The Current State of the Supreme Court Appointment Process: Business as Usual

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The recent spectacles of the confirmation hearings of Judges Robert H. Bork and Clarence Thomas have given the Supreme Court appointment process a sense of corruption, and a call for reform. Allegations levelled against the President and the Senate accuse them of "playing politics": not selecting the best judges on merit, but relying instead on political factors to make their choices. The truth is, however, that the Supreme Court appointment process has always been political. It was designed to be political by the Framers of the Constitution, and there is ample precedent for the insertion of politics into today's appointments. The process, however, has evolved into something more complex for the President and the Senate since the inception of the Constitution, and both institution's roles have changed. In today's process there are several factors that influence confirmation of Supreme Court Justices, namely timing, ideology, and presidential management. All of these factors come together in the Thomas nomination, to form a case study. Analysis will show that despite the recent public outcry, the confirmation process is business as usual, both in terms of politics and in terms of recent history.