ARE SHARED WITH A THIRD PARTY.
THE GOVERNMENT INVADES A REASONABLE EXPECTATION OF PRIVACY BY ACCESSING CELL PHONE LOCATION DATA--EVEN IF THE TIME WINDOW IS LIMITED OR THE DATA CAME FROM A THIRD-PARTY TECH COMPANY.
I AGREE FOR A DIFFERENT REASON. STATUTES AND CASE LAW CONFIRM THAT LOCATION HISTORY IS A PERSON'S "PAPER OR EFFECT" UNDER THE FOURTH AMENDMENT, AND OBTAINING IT COUNTS AS A SEARCH.



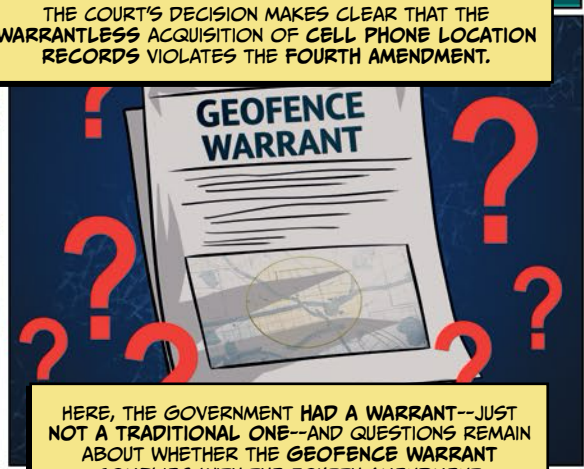
THE COURT'S DECISION ANSWERED AN **IMPORTANT QUESTION** ABOUT HOW THE FOURTH AMENDMENT PROTECTS **PRIVACY IN THE DIGITAL AGE.**

IT IS NOW UP TO **LOWER COURTS** TO DETERMINE **HOW FAR ITS LOGIC REACHES** TO PROTECT AGAINST THE **NEXT GENERATION OF TECHNOLOGY-ENABLED SURVEILLANCE.**

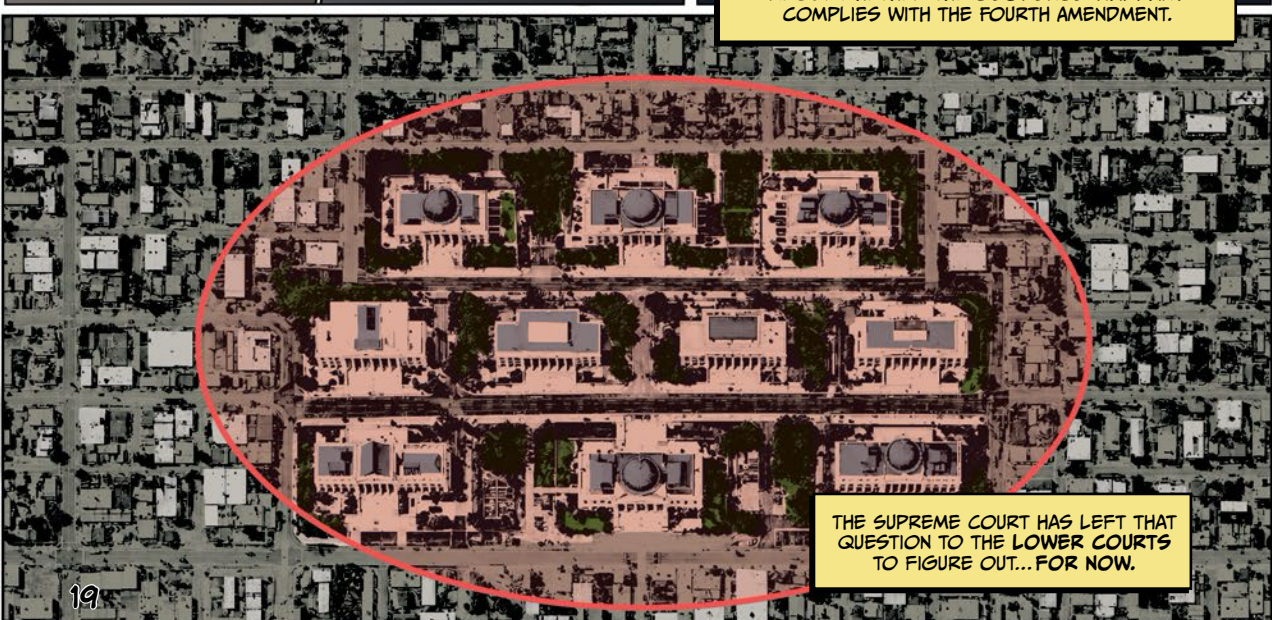


CHATRIE'S CASE IS **FAR FROM OVER.**

THE COURT'S DECISION MAKES CLEAR THAT THE **WARRANTLESS** ACQUISITION OF **CELL PHONE LOCATION RECORDS** VIOLATES THE **FOURTH AMENDMENT.**



HERE, THE GOVERNMENT **HAD A WARRANT**--JUST **NOT A TRADITIONAL ONE**--AND QUESTIONS REMAIN ABOUT WHETHER THE **GEOFENCE WARRANT** COMPLIES WITH THE FOURTH AMENDMENT.



THE SUPREME COURT HAS LEFT THAT QUESTION TO THE **LOWER COURTS** TO FIGURE OUT... **FOR NOW.**

THE CATO ILLUSTRATED SUPREME COURT REVIEW

Trump v. *Barbara*

★ ★ ★ ★ ★ ★ ★

Dan Greenberg

EXECUTIVE ORDER 14160
Protecting the Meaning and Value of American Citizenship

AMERICAN CITIZENSHIP HAS TRADITIONALLY BEEN GUARANTEED AT BIRTH. BUT JUST HOURS AFTER HIS 2025 INAUGURATION, PRESIDENT TRUMP SIGNED **EXECUTIVE ORDER 14160:** AN ATTEMPT TO PUSH BIRTHRIGHT CITIZENSHIP OUT OF THE LAW AND THE CONSTITUTION...

...BY DECREEING THAT CHILDREN BORN IN THE U.S. TO PARENTS WHO ARE UNLAWFULLY OR TEMPORARILY PRESENT ARE **NOT "SUBJECT TO THE JURISDICTION" OF THE UNITED STATES.**

ICE

ALTHOUGH A JUDGE BLOCKED THE ORDER, TRUMP'S MASS-DEPORTATION CAMPAIGN HAS PRESSED ON.

ICE

THE DRAGNET HAS SWEPT UP **U.S. CITIZENS**--CHILDREN INCLUDED.

AND THE TRUMP ADMINISTRATION SOUGHT *CERTIORARI*, WITH AN **AUDACIOUS PLAN** TO TRANSFORM THE SUPREME COURT'S INTERPRETATION OF THE FOURTEENTH AMENDMENT IN THE CASE *TRUMP V. BARBARA.*

Fourteenth Amendment

Section 1.

...naturalized in the United States, ...of, are citizens of ...e wherein they ...rce any law ...tate de... ...with ...erson ...n of th...

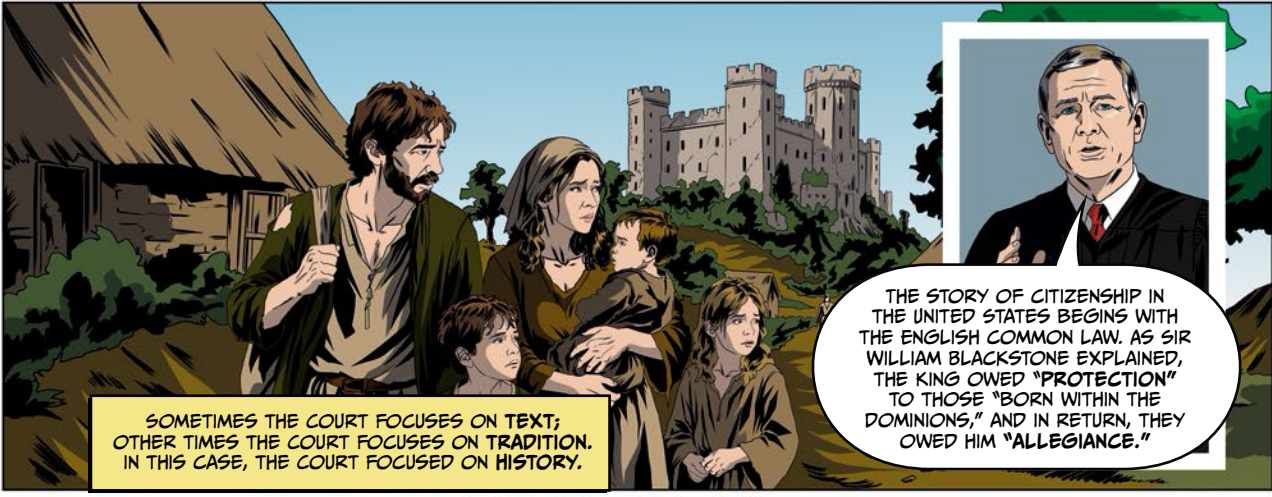
FOR MORE THAN **125 YEARS,** COURTS HAVE READ THESE WORDS:

"ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES, **AND SUBJECT TO THE JURISDICTION THEREOF,** ARE CITIZENS OF THE UNITED STATES..."

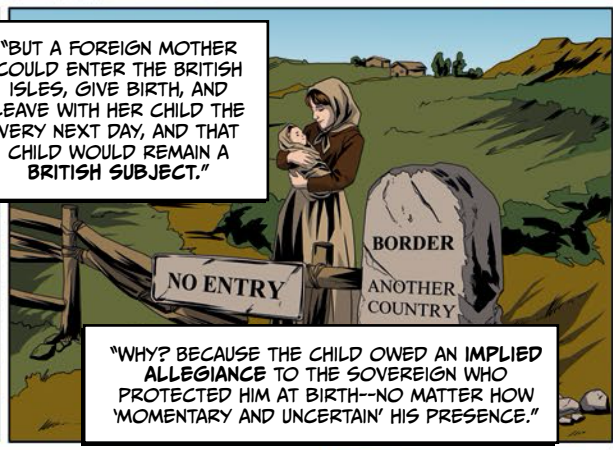
...TO MEAN THAT EVERY CHILD BORN ON U.S. SOIL, WITH NARROW EXCEPTIONS, IS AN **AMERICAN CITIZEN.**

COULD **FIVE WORDS**--"SUBJECT TO THE JURISDICTION THEREOF"--LET TRUMP EXCLUDE THESE CHILDREN? TO ANSWER, CHIEF JUSTICE JOHN ROBERTS WENT BACK FOUR CENTURIES AND WALKED THE RULE FORWARD THROUGH TIME.

