United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 116th CONGRESS, SECOND SESSION

Vol. 166 WASHINGTON, SUNDAY, OCTOBER 25, 2020 No. 184

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, October 27, 2020, at 10 a.m.

Senate

SUNDAY, OCTOBER 25, 2020

(Legislative day of Monday, October 19, 2020)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. GRASSLEY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign Lord of the Universe, we pray for our Senators. Use them for Your glory, providing them with wisdom to live with the integrity that brings stability to nations. Through their work, enable us to live peaceful, quiet, Godly, and dignified lives, growing in grace and in a knowledge of You.

Lord, inspire our lawmakers in every situation to seek to glorify You, doing justly, loving mercy, and walking humbly on the path You have chosen. Keep us all in the circle of Your unfolding providence, enabling us to find the light in doing Your will.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

EXECUTIVE CALENDAR—Continued

The Senate resumed consideration of the nomination of Amy Coney Barrett, of Indiana, to be an Associate Justice of the Supreme Court of the United States.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Ms. ERNST). The Democratic leader is recognized.

QUORUM CALL

Mr. SCHUMER. 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 and the following Senators entered the Chamber and answered their names:

[Quorum No. 3]

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Schumer
Collins	Kennedy	Scott (FL)
Cornyn	Lankford	Scott (SC)
Cotton	Lee	Shelby
Cramer	Loeffler	Sullivan
Crapo	McConnell	Thune
Cruz	McSally	Tillis
Daines	Moran	Toomey
Enzi	Murkowski	Wicker
Ernst	Paul	Young

The PRESIDING OFFICER (Mrs. FISCHER). A quorum is present.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Amy Coney Barrett, of Indiana, to be an Associate Justice of the Supreme Court of the United States.

Mitch McConnell, John Thune, Joni Ernst, Cindy Hyde-Smith, Marsha Blackburn, Roy Blunt, Shelley Moore Capito, Roger F. Wicker, Lindsey Graham, David Perdue, Chuck Grassley, James M. Inhofe, Tom Cotton, John Hoeven, Mike Crapo, Richard Burr, Lamar Alexander, Ben Sasse.

QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The senior assistant legislative clerk called the quorum.

[Quorum No. 4]

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Schumer
Collins	Kennedy	Scott (FL)
Cornyn	Lankford	Scott (SC)
Cotton	Lee	Shelby
Cramer	Loeffler	Sullivan
Crapo	McConnell	Thune
Cruz	McSally	Tillis
Daines	Moran	Toomey
Enzi	Murkowski	Wicker
Ernst	Paul	Young

The PRESIDING OFFICER. A quorum is present.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The question is, Is it the sense of the Senate that debate on the nomination of Amy Coney Barrett, of Indiana, to be an Associate Justice of the Supreme Court of the United States, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 222 Ex.]

YEAS—51

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Scott (FL)
Cornyn	Kennedy	Scott (SC)
Cotton	Lankford	Shelby
Cramer	Lee	Sullivan
Crapo	Loeffler	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Paul	Young

NAYS—48

Baldwin	Hassan	Reed
Bennet	Heinrich	Rosen
Blumenthal	Hirono	Sanders
Booker	Jones	Schatz
Brown	Kaine	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Manchin	Stabenow
Collins	Markey	Tester
Coons	Menendez	Udall
Cortez Masto	Merkley	Van Hollen
Duckworth	Murkowski	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Peters	Wyden

NOT VOTING—1

Harris

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 48.

The motion is agreed to.

The majority leader.

NOMINATION OF AMY CONEY BARRETT

Mr. MCCONNELL. Madam President, let me begin this afternoon with the following quote:

> [F]ew men in . . . society . . . will have sufficient skill in the laws to qualify them for the stations of judges. And . . . the number must still be still smaller of those who unite the requisite integrity with the requisite knowledge.

That was Alexander Hamilton in Federalist 78.

The Framers knew the independent judiciary would be a crucial part of this new experiment in self-government. If the separation of powers were to endure and the people's rights were to be safe, we would need individuals of the highest quality on the courts. So how fortunate for our country that the Senate just advanced one of the most qualified nominees to judicial service that we have seen in our lifetimes.

Judge Amy Coney Barrett of the U.S. Court of Appeals for the Seventh Circuit is a stellar nominee in every single respect. Her intellectual brilliance is unquestioned. Her command of the law is remarkable. Her integrity is above reproach.

First, as an award-winning academic and then as a circuit judge, she has worked her way up to the pinnacle of the law.

But just as importantly, Judge Barrett has displayed zero willingness to impose personal views or clumsily craft new policy with her gavel. She has demonstrated the judicial humility, the neutrality, and the commitment to our written Constitution that are essential for this office.

By now, as tends to happen by the end of these processes, the Senate knows Judge Barrett very well. Senators saw the Judiciary Committee put the nominee through her paces with days of exhaustive questioning. We have been able to study nearly 100 opinions she has issued in 3 years on the Federal bench. We have had another opportunity to examine the 15 years of scholarly writings that most of us reviewed 3 years ago when Judge Barrett won bipartisan confirmation to her current job. And we have been deluged by personal testimonies from every corner of Judge Barrett's career and life to confirm just what a remarkable person this nominee is.

One of Judge Barrett's former colleagues at Notre Dame is a leading expert in comparative constitutional law. That means he studies the courts and constitutions of countries all around the world. He meets judges from across the planet.

Here is what this expert says about his colleague: ''I have had very many occasions to meet, observe, and work with high court judges from all over the world, from Argentina to Austria, from South Africa to South Korea . . . [and] I can say with great certainty that Judge Barrett stands out, on a par in her abilities with the most distinguished'' of them all. He goes on to say her legal work is ''as erudite as it [is] clear and accessible,'' and ''as honest and fair-minded . . . as anyone could aspire to, with not a hint of personal bias.''

Now, most of us would be thrilled to receive such praise once or twice in an entire career—in an entire career—but Judge Barrett seems to provoke this reaction in absolutely everyone. The highest professional compliments seem to be the default reaction of anybody who crosses her path, anybody who comes into contact with her.

Eighty-one of her law school classmates from ''diverse backgrounds, political affiliations, and philosophies'' say the nominee embodies ''the highest caliber of intellect . . . fair-mindedness, empathy, integrity, humility, good humor, and commitment to justice.'' They also said: ''As fellow students, we often learned more from Amy than the professor.''

Three years ago, more than 70 fellow scholars wrote the Senate, calling her scholarship ''careful,'' ''rigorous [and] fair-minded.'' They said her ''personal integrity'' earns wide respect.

Listen to this. Every one of the Supreme Court alumni who clerked alongside Judge Barrett wrote us to share their ''unanimous'' view that she is a ''woman of remarkable intellect and character.'' That means, colleagues, those were the clerks to Ginsburg and the clerks to Breyer as well—all of them, without exception.

How did that clerkship come about? It came about, by the way, after one of her professors, who is now a university president, wrote Justice Scalia with one sentence: ''Amy Coney Barrett is the best student I ever had.''

But before she clerked for the Supreme Court, she clerked for Laurence Silberman over on the DC Circuit, who, by his own admission, is an Ivy League snob. He got a call one day from a professor at Notre Dame, and he said: ''I know you only take clerks from mostly Harvard and Yale, but this is the best student I ever had at Notre Dame.'' So this Ivy League snob decided to take a chance on somebody who didn't go to Harvard or Yale. That was Amy Coney Barrett. And then he called his good friend Nino Scalia and said: ''Goodness, gracious, you don't want to miss this opportunity to have this clerk.''

So we have here a uniquely qualified person, and the best evidence of it is you don't hear anything over there about her qualifications; not a peep about her talent, her intellect. We have, colleagues, the perfect nominee for the Supreme Court.

A few weeks ago, Harvard Law Professor Noah Feldman, who leans left, wrote that Judge Barrett is ''a brilliant and conscientious lawyer who will analyze and decide cases in good faith.'' He said she ''meets and exceeds'' the ''basic criteria for being a good Justice.''

So, as I was saying, no matter all the acrimony that has swirled around the process, nobody has attempted to dispute Judge Barrett's qualifications. To the contrary, no one can help being impressed.

At one point during Judge Barrett's hearing, she was asked about an arcane legal doctrine. Her answer was so clear and so accessible that one of our Democratic colleagues—I won't name him; I don't want to get him in trouble—had to remark: ''That's quite a definition. I'm really impressed.'' Well, so are the American people.

Some opponents of this nomination come right out and say ''It is not about qualifications.'' They deserve some credit for being honest about it. They say they aren't interested in whether Judge Barrett will smartly and faithfully apply our laws and our Constitution. They aren't interested in that. Instead, they want to make apocalyptic predictions about policy.

Well, there are a few problems with that. One is that their political side

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

CORONAVIRUS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and the Presidency. And the transparency of this new excuse does not cover up the hypocrisy. It does not change it one bit, and everyone knows it—everyone.

And, by the way, if this were about divided government, the senior Senator from Florida would not have said he would ''say the same thing if a Republican President were in office.''

The junior Senator from Iowa would not have said:

Precedent set, precedent set. I'm sure come 2020, you'll remind me of that.

Chairman GRAHAM would not have said:

Hold the tape! Use my words against me! You can say LINDSEY GRAHAM said the next president, whoever it might be—

Whoever it might be, not whatever party it is in—

should make the nomination.

So the flimsiness, the transparency, the dishonesty of the excuse that they have come up with ex post facto doesn't work. It doesn't work.

No, this has never been about the orientation of the Senate and the Presidency. Republicans promised they would follow their own standard if the situation were reversed—guess not.

Now, the Republican leader claims that the majority's actions today are rooted in some convoluted precedent. The truth is, the precedent is clear and similar. The Senate has never—never—confirmed a Supreme Court Justice so close to a Presidential election. The Senate has never even confirmed a Justice between July and election day in a Presidential year. I asked the Presiding Officer to confirm these two facts, and both were confirmed by the records of the Senate. There is no precedent—none—for what is going on here.

The Republican leader has claimed that the majority's actions are justified by all sorts of bad things Democrats did in the past and may hypothetically do in the future. He said that every escalation of significance in judicial debates was made by Democrats. Convenient, I guess. I guess ''significance'' is in the eye of the beholder, because the Republican leader's history conveniently, and mandatorily to make his case—his false case—left out a whole lot of chapters—ignored.

He conveniently omitted that Republicans bottled up more than 60 judicial nominees from President Clinton, refusing to give them a hearing in the 1990s. He made no reference to the decision by Republican Senators to hold open 14 appellate court seats under President Clinton so that a Republican President could fill them instead—a tactic Republicans would revisit under President Obama, when Republicans used partisan filibusters to block his nominees to the DC Circuit.

At the time, the Republican leader and Senators from Iowa and Utah said that President Obama was—get this—trying to ''pack the court.'' Amazing. Pack the court? They held up the nomination so President Obama couldn't have his rightful appointees to the second highest court in the land. And they kept a number of seats—I believe it was four—vacant for such a long time.

Well, we have heard all of this before. It seems whenever the Republicans need to scare up some votes, they accuse Democrats of trying to pack the courts, even when it is a Democratic President invoking his constitutional authority to appoint judges and the Republicans are blocking it.

Republicans tried to nullify President Obama's authority to nominate judges to the circuit court, and then, as soon as Republicans had a majority, they succeeded in nullifying his prerogative to have a Supreme Court nomination considered by the Senate. And what did Leader MCCONNELL say about it? This remark will go down in infamy. He called it ''one of his proudest moments.''

Apparently, the blame game that Leader MCCONNELL wants us to play goes all the way back to 1987. That is the reason we are so hypocritical—what happened back in 1987, says the Republican leader. It all began with Robert Bork, he says, after Senator KENNEDY gave a 3-minute speech that Republicans considered intemperate. Seriously, that is, according to our Republican friends, the original sin, according to the leader—a 3-minute speech.

While we are on the subject of Robert Bork, I would remind my colleagues that Robert Bork received a hearing and a vote in the Democratic Senate. His nomination was defeated by a bipartisan majority of Republicans and Democrats. Republicans helped defeat Bork—left out conveniently by the leader's recantation of history. His nomination was defeated and President Reagan's eventual replacement, Anthony Kennedy, was confirmed unanimously.

For those keeping score, Merrick Garland never even got a hearing.

But because one Democrat gave a speech Republicans didn't like, the fight was on, according to the Republican leader. According to the Republican leader, because of that 3-minute speech in 1987, Republicans can steamroll the minority to confirm a Supreme Court Justice in the middle of an election.

Imagine trying to explain to someone: Sorry, I have to burn down your house because of something one of your friends said about one of my friends 33 years ago. Yes, burn down the house because of a comment 33 years ago—that is what they are doing.

The leader's speech—the Republican leader's speech—was schoolyard stuff. Here in the U.S. Senate, in order to justify an outrageous power grab that even some Members of his party don't agree with, the leader's argument boils down to ''But you started it.'' Any parent with young children would recognize that argument. It is when you know you have done something wrong but you don't want the blame. That is exactly what the leader's speech sounded like to so many Americans.

Let's get serious here. This isn't about the long history of judicial escalation or a 33-year-old speech. This is about raw political power. This is about a Senate majority deciding to break faith with the American people and make a mockery—a mockery—of its own principle to secure a seat on the Supreme Court.

Let me dispense with one more fiction. The leader keeps claiming that Supreme Court seats have nothing to do with power or ideology. Judges and justices only apply the law, they claim. They only call balls and strikes. My Republican friends have told us over and over again that if someone is qualified—has good, topnotch qualifications—they should be confirmed because judges merely apply the law.

Well, if that were true, if Leader MCCONNELL truly believed the only thing that matters about a judicial candidate is his qualifications, then Merrick Garland would be sitting on the Court right now. His qualifications were every bit as good as Amy Coney Barrett's—every bit as good.

So, all of a sudden, we should only judge by qualifications. I get it. I get it. If it were true—once again, I will repeat it. If any of my Republican friends believe that the only thing that matters is the qualifications of a judicial candidate, Merrick Garland would be Justice Merrick Garland now.

No one—and I mean no one—said that Judge Garland wasn't qualified. But Republicans subjected his nomination to an unprecedented partisan blockade. If qualifications are the only thing that matter, why did President Trump vow to pick only Justices who would terminate our healthcare law? Why did he say that his judicial appointments would ''do the right thing'' on healthcare, ''unlike Justice Roberts''? Why did President Trump say that if he gets to appoint two or three Justices to the Supreme Court, Roe v. Wade would be overturned automatically? That is not qualifications.

President Trump doesn't have a problem talking about how judicial appointments might rule when he is trying to win an election, but, apparently, Democrats are, in the words of the leader, ''hysterical'' for even questioning how Judge Barrett looks at hugely consequential issues.

I want the American people to know: The far right is lining up, right now, to get the Supreme Court to review your fundamental rights because they think Judge Barrett might provide a certain outcome. President Trump and Republican attorneys general are suing to eliminate the Affordable Care Act in a case that will be heard one week after the election.

Three days ago, the President of the United States said on tape: ''I hope that they will end it. It'll be so good if they'' did.

Republicans in Pennsylvania have just appealed a split decision by the

current Supreme Court that prevented an early cutoff to counting ballots. Just one vote on the Court could change the outcome.

The attorney general of Mississippi, this week, filed a brief asking the Supreme Court to review a Mississippi law banning abortions after 15 weeks—an invitation for a new configuration on the Court to revisit Roe v. Wade.

So don't tell me the issues don't matter, only qualifications. We are talking about the lives and freedoms of the American people: the right to affordable healthcare, to make their own private medical decisions, to join a union, to vote without impediments, to marry whom they love. And Judge Amy Coney Barrett will play a part in deciding whether those rights will be sustained or curtailed for the next generation of Americans.

I want to be very clear with the American people about what is going on here. The Republican Senate majority, America, is breaking faith with you—doing the exact opposite of what it promised just 4 years ago—to cement a majority on the Supreme Court that threatens your fundamental rights.

Don't forget it, America. Don't forget what is happening here because it is a travesty—a travesty. It is a travesty for the Senate, a travesty for the country, and it will be an unerasable stain on this Republican majority forever more.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. THUNE. Madam President, the Democratic leader seems to think that this had something to do with a 3-minute speech 30 years ago. I don't know where that comes from.

I can tell you that he has been involved in a systematic reversal of the longstanding precedent when it comes to the consideration of judges to the Federal bench by the U.S. Senate. I am a beneficiary, I suppose you could say, in some strange way of that. That was a major issue in my campaign in 2004. We made it about the blockade that the Democrats in the Senate at the time, led by the current Democratic leader, had started against a whole long list of nominees put forward by then-President George W. Bush.

I remind you of a few names: Janice Rogers Brown, Priscilla Owen, Miguel Estrada, Judge Charles Pickering. There was a long list of judges who were blocked at the time by the current Democratic leader. In fact, as Leader MCCONNELL has pointed out, it wasn't even sort of a random thing. It was a planned strategy to start playing politics with the Federal Judiciary instigated by the architect, the current Democratic leader, who, at the time, was holding workshops and seminars about how they could politicize the Federal judiciary and figure out new ways to block consideration of judges put forward to the Federal bench by then-President George W. Bush. That was a major issue in that campaign season, and, I would argue, one of the principle reasons that I am here in the U.S. Senate.

Then, of course, when the chickens came home to roost and the same tactics were used by the other side in the previous administration, as was pointed out again yesterday by Leader MCCONNELL, the Democrats decided to break the rules to change the rules in 2013 to go to a simple majority to basically get and confirm judges on the Federal Judiciary.

We are where we are today, notwithstanding all the bluster that you just heard, because of a long, systematic strategy by the Democratic leader to block judges put forward by Republican Presidents.

Despite all of what you just heard, tomorrow we are going to get to vote to confirm one of the most outstanding judicial nominees whom I have had the pleasure of considering during my time in the Senate. Judge Amy Coney Barrett is eminently qualified for the Supreme Court.

By now, her accomplishments are well known: first in her class at Notre Dame Law School, Supreme Court clerk, beloved Notre Dame law professor, outstanding scholar, circuit court judge.

Americans, of course, got to see Judge Barrett's qualifications for themselves a couple of weeks ago during her Judiciary Committee hearing. For 2 days, she answered tough and probing questions from Democrats and Republicans, displaying a consummate command of the law and a calm and thoughtfulness that shows she has the kind of judicial temperament you want in a Supreme Court Justice.

Since Judge Barrett's nomination, the tributes have poured in from across the political spectrum: ''Barrett is highly qualified to serve on the Supreme Court,'' said Harvard Law Professor Noah Feldman, one of the House Democrat's star impeachment witnesses.

Patricia O'Hara, former dean of Notre Dame Law School, sent a glowing letter to Judiciary Committee Chairman LINDSEY GRAHAM and Ranking Member DIANNE FEINSTEIN. The letter says:

> I was the dean of Notre Dame Law School at the time that Judge Barrett first joined our faculty. In that capacity I was responsible for providing an environment in which she could flourish as a young faculty member, but also for evaluating objectively whether she met the University's high standards for scholarship and teaching required for advancement. This proved to be the easiest task of my ten years as a dean. Judge Barrett was (and remains) a stellar teacher beloved by students, a brilliant and nationally-recognized scholar, and generous colleague.

She went on to say:

> I am confident that if she is confirmed by the United States Senate, she will be an outstanding justice—brilliant, fair, impartial, and empathetic—and will serve to strengthen an independent judiciary committed to the rule of law.

Professor O'Hara also took care to note in her letter that she doesn't write glowing reviews for Federal judiciary nominees on a regular basis. In fact, she said the only similar letter she has ever written was in support of Democratic nominee Elena Kagan's nomination to the Supreme Court.

She went on:

> I feel every bit as strongly about Judge Barrett's qualifications for a position as Associate Justice as I felt about Justice Kagan.

While I may not always agree with the American Bar Association's judicial rankings, they certainly got it right with Judge Barrett. That is I talking, not the professor. I am still struck by the testimony that the head of the ABA Standing Committee on the Federal Judiciary submitted to the Senate Judiciary Committee. The ABA's Standing Committee on the Federal Judiciary is the body that provides the ABA's evaluations of Federal judicial nominees.

In his testimony detailing the ''well-qualified'' rating that the ABA gave to Judge Barrett, the head of the ABA committee noted:

> Lawyers and judges uniformly praised the nominee's integrity. Most remarkably, in interviews with individuals in the legal profession and community who know Judge Barrett, whether for a few years or decades, not one person uttered a negative word about her character. Accordingly, the Standing Committee was not required to consider any negative criticisms of Judge Barrett.

That is quite a tribute.

But, of course, ratings of ''well-qualified'' do not just depend on character; they also depend on professional competence. Here is what the ABA's representative had to say about that:

> Given the breadth, diversity, and strength of the positive feedback we received from judges and lawyers of all political persuasions and from so many parts of the profession, the Standing Committee would have been hard-pressed to come to any conclusion other than that Judge Barrett has demonstrated professional competence that is exceptional.

Along with her character, competence, and command of the law, Judge Barrett brings a clear understanding of the proper role of a judge. She understands that the job of a judge is to interpret the law, not make the law; to call balls and strikes, not to rewrite the rules of the game; or, as Judge Barrett said in an answer to a Senator's question, ''I apply the law. I follow the law. You make the policy.''

As Judge Barrett made clear in her hearing, she will be the kind of Justice who leaves her personal beliefs and political opinions at the courtroom door. She will look at the facts of each case and judge accordingly to the law and the Constitution and nothing else.

When I came to the Senate, I hoped to have the opportunity to put judges like Amy Coney Barrett on the bench. I was proud to vote to confirm her to the Seventh Circuit Court of Appeals in 2017, and I look forward to voting to confirm her to the Supreme Court tomorrow.

I yield the floor.

The PRESIDING OFFICER (Mr. BOOZMAN). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise today in opposition to the nomination of Judge Amy Coney Barrett to the U.S. Supreme Court.

Just over a month ago, our country lost Justice Ruth Bader Ginsburg, a leading voice for equality and fundamental rights.

Judge Ginsburg's nomination was the first that I participated in when I came to the Senate 28 years ago. At her hearing, I had the opportunity to thank her for all she had done and for all she had yet to do. Before she was confirmed to the Bench, Justice Ginsburg played a critical role in breaking down barriers for women.

During her confirmation hearing, she staunchly and forthrightly defended her positions as an advocate for equality, including her own support for a woman's fundamental right to control her own body, the core holding of Roe v. Wade.

Once confirmed to the Court, Justice Ginsburg worked tirelessly to ensure that the opening words of our Constitution, ''We the People of the United States,'' included all people, not just the elite few.

The stakes are extraordinarily high in confirming a replacement for Justice Ginsburg in the best of circumstances, but for Republicans to proceed now, just 8 days before an election, undermines, I think, the integrity and independence of the vote.

Senate Republicans are breaking their own statements and promises by proceeding. In February of 2016, Republicans refused to consider a replacement for Justice Antonin Scalia because it was an election year. They blocked all consideration of President Obama's nominee, Judge Merrick Garland, claiming that the American people should have the opportunity to weigh in on a Supreme Court vacancy. Leader MCCONNELL, at the time, clearly stated the Republicans' position: ''My view, and I can now confidently say, the view shared by virtually everyone in my conference, is that the nomination should be made by the President that the people elect in the election that is now underway.''

Well, that is clearly not going to happen.

Chairman GRAHAM, in 2018, reiterated this standard, promising that ''if an opening comes up in the last year of President Trump's term and the primary process has started, we'll wait till the next election.''

But when Justice Ginsburg passed away just 46 days before election day, Senate Republicans did not hesitate to go back on their word. On the night of Justice Ginsburg's death, Leader MCCONNELL announced that President Trump's nominee for the vacancy would receive a vote on the Senate floor. Chairman GRAHAM immediately set committee hearings for October 12, giving the committee just 2 weeks to review Judge Amy Coney Barrett's record. This proved to be insufficient, as evidenced by Judge Barrett's failure to identify and disclose significant amounts of material.

Then, before Judge Barrett's hearing had even concluded, Chairman GRAHAM held a markup on her nomination, and more rules were broken by setting a committee vote on her nomination for 1 p.m. the following week. I, along with the Democratic side, refused to take part in that committee vote. This was not a decision that we made lightly. We were not willing to participate any further in a process that was used to rush this nominee forward in the middle of this election.

Despite our objections to proceeding, Democrats demonstrated through the course of Judge Barrett's nomination hearings what is at stake with her nomination, starting with Republican statements to use the Supreme Court to dismantle the Affordable Care Act and strip away healthcare coverage for millions of Americans.

On November 10, the Supreme Court will actually hear oral arguments in a case titled ''California v. Texas.'' That is a case challenging the validity of the Affordable Care Act. President Trump promised to appoint Justices who will vote to dismantle this landmark law. In 2015, he stated: ''If I win the Presidency, my judicial appointments will do the right thing, unlike Bush's appointee John Roberts on ObamaCare.''

When he nominated Judge Barrett to fill Justice Ginsburg's seat, President Trump stated that eliminating the ACA would be a ''big win in the USA.'' Even more recently, in an interview with 60 minutes, President Trump said he ''hopes'' the Supreme Court will strike down the ACA, and he believes ''it'll be so good if they end it.''

Let us not forget, after all, that Justice Ginsburg joined a 5-to-4 majority when the Supreme Court upheld the ACA against Republican-led challenges in NFIB v. Sebelius and King v. Burwell.

Like President Trump, Judge Barrett has criticized the upholding of the Affordable Care Act. In NFIB v. Sebelius, she stated that Chief Justice Roberts ''pushed the Affordable Care Act beyond its plausible meaning to save the statute.''

She also cast doubt on the Chief Justice's opinion in King v. Burwell and said that he departed from the ''clear text'' of the statute to avoid gutting it. She likewise claimed that the dissent had the ''better of the legal argument.''

At her confirmation hearing, Judge Barrett did not answer questions about her view on the ACA and did not meaningfully walk back her criticism of these two 5-to-4 Supreme Court decisions upholding the law.

She also implied that coverage of preexisting conditions is not at issue in California v. Texas. However, the Trump administration is directly asking the Court to strike down the entire Affordable Care Act, including its protections for patients with preexisting conditions.

Let me be perfectly clear. I believe, if Judge Barrett is confirmed, Americans could well lose the significant benefits that the Affordable Care Act provides. More than 130 million Americans have preexisting conditions, like cancer, asthma, or even COVID–19, and they could then be denied coverage.

At Judge Barrett's hearing, we heard the stories of real Americans who will be harmed and who illustrate what is at stake. This included a constituent of mine, Krystyna Munro Garcia, who, because of the Affordable Care Act, received cataract surgery that saved her eyesight.

It included North Carolina mom Stacy Staggs, who testified that the Affordable Care Act had ensured her twin girls received the lifesaving treatments they needed.

It also included Dr. Farhan Bhatti, a family physician, working with low-income patients in Lansing, MI, who told the committee that opposition to the ACA ''endangers a lifeline that [his] patients count on to stay healthy, and in many cases, to stay alive.''

