This analysis asserts the premise that all nominations to the United States Supreme Court are not equal. I focus on nominations which are "critical" in the sense that, if successful, they would result in important shifts in partisan coalitions on the Court, and, as a consequence, are of considerable importance so far as the policy outcomes of that institution are concerned. An empirical test of the impact of critical nominations clearly demonstrates the importance of the nature of the vacancy in confirmation outcomes. While almost half of the critical nominations to the Court have failed, the model shows nominations outside this category are twelve times more likely to be confirmed by the Senate. Furthermore, the success of the model in predicting nomination outcomes suggests the notion of critical nominations fills a large gap in our understanding of the dynamics of the confirmation process. The model correctly predicts 94% of successful nominations and an impressive 74% of those nominations that have failed. When the model is applied only to nominations for Associate Justice positions, it correctly predicts 94% of the confirmations and 82% of the rejections.

An earlier version of this paper was presented at the Annual Meeting of the Western Political Science Association: San Francisco, California (March 1992).
Despite the vast and continually growing literature on nominations to the United States Supreme Court, empirical analyses of the confirmation process remain a rare phenomenon. In 1979, Songer found no "systematic explanations" for why a majority of nominations remain essentially noncontroversial and are unanimously confirmed. His observation was reaffirmed more than ten years later by Cameron, Cover, and Segal (1990). Segal further notes there is "virtually no formal testing of multivariate political models" in the confirmation literature (1987). Palmer observes instead "the historical method has been most prominent." In such approaches, each appointment is examined "as a unique incident which must be examined in the context of its own time and political situation" (1983).

This analysis starts, however, from the premise that some confirmation factors are clearly idiosyncratic yet others may be considered 'universal.' The model presented builds upon previous multivariate models and assumes that while the Court is an influential actor in the political system and, in some sense, all nominations are important, some nominations involve higher stakes than others. Nominations which involve the threatened loss of representation on the Court, institutional restructuring of the Court, and substantial shifts in the balance of Court's partisan or ideological coalitions invite an atmosphere of contention in the confirmation process. In such cases, the outcome of the Senate's decision has a more direct impact on the interests of particular groups. When the interests of such groups are potentially affected by a nomination, the probability of conflict and eventual rejection by the Senate is increased. Thus, the analysis contends failure to differentiate among nominations in terms of varying degrees of importance excludes valuable information which enables us to better understand the dynamics of Senate confirmation. The empirical results of the multivariate analyses strongly support each of these premises.

Factors Affecting Nomination Outcomes

George Bush's nomination of Clarence Thomas represents the one hundred and forty-fifth nomination to the Court. ¹ Eighty-one percent of these nominations have been confirmed by the

¹ As is the case in other analyses, I exclude the nominations of Paterson (1793) and Thornberry (1968). Paterson's nomination was withdrawn until the constitutional question of whether sitting members of the Senate were eligible for nominations to the Court was decided. He resigned, was re-nominated and confirmed one week later. Thornberry's nomination was simultaneous with, and contingent upon, the appointment of Abe Fortas to the Chief Justice seat. The Fortas nomination
The remaining 19% represent the highest rejection rate for any national office and, understandably, the literature has focused on these nominations with greater intensity (see, for example, Black 1970; Friedman 1983; Grossman and Wasby 1972; Massaro 1972; Swindler 1970).

Although it is certain each unsuccessful nomination involves characteristics wholly peculiar to itself, it is equally clear that many such nominations share attributes. Thirty-three percent of the unsuccessful nominations have, for example, been made by succession Presidents. Almost half have been made in the last year of the President's term and close to 60% have occurred when the Presidency and the Senate were controlled by opposite parties. The percentage of the Senate controlled by the President's party, appointments to the position of Chief Justice, and senatorial courtesy have also been considered possibly important elements in understanding why nominations fail (McHargue 1948; Palmer 1983; Ruckman 1991; Seiglano 1971; Segal 1987; Warren 1923).

An interesting yet underemphasized feature of both the descriptive and empirical literatures is the concession that the nature of particular vacancies on the Court can play a critical role in confirmation outcomes. That is, in some instances, the characteristics and qualifications of nominees, as well the political circumstances surrounding a nomination, can be overshadowed or at least equalled by considerations focusing on the seat which is to be filled. A vacancy in the Chief Justice position, for example, is generally considered substantively different from vacancies at the Associate level. Although the Chief Justice is only one of nine equal votes, he presides in public and private, controls the assignment of opinions, and supervises the Court staff. Vacancies in the Chief Justice position are, of course, even more notable when Presidents attempt to elevate sitting members of the Court. Such nominations allow for a second nomination to the Associate position. Wasby notes such nominations have had the tendency to "expose animosities" and provoke "threats was withdrawn.

