

Real World Graduation: Question 84: Cabinet Nominations

Edward D. Duvall
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Question 84

Article 2, Section 2 of the U. S. Constitution states, regarding the office of the President::

"He shall have power, by and with the consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointments of such inferior officers, as they think proper, in the President alone, in courts of law, or in heads of departments."

The President's Cabinet members fall under the category of "officers of the United States", and require confirmation by the Senate. A member of the U. S. Senate once voted against the creation of a federal Department of Education (although it passed). But now, many years later, he has been nominated by the President to be the Secretary (head) of the Department of Education. On what grounds should the Senate confirm or not confirm him?

- a) His original opposition to the creation of any federal Department proves that he cannot be trusted to lead any department. Therefore the Senate should not confirm him.
- b) The Senate should not confirm him. The fact that he voted against the creation of the Department proves he is opposed to education, so schools will get worse under his "leadership".
- c) The Senate should not confirm him. If he voted against the creation of the Department, then it is likely that he has contempt for teachers, teachers unions, Department of Education workers, and children in general. Such a person would not command respect within the department.
- d) The Senate should confirm him only in the interest of getting him out of the Senate. True, his original vote proves he is unqualified, but he will do less harm overall as a member of the bureaucracy than as a member of the Senate.
- e) The Senate should confirm him only if he promises not to change current policy and promises to recuse himself from budget debates; that way, his biases against education will have no practical effect.

Answer to Question 84

This is a trick question. All of the answers are false. He should be confirmed by the Senate if the President wants him to be the Secretary of Education, and there is no evidence that he is incompetent or unqualified for the job. (It's an appointed position over a federal bureaucracy; most departments are on automatic pilot anyway.)

Answers a), b), and c) are false because his original vote against the Department does not "prove" that he is opposed to education, teachers unions, teachers, or children; he voted against it because he believed it was bad policy at the time (or he did not receive a sufficient bribe). In either case, his vote had nothing to do with being untrustworthy for the position as head of the department.

Answer d) is wrong because his original vote does not prove he is unqualified.

Answer e) is wrong because Congress cannot impose these conditions on a Secretary (to do so would strip the office of its powers, which Congress can do only by legislation). Also, no self-respecting department head would make such a concession, as the office would not be worth having.

It is unwise to assume that a person is unfit or unqualified to head a department simply because he voted against its creation in the past. Each case must be considered on its own merits; i.e., is the candidate willing and able to perform the required duties. For example, James Monroe, the 5th president of the United States, voted against ratification of the U. S. Constitution in the Virginia ratification debates [1]. Monroe voted against ratification because it originally lacked a bill of rights. He wanted a conditional ratification which would not be effective until a bill of rights was established. In the Virginia debate, he stated [square brackets are explanatory notes]:

"Adopt it [Constitution] now, and it will never be amended [with a bill of rights], not even when experience shall have proved its defects. An alteration will be a diminution of their power, and there will be great exertions made to prevent it. I have no dread that they will immediately infringe the dearest rights of the people, but that the operation of the government will be oppressive in operation of time [2]."

Here was a man who believed that the federal government would encroach upon the rights of the people. Imagine that! He was wrong however about his prediction that Congress and the States would ever propose and ratify a Bill of Rights; they constitute the first ten amendments to the Constitution, and were ratified on 15 Dec 1791. He was right about the federal government infringing on the rights of the people; it does so now even with the Bill of Rights. Governments never cease in a quest to acquire more power.

Clearly, Monroe's vote against ratification of the original Constitution did not subsequently disqualify him for the office of President, nor did he prove to be unfit. As President, he established the only viable foreign policy the U. S. has ever had. It is known as the Monroe Doctrine, in which foreign powers are to stay out of the Western hemisphere. Incidentally, this policy was established by Monroe, but it was written by John Quincy Adams, who served as Monroe's Secretary of State. J. Q. Adams succeeded Monroe as President, and was probably our best President overall.

[1] The ratification vote in Virginia was 89 to 79; future 4th President James Madison was among those who voted for ratification; James Monroe, George Mason, and Patrick Henry were among those who voted against it. See Jonathan Elliott, *Elliott's Debates*, Philadelphia; J. B. Lippincott, 1881, Vol. 3, p. 654, 655.

[2] Jonathan Elliott, *Elliott's Debates*, Philadelphia; J. B. Lippincott, 1881, Vol. 3, p. 630.

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<http://edduvall.com>
edward.d.duvall@gmail.com

Edward D. Duvall is the author of *The Federalist Companion: A Guide to Understanding The Federalist Papers and Can You Afford That Student Loan.*