As he read two dissents from the bench on the last day of the 2006-07 term of the Supreme Court, Justice Stephen Breyer could barely contain his anger. In one short year, Breyer implied, on abortion, women's rights, civil procedure, freedom of speech, antitrust and the death penalty, the Roberts Court had departed from "stare decisis," the rule of precedent: "It is not often in the law that so few have so quickly changed so much."

Jeffrey Toobin agrees that John Roberts, a conservative, is actually an apostle of change, determined to put in place a new understanding of the Constitution. In "The Oath: The Obama White House and the Supreme Court," he provides a lucid, lively and astute analysis of the Supreme Court during Roberts' seven-year reign as chief justice. Although Roberts joined the four liberals on the court in upholding the Affordable Care Act in 2012, Toobin argues that he remains committed to advancing the right-wing Republican agenda -- and has the votes to do it. Roberts' majority opinion on health care, he adds, may have been "an act of strategic genius." With one stroke, he constrained the federal government from using the "commerce clause" to regulate the economy -- and insulated the court from criticism as it takes on the "combustible issues" that divide the country.

A staff writer for the New Yorker, senior legal analyst for CNN, and the author of "Too Close to Call" and "The Nine," Toobin has the chops (and the contacts) to take readers inside the court, capture the personalities of the justices, and parse the principles at stake in cases involving the right to bear arms, employment discrimination and campaign finance reform.

Sandra Day O'Connor and Anthony Kennedy, Toobin reveals, handled their roles as the "swing vote" quite differently. A former elected official, O'Connor was a compromiser, who tended to split the difference. A bloviator who relished his power, Kennedy was more likely to "swing wildly" with either the liberals or the conservatives. Toobin also refutes the notion that Clarence Thomas is a cipher, with no influence on the Court -- and takes Antonin Scalia to task for a palpable and decidedly un-judicial contempt for Congress and President Obama.

Most important, Toobin unleashes a withering assault on Scalia's "originalist" philosophy. Since the nation's founders were a diverse group, he indicates, there is often no single "framers' intent" to uncover. Even if there was, an individual right to bear arms would not tell us which arms.
Originalism, Toobin concludes, is not more principled than other interpretive methods. It is "another way for justices to achieve their political goals." But these days, "The Oath" makes clear, "a dead Constitution" dominates the deliberations of the United States' highest court.

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"The Oath: The Obama White House and the Supreme Court"
by Jeffrey Toobin

THE OATH

By: Jeffrey Toobin.

Publisher: Doubleday, 325 pages, $28.95.

Review: Jeffrey Toobin takes readers inside the Supreme Court, capturing the personalities of the justices and offering up a few big surprises.

Event: Talking Volumes, 7 p.m. Wednesday, Fitzgerald Theater, 10 E. Exchange St., St. Paul, $25.