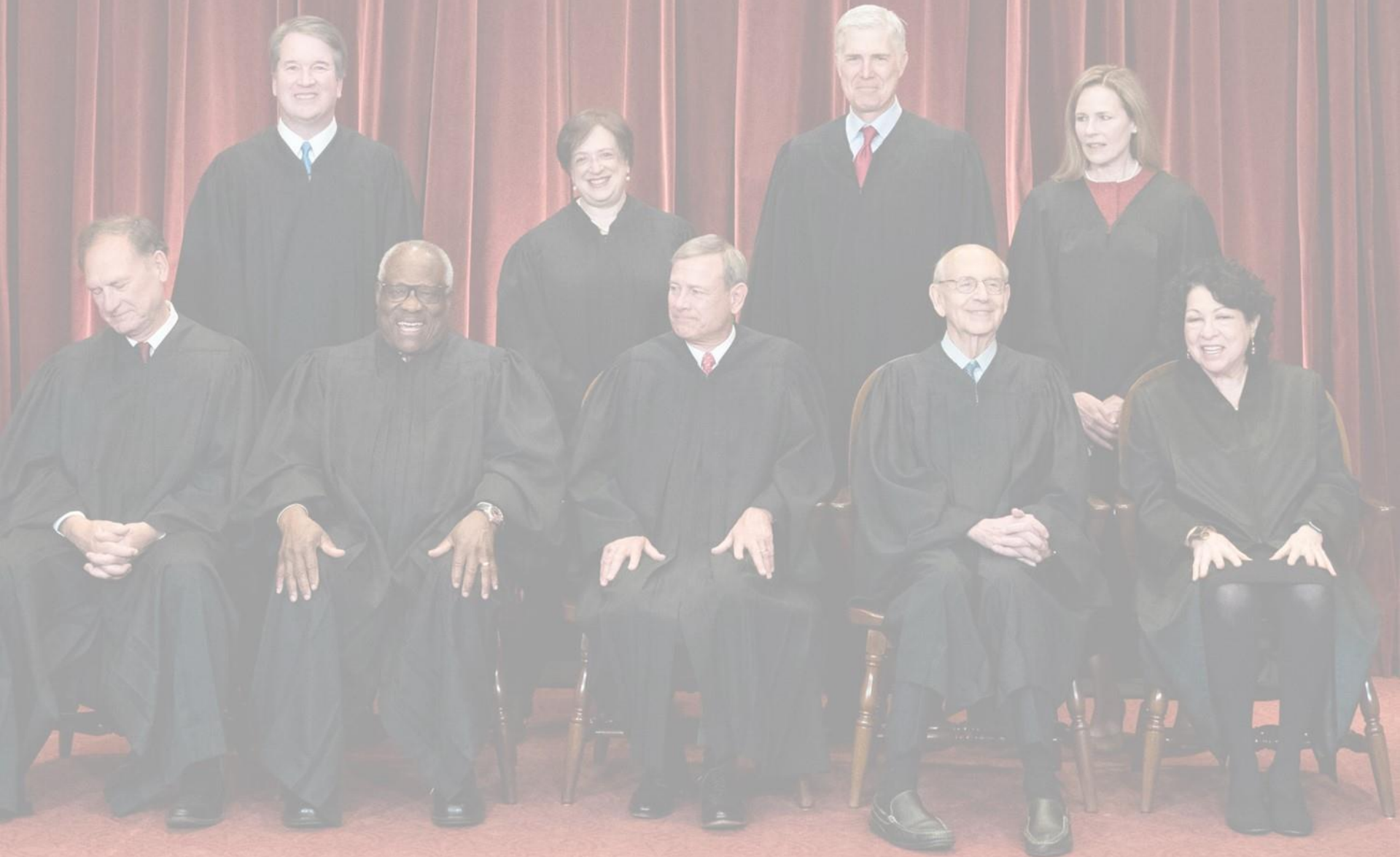


The Supreme Court



Current justices on the US Supreme Court

Nominated by Republican president



John Roberts



Samuel Alito



Clarence Thomas



Neil Gorsuch



Brett Kavanaugh



Amy Coney Barrett

Nominated by Democratic president



Stephen Breyer



Elena Kagan

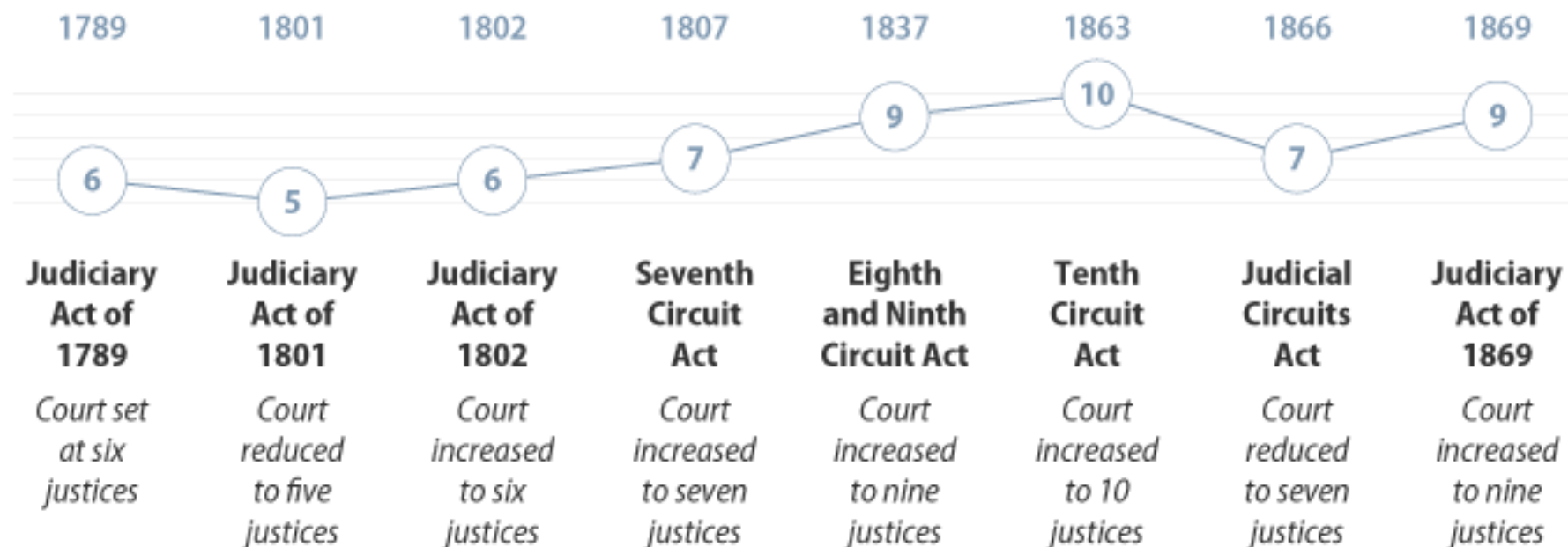


Sonia Sotomayor

FIGURE 3

Congress has changed the Supreme Court's size seven times since 1789

Effect of federal legislation on the size of the Supreme Court over time



Note: The Judiciary Act of 1802 repealed parts of the Judiciary Act of 1801, including the provision that reduced the size of the court to five members.

Source: Federal Judicial Center, "Congress and the Courts: Landmark Legislation," available at <https://www.fjc.gov/history/legislation/congress-and-courts-landmark-legislation> (last accessed April 2019).

