



Roll Call Votes to Confirm Supreme Court Nominations: Historical Analysis of Support and Opposition (1900-2020)

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This Insight provides analysis of the roll call votes used to confirm Supreme Court nominees from 1900 through 2020. Specifically, the Insight examines historical patterns of partisan support and opposition among Senators in casting votes on whether to confirm nominees to the Court. For additional information about the final stage of the confirmation process, see [CRS Report R44234, *Supreme Court Appointment Process: Senate Debate and Confirmation Vote*](#).

A roll call vote to confirm a nominee requires a simple majority of Senators present and voting, a quorum being present. Overall, [from 1900 to 2020](#), there were 38 Supreme Court nominations that received a roll call vote on whether to confirm a nominee to the Court. Since 1967 (starting with the [confirmation vote for Thurgood Marshall](#)), each of the 24 Senate votes on whether to confirm a nominee has been by roll call vote. By contrast, from 1900 to 1966, 14 (or 33%) of the 42 votes on whether to confirm nominees to the Court were by roll call vote, whereas 28 (67%) were by voice vote or unanimous consent.

During this period there was notable variation in how Democratic and Republican Senators voted on nominations to the Court. **Figure 1** shows, for 37 of the 38 Supreme Court nominations that received a confirmation vote from 1900 to 2020, the percentage of Republican and Democratic Senators voting in support of, or in opposition to, the nomination (and whether more than half of Senators belonging to one party voted differently on the nomination than more than half of Senators belonging to the other party).

Information for one of the nominations that received a roll call vote during this period is incomplete and, consequently, is not included in **Figure 1** (see the note at the bottom of the figure about the [Taft nomination](#)).

Nominees Supported by a More than Half of Senators in Each Political Party

Of the 37 nominations included in **Figure 1**, 19 (51%) were supported by more than half of Senators in each political party (excluding the [Roberts nomination](#) in 2005, which was supported by half of the Democratic Senators voting on his nomination and also opposed by half of the party's Senators). The

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most recent nomination that received support from more than half of Senators belonging to both parties was that of [Stephen Breyer](#) in 1994 (with 79% of Senate Republicans voting to confirm him).

Even when a nominee is supported by more than half of Senators from both parties, it has been historically rare, at least since 1900, for a nominee to be confirmed without receiving any “no” votes. Of the 19 nominees whose nominations were supported by more than half of Senators from both parties, 5 (26%) were supported unanimously without receiving any “no” votes at the time of confirmation. These five nominees were [Anthony Kennedy](#) (the most recent to have unanimous support), [Antonin Scalia](#), [Sandra Day O’Connor](#), [John Paul Stevens](#), and [Harry Blackmun](#). Each of the five was nominated by a Republican President.

Nominees Supported by More than Half of Senators in One Party and Opposed by More than Half in the Other Party

Of the 37 nominations included in **Figure 1**, 17 (46%) were supported by more than half of Senators in one party and opposed by more than half of Senators in the other party. The most recent instance of this occurring was the vote to confirm [Amy Coney Barrett](#) in 2020 (when, for the first time since at least 1900, there were no crossover votes in support of a nomination from Senators not belonging to the nominating President’s political party).

The recent era of confirming nominees to the Supreme Court has been characterized by this particular type of partisan split in support of, and opposition to, nominees (i.e., with more than half of Senators belonging to one political party having voted to confirm a nominee and more than half of Senators belonging to the other party having voted against confirmation). As shown by **Figure 1**, the six most recent nominations to the Court (from 2006 to 2020) reflect this type of partisan split. These six nominations represent 16% of the 37 nominations included in the figure but also represent 35% of the 17 instances from 1900 to 2020 when more than half of Senators of one political party voted differently on a nomination than more than half of Senators in the other party.

Opposition to Nominees by Senators Belonging to a President’s Political Party

Of the 37 nominations included in **Figure 1**, 20 (54%) received at least one “no” vote from a Senator belonging to the same political party as the nominating President. Such opposition, though, has been less common since the 1970s. Specifically, of the 21 nominations to receive a confirmation vote from 1970 through 2020, 8 (38%) received at least one “no” vote from a Senator belonging to the same party as the nominating President.

Overall, of the 776 “no” votes cast by Democratic and Republican Senators in opposition to confirming Supreme Court nominees from 1900 to 2020, 106 (14%) were cast by Senators belonging to the same political party as the nominating President.

