

Here is what I said in my very first floor speech following the death of Justice Scalia: “The Senate has not filled a vacancy arising in an election year when there was divided government since 1888, almost 130 years ago”—not setting some new precedent, just stating a fact.

Fifteen times in American history, during a Presidential election year, new Supreme Court vacancies have arisen and Presidents have made nominations. Seven of those 15 times, voters had elected an opposite-party Senate to check and balance the sitting President. Not surprisingly, in those situations, only two of the seven were confirmed, and none since 1888. The other eight times, the same party controlled the Senate and the White House. Seven of those eight were confirmed—all but one. The one exception unraveled in a scandal.

We followed precedent in 2016, and we are following precedent this week.

No. 2, it has been claimed that Chairman GRAHAM broke the rules by reporting out Judge Barrett’s nomination—not so. As the Parliamentarian confirmed on Thursday, standing rule XXVI and Senate precedent are crystal clear. If a majority of a committee is physically present and votes in favor of a nomination, reporting it to the floor is a valid action, irrespective of what committee rules may say.

Chairman GRAHAM didn’t even violate the rules of his own committee. Past chairmen of both parties have done precisely what Chairman GRAHAM did on Thursday morning. In 2014, for one example, Chairman LEAHY and the committee’s Democratic majority voted multiple Federal judges to the floor without two members of the minority present—just a few years ago. Nothing remotely unprecedented took place—not in committee, not on the floor.

No. 3, timing. Some colleagues kept repeating the absurd claim that this is the most rushed confirmation process in history. Well, that is flatout false. From the announcement of the nomination to the start of hearings, eight Supreme Court nominations in the last 60 years moved more quickly than this one. Eight in the last 60 years moved more quickly than this one. Then, from the end of the hearing to the committee vote, half of all confirmations since 1916 actually moved faster than this one.

Justice John Paul Stevens was confirmed in 19 days, from start to finish; Justice Sandra Day O’Connor, in about 4 weeks. In the past, Justices have been confirmed in 1 week; some in 1 day. There is no argument that Judge Barrett’s nomination has moved at a breakneck pace. Facts are facts.

No. 4, contrary to what has been claimed, the Senate has absolutely confirmed Supreme Court nominees later in Presidential election years than this one. Multiple Justices were confirmed after elections had already happened. We have had multiple Su-

preme Court Justices confirmed in December of election years. Senates have even confirmed nominees for lameduck Presidents who just lost. That is another nonissue.

All of these false claims embarrass those who repeat them, but the most important point is this: In this country, legitimacy does not flow from the whims of politicians. Legitimacy does not depend on which political party makes that decision. Legitimacy comes from traditions, rules, and the Constitution.

Our Democratic colleagues have spent months obsessively demanding that our President repeatedly acknowledge that the election will be legitimate even if he loses. But here in the Senate, with this confirmation process, Democrats are flunking their own test. Let me say that again. Democrats want President Trump to keep repeating that the election will be legitimate regardless of whether he wins, but here in the Senate, the very same people are saying our vote on Monday will only be valid if they like the outcome.

Our Republic cannot abide any political faction making “illegitimate” a sloppy synonym for “we are not happy.” Of course, they are not happy. That doesn’t make anything about this illegitimate.

That kind of recklessness leads down a road that none of us should want to travel. That is why I keep correcting the record, even though it might seem silly. After all, if Republicans have the votes, why not ignore our colleagues and their statements and move on? I have chosen not to do that. It remains our duty to separate right from wrong, fact from fiction, for the good of the Senate and for our country.

Judge Barrett’s confirmation process has followed every rule. It has followed the Constitution in every respect. We have abided by the norms and traditions dictated by our history, and we are going to vote tomorrow.

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. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The Democratic leader is recognized.

Mr. SCHUMER. Mr. President, I just heard the Republican leader say there is no inconsistency between what the Republicans are doing now with Amy Coney Barrett’s nomination and what they did with Merrick Garland in 2016. Who would believe that? The contradiction is glaring. The contradiction will be a stain on the leader’s forehead and on the entire Republican caucus if it continues.

We just heard another warped, distorted, and convoluted history lesson from Leader MCCONNELL. We know how defensive he is about the blatant, 180-

degree, hypocritical turn he has made on Supreme Court nominations, but a distorted, warped history lesson will not remove the stain.

