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Senate

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER (Mr. TILLIS). The Senator from Washington.

Ms. CANTWELL. Mr. President, I come and join my colleague from Oregon on the floor this evening and thank him very much for his comments and hard-fought efforts to try to illuminate the issues that are before the American people in this nomination that we are going to be voting on.

As nightfall does not come at once, neither does oppression. In both instances, there is a twilight . . . and it is in such twilight that we all must be most aware of change in the air—however slight—lest we become unwitting victims of the darkness.

Those aren't my words; those are the words of the late Supreme Court Justice William O. Douglas. Yes, that is right, I quoted William O. Douglas—not because he was from Yakima, WA, via Maine, originally, but because I wanted to bring up the rights of Americans that could be undermined by the confirmation of Judge Kavanaugh to the Supreme Court. That is because for generations the U.S. Supreme Court has been an institution that affirmed rights of Americans and moved our country forward, especially when we needed it most.

In 1954, it made a landmark decision to end segregation of our schools and to rightly give access to equal education. In 1964, it recognized the right to privacy and the ability to access contraception. It is hard to imagine today, in this era, that we needed that fundamental right and that it had been previously blocked. Yet it was. In 2015, the Supreme Court upheld the fundamental rights of marriage for same-sex couples, holding that they had equal protection under the law.

Yes, these are rights that have been decided by our Court and have moved our country forward. So I became very concerned when President Trump nominated Judge Brett Kavanaugh to the Supreme Court because he was on a list of an organization that wanted to see the literal text of the statute over upholding the hard-won rights of all Americans.

When it comes to the rights of consumers—healthcare rights, environmental laws, privacy rights, labor rights—I want to know where a Supreme Court Justice is going to be in upholding those hard-won rights that Americans and our society have pushed forward for decades. In this case, he will be replacing a Justice who has been a key vote on many fundamental rights in America.

So I definitely express my opinion that I do not believe that Judge Kavanaugh will protect those hard-won rights. And my concern is that he does not have a judicial philosophy that is in the mainstream views of America. He has the most dissents of any judge on the DC Circuit. That is to say that he is dissenting from even the most conservative judges on that Court. He is still dissenting. So I don't find those views in the mainstream views of Americans.

Let's just take one example: healthcare. More than 3 million Washingtonians in my State have preexisting conditions, such as diabetes, heart disease, and asthma, and Americans don't want to be discriminated against because of their medical history.

More than 75 percent of Americans support the preexisting condition protections that have been put into law under the Affordable Care Act. These protections help keep them from having medical debt and uncompensated care. All of these issues are very important for us to continue to protect.

In 2011, Judge Kavanaugh refused to uphold the constitutionality of the Affordable Care Act, and he has criticized the Supreme Court's decision to uphold parts of that law. In his confirmation hearings, he refused to say whether these current protections for Americans are constitutional. His record suggests that he will not defend these protections or Congress's clear intent in writing them.

It is not just some theoretical issue. Today, these protections are being threatened in the courts. They are being threatened by a group of Republican attorneys general who are trying to get a Federal court in Texas to strike down these protections in the healthcare law, and the Justice Department has decided to join those States in asking the courts to strike down these preexisting condition protections. So this case is definitely working its way through the court system and could likely end up before the Supreme Court.

Some have suggested: Well, don't worry about that. Don't worry about that because Justice Roberts will uphold the healthcare law. He will be the swing vote, and Judge Kavanaugh's appointment to the Supreme Court is irrelevant on this point.

That is wrong. First, you really can't count on Chief Justice Roberts in upholding the Affordable Care Act. In fact, that is what the attorneys general are arguing, that his previous decision will help to strike down the law. The times and circumstances are different now because the Federal Government isn't fighting to protect the Affordable Care Act, which it did in previous administrations, and there is no guarantee that Justice Roberts will rule in favor of the law. There are other aspects of the Affordable Care Act that he has also sided against.

It is hard to believe now that this fundamental right that has been so hard fought for so many people may be in danger. I can say that in my State, I have been in hospital after hospital and healthcare facility after healthcare facility. Doctors say to me that they can't even imagine what it is going to be like to go back to prior to the preexisting condition protections. It has become such a norm that they are covering people that they couldn't imagine that kind of discrimination today.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

When it comes to reproductive rights, those are under threat as well. In 2017, Judge Kavanaugh suggested that he supported Justice Rehnquist's dissent in Roe v. Wade, which called the landmark decision a product of ''freewheeling judicial creation of unenumerated rights that were not rooted in the nation's history.''

As somebody who sat on the Judiciary Committee for the first 2 years I was in the Senate, I can guarantee that I asked every judicial nominee whether they believed in the penumbra of rights guaranteed in the Constitution for the right to privacy or they didn't. The reason I did that is because those who really don't believe that Roe was rightly decided believe that those rights are not enumerated and could overturn them in the future.

While Judge Kavanaugh may now believe that Roe v. Wade is settled law, records from his days in the administration raise doubts. Perhaps more importantly, during his confirmation hearing, he refused to say whether it was wrongly decided. Why is that important? Because in the near future, if a majority on the Supreme Court decides that it was previously wrongly decided, they can just overturn it.

If Judge Kavanaugh does not believe the Constitution gives women the right to make decisions about their own bodies, then whatever assurance he gives us now about precedent is hollow. This is why it is so important to people in my State. We voted in 1991 by an initiative of the people to have this right in our State law. We in the State of Washington and millions of women want to see every woman in America have these same rights.

I took President Trump at his word when he said he was going to put a nominee on the Court who automatically would overturn this. These Justices—Roberts and conservatives like Alito, Thomas, and Gorsuch—would now be joined by Kavanaugh and overturn this right in a 5-to-4 decision. Even if they don't fully overturn it, they could effectively undermine its protections piece by piece. Chief Justice Roberts, for instance, has repeatedly upheld restrictive limits on reproductive rights. These Justices have proven themselves very willing to restrict access to safe and legal abortions.

As I said, the people of my State decided that they wanted to protect this, and I am here to help and defend that for other women in the United States of America.

If Judge Kavanaugh were to serve a lifetime appointment on the Court, he could also pose threats to the rights of LGBTQ Americans not just in my State but across the country. The Supreme Court will likely hear cases that impact this community.

There are cases pending like the Arlene Flowers case in the State of Washington where a florist refused to provide services at a gay couple's wedding. The Court could also likely hear arguments on President Trump's discriminatory ban on transgender servicemembers. The rights of LGBTQ Americans are at stake with Judge Kavanaugh on the Bench because his broad view of religious freedom could provide a license to discriminate against these individuals.

Judge Kavanaugh's record also suggests that he will be hostile to the protection of other privacy rights. In 2015, after it was revealed that the National Security Administration, NSA, had been collecting Americans' phone records in bulk without warrant, Judge Kavanaugh decided that national security needs outweighed individuals' right to privacy. He supported expanding warrantless surveillance by the government.

What is more, Judge Kavanaugh has ruled in favor of a restrictive voter identification law, raising concerns that he would support scaling back hard-won voting rights. Those rights are sacred in our country, and the last thing we need is a Supreme Court that would refuse to defend them.

I am also concerned about his views on issues that could affect Native Americans. Native Americans need to have their sovereignty recognized and their rights protected. In this term alone, there could be three cases before the Court, and some of the most basic Tribal rights in our country are at risk. Judge Kavanaugh's position, found in his own writings before he became a Federal court judge, indicated that he did not take seriously the constitutional rights of Tribal governments and the sovereign obligation of the United States when it entered into treaties and agreements with Tribal and Indian people and Alaska Natives.

Time and again, these issues are before us and before a court, and that is why, as I said, I believe in a court that protects these hard-won rights. I know that textualists will tell you something different, but where would we be on just the basic rights of contraception if we didn't have a court that did not find unenumerated rights in our Constitution? Where would we be on the future rights of privacy that need to be protected in the United States of America?

Time and again, Judge Kavanaugh has favored big companies over everyday Americans, using a twisted logic to defend big corporate polluters. Kavanaugh seems to have a particular animus against the Environmental Protection Agency and its efforts to follow Congress in a direction that has been given in law to reduce air and water pollution. That is a direct affront to the leadership of people like Ed Muskie, who led Congress in its effort to pass the Clean Air Act in 1970 and control pollution and in 1990 when Congress amended the law to combat acid rain, ozone depletion, and auto emissions. And since then, the U.S. Supreme Court has upheld the Clean Air Act.

In 2007, in the Massachusetts case, the Supreme Court ruled that the U.S. Environmental Protection Agency has the authority to regulate greenhouse gases under the Clean Air Act, and Justice Kennedy, whom Judge Kavanaugh will replace, provided the fifth and deciding vote in that decision. But as Kennedy's replacement on the Court, the government's ability to mitigate climate change could be lost. That would mean everything from not addressing these impacts we are seeing on our coastal communities to what we are seeing in damage from wildfires, and it could mean that the report that was done by the Government Accountability Office saying that climate change impacts are costing us over $620 billion every 10 years will continue to be ignored.

We want a Supreme Court Justice who is going to follow the law and abide by and uphold what Congress has said, and that is what the Court has said as well. Judge Kavanaugh said he didn't think the EPA had the authority to regulate air pollution across States. The U.S. Supreme Court reversed his opinion. In a 6-to-2 decision, they concluded that Judge Kavanaugh had improperly applied his own policy judgment rather than the plain text of the statute written by Congress. That is what the Supreme Court said in reversing him.

I will say it again. The U.S. Supreme Court said Judge Kavanaugh used his own policy judgments rather than the law as it was written by Congress.

So, yes, I have concerns that his views are not in the mainstream of America and of judicial philosophy when it comes to protecting our environment.

In another case, he opposed the EPA's interpretation that it could control ''any air pollutant'' because he thought that the terms of the Clean Air Act didn't include that. He also sought to limit its authority to protect Americans from greenhouse gases. In a 2013 case—the Center for Biological Diversity—Kavanaugh said that the Clean Air Act does not even cover carbon dioxide at all.

In fact, he ruled to weaken environmental protections in 89 percent of the cases that have come before him. So I do not call that in the mainstream views of judicial philosophy.

Tomorrow, we will have major issues before us as this vote takes place. When it comes to whether you are siding on behalf of the American worker or large corporations, I, too, have concerns.

In a 2015 case, he overruled the National Labor Relations Board, siding with a hotel that had requested police officers to issue criminal citations to union demonstrators who were legally protesting.

In another case, Kavanaugh sided with a company that had banned employees who interacted with customers or who worked in public from wearing union shirts that said certain words on them. The NLRB found that the employer committed an unfair labor practice, but Judge Kavanaugh disagreed,

concluding that the union members did not have a right to wear the shirts because the company believed it would be damaged.

In 2013, a SeaWorld trainer was dismembered and killed by a whale during a live show. Kavanaugh ruled against the Occupational Health and Safety Commission's conclusions that SeaWorld had acted wrongly and had insufficiently limited trainers' physical contact with orcas.

I am concerned about the information age that we live in and that when it comes to issues relating to protecting consumer rights, there is no bigger consumer right than protecting the right of those on the internet to access information. We cannot have a two-tiered internet system in which these rights are not protected by a court.

In this case, Judge Kavanaugh wrote that the FCC did not have the right to regulate broadband providers as ''common carriers.'' Instead, he made it clear that he believes that broadband cable companies should be able to control your internet experience as they see fit.

Part of his flawed analysis rested on the idea that what the FCC was purporting to do by protecting consumers was a type of rule that was so consequential that it could only stand if Congress bestowed ''clear and unambiguous authority'' on the agency. This is in contradiction to the Supreme Court's own precedent, which determined that the FCC did have the authority to decide whether and how to regulate broadband.

The other part of his faulty analysis rested on the view that cable and broadband companies that operate the pipes that serve as a ramp to the internet have First Amendment rights, and they should be able to exercise that right to deny or limit consumers' access to content.

I guarantee you that saying that the First Amendment gives cable companies the right to charge whatever they want to charge you for the future is not in the mainstream view of judicial philosophy or what the American people have come to expect.

So let me say again that these important issues are not part of Judge Kavanaugh's willingness to protect these rights to healthcare, of the environment, of privacy, of consumer rights, and the things that we hold so dear, that we have all fought for, legislated for, and had courts uphold and preserve.

I am not buying the notion that a strict textualist is the way to go. I believe my colleagues on the other side of the aisle have every right to disagree with that, but I would ask them, how are you ever going to move America forward in decisions like our desegregation of education or on contraception or on these other privacy rights if you don't interpret the Constitution to today's needs?

I would say now that the biggest threat we face is the overreaching of an administration that every single day does something to not comply with the law as it is written. The President just issued an Executive order weeks ago that exempted administrative law judges from the competitive service; instead allowing the agencies to hire them.

The President's Executive order does not reflect the mainstream views of Americans. Administrative law judges should be well qualified and impartial, and the process to select them nonpartisan and fair.

Is this judge going to challenge the President or is he just going to say that he agrees with the President of the United States? As one White House Counsel from the Nixon administration said, if Judge Kavanaugh is confirmed, it ''will be the most Presidential powers-friendly Supreme Court in the modern era.''

Well, I can tell you this: If those on the other side of the aisle are promoting this nomination because they want a rubberstamp on the Trump administration, we will fight them every step of the way. The Supreme Court is supposed to be the impartial arbitrator, the one that, even though we have different Congresses and different views, interprets the law over a period of time, that does not make political decisions but makes impartial decisions. To have somebody on the Court now when every day an administration is not following the law and basically subverting it—it is a time where we need a Supreme Court to stand up and do their job and hold the administration accountable.

I am sure it is not pleasant to hold an administration accountable, but this is an important time for checks and balances in the United States of America. I don't believe that the rights of individuals will be protected from the overreach of this administration or be defended by this nominee.

I know a lot has been said today about what the process for this nominee has been for the Court. I know there is a lot that will continue to be discussed after this day about how this institution has handled this situation and the accusations against Judge Kavanaugh. All I can say is that we need to do better. We need, as an institution, to have a better process for evaluating these situations and how to make them less partisan.

But I will tell you this: I found the testimony by Dr. Ford credible, and those saying ''Well, it must have happened; it just wasn't him'' is another example of denial of information instead of getting to the truth of the situation. We have to do better because we are an institution that is supposed to lead on this issue. We are not supposed to be an institution like the other institutions we have seen sweep these allegations under the rug, only to come back at some point in time when there are 300 cases or 400 cases or X number of people who have been impacted.

This institution has to figure out a better way to lead on this issue, and I plan to continue to work with my colleagues on both sides of the aisle to help us continue to focus on this. So many people in America are counting on us, so many women in America are counting on us, and so many Tribal women are counting on us. The statistics are just too high to leave a nominee on the Court with a doubt about this investigation, with this situation not rendered to a point where more people felt that the information was fully investigated. We have to do better. We are going to be challenged as we move forward.

As I said, I don't believe that Judge Kavanaugh's nomination is in the mainstream of judicial philosophy in the United States of America. That is why I am not supporting him. I didn't support him when he was first nominated for the DC Circuit Court because I had doubts that he would be that individual who would put political, partisanship aside and be that impartial Justice. I didn't make a decision right away; I went back and researched his record. I looked at the decisions on basic rights that so many Americans are counting on, and I can tell you this: For these rights, you cannot count on Judge Kavanaugh. Therefore, he does not get my consent to move forward to the Supreme Court.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. MURPHY. Mr. President, these are the big leagues for a Senator. Depending on how long you serve here, you get only a handful of opportunities to vote on the confirmation of a Supreme Court Justice.

We may know how this is going to go tomorrow, but many of us who have very serious concerns about the precedent that this confirmation creates for this country that we love are going to be here on the floor tonight—through the night—trying to implore our colleagues to think differently about this or at least think about how we can do this differently the next time around and how we can come to some common understanding as to what the rules of the game should be and what the standards should be when we are interviewing candidates for one of the most important jobs in the world, the U.S. Supreme Court.

I have a few things to say here tonight, as the hour gets late. I wanted to start by talking a little bit about what the standard is. What is the standard that we should apply when we are considering a submission from the executive branch to sit on the Supreme Court?

It seems to me as if this whole exercise has been conducted in a manner to suggest that, A, there is no one else eligible for the Supreme Court, other than Brett Kavanaugh, as if we live in an Adam and Eve world in which we have few, if any, alternative choices

and, B, that this body owes some significant and potentially binding obligation to the President when he makes his choice.

I just want to go back over the standard for a moment because it is not uncommon for the Senate to reject Supreme Court nominees who have been sent to this body. In fact, if you walk out the door on the other side of this Chamber and you hang a left, you will quickly come to the Senate Reception Room. In that room, there is a relatively freshly painted picture of Oliver Ellsworth and Roger Sherman. This is one of the newer portraits here in the Capitol, and it depicts two Connecticut delegates to the Constitutional Convention scheming over what would become called the Connecticut Compromise.

This is the breakthrough at the Constitutional Convention that establishes the Senate with two Members per State and the House of Representatives elected by proportion of population per State.

Oliver Ellsworth is a significant figure in the history of my State and in the history of this country but not only because of his contribution to the adoption of the U.S. Constitution; he also plays a significant role in the beginning of the American judicial system. He is the father of the American judiciary in that he authored, as a Senator, the first Judiciary Act, which established the Federal court system.

Then he plays another important role in the early history of the courts because when it was time for George Washington to nominate a second Supreme Court Chief Justice, the name he sent to the Senate was rejected. He sent his friend John Rutledge, but because his friend John Rutledge had played a fairly controversial role in the adoption of the Jay Treaty, the Senate voted Rutledge down.

Washington, not wanting to be embarrassed again, knowing that he needed the consent of the Senate to get someone into that role, picked one of the Senate's own. He picked Oliver Ellsworth, who was the foremost expert on the judiciary in the Senate. Oliver Ellsworth became the Chief Justice of the Supreme Court. His bust sits inside the Old Supreme Court Chamber here in the Senate today.

I tell that story only because it is a reminder that at the very earliest stages of the American Republic, the Senate decided to exercise its independent discretion when it came to choices for the Supreme Court by the President of the United States.

George Washington figured out very quickly that the Senate does not owe the executive automatic deference when it comes to the choices that are placed before the Senate. It is advice and consent. In fact, that practice of refusing to give complete and total deference to the executive has continued up until this day. From World War II until this moment, I think the number is seven selections by the President that ultimately did not get confirmed.

Sometimes the Senate gives a hint ahead of time that a nomination isn't going to go so well, and the President withdraws that nominee. Not in every case is there actually a vote before the Senate. Oftentimes, the signal is clear enough from the Senate that consent is not going to be given, and the administration withdraws that nominee.

Let's be clear that there is no binding obligation on behalf of the Senate to say yes to a nominee whom we believe to be flawed or wrong for the moment—no obligation on behalf of Members of the President's party and no obligation on behalf of Members of the opposition party.

Second, I have heard my Republican colleagues, ad nauseam, treat this selection as if we are a court of law with a defendant sitting in front of us whose freedom is going to be taken away if he doesn't get a positive vote for confirmation. Why do I say that? Because over and over again, I have heard this idea that Brett Kavanaugh is innocent until proven guilty, that there is a presumption of innocence with respect to the claims that surround him. Those are not traditionally terms that have been used with respect to the choices we make about nominees to the judicial branch or to the executive branch. Those are terms that are used in courts of law.

The presumption of innocence is given to a defendant. The high burden of proving guilt beyond a reasonable doubt is placed on the prosecutor because the stakes in a criminal trial are fundamentally different from the stakes in an appointment to the Supreme Court or to become the head of a department.

In a court of law, in a criminal court of law, the bar, the standard is set high because the consequence to that defendant is his liberty being taken away from him or her. That is not the case for Brett Kavanaugh or any other name that gets sent to this body for confirmation. If Brett Kavanaugh were not to receive a confirmation vote to the Supreme Court, he would go right back to the appellate court with a nice job and a nice salary, as would many other nominees who don't get a confirmation vote from this body. Their liberty isn't taken away. They go back to some pretty good jobs.

That is why it is nonsensical to suggest that the standard we apply here to a nominee is similar to that of a criminal court. We don't have to prove that reservations about a nominee can ultimately be held to the same standard as in a criminal court. Why? Because the consequences are lower but also because there are other people who can serve that role. You err on the side of caution often when it comes to nominations because the consequences for the country of simply moving on to the next nominee for a Cabinet post or a judicial job are, frankly, fairly low. The standard is not a criminal standard.

We have often talked about the fact that this is much more like a job interview. I think that is right. I don't think it is a perfect analogy. This is a pretty special and important job. There are some procedures around this job interview that we don't hold ourselves to when we are interviewing somebody for a position in our office. Let's all be honest with each other. If somebody showed up in our office looking for a position and their file looked like the file of Brett Kavanaugh, none of us would hire that individual—not a single one of us.

Tell me that a Senator would hire an individual who came to their office, who might have looked qualified, who might have a sterling resume, but whose file included several credible allegations of serious misbehavior. You probably wouldn't even go through the trouble of conducting an exhaustive inquiry into whether those allegations were true or not, as I think we had an obligation to do with respect to this case. I would argue, we had an obligation to do that investigation here because this is different from a job interview for a legislative assistant or a person who answers our phones.

Let's be honest that if those allegations were before us as employers, we wouldn't hire that individual. And we certainly wouldn't hire an individual who conducted themselves in the job interview in the same way that Brett Kavanaugh conducted himself when he came before the Judiciary Committee last week. It is much more like a job interview than it is a criminal trial. It doesn't neatly fit into either category, but we wouldn't hire that individual in our office because we know that there are plenty of other qualified applicants for the jobs we are looking for. Why take a chance on someone who might be fundamentally wrong for the position we are interviewing for?

I think it is important at the outset to get the standard right. The terminology that gets thrown around here as if this is a criminal trial just misunderstands the nature of the job that we have before us.

I want to turn to the arguments that I would use if I thought I had the chance to change the mind of some of my Republican colleagues this evening. That is probably impossible at this late stage, but we are here, so I might as well give it a try.

I agree with everything Senator CANTWELL said about the jurisprudence of Judge Kavanaugh on the appellate court. I think he is a dangerous nominee because he does fall fairly far out of the judicial mainstream.

I heard Senator COLLINS on the floor earlier today talking about how she hoped that he would be a bridge between the two sides of the Court, how she thought that he might ultimately be someone who would lead to fewer 5-to-4 decisions being rendered on the Court.

She used as evidence of that hope a statistic that is curious. She talked about the fact that he voted with Merrick Garland 93 percent of the time

on the court. Brett Kavanaugh voted with Merrick Garland 93 percent of the time on the court because the appellate court in DC—as is the case with most appellate courts in the country—renders most of their decisions in unanimous form. All of the judges are agreeing with each other on the vast majority of cases. That statistic does not tell you whether Brett Kavanaugh is a bridge builder or whether he is an outlier.

Fortunately, there is another, more relevant statistic; that is, the percentage of times a judge dissents, who stands away from his colleagues, who has formed a consensus and rendered an opinion of his or her own.

No one on the DC Circuit dissented during Judge Kavanaugh's time on that court more often than Judge Kavanaugh. Some of those dissents were pretty creative dissents. Some of the things we are most worried about with respect to the friendliness of Judge Kavanaugh to corporate power, his distaste for regulation, comes from those dissents in which Democrats and Republicans—or, put better, judges appointed by Democrats and Republicans—on the DC Circuit found a way to agree, but Judge Kavanaugh stood over here with some novel theories of the case as to why regulatory bodies couldn't get into the business of big corporations.

The history in appellate court is not of being a bridge builder; it is of standing outside of that mainstream, challenging the consensus. That is who Judge Kavanaugh is going to be on the Supreme Court.

I will give you an example, something that is close to my heart. I had a lot of arguments in Connecticut about the future of gun policy in this country, just like we have a lot of arguments here. By and large, people in my State—even the folks who don't agree with all the things I would do if I were in charge of America's gun laws—generally think it should be up to us to decide. They might not think the Second Amendment allows us to pass a bill banning all guns in the country, but they think the question of who can own guns and what kind of guns can be sold is a question better left to legislature.

Brett Kavanaugh has a novel theory about the limits of the legislature's ability to regulate gun ownership. It is a theory that even for him is pretty far outside of the mainstream. He actually laid it out for the Judiciary Committee in a series of questions and answers with the ranking member. He said: Listen, I think if a gun is in the commercial space, the Constitution grants it permanent protection. His argument is that once a gun is sold privately, you can never ever ban it. That is ridiculous. That is not how any courts have read the law prior to this time.

This Congress has regularly made the decision that some weapons are not proper for commercial sale and have pulled them out of the commercial market. In the 1930s, Congress decided that automatic weapons that were out in the streets—the so-called Tommy guns—should come out of the commercial market. In the 1990s, we made the decision that assault weapons—the semiautomatic tactical weapons—should be restricted. Kavanaugh says: No, once a gun is sold privately, you can't ever take it back, no matter how dangerous. No matter how dangerous it becomes, no matter the mistake that Congress thinks it might have made in legalizing that weapon, once it is out there, you cannot take it back—so says the Second Amendment. It is a radical idea, as is his theory of the case on abortion rights.

We can talk about the case that came before his court in which he denied the ability of a young immigrant woman to seek an abortion despite the fact that she fit all the other legal requirements for that procedure, or we could just look to the fact that in his testimony, he parroted the political jargon of the anti-choice movement. He used phrases that courts don't use when talking about the issue of abortion or reproductive healthcare. He used the phrase ''abortion on demand,'' which is a ridiculously politically loaded term. I have no idea what that means, but it is a term that is regularly used by the anti-choice political movement. You can't get an abortion from a vending machine, but that is what the phrase ''abortion on demand'' seems to suggest exists in the world, and Judge Kavanaugh used it.

He also called birth control an abortion-inducing drug, which it is not. Simple science can serve to explain that birth control certainly can prevent a pregnancy, but it does not cause an abortion. But Judge Kavanaugh used that term in his confirmation hearing because it is part of the political opposition. It is part of the basket of propaganda that gets used to try to pull down protection for reproductive choice around the country.

I share many of the reservations that my colleagues have expressed when it comes to Judge Kavanaugh's record on the Second Amendment, Judge Kavanaugh's testimony before the Judiciary Committee in his first hearing on the issue of reproductive choice, as well as the reservations many of my colleagues have about what he will do to the Affordable Care Act.

I will concede that his writings on the Affordable Care Act are limited. He has expressed some hostility to the Affordable Care Act. He said in one of his decisions that if the Congress could go so far as to require people to buy healthcare, there was no limit to the potential reach of Congress's power.

On this one, I take the President at his word. The President said he would never make the mistake George Bush did in appointing someone to the Supreme Court who would uphold the Affordable Care Act, as John Roberts did. He promised he wouldn't make that mistake again. On this one, given the over-the-top, incessant, persistent hostility the President has expressed for the Affordable Care Act, I trust he has made good on his promise and that he has sent someone to us who is going to work with him to try to unwind the Affordable Care Act.

I was an early opponent of Judge Kavanaugh's. I didn't wait very long to express my opposition because I see he is so far out of line with Connecticut values that he is not going to be a judge in the model of those true centrist judges who maybe I didn't agree with on issue after issue but I thought gave each question before them a fair look.

I also don't think that is my best case with my Republican friends because you feel differently about the Affordable Care Act and about the Second Amendment and about the issue of choice than I do. It is probably not the best tactic at 1 o'clock in the morning to try to convince you to vote against Brett Kavanaugh based upon his conservative, I would argue rightwing record as an appellate judge. So let me try some different arguments out on you. Some of these will have to do with process. Process is important. Process is important because it is kind of all we have. When it comes down to it, democracy holds together because of a set of rules we all agree to follow. It is called the rule of law, broadly.

In this place, it is a set of precedents and traditions that have held up pretty well over 240 years. As those precedents and traditions start to fall, so do the edges of democracy itself. I know to some it feels like insider politics—beltway jargon—to be talking about the process we have gone through here, but there are some important precedent-shattering decisions that have been made by the majority with respect to the Kavanaugh nomination.

The first is the documents surrounding Brett Kavanaugh's candidacy. As many of my colleagues have said, we have seen somewhere around 6 percent to 7 percent of all the documents relative to Brett Kavanaugh's time as a judge and as a staff person in the executive branch. We have seen a small slice of those documents. I think the 7-percent number applies to the documents relative to his time in the White House.

I listened to Senator LEE earlier tonight talk about the fact that it wasn't his fault that we didn't see the documents because those are in the possession of the administration, and the Bush administration and representatives of the Bush White House are making the decisions about what documents Congress can see and can't see independently of Brett Kavanaugh.

That is not true. The individual who is overseeing the decision about which documents Congress can see and can't see is a close confidant, ally, and colleague of Brett Kavanaugh's. In fact, 2 weeks ago when the nomination of Brett Kavanaugh was thrown into doubt and the White House convened a war room—a war room of Judge

Kavanaugh's most loyal, trusted advisers—the individual who was vetting the documents for the Bush White House was in the war room. This was not an independent exercise of discretion on behalf of the Bush White House; this was one of Judge Kavanaugh's primary backers making decisions on which documents we could see and which ones we couldn't. This was a political job.

We are left to wonder why we get so few. What is in those other documents that were so explosive that you had to put a political ally of Brett Kavanaugh's in charge of the disclosure of those documents and give us so few?

Here is why the process matters. Once you have made the decision that you are going to create a structure by which you withhold evidence that would be relevant to the decision the Senate makes because—well, just because—it becomes the new rule. I am not here to say what goes around comes around; I am telling you that once you make the decision that ''You don't need to see evidence on a particular nominee because we are not going to give it to you because we think it might be damaging,'' that becomes the new rule. Then, all of a sudden, there will become a day when my friends on the other side of the aisle want evidence they are not getting either. The withholding of documents really matters. If we can't make sound decisions, then this whole institution becomes weaker.

Second, I want to move to last Thursday's hearing. I think there is also some precedent-shattering decisions we are making in the wake of what was a stunning performance by a nominee before the Judiciary Committee.

Let me talk about the lies.

I believe Dr. Ford. I think she was credible, thoughtful. Everything she said in that hearing seemed to be an effort to try to get to the truth. I, frankly, don't know whether Judge Kavanaugh wasn't telling the truth or legitimately doesn't remember what happened because he was so intoxicated.

I can set aside the question of whether Judge Kavanaugh was telling the truth about that particular assault and still have serious concerns about all of the other smaller lies he told during the testimony.

I understand some of the stuff that came up was embarrassing to him, some of these terms and phrases. Yet he was asked the questions, and no matter how embarrassing it was to talk about what boofing is or what a devil's triangle is, he was obligated to tell the truth, and he didn't. We have plenty of corroborating evidence to suggest that he and his friends knew exactly what those terms mean, knew exactly what they were referring to with respect to the young women with whom they were part of an alumni club.

I know it sounds trivial to be talking on the Senate floor about words and phrases that high school kids were using. The fact that they were using those terms, said certain things when they were kids, doesn't bother me at all. What bothers me is that a nominee for the Supreme Court has such a casual association with the truth that he couldn't admit to us what were some embarrassing admissions and lied instead.

The precedent of letting a nominee get away with that—even if you don't believe he told a big lie, even if you only believe the mistruths were on the smaller things—is another precedent-shattering decision, because all of a sudden, we send the message to people who want to apply for the most important jobs in the world that telling the truth is not that important.

I get it. The cat is out of the bag. The horse has left the barn. I get it that the top of the Pandora's Box is open. We have a President of the United States who doesn't tell the truth every single day. We have a President of the United States who goes on Twitter and makes up stuff about U.S. Senators. Our bigger problem is not the small mistruths—the potentially small mistruths of Brett Kavanaugh's; our bigger problem is that we have a President who literally can't get through a day without making up something.

That sends a worse message to our kids than the mistruths of Brett Kavanaugh, but, nonetheless, the Supreme Court is the Supreme Court. It is a lifetime appointment. At least if an Executive gets into office and starts making stuff up, we can get rid of him or her after 4 years—not the Supreme Court. You send somebody up to the Supreme Court who fibs, and that individual is there forever. Thus, maybe our standards should be a little bit higher.

Third, I want to talk about Judge Kavanaugh's disposition in that hearing and some of the things he said about how the allegations came forward. I talked about this on the Senate floor, I think, now 2 days ago. So I will not repeat it all. But his belief that Dr. Ford's allegations or Ms. Ramirez's allegations came forward as part of some vast conspiracy led by progressive groups and Democratic Senators on behalf of Hillary and Bill Clinton is delusional.

I understand that politics in this town are rough. We have all been subject to character attacks we think are unfair, but that doesn't mean there are these vast cabals of people on the left and the right wing who are out there spinning tales on a daily basis about each other.

What we know is that Dr. Ford brought this forward to her Member of Congress before Brett Kavanaugh was even the nominee. What we know is that it got leaked to the press, likely by somebody who didn't have an interest in Brett Kavanaugh as a nominee, but not by a Democratic Senator.

What we know is that the allegations that followed came out as a consequence of that first allegation. There is zero evidence that there is some grand conspiracy of Democrats in league with the Clintons to try to bury Brett Kavanaugh.

Further evidence of that is that if that were our MO, why did we wait a year and a half to employ it on Brett Kavanaugh? If Democrats' method of operation was to gin up a whole bunch of false allegations about individuals and make accusations about sexual assault that weren't true just to muddy them up and smear them, why didn't it occur to Neil Gorsuch who, frankly, engendered much more hostility among many of our friends and backers, because that was the seat that we believe was stolen from Merrick Garland. Why didn't we gin up those kinds of allegations about the President's early nominees to the Cabinet who, frankly, spun up a lot more grassroots anger than Brett Kavanaugh did in the summer of 2018?

The answer is because this wasn't a conspiracy. This wasn't a whole bunch of Democratic Senators sitting around. These allegations came out organically, and whether or not you believe they are true, to go before the Judiciary Committee as a judge and make the allegation that there is a conspiracy including Democratic Senators against you, when you have no evidence for it, tells us all we need to know about your fitness to serve on the Bench.

If you are making things up in order to fit the narrative that you think will be most helpful to make your case before the Senate, why would we think that you wouldn't do the same thing on the Court, which leads me to the most troubling passage of his testimony, and I heard Senator LEE launch a defense of it. I have heard others launch a defense of it, but I watched it again before I came down to the Senate floor just to make sure that I had it right.

At the end of his diatribe against Democrats, at the end of this description of a Clinton-connected conspiracy that he believes is launched against him, he uses this phrase—and I am paraphrasing the beginning of this. He says: As we all know in the political world of the early 2000s, ''what comes around, goes around.''

Now, I listened to it again today just to make sure that that wasn't a lead-in to some other thought, and it wasn't. He starts a new thought after that. He starts talking about how he is a generally optimistic guy.

The passage about the conspiracy theory and about how badly he has been treated by the Democrats ends with a punctuation point right before which is the admonition ''what comes around, goes around.''

There is little way to read that other than as a threat to those who are going to oppose him in the Senate and to those political interest groups outside the Senate who are working to oppose him.

I don't think I am making too much of this, and I know that last night in

the Wall Street Journal Brett Kavanaugh wrote a somewhat apologetic op-ed in which he said that he might have gotten a little bit too heated at times in the hearing. He didn't specifically refer to which statements he would take back, but that line—''what comes around, goes around''—and those allegations about this dangerous Democratic-led conspiracy theory weren't statements that he just came up with in the heat of the moment. Those were statements in his prepared text. Those were statements that he wrote down on paper, thought about overnight, thought about again as he listened to Dr. Ford's testimony, and then read before the Judiciary Committee: ''What comes around, goes around.''

How does any petitioner who is aligned with any of the groups that Judge Kavanaugh might think was involved in the political opposition to his candidacy have faith that they will get a fair audience before the Supreme Court when Judge Kavanaugh is on it? Do you really think, given how angry he was, given what he believes was organized against him, that he is going to fairly give causes aligned with Democrats a fair shot before the Court? Do you really think he now can say that he will be a neutral-colored umpire as a Supreme Court Justice?

Here is why this is a precedent-breaking decision that we are making. In the past, we have actually put political people on the Supreme Court. We have. Centuries ago we selected people for the Supreme Court who had actually served in political positions. That was at a time when our politics was, maybe, a little bit less heated, where there was more opportunity for common ground. But in recent times, that has not been the way in which we have selected people for the Supreme Court. We traditionally select jurists.

There has been in the American public this belief that even in a super politically charged time, there are at least nine people who are above all of that, who are above the regular partisan barbs and allegations that we tend too often to throw at each other. Those nine people are on the Supreme Court, and that is really important, because once the American public starts to think that the Supreme Court is just another political arm, that is the day when the rule of law really starts to fall apart.

That is why nominees to the Court are so careful not to unveil any political bias, even if they may have one, because they don't want to shatter that image that the American public still has, by and large, that at least those nine people are immune from the political biases that we hold here in the Senate.

Well, that belief has been forever compromised because Judge Kavanaugh has told you his political bias. He has told you what he thinks of Democrats, and now he is headed for the Supreme Court.

Senator LEE spent some time earlier this evening talking about Federalist No. 78. Senator LEE is not the only one who has read Federalist Papers.

Federalist No. 78 is an important one. It is where Hamilton lays out the importance of seeing the judiciary different than the legislative body, and Senator LEE got it right. He talks about the judiciary exercising judgments, whereas the legislature exercises will. That is a good way to think about the difference between the two.

Yet inside Federalist No. 78 is another idea that is really, really important. What he says inside that document is this. Hamilton says:

> I agree, that ''there is no liberty, if the power of judging be not separated from the legislative and executive powers.'' And it proves, in the last place, that as liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments. . . .

Hamilton is saying in that edition of the Federalist Papers that the judiciary is the weakest of the three branches because it doesn't have the power of the sword as the executive does, nor the power of the purse as the legislative branch does. Though he admits that the judiciary can overrule an act of Congress and that gives it power, he suggests that so long as the executive is independent and is not a tool or a part of the legislative branch or the executive branch, we have nothing to fear.

Now, he doesn't lay it out in as explicit terms as I might today, but what he is essentially saying is that the judiciary has to be apolitical. As long as it is apolitical, you have nothing to worry about because it doesn't have some of the inherent powers of the branches in article I and article II.

We have broken through that wall in the nomination of Brett Kavanaugh. By making these blatantly partisan allegations, by associating himself in his confirmation hearing so clearly with one side of the partisan fight inside the U.S. Congress, he has now brought at least his seat on the Supreme Court that much closer to one of the two departments that Hamilton feared would ultimately become joined.

Alexander Hamilton spent a lot of time thinking about the importance and writing about the importance of an independent judiciary. Brett Kavanaugh, by jumping into the political fray, by translating his biases, has started to break down that wall.

Now, I don't want to be apocalyptic about this. Maybe what I am suggesting is that it just is going to make it a lot easier to put more people on the Supreme Court who are more and more political, ultimately continuing to tear down that wall.

Lastly, I want to talk for a moment about the investigation that took place regarding some of these allegations.

One of the precedent-shattering decisions that was made was the decision on behalf of the majority to do no work to try to figure out whether those who were making these allegations were telling the truth, beyond a hastily scheduled hearing in which only two witnesses were called, as compared to the Anita Hill hearings, where there were over 20 witnesses called. It was a sham of a process. That is not too strong a word. There was not an attempt to get to the truth. There was an attempt to provide cover, to make it look as if the Senate was having a fair hearing.

There was also no intention to do what had been done back during the Clarence Thomas nomination—to have the FBI go out and gather some facts for themselves.

It was only because of a last-minute demand by a handful of Republican Senators that the FBI went out and conducted an investigation but was given only 1 week to do that investigation.

There is reporting in the New York Times today that suggests that the White House intentionally limited the scope of that investigation, but, frankly, I didn't need the New York Times to tell me that that is how this went down. I read the report, and it was very clear in that report that the FBI could do some things and couldn't do other things.

This is not me telling you this. I am referring to independent reporting that only eight people were actually interviewed, and there were clearly some subjects that were off limits in those interviews and some things that would have been very important for Congress to know that we cannot know because those interviews only went so far.

Now the Times is reporting that that was intentional. In fact, the Times reports that the President's Chief Counsel told the President that if there was a full investigation of all of the claims and all potential claims around Judge Kavanaugh, it would be very bad for his nomination.

So I think the FBI do good work, but not when they are given unfair parameters around their investigation. That, in and of itself, is another precedent-shattering decision, constraining the FBI when they are trying to go out and gather facts for us.

Yet another precedent-shattering decision was the way in which we were allowed to see the report. It was one of the most humiliating things I have ever gone through as a U.S. Senator—to sit in a secure room with 10 of my other colleagues, with 60 minutes to review a document, look at it, digest it, and ask questions about it. The scene was chaotic.

We are sitting there with a bunch of our colleagues, trying to share different pieces of the report: I will read that page. You read that page. Wait. Did I read page 6? Wait. Do you have page 7? Oh, boy, we have to get out of here because we only have 60 minutes.

It was not becoming of the U.S. Senate, and it didn't have to go down like that. It would have been easy for the

Senate majority leader to work out an arrangement with the White House to have more than one copy of the FBI report. And, of course, the Senate leadership could have given us more than a half day to review that report.

Neither of those things happened, and they have consequences because the next time there is a complication, there is incentive to do the same thing again—to rush a nominee through the process.

I have with me a statement from a gentleman by the name of Keith Koegler. This is a statement that comes to the Senate from Christine Blasey Ford's lawyers. It is a statement of an individual whom the FBI did not interview. This is a friend of Dr. Ford's who had conversations with Dr. Ford prior to Judge Kavanaugh's nomination regarding the allegations of assault that Dr. Ford told the committee. One of the things he says here is that he has a copy of an email thread ''between Christine and me'' in which he made it clear that Brett Kavanaugh was the judge who assaulted her as a teenager.

He says: ''We exchanged those emails . . . two days after Justice Kennedy's retirement announcement, before there was a shortlist for his replacement.''

He is submitting this to us so that we can put it in the RECORD, given the fact that it was not included in the FBI's investigation, because they never came and interviewed Mr. Koegler.

Mr. President, I ask unanimous consent that this document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KEITH KOEGLER,
Palo Alto, CA, October 5, 2018.

MEMBERS OF THE U.S. SENATE: My name is Keith Koegler. I am one of Christine Blasey Ford's corroborating witnesses. For those of you who aren't lawyers, the term ''corroborating witness'' is not synonymous with ''eye witness''—someone can be a corroborating witness without having physically been present at the scene of a crime. Indeed, in matters involving sexual assault, there are often no eyewitnesses.

Since attending the hearing 8 days ago, I have grown increasingly concerned that Senators would ignore the import of Christine's testimony in their rush to confirm Judge Brett Kavanaugh to the Supreme Court. For the record:

I believe, with every fiber of my being, that Christine Blasey Ford has testified truthfully about her assault by Brett Kavanaugh. I have the benefit of knowing Christine, but if you saw her testimony and you didn't find her credible, you know nothing about sexual assault.

The process by which the Senate Judiciary Committee has ''investigated'' the facts relating to the assault has been a shameless effort to protect Judge Kavanaugh. The fact that the FBI did not interview either Christine or Judge Kavanaugh, by itself, renders absurd any assertion that the investigation was ''thorough.'' There are a minimum of 7 additional people, known to the White House, the Senate Judiciary Committee and the FBI who knew about the assault prior to the nomination who were not interviewed. I am one of them.

Here are some of the things the FBI would have learned by interviewing me:

I have a copy of the email thread between Christine and me in which she made it clear that Brett Kavanaugh was the judge who had assaulted her as a teenager. We exchanged those emails on June 29, 2018, two days after Justice Kennedy's retirement announcement, before there was a shortlist for his replacement. It wasn't until July 9, 2018 that the President nominated Judge Kavanaugh.

Christine has accurately described the sequence of events that occurred in the months that followed, including her interactions with the Washington Post, Representative Anna Eshoo's office and Senator Diane Feinstein's office. I know because I had regular contact with her during that time.

There was no ''grand-conspiracy'' to conduct a ''political hit job'' on Judge Kavanaugh—this was always about one woman struggling with a perverse choice: Suffer a brutal toll on herself and her family to fulfill a sense of civic duty and (possibly, though not likely) avoid spending the rest of her life looking at the face of the man who assaulted her as a teenager on the United States Supreme Court or, alternatively, live in silence with the knowledge that she might have been able to make a difference.

Christine has been afraid of flying her entire adult life. Prosecutor Rachel Mitchell repeatedly challenged Christine about her fear of flying, in an effort to impugn Christine's general credibility. I could have provided the FBI with the names of at least half a dozen people who have flown with Christine and can attest to the fact that she has panic attacks before she flies. She controls those attacks with medicine prescribed by a doctor.