EQUAL JUSTICE UNDER LAW


SOMETIMES THE COURT FOCUSES ON **TEXT**; OTHER TIMES THE COURT FOCUSES ON **TRADITION**. IN THIS CASE, THE COURT FOCUSED ON **HISTORY**.
THE STORY OF CITIZENSHIP IN THE UNITED STATES BEGINS WITH THE ENGLISH COMMON LAW. AS SIR WILLIAM BLACKSTONE EXPLAINED, THE KING OWED **"PROTECTION"** TO THOSE "BORN WITHIN THE DOMINIONS," AND IN RETURN, THEY OWED HIM **"ALLEGIANCE."**

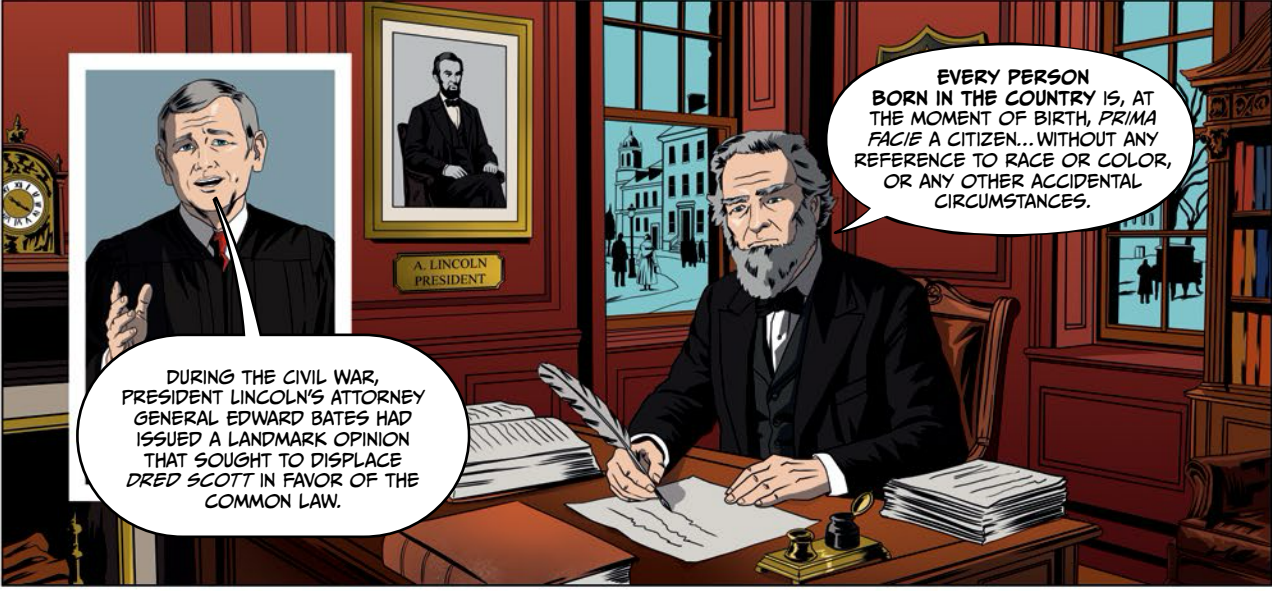

"THE KING COULD NOT DEMAND ALLEGIANCE FROM--FOR HE **COULD NOT PROTECT**--THOSE BORN IN LANDS HE DID NOT CONTROL..."

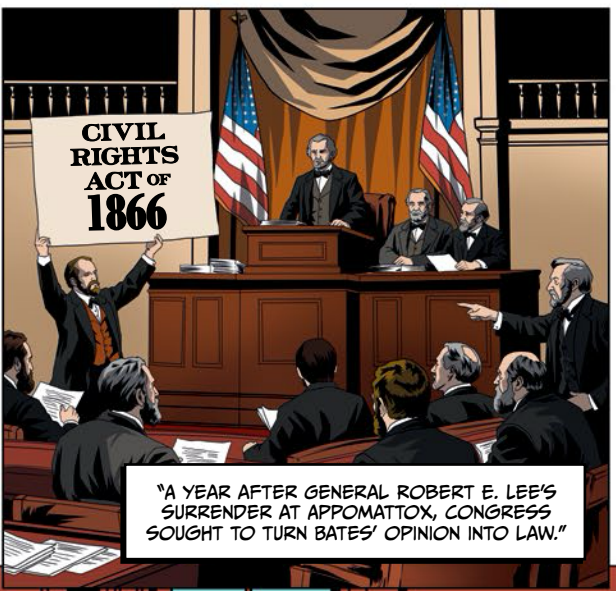

"BUT A FOREIGN MOTHER COULD ENTER THE BRITISH ISLES, GIVE BIRTH, AND LEAVE WITH HER CHILD THE VERY NEXT DAY, AND THAT CHILD WOULD REMAIN A **BRITISH SUBJECT**."
BORDER
NO ENTRY
ANOTHER COUNTRY
"WHY? BECAUSE THE CHILD OWED AN **IMPLIED ALLEGIANCE** TO THE SOVEREIGN WHO PROTECTED HIM AT BIRTH--NO MATTER HOW 'MOMENTARY AND UNCERTAIN' HIS PRESENCE."

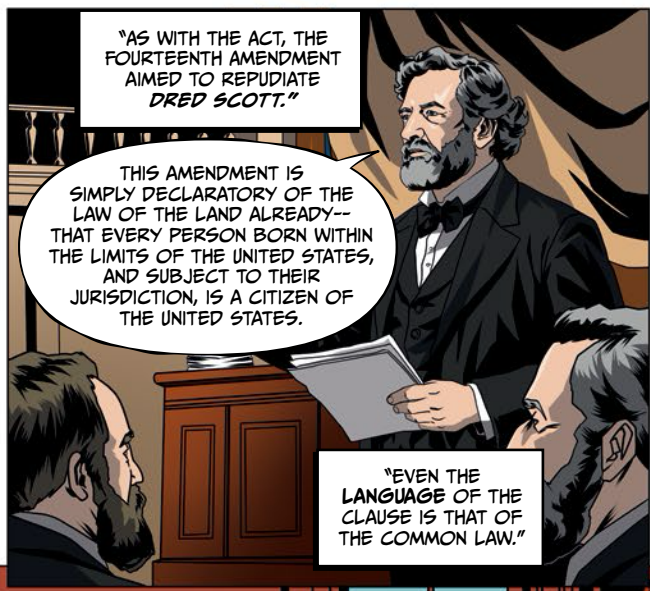

"IN A NATION OF IMMIGRANTS--AN 'ASYLUM FOR MANKIND,' IN THOMAS PAINE'S WORDS--THE BROAD SCOPE OF **JUS SOLI*** TOOK ON PARTICULAR IMPORTANCE."
PORT OF JUS SOLI
"SOME HOPED TO STAY ONLY A SHORT TIME, AND OTHERS HOPED NEVER TO LEAVE. NO MATTER THEIR INTENTIONS, THEY COULD BE ASSURED THAT THEIR CHILDREN WOULD BE AMERICAN CITIZENS BY BIRTH ALONE."
Jus soli: Latin for "right of the soil"--citizenship by place of birth.


NO PARKING
NO WAITING
LOADING ZONE
DIPLOMATS ONLY (AUTHORIZED)
DIPLOMAT
Smith
OF COURSE, THERE WILL ALWAYS BE EXCEPTIONS FOR SOME CLASSES OF PEOPLE--FOR INSTANCE, DIPLOMATS AND THEIR FAMILIES ARE TREATED A LITTLE DIFFERENTLY.


"THE COMMON LAW MADE NO DISTINCTION ON ACCOUNT OF RACE OR COLOR. BUT **SLAVE STATES** DID."
1857.
"IN THE ODIOUS DECISION OF ***DRED SCOTT V. SANDFORD***, THE COURT IMPOSED THE SOUTHERN STATES' BELIEFS ON THE NATION."
THE ENSLAVED AFRICAN RACE ARE **NOT INCLUDED**, AND WERE **NOT INTENDED TO BE INCLUDED**, UNDER THE WORD "CITIZENS" IN THE CONSTITUTION.
THEY CAN CLAIM **NONE** OF THE RIGHTS AND PRIVILEGES IT PROVIDES.
NEW YORK TRIBUNE
AN ATROCIOUS DOCTRINE
BACKLASH AGAINST TANEY
THE EVENING POST
A WICKED AND FALSE JUDGMENT
BOSTON ADVERTISER
A WILLFUL PERVERSION
THE CONGREGATIONALIST
DRED SCOTT CASE CONDEMNED
THE STANDARD POST
DRED SCOTT CASE CONDEMNED
"DRED SCOTT WAS MET WITH SHOCK."
"ABOLITIONISTS **SWORE** TO UNDO WHAT THE COURT HAD DONE."
ABOLITION IS OUR AIM
THE CONSTITUTION KNOWS **ALL** THE HUMAN INHABITANTS OF THIS COUNTRY AS "THE PEOPLE," NO MATTER THEIR COLOR, CLASS, OR CRIME.
BY BIRTH, WE ARE AMERICAN CITIZENS!
"THE COURT HAD OVERRULED THE COMMON LAW, BUT THE PEOPLE--EVENTUALLY--WOULD **OVERRULE THE COURT.**"

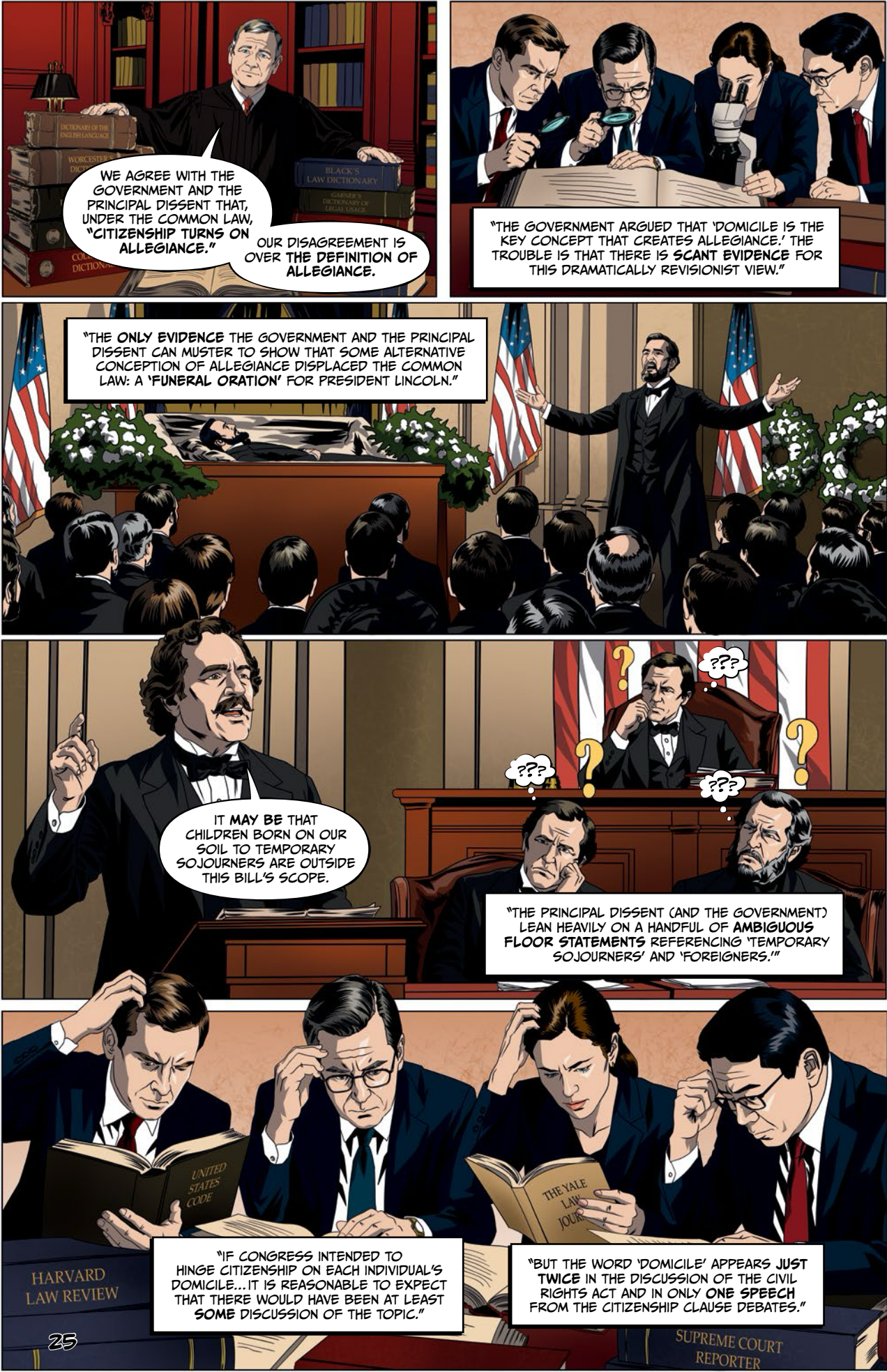

A. LINCOLN
PRESIDENT
DURING THE CIVIL WAR, PRESIDENT LINCOLN'S ATTORNEY GENERAL EDWARD BATES HAD ISSUED A LANDMARK OPINION THAT SOUGHT TO DISPLACE *DRED SCOTT* IN FAVOR OF THE COMMON LAW.
EVERY PERSON BORN IN THE COUNTRY IS, AT THE MOMENT OF BIRTH, *PRIMA FACIE* A CITIZEN... WITHOUT ANY REFERENCE TO RACE OR COLOR, OR ANY OTHER ACCIDENTAL CIRCUMSTANCES.

