

The PRESIDING OFFICER. The Senator from Hawaii.

CORONAVIRUS

Mr. SCHATZ. Mr. President, before I talk about the Supreme Court, I want to express my condolences to the families and the loved ones who have experienced the human toll of the coronavirus pandemic.

Over 220,000 Americans have died, and millions of others have been forever changed. I am going to read some of the names of those we have lost. The families of these individuals have given permission for their names to be read on the Senate floor, adding them and their stories to the CONGRESSIONAL RECORD: Mike Hawk, Stephen R. Chatman, Milan Fryszak, Santos Gomez, Jack Larvin, Jeanne Lanson, Wendy Darling-Minore, Rose DePetrillo, Molly Stech, Larry "Grouse" Cummings, Sarah Ann Staffa Scholin, Elizabeth Woollett, Lorraine Mallek, Bob Matusевич, Javier "Chino" Ascencio, Joel Cruz, Michelle Horne, Juan Carlos Rangel, Laura Brown, Faye Ann Barr, Yoshikage Kira, Patricia Manning, Barbara Johnson Hopper, Harry Conover, Stanley Gray, Mary J. Wilson, Richard Gordon Thorp, Joe Hinton, Angela Chaddlesone McCarthy, Gurpaul Singh, Paul J. Foley Jr., Tim Mulcahy, Kelvin Lurry, Robert Wherry, Fred Westbrook.

NOMINATION OF AMY CONEY BARRETT

Mr. President, the Senate used to be a body that valued bipartisanship, deliberation, and compromise—a body that balanced the demands for debate with the demands for action. But that was in the past. The Senate no longer is the body that examines, considers, and protects our democracy.

The Senate I see now is ruled by partisanship and uncompromising ideology, and in their rush to jam through a divisive nomination days before the election and before the American people get a chance to have their say, the majority leader and the Republican Party are inflicting procedural violence on the Senate itself and the American people to achieve their ideological objectives.

In fact, many Republicans bragged that they had the votes to confirm the President's nominee before the nominee was chosen. The world's greatest deliberative body, with the constitutional responsibility for advice and consent and a special responsibility to advise and consent on the highest Court in the land, decided that they were A-OK with whatever Donald Trump decided, that their role in advice and consent was to basically agree in advance and to abdicate their role.

Now, we are not a parliamentary system. We are a separate, coequal branch of the government, and we are supposed to have our own views. The Federalist Society is not a branch of government. Donald Trump should not run the U.S. Senate. Nobody outside of this Chamber should be in charge of us, and to announce that you are for a nominee, sight unseen, is an abdication of your role.

Why would you even run for this job? Why would you even run for this job? Just go be the executive vice president of the Federalist Society. If you don't believe in the importance of the legislative branch, don't be a legislator.

We are less than 2 weeks away from the most consequential decision, election, of our lifetimes. Almost 60 million Americans have already voted. And there are legitimate concerns around an election dispute, and that is because of the President. The President has proposed postponing the election. He has threatened to challenge the results if he doesn't win. He has called it rigged in advance. He has refused repeatedly to commit to a peaceful transfer of power.

He has openly admitted that one of the reasons that he wanted to hurry in confirming this nominee—one of the reasons he wanted to hurry in confirming this nominee—is, in case there is an election dispute, to referee which votes get counted.

What is funny about this—not funny like hilarious funny but kind of weird funny—is that that is the kind of thing that, if I said that you are just putting this person in to referee an election dispute, I would have expected the people on the other side to say: How dare you make that accusation?

But, to the contrary, the junior Senator from Texas actually said that is the reason they have to hurry: We had better get her in so she can rule against counting votes—in wherever the Democrats are counting their votes. That is what he said. This isn't a partisan accusation. It is literally what TED CRUZ said.

The President of the United States expects his nominee, Judge Barrett, to be Justice Barrett tomorrow night, to assist him with ensuring reelection, if necessary. These statements by the President should alarm every Member of this body—Democrat and Republican. But, actually, it didn't alarm certain Members. They found that to be a justification for hurrying.

Disturbingly, in an exchange with the Senator from New Jersey, Judge Barrett would not say that President Trump should commit to a peaceful transfer of power. When the Senator from California asked her if the Constitution gives the President the power to delay an election, Judge Barrett said that she didn't want to give off-the-cuff answers, even though the Constitution does not, in fact, give the President that power.

This is part of a pattern. I will take you through some of this stuff. Anytime there is a live controversy—and by "live controversy" it is, basically, anytime Donald Trump says something—she is unwilling to cross him. She is unwilling to cross him.

Our judges are supposed to be independent and unbiased interpreters of the law. That means Judge Barrett should know what the law says and how to apply it, especially when the President threatens to break it in

order to hold onto political power. But she dodged these important questions and refused to defend democracy. I have real doubts about her ability to serve our Nation impartially, especially in the case of an election dispute.

There was a 4-4 decision which allowed a lower court decision to be upheld regarding—it is an election dispute in Pennsylvania. I won't get into great detail. The litigants now, because it was 4-4, are going right back to the Supreme Court, figuring that Amy Coney Barrett will rule for them, in the middle of this election.

This isn't some theoretical, wild-eyed, internet-driven paranoia. This is happening. They went back to the Supreme Court to say: How about now? And I would be a little surprised if they don't rule 5-4 on behalf of Republicans who want to restrict the vote.

In moving forward with the confirmation, the Senate Republicans and the majority leader are going against the precedent they set 4 years ago.

Look, I understand. I am reasonably good at politics. I know that hypocrisy abounds. I understand that hypocrisy abounds. I understand that, if we take our case to the American voter and say, "They are hypocrites," the American voters are going to shrug their shoulders and say, "You're all hypocrites." I get that.

But I am a little bit old-school in the following way: I come from a legislature, and I believe your word should be your bond. Otherwise, this kind of place won't work.

When LINDSEY GRAHAM said, "Use my words against me," I actually believed him. I have worked with LINDSEY before. I have had dinner with LINDSEY. I sort of personally like him. That probably gets me in tons of trouble politically.

But I just guess I thought that, if I am coming from the Hawaii Legislature, where your word is your bond, that is the most foundational rule of politics. I remember when I was first elected in 1998. The National Conference of State Legislatures, this training body for legislators, used to issue cassette tapes about how to be an effective legislator.

And I remember this. The first tape, I would stick it in my Nissan truck, and I listened to it every day—Roz Baker. Your word is your bond. That is the most important coin of the realm.

And I get that. Look, most of the people in this body are pretty smart. So they are going to use their ample brains to justify their new position. But let's be clear: This is the most rank hypocrisy I have ever seen in anything politically, and it is one of the most important things that I have ever seen.

It is not a trivial thing that you held up Merrick Garland. Now, do I go around saying that on the cable shows and whatever? No, because I know, outside of this body, nobody cares. Inside of this body, we are supposed to care

about stuff like that. Inside of this body, your word is supposed to count for something. It is not supposed to be about the maximal use of power in tricking each other and tricking the public.

Here is what MITCH MCCONNELL said about Merrick Garland: "The American people should have a voice in the selection of their next Supreme Court Justice. Therefore, this vacancy should not be filled."

The Senator from South Carolina said:

I want you to use my words against me. If there's a Republican President in 2016 and a vacancy occurs in the last year of the first term, you can say, "LINDSEY GRAHAM said let's let the next President, whoever it might be, make that nomination," and you could use my words against me and you'd be absolutely right.

The Senator from Texas said: "The American people deserve to have a voice in the selection of the next Supreme Court Justice."

It is not just my Republican colleagues who have reversed their position. It is Judge Barrett herself who actually warned against making changes on the Court in an election year. She said:

We're talking about Justice Scalia, the staunchest conservative on the Court, and we're talking about him being replaced by someone who could dramatically flip the balance of power on the Court. It's not a lateral move.

You know what else isn't a lateral move? Ruth Bader Ginsburg for Amy Coney Barrett. Our Democratic institutions depend on the trust of the American people, and we cannot find that bond of trust if we don't have it amongst ourselves.

It is worth mentioning here that Senate Republicans are also choosing to confirm Judge Barrett instead of addressing the pandemic. You know, that is another thing that sort of sounds hypocritical because maybe I am exaggerating it. But, no, that is actually true.

MITCH MCCONNELL is very clear. He didn't want a COVID bill on the floor because he is worried that it would push this thing past the election. So it is really clear, right? He said—I think it was in May—he didn't feel a sense of urgency. He basically sat back and let Mnuchin and PELOSI negotiate, even though whatever they come to will be blown up here because he doesn't have the votes for hardly anything.

But let's be really clear. His priority is judges. His priority is always judges. It is like a joke here. We fly in. A lot of us fly out on the weekends. When we arrive, we say, What is on deck for this week? And everyone says: Nominations. You have a circuit judge. We have a district judge. We have another district judge. How many is it? Oh, it is five judges this week, no legislating going on.

That has become the way this place operates. We are not the world's greatest deliberative body. We are just like a little factory that approves Federal

judges, and that is how MITCH MCCONNELL wants it.

It is especially egregious when so many people need so much help. This is a world historic event. You have 220,000 people dead. You have about 1,000 people dying a day. You have businesses closing forever. You have economic extinction all over the country—red States, blue States, rural areas, urban areas, suburban areas. The highest priority for MITCH MCCONNELL is stacking the courts. That is really the game for them.

It is important to know who Judge Barrett is. I want to be really clear—she seems super pleasant. She is obviously incredibly accomplished academically. None of this is personal for me. But she was groomed by this organization called the Federalist Society.

We need to understand who they are and what they do. They basically saw that they had an opportunity to start to identify and groom and place young ideologues. Those are the two key words. You have to be young, and you have to be pretty ideological, and then you are in the Federalist Society, and then you can get a district court job. Maybe you are going to be a prosecutor first, or maybe you are going to be a district court judge, or maybe you are going to run for office. But the whole deal is, this is their farm team.

The Federalist Society has very specific views—socially conservative, anti-LGBTQ, super anti-choice. Importantly, they want to absolutely gut the regulatory state because where their money comes from is not primarily people who care about those social issues. The money comes from polluters. That is what is going on here.

She comes from the Federalist Society. You know, before Trump, nobody would have ever thought to provide a list to the public of the potential Supreme Court Justices that you would nominate. That was unheard of. You are supposed to keep your powder dry and try to be down the middle, if you can.

Obviously, a Democratic President leans left, and a Republican President leans right, but that is why you got kind of a mix of ideologies, even though some of these people who, you know, after 20 years on the bench, you can't even remember whether they were appointed by a Democrat or Republican. But what has happened in the last 10 years or so is you can definitely tell who has been appointed by a Democrat and you can definitely tell who has been appointed by a Republican.

All of these votes are turning into partyline votes in the districts and the circuits and now on the Supreme Court. Nobody is really making up their own minds. She came from the Federalist Society. Look, the Federalist Society doesn't appear to be doing anything illegal. They are just working the system.

It is worth asking whether this is the way we want to have our Supreme Court Justices selected. You have a

whole political party who preapproves anybody on a list without even knowing who is in it but also without even having a hearing. We do know how she is going to rule, unfortunately.

The reason the Federalist Society pushed so hard for Judge Barrett is that she is an originalist. This means that she pledges to interpret the Constitution as she determines the Framers and the public intended at the time that the Constitution was written nearly two and a half centuries ago. To do this, she looks at world as it existed in 1787 and the values from that time.

We are talking about a time when full citizenship was limited to White men, when most Black people were enslaved and considered property, when women had no rights protections, being gay was punishable by the death penalty. That is what she looks to in deciding how our country should be governed today.

The simple fact is, you cannot be an originalist and believe in full equality. You cannot look only at the Framers' intent and believe in protecting the rights of women, people of color, Native-Americans, and the LGBTQ community.

The two legal views are incompatible. Striving for our Nation's founding promise of true equality for all or equal justice under the law requires leaving our outdated prejudices behind. The beauty of our country is that we have the capacity to improve, to change each generation since our founding has made this place better. Originalism ignores all of that.

