



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 116<sup>th</sup> 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.



Printed on recycled paper.

S6449

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