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vfrfFk I gk; d i k/; ki d jktuhfr foKku foHkkx]
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U; kf; d I fØ; kokn% Hkkj rh; iztkrU= ds i fji {; eafur vk/kfud vo/kkj .kk gA U; kf; d I fØ; rk 'kCn dk iz kx i gyh ckj ys[kd 'yfl xj tnu; j }kj k vi usys[k k ^n I q'he dks/1947* eafd; k x; k Fkk] tks 947 I s OkM; i uked i f=dk ea i dkr'kr gvk FkA 1803 eaed; U; k; /kh'k ek'ky }kj k ekycjh cuke eMhl u ¼Marbary V/S Madison% dsekeyseatc U; kf; d I eh{k dh vo/kkj .kk dks fodfl r fd; k x; k Fkk] rc I eh{k ds mnHko us, d u, vknsyu dks tle fn; k] ft I s U; kf; d I fØ; rk ds: i eatkuk x; ka

Cyid yk fMD'kujh us U; kf; d I fØ; rk dks bl i dki dk fl nAkar i fj Hkkf'kr fd; k gA ^ U; kf; d I fØ; rk dk fl nAkar U; k; /kh'kka dks I koZt fud uhfr ds ckj seamuds 0; fDrxr fopkj dh vupefr nrk gS tks vU; dkj dka ds e/; muds fu.kz dksekxh'kr dj I dA**

"Philosophy of Judicial Decision Making whereby Judicial Decision Making whereby Judges Allow Their personal view about public policy among other Factors to Guide Their Decision"

Hkkj rh; I fo/kku ea vuPNn 13] 32] 226] 141 vks 142 ds vk/kkj i j U; kf; d I fØ; rk ds foLrkj dh i jh

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I EHkkouk dsmn; ds: i ea xky dukFk cuke i atck jkT; dsfookn dksn%kk tk I drk gA mPpre U; k; ky; }kj k xky dukFk ds ekeys ea I fo/ku ds vuPNn 13 dh 0; ki d : i ea 0; k[]; k dh xbz gA bl fookn ea ; g fu.kz; fn; k x; k fd I d n dks eykf/kdkj ka ea I a kksku d jus dh 'kfDr i ktr ugha gA 24 oa I a kksku ds }kj k bl fu.kz; dks ckn ea cny fn; k x; ka varr% ds kokuIn Hkkjrh cuke djy jkT; dsfookn ea ey <kpsdh vo/kkj.kk I sbl su; h 'kfDr i ktr gA oLr% Hkkj r ea U; kf; d I fØ; rk dk fl nAkar I Rrj dsn'kd ea ml I e; I keus vk; k] tc , I - i h xprk cuke Hkkj r I a ekeys ea I us tkus ds vf/kdkj us vflre : i xg.k fd; k rFk ; g ekey U; k; /kh'kka ds gLrkrj .k ekeys ds: i eaykdfiz; gA bl ekeys ea U; k; efrzHkxorh dks tufgr ; kfpdk dsfotr k ds: i eatkuk tkrk gA

U; kf; d I fØ; rk dsfodkl ea tufgr I sl ad/kr vk'okl ukas Hkh egROI wLz Hkfedk dk fuoZu fd; k gA tglafdl h , d sxjhc] ykpkj] v{ke] 0; fDr; k 0; fDr; ka ds I eg ds I kFk dkunh : i I sdqN xyr gksjgk gS ml spk/ i gpkbz tk jgh gS ; k /kedh nh tk jgh gA tks viuh I ekftd ; k vkfFkd : i I soInr fLFkr ds dkj .k jkgr dsfy, Lo; adk vnkyr rd i gupuseav{ke i ktr gSrks turk ea I sckbz Hkh I nL; vkgr 0; fDr; k 0; fDr; ka ds I eg dksmfpr fn'kk nus dsfy, vkns k ; k fjV dsek/; e I smPp U; k; ky; dsrgr vuPNn 226 ds varxZr vSj mPpre U; k; ky; dsrgr vuPNn 32 ds varxZr U; kf; d fuokj .k dh ekax dsfy, vkonu i = nkf[ky dj I drk gA bl i dzkj U; kf; d I fØ; rk orEku fof/k ij vk/kkfj r ugha gA U; kf; d I fØ; rk dh I txrk vSj drD; ij k.k; rk bl ckr dh |krd gSfd tc fdllgh i fj fLFkr; ka ea I dSkkfud I kFk, a mPNn[ky , oa fujadqk cu tkrh gA rks U; k; i kfyd vius vf/kdkj {k= dk vfrDe.k djrh gS rFk U; k; dh u; sfl js I s i fj Hk'kk djrh gS vSj turk dh vkLFk U; k; eacuh jgrh gA oLr% U; k; I svk'k; ek= dkunh U; k; I sughagA I fo/ku dh i Lrkouk eaof.kr ^I ekftd] vkfFkd vSj jktuhfrd U; k; * I sgA