As Senator Flake anticipated in a speech before the hearing last week, coming forward has forced Christine, her husband and their two sons to endure treatment that no human being should have to suffer. Within hours after the first news story, throngs of reporters descended on their home, driving the family (perhaps permanently) out of the neighborhood. The family has been subjected to a near constant barrage of harassing emails, phone calls and social media attacks (''die, you fucking cunt''), many of them obviously coordinated and many threatening death or bodily harm. Because of the attacks, Christine hasn't spent more than 3 consecutive nights in the same place. They have had to hire a security firm 24/7, and they have to be transported from place to place in secret. Christine hasn't slept more than 3 hours at a time since September 16th. She has trouble eating. She has had to relinquish her teaching responsibilities for the semester. And the list goes on. Perhaps Forever.

I have no power. I can only ask you to do what is right. Please ask yourselves if you want to spend the rest of your lives looking at the face of Brett Kavanaugh, the man who lied about assaulting Christine Blasey Ford as a teenager, on the United States Supreme Court.

DECLARATION OF KEITH KOEGLE

I, Keith Koegler, hereby state that I am over eighteen (18) years of age, am competent to testify, and have personal knowledge of the following facts:

1. I graduated from Amherst College in 1992 with a Bachelor's Degree in History. I earned my Juris Doctor decree from Vanderbilt Law School in 1997.

2. I have known Christine Blasey Ford and her husband. Russell Ford, for more than five years, and consider them close friends.

3. We met when I was coaching their son's baseball team. Our children are close friends and have played sports together for years. I have spent a lot of time with Christine and her husband traveling to and attending our kids' games. Our families have also gone on vacation together.

4. The first time I learned that Christine had experienced sexual assault was in early summer of 2016. We were standing together in a public place watching our children play together.

5. I remember the timing of the conversation because it was shortly after Stanford University student Brock Turner was sentenced for felony sexual assault after raping an unconscious woman on Stanford's campus. There was a common public perception that the judge gave Mr. Turner too light of a sentence.

6. Christine expressed anger at Mr. Turner's lenient sentence, stating that she was particularly bothered he it because she was assaulted in high school by a man who was now a federal judge in Washington, D.C.

7. Christine did not mention the assault to me again until June 29, 2018, two days after Justice Anthony Kennedy announced his resignation from the Supreme Court of the United States.

8. On June 29, 2018, she wrote me an email in which she stated that the person who assaulted her in high school was the President's ''favorite for SCOTUS.''

9 On June 29, 2018, I responded with an email in which I stated:

''I remember you telling me about him. but I don't remember his name. Do you mind telling me so I can read about him?''

10. Christine responded by email and stated:

''Brett Kavanaugh''

11. In all of my dealings with Christine I have known her to be a serious and honorable person.

I solemnly swear or affirm under the penalties of perjury that the matters set forth in this Declaration are true and correct to the best of my personal knowledge, information, and belief, Executed on this 24th day of September, 2018.

KEITH KOEGLER.

Mr. MURPHY. Mr. President, this is just one piece of evidence that none of us saw prior to this moment that would have provided important back up to Dr. Ford's testimony. I don't know why this person wasn't interviewed who can testify that Dr. Ford told him of this abuse before Judge Kavanaugh was placed on any shortlist.

I don't know if the FBI made their own decision not to talk to this individual, whether they were time-limited so that they were unable to get to him or whether the White House told them whom they could interview and whom they couldn't, but this would have been really important information for us to have beforehand.

I will end where I ended the other day. All of these decisions that have been made, I think, have long-term consequences for this body. I am not saying that we can't recover from this. We are all adults. I do believe that everybody here in the Senate believes in this place and wants it to be better. I don't run into many people on either side of the aisle who are having a lot of fun these days, given the fact that we can't get along on almost anything except for the budget, which is not insignificant.

So I have to trust, as a relatively new entrant to this place, that we can

do better, that we can try to learn from what has happened here. The damage has been done at this point to survivors of sexual assault who are going to be thinking twice about coming forward because they are not going to be believed. The damage has been done to the precedent surrounding nominations to the judiciary. The damage has been done to the idea of objective truth and the belief that folks who are applying for important jobs should tell the truth. But I have faith that we can learn from what happened here and try to be better the next time.

Ultimately, what I think about a lot and what I have thought about a lot these last few weeks is this: Why Brett Kavanaugh?

I come back to where I began. At the outset, I said that our standard should be educated by the fact that there is not one person in the world, in the United States, who is qualified for this job. There are lots of them. So if you have serious doubts or reservations about an individual, you can move on to the next person. That is what George Washington did when John Rutledge was rejected by the Senate. He had somebody else who was great in reserve—a great early American, Oliver Ellsworth.

There are, no doubt, other conservative jurists who would probably fulfill most of the jurisprudential aims of the Republican majority just as well as Brett Kavanaugh. It can't be because Brett Kavanaugh is the essential man.

So given all of these doubts, given all of these allegations, given his precedent-breaking performance before the Judiciary Committee, why stick with Brett Kavanaugh? This is what I come back to when I try to answer that question for myself.

I know that it is hard being a Republican today. Your party doesn't look like it did 10 years ago because you have a President who really doesn't have an ideological core. He doesn't have a set of beliefs. He is a cult of personality. He makes it up as he goes along. So it is difficult being a Republican in Congress today because the party is just fundamentally different than it was 5 years ago, and there is very little that binds together a President without an ideological core and Republicans in the Senate who do have a set of beliefs that they are fairly regularly consistent about. I know that is uncomfortable. So I fear that the reason the Senate Republican majority is sticking with Brett Kavanaugh is because the one thing on which can agree with this President is your antipathy for the Democratic minority.

There is this theme—this phrase on social media—that gets used by the right, called ''owning the libs.'' It is the idea that you win if you dominate your opponents. Winning isn't about passing a bill. Winning isn't about doing something good for the country. Winning is about owning your political opposition.

I worry that is what this is about—that we are sticking with Brett Kavanaugh even with all of these problems and questions that surround him because the worry is that to give up on him and move on to somebody else would be a show of weakness and would be interpreted as a victory for Democrats. The one thing that binds together congressional Republicans and this President is an unwillingness to give Democrats any perception of victory.

Now, it wouldn't really be a victory for Democrats because we know there would be another conservative Justice—maybe, one even more conservative than Brett Kavanaugh—who would be coming down the pike. But maybe in the short term, it would be scored that way, and thus, it becomes unacceptable.

It is sort of the definition of power politics—dominance no matter the cost, no matter the policy implications, no matter the precedent. I might be wrong about this. It may be that my colleagues just feel like Brett Kavanaugh is telling the truth on everything, down to the definition of some of those terms, or maybe they see a talent in him that is unique that the rest of us don't see.

But I worry that what matters in this place these days is just winning, and I worry about that for Democrats too. I worry that ultimately what drives us when we get up in the morning in Washington, DC, these days is just beating the other side—that it is just a game, that it is just an athletic contest, and that we have become what the news media and the cable shows want us to be, a sporting event.

I think that of late my Republican colleagues have been more guilty of this than Democratic colleagues. I have that bias, I admit it. I am allowed to have it as a partisan, but I believe it exists on both sides of this body. This, I would argue, is just the worst episode of that desire for political dominance and something that we should all, in the wake of this nomination, step back from and think long and hard about.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GARDNER). The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Ms. CORTEZ MASTO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CORTEZ MASTO. Mr. President, I rise today as the Senate has been called upon to fulfill our constitutional duty to give advice and consent on President Trump's nominee to the Supreme Court, Brett Kavanaugh.

In the past, Presidents worked with a bipartisan Senate to appoint someone who understood the importance of precedence and transparency, who respected the independent integrity of the highest Court in the land. Unfortunately, that did not happen during the nomination process. Instead, the process was flawed to fast track a nominee without a full vetting for political gain.

Brett Kavanaugh was handpicked by the Federalist Society, a rightwing lobbying organization dedicated to overturning Roe v. Wade. Why? Because, as he has made clear on several occasions, President Trump wants to stack the Court with Justices who will overturn Roe v. Wade.

Now, I am new to the Senate, and as long as I have been here, I have been told that this is not regular order. As we went through this confirmation hearing, unfortunately, I found it, along with my colleagues, to be fast tracked.

I take very seriously my role of advice and consent when it comes to a nominee, and I think we all as Senators have an equal vote. We should all have access to all of the information and a full vetting of any nominee who wants to sit on the highest Court for a lifetime appointment.

Think about it—a lifetime appointment. There are only nine members. This is something that we should all look for—the right person—and everyone should have a full vetting, but this hearing was fast-tracked. Not only was it fast-tracked, but we did not have access to all of the documents necessary to determine whether Brett Kavanaugh had the correct judicial philosophy and the judicial temperament and impartiality that is necessary for somebody to sit on the highest Court of the land.

Not only were we limited in the number of documents, but what little documents we did get, unfortunately, on some of them were marked ''committee confidential'' in an effort to prevent Members from using documents to question the witness. By unilaterally declaring them committee confidential, many of my colleagues in the Senate Judiciary Committee hearing were unable to adequately question Judge Kavanaugh. I am told that this process of marking ''committee confidential'' is without precedent.

Republicans claim that Chairman LEAHY also accepted documents on a ''committee confidential'' basis during the Kagan nomination. Those documents were processed by the National Archives, not private, partisan lawyers, and Republicans did not object.

By the time of her hearing, 99 percent of Elena Kagan's White House records were publicly available and could be used freely by any Member. In contrast, the committee has only seen 7 percent of Brett Kavanaugh's White House records and only 4 percent were made available to the public. No Senate or committee rule grants the chairman unilateral authority to designate documents ''committee confidential'' and prohibit their public release. Neither the rules of the Senate nor the rules of the committee authorize the unilateral designation.

There was no committee action and Ranking Member FEINSTEIN sent a letter stating she did not agree with a

blanket designation, and she asked the chairman to work with her to identify the subset of documents that should remain confidential, and he refused.

But the chairman released thousands of documents himself. Specifically, he released thousands of documents that had previously been marked ''committee confidential,'' after consulting with Mr. Burck. If these were committee confidential documents, then, the chairman's actions would be a violation of Senate rules. The Senate rules provide a penalty for disclosing ''the secret or confidential business or proceedings of the Senate'' but it requires a vote or a committee action to conduct confidential business or proceedings.

Democrats cannot be held to a different standard. Chairman GRASSLEY has asserted that Mr. Burck has sole authority to decide what documents may be used to question Judge Kavanaugh and sole authority to decide which documents may be released to the public. However, he has failed to cite any rule or statute that gives Mr. Burck any authority.

We should not move forward with hearings when we only had a fraction of the nominee's record, and the most significant document we had remains hidden from public view.

The chairman claimed that he provided ample opportunity for Democrats to clear committee-confidential documents for use at the hearing, but he refused the request of several Members to make documents on a number of topics public.

I also want to make it clear that as I watched that hearing, there were allegations that Members of the Senate didn't even show up to take a look at these confidential documents, so why were we complaining. I will tell you what, I showed up. I was there for 3 days looking at all of these documents because I thought it was necessary, even if we were going to be limited in what we could see and what we could talk about. I have a voice equal like everyone else, and I should have access to those documents and figure out if I had the opportunity to talk to Judge Kavanaugh or talk with my colleagues about it, then I should have access to those documents, but even when we had access, the chairman demanded that Democrats send him their documents for preclearance by his staff, President Bush's lawyers, and the White House.

My understanding is, never before have minority members of the committee been required to identify and preclear the topics and documents they want to discuss with a Supreme Court nominee with the chairman or outside private lawyers in the White House; never has a majority asserted unilateral authority to preclear what issues the minority party can even ask a nominee.

The idea that Democrats have to ask Republicans to preclear their questions in a Senate Judiciary Committee hearing is outrageous. If the chairman, Bill Burck, and the Trump White House were truly interested in a transparent process, Mr. Burck and the White House could make the White House Counsel records public now, as President Obama and former President Clinton did for the Kagan nomination, but we still don't have access to all of the documents.

We still have a process that is broken. We still have a process that, unfortunately, did not provide all of the Senators the opportunity to have a full vetting of Brett Kavanaugh. I took my time. I reviewed Judge Kavanaugh's record. I looked at his cases, his written statements; I listened to his comments in the hearing; I went and viewed the committee-confidential documents. I wanted an opportunity to meet with him. Unfortunately, that never happened, so I couldn't question him myself.

Based on all of the information and based on taking my time—like I did with our previous nominee because it is that important that we get the right person on the bench—in his statements and in his writings and opinions, it was clear to me that Brett Kavanaugh has shown he does not respect precedent. He does not respect a woman's right to choose. He does not respect workers' rights.

If confirmed, I believe Judge Kavanaugh's extreme activist judicial philosophy will pose a threat to women, our environment, our constitutional separation of powers, and our fundamental civil rights, but it is not just Brett Kavanaugh's judicial philosophy that troubles me.

Last week, Judge Kavanaugh testified before the Senate Judiciary Committee to defend himself against sexual assault allegations. He was asking for our vote for a lifetime appointment to the Supreme Court—one of the deepest and most profound honors this Nation can bestow upon a citizen. This nominee was interviewing for a job in front of the American people, and he was belligerent, evasive, and aggressive. This nominee, who currently sits as an appellate court judge on the DC Circuit Court, disregarded all demeanor and respect for impartiality and independence by accusing the Democrats of engaging in ''a calculated and orchestrated political hit fueled with apparent pent-up anger about President Trump and the 2016 election, fear that has been unfairly stoked about my judicial record, revenge on behalf of the Clintons, and millions of dollars in money from outside left-wing opposition groups.''

He then took it even further by stating: ''And as we all know in the United States political system of the early 2000s, what goes around, comes around.''

''What goes around comes around,'' are those the words of an impartial judge? Of course not. During the question-and-answer period with the Senators, he was belligerent, impatient, and aggressive toward anyone who pressed him to get to the truth.

His demonstrated lack of temperament and impartiality is another reason I cannot support him. It is also why over 2,400 law professors, from respected law schools across this country, penned a letter to the Senators to state that the Senate should not confirm Judge Kavanaugh—some of these very law professors who also appeared before the U.S. Supreme Court; some of these very law professors who also practiced and teach at Yale and Harvard. They wrote:

> Judicial temperament is one of the most important qualities of a judge. A judge requires a personality that is even-handed, unbiased, impartial, courteous, yet firm, and dedicated to a process, not a result.

They further stated:

> At the Senate hearings on September 27, Judge Brett Kavanaugh displayed a lack of judicial temperament that would be disqualifying for any court, and certainly for elevation to the highest Court of this land.

Former Supreme Court Justice John Paul Stevens, a Republican appointed by President Ford, stated similar concerns:

> When I watched Judge Kavanaugh's testimony, I didn't see a fair and impartial Justice. I saw a man who is blinded by rage and ideology. As a sitting judge, Brett Kavanaugh knows better.

His accuser, Dr. Christine Blasey Ford, testified before the Senate Judiciary Committee for 4 hours. She was poised, serious, and credible recounting what was clearly one of the most scarring, traumatic experiences of her life, and she did it on live television for all the world to hear. She did it in the face of death threats. She did it at the risk of damaging her credibility and career. She had nothing to gain. She has done a profound service to everyone whose life has been touched by sexual assault or abuse.

Dr. Ford, I believe you, and I thank you for your courage in coming forward. I believe in a fair and independent process for people who have been accused of serious crimes like sexual assault, and the process should include a neutral investigation that is thorough and nonpartisan because it will hold a perpetrator accountable or exonerate the falsely accused. But that fair and independent process did not occur this time. I am glad some of my colleagues stood up to make sure the FBI had a chance to reopen its background investigation. I will tell you what, after reading the recent FBI report, it is clear Republican leadership limited its scope, and I say that as somebody who not only has been a prosecutor for 10 years, 8 years the attorney general of the State of Nevada, who has conducted criminal investigations and oversaw peace officers who did the same thing.

What they did not do, they did not interview Dr. Ford, nor obtain from her the important medical records that would corroborate her testimony. In fact, her attorneys wrote to the FBI offering up not only additional witnesses

but making the statement that if they were to interview Dr. Ford, she would have also provided corroborating evidence, including her medical records and access to the phone from which she messaged the Washington Post about Judge Kavanaugh's assault prior to his nomination to the Supreme Court. I am here to tell you, corroborating evidence isn't just in the form of witness statements; it is in the form of documentation that is key, and that was never recovered by the FBI.

I will tell you, the potential witnesses that potentially the FBI could have talked to, we know—we know because they came forward out of a civic duty and they went public, and the FBI still did not talk to them. We know Dr. Blasey Ford's husband, Russell Ford, said Christine shared the details of the sexual assault during a couple's therapy session in 2012. She said that in high school, she had been trapped in a room and physically restrained by one boy who was molesting her while another boy watched, and Dr. Ford's husband said: ''I remember her saying that the attacker's name was Brett Kavanaugh'' in 2012—2012.

Along with her husband, Adela Gildo-Mazzo, a friend of Dr. Blasey Ford, came forward and said:

> In June of 2013, Christine said that she had been almost raped by someone who was now a Federal judge. She told me she had been trapped in a room with two drunken guys, and that she then escaped, ran away, and hid.

A third witness, somebody who could have corroborated Dr. Ford's statement, Lynne Brookes, Brett Kavanaugh's college friend, who said: ''There is no doubt in my mind that while at Yale, he was a big partier, often drank to excess, and there had to be a number of nights where he does not remember.''

So I know—and unfortunately too often we have seen in this particular case an FBI supplemental report that was not thorough. In addition, after I reviewed the summary of the report and realized we were missing information, the additional corroborations would have also gone to Debbie Ramirez's allegations, but the FBI did not interview important witnesses to corroborate Debbie Ramirez's allegations.

We now know—because they have been again willing to come forward after seeing what has been happening through these hearings—Kenneth Appold, a suitemate of Brett Kavanaugh at Yale, who is now a professor at Princeton, stated: ''I can corroborate Debbie's account.'' He said: ''I believe her because it matches the same story I heard 35 years ago, although the two of us have never talked.'' Professor Appold was never interviewed.

Likewise, James Roche was also a roommate of Brett Kavanaugh, and he said: ''Although Brett was normally reserved, he was a notably heavy drinker, even by the standards of the time, and that he became aggressive and belligerent when he was very drunk.''

Likewise, Chad Luddington, a college classmate came forward: ''I can unequivocally say that in denying the possibility that he ever blacked out from drinking and in downplaying the degree and frequency of his drinking, Brett has not told the truth.''

They were not interviewed by the FBI. So now, because we have only limited information, all Senators are left with a lack of a full understanding of the facts surrounding the allegations against Brett Kavanaugh.

The questions swirling around Brett Kavanaugh get at the very heart of our responsibility as Members of the U.S. Senate. We are not here to be a rubberstamp on the President's nominees. We are a check and balance on his power. We are here to work with him to make decisions that are right for the American people. That means we listen to our constituents. That includes women and men who have buried their experiences of trauma for far too long.

I have received letters from my constituents from all over Nevada sharing their stories of survival. I heard from men and women in our military who were struggling not just with the effects of PTSD but with the experience of being sexually abused.

I recently met with women who led the campaign to codify a woman's right to choose in the Nevada State Constitution, and they all asked me to oppose Brett Kavanaugh's nomination, and I stand with them. I stand with survivors. I stand for the right of every American woman to make her own healthcare decisions. I believe Dr. Christine Blasey Ford. I believe in the integrity and independence of our judicial system.

I condemn Brett Kavanaugh's confrontational and partisan behavior, and I condemn the handling of this nomination by Senate Republican leaders.

We must work together, in a bipartisan way, and restore our constitutional role of advice and consent. This is about something bigger than any one nominee. It is about the integrity of our Nation's institutions. It is about the core functions of our democracy. We can't allow partisan politics to eat away at the checks and balances enshrined in our Constitution. We have to return to common decency and regular order. Anything less is below the dignity of the American people and the great Constitution we swore an oath to faithfully support.

I encourage all of my colleagues to join me in voting against this temperamentally unfit nominee.

Thank you.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PERDUE). The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SCHATZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHATZ. Mr. President, the Senate should demand a better nominee for the Supreme Court. These last 2 weeks have torn our country apart, but even before these allegations against Judge Kavanaugh became public, there was enough in Judge Kavanaugh's record to cause me to vote no.

His record is clear. As a Justice, he will damage women's rights, civil rights, the environment, voting rights, and economic fairness. He will also damage Native Hawaiian self-determination.

Let's start with Native Hawaiian. In a Wall Street Journal op-ed, he wrote that Native Hawaiians didn't deserve protections as indigenous people. He wrote an amicus brief in the case Rice v. Cayetano, arguing that Hawaii violated the Constitution by permitting only Native Hawaiians to vote in their elections for the Office of Hawaiian Affairs—the agency charged with working to advocate for the Native Hawaiian community.

These views come from a lack of knowledge of the history of Native Hawaiians, as well as Federal law and policies related to U.S. indigenous people.

Based on nothing at all, he thinks indigenous people are just another race. In his words, ''Hawaii's naked racial spoils system . . . makes remedial set-asides and hiring and admissions preferences look almost trivial by comparison.''

He also said: ''[I]f Hawaii is permitted to offer extraordinary privileges to residents on the basis of race or ethnic heritage, so will every other state.''

This is wrong on policy. This is wrong on the law. This is wrong historically, but it is also important to recognize the tone here. ''Remedial set-asides,'' ''racial spoils''—this is not someone who understands the plight of indigenous people and the history of our country as it relates to indigenous people. These views have serious consequences for Alaska Natives and also for American Indians.

The Federal Government's protections for indigenous people are built on tenets of the Constitution, Federal statutes, legal precedent, and congressional actions. They exist against the backdrop of U.S. injustice against indigenous American Indian, Alaska Native, and Native Hawaiian communities. Judge Kavanaugh's misinformed views on the status of indigenous people are alarming.

His views on women are also alarming. There is no doubt in my mind that Judge Kavanaugh will undermine reproductive rights. He knows better than to say in public that he is going to vote to overturn Roe v. Wade. That is not what they do. The Federalist Society trains these people really well to not say what they are going to do. There is a reason everybody who wants to ban abortion is so enthusiastic

about this judge. They are not dumb. They understand his views, and they understand the one thing you can't say is, yes, I will vote to overturn Roe.

Here is an email from his days in the Bush administration—which, by the way, the Republicans tried to hide from the public. He said: ''I am not sure all legal scholars refer to Roe as the settled law of the land at the Supreme Court level since the Court can always overrule its precedent, and three current Justices on the Court would do so.'' This is exactly why the Senate deserves to know if Judge Kavanaugh would overrule this precedent. I think he will.

Time after time during the hearing, he evaded answers to that question, but we already know he embraces restrictive limitations on abortion that would, in practice, deprive women of their constitutional rights.

Judge Kavanaugh argued in one case that the Federal Government can and should override a young woman's constitutional right to seek an abortion because she was an immigrant.

This young woman had complied with the requirements of State law to make that decision herself. She did not need the Federal Government to transport her, pay for, or in any way facilitate the procedure. She just needed them to let her out of detention to do the procedure, but they didn't want to. They wanted to pressure her to voluntarily deport herself. They put up artificial barriers to prevent her from exercising her constitutional right. Judge Kavanaugh endorsed those barriers. Making a young woman wait weeks to obtain an abortion for no reason based on the Constitution, Federal or State law, or even public policy is an undue burden. Republicans who worry about the overstepping of the State should care about this.

Judge Kavanaugh's dissent shows his lack of respect for Roe, but even if he avoids directly overturning Roe, he could be green-lighting State or Federal laws that, in a practical effect, outlaw abortion.

Judge Kavanaugh would also rip apart of the ACA, if given a chance. He ruled to limit access to contraception under the ACA, and he has made it clear he thinks the Affordable Care Act is a ''significant expanse of congressional authority—and thus also a potentially significant infringement of individual liberty.'' A significant expansion of congressional authority and potentially a significant infringement of individual liberty—now that sounds like something a Republican colleague would say. It is just a view about the Affordable Care Act which that is to the extent we are collecting taxes and establishing some statutory mandates to try to make sure more people have healthcare that is affordable, a zero-sum game. And the more people who have healthcare, the less liberty either the rest of us have or maybe even those people have. I don't really know how it works, but that is a view.

It is a view we hear, and I respect my Republican colleagues for their views. I believe they are sincere in those views. That is not normally the kind of thing you hear from a judge. He has a clear view about the Affordable Care Act that isn't based in jurisprudence; it is based in his long history as a Republican operative.

I want to be very clear. A Republican operative sounds like an epithet. It sounds like a personal insult. I work with a lot of operatives. They tend to be Democrats. Operatives—not all of them—some of them are pretty cool. Some of them are honorable. A lot of them are really effective. It is not a bad thing to be a political operative. Someone has to run a campaign. Someone has to mobilize voters. It is part of our democracy, like it or hate it. It is just that we don't put them on courts at all. It is just that we have literally never put an operative from either political party on the highest Court in the land.

In his speeches, Judge Kavanaugh has left not-so-subtle bread crumbs about how he would rule on the constitutionality of the individual mandate, which is really the linchpin of the ACA. In a lecture at the Heritage Foundation, he highlighted that the majority of the Supreme Court agreed that ''the individual mandate, best read, could not be sustained as constitutional.'' To him, the Chief Justice upheld the ACA only because he tried too hard to avoid deciding the constitutional issue. The whole speech is about how Judge Kavanaugh would not try too hard to avoid the constitutional issue. The risk that he will provide the vote to strike down the healthcare law is not a hypothetical.

Now, there were a lot of what most people in the bar thought were rather nonserious challenges on the Affordable Care Act in various circuit courts across the country, but I think we have learned that the Supreme Court has an interest in the Affordable Care Act, maybe even a kind of unhealthy obsession with the Affordable Care Act. So the idea that these seemingly frivolous lawsuits will not be successful, I think, is belied by the enthusiasm with which the Supreme Court wants to take these circuit court decisions which are getting appealed and rule on them.

Challenges to the ACA could come before the Supreme Court as early as this term. So I think it is really important for people to remember that. Listen, we all have our talking points on both sides of the aisle. I understand that. It is not a theoretical risk. It is a real risk that ACA is gutted; that the individual mandate is gutted; that protections for people with preexisting conditions is gutted; that what they call essential health benefits could fall away; that the whole architecture of our healthcare system could be gutted in this term.

I am also voting no because Judge Kavanaugh puts corporations above people—again, not a rhetorical flourish. This is most apparent in his opinions about the environment. I want you to know about a case which concerned the EPA's authority to regulate mercury emissions. The mercury rule was based on decades of research that showed devastating health impacts of mercury on the brain, on the lungs, and on fetuses. The Obama administration found that the mercury rule prevented as many as 11,000 premature deaths by reducing heart and lung disease.

Let's be clear. It happened during the Obama administration, but this isn't the EPA; these are professional scientists and researchers. These are civil servants. They are not like Obama appointees who have some ax to grind with a particular chemical. They just found that this chemical is dangerous to people. The EPA was directed by law to study the public health hazards of emissions from electric utilities, including mercury, and to regulate emissions ''if appropriate and necessary.'' That is the standard, ''if appropriate and necessary.'' Judge Kavanaugh thought the mercury rule was inappropriate because it didn't take into account the cost to the electric utilities to implement.

I mean, think about that. You see a law, and it says ''regulate emissions where appropriate and necessary,'' and then you are a judge and you read that law and you say: Listen, Agency, you didn't think about the corporations enough. So somehow that is violative of the law.

To arrive at his decision, he substituted his own judgment of what is ''appropriate'' for EPA. ''Appropriate'' means saving 11,000 lives. For Judge Kavanaugh, it meant not imposing too many costs on polluters.

He has and will continue to fight any attempt by the EPA to keep up with evolving threats to public health from polluted air and water and from climate change. Even though Supreme Court precedent was clear that greenhouse gases fit with the Clean Air Act's ''capacious definition of air pollutant''—in other words, greenhouse gases are a pollutant. Everybody knows that. It is not a dispute among scientists or even among regular people who understand that climate change is real, but Judge Kavanaugh pushed back. When the majority of the DC Circuit followed this precedent in another EPA case, he dissented. The conservative Justices on the Supreme Court were convinced, and they voted 5 to 4 to strike down the EPA's rule. There will be a lot more of that when Judge Kavanaugh joins them.

When Judge Kavanaugh is confirmed, he will use a far-right doctrine to block Federal agencies from protecting Americans' health and safety. He wants to do away with something called Chevron deference, which prevents judges from substituting their judgment for that of Congress or a Federal agency.

Here is how it works. When Congress passes a law, you can't—especially as it

relates to regulations about pollutants. We don't know exactly—we don't know all the science. So what we say is, for instance: Keep the air clean. Keep the water clean. You, Agency, figure out what is most important to ban, regulate on, and otherwise monitor. So it delegates that authority to Federal agencies which have the technical expertise and knowledge to implement and enforce the law.

Without that authority, we wouldn't have the rules to protect our air and water from pollution. We wouldn't be able to regulate access to new dangerous drugs. We wouldn't have rules to protect consumers from unsafe or predatory products and services because everything is supposed to be legislated.

If you don't believe in Chevron deference, then—we are supposed to every year come up with a new list of chemicals to ban or not ban. What do we know about that? Seriously, what do we know about that? Do you think maybe the lobbyists might be involved in that process more so than if you let the administrative agencies do that?

For the life of me, I don't understand—I mean, I do understand why people want to get rid of Chevron deference, but I don't understand the legal justification for it. The reason they want to get rid of Chevron deference is because it makes life safer for big corporations and less safe for the rest of us.

A vote for Judge Kavanaugh would be a vote against Chevron deference. It would allow judges to decide what a law means without considering Congress's intentions or listening to the Agency.

Perhaps most worrisome for me is Judge Kavanaugh's views on Executive power. The context here is, the Federalist Society provided a list to Donald Trump and Donald Trump said, ''Looks good to me,'' as part of his sort of solidifying the primary, and then Judge Kavanaugh got added at the end. I mean, after the initial list was established, then one person got added at the end.

In terms of their jurisprudence, there is not a big difference between Judge Kavanaugh and the rest of the people on the list, but here is the difference: Judge Kavanaugh has a very unique view of Executive authority and what a President is subjected to in terms of the law.

In his writings and rulings, he has made clear that he thinks a President can choose not to follow the law if he thinks it is unconstitutional. Can you imagine that a President can just say: ''That law is unconstitutional, so I refuse to enforce it''?

Congress couldn't do anything about it because it would all go to the Supreme Court where Judge Kavanaugh sits. Do you think Donald Trump might like that idea? I think Donald Trump might like that idea.

Judge Kavanaugh thinks the President is literally above the law, not just in terms of not enforcing statutes passed by the U.S. Congress; he has made it clear in speeches and writings that he does not think a President can or should be investigated or indicted for criminal offenses while in office.

He said that maybe Nixon was wrongly decided, referring to the United States v. Nixon. It is a 1974 decision in which the Supreme Court unanimously held that President Nixon had to comply with a subpoena to turn over the tapes of his conversations in the White House. He wrote in the Minnesota Law Review in 2009 that he thinks a President shouldn't be indicted for breaking the law. Let me repeat that. He wrote in the Minnesota Law Review in 2009 that he thinks a sitting President shouldn't be indicted for breaking the law.

Now, near as I can tell—I am not a lawyer—but near as I can tell, this is the main difference between Judge Kavanaugh's views and the rest of the people on the Federalist Society list. I mean, the head of the Federalist Society, before Judge Kavanaugh was nominated, was asked: Do you have any favorites? He said: Anyone on this list would be great.

It is just weird to me that the President of the United States picked this guy, a Bush person. It is not normally his preference to pick a Bush person, but this person has this really specific view about how powerful a President should be, and that is really worrisome.

He also wrote that there is ''a serious constitutional question regarding whether a President can be criminally indicted and tried while in office.'' This is the tip of the iceberg.

Judge Kavanaugh has also asserted that the President has ''absolute authority'' to pardon all offenders for any crime at any time, even before a trial or a charge; even before he or she is charged. Does he mean all offenders, even the President? Judge Kavanaugh may have refused to answer this question at the hearing, but his expansive view of Executive power speaks for him.

His view puts the President above the law, and this is dangerous because right now Special Counsel Robert Mueller is in the middle of an investigation into the President's campaign. Instead of following Supreme Court case law, Judge Kavanaugh may try to undermine that investigation and stop attempts to subpoena the President or to collect evidence.

The context, of course—sometimes we in the Senate pretend not to know things we know. There are a lot of smart people here, but we sometimes don't say what is actually going on, which, as everybody knows, even people who are loyal to him—or people who pretend to be loyal to him but privately grouse about him—the President demands loyalty to him, not to the Constitution, not to the country. The President is a person who demands personal loyalty. He could have picked anybody, but he picked Brett Kavanaugh, the one judge who believes the President is above the law and should be left alone.

These issues have been clear since the nomination, and that is why I pledged to vote no. Others came to light last week when the whole country had the chance to hear from Christine Blasey Ford and Judge Kavanaugh. What we saw, I think, was alarming for a lot of people. Whatever your view on all of the stuff I just talked about, actually, we saw behavior that was just weird. It was kind of manic. It was angry. It was wild-eyed. It was threatening. I mean, we talk—listen, I was in the State house of representatives, so I wasn't in a position to deal with advice and consent on State judges, so I hadn't dug into what the criteria were when you are considering a judge.

So when I got to the Senate—I am in my sixth year—there were a lot of conversations about judicial temperament. You think about qualifications. You want to make sure the views are not too extreme. Then you think about temperament. This thing about temperament is being totally ignored by the majority because if you care at all about temperament, if you care at all about the idea of equal justice for all, if you care—and we are so close to the U.S. Supreme Court physically right now. If you care about that magnificent building and the idea that anybody going before that highest Court in the land is going to get a fair shake, it is just vanishingly unlikely that if you are with the National Resource Defense Council or NARO or Planned Parenthood or MoveOn, or whoever he views as part of this attempt to smear him, they are going to court and they are going to be a litigant and they are going to be looking at Judge Kavanaugh saying: Oh, yes, he is undecided.

This is the important thing: Some people will argue that he is going to be an evenhanded jurist, that he sort of lost his cool, but he cleaned it up in this most recent Wall Street Journal editorial. Maybe. I don't think so. I think it is implausible. The point is, he can't even appear—you are not supposed to even appear to be anything less than impartial, and he ripped the mask off.

Again, he is a Republican. That is fine. I get along with Republicans—not all of them, but I get along with Republicans—and he can have all of those views. It is just that once you start articulating really partisan views, especially in the context of a nomination process, then the mask is off, and you don't belong on the Court. You have to display the proper temperament on and off the Bench at all times. ''What that means is in dealings with one's colleagues on the bench, having an open mind, being respectful of a colleague's views, being respectful of the lawyers who come before the court and not treating them disrespectfully, but to have proper respect for the lawyers on the court.''

I am quoting Judge Kavanaugh, and I did not see that Judge Kavanaugh last week.

I just want to make one minor point about that. Whatever we think of that Wall Street Journal editorial, besides the fact that there was no actual apology, it wasn't like a spur-of-the-moment thing where he kind of lost it and said a few things he didn't mean to say. He wrote the speech the day before. That speech was what he wanted to say. That is what he intended to say. So it is not like the passion—I have said lots of things I wish I didn't say, but generally when I write them down, I can't fairly characterize that as a mistake. Maybe I made a factual error. Maybe I stumble. Maybe I shouldn't have said one paragraph.

That whole thing was a mess. That whole thing was an emotional mess. That actually should have been disqualifying, and that should have been the moment where Members of the Republican Party just went over and said: Listen, we have 18 conservative judges. Any of them could get confirmed. This guy is not right for the Bench. This guy is going to be bad for the institution of the Court.

I want to talk a little bit about the Federalist Society, an organization with a mission to alter the legal landscape of the United States. For decades, the Federalist Society has worked to remake the Federal judiciary with the view of power of corporations, Executive authority, social conservatism, and the protection of privilege that is out of the legal mainstream. As Amanda Hollis-Brusky, a professor of politics at Pomona College and the author of ''Ideas with Consequences,'' a study of the Federalist Society, said: ''The idea was to train, credential, and socialize a generation of alternative elites.''

This is because we have Republican Presidents who would nominate and get confirmed Justices that were Republican but not as reliably conservative as they wanted. So the Federalist Society, formed for the purpose of saying, you know, we are not going to get fooled again. We want our stuff. We want our outcomes. We don't want you to actually fairly consider the law and the Constitution and just call balls and strikes and all that. That is what they say. They set up this apparatus to do the opposite; to be very outcome-oriented and to be very conservative. That is what the Federalist Society has done.

This nomination is the latest success story of this ambitious enterprise, and his confirmation will, unfortunately, entrench these judicial views in the Supreme Court for decades to come.

While his views on some issues are known, the Senate and the American people still don't have a full picture of who he is, and that is because at every turn there has been a concerted effort to hide the documents.

Now, this feels like 10 weeks ago, but before the last scandal, what I thought was terribly scandalous was that this man had been in public life, he worked for the government, and so there are tons of records of that, right? You can FOIA it. Most of it is archived because he worked in the White House. In the end, the committee didn't receive 95 percent of the documents related to his public life.

Now, we are not talking about a fishing expedition. We are talking about when he worked in the White House, where are the records of that? We didn't get to see any of it. It was, in my view, a misuse of the process in the Judiciary Committee related to what is considered committee confidential.

In the past, committee confidential essentially means anything that is personally sensitive or anything that is either secret or top secret. Committee confidential is a narrow thing, but what they decided to do is say 95 percent of all the records we just don't get to see. So the U.S. Senate and the public doesn't get to review 95 percent of the records related to Judge Kavanaugh's public service.

These are the reasons I find it hard to believe Judge Kavanaugh is going to have a successful vote tomorrow; and I do understand he will have a successful vote. I guess it is today because we are 3 in the morning.

Judge Kavanaugh's judicial record, his temperament, his views on Executive power should be enough to scare away most Members of this body.

This is a dark day for the Senate, but more important than that—I worry very much about this institution. I worry about the way we have conducted ourselves. I worry about the bastardization of this process. I worry about our ability to come back together. I worry about, the Senate's traditional role, when it is working, is to calm everybody down, is to deal with stuff that is hard. It seems to me that at every stage, instead of being the cooling saucer, instead of being a place where we can deal with tough issues, we serve to inflame the passions of folks on both sides, to cause pain across the country, and to not get to the truth. More important than the institutional aspect, it is a dark day for vulnerable people, women in particular, people of color, indigenous peoples, people with preexisting conditions, people who struggle economically, union members.

The country is feeling torn apart, and the Senate has traditionally played a role in calming tensions down, moving methodically, being fair, and this process is not that. We need another nominee.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SULLIVAN). Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, I have a lot of concerns about the possibility of Brett Kavanaugh serving on the Supreme Court. They are concerns that come from many different directions, but let's start with the precedent that this body has not reviewed his full record. We haven't taken any look at all at the 3 years he was Staff Secretary to President Bush because the President's team intervened and asked us not to. And a couple Members of this body collaborated with the White House to deny everybody else here the possibility of looking at his record.

The thing is that each and every one of us has a responsibility to review the record. This exceptional situation in which a few Members have made it impossible for anyone in the body to fulfill their constitutional responsibility is an extraordinary abuse of power in this body.

Then we have the President of the United States reaching out in other ways—in ways we have never seen before—and putting the stamp of Presidential privilege on some 100,000 documents. These were documents from the time that Brett Kavanaugh served as a White House Counsel. We received a few documents, and there were a lot of troubling things in those documents, but 100,000 documents were censored by the President of the United States.

I will just remind my colleagues that the President is not supposed to interfere with the work of the Senate in the confirmation process. It is called the separation of powers. Maybe some of you would like to pull out your Constitution and study it for a moment and realize that the President nominates but doesn't get to decide what this body reviews. Yet that stamp of Presidential power, untested, has done so for, as far as we can tell, the first time in U.S. history.

Then we have the fact that he asked the same individual whom he had given the stamp of Presidential power to proceed to make some 140,000 documents confidential so the public couldn't see them. Well, that, too, was untested. That, too, was an original strategy. That, too, was a situation of minimizing the conversation that experts could have of what was in those records.

Of those three phases, I think the one that bothers me the most is the second one—the use of the stamp of Presidential privilege on 100,000 documents. When Presidential privilege—otherwise known as Executive privilege—was used in the past, a document was looked at and it was determined, what constitutional test does this meet for special treatment? One would think that since these were documents from the Bush administration, the Trump administration couldn't make any of the arguments that normally are made about compromising conversations in the White House, but no explanation was given. This was just straight-out censorship across the board.

I challenged that censorship, and the hearing that was supposed to take

place unfortunately won't take place because of this rush to complete the confirmation before the Senate can get ahold of those documents, before that hearing can occur.

Why the rush to cooperate with the White House to prevent this body from seeing those 100,000 pages that were censored by the White House? What is the President hiding? Is it Brett Kavanaugh's involvement in the policy of torture? Is it Brett Kavanaugh's involvement in holding the documents stolen from Senate Democrats, because we know he received them? Is it his involvement in other nominations where he said he wasn't very involved? What is in those 100,000 documents that the White House was desperate that this body not review? That is certainly troubling. No nomination should go forward without a review by this body of a nominee's records, certainly not for a lifetime appointment and certainly not for the Supreme Court.

Then there is concern over the temperament of the individual. Out of the hundreds of millions of Americans across this land, certainly there are at least nine who have the temperament to serve. No need to turn to someone who is belligerent and condescending. No need to turn to someone who is angry and unstable. But what did we see? That is exactly what we saw when we heard him testify before the Senate Judiciary Committee.

He said things like: ''Some of you were lying in wait and had it ready,'' although he said it in an angrier tone than that.

He said: ''This confirmation has become a national disgrace.'' Well, I don't actually argue with that because it is a disgrace because of the compromises of fairness that have occurred in this process toward the women who came forward.

When he was asked by Senator KLOBUCHAR if he has ever been blackout drunk, he responded: ''I don't know. Have you?'' Well, interesting response. Did he respond ''I don't know'' because he can't remember because he blacked out? Was that his point?

Then we saw the partisan rhetoric: a frenzy on the left to come up with something, anything, to block my confirmation. Angry and partisan, all in one moment.

Then he went on to say much more about things being calculated and orchestrated, about things being a political hit, fueled with pent-up anger about President Trump. He talked about fear unfairly stoked. He talked about revenge on behalf of the Clintons.

He threatened the Senate. He said: ''As we all know, what goes around comes around.''

This man with these quotes is qualified to serve on the special body known as the Supreme Court of the United States? I don't think so.

He talked about the fact that he didn't drink too much and he didn't become belligerent. Yet we saw a lot of belligerence when he came before the body. This is called not having judicial temperament. That performance of intemperate behavior led to 2,400 law professors noting that it was improper, inappropriate, simply wrong, that this man should serve. They wrote a letter October 3rd: ''The Senate should not confirm Kavanaugh.'' The letter was presented to us the following day. They said this:

> Judicial temperament is one of the most important qualities of a judge. As the Congressional Research Service explains, a judge requires ''a personality that is evenhanded, unbiased, impartial, courteous, yet firm, and dedicated to a process, not a result.''

The concern for judicial temperament dates back to our founding. In Federalist 78, titled ''Judges as Guardians of the Constitution,'' Alexander Hamilton expressed the need for the integrity and moderation of the judiciary.

The letter continues:

> We are law professors who teach, research, and write about the judicial institutions of this country. Many of us appear in State and Federal court and our work means that we will continue to do so, including before the United States Supreme Court. We regret that we feel compelled to write to you, our Senators, to provide our views that at the Senate hearings on September 27, Judge Brett Kavanaugh displayed a lack of judicial temperament that would be disqualifying for any court, and certainly for elevation to the highest court of this land.

They continued based on their background—2,400 law professors from across the country—saying:

> The question at issue was, of course, painful for anyone. But Judge Kavanaugh exhibited a lack of commitment to judicious inquiry. Instead of being open to the necessary search for accuracy, Judge Kavanaugh was repeatedly aggressive with questioners. Even in his prepared remarks, Judge Kavanaugh described the hearing as partisan, referring to it as ''a calculated and orchestrated political hit'' rather than acknowledging the need for the Senate, faced with new information, to try to understand what had transpired.
>
> Instead of trying to sort out with reason and care the allegations that were raised to him, Judge Kavanaugh responded in an intemperate, inflammatory, and partial manner, and he interrupted and at times was discourteous to Senators.
>
> As you know, under two statutes governing bias and recusal, judges must step aside if they are at risk of being perceived as or of being unfair. As Congress has previously put it, a judge or justice ''shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.'' These statutes are part of a myriad of legal commitments to the impartiality of the judiciary, which is a cornerstone of the courts.
>
> We have differing views about the other qualifications of Judge Kavanaugh, but we are united as professors of law and scholars of judicial institutions in believing that he did not display the impartiality and judicial temperament requisite to sit on the highest court of the land.

Signed, with their respective institutional affiliations, 2,400 law professors, saying that this man is not suited to serve.

