

STUDENT ACTIVITY: Senate Judicial Committee Confirmation Simulation

Student Handout:

Senate Role Description

Strong Conservative Committee Member

Historical Background:

With the retirement of Justice David Souter, President Obama will nominate his first member to the Supreme Court. Justice Souter surprised many when after being nominated by George H.W. Bush he sided with the more liberal leaning justices of the Court. From the earliest years, the Senate has guarded its power to review and approve or reject Presidential nominees to the Supreme Court. Since the early days of the republic, the Senate has considered a nominee's qualifications, the importance of the position and the prevailing political climate in providing advice and consent to the President on his nomination. Your sub-committee's task is to consider the nominee's qualifications and opinions on various issues and determine whether he should be approved by the Senate.

Directions:

1. Review the role description for your sub-committee and the guide for evaluating a Supreme Court nominee with your other committee members.

Role Description: Strong Conservative Committee Member

This group feels too many court nominees are subjected to a "litmus test" on whether they would rule a certain way in such controversial cases as gay rights, abortion, or the death penalty. They want the nominees to be evaluated on their merits, intellect, and competency. They strongly disagree that the president should have to consult with the

Senate on who he chooses or be forced to choose a consensus candidate. The president won the election; the president has the sole honor of choosing his candidate. They accept that the president might choose a candidate that will uphold the country's religious heritage.

Many on this sub-committee strongly oppose gay marriage, stem cell research, and abortion. They feel these issues are best addressed by the legislature and they want

Supreme Court justices who will honor this and not try to change state or federal laws that support these views. They will not hesitate to impose the "constitutional option" to end filibusters on judicial nominees.

Research Guide

- Provide a brief biography on the potential nominee, including his/her current position, education, and other legal or political experience.
- Provide a brief summary of the nominee's opinions on important issues of concern to the nation, such as abortion, affirmative action, and the death penalty, Clean Air Act, the Clean Water Act, the Occupational Safety and Health Act, and the National Labor Relations Act, Church and State, and others of interest to the sub-committees.
- Identify significant similarities and/or differences between this person's opinions on those key issues to those of Justice Souter. The sub-committee members can express whether this is positive or negative.

- Declare the sub-committee's vote on whether to accept or reject the nominee. In case your sub-committee cannot come to a consensus, each member of the committee can independently express their view on the nominee.

2. Research one of the people whose name made it to the short list of potential nominees or the President's nominee to the Supreme Court following the guide below using the NewsHour's website and other major media outlets. You can also use any of the websites for the interest groups listed below. Understand that these groups have specific agendas and might be favorable or unfavorable to a specific candidate and the information from these sites should be taken in that context.

3. As a group, present your findings to the entire class starting with a description of your subcommittee. Follow the research guide to complete your presentation.

Follow up questions:

- What did you learn about the nominee you researched in class?
- What is your personal opinion on whether or not you support this potential nominee as Justice Souter's replacement and why?
- What challenges do you see to the nominee's appointment to the Court, and from whom or where might these challenges arise?
- Of all the people mentioned as potential nominees, who do you think would best fill Justice Souter's position and why?
- In what direction do you think the nominee you researched would lead the country? What is your opinion on that?

Resources:

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Directions:

1. Review the role description for your sub-committee and the guide for evaluating a Supreme Court nominee with your other committee members.

Role Description: Moderate Conservative Committee Member

This group wants a Supreme Court justice that looks for pragmatic solutions for the nation's problems. They want a justice who will look at each case on its own merits. This might mean someone who is not from the judiciary, a lower court justice, but instead someone with more breadth of experience. They want someone who has the legal qualifications but might be a state attorney general, former governor, or U.S. Senator. This group encourages a moderate nominee and one that reflects where it sees the majority of the American people. This would be a justice who sees that religion has a role in society and in certain circumstances can be incorporated into government institutions. They want a justice that follows the will of the American people who are against abortion. They want someone who will understand that in these extreme times the rights of the individual in cases of privacy, property rights, and environmental controls must give way to the will of the majority for the sake of the economy, protection and advancement of the nation.

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Role Description: Strong Liberal Committee Member

Members of this group are concerned with the judicial philosophy of the candidate. They do not want a Court majority that would take a backward-looking 19th Century view of the Constitution. They make no apology for using the filibuster to protect the federal courts and people of the country from ideological, activist judges who put their personal views ahead of the law. They express strong concern toward candidates who place business interests ahead of the interests of the people, where they base their decisions more on their personal ideology than legal precedent or legislative law. They want a justice who is neutral toward religion, keeping the wall separating church and state strong and unwavering. They are concerned that a conservative justice would create a majority that wants to overturn privacy rights of pregnant women, affirmative action, disabled persons, eliminate true government neutrality toward religion, ease pollution controls and invalidate important state laws protecting patients.

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