special interests that tend to challenge these agency regulations in the first place.

One of reasons that the agencies were given the authority to implement our laws—given by Congress to the agencies—was their expertise, an expertise that in most cases far exceeds that of the U.S. Supreme Court.

Now, I intend to vote against the nomination of Judge Amy Coney Barrett to be an Associate Justice of the U.S. Supreme Court because I am convinced that she will not guard core constitutional principles, that she will not interpret the law to protect the rights of the vulnerable, and that she will read the law with a backward-looking perspective, not consistent with the realities of our time and the growing dangers that we face in the future.

As my Republican colleagues accelerate this nomination at a breakneck pace, it speaks to the deeply misplaced priorities of this body. We simply should be not be undertaking a Supreme Court nomination at this time, especially when it should rightfully take place during the next Presidential term after the voters have made their decision.

The Senate's foremost priority right now should be to provide additional pandemic relief. My colleagues have displayed a profound lack of urgency to address the many challenges Americans face due to the pandemic. This is despite the repeated warnings from public health experts and economists about what will happen if we do not enact additional fiscal aid.

However, my Republican colleagues continue to turn a blind eye, even as COVID–19 cases spike, businesses close, unemployment remains high, and States consider deeper budget cuts. Under these extraordinary circumstances, I cannot support Judge Barrett's nomination to the Supreme the Court of the United States.

I urge my Republican colleagues to stop this shortsighted rush. Let's put the best interests of the country first. Let's wait a few more days and let the American people have a say. Let's focus on the COVID–19 crisis, which demands our immediate attention. Just because you can do something doesn't mean you are doing the right thing. I strongly believe my Republican colleagues are making a major mistake that will be doing lasting damage to both this institution and the Supreme Court, and I urge them to reconsider.

Instead of pushing forward with this ill-suited nominee, let's get to the business at hand: addressing the great challenges we face due to the pandemic and beyond, as well as working together to fix the Senate so that we no longer break faith with the people who sent us here, the people we represent.

With that, I yield the floor.

Mr. BENNET. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LANKFORD). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. BENNET. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

COLORADO WILDFIRES

Mr. BENNET. Mr. President, before I begin my remarks about the nomination, I want to acknowledge that tonight, as we are here, there are fires in many places across the State of Colorado. There are people who are out of their homes and out of their communities, who have had to evacuate their towns, and there are first responders on the ground in Colorado who are fighting these fires bravely every single day.

They have been stretched all summer through a fire season that has lasted into the fall because of our inability to deal with our forests and because of climate change. My hope tonight, as we are here, is that the snow that has fallen is going to be more of a benefit than a curse to everybody who is out there.

So, with that, I thank the Presiding Officer for recognizing me, and I will now give my remarks about this confirmation.

NOMINATION OF AMY CONEY BARRETT

Mr. President, when I was in law school, which wasn't really that long ago, the confirmation of a Supreme Court Justice was a chance for the American people to learn about our system of checks and balances, our commitment to the rule of law, and, in particular, the independence of judges. And whenever the Senate confirmed a Justice with an overwhelming bipartisan vote, as it did almost every time, it reaffirmed that independence and reassured the American people that our courts were protected from political influence and that they stood apart from the partisanship of the other two branches of government.

As we meet here tonight, after 20 years of descending into intensifying partisanship in the confirmation of judges, the Senate is now about to drag the Supreme Court down to its own decadent level by turning it into just another politicized body that is distrusted, for good reason, by the people it is meant to serve.

It is common these days to observe that our institutions are failing. I have said it myself. But institutions don't fail on their own. They can't destroy themselves. It takes people to destroy them. It particularly takes leaders who have no inclusive, long-range vision for our country or our democracy; leaders who can't or won't think beyond narrow, short-term interests; and leaders, I am sorry to say, like Leader MCCONNELL.

He may imagine, as he claims, that he is simply restoring the judicial calendar to a prefilibuster era. That is what he tells his colleagues here when he recounts the story. The majority leader, more than any other actor, has transformed what used to be the overwhelming bipartisan confirmation of a qualified nominee and a bipartisan ratification of the independence of the judiciary into an entirely partisan exercise that has destroyed the Senate's constitutional responsibility to advise and consent and is now at risk of destroying the credibility of the Supreme Court and the lower courts as well.

This may not matter much, I suppose, to the Senators on this floor. It matters to the American people who have not consented to the destruction of their constitutional right to an independent judiciary free from the partisan insanity of elected politicians.

In this confirmation proceeding, the majority renounced its duty to advise and consent by giving their consent before the President ever chose the nominee. I don't believe that has ever happened in the history of America.

Ours is a Senate where words have lost their meaning. Party advantage dictates every action. Shameless hypocrisy is the stuff of proud triumph. Deliberation is no longer necessary because conclusions are all foregone, and a decision like that affirming Judge Barrett to a lifetime appointment to the most powerful Court in the Nation is anything you have the power to cram down the throats of your political opponents.

The truth is, this confirmation process has never been a debate about what the Senate should do, what the Senate ought to do, and what the right thing to do for this Senate is. It has always been a demonstration of what the majority can get away with and of how they can exercise their power in order to entrench their power.

I have no expectation that my words are going to change the result tomorrow. My hope is that we can mark this as the moment that the American people said ''Enough'' and began to reclaim their exercise in self-government from those who have worked relentlessly to deprive them of it.

To do that, we have to be very clear about what this moment means and what it calls on each of us to do in the days, months, and years ahead. The truth is, this confirmation is the latest victory for an unpatriotic project that traces back to the earliest days of our country.

Since our founding, there have always been factions working toward an insidious purpose: to so degrade and discredit our national exercise in self-government that when the American people finally throw up their hands in disgust, these factions can distort it into an instrument for their interests instead of the public interest.

Today, the Senate majority leader, MITCH MCCONNELL, represents one such faction, joined by the Freedom Caucus in the House of Representatives, President Trump, and the legion of deep-pocketed donors and PACs assembled behind them. Because factions like this one have a tough time winning broad support from the American people for their agenda, they seek other less

democratic means to secure their power—gerrymandering, voter suppression, and, in this case, cramming a nominee onto the Supreme Court during the fleeting days of a failing, unpopular administration.

Over the years, earlier versions of these factions have obscured their project with terms like ''States' rights,'' ''originalism,'' ''freedom,'' and with dubious claims like ''separate but equal,'' essentially turning American words against the American people.

We saw it in the 1890s, when the Supreme Court invoked freedom to strike down laws that would have let workers unionize, establish a minimum wage, prohibit child labor, and create a progressive income tax. We saw it most infamously in Plessy v. Ferguson, when the same Court hid behind equality to justify segregation.

We saw it in 1905, when the Supreme Court perverted the 14th Amendment, the amendment meant to guarantee the protection of the law for those most vulnerable in our society, to invent a ''liberty to contract'' so that bakeries could freely force people to work more than 60 hours a week. Just a few years after that ruling, 145 workers were burned alive at the Triangle Shirtwaist Factory after their employer took the liberty of locking them inside.

We saw it in the 1930s, when the Supreme Court rewrote the commerce clause in a failed attempt to eviscerate the New Deal, FDR's historic effort to build an economy that lifted everyone up, not just those at the very top.

We see it in our time, in Citizens United, Shelby, and other rulings when the Supreme Court has asserted the right of billionaires and other privileged interests to corrupt our democracy, while denying the American people's right to defend it.

And we see it in Judge Barrett's adherence to originalism, the spurious legal doctrine that has been knocking around in the Federalist Society and other circles of far-right lawyers since the 1970s. By claiming to stick to an 18th century understanding of the Constitution, originalism deceptively implicates Madison, Hamilton, and the rest of the Framers in any number of legal arguments, as if they intended the Second Amendment to permit bump stocks or the interstate commerce clause to forbid environmental protections while foreclosing on legislative innovation here and now in the present because the men who gathered in Philadelphia to draft the Constitution, who could not recognize that slavery should be outlawed or that women should have the right to vote, could also not foresee the need to prohibit child labor or require food labels to tell the truth.

It is no surprise to me that the originalists and the tea party-right have embraced shared hagiographies. They are stealing the authority of the Founders in an effort to conceal their reactionary project. And while the specific aims of these factions have changed over time, their project has remained the same: to protect their power and call it freedom—freedom to enslave, freedom to segregate, freedom to pay workers less than they can live on, to work them to death, to fire them because of what they believe or whom they love, to redline our neighborhoods, poison our skies, defund our schools, and buy our elections.

At all times, though, their goal has been to preserve, as Professor Jefferson Cowie puts it, the freedom to dominate others—not only to cement their power but to demolish the economic opportunity and civil rights that would otherwise empower their fellow Americans.

Why would they do this? Because, in truth, the original promise of America—that it would be a society in which all people would be created equal and endowed with equal rights—terrifies them.

The consequences for our country and for its citizens who do not benefit from this project are plain. It batters our political and economic equity, security, and opportunity. It degrades our democracy. It robs from future American generations by hoarding wealth today. This confirmation is their latest ill-gotten victory.

Judge Barrett's nomination comes to this floor on a path cleared by the same deep-pocketed donors and corporations that have worked for decades to protect their power, regardless of the cost to the American people and their security, well-being, and civil rights. And based on everything I have learned about Judge Barrett's record, I fear she will become one more predictable vote for that agenda.

In her tenure on the Seventh Circuit, Judge Barrett sided with corporations in 85 percent of her business-related cases. She sided with employers accused of discriminating by race. She sided with employers accused of discriminating by age. She sided with debt collectors over consumers. She voted to block compensation for victims of a compensation fund. She voted against workers' fight for overtime. The pattern is clear: When consumers and workers sought the protection of the law or the government, she stood in the way. I worry that, once confirmed, she will continue that pattern with rulings to destroy hard-won protections for the American people—rulings to cripple agencies to keep our air and water clean, our food and drugs safe, and our families protected from scammers trying to rip them off; rulings to make it harder for Americans to choose how and when to raise a family or marry the person they love; rulings to make it easier for felons to buy guns and harder for us to hold gunmakers accountable when their weapons kill and maim our children in their schools and on our streets; rulings to block any effort by the American people to fight the voter suppression, to fight the dark money, and the partisan gerrymandering corrupting our democracy.

Finally, I worry that she will cast the deciding vote to destroy the Affordable Care Act and strip healthcare from millions of people in Colorado and across the country for whom this is literally a matter of life and death.

Justice Barrett's confirmation will cement a 6-to-3 majority on the Court that will allow the powerful to do what they want, while standing against the American people's efforts to protect one another, to support one another, and to invest in each other through our democracy. That is where we are. That is where we are.

As dispiriting as this moment may be, we have been here before as a country. We are not the first generation of Americans to face the Senate or a Supreme Court that will stand with the powerful against the people. We are not the first citizens to run into a wall of obstruction as we work to make this country more democratic, more fair, and more free.

We have to learn from the examples of those who came before us, those who answered slavery with emancipation and reconstruction; a Gilded Age with a Progressive Era; a Great Depression with a New Deal; Jim Crow with civil rights. As it was for them, so it is for us to meet the challenges of our time. And unlike the forces that have brought us to this low point, we have a much harder job because we have a far greater purpose.

Theirs has been to grind our democracy into rubble; ours is to build a strong foundation for the American people and the next generation.

The American people need us to begin building that foundation now. They have already paid enough for a government that fails to fight on their behalf—50 years, when 90 percent of families haven't had a pay raise; the worst income inequality since 1928; people working harder and harder than ever before but whose families are sliding farther away from the middle class, and now—and now—a national government paralyzed by ineptitude, incompetence, indifference, and basic scientific ignorance that has led to thousands of needless deaths of our fellow citizens and pushed millions of families and businesses over the brink.

We must end this era and replace it with more honorable commitment to competent and imaginative self-government responsive to the American people's needs.

Their wishes are more than fair. They want a wage they can live on, a healthcare system that no longer routinely reduces families to tears, with options they can actually afford and count on when they need them, schools that create possibility and opportunity and colleges that leave students with more than just crippling debt; the chance to care for a new child or a sick family member without having to quit a job or lose their pay, safe communities where parents no longer have to

worry about their kids being shot, criminal justice and law enforcement and immigration systems that don't treat people differently because of the color of their skin, roads and bridges and airports that weren't built by their grandparents, broadband that works at home so kids don't have to go to school in Walmart parking lots in this country tonight, an urgent and durable answer for climate change so the next generation doesn't inherit a planet hurtling toward incineration.

None of this is unreasonable; all of it is achievable; and we can start with the coming elections. But that is only the beginning of the fight.

I can assure you that the same faction that was willing to enlist every parliamentary gimmick or deploy any oratorical sleight of hand or commit any act of institutional arson in service of someone like Donald Trump will continue to do whatever they can get away with in this body.

They are not going to stop. They have spent decades and billions in dark money, exercising their power to entrench their power.

They will not abandon this project in a single election. And we are going to have to overcome that, just as we are going to have to overcome the Supreme Court. It won't be easy. It won't be easy, but anyone who studied the history of our country, our democracy, knows how hard it is to make progress. It is never easy.

Time and again, Americans have breached the ramparts of undemocratic power. It happened in 1848 in Seneca Falls, when 100 people—mostly women—signed the Declaration of Sentiments. It happened outside the Stonewall Inn in 1969, when thousands stood up to police abuse of the city's LGBT citizens. It happened when Cesar Chavez lifted the plight of America's farmworkers and Corky Gonzalez gave voice to the history and stifled pride of a people. It happened in 1965, when 2,500 citizens crossed the Edmund Pettus Bridge on the way to the Alabama capital city of Montgomery.

Each time a few brave citizens have advanced upon the work of despotism, their fellow Americans joining them, because they, too, longed for a better country.

Perhaps this summer we crossed this generation's Edmund Pettus Bridge, when fatigued by still unending months of disease, ashamed by Donald Trump's embrace of White supremacy and his failing efforts to make the United States look like a police state, forced to reckon again with the brutal and systemic racism of our justice and law enforcement system, Americans decided they could no longer stand a country on such terrible terms, or perhaps this generation's Edmund Pettus Bridge is still before us, unknown but there for those who will do their part to bend the moral arc of the universe. But we must cross this bridge I hope sooner rather than later.

Like our forebearers, we will cross it only by pursuing ideas so compelling that Americans will fight for them to make a real difference in their lives.

As always, our march won't begin in the Chamber of the Senate. But when Dr. King, John Lewis, and the many who joined them, crossed their generation's bridge, the Senate eventually followed and broke the segregationist stranglehold on this body.

Rather than turn his back on what was obviously right, the Republican leader, joined his Democratic counterpart, Mike Mansfield, to lock arms in support of the Voting Rights Act of 1965. The segregationist filibuster withered in the face of noble, bipartisan majorities.

When our time comes once again in the Senate to cross the Edmund Pettus Bridge, we will have to muster the discipline to stand behind an agenda that will endure, one sturdy enough for a project of our own. And if we do our job, my hope is that 50 years from now, our kids and grandkids will look back with gratitude that we built on this foundation a house that they and their children love to live in—an America that is more democratic, more fair, and more free.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Oregon.

Mr. MERKLEY. Mr. President, two powerful phrases we often hear in America: one is ''We the People,'' another is ''equal justice under law.''

''We the People,'' the first three words of the Constitution, written in supersized script so that everyone could have no doubt that that is what that Constitution—our Constitution—was all about. You can see those words from across the room. They echo so often, how can we possibly forget the soul of our Constitution is, as President Lincoln described, ''of, by, and for the people''—''of, by, and for the people.''

That second phrase, ''equal justice under law''—a phrase so important to our system that it is carved above the doors of the Supreme Court. Just the across the hallway here from the Chamber in which I now stand, the Senate Chamber, you can go into the Johnson Room. It served, when Johnson was the majority leader of this Chamber, as his office. And you look out the window, you can see the Supreme Court Building with that phrase carved into it: ''Equal Justice Under Law''—two powerful phrases that, taken together, lay out the foundation for our democratic Republic.

