

Quick to Judge? Confirmation by Cloture in the Post-Nuclear Senate

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Abstract

New Senate rules have transformed the judicial nominations process by lowering the effective vote threshold for confirmation. Presidents with a Senate majority may now bypass filibusters and confirm nominees without *any* minority party support. The change impacts presidential decision-making, congressional vetting, the speed of confirmation, and ultimately the composition of every federal court. We must now reevaluate existing intuitions. Using novel data of over 2,500 lower court nominations between 1981 and 2020, we test theoretical expectations for how the changes influence the pathways, speed, and outcomes of judicial nominations. We provide evidence of a radically altered confirmation process with key nominations moving through faster, and more successfully, but with a reliance on cloture for confirmations. Our evidence also suggests that without effective minority party participation, lower quality appointments are possible. These findings have broad implications for all executive nominations and raise separation of powers concerns.