Only one thing will, Leader MCCONNELL: Withdraw the nomination of Amy Coney Barrett until after the election, plain and simple.

Now we meet here in a rare Saturday session because there is nothing—nothing—remotely normal about the Republicans’ drive to confirm Judge Barrett to the Supreme Court only days before a Presidential election.

Four years ago, the entire Republican Senate said it was a principle—that was their word, “principle”—that Supreme Court Justices should not be confirmed in Presidential election years. Leader MCCONNELL said: “The American people [deserve a choice] in the selection of their next Supreme Court Justice.” That is the principle they insisted the Senate must follow, and they declared that this principle bound the Senate not to consider the nomination of Judge Garland even though it was 8 months before the Presidential election of 2016.

Well, here we are today, just a few days from another Presidential election. More than 50 million Americans have already voted, and that number will only increase between today and Monday—the date of Judge Barrett’s confirmation vote. Americans are waiting in line now, patiently, at early voting locations around the country, to cast their ballots in Arizona and North Carolina, in Maine and Colorado, in Iowa and Kansas, in Georgia, Alaska, and Kentucky, in 26 States where early voting centers are open and in another 15 States where early votes can be dropped off at election offices.

In my home State of New York, where today marks the first day of early voting, it may look a little different this year. The lines are longer, not just because of enthusiasm but also because they are more socially distant. Everyone should be wearing a mask. But as we speak, millions of Americans are using their voices to say who they want to have select Supreme Court Justices.

At the same time, when the Republican majority in the Senate is ramming through the lifetime appointment of a Justice who will make hugely impactful decisions about their lives and freedom, Leader MCCONNELL has the temerity to say there is no contradiction between Merrick Garland and how they treated him and Amy Coney Barrett and how they are treating her. Give me a break. Our colleagues are saying to the American people: You get no say. You get no choice.

Four years ago, when a Democratic President nominated a Justice, the Republicans professed to care about giving the American people a voice—not so now, not when a Republican-nominated Justice is on the line, not when their own political power is at stake.

What became of that high-minded principle the Republican Senators embraced so fervently in somber tones? Just 4 years ago, Leader MCCONNELL and they told the Nation that the Senate must heed the voices of the American people when they vote. Where on Earth did that principle go? What principles govern their current mad rush to confirm another Trump Justice 8 days before this Presidential election?

If this process has revealed anything, it is that the supposed Republican principle was a farce—no principle at all and never was. It was a naked, opportunistic, transparent, cynical, last-ditch grab for power. Of course, it is the continuation of their shameful, lockstep subservience to President Trump—the most unprincipled President in American history. This will go down as the most partisan, most hypocritical, and least legitimate Supreme Court nomination in our Nation's history.

Once again, Leader MCCONNELL, when you talk about history—a distorted, one-sided view, that is all you give—it doesn't erase what you have done. It stares the American people in the face. They know it. We know it. We all know it, and history will know it.

It is a very dark moment for the Senate, and I am ashamed that the Republicans are going along with this. This, again, will be the most partisan, most hypocritical, and least legitimate Supreme Court confirmation in our Nation's history.

UNANIMOUS CONSENT REQUEST—H.R. 925

Mr. President, now let's look at the status of our country. It is even less justified in light of that.

We had a record number of COVID infections yesterday. Let me repeat—a record number. Are Senate Republicans doing anything about that? No. This is not a regional crisis like before. These spikes are now widespread, across the whole country, putting all of our Nation at risk. In fact, in per capita terms, I believe North and South Dakota have the highest in the Nation. I read this morning that beds are running out, and we are not doing a thing.

In the past month, there has been a 35-percent increase in the number of Americans hospitalized with COVID. COVID is now the third leading cause of death in the United States. In countries like Germany and Japan and Australia, COVID isn't close to being in the top 10. Experts like Dr. Fauci are predicting, unfortunately, or projecting that we could hit 400,000 American deaths this year and that the darkest and worst days of this pandemic, unfortunately, are ahead of us, not behind us.

The next huge wave of this pandemic is not looming; it is here. We cannot afford to wait, but are the Republicans doing anything about it? No. There are tens of millions of Americans out of work, and businesses are failing every day. Are Senate Republicans doing anything about that? No. There are foreign powers, particularly Russia, try-

ing to undermine our elections. Are the Republicans doing anything about that? No. They are too focused on implementing their deeply unpopular agenda through the courts because they know they could never get it through the Senate. Most of them wouldn't even vote for it.

Today, we are going to give the Republican majority in the Senate the opportunity to consider critical legislation that has, so far, languished in Leader MCCONNELL's legislative graveyard. Many bills that are just sitting here, awaiting action, that were passed in the House—many with bipartisan support—are waiting for Senate action. We should be doing that, not rushing through this nomination while people are voting and wanting their choices to be listened to, not the Republican Senate's choice.

So we are going to start with comprehensive legislation that addresses the most serious problems facing America right now, the Heroes Act, which would deliver urgent and necessary relief to the Nation and to the people who are suffering. The Heroes Act would have a comprehensive regime for testing and tracing of \$75 billion—the money that is needed but that this administration never gave. In fact, there is \$9 billion sitting there from what we approved months ago in the CARES Act that they have not even given out yet, so incompetent are they.

I saw Donald Trump in the debate. He said: Oh, it will go away. He has been saying that since January. That is why people know he is an incompetent President during the most difficult of times. Yet he still says it.

We need that money. We need money to open up our schools safely and soundly. That takes extra money. The school districts can't afford it. We need ventilation, more buses, PPE, oftentimes more teachers, hotspots so that people can get Wi-Fi when they don't have it in their own homes, and so much more.

We need money to prevent people from being evicted from their houses. They have lost their jobs through no fault of their own, and they are getting kicked out either as a renter or as a mortgagor. The Heroes Act deals with that.

We need money to help our small businesses—and not just a few. The restaurants, stages and venues, broadcasters and newspapers, nonprofits and rural hospitals—all left out of the Republicans' proposal—are in the Heroes bill.

There is money for unemployment. The \$600 pandemic unemployment kept 10 million people out of poverty. It has pumped money into the economy as well as given people who are not wealthy at all an ability to get by. That is in the Heroes bill, and there is so much more.

There is money to make sure our elections are guarded and safe. There are provisions that allow for the census to be counted in a fair way.

All of that is in the Heroes bill. The American people so much want us to pass it, but Leader MCCONNELL will not even put it on the floor for a debate.

If Leader MCCONNELL and his Republican majority had an ounce of concern for average American families, they would halt this sham Supreme Court process and join us in taking up the critical pieces of legislation which my colleagues and I will be putting on the floor all afternoon. In each case, we are not asking the Senate to pass it; we are simply asking to debate it. We are asking them to overrule Leader MCCONNELL and put these bills on the floor and let there be a debate and let there be amendments. That is all we ask during the most desperate—desperate—of times.

All we ask is for the ability to debate something that really matters to the American people instead of rushing through a judge, a Supreme Court nominee, when the American people want the decision to be made by them, not by Republican Senators, not when her views on key issues only represent an extreme minority of the American people.

Mr. President, in order to proceed to the consideration of H.R. 925, Heroes 2, I ask unanimous consent that the Senate proceed to legislative session.

The PRESIDING OFFICER. Is there objection?

The majority whip.

Mr. THUNE. Mr. President, reserving the right to object, the minority leader is requesting to move to legislation after having repeatedly, this week, requested and asked for votes to adjourn multiple times—leave town. Now, all of a sudden, he wants to legislate.

I think there is a serious question about the sincerity of the minority leader's request here. And, frankly, to his point, the U.S. Senate has now twice—and most recently this week, on Tuesday—Tuesday this week—voted on legislation that would do all the things that he says that he wants to do: Help people who are unemployed; we voted on a bill that had unemployment insurance for people who are unemployed. Help small businesses; we had a bipartisan agreement on the Paycheck Protection Program to provide assistance to small businesses, and that was blocked by the Democrats earlier this week. It had money in there, resources on a bipartisan, agreed-upon objective, and that is more money, more resources, for schools and universities to open safely—\$100 billion in there for schools to open safely. They blocked it. They objected.

It had money in there for farmers, something that is important to the Presiding Officer and to me as well. They blocked it.

It had money in there for the Postal Service, something that his side has been saying repeatedly we need to address. They blocked it. We had that vote this week.

We have taken up legislation exactly along the lines of what the Democratic