They also represent a vision that is aspirational—one that we had not achieved when our Constitution was first written, one that we have not achieved yet today but that we work toward, we strive toward, generation after generation, knowing that, in our hearts, that is what we wish to achieve—a nation where everyone is created equal, in which everyone is afforded the same rights and privileges, they are all treated equally, have the full measure of opportunity to pursue their life ambitions.

Today, this evening, we are considering, in this final 30 hours of debate, a nomination for the U.S. Supreme Court for a person who will wear one of those nine black robes and sit in that Supreme Court Chamber across the plaza from where we now stand, a person who will sit in a Chamber behind the doors with ''Equal Justice Under Law'' inscribed.

But instead of making a stride toward that vision of ''equal justice under law,'' instead of making a stride toward that vision of government of, by, and for the people, this nomination imperils that vision. This nominee, if confirmed, will damage that vision.

We have a decades-long scheme by a powerful and privileged minority to destroy the ''we the people'' vision of equality and opportunity in our Constitution, to erode the foundation of our institutions so that they can rig the system in their favor.

This has always been a dynamic of republics—those who love that vision of a government ''of, by, and for the people'' and those who fear that vision of government ''of, by, and for the people'' because they want to rig the rules in their favor. They want to rig the rules with a vision that would never have a chance at the ballot box, that would never be embraced by the majority. They want to pull the levers of power from behind the scenes in their own favor, to accentuate income inequality, to accentuate wealth inequality, to prevent those people from voting who disagree with them with every type of contrivance to suppress and intimidate voters.

If there is anything in which freedom of speech has meaning, isn't it that speech that you make when you mark your ballot for whom you wish to be your representative—perhaps the most powerful moment of expression in a republic.

Judge Amy Coney Barrett, the nominee, is certainly not the architect of this scheme, but she is certainly a full-fledged partner, enthusiastically embracing The Federalist Society and its mission to thwart the will of the people of the United States of America.

She doesn't read those first three words of the Constitution—''We the People''—as meaning government of, by, and for the people; she reads it as we, the powerful, will decide what is best for ourselves and everyone else; thank you very much. Boy, talk about a philosophy that undermines the integrity of our Constitution. That is it.

And she is just one of a stream of jurists rushed through in the last 4 years, organized by the Federalist Society, to

further undermine the rights of the worker, to undermine the civil rights of Americans, to undermine healthcare rights, to undermine environmental laws. It is an agenda that is the exact opposite of the vision of our Constitution.

And here we have the Members of the majority of this Chamber, facilitating this scheme. They stand determined to shatter any norm, to destroy any precedent, to break any rule that stands in the way, to abandon any principle they so recently passionately proclaimed in their single-minded grab for power, this single-minded mission of stacking the court with extreme right-wing jurists for the powerful over the people—jurists who, rather than standing firm in defense of the Constitution, will use those black robes for the dark, dark deed of destroying any pretense of government of, by, and for the people.

Just 4 years ago the majority of this Chamber, the same majority, the Republican majority, said they had discovered a new principle that they felt with all their hearts was the right thing to do; that never, under any condition, under any set of circumstances should this Chamber ever debate or vote on a nominee for the Supreme Court during an election year.

They made that argument though the election was far away. The vacancy occurred early in the year. The nominee was named by the President, President Obama, in March. But that distant election on the horizon, we have to protect it, and we should hear from the people before we decide to debate and vote.

You know, it is disturbing to see a so-called deeply held principle vaporize like light rain on hot summer asphalt. It is disturbing to see a so-called deeply held principle be so easily acquired when it violates the precedents of this Nation and so easily abandoned when it is convenient to do so.

There is just one principle here. It is the principle of power. It is the principle of ''we will because we can.'' It is the principle that we have no principle; we will toss our integrity to the winds; we will trash our arguments of yesteryear; we will forget the speeches in which we so passionately proclaimed our positions because we have a moment of opportunity to advance power for the powerful, and we will seize it.

What is different between this year and 4 years ago when the majority said there should never, under any circumstances, ever be a debate on a Presidential nominee during an election year? What is different?

Well, 4 years ago there was a vacancy. This year there is a vacancy. Four years ago it was an election year, a Presidential election year. This year it is a Presidential election year.

It is the same choice of whether to debate or whether to hear from the voice of the people before deciding how to fill this vacancy. It is the same choice, with one difference. That difference is that 4 years ago the vacancy occurred 10 months before the election and this year it occurred just a few weeks before the election.

We all recognize that, if one was really disturbed that this was a conflict, that disturbance would be much greater this year when there is no time, so little time—just weeks. In fact, it is not really weeks before the election because the election is underway. Fifty million Americans have already voted. So it is not just a year of an election; it is during an election.

I would love to see an outbreak of integrity in this Chamber, an outbreak of principle in defense of our Constitution. It is so often that we admire character. We admire it when someone says ''That person is as good as their word.''

I would like to be able to say that, when I heard my colleagues say they had a passionately, deeply held principle 4 years ago that there should be no debate in an election year, they were as good as their word.

That is what we admire: character, principle. We all have heard the quote: ''I disapprove of what you say, but I will defend to the death your right to say it.'' It is a quote attributed to Voltaire by Beatrice Evelyn Hall. It was actually more a description of Voltaire's character, that he believed in a principle so firmly that, even when it disadvantaged him, to his point of death, he would defend it.

Who in this Chamber argued 4 years ago that during an election year there should be no debate or vote on a nominee and has that Voltairean character to defend it when it is inconvenient today—not even inconvenient to the point of death, just inconvenient because of some pressure you might receive politically? Who will stand up and be that voice of character in this Chamber?

We all await to see just a few people stand up and be a voice of principle in this Chamber. We all stand here and wait for just a few people to be a voice of integrity in this Chamber. The country waits for a position that can be admired, of principle, of character, and of integrity.

It is not just that passionate argument 4 years ago; it is also about breaking the rules. Just the other day, the chairman of the Judiciary Committee broke the committee rule that at least 2 members of the minority needed to be present for a quorum to advance Judge Barrett's nomination. And he broke another rule to close debate that says there has to be a minority member present.

Well, why don't you just stand up and tear up the rules of the committee? The Parliamentarian of this body said that is OK—that is OK. So apparently there are no real rules to what happens here under this majority.

What is the end goal of this effort to break the norms, break the rules, break the passionate principles pronounced 4 years ago? Certainly not to ensure equal justice under law, certainly not to embody ''We the People'' governments, certainly not because there is a precedent for this action.

Oh, wait. I was standing here the other day, and I heard a Member say: We stand on precedent.

Well, we are under our 45th President, although some say it is the 44th because Cleveland was elected twice—in 1884 and then out of office and back in 1892. But anyway, we are under—we say it is our 45th President—President Trump.

Under our first 43 Presidents, this Senate never once—never once—not a single time, refused to debate and vote on a nominee from the President of the United States for the Supreme Court—not once. But 4 years ago, under our 44th President, the Republican majority said: We are breaking that precedent, and for the first time in U.S. history, we are refusing to debate and vote.

Now, I would have had some respect for saying that we will debate and we will vote, because that is our responsibility under the Constitution. In fact, many times in our history we have debated here in the Senate, and we have voted, and we have struck down the nominee.

I was surprised to see that almost a quarter of the time—almost one out of four nominees has been turned down by this Chamber for the Supreme Court. That would have involved actually being here on the floor and making arguments. That would involve actually taking a vote so you could be evaluated, so your position could be evaluated by your constituents. That would have involved fulfilling your responsibilities and having the accountability that goes with fulfillment of those responsibilities.

But there was no fulfillment of responsibilities 4 years ago. There was no accountability because there was no vote taken—the first time in U.S. history. So don't tell me—don't tell me, colleagues—that you stand on precedent.

Or we can look back in history to a Republican President, President Lincoln. President Lincoln was concerned about filling a Supreme Court position during an election, so what did President Lincoln do? He delayed the nomination until after the election. How about that precedent? How about the Republican majority follow the precedent from President Lincoln?

And then there is the McConnell precedent. What is the McConnell precedent that he put forward 4 years ago? We never vote or debate a nominee during an election year. How about that precedent?

So precedent after precedent after precedent: The historical, centuries-long precedent of never failing to debate and vote—broken. The Lincoln precedent of not asking the Senate to do a nominee's hearing, debate, and vote during an election—broken. The McConnell precedent put forward with great passion 4 years ago—broken.

The goal is to transform the Supreme Court into a supermajority, a superlegislature for the superelite—a 6-to-3 supermajority and a nine-member superlegislature operating for the superelite.

That whole vision in our Constitution of having a Supreme Court that defends the rights of Americans from the excesses of law written by Congress or the excesses of the executive branch not following the laws, that is gone. This is not about nine referees in black robes. This is about having a supermajority in Republican robes for the superelite of this country.

Why is that such an important strategy for my Republican colleagues? Because the superelite understands something fundamental, which is that sometimes the people of the United States have a grassroots movement, and they, holding the Constitution near and dear in their heart, holding their freedoms near and dear to their heart, rise up against this manipulation by the superelite, and they pass laws to protect civil rights. They put forward a vision of protecting the environment. They say workers have to be treated fairly—a fair day's wage for a fair day's work. And the superelite doesn't like that.

But do you know what? If they can turn the Supreme Court into a superlegislature they control, they don't have to worry about it because they can have the laws written by that nine-member Court. They can pull the levers of power through the Court. And the Court doesn't have to stand for election ever—lifetime. It is done. It is locked in. That is the strategy, the very successful strategy, to undermine the vision of our Constitution.

That superelite, with their supermajority of the nine-member superlegislature, they can stand in the way of efforts to save our planet from climate chaos. They can stand in the way of tackling rampant economic inequality. They can stand in the way of taking on systemic racism and opportunity for everyone, regardless of the color of their skin. They can stand in the way of equality of opportunity for LGBTQ communities. They can stand in the way of security and integrity for our elections.

They can tear down the work done. When these two Chambers, the House and the Senate, are mobilized to fight for the vision of our Constitution—pursuit of happiness, fair opportunity—they can strike it down. They can strike down healthcare. They can strike down reproductive rights.

Perhaps the most diabolical part is their effort to destroy the integrity of our election system. Now, one form of assault on the integrity is gerrymandering, where States draw the lines in order to favor a particular party. This has been done in States controlled by Democrats as well as States controlled by Republicans.

When the analysis is done across the country, when it comes to Representatives in the Chamber down the hall, the House of Representatives, political scientists estimate that it creates a 15- to 20-seat bias in favor of the Republicans—15 to 20 seats. That is a big deal in the House of Representatives.

It certainly, in terms of equal representation, is simply wrong because it is unequal representation. But the Supreme Court decided it was OK. They decided it was all right.

Or we can talk about the Voting Rights Act, designed specifically to stop tactics to suppress voting or to intimidate voters, because isn't voting the foundation of our electoral system? Isn't it the foundation of our democratic republic?

But in 2013, in a 5-to-4 decision, the five Justices in red robes gutted the Voting Rights Act to unleash voting suppression and intimidation across our country, and we see the results in county after county after county.

We see it in State after State after State. Here is the thing: Before the Supreme Court struck down the protection of the integrity of voting, we had a bipartisan majority—a large, extensive, huge bipartisan majority—in defense of election integrity in this Chamber. But once the Court struck it down and it massively favored one party over the other, the Republicans abandoned their principles on this and have blocked every effort to restore protection of voting integrity in our Nation.

We can look at the impact of money from corporations on elections. In Citizens United, 10 years ago, the Court decided that we need to give the ultimate source of massive power, ultimate influence on elections by freeing them up to put as much money into campaigns as they should like. So if a corporation—if I offend them, and I offend them all the time—chooses that they can put $100 million into campaigning against me in my State, it is like a stadium sound system designed to drown out the voice of the people.

Imagine you are at a ball game. You are there in the stadium, with all your community members, and you are trying to make your voice heard. Everyone should get a fair chance to have their voice heard. But the big speakers above you drown you out. That is Citizens United. It doesn't facilitate speech in the town square; it suppresses speech in the town square. It drowns out speech in the town square.

It is as if our Founders had said: We want everyone to have a chance to stand up and take their position, make it known in the town square, before the election is held for the mayor but thought it would be OK if a corporation bought the town square and prevented anyone else from speaking. That is Citizens United. That is the grotesque violation of free speech in America done by five jurists in red robes for the superelite.

That is a pretty good deal for the fossil fuel megapolluters. Our entire planet is at risk. They want to eliminate all the restrictions, regulations—the freedom to pollute—even though they know the people of this country really value clean air and clean water. So control the courts so they can strike down those rules to protect our air and our water.

There are many challenges involved in the revenue to support our country. I mention this because it is another reason the superelite want a supermajority in the nine-member superlegislature. It is because the rich don't want to pay for the infrastructure of this country.

Leona Helmsley once said that only the little people pay taxes. President Trump has said things very close to that. Very wealthy people have a lot of enterprises going on. Corporations have a lot of enterprises going on. They are using our legal system continuously, but they don't want to pay for it. They are using our transportation system continuously, but they don't want to pay for it. They are benefiting by hiring the products of our education system, but they don't want to pay for it.

Leona Helmsley said it well: For the superelite, only the little people pay taxes. That is the philosophy supported in this effort to control the courts.

Big banks like this. They want to make sure that there is not an uprising in the people that says you have to shut down that Wall Street casino that prevents us from putting the entire American economy at risk. They want to keep that casino in place. Companies that are trying to maximize profits and stock values certainly don't like laws that protect workers' rights and protections.

There are many ways the superelite can pull the levers of power from behind the scene. Hundreds of lawyers—that is very valuable. Hundreds of lobbyists work on Capitol Hill. There are far more lobbyists for the drug industry up here than there are Members of Congress. Media campaigns to influence public opinion cost a lot of money; that is another power. Think tanks generate ideas that can move the conversation in their direction. Of course, the money in elections is absolutely key. But the courts—the courts are the final defense against the people. If you can control the courts—who aren't elected, who are invulnerable to the people—that is your final defense.

At the heart of this court strategy is the Federalist Society, organized in the 1980s. They put high ideals on their website, saying they are ''founded on the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution.''

It sounds pretty good. ''Preserve freedom.'' It is innocuous. But it is not about preserving freedom. That is the media strategy. It is about crushing the freedom of ordinary people to participate in our elections. It is about crushing the ability of ordinary people to get a fair day's pay. It is not about

the separation of powers. They want the majority in the Senate to work to create a majority in the Court, closely connected to each other in this web of the powerful pulling the levers behind the scenes—the opposite of separation of powers.

As described in the book, ''The Lie that Binds,'' the Federalist Society sprang up to implement an anti-democratic policy agenda and political philosophy—a court system impervious to the will of the voters. That superelite—they realized long ago the powers and initiatives they wanted were not going to be popular—and thus this strategy, this strategy relevant to this confirmation.

The Federalist Society has been funded by that same group and expanded into a behemoth, with some 70,000 attorneys. It started in no small part by a grant received from the Olin Foundation, a conservative grant-making foundation that was the force behind business friendly law and economics at law schools throughout the country.

I have heard people say: Do you know what? I joined because they had the money to buy us dinner, and I was a poor law student.

According to the New York Observer, the Olin Foundation gave out hundreds of millions of dollars in grants ''to conservative think tanks and intellectuals—the architects of today's sprawling right-wing movement—for a quarter century.''

The crown jewel of the Olin Foundation's work? The Federalist Society. The Olin Foundation wrote to its trustees in 2003: ''All in all, the Federalist Society has been one of the best investments the foundation ever made.''

Since its founding, the Federalist Society has put forward extreme, right-wing legal theories. And as their influence and power have grown, they have worked hard to bring those theories into the mainstream—mainstream arguments, like originalism, which Judge Barrett, the late Justice Antonin Scalia, Justices Kavanaugh and Gorsuch all claim to hold.

This is how Judge Barrett explained her philosophy during her confirmation hearings: ''I interpret the Constitution as a law, that I interpret its text as text, and I understand it to have the meaning that it had at the time people ratified it. So that meaning doesn't change over time.''

