

Four-to-Three Decisions

Just as in 1928-29, there were no 4-3 decisions this term—an unusual development, primarily due to Justice Vinje's unavailability explained in this post's introduction. Two of the deadlocked (3-3) decisions (*Boehlke v. Wallschlaeger* and *Morse v. State*) specified that Justice Vinje did not participate. The third 3-3 decision (*Luebke v. Danaher*) did not name the absent justice, but it likely was Justice Vinje, given that the decision issued in May 1928, a month after the last indication of his involvement in the outcome of any case.

Decisions by Vote Split¹

7-0 (or 6-0, 5-0)	6-1 (or 5-1)	5-2	4-3
350/379 (92%)	24/379 (6%)	5/379 (1%)	0/379 (0%)
<i>Selts Inv. Co. v. Promoters of Federated Nations</i> [197 Wis. 471]	<i>Scholtz v. Kerschensteiner</i>	<i>State v. Van Brocklin</i>	
<i>Blatchford v. Voss</i>	<i>Simpson v. Cornish</i>	<i>Litel v. First Nat'l Bank</i>	
<i>Tofte v. Crolius</i>	<i>Vande Voort v. Farmers' & Traders' Bank</i>	<i>Kadow v. Kadow</i>	
<i>Willow River Powder Co. v. Railroad Com.</i>	<i>In re Corse's Will</i>	<i>ESTATE OF DURANT: FRIEDRICH v. DURANT</i>	
<i>Deerkop v. State</i>	<i>State v. Suick</i>	<i>School Dist. v. Industrial Com.</i>	
<i>Olson v. Hermansen</i>	<i>Beck v. State</i>		
<i>MAXCY v. CITY OF WASHBURN</i>	<i>Jandl v. Guziekiewicz</i>		
<i>Thomsen v. Cullen</i>	<i>Loomis v. Callahan</i>		
<i>Andrews v. La Crosse Refrigerator Corp.</i>	<i>State ex rel. Sheboygan v. County Board of Sup'rs</i>		
<i>City of Appleton v. Outagamie County</i>	<i>State v. Wescott</i>		
<i>Racine v. Levitan</i>	<i>American Exch. Bank v. Lake Motor Co.</i>		
<i>Bouchard v. Zetley</i>	<i>ESTATE OF WOEHLE: ROETHKE v. WOEHLE</i>		
<i>Application of Milwaukee Chapter, etc.</i>	<i>Woodruff v. Ellenbecker</i>		
<i>Corwin v. Salter</i>	<i>State ex rel. Laycock v. Nygaard</i>		
<i>Meeme Mut. Home Protective Fire Ins. Co. v. Lorfeld</i>	<i>State ex rel. Sleeman v. Baxter</i>		
<i>A. D. THOMSON & CO. v. INDUSTRIAL COMM'N OF WISCONSIN</i>	<i>State ex rel. Central Steam Heat & Power Co. v. Gettle</i>		
<i>Burtscher v. State</i>	<i>Wallrabenstein v. Industrial Com. of Wisconsin</i>		
<i>Ramey v. Oconto Co.</i>	<i>Block v. Seibold</i>		
<i>Ableman v. Holman</i>	<i>Travelers' Indem. Co. v. Manitowoc Farmers' Co-op. Fairy Co.</i>		
<i>Landman v. Rashman</i>	<i>Neumann v. Strandt</i>		
<i>State ex rel. Matre v. Bergs</i>	<i>Miller v. Tax Com. of Wisconsin</i>		
<i>Visiting Nurses' Ass'n v. Industrial Com.</i>	<i>Roberts v. Gerber</i>		
<i>State v. Peterson</i>	<i>Rubin v. State</i>		
<i>Columbia Bank v. Markgraf</i>	<i>Will of Weber</i>		
<i>Higgins v. Stang</i>			

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¹ As the result of rounding, the percentages do not add up to one hundred. Occasionally, a justice will author a separate opinion that concurs in part and dissents in part. For SCOWstats tables, each such vote is categorized as either a dissent or a concurrence according to the following guidelines. If a justice's opinion dissented from the result on one or more issues, it is classified as a dissent. If the opinion concurred with the result on all issues but disputed the majority's reasoning on one or more issues, it is classified as a concurrence.