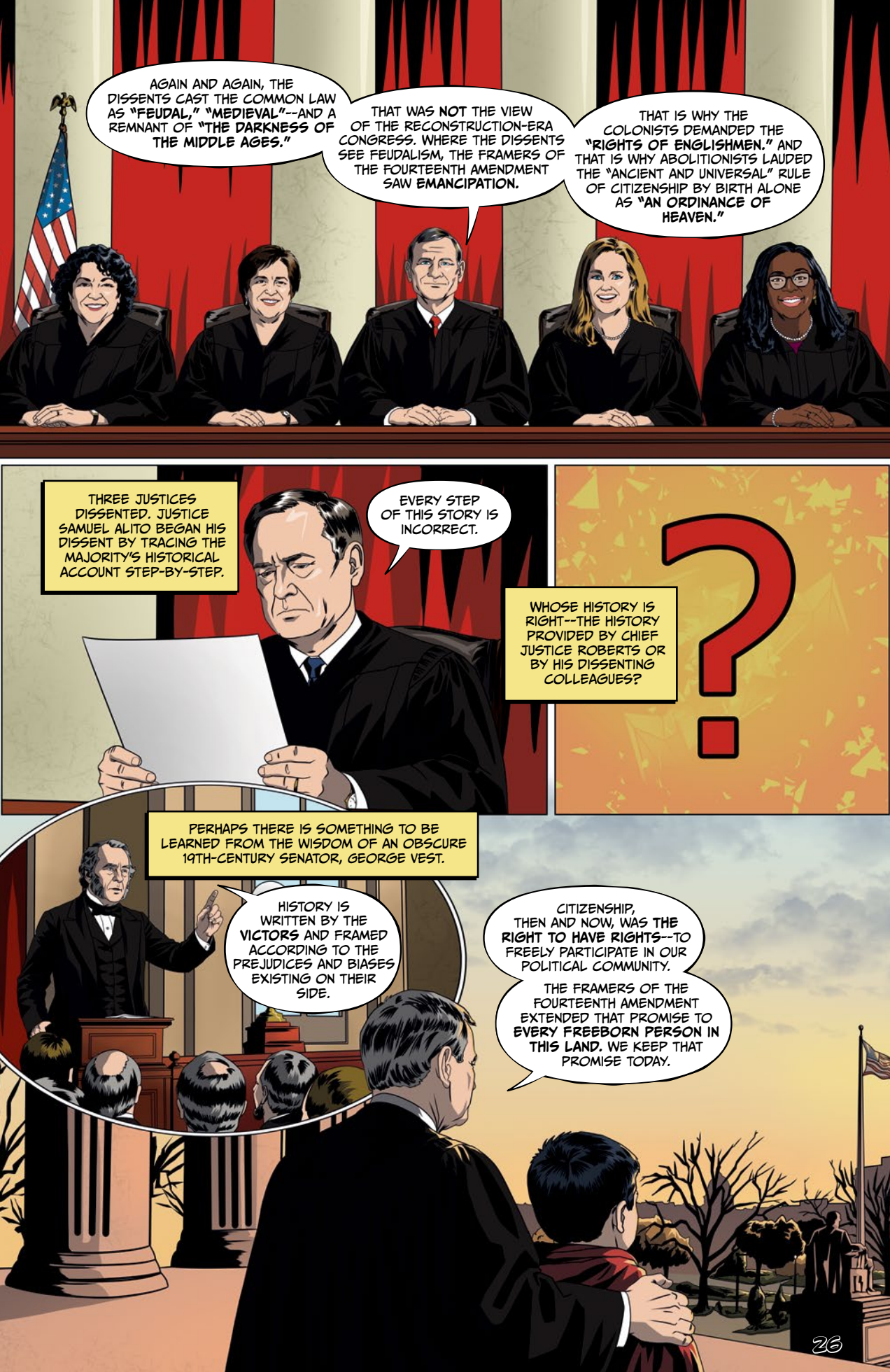

CIVIL RIGHTS ACT OF 1866
"A YEAR AFTER GENERAL ROBERT E. LEE'S SURRENDER AT APPOMATTOX, CONGRESS SOUGHT TO TURN BATES' OPINION INTO LAW."


"AS WITH THE ACT, THE FOURTEENTH AMENDMENT AIMED TO REPUDIATE ***DRED SCOTT.***"
THIS AMENDMENT IS SIMPLY DECLARATORY OF THE LAW OF THE LAND ALREADY-- THAT EVERY PERSON BORN WITHIN THE LIMITS OF THE UNITED STATES, AND SUBJECT TO THEIR JURISDICTION, IS A CITIZEN OF THE UNITED STATES.
"EVEN THE **LANGUAGE** OF THE CLAUSE IS THAT OF THE COMMON LAW."


BORN IN THE UNITED STATES
SUBJECT TO ITS JURISDICTION
CITIZEN
BUT THE COURT RESTED ITS OPINION IN *TRUMP V. BARBARA* ON MORE THAN JUST COMMON-LAW AND LEGISLATIVE HISTORY: IT RELIED ON **AMERICAN LEGAL HISTORY** AS WELL.


SAN FRANCISCO, 1895.
"OUR PRECEDENT--THE SEMINAL CASE OF *UNITED STATES V. WONG KIM ARK*--CONFIRMS THIS RULE."
WONG KIM ARK WAS BORN IN SAN FRANCISCO. BUT WHEN HE SAILED HOME FROM VISITING FAMILY IN CHINA, THE U.S. GOVERNMENT **REFUSED TO LET HIM LAND** AND HELD HIM FOR MONTHS ON A SHIP ANCHORED IN THE BAY.
THE GOVERNMENT CLAIMED THAT BECAUSE WONG'S PARENTS OWED ALLEGIANCE TO A FOREIGN POWER, HE WAS NOT **"SUBJECT TO THE JURISDICTION"** OF THE UNITED STATES--AND THEREFORE, NOT A CITIZEN.
SAN FRANCISCO
1898.
"BUT IN *WONG KIM ARK*, THIS COURT REJECTED THAT VIEW, CONCLUDING THAT NO 'RULE OF INTERNATIONAL LAW' HAD QUALIFIED **'THE ANCIENT RULE OF CITIZENSHIP** BY BIRTH WITHIN THE DOMINION.'"
SUPREME COURT RULES IN FAVOR OF WONG KIM ARK
"WHAT THE COURT HELD WAS SIMPLE: THE CITIZENSHIP CLAUSE **INCORPORATED THE COMMON LAW** AND THUS GRANTED CITIZENSHIP TO MOST CHILDREN BORN IN THE UNITED STATES."
THE APPLICATION OF THIS COMMON-LAW RULE **EXCLUDES CHILDREN**--BUT ONLY THOSE OF FOREIGN MINISTERS AND MEMBERS OF 19TH-CENTURY AMERICAN INDIAN TRIBES.
IN SUCH CASES, THE UNITED STATES HAD **CEDED A PART OF ITS TERRITORIAL JURISDICTION** TO **PRESERVE ITS RELATIONSHIP** WITH A FOREIGN SOVEREIGN.

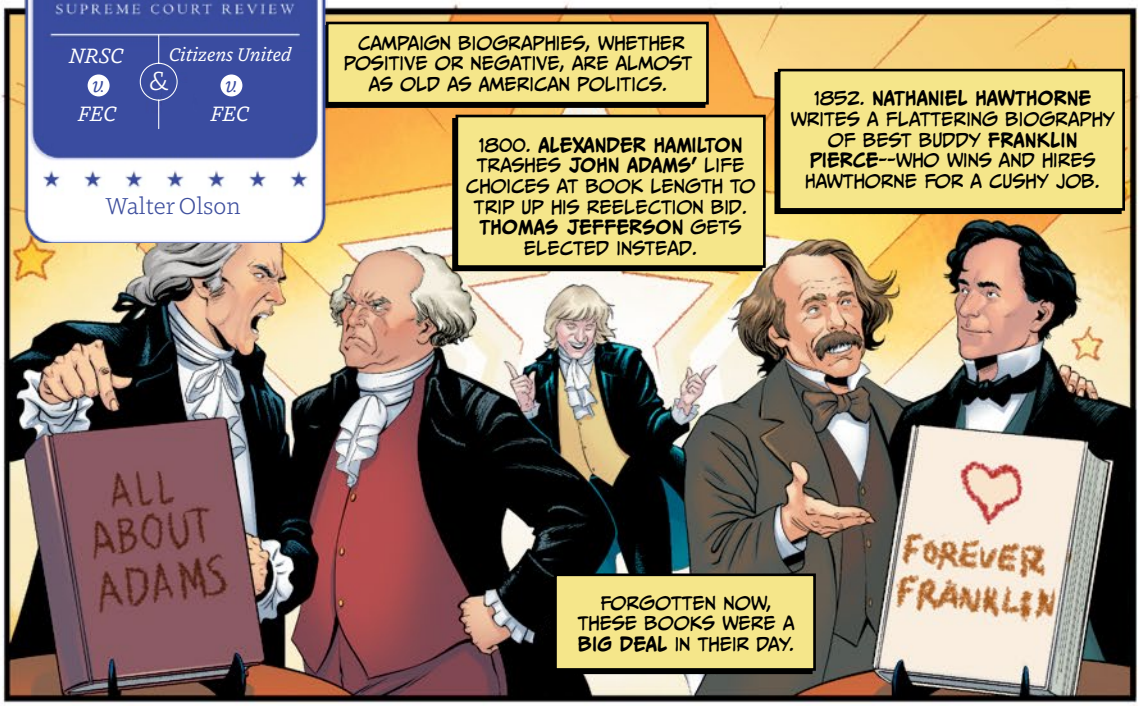

WE AGREE WITH THE GOVERNMENT AND THE PRINCIPAL DISSENT THAT, UNDER THE COMMON LAW, "CITIZENSHIP TURNS ON ALLEGIANCE."
OUR DISAGREEMENT IS OVER THE DEFINITION OF ALLEGIANCE.
"THE GOVERNMENT ARGUED THAT 'DOMICILE IS THE KEY CONCEPT THAT CREATES ALLEGIANCE.' THE TROUBLE IS THAT THERE IS SCANT EVIDENCE FOR THIS DRAMATICALLY REVISIONIST VIEW."
"THE ONLY EVIDENCE THE GOVERNMENT AND THE PRINCIPAL DISSENT CAN MUSTER TO SHOW THAT SOME ALTERNATIVE CONCEPTION OF ALLEGIANCE DISPLACED THE COMMON LAW: A 'FUNERAL ORATION' FOR PRESIDENT LINCOLN."
IT MAY BE THAT CHILDREN BORN ON OUR SOIL TO TEMPORARY SOJOURNERS ARE OUTSIDE THIS BILL'S SCOPE.
"THE PRINCIPAL DISSENT (AND THE GOVERNMENT) LEAN HEAVILY ON A HANDFUL OF AMBIGUOUS FLOOR STATEMENTS REFERENCING 'TEMPORARY SOJOURNERS' AND 'FOREIGNERS.'"
"IF CONGRESS INTENDED TO HINGE CITIZENSHIP ON EACH INDIVIDUAL'S DOMICILE... IT IS REASONABLE TO EXPECT THAT THERE WOULD HAVE BEEN AT LEAST SOME DISCUSSION OF THE TOPIC."
"BUT THE WORD 'DOMICILE' APPEARS JUST TWICE IN THE DISCUSSION OF THE CIVIL RIGHTS ACT AND IN ONLY ONE SPEECH FROM THE CITIZENSHIP CLAUSE DEBATES."
BLACK'S LAW DICTIONARY
UNITED STATES CODE
HARVARD LAW REVIEW
SUPREME COURT REPORTER

