

Amy Coney Barrett on faith, politics, precedent

News in the [October 21, 2020](#) issue



Judge Amy Coney Barrett listens as President Donald Trump announced her as his nominee to the Supreme Court at the White House on September 26. (AP Photo / Alex Brandon)

Some notable quotes from Supreme Court nominee Amy Coney Barrett, a former Notre Dame law professor and current judge on the Chicago-based Seventh US Circuit Court of Appeals. On September 26, President Donald Trump announced he was nominating Barrett to fill the seat vacated by the death of Justice Ruth Bader Ginsburg.

#### ON JUDICIAL NOMINEES

“However cagey a justice may be at the nomination stage, her approach to the Constitution becomes evident in the opinions she writes. . . . It would be difficult for

a modern justice to avoid revealing her position on whether the original public meaning of the Constitution controls its interpretation.” —2013 article in the *Texas Law Review*

“We shouldn’t be putting people on the court that share our policy preferences. We should be putting people on the court who want to apply the Constitution.” —2016 speech at Jacksonville University’s Public Policy Institute

## ON FAITH AND POLITICS

“[Catholic judges] are obliged by oath, professional commitment, and the demands of citizenship to enforce the death penalty. They are also obliged to adhere to their church’s teaching on moral matters.” —1998 article cowritten by Barrett in the *Marquette Law Review* on how some Catholic judges would feel torn on certain legal questions because of the teachings of their faith

“If you’re asking whether I take my faith seriously and I’m a faithful Catholic—I am, although I would stress that my personal church affiliation or my religious belief would not bear in the discharge of my duties as a judge.” —confirmation hearing in 2017 before the Senate Judiciary Committee considering her nomination to be a Seventh Circuit appeals judge, after Sen. Dick Durbin asked her if she was an orthodox Catholic

“Never. It’s never appropriate for a judge to impose that judge’s personal convictions, whether they derive from faith or anywhere else, on the law.” —2017 confirmation hearing

“I totally reject and I have rejected throughout my entire career the proposition that, as you say, the end justifies the means or that a judge should decide cases based on a desire to reach a certain outcome.” —2017 confirmation hearing

“I would decide cases according to rule of law, beginning to end, and in the rare circumstance that might ever arise—I can’t imagine one sitting here now—where I felt that I had some conscientious objection to the law, I would recuse. I would never impose my own personal convictions upon the law.” —2017 confirmation hearing

“I can’t think of any cases or category of cases in which I would feel obliged to recuse on the grounds of conscience.” —2017 confirmation hearing

“A judge may never subvert the law or twist it in any way to match the judge’s convictions, from whatever source they derive.” —2017 confirmation hearing

## ON PRECEDENT

“In the Supreme Court, [adhering to precedent] is a soft rule; the Court describes it as one of policy rather than as an ‘inexorable command.’” —2013 article in the *Texas Law Review*

“Leaving room for new majorities to overrule old ones allows changed membership to change what the Court says the Constitution means.” —*Texas Law Review*

“If the Court’s opinions change with its membership, public confidence in the Court as an institution might decline. Its members might be seen as partisan rather than impartial and case law as fueled by power rather than reason.” —*Texas Law Review*

A justice must “think carefully about whether she is sure enough about her rationale for overruling to pay the cost of upsetting institutional investment in the prior approach. If she is not sure enough, the preference for continuity trumps.” —*Texas Law Review*

“Institutional features of Supreme Court practice permit all Justices to let some sleeping dogs lie, and so far as we are aware, no one has ever argued that a Justice is duty-bound to wake them up.” —2017 article cowritten by Barrett in the *University of Pennsylvania Journal of Constitutional Law*, arguing there often are pragmatic reasons not to attempt to overturn precedents even if a justice is convinced they were wrongly decided

—Associated Press