Another concern not mentioned in that letter was his fidelity to the truth—misrepresentations, inaccuracies, and straight-out whoppers.

Some of our colleagues, like the senior Senator from South Carolina, said: I have argued to you that when you found that a judge was a perjurer, you couldn't in good conscience send him back into the courtroom because everybody who came in that courtroom thereafter would have a real serious doubt—a real serious doubt over whether the truth was being told.

Brett Kavanaugh said that all witnesses to his alleged assault of Dr. Ford refuted her claim or said it didn't happen. What is the truth? Only one person said it didn't happen: Brett Kavanaugh. All of those other folks he said refuted it—nobody refuted it. They said they couldn't remember, but they didn't refute it. And one said that while she couldn't remember, she believed Dr. Ford. So Brett Kavanaugh, in the most generous capacity, simply doesn't have the ability to keep the facts straight on a pretty straightforward thing—big difference between refuting and not remembering—or he deliberately misrepresented the facts, in which case he lied.

Brett Kavanaugh said he first heard of the Ramirez allegations in the period since The New Yorker published the story, but we have had multiple reports that Brett Kavanaugh and his team were working to discredit Ramirez before The New Yorker story. Why did he say that he learned about it after, when he was working to discredit it before? Did he think this was clever, that he could kind of say: Well, I heard about the full story in The New Yorker after The New Yorker article was published. Was that what he was trying to imply—like maybe I can slip by on that one—because he didn't want people to know that he knew about it early and had worked to discredit her? Another whopper from Brett Kavanaugh.

Brett Kavanaugh said he did not travel in the same social circles as Dr. Ford, who went to Holton-Arms, but what was the truth? His classmates said they routinely socialized with the Holton-Arms girls. So much for that statement.

Brett Kavanaugh said he categorically did not receive documents stolen from Democratic Senators and their staffs by Manny Miranda in the early 2000s, but in one of those documents that didn't get censored, that slipped its way through to the Senate, what did we find out? It shows that he clearly received the stolen documents—another lie from Brett Kavanaugh.

Brett Kavanaugh said that Judge Pickering's nomination was not one he primarily handled. Well, let's just say that this is less than the full truth. Maybe if you emphasize the word ''primarily,'' you find some shred of accuracy, but it is certainly not a full and appropriate presentation because it turns out that he was involved in a number of critical aspects of the Pickering nomination.

Brett Kavanaugh said he did not see or hear anything about President Bush's warrantless wiretapping program before it was publicly reported,

but in some of those other documents that slipped through, we find out that he did know about them, and he emailed John Yoo about the warrantless wiretapping long before the program became public.

Brett Kavanaugh said the Bush administration did not consider ideology when selecting or vetting judges, but the truth is that the documents show that they did consider ideology.

Why did this man, Brett Kavanaugh, feel the need to misrepresent the truth time after time after time?

He implied that when it came to drinking, he didn't drink excessively and he did not get aggressive. Yet we have person after person after person saying that is exactly what happened.

He said the phrase ''Renate Alumnus'' in his yearbook was ''clumsily intended to show affection.'' Let me repeat that: ''clumsily intended to show affection.'' And he continued: ''and that she was one of us.'' Isn't it nice that he and his colleagues got together to pick out this one young lady and show in their yearbooks that they had affection for her, when everyone else involved said that is not what it was all about at all? It was about this group of men bragging about sexual conquests. It may not have actually occurred, but they were laughing over the prospect of disgracing this individual. What kind of a warped character goes out of his way to either brag about sexual conquests or to imply—imply—a character that she did not have, to tear her down? But that is Brett Kavanaugh.

He went on to tell some real whoppers—that folks in his circle say the term ''ralphing'' refers to throwing up when drinking. He said: No, it refers to a sensitive stomach. They are all things that he had written.

''Boofing,'' what was that all about? He said that has to do with flatulence, but everyone around him says: No, that was a crude sexual activity that he was describing. That is what that word means. I will not give the details of it.

He said ''devil's triangle'' is a drinking game, when everyone else says: No, it wasn't a drinking game; it has another sexual connotation.

So he couldn't bring himself to be honest and say: I don't feel comfortable giving the definition of those in a public hearing because I am such a nice, sweet guy. But instead, he lied. Lying came so easy—lie after lie after lie. As my colleague from South Carolina said: When a person lies once, you don't trust them after that. How would anyone, after breaking the truth, be believed in the future?

So we have the fact that his character is one of hurting and attacking others, of lying even to the U.S. Senate. Some 2,400 law professors note that his temperament, his animosity, and his partisanship make him unqualified to serve on the Court.

So what is this all about? Why are my colleagues across the aisle so intent on getting him confirmed? It has to do with his judicial philosophy and taking no risk that this seat is not filled with this judicial philosophy—this philosophy for the powerful over the people.

There have been some interesting aspects of this philosophy. One is that he believes that the President is above and beyond the law and should not or cannot be indicted or investigated while he is in office.

The Court may well have to make some rulings on how President Trump conducts himself. President Trump might just fire the special prosecutor. Is that within his power? The Court may have to decide.

The President may decide to pardon himself—something never done in U.S. history—given all the investigations into egregious conduct. Why did the President pick this individual, who has the most expansive view of Presidential power, to serve on the Court? Maybe he is trying to write himself a ''get out of jail free'' card. But if you can't find in the Constitution that the President is above and beyond the law—and I dare you to try; I dare anyone in this Chamber to find that in the Constitution, because it is not there—why are we putting a man on the Court who thinks it is, who is so comfortable twisting and torturing the words on the page to reach a predesired conclusion?

Yes, he was handpicked by the Federalist Society after Trump promised to appoint anti-Roe v. Wade judges who would strip away the constitutional right to a full range of reproductive services. It bothers me a lot—the idea of a judge who believes the government should be in the exam room, between a woman and her doctor. The government does not belong in an exam room, between a woman and her doctor on difficult medical life issues.

But in every decision—or virtually every decision—Kavanaugh finds a way to twist the circumstances in order to find for the powerful over the people. That is what this rush to jam this person onto the Court is. Does he believe the Court should take on gerrymandering, which is a huge blight on equal representation of the people? There is no sign that he does. We currently have a Court where the majority has not wanted to take on those issues, despite the fact they are the ones who are supposed to maintain the integrity of the Constitution.

Do we have any sign that he is upset or concerned about the tearing down of the Voting Rights Act, which this Chamber passed and the House passed and was law for decades but was torn down by the court? Rather than letting this Chamber or the House together decide to adjust that law, they decided to tear it down, saying: We don't have to worry about this anymore.

Is there any sign that Judge Kavanaugh cares about the desecration of the opportunity of citizens to vote in this country? No. An offense against the Constitution, yes. His concern, none.

What about the dark money that is the consequence of a huge concentration of wealth and influence—a huge concentration of influence because the Supreme Court opened the door with the case Citizens United? I found it kind of bizarrely humorous to hear colleagues across the aisle complaining about dark money, because they have been absolutely arguing that dark money should be permitted. When we had the idea of not having dark money and shining a light on it—it was called the DISCLOSE Act—every single Republican in this Chamber voted against it. Every single one voted against sunlight. Why is that? The Koch brothers essentially are the puppet masters of this Chamber. They invested hundreds of millions of dollars in dark money, thanks to Citizens United, in making sure that they had control of this Chamber. Did we hear Judge Kavanaugh have any interest in cleaning up this mess?

Thomas Jefferson was speaking to the core architecture of our Constitution, and he said that the mother principle—he referred to it as the ''mother principle''—was that there would be an equal voice among the citizens. Now, we know it was not the case that everyone had an equal voice. Communities of color did not have an equal voice and women did not have an equal voice, but what Jefferson was speaking to was the distribution of power across the electorate. He said only then will you have laws that reflect the will of the people.

But Citizens United is the opposite of that. It concentrates power. If you have an individual like the Koch brothers who can put $100 million into a campaign and you have an ordinary person who can put $100 into a campaign, then you are granting the Koch brothers 1 million times the influence. It is the exact opposite of Jefferson's ''equal voice'' principle.

Does Kavanaugh have the slightest understanding that the construction of the Constitution was to avoid the powerful—running the government by and for the powerful? The Constitution was a response to that very problem in Europe. There is no sign of that, no interest in that—in fact, quite the opposite.

He has bragged about being the most pure on the First Amendment. What does that mean? It means that he loves the weaponization of the First Amendment, twisted as an instrument to give the powerful victories over the people time and again—decisions against the environment, decisions against workers, decisions against consumers, decisions against reproductive rights. That is the rush to put this man, unqualified in every possible way, to serve on the Supreme Court—not having the temperament, not having the integrity. That is the rush—to secure and ensure that Jefferson's concept of equal voice is destroyed.

The most troubling is his conduct toward women. The fact that he collaborated with other boys to damage the

integrity of a young woman was troubling. Troubling beyond troubling is the story of his assault on Dr. Ford, but you might say: Wait. We don't have any corroborating information about that.

But Dr. Ford asked for her corroborating witnesses to come before the Senate Judiciary Committee, and how many of those were allowed to come before the committee? None. None. Zero. The committee was determined to make it just ''he said and she said,'' without any other information. That is treating an individual unfairly—absolutely unfairly—to cherry pick information and only to allow it to support one side of the argument and to deny her the ability to bring her corroborating people before the Judiciary Committee. Even in 1991, that was not done with Anita Hill. This body treated Dr. Ford worse.

Then the sham of the reopened FBI investigation, which was only opened because one courageous colleague from Arizona said: I am not going forward unless we really examine these situations that involved his assault on women. But the decision on how to conduct that FBI investigation wasn't up to this Chamber. It was up to the President, and the President does a scoping document and tells the FBI whom to talk to. Apparently, he consulted with the leadership, it is reported—the Republican leadership of this Chamber—on whom to let the FBI consult with, and the result was not to consult or talk to or interview a single one of those eight people that Dr. Ford asked to be interviewed.

It would take some time, I guess, to know exactly who said what to whom. It was the President's decision. So the responsibility rests there. But in the interest of fairness, was there not one Member of this body in that conversation who could speak up and say: We want the facts not a whitewash. We want the facts.

Apparently, no one did. No one insisted on that. They said: No, we will go forward, even if we hide all of the facts.

Then, there was Debbie Ramirez, who shared her story of being assaulted, her story from the college dorm. In that case, she said there were 20 people that the FBI should talk to. Well, she wasn't invited to appear by the Judiciary Committee at all, and none of her 20 individuals whom she suggested should be talked to were invited. So she got no hearing—complete exclusion. Yet many Members of this Chamber attacked her. Do you think that is fair, attacking a person but not letting her come before this Chamber to give her story? Do you think that is fair? It is not fair.

Then we have the FBI receive instructions from the White House, after consultation with the Republican leadership, and the result is they didn't talk to one of her corroborating witnesses—not one. Why, in this day and age, where we have been in the middle of a ''me too'' conversation, can individuals in this Chamber on the right side of the aisle take such joy in being so unfair to a woman coming forward to share a story? It is even worse because each one knew, if they read the newspapers, that there was a lot of corroborating information.

Kenneth Appold was in the same suite in the dorm. He lived in the same suite—two bedrooms, sharing a common space—and he heard the story. He independently recalled many of the same details that Ramirez shared, including that a male student had encouraged Kavanaugh as he exposed himself. The classmate recalled that the party took place in a common room on the first floor.

I have known this all along, he said. It has been on my mind all these years when his name came up. It was a big deal.

How come his voice was not allowed to come before the Senate? Why did the FBI not talk to him and put it into the report? I will tell you why. It was so Senators could go down and review the report and say, oh, there is no new information.

Of course, there is no new information. It is because the President's team reportedly asked the Republicans' leadership what they wanted done, and apparently it didn't want any of the people who had corroborating information to be talked to or reported on. That is a betrayal of justice. That is a complete corruption of justice.

Mr. Appold is a professor now at Princeton Theological Seminary. He is deeply respected.

He said: ''It had been on my mind all of these years when his name,'' referring to Kavanaugh, ''came up. It was a big deal.'' The story stayed with him, he said, ''because it was disturbing and seemed outside the bounds of acceptable behavior even during heavy drinking at parties on campus.'' He said he had been shocked but not necessarily surprised because the social group to which Kavanaugh belonged often drank to excess. He recalled that Brett Kavanaugh was relatively shy until he drank, at which point he could become aggressive and even belligerent.

Now, this individual, Kenneth, may be quick to judge, and one may say, well, he just invented this memory, except here is the problem—he shared it with his roommate from his first year in graduate school. He told what had happened that year, so he has a lot of credibility. He is a professor at a theological seminary. He lived in the same suite. He heard the story about it shortly after it happened. It disturbed him so much that he shared it with his roommate from his first year in graduate school. That is a pretty persuasive substantiation of Debbie Ramirez's story.

There was another classmate, Richard Oh, an emergency room doctor in California. Soon after the party, he recalled overhearing a female student tearfully recount to another student an incident at the party involving a gag with—well, you know the story—followed by a male student exposing himself. Was Richard Oh invited to come before the Senate and tell his story? No, he was not—another transgression of justice. Did the FBI talk to him? No, because it had instructions not to talk to these individuals who had corroborating information.

This is situation in which, when a woman comes forward to share her story, she is treated with disdain by this institution. That is why these women didn't want to come forward. They thought they were mistreated. Unfortunately, it turned out to be right, and everyone supporting and voting for Kavanaugh shares the shame of the mistreatment of Dr. Ford and the mistreatment of Debbie Ramirez.

Across this land, it has caused women to relive the experiences they have gone through, with many of them having written to our offices. I encourage every Senator to read every one of the letters they are getting before voting late this afternoon on the question of whether Kavanaugh should serve on the Court. I read five letters earlier, but I have received a lot of letters. I am going to read more of them now.

This individual writes:

Please do what you can to block the Kavanaugh vote to the Supreme Court. I was also a victim of sexual assault when I was in graduate school in the early 1970s. I never pursued that due to fear of consequences and feeling that this was my fault.

''This has to stop,'' she concludes the letter.

Do you think that she got any encouragement from the completely unjust way this body treated these two women? No. It is exactly the classic setup and rigged response with which, so often, women have met when they have had the courage to come forward with their stories.

Another woman wrote:

I cried all the way to work, listening to Dr. Christine.

She is referring to Christine Blasey Ford.

If you can do anything as my Senator, do everything you can to change the course of our national Court decision. There isn't much more I can say as a mom, as a professional, as a sexual assault victim who has never come forward. Please.

I appreciate her writing to me, and I share her concern and the belief that we should change the course we seem to be on at the moment because there is nothing like confirming this man without fairly examining the women who have been courageous enough to come forward. It is more insulting to all of these women who have gone through the experiences of being assaulted.

Another Oregonian wrote to me:

I am a survivor of sexual abuse. I was assaulted as a child by someone my family trusted, then again by a stranger when I was in college. In both instances, I remember the sinking feeling I had afterward—the feeling that even if I spoke up, I wouldn't be believed. I have long felt trapped inside my

own trauma, but over the past couple weeks, I have drawn such strength from the sisterhood of survivors who have shown up, protested, and shouted out their own survivor stories. I have drawn strength from Dr. Christine Blasey Ford's testimony. I know that because she stepped forward, other survivors will feel brave enough to speak up too. There is power and comfort when women come together and speak our truth before the world.

I say to Dr. Christine Blasey Ford, I am sorry you were treated in this horrific manner by the Judiciary Committee of the U.S. Senate. I am sorry you were treated so unfairly that not a single one of your corroborating witnesses was pulled before the committee. I feel terrible that those at the FBI did not talk to any of the people you asked them to talk to. It was a rigged system. You were set up. You were betrayed by the leadership of this body, but your courageous action in coming forth was not without results.

This woman, like thousands of others, is looking to you and saying thank you—thank you for the courage you had to share. Even though you were afraid that you would be treated unfairly, you came forward anyway, and that gives others courage to share their stories. Unfortunately, your fears, Dr. Ford, were justified. May it never be again the case. The only right thing now is for us not to send Brett Kavanaugh to the Court.

There was an article that appeared in an Oregon newspaper, and I am going to read the story but, like the newspaper, not share her name.

The newspaper story starts out this way:

The event happened 75 years ago when ''Dorothy''—[not her real name]—watched the testimonies of Christine Blasey Ford and Brett Kavanaugh on television, on Thursday, during Kavanaugh's Supreme Court confirmation hearings. The memories came flooding back, and for the first time, she felt she must tell her story—a story she never told her mother, a story she didn't tell her husband either.

Dorothy's story is similar to the story Blasey told, on Thursday, in testimony that was part of the confirmation hearings for Supreme Court Justice Nominee Kavanaugh. Blasey accused Kavanaugh of attempting to rape her when they were both at a house party with a group of high school students. Kavanaugh denied the accusations, which are now the subject of an FBI investigation.

Dorothy, now 91, was a student at Reedsport High School in the 1940s. One day, she was at a friend's house where several kids her age were gathered. She said she was carried into a bedroom by a popular football player, and before she knew what was happening, she found herself pinned to a bed, underneath the boy, who was struggling to get her pants off. He was both a ''big man'' on campus and ''just big.'' She was 85 pounds.

In some ways, Dorothy's story is different from Blasey's in that she was carried and not pushed into the room. There was no one in the room except her and her attacker. Dorothy said she was able to push the boy enough that he hit his head on the bed's headboard, and with his weight off of her, she was able to yell for help, and her friend and her friend's brother rushed in and rescued her.

Dorothy doesn't want The News-Review to use her real name, so she is being referred to by a name that was given to many girls in the year she was born. She still has difficulty dealing with what happened to her in high school. For most of her life, she has refused to think about it. She has had plenty else to think about. She has raised kids, been widowed, remarried, widowed again, but it is still with her.

She said:

You try to bury all of that, and you do for a long time. Then something like this news comes up, and it brings it all back.

Dorothy started off talking about sexual harassment. It was later when she felt able to call what had happened to her by a more legally accurate name—attempted rape. Dorothy said she was naive when she was 16:

I was pretty shy and naive and unsure of myself, I guess. I don't know if feeling ''inferior'' is the right word. I made good grades, and I worked in the school office, but I was a country kid.

She couldn't talk to her mother about sex.

If I tried to ask her anything about sex, she said, ''That is dirty. We don't talk about that.'' She had a general idea, enough to understand what her attacker was after. She didn't know if he and other boys were drinking, but she was not. The kids had been dancing before it happened. It never occurred to her to report the incident. That just wasn't done in those days, and she was ashamed—embarrassed—as if the whole incident were her fault.

The story got around at school, though, and the other kids were not sympathetic. You look, and people are kind of giggling as you walk by. They had heard about it.

Now she wonders if the same boy went after other girls.

It is part of life, and it happens a lot more than people realize. It probably happened to other girls in the same school, she said. Many years after the event, Dorothy said she saw her attacker. He was in a wheelchair, and she couldn't help thinking, ''Great. He got what he deserved.''

Even though 75 years have passed, she has never forgotten what he did.

I can still shut my eyes and see that guy packing me over his shoulder and throwing me on the bed and jumping on top of me.

Watching Thursday's hearings made Dorothy furious. She believed Blasey, and she was horrified by the Senators who defended Kavanaugh.

They are so unfeeling, you know? I would hate to be their wives. If they just sit there and take this guy's word for it, I feel sorry for the wives of these guys who are so macho that they can't see a woman's point of view.

The hearing motivated her to come forward.

I just felt now is the time to tell my story, and maybe other women will come forward, and maybe they will do something more about the way that women are disbelieved.

She said it was a relief to finally share her secret. ''I am about to get weepy,'' she said.

Do you think this woman, who is now in her nineties and went to Reedsport High School, takes any good feeling away from the Senate in the way the Senate treated Dr. Ford with regard to the fact that it did not allow anyone supporting her story to appear or with regard to the fact that leadership was consulted by the White House and that the result was a scoping document that did not allow the FBI to talk to the people who had supporting information?

Do you think she takes any good feelings away from the way this Senate treated Debbie Ramirez in its attacking her and disqualifying her without even letting her come and tell her story and not talking to the 20 people she suggested had corroborative information?

Do you think she takes anything good away from the horrific way these women were treated and the unfair way they were treated? I do not think so.

You must look at the way the Senate behaved and say that is supposed to be a distinguished body, that it is supposed to being an esteemed body. We should expect the best from the U.S. Senate and we got the worst.

Another woman wrote:

You must stop the confirmation of Kavanaugh, especially after his angry, abusive testimony today that was full of lies. I am a sexual assault survivor, and I am absolutely full of despair this evening.

I am not the only one getting these letters. So, to my colleagues, I ask: Are you doing anything to address the anger about the way Dr. Ford was treated? Are you insisting that she get fair treatment before you vote to send Kavanaugh to the Supreme Court of the United States? Are you insisting those who can corroborate Debbie Ramirez's story, including a professor at the Princeton Theological Seminary, have the chance to tell their stories before you send Kavanaugh to the Supreme Court? Are you?

Another individual wrote:

Please, please, please vote no to elect Brett Kavanaugh to the Supreme Court. As a victim of domestic violence, I am full of fear for everyone who would be affected by the decisions Kavanaugh would have the power to make.

This letter starts out:

Senator, I want to thank you for expressing your concerns regarding the Kavanaugh issues. I am a survivor of rape by my best friend's older brother at the age of 10. I also survived many years of abuse by my ex-husband. While watching the coverage of the Kavanaugh news, I have heard Senators make very hurtful comments about the women who have come forward. I was proud of my Senator for having the courage to publicly announce that the way this has been managed by the Trump administration is wrong.

I totally relate to what Dr. Ford describes as being held down and not being able to breathe. The only word that adequately describes this type of treatment is torture. I do not know where my former best friend's brother is; however, my ex-husband walks around with a religious cross around his neck. He is a pillar of his church, has the admiration of our daughter. I never told my

children, while I am left with years of nightmares and fear.

The Kavanaugh allegations in the news have triggered memories I have tried to bury for decades.

She says:

Though, your comments have renewed my faith that other than my older brother, there exists good men who want to support women who live with the torment of sexual abuse.

I would love it if this letter said: I was afraid that the all-male majority of the Judiciary Committee would treat Dr. Ford unfairly. I was afraid but relieved when they heard her out. I was relieved when they insisted that those who could back up her story were allowed to testify. I was relieved and pleased they took her seriously enough that they insisted the FBI—they told the President the FBI has to talk to those folks for us to have any credibility. I would love for this letter to say that, but it doesn't say any of those things because this body, this leadership, let her down and let every woman across America who has been a victim of sexual violence down.

Another woman wrote and said:

Today's hearing was difficult yet important to watch. As a victim of sexual assault myself, I applied your support hearing Dr. Ford's accounts and believing in doing what is right and just.

Wouldn't it be better if this letter could say: I applaud the Senate, the Senate leadership, and the President of the United States for believing in doing what is right and just. We didn't get letters like that, did we.

Another individual writes:

Today was an extremely difficult day watching the Kavanaugh hearings. I was so amazed by the bravery Dr. Ford showed throughout her testimony. Her experience was raw and credible. As a young victim of sexual assault, I feel emboldened because of Dr. Ford's testimony. Women need to be heard and believed. We have to hold the Supreme Court to the highest standards. Brett Kavanaugh is clearly not a candidate for the Supreme Court.

Isn't that right, that we should ensure that we have the highest standards for those who serve on the Supreme Court?

All those district judges across the land writing their decisions, they get appealed to the circuit courts, and all those circuit court judges writing their opinions, they get appealed to the Supreme Court, to nine individuals. Isn't it important that we proceed to ensure that we ''hold the Supreme Court to the highest standards''? We will not do that if we confirm Brett Kavanaugh to the Court.

We will be setting an abysmally low standard for integrity for all of the falsehoods he has told and an incredibly low standard for behavior. We saw the behavior and the partisanship. We didn't see judicial temperament and impartiality.

He violates basically every standard we set for someone to serve on the Supreme Court. Yet we are having a vote later today with an indication that he will be approved.

Here is another letter:

I am a sexual assault survivor. I watched today. The sex crimes prosecutor looks like she had nailed Kavanaugh by his own calendar. Dr. Ford testified that it was early evening and casual. It appears the assault happened at the home that Kavanaugh and his friends worked out. This is when one of the majority Judiciary members took over and became angry partisans.

That is all she writes, but I think what bothered a lot of people was that the majority chose to bring in a prosecutor—a prosecutor—to question Dr. Ford, as if Dr. Ford had committed a crime.

She didn't commit a crime, my friends. She is a brave woman who came forward to share her story, hoping she would be taken seriously and treated fairly, afraid she wouldn't, and it turned out her fears were justified. They hired a prosecutor to treat her like a criminal. Wow. That is insult to injury.

This letter is longer. It is the 16th story I am reading that I received from constituents back home.

Watching Dr. Ford's treatment in the Senate today, I am having a hard time getting my own work done. Dr. Ford's assault experience parallels my own in ways I have not thought about in years. However, unlike Judge Kavanaugh, my assailant was able to complete the assaults he set out to do because we were not inebriated at the time he violated me. He merely used his size to overpower me, outweighing me by 150 pounds.

Like Brett Kavanaugh, my assailant attended an all-boy's Catholic school, attended a prestigious university, went on to become an attorney. I have considered, because of the types of clients he represents, bringing the multiple assaults he perpetrated over the course of 2 weeks, while I stayed with his family across the country from my own, to the attention of the State bar where he practices or journalists in the State where he defended Catholic priests accused of abusing children.

Seeing now what Dr. Ford is being put through, knowing she was driven from her home and threatened, is now being assaulted by her colleagues, gives me pause.

My assailant isn't up for any prestigious promotions. He is not on the short list for a Federal judicial position or running for any public office. It has been 18 years, and the statute of limitations in the State where this took place may or may not have run out, depending on how the acts are defined. If my assailant decides to follow through with his goal to become a politician, my calculus may change. For now, I need you to do what you can to shut this nomination down, to show the world that you not only believe Dr. Ford but you honor—honor—her testimony.

Your colleagues, your Republican colleagues, clearly believe her; they just don't think it matters. Please, as a survivor and as a constituent, I am begging you, make her testimony matter.

Are we going to make her testimony matter? We are not going to make it better if we send Kavanaugh to a seat on the Supreme Court.

Her desire, her interest, her possibility of coming forward is cut short by the way she saw this Senate treat Dr. Ford. That is a very sad commentary on the injustice perpetrated by this body.

This is letter No. 17. I have more than 50 letters here. As you can start to hear, the themes of women being assaulted are very similar; women hearing in Dr. Ford's story their own experience, and they are asking the Senate to treat the women who have come forward with fairness and justice and are being deeply disturbed that they have not been treated with fairness or justice.

There is still time. There is still time until we vote and send Kavanaugh forward, if we vote no, as these women asked because an individual with this record does not belong on the Court. Then we will admire the courage of these individuals to come forward.

The next letter:

As a survivor of assault, it's important to me that the nominee for one of the highest offices have an impeccable record, which Kavanaugh has demonstrated he does not have, both through his reactionary hearing and the accusations against him from survivors. I implore you to be a voice of reason in the chaos.

My first assault happened in 2011. I am so ashamed that the only way my sister found out was because she found an STD test I had received from Planned Parenthood and asked me about it. I was 24. I had nightmares for months. It changed everything.

My second assault happened in 2015. I was drunk and in an unfamiliar part of town. An acquaintance offered to give me a ride when I was leaving a bar and my phone died.

She goes on to describe the attack. She says:

I say this not for shock value, but to emphasize how painful watching this hearing was and how unsurprised I will be if Kavanaugh is confirmed.

Unsurprised because she doesn't expect men to treat women fairly who have been assaulted and have come forward. And everything that has happened in this Chamber confirms that.

The next letter notes:

As a survivor of sexual assault, this issue is of the utmost importance. I rarely speak of these events and have tears streaming down my face just writing this. I was unable to report my assault for various reasons, including explicit death threats, fear of exposure by the media, and threats by several powerful men who had the ability to end my career before it had even really begun. This situation hits so close to home that it has been physically painful—physically painful—for me to watch much of the coverage. I have been unable to obtain justice for myself, and that is soul-crushing. But what would be a greater travesty is to allow a serial predator a lifetime appointment affecting the lives of every single woman in America. Are we going to be part of a greater travesty?

Letter No. 19:

As a constituent and a victim, I am writing to you to make sure that you vote against Brett Kavanaugh's confirmation. During his hearings, Kavanaugh misled the Judiciary Committee under oath. He refused to say whether a sitting President must obey a subpoena and refused to answer whether President Trump could pardon himself or bribe someone with a pardon. And now, Kavanaugh has been accused of sexual assault by multiple women.

Kavanaugh's answers during his confirmation hearings add to the evidence that Trump nominated him not to protect the

American people, not to protect the Constitution, but to protect himself. It was only a few weeks ago that Trump's former lawyer incriminated him in two felonies. It's becoming inevitable that a Trump case will reach the Supreme Court, either over his role in crimes to win the White House or a subpoena to answer questions from the special counsel.

We already know that Kavanaugh believes sitting presidents should not be under Federal prosecution or even investigation. Now, under oath, Kavanaugh isn't even pretending to be an impartial justice. That is exactly why Trump nominated Kavanaugh—to be his get-out-of-jail-free card.

Letter No. 20 begins:

As a rape victim myself, I am livid that this man is even being considered for a high position. Brett Kavanaugh's views are extreme. His belligerent behavior during the hearing shows that he should not sit on the highest court in the country. I urge you to reject that radical choice of a justice who would put our basic rights at risk. Use your constitutional authority of advice and consent to ensure that the President cannot place unfit extremists in positions of power that can affect us for decades.

Serving for life on the highest court, justices have the solemn responsibility to be fair, to be evenhanded, to uphold the sanctity of our laws and our Constitution, and to keep faith with the letter and the spirit of the Nation's core, public health, environmental, civil rights, and labor laws. His record rejects these principles. Please do all in your power to stop Brett Kavanaugh's nomination.

Letter after letter reminds us that the Supreme Court is so important. We should only send individuals to serve on that Bench who are of unimpeachable character.

Letter No. 21:

I am deeply concerned about Brett Kavanaugh's nomination to the Supreme Court after hearing Dr. Christine Blasey Ford's story. There is no need to wait to publicly say that you believe Dr. Ford. She has generously offered more than enough information for us to fiercely support her.

I, too, am a victim of sexual assault. When I was 21, my boss at the time raped me, leaving me with a lifelong disease, and it never was reported. I had no support. I was embarrassed and humiliated and wanted to just forget about it. Looking back, I wish I would have tried to report him. I was a single mother with a 2-year-old child and my 12-year-old sister present when the assault occurred in the middle of the night as they slept.

This happened to me in 1974. I am now a 66-year-old woman who has had relationship problems her whole life and self-esteem and anxiety and sexual dysfunction ever since.

A lifetime impact from sexual assault.

Each of these women wants us to take seriously the experiences that were shared, and to take it seriously means we would look into it with fairness and credibility, but we didn't. The Senate didn't.

Letter No. 22:

It would be beyond unethical to continue with Kavanaugh's nomination in the wake of Dr. Blasey's story. I am counting on you. Signed, a MeToo survivor.

Letter No. 23:

As a victim of sexual assault during my military service, I, too, told next to no one. Why? I wasn't about to subject myself to being treated the way these courageous women who have spoken up are being treated. I am counting on you. Thank you.

We hear this time and again. Women say they didn't speak up because they thought they would be treated unfairly—unfairly—just the way the Senate treated the women who came forward and shared their stories about Brett Kavanaugh. Isn't that a sorry legacy for this body? Isn't that a shameful result, that women say they didn't speak up because they thought they would be treated unfairly, just like the Senate is now unfairly treating Dr. Ford and Debbie Ramirez? Wouldn't it be a beautiful thing to have done it differently, to have proceeded to say: Your story matters, so we will talk to those you suggested have corroborating information. We will report what information there is for the consideration of the Senate. We do appreciate that you have shared your experience, and we will look into it.

Wouldn't that have been a very different message to send, an example to send for everyone across this country—for companies when an employee reports an assault, for places of worship when a parishioner reports an assault, for schools, universities, when a student reports an assault?

Wouldn't it have been great to set an example—a high example of how to treat an individual fairly? But we did the opposite. We showed exactly the type of treatment that these women fear—a rigged, unfair, unconcerned response. But there is time to remedy that by not voting to confirm.

One of the reasons I am reading these letters is that many of the women who wrote said they were writing to try to make a difference. My team called and talked to a number of them, and they encouraged their letters to be used. They want to be heard. They want to be honored with our intention that we care about the experiences they have suffered, that we take them seriously. They want us to think about what we have done and take Dr. Ford and Debbie Ramirez seriously. That hasn't happened, but there is still time by not confirming Brett Kavanaugh.

In this letter, the individual says:

How you vote on Brett Kavanaugh's nomination is one of the most crucial votes you will cast. Please vote no.

Prior to hearing this round of hearings, I was concerned about his ability to be truthful. Now, as a survivor, I am fearful for the entire female population. I urge you to vote no for all of those reasons.

Letter No. 25:

I believe Dr. Christine Blasey Ford. I do not believe a man who could have stifled a frightened woman's screams while he felt entitled to put his hands on her body without her permission. I do not believe such a person is fit for one of the highest courts in our country. She took a lie detector test. He did not. She called for an FBI investigation. He did not. She was calm and collected. He was not.

As a sexual assault survivor and your constituent, I implore you to stand with women.

Letter No. 26:

Thank you for fighting. I was a victim of sexual assault at age 12. I am now 71. I remember it vividly. It has affected my whole life. If Kavanaugh is confirmed, we will put a horrible man on our highest court.

Thank you for highlighting the serious deficiencies in the process of President Trump's nominee, Brett Kavanaugh, to the Supreme Court.

Letter No. 27:

I am heartened by your efforts and like-minded Members of Congress who have joined the 21st century, many whose eyes, ears, hearts, and minds have witnessed the scourge of sexual misconduct. I am a 58-year-old Native American, native Oregonian. I grew up on a Catholic Indian mission with both my parents and seven brothers and sisters. Later in life, I recalled through discussions with my younger sister that my older brothers had most likely sexually abused me when I was a very young girl, less than 7 years old. I never reported it because I didn't recall it until I was in my 40s. My parents were alive and it would have destroyed them.

I am a sexual assault survivor who never told my best friend in high school when one rape occurred.

She proceeds to share information about several other assaults when she was serving in the Army, and she says that each time, she didn't report it.

All of these incidents left me fearful, feeling vulnerable, psychologically damaged, PTSD, emotional trauma, physical trauma, and other problems too incalculable to quantify.

I think these topics are often not discussed. Women in our own lives may have had experiences they have never shared with us, thinking that they might be blamed, feeling that they are ashamed, considering that they might not be believed, anticipating that they might expect that we would feel they should somehow have prevented it or somehow invited it. All of these conflicts—they sense they will not be treated with respect and dignity as the victims they are. Let's treat them with respect and dignity when they bring forward their stories.

Dear Senator MERKLEY: I have never taken the time to write a Senator. With Trump as President, or having Trump as President has caused depression and anxiety, but I have gritted my teeth, battened down the hatches, and tried to weather the storm. However, this saga with Kavanaugh has mobilized me to speak out and protest a person of his moral ineptitude.

I am a victim of sexual assault. I am sure you're hearing the outpouring of messages like mine from hundreds of women. I am so angry and so bitter about the current environment that promotes racism, sexism. The things I have seen voted in make me despair.

Rather than the Senate behave in a way that makes women despair, what if we behaved in a way that inspired, set an example, had people say: We didn't think you would rise to the challenge because so often we have seen mistreatment when they bring forward their stories, but you shocked us because you took it seriously and you treated these women fairly. Wouldn't that be a beautiful story rather than the reality of where we are right now?

Letter No. 29:

There are a number of viable options for this Supreme Court seat—individuals not accused of any crimes—and regardless of innocence or guilt, Kavanaugh has shown himself to be unqualified to remain impartial as a judge. Furthermore, the backlash of there being any question of guilt regarding rape accusations is too great for him to successfully fulfill the duties of that position and will cause a division between voters that will likely never be healed.

Speaking as both a concerned voter and rape survivor, there is no legitimate reason that we cannot find another candidate for this job. If he is appointed despite these allegations, it will be all but impossible for a rape survivor to ever feel safe in the U.S. again. How could we if an accused rapist is presiding as a member of the highest court in the country?

She makes a point. There are many other people who can be considered to be brought forward. Why this individual who demonstrated such partisanship? Why this individual who bent and, yes, broke the truth many times before the committee? Why this individual who wrote offensive, mocking, accusing, disgracing things, attacking a woman in his yearbook? Why this individual who chose to join a fraternity with a reputation for assaulting women? Why this individual who chose to join a secret society with a similar reputation? Why this individual about whom credible women have come forward and shared their stories of assault? And why this individual when we had the full opportunity to have considered the corroborating information from 28 individuals who they asked that we talk to and we didn't?

There is still time to reject this nomination and somehow restore the tarnished reputation that is the product of the behavior of this body during this nomination process.

Letter No. 30:

I am 66 years old, nearly 67. I can tell you exactly what occurred when I was a victim of sexual assault and attempted rape at age 16. It was burned into my memory and will forever be a part of me.

I continue to be shaken to the core that anyone would explain such behavior as normal, part of young men growing up. It is unconscionable, unacceptable, and must no longer be ignored.

Letter No. 31:

Dear Senator MERKLEY, I am reaching out to you as a survivor of teenage rape. Like so many other survivors, I have been following the events surrounding Judge Kavanaugh's nomination with so much emotion that I cannot really begin to express it. I do not believe that I need to ask you to say no when it comes to a floor vote, but I want you to add my voice to the many who are speaking out in the hope that the country will listen.

Sexual assault affects millions of girls, boys, women, and men. Too many of us live our lives in shame and silence, disbelieved if not outright blamed.

Nearly 30 years have passed since a fellow student in my small town high school took my innocence, to then proceed to publicly shame me. People believed him, not me.

This has to stop. People need to realize that we may forget some details, but we will never, never forget what happened. And when we know the perpetrator, we will never forget his name. He may grow old. His appearance may change. But his name will remain etched in our brains forever.

She goes on to say:

Putting Kavanaugh on the court means telling all of us, the countless millions, that we do not matter.

She closes by saying:

We matter. I matter.

Yes, you do. And when you say that you are adding your voice to the many who are speaking out in the hope that the country will listen, I commend you. I commend you for being brave enough to share your story and to ask those in this Chamber to listen. But so far, they have not listened because listening would mean treating with respect and dignity the women coming forward. Listening would mean giving these women the opportunity not just to present their case, their experience, but to have those who can corroborate their information come before the Judiciary Committee and share their stories. Listening would mean insisting that the FBI actually talk to the corroborators rather than not talk to the corroborators.

So you have not been listened to, I am sorry to report, but there is still time for someone—for several people—to say: We have reflected on this situation and realize how unfair and unjust we have been, how much we add to the trauma of millions of women by not listening to the women who have come forward, not taking them seriously, and rigging the system, as they feared would happen.

This individual writes:

I have a voice even if those screams were stifled inside of me so long ago. Today that voice says that Kavanaugh is not fit to be a member of the Supreme Court.

Beyond the details of what transpired when he was a teenager, his atrocious display during Thursday's hearing should disqualify him outright. Integrity, levelheadedness, respect for the rule of law, and lack of partisan bias should be fundamental requirements of any justice.

Kavanaugh did not display any of those traits. His confirmation would stain the Senate and the judiciary for years to come if not permanently.

I will conclude by saying that Dr. Ford's incredible courage has helped me more than any therapy session. She spoke. In speaking her truth to power, she spoke for all of us.

I have shed so many tears watching and following these proceedings, but finally feel like I can stand tall, that I do not need to hide or live in shame. Her story is, in so many ways, my story. The smart girl who loved math and somehow made it through Stanford, completed a PhD, and embarked in a career in research despite the trauma that followed. . . .

All too often we hide behind a smile and mask of strength so that people do not see that inside we cannot stop shaking.

Lawmakers would be well advised to not underestimate the strength of our power when we raise our heads, shed our shame and reclaim our voices. We may tremble, but we will speak. We will be heard. We will NOT be dismissed.

Letter No. 32:

I am a victim of sexual abuse as a child, rape as a young adult, and sexual harassment during my professional career. I am also a successful practicing Child/Adolescent/Adult psychiatrist, with 20+ years of experience.

Since Ms. Ford's testimony, on Friday I saw two female walk-in patients, one of whom revealed to me her own sexual assault, which occurred around the time of Ms. Ford's. She confessed this is the first time she has told anyone about this. The other woman I saw that day told a similar story. From the press I understand crisis lines lit up all over our nation, doubling their traffic in some cases.

I write because I am worried. The press reports that only two of the three women making complaints against Mr. Kavanaugh will be interviewed by the FBI. . . .

I am concerned that only two of the three alleged victims . . . will be heard. To establish a pattern . . . the FBI must include as many credible victims and witnesses as possible . . . particularly given the timelines and deadlines they are up against.

Statistics on rape in the United States are shockingly high, higher even than many less developed countries.

She was concerned the FBI would not be able to speak and interview those who could corroborate the experiences. It turned out far worse than she could ever have imagined: 0 for 28—0 out of 28. Not, well, we talked to 5 out of 28. Not we talked to 8 out of 28. The FBI was 0 out of 28, not because the FBI would choose to do that but because they could only talk to people whom they were allowed to talk to by the President's scoping instructions. Those instructions were not to talk to anyone who had credible supporting information. That is such a violation of fairness, of due process, of justice.

There is that beautiful set of words carved into the front of the Supreme Court: ''Equal justice under law.'' Wouldn't anyone who had the right character to serve there have insisted—insisted—that these women get fair treatment? But we didn't hear Judge Kavanaugh insisting. He didn't even want an FBI investigation. He certainly didn't insist on there being one that actually talked to the people who had information. If your conscience is clean, if your life experience is clear, you don't fear an investigation.

This letter goes on:

Furthermore, currently our Congress and Senate do not reflect the 50.5% of Americans who are female. In fact, in 2017 US female representation by gender in Congress and the Senate was far lower in the US than Germany, France, United Kingdom, Sweden, Belgium, Netherlands and Spain.

She cites the source as the Inter-Parliamentary Union Parline Database on National Parliaments.

As a result we rely on men to understand and act on this predominantly female problem. American women depend on your gallantry to ensure our government does right by us.

I plead with you to persuade our leaders to do the right thing. Think of your mother, your wife, your daughter and the women you love. Show us we are valued. As you make your phone calls know American women watch with fear and hope. Don't let us down.

Did we treat Dr. Ford and Debbie Ramirez in the way we would want our mother, our wife, our daughter, or the women we love to be treated? No, we

did not. She wrote asking for us to not let her down, and we have let her down. There is only one appropriate thing to do, and that is not to send this man who has bent and broken the truth many times before the U.S. Senate to the Supreme Court, not to send this man who has credible accusations of sexual assault that we were unwilling to investigate to the Court.

The letter next notes:

As a sexual assault survivor it's essential to me that no person who perpetuates such crimes ever sits in a position of power ever again.

That kind of sums it up.

This is letter No. 34. She says:

I am a 52 year old proud Oregonian woman. . . . I too am a victim and survivor of sexual abuse, and sadly a member of the ''Me too'' club. Should you confirm Judge Kavanaugh, you will be disrespecting every Me Too victim in America, young or old.

Victims of abuse are across the spectrum, and no doubt probably also in your families. Judge Kavanaugh is a nominee for a lifetime appointment on the Supreme Court, an interviewee. HE IS NOT A VICTIM. . . .

I did find it, by the way, so disturbing to hear colleagues treat the women who come forward as the criminals and treat the nominee as the victim. That is exactly the type of inversion that women fear. That is exactly the type of reversal that has women deciding that they will never get a fair hearing, and it is exactly what happened right here in the U.S. Senate.

The letter continues:

Mrs. Ford was very brave in her testimony. . . .

All of you on the Judiciary Committee—WAKE UP! It is 2018, not 1991 with Clarence Thomas, we now acknowledge and believe victims that come forward to tell their stories, aka HER-stories.

We will never forget your actions in this confirmation process.

Well, the writer is saying it is 2018, not 1991, and yet we treated Dr. Ford and Debbie Ramirez worse—worse than we treated Anita Hill in 1991.

Letter No. 35 is a letter from Oregon constituents writing in to share their anger, their angst, their concern, their desire that women coming forward be treated fairly, their desire that we treat them seriously enough to actually talk to corroborating witnesses. Yet, unfortunately, we did not.

In letter No. 35, the woman writes:

I was also a victim of sexual assault when I was in graduate school. I never pursued that due to fear of consequences and feeling that this was my fault. This has to stop.

Letter No. 36:

Senator MERKLEY, I write to you today to urge you to vote no on the Kavanaugh nomination. The time has come for women to have a say in this society that men will listen to.

I am a victim of sexual abuse. My case happened when I was 22.

I never told anyone about my experience until I remarried 39 years ago.

