

September 22, 2020

The Honorable Mitch McConnell
Majority Leader, United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader, United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Dear Majority Leader McConnell, Minority Leader Schumer, and Members of the United States Senate,

As former federal judges, we are uniquely aware that the branch of government in which we all were honored to serve has power over neither purse nor sword. Its legitimacy is largely drawn from the public's faith that its decision-making is fair and true. Unlike the other two branches, the judiciary cannot survive without the consent of the governed, as there is no standing army or police to enforce its orders.

But the public's acceptance of the rule of the law doesn't just derive from the fairness and impartiality of the Court's decision-making: it is drawn, in large measure, from the decisions made by the Senate in the judicial confirmation process. The confirmation power exerts an extraordinary influence over the public's perception and understanding of the role of courts and judges in our society.

This is why we implore Senators to exercise restraint. Our nation is on the precipice of a national election and is in the grip of a global pandemic. Our citizenry is sharply polarized--a foreboding sign for the health of any democracy. The judicial confirmation process has increasingly become dangerously politicized. Injecting a Supreme Court confirmation fight into this noxious mix will unalterably change and diminish the public's faith in this vital institution.

For the sake of the Court, we respectfully ask that you withhold consideration of any Supreme Court nominee until after the inauguration of the president chosen by the American public. The legitimacy of the Supreme Court is not something that can be recovered if it is lost. It is up to you to demonstrate the same restraint demanded of our judiciary.

Signed,

Mark W. Bennett
Judge, U.S. District Court, Northern District of Iowa

W. Royal Furgeson
Judge, U.S. District Court, Northern District of Texas

Nancy Gertner
Judge, U.S. District Court, District of Massachusetts

James Giles
Judge, U.S. District Court, Eastern District of Pennsylvania

Stephen Orlofsky
Judge, U.S. District Court, District of New Jersey

Stephen C. Robinson
Judge, U.S. District Court, Southern District of New York

H. Lee Sarokin
Judge, Third Circuit Court of Appeals; U.S. District Court, District of New Jersey

Thomas Vanaskie
Judge, Third Circuit Court of Appeals; U.S. District Court, Middle District of Pennsylvania

William H. Webster
Judge, Eighth Circuit Court of Appeals; U.S. District Court, Eastern District of Missouri;
Director, Federal Bureau of Investigation; Central Intelligence Agency

Ann Claire Williams
Judge, Seventh Circuit Court of Appeals, U.S. District Court, Northern District of Illinois