

In case of a vacancy

AS I SEE IT

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Arguably the longest-lasting decisions that a president makes are the selections of judges and justices for the federal courts.

While the judges nominated by the president and confirmed by the Senate for the federal district and appeals courts are quite significant, their impact is not nearly as great as the choices for the Supreme Court. While all federal judges have lifetime appointments, only Supreme Court justices routinely hear cases with nationwide significance.

Supreme Court watchers concern themselves with decisions having an impact on a broad range of issues. These include abortion, affirmative action, church and state, civil rights, the death penalty, federalism, the First Amendment, gun control, habeas corpus, privacy, school choice, separation of powers, takings, various criminal law matters and many others that are vitally important, but do not seize the attention of the public.

The Supreme Court is divided between justices identified as conservatives and liberals, with one aligning himself with both.

The conservatives are Chief Justice John Roberts and Associate Justices Samuel Alito, Antonin Scalia and Clarence Thomas. The liberals are Associate Justices Stephen Breyer, Ruth Bader Ginsburg, David Souter and John Paul Stevens. The swing vote is Justice Anthony Kennedy.

There has been wide speculation over whether any justices, as a result of age, health or retirement desires, may leave the court. Any such vacancies in the next four years would be filled by the new president.

Stevens is 88; Bader Ginsburg, 75; Kennedy, 72; Scalia, 72; Breyer, 70; Souter, 69; Thomas, 60; Alito, 58, and Roberts, 53.

While, it is said, they should all live to be 120, the reality is that at least one or two will leave the bench in the next four years. Since three of the youngest justices are among the most conservative, it is likely that in the short run any additions of new justices will not alter the current liberal/conservative balance of the court.

Should the third-oldest justice, the swing-voting Kennedy, or one of the conservative justices leave the court in the next four years, however, then President-elect Barack Obama will have an immediate chance to impact the court's equilibrium. Also, the selection of a young, ideologically liberal justice will have a long-term impact on the balance of the court.

Many Supreme Court watchers have speculated over the qualifications that would be required of any potential Obama nominee. Surely, any of Obama's nominees would be a lawyer of the highest caliber with stellar academic credentials. The nominee likely also will have judicial experience, either on the federal bench or on a state court. It is also possible that a nominee may come from academia or have Justice Department experience.

It is also a given that any of Obama's nominees would share or reflect his political views. Since one of the major points of selecting a Supreme Court justice is to leave a lasting impression on the American scene -- for example, Stevens was appointed by President Gerald R. Ford in 1975 - the nominee likely will also be young, perhaps in his or her 40s. It is also likely that nominees would include women and persons of color.

The following is a list of potential Obama nominees compiled from a variety of sources. All are considered politically liberal, unless otherwise noted:

- Ruben Castillo, 54, Hispanic-American, District Court judge in Chicago and former assistant U.S. attorney in Chicago.
- Jennifer Ganholm, 49, governor of Michigan and former Michigan attorney general.
- Merrick Garland, 56, judge on the U.S. Court of Appeals for the D.C. Circuit, former associate deputy attorney general under President Bill Clinton and considered a political moderate.
- Elena Kagen, 48, dean of Harvard Law School, and former associate counsel and domestic policy adviser to President Clinton.
- Harold Hongju Koh, 53, Korean-American, dean of Yale Law School and former assistant secretary of state under President Clinton.
- Laurence Tribe, 67, professor of constitutional law at Harvard Law School.
- Deval Patrick, 42, African-American, governor of Massachusetts and former assistant attorney general under President Clinton.
- Leah Ward Sears, 53, African-American, chief justice of the Georgia Supreme Court and considered a political moderate.
- Sonia Sotomayor, 54, Hispanic-American, judge on the U.S. Court of Appeals for the Second Circuit, appointed by President George H.W. Bush to the district court and by President Clinton to the court of appeals. She is considered a political moderate.
- Cass R. Sunstein, 54, Harvard Law School professor.
- Seth Waxman, 57, in private practice and former solicitor general under President Clinton.
- Diane P. Wood, 58, judge on the U.S. Court of Appeals for the Seventh Circuit and a former lecturer at University of Chicago Law School.

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