I have an 8-year-old granddaughter, and I pray that she will not ever have to battle someone to save herself.

I am now 75, and I remember the exact time and place this incident occurred. One never forgets.

Letter No. 37:

I am myself a sexual assault survivor.

I listened to the testimony of Dr. Blasey Ford . . . last Thursday. It was clear to me that her testimony was credible.

The likelihood that she may not accurately recall the identity of her assailant, who was known to her before the assault, is extremely improbable. Trust me. It is not the sort of detail that an assault victim forgets.

The likelihood, on the other hand, that Brett Kavanaugh may have failed to remember assaulting a . . . woman when he was inebriated is quite probable. Not only does excessive alcohol consumption dull the memory, but males who think so little of women that they would thus assault them are likely to dismiss the experience from memory as inconsequential.

I implore you to continue to work tirelessly to encourage your colleagues to vote no on Kavanaugh's confirmation. . . . His integrity and character are in serious question, and he showed a total lack of judicial temperament. . . . I urge you to stand up.

I know these letters didn't just go to individuals on this side of the aisle. So I ask my colleagues, have you read the letters that you have received that have asked you to take seriously the experiences shared by Dr. Ford and by Debbie Ramirez? Have you taken them seriously? Did you insist that their corroborating witnesses be interviewed? The President's team says it consulted with the Senate's leadership on how the FBI investigation should be done. We now know that, in the way it was done, none of the 28 corroborating witnesses were talked to—none. Did you take seriously the women in your home States who wrote to you the way the women in my home State wrote to me?

Letter No. 38:

If the FBI's investigation was limited to Ford's and Ramirez' allegations and excludes the third credible allegation of Avenatti's client, it is wrong to cherry pick credibility. I emphatically state that this third allegation reflects my personal experience. I do not divulge this lightly. It happened to me when I was 14. It was both legally and morally wrong, and I never reported it.

This was in 1971 in Southern California. It was a recurrent event before I came to learn that others were victimized in the same manner—rendered unconscious in order to be engaged without consent. It seems incredible that I would end up attending other gatherings where individuals participating in such activities would also be, but, in fact, this is my experience as well.

One of my sisters—9 years younger—recounted that this culture existed during her high school years in a party environment in Northern California. In these environments, there are certain coalitions of males who covertly foster these environments, and the victim is typically isolated in some back room or even some hotel room.

Please maintain my anonymity, but take seriously the consideration of my deeply personal account. There are many qualified jurists who possess the appropriate qualities to sit on the highest Court of America.

That was letter 38. Yet there are so many more letters pouring into my office, reading: Take our experiences seriously. Take seriously the voices of Dr. Ford and Debbie Ramirez. This institution has failed them.

I ask you, are you comfortable voting for this nomination when this body did not hear from the individuals who had corroborating information and you did not invite them to testify? Even that was done in 1991. Are you comfortable voting to support this nomination when the FBI investigation was limited by a scoping document that excluded having interviews with any of the 28 people, put forward by the 2 victims, who had information to support them? Are you comfortable with that? You shouldn't be. You shouldn't be comfortable voting for a nominee who is under a shadow of allegations that we didn't even bother to explore.

It confirms everything that women across this country fear—that when they come forward and share their stories, they will not be taken seriously, that the system will be rigged, and that they will be blamed. Everything they saw in the way the Senate handled this situation was shameful and embarrassing and beneath the dignity of this body that should have given a stellar example of how to respect and investigate, but it did not.

My colleague from New York has arrived to share her thoughts. I thank her for her strong and fierce defense of women across this country who have suffered so much and been silent so often in fear they will be disrespected as the two women who came forward, Debbie Ramirez and Dr. Ford, feared they would be disrespected. This body confirmed every fear they had.

Let's not vote to put on the Supreme Court of the United States an individual who bent and broke the truth many times before the committee; an individual with a record—even, as we know, from his high school and college years—of abusing women; an individual of arrogance and anger; an individual with partisan sentiments; an individual who thinks the President is beyond the law; an individual who finds, time after time, for the powerful over the people. That is not the person who should be confirmed to serve on the Supreme Court of the United States of America.

I thank the Presiding Officer.

The PRESIDING OFFICER (Mrs. HYDE-SMITH). The Senator from New York.

Mrs. GILLIBRAND. Madam President, today and these past several weeks have been deeply painful for many in this country. Today it is a painful day for millions of women all across the country who are rightly worried about losing their basic civil rights. It is a painful day for the brave and courageous survivors who have had to relive their trauma and, in some cases, have found the courage to tell their story for the very first time.

It is also a painful day for men who hope to see this Senate stand on the right side of history.

Today, in just a few hours, the U.S. Senate is going to turn its back on righteousness. It is going to turn its back on fairness and reason, and, make no mistake, it is going to turn its back on women.

What we have seen over the last few weeks is an exercise of power: Who has it and who doesn't. Rather than a search for the truth, we have seen those in power ram through a nominee who is unfit to serve on the Supreme Court. Ultimately, this is about the power structure of America, but it is changing, and it is changing fast.

I want to say something right here from the Senate floor to every woman in America who is listening: I hear you. Many of my colleagues in the Senate hear you. We hear your stories. We hear your voices, and we will be certain they will not go unheard.

I have heard from constituents all across my State. I have been talking to people for the last several months, and I have been talking to people specifically about this nominee for the past several weeks. I have heard from friends who have been sexually assaulted. I have heard from friends whose daughters have been sexually assaulted. I have heard from people who are outraged about what is happening in this country right now—outraged at a process that doesn't seek the truth and doesn't seem to be fair.

Unfortunately, it is a moment when survivors are having to relive the worst moments of their lives in real time by just watching the news.

So I am going to read a little bit of information that was submitted to the Senate Judiciary Committee on September 27 by Jessica Davidson from End Rape on Campus. She writes a very heartfelt letter about her own trauma, about her own experience with sexual violence, and about the representation she provides from her organization.

She writes:

> We envision a world in which each individual has an educational experience free from violence, and until then, that all survivors are believed, trusted, and supported. Each year, we assist nearly 1,000 survivors and their families directly, conduct educational campaigns, support student activists, and to advocate for policy reform efforts that reach millions of individuals.

She asked:

> How many more viral online moments must be created before an incredible harm and trauma we have experienced is enough to be taken seriously when a survivor comes forward? And why is the burden always shifted to those who have experienced the harm?

She says an American is sexually assaulted every 98 seconds. Just imagine how many lives are being destroyed.

She says more than an estimated 17,700,000 women and 2,780,000 men have experienced an attempted or completed rape since 1998; 3 million college students will be sexually assaulted this fall alone; 18,900 military servicemembers bravely serving our country experienced sexual assault in 2014; and one in every four voters in the United States is a survivor—more than half of all voters in the United States know a survivor. Survivors make up a significant portion of each U.S. Senator's constituencies, and survivors everywhere deserve to know that if they come forward, they will be taken seriously.

I received thousands of calls, hundreds of letters, and I have read some of those letters this morning. They are so disturbing and so upsetting. I can't imagine what that must be like to deal with in this moment that we are in when you have Members of the Senate who either don't believe credible survivors or, if they do believe them, they don't care.

For every survivor out there who feels she is not being heard, not being listened to, not being believed, I want you to know there are those of us here who do believe you, who have heard you, and who will fight for you. Your voices are being heard, and they do matter. Your willingness to protest, to stand tall, to speak out, and to speak clearly over these last few weeks has been extraordinary. It has been powerful. It has been meaningful. It has made a difference.

So do not fear that what you have done was a waste of time. Do not fear that speaking out doesn't matter because it does. The energy and inspiration you have created is going to drive this movement forward.

I also want to talk a little bit about why Brett Kavanaugh should not be serving on the Supreme Court, why he doesn't deserve this seat, and I want to talk a lot about his record and what we know about Brett Kavanaugh as an individual.

Over these last few weeks, we have learned a lot about this nominee, even before we found out that more than one woman had accused Judge Kavanaugh of sexually assaulting her. His judicial record was already clear, and many of us made our decisions to oppose Judge Kavanaugh based on that record—that judicial record and statements alone. That was the first reason I opposed him—because I have no doubt he will undermine women's rights on the Supreme Court.

I will say more about his judicial record in a moment, but what we all saw and heard over the last few weeks isn't something that you can actually discern from a judicial record. More than one woman has come forward with sworn statements under penalty of perjury, saying Brett Kavanaugh committed acts of sexual misconduct against them. One of them, Dr. Blasey Ford, even bravely testified before the Senate Judiciary Committee. She was under oath, and she relived one of the worst moments of her life on national television. She was credible. I believed her.

When my colleagues asked her what she remembered most clearly, her strongest memory was the laughter. She said that ''indelible in the hippocampus is the laughter—the laugh, the uproarious laughter between the two, and their having fun at my expense.''

She said: ''They were laughing with each other.'' She said: ''I was, you know, underneath one of them while the two laughed, two friend—two friends having a really good time with one another.''

She was direct, and she did not evade any questions. She did not duck or dodge like someone who was trying to hide the truth.

When my colleagues asked her with what degree of certainty did she believe Brett Kavanaugh assaulted her, she said: ''One hundred percent.''

When I was watching her testimony sitting there in the room, there were many moments when her testimony brought me to tears. I thought the way she opened was particularly moving. She said:

> I am here today not because I want to be. I am terrified. I am here because I believe it is my civic duty to tell you what happened to me while Brett Kavanaugh and I were in high school. I agonized daily with this decision throughout August and early September 2018. The sense of duty that motivated me to reach out confidentially to the Washington Post, Representative Eshoo's office and Senator Feinstein's office was always there, but my fears of the consequences of speaking out started to increase.
>
> During August 2018, the press reported that Mr. Kavanaugh's confirmation was virtually certain. His allies painted him as a champion of women's rights and empowerment. I believed that if I came forward my voice would be drowned out by a chorus of powerful supporters.
>
> By the time of the confirmation hearings, I had resigned myself to remaining quiet and letting the committee and the Senate make their decision without knowing what Mr. Kavanaugh had done to me. At the same time, my greatest fears have been realized and the reality has been far worse than I expected.
>
> Apart from the assault itself, these last couple of weeks have been the hardest of my life. I have had to relive my trauma in front of the entire world and have seen my life picked apart by people on television, in the media, or in this body who have never met or spoken with me. I have been accused of acting out of partisan political motives. Those who say that do not know me. I am a fiercely independent person and I am no one's pawn.
>
> My motivation in coming forward was to provide the facts about how Mr. Kavanaugh's actions have damaged my life so that you can take that into serious consideration as you make your decisions about how to proceed. It is not my responsibility to determine whether Mr. Kavanaugh deserves to sit on the Supreme Court. My responsibility is to tell the truth.

That is a woman of extraordinary humility and extraordinary courage.

I want to compare Dr. Blasey Ford's testimony to Judge Kavanaugh's testimony right after her. We all saw it. Some of my colleagues have suggested that because multiple women were making very credible accusations against Judge Kavanaugh that he had a right to be angry, that he was right to come out strong and fight back, like a politician would. Really? Is that how a judge is supposed to act? Not according to Judge Kavanaugh.

I want to quote from a law review article he wrote 2 years ago about how a good judge is supposed to act:

> To be a good judge and a good umpire, it is critical that you have the proper demeanor. We must walk in the shoes of other judges, the lawyers, and the parties.
>
> It is important to understand then to keep our emotions in check, and be calm against

the storm. To put it in the vernacular: to be a good umpire and be a good judge, don't be a jerk.

Judge Kavanaugh would have been well served to listen to his own advice.

I was shocked by his tirade against my colleagues and my party. I was disturbed by its vindictiveness, his animosity. I want to quote from his testimony to remind you of exactly what he said at his hearings. Every time I see these words, I am in disbelief that a sitting Federal judge—a nominee for the Supreme Court—said them to the Judiciary Committee in prepared testimony under oath.

He said:

> This whole two-week effort has been a calculated and orchestrated political hit, fueled with apparent pent-up anger about President Trump and the 2016 election.
>
> Fear that has been unfairly stoked about my judicial record.
>
> Revenge on behalf of the Clintons. And millions of dollars in money from outside left-wing opposition groups.

Supreme Court Justices are supposed to be thinking about the law and only the law, not elections, not political parties, but now we know exactly what Judge Kavanaugh is thinking about. He is thinking about politics. He is thinking about leftwing conspiracies. He is thinking about the 2016 election and Trump and the Clintons.

Those aren't my words; those are his words, his testimony. He said them directly to the committee under oath while the entire Nation was watching. He showed us his true colors. He showed us what he does when he is under pressure. He showed us how he really feels about our politics and our political parties, even though he said he always stays far away from politics because judges aren't supposed to go there.

He showed us what he really thinks, deep down, when his back is against a wall. Think about that. A sitting Federal judge, a nominee to the Supreme Court, shouting—shouted about Democrats trying to take him down.

It makes me wonder, even if you love every judicial decision this judge has ever written, how can any of my colleagues argue, after hearing that tirade, that this judge is unbiased? It makes me wonder how any of my colleagues can ignore that fact. It makes me wonder, to my colleagues who are so desperate to confirm Brett Kavanaugh at all costs, what decisions by this judge are you so eager to see? What do you already know about how the supposedly fairminded judge is going to rule that you would risk the Court's reputation by putting such a blatant partisan on the bench?

A retired Supreme Court Justice, John Paul Stevens, who was appointed by a Republican, even came so far as to change his mind and oppose Judge Kavanaugh. Why? Because Judge Kavanaugh is now clearly biased. He said:

> He has demonstrated a potential bias involving potential litigants before the court that he would not be able to perform its full responsibilities.
>
> And I think there is merit in that criticism and that the Senators should really pay attention to it.
>
> For the good of the court, it's not healthy to get a new justice that can only do a part-time job.

I agree with that. When the next big gerrymandering case comes before the Supreme Court, we already know how Judge Kavanaugh feels about Democrats because we heard directly from him at the hearing, so we can't expect him to rule fairly in that case.

What if a forced arbitration case related to sexual harassment comes before the Court? We all heard Judge Kavanaugh say under oath that credible allegations of sexual assault are nothing but a leftwing conspiracy, so we can't expect him to rule fairly on that one either.

There are real consequences to the bias and partisanship and anger Judge Kavanaugh showed at his hearing. I am incredibly disappointed by this, and I hope my colleagues think about this one last time before they cast their votes today.

I would like to talk a little bit about his record as a judge. Whose side does he take? Whom does he believe?

In one case, in a dissent, Judge Kavanaugh said employers should not have to give their workers insurance that covers birth control if they don't want to. In other words, he thinks a boss's religion is more important than a worker's religion. Does that sound fair to you, Madam President?

In another case, he had to decide whether a pregnant teenage immigrant girl should be allowed to have an abortion. He made her wait for 9 weeks before he said no, and then he was overruled by his judicial colleagues. He said he didn't think what he did to the girl was an undue burden. Does that sound fair to you?

Let's not forget that President Trump said he wanted the new Supreme Court Justice to overturn Roe v. Wade, that he wanted to nominate someone who would automatically vote to overturn it. He chose Brett Kavanaugh to get the job done.

If this Chamber confirms Judge Kavanaugh, I have no doubt that the Supreme Court will take away women's reproductive rights. I have no doubt that the Supreme Court will tell women they aren't allowed to make their own decisions with their own doctors about their own health.

I want to speak about another part of his record. Judge Kavanaugh wrote in an opinion that if the President doesn't like a law, then the President could ignore the law and ignore the courts. This is what he said. As you listen to this, let me know if you think this is judicially sound judgment. He wrote: ''Under the Constitution, the president may decline to enforce a statute that regulates private individuals when the president deems the statute unconstitutional, even if a court has held or would hold the statute constitutional.''

Anyone with the most basic understanding of how our constitutional system of government works knows that this is not what our Founding Fathers designed. Anyone who has been paying attention to President Trump's attacks on our institutions and his repeated attempts to undermine the Mueller investigation should be alarmed by that statement alone. It makes me think President Trump's choice for this nominee was because he wanted to be protected from the Mueller investigation.

I am also deeply concerned about Judge Kavanaugh's record on money in politics.

It should come as no surprise that Judge Kavanaugh is on the side of big money interests that pollute our political system. Kavanaugh was handpicked by White House Counsel Don McGahn, a former FEC Commissioner who was notorious for his hostility toward campaign finance laws. Indeed, Judge Kavanaugh fulfills President Trump's promise to nominate individuals in the mold of Justice Scalia, a steadfast opponent of campaign finance regulations.

Like McGahn and Justice Scalia, Kavanaugh has made his opposition to campaign finance laws clear during his time on the DC Circuit.

In 2011, Kavanaugh authored an opinion that would allow foreign nationals to spend unlimited funds on issue ads in U.S. elections. Let me say that again. Kavanaugh authored an opinion that would allow foreign nationals to spend unlimited funds on issue ads in U.S. elections. That is the Bluman v. FEC decision.

Kavanaugh presided over a lawsuit brought by foreign persons living in the United States who wanted to make campaign contributions to candidates in U.S. Federal elections. Although Kavanaugh upheld provisions of Federal election law banning foreign persons from contributing directly to a candidate or party, Kavanaugh found that federal election law ''does not restrain foreign nationals from speaking out about issues or spending money to advocate their views about issues.''

Under his reading of Federal election law in Bluman, Kavanaugh would only take issue with a small fraction of the election meddling perpetrated by the Russian operatives indicted by Special Counsel Mueller.

At his confirmation hearing, Judge Kavanaugh was given the opportunity to directly address the possibility that his decision in Bluman opened the door for ''Vladimir Putin . . . to buy issue ads in American elections.'' Judge Kavanaugh's response to Senator WHITEHOUSE was misleading, indicating that the Supreme Court affirmed the case unanimously, which, while true as to foreign contributions to candidates, was not true on the point of issue ads.

Indeed, Judge Kavanaugh's response to a question for the record from Senator COONS also revealed his misleading response to Senator WHITEHOUSE's question. He wrote: ''The challengers in Bluman did not seek to make contributions to organizations that make

expenditures on issue ads. The opinion made clear that the court's 'holding does not address' whether 'Congress might bar' foreign nationals living temporarily in the United States 'from issue advocacy and speaking out on issues of public policy.'' The Supreme Court unanimously affirmed the decision.

Judge Kavanaugh seeks to have it both ways. He brags about his opinion being unanimously upheld by the Court, but when he is confronted with the real-world consequences of his decision, he hides behind the pleadings.

According to Special Counsel Mueller's indictment, the issue ads run by Russian operatives seeking to meddle in the 2016 election include the messages ''JOIN our #HillaryClintonForPrison2016''—I don't even want to read the others; they are so horrible. ''Donald wants to defeat terrorism . . . Hillary wants to sponsor it.'' Yet Judge Kavanaugh's Bluman decision would permit foreign actors to run advertisements like the ones above without consequence. In fact, legal briefs filed by lawyers for the Russian operatives indicted by Special Counsel Mueller cite Kavanaugh's Bluman opinion for the proposition that ''[f]oreign nationals are not barred from issue advocacy . . . such as what is described in the indictment.''

Judge Kavanaugh opposes limitations on big money in politics. During his confirmation hearing, Judge Kavanaugh was confronted by Senator KLOBUCHAR with an email he wrote in March 2002 wherein he suggested that contribution limits could be unconstitutional: ''And I have heard very few people say that the limits on contributions to candidates are unconstitutional, although I for one tend to think those limits have some constitutional problems.'' When Senator KLOBUCHAR pressed Judge Kavanaugh on whether he believed that ''contribution limits have constitutional problems,'' Judge Kavanaugh evaded the question and issued a nonresponsive answer.

In a 2016 American Enterprise Institute speech, Kavanaugh said that political spending ''absolutely'' deserves First Amendment protection because ''to make your voice heard [in politics] . . . you need to raise money to be able to communicate to others in any kind of effective way.''

In 2009, in EMILY's List v. FEC, Kavanaugh heard a challenge to multiple FEC regulations restricting the use of ''hard-money'' by nonprofit organizations in Federal elections. These particular regulations were passed in striking down these regulations. Kavanaugh held that nonprofit organizations are ''constitutionally entitled to raise and spend unlimited money in support of candidates for elected office'' because it is ''implausible that contributions to independent expenditure political committees are corrupting.''

These are really concerning statements about unlimited money and spending in politics from foreign nationals on issue ads and from moneyed interests. I do not believe that money is speech, and I do not believe that corporations should have the same free speech rights as individuals, but Judge Kavanaugh does, and I find that to be deeply troubling.

Judge Kavanaugh also has a very disturbing record when it comes to rolling back the civil rights of millions of Americans.

In his time as a judge, Brett Kavanaugh has consistently sided against Americans who are trying to exercise their civil rights. From voting rights, to employment discrimination, to the rights of those with disabilities, Kavanaugh has taken positions that perpetuate inequality. Judge Kavanaugh's record leaves little doubt—if confirmed to the Supreme Court, he will continue to roll back the hard-won rights of millions of Americans.

As a partner at Kirkland & Ellis, Kavanaugh was involved in Rice v. Cayetano, which challenged Hawaii's right to limit participation in an election for the State's Office of Hawaiian Affairs to Native Hawaiians. In a brief he cowrote with Robert Bork and Roger Clegg—the latter of whom heads the anti-affirmative-action Center for Equal Opportunity—Kavanaugh argued that restricting participation to Native Hawaiians was unconstitutional. According to Kavanaugh, it did not matter that Hawaii's ''voting qualification in elections for the Office of Hawaiian Affairs [was] designed to remedy past discrimination in voting against 'Hawaiians' in Hawaii.'' Discussing that decision in a 1999 interview, Kavanaugh said that the ''case is one more step along the way in what I see as an inevitable conclusion within the next 10 or 20 years when the court will say we are all one race in the eyes of government.''

Kavanaugh's adoption of Justice Scalia's approach from Adarand Constructors v. Pena that ''in the eyes of government, we are [all] just one race'' indicates a belief that the government should be ''color blind.'' Under this theory, affirmative action and minority contracting requirements would be constitutionally prohibited.

Those are just some of the issues that I care about and that New Yorkers care about. I am very troubled about this nominee for so many reasons—for his record, for his beliefs, for his judicial temperament, for how he treated women Senators during that hearing.

When we vote on this nomination later today, when we decide whether Judge Kavanaugh deserves to have the privilege to serve on the Supreme Court, there is just one fundamental question that I believe should be on all of our minds when we make this decision: Do we as a country value women? Does the Supreme Court value women? Does the Senate value women? Does the President? Most of all, does Brett Kavanaugh value women?

Millions of Americans—millions of women—are watching us today. They are waiting to see whether, when a woman comes forward and says she is a survivor of sexual assault, this Chamber—do the individuals here take her seriously? Do we listen to her, or do we disregard her and disbelieve her and patronize her?

The last 2 weeks have been so incredibly painful for women who have experienced sexual trauma, for survivors all across this country. When they are watching some of the most powerful people in this country disregard Dr. Blasey Ford—they distrust her, they disbelieve her, and they devalue her—it is painful for all of them. It is painful because they are tired of seeing the same old outcome every single time. They are tired of the same old scenario where the men are believed and the women are not. They can't believe their eyes when they see two women being treated with so little respect and with less of a process than even Anita Hill received.

One of the worst parts of this process has been that we have been through it before. Almost three decades ago, Anita Hill sat right where Dr. Blasey Ford sat. She went through the same kind of cross-examination. She was disbelieved. She was patronized. She was disrespected. We said we would never put another woman through that. We said we had learned lessons from that fiasco. We said it would never happen again, but it did. And I really believe that the process over the last few weeks was shameful. We should have learned from our mistakes, and we should be doing much better.

But I can tell you, America's women are watching. They are watching what our leaders decide to do. They are watching who is listening and who is not. And they have made a decision that I could have never imagined or predicted. So many women in this country—and men—have made the decision since President Trump was elected that they are going to be heard. They are going to march. They are showing up at townhalls. They are showing up outside of Federal offices. They are coming to Washington. They are knocking on Senate doors. They are speaking out. They are protesting. They are carrying signs. They are speaking their truth, and they are speaking truth to power in a way they perhaps never imagined they would do.

They are running for office. Over 200 women are running for Congress alone as nominees of their party this year—more than ever in the history of America. They are working hard to right the wrongs that they see happening in this country.

They know that what makes this country great—what has always made this country great—is that we have cared about one another, that we are a country that believes in the golden rule, and that we are a country that believes you should care about the least among us.

Every generation has tried to make this country a more perfect union. Whether it is fighting to end slavery through abolition; whether it is fighting for basic voting rights for all Americans through the suffragist movement; whether it is the civil rights movement saying that equality is necessary in this country and people must be protected by the law; whether it is the LGBT equality movement to ensure that we can marry the people we love; whether it is people's desire today to ensure healthcare as a right and not a privilege, this is what our country is about.

I deeply feel that the process over these last few months has turned our backs on that basic desire to bring our country to a more perfect union, to a place where we value one another.

Do we value women? Unfortunately, for too many in this Chamber, the answer is no.

I hope the American people are listening. I hope they are watching. I hope they will fight for what they believe in, their values, and what this country stands for.

I yield the floor.

The PRESIDING OFFICER (Mr. ROUNDS). The Senator from Minnesota.

Ms. SMITH. Mr. President, I thank the Senator from New York for her terrific words this morning. I am so grateful to be here with her today.

I rise today to express my opposition to the nomination of Judge Brett Kavanaugh to the Supreme Court of the United States. From the time his nomination was announced, it has been clear to me what type of Supreme Court Justice Judge Kavanaugh would be, and I firmly believe he is not the Justice our country needs. Appointing Judge Kavanaugh to the Supreme Court would be bad for Minnesotans and bad for our country.

First this morning, I would like to speak about the aspects of Judge Kavanaugh's record and scholarship that I find most troubling—his decisions on women's freedoms, the environment, voting rights, and his views on Executive power. Next, I would like to discuss why Judge Kavanaugh's temperament and credibility demonstrate that he does not merit the trust and confidence necessary for the Senate to appoint him to a lifelong appointment to our Nation's highest Court.

I have been opposed to Judge Kavanaugh's nomination since the beginning because his record shows that he is far outside the mainstream of legal thought on issues that matter to Minnesotans, such as women's freedoms, healthcare, voting rights, and the environment.

If you remember, we knew quite a lot about Judge Kavanaugh before he was even formally named as President Trump's Supreme Court nominee. This is because Judge Kavanaugh's name was chosen from a short list prepared by the far-right Federalist Society and Heritage Foundation. This list contained 25 potential nominees who were selected because they could be trusted to fulfill President Trump's repeated campaign pledge to appoint Justices who would ''automatically'' overturn Roe v. Wade and dismantle the Affordable Care Act.

While we can assume that nominees drawn from that short list have convinced the Federalist Society and the Heritage Foundation that they passed these two litmus tests, Judge Kavanaugh has a judicial record to prove it. Therefore, from the time his name first appeared on President Trump's short list, we knew what kind of Justice he would be—one that is out of step with the American people, the legal academy, and the clear dictates of our Constitution, which promise liberty and equality for all and not just for the privileged few. This is not what our country needs, especially now.

A review of Judge Kavanaugh's record shows it includes restricting women's freedoms, supporting efforts to suppress the votes of minorities and low-income people, reliably siding with polluters at the expense of the public's health and allowing unlimited dark money to influence our elections. I find this record deeply concerning. It is evidence that if confirmed, Judge Kavanaugh would take this country backward, reversing course on decades of hard-won progress.

So my assessment of his judicial record is enough for me to conclude that Judge Kavanaugh is not the type of jurist Minnesotans need on the Supreme Court. In this time of unprecedented political polarization, our country needs confidence in knowing that the Supreme Court can fulfill the constitutional promise that we are all equal before the law.

That is why I had hoped President Trump would nominate a consensus Justice—someone dedicated to protecting the rights of all Americans. Yet it is clear Judge Kavanaugh will not be that Justice. So I would like to talk in more depth about three of the reasons it is clear to me that based on his judicial record, Judge Kavanaugh is more dedicated to advancing a far-right partisan policy agenda than in defending the equal rights of all Americans.

First, a judge who would let the government restrict women's access to reproductive healthcare is not someone who is dedicated to protecting the privacy, dignity, and freedom of all women.

Last year, Judge Kavanaugh wrote a dissent in a case called Garza v. Hargan, in which he sided with the Trump administration in its attempt to prevent a young immigrant woman from accessing an abortion. Even though this young woman had complied with every State legal requirement, Judge Kavanaugh argued that the Federal Government could, nonetheless, prevent her from obtaining an abortion until she could be placed with a sponsor. That process took weeks and jeopardized her ability to obtain a procedure at all. Yet, in his dissent, Judge Kavanaugh concluded that this government-caused delay did not constitute an undue burden on this woman's constitutional right to make her own decisions about her reproductive healthcare.

When Senator DURBIN questioned him about this case before the Senate Judiciary Committee, Judge Kavanaugh repeated his familiar refrain that he was just following precedent, but the majority of his fellow judges on the DC Circuit Court of Appeals read the Supreme Court's precedent on this issue very differently, as do I.

In Planned Parenthood v. Casey, the Supreme Court firmly established that our constitutional right to privacy protects women from ''unduly burdensome interference with her freedom to decide whether to terminate her pregnancy.'' This has come to be known as the undue burden standard. It means the government is prohibited from making laws, rules, or policies that have the ''purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion.''

Yet Judge Kavanaugh saw no problem with forcing this young woman to wait 9 weeks to obtain the medical care she needed—the medical care a Texas judge agreed she was competent to request and entitled to obtain. Instead, in arguing that this delay was justified, Judge Kavanaugh implied that this young woman was incapable of making her own medical decisions because she did not have her ''family and friends to rely on'' in her decision-making process.

I trust women to make these decisions for themselves and their families, and I am here to tell you that women do not need the government looking over their shoulders in the examination room and telling them what they can and cannot do. As the only Senator who has ever worked at Planned Parenthood, I know that when women do not have the freedom to make their own choices about their reproductive healthcare, they lose the freedom to direct their own lives—their personal lives, their families, their economic security.

I believe we deserve a Supreme Court Justice who is dedicated to protecting a woman's right to make her own private decisions about her reproductive healthcare. Yet, based on his dissent in the Garza case and the President's repeated promises to nominate only anti-choice Justices, it is clear that if confirmed, Judge Kavanaugh would continue to chip away at this fundamental freedom.

The second reason it is clear Judge Kavanaugh is not dedicated to protecting all Americans equally is, he has repeatedly ruled against restrictions on pollutants that threaten our health. He has not been dedicated to protecting the air we breathe, the water we drink, and the land we share.

In a 2012 case, Judge Kavanaugh authored an opinion that found the Environmental Protection Agency had exceeded its authority when the Agency told upwind States to, literally, stop blowing smoke onto their downwind neighbors. Then, in 2014, Judge Kavanaugh objected to using the Clean Air Act to establish programs to reduce mercury—a potent toxin that harms developing brains—and greenhouse gases.

Judge Kavanaugh's narrow view of the Clean Air Act could be extremely harmful to our efforts in addressing climate change by regulating greenhouse gases. Although the Act does not mention greenhouse gases by name, the Supreme Court has held that the EPA does have the power to regulate them. In fact, the Court held that the act requires the EPA to address any air pollutants that are found to endanger human health. I agree with the Supreme Court as do most Americans. An April 2018 poll found that 75 percent of Americans support even stricter limits on smog.

Judge Kavanaugh claims to believe what virtually every scientist tells us; that manmade climate change is real, and it is an enormous threat to our planet and our health. Yet he still seems to have a problem with allowing the government to take action to protect us from new pollutants which threaten our health.

At a time when President Trump is attempting to backpedal on every commitment our country has made toward fighting global warming, it is more imperative than ever that we have a Supreme Court Justice who believes in our collective right to protect and preserve our planet.

President Trump is pulling out of the Paris climate agreement. He is pulling back the Clean Power Plan. He is looking for ways to force utilities to keep expensive coal plants online, a move that would cost Americans billions of dollars in increased electricity bills. All of these moves will hurt the environment and harm the health of the American people, and in each case, Judge Kavanaugh's record shows he is likely to act as an enabler.

The third area in which Judge Kavanaugh has demonstrated that he is likely to serve the interests of a far-right partisan agenda rather than the interests of our democracy is with regard to voting rights.

A judge who upholds a State law that makes it harder for minorities and low-income people to vote is not someone who is going to be dedicated to protecting our most fundamental democratic right—the right to vote. If Judge Kavanaugh is confirmed to the Supreme Court, there is no doubt he will help his friends in far-right special interest groups—the same groups that recommended his nomination in the first place—to continue their coordinated campaign to make it harder for millions of Americans to vote.

These groups know they can count on Judge Kavanaugh to uphold laws that make it harder rather than easier for people to vote. These groups have helped Republican-controlled State legislatures pass laws that are designed to create obstacles at every step of the voting process, making it more difficult to register to vote, to cast your ballot, and to have your vote counted equally.

As a judge on the DC Circuit Court of Appeals, Judge Kavanaugh has a record of supporting these laws, including laws that perpetuate voting discrimination, particularly against communities of color. In 2012, he wrote an opinion for a three-judge panel that upheld South Carolina's stringent voter ID law even though the Department of Justice had determined the law would violate the Voting Rights Act of 1965.

I am proud to represent the State with the highest voter turnout in the Nation. Minnesotans understand that when the right to vote is restricted, it undermines the very foundation of our democracy. Our voting laws reflect our beliefs about who should have a voice in this country, and I am profoundly concerned that his record shows that Judge Kavanaugh will allow States to pass laws that will make it harder for communities of color and low-income people to make their voices heard.

Minnesotans and all Americans deserve a Supreme Court Justice who is committed to making our democracy more representative so we remain a government for the people and not just some of the people, and it is clear Judge Kavanaugh would not be that Justice.

Judge Kavanaugh's record as a judge on the DC Circuit Court of Appeals and the process that led to his nomination were enough to convince me that he should not be elevated to the Supreme Court. His decisions and opinions demonstrate that he should not be entrusted with protecting the hard-won rights and freedoms of all Americans.

It is troubling enough that Judge Kavanaugh could be the deciding vote on cases that affect every aspect of life in America—cases that determine whom you can marry, whether you can access healthcare, or your rights in the workplace. I am also extremely concerned about Judge Kavanaugh's commitment to fulfilling the other sacred responsibility of our Supreme Court—to be a check against legislative and executive overreach as a coequal branch of our government.

The very design of our system of constitutional checks and balances demonstrates that no one, not even our elected leaders, is above the law. This is a fundamental American principle, but Judge Kavanaugh has a dangerously expansive view of Executive power that is well outside the mainstream of current legal thought.

He has repeatedly argued that Presidents, effectively, are above the law. His writings and speeches suggest he believes a sitting President cannot be indicted or prosecuted. He has argued that Presidents can only be investigated by Congress, which raises questions about his views of the constitutionality of the ongoing Mueller investigation. Perhaps what is the most troubling is, he has claimed Presidents don't have to enforce laws they believe are unconstitutional.

Kavanaugh's expansive views of the limits of Executive power suggest he would abdicate the solemn responsibility of the Court to both hold the executive branch accountable to its constitutional duties and to prevent it from engaging in constitutional excesses.

The need for the other branches of government to be a strong check against an errant executive has, arguably, never been greater. Yet during his confirmation process, Judge Kavanaugh refused to answer even the most basic questions about his views on Executive power and accountability. He also refused to answer Senators' questions about topics like whether he believes a President can be required to respond to a subpoena or whether a President can pardon himself or pardon others in exchange for their silence.

It is easy to see why President Trump would want a Supreme Court nominee who believes a President is above the law. It is not easy to see how this body can consider confirming him without learning more about whether he is prepared to help the Court fulfill its duty as an independent, coequal branch of government.

For all of these reasons, I believe Judge Kavanaugh's jurisprudence and scholarship provide a more than sufficient basis for opposing his nomination.

Now I turn to the Senate Judiciary Committee hearings last Thursday.

I was grateful for Dr. Blasey Ford's powerful testimony before the Senate Judiciary Committee and to the American public. Since her testimony, my office has received dozens of letters from survivors of sexual assault, some of whom are telling their stories for the first time. In reading these letters, I have been heartbroken by their trauma and pain, which we know is suffered by too many in this country. Many of these survivors were victimized by people they knew and trusted. Some were too young to have words to even describe their assaults. Some tried to come forward and report their abuses but gave up when they faced doubt and shame and suspicion from those who should have helped but didn't. All of them deserve to have their stories taken seriously and to be fully investigated.

So I want to acknowledge that this is an important, historic moment—one that shows us the cultural forces that seek to shame and silence survivors of sexual violence are shifting and that survivors and those who love them and those who stand with them are watching this process very carefully.

In stark contrast to the clarity and conviction of Dr. Blasey Ford's testimony, to me, Judge Kavanaugh's performance raised deep questions about his temperament and credibility. Judge Kavanaugh showed us he has an injudicious temperament, a powerful sense of entitlement, and a partisan perspective that was right out there for everyone to see. He showed us who he is—and I believe him—and I firmly believe these characteristics disqualify him from elevation to the Supreme Court.

Judge Kavanaugh showed us he thinks his professional qualifications exempt him from personal scrutiny, but an appointment to the Supreme Court requires more than a pristine legal resume; it requires a strength of character, which we now know from his own testimony that Judge Kavanaugh does not possess.

His impulse, when challenged, is to lash out with conspiratorial, partisan invective—unbecoming of any nominee to the Federal Bench. His behavior, which, incidentally, he would never allow from a litigant in his own courtroom, was angry, disrespectful, even ranting.

I was particularly struck by the disrespect he showed to my good colleague and friend, the senior Senator from Minnesota, AMY KLOBUCHAR. When she asked Judge Kavanaugh about his history with alcohol, he became defensive; refused to answer her question; and actually turned the question back at her. To my mind, this showed a lack of respect not just for Senator KLOBUCHAR but for the whole Senate and our constitutional duty to provide advice and consent to the President's nominees.

I think all of my colleagues should be deeply disturbed by the nominee's angry and disrespectful behavior. I urge all of my colleagues to ask themselves whether they believe Judge Kavanaugh possesses the steady, sensible temperament we should expect from all of our Federal judges but, most especially, from those on the highest Court in the land. I believe Judge Kavanaugh showed us to be incapable of being an impartial and nonpartisan judge when he said he holds Democrats responsible for an ''orchestrated political hit.''

The Framers designed the Supreme Court to be above the partisan fray. In his testimony on Thursday, Judge Kavanaugh abandoned any pretense that he could live up to his own description of a good judge, one that is ''an umpire—a neutral and impartial arbiter who favors no litigant or policy.''

In his initial testimony before the Judiciary Committee, Kavanaugh warned:

> The Supreme Court must never, never be viewed as a partisan institution. The justices on the Supreme Court do not sit on opposite sides of an aisle.

If this body elevates Judge Kavanaugh to the Supreme Court after his nakedly partisan diatribe on Thursday, how can the American people believe the Court's decisions are anything other than arbitrary and partisan, and the work of ideologues? Judge Kavanaugh's shocking behavior last Thursday bears directly on the legitimacy of the Supreme Court—our third coequal branch of government.

Over the next few years, the Supreme Court will be called upon to decide important legal questions that will affect the lives of all Americans. Given Judge Kavanaugh's performance last Thursday, the American people will have to wonder: Does Justice Kavanaugh see the Supreme Court as the ultimate venue for providing justice or as a tool for advancing and securing a partisan agenda?

Not only did Judge Kavanaugh's performance last Thursday give us reason to doubt whether he has the necessary judicial temperament to serve on the Supreme Court, but his sworn testimony also raised deep questions about his credibility.

Judge Kavanaugh showed us that he is willing to be misleading and evasive when it serves his interests and when he thinks he will be protected from the consequences of those lies.

When questioned by my colleagues Senator KLOBUCHAR and Senator WHITEHOUSE, Judge Kavanaugh provided answers that were obviously disingenuous, if he answered at all. I am concerned that the way he characterized his behavior during his high school years was less than fully truthful. His apparent lack of candor with the Senate Judiciary Committee should be deeply concerning to all of us in the Senate and to the American public.

Unfortunately, I am not permitted to speak publicly about the details of the FBI's supplemental background investigation of Judge Kavanaugh, but after reviewing these materials, I have even deeper concerns about Judge Kavanaugh's lack of candor. Frankly, the materials raise more questions than they answer. That is part of why I believe the supplemental investigation was woefully inadequate.

Some of my colleagues have been saying that this is not a criminal trial but a job interview. I agree that Judge Kavanaugh is not on trial here, but this isn't any regular job interview either.

The confirmation process allows for the Senate to determine whether Judge Kavanaugh deserves the public's faith as he asks to be entrusted with safeguarding our constitutional and human rights. He is asking for a lifetime appointment that will allow him to affect the lives and freedoms of a whole generation of Americans. I believe Judge Kavanaugh's record and his character preclude him from being worthy of that public faith.

I urge my colleagues to join me in opposing Judge Kavanaugh's nomination to the Supreme Court.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PAUL). Without objection, it is so ordered.

Mr. REED. Mr. President, I rise to express my strong opposition to the nomination of Judge Brett Kavanaugh to replace Justice Anthony Kennedy as an Associate Justice on the U.S. Supreme Court.

I opposed Judge Kavanaugh's nomination to his current seat on the DC Circuit because I had serious concerns about his partisan history, expansive view of Presidential power, and his lack of candor about his work in the Bush White House during his testimony before the Senate Judiciary Committee. Judge Kavanaugh's work on the DC Circuit demonstrated that I was right to be concerned about his view that the President is above the law. I intend to discuss his jurisprudence in a moment, but first it is necessary to list just how many ways in which this process has revealed that Judge Kavanaugh lacks the temperament to serve as a Justice of the Supreme Court.

He began this process by continuing to stonewall, and perhaps even mislead, Senators about his career as a political operative and partisan lawyer in the Bush Administration. He dissembled when asked basic questions about his approach to the law—a tactic we have come to expect from nominees who have been selected and vetted by far-right interest groups. Yet when Dr. Christine Blasey Ford, Deborah Ramirez, and others came forward with serious and credible allegations of sexual assault against him, this body saw the real Judge Kavanaugh. He emerged at his second hearing combative, blatantly partisan, disrespectful, evasive, and in no way reassuring that he has told the truth to this body and the American people. I will discuss these in turn, but the bottom line is this: Judge Kavanaugh is unqualified for a seat on the Supreme Court because he lacks the basic qualities and judgment for a position that could affect Americans' everyday lives for generations to come.

The American people are watching this debate with serious, real-world concerns about what a Justice Kavanaugh would mean for them. They are worried that they could wake up someday soon to news that a conservative 5-to-4 majority on the Court has stripped them of their health insurance, abolished their right to privacy and control over their reproductive health, or revoked their right to marry whomever they choose. They see inequality of historic proportions—with the top 1 percent now earning more than the bottom 50 percent combined, according to the World Inequality Report—and a Supreme Court that continues to overturn laws that were enacted to prevent corporations and

wealthy individuals from using their money to rig the political system.

It is abundantly clear, given Judge Kavanaugh's selection by special interest groups and the mad rush to confirm him at all costs, that powerful interests are counting on him to further these trends, which point to a future in which political power will be directly tied to wealth and status. Worse yet, given that we still don't know the whole truth about the allegations against Judge Kavanaugh, continuing this rush to place him on the Court sends a terrible message to survivors of sexual assault that accountability for these crimes depends on the extent to which the accused person serves the interests of the powerful.

The American people deserve better when it comes to this body's obligation to advise and consent on the next Supreme Court Justice, and the majority has failed in that obligation time and again in the course of this confirmation process.

When my Democratic colleagues and I expressed concerns about whether a President under such serious criminal investigations should appoint—prior to seeing the investigative process thorough and completed to the end—a Supreme Court Justice who likely could be called to rule on critical matters in a case against the President and his campaign, the majority ignored us.

When we demanded that Judge Kavanaugh's hearing follow the standard practice for Supreme Court nominees—providing Senators and the public alike with access to the nominee's full record of public service through appropriate document disclosures from the National Archives—the majority fast-tracked Judge Kavanaugh's hearing before the National Archives could process the records from his work in the Bush White House. In place of the appropriate process, the majority enlisted a private Republican lawyer to curate a small subset of records for Senators to review, and even that subset was subject to an assertion of ''committee confidentiality,'' meaning Senators were barred from sharing anything with the public that they may have learned about Judge Kavanaugh. Thousands more records were withheld under a dubious assertion of executive privilege. Even given the small number of Republican-selected records that had been made available to this body, my Democratic colleagues on the Judiciary Committee uncovered troubling inconsistencies that called into question whether Judge Kavanaugh had been truthful in his Senate testimony.