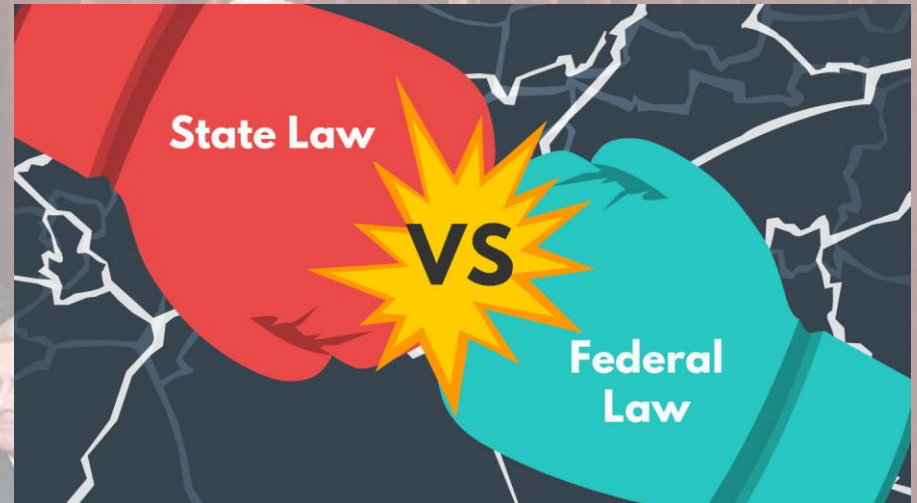
Supreme Court Cases

- Highest (most supreme) court in the nation; decisions are final
- Mostly use their appellate jurisdiction (authority to hear a case appealed from a lower court)
- Have original jurisdiction in cases presented
- Only hear 100-150 of the thousands of appeals; justices choose the cases they hear
- If Justices refuse to hear a case: “Stare Decisis” – the decision stands



The Supreme Court's Authority

- U.S. Constitution is the highest law of the land; meaning the U.S. Constitution is the “Supreme Law” when there is a conflict with other laws
- Supreme Court is responsible for interpreting and upholding the U.S. Constitution
- Judicial Review: power of the Supreme Court to examine a law and determine whether it is constitutional or unconstitutional
- Limits to the Supreme Court's power:
 - Constitutional Amendments
 - Selection of Justices (president appoints, Senate approves)
 - Congressional legislation (laws)

