

# Supreme Court battleground

---

 [conservativenewsandviews.com/2020/09/20/accountability/judicial/supreme-court-battleground/](https://conservativenewsandviews.com/2020/09/20/accountability/judicial/supreme-court-battleground/)

September 20, 2020

The United States Supreme Court has long been a major political battleground. The Court under Chief Justice John Marshall set the tone with its decision in *Marbury v. Madison*. After its decision in *McCullough v. Maryland*, Thomas Jefferson lamented that the Court had made the Constitution “a mere thing of wax” for it to “twist and shape” at will. Since that case, decisions of the Supreme Court have had public-policy import far beyond the role the Framers originally envisioned.



Now the death of Associate Justice Ruth Bader Ginsburg last Friday brings out the best and worst in American politicians. Such an outcome should surprise no one. Today *Conservative News and Views* repeats its call to President Donald J. Trump to fill the resulting vacancy *at once!* To do otherwise might be to forfeit the election, and with it the lives, liberties and properties of all Americans.

| Ruth Bader Ginsburg, R.I.P.

## How important can Supreme Court decisions be?

---

Apologists for the Supreme Court take great pains to point out that most of its decisions—mainly the ones that never bear mention in the popular media—are *per curiam* decisions. Which is to say, the Justices of the Supreme Court decide these cases unanimously.

Is that true? *CNAV* doubts it. Wikipedia, of all sources, currently shows that the Supreme Court has handed down *ten* unanimous decisions in the 2019 term.

Furthermore, any number of *per curiam* decisions simply shows that the members of the Court respect at least *some* principles of law that permit no argument or contest. A clear statement of law, and equally clear concurrence with the Constitution, leads to a unanimous or lopsided decision. But cases that come before the Supreme Court usually hinge on *ambiguous* readings of law, Constitution, or both. And these readings can have tremendous consequences. For example:

1. *Dred Scott v. Sandford*, denying standing to a former slave whose feet trod on “free soil,” arguably started the War Between the States.

2. *Plessy v. Ferguson* made the first excuse for racial discrimination even by the government itself.
3. Then *Brown v. Topeka Board of Education* set that precedent completely aside.

And when the Court did that, they destroyed any moral authority for a typical plea one hears from the political left. The Latin for that plea reads *stare decisis*, which means literally “to stand decided.” When one looks at *Dred Scott* and *Plessy* on one hand, and *Brown* on the other, *stare decisis* falls to the ground. *The Supreme Court need never let a grievous earlier error stand.*

## **Roe v. Wade weakens fundamental protections of life, liberty and property**

---

Which brings us now to *Roe v. Wade* (1973). The Supreme Court, in that decision, made abortion on demand the law of the land. For the first time, the Court severely weakened the protection of individual life. Now, when a life becomes inconvenient to another, that other may terminate that life, if she acts early enough.

Thus the Court enshrined convenience as a forcing principle of law and equity. And when they did that, the Supreme Court opened the way for further threats to life, liberty and property. We see these threats in operation today, most notably when Congress condemns vast tracts of land to form “national monuments.” More to the point, the Democratic Party has definitely embraced a vision of society:

1. Holding all things in common, and
2. Allowing no one to own anything beyond the shirt on his back and the toothbrush in his hand.

Ruth Bader Ginsburg also embraced that movement. So do her two currently most powerful proponents off the Supreme Court. They are:

- Senator Charles M. Schumer (D-N.Y.), Democratic Floor Leader, and
- Representative Nancy Pelosi (D-Calif.), Speaker of the House of Representatives.

## **Threatening to pack the Supreme Court**

---

Senator Schumer now threatens to “pack” the Supreme Court if:

1. He ever gets an opportunity, and
2. President Trump acts to fill the vacant seat on the Supreme Court.

The last politician to threaten to pack the Supreme Court was Franklin Delano Roosevelt. He did this after the Court initially blocked his National Labor Relations Act. Congress, though sympathetic to his program, balked at this “Court packing” scheme.

CNAV infers a communistic bent on the part of Senator Schumer from an earlier legislative proposal he made. *One day before Justice Ginsburg died, he and Senator Elizabeth Warren (D-Mass.) proposed a cancellation of up to \$50,000 of student debt.* This is as close to a general cancellation of debt as any *American* politician has ever proposed.<sup>1</sup> Such a cancellation is already a taking of private property for public use without just compensation. Which violates the Fifth Amendment to the Constitution. But Senators Schumer, Warren, and their allies don't seem to care.

From a general cancellation of debt, is but a short step to a general confiscation of property.

## A groundless impeachment

---

The conduct of the Speaker of the House is worse. Today she threatens to bring an Article of Impeachment against the President if he tries to fill the Supreme Court vacancy.

“We have our options. We have arrows in our quiver that I’m not about to discuss right now,” Speaker Pelosi tells [@GStephanopoulos](#) when pressed on what Democrats would do if Pres. Trump and Republicans push a SCOTUS nomination ahead of the Nov. 3 election.  
<https://t.co/JhU93KY3iQ> [pic.twitter.com/HOmI8AxREN](https://pic.twitter.com/HOmI8AxREN)

— This Week (@ThisWeekABC) [September 20, 2020](#)

She has no grounds for bringing such an Article, and she must know this. Her only reason to bring such an Article would be to pre-empt the other business of the Senate. Which business, so she thinks, would include voting on a nomination to the Supreme Court or any other court.

Lay aside for the moment that this same Nancy Pelosi got a hairdo when the State governor's order closed all personal-care businesses. Also lay aside her accusing the beauty salon owner of “setting her up.” (Recently a Supervisor in Placer County, California, invited the owner to reopen in her county instead of San Francisco.)

