

Trump II and the Presidency 4

Checks, balances, and resistance

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Government and Politics of the US - Lecture xvi

1. Introduction

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“In terms of the sheer number of veto players, the American political system is an outlier among contemporary democracies. It has become unbalanced and in certain areas has acquired too many checks and balances, which raise the costs of collective action, sometimes making it impossible altogether. It is a system that might be labeled a vetocracy. “

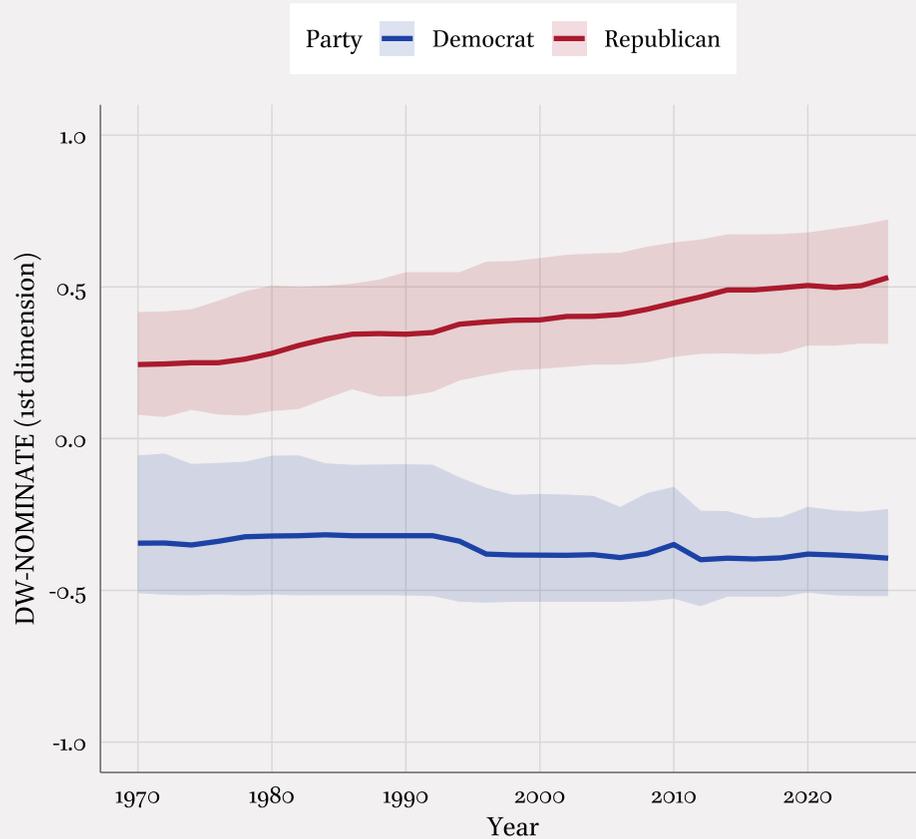
Francis Fukuyama, *The Origins of Political Order*

2. Congress

2.1 Congress as a source of support for, and opposition to, Presidents

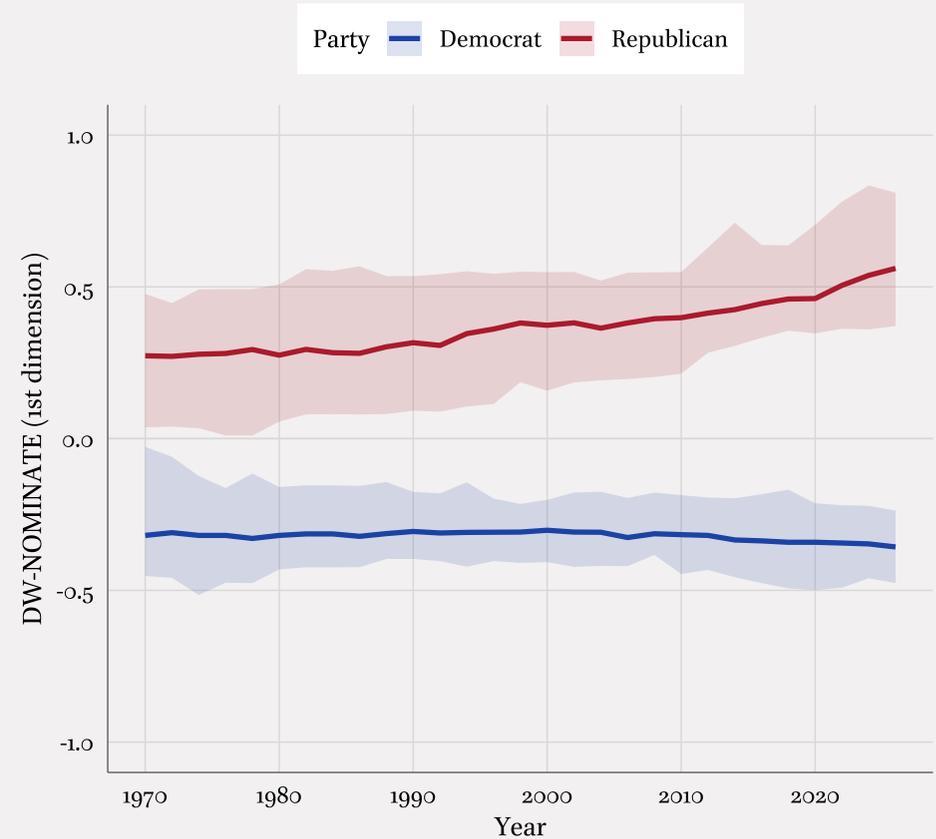
DW-NOMINATE scores by party, House 1970–

Annual median and middle 80% band (10th–90th percentile)



DW-NOMINATE scores by party, Senate 1970–

Annual median and middle 80% band (10th–90th percentile)



2.2 Markers of support for Trump II

- Senate confirmations
 - not Gaetz! (withdrawn in part due to Senate opposition)
 - Hegseth as Secretary of Defense 51:50
 - Kennedy as Secretary of HHS 52:48
 - Gabbard as DNI 52:48
- **One Big Beautiful Bill Act** of 2025: tax cuts, carbon, work requirements, defense spending **but also**
 - \$170bn spending on “border enforcement” incl \$75bn for ICE