Precedent is the reason schools are integrated. It is why anybody can marry the person that they love. It is why 20 million more people have healthcare. It is why women have the right to access reproductive freedom. It is why we have cleaner air and cleaner water.

Those principles are not written into the Constitution, but the progress we have made in statutory law and in jurisprudence is protected over time. Originalists are willing to throw those things out. That is why originalism is so dangerous in a courtroom, especially the Supreme Court in 2020. We should be very wary of those who wish to take us back to a place where only some are free. As we struggle to perfect our Union, her nomination cements a conservative majority and puts a lot of our hard-fought progress in jeopardy.

The Court will hear cases that test our values and test our commitment to equality. Subscribing to originalism is just another way to say that Judge Barrett will prioritize a handful of elite and wealthy Americans. Just like other jurists handpicked by the Federalist Society, it is all but guaranteed that she will decide in favor of corporate power and the wealthy most of the time.

What we need is a Justice who is committed to protecting and upholding the rights of every American, regardless of race, religion, gender, national

origin, or sexual orientation. While Judge Barrett has been evasive in the hearings, her record is not unclear.

I would like to walk through her record on civil rights, LGBTQ rights, reproductive rights, and climate. Let's start with civil and voting rights. Being named a Supreme Court Justice is an honor. A Justice should be a defender of human rights and civil rights, and a Justice must have an unbreakable commitment to fight for what is right and to lead the pursuit in making America more free.

Judge Barrett has written that the entire 14th Amendment is "possibly illegitimate." Yes, you heard that correctly. Judge Barrett questions the legitimacy of the very amendment that is the cornerstone of civil rights and equal protections in this country.

The 14th Amendment was proposed during Reconstruction following the Civil War when the Union was deciding how to readmit Confederate States and restore their representation to Congress. One of the conditions for allowing them to reenter was passing and ratifying the 14th Amendment. The theory that she uses to challenge its validity is that the South was strong-armed in the supporting it, so the amendment never truly earned the support of the American people.

That is crazy. There is nothing in the law to justify this position, and there never has been. The Southern Poverty Law Center calls this a White supremacist myth, perpetrated by Confederate sympathizers, the KKK, and other extreme rightwing groups.

It is unfathomable to think that anybody in the year 2020 would be opposed to the simple concept that every American should be treated equally under the law. It really should disqualify Judge Barrett from the Supreme Court seat.

At the same time, she has repeatedly overlooked discrimination in the workplace, concluding that separate can be equal. I mean, this is basic civics. I have two teenagers. This is the stuff we learned as bedrock foundational American history in civics. She is saying separate can be equal. I read this opinion. She said that using a racial slur in the workplace does not necessarily create a hostile work environment for the object of that slur.

Try to fathom a situation where someone is calling someone a racial epithet but that is not hostility in the workplace. Her brain is big; I don't doubt it. But it is a pretty extraordinary stretch of a pretty extraordinary brain to try to assert that saying something racist to someone in the workplace is not a hostile act. It is definitely a hostile act. Maybe I just lack the educational attainment to understand how you get so smart that you lose all of your common sense and all of your decency and all of your humanity and you forget what you learned in 6th grade and 9th grade and 12th grade.

During the hearing this week, Judge Barrett declined to agree that intimi-

dating voters is illegal. I mean, this isn't a matter of interpreting constitutional law. This is Federal statute. She also refused to say whether she believes voter discrimination still exists.

She refused to say whether voter discrimination still exists. It is like worse than I thought. Right? I am a Democrat. I didn't want anybody who didn't share Ruth Bader Ginsburg's views to replace her. But I am alarmed. And because of her extraordinary skill and because she comported herself well in the hearings, I don't think people really know how dangerous this is about to be. I think people are in for a rude awakening in terms of what this Court is about to do to roll back the clock on some stuff that we pretty much think we already agree on: gay rights, 70 percent of the public, like we have moved on; reproductive choice, 70 percent of the public, we moved on; the Affordable Care Act, after 15 years or whatever it is, 12 years of fighting about it, we kind of moved on. Now, you have Republicans making ads saying, I am going to protect your preexisting conditions.

The American public has a consensus on a number of things. I think all of these people are prepared to undo that consensus. Here is what is so alarming—maybe it was this morning or maybe it was yesterday—the majority leader, Leader McConnell, after giving, to me, what was a weird speech—not substantively. I knew the speech he was going to give, essentially blaming Harry Reid for everything. Fine. I mean, I disagree with it, but I don't begrudge him a partisan speech in this context.

But the way he did it, he turned his back—I mean, you are supposed to address the Chair, right? Some of us move around. But this was weird. He turned his back on the Democratic side of the aisle and just stared at his caucus and gave them a pep talk and said—I am going to paraphrase right now, but it was basically, The stuff we have done over the last 4 years is going to be undone in legislative terms as a result of coming elections, but what we are doing on the Court will last a lifetime.

I get the point that he is making because he is just measuring his power. But everybody should listen to what he is saying. He is promising that it doesn't matter what we do over here because they are going to undo it over there.

This man who presents himself as an institutionalist is deciding that the U.S. Senate's role is to just stack the judiciary and stop legislating, and that is alarming.

I want to make one sort of final point. I really worry about the Senate itself.

I was so thrilled to be here. The circumstances of my entering the Senate were tragic, actually, because of the death of my predecessor. But I am not going to lie—I was being sent to the world's greatest deliberative body. It is

like a promising high school basketball player, like being the 12th man on the LA Lakers. That is how I felt. I walked in, and I thought: This is the big show. This is the place where we solve America's problems.

I have seen the inexorable destruction of this institution because of a lack of restraint on the Republican side. I actually would love it if the blame were equally shared. It would be easier for me because I don't want to sound like that. I don't get anything out of that.

I imagined these groups of people—and it wasn't always the moderates right in the middle. Nowadays, the only people who are kind of cutting deals in the middle are the moderates. But back in the day, it was Teddy Kennedy and Orrin Hatch. It was Danny Inouye and Ted Stevens. And now there is not even a desire to do big things here. There is a total lack of ambition to solve America's problems here, and there is a total lack of restraint when it comes to the exercise of power.

So the old Senate is gone. The old Senate is gone, and this body has reinvented itself over and over and over again, and it is going to have to do it again. But that old Senate where you could pour a scotch after yelling at each other on the floor, it is gone.

I can't tell you the number of times I have invited my Republican colleagues to come down to the floor and have a debate. We don't even argue anymore. They go on FOX News. We go on MSNBC. We line up. We smash helmets. They win 52 to 48.

So what is happening in this time period, which is to say in the next 24 hours, is sort of the culmination of Leader McConnell's philosophy about what this place should do, which is, we do judges. We don't do big things, we don't even try to do big things, and we never fail to maximally use our power. That is a different model for our legislature. Frankly, it is how a lot of legislatures work; it is just not the way this place used to work. But if that is the model, then Democrats are going to have to wrap their minds around what has happened because we can't be the only ones showing any restraint, right, because that is just a recipe for getting rolled and rolled and rolled, and that is a recipe for entrenching minority rule.

I understand that the structure of the Senate is what it is. It is enshrined in the Constitution, and far be it from me to argue that small States shouldn't get two Senators. Small States should get two Senators. Whether you have 1.5 million people or 50 million people in your State, you should get two Senators. I am for that. But the way this is starting to work is that elected representatives who collectively have gathered 10 million, maybe 12 million, maybe by the year 2030, 30 million fewer votes than the minority party, are going to stack the judiciary and entrench minority rule.

So something has to give. Yes, I know there are elections that can resolve this, and sometimes when things

feel stuck, maybe they are not as stuck as they feel, but the shoe is going to be on the other foot.

As my good friend Claire McCaskill, the former Senator from Missouri, says, you know, the door swings both ways in Washington.

So I just think it is important for every Member of this body to understand that the door swings both ways in Washington. If we are going to rebuild this institution and rebuild the trust that the public has in their elected representatives and the judiciary and public leaders, then we are going to have to be trustworthy with each other.

I feel betrayed. One of the most pleasurable aspects of working in this place when I first got here, coming from an almost entirely Democratic State, was my ability to work with Republicans. It was a unique professional challenge for me. I am looking at the Presiding Officer, and we did some pretty good work together, and it was a pleasure. That was fun, and that was the way this place should work.

I worry about how frayed those relationships are, and I worry about the fact that there is this kind of principle that all is fair in love and war. These guys are about to do something even worse, so you might as well punch them in the mouth preemptively, and the kind of rah-rah speeches that I believe go on in the Republican conference characterizing us as promising to do unusually aggressive things, and therefore they might as well get it over with in advance. By the way, Harry Reid did X, Y, and Z, and what about Robert Byrd? And they get told a story about how awful we are, and then that justifies their breaking their bond with us.

I understand that a lot of what happens here is a result of polarization across the country—I would argue asymmetric polarization—but people matter, relationships matter, and trust matters. I have never felt so clear that we as Members have been betrayed; that the arguments that were made in favor of holding up Merrick Garland were BS, and we have a long way to go to rebuild this institution.

I yield the floor.

The PRESIDING OFFICER (Mrs. CAPITO). The Senator from Connecticut.

Mr. MURPHY. Madam President, first, let me thank the Presiding Officer, the staff on the floor, and the staff in both caucus rooms, for putting up with a very, very late night to take the floor just past 3:30 in the morning. I thank my friend Senator SCHATZ for picking up about an hour and a half, from 2 until 3:30, and I know that Senator KAINE will be joining the floor shortly.

This is an exceptional night because we are living in exceptional times. We are likely to see tomorrow a record number of COVID cases diagnosed in this country. I know that it now feels like the new normal 7, 8 months into

this pandemic, but this is unthinkable that our country has been ravaged by a virus that less than a year ago no one had ever heard of.

Sometime in November or December of last year, COVID-19 started popping onto the international public health radar screen in China, and a few months later, it was here in the United States. Most countries were able to come up with a plan to control, contain, or essentially eliminate the threat of COVID-19 in a matter of months. The United States was not, because of an abysmal failure by this administration.

We are now living with a third wave of COVID. As we speak on the floor tonight, we are looking down the barrel of 300,000 Americans dead by the end of this year. No one is safe. There are millions of kids who can't go back to school, businesses that have gone under, and 10 percent of our workforce that is out of work.

This is an exceptional night because we are living in an exceptional moment, and I will talk over the course of my remarks about the President's failure to meet the moment and to be able to rescue this country from this pandemic—in fact, his daily actions now to actively spread the disease. There is no one who is doing more to spread COVID-19 across the country today than the President of the United States, who is holding daily super-spreader events, who is shaming individuals who wear masks, and who is deliberately trying to reduce the number of tests that are done in this country.

I also want to acknowledge that the vote that we have pending, ready for action tomorrow, is directly connected to the question as to whether this country is going to be able to turn the corner on COVID, because the first case Amy Coney Barrett will likely hear after she is confirmed by this body, as it looks like will happen tomorrow, will be a case on the Affordable Care Act—a case that asks the Supreme Court to invalidate the entirety of the ACA.

It draws issue with one specific provision in the ACA, but the remedy it seeks—the remedy the President of the United States is asking for—is the complete invalidation of the Affordable Care Act. That is 23 million people losing healthcare. That is 130 million people all across this country who have preexisting conditions potentially losing protections that, under the ACA, prohibit insurance companies from charging them more.

I have heard my Republican colleagues come down to this floor and go on television and give press conferences in which they suggest that those of us who say the Affordable Care Act is about to be struck down due to the confirmation of Amy Coney Barrett are engaging in hyperbole, that we are exaggerating. Well, I have been in the Congress for the last 10 years, the House and the Senate. My eyes haven't been closed. I have watched an unre-

lenting campaign from the Republicans to try to repeal the Affordable Care Act.

When I was in the House of Representatives, the call from the Republicans was to repeal and replace. The Presiding Officer will remember this because I think we served together during that period of time. The idea was, of course, that the Republicans didn't like the Affordable Care Act, but they acknowledged that they couldn't get rid of it with nothing else to replace it. Now, that in and of itself was an acknowledgment of the merits of the Affordable Care Act. The Republicans may not have liked the details, but given the fact that they were not supporting repealing it but supporting repealing it and replacing it with something else, they knew the American public would not allow for the Affordable Care Act to disappear and have nothing else to stand in its place.