Let's ask ourselves: can the Speaker of the House actually pre-empt Senate business on a demonstrably false pretext? Professor Ross Garber of Tulane University School of Law says no.

Impeachment wouldn't slow the Senate down. There's no requirement that an impeachment trial precludes all other Senate business or that a trial occupy much Senate time at all. (Remember, Trump impeachment trial had no witnesses.) <https://t.co/whR5MVEzPf>

— Ross Garber (@rossgarber) [September 20, 2020](#)

Certainly merely nominating a Supreme Court candidate in an election year cannot be grounds for impeachment. Did not Barack Obama do the same in 2016? The Senate merely refused to act on the nomination; the House did not bring Articles of Impeachment!

Besides, the Senate's best Constitutional expert, Senator Ted Cruz (R-Texas), has already set the record straight.

Easy Plugin for AdSense by Unreal

Important history: "19 times between 1796 & 1968 presidents have sought to fill a Supreme Court vacancy in a presidential-election year while their party controlled the Senate. 10 of those nominations came before the election; 9 of the 10 were successful."

<https://t.co/1LrIo9J3jd>

— Ted Cruz (@tedcruz) September 19, 2020

So has Senator Mitch McConnell (R-Ky.), Republican Floor Leader:

The Senate and the nation mourn the passing of Justice Ruth Bader Ginsburg and the conclusion of her extraordinary American life.

My full statement: [pic.twitter.com/NOwYLhDxIk](https://pic.twitter.com/NOwYLhDxIk)

— Leader McConnell (@senatemajldr) September 19, 2020

## **An excellent addition to the Supreme Court**

---

CNAV also adds its voice to recommend the best candidate for the Supreme Court. Justice Amy Coney Barrett has sat on the Court of Appeals for the Seventh Circuit since 2017. Before then, she taught at the Notre Dame Law School for fifteen years. President Trump considered her to replace retiring Justice Anthony Kennedy. In the end the President chose Judge (now Justice) Brett Kavanaugh.

Five years ago she co-signed a "Synod Letter" for the Ethics and Public Policy Center. In it she affirmed that *marriage* ought to remain between one man and one woman. Furthermore, she managed to cite Pope Francis' warning against "forms of ideological colonization which are out to destroy the family."

In 2017 she said Chief Justice John Roberts ruled in error to sustain the "Patient Protection and Affordable Care Act."

<https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1003&context=concomm>

While in law school she served Justice Antonin Scalia as a law clerk. To this day she expresses admiration for his work, with which she of course has first-hand experience.

Currently she is on a *very* short list of Supreme Court candidates:

From colleague John Roberts. He says sources close to the WH say if Trump nominates a woman to SCOTUS, the leading contenders are:

Amy Coney Barrett

Barbara Lagoa

Allison Rushing

— Chad Pergram (@ChadPergram) September 19, 2020

CNAV finds the record of Amy Coney Barrett exemplary and recommends her for promotion to the Supreme Court.

## Another reason to fill the seat

---

CNAV also recommends, once again, that the President act immediately. Recall Ruth Bader Ginsburg's "dying wish":

| My most fervent wish is that I will not be replaced until a new president is installed.

Even a Justice of the Supreme Court has *no* testamentary or other power to dictate how long his or her seat shall remain vacant in case of death or resignation. *This should be obvious to all*. If it was not obvious to Ruth Bader Ginsburg, she could scarcely be that "titan of the law" so many hailed her as.

So why would she express a wish like that? "A new president" clearly means a different person. So she must have had Joe Biden in mind. The only way to assure herself of his election would be to take an active role in changing election law. For Joe Biden has scared his base into believing a physical hazard to be more severe than it likely is. Therefore he *cannot* count on his base showing up to vote in person. *His only way to win election is through universal mail-order balloting*.

The President has already filed repeated challenges against certain State Departments of State, seeking to avoid the writing of rules that violate any concept of balloting security. The Supreme Court has been far from consistent in protecting electoral integrity.

*That "dying wish" statement strongly suggests that Justice Ruth Bader Ginsburg took an active role in facilitating voter fraud, or at least had guilty knowledge of such facilitation by other parties.*

## A full Supreme Court must hear this!

---

Now that she's dead, an opportunity arises for someone new to the process to examine the challenges. These challenges continue to pour in. Further to this, a case of *Trump v. Biden*

or *Biden v. Trump* will almost certainly reach the Supreme Court. And it will make the case of *Bush v. Gore* look like the courtroom comedy *My Cousin Vinny*<sup>2</sup> by contrast.

For that reason alone, a full Supreme Court *must* hear every challenge moving forward. And upon the outcome of that case, will depend the liberties of the people of the United States. Reason enough for the President to act. Now. And also reason enough for every American who values his life, liberty and property to vote to:

- Re-elect the President, and
- Elect *Republicans* to the Senate and House of Representatives.

## Further notes

---

<sup>1</sup> First in the history of civilization to propose a general cancellation of debt was the Roman Senator Lucius Sergius Catiline. And when he didn't get his way, he tried to march against Rome. This happened in 63 B.C., or "The Consulship of Cicero and Antony the Proud."

<sup>2</sup> Prod. Dale Launer and Paul Schiff. Dir. Jonathan Lynn and Frank Capra III. With Joe Pesci, Ralph Macchio, Marisa Tomei, Mitchell Whitfield, Fred Gwynne, and Lane Smith. 20<sup>th</sup> Century-Fox, 1992.