



# From the President Carol Tobias

## Give the People a Voice

Friends, we have a job to do. There is a vacancy on the U.S. Supreme Court and Republican senators will be under tremendous pressure for the next (approximately) nine months to hold hearings and vote on any nominee put forth by President Obama. Our job is to encourage and support the Republican senators in their decision to "Give the People a Voice."

The death of Justice Antonin Scalia was a tremendous tragedy for the right-to-life movement. Appointed to the Supreme Court in 1986 by President Ronald Reagan, Justice Scalia steadfastly defended the right of elected lawmakers to enact laws that protect unborn children and their mothers, and he often criticized the judicially manufactured barriers that limited such legislative efforts.

Article 2, Section 2, of the Constitution says that the president "*shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court...*"

President Obama is determined to fill the vacant seat and thereby decisively shift the Court's balance on abortion, political free-speech rights, and a host of other issues. Yet, while he has the authority to *nominate*, he *appoints* only with the consent of the Senate. Nothing says the Senate **has** to consent to his nominee. The Republican senators have decided that, with an upcoming election in November, the voters should decide what kind of justice they want on the Court by the election of a presidential candidate. Thus, the "Give the People a Voice" campaign.

Senate Democrats and many left-leaning organizations have started a counter-campaign, telling senators to "Do Your Job." They argue that the senators **must** hold hearings and vote on the nominee; of course, with the hope that the nominee will be confirmed. They are desperate to give President Obama the opportunity to put his third justice on the High Court.

What these senators and groups are conveniently overlooking is that, when the shoe was on the other foot, they held the same position senate Republicans hold now.

In opposing President George W. Bush's nomination of Samuel Alito in 2005, then-Senate Minority Leader Harry Reid (D-NV) stated, "The duties of the United States Senate are set forth in the Constitution of the United States. Nowhere in that document does it say the Senate has a duty to give presidential nominees a vote. It says appointments shall be made with the advice and consent of the Senate. That's very different than saying every nominee receives a vote." He added, "The Senate is not a rubber stamp for the executive branch."

In July of 2007, 19 months before President Bush's term ended and when there was not even an opening on the Supreme Court, Senator Charles Schumer (D-NY), then a member of the Democrat majority on the Senate Judiciary Committee, stated, "We should not confirm any Bush nominee to the Supreme Court, except in extraordinary circumstances." (Schumer is widely expected to take over as leader of the Democrats upon the retirement of Reid at the end of this year.)

In 1992, the current vice president of the United States, Joe Biden, then serving as chairman of the Senate Judiciary Committee, stated on the Senate floor, "It is my view that if a Supreme Court justice resigns tomorrow or within the next several weeks, or resigns at the end of the summer, President Bush should consider following the practice of a majority of his predecessors and NOT, and NOT, name a nominee until after the November election is completed.

"The Senate, too, Mr. President, must consider how it would respond to a Supreme Court vacancy that would occur in the full throes of an election year. It is my view that if the president goes the way of Presidents Fillmore and Johnson and presses an election year nomination, the Senate Judiciary Committee should seriously consider NOT scheduling confirmation hearings on the nomination until after the political campaign season is over. And I sadly predict, Mr. President, that this is going to be one of the bitterest, dirtiest, presidential campaigns we will have seen in modern times.

"I'm sure, Mr. President, after having uttered these words, some will criticize such a decision and say that it was nothing more than an attempt to save a seat on the court in hopes that a Democrat will be permitted to fill it, but that would not be our intention, Mr. President. If that were the course we were to choose as a Senate, to not consider holding hearings until after the election, instead it would be our pragmatic conclusion that once the political season is underway, and it is, action on a Supreme Court nomination must be put off until after the election campaign is over. That is what is fair to the nominee and essential to the process. Otherwise, it seems to me, Mr. President, we will be in deep trouble as an institution.

"Others may fret that this approach would leave the Court with only eight members for some time, but as I see it, Mr. President, the cost of such a result, the need to reargue three or four cases that will divide the Justices four to four are quite minor compared to the cost that a nominee, the President, the Senate, and the nation would have to pay for what would assuredly be a bitter fight, no matter how good a person is nominated by the President, if that nomination were to take place in the next several weeks. In the end, this may be the only course of action that historical practice and practical realism can sustain."

