The Modern Supreme Court

The Confirmation Process

After the president, with the help of his advisors, has selected a suitable candidate for the Supreme Court, the Senate has the opportunity to conduct a confirmation hearing. The nominee is present for this hearing and will be called upon to provide information about his or her background and qualifications. Senatorial confirmation ensures that a president will not be able to pack the court with his friends and political partners rather than qualified candidates. Because of this, the Senate hearings can also delve into personal matters, such as a candidate's financial dealings or other aspects of the nominee's personal life.

One recent example of a Supreme Court nominee's personal life being intensely examined was the 1991 nomination by President George H.W. Bush of Clarence Thomas. Thomas had previously served as the Chairman of the Equal Employment Opportunity Commission, and in that position, an attorney named Anita Hill had served as one of his special assistants. Thomas had already endured the routine but intense round of questions from the Senate regarding his qualifications for serving as a Supreme Court justice when Hill stepped forward to accuse him of sexual harassment.

The Senate, which had been preparing to vote on Thomas's nomination, called Hill in to testify and recalled Thomas to address the allegations. Due to public interest, the two-week confirmation inquiry was televised, and many people were spectators to this unusual confirmation proceeding. In the end, Thomas was narrowly confirmed by a 52-48 vote and took his seat as an associate justice.

Although Thomas's confirmation was high-profile due to the allegations that had been levied against him, there have been other controversial nominations, not all of which have had the positive outcome Thomas enjoyed. In 1987, Robert H. Bork was nominated to fill a vacant seat by President Reagan. Bork, a staunch conservative, was perceived to be opposed to advancements in civil liberties. After a 23-hour senate confirmation hearing, his appointment was defeated by a 58-42 margin.

Not all Supreme Court nominees evoke such powerful responses. The nomination of David H. Souter by President George H.W. Bush in 1990 was such a quiet affair that the media dubbed Souter the "stealth justice." His record as an attorney and judge was fairly unblemished, and so his nomination was confirmed by an overwhelming majority of 90-9. Souter has earned the respect of his political peers, but like past Chief Justice Earl Warren, Associate Justice Souter disappointed his nominating president by proving not to be as conservative as Bush had hoped.

Both the president who selects a nominee and the Senate that confirms the candidate can be influenced by interest groups. Interest groups are groups of people with a shared set of beliefs and similar policy goals who have organized to present a funded, structured, and unified voice on their issue. Although interest groups tend to have narrow concerns, such as the environment, education, and women's rights, most interest groups are involved in a broad range of activities relating to their cause. Through activities such as newsletters, Web sites, direct mailings, organized protests, financial contributions to parties and candidates, and press conferences, interest groups can influence every governmental nomination, appointment, and confirmation, including Supreme Court appointments.

One modern example of an active interest group is the People For the American Way (PFAW). This
group, founded by Norman Lear and now headed by President Ralph Neas, advocates the promotion of diversity as its primary focus. One way the PFAW might advance this interest is by lobbying political leaders to ensure that Supreme Court nominees represent America's diversity.

The PFAW has largely been successful in their cause. For example, the 2004 Supreme Court includes four justices who are considered liberal, two conservatives, and four moderates. Seven of the justices are Republicans and two are Democrats. The diversity among the justices ensures that each case that comes before the Supreme Court receives a thorough review, which is a critical element in the American government system.

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