I deeply believe that Senate Republicans should not be moving forward on a Justice who will likely help strip healthcare from millions of Americans, particularly in the middle of a global pandemic that has already taken more than 225,000 American lives.

Judge Barrett also represents a threat to women's reproductive rights. President Trump told us so when he promised to appoint Justices who will ''automatically'' overturn Roe v. Wade.

Judge Barrett has made clear that she would likely be the Court's most extreme member on reproductive rights. At her hearing, she refused to state whether she agreed with the landmark case Griswold v. Connecticut, which established the right to use contraceptives. In addition, she would not affirm whether Planned Parenthood v. Casey, which upheld the constitutional right to abortion established in Roe, was settled law. She stated outright that Roe is not a superprecedent, indicating time and again that continued efforts by anti-abortion activists would provide the Supreme Court ample future opportunity to further limit or overturn Roe entirely.

Now, this was a surprising departure from the last four Republican nominees, who acknowledged at their hearings that Griswold was, in fact, settled law and that Roe and Casey were, in fact, important precedents of the Court.

Beyond these specific examples, Judge Barrett's view of precedent itself poses a continued threat to countless rights that Americans rely on and cherish.

As an academic, she wrote that it is ''more legitimate'' for a Justice to ''enforce her best understanding of the Constitution rather than a precedent she thinks clearly in conflict with it.'' Essentially, what that states is that she will feel free to overrule precedent that she believes conflicts with her interpretation of the Constitution.

Judge Barrett's record also raises grave concern about how she would

rule on cases involving voting rights and core democratic norms.

In her dissent in the Seventh Circuit case Kanter v. Barr, Judge Barrett suggested that voting rights were entitled to less protection under the Constitution than the right to own a gun. She distinguished between the ''individual right'' to own a gun and the ''civic right'' to vote. She argued that a felony conviction should not necessarily result in the loss of the right to own a gun but emphasized that it may result in the loss of the right to vote.

She even refused to say whether voting discrimination exists even after being informed that Chief Justice Roberts wrote, ''Voting discrimination still exists; no one doubts that.''

Despite President Trump's statement that he plans to challenge the results of the election in the courts if he loses—and that he wants his Justice seated in time to hear those challenges—Judge Barrett would not commit to recuse from cases related to the upcoming election.

In addition, Judge Barrett's evasiveness at her hearing was deeply concerning. She refused to answer over 100 questions—not 10 or 20 or 30 or 40 but 100 questions—including basic legal and factual questions. Let me give you an example.

Judge Barrett refused to confirm that the Constitution prevents a President from delaying an election. That is a hint. She declined to answer whether Federal law prohibits voter intimidation. She would not affirm that Medicare is constitutional. She even hedged on whether Presidents should commit to peaceful transfers of power, and she would not acknowledge the existence of climate change.

Judge Barrett's silence on these major questions really speaks volumes. It demonstrates that a Justice Barrett will not be willing to stand up for core American values and rights, and it raises additional concerns about her willingness to act independently of President Trump.

In closing, it is my belief that Judge Barrett represents a threat to the very rights—including reproductive rights, the rights of LGBT individuals, and voting rights—that Justice Ginsburg worked so hard to protect, and for those reasons, I oppose her nomination and urge my colleagues to do the same.

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

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

Mr. DURBIN. Mr. President, if you went across America and just picked a random person and said ''Did you know the Senate is in session this weekend?'' they, of course, wouldn't know. You would say to them ''Well, why do you think the Senate is in this rare 5-day session?'' and they would say, I am sure, ''Well, of course they are in a rare 5-day session. We are in the midst of a deadly pandemic.'' You would guess that would be the answer of most Americans.

Why would they say that? Well, I know why they would say it in Illinois—because the coronavirus in Illinois has spiked to a newly confirmed daily COVID–19 State record as of yesterday, and 63 more deaths have been reported. Our positivity rate is over 6 percent now, and the Governor and mayor are taking steps that they didn't want to take but have no choice. They are closing restaurants and bars and imposing a curfew on the city of Chicago.

You can imagine how they feel as more and more infections come rolling in and more and more people are dying. We have had almost 9,600 deaths so far in Illinois and, as we know, nationwide, over 225,000 deaths.

But don't believe for a second that this is a big-city problem because the New York Times reports this morning in its edition the names of the 50 counties across America with the worst per capita outbreaks of COVID virus with fewer than 10,000 people in the county.

Senator THUNE was here earlier. His State of South Dakota has really been devastated when it comes to small counties, these counties—Bon Homme, Faulk, Harding, Miner, Buffalo, Oglala Lakota, Sully, Campbell, Brule, Turner, Jackson, Todd. Small counties. Rural areas. Smalltown America that used to say: It is a big-city problem. But now, sadly, it is a smalltown problem too.

I am sure the Presiding Officer knows that on this list of 50 is Izard County—I hope I am pronouncing it correctly—in Arkansas and Lincoln County as well.

Following me speaking will be a Senator from Colorado, and unfortunately Sedgwick County is included on this list.

The point I am trying to make is this: This is a pandemic that is the worst we have seen in a century. More people are getting sick and more people are dying than we ever imagined. We face this not just in big cities like Chicago but in small towns and small counties in my State of Illinois and everywhere.

I pointed out the Senators who have been recently on the floor, but, trust me, this list includes a lot of other States even with Democratic Senators. It makes no difference. The virus could care less.

With facing this at this moment in time, the American people would rightly think that we would be doing everything imaginable, everything within our power to address this pandemic in this rare 5-day session leading up to a national election, but they would be wrong. They would be wrong because that is not our priority in the Senate. The priority in the Republican-controlled Senate is the filling of a vacancy on the Supreme Court, and the nominee, Amy Coney Barrett, comes before us for a vote on confirmation tomorrow after 5 days.

The reason it is controversial, the reason it has to be rushed from the Republican point of view, the reason they are hell-bent to get this done before the election is directly related to the pandemic. It seems like an odd coupling. How did that happen? Well, it came down to this: The filling of this vacancy in an extraordinary way, since we have never—underline the word ''never''—in the history of the United States filled a Supreme Court vacancy this close to an election—actually, in the midst of an election—it has never been done—the reason they are breaking all the rules, including the sacred McConnell rule, which was announced 4 years ago, that lameduck Presidents—by his definition, Presidents in their last year—should have no authority to fill a Supreme Court vacancy—the reason they have decided to ignore that sacred McConnell rule and go forward with this is because of one day that is coming up: November 10.

You see, on November 10, the Supreme Court of the United States considers the case of California v. Texas. It is a big deal on the Republican side. The purpose of that case is for attorneys general in Republican States and the Attorney General of the United States to strike down the Affordable Care Act. They want to make sure that Amy Coney Barrett has black robes on and is sitting in the Supreme Court when it is argued so she can be there when the critical vote to eliminate the Affordable Care Act occurs just a few weeks from now. If they don't get this done by November 3, they are afraid of what might happen. Something might get complicated and they couldn't get her on the Bench on time.

If you think I am making this up, we have as a source for that information none other than the President of the United States of America—a President who never suffered an unuttered thought; a President who generates dozens of tweets every day and tells us exactly what is on his mind every waking moment. He made it clear to us that when it came to Amy Coney Barrett, she was a priority. He promised long ago: I won't put a Supreme Court Justice on the Court unless they will join me in eliminating the Affordable Care Act.

So we knew that as a starter, and then he added as a grace note: And I want to make sure this Justice is on the Court so if there are any election contests, I will have nine Justices there.

Not subtle, is it?

That is why I said in the hearing and since that there is an orange cloud over this nomination—an orange cloud that emanates from the White House. And that is why we come here today, just hours before the final vote, understanding what is at stake if the President has his way, if the Republicans have their way.

If Amy Coney Barrett is on the Bench by November 10, then she will be in a position to strike down a law which provides health insurance for 23 million Americans. There is the linkage I mentioned earlier.

In the midst of a pandemic, with 8 million Americans having been infected; in the midst of a pandemic with over 225,000 American lives lost; in the midst of a pandemic setting new records as this COVID–19 virus invades our towns and cities and counties and States again; in the midst of this, the Republican leader, MITCH MCCONNELL, says we have no time to discuss COVID–19—no, but we have all the time we need to make sure we have our Supreme Court Justice on the Bench when the future of the Affordable Care Act is decided.

There have been a lot of questions as to whether Amy Coney Barrett is qualified. She is impressive in her answers to questions, if she gets around to answering them. I am sure that she has a head full of law. You can tell it when she answers, which is rare. You can tell why she was a law school professor and now a circuit judge.

But the purpose of our hearing was not just to figure out if she was smart, properly educated, licensed to practice law. All of that aside, the purpose of the hearing, from my point of view, was to try to determine not what was in her head but what is in her heart when it comes down to basic questions, because, you see, at the bottom of all this is the Affordable Care Act and its fate and the fact that she has published on more than one occasion her opinion of that law, and, not surprisingly, it is negative.

I want to tell you in a moment—I want to get personal for a moment about this Affordable Care Act before I talk about Amy Coney Barrett and her philosophy.

I want to introduce you to a young man from the State of Illinois. His name is Alex Echols. He is from Chicago. I met with him recently. Big smile, right? Well, when he was 9 years old, two of his mother's best friends were diagnosed with breast cancer and passed away before they reached the age of 50. As Alex moved into high school, his mother was diagnosed with breast cancer. Thankfully, she got treatment, and today, 20 years later, she is still in remission. Later, in high school, Alex lost his young cousin to leukemia. Shortly after that, his aunt passed away from lung cancer.

Alex emphasized that all of these Black relatives and friends had their cancer discovered at a late stage, demonstrating a discrepancy in early screening for communities of color. The Affordable Care Act helped to address this disparity by ensuring free preventive screenings, including in private insurance.

Hear that. Ten years ago, when we passed this law, we ensured that people could get private screenings—early private screenings for the detection of a cancer in its earliest stage when it could still be treated.

As fate would have it, when Alex turned 29, he was diagnosed with non-Hodgkin's lymphoma. He was uninsured at the time, but thanks to the Affordable Care Act, he was able to get enrolled and access the care he needed. He received treatment at several hospitals in Chicago and ultimately chemotherapy and a lifesaving bone-marrow transplant at the University of Chicago Hospital. Today he is in complete remission. How about that. He lives in Chicago with his wife and is active in leadership training programs and advocacy.

He wrote me a note and he said: Senator, ''if it were not for the Affordable Care Act and being able to gain access to healthcare at that time, then I am not sure I would be alive right now to share my story.''

Why do I tell you that story? Because the future of his healthcare depends on filling this nomination to the Supreme Court and whether the person who fills it is going to eliminate this law and protection or protect it.

Here is another fellow I met. His name is Paul Marshilonus. I remember meeting Paul because, like me, he has Lithuanian heritage. We talked about it. I met him during an immigration event.

Due to complications of a knee condition, Paul Marshilonus was no longer able to work at the Sears store, and he lost his employer-based insurance when he was in his early sixties.

Paul's wife used to worry about relatives who had cancer, and she said to him: ''I hope that doesn't happen to me, because we can't get insurance and we have nowhere to go.''

Then Paul received a prostate cancer diagnosis when he was 63—unfortunately, 2 years too young for Medicaid. Thanks to the Affordable Care Act, he got enrolled in the Cook County CountyCare Medicaid expansion coverage.

I am happy to say that because I joined with Toni Preckwinkle, the president of the Cook County Board, to ask then-President Obama to give us a waiver so we could extend Medicare coverage early on under the Affordable Care Act. He gave us the waiver. We covered 120,000 people with Medicaid protection, and one of them was Paul. He was able to access the care he needed, including 45 radiation treatments, totaling an insurance cost of $175,000.

Today, Paul is cancer-free. He still depends on the Affordable Care Act for preventive screenings under Medicare. He currently takes seven medications—blood thinners, allergies, blood pressure, metformin. If the ACA were to be eliminated, he would be charged more for those prescription drugs.

That is another thing we did with the Affordable Care Act. We reduced the cost of prescription drugs for people under Medicare. When it is eliminated, that reduction will disappear.

If Republicans succeed in terminating the Affordable Care Act at the Supreme Court, Americans like Paul will pay the price.

So you wonder why we are coming to the floor with these speeches late on a Sunday afternoon. Because these people asked us to. They asked us to come up and stand up for them and say what they can't say on the floor of the Senate. That is why we are here in the midst of a pandemic. That is why we are here—a nation that values healthcare as much as anything else we have as American citizens.

That is why, when we asked Amy Coney Barrett some basic questions, we expected to at least get some indication of an answer. She wouldn't answer basic questions. Senator LEAHY was there; he was following it. What we saw was practiced avoidance of ever telling us the basics.

You know, she styles herself as an originalist, and I will talk about that in a moment. An originalist supposedly values the Constitution—in fact, depends on it; finds guidance in it that other people can't see in the words, they find in the words; really delves into the Constitution; honors it; swears by it. Yet when we asked about basic constitutional principles—basics, written in the words of the document itself—time and again, she would say: I really wish I could answer, but, you know, a case may come before the Supreme Court someday on that, and I am just going to have to duck that question. She wouldn't tell us whether the President of the United States could unilaterally—unilaterally—delay the Presidential election. How about that?

There are only three separate references in the Constitution to that deadline and date for a Presidential election, and she couldn't answer that question: Can the President unilaterally delay an election?

She couldn't tell us whether there should be a peaceful transfer of power from one President to the next.

Please, Professor, Judge, you know in your heart of hearts that without a peaceful transfer of power, you don't have democracy.

When it came to the issue of voter intimidation—why did we raise that? Because there was a call to arms from some of the militia groups and others in this country to harass voters.

She wouldn't tell us whether she thought voter intimidation was unlawful. She wouldn't even answer a question I asked her in writing as to whether President Trump was legally accurate in saying: ''I have an Article II, where I have the right to do whatever I want as president.''

''Whatever I want as president.''

Three separate branches, balance of power—I thought that was in the Constitution the originalists venerate. It was not enough for Amy Coney Barrett to answer the question. She just said: It wouldn't be appropriate. You know, a case may come before us someday—you never know.

That is troubling. It is not a question of respecting her prerogatives as a future Justice; it is a question of dodging

a question over and over and over again.

At one point, Senator KENNEDY, who will be speaking here shortly, asked her about climate change. She said: I really don't have a view on that. You know, I hadn't really thought about climate change.

She is 48 years old, a lawyer, a law school professor, a circuit judge, a mother of seven, and it never crossed her mind about climate change, as to even whether it exists?

Judge Barrett refused to comment on the landmark Supreme Court decision in Griswold v. Connecticut. That is the case in which the Supreme Court confirmed that there is a right to marital privacy and that criminalizing contraception violated that right. It was a fundamental decision that led ultimately to Roe v. Wade. She wouldn't even opine as to whether or not that was properly decided.

She wouldn't commit herself—to recuse herself from election disputes involving President Trump even though his comments at a minimum have created an appearance of partiality that warrants her recusal under the judicial recusal statute.

I asked her in the 30 minutes initially that we were given to explain a 37-page dissent in Kanter v. Barr. This was a case where a fellow named Rickey Kanter ended up defrauding the Federal Government of millions of dollars. He was convicted of mail fraud. He ended up advertising that the cushions he had for shoes had been approved by Medicare. They had not. He then started selling them in volume across the United States, and he was caught at it red-handed. He ended up with a massive, multimillion-dollar civil settlement, with a substantial fine and penalty and 1 year in Federal prison.

He came out after his year in Federal prison and said: I will tell you what is unfair. After all I have been through, I can't buy an AK–47. What is wrong with my Second Amendment rights?

That was the case—Rickey Kanter's Second Amendment rights to buy a gun.

So he brought this case before a three-judge panel on the Seventh Circuit, where Amy Coney Barrett was presiding with two other judges, and said: I want to assert my Second Amendment rights. It is just not fair, after what I have been convicted of, to say that I should be denied the right to buy a gun.

Amy Coney Barrett spent 37 pages explaining why he was right, and the other two judges on the case went the other way in a hurry—both Republican appointees, I might add. But she stuck to her guns, so to speak, and said that as far as Rickey Kanter was concerned, it was just fundamentally unfair, you see, because he was just convicted of a felony, not a violent felony. Really?

Then she went a step further in the issue of voting rights. She really got down to the basic question: Could you be denied to buy a gun if you ''just committed a felony,'' or could you be denied the right to vote if you just committed a felony—not a violent felony in either case.

Well, she reached the conclusion that the right to bear arms and the right to vote were two different kinds of rights; that the right to bear arms was individual, so Rickey Kanter, even if he committed a felony, could not be denied a gun. But she went on to say that when it came to the right to vote, that was a ''civic'' right and that as a consequence of it, if you committed a felony—not even a violent felony—you could lose your right to vote. What an amazing conclusion. That is the originalist's mind at work.

I had to remind her that she lives in the State of Indiana. Guns flow across the border from Indiana into Illinois and the city of Chicago. We have a violence problem in that city that is serious and deadly every single darn weekend. Many of those guns—they trace them, incidentally, the Federal agencies do—20 percent of those guns come from her State of Indiana and why many of them—criminals go to Indiana, and many come from gun shows where there are no background checks. So you know what happens. The gang bangers and thugs drive over to Indiana to a gun show, fill up the trunk of a car with guns, and head to the streets of Chicago.

I said to her, she had to know this, living in South Bend, IN, with her kids growing up there. If she knew that, how could she be on the side of making it easier for anybody to buy a gun who has been convicted of a felony? But she did. Her originalism was at work.

I want to say a word about originalism. Originalism is not just some foreign language you pick up on Babbel. It is a mindset. It is a mission statement. It is the belief that original text in the Constitution reveals all the answers to today's challenges.

Now, all of us here have taken an oath to support and defend the Constitution. I don't take an oath lightly, and I am sure none of my colleagues do either. But the question is about that document itself. Does it have in its entirety what we need to know about our rights today in dealing with the constitutional issues that come before us?

Let me mention to you what the mayor of Chicago said a week ago when she was asked about originalism.

Lori Lightfoot said: ''Since the Constitution didn't consider me a person in any way, shape or form because I'm a woman, because I'm Black, because I'm gay, I am not an originalist.'' Lightfoot said, ''I believe in the Constitution. I believe that it's a document that the founders intended to evolve, and what they did was set the framework for how our country was going to be different than any other, and whatever was there in the original language. But originalists say that, 'Let's go back to 1776 and whatever was there in the original language, that's it.' That language excluded, now, over 50 percent of the country. So, no I'm not an originalist.''

So let's be very honest about that Constitution. Women could not vote in that original Constitution. African-Americans were not even counted as whole people; they were three-fifths of a citizen. And the list goes on.

I still venerate it for creating the democracy we enjoy today, but I don't believe that the Founding Fathers could possibly intuit where we are in America at this moment. What is at stake with originalism is this battle with judicial activism. What is behind this battle with judicial activism goes back to this moment.

Here are the words of historian Heather Cox Richardson: ''After World War II, under Chief Justice Earl Warren, a Republican appointed by President Dwight Eisenhower, and Chief Justice Warren Burger, a Republican appointed by Richard Nixon, the Supreme Court set out to make all Americans equal before the law. 1950s, they tried to end segregation through Brown v. Board of Education, prohibiting racial segregation in public schools. In 1965, they protected the rights of married couples to use contraception. In 1967, they legalized interracial marriage. In 1973, with the Roe v. Wade decision, they tried to give women control over their own reproduction by legalizing abortion.

''The Justices based their decisions on the due process clause of the 14th Amendment, passed by Congress in 1866 and ratified in 1868 in the wake of the Civil War. Congress developed this after the legislatures in former Confederate States passed 'Black Codes' severely limiting the rights and protections for formerly enslaved people. Congress intended for the 14th Amendment to enable the Federal Government to guarantee that African Americans had the same rights as White Americans, even in States where legislatures want to keep them in some form of quasi-slavery. Justices in the Warren and Burger Courts used that same amendment to protect civil rights a century later. They argued that the 14th Amendment required that the bill of rights apply to state governments as well as the federal government. This is known as the incorporation doctrine, but the name matters less than the concept: states cannot abridge the individual rights any more than the federal government. This doctrine dramatically expanded civil rights.

''But from the beginning, there was a backlash against New Deal government by businesses who objected to the idea of federal regulation and the bureaucracy it would require. As early as 1937, they were demanding to end the active government—active government—and return to the world of the 1920s where businessmen could do as they wished, family and churches managed social welfare and private interests profited from infrastructure projects. They gained little traction; the vast majority of Americans liked the new system.

But the expansion of civil rights under the Warren and Burger Courts was a whole new kettle of fish.''

What I am sharing with you here is an amazing summary of Heather Cox Richardson. ''Opponents of the new decisions insisted the court was engaging in''—hold on tight—'''judicial activism''' in trying to strike down discrimination and bigotry—''taking away from voters the right to make the decisions about how society should work.'' They said Justices were ''legislating from the bench.''

Heard that before?

''They insisted the Constitution is limited by the views of its framers, that the government can do nothing not explicitly written in that 1787 document. Faced with confusion over the exact meaning of the Constitution, some revised their position in a few ways. One was to rely on textualism or originalism, the idea that a law says exactly what it says and nothing else. This is the foundation for today's 'originalists' like [Amy Coney] Barrett.''

When you hear this debate, ''I am just following the Constitution. I am just following the text. I want to go to the original document. I don't want to see judges who are activists,'' it had its origin in the 1950s when two Justices on the Supreme Court appointed by Republicans stepped up and said: It is time for us to be serious about civil rights in America. Some politicians and those who support them have never gotten over it, and we are still debating it today.

Let me conclude. I see my colleagues waiting patiently. I am sorry it took a long time, but this is as serious as it gets, as far as I am concerned.

Let me conclude by saying this: There are so many issues of critical importance at risk in what we are about to do. The 6-to-3 conservative majority in the Supreme Court will challenge not only the future of the Affordable Care Act but voting rights and the outcome of an election, the right of privacy and choice, civil rights, environmental protections, marriage equality, worker protections, the fate of Dreamers, gun safety laws, and so much more.

We asked Amy Coney Barrett repeatedly, many of us did: Because the President has said he put you on the Court with a mission, and you are denying that took place, will you at least promise us that you will recuse yourself from cases directly relating to these issues? And she said she might, she might not; there was a process she might follow.

There is something else she could do. You see, if this Senate goes forward and approves the nomination of Amy Coney Barrett, she has one last decision before she becomes a Supreme Court Justice. She gets to choose the day when she is sworn in. I would like to suggest to her, for the integrity of the Court and to remove any possible cloud over her nomination created by the President's tweets and promises, I would like to ask her to pledge to the American people that whatever the Senate does, she will not take the oath of office until a new President is sworn in. If it is a reelection of President Trump, so be it. If it is Joe Biden, so be it. But if she will wait and absent herself from any election contest or debate on the Affordable Care Act, it will start to remove this cloud of doubt, this orange cloud of doubt which is over her nomination.

I am going to stand up for the constituents I have talked about today and so many others whose futures hang in the balance, and I will vote no on Judge Amy Coney Barrett.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

COLORADO WILDFIRES

Mr. GARDNER. Mr. President, I look forward to coming to the floor and speaking about the nomination that is currently before the U.S. Senate, the nomination of Judge Barrett to be placed on the U.S. Supreme Court, but at this point, I think it is important that we talk about what is happening in Colorado as we speak because of the heroic men and women who continue to fight our Nation's fires and certainly the devastating and catastrophic fires that we are seeing right now in Colorado.

This year we have already seen two of the largest fires in Colorado history burning over 200,000 acres—wildfires that started out at 20,000 acres, 25,000 acres, and then within hours grew 80-, 90-, 100,000 acres in a day. It is unheard of growth for wildfires.

The picture that I am showing you here is Estes Park, CO. Most people may be familiar with Estes Park. It is the gateway to Rocky Mountain National Park. You can see Lake Estes here and the town here. The town has been evacuated. A town of thousands of people has been evacuated because of two fires that are now threatening the area.

One fire is the Cameron Peak Fire, which became the largest fire in the State's history, only to be challenged by another fire coming through Rocky Mountain National Park called the East Troublesome Fire. Both are impacting Rocky Mountain National Park. The city of Estes Park, the city of Grand Lake, and the city of Granby, overnight, they did receive a winter storm. It is snowing now, and it is reducing the fire activity. It will not put the fire out. But my prayers and thoughts continue with the men and women who are fighting this fire so valiantly and the people in these communities who are in harm's way.

We know that homes have been lost. We don't know how many, but we know that homes have been lost, and we certainly acknowledge the loss of life that has already occurred. A couple in Grand Lake, who stayed in their home when the fire came through—they were together, but we pray for them and their families, and we mourn their loss.

The East Troublesome Fire, which is the Medicine Bow-Routt National Forest and Thunder Basin National Grassland, has a Type 1 management team already assigned. It is the No. 1 priority of the U.S. Forest Service in the country right now because of the aggressive fire behavior, with spotting that has threatened places like Estes Park. There are evacuations, road closures, trail closures, and has over 500 people, right now, assigned to this fire.

The Cameron Peak Fire has about 1,100 personnel working on the fire right now. We know about 470 structures have been lost. It is over 208,000 acres.

The Calwood Fire in Boulder County has a Type 2 management team fighting the fire right now. Their evacuation is in effect. There are nearly 400 people fighting this fire. There were 28 structures lost.

The Ice Fire—an ironic name—in the San Juan National Forest, near Silverton, CO, we know that it is about 600 acres right now.

There is the Williams Fork Fire, which has been burning for months in Colorado and Grand County. In Arapahoe and Roosevelt National Forests, we know that there have been several communities and energy infrastructure threatened by all these fires.

If you think about this entire town being evacuated, in the Colorado-Big Thompson Project, which provides a great deal of water to the Front Range of Colorado and through the South Platte River Valley, diversions were stopped, energy production impacted, and major utility transmission lines have been lost.

And, of course, there is the loss to some of the most magnificent areas of Rocky Mountain National Park, perhaps an untold story that we will learn about in the coming days.

This Congress and past Congresses have not been idle in the work that we have done to protect our resources. In fact, in this last Congress, we put an end to a practice that was known as ''fire borrowing,'' which involved raiding accounts that were not meant to go to suppression of wildfires to pay for increasingly expensive firefighter seasons.

The fix for fire borrowing was included in the 2018 spending package. What that means is we will no longer be cannibalizing funding for fuel reduction for mitigation that could have prevented a fire like this. Instead, we will be fully funding the firefighting effort and allowing those mitigation dollars and those fuel reduction dollars to be continued to be used so we can prevent this kind of fire from occurring.

We have also passed legislation for water resilience projects and categorical exclusions to help with forest management. We passed Healthy Forest Restoration Act language that includes fire and fuel breaks. We have worked on 20-year stewardship contracts with cottonwood reform. We have proceeded with reforms to fire hazard mapping

initiatives and to fuels management for protection of electric transmission lines and Good Neighbor Authority to help make sure we continue to give tools to our land managers.

The 2018 farm bill built upon many of the reforms that we passed in the 2014 farm bill changes. We have worked to expand the Collaborative Forest Restoration Program. We doubled its funding to help expand Good Neighbor Authorities to Tribes and to counties. All of these tools will help us deal with the wildfires, but, certainly, they are not going to put this fire out today.

