

Chief Justice Signals New Feud on High Court

That conservatives have loved President Donald Trump's choice of Associate Justice Neil Gorsuch to replace the late Antonin Scalia on the U.S. Supreme Court goes without saying.

But, with another justice—this time, moderate Anthony Kennedy—considering retirement, Chief Justice John Roberts is signaling the need for the high court to once again “speak with a single voice” on issues of constitutional importance. In taking this thinly veiled swipe at the high court's newest member, the chief justice has suggested a new rift is forming behind the scenes.

During the District of Columbia Circuit Court Conference held last week, Roberts made the following comments, which have now been widely reported in the liberal mainstream media:

There's a different level of collegiality though, and that is to appreciate you are acting as a court, not as an individual. So, for example, if you have an opinion writing assignment and you may think that the exact case to support what you're saying is the Jones case, but one of the people in your majority may despise the Jones case, that's when you have to, as the opinion writer, realize you are drafting for a court, and you find another case. You don't make that judge come in and say, “Could you delete the Jones case?” You do have to take into account other people's views. It's not just about you. You want to draft an opinion that reflects the views of the court.

Roberts' comments are ironic given that he authored the opinion in the Trinity Lutheran case in which two members of the majority objected to one of his footnotes. Those two members being the new conservative leaders of the high court,

Gorsuch and Associate Justice Clarence Thomas.

The quote was taken by Reuters Supreme Court reporter Lawrence Hurley, who tweeted about it late last week. But what many in the liberal mainstream media—in their rush to report on the newfound rift in the ranks of the high court—missed is what triggered the chief justice's comments in the first place.

Hurley said Roberts was responding to a question from D.C. Circuit Chief Judge Merrick Garland, who President Barack Obama had appointed to fill the Scalia vacancy prior to the 2016 presidential election but whose nomination was blocked by Senate Republicans. Hurley gave no indication what the question was, but the answer suggests Garland, knowing the media was there to report on the event, wanted to sow seeds of strife in the high court.

The Supreme Court has not made Roberts' comments, nor a transcript of the question-and-answer session available to the public. {eo}