

## **202-204 KEY TERMS**

judicial restraint: "i must only pass decision based on prior rulings and not involve my personal opinion, it's not my job to create the law only to judge it"

judicial activism: "the opposite of that"

## **205-210**

### **PROCEDURE FOR ENTERING NEW JUSTICES TO THE SC**

1. A seat opens up, either because Congress made a new seat or an existing seat was opened by a death, etc.
2. The President picks anyone to get appointed, although other bodies can give inputs.
3. The Senate, using it's advice and consent powers, tasks the Senate Judiciary Committee. The people on said committee ask them about prior rulings and try to gauge their ideology by asking "what would you do". If it's a lower court, the Senate won't really contest it unless there is a critical and valid reason.
4. The entire Senate can do three things: go ahead and vote yes, go ahead and vote no, or do nothing and let the timer go out. There have only been 11 instances where the Senate actively votes and ejects a nominee.

*Senatorial Courtesy: an unwritten rule that, during nomination process for lower courts, where it's agreed that a Senator from MD will know MD appointees the best. There is a procedure that states the two senators both have to consent to having someone from their state go ahead and get appointed. This has encouraged Presidents to consult with home state senators throughout the process of appointment to lower courts.*

### **INTEREST GROUPS AND APPOINTMENT**

Until 1929, Confirmation hearings were held in private. After which however, they became visible to the public and have included people vouching for or against the nominee. Interest groups also see this, and urge people to vote and tell their Senators to vote a certain way in order to protect their interests. "This judge could really benefit us. Tell people to tell their Senators to vote YES to this judge so we can further our interests".

### **BORKING**

Until the Reagan administration, ideology was not often a criteria for entry onto the SC. When Regan appointed Robert Bork, who was an advocate for non-activist rulings. Those responsible for confirmations were warned that Bork's extreme views and interpretation would lead to a setback in civil rights. He was not voted in.

Borking is defined now as "destroying a judicial nominee through a concerted attack on their character, background and ideology."

## **THE NUCLEAR SHENANIGANS**

At one point, Democrats, who were the minority party at the time, were blocking most appointments via filibustering. Republicans threatened to change the rules and stop this filibustering. This was killed however as both sides compromised and did not change any procedures.

Such partisan shenanigans are common when openings are created on courts, as their decisions could influence decades of law. Another example of this was when Republicans blocked an appointment until another president was elected (2016). This would however take almost a year, so Obama chose another one and was threatened with nuclear shenanigans.

Technically, there are no mins or maxes when it comes to when stuff has to happen while appointing justices.

## **CONNECTIONS TO OTHER BRANCHES**

### *EXECUTIVE*

Executive law enforcement agencies such as the DOJ enter federal courts to enforce national law and answer legal questions. The Executive branch also investigates crime via the DEA, FBI, etc. and sues people accordingly, under the supervision of the Attorney General.

There is also a solicitor general appeals cases up to the SC ("US vs. Person" cases). Besides that, they are often appointed to the SC and often provide their input when the US is not involved, through the amicus curiae brief ("rule this way pretty please?")

### *LEGISLATIVE*

Congress does have the power to remove both executive and judicial officials, as well as set their salaries. If a federal judge acts unethically or illegally, they can be impeached (although at one point someone tried it in an attempt to boost their political power, to no avail).

Aside from that, A3 gives Congress the power to create and manage the courts, which has led to changes in jurisdiction over the years. When someone said "ok so you need to be a state or an ambassador to have original jurisdiction in the SC", they defined standing, or the role one or both parties have to be in order to have a certain type of jurisdiction.

In some cases, Congress will strip away some of the jurisdiction from the courts or shift it to other courts to give themselves more power.