

Paths of Research: Research Proposal

‘To what extent can the nomination and subsequent confirmation of John G. Roberts, Jr. as Chief Justice of the United States Supreme Court be regarded as bipartisan? A qualitative analysis based primarily on the Senate Judiciary Committee confirmation hearing. Consideration of the media perspective will be afforded through the qualitative text analysis of relevant New York Times news articles and editorial comment.’

Introduction

In September 2005, in the East Room of the White House, John G. Roberts, Jr. was sworn in as the seventeenth Chief Justice of the United States.¹ The brief ceremony marked the conclusion of the appointment process prescribed by Article II of the United States Constitution, which states that the President, ‘shall nominate, and by and with the advice and consent of the Senate, shall appoint Judges of the Supreme Court’.²

Beyond the normative understanding of the constitutional procedure that led to Judge Roberts’ appointment, the principal aim of the research project is to establish the degree to which the process of executive nomination and legislative confirmation can be regarded as bipartisan.

¹ Office of the Press Secretary, ‘President’s Remarks at Swearing-In Ceremony of Chief Justice Roberts’ *White House*, 29 September 2005, <http://www.whitehouse.gov/news/releases/2005/09/20050929-3.html> (accessed on 25 November 2006).

² The National Archives, ‘Constitution of the United States’ <http://www.archives.gov/national-archives->

The Background of the Research Proposal

The context of the research proposal is the fractured political environment that has increasingly surrounded the institutions of the United States government since the contested election of President George W. Bush. Following the divisive 2000 presidential vote, which culminated with the intervention of the United States Supreme Court,³ both the defeated candidate and the successful president-elect cited the need for 'bipartisan cooperation'⁴ and declared that, 'what remains of partisan rancour must now be put aside'.⁵

The Supreme Court of the United States, through its interpretation and judgements, upholds the Constitution and is recognisably 'engaged in the political process'.⁶ Though the President, through their candidate for nominee, has the opportunity to influence the future political direction of the Court, the constitutional requirement for the 'advice and consent of the senate' is designed to balance executive authority and ensure a more independent judiciary.⁷ In considering the political motivations behind the nomination and subsequent confirmation of the Chief Justice, the opportunity is afforded to assess the measure of bipartisanship with regard to a specific and significant aspect of United States politics.

Following the retirement of Justice Sandra Day O'Connor, Judge Roberts was initially nominated as an Associate Supreme Court Justice in July 2005. However, after the death

experience/charters/constitution_transcript.html (accessed on 25 November 2006).

³ Marcus, J. and Reynolds, P. 'What the ruling means' *BBC News*, 13 December 2000, <http://news.bbc.co.uk/1/hi/world/americas/1068686.stm> (accessed on 25 November 2006).

⁴ George W. Bush 'Victory Speech' *The Guardian*, 14 December 2000, http://www.guardian.co.uk/US_election_race/Story/0,2763,411232,00.html (accessed on 25 November 2006).

⁵ Al Gore 'Concession Speech' *The Guardian*, 14 December 2000, http://www.guardian.co.uk/US_election_race/Story/0,2763,411233,00.html (accessed on 25 November 2006).

⁶ Abraham, H. J. *Justices and Presidents: A Political History of Appointments to the Supreme Court* (New York: Oxford University Press, 1974) p. 272.

⁷ Harris, J.P. *The Advice and Consent of the Senate: A Study of the Confirmation of Appointments by the United States Senate* (Los Angeles: University of California Press, 1953) pp. 302-324.

of Chief Justice William Rehnquist in September, the President withdrew the nomination and instead nominated Judge Roberts to replace Chief Justice Rehnquist.

The Senate, having received the nomination, referred the matter to the Committee on the Judiciary. While consideration will naturally be given to the statements and press briefings associated with the President's selection of nominee,⁸ the primary focus of the research project will be the subsequent Judiciary Committee confirmation hearing.

The confirmation hearing began with initial statements from the eighteen members of the Committee, followed by the presentation of the nominee by three non-committee senatorial sponsors. After a statement by the nominee, the substantive process of confirmation comprised four days of testimony with Judge Roberts answering questions from the Senators of the Committee. The hearing concluded with submissions for the record before being referred back to the Senate for final confirmation.⁹

Methods & Sources

The verbatim transcript of Judge Roberts' testimony to the Committee, amounting to 450 pages, together with the final report (some 1452 pages in total),¹⁰ provides the basis for a detailed qualitative textual analysis. Through the structured assessment of this primary information, and in particular the questions from Senators, together with the nominee's respective answers, the evidence for political partisanship can be determined.

Fundamental to the research project, though, is the identification and development of a clear, coherent and applicable description of bipartisanship. Equipped with an applicable

⁸ For example, The White House: Speeches & News Releases *Judicial Nominations* <http://www.whitehouse.gov/infocus/judicialnominees/> (accessed on 25 November 2006).

⁹ Government Printing Office *Transcript of the Senate Committee on the Judiciary Confirmation Hearing on the Nomination of John G. Roberts, Jr. to be Chief Justice of the United States* <http://www.gpoaccess.gov/congress/senate/judiciary/sh109-158/browse.html> (accessed on 25 November 2006).