It is a great cover story. It is a great cover story, but it is a cover story. It is a cover story for the superelite to manipulate America. And it dissolves upon any detailed examination. We know, if we bother to read history, that virtually every clause of the Constitution had Founders who disagreed on what it meant. Yes, you had a pretty homogenous group—39 White, educated, wealthy men, signing that piece of parchment in Philadelphia, but they had multitudinous views of the clauses. There is a lot of ambiguity in those clauses that enabled them to come together and say: I can accept that. We will argue later over what it meant.

This originalist philosophy is saying: Well, here is the secret. There were a bunch of people who had different views at the time it was written, but I will choose the one meaning that benefits the powerful in America, that fits the ''we the powerful'' vision of our Constitution, not the ''We the People.''

That is pretty clever—pretty clever and pretty diabolical if, in your heart, you care about this Nation, you care about the beautiful, extraordinary vision that we will be a government not dedicated to those who are the elite, like the kingdoms of Europe, but will draw its power from the opinion of the people. That is the view I hold. That is the view our Founders aspired to. That is the view that is being undermined day in and day out by the Federalist Society.

Madison wrote: ''No language is so copious as to supply words and phrases for every complex idea, or so correct as to not include many equivocally denoting different ideas.''

He is speaking directly to my point: The Founders had many different ideas about what each clause of the Constitution meant and what it would mean to be applied.

He went on to write: ''All new laws, though penned with the greatest technical skill . . . are considered as more or less obscure and equivocal, until their meaning be liquidated and ascertained by a series of particular discussions.''

The words are ''more or less obscure and equivocal, until their meaning be . . . ascertained by a series of particular discussions''—again, noting that the right philosophy is to seek to understand the motivation, the principle in which those ideas were infused, not to cherry-pick one of the many conflicting positions in order to sustain power by the powerful.

We can see this in one of the early fights in the history of our United States, of our Constitution. The year was 1791, just 4 years after the Constitution was written. Treasury Secretary Alexander Hamilton was working on his financial plan to build up the country's credit, and he wanted Congress to charter a national bank. Hamilton had that goal in position. Madison and Jefferson did not like the idea of a national bank. They argued about the Constitution.

Hamilton said that as long as the Constitution didn't specifically say that the government couldn't do something, it then could do something. And the opposite position held by Jefferson and Madison was, no, the Constitution only allows something to be done if it is absolutely necessary to implement the enumerated power.

This argument is over a clause of the Constitution called the Necessary and Proper Clause. It says that government has the ability to enact laws for the necessary and proper fulfillment of the enumerated responsibilities.

But Hamilton read that as allowing something that is relevant and useful to facilitate an enumerated power. It would serve the purpose of that enumerated power. And Madison and Jefferson said: No, no, no, it only means something can be done if it is absolutely essential—not that it is relevant, not that it is useful, but it is absolutely essential to implement the enumerated power.

So one is a very expansive view of what is allowed by the Constitution, and one is a very constricted view. All these men were involved in writing the Constitution, all to my point about the differing views that were held about each clause of the Constitution.

We have the greatest minds of the age, including two who had worked together to not only write the Constitution but also the Federalist Papers that had completely different interpretations.

It takes a lot of chutzpah to say: I know exactly what the universal view was of a clause in the Constitution and to do so to get the end result you want, which is government for the powerful. That is a powerfully corruptive assault on the core vision of our Constitution.

Let's take a look at another piece of the so-called Federalist pro-business viewpoint, which is that corporations are people, and they have full freedom of speech. The originalists say: Isn't that obvious from the Constitution? Well, no, actually, it is not at all obvious because corporations in their current form did not exist when the Constitution was written. So it is not only not obvious; it is completely wrong. Corporations were created for very specific purposes in our early years.

Professor Brian Murphy, a history professor at Baruch College in New York, wrote the following: ''Americans inherited the legal form of the corporation from Britain, where it was bestowed as a royal privilege on certain institutions . . . used to organize municipal governments.''

Well, that is quite different from the corporations we have. Americans wondered if they should abolish them entirely or find a way to democratize them and make them compatible with the spirit of independence. They chose the latter, so the first American corporations ended up being cities and schools and charitable organizations. We don't really begin to see economic enterprises chartered as corporations until the 1790s.

The work being done on our current Constitution was being done when we were under the Articles of Confederation. They were in place from 1781 to 1787, a 6-year period. And during that period, corporations were not economic enterprises. As the professor points out, they became economic enterprises in the 1790s. Yet, somehow, these Justices of the Supreme Court and their red robes of the superelite

say that the Constitution makes it absolutely clear that these massive business corporations have the same freedom of speech and the ability to participate in elections as if they are people, because they are people. But they are not people. And these economic enterprises did not exist when our Constitution was written.

If you want a single example of the complete corruption of the basic argument made by the Federalists, this is certainly an example to put forward.

Murphy continues:

> The Founders did not confuse Boston's Sons of Liberty with the British East India Company. They could distinguish among different varieties of association—and they understood that corporate personhood was a legal fiction that was limited to a courtroom.

Corporations could not vote. Corporations could not hold office. Early Americans had a far, more comprehensive understanding of corporations than the Court gives credit for.

Well, this is indeed the challenge that we have because we have a powerful elite that has created a system completely alien to the core philosophy of our Constitution of government of, by, and for the people. They have the money to create those hundreds of lawyers working day and night for their vision. They have the money to create the hundreds of lobbyists up here on Capitol Hill working for their vision. They have the money to create the media campaigns that flood the airwaves for their vision. They have the money to create the Federalist Society chapters to recruit people when they first start law school and indoctrinate them in this particular vision, promising them great support and reward in their careers to support this mission of government by and for the powerful.

The network is extensive in ways that need to be completely understood across the country, a network of affiliated groups. Take the case of the Freedom and Opportunity Fund, a nonprofit that Mr. Leo, who was very involved in the Federalist Society, launched in 2016. For over 2 years, the Freedom and Opportunity Fund gave $4 million to another group, the Independent Women's Voice. In fact, about half of that group's revenue came in that manner. In an indepth report from the Washington Post, when Kavanaugh's confirmation was running into trouble, leaders from the Independent Women's Voice sprang into action, mobilized to speak at rallies, wrote online commentaries, and appeared on FOX News. They went to extraordinary lengths to make sure the Federalist Society's nominee did not get the full examination by the people of this country.

Now, Mr. Leo is listed as president of three other groups: The BH Fund, Freedom and Opportunity Fund, and America Engaged. These aren't groups that have employees. They don't have office space. They don't have a website. And yet the BH Fund received $24 million from a single anonymous donor. It gave $3 million to two other groups, one of which, America Engaged, passed on $1 million of that money to the lobbying arm of the NRA that went on to carry on a $1 million ad campaign in supporting Neil Gorsuch. This is vast money in a vast web being deployed to influence Americans in every possible way because these folks hate the vision of government of, by, and for the people.

The Federalists don't just carry out public relations campaigns. They don't just recruit law students. They proceed to be in the very center of things presenting oral arguments. They presented every oral argument on every single abortion case that has come before the Supreme Court since 1992. They are involved in issue after issue after issue. They have been invested in litigation efforts against the ACA, the Affordable Care Act, by trying to strike down healthcare for millions of Americans well before the act was even signed into law and before there was even anything to litigate against. A Federalist Society member, Randy Barnett, coauthored a 16-page legal memo against the law, which became a source of talking points during congressional debate and laid the framework for subsequent court challenges.

Is it any wonder that so many of us across the Nation are terrified of Judge Barrett's confirmation and what it could mean for the health of our citizens? I was interested to hear a colleague on this floor—a Republican colleague say these are scare tactics. These are scare tactics to say that the Court might strike down healthcare. These are scare tactics.

Does that colleague not believe the President of the United States when he said he will nominate someone who will strike down the ACA and its healthcare bill of rights? It is not a scare tactic to say the individual who chose the nominee said he intended to strike down Roe v. Wade and pick somebody who would strike down the Affordable Care Act.

Now, the Affordable Care Act, in my home State, has meant 400,000 people gained access to Medicaid under the expansion of Medicaid. One of the ironies is, the largest percentage of beneficiaries are in the reddest parts of the State, and the biggest beneficiaries in terms of providing healthcare are rural hospitals and rural clinics because the people who previously came couldn't pay the bill, so they didn't have the resources to expand their operation, but now they do.

When I do my townhalls and people say: ''I just don't like this ACA'' because they have been hearing that from the rightwing media, I say: Well, let's have a vote of everyone here. You can step forward or step backward. Do you like the idea of children being on your policy until age 26 because that is in the bill of rights—the healthcare bill of rights of the ACA. No, no, no. We like that. Overwhelmingly, we like that. How about tax credits to enable middle-class Americans to be able to buy healthcare? No, no, no. We like that. How about comparing policies on the website so you can pick a policy that is right for your family? No, no, no. That is a step forward.

But the Federalist Society, the President, and the Republicans in this Chamber have decided that they are going to tear down healthcare for 20 million Americans. So it is hardly a scare tactic because there are very powerful forces at work on that mission.

One of the healthcare bill of rights that people really love in my State, and actually in all States across this country, is the protection to get a policy at the same price, even if you have a preexisting condition.

I was at a fundraiser—a walkathon for multiple sclerosis, for MS, when a woman came up to me, and she said: Things are so much different this year.

I said: What do you mean? The weather is different? The turnout is different?

She said: No, no, no. A year ago, if someone was diagnosed with MS, we knew they would have a very hard time, if they didn't have good healthcare, getting the help they needed and then they might face lifetime limits or annual limits that would prevent them from actually getting care, even though they had insurance. But now we can get the care we need.

So that is the goal. That is the goal of the Federalist Society: tear down healthcare for millions of Americans.

You may wonder if when I noted that the Court was against the foundation of our democracy—the former five Justices, soon to be six Justices in red robes want to tear down the basic foundation of our democratic Republic. Well, let's look a little more closely at that.

Perhaps I can persuade you because the Court decided that corporations are people and that they can spend their unlimited concentrated assets in campaigns—the case, Citizens United. And why do we call it dark money? Well, because corporations can give their money to a 501(c)(4), so-called nonprofit, and the nonprofit gives their money to a super PAC, which runs an independent campaign, and the super PAC discloses the nonprofit as the donor but not the original donor, so it is laundered. Nobody knows who funded that super PAC that is attacking you with millions of dollars of ads.

So that certainly is the Court weighing in for the absolute suppression of the voice of the people and a voice drowned out by unlimited corporations from the largest, most powerful financial organizations that exist in the world.

Let's take a closer look at Shelby County. Shelby County, which gutted the Voting Rights Act, protecting the foundations for the citizens to fully participate, but the Court strikes it down—strikes it down. And, last year,

in Rucho v. Common Cause, the Court said that gerrymandering is just fine. They knew that it violates the very premise of equal representation, and they decided that unequal representation was just fine. Instead of defending the vision of our Constitution, they supported it being struck down.

And we know the courts have a huge ability to legislate from the bench for the powerful. We see it time and time and time again. And, by the way, on that decision, Elena Kagan and Ginsburg and Breyer and Sotomayor noted: ''[T]he most fundamental of . . . constitutional rights: the rights to participate equally in the political process, to join with others to advance political beliefs, and to choose their political representatives,'' is assaulted by this decision.

Colleagues, we are in dark and dangerous, tumultuous times. It is exactly those times that require us to stand on principle, with integrity, to defend our institutions. This process, which has violated precedent after precedent after precedent—a 200-year precedent in which always a nominee is debated and voted on, violated 4 years ago to steal a Supreme Court seat; the Lincoln precedent of not putting forward a nominee during election; the McConnell precedent of saying we never debate and vote in an election year enunciated just 4 years ago; and the rules broken in the Judiciary Committee—all of this about one position, and that one position is power but not power for the vision of government of, by, and for the people but power for the powerful to undermine the ability of the people to have government of, by, and for the people.

Let us honor our oath to the Constitution; let us defend the integrity of the Court; and let us strike down this nominee to defend the integrity of the Court.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I rise to speak in opposition to the confirmation of Judge Barrett to the Supreme Court. We should not be holding this vote.

We are in the eleventh hour of a Presidential election, and 56 million Americans have already voted. The American people are sending a message, and we ought to hear what they have to say.

Instead, what is happening in the Senate is an obscene power grab by my Republican colleagues to bypass democracy and force the least popular and most extreme views of their party onto the American people with no regard for the life-and-death consequences of their actions.

So, my friends in the majority, you had a decade to create an alternative to the Affordable Care Act. You still have no viable plan. And after failing to repeal it in 2017 and suffering an unprecedented electoral rebuke in 2018, you are relying on the Supreme Court to do your dirty work.

Oral arguments in California v. Texas, the legal challenge brought by Republican-led States with the Trump administration's support are on the Court's docket November 10. We know full well that a 6-to-3 conservative majority of the Supreme Court is likely to overturn it or maybe just gut the ACA so deeply it will effectively be dead, as if that is somehow any better.

At least 20 million people are at risk of losing their healthcare coverage, and 135 million may lose protections for preexisting conditions. The fact that you are even willing to roll the dice with their healthcare in the middle of a global pandemic that has already affected more than 8 million Americans and killed over 224,000 of your countrymen is reckless and cruel. Don't you see you are playing with fire? And you don't seem to care that hundreds of millions of Americans, Americans you represent, are going to get burned. It is not as if you aren't hearing from people in your States who fear a future without access to healthcare; it is that you are not listening.

Yesterday, I spent some time with New Jerseyans for whom the Affordable Care Act—in their words, not mine—is a matter of life or death. For several of them, going without quality healthcare coverage is, in their words, a death sentence.

I wonder how many of you would have the courage to listen to their stories, look them in the eye, and tell them you have no plan to protect their care. I suspect not many. So I am going to share just a few of their stories.

Stephanie Vigario is a 31-year-old essential worker, a pharmacy technician from Newark, NJ, who caught COVID–19. She spent 2 months—2 months—fighting for her life in a hospital, including 35 days on a ventilator. By the grace of God, she survived, but her life may never be the same. Even after all the intensive rehabilitation she went through, she is still working on her recovery.

There are hundreds of thousands of COVID–19 survivors like her grappling with the long-term health consequences of a disease we don't yet fully understand—organ tissue damage, weakness and fatigue, chronic shortness of breath. These Americans now have a preexisting condition. Without the Affordable Care Act, health insurance companies could once again begin pricing them out of coverage or denying it altogether.

I also had the privilege of speaking with Scott Chesney of Verona, NJ. Scott is a married father of two who at the tender age of 15 was paralyzed from the waist down. He faces a lifetime of expensive medical needs. To quote him:

> Aging with a disability—a preexisting condition—is tough. Your body breaks down. Thankfully, my wife has health insurance because if I don't get the medications and therapy I need, I don't live.

But without the Affordable Care Act, Scott will likely face annual caps and lifetime limits on his healthcare. Paying out of pocket for his care would likely lead to medical bankruptcy, and that burden weighs heavily on him every day as he thinks of his wife and children's future, as well as his own.

Finally, I want to share the story of Daria Caldwell of Flemington, NJ, because her situation really speaks to the challenges that so many of our constituents across the Nation are going through right now. Daria lost her job and her health insurance as a result of the economic fallout of this pandemic, and this happened at the very time she was diagnosed with multiple myeloma, a treatable but incurable type of blood cancer.

Daria is 62 years old. She is not old enough to enroll in Medicare. She is paying for COBRA right now, but it will soon run out, and she will need to find new coverage. Before the Affordable Care Act, someone like Daria, with expensive preexisting conditions, would basically be blacklisted from the individual health insurance market. An insurer would take one look at her medical history, and the fact that some of her cancer drugs, like Revlimid, cost hundreds of thousands dollars a month, and they would simply turn her away.

She said:

> Dissolving the ACA would cost me my life.

She says:

> That sounds dramatic because it is. I don't want to die, but I feel like a price tag has been put on my head and the constant threat is beyond anything I thought I would ever have to endure. It's nearly as devastating as the diagnosis itself.

Now, I am not telling this body these stories just to pull at your heartstrings, though, believe me, listening to these men and women as I did yesterday moved me beyond tears. I am sharing their stories, their incredibly personal struggles, to remind my colleagues on both sides of the aisle that to the American people this is not ideological. This is not abstract. It is personal. These are matters of life and death.