tufgr ; kfpdk dks U; kf; d I fØ; rk dk ek/; e ekuk tk I drk gA tufgr ; kfpdk dk vk'k; turk dsfgr ea epneckth I sgA ftl dk I ekosk 1970 ea U; kf; d I fØ; rk I sgA bl dsek/; e I su; k; i kfydk }kj k , d I fØ; Hkfedk fuHk; h tkrh gA tks jkT; ds vU; vakra dks vius I dSkkfud drD; fuHkks dsfy, ck/; djrh gA ; fn dk; a kfydk vSj fo/kkf; dk U; k; i kfydk dh bl I fØ; rk I sfook' gsrh gS rks U; k; ky; dh ; g I fØ; rk turæ dh 'kfDr vSj turk ds fo'okl dksuk, j [krh gA vnkyr ustufgr ; kfpdk ds vk/kkj ij dk; a kfydk ds I kFk&I kFk fo/kkf; dk dks Hkh dbZ egROI wLz fn'kk&funS k fn, mPpre U; k; ky; dks vc , d dY; k.kdkj h jkT; ea vius mfpr Hkfedk dk , gl kl gks x; k gA vSj bl ds fy, j .kuhfr dk iz kx dj jgh gA U; kf; d I fØ; rk dk n"Vdks k oLr% vc I ekt ds detkj oxk dksfy, I fØ; rk dk , d mnkj .k n"V0; gA I q he dksZus; i i h, - 2 ds' kkl udky eapky dks Hk. Mkj .k o j [kj [kko ds vkhkko ea xknkka ea I Mkus ds ctk; xjhckaeaforfj r d jus dk fn'kkfunS k ndj detkj oxk dk i frfuf/rRo d jus dk , gl kl fnyk; ka

vuPNn 13]32]226]141 o 142 U; kf; d I fØ; rk eadkOh egROI ds gA vuPNn 32 mPpre U; k; ky; eakfyd vf/kdkj ka dh xkj UVh nrk gA vuPNn 13 I okPp U; k; ky; ds U; kf; d I eh{k dh 0; ki d 'kfDr i nku djrk gA U; kf; d I eh{k dk iz kx dj rsgq U; k; i kfydk] fo/kkf; dk vSj dk; a kfydk dh I dSkkfudrk dh tkp dj I drh gA bl I adk eampP U; k; ky; dks Hkh %vuPNn 226 ds rgr 1/2 I eku 'kfDr i ktr gA

vuPNn 141 bixr djrk gSfd mPpre U; k; ky; dh 'kfDr dkunh ?kk'kr d jus dsfy, gA ; g 'kfDr vf/kfu; fer ugha gA cYd dkunh dk fuoZu %0; k[]; k 1/2 d jus ds vius dke ds nSj ku ; g dkunh dks cnyus dh 'kfDr j [krh gA vuPNn 142 mPpre U; k; ky; dks I {ke cukrk gSfd og vius {k= kf/kdkj dk iz kx dj rsgq bl i dzkj ds vkns k dksuk, fd ftl Hkh dkj .k ; k ckr ds dkj .k epnek yfEcr gS rksmu i fj fLFkr; ka eaog vkns k i wLz U; k; dsfy, i kfj r djA bu vuPNn ka dsek/; e I smPpre U; k; ky; ds I kFk&I kFk mPp U; k; ky; dbZ ekftd vSj i ; kbj .k dsepnka dks fui Vkusea , d egROI wLz Hkfedk fuHkkrsgA

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