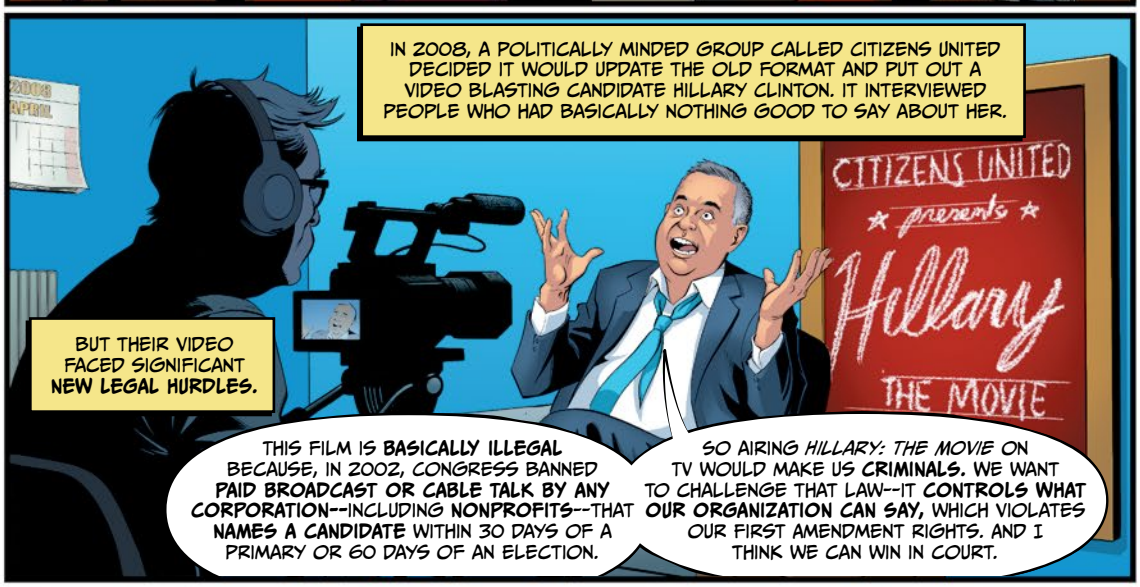

AGAIN AND AGAIN, THE DISSENTS CAST THE COMMON LAW AS "FEUDAL," "MEDIEVAL"--AND A REMNANT OF "THE DARKNESS OF THE MIDDLE AGES."
THAT WAS NOT THE VIEW OF THE RECONSTRUCTION-ERA CONGRESS. WHERE THE DISSENTS SEE FEUDALISM, THE FRAMERS OF THE FOURTEENTH AMENDMENT SAW EMANCIPATION.
THAT IS WHY THE COLONISTS DEMANDED THE "RIGHTS OF ENGLISHMEN." AND THAT IS WHY ABOLITIONISTS LAUDED THE "ANCIENT AND UNIVERSAL" RULE OF CITIZENSHIP BY BIRTH ALONE AS "AN ORDINANCE OF HEAVEN."
THREE JUSTICES DISSENTED. JUSTICE SAMUEL ALITO BEGAN HIS DISSENT BY TRACING THE MAJORITY'S HISTORICAL ACCOUNT STEP-BY-STEP.
EVERY STEP OF THIS STORY IS INCORRECT.
WHOSE HISTORY IS RIGHT--THE HISTORY PROVIDED BY CHIEF JUSTICE ROBERTS OR BY HIS DISSENTING COLLEAGUES?
PERHAPS THERE IS SOMETHING TO BE LEARNED FROM THE WISDOM OF AN OBSCURE 19TH-CENTURY SENATOR, GEORGE VEST.
HISTORY IS WRITTEN BY THE VICTORS AND FRAMED ACCORDING TO THE PREJUDICES AND BIASES EXISTING ON THEIR SIDE.
CITIZENSHIP, THEN AND NOW, WAS THE RIGHT TO HAVE RIGHTS--TO FREELY PARTICIPATE IN OUR POLITICAL COMMUNITY.
THE FRAMERS OF THE FOURTEENTH AMENDMENT EXTENDED THAT PROMISE TO EVERY FREEBORN PERSON IN THIS LAND. WE KEEP THAT PROMISE TODAY.

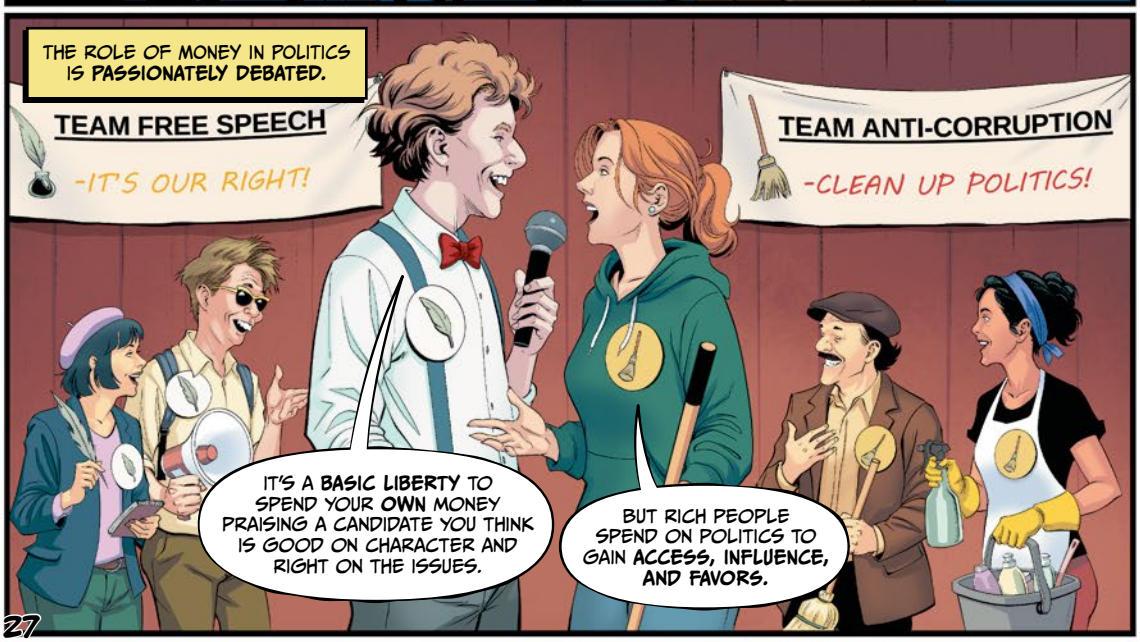
NRSC v. FEC & Citizens United v. FEC

★ ★ ★ ★ ★ ★ ★

Walter Olson







BEFORE CITIZENS UNITED BROUGHT ITS CASE, THE SUPREME COURT HAD TAKEN STEPS TOWARD RECOGNIZING FIRST AMENDMENT RIGHTS FOR CORPORATIONS--AND HAD BEEN SKEPTICAL OF LIMITS ON CAMPAIGN SPEECH.

IN 1936, THE COURT CONSIDERED A LOUISIANA SCHEME TO BURY OPPOSITION NEWSPAPERS UNDER TARGETED TAXES INITIATED BY THE STATE'S RECENTLY ASSASSINATED POLITICAL STRONGMAN, HUEY "THE KINGFISH" LONG.

UNANIMOUSLY, IT STRUCK THE TAXES DOWN--HOLDING THAT MEDIA CORPORATIONS LIKE THE TARGETED NEWSPAPERS HAD THE SAME FREE SPEECH RIGHTS AS CITIZENS.

CIO-PAC CONVENTION 1948

C.I.O. PAC 1948

CIO-PAC RALLY

CINCINNATI AUG. 8, 1948

CIO PAC 1948

POLITICAL ACTION

MAY 17-

IN 1948, WHEN A NEW LAW BANNED LABOR UNIONS FROM SPENDING MONEY ON FEDERAL ELECTIONS, THE SUPREME COURT READ IT NARROWLY TO AVOID LIMITING UNION SPEECH.

NOTABLY, THE COURT'S LIBERAL WING HAD PUSHED FOR A BROADER RULING GROUNDED IN THE FIRST AMENDMENT, WARNING THAT RESTRICTING THE UNION'S POLITICAL SPENDING WOULD DEPRIVE THE ELECTORATE OF FREE AND FULL DEBATE.

HAVING FAILED TO ARRIVE AT A BROAD FRAMEWORK FOR CAMPAIGN FINANCE IN THE FIRST HALF OF THE 20TH CENTURY, THE SUPREME COURT SPENT THE SECOND HALF SWINGING BACK AND FORTH LIKE A PENDULUM.

Buckely v. Valeo

Austin v. Michigan Chamber of Commerce

IN 1976, THE COURT TREATED LIMITS ON POLITICAL SPENDING AS LIMITS ON SPEECH. IT UPHELD CAPS ON DIRECT CONTRIBUTIONS TO CANDIDATES TO GUARD AGAINST QUID PRO QUO CORRUPTION BUT STRUCK DOWN LIMITS ON INDEPENDENT EXPENDITURES AS A BURDEN ON EXPRESSION.

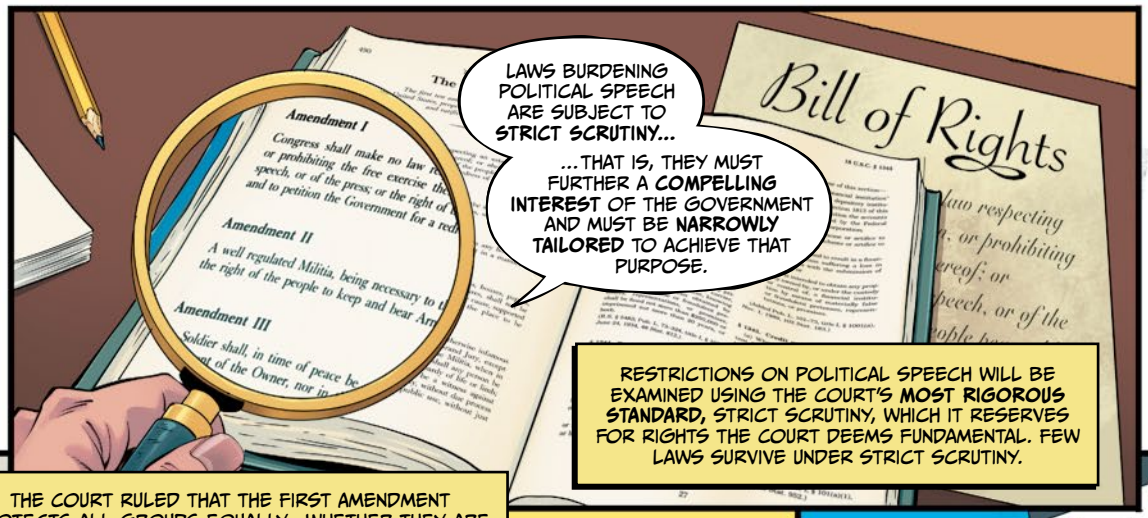
BUT IN 1990, THE COURT HELD THAT THE GOVERNMENT MAY RESTRAIN **CORPORATE** ELECTION SPENDING, REASONING THAT "IMMENSE AGGREGATIONS OF WEALTH" COULD **DISTORT** THE POLITICAL MARKETPLACE.