Figure I. Partisan Support and Opposition to Supreme Court Nominations (1900-2020)

NOMINEE	FINAL VOTE TO CONFIRM		HOW REPUBLICAN AND DEMOCRAT SENATORS* VOTED						> 50% of one party voted differently fr. the other**
			Republican Senators		President's Party	Democrat Senators			
			No	Yes		Yes	No		
Barrett, A.C.	52-48	2020	2%	98%	R		100%	//	
Kavanaugh, B.	50-48	2018		100%	R	2%	98%	//	
Gorsuch, N.	54-45	2017		100%	R	7%	93%	//	
Kagan, E.	63-37	2010	88%	12%	D	98%	2%	//	
Sotomayor, S.	68-31	2009	78%	23%	D	100%		//	
Alito, S., Jr.	58-42	2006	2%	98%	R	9%	91%	//	
Roberts, J., Jr. ^	78-22	2005		100%	R	50%	50%		
Breyer, S.	87-9	1994	21%	79%	D	100%			
Ginsburg, R.B.	96-3	1993	7%	93%	D	100%			
Thomas, C.	52-48	1991	5%	95%	R	19%	81%	//	
Souter, D.	90-9	1990		100%	R	84%	16%		
Kennedy, A.	97-0	1988		100%	R	100%			
Bork, R.	42-58	1987	13%	87%	R	4%	96%	//	
Scalia, A.	98-0	1986		100%	R	100%			
Rehnquist, W. ^	65-33	1986	4%	96%	R	34%	66%	//	
O'Connor, S.D.	99-0	1981		100%	R	100%			
Stevens, J.P.	98-0	1975		100%	R	100%			
Rehnquist, W.	68-26	1971	8%	93%	R	56%	44%		
Powell, L., Jr.	89-1	1971		100%	R	98%	2%		
Blackmun, H.	94-0	1970		100%	R	100%			
Carswell, G. H.	45-51	1970	32%	68%	R	31%	69%	//	
Haynsworth, C., Jr.	45-55	1969	40%	60%	R	33%	67%	//	
Burger, W. ^	74-3	1969		100%	R	93%	7%		
Marshall, T.	69-11	1967	3%	97%	D	79%	21%		
Stewart, P.	70-17	1959		100%	R	71%	29%		
Harlan, J.	71-11	1955	5%	95%	R	78%	22%		
Minton, S.	48-16	1949	54%	46%	D	95%	5%	//	
Clark, T.	73-8	1949	23%	77%	D	100%			
Douglas, W.	62-4	1939	31%	69%	D	100%			
Black, H.	63-16	1937	77%	23%	D	90%	10%	//	
Parker, J.	39-41	1930	37%	63%	R	30%	70%	//	
Hughes, C. ^	52-26	1930	22%	78%	R	48%	52%	//	
Stone, H.	71-6	1925	4%	96%	R	93%	7%		
Butler, P.	61-8	1922	7%	93%	R	81%	19%		
Brandeis, L.	47-22	1916	88%	13%	D	98%	2%	//	
McReynolds, J.	44-6	1914	25%	75%	D	97%	3%		
Pitney, M.	50-26	1912	12%	88%	R	40%	60%	//	

* Of Senators who voted on the nomination and who were elected as Democrats or Republicans. Figure does not include Senators elected as Independents or those belonging to other political parties.

** More than half of the Senators of one party voted differently than more than half of the Senators of the other party.

^ Nominated to Chief Justice position.

The nomination of William Taft to be Chief Justice in 1921 was confirmed by a roll call vote of 60-4. The nomination reportedly received 'no' votes from three Republican Senators and one Democratic Senator. The partisan breakdown of the 'yes' votes is not available based on a review of historical congressional records and contemporary news accounts at the time. Consequently, the Taft nomination is not included in the figure.

Source: Review of historical congressional material by the Congressional Research Service.

Support of Nominees by Senators Not Belonging to a President's Political Party

Of the 37 nominations included in **Figure 1**, 36 (97%) received at least one “yes” vote from a Senator not belonging to the same political party as the nominating President.

Overall, of the 2,466 “yes” votes cast by Democratic and Republican Senators to confirm Supreme Court nominees from 1900 to 2020, 859 (35%) were cast by Senators who did not belong to the same political party as the nominating President.

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