

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