Judiciary and Political Parties

- Court rulings on rights of parties
- Parties and selection of judges
- Political party influence on judges’ decisions

Court Rulings on Parties

- Supreme Court can and does avoid rulings by referring to them as political questions
  - Only accepts 5% of cases
  - Avoided reapportionment until 1960s
- In recent years upheld many rights of parties

Presidential Nomination Rules

  - 2 competing delegations from Illinois
  - Convention sat Cousins delegation that followed party rules rather than Wigoda delegation selected by state rules
  - Court ruled for party’s right to determine which delegation valid

Presidential Nomination Rules

  - National party rules on closed primaries supercede state law on open primaries
Rights of Party to Choose Primary Voters

  - party can invite independent voters
  - blanket primary violates party’s right to choose voters

Organizational Rights of Parties

  - designated composition of party committees
  - designated time and place of meetings
  - designated requirements for holding party posts
  - prohibited endorsements during primary

Party and Judicial Appointments

- National
- Appointed by president confirmed by Senate
- Number of judicial slots vary by president
- Presidents appoint from own party

Number of Supreme Court Appointments

Average = 2
Other Judicial Appointments

- About 50 judges per year
- Senate confirmation process
  - “Senatorial courtesy” for district judges
  - Hearing in Judiciary Committee
  - Majority vote on Senate floor
    • Most win by lopsided vote

Partisan politics

- Speed at which appointments heard
- 90% from president’s party
- 2005 battle over judicial filibuster

Percent of District and Appellate Court Judges from President’s Party

Gender, Race, Ethnicity of U.S. Court of Appeals Judges

Source: Vital Statistics on American Politics, Table 7.6

### Senate Rejections
- 29 out of 145 (20%) for Supreme Court
- Most (22/29) before 1900
- Recent
  - Abe Fortas 1968 (Johnson)
  - Clement Haynsworth (Nixon)
  - G. Harrold Carswell (Nixon)
  - Robert Bork (Reagan)

### Senate Battle
- Clarence Thomas (1991 - Bush)
  - legal record
  - interest group involvement
  - Anita Hill, sexual harassment, Equal Opportunity Commission
  - Floor vote, 52 for, 48 against
- Samuel Alito (2006 – G.W. Bush)
  - Filibuster failed
  - Floor vote, 58 for, 42 against
  - 1 Republican vote against, 4 Democrats vote for

### Judicial Selection in the States
- Nonpartisan elections - 13
- Retention elections - 17 (AZ, CA)
- Partisan elections - 9
- Gubernatorial appointment - 7
- Legislative appointment - 4
- Several methods per state
- Vacancies often filled by governor

### Voting in Judicial Elections
- Often unopposed
- Voters know little about candidates
- Endorsements
- Partisan elections provide one voting cue
Partisan Influence on Judicial Decisions

- Lowest courts
  - little role, mostly routine decisions
- Mid-level appeals courts
  - mostly routine
  - a few cases partisanship influence

Partisan Influences on Supreme Court

- Not routine decisions
- No one interpretation of Constitution or laws
  - 60% of cases dissenting opinions
- Decisions based on
  - Precedent (*stare decisis*)
  - Justices’ ideology/partisanship

<table>
<thead>
<tr>
<th>Liberal</th>
<th>Conservative</th>
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<tr>
<td>Ginsburg</td>
<td>Souter</td>
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<td>Stevens</td>
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<td>Breyer</td>
<td>Thomas</td>
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<td>Kennedy</td>
<td>Scalia</td>
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I ideological Orientation of Current Supreme Justices


- November 8 election, mandatory recount
- November 21 Florida Supreme Court rules for more hand recounts
- December 4, US Supreme Court vacates Fl Supreme Court ruling & send case back down for reconsideration

<table>
<thead>
<tr>
<th>Appointed by President:</th>
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<tbody>
<tr>
<td>Ford</td>
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- December 8, FL Supreme Court reinstates hand count
- December 12, U.S. Supreme Court reverses Florida Supreme Court
- December 13, Gore concedes


- 5 (Kennedy, O’Connor, Rehnquist, Scalia, Thomas) – 5 Republicans
- 4 (Breyer, Ginsburg, Souter, Stevens) – only 2 Democrats + Ford, Bush appointees
- Erratic recount violate equal protection
- Not enough time for full recount

Public Opinion:
S. C. Decision Fair

Public Opinion: Reason Behind Court’s Decision
Public Opinion:
Bush Presidency Legitimate

![Bar Chart]

No | Somewhat | Yes | Don't know
---|----------|----|----------
0  | 10       | 60 | 20      