Of course, the Affordable Care Act isn't the only issue at stake here. The very reason we are here considering a Supreme Court nominee in the final days of a Presidential election is, I believe, because my Republican colleagues fear the will of the American people.

The number of Americans who support the most far-right positions of the Republican Party is shrinking, and so stacking the Supreme Court is their only path to advancing their unpopular agenda, and they know it.

They know that most Americans—nearly 80 percent according to the last decade of Gallup polling—oppose criminalizing abortion. The overwhelming majority believe in the right of a woman to decide when she has children, and they know it is none of the government's damn business.

They know that most Americans support action on climate change and limits on how much poisonous pollutants companies can pump into the air.

They know that most Americans, including responsible gun owners, support lifesaving background checks and tougher gun safety laws.

And they know that most Americans believe that their LGBTQ sons and daughters and friends and neighbors should be able to marry the people they love and live their lives free of discrimination.

My colleagues seem to have forgotten that as elected representatives of the American people, they are supposed to reflect the will of the American people. And guess what. The will of the people changes. This isn't the 1950s anymore.

But rather than adjust your sails to the winds of change, rather than meet the American people where they are on issues of life and death, you would instead prefer to sink the whole ship.

Those of my colleagues who know me know that I try to see the best of my colleagues on the other side of the aisle. I really do. I pride myself on my working relationships with so many of you, and some of you, I even consider dear friends. But I was stunned—just stunned—by the hypocrisy. Where are your principles?

When you blocked Merrick Garland's nomination, you didn't say it was because President Obama was a Democrat and the Senate was held by Republicans. You said very clearly at the time it was because a Supreme Court vacancy should not—not—be filled during a Presidential election year. You said the American people should have a voice. Now, it is clear you didn't even believe the words you were saying at that time.

You were determined to deprive a democratically elected two-term President of his constitutional prerogative in order to fundamentally alter the makeup of the Supreme Court. You did it in order to tip the scales of justice against women, workers, voters, LGBTQ Americans, patients, consumers, and immigrants for generations to come.

Judge Barrett is the culmination of a 30-year fever dreamed up and cooked up by the Federalist Society and its corporate benefit factors. They will finally have enough Justices to do their bidding, and the American people are the ones who will have to deal with the real-world consequences of this shameless hypocrisy.

We have to remember what this is all about. This is about the right of an LGBTQ American to be by the bedside of their loved one as they take their last breath. This is about the ability of a rape or incest survivor to terminate an unwanted pregnancy without government intrusion. This is about the ability of a cancer patient to afford her treatment and a baby with a heart defect to get treated without a lifetime limit within weeks of being born.

So I am urging you—no, I am pleading with you—to think long and hard about the consequences of your actions for both the American future and for the future comity of this body. You have twisted and distorted every rule and broken every norm to get your way just because you currently have the power to do so. That does not make it right.

You are poisoning the well of the Senate and flooding our Nation with bad blood, and you have revealed yourselves to be so fearful of the democratic will of the American people that you will confirm a Justice to the Supreme Court whose views are far outside the mainstream just days before the conclusion of the Presidential election.

I urge you not to go through with this vote. This is a craven abuse of power that will ultimately inflict great harm on the American people. History—history—is not going to forget it. And I think someday—probably sooner than you think—you are likely to regret it.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. KING. Mr. President, ''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''—Senator MITCH MCCONNELL, February 13, 2016. I don't always agree with Senator MCCONNELL, but I agree with him on that one. This is a violation of our rules, of our history.

There have been 13 vacancies within the last 10 months of a Presidential election year in American history. Nine of them were before July 1. Of those nine, seven were confirmed by the Senate, two were not: one under President John Tyler and the other was Merrick Garland.

There have been only four vacancies in the Supreme Court that have occurred after July 1 of an election year; zero of them have been confirmed: three in three cases, including Abraham Lincoln. They weren't even nominees; the President waited until after the election. In one, there was a nominee; the Senate tabled the nomination. So all of this talk that we have had about history and precedent, those are the facts: 13 in the last 10 months, 9 of them before July 1—all were confirmed except one 150 years ago and Merrick Garland.

I agree with MITCH MCCONNELL on the 13th of February 2016: ''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 said that 8 months before the election.

This confirmation, if it takes place tomorrow, will be 8 days before the election. It doesn't pass the straight-face test. If there is a concern about the will of the American people, about one-third of the voters have already voted. This election is already one-third over, and yet we are barrelling forward with this nomination. We shouldn't even be here. We shouldn't even be having this discussion.

One of the reasons we shouldn't be here is that the Judiciary Committee broke its own rules in order to vote this nomination out. Here is rule 1 under ''Quorums,'' section III, of the Judiciary Committee rules: ''Seven Members of the Committee, actually present, shall constitute a quorum for the purpose of discussing business. Nine Members of the Committee, including at least two Members of the minority, shall constitute a quorum for the purpose of transacting business.''

What an inconvenient rule. But I have to presume that that rule, which has been there for years, was put there for a reason: in order to preserve the tradition of comity and respect for the minority that this body has often stood for.

''Nine Members of the Committee, including at least two Members of the minority, shall constitute a quorum for the purpose of transacting business.'' That quorum wasn't there when this nomination was reported out.

So we have trampled precedent. We have trampled history. We have even trampled the rules.

And I know that my colleagues say: But it is in good cause. We need to get this conservative Justice on the Court. It is for a good cause.

I am reminded of that wonderful play: ''A Man for All Seasons,'' about the ends justifying the means. Roper says: ''So now you'd give the Devil benefit of law''—the rules?

Sir Thomas More said: ''Yes. What would you do? Cut a great road the law to get after the Devil?''

Roper said: ''I'd cut down every law in England to do that!''

Then here is the point. This is what More responds:

> Oh? And, when the last law was down, and the Devil turned around on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws for coast to coast—man's laws, not God's—and, if you cut them down—and you're just the man to do it—d'you really think you could stand upright with the winds that would blow then? Yes, I'd give the Devil the benefit of the law, for my own safety's sake.

That is why we have rules, for all of our safety's sake. But we are going to violate those rules. We are in the process of violating those rules.

I have heard a great deal of pearl clutching around here about packing the Court. Oh, no, somebody is talking about breaking the rules and packing the Court. Well, of course, article III of the Constitution doesn't establish how many members of the Supreme Court there should be. The number of the Supreme Court has been changed seven times in our history. It has ranged from 4 to 10.

I don't want to pack the Court. I don't want to change the number. I don't want to have to do that, but if all of this rule-breaking is taking place, what does the majority expect? What do they expect? They expect that they are going to be able to break the rules with impunity, and when the shoe, maybe, is on the other foot, nothing is

going to happen, that the people over here are just going to say: Oh, well, we can't change these rules?

One of the things that has amazed me since I have come here is how people feel that they can do things to one another and never have it have any consequences, never have it come back on them. The shoe may be on the other foot. We don't know what is going to happen next week.

The other piece of this nomination that bothers me in this process is that there has been all this talk about qualifications. I would argue that qualifications isn't the question; it is what kind of judge they will be. There are thousands of people in this country who are qualified to be a judge. There are 1,700 Federal judges—almost 2,000. There are 30,000 State judges. There are lots of people who are qualified, who have been to law school, who have been judges, who are smart, who can write opinions. That is not the issue here.

The issue is, what kind of judge will this person make? That is what is important. What is their philosophy? This is a lifetime appointment. How are they going to decide important cases? These are important decisions.

One week after the election, on November 10, we are going to have an argument in the Supreme Court about the future of the Affordable Care Act. Literally, tens of millions of people's insurances depend upon that, not to mention the requirement in the Affordable Care Act, which is the only legal requirement in the country to protect people with preexisting conditions.

I am tired of people around here saying, ''I am for protecting preexisting conditions,'' when they voted to gut the Affordable Care Act 35, 40, 50 times. The President of the United States signs an Executive order saying, ''We are going to protect preexisting conditions.'' It means nothing. It is not worth the paper it is printed on.

The only way you can protect people with preexisting conditions is to pass a law that you can do that, and we did it with the Affordable Care Act. If that law is struck down, 130 million Americans are at risk. They are at risk. So I want to know what kind of decisions is this person going to make?

The Affordable Care Act is on the chopping block. A woman's right to choose is on the chopping block. The scope of government action, what can we do here in this body, in this Congress, in this government, that is on the chopping block. Election disputes are on the chopping block. I am going to talk a little about that later.

But we have this bizarre current practice, where we have a so-called hearing and there are all these questions, and the witness, the prospective Justice, says: Well, I can't answer that because that might come up when I am on the Court. I can't tell you what I think about any of these things.

It is as if you were courting someone, you are thinking about getting married—a lifetime commitment, just like a lifetime appointment to the Court—and in the middle of one of your dates, you say: Well, I really like to travel. Do you like traveling? And she says: Well, I don't know. I can't tell you until after we are married. I am not sure. I couldn't give you a definitive answer to that.

And then you say: Well, I love opera. Now, my favorite thing is to go to opera. How about you?

Well, I can't answer that question. I can't tell you because that is hypothetical, and I will tell you when you invite me to an opera after we are married.

Then you say: Well, how about kids? I really want to have a big family.

No, I am sorry. I can't answer that question.

That is exactly what is going on in these hearings.

Judge Barrett didn't answer much of anything. ''I can't answer that.'' I think that is nonsense.

She can say: Here is how I think about that issue now, but I reserve my right to change my mind in a particular case with particular facts after I have read the briefs and heard the argument, but here is how I think about that now.

But no. These hearings are a waste of time. We learned whether or not she did her laundry, but we didn't learn anything about how she is going to decide these cases for the next 30 years. This isn't something abstract. This is going to affect individual Americans' lives; yet we are not allowed to find out what she really believes.

But do you know what? For these last three nominees, the dark money folks have spent about $250 million to put them over the finish line; a quarter of $1 billion have been spent by people—we don't know who they are—to push these nominations. These folks aren't investing that money on spec. They know what they are getting. We may not know what they are getting, but they damn well know what they are getting.

They didn't spend a quarter of $1 billion in the hopes that they knew what the results were going to be; they know. They know, but we don't. They are investing; they are not contributing.

We do have some indication of what her philosophy is in the abstract of she won't answer questions about particular cases, but in the abstract, we know that she says she is an originalist. She says Antonin Scalia was her mentor. She was his clerk, so she is an originalist.

What does that mean? Well, it means if you have a provision of the Constitution, in order to interpret what it means, you look at two places: You look at the text, what does it say, and then you look at the intent, the understanding of the text of those 55 men in Philadelphia in 1787. That is it, period. That is the analysis.

Well, there are a couple of problems with that. Article I, section 8, authorizes the Congress to raise and support an Army and a Navy. What about the Air Force? What about the Air Force? It doesn't say Armed Services; it says Army and Navy.

So we look to the text, Army, Navy—doesn't mention the Air Force—so let's look at the intent. Do we think that those guys in Philadelphia looked ahead 115 years to the Wright brothers? Of course not.

That is ridiculous. That is a ridiculous interpretation. Well, so how do you decide that the Air Force and, more recently, the Space Force is constitutional? Well, you do a reasonable interpretation. What was the broad intent? To protect the country. And, therefore, the Air Force and the Space Force are constitutional.

But by an originalist's standard, neither one passed the test—not in the text, not in the intent. That is supposed to be the test. It is nonsense. It is a nonsense theory.

The provision of the Air Force is pretty easy. The President has to be 35. That is easy. There are two Senators from every State—not three, not one—two. Those are easy.

But what about a term like ''due process''? What about due process and the Fifth Amendment? What does that mean in a real case? Can you be thrown in jail for life and not have access to a lawyer? Is that due process? It was for about 150 years. It wasn't until the sixties that right to counsel in the Gideon case became a constitutional right.

Did the courts invent that? No. They were trying to put some life into this concept of due process. There is no way to determine exactly what a broad term like ''due process'' meant in 1787 or in 1868 or in 2021. It takes a court to think about it and to apply some growth in morality, ethics, law, politics, culture, to put life into a provision like that.

There are other ones. Let's see: Due process, equal protection of the laws. It took about 100 years to get from the 14th Amendment to Brown v. Board of Education. So the fact that segregated schools were a violation of equal protection of the law wasn't very obvious in 1868. It took 100 years for us to get to the place where, yes, everybody realizes that that was wrong.

This is one of the fallacies in the originalist theory, and Judge Barrett was asked about this: What about Brown v. Board of Education? What about Loving v. Virginia? I was in law school when Loving was decided. It was illegal in Virginia to have an interracial marriage. It was illegal in a lot of States. I venture to say it was probably illegal everywhere in 1868.

But the Court, in 1967, decided that marriage was a fundamental right, that it was part of the equal protection of the laws, and that it was wrong to tell people of different races that they couldn't marry one another.

So how does the originalist handle that case? They don't dare say that Brown was wrongly decided or Loving

was wrongly decided. Do you know what they say? Do you know what she said? It is a superprecedent. Well, come on. That is a label. It doesn't mean anything. That is a dodge. That is intellectual dishonesty.

If your theory works, it works. If you have to say that Brown or Loving or dozens of other cases—Miranda, Gideon—are all superprecedents, it doesn't speak very well for your theory. It is a copout.

Now, if Antonin Scalia were here—whom I knew in law school, by the way. I knew him as Nino. If he were here, he would say: Well, Angus, if the Constitution needs amending and changing, you don't do it by the courts; you do it through the amendment process. That is why they wrote it.

Well, the problem with that is we would be amending the Constitution about every 2 weeks around here. Can you imagine, if we had to do an amendment to the Constitution, going through Congress by two-thirds and three-quarters of the States to legalize the Air Force or to say that due process means that you don't have to give evidence against yourself; that you have a right to a lawyer; that you have a right to be told what your rights are, as is the case in the Miranda decision?

The Space Force. We passed the Space Force last year. We would have had to also do a constitutional amendment. No. If that were the case, if we had to do a constitutional amendment every time there is a change in something in the Constitution, in the meaning of a term in the Constitution, the Constitution would be as long as the United States Code. It just doesn't make sense.

The real problem with the originalist theory—and this is Judge Barrett, and I know she is intelligent, capable, law professor, judge—for only 3 years, by the way, but 3 years. The real problem is, the originalist theory to which she subscribes—and she says she subscribes to it—allows no room for moral or ethical growth. Everything is frozen in 1787—or 1868 if you are talking about the 14th Amendment.

Jefferson got this. Jefferson wasn't one of the Framers. He was in France at the time the Constitution was written, but he certainly is one of the Founders of the country, the author of the Declaration of Independence, and a successful President.

He wrote an interesting letter in 1816 on exactly this point, exactly this point. Here is what Jefferson said:

> I am certainly not an advocate for frequent and untried changes in laws and constitutions.

That is the way I feel.

> But . . . laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions—

That means us.

> —must advance also to keep pace with the times.

Listen to this. He concludes this:

> We might as well require a man to wear still the coat which fitted him as a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

Now, I don't think our ancestors, the Framers, were barbarous, but they hadn't really thought about things like right to counsel, right to be aware of what your rights were under the Constitution as a criminal defendant. They certainly weren't aware of the awful, awful impacts of racial segregation and racial segregation in the schools. They weren't aware of those things.

Jefferson is right. We have to be able to allow our institutions to change as we become more developed, more enlightened. As new discoveries are made, new truths disclosed, and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times.

Now, I understand the problem with judicial legislation. I don't want to convert the Supreme Court into an unelected third branch of the Congress that has lifetime tenure. I get that. The Supreme Court, in its interpretation of the Constitution, can't be totally unmoored from the text of the Constitution or the intent of the Framers, but it has got to take a broader view of what these vague terms like ''due process,'' ''equal protection of the laws,'' ''privilege and immunities''—what those things meant and what they mean today as we have grown and learned—as we have grown and learned.

The other piece of this originalist philosophy and the one that I think may have the greatest effect as it takes root on the current Supreme Court is not necessarily in the cases that we are talking about like Roe v. Wade. It is more cases like the Affordable Care Act or the Environmental Protection Agency or the FDA or any effort whatsoever around here to do something about climate change.

