

105TH CONGRESS
1ST SESSION

S. RES. 146

Establishing an advisory role for the Senate in the selection of Supreme Court Justices.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 1997

Mr. SPECTER (for himself and Mr. BYRD) submitted the following resolution;
which was referred to the Committee on the Judiciary

RESOLUTION

Establishing an advisory role for the Senate in the selection of Supreme Court Justices.

Whereas article II, section 2 of the United States Constitution authorizes the President to appoint Judges of the Supreme Court “by and with the Advice and Consent of the Senate”;

Whereas the Senate has exercised its “Consent” function with due diligence through extensive hearings and deliberation prior to voting on nominees to the Court;

Whereas the Senate has not historically exercised its “Advice” function with the exception of a limited consultation with the President on the selection of a nominee in advance of the President making such a nomination;

Whereas there is no systematic method for selecting Supreme Court nominees, with the President having historically proceeded on an ad hoc basis to consider a limited number of individuals before making his nomination;

Whereas there is an enormous pool of legal talent who could become Supreme Court nominees;

Whereas in one case where the Senate exercised influence on the selection of a nominee, it was to replace Justice Oliver Wendell Holmes with Justice Benjamin Cardozo;

Whereas the importance of having the best and brightest judges is reflected in the fact that the Supreme Court has decided numerous significant cases by a one-vote margin; and

Whereas it would be useful to create a pool of recognized candidates of superior quality for consideration by the President; Now, therefore, be it

Resolved, That the Senate should better fulfill its “Advice” function under article II, section 2 by having the Senate Committee on the Judiciary establish a pool of possible Supreme Court nominees for the President to consider, based on suggestions from Federal and State judges, distinguished lawyers and law professors, and others with a similar level of insight into the suitability of individuals considered for appointment to the Supreme Court.

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