

SIGNING AUTHORITY

Mr. PORTMAN. Mr. President, I ask unanimous consent that the senior Senator from North Dakota and the majority leader be authorized to sign duly enrolled bills or joint resolutions on Wednesday, September 30.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF AMY CONEY BARRETT

Mr. PORTMAN. Mr. President, I would like to talk tonight about the nomination of Amy Coney Barrett for the vacant Supreme Court Associate Justice seat.

I think the President made a great pick. From all indications, she is an impressive lawyer, judge, and person. We have already begun the process of looking at Judge Barrett. She has been meeting with Members of the Senate, and I look forward to my meeting with her.

The precedent for moving forward with this nomination at this time is crystal clear. During an election year, when one party holds the Presidency and the Senate, in the entire history of our country, the Senate has confirmed the nominee in every single case except one. That one exception, by the way, was somebody who withdrew because of ethics concerns that both Republicans and Democrats had. So the precedent is very clear. When you have the President and the Senate of the same party, we confirm.

In contrast, when power is divided and a Supreme Court vacancy arises during an election year, Senate precedent is not to confirm the nominee. In fact, the last time a confirmation occurred with the President and the Senate of different parties was in the 1880s. That distinction is what separates now from 2016.

Back then, I wrote an op-ed:

Some argue that the American people have already spoken. And I agree they have. Both the president and the Senate majority were fairly and legitimately elected. The last time we spoke as a nation, two years ago, the American people elected a Republican majority in the U.S. Senate in an election that was widely viewed as an expression that people wanted a check on the power of the president. The president has every right to nominate a Supreme Court Justice. . . . But the founders also gave the Senate the exclusive right to decide whether to move forward on that nominee.

In other words, in keeping with the precedent that I laid out earlier, the Republican Senate did what Democratic Senates had traditionally done with a Republican President's nominee. The comments I made in 2016 were all in that context of divided government.

In fact, in that same op-ed, I warned that divided government is not "the time to go through what would be a highly contentious process with a very high likelihood the nominee would not be confirmed." I did not believe that Judge Garland would have been confirmed. I thought it was not a good result to have that kind of highly contentious process for the institution of the Supreme Court or for the Senate.

Now, of course, we have a very different situation. We have a President and a Senate of the same party. In fact, we have a Republican Senate that was elected in 2016 and reelected in 2018, in part, to support well-qualified judges nominated by the President.

No one can disagree that Judge Barrett has an impressive legal background. As I have looked into her background both as a law professor at Notre Dame, where three times she won the Distinguished Teaching Award and, of course, in her record as a judge on the U.S. Court of Appeals for the Seventh Circuit, Judge Barrett has been highly regarded for her work in the legal world.

By the way, she has been highly regarded from folks across a wide variety of legal philosophies. They say she is smart. They say she understands the law. They say she is well qualified. In fact, the American Bar Association said that about her when she was nominated and successfully confirmed here in the U.S. Senate to the circuit court, which, of course, is the second level, right below the Supreme Court. So she has already gone through the process here. She has been confirmed here. The American Bar Association looked at her and said she is well qualified, which is their highest rating. So my hope is that there will not be any argument about whether she is well qualified or not, because she clearly is. She has an impressive legal background.

To me, though, her personal story is as impressive as her legal career. After earning a full ride to Notre Dame Law and graduating first in her class, she earned a prestigious clerkship on the Supreme Court for Justice Antonin Scalia. She then married Jesse Barrett, a classmate of hers at Notre Dame, and is raising seven wonderful children—two adopted from Haiti—all while advancing her own extraordinary career in the law. Frankly, I think she is a great model for working parents everywhere.

As we heard during her last confirmation to the circuit court, when we talked about her right here on the floor of the U.S. Senate, she was admired as a good person. Colleagues at Notre Dame, her students at Notre Dame, and others from across the political spectrum have called her fair. They have called her compassionate. They have said she is a good person.

Apart from those legal qualifications and the character, I think it is fair for the Senate to insist on knowing a judge's judicial philosophy. My view is that it is the role of Supreme Court Justices to fairly and impartially apply the law and protect our rights guaranteed by the Constitution but not to advance their personal preferences or even their policy goals. That is not the job of judges. They are not supposed to be like us, legislators. They are not supposed to legislate from the bench. They are supposed to follow the Constitution, follow precedent.

It is no understatement to say that Judge Barrett is being interviewed for

one of the most important jobs in the country. That is why it is important we do get a fair and accurate picture of her judicial philosophy. Do you know what? Her judicial philosophy lines up with what I think is right for the Court but, more importantly, what most Americans think is right for the Court.

As an opinion piece in the Wall Street Journal put it recently, Judge Barrett's body of work puts her "at the center of the mainstream consensus on the judge's role as an arbiter, not a lawmaker, who abides by the duty to enforce the law as written." That is her record. That is the philosophy she talked about as she was confirmed by this body just a couple of years ago.

While I know that judicial nominations have become incredibly partisan around here, my hope is that Judge Barrett will be given a thorough and a fair evaluation from both sides of the aisle. To that end, I hope my Democratic colleagues will at least meet with Judge Barrett and engage with her on any concerns they might have rather than dismiss her nomination out of hand, and I hope that those who end up opposing her will be able to do so without resorting to the kind of character assassination we saw with Judge Kavanaugh.

I look forward to the 4 days of Judiciary Committee hearings that have already been announced by Chairman GRAHAM. This will give all members of the committee plenty of time to ask questions, to express their views, and to have the dialogue that they are looking for. I will be joining millions of Americans in watching those proceedings.

I will also look forward to my one-on-one meeting with her. This will give me a chance to further assess Judge Barrett's character, temperament, and legal philosophy.

My hope is that my colleagues on both sides of the aisle will also take the opportunity to fairly review her character, her judicial temperament, and her legal qualifications, which are so impressive, and do so in a respectful manner.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

EXECUTIVE CALENDAR

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Executive Calendar Nos. 845 through 853, 869, 870, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, Navy, and Space Force; that the nominations be confirmed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows: