

Constitutional Responsibility Project

Knocking Holes in the Wall of Republican Supreme Court Obstructionism



Less than two hours after Justice Scalia's death hit the newswires in February, Senate Majority Leader Mitch McConnell drew an unprecedented line in the sand that President Obama has no business replacing him. It should be the next President's job a year from now, he decreed, and so be it if it's Donald Trump. McConnell's knee-jerk, hyper-political reaction quickly became a united Republican front and the GOP's latest show of disrespect for the office of the Presidency.

Soon after, every single Republican member of the Senate Judiciary Committee led by Chuck Grassley announced that no nominee would ever see the inside of a hearing. Not even the ghost of Ronald Reagan could get a vote on their watch. All but two Republican Senators and every Republican presidential candidate agreed with McConnell and Grassley that the previous presidential election did not matter and that the President's term was effectively over the day Scalia died. The same Republicans who so often wave a pocket Constitution as a prop to criticize the President were suddenly arguing that their fundamental responsibilities outlined within are more of a suggestion than a job requirement.

Unfortunately for the GOP, none of this political posturing has sat well with the American people. A wave of condemnation of their obstructionist strategy from over [450 editorial boards](#) from red and blue states alike and from organizations representing millions of Americans was reflected in the polling in the immediate aftermath of the vacancy. Independent voters in particular were especially appalled at the idea that Republicans would deny a hearing to someone without even knowing who it was. The public dissatisfaction has only grown more intense after the President nominated Merrick Garland, someone who has more federal judicial experience than any other Supreme Court nominee in history.

While obstructionist Senate Republicans may have thought they could weather the political storm and ignore the clear will of voters, a major grassroots campaign has been helping to disabuse them of that notion. The Constitutional Responsibility Project – a coalitional effort including leading progressive groups Center for American Progress, MoveOn.org, Leadership Conference on Civil and Human Rights, Americans United for Change, People for the American Way, and The Hub Project – has put Republicans on notice that there will be a steep price to pay in November if they refuse to do their jobs.

SEE: [‘The Fight for Constitutional Responsibility, By the Numbers’](#)

And the message to Senate Republicans that nothing less than giving Chief Judge Garland the fair hearing and an up-or-down vote he deserves is acceptable has been impossible to avoid during the most recent

Congressional recess. By every measure, the longest recess since Scalia's death has been an absolute disaster for Republicans. On their first day back home, MoveOn.org led a day of action of more than 50 grassroots events around the country, including events where constituents stood outside of Senators' offices demanding that they do their jobs. Voters also participated in phone calls, a Thunderclap and social media campaigns. These events were coordinated by more than 36 national organizations. While many Senate Republicans, like Rob Portman, have gone into hiding and chosen not to hold any public town hall meetings over recess, they still got a taste of what they would hear [in their local newspapers](#).

SEE: [‘From Alabama to Wisconsin, Voters Gather Outside GOP Offices to Tell Them to Do Their Job’](#)

Senate Judiciary Committee Chairman Chuck Grassley, the man withholding the keys to the hearing process, tried to avoid getting tough questions from constituents by only holding [“private” events and keeping the details secret from the public](#). [It didn't work](#).

SEE: [Des Moines Register, 3/28: ‘In Iowa, Grassley takes flak for court stance’](#)

And despite all the money right-wing henchmen groups have spent ([\\$4 million](#) from Koch-funded Judicial Crisis Network alone) pushing Senators to wait a year before making the Supreme Court fully functional again, a wave of new national polling confirmed Republicans have only lost ground, especially with independent voters.

SEE: [‘Polling Roundup: Clear Majority of Americans Want Senate Republicans to Uphold the Constitution and Do Their Jobs’](#)

It appears voters have seen through the McConnell-Grassley scheme to stall the process in hopes that their eventual presidential nominee Donald Trump can treat a Supreme Court seat as a reality TV show prize. McConnell's Senate majority was hanging by a thread before the vacancy became an issue. Add to the equation the specter of Trump securing his party's nomination and potentially getting to nominate someone to the Supreme Court who shares his view that women should be jailed for seeking an abortion, and McConnell may as well change his letterhead now to Senate Minority Leader.