We waited month after month and year after year for a replacement plan to be offered by the Republicans. We waited month after month and year after year. That replacement plan never arrived. The closest we came to seeing a replacement plan was in the summer of 2017. As we were debating its repeal here in the Senate shortly after the election of Donald Trump, Speaker Ryan, then still in charge of the House of Representatives, presented a replacement.

The problem is the replacement was worse than simple repeal. The Affordable Care Act covers around 23 million individuals, and the Congressional Budget Office said that Speaker Ryan's replacement plan would have resulted in 24 million people losing healthcare, going backward from the status quo ante.

Seventy different times Republicans, either in the House or the Senate, tried to repeal all or part of the Affordable Care Act. You may say: Well, that sounds unfair. It is not fair to create an equivalency between efforts to repeal all of the Affordable Care Act and efforts to repeal just some of the Affordable Care Act.

OK, on 31 different occasions, Republicans tried to repeal the entirety of the Affordable Care Act—31 times, which is a lot—with no replacement that would have covered everyone that receives coverage under the Affordable Care Act, with no meaningful effort to protect those who have preexisting conditions.

My eyes were open to that. My constituents were watching all of that. We saw how Republicans, 31 times, tried to repeal the Affordable Care Act.

I have listened to Republicans out on the campaign trail. I have watched what Republicans have said to the press and to their constituents. We are not blind. We know that Republicans, for 10 years, have been trying to repeal the Affordable Care Act. We know that for 10 years Republicans have not had a replacement that would insure anywhere close to the number of people insured by the Affordable Care Act or

provide protections to people with pre-existing conditions.

So don't tell us that we are overhyping this desire by Republicans to take steps in this body that would lead to the repeal of the Affordable Care Act because that is the lion's share of what Republicans have been doing for the last 10 years.

In the summer of 2017, Republicans mounted their last stand to get rid of the Affordable Care Act. They had control of the House, the Senate, and the Presidency. This was the moment to do it.

In fact, most of us expected that it was a foregone conclusion, having told the American public in the runup to 2016 that, if you elect us, we will repeal the Affordable Care Act, and having won the House and the Senate and the Presidency, despite, by the way, getting less votes than Democratic candidates for the Senate and the House and their President having gotten less votes than the Democratic candidate for President, by virtue of the way in which we select representatives through gerrymandered districts, through the way in which States with smaller populations have greater representation in the Senate and through the mechanism of the electoral college. Despite getting less votes than Democrats all across the country in 2016, Republicans did take control of the House, the Senate, and the Presidency. And those are the rules. Those are the rules. Republicans played by the rules in running for office in 2016. I am not begrudging the fact that they did in fact win control of all three lawmaking chambers of U.S. democracy—the Presidency, the House, and the Senate. It was to be expected that Republicans would repeal the Affordable Care Act in 2017.

But, curiously, they could not, and the reason they could not is pretty simple. Democracy took hold. The people of this country didn't allow this Congress to repeal the Affordable Care Act. They rose up in record numbers. Thousands of people turned out to townhalls all across the country. The phone lines here were lit up. There were protests that spring and summer outside this building on a near daily basis. It was 100 percent clear that if Republicans voted to repeal the Affordable Care Act and replaced it with nothing or made our healthcare system worse, as Speaker Ryan's plan would have done, there was going to be hell to pay from the American electorate.

Now, it turned out that there was, anyway, because Americans watched the attempts to repeal the Affordable Care Act and were just slightly less infuriated than they would have been if repeal had actually gone forward.

But repeal failed. On this floor, late one night in the summer of 2017, the bill went down, and Republicans at that point had figured it out. Having tried 31 times—70 times, whatever your number is—to repeal all or part of the Affordable Care Act, Republicans fig-

ured out that they weren't going to be able to get it done through Congress, that the American people weren't going to let them.

So they decided to try another way. Later that year, the Republican tax bill passed the U.S. Senate and the House of Representatives and was signed into law by the President of the United States, and inside that tax bill was a curious provision, a provision that eliminated the tax penalty for individuals who don't have insurance. That was a really important part of the Affordable Care Act, not a super popular part of the Affordable Care Act. Nobody likes putting a financial penalty on individuals who don't have insurance, but it was really critical to protecting people with preexisting conditions.

I won't go into the details of it, but I actually sat in the Presiding Officer's chair during Senator CRUZ's filibuster overnight, on a late night like this one. I was probably presiding as a freshman Member of the Senate at about this hour, and in that filibuster—I wouldn't recommend going back and looking at it on tape, but you could—you would listen to Senator CRUZ explain that, in fact, the individual mandate and the tax penalty are critical to protecting people with preexisting conditions. Because if you don't require people to get insurance but you also require insurance companies to rate folks who are really sick the same as they rate healthy patients, the whole insurance system falls apart. Because if you aren't required to get insurance but you are not penalized if you wait to get insurance until you are really sick, then that is exactly what you will do. You won't get insurance until you are really sick. You won't have to pay any more once you have that expensive cancer diagnosis, for instance. Then, without any healthy people buying into the system and with only sick people part of our insurance pools, the insurance system collapses.

So Republicans went into this 2017 tax bill, and they removed the provision that would provide a financial penalty. But it really wasn't actually that curious. It wasn't that difficult to figure out why they were doing that.

Republicans were doing that because, a few years before, the Supreme Court had ruled that the Affordable Care Act was constitutional because of the existence of that tax penalty. It was an interesting decision, one that I disagree with, but Justice Roberts ruled for five of nine members that the Affordable Care Act could stand as constitutional because of the existence of that tax provision.

So you didn't have to be a rocket scientist to figure out why Republicans had inserted this provision into the tax bill—because they believed that they had a new route, a new pathway, to invalidate the entirety of the Affordable Care Act.

Now, having failed to be able to get the elected branch of government to

undo the Affordable Care Act, they could essentially plant a constitutional landmine in the Affordable Care Act and attempt to get it invalidated through the courts.

Now, again, let me tell you, I don't agree with the Supreme Court decision—I think it was in 2012—that suggested the Affordable Care Act would be invalid if you removed this tax penalty. But that decision stands, the NFIB decision, and Republicans figured out that they could sabotage the Affordable Care Act and run a case through the court system that would end up getting done what they had been trying to do for 10 years—take insurance from 23 million people and the preexisting conditions protection.

And that is exactly what they did. That is exactly what Republicans did. Twenty Republican attorneys general, joined by a whole host of conservative political organizations, launched a court case claiming that because of the change made in the 2017 tax bill, the Affordable Care Act was now, all of a sudden, unconstitutional. It had to be struck down.

The case went before the district court, and a Republican-appointed judge ruled in favor of the Republican attorneys general. The case then went to the circuit court, and in a 2-to-1 decision, with a Trump-appointed, Senate-confirmed judge making the difference, they ruled in favor of the plaintiffs, and now that case sits before the Supreme Court, and it is to be heard by the Supreme Court in 2 weeks—in 2 weeks.

So now you might be starting to figure out why we are here. Why are we rushing through Amy Coney Barrett's nomination in record time? You never had a Supreme Court Justice confirmed this close to the election. In my political lifetime, I have never seen a Supreme Court Justice rushed through in this amount of time.

We have been here all weekend. It is 3:30 in the morning. We took a vote on Saturday. It is now becoming apparent why we are rushing this through.

It is probably partially because Republicans are worried they are going to lose their Senate majority in this election and the President is going to lose, and it will be much harder to push through a nominee in a lameduck session. It is probably because there are potentially cases to come before the Supreme Court regarding this election, and this President wants to make sure he has as many of his nominees stocked on the bench as possible if there are any questions that arise before the Court regarding the validity of the election.

But I think mostly the reason that we are here, rushing through Amy Coney Barrett's nomination, in the dead of night, in record time, 1 week before an election, is because the Affordable Care Act case is up before the Supreme Court in 2 weeks, and it is likely—in fact, almost certain—that without Amy Coney Barrett on the

Court, that case brought by Donald Trump and Republicans across the country will not succeed, and that only by rushing through Amy Coney Barrett's nomination 2 weeks before this case is to be heard by the Supreme Court can Republicans finally get done what they have been trying to do for 10 years—repeal the Affordable Care Act and end insurance for 23 million Americans and strip away protections for everybody who has a preexisting condition.

Now, I know my Republican friends get really angry when they hear us suggest that their goal is to end insurance for 23 million Americans or to strip protections away from people with preexisting conditions, and they will stand up here and say: No, of course, that is not what we want to do. We are going to protect people with preexisting conditions. We will find a way to insure all those people.

And I truly do believe that my Republican colleagues do, in a perfect world, want people with preexisting conditions to be covered. The problem is they have worked themselves into a trap that they can't get out of and that they know they can't get out of.

They say they want to cover people with preexisting conditions, but they have never been able to put on the table a plan that would do that. They have made this promise that they will repeal the Affordable Care Act, and they have put themselves on this path that they can't get off of to repeal the Affordable Care Act through legislation or through the court system, such that, even though they say they want to protect people with preexisting conditions, they are acting in a way that does the opposite.

So you have to forgive us when we say that you want to strip protections for people with preexisting conditions. Because despite the fact that you say you don't want to do it, everything you are doing ends up in that result. So at some point, we have to watch what you do, not what you say.

Your President had the chance to go to court. Well, first of all, your President didn't have to go to court at all on behalf of the plaintiffs. In fact, 99 percent of the time, a President will defend the statute that is being attacked, even if that President doesn't agree with the statute. That is generally seen as the responsibility of the executive branch, to defend the statutes of the United States, whether or not you agree with them. That doesn't happen in every case, but that is generally how it works.

In this case, not surprisingly, the President went to court and said: I am going to join with the plaintiffs. I am going to ask for the court to invalidate the Affordable Care Act.

But President Trump could have asked for only part of the act to be invalidated. He could have asked for the part of the act that protects people with preexisting conditions to remain, but he didn't, and, frankly, Repub-

licans in this Chamber didn't pressure him to do so.

Republicans here could have begged the President, privately or publicly, to go to the court and ask for the portions of the act that protect people with preexisting conditions to remain, but the President didn't do that. He sent his lawyers to court. His lawyers will be in Court in 2 weeks arguing that the entire Affordable Care Act be struck down—the whole thing.

So let me say it again. Don't blame us for watching what you do, rather than what you say. Republicans say they want to protect people with preexisting conditions, but then everything they do and everything this President does seeks to destroy those protections.

That is why we are here. We are here because Republicans have gotten themselves on this train that they cannot stop—this effort that has been underway for a decade to strip away the Affordable Care Act protections. Two weeks from now, the Republicans will get a little bit closer to what they have been asking for, for 10 years, when this case comes before the Supreme Court and Amy Coney Barrett sits on it as the deciding fifth vote to invalidate the Affordable Care Act.

And why this matters more now and why I led my remarks referencing the COVID epidemic is because it is unthinkable in ordinary times for 23 million people to lose health insurance or for folks that have a history of heart disease to all of a sudden not be able to buy insurance.

In my State, that is about 260,000 people who get their insurance through the Affordable Care Act who would lose it. We are a small State, about 3.5 million. A quarter million people losing healthcare insurance in our State—that is a humanitarian catastrophe at any time, but in the middle of a pandemic, that is a nightmarish, cataclysmic dystopian future to wish for. In the middle of a pandemic, to take health insurance away from 23 million people, to go back to the days in which insurance companies could discriminate against you because you had a preexisting condition?

COVID is going to be a preexisting condition. Let me just level with you. There are 8 million people in this country who know that they have had COVID. But, eventually, if people start taking antibody tests, there will be five times that many who have a medical history that includes COVID. All those people will have a preexisting condition, and insurance companies, if the Affordable Care Act disappears, can either decide to not insure those individuals or can jack up their rates. That is on top of the 130 million people who have other preexisting conditions.