In seven instances, nominees have been confirmed, but have declined to serve on the Court. These nominations include those of Harrison (1789), Cushing (1796), Jay (1800), Lincoln (1811), Adams (1811), Smith (1837), and Conkling (1882). Stanton (1869) was confirmed, but had the poor taste to die four days later.

"Rejection" is used here as it is, typically, in the literature. The term includes any nomination not confirmed by the Senate. Thus, it covers those nominations failing by formal vote (N=12), indefinite postponement (N=4), withdrawal of the nominee (N=6), or inaction by the Senate (N=5).
of resignation” on the Court (1987, p. 121). Members of the Senate, especially those of the opposite party, are more likely to view the importance of such nominations in terms of previous opinions of the Justices (Segal 1987) and the potential of the President to ensure a legacy well beyond the rather limited service of the chief executive (O'Brien 1988, p.21; 1990 pp. 14,62; Tribe, p. 61).

The literature's recognition of senatorial courtesy further documents agreement that nomination outcomes can be influenced by the nature of particular kinds of vacancies. Typically, 'courtesy' refers to the Senate custom of refusing to confirm lower level nominations submitted by the President if a senator representing the state in which the nominee resides, and belonging to the President's party, has not given his or her approval. Early analyses of the confirmation process, however, note the potential importance of the courtesy function in Supreme Court nominations (Frank 1941; Haynes 1938; McHargue 1949; and Warren 1923). Several states have felt entitled, by tradition, to vacant seats having maintained those seats over several appointments. When faced with such vacancies, the President has been advised to consult with members of his party from the state in question. Scigliano (1971) found seventeen instances where a state had at least two immediately preceding nominations for a seat in question and eight of these nominations failed in the Senate. Thus, the potential loss of state representation on the Court clearly played a major role in the outcome of the nominations.

Vacancies involving the Chief Justice position, the appointment of Associate Justices to the position of Chief Justice, and senatorial courtesy highlight the fact that Court vacancies are not equal. Vacancies in the Chief Justice position affect the Court's institutional power structure. Appointments of sitting Justices to the position of Chief Justice affect this structure and enlarge the possibility of influencing the policy outcomes of the Court by allowing the President to fill yet another vacancy. The senatorial courtesy scenario involves the vested interests of a group (the senators of a particular state) and the President must decide whether to cross those interests. If the importance of vacancies varies with the Court's power structure, policy influence, and the political interests of groups, there is every reason to believe the outcomes of nominations will reflect these differences.
Critical Nominations and the Confirmation Process

In this section, I introduce and define the concept of "critical nominations." In differentiating such nominations from other nominations to the Court, I simply build upon two elements discussed in vacancies above - representation and power. While senatorial courtesy is no longer an influence in the confirmation process (Palmer 1983; Segal 1987), it is certain that politically relevant groups remain interested in gaining and maintaining representation on the Court. Abraham notes, for example, the historical importance of continual Court representation for religious groups. The Court has had a "Roman Catholic seat" and a "Jewish seat" and, with the exception of a seven year period (1949-56), the "Roman Catholic seat" has been maintained since 1894. The "Jewish seat" was established in 1916 with the appointment of Louis Brandeis and maintained until 1969 when President Nixon successively nominated three Protestants (1985, pp. 63-5). No formal rule dictated Presidents had to consider the desire for continual representation for these groups, but the presumption in their favor was evidently significant. Today, the presumption in favor of continual representation is probably more influential on grounds other than religion. Abraham suggests the notion of a "black seat" and a "woman's seat" are "political certainties [in] effect, far more secure than a Catholic seat or a Jewish seat" (1985, pp. 62-5).