Republicans have already lost their case in the court of public opinion that it doesn't matter to have only eight Supreme Court Justices for two terms. It doesn't take a lawyer to recognize the widespread dysfunction and uncertainty in the Judicial Branch the GOP is inviting. [As over 350 law professors](#) warned in a letter to Congressional leaders: ‘A long-term vacancy jeopardizes the Supreme Court's ability to resolve disputed questions of federal law, causing uncertainty and hampering the administration of justice across the country.’ In fact, the high court is already seeing signs of that dysfunction. As [USA Today reported](#) this week: “Cases large and small are ending in tie votes. The pace of decisions has slowed slightly, and fewer new cases are being granted.” Simply put: America needs nine Justices, not eight.

It's why Senators McConnell and Grassley have found themselves increasingly isolated with their ‘eight is great’ mantra. More holes are forming in the Republican wall, faster than McConnell can plug them. Last week, Senator Jerry Moran (R-KS) became the third Republican Senator following Kirk and Collins to buck party leadership and [support hearings for Garland](#) -- calls that have been echoed by a growing number of [notable conservatives](#). It was the latest indication that even red-state Republicans recognize that their party's position is indefensible, politically perilous, and unsustainable. It's perhaps no surprise then that since Garland's announcement, the number of Republicans willing to meet with him has quickly grown from two [to fifteen](#).

In a sign of how difficult a position McConnell has put his swing-state colleagues in, Senator Mark Kirk, who was eager to be the first in his party to sit down with Garland and even supports hearings, has discovered it's enough to get voters off his case.

SEE: [Chicago Sun-Times: Democrats to make Supreme Court fight an issue for Kirk.](#)

Other Senators, like Pat Toomey, who reluctantly agreed to meet with Garland just to tell him to his face he doesn't deserve a fair hearing, are not managing to pull the wool over voters' eyes. No one is buying that this empty gesture counts as doing their constitutional duty.

SEE: [Sunbury Daily Item, 3/28: 'Toomey's support wilts under Supreme backlash'](#)

If the GOP stay the course, the campaign trail ahead will only grow more treacherous. The hefty political price Senate obstructionists have already paid this recess is only an appetizer of what's to come during the August recess, when they very well may have to answer for Trump on top of refusing to do their jobs.

The Fight for Constitutional Responsibility, By the Numbers

1,500,000: the number of #DoYourJob petition signatures collected nationally.

42,000: the number of #DoYourJob petition signatures delivered to Chairman Grassley by Iowans.

22,279: the total number of #DoYourJob calls delivered from constituents to GOP Senators including Sens. Portman, Toomey, Kirk, Johnson, Graham, Tillis, Flake, Grassley and Ayotte.

16,200: the number of Americans across the country who joined President Obama on a grassroots stakeholder call to discuss the need to nominate Chief Judge Garland on March 17, 2016.

2500: the number of Americans who attended #DoYourJob rallies across the country on March 21.

429: the number of editorials telling GOP Senators to #DoYourJob.

356: the number of law professors and legal scholars, including Norm Ornstein and Doris Kearns Goodwin, who have signed their name urging Senate leadership to #DoYourJob.

300: the number of media stories that covered the #DoYourJob rallies that took place across the country on March 21.

217: the number of corporate lawyers and general counsels, including those from Google, Paul Weiss and a former Clinton administration official, who signed a letter urging Senate Republicans to #DoYourJob.

85: the number of #DoYourJob grassroots events that occurred throughout the country during Senate congressional recess [March 21- April 1]. These events were coordinated by more than **36** national organizations, with constituents telling their GOP Senators to commit to voting on Chief Judge Merrick Garland's nomination.

49: the number of states where editorial boards have told GOP Senators to #DoYourJob.

