

Judge Amy Coney Barrett

October 22, 2020

We are here today for Judge Barrett's second markup. As the American people have learned, Judge Barrett is a great nominee. She's not just a great nominee. As I said last week, I have never met a more amazing human being in my life.

We are now well aware of Judge Barrett's record. Judge Barrett graduated Phi Beta Kappa from Rhodes College. She was first in her class at Notre Dame Law School after which she clerked for Judge Silberman and the great Justice Scalia. She practiced law in Washington, D.C. before returning to Notre Dame Law School where she became a tenured professor and three times won the teacher of the year award. During her time as a professor she wrote important articles defending the law of precedent and was selected by Chief Justice Roberts to serve on the appellate rules committee. In 2017 she was nominated by President Trump to the Seventh Circuit, a position to which she was *confirmed with bipartisan support*.

She was nominated last month to the Supreme Court following the tragic death of Justice Ginsburg. The ABA, which Senators Schumer and Leahy have called "the gold standard" for judicial nominees, has rated her "Well Qualified."

We heard from Judge Barrett for three days last week and her performance was masterful. She answered questions about her record as a judge and a professor with encyclopedic knowledge of both her record and the law.

We also saw two stories yesterday about her religious affiliation trying to paint her as weird and spooky. One story went so far as to tie her to Justice Kavanaugh by ominously claiming that her religious organization has hired the same law firm that employs one of Kavanaugh's lawyers. The other story—from the Associated Press—went after her children's school for its adherence to traditional Christian doctrine on sexuality.

Think about what that means: if you are affiliated with an institution that has traditional views on sex and family, you're in the crosshairs. Catholics need not apply. But it's not just Catholics: Baptists need not apply. Mormons need not apply. Orthodox Jews need not apply. Muslims need not apply.

Here are the facts: Judge Barrett is a Catholic and she is a member of a small, ecumenical religious organization in the "Charismatic" tradition. Charismatic Christianity is *extremely popular in Latin America and the African American community*. It's completely mainstream. Nevertheless there have been *35 news reports* on where she worships since Judge Barrett was nominated to the Seventh Circuit.

Of course it's not just attacks on her religious community. The *New York Times* ran an article investigating the validity of her adoptions. The *Washington Post* falsely accused her children of spreading the Coronavirus. The Notre Dame Faculty Senate attempted to censure her friends on the law faculty who went to the White House to support her nomination.

Liberals are sending a message: we meant it with Kavanaugh. They are telling lawyers and judges throughout America that they should accept a Republican Supreme Court nomination at their peril.

The fact is the left needs to attack Judge Barrett because of what she represents. Judge Barrett sends a message to Christian and pro-life women in America that, yes, there is a seat at the table for you. As she said at her hearing, she has made “distinct choices ... to pursue a career and have a large family[,] a multiracial family [where] faith is important to us.”

Judge Barrett isn't breaking a glass ceiling. She is breaking a cement barrier to keep women of faith, women from Middle America, minivan-driving moms out of the halls of power.

I think we should celebrate that.

Clearly liberals don't.

But the fact is liberals can't make the case against Judge Barrett. She's just that good. So instead they make the case against the process. They make the case against me. That's fine: I'm a better target for them than the amazing woman we saw last week.

Let's talk about the process I have run here. It has been a fair process and a full process. Democrat attacks on it fall short.

The fact is the Democrats never wanted a process at all. Senator Feinstein said: “I believe we should not be moving forward on this nomination, not until the election has ended, and the next President has taken office.” Similarly Senator Schumer said there was “no reason on God's green earth why these hearings shouldn't be delayed.” He went on to call the confirmation process “illegitimate, dangerous and unpopular” and he declared that “Democrats will not supply the quorum. Period.” We are seeing that today.

These attacks on the process are false and I will tell you why.

First: the nomination.

Democrats say that I changed my mind on an election year hearing. Yes. *Brett Kavanaugh changed my mind.*

Second: the timing.

Judge Barrett's hearing was 16 days after the President announced his intent to nominate her. More than half of all nomination hearings for Supreme Court Justices (24 out of 42) have been held within 16 days of the nomination. The average time from nomination to confirmation of a Supreme Court Justice in our history has been 23 days. Since the turn of the 20th Century the average has been 33 days. Warren Burger was confirmed as Chief Justice in 17 days. John Paul Stevens, the last Supreme Court nominee from the Seventh Circuit, was confirmed in 19 days.

Third: the hearing.

We had four days of hearings on Judge Barrett. Everyone got to make ten minute statements at the start. After that every Senator got 50 minutes over two days to question Judge Barrett. That's an hour total for each Senator in front of the cameras. The minority got to call four witnesses of their choosing to criticize Judge Barrett's record and Republican policies. We heard from the ABA. Senator Durbin said “thank you for your fairness in this hearing. I heard no objection nor will I about the way you've conducted this. You've given everyone a chance to express themselves. You've been a little flexible on the time. And I thank you for that.”

Fourth: the written questions.

Judge Barrett received the second-most written questions of any nominee in history. Only Judge Kavanaugh got more.

Fifth: the markups.

We held last week's markup at the outset of the fourth day of Judge Barrett's hearing. It is not the first time we held a markup before the hearings were completed. We did it two years earlier with Judge Kavanaugh.

We are reporting Judge Barrett out today. Historically that is *totally normal*. There has been 7 days from Judge Barrett's hearing to Committee vote. 676 times in the last 50 years, the Committee has voted an Article III nomination to the floor within 7 days of the hearing. 26 of the 51 Supreme Court nominees confirmed since 1916—more than half—had a vote in the Judiciary Committee within 7 or fewer days of the end of their hearings.

During last week's markup we did two things: we held over Judge Barrett's nomination and set a time certain to report her out today. I want to discuss those two actions.

It was said at the time that we did not have a quorum to hold over Judge Barrett's nomination. Why was that? As Senator Schumer had previously promised, the Democrats deliberately *attempted* to deny us a quorum at the outset of the markup.

This is incorrect. Both actions were proper under the quorum rules because a majority of the Committee was present.

This Committee has on at least 7 occasions held over or reported nominees with only one member of the minority, but a majority of the Committee, present: July 17, 2014; July 26, 2012; July 12, 2012; November 18, 2010; September 16, 2010; September 29, 2006; September 19, 2006. The Committee clearly complied with both Committee practice, precedent, and rules when it held the nomination over and set the time for a vote.

It is amusing to see Democrats become strict constructionists in their interpretation of the Rules as they try to overturn long-settled precedent.

Today it appears that the Democrats are boycotting entirely. This is a shocking—but not surprising—violation of Committee norms. It is a stunt to placate their increasingly left-wing base that will do nothing to slow down the legitimate operation of the Committee.

In a few short minutes we will report Judge Barrett to the Floor with a majority of the Committee present and voting. Under the Standing Rules of the Senate and long-established precedent, this is all we need to do in order to report out a nominee.

I look forward to Judge Barrett's speedy confirmation.