

Amy Coney Barrett hearing kicks off as Graham pleads for civility, Feinstein vows to grill Barrett on ObamaCare

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Senators, Barrett giving opening statements Monday.

Supreme Court confirmation hearing for Amy Coney Barrett

The Senate Judiciary Committee hearing on the nomination of Judge Amy Coney Barrett to the Supreme Court kicked off Monday morning with a plea for civility by Committee Chairman Lindsey Graham while Ranking Member Dianne Feinstein vowed that Democrats would question Barrett on her stance on the constitutionality of the Affordable Care Act (ACA).

The socially distanced hearing is nothing like any Supreme Court hearing in the past, with the nominee wearing a black face mask in the television split-screen as senators gave their opening statements. Some senators are beaming in virtually as they aim to remain safe from the coronavirus pandemic.

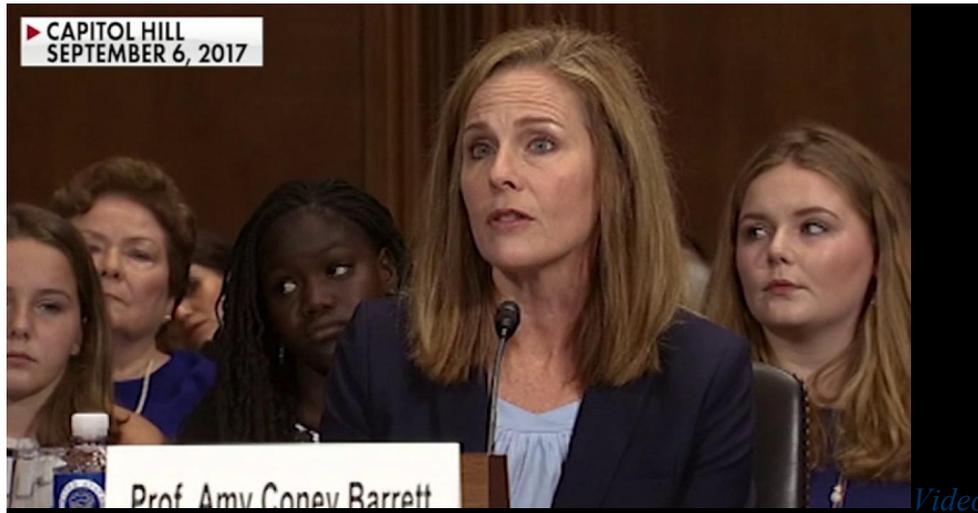
The hearing room, in the past, has been abuzz with hundreds of observers and the occasional outbreak of a protest leading to arrests by the Capitol police. Instead on Monday, the hearing room under strict coronavirus protocols is nearly silent outside of the senators who are speaking.

The only interruption came when Sen. Ted Cruz, R-Texas, had to pause during his remote opening statement because his cell phone rang with a text message.

"This is going to be a long, contentious week," Graham, R-S.C., said in his opening statement. "Let's make it respectful, let's make it challenging, let's remember the world is watching."

Graham was likely referencing the 2018 confirmation hearings of Justice Brett Kavanaugh, which were marred by constant interruptions, lurid sexual assault accusations and bombastic behavior from senators.

"I believe we want this to be a very good hearing," Feinstein said in response, saying that she would do her best to make the hearing civil, as Graham asked.



But, Feinstein said, Democrats plan to grill Barrett on how she would rule on California v. Texas, a constitutional challenge to the ACA that is set to be argued before the Supreme Court on Nov. 10. Republicans aim to confirm Barrett before the end of October.

"We will examine the consequences," of Barrett's potential rulings, Feinstein said, adding that "the president has promised to appoint justices who will vote to dismantle that law."

"This well could mean that if Judge Barrett is confirmed, Americans stand to lose the benefits that the ACA provides," Feinstein continued. "More than 130 million Americans with pre-existing conditions ... could be denied coverage or charged more to obtain health insurance."

Sen. Mike Lee, R-Utah, slammed Democrats for their push to make Barrett commit one way or another on how she would rule on the ACA.

"These tactics of creating fear and uncertainty and doubt ... astound me, they dismay me and they disappoint me," Lee said of Democrats' dire warnings. "They reflect the fact that we have allowed for the politicization of the one branch of the federal government that is not political."

Lee added: "I will object anytime anyone tries to attribute to you a policy position and hold you to that. You're not a policymaker. You're a judge."

President Trump Monday criticized Senate Republicans for holding the Barrett hearing in a way that gave Democrats equal time, instead wishing the Republicans would bring Barrett for an immediate floor vote and move on to working on a potential stimulus package.

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— Sen. Mike Lee, R-Utah, to Amy Coney Barrett

"The Republicans are giving the Democrats a great deal of time, which is not mandated, to make their self serving statements relative to our great new future Supreme Court Justice," Trump said. "Personally, I would pull back, approve, and go for STIMULUS for the people!!!"

