



Written by [Luis Miguel](#) on October 23, 2020

Biden Addresses “Court Packing,” Wants Commission to “Reform” Court System

Joe Biden is the last person who should be in charge of reforming anything.

During a *60 Minutes* interview, the Democratic presidential nominee [said](#) that, if he wins, he will create a special commission to determine “how to reform the court system” — a response to questions surrounding his position on court packing.

“If elected, what I will do is I’ll put together a national commission, a bipartisan commission of scholars, constitutional scholars, Democrats, Republicans, liberals, conservatives,” Biden said in the interview. “I will ask them to, over 180 days, come back to me with recommendations as to how to reform the court system because it’s getting out of whack.”



Photo: sharrocks / iStock / Getty Images Plus

“It’s not about court packing,” he continued. “There’s a number of other things that our constitutional scholars have debated, and I’ve looked to see what recommendations that commission might make.... There’s a number of alternatives that go well beyond packing.” He then went on to claim that “a lot of conservative constitutional scholars” are on board with his idea.

“The last thing we need to do is turn the Supreme Court into just a political football, whoever has the most votes gets whatever they want,” Biden went on to say. “Presidents come and go. Supreme Court justices stay for generations.”

Biden had previously dodged the question of whether he supports “court packing,” the practice of increasing the number of seats on the court in order to stack it with judges who agree with one’s political ideology. Democrats have spoken out in favor of court packing in recent days as a way of counteracting the growing conservative dominance of the court, as President Trump has thus far filled two Supreme Court vacancies and will claim a third should the Senate succeed in confirming Judge Amy Coney Barrett as a replacement for the deceased Ruth Bader Ginsburg.

To justify their plan, Democrats have accused Republicans of “court packing,” attempting to redefine “court packing” as meaning simply filling court vacancies, and they have thus argued that President Trump and Republicans have been guilty of court packing, although the president has merely fulfilled his constitutional obligation to nominate federal judicial vacancies as they arise. A Democrat president would have done the same.

“The court packing is going on now,” Biden [told](#) WKRC Local 12 in Cincinnati. “Never before, when the election has already begun and millions of votes already cast, has it ever been that a Supreme Court nominee was put forward, has never happened before.... I’ve already spoken on, I’m not a fan of court



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packing, but I don't want to get off on that whole issue."

Progressives were not satisfied with Biden's vows to reform the court system. Demand Justice, a left-learning group, said Thursday that Biden's statement did not go far enough.

"In recent weeks, Vice President Biden has gone farther than ever before to discuss the need to reform our Supreme Court, and that has been very encouraging," Demand Justice said in a statement. "But the Republicans' decision to plow forward with Amy Coney Barrett's nomination in the midst of a national election requires a more urgent response than a study that will take 180 days to complete. We certainly do not need a commission to tell us that Republicans are on the verge of stealing their second Supreme Court seat in four years."

On Thursday, Democrats on the Senate Judiciary Committee boycotted the vote to advance Barrett's nomination to a full vote Senate vote.

Instead of showing up to vote in their committee, the Democrats placed poster-size pictures of Americans who they say would be hurt by a Justice Barrett if she casts a vote to strike down ObamaCare.

"Democrats will not lend a single ounce of legitimacy to this sham vote in the Judiciary Committee," Senate Minority Leader Chuck Schumer said. "We are voting with our feet. We are standing together and we are standing against this unprecedented mad rush to jam through a Supreme Court nomination just days, days before an election."

Despite Democrats' boycott, Judiciary Committee Chairman Lindsey Graham (R-S.C.) waived rules requiring a minimum number of the opposition to be present for the vote, so Barret's nomination sailed through with only Republican support.

Senate Majority Leader Mitch McConnell (R-Ky.) is expected to hold the final confirmation vote for Barret on Sunday, meaning the Supreme Court would have a 6-3 conservative majority (it's 5-3 right now, although Chief Justice John Roberts often sides with the liberals).

Of course, Joe Biden is right about one thing: The Supreme Court shouldn't be a matter of political football. But the solution isn't "reforming the system." Rather, it's following the system as the Framers intended by nominating constitutionalist judges who interpret the law as written — no matter what party is in power.



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