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(St. Johns GOP Editorial on Trump's Response to Chief Justice John G. Roberts's February 20th assertion of control over Trump's trade policy.)

Unfortunate, Disgraceful, and Unpatriotic: It's Time to Resurrect the Judicial Conduct Act and to Bury Judicial Supremacy Forever

Last Friday, February 20, 2026, President Donald J. Trump called Chief Justice John G. Roberts's assertion of authority over the nation's tariff policy unfortunate, disgraceful, and unpatriotic. Even the Wall Street Journal that is extremely deferential to Roberts, and a strong advocate of Roberts's federalist judicial ideology, wrote that Roberts' action *"robs Trump of a diplomatic tool he has aggressively wielded to remake U.S. trade deals and collect tens of billions of dollars from companies importing goods."* The fact is that the real problem is not trade; it's a lack of real adjudicated proof and the ideological gap between Roberts's political notions about himself and those of the Americans that elected Trump's president. That is not a partisan question; it is a structural governance question.

Power that cannot be externally examined cannot generate adjudicated finality. When the judiciary controls its own discipline, its own confidentiality rules, its own ethics, its screening procedures, and its own narrative framing, then the absence of formal findings cannot be treated as exoneration. It may simply be the product of structure.

Legitimacy in the judiciary does not rest solely on adjudicated outcomes, but on the integrity of the mechanisms that produce them. I argue that legitimacy is compromised when the mechanisms for adjudicating misconduct are themselves internalized. When this occurs, independence must not turn from protection from political pressure into insulation from external review. It implicitly raises a deeper tension: judicial independence as described by Roberts versus constitutional accountability as understood by Madisonian design. That the tension surfaces when independence creates supremacy.

That is not a rhetorical claim. It is an institutional design critique.

I am not asserting coordination with "Democrats" or intent to embarrass. I am noting selective emphasis, asymmetry, or institutional messaging. After all, Roberts has spent his career inside the institutional administration of judicial conduct, he was in Reagan's White House when historical decisions were made on how to govern the Judicial Conduct Act of 1980 and the Rules Enabling Act. Now Roberts uses the Chief Justice platform not only to decide cases but to frame ethics, independence, and public legitimacy of judicial narratives. The point is structural: when the very machinery that would produce adjudicated findings and conduct decisions is controlled internally — when conduct complaint screening, investigative scope, confidentiality, and reporting are administered by the same institution being scrutinized — then formal "adjudicated proof" may never materialize. In that environment, the absence of findings does not necessarily mean the absence of misconduct; it may reflect the structure of conduct review.

In Roberts's 2024 report, written in the first person, published on New Year's Eve, December 31, 2024 right after Trump won re-election, Roberts highlighted stories about "controversial flags" displayed at properties connected to Justice Alito that were associated with the January 6 or *"Stop the Steal"* movements. In the same report, Roberts focused what he called an "ethics inquiry" regarding Justice Clarence Thomas. The press got the message, writing that Roberts *"didn't mention Trump, but it's about Trump," "in Roberts' report, Donald Trump is like a ghost, whose presence is felt if not seen,"* and that Roberts *"failed to name their source: Donald Trump."* One title of CNN's coverage states, *"Tension With Trump Looms."*

Thus, trade was the spark, not the fire. The fire is structural. It is the extraordinary centralization of national power Roberts has personally consolidated inside the Judicial Conference and the Administrative Office of the United States Courts, where he blends executive administration with judicial authority in decisions that masquerade as neutral adjudication.

Roberts presents the rulings that emerge from this concealed structure as a stabilizing necessity, under the cover of "federalism." Roberts dignifies this by retelling myths of Federalist Chief Justice John Marshall's greatness, and other controversial justices who like himself believed in judicial supremacy. The surface conflict is about trade. The real conflict is about constitutional and statutory limits on federal judges' authority. The real issue is who enforces the laws that govern the federal judges.

For three decades I have made a living identifying concealed concentrations of power. As the nation's pioneer of activist short selling and informational arbitrage, I built my reputation by exposing the gap between truth and myth on Wall Street. The federal judges' myths do not collapse; they drift in one direction: towards insulation and consolidation. The mythology surrounding John Marshall whom Roberts cites as the "genius" for having "invented" judicial

supremacy is in truth an absurdity. Marshall is infamous for his misconduct in the XYZ and Midnight Judges scandal, and during Aaron Burr's treason trial. Thomas Jefferson's Revolution of 1800 politically demolished the Federalist Party and drove its ideology and brand into oblivion. At least until the brand was resurrected in this President Ronald Reagan's first term in 1981as the Federalist Society. The fact is unsavory, but undeniable. The brand was used by Reagan's lawyers as a central part of their plan to bury the Judicial Conduct Act of October 15, 1980.

