

Ginsburg Rejected Court-Packing, And So Should We

The presidential election that will take place in November already was promising to be one of the most unorthodox, nasty and hyperpartisan in our nation's history. Now with the passing of Justice Ruth Bader Ginsburg, the vitriol is growing to unprecedented levels. How do we know that? Because, right in time for Halloween, the extreme Left is trotting out its bogeymen threats of radical proposals to scare the American public into submission. Among them is their plan to pack the Supreme Court with additional justices, a catastrophically bad idea for the country and one that should be soundly rejected.

Court-packing refers to expanding the number of seats on the Supreme Court from its current total of nine. The idea is that, if one party controls both houses of Congress and the presidency at the same time, it could legislate an expansion of the number of justices required and fill the new seats with reliable partisans to rubber-stamp their side's agenda for decades.

Much like socialism, court-packing is not a new idea – it's been tried before and it didn't work. Franklin Roosevelt, fresh off a landslide reelection in 1936 and seeing his New Deal thwarted by the Supreme Court, went all-in to [increase](#) the number of justices to as many as 15. Roughly half the nation, as well as many representatives in Roosevelt's own party, opposed the idea as too radical and it was never implemented.

At a time when Justice Ginsburg is being remembered as a sublime figure of jurisprudence, it should be noted that she staunchly opposed the idea of court-packing. "I think that was a bad idea when President Franklin Delano Roosevelt tried to pack the Court," she said in a 2019 [interview](#). "If anything

would make the Court appear partisan it would be that ... I am not at all in favor of that solution to what I see as a temporary situation.”

Court-packing reeks of a political philosophy that has no reverence for the institutions that have made this country a model for others to emulate. A desperate power grab, it puts short-term partisan interests of the moment ahead of the long-term best interests of the country. No matter which party advances such a plan, they should not be rewarded by the American people.

So why is court-packing still such a coveted wish-list item? The Supreme Court has become an obstacle to the Left’s agenda, particularly on the seminal issue of immigration. Anti-borders legal groups have had great success in the lower courts by forum-shopping for friendly venues like the notoriously left-leaning, activist 9th Circuit. These groups have been able reliably to get orders blocking pretty much anything the current administration does on immigration.

When the appeals hit the Supreme Court, however, the lower court rulings often have been overturned. This was demonstrated in [Trump v. Hawaii](#) and more recently in [Nielsen v. Preap](#). With a current 5-3 conservative majority on the Court and Justice Ginsburg’s successor likely to join the majority, the litigation strategy of the anti-borders movement and the Left in general is in jeopardy. They cannot allow this to stand, so their solution is to dilute the Supreme Court until the composition works in their favor.

The Supreme Court already has been criticized as being too political. To expand the Court to achieve partisan objectives would only make things worse. The idea also has a high likelihood of blowing up in the schemers’ faces. Now that the threat to pack the Court has been telegraphed loud and clear, what happens if the opposition party secures the White House and both houses of Congress first? They may pursue court-

packing themselves and fill the Court with their own loyalists as a preemptive move before the other party gets the opportunity.

If these partisans make the mistake of going down this road and packing the Court, it opens up a Pandora's box that threatens the foundations that have held up our country and our society for over two centuries. At that point, nothing will be sacred and everything will be fair game for "reform."

The Electoral College, the supremacy clause and the legislative filibuster, to name a few, were put in place for very specific reasons. They create stability and give representation in government to citizens no matter where they live. To chip away at those time-tested institutions in a heated moment of political opportunism is nothing but bad for this country.

Those advocating court-packing should heed the words of Justice Ginsburg and drop this idea for good.

—

This [article](#) has been republished with permission from American Greatness.

Image Credit:

Flickr-LBJ Library, public domain