



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE**

Joel W. Solomon United States Courthouse
900 Georgia Avenue
Chattanooga, Tennessee 37402

JANUARY 2021 BRINGS CHANGE WITH NEW PRESIDENT AND CONGRESS:

JUDICIARY IS CONSTANT

The nation will experience significant changes this January. The top echelon of the federal government will change. A new Congress was sworn in on January 3, 2021, while the new President and Vice President will be inaugurated on January 20, 2021. Both of these dates are enshrined in the Constitution as the end of one set of terms and the start of another. Normally, we celebrate these changes with elaborate ceremonies. And with the new President, Vice President, and Congress, we can expect to see new personnel, new policies, new priorities, new directions, and new ideas. The Framers of the Constitution created the Executive and Legislative branches with that idea in mind—new people at regular intervals bringing change to the country. They provided for this principle in the Constitution by limited terms of office, regular elections, and specified beginning and ending dates of office.

While the two elected branches of government change at regular intervals, the third branch, the Judiciary, does not. This is a stark distinction, and one that sets the Judiciary apart from the other two branches. Federal judges do not turn over at regular intervals, they do not serve fixed terms of office, and there are no elaborate ceremonies to swear in the entire federal Judiciary at one time. Rather than periodic turnover of judges, what we see in the Judiciary is continuity and stability. Thus, the two elected branches are built to change, while the Judiciary is built for constancy.

Why is the federal Judiciary so different? The answer is the Rule of Law. The Judicial branch is responsible for the administration and enforcement of the Rule of Law. This branch also has the unique responsibility to interpret the Constitution. People with these responsibilities should not come into their positions with agendas, priorities, or policies, other than the Rule of Law and adherence to the Constitution. Both the Rule of Law and the Constitution require constancy, stability, and predictability, not rapid change. Judges do not serve to enact the policy preference of the majority at any given moment.

To achieve this end, the Framers thought the Judiciary should be composed of individuals who earned wide respect and credibility. In Federalist 78, Hamilton stated: “Hence it is, that there can be but few men in the society, who will have sufficient skill in the laws to qualify them for the stations of judges.” Such individuals would inspire public confidence in the Judiciary’s rulings. He stated that only a small pool of people would have both the requisite high professional

achievement and high integrity. Attracting such people to the federal bench for a limited term of office would be difficult, however, since they would have to abandon their private occupations. He argued that to attract this caliber of individuals required the assurance of lengthy tenure in office. Thus, the Framers provided life tenure so lawyers who had gained professional acclaim and recognition in their profession and communities would be willing to give up their lucrative legal practices to take positions in the Judiciary.

By providing for life tenure, the Framers also sought to insulate federal judges from the partisanship and passions that animate elections and the elected branches. They understood that judges, to adhere to the Rule of Law, would have to disregard popular sentiment at times. Life tenure removes the possibility that federal judges' decisions will be improperly influenced by the worry of having to stand for reelection.

Looking for individuals with the requisite professional distinction and high integrity also ensured a mature pool of candidates. A federal judge would come onto the bench after a successful career, and the judgeship would be the capstone of that career, not a stepping stone to a higher or more lucrative one. The Framers did not want judges thinking of their next positions while in office.

Congress and the President represent the prevailing and variable public sentiment of the day. The Rule of Law, however, is a constant, and the Judiciary is charged with supporting this essential value. The Rule of Law cannot change with each election. People rely on the law to make the most important decisions in their lives. Constancy in the law allows people to plan their lives and businesses on a solid foundation.

As we witness the transfer of power from one President to another in our great democratic republic, let us not forget that the Judiciary has served us well and consistently for over 230 years, and largely as the Framers envisioned it. As common citizens, it is our responsibility to preserve and ensure the continuity of both the Judiciary and the Rule of Law.

Curtis L. Collier
United States District Judge
Chair, Eastern District of Tennessee
Civics and Outreach Committee

Carrie Brown Stefaniak
Law Clerk to the Honorable Curtis L. Collier
Immediate Past President, Chattanooga Chapter of the Federal Bar Association

Eliza L. Taylor
Law Clerk to the Honorable Curtis L. Collier