THIS **"ANTI-DISTORTION"** PRINCIPLE WOULD ANCHOR CAMPAIGN FINANCE LAW FOR THE **NEXT TWO DECADES.**

IN 2002, CONGRESS PASSED THE SWEEPING BIPARTISAN CAMPAIGN REFORM ACT (COMMONLY KNOWN AS THE MCCAIN-FEINGOLD ACT), WHICH, AMONG MANY OTHER THINGS, BANNED CORPORATE FUNDING FOR ELECTION SEASON POLITICAL BROADCASTS--LIKE *HILLARY: THE MOVIE.*

THAT BILL, TOGETHER WITH CITIZENS UNITED'S FILM, BROUGHT CAMPAIGN FINANCE RESTRICTIONS BACK TO THE SUPREME COURT'S DOORSTEP.

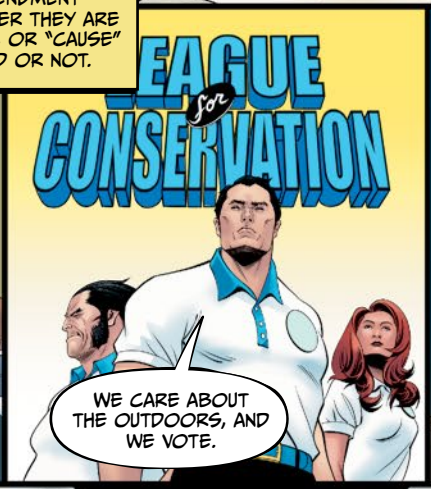

PERHAPS THE KEY MOMENT DURING THE ARGUMENT CAME WHEN THE LAWYER FOR THE GOVERNMENT CONCEDED THAT YES, THIS LAW COULD BAN A BOOK.
WHAT ABOUT A BOOK INSTEAD OF A VIDEO? IF A BOOK WAS THE FUNCTIONAL EQUIVALENT OF A CAMPAIGN AD, COULD IT BE BANNED?
I THINK IT WOULD BE CONSTITUTIONAL TO DO THAT.
BILL of RIGHTS
THAT ANSWER SENT SHOCKWAVES THROUGH THE COURTROOM. FROM THEN ON, THE MOMENTUM WAS WITH TEAM FREE SPEECH.
I'M A LITTLE DISORIENTED HERE. OUR CONSTITUTION SAYS THAT CONGRESS SHALL MAKE NO LAW ABRIDGING THE FREEDOM OF THE PRESS.
THE GOVERNMENT SAID EVEN ONE BAD MINUTE IN A 90-MINUTE VIDEO COULD MAKE THE WHOLE THING ILLEGAL. WHERE DOES MY CLIENT EDIT? WHICH CUTS SHOULD HE MAKE SO HE WON'T HAVE TO GO TO JAIL?
LAWYERS FOR CITIZENS UNITED ARGUED THAT THEIR CLIENT WOULD HAVE TO GUESS WHAT CONTENT IN THE FILM WOULD SOUND TOO MUCH LIKE A CAMPAIGN MESSAGE...
IN JANUARY 2010, THE COURT HANDED CITIZENS UNITED A DECISIVE VICTORY.
SENATOR JONES HAS BETRAYED US!
PROPOSITION 3 WILL HURT OUR SCHOOLS
PROPOSITION 3 WILL HURT OUR SCHOOLS
POLITICAL SPEECH MUST PREVAIL AGAINST LAWS THAT WOULD SUPPRESS IT.
SPEECH IS THE ESSENTIAL MECHANISM OF DEMOCRACY.
THE FIRST AMENDMENT PROTECTS AN OPEN MARKETPLACE OF IDEAS.
TOMORROW'S ELECTION MATTERS
SUPPORT CANDIDATES WHO SUPPORT OUR RIGHTS
DONATE NOW
YOUR VOTE YOUR FUTURE
JUSTICE ANTHONY KENNEDY WROTE THE MAJORITY OPINION IN A 5-4 OUTCOME.



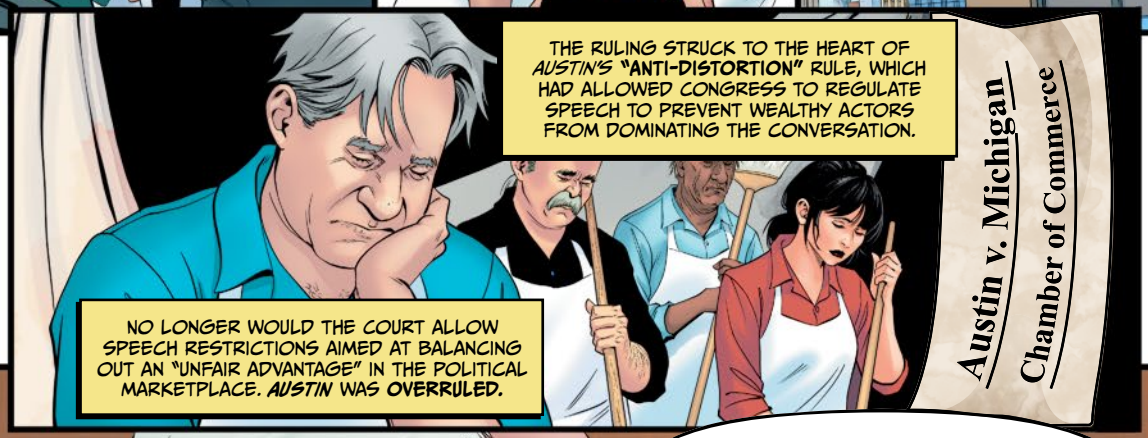
RESTRICTIONS ON POLITICAL SPEECH WILL BE EXAMINED USING THE COURT'S **MOST RIGOROUS STANDARD,** STRICT SCRUTINY, WHICH IT RESERVES FOR RIGHTS THE COURT DEEMS FUNDAMENTAL. FEW LAWS SURVIVE UNDER STRICT SCRUTINY.

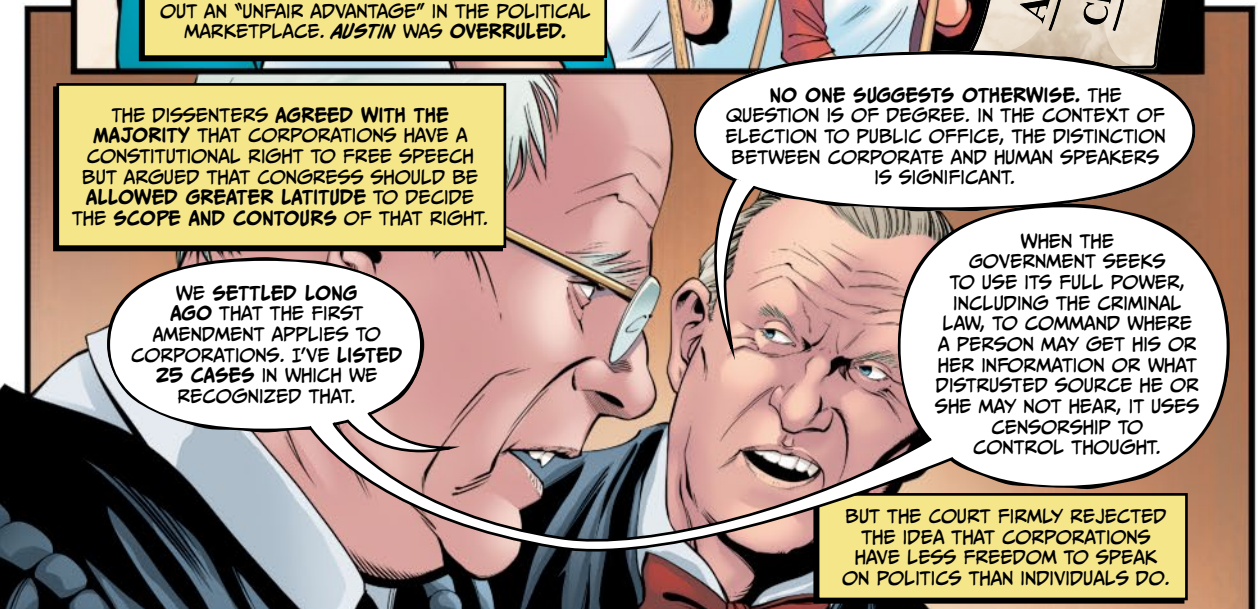
THE COURT RULED THAT THE FIRST AMENDMENT PROTECTS ALL GROUPS EQUALLY--WHETHER THEY ARE CHARITABLE, FOR-PROFIT, ASSOCIATIONAL, OR "CAUSE" AND WHETHER THEY ARE INCORPORATED OR NOT.