So I come to the floor just to thank the men and women who are fighting these fires. To the leaders in these communities, the county commissioners, the sheriffs, the law enforcement personnel, first responders who have done a magnificent job in protecting structures, protecting their communities, protecting their people, I commend you, and know that you have the support of everybody here in our efforts to give you the tools you need to do your jobs, to be safe, and to protect our greatest resources and communities.

So, again, I look forward to coming to the floor to speak about Judge Barrett and her nomination, but, for now, I think it is important that we take this time to recognize the challenge that Colorado faces and the need for continued work in this Chamber to address forest management and Healthy Forest Initiatives to make sure that we can prevent these fires.

These are some of the original beetle kill areas that came in 30, 40 years ago. It was an insect that deadened and downed trees that we knew at some point could be a major challenge if there was a fire, and that is exactly what we are seeing.

I hope that all of my colleagues will join me in prayers for our State and States across the country that have been affected by wildfires and know that we have more work to do to prevent the loss of some of our greatest natural resources.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

NOMINATION OF AMY CONEY BARRETT

Mr. KENNEDY. Mr. President, I would like to spend a few minutes talking about the nomination of Judge Amy Coney Barrett to be an Associate Justice of the U.S. Supreme Court. It is horribly newsworthy to say that Judge Barrett's confirmation vote will not be unanimous. It should be. It won't be.

If you judged Judge Barrett solely on her intellect and her academic achievements, certainly her nomination should be unanimous. Any fairminded person would have to be impressed. She is an honors graduate of St. Mary's Dominican High School in New Orleans, one of the finest schools in this country. She is an honors graduate of Rhodes College in Memphis, an extraordinary liberal arts school. She is an honors graduate of Notre Dame Law School. She finished first in her class. She clerked for two of the most distinguished jurists in this country—the late Justice Scalia and Judge Silberman. She was a chaired professor at Notre Dame Law School. She is now a member of the Seventh Circuit Court of Appeals. Any fairminded person who reads her legal writings and her opinions would come away impressed.

If you judged Judge Barrett solely on her integrity, her confirmation vote should be unanimous. We all watched her almost 30 hours of testimony. We all know now about her beautiful family. She has seven beautiful children, two of whom are adopted and two of whom happen to be children of color. She is a devout Christian.

If you talk to her former students, to her colleagues, and to her critics, who know her well, they will all tell you that she is a person of integrity. And if you don't want to believe any of those people—I wish you could, and I know the Presiding Officer can—but I wish the American people could see her FBI background check. The Presiding Officer and I know that when the FBI checks your background, it is kind of a combination between an endoscopy and a colonoscopy. They are pretty thorough. There is not a hint of scandal.

If Judge Barrett were being judged on the basis of her temperament, she would be a unanimous choice as well. We saw that in her 30 hours of testimony. She listens well. She answers truthfully. She suffers fools gladly. I was just so impressed watching her.

The reason that Judge Barrett will not be a unanimous choice, at least within this body, has to do with a little bit of history. This is one person's point of view, but I think history will prove that I am correct. For the last 60 years in America, we have been moving from a representative government and more to what I will call declarative government. We, as you know, are a democracy. We are not a pure democracy, unlike Athens, for example. When we have to make a decision on social or economic policy, each of us doesn't put on a fresh toga and go down to the forum or the public square and vote. We elect representatives to make those decisions for us at the Federal level. They are called Members of Congress, and they are accountable. The people have given their power to our representatives, and if those representatives don't exercise that power in making social and economic policy, those representatives can be unelected.

But in the last 60 years, in some cases voluntarily and in some cases involuntarily, this body, the U.S. Congress, which under our Constitution is supposed to make social and economic policy as representatives of the people, has, as I said, in some cases voluntarily and in some cases involuntarily, ceded our power—ceded it to the administrative state and to the judiciary.

Let me talk for a moment about the administrative state. Some would call it the bureaucracy. The bureaucracy now at the Federal level is a giant rogue beast. It enjoys power once only known by Kings and Queens. The administrative state makes its own laws, called rules; interprets its own laws; and enforces its own laws before judges that the bureaucracy itself appoints. We in the U.S. Congress have allowed that. The judiciary has helped the administrative state gather that power as well.

As you know, there is a rule called the Chevron doctrine. I won't bore you with the details, but it basically says that if the administrative state—the bureaucracy—interprets a rule or regulation or even a statute in a ''reasonable way,'' whatever that is, the judiciary is going to defer to them. The U.S. Congress has also ceded much of its power to the judiciary, and we have had many Federal judges that greedily accepted it.

The reason that we will not have a unanimous vote for this eminently qualified nominated jurist is because of that. Some people in America and some of my colleagues like the fact that the U.S. Supreme Court, for the last 60 years, has not demonstrated judicial restraint.

Now, I am not going to stand here and tell you that the U.S. Supreme Court doesn't make law. Of course it makes law. It makes law in a particular case—one side wins; one side loses. Sometimes the U.S. Supreme Court makes law at the direction of Congress and at the direction of our Founders.

Our Constitution only prohibits unreasonable searches and seizures. We look to Federal judges to the U.S. Supreme Court to tell us what ''reasonable'' and ''unreasonable'' means, but in all cases our Federal judges and the U.S. Supreme Court is supposed to demonstrate judicial restraint. When it is a close question, when it is a matter of social—major social or economic policy, then the Federal judiciary is supposed to show deference to the U.S. Congress, but more and more it does not.

Some Americans like that. Some of my colleagues in this Chamber like that. They think that the U.S. Supreme Court ought to be a mini-Congress. They think that the U.S. Supreme Court should be a political body. They like the fact that if they can't pass a law changing social and economic policy through the U.S. Congress, they get a second bite at the apple and can go to the U.S. Supreme Court. I don't believe that is constitutional nor does Judge Barrett, I have concluded after 30 hours of testimony, and that is why her confirmation will not be unanimous in this body.

Let me tell you what I believe—and I will preface this by saying, after listening to Judge Barrett for 30 hours, this is what I believe she believes: I believe that Madison and his colleagues got it right. I believe that we should have three equal branches of government. I believe we should have checks and balances. I believe that just because those

branches of government are equal, that doesn't mean they are the same. I think their Founders intended each of those branches to have their own special role, scope, and mission.

I also believe that our Founders felt they were laying the foundation for a representative democracy, that Congress would make the important economic and social policy in this country; that when we talk about how societies meet our human needs, our Americans meet their human needs in terms of security, education, work, health, and well-being, that those decisions would be made by the people, not by the judiciary or the bureaucracy. They would then be made by people through their elective representatives.

I believe that our Founders intended Federal judges' role to be to tell us what the law is as enacted by Congress, not what the law ought to be. I believe our Founders intended for Federal judges to call the balls and the strikes—sometimes in doing so making law in a particular case, but to call the balls and the strikes, as Justice Roberts put it. And in doing so, I don't believe our Founders intended for Federal judges to be able to draw their own strike zone.

I do not believe that our Founders intended for Federal judges to be politicians in robes. I do not believe that our Founders intended Federal judges—and, certainly, not members of the U.S. Supreme Court—to be able to rewrite the U.S. Constitution to satisfy some political or social agenda every other Thursday that the American people will not accept through their elected Members of this body and the House of Representatives. It is called judicial restraint.

Judge Barrett shares it. It is controversial. It shouldn't be. But that is why, in my judgment, her confirmation vote will not be unanimous. I will be voting for Judge Barrett. I will be doing so enthusiastically.

She is one of the finest legal minds I have ever seen, and she understands the role of the U.S. Supreme Court under our Constitution.

I yield the floor to the senior Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, just 4 weeks ago, Members of the Senate gathered just down the hallway in Statuary Hall. We gathered to honor Justice Ruth Bader Ginsburg, the first woman to lie in state at the U.S. Capitol. Justice Ginsburg was a trailblazer, a woman who may have stood at just over five feet tall but was nonetheless a giant of the law. The nation grieved for her, not simply because she wasa a brilliant lawyer and Justice, but because she was a fighter. And she fought for those who needed fighting for most—Americans for whom the promise of America was still just a promise.

I have spoken at length about what Justice Ginsburg meant to the struggle for equality for millions of Americans. I will not repeat those words today, except to say that Justice Ginsburg's life's work left our nation a more perfect union. We will forever be in her debt.

A day after we gathered in Statuary Hall, with the nation in mourning—and days before Justice Ginsburg was laid to rest with her husband in Arlington Cemetery—the President held a celebratory ceremony to nominate her replacement. The masks were off at that Rose Garden ceremony, in more ways than one. Republicans made it clear they would stop at nothing to confirm Justice Ginsburg's replacement before a Presidential election just weeks away. Yes, the masks were off.

From that moment, the confirmation process for Judge Amy Coney Barrett has been a caricature of illegitimacy. I will not dispute that it is the responsibility of this body to consider Justice Ginsburg's replacement to the Supreme Court. But this is not how we should do it.

Not during such a polarizing time for our country, just one week from a Presidential election after more than 57 million Americans have already voted. Not at the expense of every precedent and principle this institution once stood for. Not when doing so requires that half of the United States Senate go back on their word, contradicting every argument they once made about Supreme Court vacancies during an election year. Not when this sprint to confirm Judge Barrett gave the Judiciary Committee just 2 weeks to prepare for her hearings, when the Committee has afforded itself three times as long to vet other modern nominees to our nation's highest court.

Not when records of Judge Barrett's undisclosed speeches and materials have continued to pour in, even after her hearings, revealing what a slipshod process this has been from start to finish. And not when the Senate is doing nothing—nothing—to pass a desperately needed COVID relief bill.

Every Senator knows in their heart this is wrong.

Senator MCCONNELL ramming this nomination through no matter the cost, while worrying about the politics of providing relief to millions of Americans suffering during this still-worsening pandemic—which has left 225,000 Americans dead—says everything one needs to know about the priorities of today's Republican Party. Yes, the masks are off.

It is far from a secret why President Trump and Senate Republicans are hell-bent on confirming Judge Barrett before Election Day. All you have to do is look at the calendar: On November 10, the Supreme Court will hear arguments in California v. Texas, the Republican-led lawsuit to strike down the Affordable Care Act. And Republicans see a Justice Barrett as an insurance policy to ensure there will be a five-vote majority to finally strike down the law.

Judiciary Committee Republicans spent last week crying foul, complaining that it is fearmongering to claim that they see this vacancy as an opportunity to overturn the ACA. But fear mongering implies that we're not talking about the facts. So let's review some basic facts.

It is the Republican Attorneys General who are asking the Court to throw out the entire ACA. Not just part of it—all of it. It is the Trump Justice Department that has sided with the Republican-led lawsuit. And it is this Republican-led Senate, in a vote just weeks ago, that gave the green light to the Trump Justice Department to take this position—a position that, if successful, would terminate health insurance for more than 20 million Americans, terminate the Medicaid expansion for 15 million more, and terminate protections for 130 million Americans with preexisting conditions. While disappointing, this Senate vote was hardly surprising. Republicans in Congress have now voted to repeal or gut the ACA at least 70 times—seventy, as in seven-zero.

As if Republicans could not be clearer about their intentions, just days ago President Trump was asked on national television about the fate of the ACA before the Supreme Court. He said: ''I hope that they end it. It'll be so good if they end it.''

Like Captain Ahab of Herman Melville's Moby Dick, Republicans have been single-mindedly obsessed with killing the ACA—their great white whale—since the moment the law was enacted. Having failed thus far in both Congress and the courts, they see Judge Barrett as the final harpoon to once and for all end the law. So when Republicans plead innocent and claim they have no intentions of taking away people's health care protections, Americans will remember that their actions speak much louder than their words.

And Republicans have yet another horse in this race—that is, the actual race for the White House and Congress. Always one to say the quiet part out loud, President Trump has repeatedly stated his expectation that his nominee will side with him in any election-related dispute. Baselessly claiming that Democrats have ''rigged'' the election and falsely labeling mail-in ballots as a ''scam,'' President Trump promises to challenge any election loss in the courts. That's why he says ''it's very important that we have nine justices.'' Another Republican on the Judiciary Committee has echoed the President, claiming that the ''entire reason'' they need Judge Barrett confirmed now is to ensure that no election-related dispute is deadlocked in a 4 to 4 decision. Mind you, I do not recall Republicans making this argument when they blocked Judge Merrick Garland from receiving a vote for 8 months prior to the last presidential election.

Just this week, we have seen why Republicans are all of a sudden so anxious

to have a ninth justice seated before Election Day. The Republican Party is waging an all-out war on voting in the courts right now, with the goal of disenfranchising as many minority, poor, elderly, vulnerable, and young voters as possible. Knowing that voters are relying on mail-in ballots in the midst of the COVID–19 pandemic, Republicans are unapologetically fighting State and local attempts to make absentee voting easier.

And it's clear that Republicans believe having Judge Barrett on the Court will help them to suppress the vote. Last week, deadlocked 4 to 4, the Supreme Court left in place a Pennsylvania supreme court order requiring officials to count absentee ballots received within 3 days of the election.

Yesterday, anticipating Judge Barrett's imminent confirmation may tip the scale, the Pennsylvania Republican Party asked the Supreme Court to review the case again—less than a week after losing the first time.

Unfortunately, for her part, Judge Barrett said nothing during her hearings last week to assuage the American people that she would be anything but a green light for the deeply harmful, unpopular objectives of President Trump and Republicans.

First and foremost, Judge Barrett repeatedly declined to distance herself from her litany of anti-ACA comments and writings. She also repeatedly declined to confirm whether she would follow Supreme Court precedent upholding the ACA.

Judge Barrett once wrote: ''However cagey a justice may be at the nomination stage, her approach to the Constitution becomes evident in . . . [what] she writes.'' Using Judge Barrett's own standard, then, one cannot escape the conclusion that she will view the ACA as a Justice the same way she has always viewed the ACA: unconstitutional and unsalvageable.

My concerns only grew when Judge Barrett refused to commit to recusing herself from any election-related disputes. President Trump has put Judge Barrett in an unenviable position by making it impossible for Americans not to question her impartiality should she vote in his favor in an election dispute. If a Justice Barrett votes to throw the election for President Trump, I fear not just the Court but our democracy itself would suffer an existential blow to its legitimacy.

My concerns grew into alarm when Judge Barrett refused to affirm even the most basic tenets of our democracy. She would not affirm to me that a president must comply with a court order and the Supreme Court has the final word. She would not state whether the President can unilaterally postpone a Presidential election, despite the law clearly stating he cannot. She would not affirm to me whether our Constitution contemplates a peaceful transition of power, despite the 20th Amendment laying out the procedures for precisely such a transition. And she would not state whether it is illegal to intimidate voters at the polls, despite federal law explicitly making voter intimidation a criminal offense. I've never seen a self-described originalist so hesitant to merely restate the plain text of our Constitution and laws.

In fact, Judge Barrett refused to say much of anything about pretty much everything. She refused to answer over 100 questions during her hearings and over 150 written questions. She did so by spuriously invoking the so-called ''Ginsburg rule,'' which falsely purports that the late Justice Ginsburg avoided answering any and all substantive questions during her confirmation hearings.

Well, I participated in Justice Ginsburg's hearings. Justice Ginsburg gave detailed answers on a number of constitutional issues, including unequivocally affirming her belief that a woman's right to choose is central to her dignity. In all, Justice Ginsburg took clear positions on dozens and dozens of cases during her hearings. In stark contrast, Judge Barrett wouldn't even restate—not even comment on or discuss, but just restate—black letter law.

I have never seen such top-to-bottom refusals to answer basic questions in the 16 Supreme Court confirmation hearings I have participated in. But in some ways, it was only fitting that a confirmation process that has been a caricature of illegitimacy concluded with such hearings-hearings in which the nominee wouldn't even acknowledge that masks inhibit the spread of COVID–19, or that climate change is real, or that voter discrimination exists. I fear for what this means for the future of the Judiciary Committee's confirmation process, now that Republicans have reduced our committee's role to a mindless rubberstamp of a President's nominees, just as they have diminished the Senate to a subordinate arm of the executive branch.

The Republican argument for proceeding in this way, just 1 week from a Presidential election, boils down to this: We have the votes, so anything goes. Yet, having the power to do something does not make it right. The damage that will be left in the wake of this confirmation will stain this body for generations. When the word of a senator is rendered meaningless, when the words ''Advice and Consent'' are rendered meaningless, then this institution will be rendered meaningless.

Justice Ginsburg left us with a more equal and more perfect union. She stood up for the right to vote. She stood up for the environment, and for holding all those in power accountable. She stood up for the rights of women to be free from discrimination, to control their own bodies, and to be equal to men.

She stood up for the rights of minorities, the rights of the LGBTQ community, and the rights of all those who have been marginalized.

Judge Barrett, if confirmed, will not. Based on my review of her record and based on her testimony, I believe a Justice Barrett would set the clock back decades on all of the rights that Americans have fought so hard to achieve and protect.

I have said that Justice Ginsburg would have dissented from this process. The least I can do is join her. I will vote no.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, it is a privilege to serve with the Senator from Vermont on the Senate Judiciary Committee. He and I have been called, maybe, the odd couple on a number of issues like Freedom of Information Act reform and other matters. So we find ourselves aligned on that important issue, the importance of the public's right to know.

But it won't surprise anybody to know—it certainly doesn't surprise him to know—he and I have a different point of view on this nominee and on a few other topics as well.

One of the ones I wanted to talk about briefly at the very beginning was the so-called Ginsburg rule.

Senator LEAHY was there and Joe Biden was the chairman of the Judiciary Committee back in 1993 when Justice Ginsburg—then a lawyer—was nominated for the Supreme Court. Her record as a litigator for the American Civil Liberties Union placed her far outside of the mainstream of American law.

She argued for legalized prostitution, against separate prisons for men and women, and had speculated that there could be a constitutional right to polygamy—certainly outside of the mainstream of American legal opinion.

But when she was pressed time and again before Republicans to talk about those views, she said she would not answer those questions. She cited, appropriately, Canon 5 of the Model Code of Judicial Conduct, which, among other things, forbids Federal judges or judicial candidates from indicating how they will likely vote on issues that may come before the courts or from making any statement that would create the appearance that they were not impartial.

This rule is absolutely critical to an independent judiciary because judges must remain open-minded and be able to decide an actual case without prejudging that matter before it comes before them. Can you imagine what it would be like if you were a party to a lawsuit and came before a judge who had made a statement committing to a particular outcome during their judicial confirmation hearing? Well, the unfairness of that is obvious.

So I think Judge Barrett did what Justice Ginsburg did when she was before the Judiciary Committee, what we expect all nominees to do, and that is to not prejudge cases and to not give any hint or prediction of outcomes or run on a platform or an agenda.

My view is that, if you had a judge who did or a nominee who did come before the Judiciary Committee and

make those sorts of commitments, that would be disqualifying in and of itself. That person ought to run for Congress. They ought to run for city council. They ought to run for the school board. They should not be a Federal judge. That is not what Federal judges are supposed to do.

So I think Judge Barrett did exactly what a judge should do when they are confirmed. We still got to ask her a lot of questions, as Senator KENNEDY pointed out, over the 30-plus hours of questioning, and she was extraordinary.

It is obvious she had great command of the subject matter. There was a special moment where I noticed she wasn't taking any notes or writing anything down or referring to anything, and it struck me how strange it was, what a contrast it was that each of us, as members of the committee, had a small army of staff around us, that they had read every case, they had prepared big three-ring notebooks of information for us to get prepared to question the judge—but the judge had nothing in front of her.

And I asked her to hold up what was sitting in front of her, and it was an empty legal pad—an empty notepad, excuse me—that bore the name ''U.S. Senate'' on the ink pad but nothing that she had written down.

So it, I think, spoke volumes about her command of the subject matter and her fitness for this particular job.

We have all talked about the support she has from professors at Notre Dame, where she has taught for a number of years, highlighting her impressive intellect, her elegant legal analysis, and her manifest judicial temperament.

Eighty-one former law school classmates from diverse political and other backgrounds shared their collective view that she embodies the ideal qualities of a Supreme Court Justice.

We have heard from Noah Feldman, Harvard University law professor, who tends to be more liberal, and he points out that Judge Barrett is a brilliant and conscientious lawyer who will analyze and decide cases in good faith, applying the jurisprudential principles to which she has committed.

So, in short, Judge Barrett has the qualities we should all look for in a judge. I think it is telling that our Democratic colleagues, when it came time last Thursday to vote on this nomination, decided to boycott the markup. None of them appeared. None of them voted. So the vote, literally, was unanimous. All of the Senators there present voted to vote the nominee out of the Judiciary Committee and recommended that that nomination be sent to the floor.

I suppose, if they thought it would make any difference or they really had something to say or a reason to vote no, they would have shown up, but they did not.

Judge Barrett exemplifies the fact that judges aren't players on a red team or a blue team; they are, as Chief Justice Roberts said during his confirmation hearing, umpires calling balls and strikes. We all understand the difference between an umpire and a player, and, simply said, judges aren't players; they just call balls and strikes, and they make sure the rules of the game are enforced.

Judges should have no biases, no favorites, no preferred outcomes. But somehow, in their anger about this nominee and about the fact that she will fill the vacancy left by the death of Ruth Bader Ginsburg, somehow our friends across the aisle seem to have forgotten what the most basic role of judges is in America. Again, they pressed her, asking: How do you feel about climate change? How do you feel about abortion? How do you feel about every other hot-button issue that they could think of, and she appropriately invoked the Ginsburg rule and would not comment. Exactly what she should be doing.

The other thing that I think is remarkable about this nominee is she is obviously somebody who has soared to the very heights of the legal profession—teaching, being a judge on the Seventh Circuit, both of which qualify her for this job. But she is also a person of great integrity and character.

It takes self-restraint, it takes self-discipline not to use the power that Federal judges have to impose your own view or to choose a result. That takes a lot of self-restraint and self-discipline, and she has demonstrated her commitment to that judicial philosophy and that approach.

During the final days of soon-to-be Judge Barrett's confirmation hearing, we heard from a number of witnesses about her, their experience working with her. I believe one of the most moving testimonials came from one of her former students, a young lawyer named Laura Wolk. Since graduating from Notre Dame Law School, Laura has earned some highly coveted clerkships, including for the Court of Appeals for the DC Circuit and the U.S. Supreme Court, just like her former professor.

There is one fact about Laura that made her climb to these incredible heights as a young lawyer all the more impressive, and that is that she is blind. Throughout her life, Laura has overcome barriers that exist for individuals who are blind or visually impaired, becoming the first blind person to clerk at the U.S. Supreme Court.

Laura spoke about her arrival at Notre Dame and the technology failures that were causing her to fall farther and farther behind her peers. Obviously, she needed that technology that would help her compete.

Settling into law school is tough for any student, and I can't imagine the fear and frustration that Laura felt as she struggled to keep pace, at no fault of her own, because she lacked the assistive technologies she needed to compete on a level playing field. Laura did what any student would do, I presume, and that is she went to her professor and shared the weight she was carrying—a weight Judge Barrett eagerly picked up, saying to her: This is no longer your problem; this is my problem.

Laura described the relief and gratitude she felt for her professor's kindness and generosity, not only during this interaction but in the years of support and encouragement that have followed. I found Laura's testimony incredibly powerful and a shining example of the character that Judge Barrett will bring to the Supreme Court.

We have all come to appreciate Amy Coney Barrett, the person—a woman of great integrity, humility, and compassion who will bring tremendous value to the highest Court in the land. I am confident that if our colleagues across the aisle had any good argument addressing her qualifications or character or integrity, we would hear about it.

The only thing that I have heard them say, which I cannot believe that they believe, is that somehow this is part of some great conspiracy to defeat the Affordable Care Act. You know what our colleagues across the aisle failed to mention? The merits of the Affordable Care Act is not even before the Supreme Court of the United States. It is a technical issue with regard to severability. It is a doctrine that says that if judges find part of a statute unconstitutional—here, for example, the individual mandate, which thanks to the Tax Cuts and Jobs Act, that penalty has been reduced to zero—whether if, in fact, that portion of the Affordable Care Act is unconstitutional, whether the whole act fails or not. But judges are told to presume the constitutionality of statutes—to presume them. And so the burden is on those who would prove the unconstitutionality to prove it. The burden is on them. If they can save a portion of the law by severing it—that is the doctrine of severability—they must do it.

I am pretty optimistic that the Supreme Court, no matter how constituted, will do exactly that—will follow the traditional canons of construction and guidance that judges apply in cases like this. And really, the suggestion we heard, including from my friend from Vermont just a moment ago, that this is part of a conspiracy to appoint the judge to the Court so she will then hear a case and result in a particular outcome is specious. It is also an insult—an insult to the judge's integrity and character—because she could not in good conscience take the oath of a judge if she were part of a conspiracy to rule in a particular way on a case—any case—in the future. And she said, unequivocally, that is not the role of a judge.

But that is the argument, and maybe that is the best thing they have going, and so they are sticking with it. It just doesn't make any sense. It is totally out of character with everything we know about Amy Barrett as a person, as a lawyer, and as a judge.

Instead of talking about the Supreme Court, we seem to hear another common theme, and that is to say that we could be working on a COVID–19 relief bill. We did pretty well through the end of March working together on COVID–19 relief. We passed four pieces of legislation, totaling $3.8 trillion. But it has been a while since March, and we need to pass another COVID–19 relief bill for the individuals who are still suffering, through no fault of their own, who don't have a paycheck—the enhanced unemployment insurance benefits, the Paycheck Protection Program that was so important to keeping small businesses' ability to maintain their payroll. We need more money for testing. We need to make sure that the therapeutics that have now come online are available to people who are infected with the virus. We need to make sure that the vaccine, once it is approved by the FDA, is available for distribution.

That is why Senator MCCONNELL has repeatedly brought legislation to the floor to bolster our fight against the virus at this critical time. In particular, the first bill he offered them was to supply another half a trillion dollars to help small businesses keep their doors open and their employees on the payroll; to help schools keep their students and teachers safe; to strengthen testing and invest, as I said, in the continued success of Operation Warp Speed.

What did our Democratic colleagues do? They voted no. They wouldn't even get on the bill and then offer amendments to make it more to their liking. So they just blocked it.

I think this is consistent with what we heard from Speaker PELOSI when she said that ''nothing is better than something.'' It always strikes me as very odd because I have always believed that something is better than nothing, but apparently not in this strange environment leading up to this November 3 election, which, unfortunately, I think is what is preventing us from passing a bill.

Many of our colleagues believe that leaving people anxious and worried and fearful, not only about their health but also about their economic circumstances, advantages them leading into the election. That is what they do. They want to stoke fear and uncertainty on the part of the American people.

When we offer concrete pieces of legislation that would help relieve that anxiety, fear, and the sense that they are not receiving any income—how are you going to pay the bills or provide for your family—repeatedly, they have voted it down. I just find that absolutely shameful.