So think about both of those things happening. Think about, in the middle of a pandemic, when there are over 1,000 people dying every day in this country, where we are seeing reports of hospitals literally being filled to total

capacity in parts of our country, for over 20 million Americans to all of a sudden not have the ability to pay for healthcare.

We are in the middle of a pandemic, but we are also in the middle of a giant depression; right? I mean, 10 percent of America is out of work. Guess how those individuals get health insurance when they are out of work—through the Affordable Care Act. People that lose their job, many of them get insurance through the Affordable Care Act. They qualify for the Medicaid expansion in the Affordable Care Act, or they end up buying insurance through these exchanges.

I have story after story from my constituents in Connecticut of people who lost their jobs in the middle of a pandemic and were able to get health insurance because of the Affordable Care Act.

It is not just that you have all these sick people who are going to lose insurance when the Affordable Care Act is repealed but also all these folks who are out of work and have no other way to get insurance at an affordable rate other than the Affordable Care Act. Stripping it away in the middle of a pandemic is just inhumane. On top of that are all of the people who will have COVID as a preexisting condition.

Wayne lives in Rocky Hill, CT. Rocky Hill is a small town south of Hartford. I wish his story were exceptional, but you have all heard these stories, my Republican and Democratic friends:

Thank you for your continued support of the Affordable Care Act. Our family has extensive medical needs, and we rely on the preexisting conditions and no lifetime cap coverage provisions that the ACA provides. Both of our sons have serious health issues. Harrison is developmentally impaired. Has a rare genetic disorder, cerebral palsy, hearing loss, and a rare form of intractable Epilepsy, characterized by multiple, uncontrolled daily seizures.

Imagine having a son like that.

Jacob, who just turned 15, has Hemophilia A with an Inhibitor. If you are unfamiliar with this disease, it means his body not only lacks the protein needed to clot his blood in case of an injury, but it also rejects the typical medicine used to treat his bleeding disorder. This means his only alternative for treating his often spontaneous internal bleeds is a very expensive synthetic clotting factor, which costs around \$9,000 a dose. When he has been injured in the past, he has to receive doses every 2 hours for the course of several days. This happened on over six occasions since he was first diagnosed in 2011.

Think about how lucky you are if you have healthy kids. I am lucky. I have two young boys who are healthy. Harrison has cerebral palsy, hearing loss, epilepsy, daily seizures. Jacob has hemophilia—medicine that costs \$9,000 a dose.

Wayne writes:

We have had to maintain double insurance coverage through both my wife's and my employers as well as Medicaid in Harrison's case. We would have easily been dropped by any number of insurance companies for exceeding both boys lifetime expense caps—

Well over 1 million each—and might not have been able to obtain insurance in the first place due to their pre-existing conditions. If these provisions were not made law by the ACA, there would be no way we would have obtained or ever afforded health insurance. We would not have been able to keep our home and would likely have had to file for bankruptcy by now. Both boys together have been hospitalized on over 36 separate occasions, with Harrison having spent almost his entire first 6 months of life in the NICU . . . at a cost of over \$1,000 a day.

Remember, the ACA says insurance companies can't deny you coverage because you have a preexisting condition. They can't deny your family coverage because your child has a preexisting condition, but the Affordable Care Act also says insurance companies can't cap your insurance. They can't say: Hey, if you have an expensive disease, we are going to insure you for up to this amount of money, and then we are going to stop paying for healthcare.

They can't do that on an annual basis either. The Affordable Care Act says they can't, as an insurance company, give a dollar amount of coverage over the course of the year and then cut you off, because that is not really insurance, right? The whole idea of insurance is that you pay in whether you are healthy or you are unhealthy, but you are banking money and you are using other people's banked money in case you get really sick, in case your family member gets really sick.

If your insurance plan doesn't cover you in the case that you have kids like Harrison and Jacob, then it is not really insurance in the traditional form of insurance. That is why the Affordable Care Act said: No, listen, health insurance is going to have to cover you if you are really sick or your children are really sick, and they can't pull that coverage after a certain dollar amount on an annual basis or a lifetime basis.

That is why Wayne talks about the importance of the Affordable Care Act for his family. He says: We would have had to sell our home. We likely would be bankrupt if not for the Affordable Care Act.

He says:

If these key provisions are removed—

Which seems entirely likely—

millions of individuals and families with loved ones having serious illnesses will be adversely affected.

That is a kind way of explaining what would happen to Wayne's family. They would be adversely affected. Wayne would lose everything if insurance companies were able to go back to discriminating against people with pre-existing conditions and placing back on insurance plans these annual caps and these lifetime caps.

Again, the President of the United States had the choice to go to court and ask for the entire act to be invalidated or for specific provisions to be invalidated. He asked for the entire act to be invalidated, which means these provisions which protect Wayne and his family will be gone if Amy Coney

Barrett and four other Justices decide to rule for President Trump on his request to invalidate the entire Affordable Care Act.

Don't tell us that we are overhyping this threat, that we are making up this idea that Republicans want the Affordable Care Act to disappear. It is much of what Republicans have been doing for the last 10 years. There has been no viable replacement plan that protects Wayne in the way that he needs and Wayne's children in the way that he needs.

While no one can be guaranteed as to what the Supreme Court is going to do, Donald Trump himself told you that he is only going to put people on the Supreme Court who will invalidate the Affordable Care Act. He criticized John Roberts over and over again as a Republican appointee for upholding the Affordable Care Act. He signaled to you that he was not going to appoint someone to the Supreme Court like John Roberts—someone who would find a way to uphold the Affordable Care Act. He told you that was John Roberts' primary sin and that he wouldn't make that mistake again.

He, in fact, told you once again just a few days ago that he hoped the Supreme Court would strike down the Affordable Care Act. If that is his hope, then I don't know that we can rely on the idea that he would have then coincidentally been picking Justices to serve on the Supreme Court who would follow through on that request.

Julie is from Sandy Hook. Julie says:

On March 25, 1994, I received a lifesaving kidney transplant at Hartford Hospital. At the time I was working at a job that was not fulfilling, and I was trying to complete my Master's degree in Education to get my job in teaching. I finished my degree, got married, had two children, and got a dog. Later, I finally landed a full time teaching position at Newtown, CT. I know if the law were overturned today, I would not have been able to transfer to my husband's health insurance plan and ultimately would not have been able to achieve my dream of becoming a teacher.

Now, that is a different story than Wayne's, right? It is not equally important, but it is important. What Julie is telling you is that she had a dream to become a teacher, and she needed to take the time out of the workforce in order to pursue that dream, and she needed health insurance during that time.

What the Affordable Care Act has allowed for—and this was back in 1990s that Julie is telling the story. Why she is telling it is because the Affordable Care Act gives you the opportunity to maintain health insurance while you are out of work or while you are transitioning from one job to another. It provides a nimbleness, a flexibility in the workforce that didn't exist without the Affordable Care Act protections.

Julie goes on to write:

In August of this year, I was diagnosed with B-cell Non-Hodgkin's Lymphoma. I am currently receiving chemotherapy treat-

ments. . . . I am scared to death [she writes] to imagine what would happen if I am not able to return to work and I lose my benefits. While my husband does have the opportunity to get health insurance benefits through his employer, if the ACA were overturned I might not be eligible for benefits because of my multiple pre-existing conditions. This could mean financial ruin for my family since I need continued follow up care even after I finish my chemotherapy treatments.

Julie is now in this sort of classic situation in which she has a preexisting condition. She is currently receiving treatment, and she is living in fear about what will happen to her and her family if all of a sudden the days of discrimination against people with pre-existing conditions come back. She is also telling the story about what happened to her earlier in life when she went out and got herself reeducated to become a teacher but had fear about what was going to happen to her insurance benefits because of that. That fear doesn't exist for Americans any longer because they have access to these private healthcare exchanges when they lose their coverage, perhaps even voluntarily because they want to go get another job. Now she is in this classic situation in which she has a serious, serious illness. She talks about the fear that she has about what will happen if the Affordable Care Act is struck down.

I think that is important to recognize, as well, because there is a generation of young adults who, frankly, don't even remember the days in which you could be discriminated against by insurance companies because of a pre-existing condition, who don't know what it is like to obsess and obsess and obsess over that question. There are folks who are 30 years old today who during their entire adult lives lived under the ACA, who are having kids now—kids who may have complicated medical conditions—and don't have to worry about that child living a life in which they are constantly chasing insurance. It just doesn't happen any longer.

Now that prospect has returned because of this case before the Supreme Court. Now those parents are starting to worry. What will happen if Amy Coney Barrett provides the fifth vote to invalidate the Affordable Care Act as President Trump is asking the Supreme Court to do? What will happen?

Well, what likely will happen is those protections for people with preexisting conditions will be struck down, and once again, parents of children with complicated illnesses will spend their lives worrying about how this illness will define their child's future. Now, if you have a serious illness, it is going to define your future no matter what, but on top of the daily search for treatment and the daily search for wellness, there is the worry of whether you are going to be able to pay for that. It is a nightmare that we don't have to choose to endure as a nation because right now we have a law that protects against it.

I always remember this very simple story from a few years after the Affordable Care Act was passed. I was at a community pool in Cheshire, CT, with my son, who was then 4 or 5 years old. This young guy—maybe a few years younger than I—sheepishly approached me in the pool as I was playing with my son. He said: Thank you.

I asked: For what?

He said: I want to say thank you for the Affordable Care Act. I am here with my son. My son has a rare heart condition. I used to stay up nights worrying about what his life was going to be like. I still have lots of worries, but now I have one less because of the Affordable Care Act. Now I know we are not going to go bankrupt paying for him. Now, more than anything else, I know his future is not going to be dependent on whether or not he can find a job that provides him healthcare benefits. He can pursue his dream without the constant worry of how he is going to pay for health insurance.

That sounds like a simple thing, but it is not. For any parent here, the idea that your child can be whomever they want to be or at least their life won't be dictated by whether they can afford healthcare for their expensive disease that they have through no fault of their own, through no choice of their own—that is a big deal as a parent. The Affordable Care Act relieves much of that worry. That is why people are so concerned about what Amy Coney Barrett's nomination to the Court will result in.

Malaine from Branford says:

In 2015, my husband co-founded a Biotechnology company, which is located at the UCONN Incubator in Farmington.

That is exciting. That was an incubator that I helped conceive as a State legislator and then as a Congressman.

She writes:

He did this because the ACA made it possible for our family and the company employees to have healthcare. The company now has 10 employees, all high-paying, Connecticut based jobs. This entrepreneurship would absolutely, positively not have been possible without the ACA. In 2018, the company transitioned to employer healthcare. Now through the Trump administration's incompetence in the handling of the coronavirus pandemic, sales of the company's product—

They sell to other companies that are still closed because of coronavirus—have plummeted and so our company, like so many, is struggling. If we lose our livelihood, we also lose the company health insurance, which means we co-founders . . . would need to depend on the ACA's health insurance, if it still exists.

Once again, this is another story about how the ACA allows for financial innovation, allows for economic innovation. This is a company that was started in Connecticut, a biotechnology company. Because the ACA allowed in the early days for those entrepreneurs to insure themselves, their families, and their early employees through the Affordable Care Act before they had enough money in the com-

pany, they were able to provide employer-based insurance. All of that goes away. That cushion for entrepreneurs will disappear if this act is invalidated.

These stories go on and on and on, individuals who will have their lives ruined and changed if the Affordable Care Act disappears. Again, we might be months away from that occurring—months away from that occurring—in the middle of a pandemic, people losing their insurance right at the moment when they need it the most because of the costs of confronting COVID, because of the fact that they lost their insurance because of the recession or are at risk of losing insurance, like Malaine's family is. What a nightmare.

That is not my only worry, though, when I think about Amy Coney Barrett's confirmation. Frankly, I nor my constituents have had enough time to really understand the consequences of Amy Coney Barrett's nomination because of how rushed this process has been. In the middle of a pandemic, when it is abnormally difficult to be able to communicate with your constituents, we rushed this nomination through, which has made it almost impossible for people to figure out who she is, what she believes, and communicate that in time to their Members of Congress. I have a feeling there is a reason for that as well.