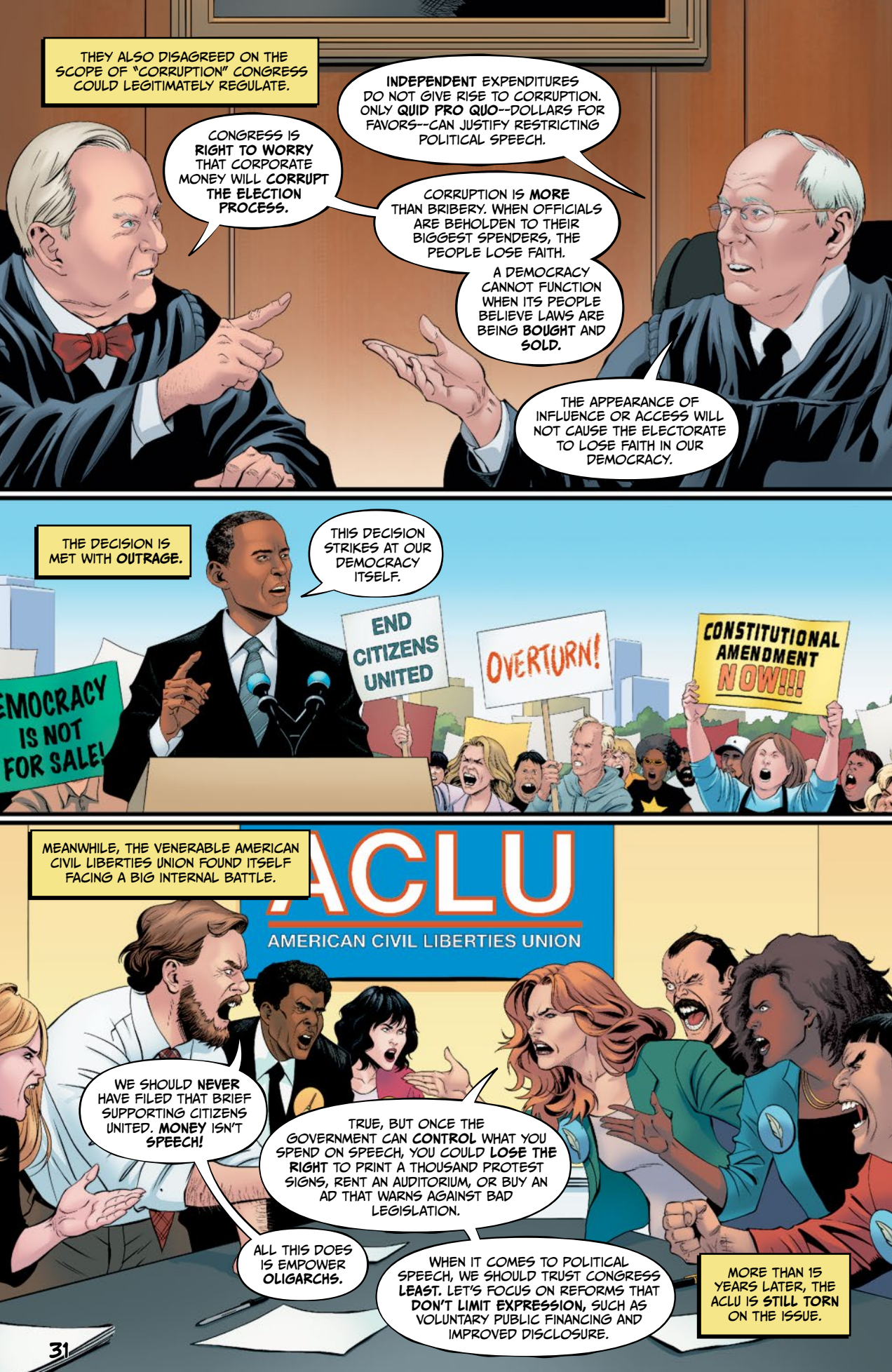


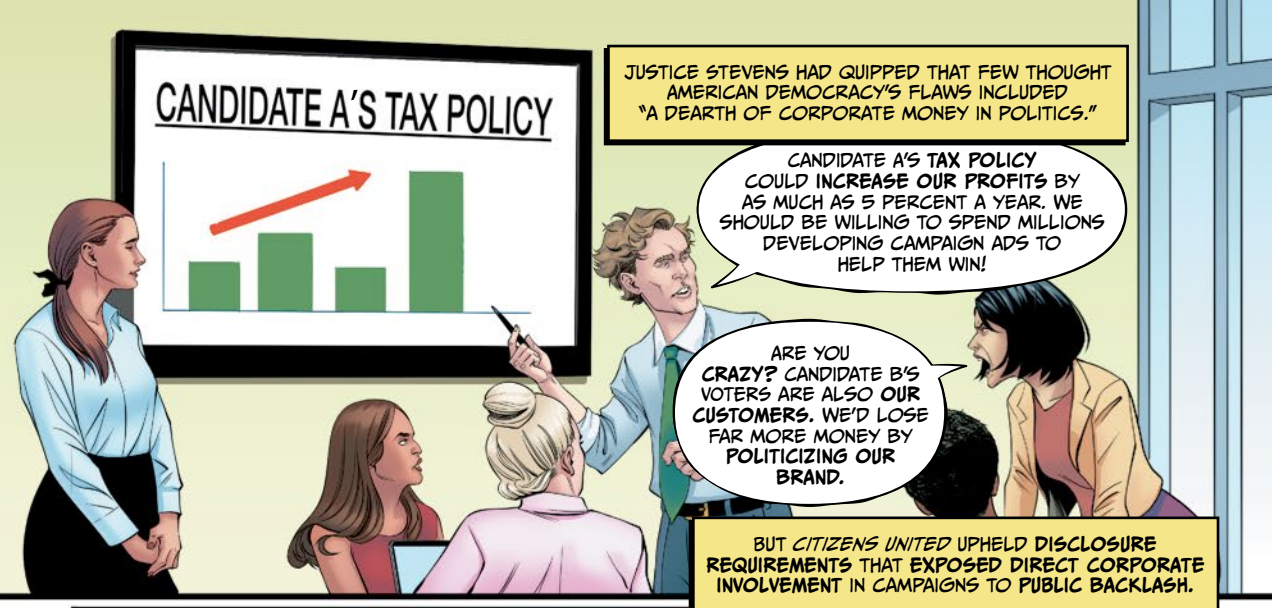


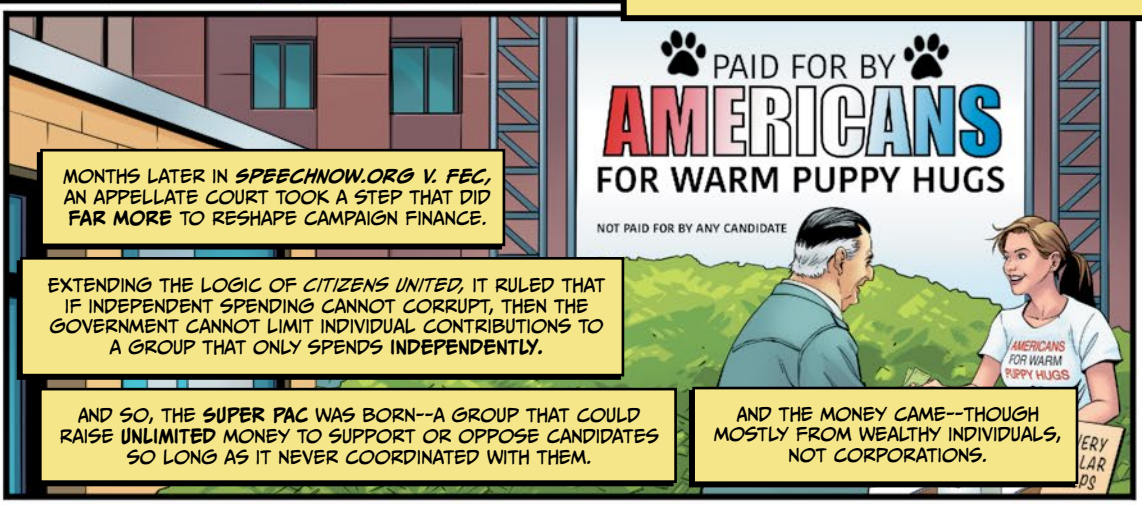


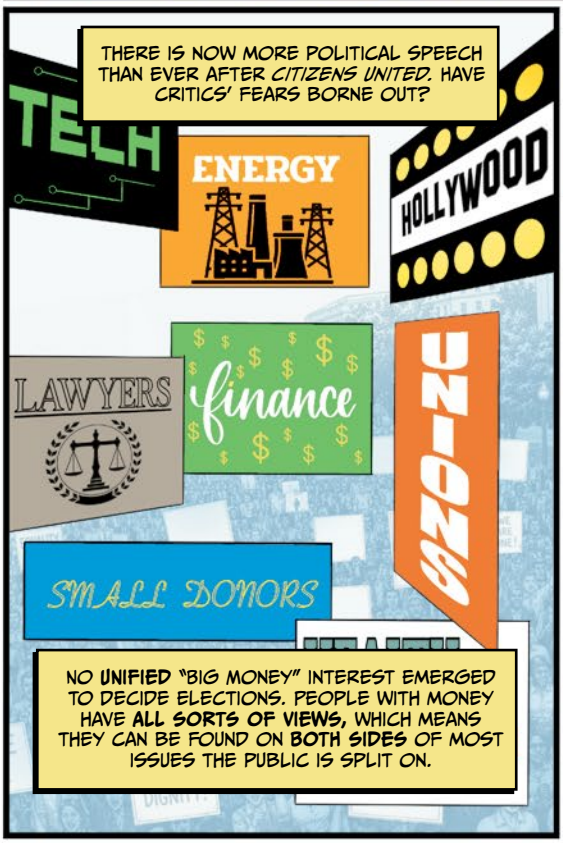




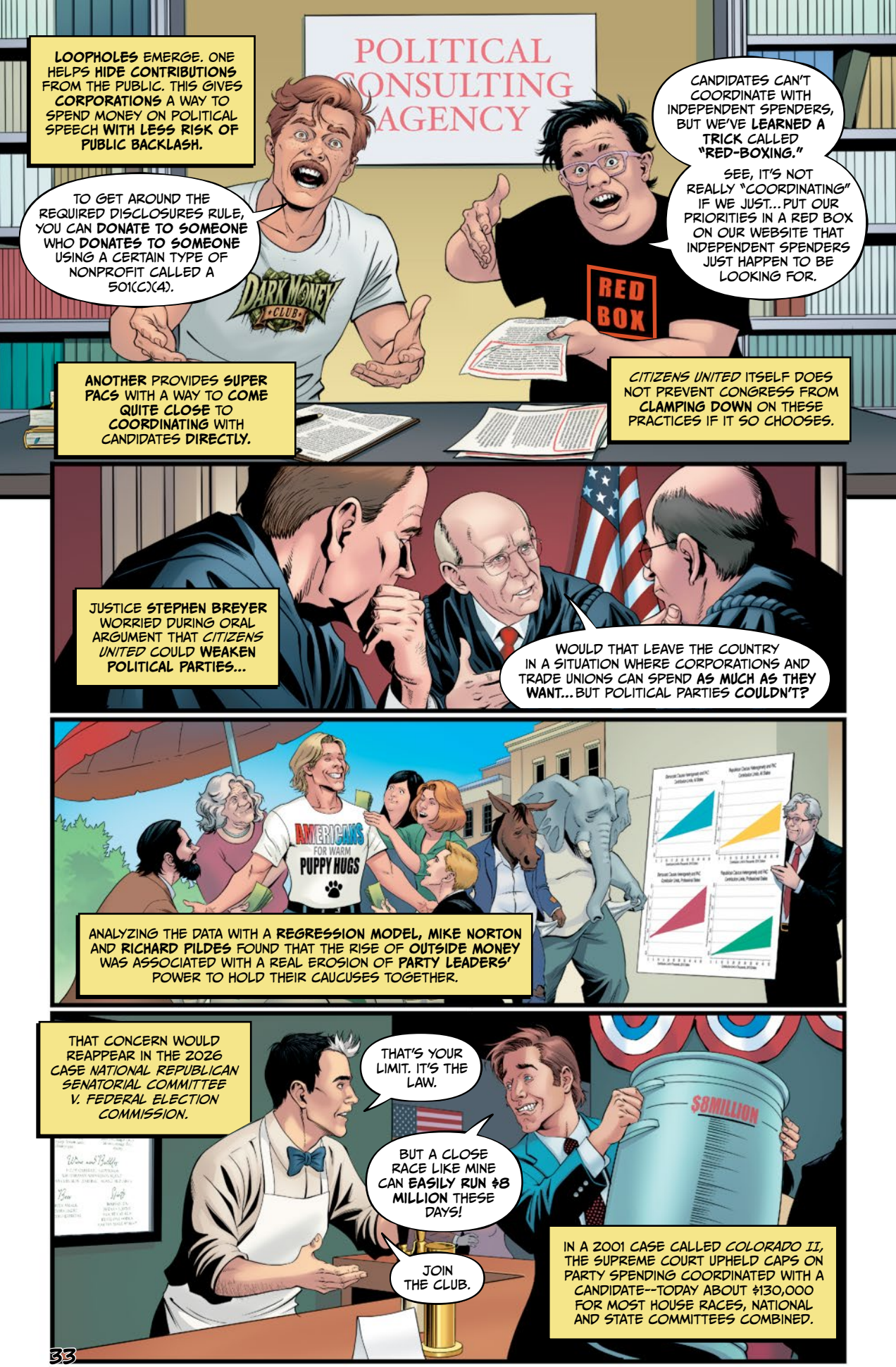

THEY ALSO DISAGREED ON THE SCOPE OF "CORRUPTION" CONGRESS COULD LEGITIMATELY REGULATE.
CONGRESS IS **RIGHT TO WORRY** THAT CORPORATE MONEY WILL **CORRUPT THE ELECTION PROCESS.**
INDEPENDENT EXPENDITURES DO NOT GIVE RISE TO CORRUPTION. ONLY **QUID PRO QUO**--DOLLARS FOR FAVORS--CAN JUSTIFY RESTRICTING POLITICAL SPEECH.
CORRUPTION IS **MORE** THAN BRIBERY. WHEN OFFICIALS ARE BEHOLDEN TO THEIR BIGGEST SPENDERS, THE PEOPLE LOSE FAITH.
A DEMOCRACY CANNOT FUNCTION WHEN ITS PEOPLE BELIEVE LAWS ARE BEING **BOUGHT** AND **SOLD.**
THE APPEARANCE OF INFLUENCE OR ACCESS WILL NOT CAUSE THE ELECTORATE TO LOSE FAITH IN OUR DEMOCRACY.
THE DECISION IS MET WITH **OUTRAGE.**
THIS DECISION STRIKES AT OUR DEMOCRACY ITSELF.
END CITIZENS UNITED
OVERTURN!
CONSTITUTIONAL AMENDMENT NOW!!!
EMOCRACY IS NOT FOR SALE!
MEANWHILE, THE VENERABLE AMERICAN CIVIL LIBERTIES UNION FOUND ITSELF FACING A BIG INTERNAL BATTLE.
ACLU
AMERICAN CIVIL LIBERTIES UNION
WE SHOULD **NEVER** HAVE FILED THAT BRIEF SUPPORTING CITIZENS UNITED. **MONEY** ISN'T **SPEECH!**
TRUE, BUT ONCE THE GOVERNMENT CAN **CONTROL** WHAT YOU SPEND ON SPEECH, YOU COULD **LOSE THE RIGHT** TO PRINT A THOUSAND PROTEST SIGNS, RENT AN AUDITORIUM, OR BUY AN AD THAT WARNS AGAINST BAD LEGISLATION.
ALL THIS DOES IS EMPOWER **OLIGARCHS.**
WHEN IT COMES TO POLITICAL SPEECH, WE SHOULD TRUST CONGRESS **LEAST.** LET'S FOCUS ON REFORMS THAT **DON'T LIMIT EXPRESSION,** SUCH AS VOLUNTARY PUBLIC FINANCING AND IMPROVED DISCLOSURE.
MORE THAN 15 YEARS LATER, THE ACLU IS **STILL TORN** ON THE ISSUE.

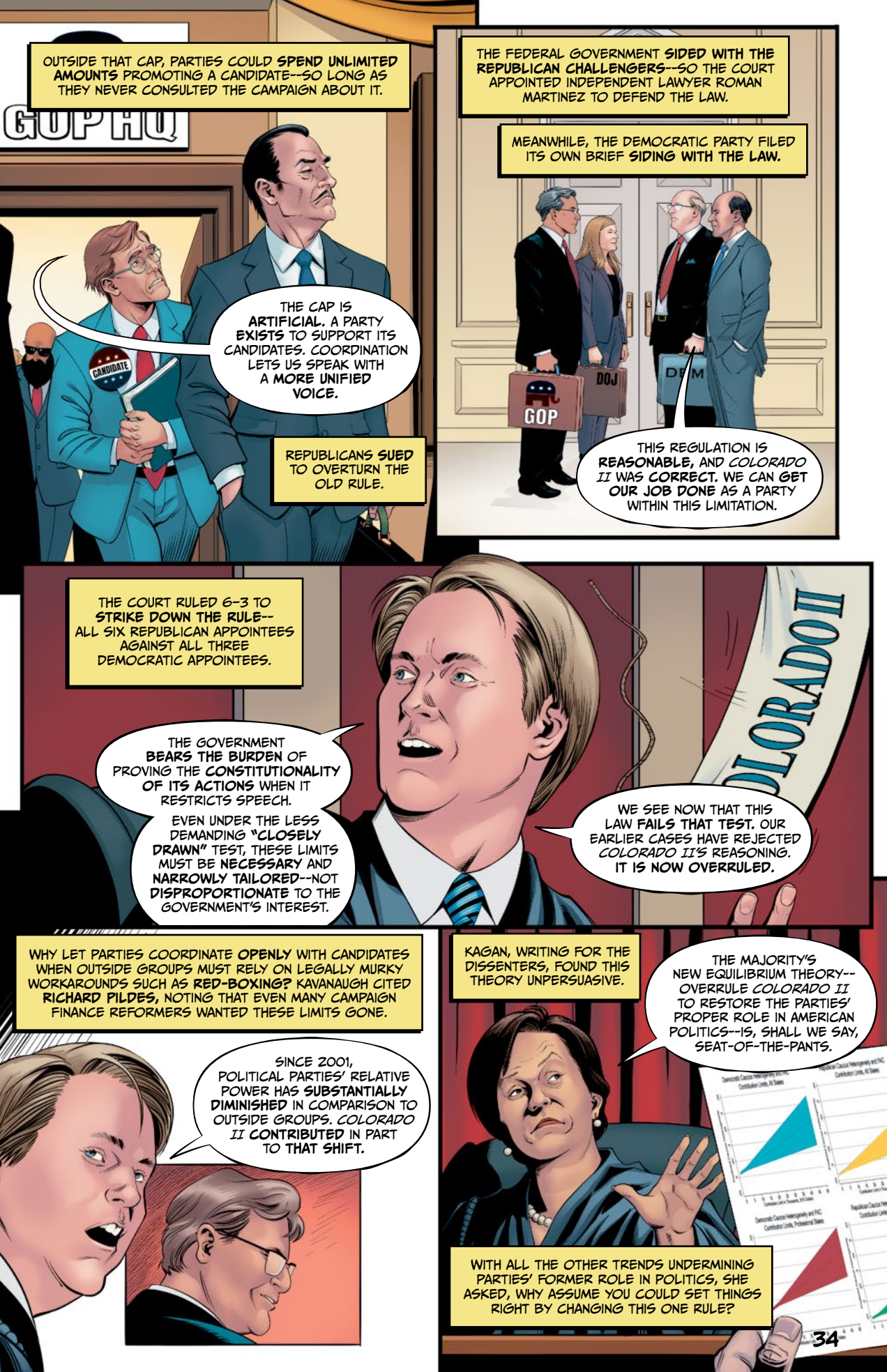

CANDIDATE A'S TAX POLICY
JUSTICE STEVENS HAD QUIPPED THAT FEW THOUGHT AMERICAN DEMOCRACY'S FLAWS INCLUDED "A DEARTH OF CORPORATE MONEY IN POLITICS."
CANDIDATE A'S TAX POLICY COULD INCREASE OUR PROFITS BY AS MUCH AS 5 PERCENT A YEAR. WE SHOULD BE WILLING TO SPEND MILLIONS DEVELOPING CAMPAIGN ADS TO HELP THEM WIN!
ARE YOU CRAZY? CANDIDATE B'S VOTERS ARE ALSO OUR CUSTOMERS. WE'D LOSE FAR MORE MONEY BY POLITICIZING OUR BRAND.
BUT CITIZENS UNITED UPHELD DISCLOSURE REQUIREMENTS THAT EXPOSED DIRECT CORPORATE INVOLVEMENT IN CAMPAIGNS TO PUBLIC BACKLASH.


MONTHS LATER IN SPEECHNOW.ORG V. FEC, AN APPELLATE COURT TOOK A STEP THAT DID FAR MORE TO RESHAPE CAMPAIGN FINANCE.
PAID FOR BY
AMERICANS
FOR WARM PUPPY HUGS
NOT PAID FOR BY ANY CANDIDATE
AMERICANS FOR WARM PUPPY HUGS
EXTENDING THE LOGIC OF CITIZENS UNITED, IT RULED THAT IF INDEPENDENT SPENDING CANNOT CORRUPT, THEN THE GOVERNMENT CANNOT LIMIT INDIVIDUAL CONTRIBUTIONS TO A GROUP THAT ONLY SPENDS INDEPENDENTLY.