In 1981, Reagan's White House and Department of Justice lawyers included three ambitious young federal lawyers John G. Roberts, Jr., William P. Barr, and J. Michael Luttig, along with senior legal advisors Fred Fielding, Fred Iklé, Fred Dyer, Fred Lacey, and US Attorney General William French Smith, Reagan's longtime California confidant and chief legal officer. Together these trusted legal advisors redirected Reagan away from using the Rules Enabling Act and the Judicial Conduct Act and towards focusing on appointments and confirmations as a viable response to reforming the federal judicial structure. Inside Reagan's White House and Department of Justice, this group of lawyers moved deliberately to redirect Reagan's judicial policy from conforming Roe v. Wade to expanding the administrative structure that created the judicial claim of authority over the nation's abortion culture and regulation.

Roberts watched Reagan's lawyers steered Reagan to endorse and sign three new administrative laws, the Federal Courts Improvement Act of 1982, the Bankruptcy Amendments and Federal Judgeship Act of 1984, and the Judicial Improvements and Access to Justice Act of 1988. Those laws expanded the administrative structure of the Judicial Conference and the Administrative Office, enlarging the very machinery that conceals executive-style governance as "neutral" judicial power while the Judicial Conduct Act was buried more deeply into the administrative state that Roberts would soon inherit.

The theory that this can be corrected through appointments and confirmations alone is not reform; it is displacement. It assumes that structure is secondary to personnel, that replacing occupants inside an insulated system will alter the insulation itself. That assumption has no historical support. A life-tenured judge, once confirmed, enters an administrative architecture that predates individual judges and outlasts them. The machinery, the Judicial Conference, the Administrative Office, Federal Judicial Center, the rulemaking process, and the complaint-screening structure, does not dissolve because a new philosophy enters chambers. The judge becomes part of the system.

Appointments are episodic. Administrative consolidation is continuous. Confirmations are political events. Insulation is institutional design. Believing that selecting different individuals will dismantle a centralized structure is to mistake decoration for demolition. It treats symptoms while preserving the underlying architecture that produced the symptoms

in the first place. Over time, the appointments strategy becomes self-perpetuating: fundraising, vetting, symposiums, pipelines, and donor networks replace statutory enforcement. Reform is then redefined. Discipline disappears.

The absurdity is clearest when viewed over decades. Administrative authority of the judiciary only expands. Each wave of confirmations is absorbed into the same framework of internal rulemaking and complaint control. The branch remains insulated from external discipline regardless of the ideological label attached to its members. They do not alter who controls administrative policy. The structure persists.

The appointments strategy also creates the illusion of progress while deferring confrontation. It is politically safer to nominate judges than to enforce laws, the operation and function of the Judicial Conduct Act of October 15, 1980, the Rules Enabling Act's commanding prohibitions, the disclosure requirements of the Freedom of Information and the Ethics in Government Acts against them. When statutes exist to restrain abuse and are left unused while energy is diverted to building pipelines, the result is not prudence; it is abdication disguised as patience.

Most importantly, that model transforms from remedy into industry. Legal networks, academic forums, donor alliances, and advocacy groups revolve around the selection process. Debate centers on jurisprudential philosophy rather than regulating the administration of law, especially the rules of law. Meanwhile, the core question—who enforces law upon the federal judges themselves—remains unanswered.

In that sense, the policy of appointments as structural reform is not merely incomplete; it is internally contradictory. It presumes that individuals can correct a system whose rules they do not control and whose disciplinary mechanisms are administered from within. Without activation of statutory oversight, appointments cannot reverse consolidation. They can only rotate its occupants.

Thus, the resurrection of the federalist brand was an organized purposeful effort to bury the Judicial Conduct Act that was enacted just weeks before Reagan's landslide victory in the 1980 election, in a political climate dominated by public dissatisfaction with *Roe v. Wade* and the federal judiciary. The Act created a mechanism to discipline federal judges for misconduct and abuse of authority. It was Congress's recognition that life tenure required external enforceable accountability. Reagan took office with the statute in his hands and with a newly won Republican Senate for the first time in more than a quarter century. He had the mandate. He had the votes. He had the law.