43: the number of bipartisan current and former deans of law schools around the country who have signed a letter telling Senate leadership to #DoYourJob.

42: the number of events across **23** states on the March 3 #DoYourJob National Day of Action.

36: the number of interfaith groups who are urging GOP Senators to #DoYourJob.

17: the number of Environmental CEOs who have signed a letter telling Senate leadership to #DoYourJob.

16: the number of U.S. city mayors who are urging GOP Senators to #DoYourJobs, including **4 Republicans**.

15: the number of Republican Senators who are publicly breaking with Sen. Mitch McConnell by agreeing to do their job and meet with Chief Judge Garland.

4.84: the average number of minutes during a work day since February 22 that GOP senators in states such as Pennsylvania, Iowa, and New Hampshire heard from voters in their state telling them to do their job.

2.: the number of retired chief judges, **John Gibbons**, a Republican appointee and the former chief judge of the U.S. Court of Appeals for the Third Circuit, and **Patricia Wald**, a Democratic appointee and the former chief judge of the D.C. Circuit, who are urging the Senate to proceed on a Supreme Court nominee.

Polling Roundup: Clear Majority of Americans Want Senate Republicans to Uphold the Constitution and Do Their Jobs

- 77% of the public thinks the GOP leadership is just playing politics with the President's Supreme Court nomination - [03/21/16: Monmouth Poll](#): [Conducted March 17-20, 2016]
- 73% of Americans "think Senate Republican leaders are refusing to hold hearings mostly for political reasons rather than because they think delay is best for the country." - [03/22/16: CBS/New York Times Poll](#): [Conducted March 17-20, 2016]
- 69% of likely voters in battleground states said Republicans should consider and vote on President Obama's nominee. - [2/2016: Hart Research](#)
- 68% of adults ages 18 through 34 say a new justice should be named and confirmed as soon as possible - [3/14/16: USA Today/Rock the Vote Online Poll](#): [Poll Conducted March 3-10]
- "Two-thirds of Americans want the Senate to hold confirmation hearings on his candidacy, and a majority of Americans say the Senate should ultimately vote to confirm him." - [3/25/16: CNN/ORC Poll](#): [Poll Conducted March 17-20]
- 66% of Americans say Republican leadership in the Senate should hold hearings on the nominee, including 67% of Republicans - [3/3/16: CNN/ORC](#): [Poll Conducted Feb. 24-27]
- 64% of all voters say it is the responsibility of President Obama and the Senate to fill the Supreme Court vacancy created by Justice Scalia's death - [2/18/16: Fox News Poll](#): [Poll Conducted Feb. 15-17]
- 62% of American voters believe that that "the U.S. Senate should consider the nomination of Judge Merrick Garland to the U.S. Supreme Court rather than wait until there is a new president." - [3/24/16: Quinnipiac Poll](#): [Poll Conducted March 16-21]
- 62% of Pennsylvania registered voters believe that the Senate should hold hearings on President Obama's nominee, rather than wait until after the next President has been chosen. - [3/24/16: Franklin and Marshall College Poll](#), [Poll Conducted March 14-20]