AND SO, THE SUPER PAC WAS BORN--A GROUP THAT COULD RAISE UNLIMITED MONEY TO SUPPORT OR OPPOSE CANDIDATES SO LONG AS IT NEVER COORDINATED WITH THEM.
AND THE MONEY CAME--THOUGH MOSTLY FROM WEALTHY INDIVIDUALS, NOT CORPORATIONS.


THERE IS NOW MORE POLITICAL SPEECH THAN EVER AFTER CITIZENS UNITED. HAVE CRITICS' FEARS BORNE OUT?
TECH
ENERGY
HOLLYWOOD
LAWYERS
finance
OIL
SMALL DONORS
NO UNIFIED "BIG MONEY" INTEREST EMERGED TO DECIDE ELECTIONS. PEOPLE WITH MONEY HAVE ALL SORTS OF VIEWS, WHICH MEANS THEY CAN BE FOUND ON BOTH SIDES OF MOST ISSUES THE PUBLIC IS SPLIT ON.


DOES MONEY BUY ELECTIONS?
YOU WON? BUT I SPENT OVER ONE BILLION DOLLARS!
WINNER
SKILL ISSUE.
CANDIDATE 1
CANDIDATE 2
NOT EXACTLY. UNKNOWN CANDIDATES WHO CAN'T RAISE ENOUGH TO BE HEARD RARELY STAND A CHANCE. IT'S LESS CLEAR IF SPENDING MORE DECIDES THE WINNER BECAUSE MONEY OFTEN FLOWS TO LIKELY WINNERS.


LOOPHOLES EMERGE. ONE HELPS HIDE CONTRIBUTIONS FROM THE PUBLIC. THIS GIVES CORPORATIONS A WAY TO SPEND MONEY ON POLITICAL SPEECH WITH LESS RISK OF PUBLIC BACKLASH.
POLITICAL CONSULTING AGENCY
TO GET AROUND THE REQUIRED DISCLOSURES RULE, YOU CAN DONATE TO SOMEONE WHO DONATES TO SOMEONE USING A CERTAIN TYPE OF NONPROFIT CALLED A 501(C)(4).
DARK MONEY CLUB
CANDIDATES CAN'T COORDINATE WITH INDEPENDENT SPENDERS, BUT WE'VE LEARNED A TRICK CALLED "RED-BOXING."
SEE, IT'S NOT REALLY "COORDINATING" IF WE JUST... PUT OUR PRIORITIES IN A RED BOX ON OUR WEBSITE THAT INDEPENDENT SPENDERS JUST HAPPEN TO BE LOOKING FOR.
RED BOX
ANOTHER PROVIDES SUPER PACS WITH A WAY TO COME QUITE CLOSE TO COORDINATING WITH CANDIDATES DIRECTLY.
CITIZENS UNITED ITSELF DOES NOT PREVENT CONGRESS FROM CLAMPING DOWN ON THESE PRACTICES IF IT SO CHOOSES.
JUSTICE STEPHEN BREYER WORRIED DURING ORAL ARGUMENT THAT CITIZENS UNITED COULD WEAKEN POLITICAL PARTIES...
WOULD THAT LEAVE THE COUNTRY IN A SITUATION WHERE CORPORATIONS AND TRADE UNIONS CAN SPEND AS MUCH AS THEY WANT... BUT POLITICAL PARTIES COULDN'T?
AMERICANS FOR WARM PUPPY HUGS
ANALYZING THE DATA WITH A REGRESSION MODEL, MIKE NORTON AND RICHARD PILDES FOUND THAT THE RISE OF OUTSIDE MONEY WAS ASSOCIATED WITH A REAL EROSION OF PARTY LEADERS' POWER TO HOLD THEIR CAUCUSES TOGETHER.
THAT CONCERN WOULD REAPPEAR IN THE 2026 CASE NATIONAL REPUBLICAN SENATORIAL COMMITTEE V. FEDERAL ELECTION COMMISSION.
THAT'S YOUR LIMIT. IT'S THE LAW.
BUT A CLOSE RACE LIKE MINE CAN EASILY RUN $8 MILLION THESE DAYS!
JOIN THE CLUB.
$8MILLION
IN A 2001 CASE CALLED COLORADO II, THE SUPREME COURT UPHELD CAPS ON PARTY SPENDING COORDINATED WITH A CANDIDATE--TODAY ABOUT $130,000 FOR MOST HOUSE RACES, NATIONAL AND STATE COMMITTEES COMBINED.