As explained in this post's introductory comments, it is not possible to determine precisely when Justice Vinje began, or ceased, to participate in decisions. Consequently, while the *totals* are accurate for each of the four columns in this table, I have not disaggregated the votes in individual columns (for example, I have not tried to establish how many decisions in the first column were 7-0, how many were 6-0, and so on).

<i>Holt v. Dammann</i>			
<i>State ex rel. Tamarack Tel. Co. v. Farmers' Tel. Co.</i>			
<i>Dugenske v. Wyse</i>			
<i>Graass v. Westerlin & Campbell Co.</i>			
<i>Kaestner v. Kuechle</i>			
<i>Long v. Steffen</i>			
<i>Zurich General Acci. & Liability Ins. Co. v. Industrial Com. of Wisconsin</i> [November 8, 1927]			
<i>Cannon Printing Co. v. Globe & Rutgers Fire Ins. Co.</i>			
<i>Martell v. Kutcher</i>			
<i>State ex rel. Bare v. Schinz</i>			
<i>Brown v. Gaulke</i>			
<i>C. R. Meyer & Sons Co. v. Grady</i>			
<i>Lukken v. Hanover Fire Ins. Co.</i>			
<i>Prairie Du Sac v. Kramer</i>			
<i>Williams v. Jones</i>			
<i>Fenelon v. State</i>			
<i>Mikkelson v. Faber</i>			
<i>Nelson v. Newell</i>			
<i>Badger Carton Co. v. Industrial Com.</i>			
<i>Bailey v. Bode Bros. Co.</i>			
<i>Shupe v. Jenks</i>			
<i>Calvert v. Appleton</i>			
<i>Smith v. State</i> [195 Wis. 555]			
<i>State ex rel. Witkowski v. Gora</i>			
<i>Blue Mound Farm Supply Co. v. Farmers' Mut. Fire Ins. Co.</i>			
<i>Goodman v. Kortsch</i>			
<i>Lintner v. Office Supply Co.</i>			
<i>Lintner v. Smith</i>			
<i>Witt v. Wonser</i>			
<i>Clas v. State</i>			
<i>ESTATE OF MERRILL: HAUGAN v. CHESTER</i> [220 N.W. 383]			
<i>First Nat'l Bank v. Okerstrom</i>			
<i>KNEELAND-MCLURG LUMBER CO. v. INDUSTRIAL COMM'N OF WISCONSIN</i>			
<i>Selts Inv. Co. v. Promoters of Federated Nations</i> [197 Wis. 476]			
<i>Zurich General Acci. & Liability Ins. Co. v. Industrial Com. of Wisconsin</i> [June 18, 1928]			
<i>Chicago, M. & S. P. R. Co. v. Railroad Com.</i>			
<i>Dekeyser v. State Bank of Maplewood</i>			
<i>Goetz v. Hartford Fire Ins. Co.</i>			
<i>Smalley v. Simkins</i>			
<i>Caravella v. Milwaukee</i>			
<i>GILMER v. WILCOX</i>			
<i>Herzberg v. Wisconsin Tax Com.</i>			
<i>Kowalke v. Schindler</i>			
<i>Prinsen v. Russos</i>			