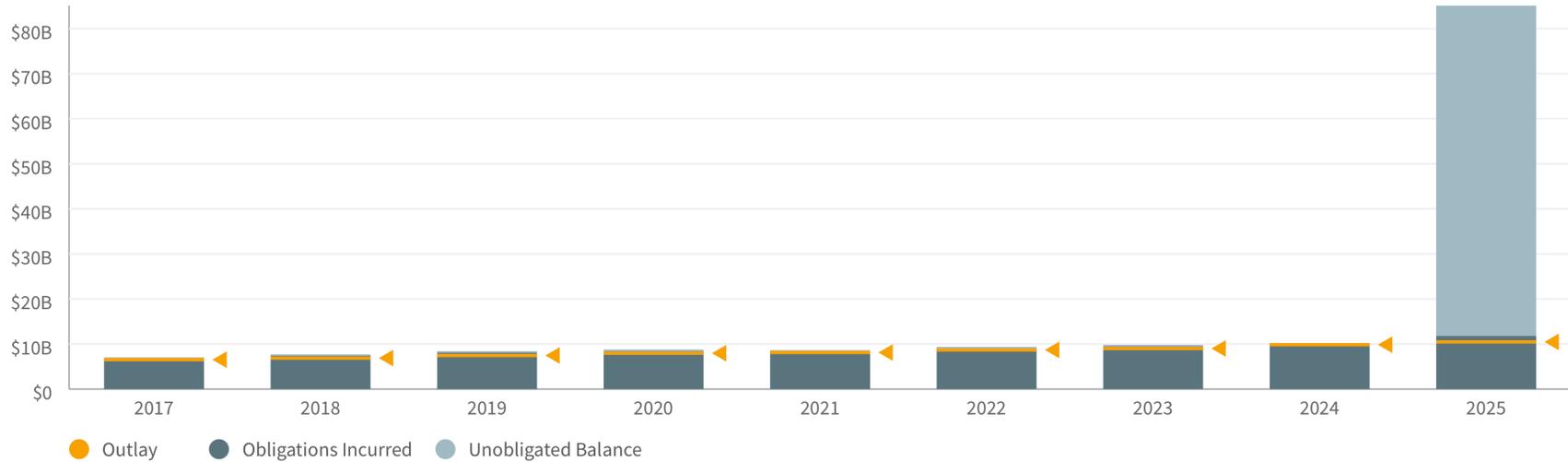
2.2 Markers of support for Trump II

Spending Over Time

Spot trends in spending by years or quarters. Filter your chosen results (at left) and watch this graph update automatically.