No other nominee for the Supreme Court would get away with this. Why is the majority giving this free pass to Judge Kavanaugh? Why does he deserve to shield his record when no other member of the Supreme Court received such treatment? Why must his documents—records of taxpayer-funded public service—be controlled by a private Republican attorney instead of the National Archives like they are for every other man and woman who currently sits on the Supreme Court? Just what is it about Judge Kavanaugh that has rendered stalwart defenders of the Senate's power to review nominees, including those on the Judiciary Committee, to have such a profound about-face?

No one is entitled to a lifetime appointment to the Supreme Court. Yet the majority has treated this job like the personal property of Judge Kavanaugh ever since the President announced his nomination.

My Republican colleagues have said a great deal about the importance of preserving a fair process for the consideration of the Supreme Court nominees. Some of these arguments are simply outrageous. In the recent past, Democrats and the majority worked on a bipartisan basis to obtain nearly all relevant documents from then-Solicitor General Kagan's work in the White House before holding a vote on her nomination to the Supreme Court. Today, we are set to vote on Judge Kavanaugh with roughly 90 percent of his record still kept secret. Yes, in the recent past, Democrats made the difficult choice to end Republicans' historically unprecedented obstruction of hundreds of President Obama's judicial nominees by eliminating the 60-vote threshold for judicial nominees, except to the Supreme Court of the United States. Democrats recognized that the Supreme Court is one of the most important institutions in this country, that it operates as the effective check on both the legislature and the executive branches, that it is the ultimate interpreter of the Constitution of the United States, and that in order to have members on that Court who are consistent with the Constitution and thoroughly accountable to the American people, not special interests, a simple majority to get to the Court is inadequate. This process demonstrates that.

Last year, they broke historical precedent and basic decency by denying Chief Judge Merrick Garland so much as a meeting or a hearing on his Supreme Court nomination. Again, for over a year, the Republican majority refused to consider the nomination of Judge Garland to the Supreme Court, and now they insist we have to move expeditiously to fill this gap, that it is so critical that we can't wait 2 weeks, 3 weeks, or 4 weeks for a thorough investigation. We have to do it now. But we didn't have to do it when President Obama submitted, pursuant to the Constitution, the nomination of Judge Garland.

Once Judge Gorsuch was presented to us, the Republicans abandoned the 60-vote threshold, and at every turn, Republicans have, in my view, escalated these so-called judicial wars, and this rush to confirm Judge Kavanaugh, despite the allegations against him, brings us closer than ever to a crisis of confidence in the Court.

The need for more time and more answers with regard to Judge Kavanaugh's record have become overwhelming since Dr. Ford, Deborah Ramirez, and others came forward. These women have put aside their privacy, professional lives, and the safety and security of their families in order to bring to light their allegations against Judge Kavanaugh. Regardless of how one feels about the truth of their claims, they have been met with treatment that should be beneath us as a nation. They have been mocked and attacked in disgraceful and sexist terms by public figures who should know better, including the President himself. They have been called liars, had their motives questioned, and had their private lives picked apart on the national stage.

The Judiciary Committee has now had the opportunity to hear from Dr. Ford, and the FBI has conducted a limited background check on some of the allegations against Judge Kavanaugh, but this process still doesn't pass the simple common sense test. If there is no truth to these allegations, as the nominee and our Republican colleagues claim, why was it so difficult to agree to an FBI investigation in the first place? For that matter, what serious investigation is forced to finish in less than a week with limits on which leads it can follow? What person, upon hearing that a child or a relative of his or her own had been harmed, would be satisfied with such a short and apparently outcome-driven process? What is the majority hiding?

I will not parse the details of every allegation against Judge Kavanaugh here today, but I will say this to my Republican colleagues: Look around you. Our Nation is undergoing a historic and long-overdue reckoning with abuse of power, sexual harassment, and sexual assault. It is regrettable that the Supreme Court confirmation process has once again become a forum for the larger debate about these matters, but there is no convenient way to reckon with longstanding and painful injustice. This is the issue before us, and we must face it. History will not look kindly, if it looks at all, on those who take the easy way out, using distraction, false equivalence, and personal attacks to preserve a partisan win at all costs.

Given the growing number of doubts that this process has raised about Judge Kavanaugh's honesty and trustworthiness, he cannot begin to meet the test that I have applied to every Supreme Court nominee, regardless of party, during my service in the Senate. I have voted against nominees in the past because I did not believe that their jurisprudential records demonstrated that they would use their discretion to give meaning to the promises of the Constitution. But never before have I had to stand here and oppose a nominee to the Supreme Court for those very same reasons and because I do not believe that he is trustworthy. I regret that I must do so now.

When it comes to Supreme Court Justices, character is a nonnegotiable requirement. Supreme Court Justices are expected to have a record of high personal and professional achievement. They are not supposed to be partisans or politicians. They are given an awesome power for life. They can certainly have flaws, but their relationship to the truth and their willingness to avoid the appearance of emotion are not up for debate. To serve in judgment of 325 million of their fellow citizens, they must be above the fray, particularly in these difficult and divided times.

If Supreme Court decisions were simply a mechanical application of foregone legal conclusions, then it wouldn't matter who sat on the Court. Rather, a Justice's power rests in the discretion to choose among competing and well-reasoned arguments to decide how the promises of the Constitution will apply for generations to come.

In order to support a Supreme Court nominee, I must believe she or he will use that discretion to give meaning to the American tradition of equal justice under law. This means strictly scrutinizing laws that obstruct and distort the effective operation of government and channels of political participation. It means rejecting arbitrary abuse of power and demanding the most compelling justification for laws that single out powerless, discrete, and insular minority groups for disfavored treatment under the law.

When the Court has acted in accordance with these principles, it has resolved issues of national concern that threaten to tear the fabric of our Nation apart, and has done so in a manner that preserves the perception of impartiality that is vital to our judicial institutions. The Court struck the final blow against legal segregation. It safeguarded constitutional voting rights, guaranteed Americans the power to choose how to start their families, separated church and State for the mutual benefit of both institutions, and even ordered sitting Presidents to comply with the law.

The snarling, conspiratorial partisanship that Judge Kavanaugh displayed at his second hearing was a far cry from the historical principles that have preserved the Court as an institution. Without evidence, he blamed ''the left'' and ''left-wing opposition groups'' for revelations about his past behavior, calling it ''a calculated and orchestrated political hit.'' He characterized Dr. Ford and others as liars and claimed that their desire to come forward was simply ''pent-up anger about President Trump and the 2016 election.''

How many of the advocacy organizations that regularly try cases before the Court fit his definition of ''left-wing opposition groups''? How is anyone supposed to believe that Justice Kavanaugh would approach a politically charged case with an open mind after this display?

I fear that some are willing to overlook the clear defects in this nominee and this confirmation process because they want a Justice Kavanaugh to deliver long-desired legal victories for partisan causes. President Trump has clearly expressed his expectations for his nominees to the Court and even outsourced the vetting process to far-right special interest groups. The goal of this process is no mystery: a decisive majority on the Supreme Court that will eviscerate the underpinnings of Roe v. Wade and undo the constitutional right to privacy, as well as expand the Second Amendment to block even commonsense gun safety laws. Critically, the President also wants to bring even more functions of government solely under the control of the White House so that he can quickly and easily dismantle protections for workers, the vulnerable, and the environment.

This wish list is nothing new. It has long been the agenda of groups like the NRA and the Federalist Society to take control of the Supreme Court and accomplish from the Bench what they cannot win from the ballot box. In President Trump and this majority, however, they have found their opportunity to radically change American law for the few and the powerful.

I have no illusion about Judge Kavanaugh's familiarity with, and enthusiasm for, the partisan victories he is expected to deliver for President Trump and special interest groups as a Justice. It is also difficult for me to imagine that there would be such a rush to put Judge Kavanaugh on the Court if he were not a lifelong DC political operative and reliable partisan and an architect of the conservative legal movement, which is designed to pack the Federal judiciary with outcome-driven ideologues like him. He has already amassed a body of work that shows how he can and will deliver for the movement that has groomed him for this moment.

Judge Kavanaugh has demonstrated a dangerously expansive view of Presidential power. The President is not a King, and this is because the Constitution establishes separation of powers and a system of checks and balances to ensure that no arm of government can overpower the others.

The Framers recognized the particular danger of a Supreme Court without judicial independence. In Federalist 78, Alexander Hamilton quoted Montesquieu, saying that ''there is no liberty, if the power of judging be not separated from the legislative and executive powers.'' He added that ''liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments.''

Based on his writings, I fear that a Justice Kavanaugh is predisposed to provide the deciding vote on the President's agenda before cases against him even reach the Supreme Court. For example, the Supreme Court has never had to decide whether a sitting President can be prosecuted for Federal crimes. It is perhaps more important now than ever in our history to ensure that a nominee to the Court can approach questions of Presidential accountability with independence and an open mind. Judge Kavanaugh cannot seriously claim to have either on this issue.

As a veteran of the Starr investigation into the Clinton White House, Judge Kavanaugh understandably has strong feelings on the issues of civil and criminal prosecutions of sitting Presidents. In 1998, Kavanaugh authored a law review article discussing a now-defunct independent counsel statute in detail and recommending changes to the statutory scheme. He argued there that Congress should pass a law prohibiting the indictment of a sitting President until after the President's term in office. But he made it clear at several points that he believes such a law would codify what to him is already plain in the Constitution—that a President is above our criminal law while he holds office.

His views about Presidential accountability did not evolve over time, as seen in the various ways he continued to share his views over the years. In 1999, he told a reporter that he doubted whether the Supreme Court got it right in United States v. Nixon, the landmark case that held the President could not always use Executive privilege to escape a subpoena to turn over records in a criminal case. For those who lived through Watergate, it was the Supreme Court's decision that I think, more than anything else, preserved the stability of the Union and the power of the Constitution over partisan politics. It led to President Nixon's resignation. It also convincingly showed that the Court could take a decision seriously with respect to the Constitution without considering the political effects.

Justice Kavanaugh believes they were wrong, that President Nixon should have been allowed to defy the Court, defy the country, and maintain secret the tapes of his discussions in the White House that ultimately led to his resignation.

In 2008, as a judge on the DC Circuit, Kavanaugh published another article suggesting policies to improve the functioning of the Federal Government, which reiterated his support for a law to defer all civil and criminal cases against the President while the President holds office.

To be clear, lawyers and legal academics have debated these issues of Presidential power and accountability from the founding of the Republic. This debate is particularly relevant in light of how easily a governing majority of the President's party can crush congressional efforts to investigate wrongdoings by the President and his administration. Judge Kavanaugh has every right to publish his thoughts for legal academia, but he cannot have it both ways. He cannot spend 20 years arguing that the Constitution forecloses

criminal investigations of a sitting President and claim now that he approaches the issue with an open mind.

We may soon need clear answers from the Court about whether a President can pardon himself and whether he can be subpoenaed, indicted, or otherwise held to account for wrongdoing. If such a case were to rise to the Supreme Court, it would be gravely damaging to the Court as an institution if the American people were to believe that the President had already secured the votes he needed to win because of his judicial appointments.

It is also clear that Judge Kavanaugh comes to this nomination with his mind made up to deliver other important victories for the President and powerful corporate interests at the expense of Federal agency autonomy and independence.

Judge Kavanaugh spoke 2 years ago on a panel before a conservative special interest group where he was asked if he could think of a case that deserves to be overturned. After some hesitation, he answered that he would ''put the final nail in the coffin'' of Morrison v. Olson, which upheld the constitutionality of an independent counsel who could be fired only ''for cause'' by the President.

This deserves consideration. When given the chance to name any case he would overturn, Judge Kavanaugh did not think to name any of the most egregious cases from our early history as a nation, such as the now-overturned Korematsu decision, which upheld Japanese internment, or Buck v. Bell, which upheld compulsory sterilization of the intellectually disabled. Instead, Judge Kavanaugh made it clear that he would strip Congress of its constitutional authority to protect apolitical public officials, like Special Counsel Mueller, from arbitrary interference and firing by the President.

Just this year, Judge Kavanaugh showed that he was serious. In PHH Corporation v. Consumer Financial Protection Bureau, the full DC Circuit upheld the constitutionality of the statute creating the CFPB and providing that its independent Director could be removed by the President only for cause.

In his scathing dissent, Judge Kavanaugh quoted at length from Justice Scalia's dissent in Morrison v. Olson and made it clear that he would have placed the CFPB Director under the thumb of the President. I believe it is safe to assume he would have gone even further in undermining the consumer agency's independence if he had the power to overturn Morrison altogether.

This is not the only area where a Justice Kavanaugh would deliver long-sought-after victories for conservative operatives and special interests. He has also made clear that he would undercut or even overturn the law of Chevron deference. As this body discussed at length in debate over Justice Gorsuch's nomination, the Chevron case stands for the proposition that when someone sues a Federal agency and a reasonable person could read the statute at issue in more than one way, the Court should defer to the agency's reasonable interpretation of the law that the agency is charged with enforcing. Put simply, Chevron prevents big businesses that are trying to escape regulation from pouring millions into lawsuits to second-guess and slow down every piece of the rulemaking process that they don't like. Even Justice Scalia defended Chevron as a reasonable check on judicial activism. But like Judge Gorsuch, Judge Kavanaugh has made it clear in his academic writings that he would overturn Chevron as we know it and systematically tip the scales in favor of well-funded challengers of regulation.

In my view, such a major change in the law would put our Nation on a path back to the bad old days when companies could pollute the environment, scam their customers, and discriminate against their employees as long as they could pay enough lawyers to get the right judge when the Federal agency sues. This would bring us one step closer to the ''deconstruction of the administrative state'' that the Trump administration envisions and could severely obstruct future administrations in their efforts to protect consumers, the environment, and those who need a helping hand against the very powerful.

I would like to take a minute to return to the concept of judicial discretion. As I discussed, I have evaluated every nominee for the Supreme Court during my time in this body based on whether I believed the nominee would have an open mind to be able to use his or her discretion to promote equal justice under the law, and to safeguard the powerless against the powerful. Upon review of Justice Kavanaugh's opinions, I do not believe he would. He has routinely sided with employers and big business against workers, consumers, and those seeking to hold powerful interests to account.

Two of his notable opinions illustrate the contrast between his treatment of interests he favors and those he does not.

The case of SeaWorld of Florida v. Perez concerned a tragic incident at the theme park in which a killer whale grabbed its trainer, pulling her into the water and killing her. This was not the first trainer this whale had killed in this way. The Department of Labor sanctioned SeaWorld upon concluding that the company knew about the danger this whale posed to trainers and failed to take reasonable steps to lessen the risk. A Federal district court affirmed this conclusion, as well as the District of Columbia Circuit.

Judge Kavanaugh dissented. He argued that it was inappropriately ''paternalistic'' for the Federal Government to regulate matters of workplace safety for entertaining displays such as killer whale exhibitions. To him, the free market, rather than potentially lifesaving workplace safety regulations and standards, should decide how dangerous is too dangerous for workers.

Compare this narrow view of a worker's right to a safe workplace with Judge Kavanaugh's broad view of an employer's religious right to opt out of regulations.

The case of Priests for Live v. HHS concerned an attempt to broaden the Supreme Court's holding in the Hobby Lobby case. In Hobby Lobby, a 5-to-4 majority of the Supreme Court held that a closely held, for-profit corporation could refuse to comply with the Affordable Care Act's mandate that employers provide health coverage, including contraceptives, on grounds that doing so would conflict with the corporation's purported religious rights under the Religious Freedom Restoration Act, or RFRA.

In Priests for Life, a religious nonprofit corporation similarly objected to providing contraceptives to its employees on religious grounds but also objected to an accommodation provided under Affordable Care Act regulations specifically for religious nonprofits. Under the accommodation, the organization could file a form that lodged a faith-based objection to contraceptive coverage, thereby permitting its employees to access coverage through alternative means, and not through the company directly. Priests for Life sued to invalidate even this alternative, claiming that filing the faith-based objection was a religious burden because it caused its employees to receive contraceptive coverage. The DC Circuit decided against the organization because the organization was wrong, strictly as a matter of law, that the filing of the form caused a change in the employees' access to coverage.

Judge Kavanaugh dissented, arguing that it should not matter whether a nonprofit's religious objections were strictly correct as a matter of law in order for the objection to excuse it from complying with the law. If the Supreme Court were to adopt this view, it would open the door to dangerous possibilities. In addition to nonprofits, for-profit corporations like Hobby Lobby and others could use religious objections to excuse themselves from an untold number of Federal laws, ignoring, in the process, the religious and practical needs of the employees—the men and women of conscience who work there and the consumers who would suffer the consequences.

Contrasting these two cases—one showing Kavanaugh's narrow view of an employee's right to a safe workplace, the other demonstrating his troublingly broad view of an employer's right to opt out of following the law—it became clear to me that Judge Kavanaugh would use his discretion as a Supreme Court Justice to expand the rights of the powerful at the expense of everyone else.

Supreme Court Justices hold extraordinary positions of authority in our

constitutional system because they are the only ones with the power to decide that the governing majority—as well as prior Justices on the Court—got it wrong. The Constitution guarantees every American certain rights that are beyond the reach of the President or a simple majority of Congress to change because the popular majority cannot always be trusted to protect the interests of the minority, particularly when that minority includes the most powerless, alienated, and derided among us.

The Supreme Court's work is not automatic. It is not an assembly line. The men and women who sit on the Court must use their values and experience in order to reach the conclusions that determine how the Constitution applies to our daily lives. I read Judge Kavanaugh's legal record to show that he would advance a dangerous partisan agenda from the bench. Some may disagree with that conclusion, but the fact of the matter is that the majority is advancing Judge Kavanaugh's nomination in the absence of critical facts that go directly to his character and values.

A full and fair investigation—one without predetermined limits—could clear Justice Kavanaugh's name or it could cause him further trouble. But if the majority proceeds now, and he is confirmed, the shadow of doubt will always linger over his position, over the Court, and over the U.S. Senate. Americans will wonder why this nomination was rushed, and the obvious conclusion will be that it served the interests of partisan politics. Rightly or wrongly, that impression will further harden the cynicism and tribalism of those who are inclined to believe the system is rigged. That doubt in the fundamental fairness and integrity of our government is contagious, and our whole Nation suffers as it spreads. I believe we should stop this and show the American people that facts matter and that character matters.

Before I yield the floor, I would like to say one more thing to my colleagues. This process, and the majority's elimination of the 60-vote threshold for the Supreme Court to confirm Justice Gorsuch last year, is now the precedent for future Supreme Court nominations. Democratic Members should expect nothing more from the Republican majority. Every Senator should think long and hard if they are prepared for what will come next as a result of this dissolution of the Senate rules that historically preserved the institutions of the Senate as well as the Court.

The supermajority requirement for the confirmation of a Supreme Court Justice was a vital backstop against the kinds of displays we have witnessed in the past few weeks. That is why Democrats kept the 60-vote requirement in place when they were forced by a Republican blockade of lower court judges to fill a whole host of judicial vacancies with nominees who had cleared committee for district and circuit courts. Now, with a simple majority threshold, any party in power can pack the Supreme Court on party-line votes with nominees like Judge Kavanaugh, who otherwise could never rise to the highest Court of the land.

I would also note that there is no longer any obligation for a nominee to disclose all of his or her records of prior service, nor is there a need to hold fair or impartial hearings. FBI background checks need not be anything more than a mere formality, and nominees have a free hand to appear in campaign-style commercials, disrespect the Senate, and disregard traditions of decorum, so long as they put on a show that plays well with the President and the majority. After all, there is no longer any need for bipartisan consensus for a Justice of the Supreme Court.

I have served in this body for over 20 years. I have not been here for all of the so-called judicial wars, supposedly beginning with the nomination of Judge Bork, who, I will remind everyone, was defeated on a strong bipartisan vote, but I have been here for enough of the deterioration of this process to know there is blame on both sides. Democrats in this body have been aggressive when they were in power, but I would also add that scholarly research of many has documented that Republicans always found another way to escalate things each more, resulting in the position in which we now find ourselves.

Without some major change on the part of the majority, I hope there is no illusion among my colleagues that what we have endured over the last few weeks is anything but the beginning of what is to come. I stand ready—and I think many of my colleagues on the other side stand ready—to search for a bipartisan solution and return to a path in which all of us—at least the vast majority of the Senate—have overwhelming confidence in the ability and the dedication of a nominee to the Supreme Court under the Constitution of the United States.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, I come to the floor to speak in opposition to the nomination of Judge Kavanaugh to the Supreme Court.

I want to make a few quick points as we conclude this debate today, and then I want to speak to the people watching who may not believe what the Senate could be headed toward today—who are shocked and angry, frustrated and hurt.

First and foremost, I believe Dr. Ford. I believe her when she shared her experience of being assaulted by Judge Kavanaugh. I believe her because of what she said, and she remembered with 100 percent certainty.

I believe her despite what some Republicans are trying to use to tear her down because I know trauma experts tell us survivors may not remember every single detail of these events.

I believe Republican leaders and President Trump did everything they could to hide the facts and rush this through because they were afraid of what a full investigation would show, and I believe it is simply wrong to rush to a finish on this confirmation based on that alone.

I also believe that what we saw of Judge Kavanaugh's temperament in the hearing last week—his bitter partisanship, his rage, his disrespect—was absolutely disqualifying as well and will undermine the Supreme Court and erode trust in the decisions they make.

I believe the lack of credibility and honesty he demonstrated in his hearings, which I and my colleagues have spoken about at great length, is absolutely disqualifying as well, and this isn't just me saying this. We are hearing an unprecedented outcry on this particular point from lawyers and judges and former clerks and the religious community, and even Supreme Court Justice Stevens. Even setting aside those issues, before Dr. Ford's allegations came out and before we saw more of Judge Kavanaugh in those hearings, I opposed his nomination because it was so clear he was picked by President Trump for a few key reasons.

Specifically, he would overturn Roe v. Wade and gut women's healthcare; he would gut healthcare reform and end protections for patients with preexisting conditions; and he would protect President Trump with his disturbingly expansive view on Presidential power, which is particularly dangerous when we have a President under investigation with members of his campaign and administration going to jail and facing indictments.

That is not all we know about him, but we know those things, and to me that was enough to make my decision. So I do oppose Judge Kavanaugh, and I hope we can do the right thing in the Senate today.

I want to spend the rest of my few minutes this morning making a different point and not just to my colleagues but to the people who are watching from home and across the country because I am very concerned about the message Republican leaders are sending today to women and girls and survivors—the message they are delivering on the Senate floor, at rallies, through the press, and directly to the people.

To Dr. Ford and Ms. Ramirez, and so many other women, girls and survivors, these Republicans are saying your voices don't matter. Your experiences, your trauma, your pain, your heartache, your anger—none of that matters.

Their message is: We don't have to listen. We don't have to care. Sit down. Be quiet. They are sending the message that if you are a woman who was attacked, if you are a survivor, then your experience is just one more ''hiccup'' to ''plow right through'' on the path to get what they want; that if you come forward with your experience, you will

be told you are just ''mixed up,'' wrong, lying, or worse.

They are sending a message that you will be asked why you didn't come forward sooner, what you wore, how much you had to drink, what medication you were taking, if you had any history of mental issues, how you got to the party, how you got home; that you will be mocked and undermined, told to ''grow up'' and waved away, and that is just if they can't find a way to sweep you aside and ignore you altogether.

They are sending a message that when it comes to a man who has gone to prestigious schools, who has all the connections, who has spent his entire life setting himself up for this moment, it is his experience that matters, his pain that matters, his future that matters, not yours.

They aren't just sending a message to women and girls and survivors, they are sending a message to men and boys, too, and that is what frightens me just as much. They are sending a message to them that if they attack women, if they hurt people, they are going to be fine; that they may hear that this kind of behavior is wrong, that it is not acceptable, but don't worry, nothing will actually happen to them if they do it.

They can grab women without their consent and brag about it, they can sexually assault women and laugh about it, and they are probably going to even be fine. They can even grow up to be President of the United States or a Justice on the Supreme Court.

That is absolutely wrong.

So I want to send a very different message to women, girls, and survivors: Your voices do matter. Your experiences do matter. There are a whole lot of people who are listening to you, who do hear you, who do believe you. Please, please do not give up and do not stay quiet because no matter what happens today, however this vote goes, your voices are making a difference, maybe not to those Republicans mocking Dr. Ford—they may not want to hear what you have to say—and maybe not to President Trump, but with every story that comes out, every new voice that breaks the silence, we make progress. Every father and mother who learns what happened to their daughter or son all of those years ago that they had never shared before, every son and daughter who hears from their mom and dad about abuse or attacks they faced and never talked about, everyone who hears from a friend, who listens to a coworker, it does make a difference.

We have seen that since the #MeToo movement started more and more. More and more over these past few weeks, stories came out helping people understand how pervasive this is, how this kind of violence is something women have been putting up with for ages, in silence, unheard, seemingly inevitable, a wall placed in front of every girl and woman in this country and how, as more and more people have so bravely spoken up, cracks have begun to appear in that wall.

There are some cracks in how people see the world, people who may have never understood before, who may have never seen the perspective they are learning about more and more now, some cracks in how companies and institutions need to respond, which may have never felt that pressure before. There are some cracks in how men and boys are acting, hearing more and more that this is not OK. It cannot be accepted. It will not be accepted.

Cracks, cracks, and cracks, but clearly today we see the wall still stands.

If Judge Kavanaugh is confirmed, despite all of the outcry and all of the work done, there will be a lot of people who are angry and hurt. I will be one of them. There will be frustration. There will be tears. I will be joining in them. But there will also be a sense that nothing we can do matters; that if someone like Judge Kavanaugh can get a seat on the Supreme Court, we should just give up; that we can't make a difference, we can't matter. That, I will not be a part of.

Here is the message I want to send today: Change is not easy. It never is. We cannot give up the fight, and we cannot be discouraged. My vision, my fight, my passion is to live in a country where my granddaughters can walk down the street, go to a party, live their lives, not live in fear but be treated with respect.

I want to live in a country where my granddaughters can go into a job interview and be judged based on what they can do, not on how they look. I want to live in a country where you can succeed no matter where you were born, what you looked like, or whom you love; if you work hard and treat others right, where you don't have to go to prestigious schools and know powerful people and make the best political connections and go to the right parties. I want to live in a country where if you do all of those things and know all of those people but hurt others and treat people with disrespect, you will pay the price, you will face the consequences.

Clearly, we are not there yet, but I do believe we are making progress. We may not feel it every day, and today is a day when it is hard, but I believe, and my message to everyone watching right now is, don't give up; don't give in; don't think your voice doesn't matter.

When the Senate failed Anita Hill and confirmed Justice Thomas in 1981, I got mad. I decided to run for the Senate. I wouldn't let anyone tell me I had no shot, and I won—and I see that story repeated over and over. People get angry. They start talking about it. They organize it, and sometimes they face their past, but they make a difference. They put more cracks into that wall, but when I hear people give up hope, when they tell me they are ending their fight because they think what they do doesn't matter, I know I am hearing from someone who isn't going to make a difference.

I think of a line I remind myself of all the time: If someone tells you, you can't make a difference, it is usually because they are afraid that you will. They are afraid that you will because it is true. They are petrified because they do know your voice matters—whatever you may think, whatever they may say.

So whatever happens today, I am going to get up tomorrow, and I am going to keep fighting. I am going to keep fighting for the kind of country I want to live in, for the country I want for my granddaughters, for all of our granddaughters and all of our grandsons—a country where someone like Dr. Ford is believed, where she is not attacked; where someone like Judge Kavanaugh doesn't get rushed to the highest Court in the land. I really hope everyone who stood up and spoke out, who is motivated by Dr. Ford and so many others, I hope you are all with me today, tomorrow, and for the fight ahead.

So I urge my colleagues to stand with us, to vote no today, and to keep working with us tomorrow.

Thank you.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan

Mr. PETERS. Madam President, our Nation has seen some deeply concerning trends in recent decades—increased polarization, flat wages for workers, and a growing tribal mindset that makes it increasingly difficult for people to trust each other and our public institutions. We are also seeing a partisan divide that is growing stronger and wider by the day.

For example, 60 years ago, about 4 percent of Americans said that they would be seriously disappointed if their son or daughter married someone from the opposite political party. Today, it is almost half.

We are also seeing a growing economic divide. Fifty years ago, 9 out of 10 30-year-olds in America were better off than their parents at the same age. In 2010, only half were. It feels like the bonds that make us a cohesive society are fraying and that life in the United States is growing more unfair for so many Americans. Bringing our country back together and strengthening our bonds with each other will not be an easy task, but, without question, the Supreme Court has an unparalleled ability either to move our society forward or to pull us further apart.

Unanimous opinions by the Supreme Court to strike down segregation in public schools, to affirm the right of criminal defendants to an attorney, and to rein in the use of executive privilege by President Nixon show the ability of ideologically diverse judges to agree on what is fair and what is right, but the Supreme Court as an institution is far, far from infallible.

The same institution that just 3 years ago made marriage equality the law of the land also upheld the internment of American citizens of Japanese dissent while our parents fought to liberate prisoners held in German concentration camps across the Atlantic

Ocean. The same institution that gave American women the right to make decisions about their own reproductive health in Roe v. Wade denied citizenship to African American slaves in the shameful Dred Scott decision.

Some of my colleagues have said they have confidence that Judge Kavanaugh believes in Roe v. Wade and that it is the settled law. I hope they are right, but I seriously doubt it. I think that, if confirmed, Judge Kavanaugh will spearhead the continued erosion of rights for American women, and if given the chance, he will vote to overturn this settled precedent.

Lots of talk in Washington about the Supreme Court centers on precedent, power, or procedure, but I would argue that voting for a Supreme Court nominee is fundamentally about people. In making a decision on how I will vote on a Supreme Court nominee, I ask two questions: First, how will the nominee serve the people of Michigan? Second, how will the nominee serve the Nation as a whole?

Now, more than ever, I think we need our Supreme Court not to be just fair. We also need Americans to truly believe that the Justices that make up the Supreme Court are fair and capable of dispassionate deliberation. No human being, of course, can be entirely impartial or without bias, but we need Supreme Court Justices who are able to understand their biases and set them aside for the good of the country. What we need is fairness. What we need is trust.

Our fraying social fabric can only be rebuilt by trust—trust in our institutions, trust in each other, and trust that our courts will give every American a fair chance in an era where corporate profits are ballooning to record levels. But 40 percent of Americans don't have the savings to cover a $400 emergency expense. A breakdown of trust undermines our democracy. The farther and faster we retreat to our partisan tribal corners, the harder it will be to ever meet again in the middle.

While Americans expect partisanship from their elected officials, they expect better from our judges. Our Founders created a coequal branch of government dedicated to fairness, and that was the Supreme Court, but, unfortunately, when I examine the record of Judge Kavanaugh, I do not see an open mind. I do not see fairness. I see a partisan ideologue who will do judicial backflips to rule in favor of large corporations, the powerful, and the elite.

When the Supreme Court conducts its duty to advise and consent on Supreme Court nominees, we often talk about methods of constitutional interpretation. Some judges are textualists. Some are originalists. Some are pragmatists. I believe Judge Kavanaugh is a corporatist, pure and simple. He starts with the outcome that corporate executives would want, and then he works backward. I believe this is the unifying theme of his rulings over the past decade.

Let's take a moment to review his record.

Judge Kavanaugh sided with big polluters when he wrote that the Environmental Protection Agency could not enforce their ''good neighbor'' rule. This commonsense rule simply requires States whose air pollution blows across their State's lines to bear some of the responsibility for those downwind emissions. The good neighbor rule is one of the best ways to crack down on sulfur dioxide, a noxious pollutant that has created a public health crisis in Detroit, with childhood asthma rates almost 40 percent above the national average. More sulfur dioxide in the air means more children in hospitals and fewer children in the classroom.

Judge Kavanaugh substituted his own values and judgment for the decisions of Congress and the EPA, but, fortunately, even conservative Justices on the Supreme Court voted to overrule him and allowed the good neighbor rule to stay in place.

Judge Kavanaugh apparently does not believe in good neighbors, and he also does not believe in good bosses. He has consistently ruled against workers and their interests every chance that he gets.

He wrote a dissent saying that companies can simply walk away from collective bargaining agreements made with their workers by just creating a spin-off, a nonunion company. He ruled that companies can call the police to prevent workers from exercising their right to peacefully picket. For Judge Kavanaugh, the First Amendment right to speech and assembly comes second to a corporation's bottom line. This is the judicial philosophy that the Republican majority is just hours away from elevating to the highest Court in the land.

Based on a review of Judge Kavanaugh's rulings, it will be clear that if something is good for consumers, he will find a way to oppose it.

For example, Judge Kavanaugh sided with large telecom corporations over Michigan families, startups, and small businesses when he wrote a dissent to gut net neutrality protections. Judge Kavanaugh sided with payday lenders, financial fraudsters, and global megabanks when he ruled that the Consumer Financial Protection Bureau was unconstitutional.

Not only does Judge Kavanaugh always rule directly in favor of the largest corporations and powerful special interests, but his rulings show that he wants to further tilt our campaign finance system in their favor. He has spoken out and ruled in favor of unlimited political spending in Federal elections.

In 2011, Judge Kavanaugh authored an opinion that would allow foreign nationals—not Americans, but foreign nationals—to spend unlimited, yes, unlimited money on issue ads in American elections. If you like dark money undermining our free and fair elections, well, Judge Kavanaugh is definitely your guy. I think Judge Kavanaugh genuinely believes that money is speech and that corporations are people. To him, Americans are only an afterthought.

I know many Americans are wondering whether Judge Kavanaugh will look out for their best interests if confirmed to the Supreme Court. I hear it all the time as I travel across Michigan.

To my fellow Americans, I would say this. If you enjoy breathing clean air, if you have a boss, if you care about not being defrauded by financial bad actors, or if you care about a woman's right to choose, Judge Kavanaugh will not be providing the fairness you seek.

Like many Americans, I followed closely the testimonies of Dr. Ford and Judge Kavanaugh before the Senate Judiciary Committee. As I watched Dr. Ford, I didn't see a partisan ideologue motivated by politics. What I saw was a woman speaking with credibility, with earnestness, and incredible bravery.

As I watched Judge Kavanaugh testify before that same Judiciary Committee, I saw something very different. I didn't see the temperance and humility we expect from a Supreme Court justice. I saw rage and I saw entitlement. I didn't see a thoughtful legal mind bound by precedent or tradition. I saw a partisan political operative cloaked in judicial robes bestowed upon him last decade by a Republican majority flexing their political muscle. I didn't see an umpire who wants to call balls and strikes. I saw a man who believes he is the league's commissioner, a man who thinks he should have the power to rewrite the rules of the game to help his powerful friends. I didn't see a man committed to fairness and building trust. I saw a man committed to consolidating power and scoring political points. I saw a man whose fluid relationship with the truth is beneath the U.S. Senate and beneath the U.S. Supreme Court.

Today, more than ever, America needs trust and we need fairness. Judge Kavanaugh's confirmation will provide only more division in our country and cast a cloud over the decisions of the Court for years to come.

I urge my colleagues to oppose Judge Kavanaugh's confirmation and to start over with a nominee worthy of our Supreme Court.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. BALDWIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. BALDWIN. Madam President, there is one standard we should all apply to any nominee for the U.S. Supreme Court—honesty. While some

have chosen not to apply that standard to Judge Kavanaugh, I must. At the very least, we should expect a nominee for our highest Court to be honest.

I do not believe Judge Kavanaugh has met this standard. In fact, there is a long record of this nominee not being truthful when he came before the Senate Judiciary Committee. I don't believe he was truthful in his 2006 testimony before the Senate, just as I don't believe he was honest in 2018.

Last week, I joined millions of Americans in watching Dr. Christine Blasey Ford's powerful testimony before the Senate Judiciary Committee, in which she credibly presented serious and deeply disturbing allegations of sexual assault. I have deep respect for the strength and courage she has shown in coming forward and putting her own safety and that of her family on the line to do the right thing. To me, Dr. Blasey Ford was honest, and I believe her.

I supported the call for the White House to reopen the FBI background investigation of Judge Kavanaugh. Dr. Blasey Ford did too. However, in his testimony to the Senate Judiciary Committee, Judge Kavanaugh repeatedly refused to support such an investigation by the FBI.

It is clear to me that the White House and the Senate Republicans severely limited what could have been a full and independent review by the FBI of the credible allegations against the Supreme Court nominee. The fact is, White House and Senate Republicans would not allow the FBI to interview Dr. Blasey Ford, Judge Kavanaugh, and a number of witnesses who came forward publicly. That is simply wrong.

It is also wrong to be moving forward on a Supreme Court nominee who so clearly lacks the honesty and judicial temperament we would expect of someone serving on our Nation's highest Court.

Let us not ignore what we all witnessed at last week's Judiciary Committee hearing. We saw a stark contrast between two witnesses. Dr. Ford was honest, credible, respectful, and thoughtful. On the other hand, Judge Kavanaugh was not honest about a number of things he was questioned about, and he did not provide truthful testimony. What he did provide were aggressively angry, political attacks that prove he lacks the judicial temperament to serve on America's highest Court. Even before Judge Kavanaugh's recent hearing, I did not believe he would be an independent judge.

Powerful special interests in Washington handpicked him and have used their massive, dark money resources to push his nomination forward. I can only conclude that Judge Kavanaugh would work for them and not the people of Wisconsin or our Nation. It is no wonder Judge Kavanaugh is the choice of these powerful, wealthy, corporate special interests. They want to ensure that they maintain the majority on the Supreme Court that will rule on their issues and in their favor.

As my colleague and Judiciary Committee member Senator WHITEHOUSE has described in great detail, since 2006, the five conservative Justices have joined together 73 times as a bare majority in 5-to-4 rulings in favor of big special interests. These decisions have turned back progress on voting rights, environmental protection, and have allowed corporations to discriminate against workers.

Judge Kavanaugh's record shows he will advance this troubling trend when the people of Wisconsin need a fair, impartial, and independent Supreme Court Justice who will stand up for them, not just for big, powerful special interests.

At a time when so many in Washington are working to overturn the law of the land that helps provide affordable healthcare to 133 million Americans with preexisting conditions, including more than 2 million Wisconsinites, we cannot afford a nominee who would serve as the deciding vote to take us back to the days when powerful insurance companies wrote the rules.

The President vowed to appoint judges to the Supreme Court who would overturn the law of the land, Roe v. Wade, and I take him at his word. Judge Kavanaugh is his choice for a lifetime appointment that would turn back the clock on a woman's constitutional right and freedom to make her own healthcare choices, including access to birth control.

I also have serious concerns about Judge Kavanaugh's belief that a President should be protected from investigations and subpoenas and indictments. We have an ongoing national security investigation by the special counsel looking into Russia's attack on our democracy, criminal conspiracy, and potential obstruction of justice.

Particularly after his highly partisan testimony before the Judiciary Committee, I do not trust Judge Kavanaugh to provide the independence we need on our Supreme Court at this time. When Judge Kavanaugh was nominated, I reviewed his record and opposed his nomination because the stakes are too high for the American people. They do not want a Supreme Court to advance a political agenda to overturn the law of the land on healthcare for people with preexisting conditions, women's reproductive health, and the constitutional rights and freedoms of all Americans.

I truly wish I had been granted the opportunity to discuss these important issues with Judge Kavanaugh before this vote, but after seven requests to the White House for a meeting with this nominee, they did not grant me the opportunity to talk to Judge Kavanaugh.

The people of Wisconsin need a fair, impartial, and independent Supreme Court Justice. Based on everything we know, I do not have the confidence Judge Kavanaugh would be that Justice, and I will vote no on his confirmation to the U.S. Supreme Court.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FISCHER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. FISCHER. Madam President, I rise today in support of the nomination of Judge Brett Kavanaugh to be an Associate Justice on the U.S. Supreme Court.

In the Senate, the Constitution grants us a solemn responsibility to provide advice and consent to the President's nominees. I was proud to be at the White House as President Trump announced the nomination of this exceptionally qualified judge.

After evaluating Judge Kavanaugh's legal record and background, I personally met with him in my office. During our meeting we covered many topics, including judicial activism. Judge Kavanaugh stated to me that judicial activism is the substitution of policy preferences for stated law. He committed to me that he would never add nor subtract from our country's Constitution, but that he would apply it fairly to all. We had a wide ranging, hour-long discussion where I shared with him the qualities I want to see in a Supreme Court Justice and questioned his record and judicial philosophies.

Judges are not legislators or activists. They are interpreters of the law. They must have integrity and understand that all Americans must be treated equally under the law. Judges must uphold high standards with a fair-minded approach, tremendous intellectual capacity, and devotion to the public good. I am confident that Judge Kavanaugh possesses all of these qualities.

Moreover, I was impressed by his commitment to the rule of law. He understands the proper role of a judge as an interpreter, not the writer, of the law. He also understands that unlike Members of Congress or the executive branch, which are accountable to the people, the judiciary must act independently and follow the law wherever it takes them. This was something we heard repeatedly from him in his lengthy confirmation hearing before the Senate Judiciary Committee.

Judge Kavanaugh demonstrated his strong commitment to judicial independence. During the hearing, he repeatedly affirmed:

> What makes a good judge is independence, not being swayed by political or public pressure.
>
> That takes some backbone, it takes some judicial fortitude. The great moments in American judicial history, the judges had backbone and independence.

He continued:

> Judges make decisions based on law, not on policy, not based on political pressure, not based on the identity of the parties.

No matter who you are, no matter where you come from, no matter how rich you are, how poor you are, no matter your race, your gender, no matter your station in life, no matter your position in government, it is all equal justice under law.

I believe his words and judicial philosophy are what every Member of the Senate, Republican or Democrat, should require from their nominee.

I also admired Judge Kavanaugh's appreciation of the Supreme Court's position in setting and interpreting precedent. He has even written a book on it, and I am comfortable with his understanding and appreciation for the role of precedent in the judicial process.

For 12 years Judge Kavanaugh has served on the DC Circuit Court of Appeals, our Nation's second most influential court. His record is remarkable. With nearly 200 controlling opinions, he has proven to be one of the most thoughtful, preeminent judges in our Nation. In 13 cases the Supreme Court adopted Judge Kavanaugh's reasoning in its decisions. This is a key point, as it was not just 13 decisions in agreement. It was Judge Kavanaugh's actual language and the thought process in his decision which were used in the opinions of our Nation's highest Court. The logic behind Judge Kavanaugh's opinions are already woven into Supreme Court precedent.

Regarding privacy issues, in United States v. Jones, Judge Kavanaugh dissented when the court denied the government's request for a rehearing. He argued that the case deserved to be heard by the full court and indicated support for the narrow property-based Fourth Amendment argument made by the plaintiff.

When considering whether a warrant was required in order to install a GPS tracker in the suspect's car, he said the suspect's property rights should have been taken into account. In Justice Scalia's majority opinion, he agreed with Kavanaugh's property-based approach.

When it comes to administrative law, he has taken a consistent and balanced approach to assess congressional intent and applying exceptions to Chevron deference, ensuring Federal agencies are executing the laws crafted by Congress, not creating their own versions of the law. According to his own words, Judge Kavanaugh looks to the ''settled, bedrock principles of constitutional law.''

In protecting Congress, he has found that ''the President and federal agencies may not ignore statutory mandates or prohibitions merely because of policy disagreement with Congress.''

Judge Kavanaugh also has a strong comprehension of freedom of speech under the First Amendment. He demonstrated this in his decision in the case of Boardley v. U.S. Department of the Interior. This particular case dealt with a Christian man, Michael Boardley, who was stopped by the National Park Service from handing out pamphlets on his faith at Mount Rushmore. Judge Kavanaugh joined the majority in ruling against the Park Service and their exceedingly broad regulation of free speech. In authoring hundreds of opinions, while joining hundreds of others, Judge Kavanaugh has distinguished himself as a thought leader on the Federal bench.

Over the past few weeks, I believe the Senate confirmation process has become a shameful spectacle and a disservice to everyone involved. I appreciate Professor Ford's sincere testimony. I believe she has experienced a traumatic event that no woman should have to endure. There is no evidence, though, that Judge Kavanaugh was the perpetrator. A seventh FBI background investigation of Judge Kavanaugh failed to corroborate Professor Ford's account. Moreover, there are a number of key facts missing from Professor Ford's story.

My job as a Senator is to assess the facts and make a judgment. I continue to support Judge Kavanaugh and believe he will serve our Nation with integrity and devotion to the rule of law. I am confident that Judge Kavanaugh will be an outstanding Supreme Court Justice. I look forward to voting in favor of his confirmation. He will serve the American people with distinction.

Thank you, Madam President.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MARKEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MARKEY. Madam President, I ask unanimous consent that three letters and a news article related to allegations against Judge Kavanaugh be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KAPLAN HECKER & FINK LLP,
Re Nomination of Judge Brett Kavanaugh.

New York, NY, September 26, 2018.