The rush job is because Republicans need to get her on the Court in time for the ACA case, because Republicans want to get her on the Court in time to hear election disputes, because Republicans want to get her on the Court before a lameduck session makes it harder if the election goes against Republicans. But I have a feeling it is because they also don't want people to figure out what she stands for.

One of the other areas of law in which Amy Coney Barrett is likely pretty radical—certainly is radical—is on the question of America's gun laws. Obviously I care about this deeply. I have borne witness to one of the country's worst gun homicides in Newtown, CT. Right now, on the streets of Hartford, CT, as in many other cities, gun violence is spiking.

It is not shocking. Gun violence tends to attract poverty when people are desperate economically. Whether we like it or not, they often resort to violence, and we are in a moment of economic desperation. You should see the food lines at food pantries and food banks in Connecticut. It is not coincidental to that economic desperation that we are seeing an increase in gun violence.

Yet gun violence is made a lot easier in the Nation because of the ease of access to weapons. Our Nation is just flooded with weapons and many of them illegal weapons, many of them in the hands of felons—dangerous people who shouldn't have them.

We are attempting to pass a universal background checks bill here in Congress that would make it harder for felons—dangerous individuals—and

people with serious mental illness to get their hands on guns. It is probably the most popular policy intervention in the country. I don't know that there is any other major piece of legislation that we have proposed that is more popular than universal background checks. It gets about 90 to 95 percent of support in most polls. The majority of non-gun owners, gun owners, NRA members, non-NRA members—everybody—wants universal background checks.

It makes a difference. The States that have universal background checks have lower rates of gun homicides, suicides, and domestic violence crimes on average. It is maddening to me that we haven't been able to pass universal background checks here, but that is a political problem. That is a problem of political power. The gun lobby has had much more political power. Despite the fact that 90 percent of Americans want universal background checks, it is just a question of one side having more political power than the other. That is changing. Witness the House of Representatives' passage of universal background checks last year. I think that we will be able to pass that in the Senate if the elections go a certain way.

Yet Amy Coney Barrett has a different idea as to what the barrier should be to universal background checks. Amy Coney Barrett believes there is a constitutional prohibition against preventing all felons from owning guns. Amy Coney Barrett wants to take away the choice from Congress of who can own a gun and who can't own a gun. Now, that is not hyperbole. She will tell you that this is her belief. She wrote it down in an opinion. She didn't serve on the appellate court for very long, but while she was there, a case on a State gun law came before her, and she wrote a dissenting opinion which is a major outlier in Second Amendment jurisprudence, and it contains in it some pretty dangerous ideas that, frankly, people haven't had the time to consider because of how rushed this nomination has been.

In this case, the Kanter case, Amy Coney Barrett says that this felon—I think, in this case, it was a nonviolent felon—should be able to own a weapon. This is notwithstanding the State law that says all felons can't own weapons. Amy Coney Barrett comes to the personal opinion, in this case, that this individual is not dangerous. What she says is that it is not for the legislature to decide who is dangerous and who isn't. It is for the courts to decide who is dangerous and who isn't, and if the legislature can't prove to me, Amy Coney Barrett, that this person is dangerous, then I will declare that the Constitution doesn't allow for that person to own a weapon. The court now becomes the trier of fact.

This isn't unfamiliar because this has been a sort of interesting strain of jurisprudence among this new Federalist Society-vetted, conservative judicial crowd.

That is sort of the issue in Shelby County as well. This voting rights case comes before the Court, and the Supreme Court essentially says: We are going to be the trier of fact with respect to whether there is discrimination in this country. We are going to determine whether discrimination against people of color exists such that they need these voting protections. That traditionally would be a function of the legislature to decide whether discrimination exists so that it is necessary to require these protections, but in Shelby County, the Supreme Court says: No, we will make the decision as to whether discrimination is a problem, and if it is not, we will constitutionally invalidate these provisions of the Voting Rights Act.

Well, in Kanter, what Coney Barrett says is that courts now will decide who is dangerous and who isn't because I believe the Second Amendment to only allow for guns to be prohibited to individuals who are dangerous.

The second thing she says in that case is equally as dangerous. She says she also would require a State or the Federal Government to prove that the law is efficacious in promoting public safety. Now, that might not sound to you unreasonable, but that is not what the Second Amendment says. The Second Amendment doesn't say anything in there about gun laws only being constitutional if they can be proven to be efficacious, and there is always going to be a study funded by the NRA that will tell you that, if you take guns away from people, you make a community more dangerous. The NRA is really good at telling you that the only way to solve crime is with more guns.

So, conveniently, under Amy Coney Barrett's conception of the Second Amendment, so long as she or others on the Court can find a plausible argument that a gun law is not effective in promoting public safety, it can thus be ruled unconstitutional.

There are a hundred other courts out there with Republican judges who have not found the Second Amendment to say what Amy Coney Barrett says the Second Amendment says, and for courts to, all of a sudden, micromanage decisions about who is dangerous and who is not dangerous and what laws are effective and what laws are not effective sounds to me like the kind of judicial activism that many of my conservative friends have been warning against. I think the natural consequence of that would be to invalidate a whole host of background checks laws, perhaps to make it impossible—indeed, likely, to make it impossible for us to be able to expand background checks in a universal fashion as 90 percent of Americans want us to do.

So, while we are certainly spending most of our time talking about the threat to Americans' healthcare—because we are in the middle of a healthcare epidemic and because the consequences are so serious—it is important to note that it is not only on

the question of healthcare that Amy Coney Barrett is going to, potentially, fundamentally change this country. Whether it be her likely vote to overturn *Roe v. Wade* or the same-sex marriage decision or her radical, out-of-the-box conception of American gun laws and the constitutionality of them, her views are not in the American mainstream.

Of course, that makes sense because, increasingly, the Republicans aren't using the legislature to try to mold this country into their world view, into their political view, because their conception of how this country should be is deeply unpopular. It is unpopular to repeal the Affordable Care Act. It is unpopular to make it harder for the legislature to put into place universal background checks. It is unpopular to allow States to criminalize abortion. It is unpopular to allow for more dark money to be spent in elections. It is unpopular to provide less regulation on the pollution—oil and gas—industry.

So, increasingly, the Republicans don't really try to push that agenda through Congress because they have this other way now—because the Supreme Court will get all of that done. The Supreme Court will eviscerate the civil jury to make it easier for corporations to prevail in their cases against consumers. The Supreme Court will declare that a woman's right to a safe and legal abortion is not protected by the Constitution. The Supreme Court will invalidate the Affordable Care Act. The Supreme Court will stop legislatures from passing universal background checks.

As the Republicans' political agenda has become less aligned with that of the broad American public's, it makes sense that the Senate has stopped legislating. It makes sense that the Senate has just become this confirmation simple machine.

I have been here for the last 2 years. We haven't debated any legislation of substance here. All we have done is just confirm judges. I checked, and we have done 20 pieces of legislation. That is half as many as a normal Senate would do. Most of the bills we have passed have been—or not most of them, but, as I checked, one-third of the bills that we have passed have been of post office renamings or commemorative coins, and we have passed half as many bills overall as we would in a normal legislative session. Legislation is just kind of grinding to a halt here.

Yes, some of that is because the House is of a different party, and it is difficult to pass a law when you have different parties in charge of the House and the Senate, but there aren't a lot of conference committees happening, and there aren't a lot of attempts to reconcile our differences. In part, this is because the Senate is just confirming judges—a record numbers of judges because, in part, there were record numbers of vacancies because MITCH MCCONNELL and the Senate Republicans refused to confirm almost

anybody over the last 2 years of Obama's term in office.

They essentially nullified that portion of his Presidency—his right under the Constitution to nominate and have considered judges to the Federal bench. So, when Trump won and the Republicans maintained control of the Senate, all of a sudden, they had more vacancies than ever before. They have spent the last 2 years populating the bench, filling those vacancies. That is their right to do so, I guess, but it is also part of the strategy to push a conservative political agenda through the courts rather than through the legislature. Because that agenda is so unpopular, if it were pushed through the legislature, it would jeopardize the Republicans' chances of reelection. This has been an unusually activist Court, but it is likely to get more so with Amy Coney Barrett on the Court.

I want to do two more things before I yield the floor, and I know Senator Kaine will be here shortly. I want to spend a few more minutes on why this pandemic is so intimately intertwined into this conversation about this nomination and then finally say a word on process.

There are 220,000 Americans who have died, and millions of others have had their lives changed forever by this pandemic. The number of people who have been laid off is just sort of unfathomable to think about. The President tried a feckless travel ban in February and March. It didn't work. It was not going to work. He, effectively, gave up after that. He just put the States in charge and then refused to resource the States in a way that would allow them to adequately and effectively confront the virus. One example is the President's refusal to stand up a national supply chain so that we have been in constant crisis—first, with respect to masks and face shields and hand sanitizer and then, throughout the crisis, with respect to tests and testing equipment and cartridges.

I was visiting testing sites in Connecticut just last week. I mean, we are in—what?—month 8 of the pandemic, and still these testing sites in Connecticut have no idea, from day to day, how many tests they are going to have.

I was visiting a hospital that is right in the middle of a historic hot zone in Connecticut. I did a roundtable, and there were a bunch of people there. On my way out, one of the participants in the roundtable kind of followed me out. It happens often, as my colleagues know, and she wanted to have a private word with me. She was the purchasing agent for that hospital who wanted to tell me before I left exactly how nightmarish her life was for not knowing, from day to day, how many tests they were going to be able to do and how she had to scramble every single day to figure out how to get the components for the tests and how there was no way to plan, how there was no way to say, "OK, this week, I am going to go to

this site and this site to do tests," because I don't know where I am getting them from.

That is just one of the ways in which this President has just fundamentally let us down, but now it is something different. Now, the President isn't trying to stop the virus. He is actively trying to spread the virus. The President is holding these political rallies at which nobody is wearing masks and where people are standing shoulder to shoulder. He knows what he is doing. He knows that the effect of those rallies is going to be to spread the virus. He is shaming people who wear masks and is chiding the Vice President for always wearing one.

He is now actively engaged in an effort to test people less because he thinks that makes the country look bad. He is at war with his own scientists and regularly undermines his own officials at the CDC and the NIH. There is nobody who is doing more today to help this virus spread than Donald Trump. Then, on top of that, to rush through a nominee who may end up invalidating the Affordable Care Act and leaving people with no insurance in the middle of a pandemic that you are responsible for as President, that is cruelty built on top of cruelty.

Some of my other colleagues have done this as well, and I want to do it just so that some of these people's names end up as part of history, as part of some record other than of lonely obituaries. I am just going to read into the RECORD the names of a handful of the people who have died due to COVID-19 during this epidemic. I know it sounds like a futile exercise, given the fact that I will read 20 names and that 220,000 have died, but I don't really know what else to do at this point to try to convince this President to stop spreading the virus—to act in a responsible way, like an adult—other than to at least put some names to the numbers: Avidor and Rachel Farin, Adam Russo, Maurice Berger, Robert Herman, Mary Margaret Smith, Ingrid Kisiuk, Johnny G. Gonzales, Anne Martinez, Amelia Michels, Giomar Fuentes, Carmen Carlo. By the way, those last four were related—a mother, an aunt, another aunt, and a grandmother in law. Dr. John Marvin Brown, Sr.; Sylvia Livings; Howard Kramer; Robert Patrick Perry, Jr.; Hing S. Yee; Frank Small III; Steven D. Silverman, MD; Alexander Malcolm MacMillan, Jr.; Dean Pryor Perkins; Mary Castro; Alfonso Ye, Jr.; Michelle Lee Carter; Jerome Mark Spector; John Robert Hicken; Frederick Harris; Bill Huening; Jim Sheehan; Barry Downes; Mark Blum; Florence Warshawsky Harris; Kenneth Glover; Terrence Neil Thompson, Jr.; Gordon Pickering; Robert M. Flanders; Carlos Llamas; Juan Gilbert "Tito" Dominguez; Sarah Ann Staffa Scholin; Anne Morreale; Roberta M. Pepitone; Barbara Ross; Jacqueline Hoover; Kerman Hain; Mario Mendoza; John Pizzetti; and William Charles Edward Prince.