This is a straightjacket for the powers of the Federal Government. That is really what it is all about. That is why those guys invested $250 million. They want to cripple, strangle, and squeeze the Federal Government so that it can't act on behalf of the American people. That is what is going on here. They don't like the regulatory state. They want to repeal the new deal.

Some originalists even question Social Security and Medicare, beyond the powers of the Federal Government. That is what is going on here.

Yet, they have a narrow, crabbed view of the powers of the Federal Government, but these originalist folks have a broad view of the powers of the State government to impose on your personal rights.

I have always thought of the Constitution as being an elaborate Vegematic which slices up power so that it isn't concentrated in any one place. That is what the Constitution is all about. The fundamental issue of all political science is quis custodes ipsos custodiet, an ancient Roman question: Who will guard the guardians?

We create a Constitution to give power to people over our lives, and then how do we control them from abusing us? History tells us it will always happen. Lord Acton, in the 19th century, said power corrupts and absolute power corrupts absolutely. Power corrupts. Absolute power corrupts absolutely.

And the Framers knew this. They were geniuses in terms of understanding human nature, so they created this elaborate Rube Goldberg scheme to make it hard to make laws. And, boy, did they succeed, as we well know. But even after they created this scheme with two houses and vetoes and conference committees and two-thirds and treaties and all of this complex institution to make laws, they were still scared. They were still afraid of the powers of a rampant majority. They were still afraid of what their government would do to them.

So they passed the Bill of Rights—the Bill of Rights. I have always thought of the Bill of Rights as a kind of force field around us as individuals, things that they can't do to us. They can't take away our freedom of religion. They can't take away our freedom of speech. They can't go after the press. The government can't do these things.

The originalists have a narrow view of what the Federal Government can do to help us, but they have a broad view of what the States can do to trample on those individual rights. They want to throw us back to a time when every State has its own rules on these fundamental rights.

I don't think individual Americans' rights should depend on geography. They shouldn't depend on where they live. Fundamental human rights that are in the jurisprudence of the U.S. Supreme Court over the last 150, 200 years should not be kicked back to the States to be compromised or minimized.

Finally, what is going on here is an undermining of confidence. We take this whole thing for granted—these magnificent halls, the marble columns, the speeches, the votes. It has always happened; therefore, it always will.

No. We are an experiment. We are an experiment that has been going on for a little over 200 years. In human history, we are a blip. We are an anomaly. Democracy is very unusual and very hard, and it depends on trust. If you stop and think about it, it depends on trust.

When my town clerk in Brunswick, ME, says ''Here are the votes—Trump 87, Biden 104,'' I trust that those are the right numbers. I trust. If I don't, then that way lies chaos.

What this Senate is doing right now is one more drip in the undermining of confidence in this institution. It is no secret that confidence in Congress has plummeted over the last 25 or 30 years, and we are doing it. We are adding one more brick to that wall of lack of confidence in this process by violating our

history and our rules to barrel through to a confirmation that I think is inconsistent with the rules and principles of this body and our own personal obligations.

This is a blow to the Senate. What this process says is that anything goes as long as you have the votes. We don't care about the rules of the Judiciary Committee. We don't care about the history and traditions of the Senate. If you have the votes, ram it through.

This body is built on some restraint, on some rules of comity and restraint and responsibility and thinking of what happens next.

You are going to win this. You have the votes. You are going to put this judge through—but at the cost of just pulling one more support out from underneath the edifice of this magnificent government. It is not only a blow to this institution; it is a blow to the Court. It is a blow to the Court, and here is why.

Of all the things that Judge Barrett said and didn't say in her hearing, the one that disturbed me the most was her failure to commit to recusing herself if a matter comes before the Court shortly after her confirmation involving this election of her patron, Donald J. Trump.

That is a gimme. Do you know why? Because all the Court has is its credibility. The Court doesn't have an army. It doesn't have the power of the purse. All it has is its integrity, its reputation for fairness. If you go out that door and look up, it says ''Equal Justice Under Law.'' That is what it is all about.

The judicial canons speak to this issue very directly. Often in our lives we all want to avoid impropriety, but the judicial canons go even further: 2A of the judicial canon says that a judge must avoid the appearance of impropriety. What could appear to be more improper than a judge appointed by a President of the United States, and 10 days later she votes on a matter that will involve his election?

He has already told us he wants this election to go to the Supreme Court, and he has already told us he wants his Justice there. That is corruption in realtime. That is impropriety right in front of our eyes. That answer alone should have disqualified her if she didn't have the integrity to say: Of course I won't vote on an election matter involving this President. Of course I won't.

But she didn't. As far as I'm concerned, that is a disqualification. Now, I am not a Supreme Court Justice. I wasn't on the law review. I am an old country lawyer from Brunswick, ME. But I know impropriety when I see it, and this is it. This is it.

The Constitution is a wonderful document. It has served this country well. The evolution of jurisprudence through the U.S. Supreme Court, with fits and starts, has generally served this country well. But to put a Justice on this Court under these procedures, under these circumstances, who we are pretty sure is going to take positions antithetical to those of the majority of Americans and could take positions that will be profoundly damaging to a majority of Americans is an abdication of our responsibility.

I understand that the majority has the votes. I deeply hope that, tonight or tomorrow morning, some Members of the majority will wake up and have an attack of conscience and say: I can't do this. It is not right. It is not right. I can't sacrifice the reputation of the Senate, compromise the reputation of the Supreme Court, undermine the procedures and history of this body. I can't do it.

I hope four Members of the majority will find it in their hearts and minds to take that position. I am not optimistic, but I think we all need to go into this decision, and I think all those who vote tomorrow have to understand what they are doing and what it means and what it will mean to the people of this country.

We could have done better. We should have done better. We owe it to the American people to do better than this.

I yield the floor.

The PRESIDING OFFICER (Mrs. HYDE-SMITH). The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I come to the floor today following my friend, the Senator from Maine, at a critical moment for our country and for the United States. Americans, as we know, are facing an unprecedented health and economic crisis that has gripped our country for over 9 months. But, sadly, that is not what brings us to the Senate floor today. It is not why the Republican leader has called the Senate into session.

Is it to pass the legislation that we need to pass, to carry on the work of the CARES Act, to help people out in our country right now when nearly every State is starting to see increases in this virus again? That is not why we are here. On this rainy, cold Sunday in October, instead of meeting to debate and vote on a comprehensive bill to provide relief to the American people during this soul-crunching pandemic, we are instead here today because our Republican colleagues insist on rushing through the nomination of Judge Amy Coney Barrett to be an Associate Justice on the U.S. Supreme Court, to fill the vacancy left by Justice Ruth Bader Ginsburg.

Let me start with Justice Ginsburg because that is really where it all starts. Justice Ginsburg was an icon. She was celebrated well into her eighties by people young and old. I will never forget my own daughter when we were at an event and got a photo with Justice Ginsburg. My daughter was just in college. We had that nice photo of the three of us, and she said to me: Mom, I am going to cut you out of this because I want to put it on Facebook, and the ''Notorious RBG'' is just so cool.

Justice Ginsburg made justice cool because Justice Ginsburg understood that justice is supposed to be about people, and it is supposed to be about the Constitution. She started when no one gave her a chance, going to law school when there were hardly any girls going to law school. In fact, they told her not to, and she ends up graduating first in her class. She then comes up with landmark theories on equal protection, and she is told maybe a man should argue these cases because they are so important and a man would have a better chance of winning them. She said: No, I will do them myself. And she wins five out of six cases. She ends up on the Supreme Court, writing landmark opinions and infamous dissents.

At her memorial in the Capitol, it was the rabbi—and I was so honored to be there, a moment I will never forget—and the rabbi said: You know, those dissents, those weren't cries for defeat, they were blueprints for the future.

That is how I must think of this moment in time, as we are in the middle of voting, as over 50 million Americans have already cast their ballots, making their voices heard, that you can't take away the fact that this nomination was plopped down in the middle of an election, which is what I have argued from the beginning.

This will not be a cry of defeat for the people of this country who care about Justice Ginsburg's legacy—her legacy on protecting women's rights, her legacy on voting rights, her legacy on so many other fundamental issues to the people of this country.

We know what her last fervent wish was. Those were her words, ''fervent wish.'' Only Justice Ginsburg would use those words at the end of her life, but she did. She said that her last fervent wish was that the next President—the President who wins this election—should be able to pick the person to take her place.

That is what she asked for. That is what so many Americans—the majority of Americans—think should happen there. But that is not what is happening. We are not doing what we should be doing, and people are watching.

More than 220,000 Americans have lost their lives. So many families have lost loved ones. Millions more have gotten sick or no longer have jobs. People are scared for themselves and their families. Moms are trying to balance their toddlers on their knees and their laptops on their desks. They are having to teach first graders how to use the mute button. But instead of working to pass a relief package—something that 74 percent of the people want us to be doing right now—that is right, when they were asked, Do you think we should be pushing through a judge or working on pandemic relief, 74 percent of the people said: You should be working on pandemic relief. But instead, we are here, not in a rush to justice but a

rush to put in a Justice on the U.S. Supreme Court.

The President has made his intent clear. In fact, he, in his inimitable way, sent out a tweet on his intent. He said: If I win the Presidency, my judicial appointments will do the right thing, unlike Bush's appointee, John Roberts, on ObamaCare.

This is no surprise, I guess. The Affordable Care Act is something my Republican colleagues have been trying to repeal for 10 years. Just 1 week after election day, the Court will hear a challenge to the law coming out of the State of Texas that millions of people are depending on for healthcare—especially during this pandemic, after we learn more and more about people who have gotten COVID, who then end up struggling later. Of course, what would that be called? That would be called a preexisting condition. Yet this is what this President and my Republican colleagues are focused on.

The American people—Democrats, Republicans, and Independents—are continuing to face reality—not this reality in this Chamber tonight, but the reality in their lives—once again, misplaced priorities in a rush to do what the President wants.

The coronavirus is, in fact, still raging across our country because of the President's failed leadership. That is true. His lies, his refusal to listen to science—cases have been up, as I noted, in about two-thirds of the States in just the last few weeks.

The President was first told about the potential for this virus in January. He was telling people he knew, behind closed doors, that it was airborne and it was deadly. He knew that back in February. He said it would go away, though. To the public, he said: This will go away by Easter. He said: People will be back in church by Easter.

There are people who went to church around that time in Minnesota who died. He said it would go away with warmer weather. We all know that these things did not happen.

For me, this is personal, like it is for so many Americans. My husband got sick with coronavirus. He got really sick. He ended up with pneumonia in the hospital, on oxygen, for over a week. Why is this so personal for me, what the President says about this? Because back then, we were just cleaning off every surface in our house, which, of course, is still important now. But we thought, oh, that is good. We will just clean off everything, wash everything. But the President, we now know—we found out about a month or two ago—back in March, he knew it was airborne, but he said he didn't want to tell the American people because—well, he thought it might panic people. He didn't tell you the truth.

Now, we know that at least 130,000 American lives could have been saved if the President had taken real action early on. That comes out of a new study from Columbia. That is 130,000 families who would still have their mom or dad or grandparent with them at the table, with them at the table this Thanksgiving—if the President had done what we needed to get testing in place, to do contact tracing, to listen to the experts.

And, no, it is not just the Big Ten football, as much as we love Big Ten football in Minnesota. It is not just those players who should be able to have that testing. It is not just the people in the White House who should be able to have that testing. There are consequences of this failed leadership. The American people who are dealing with this pandemic are not concerned about the false claims in the President's 3 a.m. rants or his attempts to relitigate the 2016 election right now. They are just trying to make it through the day. They need help. But instead of giving them that help, here we are, once again, jamming through a nominee.

In fact, according to reports, Senator MCCONNELL is actively telling the White House not to negotiate on a bipartisan package, just so the Senate would do this. They have broken promise after promise. They have blown every precedent. They have ignored all logic and taken on every risk, just to push this nomination through.

Why the rush? Well, I can give you some ideas. One, as I mentioned, just 1 week after the election, just 2 weeks from now, the Supreme Court will consider the future of the Affordable Care Act. We also know—and this is coming directly from the President, via tweet—that he wants the Justices to potentially count the ballots—those are his words, not mine—and that he wants nine Justices on that Court.

No, I will not concede that this election will end up in Court, not the way people are voting, not the numbers we are seeing out there, not the reality that people are facing, but that is what he wants in place.

Everything is on the ballot, but many of these things end up in Court. We know that. And during the Judiciary hearing, many of my colleagues would act like the Supreme Court was some far away, distant ivory tower institution, debating things and talking about things, and in their words, like the Dormant Commerce Clause. That is true, they decide cases on the Dormant Commerce Clause.

What else do they decide? They decide who you can marry. They decide where you can go to school. They decide if you can use contraception. They decide all kinds of things. They decide if you can vote. They decide if you can have healthcare. All those things are decided in the Supreme Court.

What is on the ballot when it comes to healthcare? What is before us with this Justice? The Affordable Care Act. What is this about?

I still remember the day that we passed the bill. I was here early in the morning on Christmas Eve. And I also remember the day when our colleagues tried to repeal the bill, and my friend, Senator McCain, actually whispered to me what he was going to do before he did it. But he came in, and he put a big thumbs down while he himself struggled—struggled—with his own life.

What did the Affordable Care Act mean to people? Millions of people got coverage and millions of people who weren't able to get coverage before—and then for everyone, even people who had coverage before, they got something that they so badly needed, and that is, protection from being kicked off your health insurance for preexisting conditions.

What else did it mean? Young people can stay on their parents' insurance until the age of 26. What a difference that makes. It makes a difference for people like Evelyn and Maraya, identical twins from Cambridge, MN, honor roll students and star athletes. They play basketball, and they also play softball. One is a pitcher and one is a catcher. One of them was born and early on got severe diabetes when she was very young. Does it matter which one, the pitcher or the catcher? They both deserve good healthcare, especially now when they both know they have diabetes. But early on, did it matter which one? They both deserve good healthcare.

There are people like Steve, a senior from Tower, MN, who has a heart condition and relies on his prescription medication to stay alive; like Elijah from St. Paul, who was born with cerebral palsy, and because of the Affordable Care Act, is now 16 and a proud Boy Scout; or Christie, a mom from Bloomington whose daughter had a tumor; like Casie, whose brother lives in Alexandria and has chronic kidney failure and needs a transplant. Without the ACA, her brother will die waiting for a transplant. And then, like Emily, from Minneapolis, whose mom was diagnosed with breast cancer; or Burnette from the suburbs of St. Paul, whose daughter has multiple sclerosis and depends on the ACA; or Janet from Rochester, whose brother has a mental illness; or Liliana from Fridley, who has a 21-year-old son with autism and needs her children to be able to stay on her insurance until they are 26; or Melanie, a senior from Duluth, who is treated for ovarian cancer and needs access to healthcare.

Repeal after repeal after repeal attempt, that is what has been happening here. And none of that worked. So what happened? A case was brought in Texas, and the administration is now before the Supreme Court arguing that the entire Affordable Care Act, not just one provision, they are arguing—and let me be clear about this—that the entire Affordable Care Act, all those provisions and all the coverage I just mentioned, should be thrown out.

During Judge Barrett's hearing, there was a lot of talk from my colleagues on the other side about the doctrine of severability, which the Supreme Court has said includes the presumption in favor of throwing out part

of a statute in order to save the rest. Their point, I suppose, was that the American people shouldn't actually be worried about the case pending before the Supreme Court. It is OK.

So I asked Judge Barrett whether the brief that was filed by the Trump Justice Department, which argued that the entire Affordable Care Act must fall, represented the President's position before the Supreme Court. She confirmed, as a former clerk of the Supreme Court to Justice Scalia—she confirmed that it did, and she confirmed that if the President believed that the Court should throw out just part of the Affordable Care Act and save the rest, well, he could direct the Justice Department to withdraw the brief. That has not happened. That is not the position of this administration. They have told the Court that they want to throw the whole thing out, and now they are rushing to confirm the President's nominee with the hope that she will cast a deciding vote to strike down the ACA.

