No. 23-5572

IN THE

Supreme Court of the United States

JOSEPH W. FISCHER,

Petitioner,

v.

UNITED STATES,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS OF THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF OF JOHN DANFORTH, J. MICHAEL LUTTIG, BARBARA COMSTOCK, MICKEY EDWARDS, CHRISTOPHER SHAYS, LARRY THOMPSON AND STUART GERSON, *ET AL.*, AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT

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INTEREST OF *AMICI CURIAE*

The *amici* listed in Appendix A submit this brief. *Amici* include former members of Congress, officials who worked in five administrations, senior officials in the Department of Justice, and others who support government by election and law, rather than might makes right.[1] Reflecting their experience, *amici* have an interest in defending government proceedings, including the congressional proceedings required by the Twelfth Amendment and the Electoral Count Act as a critical part of the peaceful transfer of executive power. *Amici* speak only for themselves personally and not for any entity or other person.

INTRODUCTION AND SUMMARY OF ARGUMENT

This short brief focuses on two points. First, not only does "otherwise" mean "differently," but an antonym of "otherwise" is "similarly." 18 U.S.C. subsection 1512(c)(2) thus cannot be interpreted to be limited to only conduct that corruptly obstructs, influences, or impedes an official proceeding in a similar way to the document impairment and spoliation set forth in subsection 1512(c)(1).

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[1] *Amici* state that no counsel for any party authored this brief in whole or in part, and that no entity, other than *amici* and their counsel, made any monetary contribution toward the preparation or submission of this brief.

Second, some of petitioner's *amici* raise arguments that are really questions that the Constitution assigns to the discretion of Congress and the Executive Branch. The first is whether 20 years in prison should be the maximum available sentence for attempting to prevent an official federal proceeding from occurring. That is for Congress to decide. The second is whether, as a matter of prosecutorial discretion, the Executive Branch may distinguish between those who invaded the Capitol to prevent the peaceful transfer of executive power required by our Constitution and others who may have corruptly obstructed congressional proceedings with lesser consequences. Keeping the Republic given to us by our Constitution supports strong deterrence of criminal efforts to prevent the peaceful transfer of executive power.

ARGUMENT

I. THE PLAIN MEANING OF "OTHERWISE" IS DIFFERENTLY, NOT SIMILARLY.

Unlike in the world of *Alice in Wonderland*,[2] in a statute the meaning of a word should not be its antonym. An antonym of "otherwise" is "similarly." *See* "otherwise," *Thesaurus.com.* 2023.

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[2] "'When I use a word,' Humpty Dumpty said in rather a scornful tone, 'it means just what I choose it to mean — neither more nor less.'

"'The question is,' said Alice, 'whether you can make words mean so many different things.'

"'The question is,' said Humpty Dumpty, 'which is to be master — that's all.'"

LEWIS CARROLL, THROUGH THE LOOKING GLASS (1871).

https://www.thesaurus.com/browse/otherwise (Feb. 19, 2024). In contrast, the strongest synonym for "otherwise" is "differently." *See* "otherwise," *Merriam-Webster.com.* 2024. https://www.merriam-webster.com/thesaurus/otherwise (Feb. 19, 2024). That is dispositive for this case. In 18 U.S.C. subsection 1512(c)(2), "otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so" refers to conduct that obstructs an official proceeding *differently* than do the acts of document alteration, destruction, and concealment in subsection 1512(c)(1). "A fundamental rule of textual interpretation is that neither a word nor a sentence may be given a meaning that it cannot bear." A. SCALIA & B. GARNER, READING LAW 31 (2012) ("*Reading Law*"). Just as no amount of invocations of canons could turn "stop" into "go" in a statute, such invocations cannot turn "otherwise" into "similarly" in subsection 1512(c)(2).

This is confirmed by how lawyers and courts, including this Court, use the word "otherwise" virtually every day. Lawyers and courts frequently state that a party "does not contend otherwise" or "does not argue otherwise" or "does not assert otherwise." *E.g., Bond v. Floyd*, 385 U.S. 116, 132 (1966) ("The State does not contend otherwise."). The "not" in these common and well-understood phrases would be nonsensical if "otherwise" carried any connotation of "similarly."

