

## Separation of the Governmental System of Powers in this Millennium

The U.S. government is made up of three branches: Legislative, Executive and Judiciary:

**Legislative:** U.S. Congress. Created and maintained by the People. Its primary objective is to make laws.

**Executive:** The Office of the President. Elected by the People by Electoral College. The President's primary objective is to represent and lead the country, at home and around the world. The President has not the power to impose law (only rules that can be rescinded quite easily) but possesses the power to VETO laws put forth by Congress.

**Judiciary:** The Supreme Court. Currently composed of 9 individual Justices appointed for life by the President and confirmed by the U.S Senate. Their primary objective is to interpret laws. The Supreme Court is shielded from politics so that it can maintain objectivity in its deliberations.

*\*The President can nominate whomever he/she chooses. This individual does not need to be a Judge nor does the individual even need to be a lawyer. That said, the Senate would most likely NOT confirm a person who is not perceived to have adequate experience/expertise.*

The Framers wrote the U.S. Constitution to ensure the health and preservation of our Democracy. Period. They also created a metric to check the President's power that has impressively stood the test of time. That is until now. President Trump has stressed the system created to preserve our Democracy more than any single one of his 44 predecessors.

Up until now, U.S. Presidents have conducted themselves by a largely unwritten code of conduct primarily outlined in the Oath they take on the steps of the Capital on Inauguration Day.

**"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."**<sup>[2]</sup>

President Trump has attempted to execute the duties of the President of the United States as an extension of his family business; where his decisions/actions/tendencies go largely unquestioned or unchecked and his "bottom line" and the health of his personal brand are his first concerns. His overt politicization of some of our most trusted and established democratic institutions seemingly to protect himself or advance his personal political agenda (not that of his Party or some ideology that he aligns with) has stunned conventional Washington and sounded the alarm for laws to be written specifically to hold the President – any President – personally accountable.

## SCOTUS

The Supreme Court is made up of 9 Supreme Court Justices. It is a lifetime appointment, however; some chose to retire.

The nine Justices - preceding the recent death of Justice Ginsberg – were:

**Chief Justice John Roberts** – Appointed by President George W. Bush in 2005. He replaced Chief Justice William Rehnquist upon his death. The Chief Justice manages SCOTUS much like Congressional leaders manage Congress. The Chief controls what cases the Justices consider and when they consider it. The President decides who will serve as Chief Justice when the Chief dies or retires.

**Justice Clarence Thomas** – Appointed by President George H.W. Bush in 1991. He replaced Justice Thurgood Marshall upon his retirement. He is the longest serving member of the Court.

**Justice Ruth Bader Ginsberg** – Appointed by President Bill Clinton in 1993. She replaced Justice Byron White upon his retirement. She died September 18, 2020. President Trump has nominated Amy Coney Barrett to succeed her.

**Justice Stephen Breyer** – Appointed by President Bill Clinton in 1994. He replaced Justice Harry Blackmun upon his retirement.

**Justice Samuel Alito** – Appointed by President George W. Bush in 2006. He replaced Justice Sandra Day O'Connor upon her retirement.

**Justice Sonia Sotomayer** – Appointed by President Barack Obama in 2009. She replaced Justice David Souter upon his retirement.

**Justice Elena Kagan** - Appointed by President Barack Obama in 2010. She replaced Justice John Paul Stevens upon his retirement.

**Justice Neil Gorsuch** – Appointed by President Donald Trump in 2017. He replaced Justice Antonin Scalia upon his death.

**Justice Brett Kavanaugh** – Appointed by President Donald Trump in 2018. He replaced Justice Anthony Kennedy upon his retirement.

SCOTUS is routinely viewed as either “conservative” or “liberal” based on the majority of the current members who were nominated by a Democrat (liberal) or a Republican (conservative). It is common practice to nominate a jurist because of his or her past rulings and opinions because they buttress the ideology of the “liberals” or of the “conservatives”. And of course Roe v Wade is always front and center.

*\*We can discuss the future of Roe v Wade if/when Amy Coney Barrett is confirmed.*

Presidents typically use SCOTUS appointments to amplify their own ideology and that of their political party and supporters. In that regard, SCOTUS appointments are used as a political weapon.

However, there is nothing that guarantees that Justices will always rule in favor of the President or the Party that supported their appointment. The best example of this would be Justice Kennedy who was nominated by President Ronald Reagan. He consistently sided with the “liberals” on the Court.

Members of SCOTUS can be impeached and removed by Congress and Congress only. A President cannot “fire” any Justice, even one that they nominate. This has only happened one time in our history but not in modern times. That Justice was impeached but not removed.

Like everything else, Trump has attempted to politicize SCOTUS in ways that have never been observed. He demands loyalty of those he nominated and frequently attempts to pressure the Court in the public arena to take up certain issues or rule a certain way. He routinely tries to shame or intimidate Justices who disagree with him or rule in ways he perceives are “against him.”

*\*We can discuss Trump’s tax return issue and how he believes SCOTUS will rule in his favor because of the Justices he nominated.*

In 2018, Chief Justice Roberts released the very rare statement assuring the public of an independent judiciary.

Supreme Court Justices – while serving on the Court- do not interact with the press. They do not publicly align themselves with a political party or engage in political activities. They do, however; establish interesting alliances on the Court itself. For example, Justice Ginsberg and Justice Scalia were close allies and collaborated on many things. Chief Justice Roberts and Justice Kagan are also very close confidantes.

The “liberal” stalwarts – those who reliably side with a certain ideology - on the Court were considered to be Justice Sotomayor and Justice Ginsberg. The “conservative” stalwarts are Justice Thomas and Justice Alito.

*\*We can discuss the idea of “expanding the Court” and why that has become a political issue.*

An independent judiciary is crucial to supporting democracy because it has the power to enforce laws and stands to preserve the rule of law that PROTECTS the people. It is created to be above politics and not beholden to any individual or group. It is very rare for SCOTUS to limit or rescind individual rights.

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