¹⁰ United States Senate Committee on the Judiciary *Confirmation Hearing on the Nomination of John G. Roberts, Jr. to be Chief Justice of the United States, Hearing, September 12-15, 2005* (Washington D.C.:

definition, the transcript of the confirmation hearing can be analysed and the measure of bipartisanship evaluated.

Naturally, with the membership of the Senate Judiciary Committee comprising ten Republicans and eight Democrats, contentious and conflicting partisan issues, ranging from abortion and capital punishment,¹¹ through to education and civil liberties,¹² inevitably featured in the questioning of Judge Roberts.

With the final Senate debate, Judge Roberts was confirmed by a Yea-Nay Vote 78 - 22.¹³ Evidently, while some Democratic Senators put aside partisan differences and supported the President's nominee, others decided to vote against.¹⁴

The Media Perspective

Through the qualitative consideration of relevant news articles and editorial comment, the inclusion of a media perspective will facilitate comparative analysis between the conclusions drawn from the principal research and the degree to which these conclusions concur with the press view.

The specific selection of The New York Times is dictated by both pragmatism and preference. With an accessible and searchable archive,¹⁵ The New York Times covered, in depth, both the nomination and the subsequent confirmation of Judge Roberts, and provided throughout analysis and editorial comment.

U.S. Government Printing Office, 2005).

¹¹ Abraham, H. J. *Justices and Presidents: A Political History of Appointments to the Supreme Court* (New York: Oxford University Press, 1974) p. 256.

¹² Abraham, H. J. *Justices and Presidents: A Political History of Appointments to the Supreme Court* (New York: Oxford University Press, 1974) p. 220-232.

¹³ THOMAS (Library of Congress) *John G. Roberts, Jr. to be Chief Justice of the United States* <http://thomas.loc.gov/cgi-bin/ntquery/r?nomis:109PN0080100> (accessed on 25 November 2006).

¹⁴ United States Senate *Vote Summary on the Nomination (Confirmation John G. Roberts, Jr. to be Chief Justice of the United States)* 29 September 2005, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00245#state (accessed on 25 November 2006).

¹⁵ Accessible, via Athens login, through Thompson Gale Custom Newspapers.

Significantly, The New York Times is particularly preferred in the context of this research proposal because, unlike the Washington Post,¹⁶ it has a daily national circulation and consequently, despite its metropolitan home, has to appeal to a national and politically diverse readership. Furthermore, in their study, ‘the political economy of the mass media’, Noam Chomsky and Edward Herman reflect that, although The New York Times may represent corporate and commercial interests, it is not demonstrably biased in the promotion of either a liberal or a conservative agenda.¹⁷

In considering whether the confirmation process was bipartisan, the inclusion of a media opinion from a source without partisan political bias, such as The New York Times, adds a further dimension to the impartial comparative analysis of the research project.

Conclusion

Through the qualitative textual analysis of primary information, principally the report of the Judiciary Committee confirmation hearing, together with analysis of relevant New York Times news articles and editorial comment, the research project will determine the extent to which the nomination and subsequent confirmation of Judge Roberts as Chief Justice of the United States Supreme Court can be regarded as bipartisan.

The schedule for the research project is detailed in the accompanying time plan (see Appendix I).

(Number of Words: 1001)

¹⁶ The Washington Post *Circulation and Reach*
http://advertising.washpost.com/the_newspaper/circulation_and_reach/coveragemap.jsp (accessed on 25 November 2006).

¹⁷ Chomsky, N and Herman, E.S. *Manufacturing Consent: The Political Economy of the Mass Media* (London: Vintage, 1994).

Appendix I Research Time Plan

Week Commencing 11/12/2006	Collate relevant general press statements relating to the nomination.
Week Commencing 18/12/2006	Research the question of 'bipartisan'. Identification and development of an applicable definition.
Week Commencing 25/12/2006	Christmas
Week Commencing 01/01/2007	Research and print New York Times news articles and editorial comment.
Week Commencing 08/01/2007	Research political background / partisanship of the Judiciary Committee members.
Week Commencing 08/01/2007	Initial read through of Committee hearing report, annotating text as necessary and making relevant notes.
Week Commencing 15/01/2007	Exam Week One
Week Commencing 22/01/2007	Exam Week Two
Week Commencing 29/01/2007	Consideration of the Senate debate, making notes as necessary of relevant material.
Week Commencing 05/02/2007	Comprehensive textual analysis of the of the Committee hearing, referring back to initial notes.
Week Commencing 12/02/2007	Further comprehensive textual analysis of the of the Committee hearing, referring back to initial notes.
Week Commencing 19/02/2007	Textual analysis of The New York Times, referencing information from the analysis of the Committee hearing.
Week Commencing 26/02/2007	Synthesis of research findings from both the Committee hearing and The New York Times.
Week Commencing 05/03/2007	Development and revision of findings, planning of draft research report.
Week Commencing 12/03/2007	Write draft outline plan of research report.
Week Commencing 19/03/2007	Contingency period to further develop research report, catch up with any unresolved difficulties.
Week Commencing 26/03/2007	Easter
Week Commencing 02/04/2007	Completion of the final draft of the research report.
Week Commencing 09/04/2007	Revise / amend / rewrite as necessary the research report.
Week Commencing 16/04/2007	Completion of the research report.
Week Commencing 23/04/2007	Contingency period for completion of any outstanding issues.
Week Commencing 30/04/2007	Submission of Research Project

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