

WEDNESDAY, SEPTEMBER 6, 2023



REFLECTIONS ON THE SUPREME COURT

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1



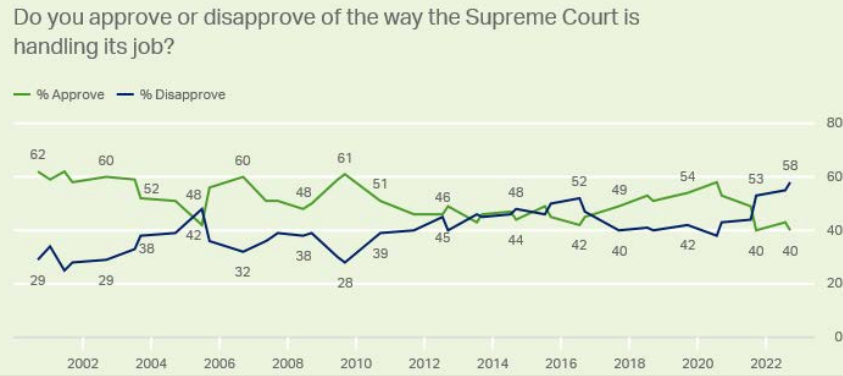
WHAT STARTS HERE CHANGES THE WORLD

INTRODUCTION: THE STATE OF THINGS...

- Many (if not most) public discussions of the Supreme Court tend to focus on the merits docket—the 60ish decisions the justices hand down each term after briefing and argument.
- When the conversation is framed in those terms, we fall into two traps:
 1. Virtually every debate ends up dividing us into tribes; and
 2. It obscures / crowds out public discussion and debate about *other* features of the Court's (and the justices') work.

INTRODUCTION: THE STATE OF THINGS...

- The Supreme Court has become a lightning rod—not just for its substantive decisions, but as more and more concerns have been raised about the ethical/financial behavior of at least some of the justices.
- Public support for the Court has dropped to the lowest levels since polling on it began. ➔
- Calls for reform?



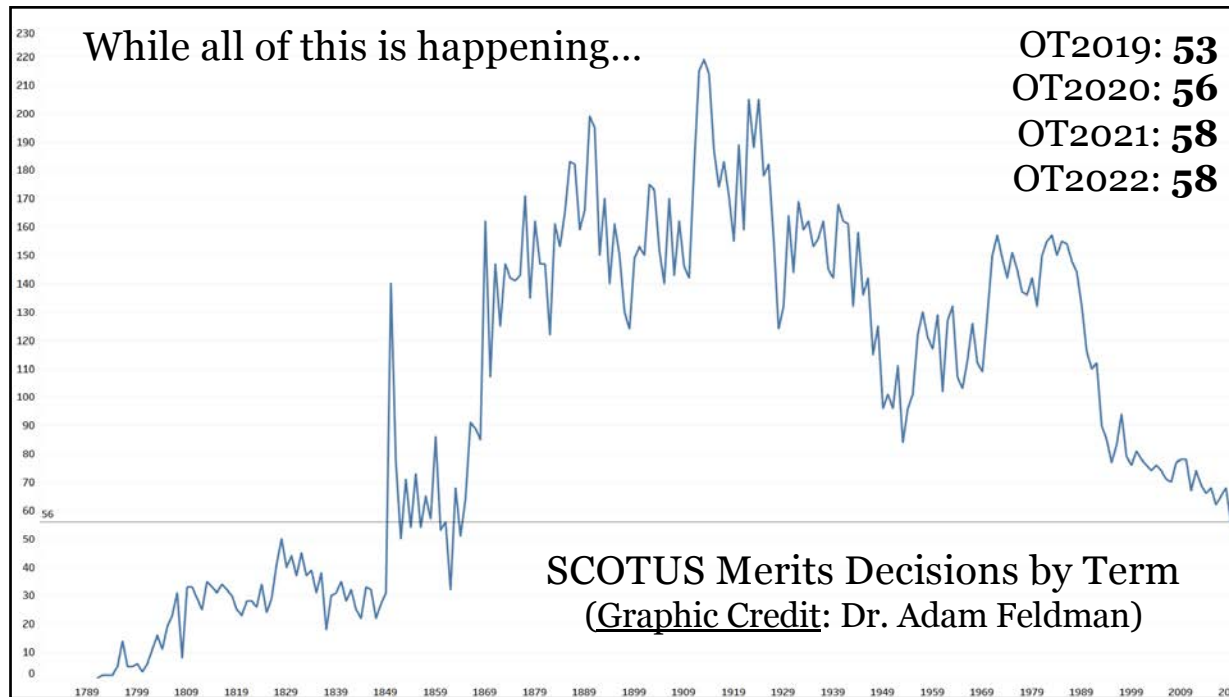
3

INTRODUCTION: THE STATE OF THINGS...

“I know this is a controversial view, but I’m willing to say it. . . . No provision in the Constitution gives [Congress] the authority to regulate the Supreme Court—period.”

— Justice Samuel Alito
Wall Street Journal, July 28, 2023





5

INTRODUCTION: THE STATE OF THINGS...

What I'd like to discuss this afternoon:

- The rise of an unaccountable Supreme Court;
- Symptoms of an unaccountable Supreme Court;
- Why an unaccountable Court is a problem; and
- The awkwardness of challenging the Court while practicing before it...

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First appeared as part of the conference materials for the
2023 Reflections on the U.S. Supreme Court session

"Reflections on the U.S. Supreme Court"