

Biden needs to tell us: Would he try to pack the court? | Opinion

Updated Oct 19, 2020; Posted Oct 19, 2020



Democratic presidential candidate Joe Biden gives a speech on the Supreme Court at The Queen Theatre Sept. 27 in Wilmington, Del. AP

By Express-Times guest columnist

By **Carl Golden**

Democratic presidential candidate Joe Biden's stubborn, self-defeating refusal to venture an opinion on suggestions to increase the number of U.S. Supreme Court justices is a textbook example of poor decision-making. It has turned what should have been a one-day story into a running narrative that threatens to dominate the campaign discussion two weeks out from Election Day.

Biden compounded the controversy with his appallingly arrogant response to reporters that the American people didn't "deserve" to know his position on the court-packing scheme being pushed by his party's left wing.

Biden and his running mate, California Sen. Kamala Harris, have dodged repeated questions seeking their position on the issue.

Biden brushed the inquiries aside, saying he'd articulate a position once the election was over, adding that he wanted to avoid media coverage of his response — a strange stance, indeed, in a business that relies on media coverage for its existence.

The idea of increasing the court's membership was floated by a bloc of left-wing Democrats in response to President Donald Trump's nomination of Judge Amy Coney Barrett to the seat left open by the death of Justice Ruth Bader Ginsburg.

Conceding they were powerless to defeat the nomination, the small band of Democrats opted to negate it by expanding the court by four justices who shared their legislative agenda and could be counted on to block rulings which failed to comply with it.

The proposal threw Biden into a bind — he could support it and risk alienating the moderate, centrist base crucial to his success or oppose it and arouse the wrath of the left whose distrust of him still lingers.

He chose the path of least resistance — stonewall and refuse to respond.

In addition to delivering a campaign gift to Trump who could again portray him as a captive of the radical left, Biden ignored one of the fundamental principles of campaign/media interactions — stiffing reporters always fails to put an issue to rest; rather, it whets their appetite for dogged pursuit until they receive an answer.

Wittingly or not, Biden recognized but failed to fully grasp the reality when he grouched that everywhere he goes, he faces the same question when he'd prefer to talk about something else.

The story has legs now, but its central theme has been transformed from whether court packing is sound policy into Biden's persistent refusal to take a position.

Speculation abounds naturally, centering on suspicions that Biden, in attempting to thread the needle and mollify moderates and progressives, poked himself in the eye with the needle.

His campaign badly misjudged the potential impact of the court-packing plan, believing it was inside baseball and in a nation totally preoccupied with an unprecedented public health crisis, a suggestion that the Supreme Court be expanded would fail to gain traction with voters.

That sort of groupthink and analysis produced the pickle Biden now finds himself in. To be sure, the overwhelming majority of Americans are largely unfamiliar with and generally disinterested in the internal functioning of the court, but they expect and are entitled to a straightforward, honest answer from a candidate for president.

How Biden truly feels isn't terribly clear and his campaign brain trust erred by failing to develop a response to a question they should have seen coming. Something like "I have some reservations about it, but, as president, the country may rest assured my nominations to the court will be individuals of great intellect and integrity who will preserve and protect the freedoms we all enjoy."

Not all that difficult is it?

Being dismissed as undeserving of a response suggests to voters that Biden's core principles — values he cherishes and believes in — are less important than keeping political insiders happy.

The entire episode is a serious miscalculation by a campaign that has become perilously complacent, lulled by favorable poll numbers into a sense victory is at hand and all that remains is coasting through the coming weeks before turning to plan inaugural activities.

With time running out, falling on the ball has become the default strategy.

Biden's cavalier kiss-off of the American people as undeserving of his attention is an example of his history of the kind of shoot from the lip, unthinking, glib reaction many in his party feared would surface during the campaign. They must be yearning for the good old days of Biden in the basement reading canned commentary from a teleprompter.

Carl Golden, born and raised in Easton, is a senior contributing analyst with the William J. Hughes Center for Public Policy at Stockton University. He lives in Burlington, N.J.