It is a very hard pill to swallow, but it requires no inference to see that John G. Roberts was among the Reagan lawyers that betrayed Reagan's promise to vacate Roe v. Wade. Forty-five

years later, Roberts remains personally involved with the investigation to discover who leaked the decision to vacate Roe.

In 2008, after Roberts revised the judiciary's internal rules governing Judicial Conduct Act proceedings centralized screening authority, expanding discretionary dismissal at preliminary stages, and layering dozens of confidentiality provisions over what Congress had enacted in 1980 as an open mechanism to finally bring accountability to the federal judiciary. Complaints that were meant to travel outward—to councils, to the Conference, and then to the political branches—could now be contained, dismissed, or concealed internally under broad discretion and limited transparency. The process did not simply become administrative; it became insulated. Confidentiality expanded. Reporting vanquished. Oversight shifted inward. The statute's outward-facing function was transferred into internal management.

Roberts did not invent that trajectory, but under his leadership it has greatly expanded to meddling in the relationship between a president and Congress. Under Roberts, the judiciary does not merely decide disputes; it manages its own ethics and discipline, shaped its own rules, and interacted with Congress and the Department of Justice on matters affecting its institutional reach. When administration and adjudication are fused within the same branch, and when the mechanisms designed to police misconduct are governed by those who are subject to them, when a judicial structure eliminates external accountability, it becomes more than a self-regulation in the strongest sense. It functions not as protection for neutral judging but as insulation for administrative control.

When the Chief Justice chooses to highlight ethics inquiries concerning a fellow Supreme Court justice with whom he disagreed on vacating Roe, symbolism controversies involving another justice that opposed his views on Roe, and public perception in a formal Year-End Report, he is not acting as a neutral case-decider. He is exercising institutional messaging power. The Year-End Report is not a judicial opinion. It is administrative communication from the presiding officer of the Judicial Conference. That role blends administration, policy framing, and judicial authority.

The fact that it took decades for Roberts to ascend to Chief Justice is less important than what he did with the office once he held it. The central structural issue is this: the Chief Justice presides over the Judicial Conference, which controls discipline, ethical procedures, and internal oversight. When controversies arise — the Dobbs leak, ethics disclosures, public flag disputes — the response flows through structures he oversees. If investigations do not identify a leaker, that is an institutional outcome under his administration. If ethics inquiries are highlighted in a formal report, that is a deliberate choice of emphasis.

In the end it is the reader who must distinguish between structural administrative insulation and intentional ideological weaponization.

The author is Manuel P. Asensio the Co-Founder and Chairman of St. Johns Republican Executive Committee and Citizens United Against Judicial Supremacy, LLC. Since 2016, Mr. Asensio has been engaged in the consideration at the US Judicial Conference of Chief Justice John G. Roberts, Jr.'s conduct in civil rights legal and conduct proceedings against the US federal judge's imposition of an exemption to constitutionally protected rights in families including and most importantly religious, speech, and property rights. In 2024, through his work in the opposition to the Federalist Society's dominance of Republican Party's dominance of its federal judicial policy, Mr. Asensio earned the right to use the Republican National Committee's federally registered trading in his political campaigns.

Mr. Asensio is the Founder and President and CEO of Asensio & Company, LLC. The New York Times labeled his as "something radical and remarkable" in 1998. In January 2014, the National Bureau of Economic Research, ["NBER"] published a research paper titled "How Constraining Are Limits To Arbitrage? Evidence From A Recent Financial Innovation", the study found that the "Pioneer (of Informational Arbitrage or Activist Short Selling) is Manuel P. Asensio of Asensio & Company."

Founded in 1920 and headquartered in Cambridge, Massachusetts the NBER is "the nation's leading nonprofit economic research organization. Twenty-four Nobel Prize winners in Economics and thirteen past chairs of the President's Council of Economic Advisers have been researchers at the NBER....[t]he more than 1,300 professors of economics and business now teaching at colleges and universities in North America who are NBER researchers are the leading scholars in their fields....[t]he NBER is governed by a Board of Directors with representatives from the leading U.S. research universities and major national economics organizations."