For me, as I noted at the hearing, it is about following the tracks. No, the nominee didn't give us a sense of pending cases. We know that. But she didn't even give a sense of what she thought about existing laws that are on the book or about certain fundamental rights that other nominees have discussed. So I followed the tracks, just like we do when we go hiking.

When we would go hiking in Northern Minnesota when I was growing up, my mom would always say: OK. That is a deer track or that is an elk or, if we were really lucky, that is a bear. And you would follow those tracks down the trail or down the road, and then you would get to the corner and maybe you would see that deer. Every so often, you did. We would follow the tracks.

So that is what we must do—ordinary citizens and U.S. Senators—to try to figure out where this Justice is going to be on these fundamental cases that are in front of the Court. You have got to follow the tracks.

So what do we have? Well, we have got the fact that President Trump promised that his judicial appointments would do the right thing and overturn the Affordable Care Act. He tweeted that it would be a big win if the Supreme Court strikes down the healthcare law. And if that wasn't clear, he just went on ''60 Minutes''—he released the tape himself on Thursday, and then it was on tonight—and he said it will be so good if the Supreme Court overturns the Affordable Care Act. OK. So this isn't something from 3 years ago. No, no, no. This is something that we all saw tonight.

Then, on September 18, when the Nation was mourning the loss of a judicial giant, President Trump saw his moment, and on September 26, at what became a superspreader party at the White House, he announced his nominee.

So here is what we know as we follow the tracks. In an article Judge Barrett wrote for the University of Minnesota Law School journal called ''Constitutional Commentary,'' in 2017—the same year that she became a judge this was published—she wrote that Chief Justice Roberts—these are her words—''pushed the Affordable Care Act beyond its plausible meaning to save the statute.'' That was a case called NFIB v. Sebelius that she was writing about—''pushed the Affordable Care Act beyond its plausible meaning to save the statute.'' That is direct criticism of the Chief Justice's decision to allow the Affordable Care Act to stand.

And in a 2015 NPR interview on King v. Burwell—this is a different case, but it involves the Affordable Care Act; another case where Chief Justice Roberts cited in favor of the Affordable Care Act—there, Judge Barrett acknowledged that the majority's holding is good because millions of people won't lose their healthcare subsidies. Yet she praised the dissent by Justice Scalia saying it had the better of the legal argument.

Now, remember, she spent all her time in the hearing saying: Whatever the policies are don't matter. What matters is the legal argument. What matters is the law. And her position, which I don't agree with, but her position was that Justice Scalia had the better of the legal argument. That is one big track to see where she is coming down.

When she accepted the President's nomination at the White House, she made clear that she considers Justice Scalia, one of the most conservative judges in our Nation's history, as a mentor. Those are our tracks.

But it is not just on healthcare. What other tracks do we have to follow? Well, she signed her name to a public statement featured in an ad calling for an end to what the ad called the ''barbaric legacy'' of Roe v. Wade, which ran on the anniversary of the 1973 Supreme Court decision. There is your track.

She wrote her own dissent disagreeing with longstanding Court rulings on gun safety, expressing her legal opinions that some felons should get guns.

She once discussed the dissent in the marriage equality case of Obergefell v. Hodges, asking whether it was really the Supreme Court's job to make that decision.

Those are the tracks that lead all of us down that path to the point where you go around the curve, and you realize at least one thing for sure, and that is that Judge Coney Barrett's judicial philosophy is the polar opposite of Justice Ginsburg's.

Voting rights. Here is another example. Given the timing of this nomination and the fact that we are just over 1 week from election day, when I asked Judge Barrett would she say that mail-in voting is essential right now, even though the coronavirus continues to spread and people are having to choose between their health and their vote, she instead called it, well, it is a matter of policy. When I asked her, she would not say that voter intimidation is illegal, even though in Minnesota, an outside contractor was recruiting poll watchers with Special Forces experience during the judge's hearing. That is clear voter intimidation. I was not asking her about an ongoing case. I was actually asking her just if it is against the law. It is. It violates 18 U.S.C. section 549.

And while in the case of Minnesota, the company has now agreed to cancel its plans after Minnesota Attorney General Ellison opened an investigation, we are seeing threats to the right to vote in States across the country. And when I asked, Judge Barrett even refused to acknowledge that the Constitution empowers Congress to protect the right to vote.

So the inescapable conclusion from these tracks is that Judge Barrett, again, would be very different than Justice Ginsburg. Justice Ginsburg was a champion of voting rights.

When a 5-to-4 Court gutted a key provision of the Voting Rights Act in Shelby County v. Holder, Justice Ginsburg wrote in her famous dissent that the Constitution uses the words ''right to vote'' in five separate places, and in each place, it reaffirms—these are her words, Justice Ginsburg—''Congress holds the lead rein in making the right to vote equally real for all U.S. citizens.'' Justice Ginsburg understood that voting—you don't just say it is a fundamental right. It is how you protect it.

How do we do that? By standing up to voter intimidation and voter suppression, by protecting our democracy from a President who tries to undermine free and fair elections, by protecting the millions of people who are going to the polls right now during this pandemic, some risking their lives to cast a ballot. And during her hearing, Judge Barrett did not make these simple commitments.

So I am very concerned about this fundamental issue of voting rights. The stakes have never been higher than they are right now. Look at what is happening. In Texas, they are trying to force each county to have only one ballot drop box, including Harris County, which has 4.7 million people, one box. A judge stepped in and said: No, this is wrong, and then three Trump-appointed judges on the Fifth Circuit vacated the district court's order. No matter what the size of your county, you just get one box.

In Tennessee, Republicans have tried to prevent ballot drop boxes, and they have argued in court that COVID–19 is not a valid excuse to vote by mail.

In South Carolina, the U.S. Supreme Court earlier this month reinstated a South Carolina requirement that mail-in ballots must have a witness signature, so voters in South Carolina are going to be forced to go out in the middle of a pandemic and find someone to witness their ballot.

And as we saw last Monday, in a case that went to the Supreme Court from Pennsylvania, Judge Amy Coney Barrett could in fact be the swing vote on a case like this. This is a case where last week the Supreme Court issued a split 4-to-4 decision that let stand the Pennsylvania Supreme Court's ruling allowing election officials to count mail-in ballots received within 3 days of the election even if they are not postmarked.

And just last Wednesday, the Supreme Court blocked curbside voting in Alabama, which was intended to help whom? Voters with disabilities. In dissent, Justice Sotomayor quoted Howard Porter, Jr., a Black man in his seventies with asthma and Parkinson's, who said this:

> So many of my [ancestors] even died to vote. And while I don't mind dying to vote, I think we're past that—we're past that time.

That is how I feel a lot about what this judge who is before us now, her views on originalism, her views on not changing with the times, like so many other Justices interpret the Constitution to mean, so that it matters to everyday people—but not this judge.

Some of my Republican colleagues, as I noted, think that this is something distant and far away. As I noted, we cannot divorce this nominee and her views from the election we are in now. The last time we had a vacancy so close to a Presidential election was in 1864. Then President Abraham Lincoln did the wise thing, the right thing, and he waited until after the election to fill the vacancy.

And in 2016, when Justice Scalia died about 9 months before the election, Senator MCCONNELL said this:

> 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.

That is what we are talking about with the unfairness of this, with the sham of this proceeding, and I laid out for you tonight the reasons I believe that this has become such a high priority instead of passing pandemic relief.

During the week of Judge Barrett's hearing, more than 220,000 more people got COVID–19. At least 2,700 more people died from it. Nearly 800,000 people filed for unemployment. More small businesses closed too. According to one study, actually, recently, around 800 small businesses are closing every day. In my home State, one in five small businesses say they will be forced to close if we don't do something about it.

Let me give you an example. Jose Frias from St. Paul is one of them. He is a third-generation business owner who owns Boca Chica Mexican family restaurant, which includes a fast-food taco house, restaurant, and catering service. He started as a manager at 20 years old and worked his way up, taking over 2 years ago—his dream. The future looked bright, but then the virus hit. Jose was forced to go from 98 employees to just 48. His guest restaurants closed entirely and revenue from catering is down 90 percent. In his words, the business, which he has been running with his sisters, aunts, nieces, and a few remaining staff, was his ''whole life . . . and it [has] come to a standstill.''

This is happening all over the country. On October 6, Federal Reserve Chair Jerome Powell made clear that it would be tragic if Congress fails to pass an economic relief package. We have startups that were already in a slump before this and numbers are plummeting more. Small businesses are closing. A conservative Supreme Court that has done nothing when it comes to antitrust—nothing—yet Justice Ginsburg, she always dissented. She made the cases for those small businesses. But the Trump Justices, they have gone the opposite way.

I want to end with this. America, you deserve better. You deserve leaders who will put you first. You deserve leaders who will protect your jobs, your families, and your healthcare. You deserve a Supreme Court nominee who will speak truth to power or at least acknowledge when basic precedent exists, even if it is inconvenient to the President who nominated her.

There may be nothing we can do any longer to stop this confirmation, but there is one thing you can do to determine the future of this Nation—those blueprints for the future that Justice Ginsburg would refer to—you can vote. And when you cast your ballot, remember where those tracks lead.

There is another way other than this administration and this hypocrisy we are seeing and this gridlock that has taken over this U.S. Senate. It is spelled out right there in the first three words of the Constitution. We can be a nation in which ''We the People'' truly means all the people—a nation in which the people have a say and in which the people determine the future.

Remember, this isn't Donald Trump's country. It is yours. This shouldn't be Donald Trump's Justice. It should be yours.

The PRESIDING OFFICER. The Senator from Massachusetts.

Ms. WARREN. Madam President, a little over a month ago I came to the floor to honor the late Justice Ruth Bader Ginsburg, a trailblazer, an icon, and a friend. I shared what she meant as a personal hero for me and as a role model to millions of other women. I discussed her groundbreaking work and how much of what she fought for is now on the line.

I talked about the message Ruth left before she died, stating her ''most fervent wish'' that her replacement not be named ''until a new President is installed.''

It has been 37 days since Ruth died. I miss her. America misses her. It has also been 37 days since MITCH MCCONNELL declared he would disregard Ruth's ''most fervent'' wish and move ahead with a corrupt and illegitimate process to fill her seat on the Supreme Court. Just 8 days—8 days—before the election, when tens of millions of Americans have already cast their ballots and just 15 days before the Supreme Court will hear a case that could overturn the Affordable Care Act, Donald Trump, MITCH MCCONNELL, and their Republican buddies are shoving aside the wishes of the American people in order to steal the Supreme Court seat.

MITCH MCCONNELL and the Senate Republicans violated the long-established rules of the Judiciary Committee to rush their nominee through, giving each other a wink and a nod before they turned a blind eye to their own rulebreaking. They even violated the rule MITCH MCCONNELL made up in order to keep one of President Obama's nominees off the Court long before anyone was voting: no confirmations of Justices in an election year. So they made up the rules, then they broke those same rules. They cheated.

Why? Why was it so important that they were willing to turn their backs on the very rules that they had put in place? Why rush through this nomination?

Why? Because the Republican Party is scared that they can't win through the democratic process, scared that they can't win by playing by the rules, that they can't win when the American people decide the outcome, that they can't win when elections matter.

What we are seeing today is the last gasp of a desperate party—a party working to undermine our democracy so that they can keep pushing their extremist agenda just a little longer, a party that doesn't reflect the views of a majority of Americans or the values that we hold dear.

This is a party beholden to billionaires and extremists that is desperate to keep its grasp on power and willing to break any rule, any precedent, or any principle to hold on to that power just a little longer. The Republican Senators bat down every concern.

No Supreme Court nominee has been confirmed this close to a Presidential election. They say: No problem. Republican Senators plunge ahead with an illegitimate nomination made by a morally bankrupt President.

The Rose Garden ceremony to celebrate the nomination turns into a coronavirus superspreader event. Republican Senators brush it off. Republican Senators will press ahead with hearings while members of the Judiciary Committee are in quarantine, and some of them refused to get tested.

Hundreds of thousands of Americans are dead and millions are waiting for the Federal Government to finally show up and fight this pandemic. Republican Senators say: Sorry, no time. Senate Republicans have better things to do than pass a relief package—things like steal a Supreme Court seat.

Here is the ugly truth: Donald Trump and his Republican buddies know that

confirming Amy Coney Barrett to the Nation's highest Court is their path to advance an extremist agenda long after the country is fed up and disgusted with their failures. In the middle of an election, in the depths of a pandemic, their extremist agenda is all that matters, and that is why they are so desperate to ram her nomination through the Senate.

The confirmation hearings were a sham. The conclusion was foregone, and the nominee spent days ducking and dodging legitimate questions about where she stands on issues of crucial importance to the American people. It was little more than a PR stunt.

But what the nominee refused to say was actually very informative. She refused to say whether the ruling upholding the right to contraception was correct. She refused to say whether the government can criminalize a same-sex relationship. She refused to say whether it is wrong to separate children from their parents in order to deter immigration. She even refused to say whether climate change is happening and whether it poses a threat to human beings.

This was no hearing. This was a farce.

Their attempt to remain silent on key issues spoke volumes. It shows that she believes these critical rights, protections, and values are debatable, up for grabs. And Barrett's refusal to embrace these commonsense values shows just how out of step, how extreme, Barrett is and will continue to be if she is confirmed.

Let's be real. We already know what Barrett is all about. We know why corporate interests and rightwing zealots are so excited about her, why so many Republicans will vote to confirm her, and why Trump, who has handed the judiciary over to the Federalist Society, has nominated her. It is because she will advance their extremist, conservative agenda.

So her question-dodging isn't a problem for them. It is part of their strategy to get her onto the Court.

They know where she stands, and so do the American people. We already know because her record is clear.

Take reproductive rights. President Trump pledged to nominate Supreme Court Justices who would overturn Roe. Listen to him. He said he would only appoint someone who would overturn Roe, and then he picked Barrett. In 2006, Barrett signed a newspaper ad calling for the end of Roe and describing Roe as ''barbaric.'' She was a member of an anti-choice group while on the University of Notre Dame faculty.

And how would she overturn Roe? After all, Roe is the current law of the land. But Barrett has that all worked out. She holds a dangerously radical view on legal precedent.

In a 2013 Law Review article, she suggested that the Supreme Court is not strictly bound by precedent and that public debate about Roe leaves open the possibility of overruling it. To state it plainly, Barrett believes women cannot be trusted to make decisions about their own bodies. She is a clear and present danger to Roe.

When it comes to the Affordable Care Act, again, listen to Trump himself. He said he would only nominate judges who will end the ACA law, judges who would take away healthcare coverage from millions of Americans. He picked Barrett.

Barrett's record indicates that is exactly what she will do—work to gut key provisions that protect millions of Americans. She criticized Chief Justice Roberts' opinion in 2012 upholding a critical part of the ACA, saying that he ''pushed the Affordable Care Act beyond its plausible meaning to save the statute.''

In a media interview in 2015, she said that in another Supreme Court decision that upheld the ACA, the dissenting Justices who wanted to overturn the ACA had the ''better of the legal argument.''

While claiming just to follow the text of the law, Barrett's record shows that her purported ''textualist'' approach is nothing but a facade, merely a cover for her to reach a result that will further the interests of those with money and power.

Barrett's record isn't just cringeworthy; it is downright alarming. On November 10, just 1 week after election day, the Supreme Court will hear a case that will determine the fate of the Affordable Care Act. And right now, 17 cases that could undermine the right to abortion care are one step away from the Supreme Court. Twenty-one States are ready to go. They have already drafted laws they can pass immediately—laws that could be used to restrict abortion in case Roe is overturned.

And it is not just reproductive rights and access to healthcare that are on the line. Trump and his Republican enablers want a Justice who will rubberstamp Trump's racist and xenophobic attacks on immigrants, from ripping away protections for our Dreamers to rewriting the census. Once again, this is exactly what Donald Trump told us he would do after he lost earlier court cases.