# National Right to Life: The next President will pick Justice Scalia's successor

WASHINGTON -- The head of the nation's largest pro-life organization, National Right to Life, said that her organization's members will strongly support Republican senators' decision to preserve the current U.S. Supreme Court vacancy for the next president to fill.

**"This is not primarily about the professional credentials of a particular nominee – it is about who picks the justice who will decide whether unborn children will be protected, whether religious liberty will be protected, and whether the free-speech rights of groups out of favor with the liberal elites will be protected,"** said Carol Tobias, president of National Right to Life. **"President Obama hopes to decisively shift the Court's balance on abortion, political free-speech rights, and a host of other issues. Yet, while President Obama has the authority to nominate, he appoints only with the consent of the Senate. The Republican senators have decided that,**

**with an upcoming election in November, the voters should decide what kind of justice they want on the Court by the election of a presidential candidate."**

In a new column being published today in *National Right to Life News*, to be read by pro-life activists nationwide, Tobias writes,

**In a sense, the makeup of the U.S. Supreme Court is on the ballot in every presidential election -- yet, the intensifying debate surrounding the current vacancy may have an impact on the general election to a degree seldom if ever seen before in our nation's history.... Use every opportunity—petitions, fair booths, social media pages, advertising campaigns, etc., to reach voters; explaining their opportunity to make**

**their voices heard in the nomination process. And definitely use every means possible to encourage the Senate to stand firm and #GiveThePeopleAVoice.**

President Obama recently claimed that the Senate must act on his nominee, lest it will threaten the independence of the judiciary, and create risk that the Supreme Court would "become one more extension of our polarized politics." National Right to Life Legislative Director Douglas Johnson called such concerns **"laughable, coming from Obama, who filibustered Samuel Alito's nomination, and whose administration has repeatedly urged the Supreme Court to strike down state laws that violate no constitutional text. In reality the president wants not an independent judiciary, but a Supreme Court majority that will vote in lock step to strike down protections for**

**unborn children, to tolerate escalating governmental attacks on religious liberty, to permit severe limits on the rights of independent groups to criticize those who hold or seek public office, and to nullify other laws that conflict with current liberal dogmas and policy preferences."**

Johnson also noted that Senate Democrats had killed many of President George W. Bush's nominations to courts of appeals by denying them up or down votes. Even earlier, as chairman of the Senate Judiciary Committee, Sen. Joe Biden killed President George H.W. Bush's January, 1992 nomination of John Roberts to the U.S. Court of Appeals for the District of Columbia, simply by refusing to schedule a hearing on the nomination through the entire year. Indeed, during 1992 alone, Roberts was one of over 50 Bush judicial nominees who never received a hearing from Biden.

## Give the People a Voice

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Moreover, during the administration of President George W. Bush, Senate Democrats blocked the confirmation of many of President Bush's nominations to the federal courts of appeals, in most cases by denying them up and down votes, or even hearings in some cases. Indeed, in 1992, Senate Judiciary Committee Chairman Biden killed the nomination of John Roberts to the U.S. Court of Appeals for the District of

Columbia simply by refusing, throughout the year, to even schedule a hearing on the nomination.

Biden, Reid, Schumer, and friends won't let their hypocrisy get in the way of a well-funded, well-executed plan to pressure Senate Republicans to conduct hearings and vote on President Obama's nominee. The #DoYourJob campaign is well underway, on TV, radio, newspaper and social media.

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the U.S. Supreme Court is on the ballot in every presidential election -- yet, the intensifying debate surrounding the current vacancy may have an impact on the general election to a degree seldom if ever seen before in our nation's history.

As Justice Scalia's chair remains vacant, voters across the nation will consider: What kind of justice do we want in that chair? What kind of president do we want making that nomination? What kind

of Senate do we want holding hearings and giving advice and possible consent to the nominee?

Use every opportunity—petitions, fair booths, social media pages, advertising campaigns, etc., to reach voters; explaining their opportunity to make their voices heard in the nomination process. And definitely use every means possible to encourage the Senate to stand firm and #GiveThePeopleAVoice.