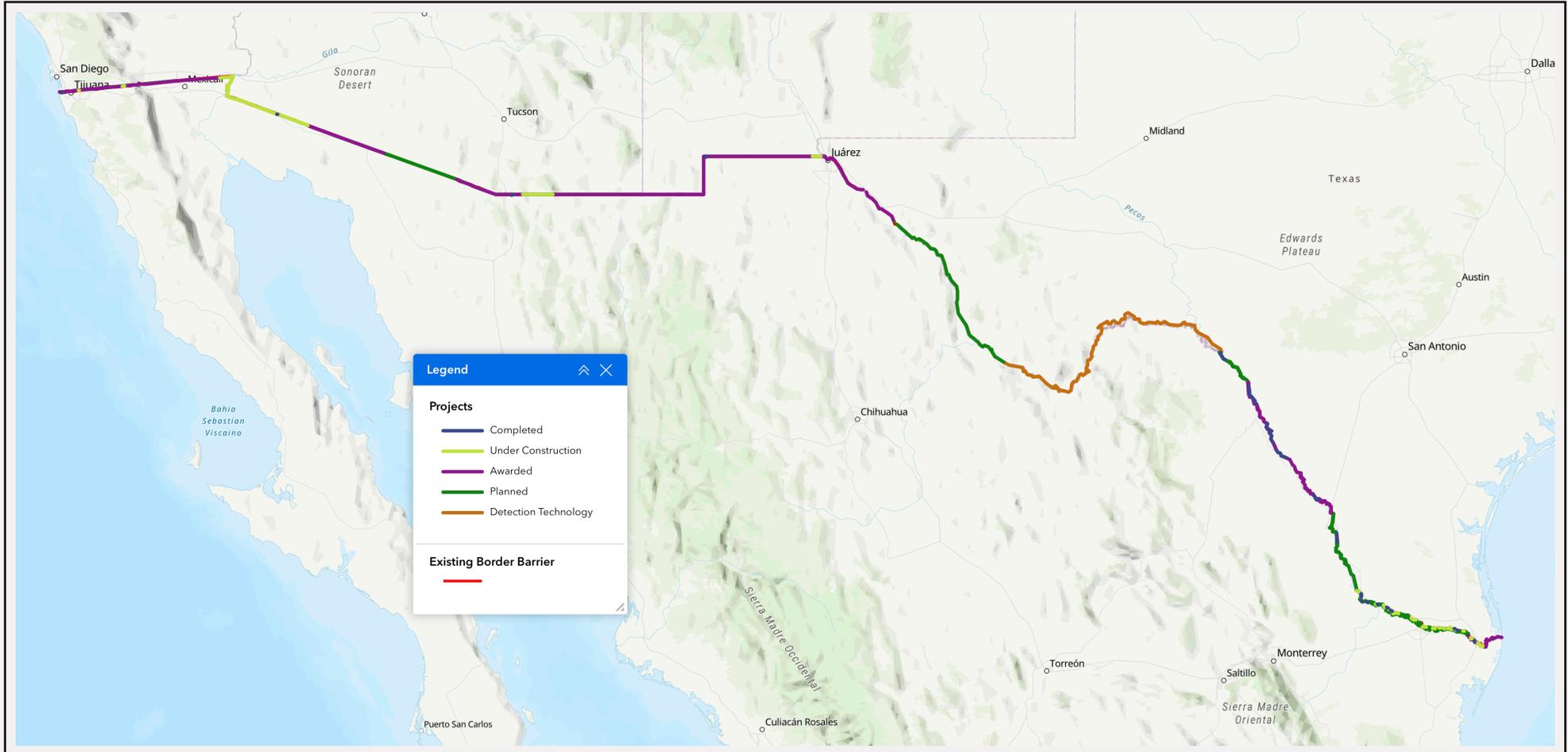
Years

Quarters

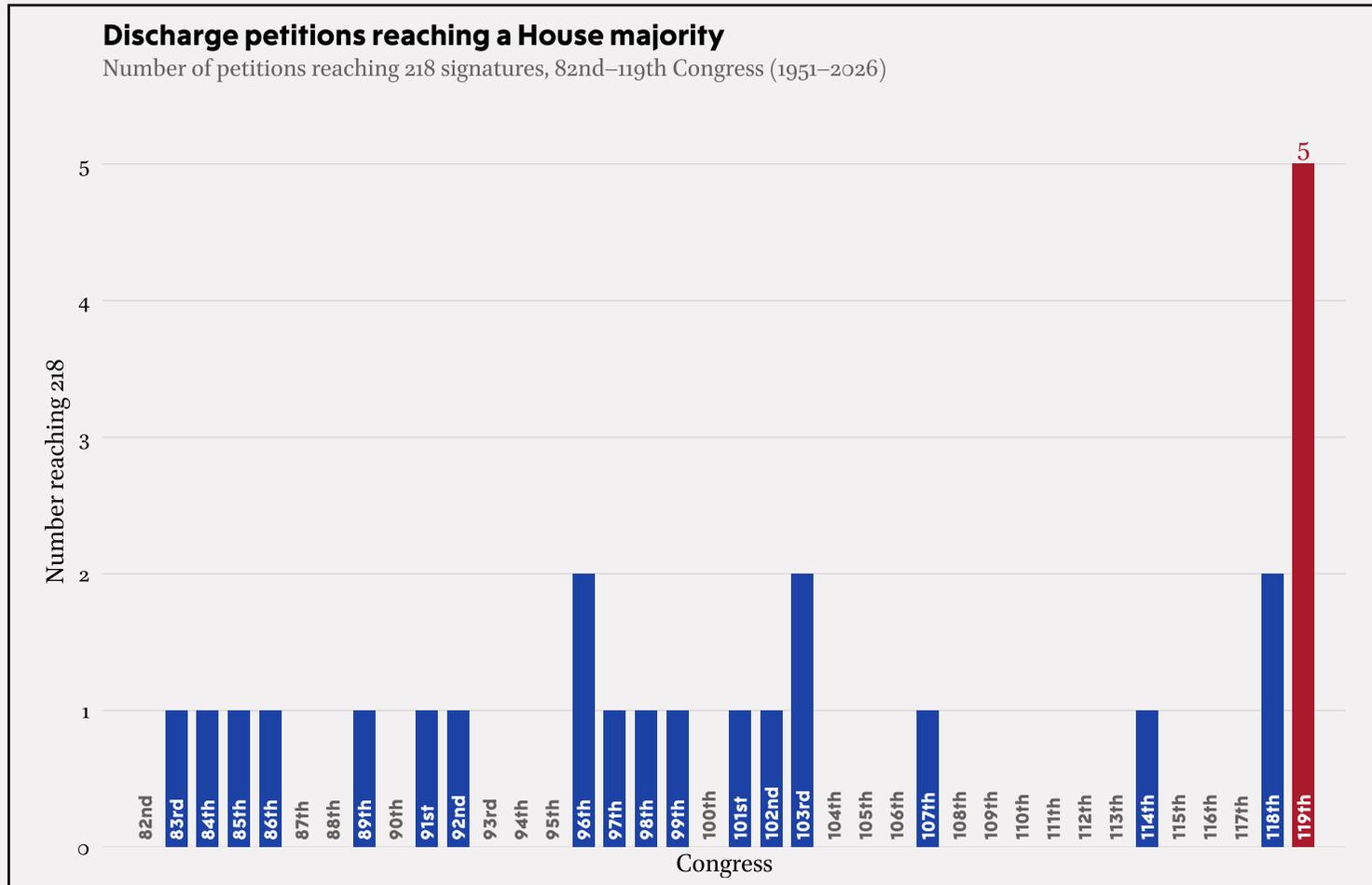


Source: usaspending.gov, Federal account 070-0504

2.2 Markers of support for Trump II



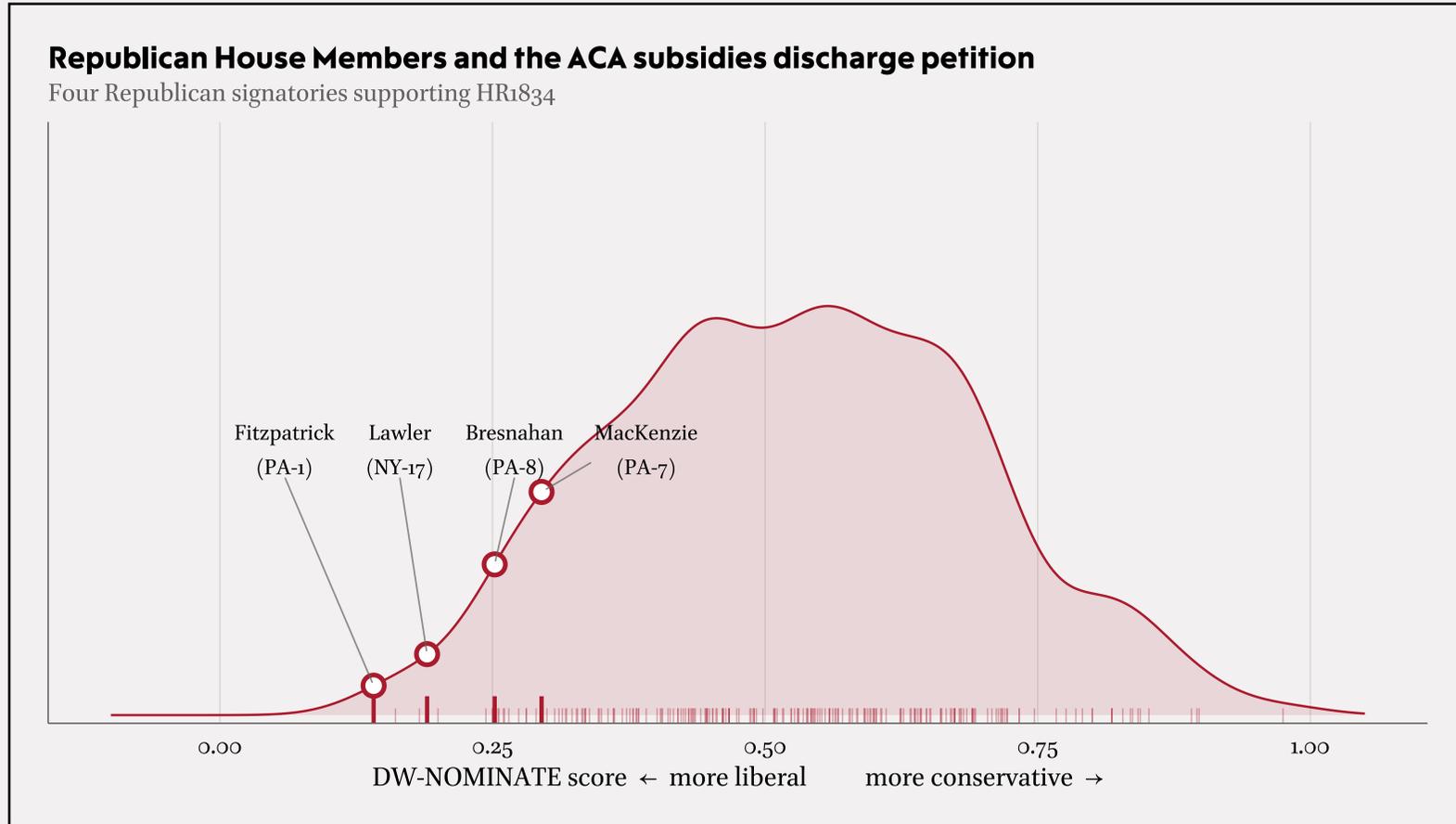
2.3 Acts of opposition



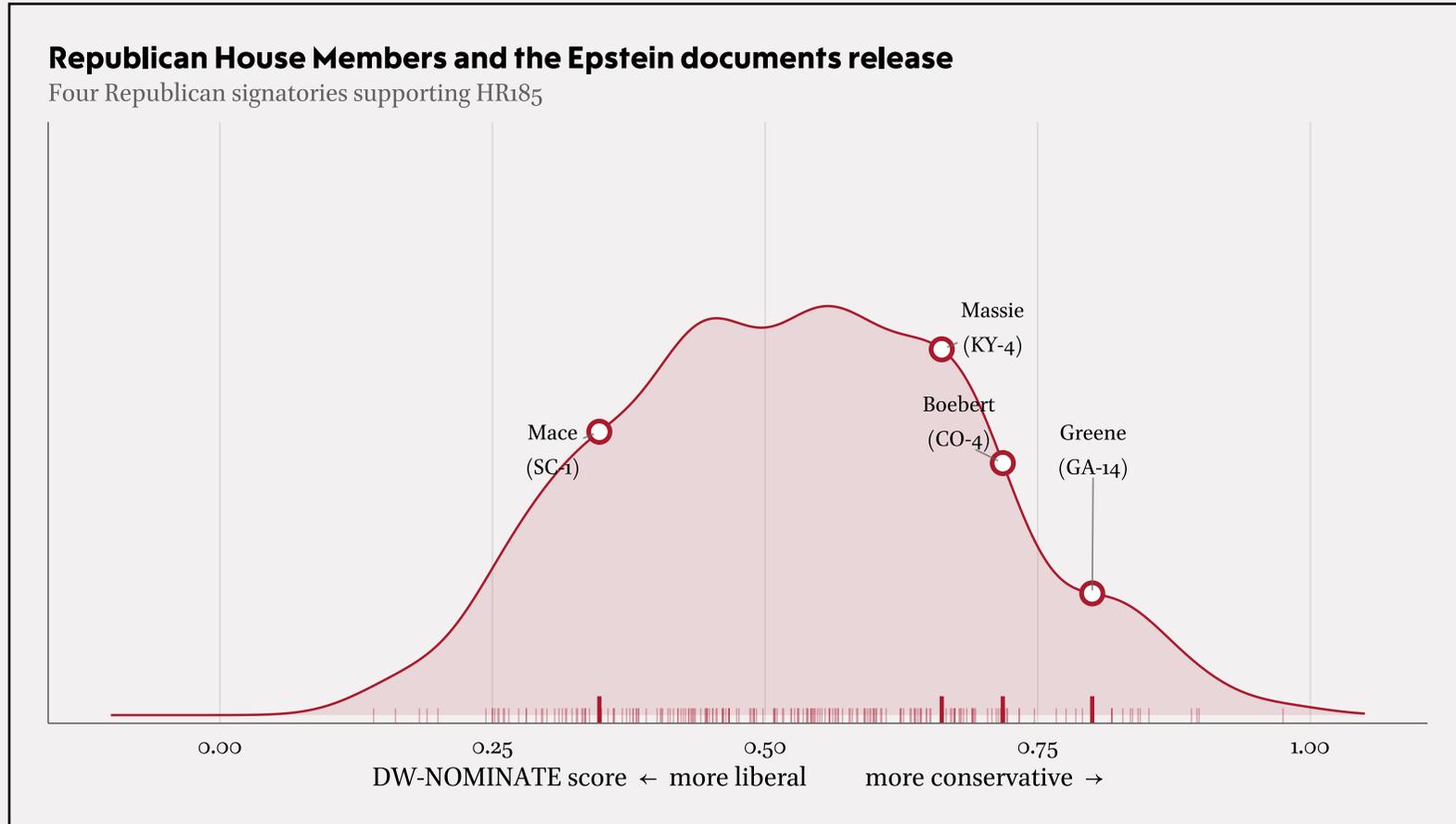
2.3 Acts of opposition

- Who are the decisive signatories (ca 4 Republican reps)?
- ACA subsidies petition vs Epstein papers petition

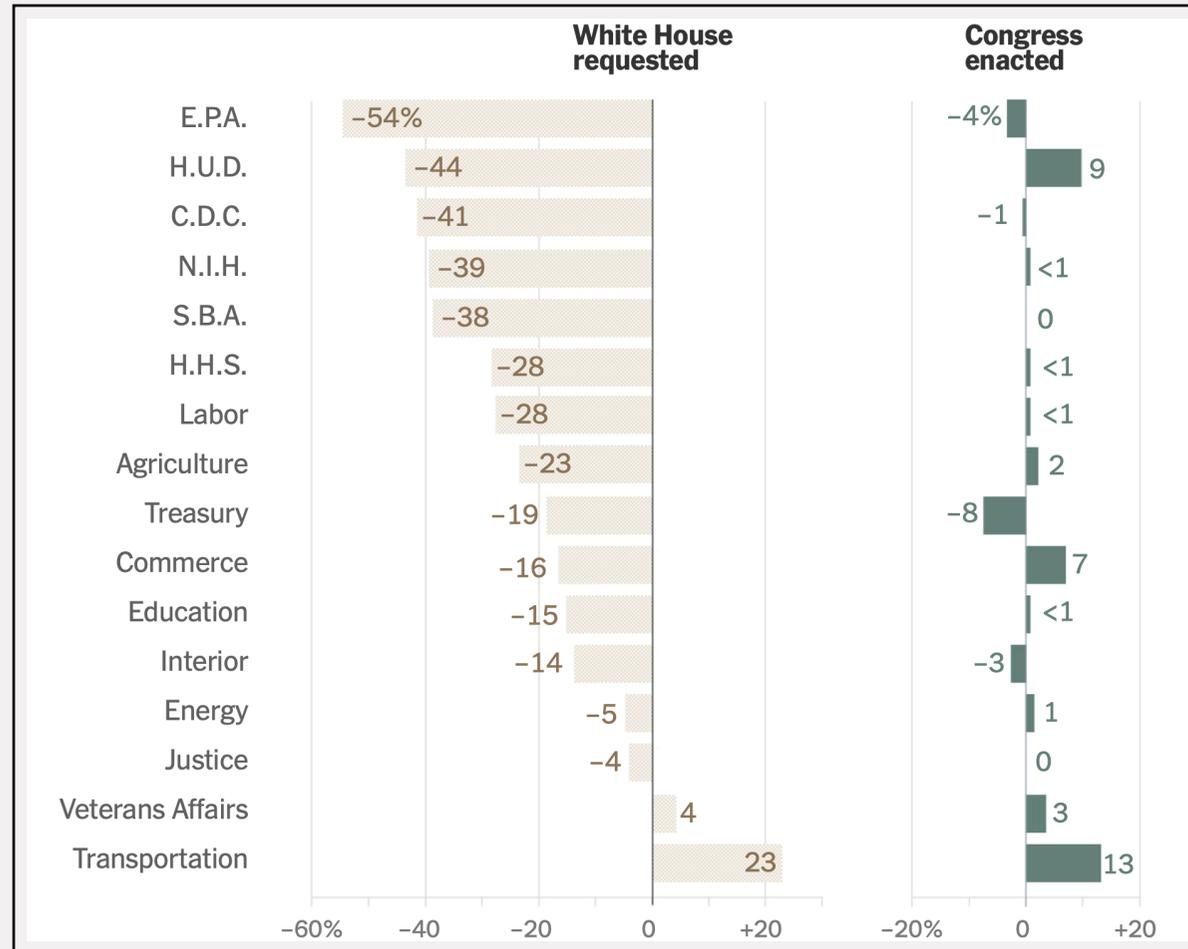
2.3 Acts of opposition



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- even **nominations**
 - [57 nominations](#) withdrawn at this stage
 - qv 36 (Trump I)
 - qv 43 (Biden)

2.4 Congress summary...

- (Nelson W. Polsby, 1975): a “transformative” (not “arena”) legislature.
- qv Trump’s Executive Order 14347 “renaming” the Department of Defense
- not really a presidential power so it needs legislation to carry it out...
- [12 cosponsors across both chambers](#) while...

2.4 Congress summary...

119TH CONGRESS
1ST SESSION

S. 2296

AN ACT

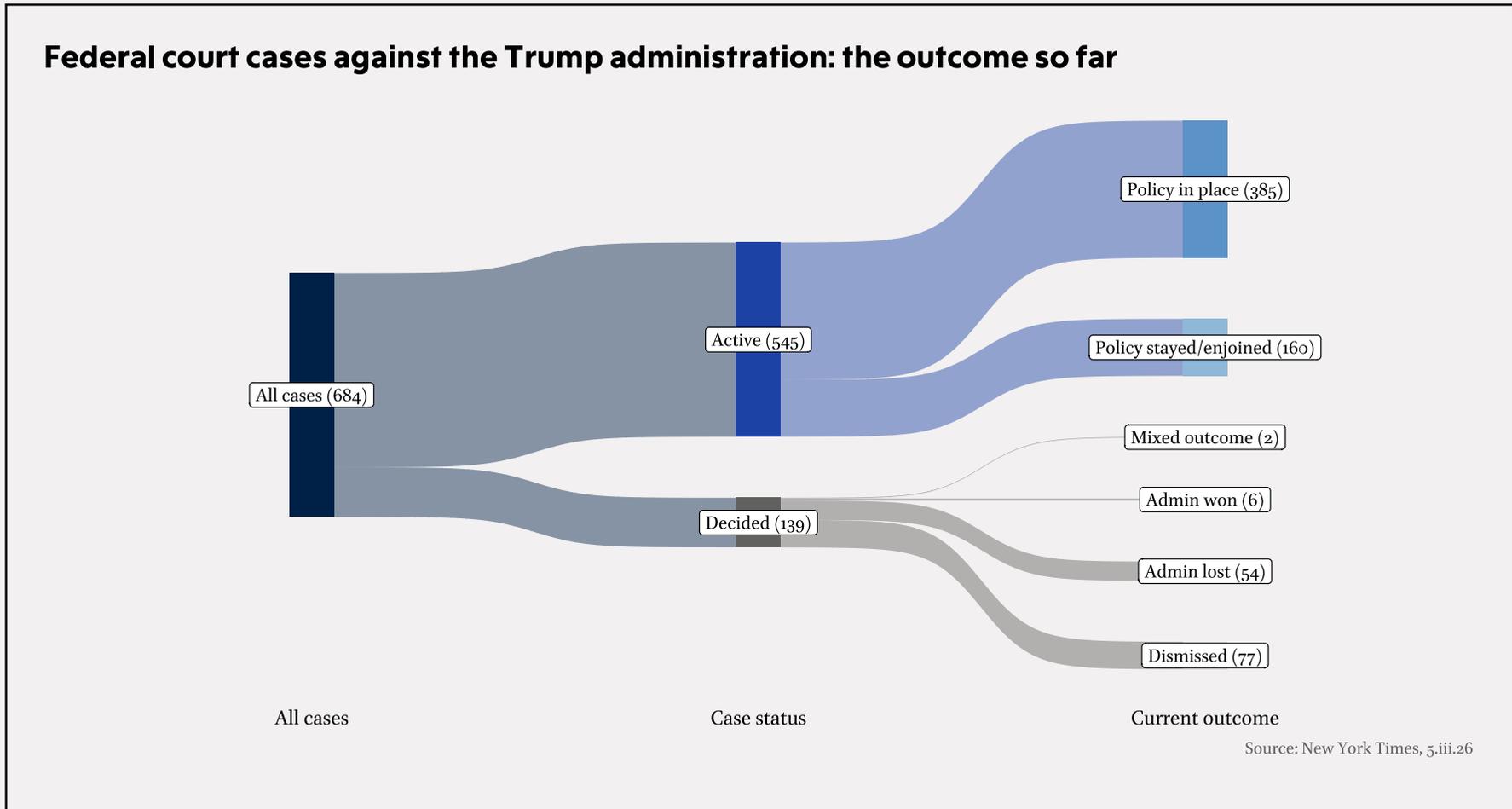
To authorize appropriations for fiscal year 2026 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

3. Courts

3.1 The existing agenda for a conservative majority

- non-delegation doctrines/separation of powers
 - unitary executive
 - the Major Questions Doctrine *West Virginia v. EPA* 597 U.S. 697 (2022)
 - and the end to *Chevron* deference
 - *Chevron USA, Inc v. Natural Resources Defense Council, Inc* 467 U.S. 837 (1984)
 - *Loper Bright Enterprises v. Raimondo* 603 U.S. 369 (2024)
- the **Shadow Docket** (Baude, 2015; Vladeck, 2023)

3.2 The outline...

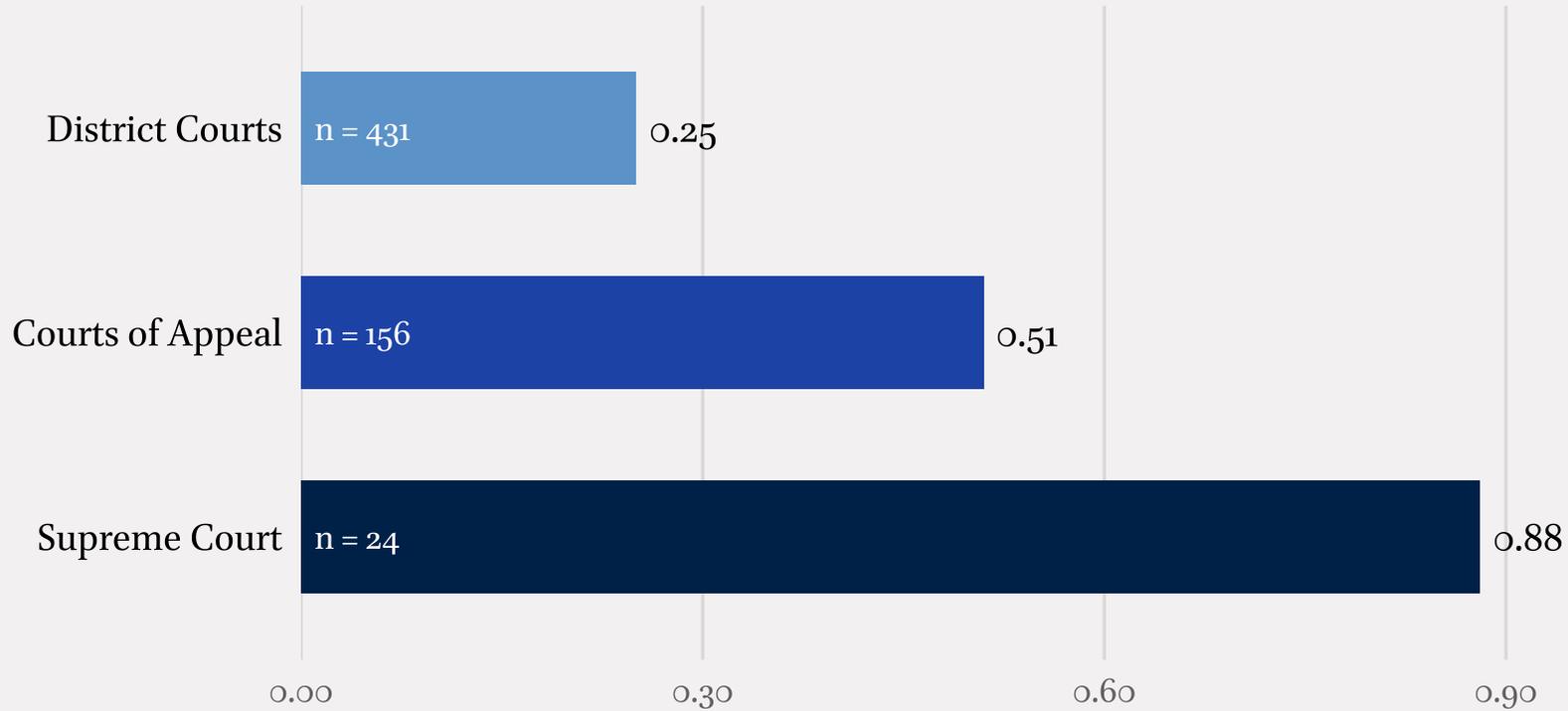


3.3 Lower courts

- the limits of executive power (over spending and tariffs, over unitary executive questions, over deployment of the National Guard)
- and over immigration law...
 - executive powers
 - rights to a hearing
- Alien Enemies Act of 1798, humanitarian parole programmes for refugees from Ukraine, Cuba, Afghanistan, Haiti, Nicaragua and Venezuela, Temporary Protected Status
- deploying the National Guard