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STATE ex rel. WISCONSIN POWER & LIGHT CO. v. ZIMMERMAN			
WOOSTER v. WEYH			
E. L. Husting Co. v. Coca-Cola Co.			
Garrad v. State			
Servais v. Shelby Farmers' Mut. Fire Ins. Co.			
Angelo v. Railroad Com.			
Dechant v. Globe & Rutgers Fire Ins. Co.			
Leahy v. Joint School Dist.			
Robinson v. E. R. Pahl & Co.			
Western Lime & Cement Co. v. Indus. Comm'n			
CHRISTENSEN v. CITY OF STURGEON BAY			
Keasler v. Milwaukee E. R. & L. Co.			
State v. Mularkey			
C. F. Burgess Laboratories v. Conway			
Mathiesen v. State			
McCoy v. Kenosha County			
State ex rel. Hand Knit Hosiery Co. v. Atwood			
Zielsdorf v. Grotzky			
Cady Land Co. v. Philadelphia Fire & Marine Ins. Co.			
Carisch v. Lund			
Clemons v. Parker			
Grant v. Asmuth			
Gutknecht v. Muscoda State Bank			
Kaser v. Luettge			
In re Garrecht's Will			
Kleist v. Cohodas			
Schneider v. Allis-Chalmers Mfg. Co.			
Smith v. State [196 Wis. 102]			
State ex rel. Traister v. Mahoney			
Steuerwald v. Steuerwald			
ESTATE OF GRAY: CONLAN v. RANDALL			
ESTATE OF KUSS: FRANZEN v. GALLE			
Gahan v. Lymer			
Knutson v. Stangl			
State ex rel. Aetna Ins. Co. v. Fowler			
Will of Dennett			
BLACK HAWK STATE BANK v. ACCOLA			
FANSLAU v. FEDERAL MUT. AUTO. INS. CO.			
Kerlinske v. Etzel			
Sammarco v. Boysa			
Berrafato v. Exner			
GRAHAM v. RAKOSI			
Kressin v. Chicago & N. W. R. Co.			
Deep Rock Oil Co. v. Derouin			

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Ormond v. Wisconsin Power & Light Co.			
RASMUSSEN v. SCHWEIZER			
Bentley Bros., Inc. v. Industrial Com.			
Krause v. Hall			
Pichler v. Ladwig			
Wahl v. Kelly			
Curry v. Portage			
Milwaukee v. Childs Co.			
Will of Forster			
Beck v. Milwaukee County			
ESTATE OF CUDAHY: BECK v. STATE			
ESTATE OF GREINER: FRANSEE v. GOHDES			
Ruka v. Zierer			
Flies v. Fox Bros. Buick Co.			
State v. Wells			
Attorney Gen. ex rel. Blied v. Levitan			
Mellon v. Johnson Co.			
Mertens v. Lake Shore Yellow Cab & Transfer Co.			
State v. Murray			
Crombie v. Immel Const. Co.			
Doyon & R. Lumber Co. v. Nichols			
ESTATE OF MERRILL: HAUGAN v. CHESTER [220 N.W. 215]			
Keicher v. Michael			
Mularkey v. State			
State v. Ripley			
McCarthy v. Industrial Com.			
Hale v. Kreisel			
BRO v. STANDARD ACCIDENT INS. CO.			
Granger v. Chicago, M. & S. P. R. Co.			
Duby v. Columbia County			
Murphy v. Lachmund Lumber & Coal Co.			
Pfister & Vogel Leather Co. v. Industrial Com. of Wisconsin			
Seitz v. Zukowski			
State v. Kriegbaum			
ESTATE OF RADCLIFFE: RADCLIFFE v. KIEHL			
Haecker v. Chicago, M. & S. P. R. Co.			
Poplowski v. State			
Stoehr v. Red Springs			
Mair v. Schultz			
Newman v. Anderson			
Vulcan Last Co. v. State			
Employers' Mut. Liability Ins. Co. v. McCormick			
ESTATE OF BAGNALL: LINDMAN v. FIRST WISCONSIN TRUST CO.			
Rosendale State Bank v. Holland			
Spence v. Frantz			

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Werner v. Leser			
Willard v. State			
Linden v. Simon			
Pascoe v. State			
Schlesinger v. State			
State ex rel. Basford v. Maxfield			
Baraboo v. Railroad Com.			
Milwaukee Tank Works v. Metals Coating Co.			
Swiss v. United States Nat'l Bank			
United States Nat'l Bank v. Swiss			
Walsh v. State			
Gether v. R. Connor Co.			
State v. Jaeger			
Swanson v. Lake Superior T. & T. R. Co.			
Wohlfert v. State			
Glodowski v. State			
Harris v. Petersen			
Morgan v. Hunt			
O'Leary v. State			
Ruffalo v. State			
State ex rel. Northern Transp. Co. v. Railroad Com.			
Wagner v. Milwaukee			
BOELTER v. HILTON			
Bultman v. Frankart			
In re Miedzinowski			
Kolb v. Hayes			
Milwaukee v. Blechinger			
Proctor v. First Nat'l Bank			
Baker v. Stern			
Boehm v. Wermuth			
Redhead v. Skidmore Land Credit Co.			
Tewes v. Industrial Com.			
Wujcik v. Globe & Rutgers Fire Ins. Co.			
Lukas v. State			
Northwestern Casualty & Surety Co. v. Industrial Com.			
Sparks v. Kuss			
Alltone Co. v. Cebell			
Charles Ploetz & Co. v. Industrial Com.			
Colla v. Racine			
J. Greenbaum Tanning Co. v. Railroad Com. of Wisconsin			
Marshall & Ilsley Bank v. Schuerbrock			
Scaramelli & Co. v. Courteen Seed Co.			
Bergmann v. Roll			
Cheves v. Miller			
Guse v. Flohr			
Stuart v. Crowley			
Thomson v. Chicago, M. & S. P. R. Co.			
Watson v. State			
Bischoff v. Hustisford State Bank			

