

# The Epoch Times

## Mitch McConnell Says He'll Fill Any Supreme Court Vacancy in 2020

Zachary Stieber

May 29, 2019

Senate Majority Leader Mitch McConnell (R-Ky.) said that he would fill a Supreme Court vacancy if a spot became open in 2020.

Nationwide elections are slated for 2020. President Donald Trump, a Republican, is running for re-election while a slew of candidates are vying for the Democratic nomination to run against him.

McConnell, speaking on May 28 at a Paducah Chamber luncheon, was asked about a vacancy arising on the nation's highest court in 2020 if a justice died. McConnell smiled and said, "Oh, we'd fill it."

The crowd laughed and applauded.

"The reason I started with the judges—as important as all the other things are that we're talking about—if you want to have a long-lasting positive impact on the country, everything else changes," McConnell also said. "What can't be undone is a lifetime appointment to a young man or woman who believes in the quaint notion that the job of the judge is to follow the law. That's the most important thing for the country, which cannot be undone."

Democratic officials and activists slammed McConnell's stance on filling a potential 2020 vacancy, claiming he was being hypocritical after refusing to bring former President Barack Obama's nominee Merrick Garland to a vote in 2016 after Justice Antonin Scalia's death as Trump and Hillary Clinton vied for the presidency.

McConnell said at the time that voters could vote in whichever president they wanted and that the new president would get to nominate someone to the vacant seat.

"The American people may well elect a president who decides to nominate Judge Garland for Senate consideration," McConnell said at the time. "The next president may also nominate somebody very different. Either way, our view is this. Give the people a voice in filling this vacancy."

Supreme Court Justices Neil Gorsuch and Brett Kavanaugh attend the State of the Union address in the chamber of the U.S. House of Representatives at the U.S. Capitol Building on Feb. 5, 2019. (Doug Mills-Pool/Getty Images)

Trump, after he took office, nominated Neil Gorsuch to the vacancy. After Justice Anthony Kennedy stepped down, he nominated Brett Kavanaugh to the new vacancy.

McConnell later said that the situation in 2016 was different from the one now, noting that Obama was facing a Republican Senate in the final years of his presidency while Republicans currently control both the White House and Senate.

“You have to go back to 1880s to find the last time a Senate controlled by a party different from the president filled a vacancy on the Supreme Court that was created in the middle of a presidential election year,” McConnell told the openly right-wing [Fox News website](#) last year. After McConnell’s comments on Tuesday, a spokesperson for the Senator emphasized the difference in the situations.

Sen. Lindsay Graham (R-S.C.) said last year that any vacancies that open up in 2020 would not be filled.

“If an opening comes in the last year of President Trump’s term and the primary process has started, we’ll wait until the next election,” Graham said. He’s currently chairman of the Senate Judiciary Committee, which provides advice and consent for judicial nominations.

Sen. Lindsey Graham (R-S.C.) arrives for a meeting at the Capitol in Washington on Jan. 10, 2019. (Alex Wong/Getty Images)

Since 1900, only eight judges have been considered during a presidential election year, the [Wall Street Journal](#) noted in 2016. The last one was Kennedy’s nomination by President Ronald Reagan in 1988 following the 1987 retirement by Justice Lewis Powell. Kennedy was nominated after Democrats spiked the nomination of Reagan’s first choice Robert Bork and a second nominee, Douglas Ginsburg, withdrew from nomination.

According to [Josh Blackman](#), a law professor and adjunct scholar at the Cato Institute, there have been 10 vacancies on the Supreme Court since the Civil War that actually arose in a presidential election year. Of those 10, eight were filled. The Senate and presidency were of the same party in six of those eight—1888 was the last time a nominee was confirmed with a divide between the Senate and the President.

The Supreme Court situation has ignited passions on both sides. The Kavanaugh nomination included five sexual assault accusations against Kavanaugh and critics said the nomination should be withdrawn. Three of the accusations were later shown to be false and the other two remained unsubstantiated.

The Supreme Court after Kavanaugh’s confirmation became 5-4 in favor of conservative-nominated justices. The two oldest justices are liberals. Justice Ruth Bader Ginsburg, 86, has suffered a number of health issues in recent years, including cancerous growths in her lung and broken ribs. She returned to the bench on Feb. 19 after two months away. Justice Stephen Breyer, 80, nominated by President Bill Clinton, is the second oldest judge on the court.