

## Student Handout: Background History on the Supreme Court Confirmation Debate

### Activity 3, Part A

Name \_\_\_\_\_

Date \_\_\_\_\_

**Directions:** Go to the July 5, 2005 PBS NewsHour segment “Supreme Court History” [http://www.pbs.org/newshour/bb/law/july-dec05/history\\_7-5.html#](http://www.pbs.org/newshour/bb/law/july-dec05/history_7-5.html#). The transcript of the interview between correspondent Gwen Ifill and Professor Ellen Fitzpatrick is on the website. A video stream of the conversation can also be accessed there. Review the interview and answer the questions below.

- Ms. Ifill refers to a “titanic struggle” in the Supreme Court confirmation process. What is Professor Fitzpatrick’s historical assessment of this struggle? Who was the struggle between in the 19<sup>th</sup> century and what was it based on? How has the basis of this struggle changed since the Warren Court?
- Analyze the comment – “Mostly, the Supreme Court is a fairly conservative institution, and rarely does it lead in advance of Congress or the president himself.” What does Professor Fitzpatrick mean by this comment? How did the case of *Brown v. Board of Education* change the traditional role of the Supreme Court as a follower of the president or Congress?
- Professor Fitzpatrick states the Supreme Court has become a “cultural touchstone for topics like segregation and most recently abortion. What is a cultural touch stone? How does this relate to the selection of Supreme Court justices? How do these touch stone topics affect the dynamics of federalism (the balance of power between the state and federal governments)? What is at stake for the proponents and opponents of these cultural touchstones in the process for confirming Supreme Court justices?
- Professor Fitzpatrick speaks of the nomination hearings becoming more divisive in recent history due to the ideological position of the candidate. What role have special interest groups played in this process? Identify and explain the historical examples of earlier ideological differences between Supreme Court nominees and the public. How might these relate to the ideological differences in society today?