

# As Americans take up populism, Supreme Court embraces business

By Noam Scheiber, *New York Times*

WASHINGTON – The Supreme Court vacancy created by the death of Justice Antonin Scalia highlights a growing rift between the country and the nation’s highest court on questions of economic power and support for big business.

And that gap, legal experts say, is unlikely to be significantly narrowed by the kind of justice President Barack Obama – or the next president, Democrat or Republican – is expected to nominate.

Americans have grown substantially more populist in their outlook over the past 15 years, according to some measures of public opinion, like whether they are satisfied with “the size and influence of major corporations” and whether the government should “redistribute wealth by heavy taxes on the rich.” Indeed, if the presidential primaries are any indication, there is perhaps no more potent force in U.S. politics today than economic populism.

At the same time, some argue that the Supreme Court under Chief Justice John G. Roberts Jr. has become perhaps the most business-friendly court in recent history. A 2013 study by Lee Epstein of Washington University in St. Louis, William M. Landes of the University of Chicago Law School and Judge Richard A. Posner of the 7th U.S. Circuit Court of Appeals in Chicago ranked justices according to their rulings in cases involving business. The findings, which Epstein and Landes updated through the 2014-15 term for this article, show that six of the 10 most business-friendly justices since 1946 sat on the Supreme Court at the time of Scalia’s death.

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