So here we are in October with 8.5 million confirmed cases of the virus. When we talk about cases, that is kind of interesting. They are positive tests. We know the vast majority of individuals will have little, if any symptoms. But we do know that there are vulnerable populations that need to be protected, particularly people in nursing homes, assisted living facilities, the elderly, and those with underlying chronic illness. This virus can be deadly, and that is why we need to take it seriously, wear our masks, socially distance, and do all the things that the Centers for Disease Control and other experts have advised.

Our Democratic colleagues have not done anything to lift a finger to help people who are still hurting; people who are still anxious; people who are still worried about their health, about their children going safely back to school, about whether a vaccine will be available.

Time after time, they blocked legislation we have introduced in the Senate, since we passed the CARES Act in March, and they have simply refused to provide care that is desperately needed, relief desperately needed by the American people.

My constituents in Texas, like the rest of America, have waited months for additional relief. I am ashamed of the fact that we could not find a way to come together and produce a result. I am ashamed of the fact that our friends on the other side of the aisle have forced them to wait even longer.

I yield floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, today, I rise as our country faces a monumental choice. It is a choice about who we want to be as Americans and the future we want to build as Americans. All across our country this year, we have seen Americans standing up and speaking out for greater equality and greater justice. Our choice is this: Does the highest Court in the land stand with the people of America as we strive to build a more perfect Union, or does the Court side with the most powerful interests and most extreme views that will take our country backward in our quest for justice and equality?

Judge Amy Coney Barrett does not stand on the side of the American people. She does not represent mainstream values—certainly, mainstream values that we cherish in Michigan.

Right now, we are in the middle of a pandemic. Over 225,000 Americans have already died, and we are nowhere near getting it under control—nowhere.

Instead of providing help to families, communities, and businesses that are suffering, Republicans are rushing through. Here we are on a Sunday, not talking about how we help people, help our small businesses, help our communities, do what needs to be done to get this pandemic under control. No, we are seeing a rush to get a Supreme Court nominee on the Court that will have disastrous consequences for our Nation, both for today and for decades to come.

On behalf of the majority of the people of Michigan, I am strongly opposing this nomination, and I urge my colleagues to do the same.

Perhaps, nothing is more at risk right now than healthcare—the healthcare that Americans depend on. Exactly one week after election day, the Supreme Court, as we know, will hear arguments in the case that could very well overturn the Affordable Care Act in the middle of a pandemic—in the middle of a deadly pandemic.

Republicans in Congress have tried to repeal the healthcare law for 10 years now—10 years. And each time, people across our country, people across Michigan, have spoken out. They have demanded that Republicans protect their healthcare. Healthcare is not political in the eyes of Americans. It is personal. They want us to strengthen and improve healthcare, not rip it away from them. But, unfortunately, Republicans have voted more than 100 times in those 10 years—more than 100 different times—to repeal the Affordable Care Act, and more than 100 times they have failed.

So now President Trump has turned the job over to the courts. He expects Judge Barrett to, in his words, terminate the healthcare law. That is the word of the person who nominated Judge Barrett. He wouldn't have nominated her to the Supreme Court if he didn't trust that she would do just that.

Judge Barrett has already called the Court's previous decision to uphold the ACA ''illegitimate.'' She publicly criticized Chief Justice Roberts for upholding the law. She said that if the Supreme Court reads the statute like she does, they have no choice but to, in her words, invalidate it.

This is not a mystery here about how she is going to vote. It is very, very clear. That would be a disaster for Michigan families, a disaster for people all across our country. Protections for the over 130 million Americans with preexisting conditions—gone. That number is going up every day because of COVID–19.

Bans on yearly and lifetime caps on cancer treatments and other critical care—gone. Healthy Michigan, which has helped more than 880,000 Michigan residents get healthcare—gone. The ability for young adults up to age 26 to be covered by their family's health insurance—gone.

You can also say goodbye to guaranteed maternity care so you are going to pay extra if you want to have children and have maternity care, free preventive health screenings, and birth control without copays.

Seniors would see their drug prices go up. The ACA closed the Medicare prescription drug—what we call the doughnut hole, the gap in coverage, and saved the average Michigan senior more than $1,300 just in 6 years between 2010 and 2016—$1,300.

Seniors would have additional reason to worry. During her confirmation hearing, Judge Barrett refused to say whether she believes Medicare and Social Security are even constitutional.

As is often the case, American women would have the most to lose if

the ACA is overturned. Remember when simply being a woman was considered a preexisting condition by insurance companies, and we had to pay more? I do. Yet the threat of Justice Barrett goes far beyond insurance rates. The fundamental right for women to make basic choices about our own healthcare, our own health, our own lives would be at risk.

Since Roe v. Wade was decided in 1973, women in our country have had the right to make our own decisions about reproductive choices that are best for our own health and our own family. It is among the rights that Justice Ruth Bader Ginsburg spent her career defending, and it is not a right that Judge Barrett respects. She has long aligned herself with organizations devoted to eliminating a woman's right to choose. She signed her name to a letter calling for Roe v. Wade to be overturned.

During her nomination hearing, she refused to say whether Roe v. Wade is Federal law. At its most basic, Roe v. Wade is about undue government interference. Think about that—undue government interference, which we hear a lot about from our friends on the other side of the aisle. That is something that Republicans deeply oppose, at least when it is corporations that need defending from undue government interference.

Reproductive rights are only one freedom, as critical as they are, as that is, that are on the line right now. Over the past decade, we have made major progress in ensuring that our LGBTQ+ friends and neighbors aren't discriminated against simply for being themselves. Yet Judge Barrett has openly opposed this progress, including speaking out against the decision that made marriage equality the law of the land. She has even given numerous speeches on behalf of the Alliance Defending Freedom, a rightwing organization that thinks being gay should be a crime.

Workers, too, could see their rights evaporate under a Justice Barrett. Barrett would be just one more conservative Justice who will issue rulings that hurt the ability of workers to fight workplace mistreatment and discrimination, and to organize and collectively bargain for wages, benefits, and workplace protections. That is what she did in her decision Wallace v. Grubhub Holdings in which she ruled against workers who were denied overtime wages—against workers who were denied overtime wages that are protected by the Fair Labor Standards Act.

If a Justice Barrett sides with the powerful against people, I think we all know what that means for the future of our world.

During her confirmation hearing, Judge Barrett refused to say whether or not she believes that climate change exists, saying she is not a scientist. You don't need to be a scientist. Just ask people in Michigan about what is happening in our State. The climate crisis is already affecting Michigan agriculture, our environment, our public health, our Great Lakes.

A number of crucial cases dealing with the environment are likely to end up at the Supreme Court in the next number of years, and the Court's decisions will have consequences that outlive any of us. Critically important to all American citizens is what Justice Barrett would mean for voting rights and the results of the 2020 election. Let me remind everyone that election day isn't November 3, it is every day up to November 3. People are voting right now. If you have not voted, I hope you do and that you do it safely and do it early, but voting ends on November 3. People are voting as we speak and whether or not those votes are counted could very well depend on the U.S. Supreme Court.

Judge Barrett refused to say whether she believes voter discrimination exists. Voter discrimination. Given that 23 States have passed restrictive voting laws since the Supreme Court's Shelby County v. Holder decision, it is pretty clear that voter discrimination exists.

Judge Barrett has also refused to recuse herself from rulings on cases related to the outcome of the 2020 election, even though President Trump is rushing to make sure that she is there. That is a clear conflict of interest if I ever heard one. There is no right more fundamental than the right to vote—no right more fundamental than the right to vote. Perhaps nobody knew that better than our beloved colleague, the late Congressman John Lewis. He once said this:

> My dear friends, your vote is precious, almost sacred. It is the most powerful nonviolent tool we have to create a more perfect union.

A more perfect union; that is what we want, isn't it? That is what we are working toward every day, I hope. That is what Americans have been marching for and speaking out for and bleeding for and dying for as long as we have been a nation.

We face a crucial choice. I am choosing to stand with the vast majority of the American people on the side of justice and equality. I urge a ''no'' vote on Judge Barrett. The American people deserve much, much better.

Mr. President, there is one other thing that I need to do before yielding the floor. I would yield my remaining postcloture time to the Democratic leader.

I yield the floor.

The PRESIDING OFFICER (Mr. PORTMAN). The Senator has that right.

The Senator from Oklahoma.

RECOGNIZING CRAIG JOHNSON AND AURASH ZARKESHAN

Mr. INHOFE. Mr. President, I actually listened to the comments that were made by my good friend from Michigan, but I have to say this, that she is talking about someone who is considered by me and many others as arguably the most gifted jurist ever nominated to the U.S. Supreme Court. I want to talk about that.

I have something else to talk about first because I think people know Judge Barrett by this time, but they may not know a couple of people they should know about.

Earlier this year, Aurash Zarkeshan or ''Zark.'' Because of the complications of his name, he is called that by most of his close friends.

He was overjoyed. He had just graduated earlier this year from the Tulsa Police Academy and was sworn in as a police officer. That was his life's ambition. He was a guy who was so excited that he was taking that step. He was a shining example of everything that you want in a new officer. He was bright, engaged, committed to public service. He wanted to give back and make his community a better place. That was him.

At the end of June, only 6 weeks on patrol, he pulled over a car for a routine traffic stop. As we all know, there is no such thing as a routine law enforcement process. He and Sergeant Craig Johnson pulled over a car, and what happened next was horrifying and tragic. They were viciously shot in the head during that stop, despite many attempts to deescalate the situation.

Tragically, Sergeant Johnson succumbed to his injuries. While Zark remained in critical condition, Sergeant Johnson left behind his wife Kristi and sons, Connor and Clinton. That is him here on the left—dashing young man.

In that moment of sorrow, the Tulsa community united in prayer and hope for the recovery of Zark. Since the shooting, Zark has undergone several surgeries. He spent months recovering in rehab. Throughout these months, Zark provided us with updates of his recovery and the progress he has been making. He even called into a class of new Tulsa Police Department recruits. He also went in person to his squad meeting and met with them.

His progress is truly remarkable. As Tulsa Police Captain Kimberly Lee put it, ''He really is an example for all of us.'' That is exactly right. Zark is a hero. He persevered through extraordinary pain and strife and is now making a speedy recovery.

Last week, on October 15, Zark returned home from 3 months of rehab, and he was met by friends and family and supporters who welcomed him with open arms. Our mayor, G.T. Bynum, declared October 15 Officer Aurash Zarkeshan Day in the city of Tulsa and proclaimed that Zark is ''Tulsa's Hope.'' I couldn't agree more. Zark embodies everything that makes Oklahoma great.

Mr. President, I ask unanimous consent that proclamation be printed in the RECORD at the conclusion of my remarks.

Zark wanted to give back to his community, and he delivered. October 15 will hold a special place in the heart of the thousands of people who call Tulsa home.

In August, I spoke on the Senate floor regarding the riots and anarchy happening around the country, but I was specifically referring to Portland, OR, and how these events and hateful rhetoric aimed at law enforcement have endangered countless brave men and women who serve in law enforcement and how they have certainly depressed them. They talk about things like peaceful protests. Yet, in that case, they were throwing bricks at officers. They sprayed officers, nearly blinding all three of them. This was actually going on.

I highlight the contrast between the violence happening in Oregon with how we appreciate our officers in my State of Oklahoma—what a contrast. Oklahomans have great respect and admiration for our men and women in blue. We know that law enforcement officers are our neighbors, our friends, and our family. They have a dangerous job, and they go beyond that job. I was talking to some of them the other day, and different ones gave different messages. While they are on duty, defending rights, a lot of them teach young kids how to play baseball. They are really great citizens.

In the speech that I gave in August, I highlighted the attack on Zark and Sergeant Johnson. These attacks are a painful reminder of the sacrifices that law enforcement make every day. ''Defunding the police'' rhetoric may be politically appealing to some on the left, but we must remember that law enforcement is the first line of defense against threats like what we saw in Tulsa in June.

I had the opportunity to talk to Zark this morning. He told me what was going through his mind while they were being rushed to the hospital. He said he was thinking: ''I hope our story reaches the Nation.''

Your story, Zark, has reached the Nation. It has reached the world. Right now, they know what happened.

Zark wanted people to understand what police and law enforcement risk every day—a sacrifice too many take for granted. He wanted people to know the stories of good, honorable police officers. While his tragedy in Tulsa is a reminder of the threats our communities face, it is also a story of hope, of Tulsa's hope.

Jerad Lindsey, who is the chairman of Tulsa's Fraternal Order of Police, said it best: ''There's not a lot of times you get to use the word 'miracle'.'' Zark's recovery definitely fits that bill.

Perhaps, what is most telling and most inspiring is that Zark doesn't lose sight of what was lost on June 29. On his return to Tulsa on a day that was proclaimed to recognize his heroism, he wore a shirt that honored Sergeant Johnson. It read: ''Fallen but not forgotten.'' Even this morning, he talked about Sergeant Craig Johnson and how he had wanted him to return to Tulsa with him as he himself did last week.

Now that Zark is back in Tulsa, he is going to keep up his recovery, but he is also looking forward to enjoying these simple things: his own bed, his dogs, his Whataburger—he has already been there twice—and the love and support of all Tulsans.

While there are many challenges and hardships ahead for Tulsa and the Nation with this tragedy, this is a story of optimism and faith in our community and in our future. Both Zark and Sergeant Johnson are American heroes, and they will always be American heroes. So we say thanks to Zark.

Thanks, Zark. You are great.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE HONORABLE GT BYNUM

PROCLAMATION

Whereas, on June 29, 2020, Officer Aurash Zarkeshan placed himself in harms way to protect and serve the citizens of Tulsa and the men and women of the Tulsa Police Department.

Whereas, Officer Aurash Zarkeshan endured more than three months of rehabilitation and multiple surgeries. His bravery and positive outlook throughout his journey are admirable and have been an inspiration to the city.

Whereas, Officer Aurash Zarkeshan's strength and perseverance have set an example to the Tulsa Police Department and he has been a beacon of light for law enforcement officers around the county.

Whereas, Officer Aurash Zarkeshan has been declared ''Tulsa's Hope'' for his service, courage, and valor under fire.

Whereas, Tulsans are excited on this day to welcome Officer Aurash Zarkeshan home.

Now, therefore, I, Gt Bynum, Mayor of the City of Tulsa, do hereby proclaim October 15th as ''Officer Aurash Zarkeshan Day'' in the City of Tulsa.

NOMINATION OF AMY CONEY BARRETT

Mr. INHOFE. Mr. President, I have already talked a couple of times about this great nominee whom we have in Amy Coney Barrett, and I am really proud to speak in support of President Trump's outstanding nomination of Amy Coney Barrett to the U.S. Supreme Court.

To say that Judge Barrett is qualified to serve on the Supreme Court is an understatement. Judge Barrett is the definition of a leader. Her record of accomplishments is second to none. Everybody knows it.

After we had a chance to really evaluate and talk to her and know her and visit with her, we found that she was born in New Orleans. She went on to graduate from Rhodes College in Memphis and also from Notre Dame Law School. She graduated at the top of her class and always has been at the top of her class. That is worth pointing out because, when confirmed, she will be the only Justice on the bench who did not go to Harvard or Yale. Now, that is a good thing. She clerked for one of America's finest Supreme Court Justices—the late Antonin Scalia. Since 2002, she has taught law at Notre Dame, where she has been selected ''Distinguished Professor of the Year'' three different times.

In 2017, after being attacked by the Democrats about her strong faith, she was confirmed to the Seventh Circuit by this body—and with Democratic votes, I might add. Let me repeat that. She was confirmed on a bipartisan basis only 3 years ago. But, today, liberals are recycling their same stale tactics in an attempt to tarnish another exceptional nominee without having any basis in fact or truth. They are attacking her Catholic faith. Some operatives have even attacked her for adopting children from Haiti. I am not kidding. They are attacking her for that. It should go without saying that Judge Barrett should be commended for this loving, selfless act, not disparaged for it.

I personally know that adoption is one of God's greatest gifts. I am the proud grandfather of Zegita Marie. I found her during a mission in Ethiopia, and my daughter and son-in-law adopted her as a baby. She is in college now and is one of my greatest blessings.

Yet, like clockwork, the Democrats use bogus propaganda to try to scare the American people into opposing a Republican President's Supreme Court nominee. Over the years, they have made outrageous claims, like saying these nominees will take away America's healthcare. They have done it time and again. They did it with Anthony Kennedy. They did it with David Souter. They did it with John Roberts and, recently, with Brett Kavanaugh. Now they are doing it with Judge Barrett. Most Americans can see through this far-left hoax, but it is important to set the record right. Judge Barrett is not and has never advocated in favor of taking away anyone's healthcare—period.

Liberals have gone after Judge Barrett for her views on abortion. First of all, Judge Barrett has every right to enjoy her religious freedom. I think we all understand that. I am saddened to see the attacks that she has received due to her Catholic faith. Nevertheless, her record shows that she will thoughtfully apply the Constitution to all cases while honoring Supreme Court precedent. At the same time, she has proven that she impartially and faithfully exercises her duties as an appellate judge. There is no reason to believe that she would not continue to do so as a Justice.

Now I want to speak about the precedent for acting on today's vacancy, which differs from the vacancy of 2016. The Democrats and liberal media have called Senate Republicans hypocrites for opposing the confirmation of President Obama's Supreme Court nominee in 2016 but supporting the confirmation of the President's nominee today. What they fail to recognize is that we followed Senate precedent. We followed it in 2016, and we are following it again right now.

In 2016, we had a divided government. What a divided government means is that we have different parties controlling the White House and the confirming body, the U.S. Senate. In 2016, we had that divided government, and

they were controlled by different parties. The Senate Republicans followed the Biden rule then, which is that the Senate does not confirm an election year vacancy in which the White House and the Senate are controlled by different parties. Despite the Democrats' insistence on confirming President Obama's nominee, Senate Republicans followed precedent.

The reality is that, in the modern era, the Senate has not confirmed a Supreme Court nominee under a divided government. It just hasn't happened. The last time the Senate confirmed a nominee under these circumstances was in 1888. Today, we have a united government. The same party that has the Senate has the Presidency. The voters elected President Trump in 2016. The Senate Republicans grew their majority in 2018. In nearly every instance in history in which there has been a Supreme Court vacancy under a united government, we have voted to confirm. In fact, the only time in history that the Senate did not confirm a nominee under a united government was in 1968, wherein there was bipartisan opposition on ethical grounds. They all agreed that the nominee should be withdrawn, and he was withdrawn.

It is simply false to state that Senate Republicans are going against precedent. As a matter of political convenience, the Democrats have flip-flopped from what they said in 2016 and are adamantly opposed to a vote during an election year. It is not surprising that the media has ignored their about-face.

I am proud of the efforts by Leader MCCONNELL and our Republican majority, who have confirmed dozens of President Trump's exemplary judicial nominations. I think the number right now is somewhere around 212, and that may be a record, but those are a lot of nominations.

Senate Republicans and President Trump have followed through on our promise to remake the judiciary with more judges who interpret the law as written, not legislate from the bench. We all know what we are talking about there. With Judge Barrett, we have the opportunity to confirm the President's third Supreme Court nominee to the bench.

Everyone knows Judge Barrett is hard-working, principled, and committed to serving her fellow Americans. In a 2017 letter, a bipartisan group of law professors called her work ''rigorous, fair-minded, respectful, and constructive.'' I couldn't agree more. I know she will serve our highest Court with honor and distinction, and I look forward to voting to confirm the nomination soon. She is, I really think, the most gifted, talented jurist to be found in America today.

My wife and I have been married for 60 years. We have 20 kids and grandkids. They are the ones who are going to be the beneficiaries of the service of Judge Barrett. She is going to be confirmed as an Associate Justice on our High Court in a matter of hours, and this is going to be a great thing for America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

HONORING DETECTIVE LIEUTENANT KEVIN COLLINS

Mr. BOOZMAN. Mr. President, it is such an honor and such a pleasure to be with my fellow Senator from Arkansas, Mr. COTTON, as we rise to honor Pine Bluff Detective Kevin Collins, who died while in the line of duty, on Monday, October 5, as a result of injuries he sustained.

Detective Collins was a passionate person about law enforcement and serving the citizens of Pine Bluff. He served his community not only as an officer of the law but also as a mentor and a leader.

It was reported that he had wanted to be a police officer since he had been 3 years old. In an interview with the Pine Bluff Commercial in 2018, he said: ''Ever since I was little, I saw law enforcement as a service and something I could be proud of.'' He worked his entire life to achieve that dream, and it came true 5 years ago when he was hired by the Pine Bluff Police Department on June 8, 2015.

He was first assigned to the patrol division, and he worked his way up to the violent crimes unit. Detective Collins loved being a police officer, and he enjoyed building relationships with the men and women he worked alongside as well as with the citizens whom he served.

His colleagues appreciated his enthusiasm, his hard work, and dedication, which he demonstrated each and every day both in and out of uniform.

Detective Collins was passionate about making a difference in the lives of others. As a mentor to at-risk boys during the department's 2-week Youth Empowerment Camp, he was a role model for teens—encouraging good behavior and reinforcing the importance of making good decisions.

In his short time with the Pine Bluff Police Department, he had a long list of successes that include taking a large number of guns off the streets and earning the department's Officer of the Year for 2017 for his actions in saving a 95-year-old resident while responding to an apartment fire.

Detective Collins lived a faithful life devoted to Christ as a member of New Life Church Pine Bluff.

Pastor Matt Mosler says Detective Collins had a great heart for service. He took that heart for service and put his faith into action, taking the initiative to make his community better.

We rely on law enforcement officers like Detective Collins to keep communities safe, to keep us safe. His death is a tragic reminder of the risk law enforcement officers face each day when they put on their uniform and leave the comforts of their homes and their loved ones to serve and to protect.

Detective Collins was a true hero. Our hearts break for his family, his colleagues at the Pine Bluff Police Department, and community members. I pray they will find comfort from the outpouring of support for this beloved brother in blue.

Senator COTTON, I yield to you.

Mr. COTTON. Mr. President, the men and women of law enforcement in Arkansas could have no greater champion in the U.S. Senate than JOHN BOOZMAN. It is always an honor to join him on the floor, but today is a sad and solemn honor to be here to commemorate the life of Detective Kevin Collins.

Detective Collins of Pine Bluff had known since he was the young age of 3 that he wanted to be a police officer. His step-dad worked for the Jefferson County Sheriff's Department. His mom was a teacher. So from an early age, the role models in Kevin's life inspired him to serve others, and serve he did, above and beyond the call of duty.

For a time he worked as an emergency services dispatcher. Then he worked for the Arkansas Department of Corrections. Five years ago, he realized his childhood dream by joining his hometown police department to serve the community he knew and loved.

Detective Collins was part of the violent crimes unit, which means he worked on some of Arkansas' most dangerous cases. He had a special passion for taking illegal guns off the streets and mentoring young people in the community.

His hard work was noticed and rewarded. Just 2 years after joining the force, Detective Collins was named Officer of the Year after rushing into a burning apartment building and rescuing a 95-year-old woman trapped inside.

When he received that award, Detective Collins reflected on his lifelong dream of becoming a police officer, which he described as a ''service'' and something ''I could be proud of.''

You could say that Kevin Collins was destined to be a police officer. Tragically, he was also destined to die as one, much too soon.

Earlier this month, Detective Collins was tracking a suspected murderer who was holed up in a hotel. A gun battle broke out. Detective Collins and his fellow officer, Lieutenant Ralph Isaac, were hit during this exchange and rushed to the hospital. Lieutenant Isaac has begun to recover, but, sadly, Detective Collins did not. He went home to be with the Lord at the age of 35, leaving his family, his community, and our State heartbroken over the loss.

Detective Collins' death is a tragedy and a stark warning and reminder of the dangers police officers face every day.

Detective Collins joins 231 of his fellow officers who have died in the line of duty in America just this year, but it would be a mistake only to mark Detective Collins' death. We ought also to learn from his example in life.

Kevin Collins was a guardian of Pine Bluff, whether in his capacity as an officer or off duty as a security guard at his local church.

When he received the Officer of the Year Award in 2017, Detective Collins said that being a police officer was about extending a ''life line to save others.'' We will never know how many lives Kevin Collins saved, but we do know that his hometown is now safer and more peaceful because of his years of service.

Pine Bluff was blessed to have a guardian the likes of Kevin Collins. Now his watch on Earth is over. He is looking down on us from above. May he rest in peace.

NOMINATION OF AMY CONEY BARRETT

Mr. President, tomorrow the Senate will confirm Judge Amy Coney Barrett to the Supreme Court, filling the seat vacated by the late Justice Ginsburg with a very worthy successor.

When President Trump nominated Judge Barrett last month, some Americans questioned whether the Senate should confirm any nominee to the Supreme Court. But today, just weeks later, a clear majority of Americans support confirmation, including a majority of Independents.

What happened? It is very simple. Americans met Judge Barrett; they loved what they saw; and they decided she is the right woman for this job.

Consider her achievements. She graduated No. 1 in her class from Notre Dame Law School, where she also edited the law review and later clerked for two giants of our judiciary—Judge Silberman of the DC Circuit Court of Appeals and the late, great Justice Scalia.

Years later, Judge Barrett returned to her alma mater as a professor, where she won the esteem of her students and colleagues as a gifted teacher and an ''absolutely brilliant legal scholar,'' to quote the dean of Notre Dame Law.

Then, in 2017, the Senate confirmed Professor Barrett to be Judge Barrett on the Seventh Circuit Court of Appeals. In the 3 years since then, she has established herself as one of America's finest judges—unwaveringly committed to the rule of law and equality before the law.

A Scalia protege, beloved professor, respected jurist—those titles alone warrant Amy Coney Barrett's confirmation to the Supreme Court, but they are not her only achievements or even the most important ones.

In addition to those things, she has a big and beautiful family, with a devoted husband and seven kids, including two adopted from Haiti. They are a family knitted together by love and faith.

Any parent knows how difficult it must be for Judge Barrett to juggle the demands of her work with her duties as a parent and a wife. But like millions of working moms, she manages to do both with incredible skill, grace, and poise.

I suspect I must confess that if Judge Barrett had been nominated by a President without an ''R'' behind his name, the media would laud her as a pioneer, an inspiration to young women all across the country. Today's newspapers would contain front page stories of gushing profiles, studded with words like ''iconic'' and ''pathbreaking.'' The media would practically carry her from the Judiciary Committee to this floor so we could vote to confirm her, and then they would carry her across the street to her Supreme Court chambers.

But, curiously, I have noticed that is not what the media is doing—not in the least. Instead, the liberal media has published lurid insinuations and exposés about everything from Judge Barrett's character to her Christian faith and even her adopted children. It is the Brett Kavanaugh playbook all over again.

But, thankfully, the American people see through it, just as they did the last time. For the most part, Democrats on the Judiciary Committee avoided these kinds of low, personal attacks. Perhaps they have seen the polling so they know they are playing a very weak hand.

Instead, they focused on the supposed threat that Judge Barrett will overturn ObamaCare and take away your healthcare. In fact, they focused on ObamaCare so much during Judge Barrett's confirmation hearing, when I turned on the TV, I thought I had I tuned in to the Health Committee, not the Judiciary Committee.