OUTSIDE THAT CAP, PARTIES COULD SPEND UNLIMITED AMOUNTS PROMOTING A CANDIDATE--SO LONG AS THEY NEVER CONSULTED THE CAMPAIGN ABOUT IT.
GOP HQ
CANDIDATE
THE CAP IS ARTIFICIAL. A PARTY EXISTS TO SUPPORT ITS CANDIDATES. COORDINATION LETS US SPEAK WITH A MORE UNIFIED VOICE.
REPUBLICANS SUED TO OVERTURN THE OLD RULE.
THE FEDERAL GOVERNMENT SIDED WITH THE REPUBLICAN CHALLENGERS--SO THE COURT APPOINTED INDEPENDENT LAWYER ROMAN MARTINEZ TO DEFEND THE LAW.
MEANWHILE, THE DEMOCRATIC PARTY FILED ITS OWN BRIEF SIDING WITH THE LAW.
DOJ
GOP
THIS REGULATION IS REASONABLE, AND COLORADO II WAS CORRECT. WE CAN GET OUR JOB DONE AS A PARTY WITHIN THIS LIMITATION.
THE COURT RULED 6-3 TO STRIKE DOWN THE RULE--ALL SIX REPUBLICAN APPOINTEES AGAINST ALL THREE DEMOCRATIC APPOINTEES.
THE GOVERNMENT BEARS THE BURDEN OF PROVING THE CONSTITUTIONALITY OF ITS ACTIONS WHEN IT RESTRICTS SPEECH.
EVEN UNDER THE LESS DEMANDING "CLOSELY DRAWN" TEST, THESE LIMITS MUST BE NECESSARY AND NARROWLY TAILORED--NOT DISPROPORTIONATE TO THE GOVERNMENT'S INTEREST.
WE SEE NOW THAT THIS LAW FAILS THAT TEST. OUR EARLIER CASES HAVE REJECTED COLORADO II'S REASONING. IT IS NOW OVERRULED.
WHY LET PARTIES COORDINATE OPENLY WITH CANDIDATES WHEN OUTSIDE GROUPS MUST RELY ON LEGALLY MURKY WORKAROUNDS SUCH AS RED-BOXING? KAVANAUGH CITED RICHARD PILDES, NOTING THAT EVEN MANY CAMPAIGN FINANCE REFORMERS WANTED THESE LIMITS GONE.
SINCE 2001, POLITICAL PARTIES' RELATIVE POWER HAS SUBSTANTIALLY DIMINISHED IN COMPARISON TO OUTSIDE GROUPS. COLORADO II CONTRIBUTED IN PART TO THAT SHIFT.
KAGAN, WRITING FOR THE DISSENTERS, FOUND THIS THEORY UNPERSUASIVE.
THE MAJORITY'S NEW EQUILIBRIUM THEORY--OVERRULE COLORADO II TO RESTORE THE PARTIES' PROPER ROLE IN AMERICAN POLITICS--IS, SHALL WE SAY, SEAT-OF-THE-PANTS.
WITH ALL THE OTHER TRENDS UNDERMINING PARTIES' FORMER ROLE IN POLITICS, SHE ASKED, WHY ASSUME YOU COULD SET THINGS RIGHT BY CHANGING THIS ONE RULE?


TWENTY-FIVE YEARS AGO, THE COURT CONSIDERED--AND REJECTED--THIS SAME CHALLENGE.
THE MAJORITY IS RIGHT THAT COOPERATION BETWEEN PARTY AND CANDIDATES IS GENERALLY FINE.
THE ISSUE ARISES WHEN THE PARTY FUNCTIONS AS A FUNNEL FOR INDIVIDUALS AND NON-PARTY GROUPS TO FINANCE CANDIDATES.
WY
NE
AR
CA
CO
TN
NY
WI
NATIONAL COMMITTEE
CANDIDATE
DEPOSIT $10,000 HERE
DEPOSIT $44,300 HERE
DEPOSIT $7,000 HERE
A JOINT FUNDRAISING COMMITTEE CAN COLLECT CONTRIBUTIONS FOR THE CANDIDATE, THE NATIONAL COMMITTEE, AND 50 STATE COMMITTEES VIA A SINGLE PAYMENT.
THE NUMBERS ADD UP. AN OSTENSIBLY CAPPED CONTRIBUTION OF $7,000 TO A CANDIDATE BECOMES A $550,000 CONTRIBUTION.
IN 2024, BOTH MAJOR PARTIES' PRESIDENTIAL CAMPAIGNS RAN EXACTLY THIS KIND OF MACHINE.
SOME PARTY-COORDINATED EXPENDITURES DO NOT INVOLVE ADVERTISING OR OTHER SPEECH AT ALL. A CANDIDATE MIGHT FORWARD THE RENT OR ELECTRICITY BILL FOR CAMPAIGN OFFICES OR THE CATERING BILL FOR A CAMPAIGN EVENT.
COORDINATED EXPENDITURES LIKE THOSE CAN BE AS USEFUL TO THE CANDIDATE AS CASH. AND THE BIGGER THE PRIZE, THE STRONGER THE TEMPTATION TO TRADE DOLLARS FOR FAVORS, AND THE DEEPER THE PUBLIC'S SUSPICION.
INVOICE LANDLORD $18,000.01
INVOICE ELECTRIC COMP. $11,120.61
INVOICE CATERER $7,325.00
PARTY HQ
DISCLOSURE
BRIBERY LAWS
CA
WE ALL AGREE THAT PREVENTING QUID PRO QUO DEALS IS A COMPELLING GOVERNMENT INTEREST. BUT WE CAN USE LESS RESTRICTIVE MEANS THAN CAPPING PARTIES' COORDINATED EXPENDITURES.
NO EARMARKS
THAT A PARTY MIGHT SPEND JUST AS A CONTRIBUTOR HOPES--OR EVEN LIKELY WILL--IS NOT CORRUPTION AND CANNOT JUSTIFY LIMITS ON PARTY SPEECH.
TEAM ANTI-CORRUPTION
-CLEAN UP POLITICS!
TEAM FREE SPEECH
-IT'S OUR RIGHT!
REPUBLICAN CANDIDATES
DEMOCRATIC CANDIDATES
WILL FREER COORDINATION BRING THE UNIFIED PARTIES KAVANAUGH ENVISIONED, THE PAY-TO-PLAY DEALS KAGAN FEARED, OR BOTH AT ONCE?
IF CITIZENS UNITED PROVED ANYTHING, IT'S THAT EVERY NEW SET OF RULES IS FOLLOWED BY UNEXPECTED CONSEQUENCES. CHECK BACK IN 10 OR 20 YEARS--MAYBE WE'LL KNOW BY THEN.


TO BE CONTINUED... IN 2027!!

SCHOLAR BIOS



JAMES CRAVEN IS THE CATO INSTITUTE'S MANAGER OF LEGAL STUDIES AND EDITOR IN CHIEF OF *THE ILLUSTRATED SUPREME COURT REVIEW*. A FORMER CRIMINAL DEFENSE ATTORNEY, JAMES SERVED AS ACTING DIRECTOR OF CRIMINAL JUSTICE REFORM AT THE REASON FOUNDATION BEFORE JOINING CATO IN 2020.



BRENT SKORUP WAS A LEGAL FELLOW IN THE CATO INSTITUTE'S ROBERT A. LEVY CENTER FOR CONSTITUTIONAL STUDIES. BRENT'S RESEARCH AREAS INCLUDED FREE SPEECH, TECHNOLOGY LAW, FOURTH AMENDMENT PROTECTIONS, REGULATION, AND PROPERTY LAW. HE IS NOW AN ATTORNEY AT THE U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION.



LAURA BONDANK-HARMON IS THE CATO INSTITUTE'S MANAGER OF LEGAL PROGRAMS. HER AREAS OF INTEREST INCLUDE THE WARRANT REQUIREMENT, POLICE ACCOUNTABILITY, PLEA BARGAINING, AND CIVIL FORFEITURE. BEFORE JOINING CATO, LAURA WAS A TRIAL ATTORNEY IN MICHIGAN, WHERE SHE REPRESENTED CLIENTS IN BOTH CIVIL AND CRIMINAL CASES.



DAN GREENBERG IS A SENIOR LEGAL FELLOW IN THE CATO INSTITUTE'S ROBERT A. LEVY CENTER FOR CONSTITUTIONAL STUDIES AND A RECOVERING LITIGATOR. HE IS THE PRODUCER OF *AMERICAN LIBEL*--A DOCUMENTARY ABOUT THE NATURE AND CONSEQUENCES OF *NEW YORK TIMES V. SULLIVAN*--AND A FORMER STATE LEGISLATOR.



WALTER OLSON IS A SENIOR FELLOW AT THE CATO INSTITUTE'S ROBERT A. LEVY CENTER FOR CONSTITUTIONAL STUDIES AND THE AUTHOR OF FOUR BOOKS ON THE AMERICAN LEGAL SYSTEM. HE WRITES OFTEN ON ELECTION LAW AND FREE SPEECH ISSUES.

ARTIST BIOS



EMAN CASALLOS IS A FREELANCE COMIC BOOK ARTIST FROM JOPLIN, MISSOURI. HE HAS WORKED ON COMICS FOR PROPERTIES SUCH AS CAPTAIN PLANET, PATHFINDER, BATTLESTAR GALACTICA, JENNIFER BLOOD, AND VAMPIRELLA. EMAN IS THIS YEAR'S COVER ARTIST AND THE PRIMARY ILLUSTRATOR BEHIND THE *CITIZENS UNITED V. FEC* & *NRSC V. FEC* CHAPTER IN THIS VOLUME.



MARCUS FROST (M. HERRERA) IS A CHILEAN ILLUSTRATOR AND STORYTELLER WHOSE WORK BLENDS RETRO-FUTURISTIC AESTHETICS WITH SYMBOLIC DEPTH. HIS BACKGROUND AS A MILITARY INSTRUCTOR AND PROFESSIONAL PHOTOGRAPHER SHAPED HIS DISCIPLINED APPROACH TO VISUAL ART. HE IS THE PRIMARY ILLUSTRATOR OF *LEARNING RESOURCES V. TRUMP*, *CHATRIE V. U.S.*, AND *TRUMP V. BARBARA* IN THIS VOLUME.



BEN HUMENIUK IS A CARTOONIST AND EDUCATOR FROM HOUSTON, TEXAS, WHO HAS DRAWN AND WRITTEN COMICS INCLUDING *WAKING LIFE*, *THE MAGNIFICENT MAKERS*, *BRO-D CAN'T BE BROKEN*, AND *A LAST GOODBYE*. BEN HAS PROVIDED EDITORIAL CONSULTATION FOR *THE ILLUSTRATED SUPREME COURT REVIEW* SINCE 2024 AND ILLUSTRATED THE *COX V. SONY* CHAPTER IN THIS VOLUME.

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