Trump and his Republican enablers also want a Justice who will turn back the clock even more on workers' rights. Trump wants a Justice who will erode workers' ability to join together and fight for fair pay and working conditions and to push back against employment discrimination. We know this is what they want because those are the policies the Trump administration has pursued and what Barrett's anti-worker record tells us that she will do.

There is another thing about Barrett's record that deserves special attention just 8 days before the election. Trump and his Republican enablers want a Justice who will strip away voting rights, especially from communities of color and marginalized communities.

Trump wants a Supreme Court Justice who will help undermine our democracy. We know this because Trump already told us his game plan to do it. Trump and his Republican enablers are working to make voting as difficult, confusing, and scary as possible, and they are using every tool in order to do it.

Trump has lied repeatedly about mail-in voting. He has falsely claimed it is a source of rampant fraud. Trump's lawyers have sued States that have taken action to try to help Americans vote safely during this pandemic by expanding vote-by-mail. And at the same time, Trump and his cronies are working to dismantle the U.S. Postal Service, slowing down mail delivery and creating even more barriers to the ballot at a critical moment in this election.

We have all seen the President's reckless, dangerous statements over the past few months casting down on the election itself, peddling the fact-free claim that this election will be ''the most rigged'' in American history and that he is ''not sure'' that the election results will be accurate.

Most alarming of all, Trump has repeatedly refused to commit to a peaceful transfer of power, and he said that he would not accept the election results if he doesn't win.

And as her confirmation hearing shows, Barrett is just the Justice Donald Trump is looking for. In her hearing, Barrett refused to recuse herself in a case that might decide the outcome of the election, and she refused to say whether she believes that a President should commit to the peaceful transfer of power.

She also refused to say whether voter intimidation is illegal, which it is; whether the President can unilaterally delay an election, which he cannot; and whether the Constitution empowers Congress to protect the right to vote, which it does.

The stakes have never been higher for our democracy. On one issue after another, on one right after another, Trump and his Republican enablers have made it clear that they want a Court that will bend over backward even further for the wealthy and well-connected while running roughshod over everyone else. They want a Court that will keep them in power, even when voters have had enough of their fearmongering and division and graft, and Barrett is their choice to do just that. That is why this vote is so critical.

A vote for Barrett is a vote to strip healthcare from millions of people. It is a vote to turn back the clock on reproductive freedom, to endanger Dreamers and immigrants, to let climate change rampage unchecked, to imperil efforts to address systemic racism, to support workers' rights, voting rights, LGBTQ rights, gun violence prevention—all at risk.

Ultimately, it is also a vote to rubberstamp an illegitimate process

carried out against the wishes of much of the Nation and against the backdrop of a deadly crisis that Senate Republicans have ignored as Americans have died.

Let's be very clear: If Trump and Republicans succeed in ramming this nomination through, the American people will expect us to use every tool we have to undo the damage and restore the Court's integrity.

I am under no illusions here. Democrats have fought tooth and nail, but the Republicans control the Senate. The reason the Republicans are willing to break every rule to jam through an illegitimate nomination 8 days before the election is that they have realized a truth that shakes them down to their core: The American people are not on their side.

People all over this country are fighting to reclaim our democracy. They are registering to vote, and they are voting. They are voting like never before. They are speaking out and telling their stories. They are fighting for a democracy that works for all of us, not just for the privileged few. And they will continue to fight until they have taken our democracy back from those who have worked around the clock to undermine it.

Now, I want to spend some time drilling down on what is at stake with this vote, starting with the impact that dismantling the Affordable Care Act will have on my constituents in Massachusetts.

I will start with an op-ed that I wrote with Amy Rosenthal, the executive director of Health Care for All, and Kate Walsh. She is the president and CEO of Boston Medical Center. It was published in the Boston Globe, and it was entitled ''The Affordable Care Act and coverage for Massachusetts residents is at risk.''

Here is what we wrote:

Dave was laid off from his hotel job in March due to the coronavirus pandemic, and he lost his health insurance too. A week later, he was rushed to the emergency room with a lung problem. With support from an enrollment assister, he was able to enroll in MassHealth coverage that was made possible because of the Affordable Care Act, better known as ObamaCare. He is just one of the hundreds of thousands of Massachusetts residents given a lifeline by the ACA.

Yet, the multi-year effort to repeal the law is coming to a head at the worst possible time. Just days after the November election, the US Supreme Court will hear oral arguments in a case seeking to overturn the ACA. And Supreme Court nominee Amy Coney Barrett has a clear record on the issue. She has openly questioned the constitutionality of the ACA, arguing the Supreme Court's ruling upholding the ACA's individual mandate was ''illegitimate.'' If she is confirmed to the court, she may provide the decisive vote to strike it down. For people like Dave, and more than 23 million others nationwide, access to health care hangs in the balance.

The need for health care coverage has never been more dire than during the COVID–19 pandemic. It has laid bare devastating racial disparities in health care access and outcomes. The ACA coverage expansions led to progress toward equity, with the gap with insurance coverage rate for Black and white adults dropping by 4 percentage points and the difference between Hispanic and white adults falling by 9.4 points. Instead of building on these important steps, overturning the ACA would further exacerbate inequities in access to health care.

The elimination of the ACA would also be devastating for people with specific health care needs, including 1.8 million people living with substance use disorders and mental illness. Protections would also be stripped away from 135 million people who have preexisting conditions like diabetes, cancer, asthma, and those now who have had COVID–19. Insurance companies could once again charge women 50 percent more than men for coverage and impose lifetime caps on benefits. It would strip a popular feature for families: coverage for those up to age 26 who have sought coverage on their parents' plans at a time when youth unemployment has doubled due to the COVID–19 pandemic.

In Massachusetts, where our state's health reform law served as a model for the ACA, many falsely believe we would be protected if the ACA were struck down. This is not the case. Thanks to the ACA, a number of new protections were implemented in the Commonwealth: the provision allowing young people to stay on their parents' plan and the reduction of prescription drug costs for seniors caught in the Medicare ''donut-hole.'' These protections could be gone overnight if the ACA were invalidated.

In addition, an ACA repeal would impact access to health coverage and healthcare for hundreds of thousands of Massachusetts consumers. The state's health insurance coverage expansions were only possible with the partnership and funding from the federal government. This is especially true for the expansion of MassHealth, our Medicaid program, as well as the availability of affordable coverage through ConnectorCare. Over 375,000 Massachusetts residents could lose their health coverage and the state stands to lose up to $2.4 billion in federal funds. These immense cuts would create a funding gap that would be impossible to fill even during normal times. The challenge is even greater now: According to some estimates, Massachusetts may face a deficit of up to $6 billion as a result of the pandemic. These funding shortfalls could have devastating implications for the health care safety net in Massachusetts.

Taking coverage away from people during the worst pandemic we have experienced in the last century is simply despicable, and we should all be outraged. Massachusetts deserves more from its President and from its government. All of us must speak up, speak out, and make it abundantly clear that the ACA cannot be repealed.

Speaking up includes speaking up about how the ACA has transformed people's lives. So many folks in Massachusetts reached out to my office to share their stories and how they would be harmed if healthcare were ripped away, so I want to introduce you to a few of those people: Marleny, Deb, and Charlie.

Marleny is a single mom from Framingham. She receives her healthcare through ConnectorCare, the plans we have in Massachusetts for low-income families who don't qualify for any other program. Her children use MassHealth Family Assistance, which is our CHIP program.

She says that, without the help she gets from MassHealth and from ConnectorCare, she couldn't pay her rent and bring food to the table for her kids.

You know, the Affordable Care Act helped Massachusetts expand Medicaid and more affordable insurance plans like the ones Marleny uses. But if Trump's Supreme Court nominee overturns the ACA, Massachusetts could lose $2.4 billion in Federal funding. Over 375,000 people like Marleny and her children could lose their coverage.

Deb from Greenfield knows what it is like not to be able to pay for healthcare. She told me: ''I was an American whom ObamaCare saved at the very moment I lost my career and my health.'' She writes: ''You must step in and take action. We cannot sit idly by while our access to affordable healthcare hangs in the balance.''

Deb is right, and there are millions of people across this country who have lost their jobs during this pandemic and economic crisis and could be in the exact same position that Deb was in.

And, finally, I checked back in with my friend Charlie and her mom, Rebecca, who live in Revere. Charlie and I fought side by side at the Capitol during the healthcare fights in 2017.

Her mom reminded me: ''Due to severe preeclampsia, Charlie was delivered at 26 weeks gestation and weighed 790 [grams]—about 1 pound 12 ounces. She was in the NICU for 3 months. Without the ACA, she would have exceeded a lifetime cap before ever coming home from the hospital. Additionally, she would have been uninsurable because her birth was a preexisting condition. With access to health care, Charlie was able to thrive despite some pretty significant diagnoses. Now, at the age of 8, Charlie lives a very much typical life.''

Repealing the Affordable Care Act now would be devastating for Rebecca and Charlie. They can't go back to lifetime caps or sky-high rates and denied coverage because of preexisting conditions. None of these families can.

And, like so many policies, Black and Brown communities will be disproportionately affected if the ACA is destroyed.

I want to read another op-ed I wrote recently that was published in Shondaland. It discusses the harm of stripping away healthcare for communities of color, and here is what it says:

Over ten years ago, President Barack Obama signed the Patient Protection and Affordable Care Act (ACA) into law. Since then, we've made progress. Millions of Americans now have high-quality, affordable health insurance. We no longer have to worry about being denied coverage because of preexisting conditions. Millions of young adults can stay on their parents' plans until age 26. States were given the option to expand Medicaid eligibility—providing coverage to more than 12 million low-income Americans.

But now, the ACA is at risk because Republicans are trying to ram through Amy Coney Barrett's nomination to serve as the next Associate Justice of the Supreme Court. They are trying to push her confirmation through at breakneck speed because just one

week after the November elections, a case to overturn the ACA will be in front of the Supreme Court, and Republicans want Barrett to have their back, cast the deciding vote, and deliver a deathblow to the law.

Republicans have railed against the ACA from the day it was passed, making its repeal a tenet of their platform in every presidential and congressional race. They've tried dozens and dozens of times to tear it down piece by piece—all while ignoring the plethora of data that demonstrates the good it has done for the American people. Among the chorus of ACA detractors is Judge Barrett. While she tried to claim during her Supreme Court hearing that she is ''not hostile to the ACA,'' her record says otherwise. She criticized Chief Justice Roberts' vote in 2012 to uphold the ACA and wrote reviews questioning the law's constitutionality. Her nomination is just the latest Republican attack on the ACA—and if she is confirmed, MITCH MCCONNELL and Donald Trump might get their wish and succeed in ripping healthcare away from tens of millions of people during a global pandemic.

Here's what that would mean: In the middle of the Covid-19 crisis, insurance companies would instantly be able to enforce caps on coverage or deny coverage to the 133 million Americans with preexisting conditions like asthma, diabetes, and even pregnancy. Covid-19 itself could be considered a preexisting condition for the millions of Americans who have survived the virus. The 12 million low-income Americans now covered by Medicaid expansions would lose their coverage, including more than 850,000 Americans struggling with opioid use disorder, [people who] rely on Medicaid for life-saving medication assisted treatment and counseling services. Millions of young adults would be thrown off of their parents' insurance, forcing them to pay out of their own pockets even as many struggle under a mountain of student loan debt, stagnant wages, and high unemployment rates due to the pandemic.

And the damage won't stop there. Repeal of the ACA would have devastating consequences for Black and brown communities that disproportionately benefit from its coverage. The ACA helped narrow disparities in access to healthcare in the United States and provided millions of Black and brown families affordable options for care. Without the ACA, one in every five Black Americans, and one in three Hispanic Americans would be uninsured. If the ACA is dismantled, Black and brown communities that benefit from Medicaid expansions would be kicked off their insurance. In the midst of a maternal mortality crisis that disproportionately impacts mothers of color, moms across this country could lose access to the well woman visits and the maternity coverage currently required by the ACA.

So let's call out the Supreme Court nomination for what it is—Donald Trump and the entire Republican Party's big chance to complete a decade-long partisan attack on the ACA and on Americans' rights to health care. It's the big chance for a desperate party to impose its extreme views on the people of this country because they couldn't actually get it done through Congress.

The majority of Americans want the Senate to wait until after the election to choose a new justice. It's because this is a life or death situation for their friends, their families, and for tens of millions of their fellow Americans.

In 2012, after yet another attack on the ACA was defeated in the Supreme Court, Justice Ginsburg wrote that ''the crisis created by the large number of U.S. residents who lack health insurance is one of national dimension'' and cited the ''inevitable yet unpredictable need for medical care'' as a reason to uphold the legislation. [Justice Ginsburg] was right. Health care is a basic human right. We fight for basic human rights. We fight against this nomination. And we fight any attempt to rip away healthcare from families. We do this together.

It is not just healthcare for tens of millions of people that is on the line. A woman's right to make her own healthcare decisions is also in jeopardy. Roe v. Wade is a landmark case that protects a woman's right to abortion care. A few weeks ago, I published an op-ed in The Cut that discusses what this nomination means for the right to abortion care, and I want to read it now for you. This is what I wrote:

The decision whether or not to bear a child ''is central to a woman's life, to her dignity. It is a decision she must make for herself. When government controls that decision for her, she is being treated as less than a fully adult human responsible for her own choices.''

Justice Ruth Bader Ginsburg said that 30 years ago, at her Supreme Court confirmation hearing. She understood that reproductive freedom is foundational to equality and critical to women's health and to their economic security. Without access to high-quality reproductive healthcare—including contraception and safe, legal abortion—we cannot have true equality.

But President Trump, Senate Republicans, and their extremist allies just don't care. They've spent almost 4 years of the Trump administration—and . . . many years before [that]—undermining health care and turning back the clock on reproductive rights. That's why they nominated Amy Coney Barrett to sit on the Supreme Court. She's the ticket for a desperate, right-wing party that wants to hold onto power a little longer in order to impose its extremist agenda on the entire country.

President Trump and his Republican enablers have tried to deny this obvious fact. The President recently said that he ''didn't know'' how Barrett would rule on reproductive rights, and Republicans in the Senate have fallen in line. The Republican Party knows the large majority of Americans do not support overturning Roe v. Wade. They benefit when we stay on the sidelines—and they want us to sit back and stay quiet while our fundamental freedoms are on the line.

But we see right through their radical play.

President Trump picked Barrett as his Supreme Court nominee to take us back in time. Roe v. Wade established the constitutional right to safe and legal abortion and has been the law of the land for over 47 years. But over, and over, and over again, President Trump has bragged about his plans to appoint justices who would ''automatically'' overturn Roe. The Affordable Care Act expanded access to reproductive health care—like no-co-pay birth control—for millions [of people]. But President Trump has promised to overturn the Affordable Care Act in its entirety, and sent his Justice Department to ask the Supreme Court to do exactly that.

Barrett is Trump's ideal candidate to accomplish his plans. In 2006, she signed a newspaper ad calling for the end of Roe and describing the decision as ''barbaric.'' She was a member of an anti-choice group while on the University of Notre Dame faculty. She's also been critical of the Affordable Care Act and the Supreme Court's past decision to uphold the law in court. Her position on abortion and other reproductive rights are clear: She believes women cannot be trusted to make decisions about their own bodies.

If Barrett's nomination makes you scared and angry, you are right to be: 17 abortion-related cases are already one step away from the Supreme Court. Twenty-one States have laws that could be used to restrict abortion in the case that Roe is overturned. And if Barrett's confirmation is rammed through quickly, she'll have the opportunity—on November 10—to hear a case about overturning the Affordable Care Act and a lifetime on the nation's highest court to undermine the rights and the values we hold dear.

Access to birth control has changed the economic futures of millions of women, and access to safe abortion care is an economic issue, too. For a young couple with modest wages and piles of student loan debt, the decision to start or expand a family is a powerful economic [one]. For a woman working two jobs with two kids already in day care, an unplanned pregnancy can upend budgets already stretched too far. For a student still in high school or working toward a college degree, it can derail the most careful plans for financial independence. Indeed, one of the most common reasons that women decide to have an abortion is because they cannot afford to raise a child.