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Gerber v. Ogle Coal Co.			
Koss v. A. Goe. Schulz Co.			
S. Miller Cold Storage Co. v. State			
Connerton v. Andrews			
Dougherty v. W. H. Shenners Co.			
Hauser v. Fetzer			
Paulus v. State			
State v. Roach			
Cretney v. Woodmen Acc. Co.			
ESTATE OF LIESENFELD: HOFFLAND v. LIESENFELD			
Knapp v. Somerville			
Palmer v. Janesville Improv. Co.			
Stellmacher v. Union Mortg. Loan Co.			
WHITFORD v. MOEHLNPAH			
ESTATE OF JADIN: JADIN v. SIMON			
ESTATE OF KUNTZ: NEUMAN v. KUNTZ			
Milwaukee v. Froelich			
State ex rel. Bloch Bros. Co. v. Tiesberg			
United States Fidelity & Guaranty Co. v. Western Iron Stores Co.			
State ex rel. Krause v. Jones			
Mundon v. State			
Borosich v. Metropolitan Life Ins. Co.			
ESTATE OF HEWITT: HEWITT v. JAMIESON			
Horn v. Schlosser			
State ex rel. Stark v. Hines			
GUSTAFSON v. INDUSTRIAL COMM'N OF WISCONSIN			
Spengler v. Knaus			
State ex rel. Joint School Dist. v. Becker			
Will of McIlhattan			
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Kidd v. Joint School Dist.			
Krutza v. Milwaukee Billiard & Bowling Club Co.			
McGrath v. Minneapolis, S. P. & S. S. M. R. Co.			
Milwaukee v. Diller			
Nickoll v. Racine Cloak & Suit Co.			
Veley v. State			
Denham v. Madole			
HAMBLYN v. CRASE			
Hartmann v. Milwaukee E. R. & L. Co.			
Morgan v. Wisconsin Tax Com.			
Badger Furniture Co. v. Indus. Comm'n of Wis.			
ESTATE OF BEGGS: ANDERS v. MCCULLOCH			
ESTATE OF READ: READ v. BAKER			

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MONARK METAL & SUPPLY CO. v. SCHMIDT			
Nusser v. State			
Schweitzer v. Doepke			
Verhaalen v. State			
CITY OF BURLINGTON v. INDUSTRIAL COMM'N OF WISCONSIN			
Frozine v. St. Paul Fire & Marine Ins. Co.			
Hartsman v. Mueller			
McGovern v. Eckhart			
Miller & Rose v. Rich			
School Dist. v. Larson			
Wernick v. Roth			
Esterra v. State			
Hafemann v. Seymer			
Muscoda Bridge Co. v. Worden-Allen Co.			
Hessian v. State			
LIDDLE v. UTLEY			
Malinowski v. Moss			
Noble v. Garvens			
Nystrom v. Industrial Com.			
World Amusement Service Asso. v. Fond Du Lac Lodge L. O. O. M.			
Yawkey-Crowley Lumber Co. v. Acker			
Marinette, T. & W. R. Co. v. Railroad Com.			
Nelson v. Ziegler			
Good v. Schiltz			
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State ex rel. Wisconsin Inspection Bureau v. Whitman			
Peninsular Power Co. v. Wisconsin Tax Com.			
Brodstein v. Brodstein (per curiam)			
Fluor Bros. Constr. Co. v. Hogan (per curiam)			
Fox v. Zarne (per curiam)			
GOYK v. GOYK (per curiam)			
Heymer v. Knauf & Tesch Co. (per curiam)			
In re Estate of McQuaid (per curiam)			
Johnson v. Anderson (per curiam)			
Laughlin v. Goff (per curiam)			
Lewis v. Besch (per curiam)			
Piccurio v. Cianciolo (per curiam)			
Southern Surety Co. v. Dodge County (per curiam)			