Given the potential importance of continuous representation on the Court and the Court's ability to make policies which considerably affect the interests of identifiable groups, it would seem reasonable to explore the representational factor from the standpoint of groups with particular policy orientations or ideological viewpoints. Presidents have certainly shown an interest in having their own policy viewpoints represented on the Court. They have nominated members of their own party almost 90% of the time and in the few instances in which opposite party members have been chosen, it is likely Presidents were driven to the choice by a tremendous sense of political expediency. Presidents cannot always be sure that nominees - as Justices - will vote consistent with their own partisan or ideological leanings (Wasby, pp. 119-200), yet it is quite evident that the partisan identification of nominees represents a practical, if threshold, guideline for the President. Senate majorities have, of course, operated under the same premise as the President. Although they have confirmed 81% of the population of nominees, they have confirmed 90% of the individuals within
party ranks and 67% of those from other political parties.

Beyond the issue of partisan identification is the consideration of political ideology. Ideally, we might focus on the effect ideology (in individual nominees or members of the Senate) has on confirmation outcomes. Such an examination is, strictly speaking, impossible as far back as 1789. If, however, the party identification of nominees represents a reasonable surrogate measure for political viewpoints and ideologies, we may ask a theoretically compelling and empirically verifiable question: is continual party representation, or (as is the case with senatorial courtesy) the threatened loss of it, a concern in the decision making of Senators? Previous discussions of the process note this possibility. Blasecki, for example, suggests the "fire" of the Robert Bork nomination failed to develop in the nominations of Sandra Day O'Connor and Antonin Scalia partly because each was perceived as involving "a retiring conservative being replaced by an ideological twin" (1990, p. 531). Empirical examinations of the process to date have analyzed the continual representation factor in terms of states, but have altogether ignored the potential concern for continual party representation.

Bivariate analysis of nomination outcomes in terms of attempted opposite party replacement or continual party representation shows almost 60% of all unsuccessful nominations have involved attempted opposite party replacement. While only 13% of the nominations involving continuous party representation have resulted in rejection, the rejection rate in attempts to break such representation is twice as high. Thus, simple bivariate analysis appears to verify a theoretically straightforward hypothesis. Presidents interested in influencing the Court with their own political viewpoints have typically chosen people within their own political party. As was the case with state representation, members of the Senate have also been interested in maintaining representation for their political viewpoints on the Court. This is evidenced in their tendency to reject the attempted breaking of chains of representation provided by fellow partisans on the Court.

We may now turn our attention to nominations in which the potential loss of party representation would create the highest probability of conflict in the Senate. Many students of the

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4 Gamma = .40 (significant at .05). Tests of statistical significance are used here to assess the reliability, or consistency, of relationships given the data rather than as tests of the null hypothesis.
Court have viewed membership change as the most important source of policy change on the Court (Baum, 1992, 155-6; 1992; Schubert 1964; 1974) and have also recognized individual appointments on closely divided Courts can change the general direction of policy (Ackerman 1988; Baum 1992; Blasecki 1990; Lemieux and Stewart 1988; Stookey and Watson 1988). Grossman and Wasby, writing in the wake of the consecutive rejections of Clement Haynsworth and G. Harrold Carswell, note "bitter battles" over Supreme Court nominations are "neither surprising" or "cause for alarm [when] the Court is closely divided on current issues [and] any single appointment may be viewed as having a decisive impact on a wide range of future decisions" (1972). Nixon's Republican nominees were meant to replace the recently resigned Abe Fortas (a Democrat). The eventual confirmation of Harry Blackmun (a Republican) established a five to four Democrat/Republican split on a Court formerly controlled six to three by Democrat Justices.

The Haynsworth, Carswell and Blackmun nominations, thus, represent attempts at opposite party replacement when the stakes of the nominations are somewhat higher than usual. The resignation of Fortas and subsequent split of the Court made the complete shift of the balance of power on the Court an imminent possibility. Presidents have certainly been sensitive to opportunities to avoid such circumstances for their own party. Polk, in 1837, observed with satisfaction the approaching appointment of two Justices that would decorate the Court with a "strong" and "decided" Democratic bias. Likewise, Presidents have welcomed the opportunity for shifts in the Court's balance in favor of their party. Jefferson wrote an 1801 letter happily noting the passing of a Justice that would allow "the chance of getting a Republican majority in the Supreme Judiciary" (Swindler 1970).

