

Judicial Departures



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When might judges decide to hang up the robes?

- Judges, as we have seen, have political preferences.
- But they also have a bevy of other considerations to weigh as they time their departures.
- How are judges to decide when to retire?



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A brief history of SCOTUS departures

- Early eras: No fun and deadly
- Middle years: Not dying so much on the bench
- Modern era: Hyper-partisan departures (with the occasional whoopsie)

Era	Resign	Retire	Death
1789-1800	78%	0%	22%
1801-1868	17%	0%	83%
1869-1936	6%	39%	55%
1937-1954	14%	36%	50%
1955-	7%	81%	12%

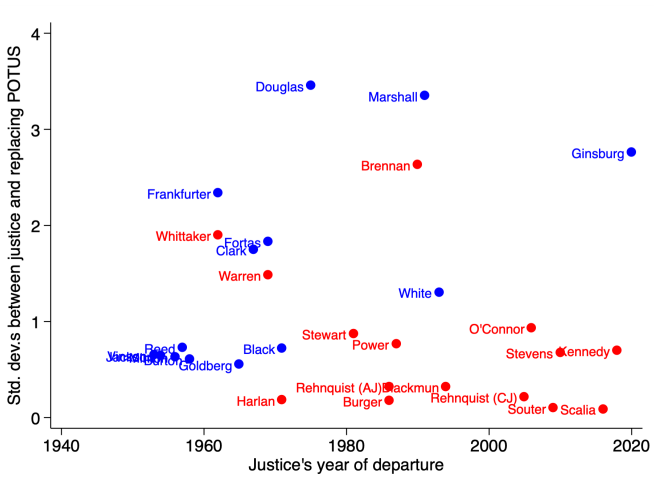
Source: Ward, Artemus. 2003.
Deciding to Leave.



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Modern SCOTUS retirements



The politics of judicial retirements

- Party or ideological congruity
- Norms surrounding filibuster or gridlock
- Election years, critical vacancies, senatorial courtesy



Sandra Day O'Connor (1930-2023)



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The economics of judicial retirements

- Major 19th century reforms
- The “Rule of 80”
- Senior status
- Opportunity costs



Robert Grier (1794-1870)

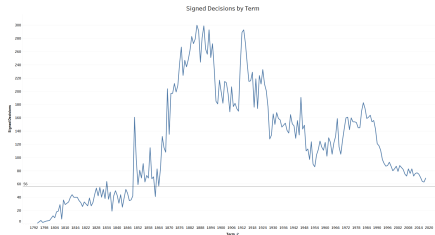


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Institutional and other effects on judicial departures

- Workload, salary, clerical assistance, effect on court, backlog of vacancies
- Prestige, expressive benefits, collegiality
- Health, family, love (hate) for beltway politics



SCOTUS Caseload (1792-2020)



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Elections and judicial retirements

- How might departures from state courts be (dis)similar to federal ones?
- What effects might institutions, politics, or economics have upon the departure decision?



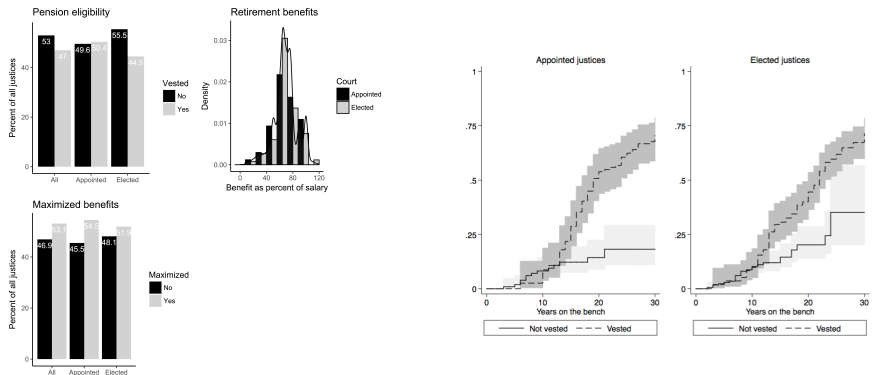
Louisiana Supreme Court



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State supreme court pensions and retirements



Source: Hughes, David A. 2019. "Judicial Institutions and the Political Economy of Retirements." *Political Behavior*.



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Conclusion

- Judge Posner has said that judges are no different than any of the rest of us—they value the same things we do.
- Hence, it is no surprise to see them retire upon securing economic security, to avoid miserable work-lives, or to enter into better-paying jobs.
- Political scientists typically assume judges engage in political retirements. But this largely hinges upon their securement of economic stability.





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