These are just two pages of names of individuals who have died due to the coronavirus.

The numbers are, obviously, absolutely overwhelming, and it is, of course, not just those who have died. It is those who have lost their jobs. It is all those people who have had the illness. Eight million people have been diagnosed with COVID. Who knows what the overall number is—individuals who had it who didn't know it, thought it was something else, or people who were asymptomatic. But is that number 100 million? Is that number 50 million? It is big, and all those individuals now have a preexisting condition. All those individuals now could be discriminated against by an insurance company if the Affordable Care Act was to be invalidated, and that is the ask of the Supreme Court—a Supreme Court on which Amy Coney Barrett will be sitting if this nomination is pushed through.

That is why these two questions—of the Supreme Court nomination which is before us today and the question of how we adequately confront the coronavirus pandemic—are connected and why we talk about them together.

Finally, let me say a word about process. This is not the most compelling argument to the American people. I don't think they really care too much about the processes by which we choose to conduct business here in the Senate, but we do. We should. We chose to serve in this body.

I have thought a lot over the course of the last few weeks about the idea of restraint—the idea of restraint, the idea of temperance. It has been a sort of seminal idea that humans have been considering for millennia—the idea of deciding not to do something that you have the ability to do, the decision to restrain one's self, to not use the minimum powers available to you because of the downstream consequences of your decision to operate at maximum power, your decision to use all of the facilities available to you. It is an idea that humans have considered, as I said, for thousands of years.

It is generally applied to this body. It is generally a very important facet of democracy because the Constitution says very little about how the Senate will conduct business. It doesn't micro-manage our proceedings.

Certainly, if you read our constitutional history, there was a belief that the Senate was supposed to be different than the House of Representatives. Obviously, we are chosen very differently. At the outset, we were given different term lengths. The idea was that the Senate was supposed to be able to look out for the long-term health of the country in a way that was different from the House of Representatives, given their requirement to answer to the people every 2 years.

So, over time, there was this understanding that the Senate would have, at its foundation, some concept of fairness, some ability for the minority to

participate. So, over time, there have been different rules about how many votes are required for cloture or different practices of how cloture was used, how often it was used. But always there was an idea that this place would be a shared experience; minority and majority would work together.

Senator McCONNELL has his version of history. I think Democrats have a different version of it. But I don't think anybody can disagree that the changes to the way in which the Senate operates have come faster and more furious during the years in which MITCH McCONNELL has been majority leader than at any time before.

I mean, just while I have been here, we have seen the eradication of the filibuster for Supreme Court Justices. We have seen the time that we have to debate Justices dramatically shrunken. I think it is now down to 2 hours. We have seen the elimination of the blue slip—the ability for Senators from a particular State to have a say in the judges that are selected to serve in their State's appellate courts.

But we also saw this exceptional thing happen in 2016, in which MITCH McCONNELL, as majority leader, decided that he would not even consider Barack Obama's choice for a vacancy in the Supreme Court, despite the fact that the vacancy came about 11 months before the next President was to be sworn in.

In retrospect, Democrats didn't make a big enough deal out of it, I think, because we thought that Hillary Clinton was going to win, and, thus, ultimately, while it would be a dangerous precedent to live with, it might not have a practical effect on the country. We just couldn't imagine in the winter and spring of 2016 that Donald Trump was going to be the President of the United States.

In retrospect we should have made a bigger deal out of what was happening in 2016, because this idea that Republicans weren't going to even consider—even do a courtesy meeting, have a hearing on—Merrick Garland was and still is truly exceptional, and it fits into this pattern we have seen under Senator McCONNELL during the past few years, this pattern of forsaking restraint and using every conceivable power. Or let me back that up: using more powers available to the majority than ever before in order to effectuate a political agenda.

What Republicans did in 2016 was unprecedented—to just say: Forget it, President Obama. We are not considering your choice for the Supreme Court because you are a Democrat and we are Republicans.

Now, at the time, as we remember, Republicans said that it wasn't political. It was because there was an important rule they were enforcing—this rule that you couldn't consider a Presidential nominee to the Supreme Court in the last year of his or her term.

Now, I didn't hear my colleagues say at the time that the rule was only applied when the President and the Senate were of different parties. In fact, I heard many of my Republican colleagues, including the chairman of the Judiciary Committee, say that the rule was simply that, in the last year of a President's term, you don't consider a Supreme Court Justice. Famously, Senator GRAHAM said: Write down my words. Hold them against me.

And, at the time, we all knew that Republicans probably weren't telling the truth. We knew that it was probably just because it was President Obama and they did not want Justice Scalia, a conservative Justice, to be replaced by someone who was more liberal in their views. We suspected that this idea that they were enforcing a rule was just a ruse to paper over what was simply a political decision not to give President Obama a seat on the Supreme Court.

Well, now we know it was a ruse because, all of a sudden, when presented with the exact same circumstance—well, in fact, a different circumstance in that this vacancy occurred weeks before the election rather than 9 months before the election—Republicans have now changed their tune because it is just about politics. Right? It is just about politics. It is just about getting your guys on the Supreme Court and stopping the other guy's folks from getting on the Supreme Court.

And what MITCH MCCONNELL has said is that we are going to use any power at our disposal in order to effectuate our agenda, especially when it concerns the Supreme Court.

Restraint, which is a predicate for the effective operation of democracy, is disappearing. And, again, I know that it sounds ridiculous to make this suggestion, but there is really no logical end to how you can maximize your powers as a majority body in the U.S. Senate. There is no constitutional prohibition on the Senate majority saying that Members of the majority are going to get twice as much staff as Members of the minority. There is nothing stopping the majority from eliminating our speaking rights in committees, on the floor of the Senate.

There are a lot of things that the majority can do to make it increasingly impossible for the minority to have any role here—to be able to protest, to be able to carry out our agenda. And I know that there is a lot of speculation—much of it driven by the Republican majority—about what Democrats will do if Democrats are given control of the Senate. Will Democrats go to new extraordinary lengths to maximize their power, given the extraordinary lengths Republicans have gone to maximize their power?

That is not a conversation that is sort of ripe enough yet, but what do Republicans expect? I mean, what you did in 2016 is really wild. You basically invalidated the last year of a Presi-

dent's term, at least with respect to that core function of appointing Justices. And what is wild was that you didn't have to go to the lengths that you did. Republicans could have voted Merrick Garland down and, at least, have recognized the legitimacy of the nomination—voted Merrick Garland down and perhaps forcing a conversation about another nominee that might be more amenable to the Republican majority. That wouldn't be the first time that that has occurred.

One of the statutes here in the U.S. Congress is of Oliver Ellsworth from Connecticut, who was elevated to the Supreme Court because George Washington believed his first pick couldn't be confirmed by the Senate. So, instead, he chose one of Connecticut's two U.S. Senators, who was beloved in this body when it operated not far away. And Oliver Ellsworth went to the Court because of a quiet negotiation with the Senate.

Republicans, under MITCH MCCONNELL, didn't even engage in a process with Merrick Garland. They just declared that the President's choice was illegitimate. And I can't argue that they didn't—well, I can argue they didn't have the power, but certainly there was a colorable argument that Republicans in the Senate could just refuse to consider Merrick Garland's nomination.

But now having practiced that exercise of maximum power, using the majority to delegitimize a President in that way, you put Democrats, if they win control of the Senate, in a really unenviable position. Do we just unilaterally stand down and not choose to use the same tools that Republicans did in the majority? Would we expect, if we did that, that if Republicans regain the majority, they would follow our lead? Or would that be wildly naive?

No, in fact, I think there are now new rules in the Senate, and I think Republicans have set them. I get it that you can claim Harry Reid's rule change as the original sin that legitimizes everything that you have done since then, but the changes Republicans have made have come at a dizzying pace—far more changes made, far more precedents shattered than anything that happened when Democrats were in control.

And, of course, as to Senator Reid, many of us would argue that the reason that that change was made was because Senator MCCONNELL doubled the number of cloture motions that were required in order to move legislation to a final vote. The change in the use of the filibuster by Republicans during their time in the minority was what forced that change.

But setting that aside, there is no question that changes have come much faster and much more furious, and it just doesn't bode well for the future of our democracy when everyone uses the maximum power available to them, with no concern for the minority party, in order to get what they want.

And it is not just the Republican majority that has done this. So has the executive branch. I listened to the Presiding Officer give his maiden speech on this floor about the overuse of Executive power, and there were legitimate complaints about ways in which the Obama administration had used maximum Executive power when the legislature would not act.

But, again, it doesn't compare with the ways in which this President has used maximum Executive power in the absence of authorization from Congress. Both in the executive branch and in the legislative branch, under Republicans, restraint as a practice inside democracy is disappearing. Maximum power becomes the ethos, and that is a danger to democracy—maybe not today, but soon enough.

I don't know how this body gets back into a conversation about comity. I don't know how we get back into a conversation about how we govern together.

I have, frankly, voted for more of this President's nominees to the executive branch, to political offices, and to the bench than almost all of my colleagues, maybe, on this side of the aisle, maybe with the exception of a few, because I generally have believed that if the nominee is in the conservative mainstream and if the nominee is generally qualified, they should get their post, especially for executive appointments, for nominations to Secretary positions and Undersecretary positions. I do that, in part, because I think that it is important to not use maximum power and maximum leverage, for me not to vote against every single nominee that the President puts forward just because I disagree with that nominee.

That conversation about how we restore some comity and some restraint is an important one, but it is likely to be impossible in the next Congress because of how fundamentally broken this body will be after what happened to Merrick Garland and then, on top of it, what is happening right now.

We are 8 days before an election. We are 8 days before an election. We are jamming through Amy Coney Barrett's nomination in record time, not because it is good for the country, just because you can—just because Republicans can—and, likely, because it is really important to effectuate your deeply unpopular agenda through the Supreme Court.

We don't legislate here anymore because Republicans have found out a way to get their agenda done through the court system. Amy Coney Barrett will likely be the fifth vote to invalidate the Affordable Care Act, a political project for the Republicans for the last decade, unfulfilled through the legislative branch, now achievable in the next several months through the judicial branch, but only if Amy Coney Barrett's nomination is rammed through right now.

The rewriting of the Second Amendment is not available to Republicans

any longer in the legislative branch. The NRA's priority list couldn't even get a vote in the Senate with Republican control—now available through the judicial branch if Amy Coney Barrett is nominated. The consequences for the country are serious if the source of power in this town, the source of policymaking and rule setting, moves from this body across the street to the Supreme Court.

And not equally as dangerous to the Nation, but still perilous, is what will happen to this body, if all that matters political power, when restraint vanishes and whoever is in the majority uses every lever available to them to try to get what they want, to try to stop the other side from getting what they want.

It is 1 week before an election. We are here all night, ramming through a Supreme Court nominee in record time simply because you can. That is not a good enough reason.

I yield the floor.

The PRESIDING OFFICER (Mr. SASSE). The Senator from Virginia.

Mr. KAINE. Mr. President, I rise in opposition to the nomination of Judge Barrett to the U.S. Supreme Court. This process shows how misplaced the priorities of the Senate are at a critical moment in time.

There is an epic national crisis that we should be addressing—a pandemic that is raging and causing unprecedented death and economic distress at a massive scale. Yet the Senate has been sitting on its hands since late April when we passed our fourth and final piece of COVID legislation then, reinfusing dollars into the small business protection program. The death toll in the United States was approaching 63,000. We have done nothing since, and the death toll is now approaching 230,000.

Here are a few of the many Americans we tragically lost to COVID-19: Benigno Hurtado-Andrade, Amalia Pasqua, James Shanley, Verna and Clarence Cuyler, Betty Damato, Keith Mitchell Jacobs, Ward H. Harlow, Jr., Kyong He Park, James Norton, Charlotte Marie Sims, Guus Smeets, Charles Krebbs, Dr. Gaye Griffin-Snyder, Hugh Freyer, Marcel Borg, Nancy Standage Borbon, Albert Garcia, Helen Flores, Dean Pryor Perkins, Darrell William Jones, Paul Abramson, Everett Pike, Grant D. Ross, Isabelle Papadimitriou, James Hughston, Jose Antonio Reyes, William D. Shilling, Jr., Ronnie "Bro" Baldwin, Larry Singer, Leone (Kitty) Harriman, Sarah Roth, Sara Rose Varela, Kenneth E. Zwick, Sr., Pik Chi Chan, Melinda "Nina" Wernick, Roger Diethelm, Alan Zundl, Irvin Umberger, Dr. Kirk Barnett, Danielita Brown, Jose Sanchez.