If attempted opposite party replacement is a factor of importance in the confirmation process, it is certain such attempts are even more of a concern when they involve the added possibility of having a substantial impact on the partisan balance of the Court. At least three circumstances represent instances in which attempted opposite party replacement would have such an impact. In the first instance, attempted opposite party replacement would create a partisan split on the Court in which the differential was one member. The attempted creation of a one-member partisan split on the Court not only provides a relatively uncertain environment with potentially high impact swing
voting, but also makes the complete shift of the partisan balance of the Court an imminent possibility (assuming a member of the majority provides a future vacancy). In a second instance, attempted opposite party replacement may create a partisan deadlock on the Court. Although the Court has nine members today, its membership size has ranged from six to ten. A Court equally split in partisan composition would be provide an optimally uncertain circumstance in which swing voting would be the critical factor. Finally, attempted opposite party replacement can completely overturn the previous partisan balance of the Court. Nominations which potentially establish a new partisan majority on the Court certainly qualify for a category of nominations in which attempted opposite party replacement would have noticeable impact. As each of these instances of attempted opposite party replacement would have a more than usual impact on the Court's partisan balance, I will refer to such nominations as "critical."

As figure 1 reveals, critical nominations do not occur often. There were eleven such nominations in the 1800's and there have only been eight in the 1900's. Only one critical nomination involved the potential creation of a partisan deadlock on the Court (James M. Wayne). Seven of the nineteen nominations involved the potential creation of a newly dominant coalition (Lincoln, Wolcott, Adams, Story, Taney, Black, and Stevens) and the remaining eleven merely involved making the tipping the balance of the Court an imminent possibility by creating a one-member partisan split. Bivariate analysis of the relationship between confirmation outcomes and critical and non-critical nominations shows critical nominations have resulted in a 42% rejection rate. The rejection rate, on the other hand, for all other nominations is a mere 15%.\(^5\)

These data confirm the literature's faintly developed notion that party representation on the Supreme Court may play an important role in the confirmation process. This should come as no surprise given the policy making potential of the Court and the influence of partisanship in both the initial selection process and the senate confirmation process. It is important, however, to examine

\(^5\) Gamma=.61 (significant at .01). It is also interesting to note the relationship is stronger than the relationship between nomination outcomes and nominations involving closely balanced Courts but no attempt at opposite party replacement (Gamma=.45, significant at .05).
critical nominations in a multivariate context. The vast literature on the process provides a number of hypotheses concerning nomination outcomes and a multivariate model will enable us to test the impact of critical nomination controlling for the effects of other variables representing these hypotheses.

**Critical Nominations in A Multivariate Context**

In order to test both the relative contribution of a variable representing critical nominations, and its predictive power in a multivariate context, I conducted a series of logistic regression analyses of confirmation outcomes. The analyses included independent variables representing competing hypotheses in the literature. Thus, nominations made by succession Presidents or in the fourth year of a President's term were coded '0' to predict rejection by the Senate (Palmer 1983; Scigliano 1971; Segal 1987). Likewise, nominations made when the President's party did not control at least forty-five percent of the total number of seats in the Senate were coded to predict failure (Palmer 1983; Ruckman 1991). Nominations involving members of the President's cabinet (Segal 1987), Associate Justices (Palmer 1983; Ruckman 1991; Segal 1987) and the potential for senatorial courtesy (Scigliano 1971; Segal 1987) were also coded to predict rejection by the Senate.

The initial analysis of confirmation outcomes concerned a test of the main effects of variables representing attempted opposite party replacement and nominations to closely balanced Courts controlling for the effects of variables drawn from the literature, listed above. In this analysis, the maximum likelihood estimate for the attempted opposite party replacement variable (.2345) was not statistically significant, but the coefficient for the variable representing nominations to closely balanced Courts (1.9701) was significant at the .05 level. When, however, the interaction term for critical nominations was added in a second analysis, neither of the coefficients for the separate main effects (-.4581 and .4136, respectively) were statistically significant. The coefficient for the critical nominations variable (2.4568) was significant at the .10 level.

A third analysis thus included variables representing hypotheses from the previous literature

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6 Segal examines the nominations of Associate Justices (both current and former) to the Chief Justice position. In order to test my hypothesis more directly against his model, I have retained his original measure.
and the variable representing critical nominations to the Court. The results of this analysis are reported in table 1, below.

Table 1 about here

The model appears to be correctly specified, at least in the sense that all of the hypotheses from the literature are, again, confirmed. Although the coefficients are not directly interpretable, their signs and significance levels are. Each coefficient is in the predicted direction and five of the seven are significant at least the .01 level. The estimated $R^2$ is .58 and the model results in a 68% reduction in the proportion of error.