Justice Scalia's concurrence in the judgment in *Begay v. United States*, 553 U.S. 137 (2008), correctly explained the meaning of "otherwise" when used in a statute that criminalizes more than one act of criminal conduct. Justice Scalia stated that "'otherwise' in this context means" the acts after the "otherwise" occur "'in a different way or manner'" than the acts set forth before the "otherwise." *Id.* at 151 (Scalia, J., concurring in the judgment) (citation omitted). The "straightforward statutory analysis" compels the conclusion that to limit the acts after the "otherwise" to acts similar "'in kind'" to those acts set forth before the "otherwise," Justice Scalia wrote, "is to write a different statute." *Id.* Justice Alito's dissent, joined by Justices Souter and Thomas, agreed that requiring such a similarity "cannot be squared with the text of the statute" and "amounts to adding new elements to the statute." *Id.* at 158-59.

Of course, the majority in *Begay* disagreed with respect to the statute in that case. And, understandably, like the dissent below, rather than rely on any dictionary definition or thesaurus entry for "otherwise," Petitioner grounds his argument in the *Begay* majority opinion. *See* Pet. Br. 10, 18; J.A. 78-79. But petitioner properly does not contend that *stare decisis* binds the Court to rewrite 18 U.S.C. subsection 1512(c)(2) in the same way the *Begay* majority rewrote the statute there.

To start, it is hornbook law that "the same word or phrase" may be given different

interpretations in two different statutes where, as here, there are differences in the other words in the different statutes. *Reading Law* 323. The interpretation of a word in one statute is not binding for all future interpretations of that word in different statutes. *See Loughrin v. United States*, 573 U.S. 351, 359-61 (2014). Nor can the Congress that in 2002 enacted subsection 1512(c)(2) be said somehow to have adopted the gloss on "otherwise" from the *Begay* majority opinion that was not created until six years later. *See id.* at 359-60 (where Congress passed the statute at issue "*before* we decided th[e] case" interpreting a similar word, petitioner's "reliance on [the case] encounters a serious chronological problem") (emphasis in original).

Here, there are important textual and contextual differences between subsection 1512(c) and the statute at issue in *Begay*, 18 U.S.C. subsection 924(e)(2)(B)(ii). To start, subsections 1512(c) and 924(e)(2)(B)(ii) have the same two "notable textual differences" from each other that *Loughrin* held, 573 U.S. at 359, were sufficient to give "or" a different meaning in 18 U.S.C. subsection 1344(2) than *McNally v. United States*, 483 U.S. 350 (1987), had previously given "or" in 18 U.S.C. § 1341. Specifically, the differences that *Loughrin* held were dispositive between subsection 1344(2) and § 1341 are equally found when comparing, in this case, subsection 1512(c) and subsection 924(e)(2)(B)(ii). First, like § 1341, subsection 924(e)(2)(B)(ii) "contains two phrases strung together in a single,

unbroken" clause. *Loughrin*, 573 U.S. at 359. Second, "[b]y contrast," like § 1344, subsection 1512(c)'s "two clauses have separate numbers, line breaks before, between, and after them, and equivalent indentation—thus placing the clauses visually on equal footing and indicating that they have separate meanings." *Loughrin*, 573 U.S. at 359. Under *Loughrin,* these two "notable textual differences" warrant giving "otherwise" its dictionary and thesaurus meaning in 1512(c)(2), notwithstanding *Begay*'s interpretation of the textually-different 924(e)(2)(B)(ii).