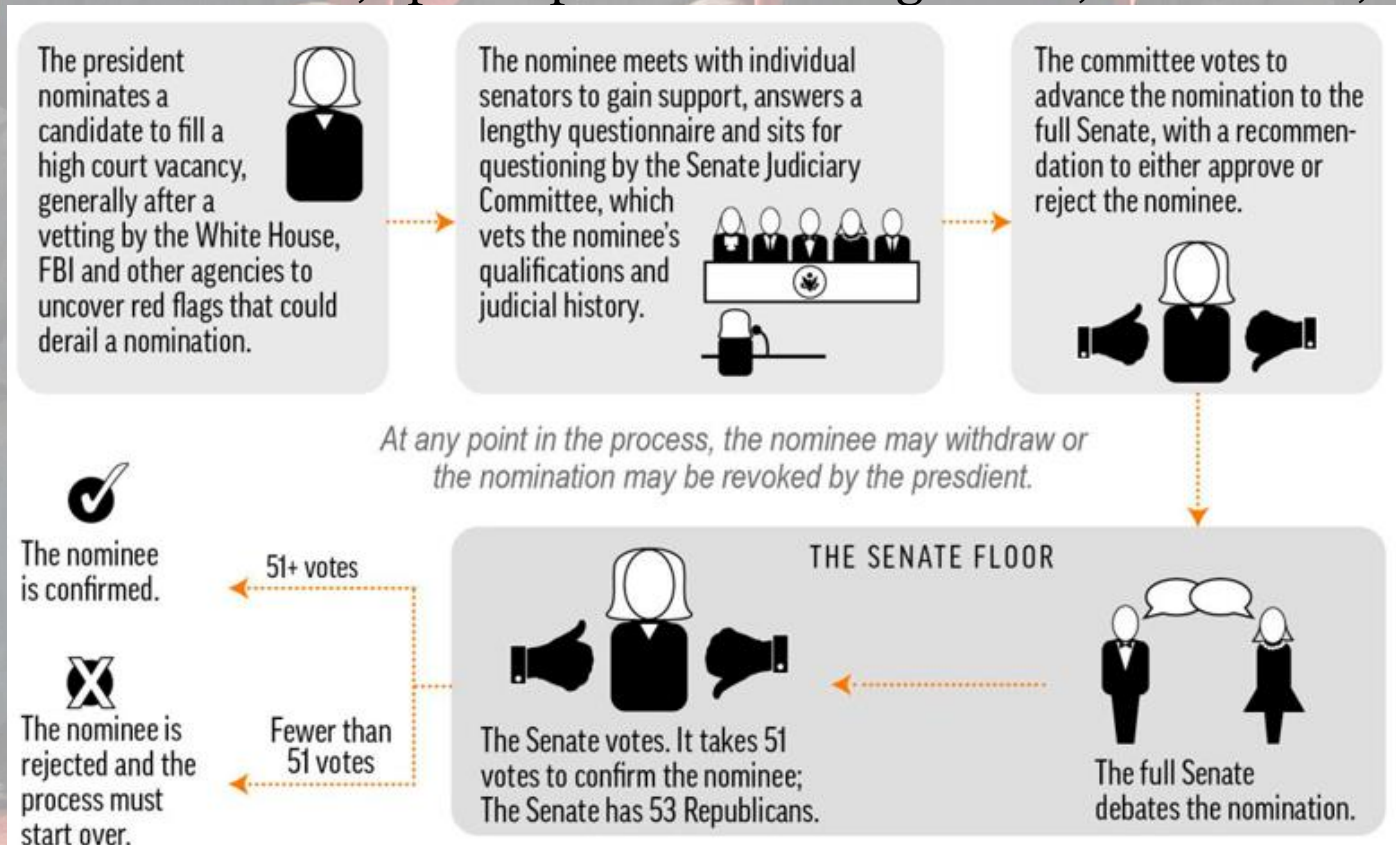


This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding.

-Article VI, Clause II

Supreme Court Justices

- Made up of 9 Justices; 1 Chief Justice (John G. Roberts, Jr.) and 8 Associate Justices
- No official requirements; BUT all have been lawyers
- They are appointed by the president with Senate approval
- Appointed to a life term; spots open due to resignation, retirement, or death



Court at Work

- A term of the Supreme Court begins, by statute, on the first Monday in October
- Sessions continue until late June or early July
- Each month follows a pattern of “sittings” and “recesses”
- 1st 2 weeks the court hears cases, make announcements, and discuss current cases
- 2nd 2 weeks the Justices are writing opinions, deciding what cases to hear, and researching cases



Deciding Which Cases to Hear

-Justices discuss and must agree on the merits of a case for it to be heard

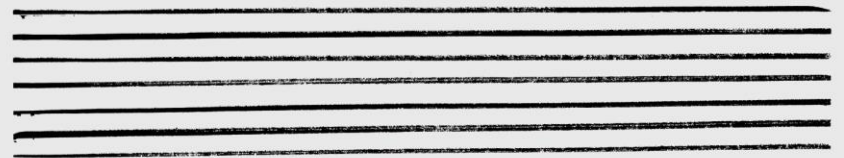
-Only hears certain kinds of cases and usually mostly appellate cases

-They can rule on the constitutionality of a law **ONLY** during a case



How do they Decide?

- Justices use precedent to arrive at an opinion; meaning they rely heavily on previous opinions in similar cases
- 6 Justices must be present for a decision during the conference stage
- This happens before they write their opinions and then they make their announcement
- Make one of three decisions:
 1. Uphold/Affirm: decision stands “Stare Decisis”
 2. Overturn: reverses decision
 3. Remand: send back to lower court for retrial



-Each decision is accompanied with a written opinion explaining the law about the case

-Majority Opinion: the written decision of the Justices on the winning side

-Concurrent Opinion: the written opinion of a Justice who agrees with the majority but may site slightly different reasons

-Dissenting Opinion: the written opinions of a Justice who disagreed with the majority



Judicial Activism vs. Judicial Restraint

Judicial restraint: decisions draw from *stare decisis*, which means judges rule based on precedents set by previous courts

Examples of cases where the Supreme Court favored judicial restraint include *Plessy v. Ferguson* and *Korematsu v. United States*

Judicial activism: interprets the Constitution to be in favor of contemporary values; judges use their powers in order to create social policies in different areas, especially the protection of civil rights and rights of the individual and public morality

If judicial activism is exercised, it gives the court the power to overrule certain judgments or acts of Congress →