It is first interesting to note relationships in the model from a conceptual standpoint. The literature recognizes the potential importance of the seat being filled on the Court, but table 1 indicates characteristics of particular kinds of vacancies are of considerable importance. In fact, the two largest independent relationships (Associate Justice nominations and critical nominations) are under the Nature of the Vacancy heading. It is also of particular interest to note the variable representing critical nominations has the highest partial correlation coefficient in the model (R=.26) and its relationship to confirmation outcomes attains the highest level of statistical significance (.0007).

The importance of the nature of particular vacancies is further indicated by the odds ratio measures ($\Psi$) presented in column five.\footnote{A ratio >1.0 indicates increasing likelihood of an event occurring and <1.0 indicates decreasing likelihood of an event occurring. 1.0 indicates no association. $X^2$ is used to test the significance of individual or different ratios (Fienberg 1985; Hosmer and Lemeshow 1989, pp. 40-5; Morgan and Teachman 1988).} When the President nominates someone who is not a cabinet member, the odds of confirmation are increased by a factor of 8.65. Thus, nominees who are not members of the President's cabinet are almost nine times more likely to be confirmed by the Senate. Of equal importance, the factorial increase between the variable's categories (controlling for the effects of all other variables) is significant at the .01 level. Similarly, nominations made in the first three years of the President's term, are almost ten times more likely to be confirmed by the Senate (significant at .01). Once again, however, the influence of categorizations under the Nature of the Vacancy are much more notable. Nominations outside the "critical" category are twelve times
more likely to be confirmed by the Senate (significant at .001).  

While the critical nominations hypothesis is theoretically sound and the multivariate test is encouraging, the question remains whether the hypothesis has significantly contributed to our ability to better understand confirmation outcomes. Correct prediction does not constitute a sufficient condition for better understanding, but it is at least a necessary one. The Segal model (Journal of Politics, 1987, pp. 1006-7) contains most of the variables in the model presented here, and accurately predicts 94% of the successful nominations to the Court. If, of course, we predicted success for all Court nominations, the data would prove us correct in 81% of the cases. Thus, a more interesting focus might be those nominations which are unsuccessful. In this category of nominations, the Segal model correctly predicts only 55% of the cases.

The classification results for the model presented in this analysis are more than impressive. The overall correct classification rate for the model is 90%. The model correctly predicts 94% of successful nominations to the Court and 74% of those nominations which have been unsuccessful. Segal (1987) notes the plausibility of considering nominations in the 1800's on a separate basis from those in the 1900's. My model correctly classifies 71% of the pre-1900 rejections and 83% of the post-1900 rejections (including eight of the last nine). As the overall correct classification rate for unsuccessful nominations is almost 20% higher than the Segal model, it appears controlling for the effects of critical nominations has filled a very large gap in our understanding of confirmation outcomes. A further examination of the seven misclassified rejections in the population was encouraging for the substantive and interpretive value of the model. Abraham (1985) offers the following as principle reasons for the failure of these nominations:

1795 Rutledge (his pronounced opposition to the Jay Treaty)
1811 Wolcott (his extreme partisanship)
1845 Woodward (senatorial courtesy, his "gross nativist American sentiments")
1869 Hoar (his opposition to Johnson's impeachment and views on civil service)
1873 Williams (nominee's "marginal capability")

8 Table 1 tells us, if controlling for other variables, critical nominations are more or less likely to be confirmed, but it does not report whether the coefficients of the other variables are different for critical and non-critical nominations. In order to explore this possibility, I re-ran the analysis creating multiplicative terms for each variable. None of the resulting interactions attained statistical significance.
Interestingly, the nominations appear to have little in common other than the presence of highly idiosyncratic personal qualities in the nominee and specifically focused political opposition. Such factors are, of course, far too complex to capture in an empirical model such as the one presented here.\(^9\)

Finally, a fourth analysis considered Palmer's contention that nominations to the Chief Justice position are sufficiently different to separate in analyses (1983). Application of the model to the 123 Associate Justice nominations provided even more impressive results. Besides correctly classifying 92% of the nominations in this population, the model correctly predicted 94% of the confirmations (N=101) and 82% of the rejections (N=22).\(^10\)

**Summary and Conclusion**

The importance of this research is two-fold. The existing literature on the senate confirmation process rarely provides empirical testing, much less cogent theoretical orientations to the process or conceptual approaches to confirmation outcomes. This research, however, has focused on undeniably important considerations scattered throughout the literature and developed a theoretically sound notion of a "critical nomination." Far from asserting this notion as still yet another possibly important consideration in a bulging literature (where many discussions have outrun their worth in theory and substance), I have provided an empirical test of the hypothesis. Table 1 utilizes leading hypotheses in the literature and the results quite plainly document the important role critical nominations play in confirmation outcomes.

