



Setting the Record Straight: Court Packing

Myth #1: *Democrats are defending the integrity of the Supreme Court.*

Fact: **Democrats are engaging in an unprecedented move to pack and politicize the Court, which will ultimately undermine the people's trust and confidence in this sacred institution.**

- ✓ Supreme Court Justices are non-partisan and make judicial decisions based on the law and legal process, independent of any political dynamics in Washington. The Founding Fathers designed our judicial system this way – to be independent from the day-to-day politics of Congress. The Supreme Court's independence and its fidelity to the Constitution above any political considerations are critical to safeguarding our freedoms and protecting the American people from legislative and executive overreach.
- ✓ The Democrat proposal to pack the Supreme Court would threaten the judiciary's important role and the public's trust in it. The plan injects partisan politics into the institution, threatening its independence and putting politics before legal principle.

Myth #2: *The Supreme Court is too far right.*

Fact: **The Supreme Court is non-partisan and upholds the rule of law impartially.**

- ✓ The Supreme Court is the only non-partisan branch of the federal government. Each Justice comes to a decision on a case based on their own legal assessment.
- ✓ According to the nonpartisan watchdog group Project on Government Oversight, unanimous 9-0 decisions outnumber 5-4 decisions on the Supreme Court and unanimous 9-0 decisions have actually been on the rise over the past few years.
- ✓ The Democrat proposal to pack the Court would force Justice's to prioritize political considerations over their own legal assessment, and this is a dangerous shift for the Court. Justices should be blind to politics when they rule on important issues – this is the cornerstone of our judicial system and the basis of numerous landmark decisions.
- ✓ The primary path to change laws should be at the ballot box, not through the bench. Looking to predetermine an outcome or legal decision from the Court by changing the rules and stacking it with political allies is not what our Founding Fathers intended.

Myth #3: *Expanding the Supreme Court will rebalance the Court and make the process fairer.*

Fact: **There have been nine Justices on the Supreme Court since 1869. Both Republicans and Democrats appoint Justices through the same constitutional process.**

- ✓ The Constitution provides a clear path for both parties to nominate Supreme Court Justices – nobody gets an advantage. Since President Franklin Roosevelt took office, 21 Supreme Court Justices have been confirmed under a Republican President and 21 have been confirmed under a Democratic President. This is how it's supposed to work.

Myth #4: *Americans have lost faith in the Supreme Court and support the plan to pack it.*

Fact: **Americans just gave the Supreme Court its highest approval rating in recent history and a majority continue to oppose packing the court.**

- ✓ Americans oppose court packing 58%-31%, according to an October 2020 New York Times/Siena College national poll. They also approve of the way the Supreme Court is handling its job 58%-38%, according to a July 2020 Gallup national poll. The Supreme Court has the highest job approval rating of any branch of government and is the only branch that has approval from a majority of Republicans, Independents, and Democrats.
- ✓ Many elected Democrats do not even agree with this short-sighted partisan plan to pack the Court. Speaker Pelosi, Senate Judiciary Chairman Senator Dick Durbin, Senator Joe Manchin, and Senator Kyrsten Sinema have refused to endorse the court packing plan.
- ✓ History is on their side. In 1937, when Democrats controlled the Senate 80-16, President Roosevelt's court packing plan failed 70-20. As it is today, it was then viewed as a blindly political move to undermine an independent judiciary for partisan motives.

Notable Quotes

Justice Ruth Bader Ginsburg: *“Nine seems to be a good number. It’s been that way for a long time. I think it was a bad idea when President Franklin Roosevelt tried to pack the court.”*

Justice Steven G. Breyer: *“Those whose initial instincts may favor important structural change... such as forms of court-packing, think long and hard before they embody those changes in law... The court is guided by legal principle, not politics.”*

U.S. Senator Joseph R. Biden: *“President Roosevelt clearly had the right to send to the United State Senate and the United States Congress a proposal to pack the court. It was totally within his right to do that. He violated no law. He was legalistically, absolutely correct. But it was a bonehead idea. It was a terrible, terrible mistake to make. And it put in question, if for an entire decade, the independence of the most significant body... in the country, the Supreme Court of the United State of America.”*

U.S. Senator Joe Manchin: *“When they talk about packing the courts or ending the filibuster, I will not vote to do that... We need to bring this country together, and I think people want us to.”*