3.3 Lower courts

Administration success rate by court level

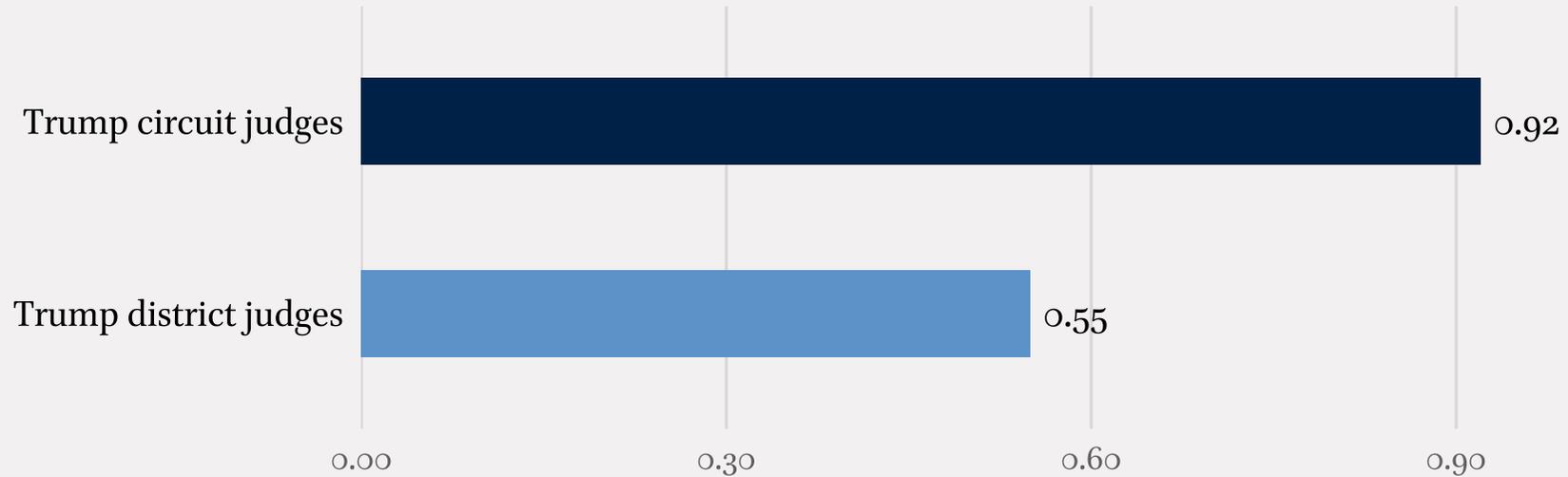


Source: New York Times, 11.i.26

3.3 Lower courts

Administration win rate before Trump's own appointees

By court level

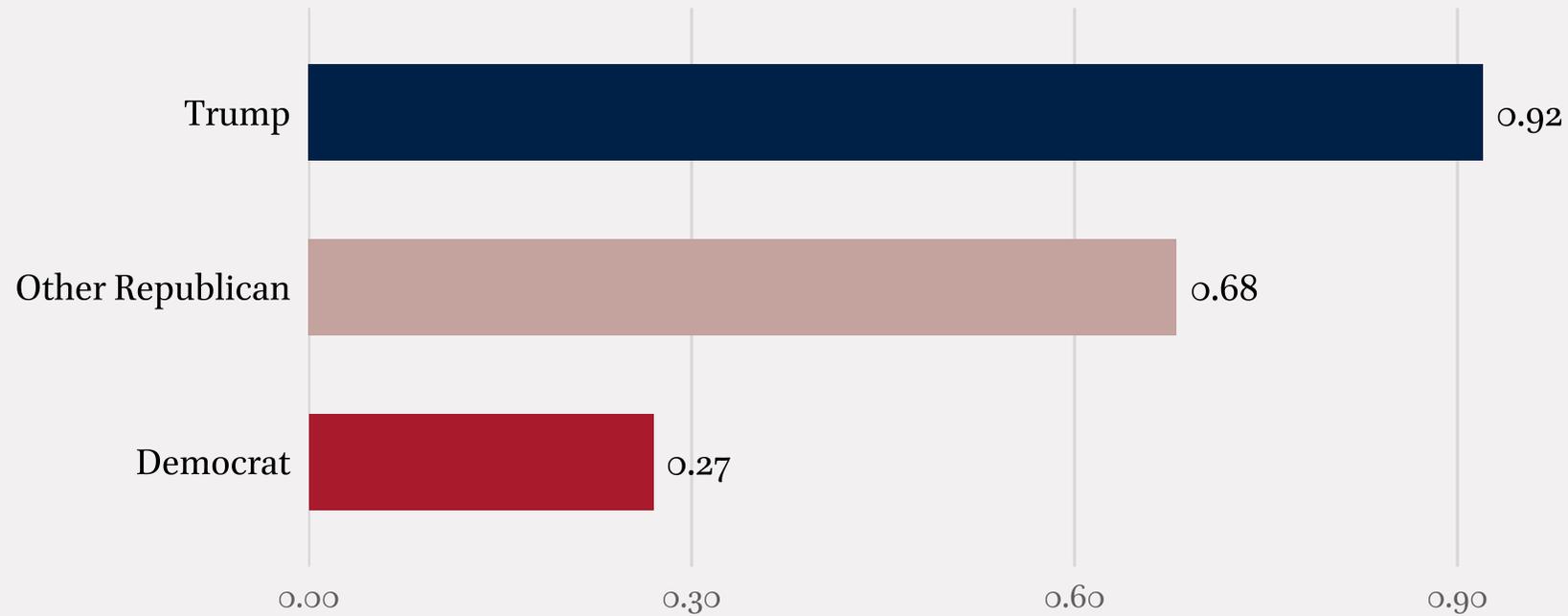


Source: New York Times, 11.i.26

3.3 Lower courts

Administration win rate in appeals courts

By the appointing president of the judge



Source: New York Times, 11.1.26

3.4 Supreme Court itself

- some **defeats**
 - *Learning Resources Inc v. Trump et al* 607 U.S. ____ (2026)
 - *Trump v. Illinois* 607 U.S. ____ (2025)
 - *A.A.R.P. v. Trump* 605 U.S. 91 (2025)
- somewhat **mixed** outcome:
 - *Trump v. JGG* 604 U.S. 670 (2025)
 - *Trump v. Casa Inc.* 606 U.S. 831 (2025)