Although the model in table 1 is quite impressive in terms of predicting nomination

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\(^9\) The highly idiosyncratic nature of these rejections (at least with respect to the model) is further illustrated by the coding of the independent variables. Three of the seven nominations (Wolcott, Cushing, and Parker) were coded '1' (predicting confirmation) on all seven of the independent variables in the analysis. In each case, the four remaining nominations had only one of seven independent variable coded '0' (predicting rejection).

\(^10\) The maximum likelihood estimate for the variable indicating critical nominations in the reduced model was 2.69 (significant at .01) and all other nominations were fourteen times more likely to be confirmed. The estimated \(R^2\) for the Associate Justice nominations model was .58 resulting in a 73% reduction in the proportion of error.
outcomes, I do not claim to have captured all of the important factors that determine these outcomes. Indeed, the Senate confirmation process for Supreme Court Justices is one where a host of idiosyncratic and wholly unpredictable factors may partially or wholly affect the voting decision. The model does, however, contribute to our understanding of the more universal factors relating to senatorial rejection in the population of nominations. Future research should not continue to ignore the circumstances in which nominations can have the most direct impact on the Court.

A potential shortcoming of the model is worthy of consideration. Some examinations of the confirmation process emphasize the role of ideology in recent nominations may incline some to perceive this model's omission of ideology as fatal, I would warn against premature dismissal. Examinations of more recent nominations have the distinct advantage of attaining measures of ideology for nominees and/or members of the Senate (Felice and Weisberg 1991; Segal, Cameron and Cover 1989; Songer 1979; Sulfridge 1980). The model I present, however, falls comfortably short of misspecification in that it does a respectable job of controlling for variables through which ideology may have indirect effects. Again, I rely on the premise that ideology is related (although not perfectly) to the partisan identification of the central actors in the process. The ideology of nominees, for example, would (like partisan identification) in all likelihood be a direct reflection of the ideology of the President. In turn, the outcome of the Senate's decision would, theoretically, be directly related to the ideology of nominees. The critical nomination hypotheses itself approximates the circumstance in which ideology would be of the most critical importance. In sum, in an analysis of this type, although a measure for the ideology of nominees might be desirable, it might very well contribute little above what is already controlled for. This is not, of course, to say that ideology is irrelevant to the process, but rather to emphasize merely that the effects that a separate measure for ideology would command are far from ignored.

Finally, the analysis certainly speaks to both recent and future Court nominations. In terms of the critical nomination hypothesis, specifically, it is not likely that the near future will involve nominations which significantly affect the partisan balance of the Court. The current Republican majority is firmly entrenched. The continual representation factor, however, is likely to play a critical role in upcoming nominations.
Justice Blackmun, now eighty-four, is a strong possibility for retirement. Although nominated as a Republican, he represents the last of the ideological "left" which has dominated the Court since the 1930's. Blackmun's exit will probably lead to a feasible demand (especially from a Democratic controlled Senate) for a replacement who holds views similar to, if not identical with those of the Justice. Throughout the nation's history, the Court been completely controlled by one party for only twenty years. As fifteen of those years were at the initial founding (1789-1804), the more fully developed two-party system has allowed such a Court for only five years (1845-1850). If the President attempts to ignore the customary 'requirement' of having at least one member of each major political party on the high bench, conflict and rejection may be the result (Grossman, p. 28).\footnote{In the event of Blackmun's retirement, Justice White (a Democrat) would remain on the Court. White, however, is in his mid-seventies and his more centrist views will likely be considered an unsatisfactory solution for meaningful diversity of viewpoints on the Court.}

The potential repercussions resulting from an attempted breaking of continual representation were certainly a key consideration in George Bush's nomination of Clarence Thomas and the eventual retirement of Sandra Day O'Connor (now sixty-two) will place the nominating President in a similar, if not potentially more volatile predicament. At this point in our nation's history, it is certainly difficult to imagine a President failing to replace O'Connor with another highly qualified female Justice.
REFERENCES


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### Table 1
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* *significant at< .05
** *significant at< .01
*** *significant at< .001