

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 trail-blazer, 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 was 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 prejudice 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 vulner-

able 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 non-violent 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.