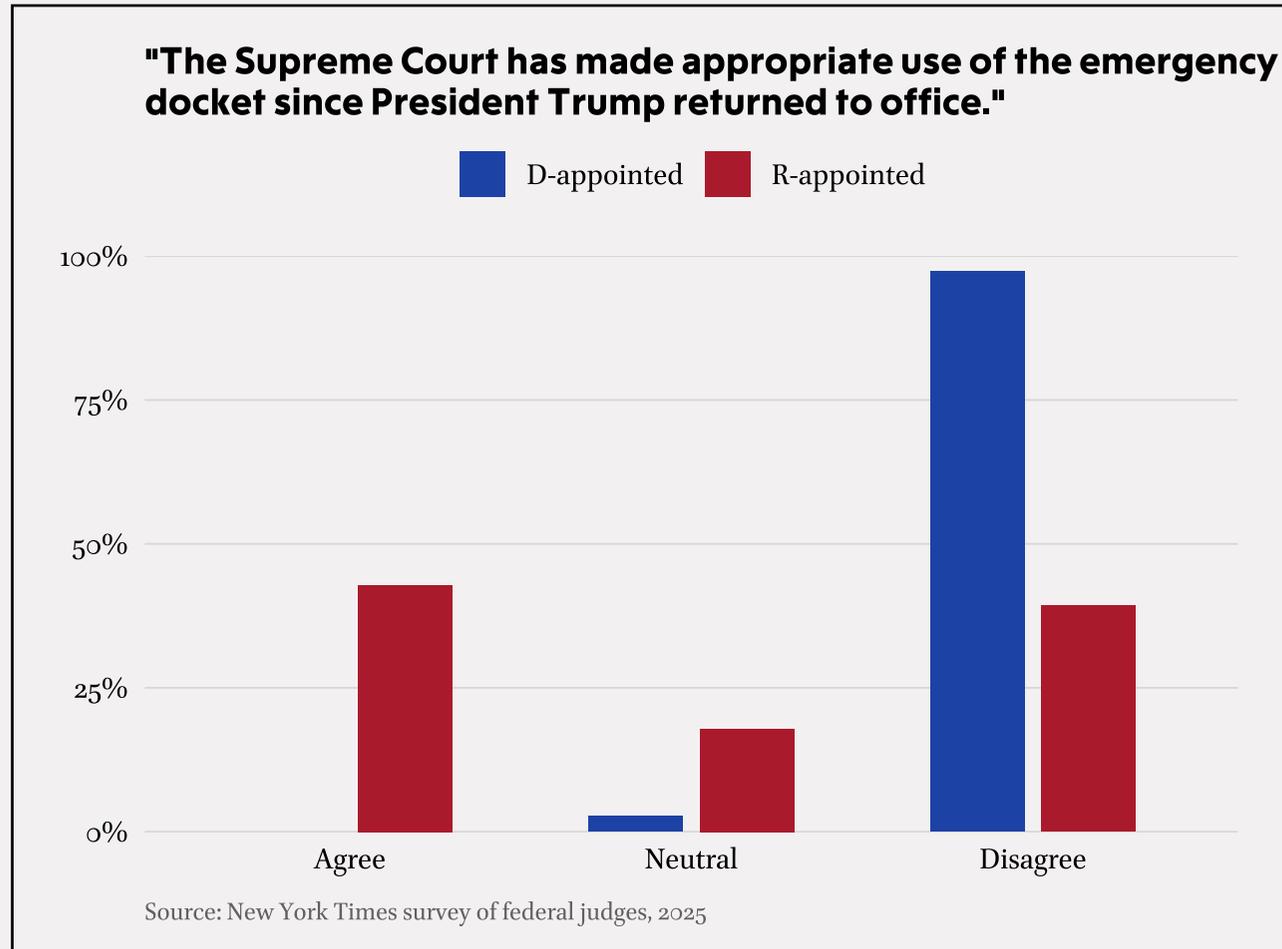
3.4 Supreme Court itself

- interaction between the “shadow docket” and the Court’s decisions in these cases (Vladeck, 2026)
- *“Lower court judges may sometimes disagree with this Court’s decisions, but they are never free to defy them.”*

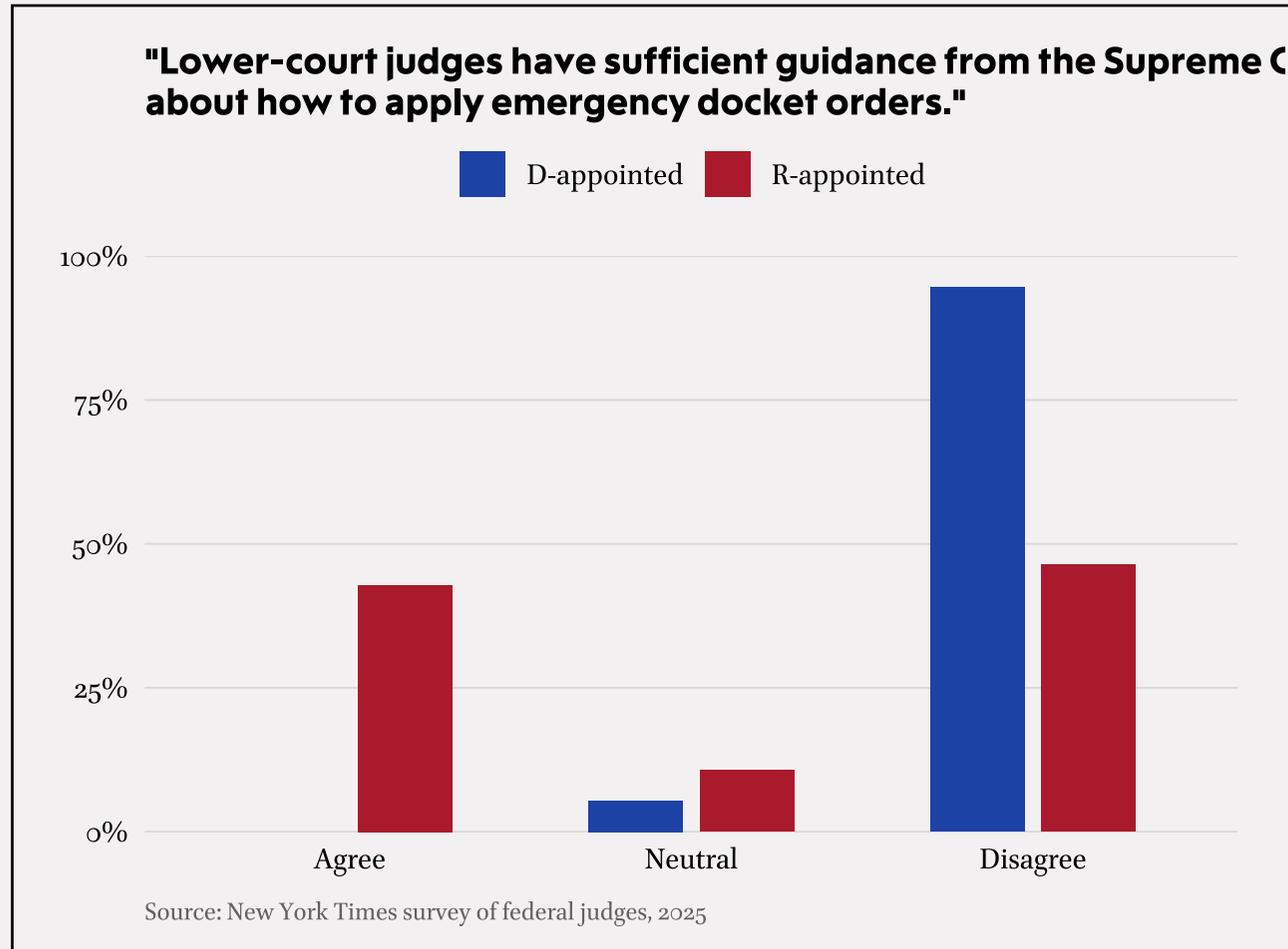
Justice Gorsuch in *National Institutes of Health v. American Public Health Association* 606 U.S. ____ (2025)

- NYT survey of Federal District and Circuit Judges ...

