

Three Scenarios in the Battle to Replace Antonin Scalia

A lot can happen between now and the end of the 2016 election cycle, but Republicans—for now—have said replacing the late Supreme Court Associate Justice Antonin Scalia isn't one of them.

But, within hours of Senator Majority Leader Mitch McConnell (R-Ky.) laying down the gauntlet, saying Republicans would not consider any Obama nominee until after the election, cracks in the GOP resolve emerged. Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) refused to outright reject an Obama nominee, and Sen. Thom Tillis (R-N.C.) said an outright rejection would be “obstructionist” on the part of Senate Republicans.

As of this writing, there are three most likely scenarios, all of which could have a tremendous impact on the 2016 elections. This could have huge ramifications for Christians that go well beyond the next two or four years.

Scenario 1: Republicans Block the Nominee

This is a course of action being advocated by many in the conservative media, but it is the one least likely to happen. Republican Senators seeking re-election in “purple states” will quickly feel the pressure from Democrats and the media, which could lead directly to Scenario 3 below.

The Democrats and many mainstream media outlets are already applying pressure in the court of public opinion. The opinion, in general, of Congress is already very low, which will no doubt turn up pressure of its own on some Republicans to act.

The GOP currently holds a 54-46 majority, but Democrats would need 60 votes to force “cloture” thereby ending any

filibuster, such as the one promised by presidential candidate Ted Cruz. However, 24 of the 34 senators up for re-election this year are Republicans.

If the GOP loses control of the Senate again, it could make any Supreme Court nomination battle a moot point. It could also mean a whole slew of new liberal ideologies coming from the Legislative Branch, or it could put a stop to any plans to reverse existing ones.

Scenario 2: Republicans Vote Down the Nominee

History and tradition aside, a strict “originalist” view of the Constitution—something President Obama has seemingly rejected until this past week—says he must nominate a replacement. The Senate also has a duty to provide “advice and consent” over that nomination.

Republicans can be “obstructionist” while still adhering to the Constitution by simply voting down any Obama Supreme Court nominees until after the November election. No, this would not prevent Democrats and the media from trying to make political hay of the situation, but it gives senators up for re-election some cover by saying they’re sticking up for conservative principles and waiting to allow the voters to have a say.

As would be the case in Scenario 1 above, the Obama nominee would likely be an ideologue—and a very liberal one to boot—which the administration and the media will try to use as a political wedge in the upcoming election. This does, however, provide additional motivation for Christians to turnout and vote, and to vote based on godly principles.

Scenario 3: Republicans Compromise with Obama

This, unfortunately, is a very realistic possibility, given the Senate Republican leadership’s inability to defend anything remotely resembling conservative or Christian principles. To prevent it from happening, Christians need to

apply pressure—now—to their senators, even if they think they know how their elected representatives will act.

They must also be ready to follow through if their senators betray their principles and compromise for a liberal activist judge. The Heritage Foundation has already pledged “civil war” within the GOP if that happens; expect each of the offending senators to have a primary challenger at their next election.

But, Christians need to be prepared to vote for a conservative newcomer in this scenario. Otherwise, they face the prospect of being ignored for the long term, as issues important to our culture are addressed on an almost daily basis.

A compromise nominee may not be a full-blown liberal, but even a moderate—such as Associate Justice Anthony Kennedy—can be just as harmful, particularly for Christians.