But here there is more. Unlike subsection 924(e)(2)(B)(ii), subsection 1512(c) uses different verbs and different direct objects for the crimes before the "otherwise" versus those after the "otherwise." In subsection 1512(c)(1), the direct objects are "record, document, or other object"—that is, the crimes in (c)(1) are "alters, destroys, mutilates, or conceals a record, document, or other object…." In contrast, after the "otherwise" in subsection 1512(c)(2), the direct object is the very different "any official proceeding." That is, the crimes in (c)(2) are "otherwise obstructs, influences, or impedes any official proceeding." There is an incongruity between at least two of the verbs after "otherwise" and two of the direct objects before "otherwise." It is unnatural to say that someone "obstructs … or impedes" a "record or document." It is also unnatural to say that someone "destroys, mutilates, or conceals" a "proceeding."

In subsection 924(e)(2)(B)(ii), there was no incongruity between the verbs and direct objects before the "otherwise" and those after the "otherwise." Subsection 924(e)(2)(B)(ii) applied to any crime punishable by more than a year in prison that "is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another." In that single paragraph, there was no discord between verbs and direct objects before and after the "otherwise." Three of the crimes before the "otherwise" were defined by nouns (burglary, arson, or extortion), not by using a verb with a direct object. Only one contained a verb and direct object—"involves use of explosives." The crime after the "otherwise" also used the exact same verb—"involves a serious risk of physical injury to another." Thus, in stark contrast to subsection 1512(c), there was no incongruity in 924(e)(2)(B)(ii) between any verb or direct object used before the "otherwise" and any verb or direct object used after the "otherwise." These textual and contextual differences provide more than sufficient reason to interpret "otherwise" in 1512(c) in accord with its dictionary definition, its common usage, and its thesaurus entries. *See Loughrin*, 573 U.S. at 357 (rejecting interpretation that would employ "a definition foreign to any dictionary we know of").

Moreover, the gloss of the majority opinion in *Begay* has been thoroughly undermined by two subsequent opinions. In *Sykes v. United States*, 564

U.S. 1 (2011), the Court stated that the gloss put on "otherwise" in *Begay* had "no precise textual link" to the statute but rather was "an addition to the statutory text." *Id.* at 13. *Johnson v. United States*, 576 U.S. 591 (2016), reiterated this same characterization of *Begay* in *Sykes*. 576 U.S. at 600. Sixteen years after *Begay*, today's more textualist Supreme Court should not extend to a different statute a statutory interpretation that creates "an addition to the statutory text." *See Loughrin*, 573 U.S. at 361 (refusing to extend a prior case's "counter-textual reading of a similar provision" to a different statute).

Nor, contrary to Pet. Br. at 24-26, does the word "proceeding" in 1512(c)(2) require an investigation or the introduction of evidence. If it did, there would be no federal "proceeding" under 18 U.S.C. subsection 1515(a)(1)(A) when this Court considers whether to grant, or grants, certiorari in a case from a state court. The Federal Rules of Evidence do not apply to appellate proceedings in this Court. Fed. R. Evid. 1101(a); *see* Sup. Ct. R. 17.2 (in an original action before this Court, "the Federal Rules of Evidence may be taken as guides").

To be sure, in exercising appellate jurisdiction over a state court decision, this Court considers evidence. But Congress likewise considers evidence under the Electoral Count Act, both before and after its recent amendment. The certificates of electoral votes transmitted by the designated state officials

are themselves evidence. Under 3 U.S.C. §§ 15 and 17, there are also written objections followed by statements by Senators and Representatives. A number of the Senators and Representatives who objected on January 6-7, 2021, are now *amici* in this case supporting petitioner. See *Amici* Br. of Sen. Cotton, Rep. Jordan, And 21 Other Members Of Congress, filed Feb. 5, 2024 ("Cotton-Jordan Br.").