The number of new coronavirus cases is now reaching record peaks. The Saturday headline from the Washington Post, which is the most-read daily newspaper in Virginia, says it all: "U.S. hits highest daily number of

cases since pandemic began." Papers all around the country carry similar headlines.

Ten months into this crisis, there is no national plan or strategy for dealing with it. The Chief of Staff to President Trump admitted defeat yesterday, claiming that we are not going to control the pandemic. It can be controlled with testing, contact tracing, isolation, and a commitment to mask-wearing, hand-washing, and social distancing. That is how other nations are controlling the pandemic. But the Trump administration is admitting surrender.

They now tell us that we will just have to wait for vaccines and treatments, but Americans cannot afford to wait. The economic devastation accompanying this healthcare crisis is catastrophic. The unemployment rate is 7.9 percent, which is 65 percent higher than when President Trump took office. And that number actually understates the magnitude of employment losses as millions have dropped out of the labor market to care for children or their parents or other loved ones affected by this tragedy. Women have been hit disproportionately hard in this forced exodus from the job market. President Trump's job losses are now the worst of any American President on record. Yet the Senate is doing nothing.

The largest public health crisis in 100 years, the most significant economic collapse since the Great Depression, and the Senate has done nothing to provide Americans relief for 6 months. This is inexcusable.

The House acted by passing the Heroes Act in May. I knew that the Senate majority would not simply embrace a Democratic bill from the House, but I believed they would do something. But the Senate majority would not even surface a proposal until the very end of July, just days before many CARES Act benefits expired and the Senate went into a month-long recess. It was not until mid-September that the Senate GOP finally brought up a vote on what we all called a skinny bill—one-seventh the size of the House proposal and dramatically less than what even the White House said was necessary to deal with the crisis. That bill contained no rent assistance as millions face eviction, no mortgage assistance as millions face default or foreclosure, no food assistance as millions face hunger, and no aid for State and local governments, whose falling revenues jeopardize their ability to employ so many of the health and public safety workers who we know to be essential right now.

Democrats opposed the skinny bill in the hopes that rejecting a partisan proposal would lead to a bipartisan breakthrough. That is just what happened in March with the CARES Act. We voted down a paltry partisan package and days later found a robust bipartisan bill to help all Americans. Our "no" vote on the skinny bill in September

did jump-start serious negotiations between the White House and Democratic leaders, and the negotiations saw the two sides growing closer and closer.

But there was a problem. The Senate majority does not want a COVID relief bill. We could get there, but last week the New York Times and other publications made it plain that no deal was forthcoming. Why?

"McConnell moves to head off stimulus deal as Pelosi reports progress."

"U.S. hits highest daily number of cases since pandemic began."

"McConnell moves to head off stimulus deal."

This is what we should be working on right now, but the Senate majority abandoned their commitment to helping Americans through this emergency on September 18—the day that Ruth Bader Ginsburg died. Since then, rushing Judge Barrett to confirmation has been all that matters to them—no matter that Americans deeply need COVID relief; no matter that the rush to complete a confirmation in 1 month from nomination to vote is unprecedented in modern times; no matter that the Senate majority broke its word to their colleagues and the American public that a Supreme Court vacancy occurring in a Presidential election year would not be filled until after the election to "let the people decide"; no matter that the rushed nomination jeopardized the health of attendees at the President's superspreading White House announcement and even staff and Members of this Senate.

My question is, Why? Why rush this nomination, ignoring Senate precedent to do so, breaking your own word to do so, violating health protocols to do so, rather than spending our time providing comfort to families who are hurting and businesses that are struggling and closing? There could be no good answer to this question, but the actual answer is particularly heartless. The effort to rush the Barrett nomination is driven by the Republican desire to destroy the Affordable Care Act. That has been the goal for 10 years. I have seen it here on the floor virtually every day during the time I have been in the Senate since January of 2013.

The Republican majority—particularly during the Trump Presidency—has done everything they can in Congress, in administrative sabotage, and in the courts to destroy the ACA and take healthcare away from tens of millions of Americans. Congressional Republicans even engineered a complete shutdown of the American Government in October of 2013 to try to achieve their goal, but they failed.

More States, even Republican States, have embraced the ACA. It has grown more popular every day with the American public. But by rushing the Barrett nomination, President Trump and the Senate majority see one last chance. In 2 weeks, the Supreme Court will hear

the case of *California v. Texas*, a coordinated effort by Republican attorneys general, the Trump Justice Department, and many in Congress to destroy the Affordable Care Act.

The death of Justice Ginsburg on September 18—who had often voted to uphold provisions of the ACA as an appropriate exercise of congressional legislative power—offered a tantalizing chance to select as her successor someone who has written critically of the act and of the Supreme Court's 2012 opinion upholding the law. If she can be rushed to the Court by November 10, she can participate in the resolution of the case.

Getting her there quickly matters more to the Senate majority than helping the millions who are suffering during this crisis. If they are suffering now, imagine how the suffering would have been magnified without the ACA—millions without insurance to help them through the health crisis; millions of young people not able to be on family policies; millions turned away from coverage because of preexisting health conditions and now having COVID as an additional preexisting condition that will potentially disqualify millions more; millions facing termination of insurance as COVID-related health expenses run them up against lifetime coverage limits.

This rushed Supreme Court nomination not only ignores Americans' demand for help at a time of maximum need, it is done in a way that will likely increase their suffering, with full knowledge that is the case.

I will not play any part in an effort of such calculated cruelty. This vote will hurt the body, hurt the Supreme Court, and hurt millions of people in crisis who are struggling, and even dying, as the Senate ignores their needs.

Many of our Republican leaders won't even wear masks. They refuse to cover their noses and mouths to protect themselves and those around them. But this soulless process shows that they are glad to cover their eyes and their ears to block out the pleas of our suffering citizenry. I will oppose this nomination.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. GILLIBRAND. I rise today to speak about the future of the Supreme Court, the future of our country, and the responsibility this body has to the people of our Nation.

It seems that my Republican colleagues have lost sight of what the people of our States have sent us here to

do. They sent us here to raise their voices, represent their interests, and provide them with the help they need.

The American people are truly struggling, and they are calling upon us to provide them with real relief during this public health and economic crisis. That should be our No. 1 priority.

Eight million Americans have fallen into poverty during this pandemic, including an outsized number of people of color and children. The proportion of American children who sometimes do not have enough to eat is now 14 times higher than it was last year. Parents are now joining food lines for food banks because they cannot feed their children. Cases of COVID are on the rise as we head toward our third peak. Small businesses and their employees don't see a rebound on the horizon. People are sick. They are struggling and scared about the future.

For months, my fellow Democrats and I have been calling for a vote on the relief package the House put forward to address these concerns, and we have been met with silence. Then, after dragging their feet, Republicans put forward a totally inadequate \$500 billion package that puts the needs of big businesses ahead of working families. What is worse is that they know it has absolutely no chance of becoming law. Their only aim is to score political points, all the while the American people keep suffering.

The weeks we should have dedicated to negotiating a real relief package have instead been spent rushing through the confirmation of a Supreme Court Justice. The hypocrisy is truly stunning. The same people who denied Merrick Garland a hearing months before an election are now trying to ram this process through while an election is already happening. Millions of ballots have already been cast. Millions of Americans are already voting. Their futures are on the line. They should have a say in this outcome.

We know why Republicans are rushing. They are rushing because they know it is their last chance to impose a very extreme conservative view on this country. They are rushing because they see a clock ticking toward November, when the Supreme Court will hear arguments on whether 129 million Americans with preexisting conditions will continue to have access to affordable healthcare. They are rushing to seat Judge Barrett in time for her to rule on that case—a case that could strip millions of Americans of healthcare in the middle of a pandemic, at the very moment they need it the most. It is simply inhumane.

The Affordable Care Act is a matter of life or death. I recently spoke to a New Yorker named Allie Marotta, who has been living with type 1 diabetes since 2006. Last December, she turned 26 and aged off her parents' insurance. Because her work is contract-based, she couldn't enroll with an employer. She made too much to qualify for Medicaid but not enough to afford \$400

monthly premiums. She was uninsured from December to March and had to ration her insulin, putting her life at risk. It was only when the pandemic started and she lost all of her income that she was able to qualify for the essential plan in New York's ACA marketplace and access her life-sustaining medication. If the ACA is repealed, Allie will have nowhere to turn.

She is not alone. My friend Kyle lives with Down syndrome. His father Bill has multiple preexisting conditions. Right now, Bill works part time in order to help Kyle, who needs to be with somebody 24/7. They are worried about cuts to Medicaid, which could affect the job-coaching Kyle receives at the pizza parlor where he works, and about the repeal of the ACA, which provides them the only care they can afford.

Rushing to seat this nominee means rushing to put Allie's life and Kyle's life and millions of Americans in danger. My colleagues are putting them all at risk only to further a very conservative agenda. It is extreme.

Their agenda is to seat a nominee who has called Roe v. Wade "barbaric," when nearly 8 in 10 Americans believe that it is a fundamental, human, and civil right for women to make decisions about their bodies, including when or if or under what circumstances they will have children; a nominee who referred to sexual orientation as a preference—language that is not just outdated but truly harmful when two in three Americans believe love is love, believe in marriage equality, believe in the right to marry the person they love; a nominee who refused to admit climate change is settled science and not a controversial issue, when 99 percent of scientists and 81 percent of Americans believe that humans are drivers of global warming.

So whose views does she represent? Certainly not those of the people who sent us here. They believe in access to reproductive care. They believe in equal rights for the LGBTQ community. They believe in science. They believe that this seat should be filled by the next President and confirmed by the next Senate. They have made it clear and don't want the process of a lifetime appointment rushed.

This is the wrong judge for this seat, and this is the wrong process for a lifetime appointment. It is hypocritical. It is dangerous. It is not what the American people want.

I ask my colleagues to stop ignoring the people who sent us here and to remember that it is our job to look out for their best interests—no one else's. If we don't do that, we don't have the right to be here at all.

I also want to express my condolences to the families and loved ones who have experienced the human toll of the coronavirus pandemic. Over 220,000 Americans have died, and millions of others have been changed forever. I am going to read some of the names of the people we have lost. The

families of these individuals have given permission for their names to be read on the Senate floor, adding them and their stories to the CONGRESSIONAL RECORD:

Mark Anthony Urquiza, Paul Osterman, Frederick Harold Quinn, Richard Rosenberg, Charles Mahoney, Felix Chidinma Oruh, Margaret R. Hogan, Mahmooda Shaheen, Alan Kaplan, William W. Boyd, Breda C. Meadows, Jose Morales Ramirez, David Benfield, John A. Alexiades, Michael F. Hughes, Bob McDonald, Richard Proia, Rashonne Smith, Jose "Joe" Ramirez, Steve Petras, Sr., Fareeda Kadmuni, Jean Yettito, Abby Spitzer, Robert "Bobby" McCoskey, Jose A. Matias, Erick B. Chavez, Anastasia Koveroglu, Shafqat Rasul Khan, Lynette Scullen and Joan Scullen, Marue Santini, Buck McKinney, Christina Danielo, Cal Schoenfeld, Gregg Pappadake, Sarah "Sally" Bielen, Rolando Castillo, Nais Coque, David Tashman, Joseph LoBianco, Ramash Quasba, Edward Alonzo.

I would also like to share some concerns of the people of New York over what a future without the Affordable Care Act would look like.

While my colleagues try to rush this confirmation so Judge Barrett can be seated in time to rule on a case that could cause millions of Americans to lose access to their healthcare, I think it is important that we remember how that case will affect the people we are here to serve.