Hon. DIANNE FEINSTEIN,
Member, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. CHARLES E. GRASSLEY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATORS FEINSTEIN AND GRASSLEY: We have been retained to act as counsel for Elizabeth Rasor. As you are no doubt aware, Ms. Rasor was quoted in an article by Ronan Farrow and Jane Mayer in the New Yorker published on September 23rd regarding a conversation she had with Mark Judge potentially relevant to the nomination of Judge Brett Kavanaugh to the United States Supreme Court.

Ms. Rasor's recollection of what occurred is stated accurately in the New Yorker piece and she would welcome the opportunity to share this information with agents of the FBI as part of a re-opened background investigation. In the event that that does not occur, although Ms. Rasor does not welcome the unwanted attention that would inevitably result if she were to testify before the Senate Judiciary Committee, she believes that it is her duty as a citizen to tell the truth about what happened.

Accordingly, please contact me at your earliest possible convenience to make appropriate arrangements.

Very truly yours,

ROBERTA KAPLAN, Esq.

KAISER DILLON PLLC,

Washington, DC, September 26, 2018.

Hon. CHUCK GRASSLEY,
Chairman, Committee on the Judiciary, U.S. Senate.
Hon. DIANNE FEINSTEIN,
Ranking Member, Committee on the Judiciary, U.S. Senate.

DEAR CHAIRMAN GRASSLEY AND RANKING MEMBER FEINSTEIN: My firm represents Deborah Ramirez, as does the law firm of Hutchinson Black and Cook, LLC. As you likely know, a reporter recently reached out to Ms. Ramirez to ask her about an incident involving Brett Kavanaugh, President Trump's nominee for the United States Supreme Court. Ms. Ramirez answered the reporter's questions, and he, after interviewing a number of additional witnesses, wrote a story: https://www.newyorker.com/news/news-desk/senate-democrats-investigate-a-new-allegation-of-sexual-misconduct-from-the-supreme-court-nominee-brett-kavanaughs-college-years-deborah-ramirez.

That story recounts that the reporter first learned of the relevant incident from individuals other than Ms. Ramirez. The reporter then approached Ms. Ramirez, who confirmed and further described the incident. The reporter proceeded independently to verify the story with other individuals, including one who remembered contemporaneously learning of the incident (including that it involved Mr. Kavanaugh and Ms. Ramirez), and another who remembered contemporaneously overhearing a student tearfully recounting what could only have been the same incident.

Ms. Ramirez has asked that the FBI investigate further. She has done so both by direct request (through counsel) to the FBI, and by asking this Committee (again, through counsel) to involve the FBI. Thus far, however, the Committee has refused. This is illogical: An FBI investigation would allow a credible, efficient, and professional development of the facts—free from partisanship. This not only would best protect Ms. Ramirez from being dragged into a political fray, but also would best allow the Committee to learn those facts. and thereby proceed in an informed manner. Ms. Ramirez asks again: If the Committee cares about the facts with respect to the incident she has described, it should ask the FBI to investigate.

Ms. Ramirez is willing to cooperate with the Committee. To that end, she—through counsel—repeatedly has asked the Committee to speak with her about a process by which she fairly can be heard by Committee members. But the majority staff thus far has refused even to speak with Ms. Ramirez's counsel; instead, that staff has insisted that Ms. Ramirez first ''provide her evidence.'' Respectfully, that demand misunderstands the process. Ms. Ramirez has not conducted an investigation to gather materials that she now somehow can present, gift-wrapped, to the Committee. She is not a litigant, and she is not a partisan. Rather, she simply has told her story, truthfully and as best she could, to a reporter who asked. Indeed, the majority's confusion on this issue underscores the need for an FBI investigation—that is the organization that credibly could develop the additional ''evidence'' the majority references. What Ms. Ramirez can do—and all

that Ms. Ramirez can do—is simply tell what happened to her.

Ms. Ramirez has no agenda. She did not volunteer for this. But nor has she, or will she, shy away from truthfully recounting the facts. She asks only to be treated fairly. The Committee should begin by allowing the FBI to investigate.

Sincerely,

WILLIAM PITTARD.

KAPLAN HECKER & FINK LLP,
New York, NY, September 27, 2018.

Re Nomination of Judge Brett Kavanaugh.

Hon. DIANE FEINSTEIN,
Member, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. CHARLES E. GRASSLEY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATORS FEINSTEIN AND GRASSLEY: As a follow up to my letter of yesterday's date, we enclose an affidavit from Ms. Rasor executed yesterday evening.

Very truly yours,

ROBERTA A. KAPLAN.

AFFIDAVIT OF ELIZABETH RASOR

I, Elizabeth Rasor, being duly sworn, hereby depose and say:

1. I make this affidavit based on my personal knowledge.

2. I have a bachelor's degree in English Literature from Catholic University and a master's degree in Special Education from Teacher's College at Columbia University.

3. I first met Mark Judge in or around the fall of 1986 while we were both students at Catholic University.

4. We engaged in a serious, romantic relationship for approximately two years beginning in 1986 through 1988. We dated exclusively during much of that time period and attempted to reunite several times in the months afterwards until I moved to New York from Washington, D.C. in 1989.

5. While we were dating, I spent time with Mark's friends from Georgetown Prep and attended a couple of social gatherings at which they were present.

6. I met Brett Kavanaugh at a couple of social gatherings on or around 1987.

7. Brett continued to socialize with Mark and their friends from Georgetown Prep during this time.

8. At the parties that Brett and Mark attended during this period, there was frequent and wide-spread alcohol consumption

9. In or around 1988, in the context of a conversation we had about how we lost our virginities, Mark told me, in a voice that seemed to convey a degree of shame, about an incident that had occurred a few years prior, where he and several other boys from Georgetown Prep took turns having sex with a woman who was drunk. It was Mark's perception that the sexual activity was consensual.

10. To the best of my recollection, at the time of the conversation, I, and I believe Mark, were sober.

11. After this initial conversation. Mark and I never discussed this again.

12. Mark did not share with me any names of other individuals involved in this incident, and I do not have any information to suggest, one way or another, that Brett was one of them.

13. Mark and I broke up towards the end of 1988.

14. I last spoke with Mark in or around 2013. We met for lunch at Georgetown University to catch up, and I brought my son.

I solemnly swear or affirm under the penalties of perjury that the matters set forth in this Affidavit are true and correct to the best of my personal knowledge, information, and belief.

ELIZABETH RASOR,
Sag Harbor, New York, September 26, 2018.

Sworn to before me this 26th day of September, 2018

LINDSEY BECKELMAN,
Notary public.

[From NBC News, Oct. 5, 2018]

THE BATTLE OVER ACCUSATIONS GOES ON AS KAVANAUGH NOMINATION ADVANCES

(By Heidi Przybyla)

WASHINGTON—As Senate Judiciary Chairman Charles Grassley, R–Iowa, closed out his executive summary of allegations of sexual misconduct against Supreme Court nominee Brett Kavanaugh, his staff called a former roommate of Deborah Ramirez, the Yale classmate who has accused Kavanaugh of exposing himself to her.

Jen Klaus, the former roommate, told NBC News that committee staff members called her at 4:30 p.m. Thursday, put her on speakerphone and asked about Ramirez's drinking habits, whether there was a Yale student known for dropping his pants and the party culture at Yale. She says they suggested the allegation was a case of mistaken identity.

''It just gave me the impression they were suggesting perhaps it was (another classmate) who threw his penis in her face instead of Brett. Why would they be asking me this?'' said Klaus, who now resides in Brookline, Massachusetts.

In a statement to NBC News, the committee's press secretary, George Hartmann, said that ''no suggestion of mistaken identity was made. The committee has received numerous tips and asked Ms. Klaus for information she could provide one way or the other.''

''To say otherwise would not only be inaccurate, it would also call into question the motivations of the individual doing so,'' Hartmann added.

The FBI's supplemental background investigation into allegations against Kavanaugh included interviews with nine individuals and the results were sent to the White House and Senate Thursday morning. Grassley's summary said that committee staffers talked to 35 individuals.

Kavanaugh has strongly denied the allegations and his confirmation appears to have the votes to pass on Saturday after Sens. Susan Collins, R–Maine, and Joe Manchin, D–W.Va., said they would support him late Friday afternoon.

Two former Yale classmates say they have made several attempts to share text messages raising questions about whether Kavanaugh tried to squash the New Yorker story that made Ramirez's accusations public—and say the FBI did not respond to their calls and written submissions to its web portal.

The text messages involve one potential eyewitness to the incident and the wife of another potential eyewitness.

The texts are a conversation between Kathy Charlton and a mutual friend of Kavanaugh's who, NBC has confirmed, was identified to the FBI by Ramirez as an eyewitness to the incident. NBC News has received no response to multiple attempts to reach the alleged eyewitness for comment. The story detailing Ramirez's accusation was published in The New Yorker on Sept. 23. Charlton told NBC News that, in a phone conversation three days earlier, the former classmate told her Kavanaugh had called him and advised him not to say anything ''bad'' if the press were to call.

Then on September 21, according to the texts, that same person sent Charlton a text accusing her of disclosing their conversation to a reporter. ''Hellllllloooo. Don't F****** TELL PEOPLE BRETT GOT IN TOUCH WITH ME!!! I TOLD YOU AT THE TIME THAT WAS IN CONFIDENCE!!!''

9/21/18, 12:34PM
To: Kathy Charlton
From: [REDACTED]
Did you get to go through the biz plan and see [REDACTED] notes?
Hellllllooooooooo
Don't F[REDACTED] TELL PEOPLE BRETT GOT IN TOUCH WITH ME!!!
I TOLD YOU AT THE TIME THAT WAS IN CONFIDENCE!! AND
[REDACTED] CALLS ME. WTF!

''From the content and all capital letters of the text (the alleged witness) seemed to feel that there was a great deal at stake for Brett if Brett's fears of exposure ever became public,'' Charlton wrote in a statement to the FBI shared with Grassley's office on Oct. 4.

Charlton is not the only former Yale classmate of Kavanaugh's to indicate the nominee and his team were active in reaching out to their social group ahead of publication of The New Yorker story. NBC News has reported that a memo to the FBI, drafted by Kerry Berchem, questioned whether Kavanaugh ''and/or'' his friends ''may have initiated an anticipatory narrative'' as early as July to ''conceal or discredit'' Ramirez.

Both women stressed that they don't know the whole story and are drawing no conclusions but are baffled as to why they were never interviewed by the FBI or Judiciary staff.

Both say they have made numerous attempts to reach the FBI. Thursday night, after Grassley pronounced the investigation complete, Berchem sent her third email to Mike Davis, the chief counsel for the Senate Judiciary Committee, pleading for him speak with her. Similar to his responses to previous emails, Davis noted that her information was forwarded to the investigative staff. Berchem shared the exchange with NBC News.

Hartmann, the committee press secretary, said ''it would be a lie to say committee investigators did not interview Ms. Berchem. Committee investigators spoke at length with Ms. Berchem on Oct. 3. Committee investigators also extensively reviewed information provided by Ms. Berchem.''

Berchem told NBC News that she has had one call with a committee staff member to whom she gave a brief overview of her concerns but was not interviewed.

Hartmann also said the committee received correspondence from Charlton. ''In her letter, Ms. Charlton asked the committee to review her exchange, which the committee did, and said the committee should feel free to contact her if there were any questions,'' Hartmann said. ''After evaluating the information provided, the committee's professional investigators did not see a need for a follow-up call.''

THE TEXTS

The efforts by the two women have continued even as Republicans like Grassley insist that the investigation of the accusations against Kavanaugh is complete.

Berchem sent to the FBI some of 51 screen shots of text messages she exchanged with her friend, Karen Yarasavage, the wife of Kevin Genda, another alum Ramirez identified as an eyewitness, to explain why Kavanaugh and his friends should be asked whether they anticipated a story about Ramirez as early as July.

Ramirez identified to the FBI Dave Todd, Kevin Genda and Dave White as eyewitnesses who were in the room during the alleged incident, according to a source familiar with the investigation.

In July, as the Washington Post quietly researched a story on a woman accusing

Kavanaugh of sexual misconduct while they were in high school, Berchem said she received what she presumed was a misfired text from Yarasavage.

The text suggests that Kavanaugh's closest Yale friends and those Ramirez later identified as witnesses were searching for an old 1997 wedding party photo that includes themselves, as well as Ramirez and Kavanaugh, all smiling together.

The July 16 text notes that ''Whitey,'' or Dave White, sent a 1997 wedding party photo to the Washington Post. Berchem is not friends with White and assumed it was mistakenly sent to her. The text came 10 days after Dr. Ford sent an anonymous tip to the Washington Post's confidential tip line, according to her testimony before the Senate.

''Why was the 1997 photo retrieved and distributed to the Washington Post at that time? Debbie's allegations against Brett do not become public until September 23rd,'' writes Berchem in her memo.

The Post did not publish its piece identifying Dr. Christine Blasey Ford as the accuser until September.

In July, Yarasavage also began texting about an old classmate whom neither was or is close to, Rick F. On July 16, Yarasavage texted Berchem noting she found a ''box of college photos. Rick (F) etc.''

''Neither of us knew him well in college. Does she actually have photos of him?'' Berchem asked in her memo.

On Sept. 23, the day the New Yorker published Ramirez's story accusing Kavanaugh of exposing himself, Yarasavage returned to Rick F.: ''I thought I heard (he) pulled out his unit once. Could she be so wildly mistaken??''

The subject, Rick, hadn't been at Yale in the 1983–84 school year. ''She concludes by appearing to insinuate that Ms. Ramirez's memory may have been adversely impacted by problems with her father,'' writes Berchem.

On the same day, Yarasavage also texted Berchem that she was being contacted by ''Brett's guy'' and that ''Brett asked me to go on the record'' regarding the New Yorker piece.

''I believe that these September 23rd texts raise factual issues, such as the contents of the conversation if it occurred between Judge Kavanaugh and why (Yarasavage) seemed to be encouraging a false 'mistaken identity' theory involving someone who wasn't at Yale at the time of the alleged incident—that might merit the FBI's further investigation,'' wrote Berchem. NBC News has received no response to attempts to contact Yarasavage.

Mr. MARKEY. Madam President, I rise to speak in opposition to the nomination of Judge Brett Kavanaugh to serve as an Associate Justice on the U.S. Supreme Court.

The vacancy that Judge Kavanaugh seeks to fill is not an ordinary one. The retirement of Supreme Court Justice Anthony Kennedy created one of the most consequential vacancies on the High Court that this country has ever seen. There is a reason why scholars and pundits refer to the Supreme Court of the last 30 years as the ''Kennedy Court.'' His influence on so many important cases cannot be overstated.

Throughout his three decades on the Supreme Court, Justice Kennedy was often the swing vote in decisions decided 5 to 4 on a divided Bench. After John Roberts became Chief Justice in 2005, Justice Kennedy was the deciding vote in 92 percent of all cases decided by one vote. Let me repeat that. Of the 203 cases decided by a 5-to-4 vote in the John Roberts era, Justice Kennedy was the deciding vote in 186 of them—92 percent.

The Justice who succeeds Anthony Kennedy on the Supreme Court will have the opportunity to leave a deep and lasting mark on issues of the highest magnitude. Any nominee to the Supreme Court carries significance, but a nominee at this moment, for this seat, will play a defining role in our Nation's history.

The constitutional obligation conferred on Senators to provide their advice and consent on a Supreme Court nomination is a powerful, a serious, and a sacred responsibility. As Senators, we are duty-bound to determine whether Brett Kavanaugh is worthy of our trust. Even before President Trump nominated Brett Kavanaugh to the Supreme Court, there were serious concerns that his views were too extreme, that he lacked the independence we seek in our judges, and that he had a difficult relationship with the truth.

During the confirmation process for his current position on the U.S. Court of Appeals for the DC Circuit, Brett Kavanaugh made misleading statements under oath to the Senate Judiciary Committee on issues such as the Bush administration's policies on torture, his involvement in the nominations of controversial judges, and his knowledge about the theft of emails from the Democratic staff of the Senate Judiciary Committee.

Then, when it came time to fill Justice Kennedy's seat on the Supreme Court, Judge Kavanaugh was handpicked by the Federalist Society—an ultraconservative group that is dedicated to installing far-right judges on our Federal bench. The Federalist Society promised Donald Trump that the judges on that list would support his partisan agenda if they were elevated to the Supreme Court. Donald Trump repeatedly assured his supporters about that agenda and promised them that he would only appoint Justices to the Supreme Court who would overturn Roe v. Wade and the Affordable Care Act. Let me restate that. Donald Trump promised that he would only appoint Justices to the Supreme Court who would overturn Roe v. Wade and the Affordable Care Act.

As to Brett Kavanaugh, the promises that Donald Trump and the Federalist Society made were backed up by Kavanaugh's judicial record on the DC Circuit.

As a Federal appeals court judge, Brett Kavanaugh wrote a dissenting opinion that questioned Congress's authority to enact the Affordable Care Act and suggested that the President could choose not to enforce it.

Judge Kavanaugh would have blocked a lower court's order allowing an undocumented minor to safely and legally terminate her pregnancy.

Judge Kavanaugh supported employers who sought to deny their employees access to contraception.

Judge Kavanaugh wrote an opinion that unless guns were regulated either at the time the Constitution was written or traditionally throughout history, they could not be regulated now. He would have struck down the District of Columbia's assault weapons ban because assault weapons have not historically been banned.

How about 3D-downloaded guns? That was not in the original Constitution. There was no 3D gun. Are we bound by what the Founding Fathers thought about weapons or can we ourselves make a determination here? He says no. It goes back to the time when the Constitution was drafted or throughout history but not today. That is just wrong.

Judge Kavanaugh has consistently opposed strong environmental protections and sought to restrict the authority of the Environmental Protection Agency. He also authored a dissenting opinion that argued that net neutrality rules were unconstitutional.

Time and again, on all of these issues—access to healthcare, gun control, consumer and environmental protections, and a free and open internet—Judge Kavanaugh has been a rubberstamp for a far-rightwing agenda. Yet that is not the only reason President Trump chose Brett Kavanaugh for the Supreme Court.

Judge Kavanaugh, who once served as Ken Starr's top deputy in the investigation of President Clinton, has since written that a sitting President should not be investigated for allegations of wrongdoing, should not be indicted or tried while in office, and should not even have to participate in civil legal proceedings until he leaves office. This is a convenient reversal of a pro-investigation and pro-litigation position that Kavanaugh held when a Democrat was in the White House. It is a reversal that synchronizes very well with Donald Trump's interests.

With Donald Trump under criminal investigation and with legal issues arising from that investigation potentially headed to the Supreme Court and with Brett Kavanaugh's having articulated strong views about shielding a sitting President from criminal proceedings, his confirmation is a constitutional crisis in the making. It is no coincidence that a President who fears the long arm of the law would nominate to the Supreme Court a jurist who would keep him from its reach.

Brett Kavanaugh has left a lengthy paper trail on all of these hot-button issues. That is why President Trump and his allies closed ranks and fought to keep so much of his record hidden from the American public. Despite repeated requests from Senate Democrats for documents relating to Brett Kavanaugh's service in the Bush White House, we—the Members of the Senate—have only seen 7 percent of those records that were, in fact, part of Kavanaugh's record inside the Bush White House, and only about half of

that 7 percent are available to the public.

To put it another way, no Senator has seen 93 percent of all of Brett Kavanaugh's work in the White House. That work includes reflections on his views on the detention of enemy combatants, interrogation techniques and the use of torture, warrantless wiretapping, and the banning of same-sex marriage.

We on the Senate floor—and as we cast a vote today—do not have access to any of those documents that he worked on while he served in the Bush White House. How can we give advice before we vote on consent if we can't even gain access to the documents which he himself handled in the Bush White House and which he himself may have commented upon during the time they were being considered? We have no access to it. Ninety-three percent of all of the documents are not available to the Members of the Senate. Even though there are reams of paper detailing Brett Kavanaugh's involvement in these issues, his record on them remains a blank slate for Senators.

To summarize, even before the events of the last 3 weeks, we knew a lot of things about Brett Kavanaugh and yet, at the same time, shockingly little about Brett Kavanaugh. We knew we had a blatantly partisan person, but as you are trying to be nominated for the Supreme Court, we—the Senators and the American public—have a right to know what you think about issues. That is why every preceding nominee had to provide all of the documentation, with the notable exception of Brett Kavanaugh, who is denying us 93 percent.

This is happening with the acquiescence of the Trump White House and the Republican leadership here in the Senate. No Member of the Senate, Democrat or Republican, knows what is in the 93 percent of all of the papers. No one knows. It is a deliberate coverup of all of those documents so that we cannot know, so that the public cannot know. So we begin with that—the 93 percent of all of his records in the White House that are not accessible to us even though this nominee is given to us from this White House. We know a lot, but there is much, much more that we do not know.

We knew that we had a Federalist Society-approved nominee who would overturn Roe and the Affordable Care Act. We knew we had a President with a vested interest in finding a future Justice who could shield him from legal jeopardy, and we knew that there was much else we didn't know because that 93 percent was being hidden from public scrutiny. All of these reasons alone were enough to warrant a ''no'' vote on Judge Kavanaugh's lifetime appointment to the Supreme Court.

Then we learned of Dr. Christine Blasey Ford. Dr. Blasey Ford bravely came forward to tell us about the Brett Kavanaugh she knew. She came forward to share a deeply personal and traumatic experience of sexual assault. Dr. Blasey Ford did not want to share this painful story with the American public. She did not want to have her life upturned and picked apart. She did not want to subject her family to harassment and death threats. She did not want the President of the United States to shamefully and appallingly mock her at a political rally, but she came forward anyway. She came forward because she believed it was her civic duty to do so.

From the beginning, it was clear that her allegations were credible. She had recounted the painful experiences to her husband, in couples' counseling, years before Brett Kavanaugh was ever considered for the Supreme Court—something her therapist's contemporaneous notes corroborate. Three days before Brett Kavanaugh was nominated, while his name was publicly in play for the Supreme Court, Dr. Blasey Ford reached out to her Congresswoman in the hope that she could help inform President Trump as he decided on a nominee to fill Justice Kennedy's seat.

Dr. Blasey Ford took a polygraph test to prove that she was truthful, and she only shared her story publicly when reporters made it untenable to remain silent. Every detail shows Dr. Blasey Ford to be consistent, honest, and trustworthy. As hard as it was for her, Dr. Ford did our country an invaluable service by coming forward, testifying before the Senate, and telling the entire country her story.

Her testimony was powerful. It was heart-wrenching. When she spoke of her strongest memory of the assault—the laughter of the two boys as Brett Kavanaugh pinned her down—we felt her profound pain. When she spoke of Brett Kavanaugh's covering her mouth as she tried to scream, we felt her visceral fear. For countless women and men across the country whose experiences mirror that of Dr. Blasey Ford's, this testimony was their voice. For many of them, Dr. Blasey Ford's bravery gave them the courage to come forward with their own stories of sexual assault.

On the day of her testimony, my office received over 100 calls from survivors who courageously shared with my staff the painful details of their own assaults. Many of these men and women were telling their stories for the first time. Women have stopped me at the airport and on the street to tell me their stories.

Dr. Ford has given them the counsel to come forward so they can share their own experiences. Dr. Ford's courage opened a wellspring of emotion. I applaud her. We owe her a deep debt of gratitude. She was a role model for all of us, for the children of the country, and for future generations. She has given new meaning to what it means to be a good citizen.

Dr. Ford was compelling. She was convincing. She was courageous. She had nothing to gain and everything to lose. No reasonable, open-minded person could have listened to Dr. Blasey Ford and concluded anything other than that she is telling the truth about what happened between her and Brett Kavanaugh.

Yet there are two sides to every story. What about the other side of the story? What did Judge Brett Kavanaugh have to say about it after we heard Dr. Ford testify before the Judiciary Committee? It was Judge Kavanaugh's turn. What did we hear from Judge Kavanaugh? We heard anger. We heard belligerence. We heard evasiveness. We heard disrespect. Judge Kavanaugh's testimony before the Judiciary Committee reinforced the old concerns about his credibility. He gave answers about his behavior in high school, about supposed drinking games, and about his yearbook page that simply defy credulity. Recent reports from those who knew him in high school and college contradict his assertions that he was never aggressive or belligerent after drinking or that the terms he used in his yearbook had the meanings as ascribed to them before the Judiciary Committee.

In fact, in a letter Judge Kavanaugh himself wrote in 1983 that surfaced after his testimony, he described himself and his friends as ''loud, obnoxious drunks.''

The point is not that Brett Kavanaugh engaged in questionable behavior in high school. The point is he was not honest about it with the Judiciary Committee under oath at his confirmation hearing. The point is he was not credible. The point is he misled the Judiciary Committee. As my colleagues framed the issue yesterday, the point is that if we are assessing whether Dr. Ford's allegations satisfy a more-likely-than-not standard, they do and do so easily. The point is that Judge Kavanaugh showed an alarming lack of judicial temperament in addressing those issues.

Don't take my word for it. Consider what Judge Brett Kavanaugh has to say. What would Judge Brett Kavanaugh say about Supreme Court nominee Brett Kavanaugh's appearance before the Judiciary Committee?

Well, in 2015, Judge Brett Kavanaugh gave a speech at the Catholic University on what makes a good judge. He set forth litmus tests for a good judge—the characteristics and qualities he or she must have. Here is what he said then. Brett Kavanaugh said: ''First and obviously, a good judge, like a good umpire, cannot act as a partisan.'' He went on to say that it is very important for a judge ''to avoid any semblance of that partisanship, that political background.'' Yet in his opening statement to the Judiciary Committee—his opening statement—Judge Kavanaugh launched into a nakedly partisan screed. He blamed Democratic Senators for a conspiracy to destroy his nomination. He called the recent allegations against him a part of some ''revenge of the Clintons.''

He told the Democratic Senators on the dais that ''what goes around comes around,'' making an unvarnished political threat. That was in his opening statement to the Judiciary Committee. Judge Kavanaugh failed his own test of partisanship.

Next, in his 2015 Catholic University speech, Judge Kavanaugh said: ''[I]t is critical to have the proper demeanor.'' Judge Kavanaugh added that it is important for judges ''to keep our emotions in check, and be calm against the storm.''

Anyone watching Judge Kavanaugh's testimony before the Judiciary Committee saw just the opposite. Judge Kavanaugh was angry, emotional, and belligerent. What we saw was a performance we would expect from a judge on the ''People's Court,'' not on the Supreme Court of the United States. Judge Kavanaugh failed his own test for judicial temperament.

Finally, in his 2015 Catholic University speech, Judge Kavanaugh counseled that a good judge ''must demonstrate civility.'' Yet in his appearance before the Judiciary Committee, Judge Kavanaugh impugned the motives of Democratic Senators. He was rude. He interrupted questions. He went so far as to ask my colleague Senator KLOBUCHAR whether she ever blacked out from drinking—an affront by a nominee who was there to provide answers, not to ask questions. Brett Kavanaugh failed his own test of civility.

That is why more than 2,400 law professors have written to the Senate and told us ''Judge Brett Kavanaugh displayed a lack of judicial temperament that would be disqualifying for any court, and certainly for elevation to the highest Court of this land.''

That is why former Supreme Court Justice John Paul Stevens took the extraordinary step of stating publicly that Judge Kavanaugh's performance at his qualification hearing disqualified him from serving on the Supreme Court.

Let me say this: Brett Kavanaugh is not entitled to a job on the Supreme Court—no one is—but the American people are entitled to the truth. President Trump and the Senate Republicans have kept it from them.

The FBI background investigation that was reopened after Dr. Blasey Ford's testimony was not a real investigation. It was a figleaf to cover for Republicans with concerns about Judge Kavanaugh.

The FBI interviewed only nine witnesses. Unbelievably, Dr. Blasey Ford and Judge Kavanaugh were not among the people interviewed by the FBI. The FBI was forced to ignore countless leaks or not to follow up on them. Then Senators were given 1 hour to review the results of the so-called investigation.

I was locked in a secure room with 17 Senators, and there was one copy of the FBI report for all of us. It was like a bad game show, where Senators had to compete with each other to get pages of the report from the hands of their colleagues, read them, and digest them before the clock ran out on the 1 hour we were given to read the report. It was the single most absurd thing I have experienced in my time in Congress.

Sadly, it was entirely consistent with the manner in which the Senate Republicans have handled this nomination throughout the confirmation process. That is because the White House and the Senate Republicans weren't interested in getting to the truth. They were interested in covering it up and ramming through Judge Kavanaugh's nomination.

They have gone so far as to stoke claims that Dr. Ford's supporters have an ulterior motive and that Dr. Ford is being used for political reasons. It seems that many of my Republican colleagues just cannot bring themselves to believe a woman's account of a sexual assault and that other women and men would rise up in support of her. It is shameful that people think this is what has occurred. It is just shameful.

Article III of the Constitution says that a Supreme Court Justice ''shall hold their Office during good behavior.'' That is the standard after someone serves on the Supreme Court. What this body has been unwilling to do is to actually determine whether Judge Kavanaugh has engaged in good behavior before he is put on the Court. They have truncated that process. They have made it impossible for us to get to the bottom of that truth.

The Republicans control this Chamber. They control the schedule. They have rushed to judgment on Brett Kavanaugh in order to confirm him before the midterm elections.

They have 51 votes to confirm anyone they want. The Democrats do not control this Chamber. The Republicans have 51 votes. If they wanted to bring in someone else who did not have these problems, they could have done it anytime. They could do it today.

Some say we have no power to stop the Republicans from confirming a Justice this year—no power. That is absolutely untrue. What the Republicans have in their power, however, is to nominate someone—even today—who is worthy of serving on the Supreme Court.

We know they want a Supreme Court Justice who would overturn Roe v. Wade. We know they want a Supreme Court Justice who will take away health insurance coverage for preexisting conditions. We know they want a Justice who will oppose any gun control, and we know they want a Supreme Court Justice who will not question Donald Trump or let him be investigated.

If Brett Kavanaugh is confirmed, it will further harm a Supreme Court that has never fully recovered from Bush v. Gore—the partisan decision that threw the 2000 Presidential election to George W. Bush. It will further harm a Supreme Court that has not recovered from Judge Neil Gorsuch joining the Court after Senate Republicans stole that seat from Judge Merrick Garland. Confirming Judge Kavanaugh to the Supreme Court will further erode and undermine the Court's legitimacy and continue to diminish the American people's trust in it.

The Supreme Court of the United States deserves better than Brett Kavanaugh. The American people deserve better. Our democracy deserves better.

I will therefore vote no on the nomination of Judge Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States, and I urge my colleagues to vote no as well.

Thank you.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mrs. SHAHEEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I come to the floor to join so many of my colleagues in expressing my opposition to Brett Kavanaugh's nomination to serve as an Associate Justice on the Supreme Court.

As the highest Court in the land, the Justices on the Supreme Court are tasked with the enormous responsibility of interpreting and protecting the fundamental constitutional rights that are guaranteed to all Americans. Its decisions are not abstract legal principles that are reserved for a few. Its decisions affect the rights of all of us. They touch on issues that affect all of our daily lives—from the healthcare we receive to the person we can marry, to the air we breathe. These are significant stakes that we face when considering any nominee to serve on the Supreme Court.

Weeks ago, I announced my opposition to Judge Kavanaugh's nomination based on concerns I had with his record. Even though—as Senator MARKEY pointed out so eloquently—we haven't gotten to see a lot of that record, we have enough to know that I have very serious concerns about Judge Kavanaugh. I want to talk about a couple of those and actually highlight three concerns.

First is his opposition to the Affordable Care Act. I believe all Americans in this country—everyone in this country—should have access to healthcare, healthcare they can afford so they don't have to worry when they take their kids to the doctor, so they don't have to worry about being bankrupt because they can't afford the costs, and so they don't have to worry if they develop a serious illness. Yet Judge Kavanaugh dissented in a decision to uphold the Affordable Care Act, and as

a result of that decision, he puts critical protections for millions of Americans with preexisting conditions at risk.

It is particularly concerning now, when we know there is a court case in Texas which the Government of the United States has declined to continue to defend that puts at risk the requirement that insurance companies cover those with preexisting conditions.

You can talk about trying to bandaid over that any way you want, but the fact is, unless we have a real healthcare program, as we have under the Affordable Care Act, insurance companies are not going to cover people with preexisting conditions, and they are going to charge you more if they do cover you.

Second, I am very concerned about his opposition to women's reproductive rights. Judge Kavanaugh has praised Justice Rehnquist's dissent in the landmark Roe v. Wade decision that guarantees women's rights to make their own reproductive decisions. I believe that is one of the most basic and fundamental rights we have, not just as women but that families have. Women should be able to make that decision in consultation with their families, with their physicians, according to their religious beliefs, and this should not be something the government dictates. Yet Brett Kavanaugh suggests this fundamental basic right is up for consideration.

Finally, I have a serious concern about Judge Kavanaugh's view of executive branch power that could place the President above the law.

Judge Kavanaugh has said that sitting Presidents can't be indicted, can't be prosecuted, and should have the authority to fire a special counsel at will. Well, with the Mueller investigation, with so many concerns that have been raised about this President's manipulation of laws that have allowed him to enrich himself and his company, where he has been suggesting that he may fire the Attorney General because he is not willing to do his bidding at the Justice Department—I just don't see how we can put somebody on the Supreme Court who thinks that the President is above the law.

As I have learned American history and our Constitution and our values and principles, I believe that nobody is above the law in our democracy, including the President of the United States, and I think we need a Supreme Court Justice who believes the same thing. Yet what we have heard from Judge Kavanaugh suggests that he thinks the President is above the law.

At the time I announced my opposition to the nominee, we had not heard the allegations of sexual assault against Judge Kavanaugh. In the weeks since those allegations have come out, this Senate, this country, have been rocked by those allegations. I was one of the many millions of Americans throughout the country who tuned in to closely watch that hearing when Christine Blasey Ford shared her story. Her testimony in front of the Judiciary Committee was sincere and credible, and I believe her.

The impact of Dr. Ford's testimony is very telling about the pervasiveness of sexual violence in our culture. The allegations made by Christine Ford and others were serious and trustworthy, and I believe they should have been thoroughly and impartially investigated, and they were not.

But on the positive side, Dr. Ford's bravery has given so many women in this country the courage to tell their stories. She gave others courage, and we have seen an outpouring from survivors who now feel as though they, too, can come forward.

Senator MARKEY talked about the number of people that he has heard from in his office, and I have heard that same story time and again from so many of my colleagues. We are certainly seeing this in New Hampshire. The Sexual Harassment and Rape Prevention Program, which is also called SHARP—a program at the University of New Hampshire that provides services and support to sexual assault survivors—reported an increase in people reaching out for help. I have heard from crisis centers across the Granite State that have fielded an influx of calls from survivors who can relate to Dr. Ford's testimony and who feel compelled to speak out.

On Tuesday, I spoke with the New Hampshire Coalition Against Domestic and Sexual Violence, which told me that they have seen similar reactions with survivors who are now stepping forward—women and men whose trauma of sexual assaults has been revived by Christine Ford's testimony.

Like my colleagues, I have received letters from sexual assault survivors who have been deeply affected by Dr. Ford's testimony and whose courage has given them the strength to share their own stories. What has been amazing to me as I have read them, when I have heard from people who have contacted our office, is that some of them are in their seventies and eighties, and they reveal decades-old sexual assaults for the very first time.

These wounds are real. The wounds are raw. And it is incumbent on all of us in this body—regardless of where you stand on Brett Kavanaugh—it is incumbent on all of us to not deepen those scars by diminishing the pain of these women as political theater. This is not political theater, and it should not be viewed through a partisan lens.

In those emotional emails and calls and letters from dozens of women and a few men—I think sometimes we forget that sexual assault doesn't just happen to women; it happens to men—they have described their sexual assaults and how they have been affected by the events of Christine Ford's testimony and the hearing with Judge Kavanaugh. In so many of those letters and emails, they talk about the details of what they experienced in those sexual assaults—how it has affected them; how it has affected their lives; the fact that, in most cases, they didn't tell anybody because they didn't feel they would be believed or they thought they would be demeaned or they thought it was their fault.

What has been interesting to me in those letters and emails has been that so many of the people we have heard from have not just told their personal stories, but they have expressed their concerns about the country as part of writing in—concerns that we are so divided, that we are so angry, that we are so uncivil to one another. Sadly, they are right, based on what they have seen over the last couple of weeks. We have seen that at political rallies over the past few years, and we have seen it in this building. We must do better. The disunity that we model here is hurting the country. The scorched-earth politics that have been practiced here are deepening our divide.

I will oppose Judge Kavanaugh's nomination, and I continue to hope that something may happen at the eleventh hour; I know that is not likely. But I also will encourage my colleagues on both sides of the aisle to think about this moment, to reflect on our obligations to the American people, to the U.S. Senate, and to considering future Supreme Court nominees. So many people have said that this process has undermined the faith of the American people in the ability of the Supreme Court to be an objective arbiter of cases that come before them. This process has inflamed existing divides within our country and within Congress, and we can't let this become the status quo. As an institution, as a legislative body, we must be better than this.

I have always been told that when we are standing at the edge of an abyss, the best step is always backward. So I hope all of us can take a step back. I hope we can take a step back when we are past this nomination, that we can return to a more civil discourse. I hope that we can better try to understand each other's points of view and that we can see each other's humanity. I hope that we can be better stewards of our democracy because this country demands it.

Thank you, Madam President.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWN. Madam President, I announced my decision to vote against Judge Kavanaugh several weeks ago, after meeting with him and after studying his record, because he essentially put his thumb on the scale in support of corporate interests. He has

consistently sided with corporate special interests, large corporations that outsource jobs over workers, and has sided with Wall Street over consumers.

I made that decision before Dr. Ford came forward, but I am grateful for her. I am grateful she did, even at great personal cost and personal risk. I believe Dr. Ford. Why in the world would someone do what she said—again, at great personal cost and great personal risk—if she weren't telling the truth precisely? I am grateful to her. I am grateful for all of the brave women inspired by her to speak out and share their own stories. A number of them have written to my office. A number of them I have spoken to on the phone. Some of them told us for the first time in their lives, after—one woman was in her seventies, and it was the first time she had spoken of her sexual assault.

Please understand, all of the people, all of the women and men—I have gotten letters from men, too, but mostly women—understand. To all of you all over the country: We see you. We hear you. Your story matters, and you make a difference.

It is wrong that political influence and artificial deadlines put on them, imposed by the majority leader down the hall and the President of the United States—artificial deadlines and political influence prevented the FBI from performing the complete and thorough investigation the American people deserve. Instead, Senate leaders and the White House straightjacketed the FBI.

I don't blame the FBI. They only did what Senate leaders—what Republican leaders who wanted to ram this nomination through as quickly as possible and the White House, which would never want to compromise on anything like this—they straightjacketed the FBI. They kept our law enforcement professionals from doing their job.

According to Dr. Ford's lawyer, the FBI didn't even speak to more than a dozen witnesses that Dr. Ford asked them to interview. They are trying to corroborate whether her story was true, but the FBI then didn't interview Dr. Ford or Judge Kavanaugh, nor did they interview the people Dr. Ford suggested to them, the names that Dr. Ford gave them, people who could corroborate what happened. So the FBI did not interview any of the people that Dr. Ford asked or Dr. Ford herself.

Then my colleagues say that there is no corroborating evidence, so she didn't do it, so we have to believe Judge Kavanaugh. That is their logic: The investigation—again, not because the FBI didn't want to do it right but because of what leadership, what political leadership, elected officials and bureaucrats in the White House and the Senate did to prevent the FBI from doing its job—that is why that was a scam.

So what really matters here? It really matters that we listen to women. It also really matters because the Supreme Court has enormous influence over the lives of everyone in my State. Any nominee must defend the rights of all Americans to have comprehensive healthcare coverage and make their own healthcare decisions, must defend the rights of Americans to collectively bargain for safe workplaces and fair pay.

I don't think my colleagues really understand the process of collective bargaining. I am working on a bipartisan basis with a number of our colleagues on a pension bill right now. I don't know that our colleagues here understand that people—when it comes to pensions, they sit down at the bargaining table, and they give up wages today so they will have a secure retirement. I am concerned about this Supreme Court's rejection, potentially, of collective bargaining rights and safe workplaces and fair pay and fair benefits. I am concerned about this Court in terms of protecting American workers and American consumers from discrimination and, shall we say, Wall Street greed.

I am troubled already by the Supreme Court's recent decisions stripping rights from Ohioans on many issues. That is why I met with Judge Kavanaugh before I made my decision earlier this summer and why I asked him about his views on the issues that matter to Ohioans. I reviewed his record. I am not a lawyer, but I pay a lot of attention to these issues. I looked at these decisions, and I listened to Ohioans who weighed in. It was clear that I could not support Judge Kavanaugh's nomination to our highest Court, again, because he puts his thumb on the scale of justice, always with a bias toward corporate interests over workers, over consumers.

On healthcare, you have heard Senator SHAHEEN, Senator MARKEY, Senator HASSAN; I listened late last night. You have heard them talk about preexisting conditions. This Court is moving toward saying to the health insurance industry: You can cancel the insurance of people with preexisting conditions.

For 10 years, we have had consumer protections. If you are a cancer survivor, if you have asthma, as my wife had at a young age and has continued to manage her asthma well—and she has said very publicly that we can talk about this—or if you have Parkinson's or any other preexisting condition—heart disease or high blood pressure—you are protected from the insurance company canceling your insurance. That has been the law for 10 years. That law is under duress.

If this body votes to confirm Judge Kavanaugh today, it means that 5 million Ohioans—almost half of the people in my State have a preexisting condition. It means they should be concerned that this Supreme Court will take away those consumer protections and will say to the insurance company: You can cancel somebody if they get expensive. You can cancel somebody's insurance if you find out they had cancer. You can do all those things.

Its rulings and positions on the rights of Ohio workers and women and consumers would take us in exactly the wrong direction. His nomination comes when the stakes for working Ohioans couldn't be higher. He will talk about settled law, but settled law is only settled—again, I am not a lawyer, but this is pretty obvious. Settled law is only settled until the Supreme Court says it isn't. We know it with voter rights; we know it just recently with worker rights.

Last term, the Court issued a string of anti-worker decisions. In Janus v. AFSCME, the Court overturned decades of precedent—oh, yeah, settled law—and limited the ability of public sector unions to advocate for the workers they serve. This is a Supreme Court that almost always sides with corporations over unions, with corporations over workers, with corporations over consumers.

The decision in Epic Systems Corp v. Lewis limited the ability of workers to have their day in court when they are mistreated by their employer. The power already rests with employers on all of these kinds of worker-employer issues. This Court wants to make it worse. Judge Kavanaugh's record shows that he will accelerate that direction. This Court has proved time and again that it stands on the side of powerful corporations, not American workers.

We know what has happened in this country. We know that profits have gone up. We know that executive compensation has exploded. We know that productivity is up for workers, but we know that workers' wages have been stagnant. So the top 1 percent or 5 percent—they are doing great. They get big tax cuts. They get stock dividend buybacks. They get all kinds of breaks. The fact is, workers have seen their wages stagnate. This Court will make it worse.

There are several cases next term where the Court has the power to fundamentally tip the balance of power even further toward corporations—cases like Lamps Plus Inc. v. Varela, in which the Court could rule on whether a worker can file a class action suit against an employer that violates her privacy and releases personal information to the public. An individual worker never has the power or the money to hire an attorney to take on these companies. That is why workers need to band together to take on a powerful company, a powerful employer, a powerful corporation.

In another case, New Prime Inc. v. Oliveira, the Court will decide whether a worker who was misclassified as an independent contractor can bring a class action lawsuit, whether the Federal Arbitration Act applies to an independent contractor agreement. In other words, this Court has already moved in the direction—as this Congress did, by one vote, if I recall—of giving corporations more power, in saying to employees: Sorry, you don't

get your day in court. Again, employees individually don't have the financial wherewithal to be able to go to court and hire a lawyer, but if the employees band together, they can. That is what the issue of forced arbitration is about. That is what Judge Kavanaugh has consistently been wrong about.

I have looked at his record. It is clear, we can't trust him to stand with Ohio workers in any of these cases. He has opposed basic protections for workers trying to hold employers accountable—cases like AFGE v. Gates. He has consistently ruled against claims of worker discrimination and worker safety violations. He has consistently ruled against workers who stand up to corporate mistreatment in cases like Verizon New England v. National Labor Relations Board.

His nomination also poses a serious threat to the 5 million Americans under age 65 with preexisting conditions. Again, that is half of my State. If you meet a 40- or a 50-year-old—if you are in almost any group, you sit there and you look to your right and you look to your left, one of those two people, on average, is going to have a preexisting condition. Is their insurance going to be jeopardized? It is with this Congress, which wants to do this, and this Supreme Court and this President want to strip away the consumer protections for people with preexisting conditions.

They want to give the insurance companies the right to cancel your insurance. Oh, you have cancer? You cost us a lot. I am the insurance company; you cost us a lot. I am going to cancel your insurance then because you cost us too much money. You can't do that under present law. You can't do that because of the Affordable Care Act. They will be able to do it if Judge Kavanaugh gets on the Court because you can bet the Court is moving in that direction.