On January 6-7, 2021, the statements of objecting Senators and Representatives, and the items they placed in the record without objection, were replete with reference to alleged facts and evidence. Those statements and record items include references to alleged evidence that (a) there were "copies of voter registration records" that showed illegal voting in Arizona, "1,000 affidavits and declarations pertaining to potential voter fraud in Arizona," "a minimum estimation of 160,000 fraudulent voters" in Arizona, "the Dominion voting machines with a documented history of enabling fraud," "[o]ver 400,000 mail-in ballots [that] were altered, switched from President Trump to Vice President Biden, or completely erased from President Trump's totals" in Arizona, "[o]ver 30,000 illegal aliens [who] voted in Arizona," "too much evidence of fraud, demonstrated by statistical anomalies that experts have determined cannot happen in the absence of fraud," "the evidence is compelling and irrefutable" that "Joe Biden gained roughly 1,032,000 votes [nationwide] from illegal alien voting," and in Pennsylvania, "more voters submitted ballots than

there were registered voters," (b) contrary to court decisions, there were multiple allegedly illegal ways that votes were cast and counted, and (c) supposed incongruities existed between President Trump's narrow losses in certain states versus wide margins in others. 116 Cong. Rec. H79-H80, H83-H85, H89-H90 (Jan. 6, 2021).

One objecting Representative even asserted: "These are all facts and certainly not 'evidence free.'" *Id.* at H90.[3] Many responded that, in fact, "there was no evidence of any wrongdoing that would change the outcome." *Id.* at H 78, H82, H88. In all, the objectors' statements, the items placed in the record, and the rebuttals take up 52 single-spaced pages (over 150 columns) in the Congressional Record. *Id.* at H77-H92, H98-112, S15-S38.

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[3] One of the *amici* joining this brief took the position that Congress has no authority to disallow electoral votes from a state where the state courts had rejected challenges to those electoral votes, no other branch of state government had transmitted certificates of different electoral votes, and no federal court had intervened. *See* A. Raul & R. Bernstein, *All Pence Can Do Is Count*, Wall St. J. (Jan. 3, articles/all-pence-can-do-is-count-11609710373) (accessed Feb. 20, 2024). This Court need not use this case to resolve the scope of the authority of Congress to reject electoral votes under those circumstances. Petitioner has never contended that Congress lacked the authority on January 6, 2021, to reject electoral votes. And it would make no difference to the outcome. A federal court case is always a proceeding, for example, even if the court has no constitutional or statutory jurisdiction in the circumstances of a particular case.

In future cases, this Court might have legitimate potential ways to give subsection 1512(c)(2) a permissible reading that narrows its reach. For example, there may be ambiguities in the verbs "obstructs," "influences," and "impedes." Under *noscitur a sociis*, corruptly "influences" might be interpreted by requiring a similarity to the words near it in subsection 1512(c)(2)—corruptly "obstructs" and corruptly "impedes." The Court might choose a narrower but textually-permissible mental state for "corruptly" and "attempts." Unlike the consideration of electoral votes under the Electoral Count Act, some sessions of Congress or a congressional committee might not be a "proceeding" if such sessions do not consider evidence or debate the correctness of court decisions. But fidelity to textualism precludes interpreting "otherwise" to limit "obstructs, influences, or impedes" by requiring similarity to the kind of acts set forth before the "otherwise" in subsection 1512(c)(1).

II. TO KEEP OUR REPUBLIC, THE POLITICAL BRANCHES HAVE THE AUTHORITY TO DETER CORRUPT OBSTRUCTION OF FEDERAL PROCEEDINGS.

Unlike Petitioner, some of Petitioner's *amici* attempt to bring questions before this Court that the Constitution assigns to the political branches. This Court should reject those attempts.

First, the Cotton-Jordan brief, at 25, argues that any punishment for invading the Capitol for

those who did not personally engage in violence should be "at most" six months or a year in jail. This ignores that here Petitioner allegedly used force. Resp. Br. at 8-9 (citing J.A. 192-99). As important, the maximum penalty for federal criminal activity, absent a violation of the Eighth Amendment, is quintessentially a question for the political branches that enact federal criminal statutes under Article I of the Constitution. And which of multiple available federal charges to pursue in any case is a matter assigned to the prosecutorial discretion of the Executive Branch by Article II. *See United States v. Armstrong*, 517 U.S. 456, 464-65 (1996) (federal prosecutorial charging decisions are "a core executive constitutional function").

