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KEY FINDINGS FROM A NATIONAL SURVEY OF PRIMARY-VOTING DEMOCRATS AND REPUBLICANS ON TERM LIMITS FOR THE U.S. SUPREME COURT

Harstad Strategic Research conducted a national telephone survey from February 26 to March 4, 2015 among a cross-section of a distinct partisan segment of the American electorate. The survey interviewed 401 Democratic voters who voted in any primary election from 2010 through 2014 and 401 Republican voters who voted in any primary in the same past five years. In essence, these voters represent the approximately one-third of active voters nationwide who are the most partisan and engaged – split between the two extremes.

The survey focused on attitudes toward the U.S. Supreme Court and the proposal to impose term limits on SCOTUS justices. Set forth below are the key findings to emerge from the poll. These primary-participating voters will be interchangeably referred to as “voters” and “primary voters,” though it is important to remember that they exclude virtually all Independents, surge presidential voters, and other less partisan, casual voters.

1. These primary voters offer a lackluster rating of the U.S. Supreme Court, with Republicans particularly critical. A 51% majority of voters disapprove of the Court (including 21% strongly disapprove) while 42% approve of it (including a mere 5% who strongly approve). *Notably, Republicans are more disapproving of the Court (by 59% to 34% approving), while Democrats give it the slight benefit of the doubt (51% approve, 43% disapprove).* Opinion leaders and those who follow the Court closely are somewhat more critical than primary voters overall.

Follow-up open-ended questions reveal that the plurality *approval* of the Supreme Court is perfunctory, obligatory and focused on its institutional role. By contrast, the majority *disapproval* voiced about the Court are specific, informed and notably ideological. Republicans complain first and foremost about the Court’s liberalism in general, its approval of Obamacare, and its failure to follow the Constitution. Democrats criticize its partisanship, divisiveness, *Citizens United* ruling, pro-monied interest bent, conservatism, and a series of specific rulings.

In fact, about 1/3rd of the Democrats voicing disapproval of the Court cite *Citizens United* or its affinity for the wealthy and big business. While no Republicans cite that case in their volunteered criticisms of the Court, the *Citizens United* case is one which unifies the parties in opposition. Fully 67% of Republicans and over 85% of Democrats oppose the Court’s ruling in that case – and intensely so.

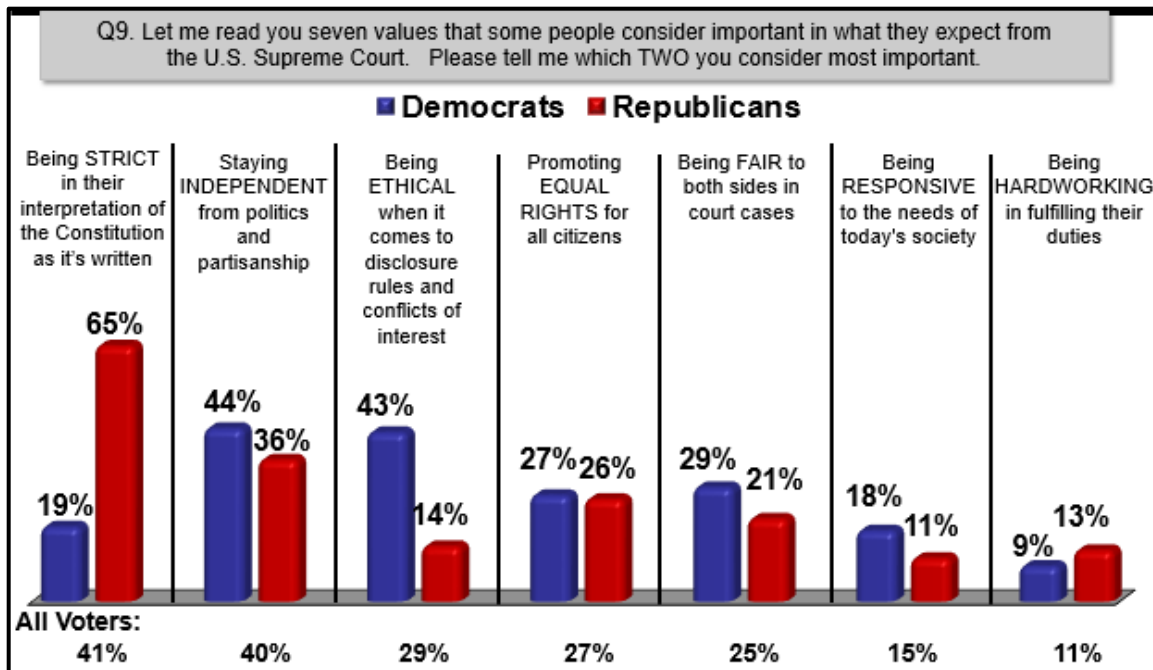
As we will see, the majority support for instituting SCOTUS term limits is predicated on a negative perception of the Supreme Court: *it is too partisan*. But voters' judgments of the Court are themselves partisan in nature. Both Democrats and Republicans are disappointed in specific Supreme Court decisions on high-profile, very partisan issues like Obamacare. Further, the partisan rejection of the Supreme Court appears to permeate, if not underlie, their other perceptions of the Court. Thus, the Court ruled mistakenly on X, Y, and Z and – because X, Y, and Z are clearly important to the nation – the Court is also seen as unresponsive and out of touch.