But Democrats' attacks on this policy fall just as flat as the media's shameful stories on Judge Barrett's character for the simple reason that Judge Barrett, as a judge, does not make policy. She is not a Senator. She is not standing for elective office. I suspect she wouldn't want to.

Her role as a judge is to interpret and apply the law fairly and faithfully, without regard to her own beliefs and convictions.

Now, that may be a novel concept for our Democratic friends who view the judiciary as simply another means to advance their leftwing agenda, irrespective of the law and facts, but it is central to Judge Barrett's record on the court of appeals and her judicial philosophy. Her opinions bear that out, and she has applied the law consistently without fear or favor on the Federal Bench, and, I suspect, reached a few outcomes on a personal level that she would have preferred not to, which was always Justice Scalia's gold standard for an impartial and fair judge.

That leaves the Democrats with one final argument—nothing more than a process argument.

They say that the Republicans are moving too quickly; that we are somehow ramming Judge Barrett through the Senate, possibly, to prevent an adequate examination of her record. But, of course, this argument fails too. It fails badly.

Judge Barrett's nomination has proceeded at a pace in line with other recent nominations.

Exactly 30 days ago she was nominated, and tomorrow she will be confirmed. That is 11 more days than the Senate deliberated on the nomination of Justice John Paul Stevens, who was confirmed after just 19 days. It is only 12 fewer days than the Senate deliberated on the nomination of Justice Ginsburg herself. And I would note that we went through this with Judge Barrett barely 3 years ago. It had been 5 years for then-Judge Stevens. It had been 13 years for then-Judge Ginsburg.

There is not a lot of material for this Senate to have reviewed; less than 3 years of activities by Judge Barrett, fewer than 100 opinions—even a Senator can probably get through those in a couple days.

Yet the Democrats have repeatedly asked for delay after delay, though they haven't identified any area in which they lacked adequate time to review her nomination. They haven't identified any bit of information that they don't already have. In fact, some of my Democratic colleagues announced their opposition to her nomination—or any nominee, for that matter—before she was even announced as the nominee.

So what do they want more time for, exactly, except to stall?

Indeed, far from being rushed, Judge Barrett's nomination doesn't come close to setting the record for speed. That distinction belongs to Justice James Byrnes, who was nominated to the Supreme Court in 1941 by President Franklin Delano Roosevelt and confirmed later that day. I guess we could have taken a page from the Democrats' playbook by confirming Judge Barrett last month on the day she was nominated, but instead we took the same careful, consistent, deliberative approach that we took with Justice Kavanaugh and Justice Gorsuch—no shortcuts, no corners cut, no steps skipped.

So, finally, here we are on the cusp of Judge Barrett's confirmation. As a result, the Democrats are threatening to pack the Court, but they were already threatening to pack the Court.

The Democrats are threatening, should we confirm Judge Barrett to the Supreme Court, to riot in the streets. Democrats have been rioting in the streets for months. But as the sun sets tomorrow, the Senate will gather, and all of that bluster will once again prove ineffective because Judge Barrett has earned the trust and confidence of the American people and the U.S. Senate. For that reason, Judge Barrett will be confirmed tomorrow night.

I congratulate Judge Barrett on this high honor, and I thank her family—her beloved husband Jesse and her seven beautiful children—for sharing her with America. For those seven kids especially: I know that she will always be mom to you, but I trust you won't object if we know her as Justice.

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

The PRESIDING OFFICER. (Mr. SCOTT of Florida). Without objection, it is so ordered.

Mr. PORTMAN. Mr. President, we are in session here on a Sunday in Washington for a rare Sunday session in the U.S. Senate so that we can confirm a terrific woman to be the next Justice of the Supreme Court.

There is an open seat right now that needs to be filled, and Judge Barrett, who is currently a judge on the circuit court, one level below the Supreme Court, has really impressed me and the American people with her performance.

I had a chance to meet with her this past week, and I was already impressed but even more so, having had a chance to spend some time with her. I had been impressed with her performance at the hearing because I thought she showed great patience and calm in the face of some really tough questions. To me, that is judicial temperament, and I think that will serve her well in her new role as Justice of the Supreme Court.

I have also been impressed with her qualifications. I don't think anybody can say she is not highly qualified. In fact, the American Bar Association, which does not always look favorably at Republican appointees, was, in her last confirmation, convinced that she was highly qualified, and again, in this one, they gave her their highest qualification. That is impressive.

As has been talked about on the floor tonight, she actually has been through this process before—and pretty recently. I think less than 3 years ago she was confirmed by this same body, and it was a bipartisan vote, and it was an opportunity for people to get to know her. So this is not as though we have brought somebody forward who isn't already known, who isn't already deemed to be very well qualified. In fact, I don't know anybody in this Chamber who doesn't think that she is well qualified and that she has done a good job as a judge and a lawyer.

She graduated first in her class at Notre Dame Law School, and then she went back there and taught. She won the Teacher of the Year Award three times when she was at Notre Dame, and, most importantly to me, she is just widely respected by her colleagues. These are professors. She is also widely respected by her former students. These professors and students, by the way, are representing the entire political spectrum from very liberal to very conservative. All of them say the same thing about her, which is that she is a legal scholar, that she is highly qualified, and that she is a good person.

In our meeting I got to see some of that. I saw in our meeting that she is a great listener. People talk about active listening. She was really interested in what the topics were and had very thoughtful responses.

She is also a legal scholar who understands very clearly what the role of the Supreme Court should be in our separation of branches in our governmental system here. I think that is really important. As I said to her in our meeting, I hope she will be an ambassador, and I think she will. In fact, I think she will be an extremely effective ambassador—as the youngest member of the Supreme Court and also as a former teacher—with regard to young people, to help them understand what it means to have a judicial branch and how it is different from the legislative branch or the executive branch for that matter. Judges are not supposed to be legislators. That is not what they are hired to do. Yet in some cases we have gotten the sense that judges ought to be deciding issues that are reserved for those who are elected by the people; that is, the legislators.

Judges have an important role, and that is to look at the laws and to look at the Constitution and to determine whether something is consistent with those. That is what she will do, and I think she will do it very fairly, with compassion and with a great understanding of the legal issues and precedent.

She explained before the committee that she was respectful of precedent. She also told me that in our meeting. I think she has the proper understanding of the role of the Court and her role as a Justice.

I am looking for the opportunity to finally vote. I guess we will do that tomorrow night, sometime in the evening, and I hope it will be a strong vote. I hope it can be even a bipartisan vote, as it was last time she was confirmed by this same body.

CORONAVIRUS

Mr. President, while the Senate continues to work through this important process of the next Supreme Court nominee, I am also here on the floor today to remind all of us that we are still in the middle of an unprecedented healthcare and economic crisis caused by this ongoing coronavirus pandemic. I am here to express my frustration that the sense of urgency and compromise that we had for the first several months of this coronavirus seem to have disappeared as we have approached the election.

The Democratic leader today raised the seriousness of the pandemic. Something said on the other side of the aisle was that we shouldn't even be taking up a Supreme Court nominee because of the seriousness of the pandemic and the need to focus on that.

I don't understand why then, on Wednesday, the same Democratic leader and his colleagues blocked even taking action on the coronavirus or even having a debate on whether to take action because, once again, they blocked a legislative initiative to have a discussion about this issue.

By the way, it is a discussion about an issue that affects every single one of our States. Again, we are not out of the woods, so we should be not just discussing it but passing legislation on it.

The legislation that we have introduced might not be legislation that every Democrat can support. In fact, I think there were some things that were in our bill that some Democrats might not love. But for the most part, there were bipartisan proposals that everybody can support, and all we asked for was to be able to get on the bill to have a debate. Yet we had to have 60 votes to be able to do that. That is the supermajority that is required around here, and those 60 votes could not be found, even though last Wednesday the $500 billion package got a majority vote. There was a majority vote for this package but not the supermajority needed. It was blocked by the other side.

If we had gotten on the legislation and had the debate about what the PPP program ought to look like, how much money should be used for testing, what we should do with regard to liability protections, Democrats would have had the opportunity to put their own ideas forward, to offer their own amendments, and I would have strongly supported them in that process.

Also, some of us had some additional amendments we would like to have added and changes we would like to have seen. But, ultimately, if Democrats or Republicans found that they didn't like the final product that came out of that discussion, that debate, they would have had another chance because there would have been another 60-vote hurdle to get over before passage of the legislation.

I know this is sounding like a process issue, but it really is not. It is about doing our jobs as Senators. Both Republicans and Democrats care about this issue, yet we just can't seem to figure out how to get it unfrozen here and to be able to move forward. Having blocked, again, even having a debate on moving forward was very discouraging to me.

CORONAVIRUS

Mr. President, the economy is still struggling. As I said, we are not out of the woods yet, particularly in the areas of hospitality, travel, and entertainment. We are not out of the woods on the virus yet, either, with many States seeing a third wave right now. That is what I would describe is happening in Ohio, my home State. I have watched the numbers every single day this week. Not only are the number of cases increasing, but the hospitalizations went up this week. The number of people in ICU went up and fatalities went up.

It is critical that this Congress provide additional relief to help the American people get through this healthcare crisis and economic fallout we have seen. We have done it before. Five times Republicans and Democrats on this floor and over in the House and working with the White House have passed coronavirus legislation—five times. In fact, most of the votes have been unanimous. It is unbelievable because here we are in this partisan atmosphere, but most of the votes have been unanimous.

These laws have helped address both the healthcare crisis and the economic free fall that were caused by the virus and the government-imposed shutdowns. And for some of my colleagues who are concerned about the cost, I would just say again—government-imposed shutdowns. Many of these businesses in my home State that are struggling, you know, they were told to shut down, and they do need our help. They deserve our help. The same government that insisted that they not be in business ought to help them now to get back in business and stay in business.

The biggest of these bills that this body and the House and the White House worked hard on and passed is called the CARES Act. A lot of people have heard about it. It is a piece of legislation that was very important at the time but needs to be extended, in essence, now. It was passed by a vote in this Chamber of 96 to nothing.

Unfortunately, since May of this year, when the last of these bipartisan bills was enacted, partisanship has prevailed over good policy, and Washington has been paralyzed, unable to repeat the coming together for the good of all of us.

For months, Democrats insisted that the only way forward was a bill called the $3.5 trillion Heroes Act, which passed the House of Representatives 4 months ago along partisan lines. It included things unrelated to COVID–19, and you can argue about those things. The SALT—the State and local tax deduction—is in there, as an example. That has nothing to do with COVID–19. It is a tax break, frankly, for wealthier individuals. Most of that tax break would go to people who are wealthy, and about half of it goes to people in the top 1 percent. There are immigration law changes in that legislation that are very controversial. Should we have a debate separately? Of course, but not in a COVID–19 bill. There are other policies in terms of election law and how States would handle their elections that had nothing to do with COVID–19.

Also, it was $3.5 trillion. Now, we are facing this year not just the largest deficit in the history of our country but also a debt as a percentage of the economy, which is how most economists look at our fiscal problems—what is the debt as a percentage of the economy? It is as high as it has ever been, with the possible exception of World War II—a year when we had huge military expenditures, but pretty quickly the economy grew, and we didn't have this big overhang of the entitlement spending that already has us in a structural debt.

So $3.5 trillion is a lot of money. When it passed the House, it was the most expensive legislation ever to pass the House of Representatives by far. When it did pass, by the way, POLITICO and others in the media accurately called it a messaging bill that they thought had no chance of becoming law. There is a good reason for that—$3.5 trillion and, again, the items there that did not relate to the coronavirus crisis.

Since that time, Senate Republicans have provided some reasonable alternatives to this partisan proposal with targeted coronavirus response legislation—bills that help us directly address the healthcare and the economic crisis by investing in bipartisan approaches that we know work.

The last legislation that was offered here on Wednesday was about $500 billion. That used to be a lot of money. Again, Democrats probably objected to some specific elements of it, like liability protection, but we should have had the opportunity to debate that and have a discussion. But on Wednesday, Democrats blocked it.

Their position has been very clear, as I see it. They are going to stick with Speaker PELOSI no matter what, and I understand that from a negotiating position. They think she is the one negotiating with the White House; therefore, they are not going to get involved. I have talked to some of my colleagues on the other side of the aisle who have expressed the same frustration I am expressing right now. Gosh, why can't we get together between Republicans and Democrats and support something that is a compromise? But I think they have been told by their leadership: No discussion; no debate; we are going to stick with whatever the Speaker wants.

Again, coming up to the election, it is my sense that what the Speaker wants is not to have a result. That is my sense. You have heard the President say very clearly he is willing to spend even more than the Speaker wants to spend. I am not suggesting that is the position that every Senate Republican has because many believe we spent a lot of money and we need to be very careful and be much more targeted given the fiscal situation we talked about earlier.

Steven Mnuchin, Secretary of the Treasury, has been very interested in getting a result and has, in good faith, been negotiating. But, again, we have not been able to make any progress because the notion is that we are going to stick with the Speaker's position no matter what. So instead of a compromise, we have zero relief. Instead of $3.5 trillion or $2.4 trillion—whatever the number is and whatever the Republican number is—we have zero relief that has been provided in the last several months. There has been sort of an all-or-none attitude—either we do it her way, or we get nothing.

Three separate times on this floor, Democrats have even blocked proposals to temporarily extend the Federal unemployment insurance supplement that expired in August so that folks who were relying on that money could continue to make ends meet while we negotiated a long-term solution. This week, they blocked a reasonable approach on unemployment insurance, I believe. It was $300 per week Federal supplement on top of the State unemployment, and they blocked it, saying that wasn't enough and we need to stick with $600. So, again, it is either $600 or nothing.

I will say that the $600 benefit is pretty generous. The Congressional Budget Office has told us that 80 percent of the people who are on unemployment insurance going forward—if we continued $600, 80 percent would be making more on unemployment insurance than they would be making at work. Talk to your businesses back home, and what they will tell you is that this has been a problem in getting people back to work when they can make more—sometimes significantly more—on unemployment insurance.

But how about $300? How about a compromise? Some people will make more. In fact, a lot of people will make more on unemployment insurance than they do at work at $300 but not 80 percent of the people. Some will make more; some will make less.

Last week, I finally thought we had a breaking point because the Speaker of the House had Members of her own caucus calling her to work with the White House to pass at that time what was a $1.8 trillion package, but my understanding is, that wasn't good enough.

Let's get back to the commonsense ideas we can all agree on. By the way, many of these are in this targeted legislation that the majority of Senators voted on this past week, on Wednesday—again, a majority but not the supermajority needed to get it passed.

First is on the healthcare response, particularly on testing, and in Ohio, we need it right now. We need more money for testing. Republicans and Democrats alike know that is critical to stopping the spread of the disease and getting people more comfortable going back to work, going back to school, and going back to their local businesses to buy things. We need the Federal help on testing.

We also need help to continue investing in developing treatments, and, of course, we need to invest in a vaccine to get a vaccine as quickly as possible. The targeted bill that came to the House this past week did just that—provided $16 billion for increased testing and contact tracing and an additional $31 billion for vaccine development. That is the kind of support we need right now.

Second, we agreed that Congress shouldn't continue to have this situation where small businesses are being forced to close their doors. We all want to help small businesses. That was in the targeted bill also.

One way we have agreed across the aisle is to have this PPP program—the paycheck protection program—be in effect, and the targeted legislation did just that. It restarted the Paycheck Protection Program, which was included in the CARES Act but expired on August 8. So since August 8, we haven't had it. This was a smart program that provided low-interest loans

to small businesses—loans that effectively became grants if they used them for certain purposes, like payroll to keep people employed but also their rent and their mortgages and utilities.

At least 140,000 Ohio businesses in my State of Ohio—140,000 businesses—small businesses, have benefited from the PPP, saving what we think are at least 1.9 million jobs. Wow. We all know we need to extend that program. I think everybody agrees on that. I don't know a Senator in this Chamber, Republican or Democrat, who hasn't had the experience back home of a small business saying: I couldn't have stayed open without this. I have had that conversation dozens of times. A lot of these businesses were able to use this PPP loan to weather the storm. Some have seen their businesses now pick back up, and they are hiring again, and that is great.

I recently had a virtual roundtable with manufacturers all over Northeast Ohio—the Cleveland area and the Akron area. They were hit hard by the early shutdowns. They put their businesses at risk, but thanks to the PPP loans they received, they were able to keep their employees on payroll and keep the doors open. Do you know what most of them did? They did something related to helping. Some made ventilators. Some made masks. Some made gowns. So they were able, during this slow time, to actually help to push back against the coronavirus. Now they are back in business. Now they are able to employ people, to hire people, and to pay taxes and provide revenue to the government. That is what we want.

There are others, however, who desperately need continued PPP just to stay in business. I mentioned the hospitality industry earlier, the entertainment business, and the travel business. They have to have the PPP loans now—now—or they may close. Some have already closed because the program has been shut down since August 8 because we can't seem to get our act together to provide the help. That was in the targeted bill.

By the way, it makes PPP more targeted and more focused because we don't want to waste money; we want to focus it on companies that really need it. That is bipartisan also. Let's do it.

Beyond PPP, Congress should help invest in businesses to reopen safely and effectively. Small business owners I have spoken to during this pandemic and especially in recent weeks have told me that they are eager to reopen but they want to open in a safe manner. That is the sweet spot here. We don't want to close down the economy, but we do want the economy to be reopened and stay open safely.

There are examples of how we can do that that this Congress should pass on a bipartisan basis. One is an expanded tax credit to incentivize new hiring through the work opportunity tax credit and the employee retention tax credit. We also have a new tax credit called the healthy workplace tax credit. It is very simple. It helps businesses pay for protective equipment like plexiglass, hand sanitizer, and face coverings. These are credits against payroll tax that will help businesses rehire workers, reopen safely, and take these critical steps to let our economy recover.

I will continue to push this in every coronavirus package. You know what, it has total bipartisan appeal because it is exactly what we ought to be doing—reopening, yes, but doing it safely. Let's give businesses the incentives to do that.

It is expensive to purchase PPE, particularly when you have tight revenues, which a lot of businesses do right now. They want the help to be able to do it and do it right.

Third, of course, we agree we need to invest in our schools and our State and local governments. With colleges and K–12 education trying to reopen around the country, it is critical that students don't lose any more progress in the classroom. We need to make sure schools have these resources to reopen and to stay open with adequate protective gear and social distancing policies and, again, plexiglass and other things to make it safe.

The $105 billion that was in this legislation on Wednesday that was voted down—$105 billion for ensuring that schools are safe—is actually more than was in the original House-passed Heroes Act. So, let's find a compromise here, but you can't say that helping the schools is a reason to vote no.

State and local governments need support and more flexibility too. Ohio cities have been hit particularly hard because they rely on revenue from income taxes more than other cities around the country, and that income tax revenue has been lower than any of their projections.

The targeted bill would have helped by extending the timeline in which CARES funding could be spent beyond the end of this year. I have heard this repeatedly from our Governor in Ohio, Mike DeWine, and also from local officials in Ohio: Don't make us spend all the money by yearend. We can spend it more effectively if you give us some flexibility on that.

None of us should want to do that. We always complain about the Federal rule where you are telling an agency ''You have to spend the money by yearend; use it or lose it'' because it encourages them to go ahead and spend it, even though they don't need to, so they can have the same budget next year. Let's let them have the flexibility to spend the money as they need it.

We all know now that this virus isn't going away in calendar year 2020. It is going to be around in 2021. Let's give them that flexibility.

With this extended timeline, we should also provide flexibility so they can be certain that they can spend the money where they need it, including for public safety—police, fire, EMS.

Fourth, we all agree we have to make sure Americans have adequate access to telehealth and telehealth medicine. Most of us in this Chamber have probably utilized telehealth services during this pandemic, and we know that they work.

Telehealth has been a lifeline for millions of Americans, particularly for those fighting addiction, for those who have behavioral health issues, mental health issues, who can't currently receive in-person care to help in their recovery.

I have worked with the Trump administration to expand telehealth and delivery options for opioid treatment, which, in some instances, has even allowed addiction specialists to reach new patients. I love hearing that—that in this dark cloud, one silver lining is that telehealth has actually been successful and helped people, including mental health providers and drug treatment providers, to reach new people whom they couldn't reach previously.

However, the reforms that we have in place now, based on the previous legislation I talked about, are only temporary. The bipartisan legislation we have introduced, along with my colleague SHELDON WHITEHOUSE, is to make these telehealth options permanent. It is called the TREATS Act. That should be in any coronavirus package, and it would be.

Finally, we need to chart a path forward on the issue of expanded unemployment insurance. Unemployment is down from the highest we saw in the spring, and it has been very encouraging to see how many new jobs have come back. It exceeded all expectations, everybody's—OMB's, CBO's, outside projections.

But unemployment is still way too high. We are still at 8.9 percent in Ohio, and it is probably about 8 percent nationally. Think of this. We went from the lowest unemployment we have seen in decades just before this virus, more like 3.5 percent—record lows for Blacks, Hispanics, disabled, women—and now we have about 8 percent unemployment—more than double that.

I said earlier that Congress allowed the original unemployment insurance supplement to expire without a replacement. When that happened, the Trump administration stepped in and used $44 billion from FEMA's Disaster Relief Fund, which had received funding from the CARES Act to temporarily add a $300-per-week Federal supplement called the Lost Wage Assistance Program. This program funded 6 weeks of expanded unemployment insurance and also encouraged States to provide their own match.

What happened was that every State but two took the government up on that. They didn't add their match, but they did take the 300 bucks, and a lot of people who had lost their jobs through no fault of their own were able to be helped through this Executive action.

Unfortunately, we are now at a point where this program has been tapped out. Why? Because the $44 billion that was set aside in the Disaster Relief Fund is gone, leaving $25 billion to deal with natural disasters, which is what the Disaster Relief Fund is intended to do. And they need that money. We shouldn't use any more of that. So we are back to square one.

People who have had unemployment insurance since the disaster began because they might work in hospitality, entertainment, travel, some businesses where they can't go back—a lot of those folks now are seeing just a State benefit or no benefit.

The Republican proposal actually had a long-term solution by providing $300 per week through December 27—basically, through the end of the year. That was in the package that was just voted down. So Democrats, who say they want $600, voted down $300 because it wasn't enough. Well, somebody who is on unemployment is probably wondering: Why not just compromise and at least get me the $300 so that I can pay my rent, I can pay my car payment, I can make ends meet, even though I can't go back to my job?

So if nothing else comes out of these coronavirus negotiations, let's at least provide more funding for the Disaster Relief Fund so that we can continue to respond at the executive branch level. If Congress can't get its act together, at least continue the $300 through the way the administration was doing it for 6 weeks. We have proposed legislation to do just that, replenishing the Disaster Relief Fund so that this vital unemployment insurance supplement can continue that the administration had in place.

If we can't pass a bigger package, why can't we just pass that? Why can't we just pass PPP? Why can't we just pass something for testing? Why can't we just pass something to ensure that we are helping right now during this crisis?

The bottom line is that there is still a lot for Congress to do to help lead the country through this coronavirus crisis we find ourselves in. Between bolstering our healthcare response, promoting a stronger and more equitable economic recovery, getting the necessary funding to our schools, providing that flexibility I talked about earlier to governments, ensuring that our constituents can make ends meet as they deal with sudden unemployment and other challenges, we have a lot of opportunities to help our country weather the storm of this pandemic.

I hope things will change soon. Maybe it will change on the election. Maybe after the election there will be a different attitude. I hope so. I hope that at least in the lameduck session of Congress, if we can't get our act together this week, we can figure out how to recapture that spirit of bipartisanship we saw this spring, to negotiate in good faith, come to an agreement—and fast. Our constituents need it. Let's get it done.

I yield back my time.

The PRESIDING OFFICER. The Senator from Delaware.

NOMINATION OF AMY CONEY BARRETT

Mr. CARPER. Mr. President, I rise this afternoon to share with you and our colleagues some of my thoughts concerning the nomination of Judge Amy Coney Barrett to serve as an Associate Justice of the Supreme Court of these United States.

I believe it was Winston Churchill who once said these words: ''The further back we look, the further forward we see.'' So let me begin today by looking back in time—way back in time.

More than 230 years ago, during the Constitutional Convention in Philadelphia, just up the road from my family's home in Wilmington, DE, our Founders debated at great length on how to create a different kind of government—an experiment, if you will, in which a nation's citizens would elect their own leaders, and a system of checks and balances would ensure that country would never—never—be led by a tyrant.

Among the most contentious issues they debated during that summer of 1787 in the City of Brotherly Love was the creation of a Federal judiciary. Our Founders disagreed, oftentimes strongly, about what our judicial system should look like and how judges should be selected: Who would nominate them? Who would confirm them? Would they serve one term, multiple terms, or would their appointments be lifetime in nature?

When the Framers appeared to be hopelessly deadlocked, members of the clergy were brought in to pray that God would provide the leaders with the wisdom to break the impasse.

In the end, it apparently worked, and our Founding Founders ended up adopting a compromise very similar to one they had rejected just a few weeks earlier; namely, the President would nominate judges to serve lifetime appointments with the advice and consent of the Senate.

Not surprisingly, almost 240 years later, we are still sparring over what those words should mean.

Having said that, the blueprint that was drafted that year and later ratified by the 13 States would go on to become the most enduring and replicated Constitution in the history of the world.

Among our most important sworn duties here in the U.S. Senate is to act as caretakers of that Constitution and the rights it provides for our citizens while protecting this unique system of checks and balances that provide the foundation on which our democracy is built.

That brings us to the present. This past week, Republican Members of the Senate Judiciary Committee voted to advance Judge Barrett's nomination to the floor of the Senate, but they have done so, I fear, at great cost to this body and quite possibly to our democracy.

When our Founders carefully designed our system of checks and balances, they did not envision a sham confirmation process for judicial nominees. But as much as I hate to say it, that is what this one has been, pure and simple. This entire process has become an exercise in raw political power, not the deliberative, nonpartisan process that our Founders envisioned.

Frankly, it has been a process that I could never have imagined 20 years ago when I was first elected to serve with my colleagues here. Over those 20 years, I have risen on six previous occasions to offer remarks regarding nominees to the Supreme Court as we considered the nominations of Chief Justice Roberts, Justice Alito, Justice Sotomayor, Justice Kagan, Justice Gorsuch, and Justice Kavanaugh.

One name not mentioned among the six I have just listed is that of Judge Merrick Garland. After being nominated by President Clinton to serve on the DC Circuit Court of Appeals—that is the top appellate court in the country—and confirmed by a Republican-led Senate with a bipartisan margin of more than 3 to 1—76 to 23, in fact—Judge Garland has served with distinction on our top appellate court since 1997, including for many years as its chief judge.

President Obama later nominated him to serve on the Supreme Court 237 days before election day in 2016—237 days before election day.

By submitting the name of Judge Garland to the U.S. Senate for consideration 4 years ago, President Obama, who was twice elected by clear margins in both the popular vote and the electoral college, nominated a man who spent his entire 20-year career as a judge working to build consensus and find principled compromises. Yet we never got a chance to consider Judge Garland's nomination to serve on the Supreme Court on this Senate floor.