Graham, however, made clear that he believes it is important for Democrats to have an opportunity to make their case during the committee hearings.

"We've done some things together and we've had some fights in this committee. I'm trying to give you the time you need to make your case and you have every right in the world to make your case," Graham said to the Democrats.

"I think I know how the vote's going to come out, but I think Judge Barrett is required for the good of the nation to submit to your questions and ours."

The Barrett hearings are also happening as questions continue to surround Democratic presidential nominee Joe Biden and his running mate Sen. Kamala Harris, D-Calif., over whether they will pack the Supreme Court if elected. The pair has steadfastly refused to tell Americans what they will do on the issue.

Multiple Senate Democrats have advocated for court-packing, which means adding seats to the Supreme Court by law and confirming justices to those seats that agree with your party politically.

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— Senate Judiciary Committee Chairman Lindsey Graham, R-S.C., to Democrats Sen. Ben Sasse, R-Neb., called Democrats' calls for court packing and ending the legislative filibuster in the Senate a "partisan suicide bombing."

"Lately the left is threatening to pack the Supreme Court in retaliation for this confirmation process," Sen. Chuck Grassley, R-Iowa, said in his Monday opening statement.

"Even the Democrats' nominee for president and vice president have not ruled out such blatantly partisan policy grabs. Republicans are following the Constitution and the precedent, it seems Democrats would rather just ignore both."

Democrats have disputed that Republicans are following precedent, saying that they are busting precedent they set in 2016 when they refused to confirm Judge Merrick Garland to the seat opened by late Justice Antonin Scalia for many months before that year's presidential election.

Senate Minority Leader Chuck Schumer, D-N.Y., has called the process "illegitimate" for that reason.

"Hypocritical, tire-squealing 180" — Sen. Sheldon Whitehouse, D-R.I., on Republicans aiming to confirm Barrett before Nov. 3

But Republicans note that in most cases where the Senate is controlled by the same party as the president, election-year Supreme Court nominees are confirmed, whereas they are generally not confirmed when the Senate is controlled by a party different from the president. Nevertheless, there has never been a Supreme Court justice confirmed this close to an election, something Graham acknowledged in his opening statement.

But, Graham added, "The bottom line is Justice Ginsburg, when asked about this several years ago, said that a president serves four years, not three. There's nothing unconstitutional about this process."

Graham, in his opening statement, extolled Barrett's qualities as he defended Republicans' move to confirm Barrett just weeks ahead of a presidential election.

"In my view, the person appearing before this committee is in a category of excellence," Graham said, "the country should be proud of."



He added that Barrett "academically, she's very gifted," citing her educational exploits and time as a professor at the law school at Notre Dame. Graham also emphasized Barrett's commitment to being an unbiased judge and highlighted her family of seven children.

The hearing promises to be highly contentious all the way through. Schumer, in addition to Sunday calling the Barrett confirmation effort "illegitimate, dangerous and unpopular," called on Barrett to recuse herself from any Supreme Court cases involving the Affordable Care Act (ACA) and the presidential election.

Republicans, however, have said that they plan to advance Barrett out of the Judiciary Committee by Oct. 22 and confirm her by the end of the month. But Schumer, potentially indicating a handful of weeks to come full of procedural roadblocks to gum up the confirmation effort, swore that Democrats will not "provide quorum" for any committee votes on Barrett, which would almost certainly force Republicans to change the committee's rules to get Barrett's nomination to the floor.

The hearing is also happening as every other aspect of the Senate is closed down in the middle of a pandemic that is currently infecting three Republican senators, including two on the Senate Judiciary Committee.

Lee is one of those senators and is present in the hearing room Monday. Graham as he opened the hearing said that Lee has been cleared by his physician.

Sen. Thom Tillis, R-N.C., said previously he would attend the first three days of hearings virtually. Tillis also previously tested positive for the virus.

Sen. Patrick Leahy, D-Vt., hit Republicans on the coronavirus issue, noting that the hearing room is significantly changed from what most hearings look like due to coronavirus precautions, including with several senators appearing remotely.

"Every senator on this committee knows in their heart this total break with precedent, break with their commitments, is wrong," Leahy said.

"The whole thing, just like Trump, is an irresponsible botch," Whitehouse said as he slammed Graham for holding the hearing without testing or contact tracing. He called Barrett "a judicial torpedo aimed at [Americans'] essential protections" in the ACA.

Added Sen. Amy Klobuchar, D-Minn.: "I think this hearing is a sham. I think it shows real messed up priorities from the Republican Party."

Republicans have responded that the Senate has held hearings since the beginning of the coronavirus pandemic in the same hybrid format regularly. Graham in his opening statement emphasized that most Americans are heading to work Monday morning, so the Judiciary Committee should do that as well.