



Supreme Court Justice Hearings Begin Tuesday

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For the first time in 11 years, senators are considering a new Supreme Court justice and debating legal issues that will shape the future culture and rules of life in America.

Senators will debate the future of the Supreme Court as hearings over President Bush's nomination of Judge John Roberts to be one of the nine top justices begin Tuesday.

Liberal and conservative activists are gearing up for a fight over legal philosophy that could have a profound affect on American society.

Roberts would replace Justice Sandra Day O'Connor, the first women Supreme Court justice, whose votes helped define laws regarding volatile issues such as abortion, affirmative action, states' rights and the death penalty.

In the coming decades, the Supreme Court also will hear cases having to do with the rapid changes caused by science, technology and the changing face of America, according to Jeffrey Rosen, a law professor at George Washington University.

Future cases could include such unpredictable issues as the genetic enhancement of children or the use of brain scanning to identify criminal suspects, Rosen predicted.

Seeking clues to Roberts' legal philosophy

Because Roberts spent most of his career as a lawyer hired to argue clients' cases, not much is known about his personal legal beliefs.

Most of the evidence of Roberts' legal philosophy is contained in documents from the 1980s when he worked for President Reagan. The writings show "a young, incredibly smart, witty, conservative lawyer who carefully and cautiously defended the positions of the conservative Reagan administration," said Supreme Court reporter Jan Crawford Greenberg who read many of the documents.

The documents include a reference to abortion as "tragedy," opposition to a federal court decision that aimed to insure equal pay for women and support for prayer in public schools. He wrote that a Supreme Court decision barring a certain case of school prayer "seems indefensible."

In 1995, Roberts supported the argument of a white businessman challenging a government affirmative action contracts program.

“The government has to act on the basis of who people are, not what they are. And that's a very powerful principle. It's the principle of equal protection,” he said in a NewsHour interview.

Senators will decide Roberts' fate

The 18 senators on the Judiciary Committee will ask Roberts questions and then vote on whether to report the nomination to the full Senate. A majority vote of the Senate is required to confirm a nominee.

The committee chairman, 75-year-old Republican Arlen Specter of Pennsylvania, will control the hearings. Specter, who recently lost his hair due to treatment for cancer, has said Roberts will likely be confirmed, but added that there will be questions about recent Supreme Court rulings overturning laws created by Congress.

“[Supreme Court justices] have taken over a great deal of Congress' authority in striking down very important legislation which we enact... key provisions are declared unconstitutional because the court does not think we have a sufficient factual record where I think we have a very extensive record,” he said.

“They have challenged our method of reasoning, and I do not believe they have any stature to say that our reasoning is deficient to theirs so that when we select people for the Supreme Court, I think that the Senate is under a very heavy responsibility to do our best to have a proper allocation of power among the branches of government.”

His Democratic counterpart, Patrick Leahy of Vermont, said Congress won't approve Roberts without close scrutiny. Leahy says some of Roberts' writings suggest a radical legal philosophy “intent on reversing decades of policies on civil rights, voting rights, women's rights, privacy and access to justice.”

“I wanted to make sure he understands there's a lot of discrimination in the United States today. We have laws that try to redress that and is he going to be open to the application of those laws?”

The hearings are expected to last several days.

--Compiled by Leah Clapman for NewsHour Extra

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