Political Science 417
Selection of Federal Judges

Constitutional Provisions
- Article 2
  The President shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by Law . . . but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law or in the Heads of Departments.
- Supreme Court Justices
- Lower courts

Formal Procedures Versus Political Realities
- The players
- Their interests
  - Competence
  - Political Support
  - Policy Goals/Ideology
- Changing balance
  - From Patronage
  - To Policy
**District Judges**

**The President**
- Department of Justice
- White House staff
- Concerns
  - quality/qualifications
  - acceptability to the other players
  - political
    - patronage/rewards
    - ideology
    - party
    - demographic representation

**District Judges**

**The Senate**
- individual senators
- Judiciary Committee
- senatorial courtesy
- blue slip system

**District Judges**

**Outside Parties**
- Candidates
- Legal profession
  - Judiciary
  - ABA Standing Committee on the Federal Judiciary
  - The Federalist Society
- Interest groups
  - Meat and potatoes
  - Social issue oriented
  - Ideological
Process

• Negotiation and accommodation
• Resources
  – Delay
  – Filibuster
  – Campaign contributions
  – Log rolling

District Judges
Immediate Previous Position

District Judges
Experience

Administration
District Judges
Race/Ethnicity

District Judge
Gender

Court of Appeals

- Same actors
- Increased presidential power
- Increased attention from interest groups
Circuit Judges
race/ethnicity

Supreme Court Justices
Players
- President is central
- Third parties' power increases
- Senate's power is collective only
Unsuccessful Supreme Court Nominations

Supreme Court Justices
Presidential Strategy/Goals
- Seek out ideologically "correct" individuals
- Reward old friends or supporters
- Reward political supporters
- Other considerations
  - The "clear" choice
  - Representational
  - Quality

Supreme Court Justices
Role of Senate
- Vetoer
- Two component process in Senate
  - controversial or not
  - ideology
- In controversial cases, the Senate's role is that of vetoer
- Ideological tipping
- Senate hearings
- Floor vote
Changing Politics of Selection

- Increased role of interest groups
- Increased partisan conflict
- Higher probability of defeat, at least for circuit judge nominees
- Increased delay
- Why?
  - Decline of traditional party system
  - Rise of influence of interest group elites
  - “Scoring Points”