Judge Garland wasn't given a vote either in committee or here in the U.S. Senate. Judge Garland wasn't given a hearing. Most of our Republican colleagues wouldn't even meet with him, even though many of them had voted earlier to confirm him to, again, serve on the top appellate Court of our land.

Judge Garland's nomination languished for 293 shameful days. A great many Americans believe that it is the equivalent of stealing a Supreme Court seat. A good man—a very good man—was treated badly and so, too, was our Constitution.

Still, many of our Republican colleagues assured us that if the tables were turned later on, they would hold themselves to the same standard and only allow the next President to fill the Supreme Court seat should a vacancy occur during an election year.

Then, on September 18, 2020, Justice Ruth Bader Ginsburg passed away, 46 days before a Presidential election. And with her death, most of our Republican colleagues changed their tune almost overnight.

Today, with more than 220,000 Americans dead and more than 8 million

Americans infected with the coronavirus—not to mention 13 million unemployed—we are in the midst of an election, rushing to confirm a controversial nominee from President Trump, who lost the popular vote by nearly 3 million votes and was subsequently impeached by the House.

Judge Barrett's nomination was rushed out of committee just 12 days before election day, in a process that many believe was a clear violation of the rules of the Judiciary Committee. Think about that—12 days.

Instead of keeping their word, a number of our Republican colleagues are fast-tracking a nominee—and not a consensus nominee from the judicial mainstream like Judge Merrick Garland—as tens of millions of Americans are mailing their ballots in, dropping off their ballots, and lining up to vote.

This confirmation process is shameful. It is unprecedented. If you have ever wondered what hypocrisy looks like, this is it.

I know that many Americans, including many of our Republican colleagues, see in Amy Coney Barrett a well-qualified judge and, in Donald Trump, a duly elected President, and they believe a vote is necessary because, after all, it is spelled out in the Constitution.

Well, let me be clear. There was no precedent for the shameful blockade of consideration for Judge Merrick Garland, and there is no precedent for confirming Judge Barrett just 8 days before an election.

As my colleagues know, I am not given to hyperbole, but rushing to confirm Judge Barrett has the potential of altering, perhaps forever, the way the American people view the Supreme Court and the U.S. Senate.

To our Republican friends, let me remind you that just because you can do this and get away with it doesn't make it right. This is wrong, and in your hearts you know it is wrong. Your actions stand our system of checks and balances on its head—in the end, only serving to weaken our democracy, not strengthen it.

To those Americans who want to see an up-or-down vote on Judge Barrett, I understand that you may not share my views or my fears, which many other people do share, but let me stop here for a moment to share with you something that isn't widely known about most Republicans and most Democrats here in the U.S. Senate.

While you would never know it most days by watching the news, most of us who serve in this body generally get along. While a lot has changed since Senators PAT LEAHY and CHUCK GRASSLEY came here a long time ago, bipartisan friendships still endure, although they don't flourish as they once did.

Many of us agree at times in hearing rooms and many of us disagree at times in hearing rooms and on the Senate floor, but just about every week that we are in session, a number of Democrats and Republicans still find time together for prayer and reflection, whether at Prayer Breakfast in the Capitol or at one of several bipartisan Bible study groups, including one led by our Senate Chaplain, Barry Black, who previously served as Chief of Chaplains for the Navy and the Marine Corps.

Oftentimes at these gatherings we are reminded of the Golden Rule, one of the two greatest commandments: to treat other people the way we want to be treated.

After serving here for 20 years, I remain convinced that our friendships and our ability to reach consensus on critical issues facing our Nation are based in no small part on our faithful adherence to that commandment, which can be found in every major religion of the world, and we are at our best here in this body when we follow it.

I believe that true adherence to the Golden Rule calls for fairness in the way we discharge our constitutional responsibilities for judicial nominations, too, including nominations to the Supreme Court, regardless of which party occupies the White House or the Presiding Officer's chair.

We can't have one set of rules for Democratic Presidents and another set of rules for Republican Presidents. The Golden Rule called for a vote for Judge Garland, and I believe that, today, the Golden Rule calls for hitting the pause button on Judge Barrett's nomination until the President, who is elected in 9 days, is sworn into office.

Why? Because the American people deserve to have their voices heard. But you don't have to take my word for this. Consider, if you will, the words of our Republican leader, MITCH MCCONNELL, from March 2, 2016, 14 days before President Obama had even nominated Judge Merrick Garland to serve on the Supreme Court, following the death of Justice Scalia, and a whole 7 months—a whole 7 months—before an election.

Leader MCCONNELL said 4 years ago:

> The American people deserve to be heard on this matter. That's the fairest and most reasonable approach today.

He went on to say:

> Voters have already begun to choose the next President who in turn will nominate the next Supreme Court Justice. . . . This is something the American people should decide.

That is what he said 4 years ago.

Let's also listen to what the current chairman of the Senate Judiciary Committee, Senator GRAHAM, told us March 10, 2016. This is what he said:

> I want you to use my words against me.

Think of that.

> I want you to use my words against me. If there's a Republican President [elected] in 2016 and a vacancy occurs in the last year of the first term, you can say, ''LINDSEY GRAHAM said, 'Let's let the next President, whoever it might be, make that nomination.' ''

And finally, here is the advice of my friend, then-chairman of the Senate Judiciary Committee, Senator CHUCK GRASSLEY, following the death of Justice Scalia. He said:

> The President should exercise restraint and not name a nominee until after the November election is completed.

He went on to say:

> President Lincoln is a good role model for this practice. The President should let the people decide.

I am glad Senator GRASSLEY mentioned our Nation's 16th President because I believe President Lincoln's example will serve us well, especially at this moment. Why do I say that?

Well, after a Supreme Court vacancy occurred just 27 days before the 1864 Presidential election, what did President Lincoln do about it? Did he rush to fill the vacancy? Did he call the Senate to push through a nominee in a month's time, largely because he could? No, he did not.

In the midst of a Civil War that took the lives of hundreds of thousands of Americans, Lincoln called for allowing the American people first to decide who would be President, and that person would then nominate a candidate for the vacant seat, with the advice and consent of the Senate.

Nearly 150 years later, Lincoln's words give us a clear roadmap for doing the right thing: Let the American people have their voices heard before filling this vacancy, instead of rushing it through just days before an election.

As we all know, the Supreme Court seat we are debating today was left vacant by the death of Justice Ruth Bader Ginsburg, who served on the Supreme Court since 1993. We continue to mourn her loss. We continue to pray for her family and loved ones.

Justice Ginsburg may have been small in stature, but, in death, our Nation has lost a true giant. Ruth Bader Ginsburg made it her life's work to challenge the laws and systems in this country that limited opportunity for women solely on the basis of their gender. She was a pioneer in her own right, but perhaps even more importantly, she paved the way for generations of women and girls who would come after her.

Today, women can sign a mortgage on their own in no small part because of Ruth Bader Ginsburg. Today, women can open a bank account or apply for a credit card without a male cosigner in no small part because of Ruth Bader Ginsburg. And, today, pregnant women cannot be discriminated against at work in no small part because of Ruth Bader Ginsburg.

I am confident that her legacy will live on, especially in all the women and young girls she inspired throughout her remarkable life, but, unfortunately, with her passing, the equality that she spent her life fighting for is now on the line.

Many Americans believe in their hearts that the threats posed by this nominee, the one before us at this moment, are real. That is particularly true when it comes to access to affordable healthcare, to the rights of women to make their own healthcare decisions, to voting rights, and, perhaps

most importantly, to the future of our planet.

The Affordable Care Act hangs in the balance with this nomination. Think about that for a moment. Right now, our country is in the midst of a public health crisis the likes of which those of us living have never seen.

Over 8 million of our fellow Americans have been infected with this coronavirus. Over 220,000 lives have been lost to this deadly virus. That is more than the entire population of Des Moines, IA. We are consistently seeing 700 Americans die from the coronavirus every day.

The front page of yesterday's Wall Street Journal makes it clear. It is not getting better; it is getting worse.

As it turns out, America has less than 5 percent of the world's population, but our country accounts for more than 20 percent of the world's deaths from coronavirus. No other nation on Earth comes close to that. The numbers don't lie.

Mexico, our neighbor to our south, has lost 88,000 people to the coronavirus; we have lost 220,000. The United Kingdom has lost 44,000; we have lost 220,000. France has lost 34,000, Germany just over 10,000, and we have lost over 220,000. Canada, our neighbor to the north, has lost just over 9,000; Japan, 1,700 deaths; Australia, 905 deaths; South Korea, just 457 deaths from the coronavirus; and we have lost over 220,000.

While this carnage continues here and abroad, our friends in the other party continue to press the Supreme Court to throw out—to throw out—the Affordable Care Act in its entirety, not next year, next month.

Meanwhile, nearly 13 million Americans are unemployed, and our unemployment rate, at nearly 8 percent, is more than double the rate from the beginning of this year. But rather than prioritize public health and long-overdue relief for the millions of Americans who are struggling to get by, our Republican colleagues have instead decided to fast-track a Supreme Court nominee just 8 or 9 days before a Presidential election.

So why the rush? Well, to figure that out, all you have to do is look at a calendar. Just 7 days after election day on November 10, the Supreme Court will hear oral arguments in a case known as California v. Texas. California v. Texas—a case that was brought by 18 Republican attorneys general and the Trump administration—seeks to overturn the Affordable Care Act in its entirety—in its entirety.

If confirmed, Judge Barrett may well end up casting the deciding vote on whether or not to strike down the Affordable Care Act, and we know from her own words that Judge Barrett does not agree with the decision written by Chief Justice Roberts to uphold the constitutionality of the Affordable Care Act a few years ago.

She wrote that the Chief Justice had ''pushed the Affordable Care Act beyond its plausible meaning to save the statute.'' Judge Barrett said nothing during her confirmation hearing to distance herself from these words.

And what exactly could the consequences of overturning the ACA be? Well, for starters, those consequences could mean that nearly 135 million Americans who have a preexisting condition could be charged more for healthcare, in many cases making their healthcare unaffordable.

It could mean returning to a time when insurers could design plans that excluded coverage for contraception and family planning, as well as conditions like pregnancy, mental healthcare, and substance abuse treatment.

Overturning the Affordable Care Act could threaten Medicaid expansion that provides healthcare coverage to over 15 million low-income Americans, many of them living in some of the most rural parts of America.

It would mean that young adults under the age of 26 may no longer be able to stay on their parents' healthcare plans.

It would jeopardize the tax credit that over 9 million Americans receive to help cover their own healthcare costs.

And that is just to name a few things—just a few. But make no mistake, overturning the Affordable Care Act in the middle of the night, in the middle of the worst pandemic in a century, will have devastating and far-reaching impacts on our healthcare system and nearly every American, including the more than 8 million Americans who will be left with a new preexisting condition: the coronavirus.

Sadly, that is what our President and many of our Republican colleagues are intent on doing as we battle COVID–19 every day and in every State of our country. Having failed nearly 100 times to repeal or chip away at the Affordable Care Act in Congress, Donald Trump and many of our Republican colleagues are now counting on the Supreme Court to do their work for them, and they are within one vote—one vote—of achieving their goal—one vote.

A woman's right to make her own personal and intimate healthcare decisions hangs in the balance with this nomination. During her confirmation hearing, Judge Barrett refused to say much of anything on this critical women's rights issue, including whether Roe v. Wade was correctly decided in 1973.

Interestingly, though, she did cite Justice Ginsburg and the so-called Ginsburg rule and asserted that it prevented the nominee—this nominee—from indicating how she would rule as a Supreme Court Justice on these matters. But let's actually look at what Justice Ginsburg said about Roe v. Wade during her own confirmation hearing in 1993, 27 years ago. Justice Ginsburg said:

The decision whether or not to bear a child is central to a woman's life, to her well-being and 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 responsible for her own choices.

Justice Ginsburg did not deflect or refuse to answer the central question: Should women have the right to make their own healthcare decisions? Justice Ginsburg was forthright, and the Senate confirmed her by a vote of 96 to 3—96 to 3.

Given Judge Barrett's lack of clarity on this critical matter, I am left to consider her past record and statements. My hope is that Judge Barrett would uphold nearly 50 years of precedence and maintain this constitutional right for women. However, my fear is that Justice Barrett was nominated because she meets Donald Trump's stated litmus test to overturn this constitutional right that an overwhelming majority of Americans support.

Voting rights and the integrity of our elections also hang in the balance with this nomination. Earlier this week, a deadlocked Supreme Court barely—just barely—upheld a Pennsylvania lower court decision that allows mail-in ballots in Pennsylvania to be counted in the upcoming election. The vote was tied 4 to 4, which means the issue is not settled permanently. It means that Judge Barrett may very well be the deciding vote on many disputes related to the upcoming election.

How would a Justice Barrett have ruled in the Pennsylvania case?

During her confirmation hearing, Judge Barrett refused to answer questions about the legality of poll taxes, voter intimidation, voter discrimination, and whether or not the President can unilaterally move election day. It strains credulity to believe that Judge Barrett does not know that poll taxes are unconstitutional, that voter intimidation is unconstitutional, that voter discrimination is unconstitutional, and that the President cannot move election day. Why can't he? Because—you guessed it—it would be unconstitutional, even if he tried.

More than ever, we need Justices on the Supreme Court, along with judges on other Federal courts, who can be counted on by the American people to uphold the integrity of the upcoming election and on future elections.

Based on her testimony before the Senate Judiciary Committee earlier this month, I am not sure that Judge Barrett can be counted on by the rest of us to ensure that—win or lose—President Trump stays within the boundaries of the law and abides by the will of the American voters on November 3.

As it turns out, there is a lot more than an election that may hang in the balance with this nomination, and that includes the very future of our planet and its inhabitants.

Over the course of her confirmation hearing, on three separate occasions—three separate occasions—Judge Barrett refused to acknowledge the plain

and indisputable facts that climate change is real and that human activity is the primary—not the only but the primary—cause of our current climate crisis, which we see evidence of almost every single day.

Hurricane-force winds pierced through America's Heartland this summer, flattening one-third—one-third—of Iowa's crops in a matter of hours. Our east coast and gulf coast are experiencing one of the most active hurricane seasons ever recorded, with more tropical storms, more rainfall, and more rapid intensification. One of our colleagues from Louisiana told me last month that his State is losing the equivalent of one football field to the sea every 100 minutes. That is right—not every week, not every month, not every day. Every 100 minutes, the equivalent of one football field is lost to the sea.

Last summer, fueled by record heat, long droughts and as many as 12,000 lightning strikes in 36 hours—think about that, 12,000 lightning strikes in 36 hours—wildfires destroyed parts of California the size of my State. This past week Colorado has witnessed wildfire destruction that is almost as bad.

That is not all. This year, record-breaking heat waves simmered the coldest places on Earth, from Antarctica to the Arctic Circle, where the temperature reached 100 degrees Fahrenheit for the first time ever. That is right—100 degrees Fahrenheit along the Arctic Circle. Temperatures in Alaska reached over 90 degrees Fahrenheit for the first time in that State's history. Temperatures in Death Valley reached over 134 degrees Fahrenheit—the hottest temperature ever recorded on this planet. July was the hottest July ever recorded. September was the hottest September recorded. And, on the heels of the hottest decade on Earth, this year is on track to be one of the hottest years ever recorded—this year. And it is not getting better. It is getting worse.

Yet, when she was first asked, simply, if climate change was real, Judge Barrett responded that she is ''not a scientist.''

I am not a scientist, either. I am, however, the senior Democrat on the Senate Environment and Public Works Committee, and like millions of Americans, I recognize the simple fact that you don't have to be a scientist to trust scientists. You don't have to be entrenched in the studies of science to know that it is gravity which is keeping our feet firmly on the ground.

When Judge Barrett was later asked by one of our colleagues whether coronavirus is infectious, Judge Barrett said: ''It's an obvious fact, yes.''

She was then asked if smoking causes cancer, and Judge Barrett said: ''Yes, every package of cigarettes warns that smoking causes cancer.''

But then, when asked a third question—whether or not the nominee believed that climate change is happening, and that it is threatening the air we breathe and the water we drink—Judge Barrett refused to acknowledge the simple fact that climate change and global warming are real. Instead, Judge Barrett asserted that climate change is ''a contentious matter of debate''—''a contentious matter of debate.''

Climate change is not ''a contentious matter of debate.'' There is overwhelming consensus among the global scientific community that our planet is warming, and that warming is caused by carbon pollution, largely. Climate change is real. We see it every day in this country and every day on this planet.

It is threatening the air we breathe and the water we drink. The American people, and the people of our planet, see the effects of climate change and global warming every single day, and these are indisputable and undeniable facts, not a matter of debate.

Judge Barrett's views on climate change stand in stark contrast to the science and the views of the vast majority of the American people too. They also stand in stark contrast to the views of the late Justice Ruth Bader Ginsburg. Quite simply, Judge Barrett's views are out of touch with reality, and that poses a real threat to public health, environmental quality, and, I think, the very future of this planet.

Let me echo, if I may, the words of President Emmanuel Macron of France, who just down the hall here at the other end of the Capitol a couple of years ago stood before a joint session of Congress, and he called for our country, the United States, to once again lead the world on climate change. He reminded us, and he said: We have only one planet.

There is no planet B—no planet B. In fact, I fear there has never been a more dangerous time to confirm a climate denier to a lifetime appointment on the Supreme Court. Scientists warn that we are on the brink of irreversible planetary destruction if we do not begin to dramatically reduce global warming pollution. Over the next few decades, the Supreme Court will decide the fate of critical environmental issues—issues that will aid, or drastically curtail, the abilities of future Presidential administrations and Congresses to enact environmental policies that are essential to our survival as a planet.

By way of contrast, Judge Barrett's predecessor, Justice Ginsburg, was a critical tie-breaking vote on one of the most important climate change cases in the Supreme Court's history, called Massachusetts v. EPA.

Recall with me, if you will, that Massachusetts v. EPA affirmed the Environmental Protection Agency's authority and duty to regulate tailpipe emissions of greenhouse gases as a pollutant under the Clean Air Act.

It also provided the legal underpinning for numerous other Obama administration climate regulations that the Trump administration has been hell-bent to destroy.

Just as the Supreme Court was designed by our Founders to remain above the political fray, our Supreme Court Justices should not fall prey to the blatant misinformation at the heart of climate denial. Sadly, during her confirmation hearing, Judge Barrett demonstrated that, on an issue so critical for the survival of our planet as we know it, she does not appear to be guided by science and is unlikely to be guided by the facts when it comes to global warming.

That, my friends, should scare the heck out of us.

These issues that Justice Ginsburg fought so hard to protect over the course of her life—healthcare, the rights of women to make their own healthcare decisions, voting rights, and the future of our planet—hang in the balance with this nomination, and for these reasons, I will not be supporting the nomination of Judge Barrett.

Let me conclude, if I may, by noting that Justice Ginsburg did some of her most memorable work in dissent. During her memorial service in the U.S. Capitol, Justice Ginsburg's rabbi said:

> Justice Ginsburg's dissents were not cries of defeat. They were blueprints for the future.

Justice Ginsburg knew that just because you don't have the votes doesn't mean you are any less right. Justice Ginsburg knew that a great dissent will speak to the future and just might eventually become the majority view.

Today, we may not have the votes to stop this process or vote down this nominee, but that doesn't make our efforts to fight for fairness any less right. I could be mistaken, but I believe in my heart the American people will make their voices heard loud and clear on what I believe is a sham of a confirmation process, and they will do it on election day.

Like Justice Ginsburg, the American people are dissenting against this process and against this nominee, and I believe they will be voting in record numbers. In fact, they already are.

Judge Barrett may be confirmed, but let history show I tried hard, both to follow the Golden Rule and the example of Justice Ginsburg, and I refused to join the majority opinion.

With that, I dissent, but I don't yield the floor. I yield my remaining postcloture time to the Democratic leader. I yield my remaining postcloture time to the Democratic leader. And I yield to the Senator from Washington State, my friend and colleague.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I come to the floor to defend a woman's right to choose. I am beyond frustrated that this debate is even happening tonight. According to statistics from the Rape, Abuse, and Incest National Network, there are over 433,000 victims of rape and sexual assault on average

each year in the United States of America. They have found that every 73 seconds an American is sexually assaulted.

When someone wants to chip away at the rights of American women to have access to healthcare, my State is going to take it personally. My State has codified Roe v. Wade into law. They have fought for these rights in a vote by the people of our State in the 1990s. So with a process today that is unfolding here in the Senate where someone wants to roll back those rights and propose a different way of life in the United States of America, we women are going to fight back.

The truth is, the majority of Americans support a woman's right to choose. The majority of States support a woman's right to choose, in what their public believes. It is a minority and a minority on this floor who does not support that and would love to have a judicial process that shortcuts active debate about the issues that are in the mainstream views of Americans. These statistics and these issues are almost 50 years of law about a healthcare delivery system that allows a woman to make this choice. It is from those statistics I just read you. There are darn good reasons they want to make those choices.

The fact that people have been out here characterizing this debate and going back in history and talking about all of these things that have happened to previous judicial nominees—yes. Yes, there has been a lot of back-and-forth. But the main point is, the other side of the aisle wants to nominate people who are out of the mainstream view of America.

Any of my colleagues who came here and tried to argue that Judge Barrett and her views are in the mainstream, I guarantee you, the judiciary process that we had with the Senate Judiciary Committee definitely did not prove that. In fact, the President's words and the actions of this body in nominating people whose views are out of the mainstream—because this is 50 years of settled law, and you are trying to override it by putting somebody on the Supreme Court who will say otherwise.

Adding insult to injury to this whole process is the fact that we are not really doing our day job. We are not dealing with the economic crisis that is facing America. I am a little tired of that too. I am a little tired of every time we have a debate about our economy—whether it was the fiscal cliff or the big budget deal or last year's budget deal or any budget deal—we never can deal with our economy because the other side of the aisle wants an amendment to take away a woman's right to choose and limit it.

I couldn't even get language in the last COVID package to get Boeing workers more training programs because the Republicans were so concerned that the definition of a new healthcare proposal had to have a Hyde amendment attached to it because otherwise they couldn't support it because it is so Richter scale on our side of the aisle.

I will give my colleagues on the other side of the aisle—there are about 10 States that basically have a population that only 40 percent or maybe even less support a woman's right to choose. I get it. That is a hard State to come and represent here if the courts have already determined that this is settled law. It might be hard for you. But the majority of Americans and the majority of the States and the courts have already decided this.

Yes, you are going to continue to pursue judicial nominees who are out of the mainstream of the American people, and you are doing so instead of your day job—focusing on the economy of the United States during a COVID pandemic.

It wasn't surprising that this summer, as we were on recess, the Seattle Times said: What is happening? Wall Street is flourishing, but Main Street is struggling.

Basically, they raised a question while everyone was at home: What are we going to come do about the economic situation? We know we have had tremendous loss. Forty percent of restaurants are at risk of remaining closed and remaining closed permanently. We know that one in five small businesses could be closed by 2021—a devastating impact to our economy—and we know that 25 percent of those businesses need additional resources to survive.

All of those things were known, and they were known all summer long, and nobody wanted to discuss them because the other side didn't want to get serious about a robust package. The package they put on the floor so they could go home and say a week before the election ''Here is what we tried to vote on'' did not take care of small businesses that got left out.

It certainly didn't talk about the minority businesses that needed access to capital. The last bill did a decent job of helping businesses that had a connection to a banker, but if you didn't have a connection to a banker, you didn't get as much help. We should have sat down and fixed this.

We should have sat down and made sure that we were fixing what needed to be fixed to help our economy in the midst of a COVID pandemic, but, no, true to form to the other side of the aisle, it is way more important to go after a woman's right to choose. That is way more important than these economic issues.

I am going to tell you that we are not going to lower our voices on the importance of our economy or how important it is to help women. We are not going to sit silently and talk about a minimal economic package to help American businesses. We are going to talk about what American businesses need, and we are going to talk about how we can help protect a woman's right to choose.

The nominee before us—I have listened to many speeches today. She has tremendous intellect. She does have tremendous intellect. Apparently, that is a strong suit of the President of the United States. He has strong intellect. Yet I have seen the most major assault on the rule of law by anybody in an administration in my time in the U.S. Senate—throwing out fact-based decisions, not guaranteeing due process, not making sure that we have freedom of the press, corrupt government officials whom they won't even get rid of, not supporting civil rights that should be enforced at the Federal level. It is not an issue to be left to the States. The Attorney General of the United States and the Members of this body should enforce the civil liberties of Americans. It is not an issue to ignore, and you certainly don't call out the military when they want to express their opinion and concern about this issue.

The President of the United States has a long record. He has great intellect, but he has run over the rule of law, and he has set a precedent for other people in his administration also not to follow the rule of law.

What I find so challenging about Judge Barrett's record and the issues before us is that women's issues and these issues that we face that are so important for us to get done are about a woman's access to healthcare. I can't even imagine going back to Griswold v. Connecticut—a time when we had to fight just to have contraception. That is what the privacy rights were all about. It was about a Court that decided and found in our Constitution that in multiple places, there are a penumbra of rights that give a privacy right to a woman to control her own body. Those privacy rights are about my constitutional rights. They are about what is guaranteed to me in the Constitution. It is about our finding out whether a nominee is going to hold them up, particularly at a time when we have had almost 50 years of laws that have protected those rights.

People want to have a rushed 30-day session—beginning to end—speed-court nominating in the Mansfield Room instead of hearing from groups and organizations about their concerns on this nominee. That is just not good for our overall system, it is not good for the issues that we face moving forward, and it is certainly not good for women in the United States of America.

I do not appreciate the rush to confirm Judge Barrett. Given my State—yes, my State codifying Roe v. Wade into statute in 1990 makes me a pretty active person who wants to see a judiciary that upholds that. I want to see and understand where this nominee is.

But anyone who comes to the floor and says that she is in the mainstream views Americans when we know what her views have been in opposition to Roe v. Wade and, as I said, having Griswold v. Connecticut be a correctly decided decision—even Justices Thomas,

Alito, and Roberts have said it was correctly decided. Judge Barrett is out of the mainstream by not saying that.

She has been critical of the Affordable Care Act and its issues that we want so much to cover preexisting conditions. She refused to say whether Medicare and Social Security were constitutional; this issue of same-sex marriage, where two in three Americans support this; and refusing to say whether she thinks the Lawrence v. Texas decision, which struck down a law criminalizing consensual gay sex, was correctly decided.

These are issues about whether we are going to move forward as a nation with laws that people have come to expect and that they planned their lives around.

There are healthcare institutions all across the United States—even in States that don't fully support a woman's right to choose—that are delivering healthcare to women, and we are going to start down a process of taking those away?

Then there are some people who represent, on the other side of the aisle, States that are at 50 percent or 60 percent in support of a woman's right to choose. They are going to rationalize in their head that, oh, well, somehow I don't know where exactly Judge Barrett is going to be on these issues, or, I didn't get a confirmation that she truly believes that they are settled law, and I believe in the penumbra of rights in the Constitution.

When you say you believe in the penumbra of rights in the Constitution, you are saying you believe in my constitutional right to privacy. You say you believe that I have the right to make my own healthcare decisions.

