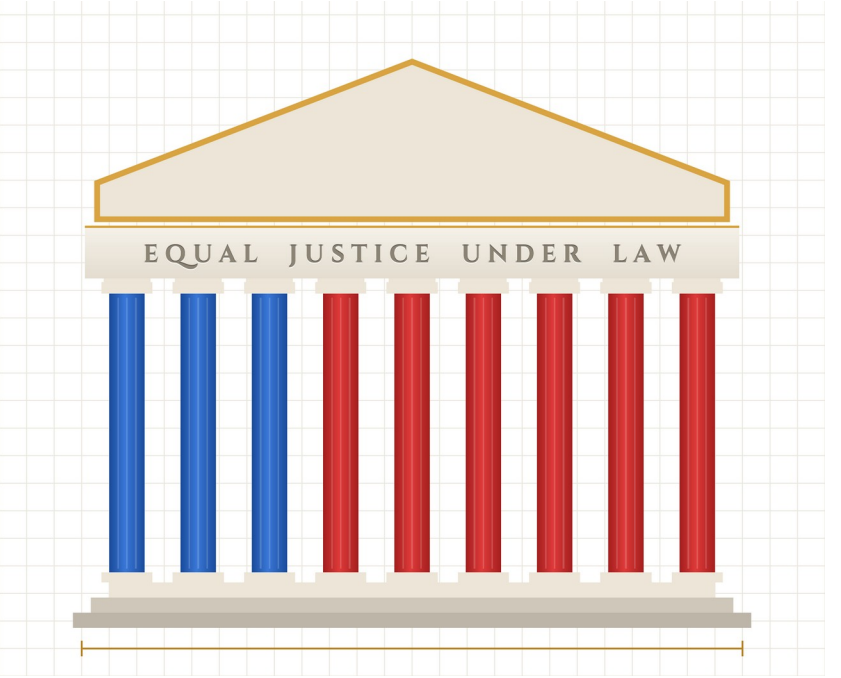
Umpires No More?

Has the Judiciary Become a Third Political Branch? Is That Constitutional?

By Bryan Kaufman

They judge the nation. Now you judge them.



CERTIORARI PRESS

FOR BOOK CLUBS AND CLASSROOMS

Talk It Over

> **The short version.** Ten questions to argue about, and three activities that turn a reading group or a civics class into a courtroom. No legal background needed; everything you need is in the book.

Discussion questions

1. Roberts compared judges to umpires. After reading this book, is that a promise, a job description, or an impossible ideal?

2. Which hearing answer in Chapters 1 to 7 bothered you most, and was it a specific pledge, a description of the law, or a statement of philosophy?

3. Five of six nominees said respectful things about *Roe* and later voted to overrule it. Is that a broken promise or careful testimony? What would change your mind?

4. Liberal justices face the same charge in Chapters 3 and 4. Does seeing it on both sides make you more or less worried about the Court?

5. Which overruled precedent in Chapter 8 most deserved to fall, and which least? Did your answers line up with your politics?

6. The Party Test found that votes matched the nominating party 88 percent of the time in ten big cases. What other explanation could produce that number?

7. Four Republican appointees sometimes joined the Democratic appointees. Is that evidence the Court isn't political, or evidence of how rare independence has become?

8. Should justices have term limits, a binding ethics code, or an outside recusal process? What would each fix, and what might it break?

9. You Be the Justice asked you to vote on eight cases. Which justice did you match most often, and did that surprise you?

10. Is a politically divided Court a constitutional problem, a constitutional feature, or neither? Defend your second verdict to someone who disagrees.

Activities

Mock confirmation hearing. One person plays a nominee; the group plays senators. Ask about a real case from this book. Score each answer with Chapter 1's three kinds of statement.

Swap the robes. Pick a case from Chapter 12. Argue the side you voted against in You Be the Justice, using only the best case the book gives for it.

Read the headline. Bring a news story about a Supreme Court ruling. Decode it with the primer's "How to read a ruling" box: who wrote, who dissented, and what the vote really means.