- 61% of Americans said Congress should vote now on the President's Supreme Court nominee; 61% of Americans approve of Merrick Garland's nomination to the Supreme Court - [3/18/16](#): **NBC News/Survey Monkey Poll: [Poll Conducted March 17-18]**
- 60% of Democrats want the Senate to hold hearings, as do 49% of Republicans and 46% of Independents. - [03/21/16](#): **Huffington Post/YouGov Poll: [Poll Conducted March 17-18]**
- 59% of registered Ohio voters say the U.S. Senate should move ahead with hearings on President Obama's eventual nominee - [3/14/16](#): **BW-CRI Poll (OH): [Poll Conducted Mar 2-9]**
- 58% of likely US voters believe every person the president nominates to serve as a judge or in a government position should receive an up or down vote on the floor of the Senate; 21% disagree; 21% are undecided. - [2/18/16](#): **Rasmussen Reports Poll: [Poll Conducted Feb. 15-16]**
- Most Americans, 57%, say the choice for the next justice should rest with Obama and not with the next president, and a similar majority, 58%, say that senators who believe the seat should be filled by the next president would not be justified in voting against Garland for that reason.- [3/25/16](#): **CNN/ORC Poll: [Poll Conducted March 17-20]**
- 55% of registered voters disapprove of Senate Republicans' plans to not hold hearings or consider any Supreme Court nominee from President Barack Obama, "with some 45% registering strong disapproval." 57% of independents disapprove of the decision - [3/9/16](#) **NBC/WSJ Poll: [Poll Conducted March 3-6]**
- More than half the country -- 54 percent -- approve of [President Obama's] handling of the vacancy left by recently deceased Supreme Court Justice Antonin Scalia, and 62 percent say Republicans in the Senate are wrong not to hold hearings on the nomination." - [03/24/16](#): **Bloomberg Politics Poll: [Poll Conducted March 19-22]**
- 53% of Americans say the Senate should hold a vote on President Obama's nominee – [03/22/16](#): **CBS/New York Times Poll: [Conducted March 17-20, 2016]**
- 52% of Americans are more likely to favor than oppose (29%) Senate confirmation of Merrick Garland to the Supreme Court - [03/21/16](#): **Gallup Poll: [Conducted March 18-19, 2016]**
- 50% of voters say they're less likely to vote for a Senate candidate who refuses to consider President Obama's nominee - [3/10/16](#): **Public Policy Polling: [Poll Conducted Mar. 8-9]**
- 43% of Republican voters say the Senate Judiciary Committee should hold hearings on Chief Judge Merrick Garland's nomination - [3/18/16](#): **Morning Consult Poll: [Poll Conducted Mar 16-18]**

***Comprehensive 'Do Your Job' Day-of-Actions Media Compilation**

ALABAMA

- [Dothan Eagle, 3/21: Protesters want Sen. Jeff Sessions to support hearing for Supreme Court nominee](#)



ARIZONA

- [Arizona Republic, 3/21 : Constituents urge McCain to reconsider Supreme Court nominee](#)



ILLINOIS

- [Progress Illinois, 3/21: Illinoisans Urge Kirk To Press For Senate Action On Obama's SCOTUS Nominee](#)

IOWA

- [Reuters, 3/21: Activists around US hold rallies supporting Merrick Garland's Supreme Court nomination](#)



- [Radio Iowa, 3/21: Protesters and plane fly-over urge Grassley: 'Do Your Job'](#)

KENTUCKY

- [Courier-Journal, 3/21: Protesters to Sen. McConnell: 'Do your job'](#)



NEW HAMPSHIRE

- [Sea Coast Online, 3/21: Protesters to Ayotte: Do your job on Supreme Court nominee](#)



NORTH CAROLINA

- [Rock Hill Herald, 3/21: Protesters, at Graham's Rock Hill office, call for vote on Supreme Court candidate](#)



OHIO

- [AP, 3/21: Rallies urge GOP senators to back Supreme Court vote](#)



- [ABC 6, 3/21: Protesters want Portman to vote on Supreme Court pick](#)



PENNSYLVANIA

- [Washington Post, 3/21: With call to 'do your job,' protesters take aim at GOP Supreme Court blockade](#)
- [L.A. Times, 3/21: Supreme Court battle follows Republican senators to their home states](#)



Protesters outside Republican Sen. Patrick J. Toomey's office in Harrisburg, Pa., on Monday. (Lisa Lake/Getty Images)

- [Morning Call, 3/21: Activists target Pat Toomey over opposition to Supreme Court nominee](#)



TEXAS

- [Houston Chronicle, 3/21: Protesters call on Cornyn to 'do his job'](#)



WISCONSIN

- [Fox6, 3/21: Dozens urge Wisconsin Sen. Ron Johnson to support Merrick Garland vote](#)