With a few days before the election and a Supreme Court case in California v. Texas, where the ACA and other healthcare decisions are going to be on the table, it is not good enough to not understand the judicial philosophy of this nominee and whether that is in the mainstream views of people in the United States of America. Too much is at risk—too much that we deserve to know the answers to.

I am glad my colleague from Delaware brought up Justice Ginsburg's quote because that says it all. Everybody keeps saying that she didn't have to say anything, that she didn't take notes, that she is all good, that she didn't have to say anything. That is not what it is all about. That is not what Judge Ginsburg said. Judge Ginsburg told people exactly what she believed. She told people that she believed in a woman's right to choose. As my colleague from Delaware said, she told people that these issues were too important to a woman. So I don't understand, when Justice Ginsburg basically clarified what she believed, why Judge Barrett wouldn't clarify what her judicial philosophy is.

It is worth reading again.

Justice Ginsburg said that the decision of whether or not to bear a child is central to a woman's life, to her well-being, to her dignity. It is a decision she must make for herself, and when government controls that decision for her, she is being treated as less than a full human who is responsible for her own choices.

These women who have been the subject of the most heinous acts—and all women—deserve to make their own healthcare choices. We in this body should not be making this decision at this moment. We should be taking care of our COVID problem, moving forward with solutions that will help the American people, and letting them respond to this issue. This issue will continue.

I just ask my colleagues to think about what has already happened with the Affordable Care Act. Those States that didn't want to support the Affordable Care Act and didn't support the Affordable Care Act later, after it passed, then implemented it. A few States, just recently, made the switch and covered more people under Medicaid.

What you are really doing is holding your States back from having access to healthcare. Eventually, as I said, the general public in the majority of States will support a woman's right to choose. Eventually, this will be settled, with every State supporting this. The question is, How long are you going to hold up the healthcare choices of people in the United States?

I ask my colleagues to turn down this nomination. I ask my colleagues to stop nominating people who are out of the mainstream of the American view on healthcare, which is so important to their daily lives.

I yield my remaining postcloture time to the Democratic leader.

The PRESIDING OFFICER (Mrs. LOEFFLER). The Senator from Tennessee.

Mrs. BLACKBURN. Madam President, I really appreciate the opportunity to come to the floor and have time to talk about this nomination.

As a member of the Senate Judiciary Committee, I want to express my appreciation to Chairman LINDSEY GRAHAM for the great work that he has done and to Leader MCCONNELL for the way he has given us the opportunity to work through this process of completing this confirmation.

As I have talked to Tennesseans from one end of our State to another, I have heard from them, time and again, how important they think it is to have a judge and a Supreme Court Justice who is not an activist.

As we went through the hearings last week, I will tell you that I thought it was so interesting. One of our colleagues said: Oh, we fear that you will usher in an era of conservative activism.

They fear that, but do you know what? Conservatives do not want activist judges of any stripe. They want constitutionalists. They want judges to abide by the rule of law. They want Supreme Court Justices who will call balls and strikes. That is what those of us on this side of the aisle want—Republicans, Conservatives, and Independents, who are there in the center. Do you know? That is what they see in Judge Barrett.

I have found it so interesting, as we have worked through this process, that people, whether they are Democrat, Independent, or Republican, have said: I was so impressed with her—the way she retained knowledge and information, the way she represented her views, the way she talked about the law and precedent, the way she talked about the Constitution, the way she talked about her relationship with Justice Scalia. They also liked the way her students and her professors and her colleagues spoke of Amy Coney Barrett. They like that because these are people with whom she works. Her children are in school with them. They are in church together. So they have come to know her through the many different and varied facets of her life, and they appreciate who she is and the life that the Barrett family is leading and how that represents their thoughts and their beliefs.

There are a couple of things I would like to discuss and points of clarity that deserve to be made in this debate.

As we were in committee, our friends across the aisle chose to take much of their time not to get to know Judge Barrett or to question her about opinions that have been written, and she has written right at 100 opinions or has writings that have been published. They chose to take their time to discuss the Affordable Care Act and to talk about individuals and the concern for losing healthcare.

I think it is right that the American people know we would all like for every American to have access to affordable healthcare. I think we can say that it is a goal of ours. How we get there and what the system looks like is going to be something that is, really, quite different. They are very wedded to the Affordable Care Act and would really like to push this all the way to government-run healthcare. That is their goal.

As many people watched the hearings, they asked: Why did they keep talking about the Affordable Care Act?

Of course, the case that is coming before the Supreme Court is a case on severability. It is not about the constitutionality of the ACA. So it was curious to them.

I would offer that the reason they probably continued to talk about it was that our friends across the aisle, those in the Democratic Party, are very emboldened right now. They feel as if they are going to do a clean sweep and that they are going to keep the House, take the Senate, and take the White House and that, when they do, they will have a very aggressive, 100-day agenda, and we have heard quite a bit of conversation about this 100-day agenda: statehood for DC and Puerto

Rico. They want to abolish the electoral college. They want to begin implementing the Green New Deal. They are going to repeal the Trump tax cuts and implement a new corporate tax. The list goes on and on. The list includes what they want to do with healthcare, which is to have a government-run, government-controlled system.

See, they don't want anybody to tell them they can't do this. They don't want constitutionalists on the Supreme Court who are going to stop them from doing this.

When you look at the numbers and at what the numbers tell us, you have right at 8½ million people right now who are enrolled in the Affordable Care Act—or the ObamaCare program—8½ million. Yet here is the outlier in that: In order to reach their goal of government-run healthcare, which is, basically, a Medicaid program for all, what you would have to do is strip away the health insurance from 153 million Americans who have employer-provided health insurance or who have purchased healthcare on the open market. Those are 153 million Americans. Plus, you would have to take away the Medicare benefits from 57 million Americans who have paid into Medicare with every paycheck they have earned all of their working lives.

We have 66 million Americans who are currently in Medicaid. So think of what is going to happen if, on top of the 66 million who are in the Medicaid delivery system, you take everybody from Medicare—57 million—and they become part of that pool. Then you will have taken health insurance away from 153 million Americans. That is where they are headed. That is their goal.

Quite simply, when they were going through the process with the Affordable Care Act and you had President Obama and Vice President Biden, what we would hear many times from some of the Democratic leaders was, ''Well, ObamaCare is a stop along the road to government-controlled healthcare.''

That is their goal, and how dare we have a Supreme Court that would get in their way.

That is also why they continue to talk about court-packing. While they are trying to redefine the meaning of the word ''court-packing''—oh, let's not have it be offensive—oh, no—they are wanting to expand the Court so they can get their way.

As my friends across the aisle come down and talk about this nomination, I think it is important that we look at the reason behind some of their work and their words and where they think they are going, because they have not made this nomination about Judge Barrett.

They have not made it about the Supreme Court; they have made it about themselves. They have made it about themselves, their wish list, their desire for activist judges.

How about that? They fear conservative activism. What are they going for? Liberal activism. That is the kind of judge they are looking for, not a constitutionalist, not somebody who calls balls and strikes. They are looking for somebody who is going to do their work for them so they don't have to pass something through Congress. They don't have to deal with ''we the people.'' They want to just say: Well, according to the Supreme Court, this is the law of the land.

So that is why they chose not to get to know Judge Barrett, and I will tell you I found her to be one of the most impressive women I have ever had the opportunity to get to know. And she made it very clear, yes, she is qualified to sit on the Court. Her record really speaks for itself.

But as we saw, the judge didn't rest on her laurels. She was well prepared. She was patient, thorough, respectful, and she was a credit to her profession. I wish I could say the same for my Democratic colleagues about being thorough and respectful, because I found it to be very disrespectful of the process, of the institution, and of Judge Barrett that they chose not to show up for our hearing. They were not there. AWOL. Gone. Didn't come.

And you see, why did they do that? Judge Barrett, a highly qualified, highly skilled female, is just not the right kind of woman. She does not submit to the leftist agenda so, therefore, they don't see her as the right kind of woman.

And as we know from many of their antics, some from them and some from their echo chamber, the mainstream media, they feel as if a woman who is pro-life, pro-family, pro-religion, pro-business—that kind of woman, in their eyes, does not deserve a seat at the table.

I find it so interesting. My colleagues across the aisle speak often of how they value diversity, and I agree. Diversity is a strength, and we should seek to hear all voices. That should be a goal—to hear from everyone. But when it comes to diversity of viewpoint and hearing from a conservative woman, an independent woman, a right-of-center woman, this side of the political spectrum—when it comes to diversity of viewpoint, what do they do? They repeatedly choose intellectual isolation—intellectual isolation. Their mind is made up. They are in total submission—total submission to the agenda of the left.

So do not confuse them. Don't confuse them with facts. Don't confuse them with a counterpoint. Don't look at them and say: How about being open minded? You know, what you are saying might be true, but what if this is true? Would that change the outcome?

I find it so very sad that what they have done is to choose intellectual isolation. I find it very sad that that is what they are role-modeling for young adults, college students, high school students. Don't hear out somebody who is different from you. Don't show respect or a listening ear to someone who is different from you. Don't take the time to provide the common courtesy of listening to what someone may have to say.

To my friends across the aisle, I know many of you, and some of you I served with when I was in the House, and may I just offer a thought—that you are better than that. This Chamber is better than that. And individuals who are nominated for judgeships, for Justices on the Supreme Court, they deserve to be heard.

So I would encourage my colleagues to think this through. Judge Barrett is moving through this process. We are going to confirm Judge Amy Coney Barrett to the U.S. Supreme Court, and as we do this, we know that she is going to take that seat as a capable, competent, skilled jurist, and we know that she is going to be someone who is going to sit on that Court, and, yes, she is going to call balls and strikes.

Our friends need not worry about an era of conservative activism. Let me assure them, conservatives don't want that any more than they want an era of liberal activism.

What they want is a constitutionalist Court that is going to be fair to everyone and is focused on equality and justice for all.

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

The PRESIDING OFFICER (Mr. BRAUN). Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I yield 1 hour of my remaining postcloture time to Senator MURPHY.

The PRESIDING OFFICER. The leader has that right.

Mr. SCHUMER. I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, every woman in this country owes a debt of gratitude to my friend, Congresswoman Patsy Takemoto Mink. Americans probably know Patsy best for her fiery advocacy to pass title IX into law. This landmark piece of gender equity legislation, which now bears her name, has benefited millions of women and girls across our country.

But I would wager that very few people know about how Patsy changed the course of history for women's equality and helped to enshrine the right of women to control our own bodies in the Supreme Court.

Let me tell you a story. In 1970, the same year that Hawaii became the first State in the country to decriminalize abortion, Patsy did something no one had done before. She made women's rights a key issue in a Supreme Court nomination when she testified against the nomination of Judge G. Harrold Carswell.

In her testimony, Patsy brought up Judge Carswell's decision in the case of Ida Phillips, a woman denied a factory job because she had preschool-aged children. Of course, no such rule applied to fathers.

Judge Carswell, along with 10 of his colleagues on the Fifth Circuit Court of Appeals, had refused to hear Ms. Phillips' case. Patsy told the Senate Judiciary Committee: ''Judge Carswell demonstrated a total lack of understanding of the concept of equality. . . . His vote represented a vote against the right of women to be treated equally and fairly under the law.''

When a Republican Senator tried to defend Judge Carswell by pointing out that 10 other judges had also voted to refuse to hear the case, Patsy responded: ''But the other nine are not up for appointment to the Supreme Court.''

Patsy understood the critical role the Supreme Court plays in the lives of every American. She pointed out to the committee that ''the Supreme Court is the final guardian of our human rights. We must rely totally upon its membership to sustain the basic values of our society.''

Patsy's testimony marked a turning point in Judge Carswell's nomination, which the Senate ultimately rejected. Her courageous action paved the way for President Richard Nixon to appoint Justice Harry Blackmun to the Court.

Then, 3 years later, Justice Blackmun wrote the landmark decision in Roe v. Wade, recognizing a woman's constitutional right to control her own body. Justice Blackmun, unlike Judge Carswell, understood the right of women to be treated equally. Upon his retirement, he observed Roe was, ''a step that had to be taken. . . . toward the full emancipation of women.''

This story about Patsy is not very well known, but it underscores how one person can make a difference and how one vote on the Supreme Court can make a difference.

During his years on the Court, Justice Blackmun became a reliable vote for racial and gender equality, and his decisions reflected an understanding of how the Court's decisions impact the lives of millions of Americans.

If Judge Carswell had been confirmed to the Supreme Court instead of Justice Blackmun, Roe v. Wade would not exist as we know it, nor would a host of civil rights protections for students and racial minorities.

Our Nation finds itself at a similar judicial crossroads today as we debate whether Judge Amy Coney Barrett should replace Justice Ruth Bader Ginsburg on the Supreme Court. The choice we face as Senators is clear. It is the same choice Patsy Mink presented to the Senate 50 years ago. We can choose to protect equality for women, healthcare for millions, and other basic values of our society, as Patsy put it, or we can choose a Justice selected to do precisely the opposite: strike down the Affordable Care Act, overturn Roe v. Wade, and continue to decide cases like her conservative mentor, Justice Antonin Scalia. This is neither an abstract nor a hypothetical choice.

President Trump repeatedly promised to appoint a Justice who would eliminate the ACA and Roe v. Wade, and he took only 3 days after Justice Ginsburg's death to pick Judge Barrett to fulfill this promise. His selection was easy because Judge Barrett had already publicly signaled that she opposed the Affordable Care Act and reproductive rights.

Judge Barrett is on record criticizing Chief Justice Roberts for, as she put it, ''push[ing] the Affordable Care Act beyond its plausible meaning to save the statute'' in a case upholding the ACA in 2012. Justice Scalia wrote the dissent in that case.

She also signed a newspaper ad committing to ''oppose abortion on demand and defend the right to life from fertilization.'' The same ad called for ''an end to the barbaric legacy of Roe v. Wade.''

With Judge Barrett, President Trump and Senate Republicans know exactly the kind of vote they are getting on the Supreme Court. That is why they are rushing Judge Barrett onto the Court through this hypocritical, illegitimate process.

In a little over 2 weeks, the Supreme Court will hear oral arguments in California v. Texas—a lawsuit where the Trump administration and 18 Republican State attorneys general are asking the Court to invalidate the Affordable Care Act, like Justice Scalia voted to do in two earlier cases.

My Republican colleagues know they can count on her to provide the decisive fifth vote on the Supreme Court to strike down the ACA, to help them win through the courts an outcome they tried and failed to achieve 70 times—70 times—in Congress.

The consequences of Judge Barrett's vote to strike down the ACA would be catastrophic. It would be catastrophic for the 20-plus million Americans who obtain health coverage under the ACA and the 100 million-plus Americans who would lose the law's protections for people living with preexisting conditions.

These are the types of real-world consequences Justice Ginsburg placed at the core of her judicial philosophy and approach to the law, which her conservative colleagues often ignored.

We saw this time and again in Justice Ginsburg's classic dissents in cases like Shelby County v. Holder, Ledbetter v. Goodyear Tire, and Epic Systems v. Lewis. Judge Barrett sees things much differently.

When my Democratic colleagues and I pressed her about how she would take the real-world impact of millions of people losing access to healthcare into account, she said those are ''policy consequences'' for Congress to address.

She also tried to parry our questions by using terms like ''severability'' and testifying that protections for people with preexisting conditions were not at issue in the Trump administration's lawsuit. She ignored the fact that more than 100 million people with preexisting conditions would be harmed if the lawsuit succeeds.

Not an issue? Give me a break.

My Republican colleagues hope that the American people will accept these weak attempts to divert our attention, but they can't obscure the real human costs of striking down the ACA. It is why my Democratic colleagues and I have shared the stories of people Judge Barrett would harm when she votes to strike down the ACA.

I want to share their stories again because their lives are what is at stake in this nomination fight.

Jordan Ota, an elementary school teacher from Ewa Beach, has PNH—a very rare blood condition. To treat it, she receives infusions of a medication that costs around $500,000 per year without insurance. If Judge Barrett strikes down the ACA, Jordan's insurance company could put a lifetime cap on benefits, leaving her without coverage for her lifesaving medication. Jordan's father Dean told me that ''without the medicine, she will die.''

Kimberly Dickens from Raleigh, NC, couldn't afford health insurance until the Affordable Care Act became law. Kimberly used her new insurance to get a checkup and a mammogram that found her breast cancer. With her health insurance, Kimberly was able to get a mastectomy and has been cancer-free ever since. Kimberly said:

> The ACA saved my life. . . . It scares me to think: If I didn't have insurance, how far advanced would the cancer have grown?

These powerful stories demonstrate the real-world danger of Amy Barrett's judicial philosophy if she is confirmed to the Court. But their healthcare is not the only fundamental right at risk for Americans. We know this because Judge Barrett has also aligned herself with the conservative wing of the Court, long led by her mentor, Justice Scalia.

At her nomination ceremony, Judge Barrett announced that Justice Scalia's ''judicial philosophy is mine too.'' Aligning herself so closely with Justice Scalia has implications for a whole host of rights and protections the Court has granted over the years.

Justice Scalia, for example, wrote dissents in the landmark cases recognizing LGBTQ rights from Romer v. Evans to Lawrence v. Texas, and United States v. Windsor. Most recently, he wrote a dissent in Obergefell v. Hodges, sharply criticizing the majority for recognizing a right to same-sex marriage that in his originalist view was not in the Constitution.

Because Judge Barrett calls herself an originalist and shares Justice Scalia's judicial philosophy, his decisions provide a preview of how she would have ruled in those cases.

For example, although the Supreme Court has already affirmed marital

rights for LGBTQ Americans, Judge Barrett's radical views on precedent put these rights at risk. Judge Barrett has argued that as part of her duty, a Justice should ''enforce her best understanding of the Constitution rather than a precedent she thinks clearly in conflict with it.''

Clearly, Judge Barrett's confirmation would put Obergefell at risk, and her would-be colleagues on the Court have taken notice.

During this nomination process, Justices Thomas and Alito—also originalists—released an alarming statement in Davis v. Ermold, which the Court declined to review. But these two Justices criticized Obergefell for ''read[ing] a right to same-sex marriage into the 14th Amendment, even though that right is found nowhere in the text.''

In effect, these two Justices invited a challenge to Obergefell by calling it ''a problem that only [the Court] can fix.''

This type of signaling is a dangerous and increasingly common practice among the Court's conservative wing. By making their views known in this way, these Justices are inviting would-be litigants to bring challenges to the Court so the Court can then use those challenges to invalidate landmark precedent, which is what happened in Janus v. AFSCME.

As a member of the Seventh Circuit, Judge Barrett has also demonstrated a willingness to signal her views on precedent that could have significant implications if she is confirmed to the Supreme Court.

One example came in Price v. City of Chicago, where Judge Barrett joined a decision that upheld the so-called abortion clinic buffer zone law. The decision made clear that her circuit court was forced to uphold this law under the Supreme Court precedent, but it signaled a strong disagreement with that precedent. The decision, which she joined, criticized the precedent as ''incompatible'' with the First Amendment and ''impos[ing] serious burdens.''

Judge Barrett's alignment with Justice Scalia, her radical views on Supreme Court precedent, and her disregard for real-world impacts on her decision making as a judge show how many rights and protections are at risk: LGBTQ rights, voting rights, women's equality, healthcare—you name it.

These rights didn't just materialize out of thin air. They came after hard-fought battles and tremendous sacrifices from trailblazers like Patsy Mink and Ruth Bader Ginsburg.

When Patsy called the Supreme Court ''the final guardian of our human rights'' that ''sustains the basic values of our society,'' she deeply understood what that meant—for women's equality, for civil rights, and for so many other rights.

Republicans understand that clear majorities of Americans support the ACA, a woman's right to choose, and the right for LGBTQ couples to marry. Yet, because Republicans fear they are losing the election, they are erasing Judge Barrett's nomination through a hypocritical and illegitimate process to put her on the Court for life before voters can make their voices fully heard.

But we have all seen the news coverage of thousands of voters standing in line for hours on end in the cold and rain to make sure their voices are heard and their votes are counted.

Clearly, the voters understand what is at stake. They are doing their part. Now it is time for the Senate to do ours by rejecting Judge Barrett's nomination to the Supreme Court.

By doing so, we can stand up for what Patsy Mink called the ''basic values of society'' and against Donald Trump and Senate Republicans' assault on healthcare, a woman's right to control her own body, and LGBTQ rights, among so many others.

This nomination fight is close to being over, but the broader fight for the future of our Nation continues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise today to express my strong opposition to the nomination of Amy Coney Barrett to replace Justice Ruth Bader Ginsburg as an Associate Justice of the U.S. Supreme Court.

The Senate has never confirmed a Supreme Court nominee while a Presidential election was already underway. Indeed, this is the situation before us with early voting taking place in multiple States and over 50 million ballots already cast. So while those in the far-right fringe might be cheering these lifetime appointments, the vast majority of Americans are the ones who lose out, and they do not get a fair say.

Make no mistake. Today's vote isn't about one individual; it is about taking away healthcare from 20 million Americans in the midst of a pandemic. It is about eliminating protections for people with preexisting conditions that over 100 million Americans depend upon. And that is what we fear happening once this vote is cast, the lifetime appointment is given, and the case is heard after the election.

President Trump and his allies purposely set the schedule that way. They didn't want American voters to have any recourse to take out their anger at those responsible for taking away their healthcare.

My Republican colleagues should listen to their own words. Go back and look at what you said about Merrick Garland and apply it consistently.

Our fidelity is to the Constitution, not a caucus, not to the Federalist Society, not to special interests. Everyone deserves equal justice under the law. The Supreme Court was not designed to become an extension of the Republican National Committee.

The chairman of the Judiciary Committee pledged, in his own words: ''If an opening comes in the last year of President Trump's term and the primary process has started, we'll wait till the next election.''

The obvious truth is Republicans broke their word. This process itself is broken. Their pattern of obstruction and abusive partisanship over the years threatens the credibility of the Supreme Court and pushes Senate norms of fairness and accountability beyond the brink.

My decision, however, to oppose this nomination rests not only on this unprecedented use and abuse of power but also on the standard that I have applied to nominees of the Supreme Court on numerous occasions. It is a simple test—one drawn from text, the history, and the principles of the Constitution.

As I have said during previous confirmations, a nominee's intellectual gifts, experience, judgment, maturity, and temperament are all important. But these alone are not enough.

In addition, a nominee to the Supreme Court must live up to the spirit of the Constitution. A nominee must not only commit to enforcing the laws but to doing justice. A nominee must give life and meaning to the great principles of the Constitution: equality before the law, due process, freedom of conscience, individual responsibility, and the expansion of opportunity.

It is these principles that ensure full and fair and equal participation in the civic and social life for all Americans. A nominee to the Supreme Court must make these constitutional principles resonate in a rapidly changing world.

My colleagues on the Judiciary Committee spent a great deal of time and effort questioning Judge Barrett and trying to elicit responses about her basic worldview and judicial philosophy. Unfortunately, her answers were largely nonresponsive, and, at times, she demurred on issues on which she herself had already made public statements.

Despite her lack of responsiveness, Judge Barrett's judicial record and public statements suggest that she does not meet my test, and her placement on the Supreme Court will further tilt the Court away from these constitutional principles.

In understanding how Judge Barrett would not meet my test, I am cognizant that she will follow in the mold of her mentor Justice Antonin Scalia, with whom she shares an originalist approach to constitutional interpretation.

In her article titled ''Congressional Originalism,'' Judge Barrett talks about the core principles underpinning originalism. The first principle, she writes, is that ''the meaning of the constitutional text is fixed at the time of its ratification.'' The second is that ''the historical meaning of the text 'has legal significance and is authoritative in most circumstances.' ''

The trouble is that the Founders and Framers did not leave us a blueprint to

answer every new question of law. Nor did the delegates to the Constitutional Convention demand that all future judges be ''originalists.'' The laws and norms when the Constitution was ratified would alienate and exclude many Americans today, particularly women and racial and other minority groups.

We have seen the devastating effects of the originalist line of thinking in the Supreme Court's recent history. A focus on this mode of interpretation has played a crucial role in undoing labor rights, curtailing environmental regulations, and allowing unlimited dark money to influence politics. In the end, a strict originalist approach tends to favor the executive over the individual, the employer over the employee, and the corporation over the consumer.

Also relevant to whether Judge Barrett passes my test is her criticism of stare decisis, a core concept in Supreme Court jurisdiction under which a court generally adheres to its prior decisions—absent a special justification more than a belief that the precedent was wrongly decided.

Part of the reason that maintaining precedent is so important is that it ensures the rule of law and legitimacy of the judicial process. As Alexander Hamilton explained in Federalist No. 78, there is a long tradition of being bound by precedent, in his words, ''[t]o avoid an arbitrary discretion in the courts.''

A practical reason for following precedent is that—once it goes into effect, people then organize their lives based on the law and make decisions with the assumption that that law will stay in place.

The public expects judges to understand this need for stability and to approach the law with the appropriate humility and respect for its authority. They do not want judges to elevate their own views over the law or to change the law simply because the composition of the court changes.

That is why, in deciding to overrule precedent, a court generally undergoes a serious analysis of numerous factors, including its consistency with other decisions, the reliance interests at stake, and historical developments since the decision in question.

Therefore, I am troubled that Judge Barrett's writings indicate that she is more likely to see opportunities to revisit precedent than other judges. In an article titled ''Precedent and Jurisprudential Disagreement,'' Judge Barrett argues that there is a weaker presumption of stare decisis in constitutional cases, which could make these cases more vulnerable to review.

In another article titled ''Stare Decisis and Due Process,'' Judge Barrett argues that the current standard of stare decisis has become too rigid in modern times and favors a more flexible stance on reexamining precedent.

In particular, I take seriously that Judge Barrett indicates that she is more willing to elevate her originalist interpretation over precedent. Overall, when there is a tension between precedent and jurisprudential commitment, Judge Barrett writes that she, in her words, ''tend[s] to agree with those who say that a justice's duty is to the Constitution and that it is thus more legitimate for her to enforce her best understanding of the Constitution rather than a precedent she thinks is clearly in conflict with it.''

She similarly casts doubt on the importance of reliance interests—which are the interests of stakeholders that depend on the continuity of an affirmed law or right—stating that ''when precedent clearly exceeds the bounds of statutory or constitutional text, reliance interests should figure far less prominently in a court's overruling calculus.''

Judge Barrett's views on originalism, textualism, and stare decisis could bring about a seismic shift to the Supreme Court, reshaping modern American life and weakening rights to which many Americans have become accustomed. Given that Judge Barrett's approach is shared by several of her future colleagues, she will help move the Court's center of gravity to the far right.

I will now walk through issues in Judge Barrett's judicial record that inform how she, in conjunction with fellow conservative judges, could and likely will rule on future cases.

I am deeply troubled about the implications of this nomination on the Affordable Care Act, the ACA. The ACA has given individuals and families control over their own healthcare and has brought the uninsured rate to a historic low. The ACA has been the law of the land since 2010 and is now woven into the fabric of our healthcare system.