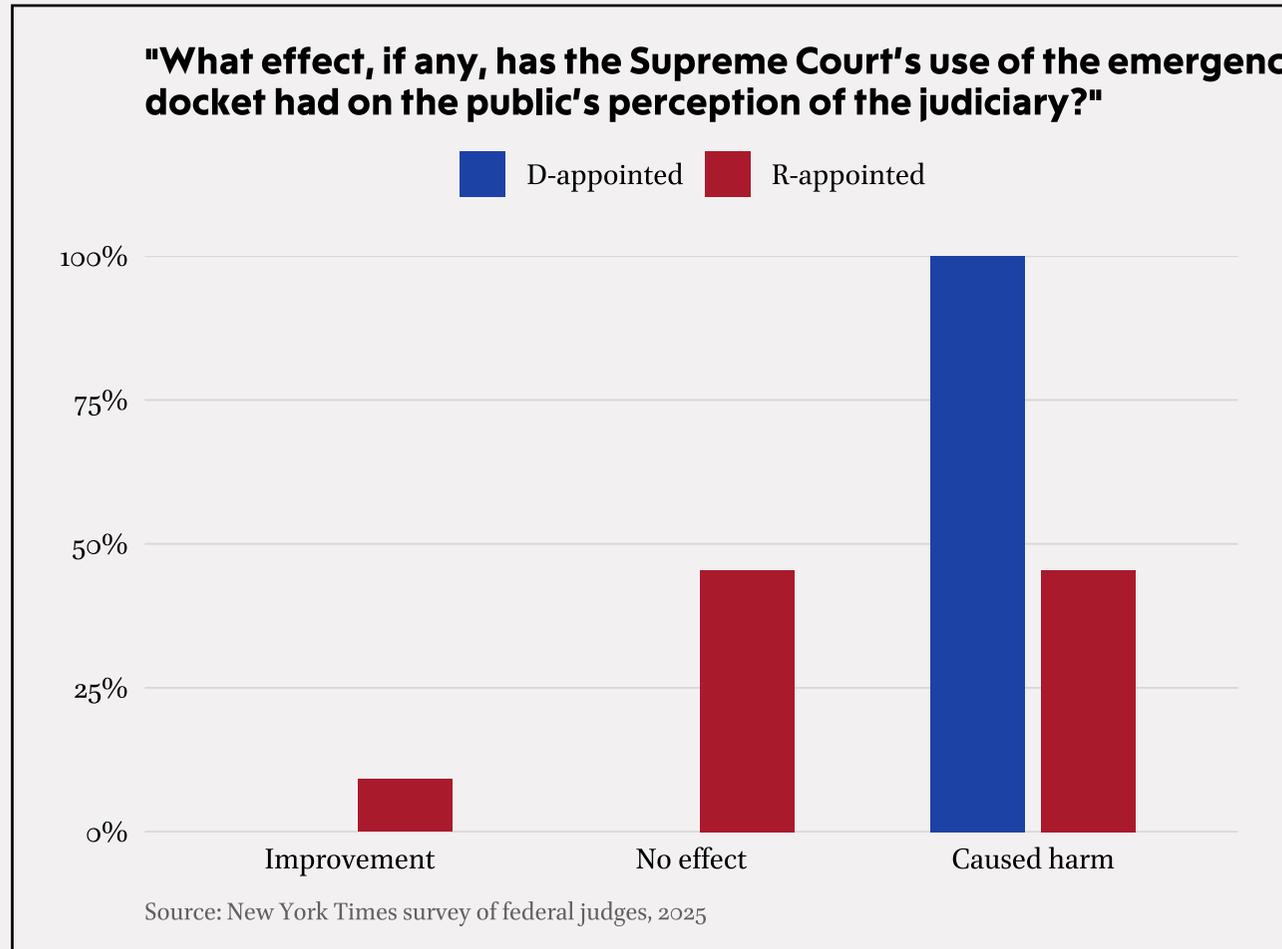
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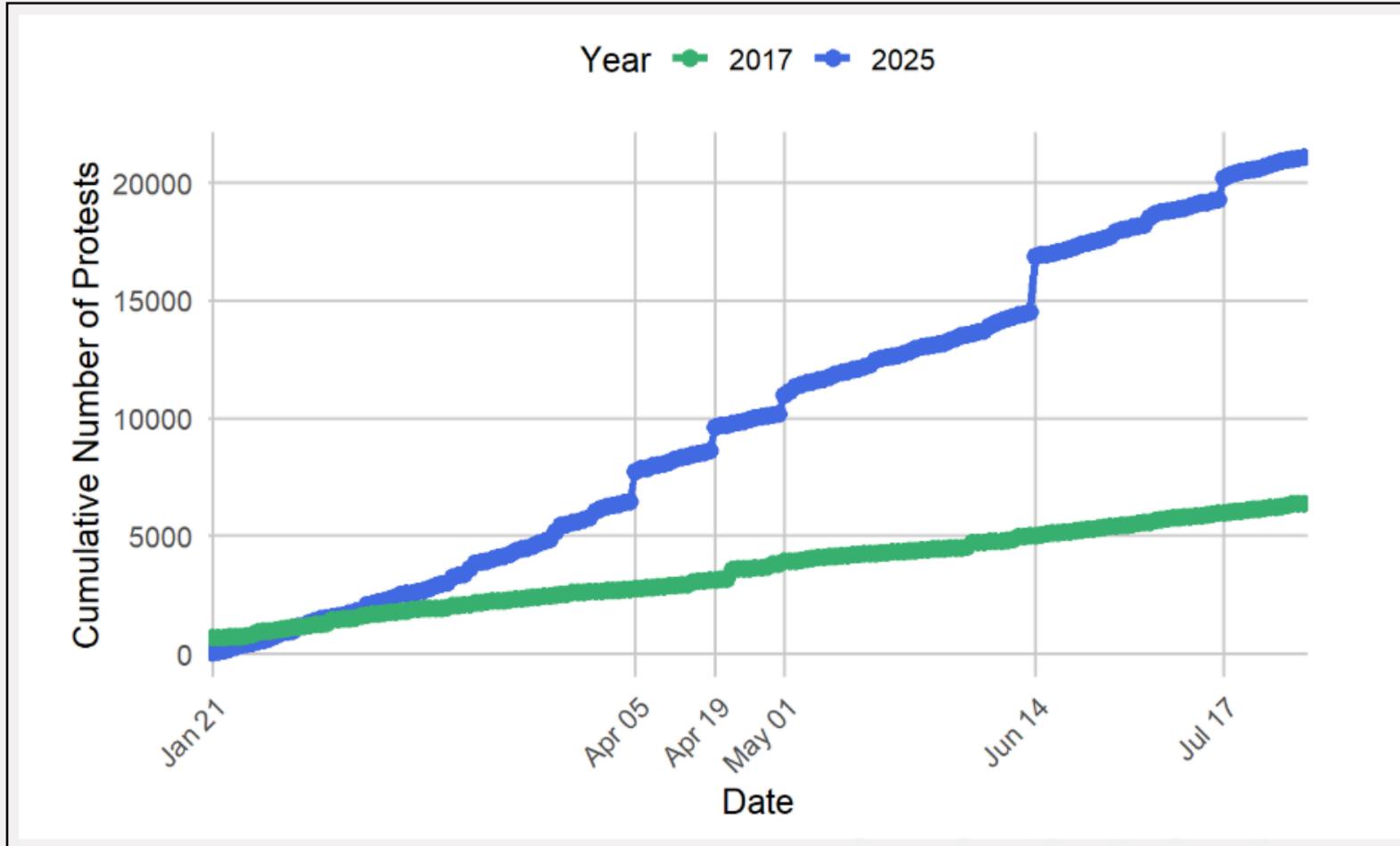


4. People

4.1 Social Movement

- great attention to the scholarly literature! (Erica Chenoweth and Maria J. Stephan, 2011)

4.1 Social Movement



5. Conclusion

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- the importance of pre-existing trajectories
- “*public disapproval heartens Washington’s resistance*”

Richard Neustadt (*Presidential power*, 1960)

- qv *Laken Riley Act* of 2025 but Trump changing position in [approval ratings](#)
- the ordinary variables of Presidential power! eg
 - foreign policy vs domestic policy
 - unified vs divided government

6. Bibliography

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