And let's be explicitly clear: If these attacks succeed, they will have disproportionately negative consequences for women of color who are already facing some of the most insurmountable barriers to abortion care.

Rich women will still have access to abortion and reproductive care, but it will be Black and Brown women—women with low incomes, women who can't afford to take time off from work, and young women who were raped or molested by a family member—who will be the most vulnerable.

This is not a moment to back down. Already, it is inspiring to see so many women and friends of women coming off the sidelines in this fight, and we must continue to speak up. Call your Senators and make sure this conversation is grounded in our real experiences. Men must speak up, too, because reproductive freedom affects us all.

Voting is already underway across the country, and there are only 26 days before the election is completed. And the data shows that most Americans want to wait until after the election for a new Justice to be confirmed. Justice Ginsburg gave us our marching orders: Do not fill this Supreme Court seat until after the election when the next President is installed. We will fight hard together to honor her wish.

There are countless powerful stories that demonstrate why abortion rights are so important. I am going to read a few of them. The first is from my friend and colleague from Michigan, Senator PETERS, who became the first sitting U.S. Senator to share his abortion story. I will just read an excerpt of that powerful piece that was published in Elle magazine.

In the late 1980s in Detroit, Peters and his then wife, Heidi, were pregnant with their second child, a baby they very much wanted. Heidi was four months along when her water broke, leaving the fetus without amniotic fluid—a condition it could not possibly survive. The doctor told the Peters to go home and wait for a miscarriage to happen naturally.

But it didn't happen. They went back to the hospital the next day, and the doctor detected a faint heartbeat. He recommended an abortion because the fetus still had no chance of survival, but it wasn't an option due to a hospital policy banning the procedure. So he sent the couple home again to wait for a miscarriage. ''The mental anguish someone goes through is intense,'' Peters says, ''trying to have a miscarriage for a child that was wanted.''

As they waited, Heidi's health deteriorated. When she returned to the hospital on the third day, after another night without a natural miscarriage, the doctor told her the situation was dire. She could lose her uterus in a matter of hours if she wasn't able to have an abortion, and if she became septic from the uterine infection, she could die.

The doctor appealed to the hospital's board for an exception to their anti-abortion policy and was denied. ''I still vividly remember he left a message on the answering machine saying, 'They refused to give me permission, not based on good medical practice, simply based on politics. I recommend you immediately find another physician who can do this procedure quickly,' '' Peters recalls.

The Peters were able to get into another hospital right away because they were friends with its chief administrator. Heidi was rushed into an emergency abortion that saved her uterus and possibly her life. The whole experience was ''painful and traumatic,'' Heidi shared in a statement. ''If it weren't for urgent and critical medical care, I could have lost my life.''

Reflecting on the experience now, Senator PETERS says it ''enacted an incredible emotional toll.'' So why go public with it? ''Well, it's important for folks to understand that these things happen to folks every day,'' he explains. ''I've always considered myself pro-choice and believe women should be able to make these decisions themselves, but when you live it in real life, you realize the significant impact it can have on a family.''

PETERS decided to share his story at this moment because the right to make such decisions as a family, free of politics, has never been more at stake. He is alarmed by the threat of Donald Trump's Supreme Court nominee, Amy Coney Barrett—the threat she poses to women's reproductive rights. The very conservative nominee once signed her name onto a newspaper ad calling Roe v. Wade, the landmark decision that legalized abortion, ''barbaric.'' If Republicans successfully confirm her to fill Ruth Bader Ginsburg's seat, she could reverse legal abortion in America or significantly curtail it. ''It's important for folks who are willing to tell these stories to tell them, especially now,'' PETERS says. ''The new Supreme Court nominee could make a decision that will have major ramifications for reproductive health for women for decades to come. This is a pivotal moment for reproductive freedom.''

Senator PETERS is right: This is a pivotal moment for reproductive freedom. I have heard from so many of my constituents about the importance of Roe and reproductive freedom. I am just going to share two of their stories.

The first is from Kate, who lives in Medford, MA. Here is what Kate wrote:

Most of my life, my strong support for abortion was as impersonal as it was important. A late bloomer, I barely dated until I was in my 20s, then quickly met and married my wonderful husband. Our birth control always worked perfectly. Anyway, we are both family-minded, and dreamed of building our family big with lots of kids.

My husband and I had one daughter, planned and loved. But the second child was not so easy. I suffered three miscarriages in two years before a baby finally stuck. Pregnancy brought months of crushing nausea. But the sicker I felt the better, the doctors said, things must be going [well]. Healthy, healthy, healthy, they told me, time after time.

By late may, the end was in sight. Big and ripe and swollen, I bundled myself into the hospital for an ultrasound. I brought a tiny sweater to knit while I waited. After an hour of examination, a doctor entered the dark room. She saw the sweater and asked, ''Is it for the baby?'' I nodded proudly and showed her how all the pieces would line up, just so, to fit my newborn daughter. A month was plenty long to finish such a small project. ''It's beautiful''. She told me, her eyes filling with tears.

Then she turned the monitor toward me so that I could see the big, black fluid-filled holes in my baby's brain.

There was so little that I knew that day. I didn't know about Dandy Walker Malformation or Agenesis of the corpus callosum. I knew love. I knew fear. I knew my values. And I knew that I was in Boston, medical mecca, hub of the universe.

I learned more about brains in general and my baby's brain in particular. MRI revealed poor prognosis. My daughter would not likely ever walk, talk, support the weight of her own head, or swallow. I learned that infant hospice was out of the question, and that I could not refuse a feeding tube for my baby.

Dumbfounded, I asked the neurologist, ''What does a baby like mine do? Just . . . sleep all day?'' He winced. ''Babies like yours,'' he explained, ''are not often comfortable enough to sleep.'' I knew what I needed to do. 35 weeks pregnant, and I was afraid, even, to tell my husband, my mother, my doctor, my genetic counselor, but I talked to my family, and I called the hospital. It was a Friday afternoon. My doctor was busy delivering triplets. I left a message. ''I want to know all my options,'' I said. ''All of them.''

She called me back at 6:30 p.m. and talked fast. She gave me the number of an adoption agency in upstate New York that specializes in medically complex children.

''I'm so sorry,'' she said. ''But if you want an abortion, you have to decide right away. You have to call before the end of the work day, mountain time. You have to be on an airplane on Monday, you have to show up Tuesday with $25,000 up front. I'm so sorry,'' she said again. I did not have $25,000. I didn't know if the number led to a safe, legal doctor, or if it led to some back-alley quack. I knew only my desperation. I called the number right away. The woman on the phone was very kind. She, too, apologized. ''But Dr. Hern does not practice after 36 weeks, and you'll be 36 weeks on the last day of your procedure.'' ''Yes,'' of course, I said. ''Of course. I understand. We'll be there. We'll find the money.''

And we did. There wasn't one day of open banking before our trip, so a loan was out of the question. We had to rely on my family. They were able to increase their credit while we flew across the country and withdraw funds from their retirement account to cover the bill later in the month. Without them, I don't know what would have happened. I know, now, about the abortion funds. But just as I didn't risk asking if what I was doing was safe and legal, I didn't want to ask for financial help. Everything felt so fragile.

I met Dr. Hern and his excellent team with great relief. They explained the procedure. My third trimester abortion was humane, gentle, safe—safer, even in the 36th week, than full term live birth. We laid my daughter to rest in my womb that first day, a Tuesday. Friday morning, after brief labor, I delivered her whole and still, into the hands of my savior. He brought her to me after. She was still warm, but not quite warm enough.

Dr. Hern saved my daughter from immeasurable suffering. He saved my family from having to go against our deepest held values. Dr. Hern saved me from my own desperation. And every step of the way, he saved my dignity.

I want to share one more story. This one is from Wendy in Greenfield, MA. I will just read a part of what Wendy wrote. She said:

I know firsthand that overturning Roe—whether overtly or by chipping away at access to abortion until Roe becomes meaningless—will not stop women from seeking abortions. It will, however, deny women access to safe abortions. Abortion has been with us since women have been getting pregnant, and will continue to be with us no matter what the politicians and judges decide. In 1961, I was 17 and abortion was not yet legal, but I was pregnant and did not want to be. I was fortunate because I was able to tell my parents, and they helped me find a doctor—but finding a safe, compassionate doctor turned out to be a different story.

We knew an illegal abortion could be expensive and my parents didn't have much money, so we made a plan together that I would go by myself in the hopes that he would take mercy on me and charge me less.

I know there were many heroic doctors who helped women back then at great risk to themselves, but this doctor, who I'm sure had seen other young women who were alone and without support, thought he could take advantage instead. I remember finding the somewhat rundown building and walking up a dark flight of stairs to his office. There was nobody else there, just the two of us, the office was untidy and dimly lit with the window blinds down. And the doctor himself appeared unkempt and unprofessional. His clothes were rumpled, he sat too close to me and put his hand on my knee and said ''we don't have to use the word abortion, dear.''

I knew immediately that I did not want this man to touch me, let alone perform an abortion, so I did what many young women in my situation back then weren't able to do: I walked out. I went back down that flight of stairs and out into the light of the street. I felt—and still feel—it was a narrow escape.

So we found a second doctor—and in fact this time it was my younger sister who had a guitar teacher who knew someone, because that's how it worked back then—and this time my mother came with me. We had to go at night to the back door, and though there was no nurse or assistant, this office was clean and it looked like a real medical office, and the doctor looked like a real doctor. But he was not a compassionate man. As I lay there on the exam table with my mother in the next room, the doctor lectured me the whole time, telling me I was a sinner, that the abortion was the ''wages of sin,'' that he hoped I would learn my lesson, and he threatened that if I made any noise, he would stop the procedure, I would have to have the baby, and everyone would ''know my shame.''

Although my experience was scary and humiliating, my story is not as horrific as many from that time—I survived, without injury, as many women did not—but that's because I was lucky. I was lucky to have supportive parents, I was lucky they could afford to pay, I was lucky to have a precocious

sister, and I was lucky her guitar teacher had contacts, and lucky he knew of a medically competent doctor. But nobody should have to depend on luck to get a safe abortion.

Although that doctor tried to shame me, I am not ashamed. I don't think abortion is shameful and I have never had a moment's regret. My abortion allowed me to live the life I wanted and to become a parent when I was able to raise a child properly and responsibly. This was good for me and my life, but it is also a social and public health good. Abortion is a necessary part of family planning and women's healthcare and denying or restricting access to it means that women can not safely control their reproduction and therefore can't really control their lives, which means they can't participate fully and equally in society. It is bad social policy to hobble half of the population.

Women of my generation already know what pain and hardship results from abortion bans, but younger women have grown up taking abortion access for granted as a right, and I urge them to speak out and tell their stories. And not only women, but men, and other family members and friends who have been involved and who have been affected. Bring up your experiences in conversation, contact your legislators and tell them. They are the ones in immediate danger and whose lives and whose families' lives will be affected.

Senator PETERS' story, Kate's story, Wendy's story are just about how gutwrenching these decisions are. These are personal decisions that women should make for themselves.

The Senate has no business taking up a vote on a Supreme Court Justice who is already committed to taking away healthcare from millions of people and to take away Roe v. Wade and this protection from millions of women.

We may not have the votes to stop them, but that does not change the fact that what the Senate Republicans are doing is wrong. We will continue to fight it. We will fight it now in the Senate, and we will fight it come election day November 3.

I yield the floor.

MORNING BUSINESS

NOMINATION OF AMY CONEY BARRETT

Ms. COLLINS. Mr. President, when the Senate considers nominees to the U.S. Supreme Court, it is particularly important that we act fairly and consistently, using the same set of rules, no matter which political party is in power.

When President Obama nominated Judge Garland 8 months before the 2016 Presidential election, I met with him and maintained that he was entitled to a hearing. Others argued that the winner of that year's Presidential election should be allowed to choose the nominee, and that is what happened. My views did not prevail, and the standard was established that a nominee to the Court would not be voted on prior to the election in a Presidential election year. This year, a vacancy has also occurred, notably much closer to the election.

Prior to Justice Ruth Bader Ginsburg's death, I stated that, should a vacancy on the Supreme Court arise, the Senate should follow the precedent set 4 years ago and not vote on a nominee prior to the Presidential election. Since her passing, I have reiterated that in fairness to the American people—who will either be reelecting the President or selecting a new one—the decision on the nominee to fill the Supreme Court vacancy should be made by whoever is elected on November 3.

Because this vote is occurring prior to the election, I will vote against the nomination of Judge Amy Coney Barrett. To be clear, my vote does not reflect any conclusion that I have reached about Judge Barrett's qualifications to serve on the Supreme Court. What I have concentrated on is being fair and consistent, and I do not think it is fair nor consistent to have a Senate confirmation vote prior to the election.

VOTE EXPLANATION

Ms. SINEMA. Mr. President, I was necessarily absent but had I been present would have voted yes on rollcall vote 201 on the Motion to Proceed to H.J. Res. 90, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of the Comptroller of the Currency relating to ''Community Reinvestment Act Regulations''.

I was necessarily absent but had I been present would have voted no on rollcall vote 202, on the Motion to Table the Appealing of the Ruling of the Chair; a bill to condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China

I was necessarily absent but had I been present would have voted no on rollcall vote 203, on the Motion to Table McConnell Amdt. No. 2680; to improve the small business programs.

I was necessarily absent but had I been present would have voted yes on rollcall vote 204, on the Motion to Table the Motion to Proceed to S. 4675; a bill to amend the Health Insurance Portability and Accountability Act.

I was necessarily absent but had I been present would have voted no on rollcall vote 205, on the Motion to Proceed to Executive Session to Consider Michael Newman to be U.S. District Judge for the Southern District of Ohio.

I was necessarily absent but had I been present would have voted no on rollcall vote 206, on the Motion to Table the Appealing of the Ruling of the Chair; nomination of Michael Newman to be U.S. District Judge for the Southern District of Ohio.

I was necessarily absent but had I been present would have no on rollcall vote 207, on the Motion to Invoke Cloture on the Motion to Concur in the House Amendment to S. 178 with Amendment No. 2652; a bill to condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China.

I was necessarily absent but had I been present would have voted no on rollcall vote 208, on the Motion to Table the Appealing of the Ruling of the Chair; nomination or Michael Jay Newman, of Ohio, to be United States District Judge for the Southern District of Ohio.

I was necessarily absent but had I been present would have voted no on rollcall vote 209, on the Motion to Table the Appealing of the Ruling of the Chair; nomination of Michael Jay Newman, of Ohio, to be United States District Judge for the Southern District of Ohio.

I was necessarily absent but had I been present would have voted yes on rollcall vote 210, on the motion to proceed to legislative session.

I was necessarily absent but had I been present would have voted yes on rollcall vote 211, on the motion to invoke cloture on the nomination Michael Jay Newman to be U.S. District Judge for the Southern District of Ohio.

I was necessarily absent but had I been present would have voted no on rollcall vote 212, on the Decision of the Chair; Shall the Decision of the Chair Stand as the Judgment of the Senate.

I was necessarily absent but had I been present would have voted yes on rollcall vote 213, on the Confirmation of Michael Jay Newman, of Ohio, to be U.S. District Judge for the Southern District of Ohio.

I was necessarily absent but had I been present would have voted no on rollcall vote 214, on the motion to recess.

I was necessarily absent but had I been present would have voted no on rollcall vote 215, on the motion to proceed to legislative session.

I was necessarily absent but had I been present would have voted no on rollcall vote 217, on the motion to proceed to executive session to Consider the Nomination of Amy Coney Barrett to be an Associate Justice of the Supreme Court of the United States.

I was necessarily absent but had I been present would have voted no on rollcall vote 218, on the Motion to Table the Motion to Indefinitely Postpone the Barrett Nomination.

I was necessarily absent but had I been present would have voted no on rollcall vote 219, on the On the Motion to Table the Motion to Recommit the Barrett Nomination to the Committee on the Judiciary.

I was necessarily absent but had I been present would have voted no on rollcall vote 220, on the Motion to Table the Appealing of the Ruling of the Chair; nomination of Coney Barrett, of Indiana, to be an Associate Justice of the Supreme Court of the United States.