

Decades later, when that little boy grew up, Justice Ginsberg officiated at his wedding at the Supreme Court Building.

Her goal was simple but compelling: to make clear that the Fourteenth Amendment's promise of equal protection under the law covers women as well as men. As I said, it was not only women who benefited from her life's work. If you are a man who has been covered by your wife's medical benefits, thank Ruth Bader Ginsburg. If you are a man who has been able to claim Social Security survivor benefits or name a woman as executor of your estate, thank Ruth Bader Ginsburg.

We have not erased all gender-based inequality, as Ruth Bader Ginsburg knew well. And some of the legal victories for equal justice are now threatened. Some have been diminished outright. She also knew that. Her concerns about these threats to hard-won rights was the basis for some of the most famous, fiery dissents—and why this often quiet, soft-spoken woman took the unusual step many times of reading her dissents from the bench. She wanted us to understand what was at stake so that we could join her in the fight.

That is what she did in 2007, in the case of *Lilly Ledbetter v. Goodyear Tire*. The Supreme Court ruled 5 to 4 that a woman who was paid less than her male coworkers for years, doing exactly the same work, could not sue her former employer for wage discrimination.

The woman only learned about the pay gap after she retired, but a conservative majority on the Court ruled that she had lost her chance at justice by failing to sue within 6 months of her first unequal paycheck. In her dissent, Justice Ginsburg challenged Congress to correct this injustice, and we did. The very first law signed by President Barack Obama was the *Lilly Ledbetter Fair Pay Act of 2009*. A framed copy of that signed law hung in Justice Ginsburg's Supreme Court chambers as a gift from President Obama. He signed it with the following inscription: "Thanks for helping create a more equal and just society."

In her dissent in the 2013 *Shelby County v. Holder*, which gutted the heart of the Voting Rights Act, Justice Ginsburg pointed out the awful irony of the majority decision. She wrote that throwing out the need for jurisdictions with histories of voter suppression to clear changes in their voting laws before elections because the laws had already worked was "like throwing away your umbrella in a rainstorm because you are not getting wet."

She was right. Our democracy would be stronger today had just one more Justice on the Supreme Court agreed with her. It is up to Congress now to heed her warning by passing the John Lewis Voting Rights Advancement Act which languishes on the desk of Senator McConnell.

Ruth Bader Ginsburg was a champion of workers' rights, of disability rights,

LGBTQ rights, and environmental justice. And she was a woman who believed deeply that part of America's greatness is the welcome and safety and opportunity that America has offered to immigrants and refugees for most of our history.

Like me, Justice Ginsburg was a child of an immigrant who came to this country partly to flee religious persecution. My mother and her family left Russian-occupied Lithuania partly to escape anti-Catholic persecution.

Ruth Bader Ginsburg's father left Odessa, Russia, for New York when he was 13 to escape anti-Jewish pogroms. Her mother was born in New York 4 months after her family moved from Austria—extended family members later died in the Holocaust.

Justice Ginsburg's mother was like my mother in another way: They were both very intelligent women who were denied their full education because money was tight and because they lived during a time when expectations about what women could achieve were so low.

Like my mother, Celia Ginsburg used to take her child to the public library where she would check out as many books as she could read. She saved her pennies so that her daughter could one day get the college education she was never able to get herself. Celia Ginsburg dreamed that her bright, young daughter might grow up, if she were lucky and worked very hard, to become a high school teacher. Instead, Ruth Bader Ginsburg grew up and changed history. She changed America for the better. America is fundamentally different and fairer as a nation because of the vision and work of Ruth Bader Ginsburg.

I recalled over the weekend, and repeated it to my wife, this amazing statistic; that Ruth Bader Ginsburg battled cancer five times over nearly 20 years and then, of course, lived through the death 10 years ago of her beloved husband Marty, but she almost never missed a day on the bench. She worked through chemo sickness, broken ribs, and terrible pain, but, nevertheless, she persisted.

I want to read you something she said many times. I really liked this.

What is the difference between a bookkeeper in New York's garment district and a Supreme Court Justice? One generation—my own life bears witness. The difference between the opportunities available to my mother and those afforded me."

Ruth Bader Ginsburg did not simply take opportunities afforded to women. More than perhaps any American in history, she helped create those opportunities.

Loretta and I offer our deepest condolences to her friends and to her family, especially her daughter Jane and her son James, who now calls Chicago home, and her grandchildren and her great-granddaughter.

May her memory be a blessing and may her life be a guiding light for all of us.

SUPREME COURT NOMINATIONS

Madam President, Americans across the Nation were shocked and devastated when they heard the news of Justice Ginsburg's passing. It was a moment we will not forget. The gravity of that announcement hit hard not just because of the loss of a national icon but also because of the sense of foreboding of what would happen next, right here in this Chamber, in the U.S. Senate.

The year 2020 has already brought us so much pain and anguish. The pandemic has killed 200,000 Americans, sickened over 6 million; devastating job losses and economic damage; a long overdue national reckoning over racial injustice; deadly wildfires and natural disasters destroying communities; and a President, sadly, who seeks to divide and inflame instead of uniting America and bringing us together in common purpose.

Justice Ginsburg saw the tension that her absence from the Court would cause. Shortly before she passed away, Justice Ginsburg said: "My most fervent wish is that I will not be replaced until a new President is installed."

Unfortunately, Justice Ginsburg's last request is falling on deaf ears in the Senate Chamber. Shortly after the news of her death, Senator McConnell announced that he would hold the Supreme Court vote this year. Here is what Senator McConnell, then leader of the Senate, said:

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.

These are the words of Senator MITCH McConnell. That statement is very clear and unambiguous. Senator McConnell made it 269 days before the Presidential election, the so-called McConnell rule. This was a firm precedent establishing that Senate Republicans would not consider a Supreme Court nominee in an election year.

President Barack Obama sent the name of Judge Merrick Garland from the DC Circuit to the Senate for a hearing and a vote. The treatment he received from the Senate was disgraceful. Senator McConnell announced he would not even give him the time of day, nor meet with him in his office, and he admonished those Republican Senators who did. Merrick Garland was being shunned by Senator McConnell because of his rule, the McConnell rule: No "vacancy should be filled until we have a new president."

In his determination to show that this principle would prevail, he shunned Merrick Garland. Well, it turns out that this rule of law, this McConnell rule that guided the Senate 4 years ago, was not as sacrosanct as one might think. A nation guided by a rule of law cannot have one set of rules under Democratic Presidents and another set under Republican Presidents. That is just what Senator McConnell called for on Friday.

Shortly after the news—a short time after the news of Justice Ginsburg's

passing, Senator MCCONNELL said: “President Trump’s nominee will receive a vote on the floor of the United States Senate.” In direct violation of his own statement 4 years ago, Senator MCCONNELL said that within hours after the announcement of the death of Justice Ginsburg. When Senator MCCONNELL made that statement, we were only 46 days from the election. People in many States had already started casting their votes.

Senator MCCONNELL’s justifications for breaking his own rule simply don’t stand up to scrutiny—distinctions without any difference—and they have never stood up to common sense.

Senator MCCONNELL clearly said, when he laid down the McConnell rule on February 13, 2016, that the American people should have the last word and that election-year Supreme Court vacancies should be filled in the next Presidential term. There were no caveats, no exceptions, and no amendments. He stated it clearly in just a handful of words.

Now Senator MCCONNELL claims that whether or not the American people have a voice should depend on which party controls the Senate. Now his party controls the Senate, and his party has the President. And the rule—the so-called McConnell rule—that we were to live by apparently is being rejected by Senator MCCONNELL himself. He says that what Republicans did in 2016 was acceptable because the Senate at that time was controlled by Republicans and a different party was in the White House that year—a distinction without a difference. Why should the composition of the Senate dictate whether the American people should have a voice in the selection of the next Supreme Court Justice? You could just as easily point out that 2016 was different because we had a President, Barack Obama, who actually had won the popular vote, unlike the current President. Should that fact resolve whether the American people get a voice in the Court’s future?

Either the American people do get an election-year voice regarding the future of the Court or they don’t. In 2016, Senator MCCONNELL said they do. Now he says they don’t. It is a flip-flop, plain and simple, because it is to his personal political advantage to reverse this stated principle.

The Republican effort to point to Senator Harry Reid for changing the Senate rules for lower court nominations is no justification. The reality is that Senator Reid was responding to an unprecedented Republican obstruction of President Obama’s nominees, and Senator Reid made a point of not changing the rule—the 60-vote requirement—when it came to Supreme Court confirmations. It was Senator MCCONNELL who did that in 2017.

While Senate rules do change from time to time, you certainly can’t have rules that depend on whether it is a Republican or a Democratic President or a Republican or Democratic Senate.

That is exactly what Senator MCCONNELL is calling for.

So here is what it comes down to: In 2016, Senator MCCONNELL said the people should get the voice through an upcoming election because that outcome at the moment was better for his Republican agenda of controlling the Court. In 2020, Senator MCCONNELL reversed himself and said the people should not get a voice through the upcoming election because that outcome is better for the Republicans today.

Let’s be clear. This is not about rules or principle or comity; this is about raw partisan power. The hypocrisy is bad enough; what makes it worse is that it is hypocrisy which is so evident to the American people at this moment in history.

What is at stake here? Is this just a matter of the battle of the giants in Washington, the big shots screaming at one another in the news through the media, or is there more to it? It turns out there is much more.

Let’s start with healthcare. This November, the Supreme Court will hold arguments in a case in which the Trump administration and Republicans are arguing that the Affordable Care Act should be struck down in its entirety. There are 20 million Americans who have health insurance under the Affordable Care Act, and every health insurance policy sold in America is subject to the law of the Affordable Care Act. If the Supreme Court does what the Trump administration and the Republicans are asking it to do, 20 million Americans could lose their healthcare coverage—600,000 of them in my State of Illinois—and tens of millions of Americans with preexisting conditions, including 5 million in Illinois, would lose protections the Affordable Care Act currently gives them.

There have been 6 million Americans, remember, who have been diagnosed with positive results from COVID-19. Sadly, many more will be diagnosed in the years ahead, and they, of course, now must answer the question: Have you ever tested positive for COVID-19? If they answer it, they will have a pre-existing condition, which the insurance company used to jump on to either raise your premiums or to deny you coverage.

If Republicans have their way before the Supreme Court, young adults up to the age of 26 will no longer be able to stay on their parents’ health insurance. Hospitals—especially in rural areas—will see a significant loss of revenue from the elimination of Medicaid expansion.

At this moment, in the middle of a raging pandemic, it is unimaginable that the Republicans are trying to wipe out the critical healthcare protections in the Affordable Care Act, but that is what they are fighting for in the case before the Supreme Court.

Here, Republicans were never able to repeal the Affordable Care Act on the floor of the Senate. I will never forget that early morning vote. It was about 2

or 2:30 a.m. when John McCain came through those doors and stood right by that table, and as much as he could lift that right arm, because it had been broken when he was a prisoner of war—something which I honor him for and never will ridicule him for—he lifted that arm as much as he could and said no. No. That “no” vote saved the Affordable Care Act.

Why did he do it? He explained afterwards: The Republicans don’t have an alternative. They don’t have a substitute. They want to eliminate an Obama law, and they have nothing to replace it with. That is still the case today.

The Republicans are no longer fighting this battle on the floor of the Senate; they are fighting it across the street in the Supreme Court building. So the deciding vote on the Supreme Court—is it important to America? For 20 million Americans, it is deadly important as to whether they have affordable, quality healthcare.

Republicans were never able to repeal the Affordable Care Act because of John McCain’s courage, so Republicans are now trying to accomplish in the Supreme Court what they couldn’t accomplish on the floor of the Senate. In fact, on many issues where the Republican Party’s position is not popular, Republicans are trying to get the courts to do what they can’t do legislatively, issues like restricting the right to vote and other civil rights; rolling back environmental protections; dictating what women can and cannot do with their own health; wiping gun safety laws off the books; deporting Dreamers; and undermining worker protections. The Supreme Court was created by the Founders of our Nation to be the arbiter of equal justice under the law, not as a tool for one party’s political agenda.

Well, the American people can smell a rat. They know when the game is rigged. They look at the McConnell rule that he announced in 2016, and now they look at what he is actually doing in 2020. They know this isn’t on the level.

Sadly, in many ways, Senate Majority Leader MCCONNELL has broken the Senate down in recent years, and I fear that if we go down the path President Trump and Senator MCCONNELL has set us on, the Supreme Court may end up broken too.

It will take only four Republican Senators to stop this travesty—four. Four Republican Senators can say “enough.” We lived by the McConnell rule 4 years ago. We publicly stated that it was the right thing to do then. We would be hypocrites to an extreme if we turn our backs on it now. I hope—I just hope—there will be four Republican Senators with the courage—and it will take courage—to say that.

We should honor Justice Ginsburg’s fervent last wish and let the American people have a voice in filling this vacancy. That is what Senator MCCONNELL insisted on 38 weeks before the

election in 2016. That should also be our standard in 2020, 6 weeks before the election. There should be no confirmation before inauguration.

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

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

REMEMBERING JUSTICE RUTH BADER GINSBURG

Mr. COONS. Mr. President, on this past Friday evening, on Rosh Hashanah, our Nation lost a giant of our Supreme Court. We lost a trailblazer for women's equality, a woman who, though diminutive in size, was a giant and a force for justice.

For my daughter and for all Americans, I am so grateful for the work and the service and the life of Supreme Court Justice Ruth Bader Ginsburg. Having passed on Rosh Hashanah, the tradition of the Jewish people teaches that she is especially blessed, particularly righteous.

It is heartbreaking that her dying wish, dictated to her granddaughter, was that the voters should choose the next President, and that next President her successor, and, already, there are some who are racing to undo that wish.

This was her wish because she understood the consequences of this decision for the Senate, for the American people, and for the Supreme Court, to which she dedicated 27 years of service.

If we push through a nominee now, just 43 days before an election, as half of our States are already voting, the very legitimacy of the Supreme Court may be undermined by further politicization in an already divided country.

My friends, my colleagues in the other party, used the argument in blocking the nomination of Merrick Garland in 2016 that we must give the American people a voice for the selection of the next Justice. That argument was advanced 10 months before the next election. Here, today, on this floor, the exact argument is being advanced just 43 days before an election in which half of our States are already voting.

As a colleague from Alaska recently said, the precedent set by the majority in 2016 is the precedent by which they should live now. Fair is fair. I cannot agree more.

On the ballot, on the agenda, on the docket of the Supreme Court is healthcare. This decision will have an impact on all Americans of all stripes and backgrounds. One week after the election, a case will be argued in front of the Supreme Court, *Texas v. United States*, which seeks to remove all that is left of the Affordable Care Act's protections—protections against pre-

existing condition discrimination for 100 million Americans and health insurance itself for 20 million, in the middle of a pandemic in which 6 million Americans have been infected and have new preexisting conditions, and, in some ways most gallingly, that provision of the Affordable Care Act which prohibits gender discrimination by insurance companies.

All of this is at stake, as are protections going forward after this election for clean air and clean water, for equal pay for equal work, and the right to organize. It is all on the ballot and will be on the docket.

Let me close by calling on my colleagues to do what is fair and what I believe is right: to respect their own precedent and let the American people have a voice in just 43 days and then proceed, after the election, to honor Justice Ginsburg's dying wish; to focus on delivering relief to the American people in a package to address this pandemic in our next few weeks, rather than diving deeper into division.

It is my fervent prayer that we can yet find a way together to listen to the voice of the people and the voice of this most storied Justice.

TRIBUTE TO ERICA KNieVEL SONGER

Mr. President, I have one other purpose in coming to the floor today, and that is to recognize my colleague, my friend Erica Knievel Songer, my chief counsel—whom I now embarrass—who is departing this week.

Erica is an immensely talented lawyer and has been an invaluable member of my team for over 4 years, a summa graduate of the University of Illinois at Urbana-Champaign, a Phi Beta Kappa member, a cum laude graduate of Harvard Law School, a deputy editor of the *Journal of Law and Gender*, and a clerk on the Sixth Circuit for Judge Cornelia Kennedy.

After all that, she went to one of Washington's most prestigious law firms and, after 9 years of diligent litigation and work, earned her way into being a partner but, during all this time, dedicated her time to pro bono work, to advocating for those seeking justice.

She could have had a much more lucrative career than the last 4 years here in the Senate, and her trajectory was not a typical one for a chief counsel on a Judiciary Committee. She was willing to make the sacrifice, and I was grateful for the chance to serve with her.

Her dedication to upholding and defending democratic principles is unwavering, and every day she has put the interests of the American people and Delawareans first. No one has worked harder in her 4 years on my team than she.

Her commitment to our shared values has helped guide me and my team through some of the most difficult and challenging moments of these years. She has capably led my entire legal team and helped us navigate through some truly historic fights.

It was just 3 days after she joined my team that we were in the Rose Garden for President Obama's nomination of Judge Merrick Garland, and she led my team and my work on the confirmation hearings of now-Justice Gorsuch and Justice Kavanaugh. She led us through the Mueller investigation and through the impeachment trial.

She has been integral to legislative efforts, including the Special Counsel Integrity Act, a bipartisan effort to support the integrity of independent investigations and to protect the Mueller investigation; the Driving for Opportunity Act, a bipartisan bill to create incentives to stop debt-based driver's license suspension and extend criminal justice reform; and a project for which we both have a particular passion, the NO BAN Act, which would repeal President Trump's Executive order blocking travel from majority-Muslim countries and prevent another baseless, discriminatory travel ban.

She has contributed so much more than this. She has been a teacher and mentor to so many in my office and, particularly, to young women, who look to her as a role model and a source of wisdom and strength. Personally, she and her husband Mike, both dedicated attorneys and passionate public servants, are constant reminders of why we are here and for whom we fight.

As we reflect today and in the week ahead on the legacy of Justice Ginsburg, whose life was committed to the fight for equality and justice, I see that same fight in Erica Songer. Justice Ginsburg blazed a trail and changed the world for incredibly talented and capable women like Erica so that she could lead the life she has.

Erica is a true patriot, a great colleague, and a wonderful friend who has put country over self, and I have been blessed to have the benefit of her counsel and her friendship these 4 years. I am proud she will go on to continue to fight for our shared values. I wish her luck. I will miss her dearly, and I pray this is not the last time we will serve together.

I yield the floor.

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 Edward Hulvey Meyers, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Mitch McConnell, Roy Blunt, Mike Rounds, Todd Young, Pat Roberts, Cindy Hyde-Smith, John Thune, Kevin Cramer, Thom Tillis, Michael B. Enzi, James Lankford, John Barrasso, Joni Ernst, Lamar Alexander, Rob Portman, Tim Scott, Steve Daines.