Despite consistent sabotage of the ACA by the Trump administration, premiums for health insurance plans on the individual marketplaces have decreased for the second year in a row. Yet President Trump and my Republican colleagues want to repeal the ACA in its entirety, taking with it protections for people with preexisting conditions, bans on lifetime and annual limits on coverage, billions of dollars in tax credits to make coverage more affordable, and efforts to close the doughnut hole for seniors needing prescription drugs, just to name a few key provisions.

The ACA is a relevant—indeed, critical—aspect of the nomination because the Supreme Court will begin hearing oral arguments in the case of California v. Texas on November 10, which will decide the fate of the ACA. This is not a theoretical debate over how Judge Barrett may interpret a case in the future. This is a real case that could eliminate health insurance coverage for millions of Americans and increase costs for everyone in the next year.

It is no surprise that my Republican colleagues are breaking with their own precedent to consider this nominee with a week to go until the election. This is their chance to repeal the ACA once and for all.

In fact, President Trump has said many times over in the last several months that he hopes the ACA is overturned by the Supreme Court, referring specifically to this case. And don't just take his word for it. The Department of Justice, under his leadership, has taken the extraordinary step of deciding against defending the law of the land, the ACA, and instead siding with the plaintiffs in arguing that the ACA and its protections for people with preexisting conditions, among other provisions, is unconstitutional. President Trump and congressional Republicans are very clear about their intentions. They want to repeal the ACA. They have been saying it for a decade.

They failed to do it when they had complete control of the White House and Congress because of overwhelming public opposition to their efforts and a few brave votes. They are relying on the Supreme Court to do their dirty work for them and get rid of the ACA. They even petitioned to have the case heard by the Supreme Court after the election, knowing that the American people would not be happy if the Court decided in their favor and struck down the ACA.

It is not hard to follow the logic here. President Trump and congressional Republicans have been working methodically to lead us to this moment for years.

Now I will return to the nominee for a moment. President Trump has made it clear that he intends to have the courts do his bidding for him and has committed to nominating judges who will side with him.

In her hearing, Judge Barrett refused to discuss how she may handle a case on the ACA. However, in early 2017, she authored an article criticizing the ACA, specifically arguing that the 2012 Supreme Court case, NFIB v. Sebelius, was wrongly decided when a 5-to-4 majority ruled that the ACA's individual mandate was, in fact, constitutional. In particular, Judge Barrett criticized Chief Justice Roberts' deciding vote in that case, claiming that he ''pushed the Affordable Care Act beyond its plausible meaning to save the statute.''

Instead, Judge Barrett has praised her mentor, the late Justice Scalia, in his criticism of the ACA, as displayed in his dissents in both the NFIB case as well as the case of King v. Burwell, related to the tax credits provided by the ACA.

So while the nominee has not said how she may rule in the case of California v. Texas on whether the ACA is constitutional, she didn't have to. We already know that, had she been on the Court in 2012 when NFIB v. Sebelius was decided or in 2015 when King v. Burwell was decided, she likely would have voted to invalidate key elements or all of the ACA.

Between her public writings and President Trump's commitment to appointing judges who are hostile to the ACA, I don't think it is a stretch to imagine how a future Justice Barrett may vote in California v. Texas. The stakes for millions of Americans are just too high to support this nomination to the Supreme Court.

I am also concerned by Judge Barrett's extreme views on the Second Amendment and the constitutionality of limits on gun possession. To understand her position, one must first understand the test set in District of Columbia v. Heller. This case involved a challenge to the District of Columbia laws that generally made it unlawful to possess an operable firearm in the home.

Justice Scalia authored the majority's opinion and was joined by Justice Roberts and Justices Thomas, Kennedy, and Alito.

In Heller, the Supreme Court struck those laws down and affirmed the right to keep guns in the home for self-defense, while making clear that rights secured under the Second Amendment are not unlimited. The Court provided a nonexhaustive list of gun restriction laws that were presumptively lawful, including prohibitions on firearms possessed by felons and the mentally ill.

However, in the case Kanter v. Barr, Judge Barrett filed a dissent laying out a rationale that could lead to the striking down of even commonsense gun restrictions. In this case, the plaintiff was convicted of felony mail fraud and was subsequently prohibited from possessing a firearm under both Federal and State law.

When he challenged these laws as violating the Second Amendment, the majority concluded that Federal and State governments were entitled to bar firearms possession by people convicted of felonies. Judge Barrett disagreed and concluded that barring nonviolent felons from possessing firearms is not allowed under the Second Amendment. She reasoned that, in her words, ''History does not support the proposition that felons lose their Second Amendment rights solely because of their status as felons. But it does support the proposition that the state can take the right to bear arms away from a category of people that it deems dangerous.''

Her position lies outside the widely accepted view that gun restrictions for public safety are constitutional under the Second Amendment. Her opinion puts her to the right of Justice Scalia, who delivered the majority opinion in Heller.

Her vote in Kanter makes it more likely that Judge Barrett would vote to strike down similar restrictions on firearm possession, even by individuals with serious criminal histories. This outcome alone is concerning.

Beyond that, her views, coupled with the originalist approach to the Second Amendment endorsed by several sitting Justices, portend that a conservative majority could create stricter standards of scrutiny for Second Amendment cases.

It is important to note that Justice Ginsburg joined other Justices in declining opportunities to revisit Heller's application. That includes the denial of ten certiorari petitions this past term that called for the Court to review, and possibly invalidate, challenges to State gun safety laws, including State concealed-carry laws, gun permit requirements, and assault weapons bans.

Given that only four votes are needed to grant certiorari review, Judge Barrett could play an important role in deciding whether the Supreme Court adds Second Amendment cases to its docket. This could generally put commonsense gun safety laws, even those that have been upheld for years, at an increased risk of being overturned.

Furthermore, as part of a conservative majority, Judge Barrett could initiate major rollbacks of privacy rights in one's own home life. During her confirmation hearings, Judge Barrett declined to say whether the Supreme Court cases—Griswold v. Connecticut, Lawrence v. Texas, and Obergefell v. Hodges—were correctly decided. The Griswold case from 1965, in particular, is a foundational case in this arena. Griswold, holding that marital privacy extends to the right to buy and use contraception, led to cases extending privacy in other reproductive decisions. In her refusal, Judge Barrett took a departure from past nominees who have affirmed that Griswold is settled law, including Chief Justice Roberts and Justices Alito, Kavanaugh, and Kagan. Instead of giving a straightforward answer, Judge Barrett contended that it is unlikely that a related case would come before the Court and tried to frame this issue as well settled. However, in Little Sisters of the Poor V. Pennsylvania, it is notable that the Supreme Court has very recently allowed Trump administration rules to go into effect, allowing virtually any employer to deny contraceptive coverage based on religious and moral objections. Therefore, it is clear that this issue is not beyond dispute and could come back before the Court.

Obergefell and Lawrence were landmark cases that established privacy rights around marriage and intimate relations between consenting adults, regardless of their genders. While it may be unthinkable that these and similar rights, which are integral to a person's ability to construct their personal and family lives, could be undermined, there are worrying indications that they may come again before the Court.

Just this month, Justices Thomas and Alito wrote that they see Obergefell—which granted the right to same-sex marriage—as something the Court needs to fix and that the decision has had ''ruinous consequences for religious liberty.''

Given that Justice Ginsburg was a crucial vote in the Obergefell 5-to-4 opinion, it is conceivable that a 6–3 conservative Court could chip away at equality were these rights to be relitigated.

A conservative Court may also act as a bulwark against further expanding privacy protections in family life. For example, a case is set to come before the Court this term, Fulton v. Philadelphia, in which private agencies that receive taxpayer funding to provide government services, such as foster care agencies, could be determined to have a constitutional right to deny services to persons on the basis of sexual orientation.

The next area of concern is how Judge Barrett's record will impact workers' rights. Unfortunately, Judge Barrett has a record of voting in favor of business interests. Judge Barrett voted to reject an en banc review in Equal Employment Opportunity Commission v. AutoZone, regarding an employer's policy of assigning Black and Latino employees to stores in neighborhoods with people predominantly of their same race—creating a ''Black store'' and a ''Hispanic store.'' Judge Barrett's colleague who dissented called this a ''separate but equal arrangement''—a type of unlawful discrimination, which was well settled by Brown v. Board of Education.

During her confirmation hearings, she agreed that Brown was correctly decided and beyond overruling. However, Judge Barrett's decision in AutoZone indicates she is willing to accept racially segregated actions by an employer, even when they would be difficult to reconcile with the core holdings of Brown.

In another discrimination-related case, Kleber v. CareFusion, Judge Barrett joined the en banc decision allowing an employer to post a job application with maximum years of experience, essentially barring applicants older in age. The majority took a narrow view that the ambiguous language of the Age Discrimination in Employment Act did not apply in this case, reasoning that it applied only to current employees and not to job applicants.

In both AutoZone and Kleber, Judge Barrett has opened the door for employers to run afoul of our country's civil rights laws. This is particularly concerning because the Supreme Court will likely take up cases deciding who is protected from workplace discrimination. For example, the Court could face legal challenges in the wake of Bostock v. Clayton County, which confirmed that title VII of the Civil Rights Act prohibits employers from discriminating against LGBTQ people. The majority's opinion, however, warned that future cases will determine whether businesses could use religious freedom claims to ''supersede Title VII's commands.''

Judge Barrett had additionally ruled against employees and gig workers by limiting their ability to hold employers accountable through collective arbitration in the cases, Herrington v.

Waterstone Mortgage and Wallace v. Grubhub Holdings. Given that disputes around the rights of gig economy workers and the prevalence of forced arbitration agreements are only increasing, related cases are likely to come before the Supreme Court. It is notable, in coming to her conclusion in Grubhub, Judge Barrett cited Epic Systems v. Lewis, in which the Supreme Court held that arbitration agreements in which an employee agrees to arbitrate any claims against an employer on an individual basis—rather than as a class—are enforceable. In that case, Justice Ginsburg took the rare step of reading a particularly strong dissent from the bench, saying that the Court's ruling was ''egregiously wrong'' and ''holds enforceable these arm-twisted, take-it-or-leave-it contracts—including the provisions requiring employees to litigate wage and hours claims only one-by-one.'' Were a similar case to come before the Supreme Court again, it is likely that Judge Barrett and a conservative majority would take a sharp turn away from Justice Ginsburg's legal position and make it harder for workers to get their day in court.

I am further concerned that a 6–3 conservative majority Court could have a drastic impact in limiting voting rights. Voter suppression has a long history in this country, with Black voters being subjected to violent intimidation and legally sanctioned disenfranchisement. In recognition of this history and after decades of activism on the part of many, President Lyndon B. Johnson signed the Voting Rights Act, which in part required jurisdictions with a history of discrimination to get approval before changing its voting rules. This process, known as preclearance, was intended to prevent voter discrimination before it occurred. This law had an immediate and positive impact in increasing Black voter registration and turnout in the decades after it passed.

However, in Shelby County v. Holder, the Supreme Court's conservative members argued in a 5-to-4 ruling that the preclearance formula was no longer necessary and outdated, exactly because it was successful. In her dissent, Justice Ginsburg famously pointed out the absurdity of the majority's reasoning. She wrote that ''throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.'' Predictably, the ruling in Shelby opened the floodgates for States to enact restrictive and insidious voting laws, including strict voter identification, excessive voter purging, and gerrymandering. In the wake of Shelby, the awesome power of the Supreme Court to restore or further damage voting rights has become apparent.

That is why it is troubling that in her dissent in Kanter—which I have already referred to—Judge Barrett framed the right to vote as a lesser right and argued for States' ability to limit civic participation. As I explained earlier, in the Kanter case, she disagreed with the majority's opinion that found that all individuals with felony convictions could be legally restricted from possessing a firearm. The majority reasoned that Second Amendment protections belong to virtuous citizens, meaning that persons who commit serious crimes may forfeit those rights. Judge Barrett used this opportunity to elevate the importance of Second Amendment rights in contrast with voting rights. After evaluating the historical record, she concluded that ''while scholars have not identified eighteenth or nineteenth or century laws''—and it is interesting to note that we are being guided by 18th and 19th century laws under Judge Barrett's legal theories. ''While scholars have not identified eighteenth or nineteenth century laws depriving felons of the right to bear arms, history does show that felons could be disqualified from exercising certain rights—like the rights to vote and serve on juries—because these rights belong only to virtuous citizens.''

She explained that, in her view, gun rights are individual rights conferred by the Second Amendment, and exclusions on nonvirtuous citizens do not apply to individual rights. Judge Barrett then distinguished the right to vote and sit on juries as belonging in a different category called ''civic rights.'' She upheld the ability of States to limit this class of rights based on virtue exclusions. In doing so, she cited a history of State laws going back to 1820 that excluded felons from voting. Judge Barrett, however, failed to include in her analysis the very history of voter discrimination that led to the passage of the Voting Rights Act and which would have given important context to the laws that she cited, which sought to disenfranchise individuals with criminal records.

I am also concerned because Judge Barrett refused to answer several questions on voting and elections during her confirmation hearings. Even when asked to confirm voter protections already enshrined in Federal law, she was not able to give a straightforward answer. These exchanges gave me pause that Judge Barrett has not displayed an appreciation for the norms that make our democratic and electoral institutions function.

I would next like to focus on Judge Barrett's potential in limiting the authority of the Federal and, indeed, State governments. If confirmed to the Supreme Court, Judge Barrett's judicial philosophy of originalism is poised to diminish the role of Congress as effective policymakers. This method of interpretation could disregard the commonsense application and spirit of Federal laws. An example of this is the case I discussed earlier, NFIB v. Sebelius, where the Court decided with a 5–4 majority that the ACA's individual mandate is constitutional. The Court, however, created a new limitation on Congress's authority to act under the Commerce Clause. Using an originalist approach, the Court found that Congress can regulate commercial activity but rejected the idea it could compel an individual to engage in it. The majority did uphold the Congress's power to do so under its article I powers to levy taxes. Alarmingly, four dissenting Justices—Justices Scalia, Thomas, Kennedy, and Alito—expressed the view that neither the Commerce Clause nor Congress's taxing powers supported the individual mandate. I will note that, had Judge Barrett been on the Court, she likely would have joined the dissenting Justices, and this case might have gone the other way.

The implications of this case are significant. Taken together, Chief Justice Roberts' opinion and the dissent are centered around the idea that the use of a Commerce Clause and/or Congress's taxing power under the ACA was a major legislative overreach. It signals that the Court increasingly sees these and potentially other congressional authorities as having more limits. So in the future, when Congress tries to use its power for a novel purpose, it may be susceptible to challenges in the courts. If the Court continues to shift in this direction, it will have consequences for Federal legislation beyond the ACA. As a result, Congress's authority to robustly address climate change, civil rights, new technology, and other national challenges through legislation could be stymied or diminished over time.

And with Judge Barrett's fascination with the exact meaning of the original writers of the Constitution, I wonder what their thoughts were about nuclear energy, satellites in space, a U.S. Air Force, which was not specifically authorized in the Constitution. I think we will find ourselves in a very difficult position where when we face the challenges of climate change, cyber warfare, that a Court that looks back will not grant Congress the authority to protect the American people.

Also limiting the authority of the Federal Government, a 6-to-3 conservative majority could take on a more aggressive judicial review of agency actions. Several members of the Supreme Court have already called for the reconsideration of the Chevron decision. This is a legal doctrine that instructs the Federal judiciary to defer to a Federal agency's reasonable interpretation of an ambiguous or unclear statute that it administers.

If the Supreme Court overturns the Chevron deference, it could strike down agency rules that do not comport with the Court's interpretation of the statute. This could make toothless environmental, food and drug safety, labor, and a host of other regulations enacted for the benefit of the workers and consumers. It would also shift the Court's decisions in favor of the corporate and

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.

I was necessarily absent but had I been present would have voted no on rollcall vote 221, on the Motion to Recess.

REMEMBERING ELLEN M. BLOOM

Mr. VAN HOLLEN. Mr. President, earlier this year we lost one of our Senate alumnae—a constituent and a personal friend—Ellen Michelle Bloom. She was a devoted mother and wife, who dedicated her career to public service and advocating for consumers. While she was not a household name, her 40–year career has benefited the lives of millions of Americans.

Ellen began her extraordinary career while a student at the University of Maryland, interning for Senator John Tunney before joining the staff of a newly elected Senator, Howard Metzenbaum. Her first job was in the mailroom, answering constituent mail, learning about the concerns of Ohioans and figuring out how to navigate the bureaucracy.

Over the ensuing 18 years on Senator Metzenbaum's staff, Ellen rose through the ranks, at a time when female aides were a distinct minority, to become his legislative director and an expert in consumer protection. As her many friends and colleagues have written in the months since her passing at age 65, Ellen was not interested in attention; she was only interested in results. A long-time friend and colleague wrote of Ellen, ''It's amazing how much you can get done when you don't care who gets the credit.'' That was Ellen.

From provisions in the 1984 Cable Act mandating Equal Employment Opportunity standards, to promoting children's television legislation, to regulations requiring lavatories on commuter airplanes, to warning labels on large buckets designed to protect small children from drowning, Ellen's work was far-reaching. She advocated for the use of car seats and bicycle helmets and was among a small group who sought to bridge the ''digital divide'' long before it became a popular phrase. She believed in equality and fairness and sought ways to incorporate these principles into public policy.

When Senator Metzenbaum retired, Ellen was recruited to join the Clinton administration, first at the National Telecommunications and Information Administration, then as the Commerce Department's Deputy Assistant Secretary for Legislative Affairs, and lastly as Deputy Chief of Staff for Commerce Secretary William Daley, where her responsibilities included the 2000 Census.

Following her public service career, Ellen joined the Washington staff of Consumer Reports. As Director of Federal Policy and head of the D.C. office, she led the organization's advocacy in support of the Affordable Care Act, fought for stricter vehicle emission standards, promoted expanded consumer product labeling, and worked on many other issues that protected the safety and health of American consumers.

At a time when so many question the ability of the government and public advocacy to improve the quality of life for our citizens, Ellen's work stands as an antidote to cynicism. She recognized that the work of democracy is hard but always had faith that we could make progress.

Her legacy of good works is a testament to that conviction and an inspiration for all. She was also an example of how to face adversity with courage and fortitude.

While her professional accomplishments were many, her greatest pride was her family: her husband David Bushnell and their children Michael and Jenna Bushnell, her many nieces and nephews, her brother and sister-in-law, her cousins spread across the country. Her life was too short—way too—short; but it was full of love and rich in the ways that gave it depth, joy, and consequence.

We were lucky to have such a dedicated and passionate public servant. I was fortunate to count Ellen as a dear friend. She made our country a better, safer place. She may be gone, but her many accomplishments live on and will continue to protect and benefit Americans for generations to come. We need many more Ellen Blooms, but she was one of a kind.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5755. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clofentezine; Pesticide Tolerances'' (FRL No. 10015–25–OCSPP) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5756. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Dipropylene Glycol and Triethylene Glycol; Exemption from the Requirement of a Tolerance'' (FRL No. 10015–39–OCSPP) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5757. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Indoxacarb; Pesticide Tolerances'' (FRL No. 10012–78–OCSPP) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5758. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mefenoxam; Pesticide Tolerances'' (FRL No. 10012–87–OCSPP) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5759. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticides; Agricultural Worker Protection Standard; Revision of the Application Exclusion Zone Requirements'' (FRL No. 10016–03–OCSPP) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5760. A communication from the Secretary of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Registration with Alternative Compliance for Non-U.S. Derivatives Clearing Organizations'' (RIN3038–AE87) received in the Office of the President of the Senate on October 21, 2020; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5761. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to various countries; to the Committee on Banking, Housing, and Urban Affairs.

EC–5762. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the 2019 Annual Report of the Securities Investor Protection Corporation (SIPC); to the Committee on Banking, Housing, and Urban Affairs.

EC–5763. A communication from the Director of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Final Rule—Regulatory Capital Rule: Temporary Changes to and Transition for the Community Bank Leverage Ratio Framework'' (RIN3064–AE47) received in the Office of the President of the Senate on October 21, 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC–5764. A communication from the Acting Deputy Director of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Final Rule—Real Estate Appraisals'' (RIN3064–AF48) received in the Office of the President of the Senate on October 21, 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC–5765. A communication from the Acting Deputy Director of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Final Rule—Regulatory Capital Rule and Total Loss-Absorbing Capacity Rule: Eligible Retained Income'' (RIN3064–AF40) received in the Office of the President of the Senate on October 21, 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC–5766. A communication from the Acting Deputy Director of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Final Rule—Regulatory Capital Rule: Revised Transition of the Current Expected Credit Losses Methodology for Allowances'' (RIN3064–AF42) received in the Office of the President of the Senate on October 21, 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC–5767. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fuels Regulatory Streamlining'' (FRL No. 10014–97–OAR) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Environment and Public Works.

EC–5768. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous and Solid Waste Management System: Disposal of CCR; A Holistic

Approach to Closure Part B: Alternate Demonstration for Unlined Surface Impoundments'' (FRL No. 10015–88–OLEM) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Environment and Public Works.

EC–5769. A communication from the Director of the Legal Processing Division, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Meals and Entertainment Expenses Under Section 274'' (RIN1545–BP23) received in the Office of the President of the Senate on October 21, 2020; to the Committee on Finance.

EC–5770. A communication from the Director of the Legal Processing Division, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Computation and Reporting of Reserves for Life Insurance Companies'' (RIN1545–BO13) received in the Office of the President of the Senate on October 21, 2020; to the Committee on Finance.

EC–5771. A communication from the Director of the Legal Processing Division, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Treasure Decision (TD): Base Erosion and Anti-Abuse Tax'' ((RIN1545–BP36) (TD 9910)) received in the Office of the President of the Senate on October 21, 2020; to the Committee on Finance.

EC–5772. A communication from the Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, a report relative to the Administration's fiscal year 2020 Commercial Activities Inventory and Inherently Governmental Activities Inventory and the Uniform Resource Locator (URL) for the report; to the Committee on Homeland Security and Governmental Affairs.

EC–5773. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 23–418, ''Office for the Deaf, Deafblind, and Hard of Hearing Establishment Amendment Act of 2020''; to the Committee on Homeland Security and Governmental Affairs.

EC–5774. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 22–419, ''Standby Guardian Amendment Act of 2020''; to the Committee on Homeland Security and Governmental Affairs.

EC–5775. A communication from the Associate Bureau Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Call Authentication Trust Anchor'' ((FCC 20–136) (WC Docket No. 17–97)) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Commerce, Science, and Transportation.

EC–5776. A communication from the Deputy Branch Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''8YY Access Change Reform'' ((FCC 20–143) (WC Docket No. 18–156)) received in the Office of the President of the Senate on October 22, 2020; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–244. A resolution adopted by the House of Representatives of the State of Michigan urging the United States Congress to repeal the federal ban on Pell Grants for prison-based education; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 234

Whereas, The federal Pell Grant Program provides need-based grants to low-income undergraduate and certain postbaccalaureate students to promote access to postsecondary education. Pell grants have been helping millions of low-income students across the country access postsecondary education for 45 years; and

Whereas, The federal Violent Crime Control and Law Enforcement Act denied all incarcerated individuals' eligibility for federal financial aid in 1994, making prisoners ineligible to receive Pell grants and therefore less likely to obtain a postsecondary degree while incarcerated. Until 1992, Pell grants were available to incarcerated individuals. As a result, education programs expanded throughout the prison system, and by 1990, there were 772 prison college programs in more than 1,000 correctional facilities; and

Whereas, Postsecondary courses and training for incarcerated people will make them more likely to secure jobs and succeed economically upon release. While currently only 24 percent of people in federal prison have had access to some postsecondary education, 65 percent of all new jobs nationwide now require a postsecondary degree; and

Whereas, Postsecondary education and training programs lead to lower recidivism rates, less crime, and improved public safety. Incarcerated people who participate in postsecondary education and training programs are 43 percent less likely to recidivate than those who do not participate; and

Whereas, Prison education reduces violence within the prison system. Prisons with college programs have fewer violent incidents, which allows corrections officials to do their jobs in a safer environment; and

Whereas, Prison-based education is cost-effective. Every dollar invested in prison-based education yields $4.00 to $5.00 in taxpayer savings in reduced long-term incarceration costs; and

Whereas, Removing the federal ban on Pell grants for prison education would expand access to postsecondary education for people in Michigan's prisons; and

Whereas, Should the surplus for the Pell grant program run low and there is a need to prioritize the awarding of Pell grants, nonprisoner applicants should have priority over prisoner applicants; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to repeal the federal ban on Pell grants for prison-based education; and be it further

Resolved, That copies of this resolution be transmitted to President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–245. A resolution adopted by the House of Representatives of the State of Michigan urging the United States Congress to allocate funding for states that have established broadband expansion block grant programs; to the Committee on Commerce, Science, and Transportation.

HOUSE RESOLUTION NO. 283

Whereas, Broadband internet is a critically important communications method Americans use to connect with one another. Businesses, consumers, workers, and students use the internet for a variety of purposes, making it indispensable in today's society; and

Whereas, During the COVID–19 crisis, the internet has become an even more important and essential tool in providing a means for Americans to connect with work, school, and health care. Ensuring that all Americans have access to broadband services at speeds they need to fully participate in our society is imperative; and

Whereas, Multiple states have established broadband expansion block grant programs to distribute funds to internet service providers for the purpose of building out broadband infrastructure in rural and underserved areas of their states. This includes Michigan's Connecting Michigan Communities grant program; and

Whereas, Congress can assist states working to increase broadband availability to homes, business, and other entities by making funds available to improve and continue expanding broadband infrastructure; now, therefore, be it

Resolved by the House of Representatives, That we urge the Congress of the United States to allocate funding for states that have established broadband expansion block grant programs; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–246. A resolution adopted by the City Council of Atlanta, Georgia urging the United States Senate to appropriate funds to sustain the U.S. Postal Service, and to ensure the Postal Service continues to function as a universal public service; to the Committee on Homeland Security and Governmental Affairs.

POM–247. A resolution adopted by the Bay County, Florida Board of Commissioners, strongly urging the President of the United States and the United States Congress to provide the financial assistance required to aid states and local units of government as they continue to deal with the economic long term effects of Covid-19; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 2074

At the request of Ms. HASSAN, the name of the Senator from Mississippi (Mrs. HYDE-SMITH) was added as a cosponsor of S. 2074, a bill to amend section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) to eliminate the separate registration requirement for dispensing narcotic drugs in schedule III, IV, or V, such as buprenorphine, for maintenance or detoxification treatment, and for other purposes.

S. 3595

At the request of Ms. ROSEN, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor of S. 3595, a bill to require a longitudinal study on the impact of COVID–19.

S. 4349

At the request of Mr. KAINE, the name of the Senator from Michigan (Mr. PETERS) was added as a cosponsor of S. 4349, a bill to address behavioral health and well-being among health care professionals.

S. 4791

At the request of Mr. VAN HOLLEN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 4791, a bill to provide for a Community-Based Emergency and Non-Emergency Response Grant Program.

N O T I C E

Incomplete record of Senate proceedings.
Today's Senate proceedings will be continued in Book II.