2. While the specific Supreme Court justices tested tend to score similar overall scores, the partisanship of their ratings are sharply divergent. The survey tested approval ratings of four justices.

- Chief Justice Roberts' overall score is slightly 'above water' (42% approve, 34% disapprove), and interestingly he elicits virtually identical ratings from Democrats and Republicans;
- Justice Scalia elicits an evenly divided score (38% approve, 38% disapprove) with a modest plurality of Democrats disapproving and a modest plurality of Republicans approving of his performance;
- Justice Clarence Thomas actually elicits the best score of the four justices tested (51% approve, 31% disapprove), because while a 48% plurality of Democrats disapprove, a lopsided 66% to 14% majority of Republicans approve of Thomas;
- Justice Ginsburg's overall approval is nearly tied (41% approve, 38% disapprove), and is the result of her 67% approval by Democrats versus her 59% disapproval among Republicans.

Clearly Roberts elicits ambivalence from both parties, while Ginsburg evokes the sharpest polarization from these primary voters, with two-fifths either strongly approving or strongly disapproving of her. It is also noteworthy that about 1/4th of these primary voters cannot even rate their feelings toward Roberts or Scalia, and 1/5th cannot rate Thomas or Ginsburg – an indication of limited familiarity with the Court.

3. There is a huge gulf in the values that Democrats and Republicans expect from the Supreme Court. Republicans overwhelmingly emphasize a "strict interpretation of the Constitution," followed a distant second by its "staying independent from politics and partisanship." Democrats put equally high emphasis on independence and the Court "being ethical when it comes to disclosure rules and conflicts of interest." They put secondary priority on the Court's promoting equal rights and being fair to both sides. This split informs much of the succeeding reactions and appeals to the two respective parties.



Indeed, in a later question, voters reserve two of their most critical ratings of the Court for its *independence* (74% only fair or poor job) and its *strict interpretation of the Constitution as written* (60% only fair or poor) – as well as its *responsiveness* to the needs of today's society (66% only fair or poor).

4. Voters decisively support term limits for U.S. Supreme Court justices. The respondents were asked whether they favor or oppose SCOTUS term limits in two distinct ways:

- In response to “*term limits for the justices serving on the U.S. Supreme Court*” – heard by a random one-half of the overall sample – 66% favor this while 29% oppose it.
- In response to “*term limits for the justices serving on the U.S. Supreme Court, instead of the current lifetime appointments*” – heard the by the other half of the sample – 60% favor this while 37% oppose it.

Republicans are notably more supportive of term limits for the SCOTUS. Indeed, when we combine both of the above versions of term limits for the justices (overall 63% support, 33% oppose), Republicans favor them by nearly 3-to-1 at 70% to 26% while Democrats favor them just over 4-to-3 at 56% to 40%.

Apart from that basic partisan split there are not dramatic differences in preferences across most attitudinal and demographic groups – and fundamentally this is not a constituency campaign. Those groups slightly *more* supportive of SCOTUS term limits include Republican campaign donors, born-again Republicans, and voters who disapprove of the Supreme Court. Apart from born-again, the other more right-wing elements of the GOP

are not significantly more pro-term limits than the rest of Republicans (when segregated by pro or con abortion, gay rights, the Tea Party, and Fox News viewership).

By contrast, those *less* supportive of SCOTUS term limits than average include Democratic men, voters who approve of the Court, postgraduates, and opinion leaders.

Voters tend to believe that term limits will result in greater accountability, more “in-touch” representation, and more responsiveness vis-a-vis changing needs or emerging threats. The results also suggest that voters are at least somewhat aware of the advanced age of some of the justices. This isn’t a top-of-mind consideration initially, but it may help foster the impression that the Court is unresponsive and needs turnover.

5. After next hearing balanced pro and con statements, overall support for SCOTUS term limits dips slightly while opposition holds at the 1/3rd level. All respondents were read non-partisan pro and con statements on term limits, while half the Democrats and half the Republicans also heard as part of the pro-term limits statement a tailored partisan add-on critique of the Court.

