



UNIVERSITY OF
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THE LAW SCHOOL

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October 9, 2020

Please allow me to introduce myself briefly. I have been a professor of law for nearly thirty years. The focus of my scholarly work is American constitutional history, and more particularly the history of the Supreme Court of the United States. I have known Amy Coney Barrett since she was a visiting professor in the Fall of 2007 at the University of Virginia School of Law, where I was a tenured member of the faculty from 1998 to 2012. In 2012 I joined the faculty of Notre Dame Law School, where I have enjoyed the privilege of serving as Judge Barrett's colleague since that time. Over the years I have come to regard her with great respect. Many others have written to the Committee testifying to her intellectual brilliance and sterling character, and I fully concur in their assessments. I would like to single out for your consideration one characteristic of Judge Barrett that is particularly relevant to the Committee's deliberations over her nomination to serve on the Supreme Court, and that is her remarkable fair-mindedness.

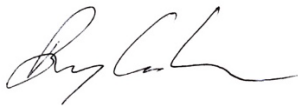
As a colleague, I have seen this manifested two distinct but related ways. The first is at faculty colloquia, where scholars from Notre Dame and other law schools present works in progress to our faculty for comment and criticism. The papers presented at these sessions vary widely in topic, methodology, and, to be frank, sometimes even in quality. Judge Barrett's approach at our colloquia is to take the author's paper on its own terms, to engage with it sympathetically and constructively, and to help the author make it the best it can be, even if she ultimately finds the author's argument unpersuasive. She does not treat the scholarship of others dismissively or dogmatically; she does not seek to show off or to score points. Instead, she engages with her fellow scholars with respect and generosity. I can recall one occasion on which an excellent young scholar from another institution presented a paper on a particular question of constitutional interpretation. The argument was suggestive, but it was not yet persuasive. In preparation for the colloquium I developed two points that I thought would help to improve the paper, perhaps significantly. As it happened, Judge Barrett spoke before I did, and she completely stole my thunder. She made both of the points I had intended to raise, and did so more effectively than I would have.

The second context in which I have observed Judge Barrett's fair-mindedness is in collegial relations among our faculty. As a faculty, we often have to make decisions that can be difficult and sometimes even contentious. Colleagues express strong feelings on either side of matters such as the appointment of new members to the faculty, or revisions to our curriculum or our governing documents. In my observation, Judge Barrett listens with an open mind to the arguments made, evaluates their comparative strengths, and then supports what she concludes is

the right decision under the circumstances. She does not shrink from disagreeing with or even disappointing colleagues whom she loves and respects if she believes that they are mistaken in a particular instance. Her approach is guided not by preconceived outcomes, but instead by fidelity to principle. At the same time she does so without rancor or ill will, but again in a spirit of charity and generosity.

Judge Barrett is a very highly esteemed member of our Notre Dame community. My colleagues and I would miss her and her family very much were they to leave South Bend. But we would do so confident in the knowledge that she would render great service to our country.

Respectfully,

A handwritten signature in black ink, appearing to read "Barry Cushman". The signature is fluid and cursive, with a prominent initial "B" and a long, sweeping underline.

Barry Cushman