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<i>Bradley Co. v. Freeman (per curiam)</i>			
<i>L. E. Streator Lumber Co. v. Evans (per curiam)</i>			
<i>Stewart v. Wisconsin Public Service Corp. (per curiam)</i>			
<i>TOONEN-BARLAMENT-WRIGHT CO. v. INDUSTRIAL COMM'N (per curiam)</i>			
<i>GLAESSER v. DUKES (per curiam)</i>			
<i>Hauenstein v. Badger Public Service Co. (per curiam)</i>			
<i>Hill's Dry Goods Co. v. Wigonitz (per curiam)</i>			
<i>Humble v. Industrial Com. (per curiam)</i>			
<i>In re Will of Wambold (per curiam)</i>			
<i>Patti v. S. Heller Elevator Co. (per curiam)</i>			
<i>Thomsen v. Chicago & N. W. R. Co. (per curiam)</i>			
<i>Thorne v. Guttenstein (per curiam)</i>			
<i>Willoughby v. Kuhl (per curiam)</i>			
<i>Elger v. Beeheim (per curiam)</i>			
<i>Hanson v. Hanson (per curiam)</i>			
<i>Pecore v. Quinn (per curiam)</i>			
<i>Peterman v. Industrial Com. (per curiam)</i>			
<i>Ragauskas v. Balcaitus (per curiam)</i>			
<i>Weiser v. Bunday (per curiam)</i>			
<i>Wright v. Swift & Co. (per curiam)</i>			
<i>ZEINERT v. ZEINERT (per curiam)</i>			
<i>Berry v. Darling (per curiam)</i>			
<i>ESTATE OF NAGLE: DRISCOLL v. PATTON (per curiam)</i>			
<i>Ferge v. Schuetz (per curiam)</i>			
<i>Flannery v. Flannery (per curiam)</i>			
<i>Maki v. Lake Superior Dist. Power Co. (per curiam)</i>			
<i>Mathes v. Lezala (per curiam)</i>			
<i>Northwestern Mut. L. Ins. Co. v. State (per curiam)</i>			
<i>Baumann Coal Co. v. Industrial Com. (per curiam)</i>			
<i>Brown Deer Lumber Co. v. Milligan (per curiam)</i>			
<i>Brueggeman v. Woelky (per curiam)</i>			
<i>Feldschau v. Zpustcinski (per curiam)</i>			
<i>In re Estate of Papka (per curiam)</i>			
<i>Raulf Co. v. Harris (per curiam)</i>			
<i>Sylvester v. Industrial Com. (per curiam)</i>			
<i>Wisconsin Distributing Co. v. Chicago & N. R. Co. (per curiam)</i>			
<i>Arnold v. Fridley (per curiam)</i>			
<i>First State Bank v. Iffland (per curiam)</i>			
<i>JOHNSON v. STANDARD ACCIDENT INS. CO. (per curiam)</i>			

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WISCONSIN SUPREME COURT DECISIONS, 1927-28

<i>Klassy v. Smasal (per curiam)</i>			
<i>Oskins v. Kenosha Clinic (per curiam)</i>			
<i>Petersen v. Smejkal (per curiam)</i>			
<i>Tannenbaum v. Baumann (per curiam)</i>			
<i>Abram v. Keierleber (per curiam)</i>			
<i>Erb v. Erb (per curiam)</i>			
<i>In re Estate of Gillmann (per curiam)</i>			
<i>Kulkee v. Uecker (per curiam)</i>			
<i>Laurent v. Herbst (per curiam)</i>			
<i>Moravcik v. Fischer (per curiam)</i>			
<i>Primus v. Waterbury (per curiam)</i>			
<i>Benson v. Wisconsin Traction, Light, Heat & Power Co. (per curiam)</i>			
<i>Doerfler v. Sampson (per curiam)</i>			
<i>Estate of Berndt (per curiam)</i>			
<i>King v. De Moss (per curiam)</i>			
<i>Kuehlthau v. Wisconsin Tel. Co. (per curiam)</i>			
<i>Lueck v. New Amsterdam Casualty Co. (per curiam)</i>			
<i>Mantho v. Millspaugh (per curiam)</i>			
<i>Smith v. Hoehne (per curiam)</i>			
<i>Syring v. Fishbeck (per curiam)</i>			

Frequency in the Majority

These tables display how frequently each justice voted in the majority. The first table includes all cases in which a justice voted, while the second table includes only cases decided by split votes.²

All Cases

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Crownhart	371	378	98%
Rosenberry	375	376	99.7%
Stevens	372	375	99%
Owen	374	379	99%
Eschweiler	361	379	95%
Doerfler	378	378	100%
Vinje	378	378	100%

Non-Unanimous Decisions

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Crownhart	22	29	76%
Rosenberry	28	29	97%
Stevens	26	29	90%
Owen	24	29	83%
Eschweiler	11	29	38%
Doerfler	28	28	100%
Vinje	29	29	100%

² As explained in this post's introduction, it seems unlikely that Justice Vinje actually participated in 378 decisions. However, we can be confident that he did not *dissent* in any of the cases in which he did take part.

Opinions Authored³

The first table indicates how many majority opinions a justice authored in cases decided by each of the four possible majority vote totals. The second table shows how many concurrences and dissents each justice wrote. If a justice dissented without authoring an opinion, he is not credited.

Opinion Author	7-0 (or 6-0, 5-0)	6-1 (or 5-1)	5-2	4-3
Crownhart	46	3	0	0
Rosenberry	54	1	1	0
Stevens	43	7	1	0
Owen	39	10	2	0
Eschweiler	49	1	1	0
Doerfler	34	2	0	0
Vinje	15	0	0	0

Opinion Author	Concurring Opinions	Dissenting Opinions
Crownhart	1	4
Rosenberry	0	0
Stevens	0	1
Owen	0	2
Eschweiler	0	13
Doerfler	0	0
Vinje	0	0

³ *Per curiam* decisions are omitted.

Agreement Among Pairs of Justices

The following tables show the percentage of decisions in which every possible pair of justices found themselves on the same side—either both in the majority or both dissenting. The first table covers all decisions; the second table narrows its focus to decisions that were not unanimous. When reading the second table, for instance, one finds that Justices Crownhart and Eschweiler voted together in 21% of the decisions, while the figure for Justices Rosenberry and Owen was 79%.⁴

Agreement Between Pairs of Justices—All Decisions

	Rosenberry	Stevens	Owen	Eschweiler	Doerfler	Vinje
Crownhart	367/375=98%	366/374=98%	370/378=98%	355/378=94%	370/377=98%	370/377=98%
	Rosenberry	369/373=99%	370/376=98%	357/376=95%	374/375=99.7%	374/375=99.7%
		Stevens	369/375=98%	354/375=94%	371/374=99%	372/375=99%
			Owen	356/379=94%	373/378=99%	373/378=99%
				Eschweiler	361/378=96%	360/378=95%
					Doerfler	377/377=100%
						Vinje

Agreement Between Pairs of Justices—Non-Unanimous Decisions

	Rosenberry	Stevens	Owen	Eschweiler	Doerfler	Vinje
Crownhart	21/29=72%	21/29=72%	21/29=72%	6/29=21%	21/28=75%	22/29=76%
	Rosenberry	25/29=86%	23/29=79%	10/29=34%	27/28=96%	28/29=97%
		Stevens	23/29=79%	8/29=28%	25/28=89%	26/29=90%
			Owen	6/29=21%	23/28=82%	24/29=83%
				Eschweiler	11/28=39%	11/29=38%
					Doerfler	28/28=100%
						Vinje

⁴ As explained in this post’s introduction, it seems unlikely that Justice Vinje actually participated in 378 decisions. However, we can be confident that he did not *dissent* in any of the cases in which he did take part.