In New York, there are more than 8 million people with preexisting conditions who could face higher costs, fewer benefits, and more trouble finding the coverage they need if the ACA is repealed. There are more than 3 million people who could be denied coverage altogether over preexisting conditions that are deemed uninsurable. There are more than 470,000 people who have been diagnosed with COVID, each of whom could find themselves paying higher premiums for worse coverage.

My mailbox has been flooded with letters from New Yorkers who are cancer survivors and parents and people with disabilities who are all worried about their families not being able to access the care that they need. Working to take away their care, especially in the middle of a pandemic, is inhumane.

Jane from West Islip wrote:

As a cancer survivor, I am very concerned about healthcare and pre-existing conditions. We're facing a healthcare meltdown. This next Justice could be the deciding vote that determines whether health care for tens of millions of people, protections for pre-existing conditions, and other provisions of the ACA that benefit almost everyone, will stay or go. Judge Barrett's documented hostility towards the ACA disqualifies her from a lifetime appointment to the Supreme Court. A vote for Judge Barrett is a vote to end healthcare. Oppose her nomination.

Jane is not alone in her concerns.

Candice from Brooklyn wrote:

I am writing to urge you to oppose the nomination of Judge Amy Coney Barrett to

the Supreme Court. I am worried that Judge Barrett's statements on the Affordable Care Act mean that, if confirmed, she would vote to overturn the ACA. Millions of Americans with disabilities rely on the ACA to protect our right to healthcare. If the ACA is overturned, especially during a pandemic, millions of lives could be at risk.

This is a concern I have heard over and over and over and over again.

Meredith from New York City wrote to me about Stacy Staggs, the mother of two young children who both have complex medical needs and disabilities, who shared powerful testimony during the Supreme Court confirmation hearings.

Meredith wrote:

When she spoke, she spoke for me. The ACA and disability rights are at stake. This confirmation should wait until after the American people have chosen who should pick the next justice.

Parents across the State are also worried about what the Court with Justice Barrett would mean for their children.

Susan from Amherst wrote to me about her daughter. She wrote:

My daughter is an amazing young woman—and a lesbian—and an individual with pre-existing conditions. Her depression has worsened because she sees what a confirmation of Amy Coney Barrett's confirmation would mean to her and many of her friends. Even Pope Francis believes members of the LGBTQ+ community deserve to be part of a family and should be able to participate in civil unions. Please help! She needs to have hope! The rush to confirm Amy Coney Barrett to the Supreme Court is concerning. Not only have Senators not had enough time to duly vet her, but we are in the middle of a highly consequential election in which millions have already cast their ballots. Further, Judge Barrett's LGBTQ rights record suggests she cannot be an impartial jurist on these matters. I'm deeply concerned about the future of rights for the LGBTQ community.

These letters also send dire reminders of what life was like for too many New Yorkers before the Affordable Care Act—a history we should never repeat.

Jan from Ridgewood wrote:

I am 61 years old and have been self-employed for most of my working life. This circumstance has made me a healthcare voter! For decades I thought I was the only one complaining about impossibly high health care costs. The cheapest plan that I could find had a monthly premium of \$692. For me as an individual, with my husband—[who was] also self-employed—and daughter it was about 1,250. After my divorce, I went job-hunting for health insurance. I was willing to work for free if I could be put on a health insurance plan. I didn't find any.

The ACA put an end to that demeaning search. My income fluctuates, so my premium goes up-and-down, but it has never been as expensive as it was before ObamaCare. There is ample evidence to suggest that Judge Barrett would overturn the Affordable Care Act. Confirming such a justice during what is perhaps the worst public health crisis in American history, and while the Senate refuses to act to address the coronavirus economic and health crisis, is unconscionable.

Let me say that again: Healthcare is so important that she was willing to

work for free just to have it. That is what is on the line here.

Repealing the ACA would also mean an end to the rules preventing insurance companies from charging women higher premiums than men and requiring them to cover essential health benefits for women. That means women would not only have to pay more, but it would also be harder for the more than 4 million New York women who are covered by private insurance to find coverage for maternity care, contraception, and cost-free screenings for breast cancer, cervical cancer, and bone density. It would return us to the days when uninsured women could be denied coverage altogether if they are pregnant or have a health problem.

It would also put our older adults at risk. Striking down the ACA would reopen the prescription drug coverage cap—the so-called doughnut hole—and could leave nearly 350,000 seniors in our State paying thousands of dollars in out-of-pocket costs for the medications they need.

Thomas is one of those seniors. He writes:

The price for the family insurance is high and with our present administration will go higher and millions of Americans will not be able to have insurance. And this is the time it is needed with the lack of the virus control. Many Americans are out of work and will never be able to get a job that paid as much as the previous job. . . . Many Americans have died because the administration would not treat the virus when it was starting. Many homes now have less people bringing in money to pay bills because of this. The administration has no plan to replace ObamaCare. . . . And with the second and third round of virus and flu, many more may die. . . . Seniors are on a fixed income and seldom get any breaks when it comes to bills. Part D of Medicare prescriptions really went up this year. At the end of the year, we fall in the doughnut hole and have to pay two to three or more times for our medicine than we were paying. And then at the beginning of the year, we must pay the deductible which, on the average, is 400 plus dollars. But remember we are on a fixed income, so that means going without something else. Again, a zero-deductible plan does not cover much unless you pay above 70 dollars a month. Do not expect the average American to have much extra money. A lot of people live on Social Security alone, and the present administration wants to stop that income.

The American people do not want to lose their healthcare, not in the middle of a pandemic, not ever, and they certainly don't believe we should be prioritizing this nomination over providing them with real relief.

Christine from Beacon wrote:

I find it appalling and horrific that instead of a humane relief bill for the people who have lost family members, jobs, homes, the stability of their children's shelter, food security and education—not to mention the social cost of interrupting normal childhood social development and just the terrible grief and fear [people are dealing with] . . . that instead of working on a relief bill, we have another judge infuriatingly and unfairly jammed in to the court. The Supreme Court! My god . . . the lack of respect and audacity of beginning this process. There is wrong and right. And to quote a great patriot: "This is America. And here, right matters."

Christine is right. Doing the right thing for the American people matters. It is actually our job. New Yorkers and people across this country who have lost their jobs and their employer-based healthcare are calling on the Senate to provide them with the relief they need to survive this health and economic crisis.

Instead, the Republicans are pouring salt in their wounds by rushing this process in order to eliminate the Medicaid expansions and marketplaces these newly jobless Americans have turned to for coverage. Overturning the ACA would immediately end the Medicaid coverage nearly 1.9 million beneficiaries in New York are relying on.

These stories I have shared represent the fears and concerns of the people who sent us here to represent them. They are people with debilitating illnesses, parents who are worried about sick children, adults who are worried about elderly parents, and young men and women who live with conditions like diabetes and are already struggling to find insurance that will help them access the insulin they need.

They are struggling, and it is our job to get them the help they need. The American people oppose this nomination. They are watching, and one way or another, they will be heard.

I would like to read from an article in the New York Times by Reed Abelson and Abby Goodnough, entitled: "If the Supreme Court Ends ObamaCare, Here's What It Would Mean."

"The Affordable Care Act touches the lives of most Americans, and its abolition could have a significant effect on many millions more people than those who get their health coverage through it.

What would happen if the Supreme Court struck down the Affordable Care Act?

The fate of the sprawling, decade-old health law known as Obamacare was already in question, with the high court expected to hear arguments a week after the presidential election in the latest case seeking to overturn it. But now, the death of Justice Ruth Bader Ginsburg increases the possibility that the court could abolish it, even as millions of people are losing job-based health coverage during the coronavirus pandemic.

A federal judge in Texas invalidated the entire law in 2018. The Trump administration, which had initially supported eliminating only some parts of the law, then changed its position and agreed with the judge's ruling. Earlier this year the Supreme Court agreed to take the case.

Mr. Trump has vowed to replace Justice Ginsburg, a stalwart defender of the law, before the election. If he is successful in placing a sixth conservative on the court, its new composition could provide the necessary five votes to uphold the Texas decision.

Many millions more people would be affected by such a ruling than those

who rely on the law for health insurance. Its many provisions touch the lives of most Americans, from nursing mothers to people who eat at chain restaurants.

Here are some potential consequences, based on estimates by various groups.

133 MILLION

AMERICANS WITH PROTECTED PRE-EXISTING CONDITIONS

As many as 133 million Americans—roughly half the population under the age of 65—have pre-existing medical conditions that could disqualify them from buying a health insurance policy or cause them to pay significantly higher premiums if the health law were overturned, according to a government analysis done in 2017. An existing medical condition includes such common ailments as high blood pressure or asthma, any of which could require those buying insurance on their own to pay much more for a policy, if they could get one at all.

The coronavirus, which has infected nearly seven million Americans to date and may have long-term health implications for many of those who become ill, could also become one of the many medical histories that would make it challenging for someone to find insurance.

Under the A.C.A., no one can be denied coverage under any circumstance, and insurance companies cannot retroactively cancel a policy unless they find evidence of fraud. The Kaiser Family Foundation estimated that 54 million people have conditions serious enough that insurers would outright deny them coverage if the A.C.A. were not in effect, according to an analysis it did in 2019. Its estimates are based on the guidelines insurers had in place about whom to cover before the law was enacted.

Most Americans would still be able to get coverage under a plan provided by an employer or under a federal program, as they did before the law was passed, but protections for pre-existing conditions are particularly important during an economic downturn or to those who want to start their own businesses or retire early. Before the A.C.A., employers would sometimes refuse to cover certain conditions. If the law went away, companies would have to decide if they would drop any of the conditions they are now required to cover.

The need to protect people with existing medical conditions from discrimination by insurers was a central theme in the 2018 midterm elections, and Democrats attributed much of their success in reclaiming control of the House of Representatives to voters' desire to safeguard those protections. Mr. Trump and many Republicans promise to keep this provision of the law, but have not said how they would do that. Before the law, some individuals were sent to high-risk pools operated by states, but even that coverage was often inadequate.

21 MILLION

PEOPLE WHO COULD LOSE THEIR HEALTH INSURANCE

Of the 23 million people who either buy health insurance through the marketplaces set up by the law (roughly 11 million) or receive coverage through the expansion of Medicaid (12 million), about 21 million are at serious risk of becoming uninsured if Obamacare is struck down. That includes more than nine million who receive federal subsidies.

On average, the subsidies cover \$492 of a \$576 monthly premium this year, according to a report from the Department of Health and Human Services. If the marketplaces and subsidies go away, a comprehensive health plan would become unaffordable for most of those people and many of them would become uninsured.

States could not possibly replace the full amount of federal subsidies with state funds.

12 MILLION

ADULTS WHO COULD LOSE MEDICAID COVERAGE

Medicaid, the government insurance program for the poor that is jointly funded by the federal government and the states, has been the workhorse of Obamacare. If the health law were struck down, more than 12 million low-income adults who have gained Medicaid coverage through the law's expansion of the program could lose it.

In all, according to the Urban Institute, enrollment in the program would drop by more than 15 million, including roughly three million children who got Medicaid or the Children's Health Insurance Program when their parents signed up for coverage.

The law ensures that states will never have to pay more than 10 percent of costs for their expanded Medicaid population; few if any states would be able to pick up the remaining 90 percent to keep their programs going. Over all, the federal government's tab was \$66 billion last year, according to the Congressional Budget Office.

Losing free health insurance would, of course, also mean worse access to care and, quite possibly, worse health for the millions who would be affected. Among other things, studies have found that Medicaid expansion has led to better access to preventive screenings, medications and mental health services.

800,000

PEOPLE WITH OPIOID ADDICTION GETTING TREATMENT THROUGH MEDICAID

The health law took effect just as the opioid epidemic was spreading to all corners of the country, and health officials in many states say that one of its biggest benefits has been providing access to addiction treatment. It requires insurance companies to cover substance abuse treatment, and they could stop if the law were struck down.

The biggest group able to get access to addiction treatment under the law is adults who have gained Medicaid coverage. The Kaiser Family Foundation