

## *The Oath* by Jeffrey Toobin

This is Toobin's third book on the Supreme Court. Published two years ago, it's about the Supreme Court and its relationship, under the chief justiceship of John Roberts, with President Obama. The other two are *Too Close to Call* (2001) about Bush v. Gore, the case that awarded the presidency to George W. Bush and *The Nine* (2007) about the Supreme Court after the death of Chief Justice Rehnquist but before John Roberts had established himself fully with the other justices. For readers who are interested in the Supreme Court and its inner workings, it is a fascinating work.

Some of its fascination comes from Toobin's skill and art. He writes well (he is a *New Yorker* staff writer), and he has developed relationships with several of the justices, especially former justice Sandra Day O'Connor, who was ostensibly a major source for *The Nine*, that yield details about their thinking, their approach to cases, and their relationships with some of the other justices. Also a lawyer (Harvard Law School), Toobin has a grasp of the legal nuances of many of the cases that approaches being masterful.

Using Roberts' slightly messing up his swearing in of President Obama as his starting point and frame, Toobin follows major cases that come before the Supreme Court. Reader alert: Because Toobin is politically liberal, he is frequently critical of the Roberts court and many of its major decisions. However, he brings to his work a detailed knowledge of the general history of the Court and of the legal history of the issues that come before it. He provides detailed thumbnail sketches of many of the principals bringing or arguing cases before the Court. The personal history of all of the current justices and many past justices are given in some intriguing specifics. Example: Scalia, far right politically, and Ginsburg, left, share a love of opera and are good friends.

Of the major battles, three cases stand out. First is the Heller case, the one in which the Court overturned earlier precedents and declared that Second Amendment rights are personal rights. The second is Citizens United, a case in which the Court decided that First Amendment free speech rights extend to corporations and that therefore their political expenditures may not be restricted. In this decision the Roberts Court also overturned several earlier precedents. Toobin's third major case is, of course, the one challenging the constitutionality of The Affordable Care Act, Obamacare. In this

instance Roberts voted to uphold the law, enraging many conservatives, *The Wall Street Journal* not least among them. But, Toobin notes, that vote “was an act of leadership. It’s John Roberts ‘s Court now.”

Especially with a decision to be announced soon about a second challenge to the constitutionality of the ACA, this one on the basis of freedom of religion, *The Oath* is, as I said, fascinating.

Bob McDonnell