

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

SUPREME COURT NOMINATION

Mr. SCHUMER. Madam President, first, let me thank all of my colleagues who were here until late last night and made such persuasive arguments as to why the new Supreme Court Justice matters so much to the American people, to their healthcare, the working people's rights, to women's rights, to preserving the right to choose, to making sure we have a good green planet, to LGBTQ rights. They did an eloquent job.

I hope America was listening because this nomination matters; it matters to the average daily lives of average Americans. And last night, by holding the floor until the late hours, Democrats made really strong arguments.

I thank my colleagues for doing that.

Madam President, for the third day in a row, Leader MCCONNELL has come to the floor and completely ignored the "principle" he established in 2016, when, mere hours after Justice Scalia passed away, Leader MCCONNELL said that "the American people should have a voice in the selection of their next Supreme Court Justice"—his words: "The American people should have a voice in the selection of their next Supreme Court Justice," referring to the upcoming election.

That election was more than 8 months away. We are now only 42 days away. But the so-called McConnell rule—the supposed principle that the American people deserve a voice in the selection of a Supreme Court Justice—hasn't come up. The Republican leader can't mention it. No wonder he never mentions it. And he sticks to just diversionary, irrelevant remarks in his speeches on the floor instead of addressing the main issue—why he said one thing in 2016 and a different thing now.

Instead, the Senate is forced to suffer these tortured explanations and misleading precedents. At a press conference yesterday, here is how the Republican leader described the Senate role in confirming the Supreme Court Justices. He actually said: "[W]e have an obligation under the Constitution [to consider a Supreme Court Justice] . . . should we choose to take advantage of it."

Did you catch that? Did you catch that? It is an obligation, but only if the Republican leader chooses to take advantage of it. I see. So, when there is a Democratic President, it is one of those obligations you don't have to take advantage of, but when there is a Republican President, it is a solemn constitutional duty.

Are we really supposed to swallow the argument that, when the Senate and the President are of the opposite party, one rule applies, but when they

are of the same party, a different rule applies? I didn't hear that right after Scalia died when Leader MCCONNELL explained why he was holding it up.

So this idea that when it is one party, one rule applies and another party, a different rule applies, we have a term for that. It is called a double standard.

If the leader really wants to discuss precedent—real precedent, not fiction—we can dispatch with that conversation in about 30 seconds.

Madam President, I have a parliamentary inquiry for the Chair: Is there a Senate precedent for confirming a Supreme Court nominee between July and election day in a Presidential year?

The PRESIDING OFFICER. Materials from the offices of the Secretary of the Senate do not show such a precedent.

Mr. SCHUMER. Thank you, Madam President.

July is long gone. August is over. We are now at the end of September. As you just heard—not from the Democratic leader but from the records in the Senate, as spoken by the Chair, there is no, no, no precedent for confirming a Supreme Court Justice between July and election day. The Republican leader can come up with arguments that twist things, that jump through hoops, but it doesn't gainsay no, no, no precedent for any Supreme Court nominee being confirmed between July and election day. As you know, July is gone. August is over. We are now at the end of September. It is 6 weeks before an election in which some people have already begun to vote.

Simply, my Republican friends have no ground on which to stand—none.

There is no logic to excuse flipping their position 4 years apart, under the same circumstances. There is no justification for the Senators who said on the record that they would "say the same thing if a Republican president were in office"—"say the same thing if a Republican president were in office" they said then, but it doesn't apply now that we have a Republican President in office. There is no defense for the Senator who said: "Precedent set. Precedent set. I'm sure come 2020, you'll remind me of that." There is no place to hide for the Senator who said: "You can say that I said, let the next president decide. Hold this tape. I want you to use my words against me."

Why are Senate Republicans going to such extreme lengths to ram through a Justice weeks before an election, making a complete mockery of their previous "principle"? Why are they committing a power grab so egregious that it risks shredding the last vestiges of trust that remain between our two parties? For what? Because this is the only way for Republicans to achieve their radical, rightwing agenda—an agenda so far away from where average Americans think, even average Republicans, that they wouldn't dare bring such things on the floor of the Senate.

Unable to thrust comically unpopular positions on the American people through Congress, they have to try through the courts—a cynical strategy that dates back to the 1950s.

Republicans are sick and tired, for instance, of this annoying law, the Affordable Care Act, and that it keeps providing healthcare to millions of Americans. They tried to repeal it in the House just about a million times, and they tried here, too, in the Senate but failed by one vote. So now they have taken it to the courts.

President Trump and Republican attorneys general are suing right now to eliminate the entire law, including protections for up to 130 million Americans with preexisting conditions. In fact, President Trump is meeting with those Republican attorneys general at the White House today, this afternoon. Less than a week after Justice Ginsburg's passing, the President is meeting with the leaders of the Republican lawsuit against our healthcare law. Ostensibly, it is about how social media companies are biased against conservatives, but who wants to bet that the healthcare lawsuit doesn't come up? I would like for someone to ask them that.

If he cared about healthcare and the American people, President Trump himself would ask the AGs to withdraw their lawsuit. I am calling on him to do it right now. I doubt he will, given his record, given his lack of concern for the American people's healthcare, but he should. But, unfortunately, let's remember, President Trump already told the American people his goal. He said: "My judicial appointments will do the right thing, unlike Bush's appointee John Roberts, on ObamaCare."

He is about to make a Supreme Court pick while there is an ongoing lawsuit that seeks to eliminate the Affordable Care Act. Hear that, America? The healthcare law you want, the healthcare law you need, the healthcare law that protects you against overreaching insurance companies that will not give you insurance when you have a preexisting condition—President Trump has said he will appoint a nominee who will undo it, and we know he said it because of what he said about Justice Roberts when Justice Roberts opposed his view on healthcare.

Guess when the case is being heard in the Supreme Court, America. November 10, a week after the election. Is that why Senate Republicans are in such a rush to get a new rightwing Justice confirmed before the election—so that the Supreme Court can do what they failed to do here in the Senate—repeal this healthcare law, which protects so many Americans?

Leader MCCONNELL slammed on the brakes while tens of thousands of Americans died from COVID, and now he is slamming his foot on the gas to approve a Supreme Court Justice who could rip away Americans' healthcare in the middle of a pandemic. Shame. Shame.