

has been shopping the same horror stories for 50 years. They have been saying the same thing for half a century about every Supreme Court nominee by a Republican President, without exception. Many of those judges—not to the delight of some people on this side of the aisle—went on to not disappoint the other side, which shows you how hard it is to predict what someone will be for life. Many have been surprised, some unpleasantly.

It is almost as if jurists are not politicians with policy platforms. It is almost as though that is the wrong way to look at it. That is a deeper misunderstanding of what is at play here.

Let me quote an expert: “A judge must apply the law as written, not as she wishes it were.”

Scalia used to put it this way. He would say: If you want to make policy, why don't you run for office? That is not what we do here. That is not our job.

It takes a good deal of discipline to squeeze your personal opinion out of your decision-making. Those are the kinds of judges we have been confirming here for the last 4 years—people who are sworn to uphold the law and take it seriously.

President Obama once said he wanted to appoint judges who had empathy. Think about it for a minute. If you are the litigant for whom the judge has empathy, you are probably in pretty good shape. But what if you aren't? That is not what we have been doing here for the last 4 years with the judiciary. The reason that frightens these guys on the other side so much is because that is exactly what they want—another branch of legislators seeking outcomes that may or may not be reflected in the law or the Constitution that is before them. That is exactly what they want.

Courts have a vital responsibility to enforce the rule of law, which is critical to a free society, but the policy decisions and value judgments of the government must be made by the political branches elected by and accountable to the people. The public should not expect courts to do so, and courts should not try—shouldn't try.

Now, who said that? That was Amy Barrett who said that. She understands the separation of powers far more keenly than her critics. She understands the job of a judge.

Our Democratic colleagues should not have tried to filibuster this exceptional nominee. They should have listened and actually learned.

I loved during the hearing when Senator CORNYN said: What do you have on your notepad? She held it up. Nothing. Nothing. No notes at all.

We have a few former Supreme Court clerks on that committee: Senator CRUZ, Senator HAWLEY. I have heard them say over and over—oh, three. Mike. Sorry. Three. So they have been around the best, at the highest level. Nobody has seen anything better than this. This is something to really be

proud of and feel good about. We made an important contribution to the future of this country.

A lot of what we have done over the last 4 years will be undone sooner or later by the next election. They won't be able to do much about this for a long time to come.

Fortunately for Judge Barrett and for our Nation, history will remember what is already clear: The deficiency is with their judgment, not hers—their judgment, not hers. The Senate is doing the right thing.

We are moving this nomination forward, and, colleagues, by tomorrow night we will have a new member of the U.S. Supreme Court.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

CORONAVIRUS

Mr. SCHUMER. Madam President, I want to start today by talking about some breaking news that may, at first glance, not seem relevant to today's proceedings but, in fact, is a perfect illustration of how broken this process is.

We find ourselves in the middle of a pandemic that the Republican Party has never taken seriously enough, and it is a pandemic that is worsening by the day.

According to Dr. Fauci, the nomination ceremony for Judge Barrett was a superspreader event.

Today, the White House Chief of Staff conceded the White House is “not going to control the pandemic.” Yet last night we learned that several aides close to Vice President PENCE have tested recently positive for COVID.

We wish them and their families well. We wish the Vice President and his family continued health. But a normal response after being close to several people with COVID-19 would be to follow CDC guidelines and quarantine for everyone's safety, but this is not the case. In the same breath with which they announced that Vice President PENCE was exposed, the White House said that he would keep on campaigning, comparing campaigning work to the work that doctors, nurses, firefighters, and police officers do. It is a puzzling claim, especially since the Vice President failed at the most important official duty in his portfolio—the White House Coronavirus Task Force. Not only has the White House Coronavirus Task Force failed to keep the American people safe; it has even failed to keep the White House safe.

Even worse, the Vice President reportedly intends to come to this Chamber tomorrow to preside over Judge Barrett's confirmation vote. The Vice President, who has been exposed to five people with COVID-19, will ignore CDC guidelines to be here tomorrow, putting the health of everyone who works in this building at risk. It sets a terrible, terrible example for the American people, and nothing could be a more apt metaphor for what is going on here.

The Republican Party is willing to ignore the pandemic to rush this Supreme Court nomination forward, and the Vice President, after being potentially exposed to COVID, will preside.

The Senate Republicans are willing to ignore the need for economic relief. They are willing to ignore the Nation's testing needs. They are willing to ignore election interference—all so they can put someone on the highest Court who could take healthcare away from millions of Americans in the middle of a pandemic. God save us.

Now, only a few hours after Justice Ruth Bader Ginsburg passed away, Leader MCCONNELL announced that the Republican majority would move quickly to confirm her replacement. At the time, we didn't know exactly when, but now we do. Republicans are rushing to hold a confirmation vote tomorrow night, 8 days—8 days—before the election, after more than 50 million Americans have voted for a President—quite possibly, a different President—to pick Justices on their behalf; after more than 50 million Americans have voted for Senators—quite possibly, different Senators than some who are here today—to advise and consent.

Confirming a lifetime appointment this late into a Presidential election season is outrageous. It is even more galling, of course, because nearly every Republican in this Chamber, led by the majority leader 4 years ago, refused to even consider the Supreme Court nomination of a Democratic President on the grounds of the principle—the principle—that we should wait until after the Presidential election because the American people deserved a voice in the selection of their next Justice.

My colleagues, there is no escaping this glaring hypocrisy. As I said before, no tit for tat, convoluted, distorted version of history will wipe away the stain that will exist forever with this Republican majority and with this Republican leader. No escaping the hypocrisy, but, oh my, how the Republican leader has almost desperately tried.

Over the past few days and weeks, the majority leader has subjected the Senate to a long and tortured defense of this cynical power grab. The Republican leader claims the majority's position all along has been that it is acceptable to deny Justices in Presidential election years when there is divided government.

But here is what Leader MCCONNELL said after Justice Scalia died:

The American people should have a voice in the selection of their next Supreme Court Justice. Therefore, this vacancy should not be filled until we have a new President.

He didn't say: The American people should have a voice, but only when there's a divided government.

He didn't say: The American people deserve a voice, but only when it serves the political interests of one party, otherwise, we don't mean it.

No, Republicans all swore this was a “principle”—their word—not a mere incident of who controls the Senate