Our Republic substitutes proceedings for might makes right. Without unobstructed proceedings, there is no rule of law and no constitutional system of government. As Justice Holmes wrote in the Leo Frank case, "[m]ob law does not become due process of law by securing the assent of a terrorized [decision-making body]." *Frank v. Mangum*, 237 U.S. 309, 347 (1915) (Holmes, J., dissenting, joined by Hughes, J.).

Because many times being on the losing side of a proceeding is devastating, the prospect of losing often stirs up fear and sometimes anger. This is true whether someone may go to jail (or even be executed), a defendant might have to pay a plaintiff a large sum of money, or one's favored candidate for

President may be declared to have lost. From mob bosses to the political mob, many experience the impulse to prevent or delay a proceeding that they dread losing. It is fully understandable that Congress would enact a statute with a lengthy possible prison term to deter the powerful impulse to corruptly prevent or hinder proceedings.

Mercy and leniency should play many important roles in our criminal justice system's treatment of those who violate any federal criminal statute. Mercy and leniency have an important role in charging decisions by the Department of Justice, in sentencing decisions by District Courts, and in clemency and pardon decisions by a President. But where, as here with 18 U.S.C. subsection 1512(c)(2), a criminal statute has a plain meaning, this Court cannot rewrite it because the potential maximum prison term is longer than the members of this Court might have enacted if they had legislative power.[4]

Second, the Cotton-Jordan brief at 28-30 argues, citing *McDonnell v. United States*, 579 U.S. 550 (2016), that subsection 1512(c) should be given a

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[4] Of course, if any criminal statute, including 18 U.S.C. § 1512(c)(2), is employed against speech or expressive conduct protected by the First Amendment, the courts must dismiss or at least narrow the charges. But no one has a First Amendment right to invade the Capitol, even as part of a political protest. *Cf. Frisby v. Schultz*, 487 U.S. 474, 479 (1988) (First Amendment does not confer right to engage in political protest in all places).

narrow interpretation because the Biden Administration purportedly has used it against political foes but not political friends. *McDonnell* is inapposite as it took pains to show that (i) unlike here, the statutory language of 18 U.S.C. § 201(a)(3) was ambiguous, and (ii) a host of factors not present here—including favorable dictionary definitions, indistinguishable precedent, and federalism—supported the narrower reading. 579 U.S. at 568-77. Not one word of *McDonnell* examined, much less suggested, that the then-current administration was making political charging decisions.[5]

Moreover, there are sound reasons for a Justice Department to treat the January 6, 2021, invasion of the Capitol as more serious than the "what-about" examples cited in the Cotton-Jordan brief at 29-30. Those examples are delaying the vote on a funding bill, a sit-in to protest foreign-policy, and the interruption of a congressional hearing.

To start, unlike those examples, the January 6, 2021, invasion sought to prevent the peaceful transfer of executive power after an election. That quadrennial transfer of executive power is not an everyday activity on Capitol Hill. Indeed, the peaceful transfer of executive power, unlike the Cotton-Jordan brief examples, is so uniquely important that it is expressly mandated *three* times

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[5] Petitioner's brief does not contend that his prosecution constitutes unconstitutional selective prosecution.

in the Constitution. Article II, Section 1, Clause 1 requires the incumbent who has lost or not sought re-election to leave at the end of "the term of Four years" so that the "executive Power shall be vested" in the newly "elected" President. The Twelfth Amendment provides that when the electoral votes are opened and counted in Congress, the person having the majority of the whole number of electors appointed "shall be the President." Section 1 of the Twentieth Amendment provides that the term of the outgoing President "shall end at noon on the 20th day of January" and "the term[] of the[] successor[] shall then begin."

If America ever allowed the powerful impulse of might makes right to prevail over the peaceful transfer of power, we would have failed to keep our Republic. *Cf.* National Park Service, "September 17, 1787: A Republic, If You Can Keep It" (quoting Benjamin Franklin on September 17, 1787 that the Constitution created "a republic, if you can keep it"). Any Department of Justice has the prosecutorial discretion under Article II of the Constitution to charge anyone who participates in an invasion of the Capitol to prevent the peaceful transfer of executive power with the most serious federal statutory crime available. Such prosecutorial discretion helps ensure that such an invasion never again occurs.

