

'Supreme Court appointments are always controversial' discuss

There are nearly always arguments over whether an appointment to the Supreme Court was correct or not. However, we can see that the court is pretty balanced between conservatives and liberals. Some might say that Supreme Court appointments are controversial simply because of the nature of them – they are political appointments. Some may also say that these appointments must be controversial, because a Supreme Court appointment – is for life, and they are also granted the power of judicial review. Therefore if there is no debate over a nomination – surely there must be something wrong, as it would be extremely hard to have a 'perfect' appointment per se. Others may say that the controversy of the appointment really depends on which seat is up for grabs. Judicial nominations are considered extremely important – firstly because they occur infrequently, secondly, the appointments are for life, thirdly, there are only nine members of the Supreme Court, so therefore In appointing a justice, a president is replacing one ninth of the court membership and lastly because of the power of judicial review as I said earlier.

One might say that Supreme Court appointments are controversial because of the amount of power which is vested in the Supreme Court. The Supreme Court holds the power of judicial review over both the executive and the legislature. The power of judicial review is the power of the judiciary to declare acts of Congress and the executive unconstitutional and therefore null and void. This therefore means that the Supreme Court can strike down bills. We saw this recently in 1998 with the Clinton v. New York City, it declared the Line Item Veto act unconstitutional. Therefore, we can see simply by the powers held by the Supreme Court that appointments have to be controversial, in order to ensure that the right appointment is made.

Because of the infrequency of judicial appointments, and the idea that Supreme Court justices are appointed for life, this would mean that once again, because of the magnitude of the appointment, the Senate and Executive must ensure that the correct nomination is confirmed into the Senate.

The main controversial issues of the United States can also be decided in the Supreme Court, for example the issue of abortion. We also saw an effectively landmark case be decided in the Supreme Court, in the Bush v. Gore case, on December 12th 2000, the 2000 Presidential election, was effectively resolved in favour of George W. bush.

Also, because of the somewhat flexibility of the United States Constitution, the Supreme Court is able to interpret the Constitution as it sees fit. The Constitution is interpreted every day by the Supreme Court, and therefore

The type of nomination however, could dictate how controversial the appointment is. Candidates could be nominated by the President as he believes they share his/her judicial philosophy. As we saw recently with Obama appointing Sonia Sotomayor in the hope to create an echo chamber for him in the Court.

However, it could also be argued that not always are judicial nominations controversial because of Congressional oversight. Judicial nominations must first go through an extremely gruelling process, prior to their appointment and confirmation to the Supreme Court. The process involves firstly a vacancy occurs through voluntary retirement, death or impeachment, the President will then investigate a search for possible nominees and interviews short-listed candidates. After the interviews have

taken place, the president will announce his nominee. The Senate confirmation process begins in the Senate Judiciary Committee and ends on the floor of the senate. However, we can say that therefore, because prior to a nominations confirmation to the Supreme Court, the process ensures that the candidate is 'up to the job'. We can see that previously controversial appointments such as Harriet Miers – who was simply 'not up to the job', and Robert Bork have not passed through the Senate. This proves that appointments are not always controversial, as these controversial appointments will not make it through the gruelling confirmation process. However, as we have seen with the Samuel Alito confirmation, senators from the Presidents party tend to use the confirmation as an occasion to throw soft questions at the candidate, without really trying to probe the candidate for answers that might reveal whether or not the candidate is suitably qualified for the job. Whereas senator from the opposition party use the occasion to look for opportunities to attack and embarrass the nominee - they are often more interested in scandal, innuendo and gossip than in competence. Therefore, if the process is not an effective one, maybe it does mean that judicial nominations are more controversial.

It can also depend on how the appointment is going to affect the balance of the Court. For example, Sonia Sotomayor was a left wing, Hispanic female. Because of the political situation in the Court at the time, the appointment of Sotomayor was not considered to be controversial. Sotomayor also won the majority of the public, as she accounted for a large percentage of Hispanic Americans, and also females

In Conclusion, I do not agree with the said statement, this is because I really believe that it depends on the seat that is being filled, and how it affects the balance of the court – as we saw with Sotomayor, this was an extremely un controversial appointment, as she did not overly affect the balance of the court. Also, largely controversial appointments do not get through to confirmation process, and as we saw with Harriet Miers, if the nomination is not up to the job – they will not get a confirmation by the Senate. However, appointments are still hugely political, and a President will look to nominate a candidate who shares a similar political ideology – regardless of their qualifications in some cases. However, I still believe that in general, there must be some degree of controversy in the nomination process, as this will ensure that the correct person is nominated and then confirmed, simply because of the magnitude and scope of the position, the powers it holds and the ways it can affect the people of the United States.