American history teaches the critical importance of deterring those who might engage in criminal conduct as part of efforts to overturn the

loss of a presidential election. 163 years ago, "[t]he event that precipitated secession was the election of a president by a constitutional majority." J. MCPHERSON, BATTLE CRY OF FREEDOM 248 (1988) ("*Battle Cry*"). On Nov. 10, 1860, four days after Lincoln won, South Carolina's legislature called a convention to consider secession.[6] On December 24, 1860, the South Carolina convention's Declaration of the Immediate Causes Which Induce and Justify the Secession of South Carolina from the Federal Union objected to "*the election of a man to the high office of President of the United States*, whose opinions and purposes are hostile to slavery."[7] (Emphasis added.) Six days later, South Carolinians seized the federal arsenal at Charleston without firing a shot. *See Chronology.* The Buchanan administration did nothing in response. *Battle Cry*, at 248. By 1865, "[m]ore than 620,000 soldiers [had] lost their lives in four years of conflict—360,000 Yankees and at least 260,000 rebels." *Id.* at 854.

There is simply no historical comparison between the consequences of criminal acts in

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[6] *Chronology of Events Leading to Secession Crisis*, AMERICAN HISTORICAL ASSOCIATION, https://www.historians.org/teaching-and-learning/teaching-resources-for-historians/sixteen-months-to-sumter/chronology ("Chronology") (last visited Jan. 12, 2024).

[7] Available at https://www.learningforjustice.org/classroom-resources/texts/hard-history/declaration-of-the-immediate-causes-which-induce-and-justify-secession (last visited Jan. 12, 2024).

opposition to the election of a new President—as illustrated by both our Civil War and the January 6, 2021, invasion—and the "what-about" examples discussed in the Cotton-Jordan Br. at 29-30. Indeed, no one was physically hurt as part any of those examples. And none of those examples threatened something remotely as fundamental to our constitutional system as the peaceful transfer of executive power.

Finally, the Constitution provides an ever-ready remedy if, unlike here, any administration engages in disparate enforcement of a criminal statute between perceived political foes and friends. The people can elect a different Congress and President. Together, the new Congress and President can amend the statute. Individually, the President can direct an end to the disparate enforcement and pardon or commute the sentences of prior offenders. The remedy is not for this Court, in violation of the separation of powers, either to rewrite the statute or to transfer to the Judiciary the prosecutorial discretion that Article II vests in the Executive Branch.

CONCLUSION

This Court should affirm.

Respectfully submitted,

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APPENDIX

TABLE OF APPENDICES

APPENDIX A
LIST OF AMICI CURIAE*

Charles Stevenson Abbot, Admiral, United States Navy (Retired), Deputy Commander, United States European Command, 1998-2000; Deputy Homeland Security Advisor, 2001-2003.

Donald Ayer, Deputy Attorney General, 1989-1990; Principal DeputySolicitor General, 1986-88; United States Attorney, Eastern District of California, 1982-1986; Assistant United States Attorney, Northern District of California, 1977-1979.

Louis E. Caldera, United States Secretary of the Army, 1998-2001; Director of the White House Military Office, 2009; President, University of New Mexico, 2003-2006; California State Assembly member, 1992-1997; United States Army officer, 1978-1983; currently Senior Lecturer of Business Administration, Harvard Business School.

E. Thomas Coleman, Member of Congress, 1976-1993; Missouri State Representative, 1973-1976; Assistant Attorney General of Missouri, 1969-1972.

Barbara Comstock, Representative of the Tenth Congressional District of Virginia, United States House of Representatives, 2015-2019; Member of the Virginia House of Delegates, 2010-2014; Director of

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* The views expressed are solely those of the individual *amici* and not any organization or employer. For each *amicus,* reference to prior and current position is solely for identification purposes.

Public Affairs, United States Department of Justice, 2002-2003; Chief Investigative Counsel, Committee on Government Reform of the United States House of Representatives, 1995-1999.

John Danforth, United States Senator from Missouri, 1976-1995; United States Ambassador to the United Nations, 2004-2005; Attorney General of Missouri, 1969-1976.

Mickey Edwards, Representative of the Fifth Congressional District of Oklahoma, United States House of Representatives, 1977-1993; founding trustee of the Heritage Foundation and former national chairman of both the American Conservative Union and the Conservative Political Action Conference.

Stuart M. Gerson, Acting Attorney General, 1993; Assistant Attorney General for the Civil Division, 1989–1993; Assistant United States Attorney for the District of Columbia, 1972–1975.

Wayne Gilchrest, Representative of the First Congressional District of Maryland, United States House of Representatives, 1991-2009.

John Giraudo, Attorney Advisor, Office of Legal Counsel, 1986-1988; Associate Deputy Secretary of Labor, December 1986-1988.

Edward J. Larson, Counsel, Office of Educational Research and Improvement, United States Department of Education, 1986-1987; Associate Minority Counsel, Committee on Education and

Labor, United States House of Representatives, 1983-1986; formerly University of Georgia Law School Professor; currently Hugh & Hazel Darling Chair in Law at Pepperdine University.

John LeBoutillier, Representative of the Sixth Congressional District of New York, 1981-1983.

J. Michael Luttig, Circuit Judge, United States Court of Appeals, 1991-2006; Assistant Attorney General, Office of Legal Counsel and Counselor to the Attorney General, 1990-1991; Assistant Counsel to the President, The White House, 1980-1981.

Reid Ribble, Representative of the Eighth Congressional District of Wisconsin, United States House of Representatives, 2011-2017.

Jonathan C. Rose, Assistant Attorney General, Office of Legal Policy, 1981-1984; Deputy Assistant Attorney General, Antitrust Division, 1975-1977; Associate Deputy Attorney General and Director, Office of Justice Policy and Planning, 1974-1975; General Counsel, Council on International Economic Policy, 1972-1974; Special Assistant to the President, 1971-1972; White House Staff Assistant, 1969-1971.

Nicholas Rostow, General Counsel and Senior Policy Adviser to the U.S. Permanent Representative to the United Nations, New York, 2001-2005; Special Assistant to the President for National Security Affairs and Legal Adviser to the National Security Council, 1987-1993; Special Assistant to the Legal Adviser, U.S. Department of State, 1985-1987;

currently, Senior Research Scholar at Yale Law School.

Robert Shanks, Deputy Assistant Attorney General, Office of Legal Counsel, 1981-1984.

Christopher Shays, Representative of the Fourth Congressional District of Connecticut in the United States House of Representatives, 1987-2009

Peter Smith, Representative of the at-large Congressional District of Vermont, 1989-1991.
Larry Thompson, Deputy Attorney General, 2001-2003; Independent Counsel to the Department of Justice, 1995-1998; United States Attorney for the Northern District of Georgia, 1982-1986; currently, John A. Sibley Chair of Corporate and Business Law at University of Georgia Law School.

Stanley Twardy, United States Attorney for the District of Connecticut,1985–1991.

Christine Todd Whitman, Administrator, Environmental ProtectionAgency, 2001–2003; Governor, New Jersey, 1994–2001.

Wendell Willkie, II, Associate Counsel to the President, 1984-1985; Acting Deputy Secretary, U.S. Department of Commerce, 1992-1993; General Counsel, U.S. Department of Commerce, 1989-1993; General Counsel, U.S. Department of Education, 1985-1988; currently, adjunct Professor of Law at New York University and adjunct fellow at the American Enterprise Institute.

Richard Bernstein, Appointed by the United States Supreme Court toargue in *Carmell v. Texas*, 529 U.S. 513, 515 (2000); *Montgomery v. Louisiana*, 136 S. Ct. 718, 725 (2016).