Consumer protections are under attack in our court system right now with the case of Texas v. United States. It is likely going to make its way to the Supreme Court, and Judge Kavanaugh's record on healthcare gives us a pretty darned good clue how he would rule.

He refused to uphold the entire law that is constitutional—a law that says if your child has diabetes or your mother has asthma, the insurance companies can't raise your costs or turn them away.

This is about the cost of health insurance. It is about saying all of us want good insurance. All of us want to be able—nobody wants to get sick. Nobody wants to have high healthcare costs. The reason we have insurance is so that people who get sick can make sure they keep their insurance and can have help. But the insurance companies—if they get their way now, they may not deny you care if you have cancer; they will just raise your rates so high that you will not be able to afford it. There really is no difference.

Without these protections, insurance companies will once again be free to charge you five times the rate of your neighbor. If you are sick, if you have neighbors on both sides who aren't, they will raise your rates because you are sick, if they have their way. We can't risk it. You are lucky enough to be well; your neighbor is diagnosed with high blood pressure; the other neighbor, their child has epilepsy, and their rates get raised, but yours don't, all because Judge Kavanaugh and this Court and this Congress seem to want it that way. We can't risk Ohio families not having access to care by sending him to the Supreme Court.

It is not just on preexisting conditions where he would pose a threat to Ohio's healthcare. Dozens of cases pending in lower courts could determine the price you pay for healthcare over the next few years or whether you get care at all. Again, if the price is so high, it is the same as denying you care because you can't afford it. There are cases on everything from false advertising by insurance companies to whether your employer is required to give you access to healthcare.

Of course, we know that the stakes are particularly high for women. That was true before Dr. Ford courageously came forward. It remains true. We can't risk the ability of Ohio women to make their own personal private health decisions between themselves and their doctors by giving a lifetime appointment to a judge who has shown repeated hostility to women's healthcare freedom.

We know the promises President Trump made when he was a candidate, saying that he would put somebody on the Supreme Court who would overturn Roe v. Wade. We know the list of judges he chose from, and the Federalist Society had that same commitment to overturn Roe v. Wade. Anybody in this body that thinks the judge is promising that this is settled law ought to use the cliche that I have a bridge to sell you. It is clear what he is going to do if he is on the Court.

This whole issue, this whole vote, this whole nomination comes down to this: Whose side are you on? Are you a judge who stands on the side of workers or multinational corporations? Will you stand on the side of a mother seeking treatment or on the side of insurance companies who want to raise her rates to deny her care?

Judge Kavanaugh's record is clear. He has consistently sided with the most powerful special interests in this country—not American workers, not American consumers, not American patients who struggle with the cost of their healthcare. The stakes for Ohio are too high to give this judge a lifetime appointment to our highest Court.

Mr. President, I ask unanimous consent that several documents corroborating Dr. Ford's allegations against Judge Kavanaugh and a statement from Dr. Ford's attorneys be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 5, 2018.

STATEMENT BY DEBRA S. KATZ, LISA J. BANKS AND MICHAEL R. BROMWICH, ATTORNEYS FOR DR. CHRISTINE BLASEY FORD

As the Senate debates the nomination of Brett Kavanaugh, numerous false claims have been repeated to undermine the credibility of Dr. Christine Blasey Ford. Whatever the outcome, Senators deserve to know the truth:

1. An FBI investigation that did not include interviews of Dr. Ford and Judge Kavanaugh is not a meaningful investigation in any sense of the word.

2. Had the FBI interviewed Dr. Ford, she would have answered questions about Judge Kavanaugh's assault, including questions that Ms. Mitchell and the Judiciary Committee members failed to ask during the hearing. She would have provided corroborating evidence, including her medical records and access to the phone from which she sent messages to a reporter about the assault prior to his nomination to the Supreme Court.

3. The suggestion that our refusal to give medical records to the Judiciary Committee bears on Dr. Ford's credibility is completely false. The Committee has released every document we have exchanged, and in the case of their letters to us, sometimes before we received them. We lost confidence in the Committee's ability or desire to maintain the confidentiality of materials and information we provided, especially with respect to something as sensitive as medical records.

4. Dr. Ford wanted to detail the events of the sexual assault by Judge Kavanaugh directly to members of the Judiciary Committee. Dr. Ford was timely provided with all communications from the Majority's staff and chose from the multiple options she was given by them. At the hearing, Dr. Ford understood Senator Grassley's comment to be that he personally would have flown to California to speak with her. She would have welcomed Senator Grassley and other Committee members to California but that was not one of the options offered by Committee staff.

5. At no time did members of Dr. Ford's team advise Committee staff that she could not travel to Washington, D.C. because of her fear of flying. Rather, staff was told that Dr. Ford could not travel on the schedule the Committee demanded because she was focused on taking measures to protect her family from threats, including death threats. Those measures included meeting with the FBI to report these disturbing threats. In fact, Dr. Ford does have a decades-long fear of flying for which she takes medication prescribed by a physician, but this had no impact on the timing of her testimony.

6. Committee staff repeatedly rejected our requests for multiple corroborating witnesses to be allowed to testify, including Jeremiah Hanafin, the highly experienced former FBI agent who administered the polygraph to Dr. Ford on August 7, 2018. He was also prepared to cooperate with the FBI's investigation, including making the underlying polygraph results and process available. Had Mr. Hanafin been permitted to testify or been interviewed by the FBI, he would have explained that his conclusions of ''no deception'' were validated by four independent outside reviewers. There were seven people whom Dr. Ford told about the assault prior to the nomination who could have testified to the Committee or been interviewed by the FBI.

In her testimony, Dr. Ford said: ''It is not my responsibility to determine whether Mr.

Kavanaugh deserves to sit on the Supreme Court. My responsibility is to tell the truth.''

We believe Christine Blasey Ford and we fully support her. Senators claiming to want a dignified debate should not repeat lies constructed by the Judiciary Committee that were cynically designed to win support for Judge Kavanaugh.

JULY 30, 2018.

Confidential

Senator DIANNE FEINSTEIN.

DEAR SENATOR FEINSTEIN: I am writing with information relevant in evaluating the current nominee to the Supreme Court. As a constituent, I expect that you will maintain this as confidential until we have further opportunity to speak.

Brett Kavanaugh physically and sexually assaulted me during High School in the early 1980's. He conducted these acts with the assistance of his close friend, Mark G. Judge. Both were 1–2 years older than me and students at a local private school. The assault occurred in a suburban Maryland area home at a gathering that included me and 4 others. Kavanaugh physically pushed me into a bedroom as I was headed for a bathroom up a short stairwell from the living room. They locked the door and played loud music, precluding any successful attempts to yell for help. Kavanaugh was on top of me while laughing with Judge, who periodically jumped onto Kavanaugh. They both laughed as Kavanaugh tried to disrobe me in their highly inebriated state. With Kavanaugh's hand over my mouth, I feared he may inadvertently kill me. From across the room, a very drunken Judge said mixed words to Kavanaugh ranging from ''go for it'' to ''stop''. At one point when Judge jumped onto the bed, the weight on me was substantial. The pile toppled, and the two scrapped with each other. After a few attempts to get away, I was able to take this opportune moment to get up and run across to a hallway bathroom. I locked the bathroom door behind me. Both loudly stumbled down the stairwell, at which point other persons at the house were talking with them. I exited the bathroom, ran outside of the house and went home.

I have not knowingly seen Kavanaugh since the assault. I did see Mark Judge once at the Potomac Village Safeway, where he was extremely uncomfortable seeing me.

I have received medical treatment regarding the assault. On July 6, I notified my local government representative to ask them how to proceed with sharing this information. It is upsetting to discuss sexual assault and its repercussions, yet I felt guilty and compelled as a citizen about the idea of not saying anything.

I am available to speak further should you wish to discuss. I am currently vacationing in the mid-Atlantic until August 7th and will be in California after August 10th.

In Confidence,

CHRISTINE BLASEY,
Palo Alto, California.

TEXT MESSAGES BETWEEN DR. FORD AND THE WASHINGTON POST TIP LINE

FRIDAY, JULY 6, 2018

10:26 AM: Dr. Ford—Potential Supreme Court nominee with assistance from his friend assaulted me in mid 1980s in Maryland. Have therapy records talking about It. Feel like I shouldn't be quiet but not willing to put family in DC and CA through a lot of stress

11:47 AM: Dr. Ford—Brett Kavanaugh with Mark Judge and a bystander named PJ.

TUESDAY, JULY 10, 2018

8:03 AM: Dr. Ford—Been advised to contact senators or NYT. Haven't heard back from WaPo.

9:21 AM: Washington Post—I will get you in touch with reporter

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DECLARATION OF RUSSELL FORD

I, Russell Ford, hereby state that I am over eighteen (18) years of age, am competent to testify, and have personal knowledge of the following facts:

1. I have a Master of Science degree and a Doctor of Philosophy degree in mechanical engineering from Stanford University.

2. I have been married to Christine Blasey Ford since June 2002. We have two children.

3. The first time I learned that Christine had any experience with sexual assault was around the time we got married, although she did not provide any details.

4. Christine shared the details of the sexual assault during a couple's therapy session in 2012. She said that in high school she had been trapped in a room and physically restrained by one boy who was molesting her while another boy watched. She said she was eventually able to escape before she was raped, but that the experience was very traumatic because she felt like she had no control and was physically dominated.

5. I remember her saying that the attacker's name was Brett Kavanaugh, that he was a successful lawyer who had grown up in Christine's home town, and that he was well-known in the Washington, D.C. community.

6. In the years following the therapy session, we spoke a number of times about how the assault affected her.

7. The next time she mentioned that Mr. Kavanaugh was the person who sexually assaulted her was when President Trump was in the process of selecting his first nominee for the Supreme Court. Before the President had announced that Judge Neil Gorsuch was the nominee, I remember Christine saying she was afraid the President might nominate Mr. Kavanaugh.

8. These conversations about Mr. Kavanaugh started again shortly after Justice Anthony Kennedy announced his resignation and the media began reporting that Mr. Kavanaugh was on the President's ''short list.''

9. Christine was very conflicted about whether she should speak publicly about what Mr. Kavanaugh had done to her, as she knew it would be emotionally trying for her to relive this traumatic experience in her life and hard on our family to deal with the inevitable public reaction. However, in the end she believed her civic duty required her to speak out.

10. In our 16 years of marriage I have always known Christine to be a truthful person of great integrity. I am proud of her for her bravery and courage.

I solemnly swear or affirm under the penalties of perjury that the matters set forth in this Declaration are true and correct to the best of my personal knowledge, information, and belief. Executed on this 25th day of September, 2018.

RUSSELL FORD.

DECLARATION OF KEITH KOEGLER

I, Keith Koegler, hereby state that I am over eighteen (18) years of age, am competent to testify, and have personal knowledge of the following facts:

1. I graduated from Amherst College in 1992 with a Bachelor's Degree in History. I earned my Juris Doctor degree from Vanderbilt Law School in 1997.

2. I have known Christine Blasey Ford and her husband, Russell Ford, for more than five years, and consider them close friends.

3. We met when I was coaching their son's baseball team. Our children are close friends and have played sports together for years. I have spent a lot of time with Christine and her husband traveling to and attending our kids' games. Our families have also gone on vacation together.

4. The first time I learned that Christine had experienced sexual assault was in early summer of 2016. We were standing together in a public place watching our children play together.

5. I remember the timing of the conversation because it was shortly after Stanford University student Brock Turner was sentenced for felony sexual assault after raping an unconscious woman on Stanford's campus. There was a common public perception that the judge gave Mr. Turner too light of a sentence.

6. Christine expressed anger at Mr. Turner's lenient sentence, stating that she was particularly bothered by it because she was assaulted in high school by a man who was now a federal judge in Washington, D.C.

7. Christine did not mention the assault to me again until June 29, 2018, two days after Justice Anthony Kennedy announced his resignation from the Supreme Court of the United States.

8. On June 29, 2018, she wrote me an email in which she stated that the person who assaulted her in high school was the President's ''favorite for SCOTUS.''

9. On June 29, 2018, I responded with an email in which I stated:

''I remember you telling me about him, but I don't remember his name. Do you mind telling me so I can read about him?''

10. Christine responded by email and stated:

''Brett Kavanaugh''

11. In all of my dealings with Christine I have known her to be a serious and honorable person.

I solemnly swear or affirm under the penalties of perjury that the matters set forth in this Declaration are true and correct to the best of my personal knowledge, information, and belief. Executed on this 24th day of September, 2018.

KEITH KOEGLER.

DECLARATION OF ADELA GILDO-MAZZON

I, Adela Gildo-Mazzon, hereby state that I am over eighteen (18) years of age, am competent to testify, and have personal knowledge of the following facts:

1. I have known Christine Blasey Ford for over 10 years and consider her to be a good friend. Our children attended elementary school together.

2. In June of 2013, Christine and I met at a restaurant that was then called Pizzeria Venti Mountain View, located at 1390 Pear Avenue, Mountain View, California.

3. I remembered the year of the meeting because I was temporarily working in the South Bay at that time. I would pass Mountain View on my way home, so that restaurant was a convenient place to arrange a meeting. I believe this was the only time I ever went to this restaurant. I also have a receipt from the restaurant from that meal.

4. During our meal, Christine was visibly upset, so I asked her what was going on.

5. Christine told me she had been having a hard day because she was thinking about an assault she experienced when she was much younger. She said that she had been almost raped by someone who was now a federal judge. She told me she had been trapped in a room with two drunken guys, and that she then escaped, ran away, and hid.

6. Christine said it was a scary situation and that it has impacted her life ever since.

7. The last time I saw Christine was in May 2018.

8. After reading her first person account of the assault in The Washington Post on September 16, 2018, I contacted Christine's lawyers to advise them that she had told me about this assault in 2013.

I solemnly swear or affirm under the penalties of perjury that the matters set forth in this Declaration are true and correct to the best of my personal knowledge, information, and belief. Executed on this 24th day September, 2018.

ADELA GILDO-MAZZON.

DECLARATION OF REBECCA WHITE

I, Rebecca White, hereby state that I am over (18) years of age, am competent to testify, and have personal knowledge of the following facts:

1. I have been friends with Christine Blasey Ford for more than six years. We are neighbors and our kids went to the same elementary school.

2. In 2017, I was walking my dog and Christine was outside of her house. I stopped to speak with her, and she told me she had read a recent social media post I had written about my experience with sexual assault.

3. She then told me that when she was a young teen, she had been sexually assaulted by an older teen. I remember her saying that her assailant was now a federal judge.

4. I have always known Christine to be a trustworthy and honest person.

I solemnly swear or affirm under the penalties of perjury that the matters set forth in this Declaration are true and correct to the best of my personal knowledge, information, and belief. Executed on this 25 day of Sept, 2018.

REBECCA WHITE.

JEREMIAH P. HANAFIN—POLYGRAPH EXAMINATION REPORT

Date of Report—08/10/2018.

Date of Examination—08/07/2018.

Location of Examination—Hilton Hotel, 1739 West Nursery Road, Linthicum Heights, MD 21090.

Examinee's Name—Christine Blasey.

Synopsis—On August 7, 2018, Christine Blasey reported to the Hilton Hotel, 1739 West Nursery Road, Linthicum Heights, MD 21090, for the purpose of undergoing a polygraph examination. The examination was to address whether Blasey was physically assaulted by Brett Kavanaugh while attending a small party in Montgomery County, MD. This assault occurred in the 1980's when Blasey was a high school student at the Holton-Arms School. Accompanying Blasey was Attorney Lisa Banks of the firm Katz, Marshall & Banks. After introductions were made, this examiner left the room so Blasey and Attorney Banks could discuss this matter. During this discussion, Blasey provided a written statement to Banks detailing the events that occurred on the evening of the assault. The statement was provided to this examiner when he returned. Blasey stated that the statement was true and correct and signed it in the presence of this examiner and Banks attesting to its accuracy. A copy of this statement is attached to this report. After a brief discussion, Banks departed.

Blasey was then interviewed in an effort to formulate the relevant questions. During this interview, Blasey described the events that occurred on the night of the assault. She stated she attended a small party at a house where the parents were not home. Those attending the party were drinking beer. Blasey stated that Kavanaugh and his friend, Mark, became extremely intoxicated. Blasey stated that she had met Kavanaugh before at previous parties and she briefly dated one of his friends. She stated that Kavanaugh attended Georgetown Preparatory School and she previously attended parties hosted by students of this school. Blasey remembers another male at this party, PJ, who she described as a very nice person. At some point in the evening, Blasey went upstairs to use the restroom. When she got upstairs, she was pushed into a bedroom by either Kavanaugh or his friend, Mark. The bedroom was located across from the bathroom. She was pushed onto a bed and Kavanagh got on top of her and attempted to take her clothes off. She stated she expected Kavanaugh was going to rape her. Blasey tried to yell for help and Kavanaugh put his hand over her mouth. Blasey thought if PJ heard her yelling he may come and help her. Blasey stated that when Kavanaugh put his hand over her mouth that this act was the most terrifying for her. She also stated that this act caused the most consequences for her later in life. Blasey stated that Kavanaugh and Mark were laughing a lot during this assault and seemed to be having a good time. Kavanaugh was having a hard time trying to remove Blasey's clothes because she was wearing a bathing suit underneath them. She stated Mark was laughing and coaxing Kavanaugh on. Blasey recalls making eye contact with Mark and thinking he may help her. Mark continued to encourage Kavanaugh. On a couple of occasions, Mark would come over and jump on the bed. The last time he did this, all three became separated and Blasey was able to get free and run to the bathroom. She stated she locked herself in the bathroom until she heard Kavanaugh and Mark go downstairs.

Following this interview, Blasey was given a polygraph examination consisting of the following relevant questions:

SERIES I

A. Is any part of your statement false? Answer: No

B. Did you make up any part of your statement? Answer: No

Four polygraph charts (which included an acquaintance or ''stim'' chart) were collected using a Dell Inspiron 15 notebook computer and Lafayette LX4000 software. This software obtained tracings representing thoracic and abdominal respiration, galvanic skin response, and cardiac activity. All of these physiological tracings were stored in the computer along with the time that the questions were asked as well as text of each question.

The format of the test was the two question Federal You Phase Zone Comparison Test (ZCT). As part of a 2011 meta-analysis study done by the American Polygraph Association (APA), the ZCT is one of the polygraph examinations considered valid based upon defined research protocol. As part of the validation process, the APA chose techniques that were reported in the Meta 22 Analytic Survey of Validated Techniques (2011) as having two, independent studies that describe the criterion validity and reliability. The ZCT includes relevant questions addressing the issues to be resolved by the examination, comparison questions to be used in analysis, symptomatic questions, and neutral or irrelevant questions. All questions were reviewed with Blasey prior to the test. The charts collected were subjected to a numerical evaluation that scored the relative strength of physiological reactions to relevant questions with those of the comparison questions. An analysis was conducted using a three (3) point scale (−1, 0, +1). If reactions were deemed to be greater at the relevant questions, then a negative score was assigned. If responses were deemed to be greater at the comparison questions, then a positive score was assigned. A decision of deceptive is rendered if any individual question score is −3 or less or the grand total of both questions is −4 or less. A decision of non-deceptive is rendered if the grand total of both questions is +4 or more with a +1 or more at each question.

Blasey's scores utilizing the three (3) point scale are +4 at Question A and +5 at Question B with a total score of +9. Based upon this analysis, it is the professional opinion of this examiner that Blasey's responses to the above relevant questions are Not Indicative of Deception.

A second analysis was conducted utilizing a scoring algorithm developed by Raymond Nelson, Mark Handler and Donald Krapohl (Objective Scoring System Version 3) which concluded ''No Significant Reactions—Probability these results were produced by a deceptive person is .002.'' Truthful results, reported as ''No Significant Reactions,'' occur when the observed p-value indicates a statistically significant difference between the observed numerical score and that expected from deceptive test subjects, using normative data obtained through bootstrap training with the confirmed single issue examinations from the development sample. Truthful results can only occur when the probability of deception is less than .050.

Deceptive results, in which an observed p-value indicates a statistically significant difference between the observed numerical score and that expected from truthful persons, and are reported as ''Significant Reactions.''

When the observed p-value fails to meet decision alpha thresholds for truthful or deceptive classification the test result will be reported as ''Inconclusive.'' No opinion can be rendered regarding those results.

A third analysis was conducted utilizing a scoring algorithm developed by the Johns Hopkins University Applied Physics Laboratory (PolyScore Version 7.0) which concluded ''No Deception Indicated—Probability of Deception is Less Than .02.''

One high school summer in 80's, I went to a small party in the Montgomery County area. There were 4 boys and a couple of girls. At one point, I went up a small stairwell to use the restroom. At that time, I was pushed into a bedroom and was locked in the room and rushed onto a bed. Two boys were in the room. Brett laid on top of me and tried to remove my clothes while groping me. He held me down and put his hand on my mouth to stop me from screaming for help. His friend Mark was also in the room and both were laughing. Mark jumped on top of us 2 or 3 times. I tried to get out from under unsuccessfully. Then Mark jumped again and we toppled over. I managed to run out of the room across, to the bathroom and lock the door. Once I heard them go downstairs, I ran out of the house and went home.

CHRISTINE BLASEY,
August 7, 2018.

Mr. BROWN. I yield the floor.

The PRESIDING OFFICER (Mr. BARRASSO). Pursuant to rule IV, paragraph 2, the hour of 12 noon having arrived, the Senate having been in continuous session since yesterday, the Senate will suspend for a prayer from the Senate chaplain.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, who rules the raging of the sea, our thoughts are not Your thoughts and our ways are not Your ways. As the Heavens are higher than the Earth, so are Your thoughts

higher than our thoughts and Your ways higher than our ways.

We thank You for those who know that this is not the time for summer soldiers and sunshine patriots. Today, help our lawmakers approach their decisions with confidence by claiming Your promise in James 1:5–6. In that promise, You said to people of faith, ''If you need wisdom, if you want to know what God wants you to do, ask him and He will gladly tell you. He will not resent your asking. But when you ask, be sure that you really expect him to answer.''

Lord, may this great promise illuminate the path of those who realize that you are the only constituent they absolutely must please.

We pray in the Name of Him who is the truth. Amen.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. SULLIVAN. Mr. President, like so many of us here, I have been watching and listening to my colleagues speak on the floor about the Judge Kavanaugh nomination for several days.

Like so many of my colleagues, I want to commend Senator COLLINS of Maine for her thorough, detailed, and eloquent remarks yesterday. Sometimes a Member gives a speech that we know will always be remembered because of its thoroughness, its seriousness, its thoughtfulness, and statesmanlike quality. I think we all are in agreement that that happened yesterday with Senator COLLINS. I also want to highlight the remarks of my very good friend Senator MURKOWSKI last night. While we voted differently yesterday and we will most likely do so again in a few hours, she made some important points, particularly regarding some of the issues surrounding this confirmation process as it relates to our great State of Alaska. I very much appreciate her friendship, and, like so many, I know this process has been difficult for her, and she talked about that last night. In fact, for millions of Americans and, no doubt, for thousands of Alaskans, the process to confirm Judge Brett Kavanaugh to the U.S. Supreme Court has been a searing one—certainly for Judge Kavanaugh and his family and for Dr. Christine Blasey Ford and her family, and for this Senate family, it has been a difficult period. It has also evoked very traumatic memories of experiences that far too many women in Alaska and America have had—far too many. I am hopeful that in the aftermath of all this, we can go through a much needed period of healing.

As you know, the advise and consent responsibility of the Senate is a solemn one, one of the most important responsibilities we have here. The process I went through in order to cast my vote for Judge Kavanaugh has been extensive and thorough and, I believe, fair, which is what I believe my constituents back home in Alaska demand of me.

After the President announced Judge Kavanaugh's nomination, I read hundreds of pages of decisions that he authored. I listened to the views of Alaskans and continued to do so up until yesterday, those who we were in favor, those who opposed.

In my first meeting several weeks ago with Judge Kavanaugh, we discussed at length and in great depth his viewpoint on a variety of national and Alaska-focused legal issues.

Now that wasn't the first time I had met Judge Kavanaugh. In fact, I had known him back when we served together in the Bush Administration. I knew him as an honest and dedicated public servant, and I actually followed his career as a judge on the DC Circuit Court of Appeals.

The lengthy meeting in my office convinced me that he is someone who will interpret the law and the Constitution as written. He understands the importance of separation of powers and federalism and holds a healthy skepticism regarding the expansive power of Federal agency, and he is a strong protector of the Second Amendment. These are all issues that are very important to my constituents and that they care deeply about, which is why I focused on these issues in my discussions with Judge Kavanaugh in my office several weeks ago. I was convinced then and remain so that he is well qualified to be a Justice on the U.S. Supreme Court.

As we all know, after a number of these meetings—several weeks, in my case, after meeting with Judge Kavanaugh—two issues arose that I took very seriously. The first was a claim that, if confirmed, Judge Kavanaugh would not fully recognize or respect the rights of Alaskan Native people and the U.S. Government's trust responsibilities to them. This is very important to constituents of mine. The Alaska Federation of Natives, a very important group back home in Alaska that represents the Native people of my great State, wrote a memo speculating how Judge Kavanaugh, if confirmed, would threaten unique laws and programs for the Alaskan Native people.

The second issue that arose, of course, which we have been debating here and the country is fully aware of, was the allegation that Judge Kavanaugh sexually assaulted Dr. Ford in 1982 when she was 15 and he was 17. Like many Senators, I put my heart and soul investigating such claims, particularly given how important both of these issues were to my constituents, and I want to address each of these in turn.

The memo of the Alaska Federation of Natives, or AFN, as we call it back home, was focused on concerns stemming from an amicus brief written by Judge Kavanaugh 18 years ago, when he was a private attorney, in a case dealing with indigenous Hawaiians before the Supreme Court called Rice v. Cayetano, in which the U.S. Supreme Court in a 7-to-2 opinion essentially agreed with Judge Kavanaugh's position.

Alaska Natives make up roughly 20 percent of my State. They are incredible Americans—patriotic, hard-working, a beautiful culture—and their legal and sovereign rights, which are based on the U.S. Constitution and Federal statutes, have been extremely hard-fought, including in this body, over decades. Such rights are fundamental to the health and well-being of Alaska Natives in my State.

After the AFN legal memo and similar letters and op-eds were published back home, in Alaska, I sent them to the White House for Judge Kavanaugh's review. I then spoke directly to him about these issues. He reiterated to me in a thoughtful and thorough discussion that the legal rights of Alaska Natives, to include Tribes and regional and village corporations, are very clear and well established in the law, which is actually different from the situation of indigenous Hawaiians. Therefore, the views expressed by the Supreme Court in the Cayetano opinion, which limit the rights of Native Hawaiians, do not extend to Alaska Natives and are not applicable legally in any way in Alaska. This is because Congress has repeatedly and explicitly recognized the rights and the Tribal status for Alaska Natives, including the Federal Government's trust responsibility, while, unfortunately, in my view, Congress has not done the same for Native Hawaiians.

Senator MURKOWSKI was on the floor last night. I am going to talk a little bit about that, but I think the Alaska delegation has always tried to be supportive of the Hawaiian Nation in this regard, and we continue to be, but, legally, they are very different.

In response to a question for the record to Judge Kavanaugh released by the Senate Judiciary Committee, Judge Kavanaugh unequivocally endorsed this point. He stated—this is his language:

> The Supreme Court has recognized that Congress has the ability to fulfill its treaty obligations with Native Alaskan Regional and Village Corporations and American Indian Tribes through legislation specifically addressed to their concerns. Unlike indigenous peoples of Hawaii, Congress has explicitly recognized in statute that ''Indian Tribe'' includes any recognized Indian or Alaska Native tribe, band nation, pueblo, village or community. . . . Native Alaskans are Indian Tribes and therefore enjoy all the relevant rights and benefits that come in their trust relationship with the United States.

In my conversations with Judge Kavanaugh about Alaska Native legal issues, he also reiterated a point emphasized by Chief Justice Roberts in the recent Supreme Court case called the Sturgeon case that because of Federal statutes like the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act, Congress has repeatedly made clear that Alaska is different in many

ways from the lower 48, and he recognized and told me as part of this confirmation process that many legal issues involving my State need to be viewed through that lens.

To be perfectly clear, if I believed or saw evidence that Judge Kavanaugh's views were somehow opposed to or hostile to Alaska Natives—a very important population of my State that happens to include my wife and my three daughters and my mother-in-law—I would not support his confirmation. I told Judge Kavanaugh this directly, but that I was also satisfied with his response after we had this discussion—a deep, detailed discussion about these issues.

Importantly, Senator MURKOWSKI came to the same conclusion in her discussions with Judge Kavanaugh and she said as much in her remarks last night.

Of course, there is another allegation, a claim that I want to talk about this afternoon—the allegation that has been the focus of much attention here in the Senate regarding sexual assault, which I likewise took extremely seriously.

I respect very much Dr. Ford's bravery and sincerity in coming forward to testify in front of the Judiciary Committee. I am convinced that she went through a traumatic experience that has left deep wounds. I also applaud the bravery of the men and women who have called and written and visited my office to share their experiences in this regard. So much of this has been very painful for so many to revisit these episodes.

As I repeatedly stated, any allegation—all allegations—of this kind of conduct should be seriously looked at. So I undertook the due diligence that my constituents expect of me and that is required in the Senate's important advise and consent role. I watched the Senate Judiciary hearing on this issue gavel to gavel. I read every piece of information available, including all of the interviews conducted under the penalty of perjury by the Senate Judiciary Committee investigators. I read text messages, threads, witness statements, letters between the Committee and lawyers who have been involved, and confidential committee documents. I supported and read the professional and thorough supplemental FBI report recently submitted to the Senate which looked deeper into this allegation and spoke to additional witnesses in relation to it. Most importantly, I met with and heard from hundreds of Alaskans who have suffered from sexual abuse and domestic violence. Many flew thousands of miles—most on a moment's notice—to come to my office to meet with me and Senator MURKOWSKI. I applaud their bravery and their passion. So much of this process has been painful for them.

Alaska is an amazing State. I come down to the floor all the time to talk about its majesty and beauty and our wonderful people, and I believe that in my soul. But one area where we are not so great or wonderful or majestic is this. My State has the highest rates of sexual assault and domestic violence in the country, by far, in almost every category. It is a horrible, horrible thing, and it impacts so many families in the Last Frontier, horribly.

Throughout my public career in Alaska, I have worked to combat sexual assault and domestic violence by putting more offenders in jail, bringing more resources to survivors, including much needed legal services, and raising awareness of this heinous problem by working to change the culture of violence, which is too pervasive in my State. We have a lot more work to do on this issue in Alaska and across America, including on our college campuses, and I applaud Senator GILLIBRAND for her leadership in this area and many other Senators as well.

The allegations by Dr. Ford have been difficult and wrenching here in the Senate to address. One thing is clear to me. Her allegations had been taken seriously, as they should have been.

Mr. President, I have a summary from the Judiciary Committee on its investigation into these and other allegations that I would ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF SENATE JUDICIARY COMMITTEE INVESTIGATION

(as of October 4, 2018)

BACKGROUND

The Senate Judiciary Committee has engaged in a thorough and robust investigation of allegations raised against Judge Kavanaugh. Throughout the last month, Committee staff members have collected statements, letters, and calls from individuals around the country. The reports range from substantive allegations of sexual misconduct, to short messages to senators passing along internet rumors and theories.

Committee staff continue to work tirelessly to pursue any and all substantive leads. In the course of the continuing investigation, staff members have spoken with 35 individuals, a task that requires extensive work during nights and weekends. More than 20 Committee staffers have contributed to the investigative efforts. The Committee has not received any evidence that would corroborate the claims made by Dr. Ford, Ms. Ramirez, Ms. Swetnick, or anybody else.

ALLEGATIONS AND SUBJECTS

Ford Allegations

In response to Dr. Ford's allegations, Committee staff repeatedly requested an opportunity to interview Dr. Ford, but her lawyers repeatedly refused. Committee staff offered to fly to California or any other location to interview Dr. Ford. But as Dr. Ford explained at her hearing, she was not clear that this offer had been made.

The Committee thus reopened the hearing on Judge Kavanaugh's nomination.

During the additional hearing day (Day 5), the Committee solicited more than 8 total hours of public testimony under oath from Dr. Ford and Judge Kavanaugh.

In connection with the hearing, the Committee collected 24 pages of evidence from Dr. Ford in two productions. The Committee also received Judge Kavanaugh's calendars.

The Committee also received a statement, submitted under penalty of felony, from Dr. Ford's ex-boyfriend, who cast serious doubt on the credibility of some of Dr. Ford's testimony before the Committee.

Notably, he stated that he had not known her to have any fear of flying or related claustrophobia and that she had previously provided advice to someone on how to successfully take a polygraph, directly contradicting her hearing testimony.

Despite repeated requests by the Chairman, Dr. Ford still has not supplied several key items, including the charts from her polygraph examination, any recording of her polygraph examination, and the therapy notes that she claimed corroborated her story. Dr. Ford has not provided these therapy notes to the Committee, even though she shared these same notes with the media.

In addition to conducting the hearing, the Committee obtained statements from the three individuals who Dr. Ford identified as being present at the 1982 gathering: PJ Smyth, Leland Ingham Keyser, and Mark Judge (who submitted two statements).

Each person denied having any knowledge of the alleged gathering. Ms. Keyser stated that she does not even know Judge Kavanaugh and does not recall ever meeting him. And Mr. Smyth and Mr. Judge each said they had never witnessed Judge Kavanaugh engage in conduct of the kind described by Dr. Ford.

The Committee contacted a total of 15 former classmates of Judge Kavanaugh and Dr. Ford. The Committee also received several statements, signed under penalty of felony, that support Judge Kavanaugh's explanation of terms in his high school yearbook.

Finally, prior to Day 5 of the hearing, the Committee staff conducted a transcribed telephone interview with Judge Kavanaugh regarding Dr. Ford's allegations. The Minority staff refused to attend.

Ramirez Allegations

In response to the allegations from Ms. Ramirez, the Committee contacted Ms. Ramirez's counsel 7 times seeking evidence to support the claims made in The New Yorker. Ms. Ramirez produced nothing in response. Ms. Ramirez's counsel refused the Committee's request for an interview. Committee staff nevertheless pursued the investigation. Staff interviewed 5 witnesses with relevant information. Committee staff also investigated the public statements of 3 other individuals and found they had no knowledge of the alleged event.

Prior to Day 5 of the hearing, Committee staff conducted a transcribed telephone interview with Judge Kavanaugh, subject to penalty of felony. He denied Ms. Ramirez's allegations. Minority staff attended the interview under protest and refused to participate.

Swetnick Allegations

In response to allegations by Ms. Swetnick, the Committee requested evidence on 6 occasions from her. Ms. Swetnick refused the Committee's request for an interview. Despite this obstruction, Committee staff attempted to pursue the investigation by interviewing 12 witnesses who claimed to have relevant information. Committee staff obtained two sworn statements from individuals with knowledge of Ms. Swetnick's character and allegations.

Prior to Day 5 of the hearing, Committee staff also interviewed Judge Kavanaugh on these allegations on two separate transcribed telephone interviews, subject to penalty of felony—both before (when Ms. Ramirez's allegations were also discussed) and after Ms. Swetnick was identified by name.

Judge Kavanaugh denied Ms. Swetnick's allegations, asserting that he does not even know Ms. Swetnick. Minority staff attended the interview under protest and refused to participate.

Anonymous Allegation from Colorado

In response to an anonymous allegation claiming Judge Kavanaugh pushed his girlfriend against a wall in a violent and sexual manner in 1998, Committee staff obtained a sworn statement from the woman dating Judge Kavanaugh at the time. She unequivocally denied that this incident ever took place.

Committee staff also questioned Judge Kavanaugh on these allegations during a transcribed telephone interview, subject to penalty of felony. Like his then-girlfriend, he denied that the incident ever took place. Minority staff attended but refused to participate in the interview.

Allegations by Others

The author of one allegation recanted in a public Tweet. The Committee referred the individual to the FBI for possible violations of 18 U.S.C. §§1001 (materially false statements) and 1505 (obstruction of congressional-committee proceedings). Committee staff questioned Judge Kavanaugh about the allegation during a transcribed telephone interview, subject to penalty of felony. He unequivocally denied the allegation. Minority staff attended but refused to participate in the interview.

A second allegation was completely anonymous. Committee staff questioned Judge Kavanaugh about the allegation during a transcribed telephone interview, subject to penalty of felony. He unequivocally denied the allegation. Minority staff attended but refused to participate in the interview. A woman has subsequently begun contacting Senate offices, claiming to be the author of the anonymous letter. Even though there are doubts about the authenticity of her claim, Committee staff is investigating.

CONCLUSION

The Committee's investigation, like the FBI supplemental background investigation, has found that there is no corroboration of the allegations made against Judge Kavanaugh.

Mr. SULLIVAN. This report shows a staff of over 20 members of the Judiciary Committee literally working around the clock for weeks on all leads—any lead that came in on these serious allegations. These investigators have the authority of the law. When people speak to them, if people speak to them and lie, they commit perjury. They spoke to more than 35 individuals, pursuing any and all substantive leads. This is in addition to the FBI report.

I want to commend Chairman GRASSLEY for this serious and diligent work in this regard and the work of the Committee. It wasn't highlighted a lot, but it is very serious work. A lot of it is detailed here.

Two important points stand out from this work. First, the Committee has not obtained or received any evidence that would corroborate the claims made by Dr. Ford. They talked to and tried to pursue leads in so many different areas. Dr. Ford's allegations were investigated respectfully and thoroughly by this Senate Judiciary staff and the FBI. As I mentioned, she certainly had courage in coming forward. Nevertheless, these allegations were not corroborated.

Four people Dr. Ford claims were present had no knowledge or memory of any such event, and the others the FBI asked about the alleged incident had no knowledge either. One of them was a lifelong friend of Dr. Ford's. Leland Kaiser said she didn't even know Judge Kavanaugh. As you know, all these statements were made under the penalty of perjury.

Another important point from the Judiciary Committee summary—again, I would suggest people take a look at it given the seriousness of the allegations and the seriousness of the investigation—that has not been picked up on is that the minority staff of the committee, those representing my colleagues on the other side of the aisle, refused to participate in most of these investigations, sometimes not attending any interviews at all, and when they did, they refused to ask questions. This is truly a mystery to me.

One of the constant refrains and arguments—and I am saying it has been in good faith from my colleagues on the other side of the aisle, which continues today—is the need for more investigations into the allegations against Judge Kavanaugh. They have been making that argument very regularly. Yet when you read what happened in the committee, they have refused to take part in almost any part of the intensive ongoing investigations from the Judiciary Committee staff investigators of which there are 20. They have been working on this diligently.

I am not a member of the Judiciary Committee, but it is my understanding that this is a very significant break from past bipartisan investigations that have almost always occurred on the Judiciary Committee for every other previous Supreme Court nominee, so I am not sure why this happened. Perhaps one of my colleagues can explain it, but it does make one wonder. Where does this leave us?

As Alaska's former attorney general and now as a Senator, I strongly believe in ensuring perpetrators of sexual assault pay a very serious penalty. I oversaw prosecutors who put such criminals away for decades and even indicted an alleged rapist according to his DNA sequencing in order to hold the statute of limitations for such a crime when we couldn't physically locate the alleged perpetrator.

I also believe in the presumption of innocence, the sacrosanct and fundamental American principle, whether in a criminal trial, a Senate committee hearing, or the court of public opinion.

I am convinced due process should apply as much to the Senate's advice and consent responsibility as it should in a court of law. If we lose this basic concept of fairness, then we risk doing irreparable damage to the very foundation of our democracy and core conceptions of American justice and even liberty. We do not want a system of guilty until proven innocent in America. Such a principle can lead to incentivizing false accusations that do lasting damage, especially when coupled with breathless media reports that repeat verbatim such charges.

Unfortunately, we have seen this phenomenon during this confirmation process. Now, I am not referring to the allegations of Dr. Ford, which were taken seriously, but in the aftermath of her allegations, some horrendous, and what appear to be patently false, claims were made against Judge Kavanaugh. Such false allegations do tremendous damage to the accused and his or her family, but just as bad, they also risk undermining the credibility of true victims and true survivors of sexual assault. This is something that has been overlooked, I believe, in these discussions.

One of the most disheartening aspects of this confirmation process has been how some of my Senate colleagues and members of the media were so quick to publicly embrace some of the most outrageous and incredible claims made against Judge Kavanaugh, like, for example, he participated in the drugging and raping of women as a teenage boy. A senior Member of the Judiciary Committee referenced this sickening allegation in her opening statement in one of the hearings. The immediate damage to the accused and to his family by such a charge which reverberated across the Nation was obvious. Less obvious but perhaps more damaging—as so many are in the long run—is how such false claims undermine the ability of true victims and real survivors with real claims of sexual assault to get justice, to be believed.

I certainly hope this is not one of the outcomes of this dysfunctional confirmation hearing process, but it underscores how and why the entire system of American justice and fairness can be undermined if we abandon the presumption of innocence.

Finally, I again want to thank and applaud so many of the women in particular, including so many Alaskans, who flew to DC, who have spoken out about this nomination, and have shared stories about their very difficult experiences with assault. I know from being in meetings with them and hearing from them and listening and reading, that this process has brought fresh and painful and difficult memories for so many. I want them to know that from the bottom of my heart, I am committed more than ever to work on combating these horrible crimes in domestic violence and trying to change the culture in our Nation to one of respect.

Indeed, if there is a silver lining to come out of this contentious confirmation process, it is that the awareness and commitment to do more to combat these horrible crimes has been heightened. I have heard this from many of my colleagues on both sides of the aisle in the past few days—including Senators MURKOWSKI, COLLINS, HARRIS, and

KLOBUCHAR—and I am certainly committed to working with all of them to make this happen.

At the same time, I do not agree with some of the comments made on the floor that a vote in favor of Judge Kavanaugh is somehow condoning sexual assault or somehow not believing all survivors. As Senator COLLINS stated yesterday, nothing could be further from the truth. A bipartisan majority of Senators, men and women, are likely to vote for Judge Kavanaugh in a few hours. To mark all of them as somehow not caring about the broader issue of sexual assault in America is not only untrue and an affront to them but undermines the larger cause of working together to combat this issue.

I do not believe this is a binary choice. This is not and should not be a Republican-versus-Democratic issue. This is actually an American epidemic, and, frankly, it should be viewed more as an American male issue. The men are the ones who are committing the vast majority of the abuse, and we need to work together in this body and across the country to be united to stop it.

I will be voting to confirm Judge Kavanaugh as the next Associate Justice on the Supreme Court, but on this broader topic that I have been discussing this afternoon, our country has a lot of healing and a lot of work to do. I am certainly ready to do my part in that regard with all of my Senate colleagues, Republican and Democratic.

I yield the floor.

The PRESIDING OFFICER (Mr. KENNEDY). The Senator from Maryland.

Mr. VAN HOLLEN. Mr. President, article II, section 2 of the Constitution gives this body, the Senate, the responsibility to advise and consent on judicial appointments. It is an important check on executive power. We are invested with this special responsibility to ensure that individuals nominated by the President to be Supreme Court Justices will be people who will make decisions fairly and impartially, without favor and without bias. That is why Lady Justice wears a blindfold and holds a balance scale on which to weigh the merits of arguments and claims that come before her. The integrity of the Supreme Court requires that every person who comes before that Court has confidence that each Justice will fairly weigh the evidence and the arguments. Judge Kavanaugh does not meet that standard.

I had that concern at the very beginning of this process, and I fear it more than ever today at the end of the process. Any remaining hope that Judge Kavanaugh could be trusted to be an impartial Justice or could be perceived to be an impartial Justice was shattered by his opening statement at his last hearing. In that statement, which he emphasized he wrote in his own words, Judge Kavanaugh launched into an ultra-partisan diatribe and into wild conspiracy theories. He suggested that Dr. Ford's compelling testimony about her sexual assault was somehow manufactured by Democrats as payback for his participation in the Starr investigation, as if Dr. Ford were an actor in a bitter partisan battle rather than a brave citizen who had come forward to tell her story.

While Judge Kavanaugh attempted the other day to walk back his words in his Wall Street Journal op-ed, the damage he had done was irreversible. If he is confirmed, hundreds of people who go before the Supreme Court and the millions of Americans whose lives will be affected by his decisions will believe that Judge Kavanaugh has already put his hands on the scales of Justice before they have had their say in court.

That is why hundreds of law professors, Jesuits, and personal friends withdrew their previous support for his nomination after his statement at that hearing. That is why the American Bar Association has called a meeting to reconsider its endorsement, and that is why former Justice John Paul Stevens took the extraordinary step of saying that Judge Kavanaugh was not fit to serve on the Supreme Court of the United States.

It didn't have to be this way. The process was flawed from the start, and it got worse as time went on. It started when President Trump contracted out the process of picking a Supreme Court nominee to rightwing groups like the Federalist Society and the Heritage Foundation. During his campaign, candidate Trump said he was going to pick Supreme Court nominees based not on who would be impartial, based not on who would be independent but based on who would do his bidding on certain issues. He had a number of litmus tests.

For example, during the campaign, when talking about the Affordable Care Act, candidate Trump promised that, unlike Chief Justice Roberts, his nominee would ''do the right thing'' and get rid of the Affordable Care Act. The Federalist Society and the Heritage Foundation didn't need much coaxing, but they dutifully compiled lists of names of people to fit the bill. Judge Kavanaugh fit the bill, and he fit the bill according to his own former law clerks.

One of his former law clerks wrote an article entitled ''Brett Kavanaugh Said ObamaCare was Unprecedented and Unlawful'' in order to assure people that Judge Kavanaugh would be the Justice Kavanaugh to undo the protections of the Affordable Care Act. Another one of Judge Kavanaugh's own law clerks said that no other contender on President Trump's list is on record so vigorously criticizing the Affordable Care Act. These are Judge Kavanaugh's law clerks.

We all know that the case of Texas v. United States, which threatens to take away protections for millions of people with preexisting conditions, is currently making its way through our Federal courts as we gather here today. It was filed by a group of 20 Republican attorneys general. The Trump administration decided not to defend the current law and decided not to defend the Affordable Care Act, and he said to these Republican attorneys general to have at it—to get rid of the Affordable Care Act.

We know that the Texas case is very likely to end up in the Supreme Court of the United States. In Judge Kavanaugh, President Trump has his man, according to Judge Kavanaugh's own law clerks, to rule against the Affordable Care Act—in doing so, stripping millions of Americans from their protections for preexisting health conditions.

On the issue of a woman's right to reproductive freedom and choice, Candidate Trump promised he would appoint a Justice to take those rights away. Specifically, he said overturning Roe ''will happen automatically, in my opinion, because I am appointing prolife justices on the court.'' Again, he found his man in Judge Kavanaugh, and we have Judge Kavanaugh's own law clerks saying as much.

In a July 3, 2018, National Review article, one of his former clerks wrote: ''No court-of-appeals judge in the nation has a stronger, more consistent record of enforcing restrictions on abortion.''

Now, at the confirmation hearing, we all heard Judge Kavanaugh say that Roe v. Wade was an important precedent, and he said to some Senators that it was settled law. We know from many Republican judicial nominees who have testified before the Senate about settled law that as soon as they have gotten on the Supreme Court, it has no longer been settled. In fact, Judge Kavanaugh, before he was a judge, said himself in a 2003 memo that came to light: ''I am not sure that all legal scholars refer to Roe as the settled law of the land at the Supreme Court level since the Court can always overrule its precedent''—a clear indication of where Judge Kavanaugh's reasoning lies, especially in light of the testimony from his own law clerks.

If you look at other parts of his record, you will find that Judge Kavanaugh consistently rules in favor of powerful special interests and against the public interest. He has sided with those who want to lift all of the restrictions on political campaign expenditures. In one opinion, Judge Kavanaugh wrote that PACs are constitutionally entitled to raise and spend unlimited money in support of candidates for elected office because it was ''implausible'' that contributions to independent groups could corrupt candidates.

Those million-dollar expenditures on behalf of candidates have no impact on the thinking of those candidates once they are elected. This is according to Judge Kavanaugh and, of course, according to the Citizens United decision. In fact, Judge Kavanaugh has been

credited by one campaign finance expert as ''the man who created the super-PAC.''

Judge Kavanaugh has gone further. He has even suggested that limits on direct contributions to candidates are unconstitutional. Back in March of 2002, in an email, he wrote: ''I have heard very few people say that the limits on contributions to candidates are unconstitutional, although I, for one, tend to think those limits have some constitutional problems.''

We can see that if it is Justice Kavanaugh, not only will he double down on Citizens United, which says that corporations can spend unlimited amounts of money, including unlimited amounts of secret money, but he will question the constitutionality of putting limits not only on independent expenditures but on direct contributions to candidates.

We know Judge Kavanaugh was also the pick for those who want corporate power to trump workers' rights, consumers' rights, and environmental protections. The day that Judge Kavanaugh was nominated for the Supreme Court, the White House circulated a letter to corporate leaders that touted the fact that he would protect their interests. The White House proudly noted that he had overruled Federal regulators 75 times on cases involving clean air, consumer protections, net neutrality, and other issues.

When it comes to workers' rights, Judge Kavanaugh has routinely sided with corporations that want to prevent workers from unionizing, even at President Trump's own hotel in Atlantic City, which at the time had admitted its refusal to bargain with workers in a 2012 case.

When the card dealers across several hotels voted to unionize, Judge Kavanaugh and a panel of judges invalidated the will of the workers, overturned an administrative law judge's ruling that the union be certified, and allowed the Trump hotel to continue violating workers' rights.

On environmental issues, Judge Kavanaugh's record shows that time and again, he favors polluters over clean water and clean air. With his confirmation, it will be much harder for Americans to seek redress in the courts, and it will be easier for polluters to continue to pollute the environment. As a circuit court judge, he has written 10 dissenting opinions in environmental cases, and in each one, he has argued against the side that sought to protect the public health and the environment.

Judge Kavanaugh's sweeping view of executive power should cause alarm among every Member of this Senate, Republican and Democrat alike. We have all heard the testimony, and we have seen the writings. It appears to be no surprise that President Trump, who is watching that Mueller investigation get closer and closer to his doorstep, would want a judge who will give excessive deference to the executive branch—somebody who may be on the Supreme Court when that Court has to decide whether or not President Trump can be subpoenaed in that case or otherwise or be brought to justice in that case, if that is what the conclusions demand.

It is clear on all of these issues that President Trump and the Republicans had their man in Judge Kavanaugh. They have someone they believe will overturn the Affordable Care Act, once again giving insurance companies a green light to discriminate against people with preexisting conditions.

They think they have someone who will overturn Roe v. Wade or dramatically limit a woman's right to reproductive freedom and choice; someone who will gut environmental regulations, undermine workers' rights, and consumer protections; someone who will give corporations the ability to continue to spend unlimited amounts of money in elections and who might even argue that the contribution limits to candidates are unconstitutional and can be limited; and, finally, someone the President believes will get him off the hook if the Mueller investigation gets too close to him.

So here we had Republicans in this Senate and a President on the verge of getting someone they thought could do all of those things, and then something unexpected happened: The country learned about what happened to Dr. Ford.

Our Republican colleagues seem to have forgotten that Dr. Ford did not want to come publicly to report her sexual assault. It was only when she found out that Judge Kavanaugh was on the second short list that was released that she became concerned. Even then, she didn't want to come forward publicly. But she thought it was her civic duty to let people know what had happened to her, so she reached out to her Representative in Congress on a confidential basis.

The story did become public, and when it did, she felt dutybound to testify before the Senate Judiciary Committee and tell Senators what happened to her on that awful day. We all know she had nothing to gain. She has been subjected to all sorts of awful death threats and other kinds of verbal abuse. She had nothing to gain and everything to lose.

Our Republican Senators who listened to her testimony, for the most part, said that her testimony was both powerful and credible; we know she answered questions directly. By contrast, Judge Kavanaugh's testimony was partisan, evasive, and, on many points, even under oath, untruthful.

When the female prosecutor Republicans hired to ask questions for them could not discredit Dr. Ford's testimony, we saw many of our Republican colleagues launch into full partisan attack mode; no longer did the facts matter. They picked up on Judge Kavanaugh's opening statement about partisanship rather than seeking to get to the truth about what happened to Dr. Ford and others who have alleged sexual assault.

What mattered was ramming through their nominee. The majority leader, Senator MCCONNELL, said they would ''plow right through'' and, by God, nothing was going to stop them. They even scheduled the vote on Judge Kavanaugh before they had heard the testimony about sexual abuse and sexual assault from Dr. Ford and Judge Kavanaugh.

It was only when Senator FLAKE recognized what a sham the process was that he at least forced the Republican leadership to do what they did not want to do and agree to a short FBI investigation into the allegations of Dr. Ford and Deborah Ramirez, but the goal never changed. The goal of ramming through the nomination never changed.

That is why Senate Republicans and the White House dramatically limited the scope of the FBI investigation. They tied the hands of the FBI. They told the FBI whom they could interview. The investigation that was already going to be short at about a week was cut even shorter and was finished up in a matter of days.

What is the result? The result is completely predictable. The result is we have lots of key witnesses who were not interviewed who say they have corroborating evidence to support the allegations of Dr. Ford and Deborah Ramirez. The country will continue to hear from these witnesses after today's vote.

Because the investigation was orchestrated by the White House and the Senate Republican leadership, the FBI was not allowed to do its full job. It would have been better for all parties involved—and I mean all parties, including Judge Kavanaugh—to have had a thorough investigation where, at the end of the day, the public could have confidence that all of the available evidence could have been tracked down and reviewed. That would have been best for the integrity of the Court and the integrity of the Senate.

We all know there is no requirement that we rush this confirmation. We all know that. After all, it was the Republican leader who kept a seat open on the Supreme Court for months and months and months after President Obama had nominated Judge Merrick Garland. So this notion that there is some kind of artificial deadline is simply untrue. This is all being done, as the majority leader said, to ''plow right through.''

Taking time to do the investigation right would have put the entire enterprise at risk—the entire plan to put on the Supreme Court the person President Trump and Republicans believe will deliver the legal outcomes they want. Even if all of the testimony shows he can no longer be impartial, in this case, his record and testimony indicate that he will deliver the legal outcomes they want.

Dr. Ford's courage in coming forward and telling what happened to her has empowered many of my Maryland constituents and many others around the country to come forward with their own stories of abuse.

I have received written statements from over 50 Marylanders—over 50 Marylanders—telling me about the sexual abuse they had encountered. Some of them told me they have shared with me what they have not shared with their own family members. They felt it was important that I know why they did not report their abuse at the time, why they did not tell their parents, and why their memories were not perfect decades later.

They told me what they do remember. They told me they remember the clothing they wore the day they were assaulted. They told me they remember the scent, the cologne, and the feeling of unwanted hands. Those memories haunt them.

These stories are reminders of how our society has let down survivors of sexual assault for decades. The way that these survivors have been treated has been shameful. I am humbled by the trust they have shown in sharing these experiences with me, and I will let the stories of a few of them speak for themselves here on the floor of the Senate.

Here is what one woman wrote:

Once [when] I was 16, I was at a party. There was alcohol. He was popular, I wasn't. He was big and strong, I have never been. He threatened me afterwards. He needn't have bothered. He told me no one would believe me. He told me I wanted it. I showed a friend the bruises. He said everyone would say I was a slut. I told another friend I was frightened. She said I should just avoid him in school. I told an adult I trusted at my job. She told me about how when she reported when she was young, how the police treated her, how her parents reacted. How she regretted saying anything. I never told my parents. I went to a free clinic and the ''therapist'' asked how could I know it was rape if I had been drinking.

Those are the powerful words from one Marylander.

Another wrote:

I remember the assault vividly. I was on my way home from church. I don't remember the sermon before. Details are fuzzy. But I remember the assault. I remember looking at a nearby home where I knew elderly people lived. I could see that their TV was on and I wondered, ''Would they even hear me scream?'' I didn't tell people. I didn't think people would believe me.

Another constituent wrote me this quickly, without editing. She told me she cried when she read it to her husband. Here is what she wrote:

Having experience in working with victims in a prosecutorial manner, or as a judge, or even defending the accused does not make you an expert. The expert is the victim. I am that victim. I am that expert. And as such I can tell you absolutely, without hesitation, that what haunts you most, what affects how you relate in the future with your loving spouse, what affects how you feel about yourself, and what affects even your sense of smell, is the memory of the person who abused you. Not the address where it took place, not the time on the clock, not the day of the week—but the smell of the person assaulting you, the feel of their hands, the confusion in your head because you don't know what is happening because it's all happening so fast, and yes—their name. You never forget their name.

She went on to say:

Then comes the shame. What did I do to cause this? What will people think of me now because I've been touched, I've been tarnished, I'm not pure. Will I be believed? At this point my life has already been altered beyond repair, but it's an internal alter. If I talk, it alters my external world as well. Maybe it's better to just not talk because then at least I can pretend things are as they have always been. I can just pretend that I'm exactly the same person—but I'm not.

Another wrote that she understood that a man could move on from assaulting a woman particularly if they were drunk at the time. She said:

The man who assaulted me later acted as if he was catching up with an old friend and had no memory of the event. I have several friends who have experienced the same thing.

Another echoed a similar experience, writing:

He had been drinking heavily with friends at a restaurant or bar. I had not. Later that night, he raped [me]. He was very inebriated and displayed a complete personality change. He was violent and angry and did not even seem to see me. I was paralyzed and probably saved my own life by not fighting back as he had essentially become a rabid animal. The next day I confronted him about what happened and he had no memory of the crime he committed.

These are not isolated incidents for survivors. As I have said, I have gotten over 50—over 50—personal testimonials from survivors since Dr. Ford had the courage to come forward. These are people who have not shared what happened to them with some of their closest friends or family members. These are stains etched in their memories. Many of them never told a soul. Others were ignored or dismissed when they brought up these awful experiences and were told to stay quiet.

It is an insult to these survivors when some have called them partisan. In many cases, they went out of their way in their messages to me to say their concerns had nothing to do with ideology or partisanship—nothing. Some told me they are Republicans, and others are Independents. Some of them grew up in families who had no care about politics. Others told me they were Democrats but they would be more than willing to accept a different, conservative judge—but not this one.

When Donald Trump went to a campaign rally and mocked Dr. Ford, he mocked every one of those 50 survivors who wrote to me. He mocked every survivor of sexual abuse around the country. And this Senate's decision to do as the majority leader said, ''plow right through'' without undertaking a thorough and serious investigation into the charges from Dr. Ford, Deborah Ramirez, that also disrespects these survivors. That is what they say to me.

Of course, Judge Kavanaugh did the same thing in his opening statement at his most recent hearing because his entire opening statement suggested that Dr. Ford's coming forward was part of some political conspiracy. Unfortunately, that is where this conversation has gone ever since—not an effort to really get to the truth, to really get all the facts but just to do what the majority leader said before she even testified: ''Plow right through.''

We know that etched above the Supreme Court are the words ''Equal Justice Under Law.'' It does not say ''plow right through.''

The decision to ''plow right through'' will undermine and haunt the integrity of the Supreme Court for decades to come, and it will also haunt and undermine the integrity of this U.S. Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, I have to say I am sick of this. I am sick of everyone who wants to rewrite the history of what happened in the Senate with the nomination of Brett Kavanaugh to the United States. It isn't even over yet, and they want people to believe that what we have witnessed over the past weeks was what they call a ''political hit job perpetrated by Democrats with a grudge.''

That is the story the nominee himself tried to sell in his testimony on Thursday. He accused Democrats of lying in wait. He twisted Ranking Member FEINSTEIN's respect for Dr. Christine Blasey Ford's wish for privacy. He falsely claimed Democrats had her accusation ''ready,'' that Dr. Ford's accusation ''was held in secret for weeks,'' because the Democrats, as Judge Kavanaugh put it, ''couldn't take me out on the merits.''

What a paranoid fantasy.

Brett Kavanaugh's entire performance was an hour's long rant. I am quoting him. He said:

This whole two-week effort has been a calculated and orchestrated political hit, fueled with apparent pent-up anger about President Trump and the 2016 election.

Fear that has been unfairly stoked about my judicial record. Revenge on behalf of the Clintons, and millions of dollars in money from outside left-wing opposition groups.

Unbelievable, in my view. He claimed to have written this screed on his own without showing it to any of his handlers. I find that hard to believe, given that he was reported to have spent 10-hour days at the White House preparing for this hearing.

We heard Dr. Ford's raw and sincere account of that night as a drunk teenaged Brett Kavanaugh and Mark Judge attacked her. The nominee called it a ''grotesque and coordinated character assassination.'' But this isn't a conspiracy, Judge Kavanaugh. It is real.

Look at what Dr. Ford's coming forward has triggered. People believe her for many reasons. Her recall of events is consistent with the way survivors of trauma remember things. Her demeanor was forthright and open. She had everything to lose and nothing to

gain by coming forward, and despite what many are saying, there is quite a bit of collaboration of her story.

She knew Brett Kavanaugh. She socialized with his circle of friends. She had told people in her life what happened to her long before Brett Kavanaugh was nominated to the Supreme Court. His calendar attests to him having attended at least one gathering consistent with her recollection.

But another reason so many people believe Dr. Ford is that her account is so familiar. It has echoes in so many of our own stories, our own experiences. So many women have survived some version of what happened to her, along a spectrum of experiences that range from creepy looks or catcalls to rape and other violent attacks. So many women have kept their stories to themselves for fear of not being believed, for fear of retaliation or humiliation, or shunning.

In a column written by Monica Hesse in the Washington Post, entitled ''Dear dads: Your daughters told me about their assaults. This is why they never told you,'' Ms. Hesse writes about all the reasons why survivors don't even tell people closest to them about what happened to them.

She writes:

For all the stereotypes that linger about women being too fragile or emotional, these past weeks have revealed what many women already knew: A lot of effort goes into protecting men we love from bad things that happen to us.''

She writes to fathers who are only now finding out about the daily indignities women endure and explains why they were never told and why their loved ones were now writing to Hesse herself.

I am going to quote extensively from this article:

To the father of the young woman who was assaulted by the student athlete she was hired to tutor: She never told you because she didn't want to break your heart. But she told me, in a long email, because the memory of it was breaking her own heart and she'd spent five years replaying it.

To the father of the junior high student who was pinned down and undressed at a gathering 30 years ago: She didn't tell you because she didn't want to see you cry. But she told me that she still remembers every detail.

To the father of the teenager who was raped at a party: You don't know about this, because she was certain that if you knew, you would kill her attacker and go to prison, and it would be her fault.

To the father of the son who was assaulted by an older man: I wish I could tell you more about what happened to him, but he wouldn't tell me, and he definitely won't tell you, because manliness is important to you, he says.

To all the fathers of all the silent victims: Your children are quietly carrying these stories, not because they can't handle the emotions but because they are worried that you can't.

They are worried that your emotions will have too many consequences. Or they fear you won't think of them the same way. Or that you'll be distraught because you didn't protect them.

These words and stories are powerful, and Ms. Hesse is right. So many survivors want to protect their loved ones, but Ms. Hesse is also right that they shouldn't keep their stories in. She urges them, saying:

So, to the rest of you: If you could tell your father in a way that feels safe, and in a way that would bring you comfort, tell your father. Tell your brothers. Let them be uncomfortable; let them share some of your pain. Don't let them be ignorant.

And once women are able to share their experiences, what should we do with them? I agree with the author Rebecca Traister, who captured so much of what I have been thinking lately in a piece called ''Fury Is a Political Weapon, and Women Need to Wield It.'' This is in the New York Times. I want to read some of it to you.

Ms. Tracer wrote:

Outside the room where Christine Blasey Ford forward was testifying on Thursday morning, women were incandescent with rage and sorrow and horror.

They were getting angry in a new way, a public way, an unapologetic way—a way that is typically reserved for men, and that would again serve men well, when afternoon came.

Brett Kavanaugh bellowed; he snarled; he pouted and wept furiously at the injustice of having his ascendance to power interrupted by accusations of sexual assault.

He challenged his questioners, turned their queries back on them.

What happened inside the room was an exceptionally clear distillation of who has historically been allowed to be angry on their own behalf, and who has not.

And outside the room was a hint of how it might be changing.

Most of the time, female anger is discouraged, repressed, ignored, swallowed. Or transformed into something more palatable and less recognizable as fury—something like tears. When women are truly lived, they often weep.

Maybe we cry when we're furious in part because we feel a kind of grief at all the things we want to say or yell that we know we can't.

Maybe we're just sad about the very same things that we're angry about. I wept as soon as Dr. Blasey began to speak.

On social media, I saw hundreds of messages from women who reported the same experience, of finding themselves awash in tears, simply in response to this woman's voice, raised in polite dissent.

The power of the moment, the anxiety that it would be futile, the grief that we would even have to put her—and ourselves—through this spectacle, was intense.

Tears are permitted as an outlet for wrath in part because they are fundamentally misunderstood.

One of my sharpest memories from an early job in a male-dominated office, where I once found myself weeping with inexpressible rage, was my being grabbed by the scruff of my neck by an older woman—a chilly manager of whom I'd always been slightly terrified—who dragged me into a stairwell.

''Never let them see you crying,'' she told me. ''They don't know you're furious. They think you're sad and will be pleased because they got to you.''

This political moment has provoked a period in which more and more women have been in no mood to dress their fury up as anything other than raw and burning rage.

Many women are yelling, shouting, using Sharpies to etch sharply worded slogans onto protest signs, making furious phone calls to representatives.

Many of the women shouting now are women who have not previously yelled publicly before, many of them, white middle-class women newly awakened to political fury and protest.

Part of the process of becoming mad must be recognizing that they are not the first to be furious, and that there is much to learn from the stories and histories of the lived women—many of them not white or middle class—who have never had reason not to be mad.

If you are angry today, or if you have been angry for awhile, and you're wondering whether you're allowed to be as angry as you feel, let me say: Yes. Yes, you are allowed. You are, in fact, compelled.

If you've been feeling a new rage at the flaws of this country, and if your anger is making you want to change your life in order to change the world, then I have something incredibly important to say: Don't forget how this feels.

That is Rebecca Traister's article.

Traister ends her article by endorsing anger and telling women not to let go of it. She says:

What you're angry about now—injustice—will still exist, even if you yourself are not experiencing it, or are tempted to stop thinking about how you experience it, and how you contribute to it.

Others are still experiencing it, still mad; some of them are mad at you. Don't forget them; don't write off their anger. Stay mad for them, alongside them, let them lead you in anger.

That is what I am left with, Mr. President. Anger. Fury. Disgust. At a process that could not see the truth of what Dr. Ford tried to tell us.

The rewriters of truth are already at it. In column after column, on cable news shows across the country, and even here on the Senate floor, they are casting Judge Kavanaugh as the victim.

I was asked a few days ago whether the four Democratic women on the Judiciary Committee had a special responsibility to address the question of sexual assault. I reject the premise of that question. It is not just up to the women in this country to stand up. Men have to join us. They have to hold themselves and other men accountable. They have to push back against the fear that those with power feel when they are challenged. We saw some of the ways that this kind of fear operates just this week among some of my Senate colleagues.

When approached by survivors of sexual assault who waited to talk to them about the Kavanaugh nomination, they said things like ''Grow up,'' insinuating that the women sharing their painful, traumatic accounts were there to enjoy themselves. Enjoy themselves?

We saw the President of the United States sink to a level I didn't think possible. The mocker-in-chief mocked Dr. Ford, a survivor of sexual assault. He mocked her for not remembering some peripheral things about the attack. But the thing she said she was 100 percent sure of was that it was Brett Kavanaugh who attacked her.

In case some of my colleagues don't get it, sexual assault survivors often

don't remember how many steps, how many rooms, the kinds of things the President mocked Dr. Ford about. But they remember the attack itself with 100 percent accuracy. They remember how it felt, the fear, the laughter of the attackers.

The kinds of insults that have been hurled at Dr. Ford and others in her situation are cruel and unnecessary. I am left with anger and determination, just like millions of people across the country.

I will take Rebecca Traister's advice and commend it to the women of America and the men who understand their stories. I will stay mad and let that anger propel us to change. Going forward, I will continue to listen to women who have shared their stories. I will tell them that I hear them, I see them, and I want all of us to be the change that needs to happen in our country.

Before I yield the floor, I want to read a statement from Debbie Ramirez dated October 6, 2018. She says:

Thirty-five years ago, the other students in the room chose to laugh and look the other way as sexual violence was perpetrated on me by Brett Kavanaugh. As I watch many of the Senators speak and vote on the floor of the Senate I feel like I'm right back at Yale where half the room is laughing and looking the other way. Only this time, instead of drunk college kids, it is U.S. Senators who are deliberately ignoring his behavior. This is how victims are isolated and silenced.

But I do have corroborating witnesses speaking for me, although they were not allowed to speak to the FBI, and I feel extremely grateful for them and for the overwhelming amount of support that I have received and continue to receive during this extremely difficult and painful time. There may be people with power who are looking the other way, but there are millions more who are standing together, speaking up about personal experiences of sexual violence and taking action to support survivors. This is truly a collective moment of survivors and allies standing together.

Thank you for hearing me, seeing me and believing me. I am grateful for each and every one of you. We will not be silenced.

We stand in truth and light, Debbie Ramirez.

I yield the floor.

Mr. ENZI. Mr. President, I rise today in support of the nomination of Brett M. Kavanaugh to be our next Associate Justice on the Supreme Court of the United States.

Confirming Supreme Court Justices is one of the most important and sacred roles of the Senate. Supreme Court candidates represent individuals who have reached the highest level of their profession and are often the brightest legal minds of their generation. Beyond their stellar resumes, they must have a proven track record of approaching each case with care and a commitment to upholding our rule of law and the Constitution. Judge Kavanaugh easily exceeds these standards and is highly qualified for confirmation to our nation's highest court.

I met with Judge Kavanaugh in July and got the chance to talk with him about his judicial philosophy and record. During our conversation, I was struck by his professionalism, commitment to the Constitution, and vast knowledge of our legal system. We discussed the important issues facing Wyoming, and I believe he understands my State's unique challenges. As a rural, western State, we are constantly battling Federal Government overreach from Washington, DC. Judge Kavanaugh has a long history of reining in executive agencies that stretch beyond their statutory authorities, which is a welcome relief for my State. Wyoming is a State full of citizens who expect our courts to uphold the Constitution as the framers originally intended it.

I voted to confirm Judge Kavanaugh as a judge to the DC Circuit Court of Appeals over a decade ago. Since that time, Judge Kavanaugh has become widely regarded by his peers as one of the most respected circuit judges in the Nation. He is a prolific writer and has authored more than 300 opinions, demonstrating his firm commitment to the rule of law. Having reviewed his record, and based on his experience and writings, I believe Judge Kavanaugh will fairly and impartially interpret the law.

Over a decade ago, when the Senate was considering the nominations of Justice Alito and Chief Justice Roberts, I gave a floor speech where I stated that ''[W]e have shifted into an era of judges who legislate. We must return to the elementary doctrines that [recognize] the important and distinct roles of each branch.'' That sentiment is more true now than ever. Elected representatives in Congress are held accountable to the people and must demonstrate their fidelity to their constituents' concerns to remain in office. There is no such check on our judiciary. Congress's job is to write the law, and the courts are tasked with interpreting the law and determining its adherence to the Constitution, not writing it themselves. I believe Judge Kavanaugh understands this distinction thoroughly and has a proven track record of refraining from rewriting laws from the bench. His confirmation to the Supreme Court will set a new standard for our judicial system that encourages this type of philosophy, one that shies away from activism and focuses on the true role of the courts to interpret the law.

I also appreciate Judge Kavanaugh's commitment to service. Since the beginning of his career, he has spent several decades in various roles in the public sector, serving our Nation. From the Bush administration and now to the courts, he has dedicated his life to public service and served our Nation honorably. He is also a family man who volunteers his extra time at his church or helping deliver meals to other people. Of all of the shining spots on Judge Kavanaugh's resume, this may be the most impressive.

Serious accusations were recently made against Judge Kavanaugh. It is a Senator's job when giving advice and consent on nominations to give such accusations, and the people making them, careful consideration. I do not condone sexual assault in any case, and allegations must be taken seriously. All parties deserve fair treatment. I believe they got it, and the committee rendered its decision.

The situation surrounding these accusations included noise and political pandemonium the likes of which we have thankfully not had too many occasions to witness in the history of our country. That is why I was appreciative of how Judiciary Committee Chairman CHUCK GRASSLEY conducted committee consideration of this nomination. He cut through the conjecture, speculation, frenzy, and focused the committee on fair consideration for accusers and accused.

I made my decision to vote for Judge Kavanaugh based on my meeting with him, his long and meritorious record of public service and as a judge, which involved multiple FBI background checks, including the most recent supplemental review, and the Judiciary Committee's work on the nomination. That work included a day of questions about the accusations made against Judge Kavanaugh. At the conclusion of this process, no new facts were revealed and no corroboration of the accusations was presented.

Like Justice Gorsuch before him, I believe Judge Kavanaugh would issue decisions adhering to a strict interpretation of the Constitution, free from outside pressure. I applaud President Trump for taking his responsibility to nominate qualified Justices so seriously.

Thank you.

Ms. HIRONO. Mr. President, yesterday, we heard our colleague from Maine express the hope that his ''nomination is where the process has finally hit rock bottom.'' On this, I agree. I hope we never again reach a place where women are as disrespected, ignored, and disregarded, as they have been throughout this confirmation process.

My colleague also observed that ''[w]e live in a time of such great disunity'' that ''people bear[] extreme ill will toward those who disagree with them.'' While that may be true for some, I think many of us who have strongly spoken out about our concerns about Judge Kavanaugh's nominations do not bear any ill will against those who disagree with us. In fact, being able to strongly disagree with others and voice our opinions without being told to ''grow up'' or called a ''loud mouth'' reflects a respect for the American values of democracy and respecting women. It is in that spirit, I would like to clarify several misunderstandings raised by my colleague.

As my colleague from Maine noted, she cares about protecting women's reproductive rights. Given this concern, I feel compelled to clarify her description of Judge Kavanaugh's record on

reproductive rights. She referenced, without naming, Judge Kavanaugh's dissenting opinion in favor of a religious organization, Priests for Life. In that case, he argued that religious employers could deny their women employees access to healthcare coverage of contraception because filling out a 2-page form was too burdensome for them.

Despite this conclusion, my colleague described Judge Kavanaugh's decision as ''seeking to ensure the availability of contraceptive services for women while minimizing the involvement of employers with religious objections.'' It is hard to see how blocking access to contraceptives for women by finding a 2-page form too burdensome is truly seeking to ensure access to contraceptives.

She claimed that his critics ''frequently overlook'' the fact that he wrote that ''Supreme Court precedent 'strongly suggested' that there was a 'compelling interest' in facilitating access to birth control.'' But that ignores the fact that regardless of this rhetoric, Judge Kavanaugh has consistently demonstrated hostility to women's reproductive rights, including in the very case that she referenced, Priests for Life v. Department of Health and Human Services. Moreover, if he is confirmed to the Supreme Court, Judge Kavanaugh can make clear to the entire country that facilitating access to contraceptives is not a compelling interest.

I am also very concerned that my colleague failed to mention the key case addressing Judge Kavanaugh's views on women's reproductive rights, Garza v. Hargan. In that case, a 17-year-old undocumented immigrant sought release from HHS custody to obtain an abortion. In his dissent, Judge Kavanaugh mischaracterized the case as one of ''parental consent'' case to reach his desired outcome, denying this young women access to her constitutional right to an abortion. Parental consent was not at issue at all in that case. The young woman had already received a proper judicial bypass from a Texas judge. That case is troubling not only because it shows Judge Kavanaugh's complete disregard for a woman's right to make her own decisions about the most intimate aspects of her life, but also because it reveals his willingness to misrepresent the law and facts to reach his partisan, desired outcome.

Although some of my colleagues have tried to hang their hat on Judge Kavanaugh's generic statements about his respect for precedent, even his own colleagues have criticized him for ignoring precedent, when expedient. In one case, United States v. Anthem, his colleagues in the majority sharply criticized his dissent, stating that their ''dissenting colleague applies the law as he wishes it were, not as it currently is.''

My colleague from Maine also noted Judge Kavanaugh's ''rave reviews . . . as a judge, including for his judicial temperament.'' She pointed to the fact that the American Bar Association's Standing Committee on the Federal Judiciary, ABA, ''concluded that 'his integrity, judicial temperament, and professional confidence met the highest standard.' '' But I would be remiss if I didn't further note that the ABA informed the Judiciary Committee yesterday morning that it was reopening its evaluation of Judge Kavanaugh because of ''[n]ew information of a material nature regarding temperament during the September 27th hearing before the Senate Judiciary Committee.'' This new information includes Judge Kavanaugh's angry, partisan screed on September 27, when he accused Senators of ''orchestrat[ing] a political hit'' as ''revenge on behalf of the Clintons'' and ominously said, ''what goes around comes around.''

These statements, which were not mentioned by my colleague, directly contradict Judge Kavanaugh's statements of nonpartisanship that my colleague quoted in her remarks. But the most important clarification that I feel compelled to make is my colleague's discussion of Dr. Christine Blasey Ford's testimony. My colleague stated that she ''found [Dr. Ford's] testimony to be sincere, painful, and compelling.'' She also said that she ''believe[s] [Dr. Ford] is a survivor of a sexual assault and that this trauma has upended her life.''

But these statements of support were followed in the caveat, ''Nevertheless.'' ''Nevertheless,'' it was said, ''the four witnesses [Dr. Ford] named could not corroborate any of the events of the evening gathering where she said the assault occurred.'' My colleague raised questions about the fact that no one came forward from this small gathering in the summer of 1982 to say that they were at the party or that they gave Dr. Ford a ride home that night. Point by point, these statements sought to poke holes in Dr. Ford's testimony based on little details.

In the midst of the questions raised about these little details in Dr. Ford's testimony, the bottom line message was clear: Dr. Ford was not to be believed. She was mixed up, mistaken. By contrast, Judge Kavanaugh was to be believed because he ''forcefully denied the allegations under penalty of perjury.'' But there was no mention of the fact that Dr. Ford also testified until penalty of perjury and said she was ''100 percent'' certain it was Brett Kavanaugh who sexually assaulted her in the summer of 1982.

In contrast to the claim that there was a ''lack of corroborating evidence,'' there was significant corroborating evidence, as my colleagues have already entered into the RECORD. To highlight just a few, Dr. Ford's account was corroborated by Dr. Ford's therapist, results of a polygraph examination, and other witnesses who were told about Dr. Ford's account of her sexual assault, even before Judge Kavanaugh was nominated to the Supreme Court.

In contrast to my colleague's description of this process as a dysfunctional ''frenzy'' of special interest groups spreading ''outright falsehoods,'' I believe what we have heard over the past few weeks is democracy in action. Across America, women and men have been sharing their painful experiences of sexual assault and why it matters that someone who commits sexual assault should not be rewarded with a seat on the highest court in the land. They are saying character, credibility, candor, and temperament matter. Those are the American values we will be rejecting today, if Brett Kavanaugh is confirmed to the Supreme Court.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Hawaii for her comments. She has had a strong voice of reason and conscience throughout this whole debate.

This is not a normal confirmation vote. I have now served in the Senate for 19 Supreme Court nominations, more than any other Senator. I have never seen so much at stake with a single seat. I have never seen this much at stake precisely because this is about so much more than one seat. Indeed, the integrity of two of the three coequal branches of our Republic is at stake. This vote will decide whether the U.S. Senate—which, at its best, can serve as the conscience of the Nation—causes the Supreme Court to be indelibly tainted in the eyes of millions of Americans, perhaps more than half of the country.

To be clear, my opposition to Judge Kavanaugh is not because he was nominated by a Republican President. In my 44 years in the Senate, I have voted for more Republican-appointed judges than almost every single Republican Senator serving today. That includes, of course, voting to confirm Chief Justice John Roberts. But Judge Kavanaugh is not a typical conservative nominee. My opposition is driven by my firm belief that his confirmation will bring great harm to the court, to this body, and to millions of hard-working Americans.

Judge Kavanaugh has been relentlessly dishonest under oath. I am not just referring to the fact that he was not telling the truth about his high school drinking or the obvious misogyny in his yearbook or whether he is ''Bart O'Kavanaugh,'' who passed out from drunkenness. All of that, of course, does speak to his credibility, as he concocted far-fetched story after far-fetched story, all to avoid conceding facts that would corroborate the Brett Kavanaugh as described by Dr. Ford and Ms. Ramirez.

But it is much more than that—much, much more than that. Every single time Judge Kavanaugh has testified before the Senate—in 2004, in 2006, and twice in 2018—he has misled and dissembled. On issues big and small, anytime he has been faced with questions that are incriminating, or would place

him in the middle of controversy, he has shown that he cannot be trusted to tell the truth. He misled the Senate. Following questions by both Republicans and Democrats, he misled the Senate about his role in a hacking scandal and thefts from the U.S. Senate. He misled the Senate about his role in confirming several controversial judicial nominees and in shaping the legal justifications for some of the Bush administration's most extreme and eventually discredited policies. I have never seen a nominee so casually willing to evade and deny the truth in service of his own raw ambition. For decades, that ambition has let him, step after step, evade the truth if it is in any way going to stop his ambitions.

The truth is, we are just beginning to learn about Judge Kavanaugh's dishonesty under oath. His false testimony during his 2004 and 2006 confirmation hearings only came to light as the Judiciary Committee obtained some of his White House emails—some because Senate Republicans blocked access to 90 percent—90 percent—of his White House records. Compare that to when Justice Kagan was here, we made sure that Republicans and Democrats had 99 percent of her records, and they were briefed on the remaining 1 percent. Here, 90 percent was blocked. So everything we have learned about his prior dishonesty comes from just 10 percent of his record. Many more of these records are eventually going to become public after today. In fact, I joined a lawsuit, led by Senator BLUMENTHAL, to force the National Archives to release these records. So if 10 percent of his records show dishonesty, what are the chances that the other 90 percent do not contain additional evidence of Judge Kavanaugh's dishonesty under oath? I would say the chance is about zero.

It is not just Judge Kavanaugh's veracity that is disqualifying; it is also his temperament and his partisan zeal. When Brett Kavanaugh was nominated to the D.C. Circuit Court of Appeals in 2004, he was known only as a hyper-partisan political operative. Because he was seen as so hyperpolitical, it took 2 years to get him confirmed. Since Judge Kavanaugh's nomination to the Supreme Court, I had wondered whether his earlier partisan zeal that held him up for 2 years has remained.

Well, it was confirmed last week that it does remain. I have never seen a nominee, either Republican or Democrat, so consumed by partisan rancor. In testimony that veered into a tirade, he angrily attacked Senators and dismissed Dr. Ford's testimony as part of a smear campaign to ruin his name and sink his nomination. His conspiratorial ramblings—attributing the allegations to ''revenge on behalf of the Clintons,'' wherever that came from—were an insult to Dr. Ford and to survivors of sexual violence everywhere. It is not how a patron of the President of the United States continues to deride victims of sexual violence.

Former Justice John Paul Stevens, a Republican appointee—actually, he was the first nominee I was able to vote on as a U.S. Senator, and I voted for him. This Republican appointee, well-respected Supreme Court Justice, declared that Judge Kavanaugh's unhinged performance last week demonstrates ''potential bias.'' Justice Stevens said that ''for the good of the Court,'' Judge Kavanaugh's confirmation ought not to proceed. Just yesterday, contrary to the statements made on the floor of the Senate, the American Bar Association announced that it is reopening its evaluation of Judge Kavanaugh's fitness to serve as a judge. These developments—both unprecedented—should serve as flashing red warning signs to any Senator inclined to vote yes at this time.

And there are more flashing red signs.

Dr. Ford's credible and compelling testimony captivated the Nation and inspired survivors of sexual violence across the country. Every minute of her testimony was credible. She disclosed the abuse long before Judge Kavanaugh was a household name. She remembered vivid details of that night. She expressed 100 percent certainty that Judge Kavanaugh was her abuser. In a moment that I will never forget, when I asked her: Doctor, what is your strongest memory—something that she could not forget—she testified: ''Indelible in the hippocampus is the laughter, the uproarious laughter between the two'' as a teenage Brett Kavanaugh and a friend drunkenly assaulted Dr. Ford.

Dr. Ford had nothing to gain by coming forward. I believe her, just as I believed Anita Hill. In my view, no one who truly believes Dr. Ford can credibly justify voting yes. Unfortunately, the Senate appears to be on the brink of failing Dr. Ford, just as it will fail Ms. Ramirez, and just as it failed Anita Hill.

The FBI investigation completed over the last few days falls short of any standard. And it fell short by design. We have already heard about its deficiencies from Dr. Ford, Ms. Ramirez, and numerous other witnesses who attempted, unsuccessfully, to share relevant information with the FBI.

Senate Republican leadership in the White House did everything in their power to ensure this investigation was not a search for truth but rather a search for cover. Even a basic search for the truth would have allowed the FBI to interview Judge Kavanaugh and Dr. Ford, as well as her husband and her therapist. A search for truth would have allowed the FBI to view numerous high school and college classmates who come forward saying they could provide information about Judge Kavanaugh's conduct during those years that was consistent with the allegation.

A search for the truth would have allowed the FBI to interview a man who wrote a sworn statement asserting he could corroborate Ms. Ramirez's allegations or two women who contacted authorities with evidence that Judge Kavanaugh tried to head off Ms. Ramirez's story before it became public. That was in clear contradiction to his testimony before the Judiciary Committee. A search for the truth would have allowed the FBI to at least speak with Julie Swetnick, a third accuser.

As Vermonters said to me last weekend when I was home, if they have nothing to hide, why the rush? If they have nothing to hide, why don't they take the time to find the whole truth?

Instead of calling on the FBI to take these basic investigatory steps, inexplicably, the Republican-controlled Judiciary Committee has solely tried to discredit these women. The committee released a statement from a former acquaintance of Ms. Swetnick. This individual had no knowledge of the alleged incident but instead wanted to describe the alleged sexual preferences of Ms. Swetnick. According to the National Task Force to End Sexual and Domestic Violence—one of the most nonpartisan and respected voices on Capitol Hill—this shameless attempt to smear the victim violates the intent of the Rape Shield law.

Look what happened. On the one hand, you have the President of the United States at a rally trying to shame the victim, who, of course, is a woman. Then, on the other hand, we have Ms. Swetnick, who has never even been interviewed by the FBI. She was ignored. She was silenced. Then, to follow the routine of this administration, she was shamed. It is outrageous she has been treated that way.

Republicans have also claimed the other individuals Dr. Ford identified at the gathering where she was assaulted have refuted her testimony. These Republicans know that is false. Those individuals stated publicly they do not recall the event.

As Dr. Ford told the Judiciary Committee, this is not surprising, as ''it was a very unremarkable party . . . because nothing remarkable happened to them that evening.'' One of these individuals has said publicly she believes Dr. Ford.

Republicans have claimed the investigation failed to review core objective evidence for any of these allegations. Despite the numerous restrictions placed on this investigation, that simply is not true, but a predicate fact for developing thorough corroborating evidence is a thorough investigation. This investigation fell far short. When I was a prosecutor, I never would have allowed an investigation to have left out so many salient points. It is a disservice to Ms. Ford, Ms. Ramirez, Ms. Swetnick. It is a disservice to survivors everywhere.

The manic rush to place Judge Kavanaugh on the bench was more important to many in this Senate than these women. Pushing toward confirmation while so many leads remain unexamined will forever taint a Justice

Kavanaugh, and, unfortunately, the Supreme Court itself.

Yet truth can be dogged. It has a way of coming out, eventually. For any Senator who votes yes while troubling new developments in this nominee are occurring in real time, it will be on their conscience when more disqualifying information later emerges—and it will. I urge them to think carefully about what a ''yes'' vote would mean to the legitimacy of the Supreme Court, to the integrity of the Senate, and to the increasing divisiveness in our Nation.

As partisan as this process has been, this is not a partisan dilemma. Many prominent conservatives will make a fine Supreme Court Justice. As I said at the beginning of my speech, I voted for more Republican nominees than almost any Republican Senator in this body, but these other people would not cast a shadow over the Supreme Court and a shadow over the U.S. Senate. Judge Kavanaugh is not that choice. To avoid risking permanent damage in the integrity of our institution as a government, I urge Senators to join me in voting no on Judge Kavanaugh's nomination.

I yield the floor.

Mr. CASEY. Mr. President.

The PRESIDING OFFICER (Mr. YOUNG). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, we come together today to talk about a critical nomination to the U.S. Supreme Court at a time when the Court will be considering a range of issues that are critically important to the American people. Right now, one of the issues a lot of Americans are most concerned about is the issue of healthcare. There are so many aspects to that issue we can examine today.

I will get to larger overriding concerns I have with the nomination in a moment. For now, what I will do is walk through some concerns I have when it comes to healthcare itself and, in particular, Americans with disabilities because I think, in this part of the debate and in this part of Judge Kavanaugh's record and the potential impact his decisions as an Associate Justice of the Supreme Court will have on healthcare itself and people with disabilities—this whole part of his record and what might happen has not been examined enough in this debate.

I will start with healthcare. If Judge Kavanaugh is confirmed today, he could be the deciding vote in eliminating key healthcare protections for people with preexisting conditions—an action that would have serious repercussions on the healthcare of millions of Americans. This administration and congressional Republicans have been trying for the better part of the last 2 years to rip away healthcare coverage from the people who need it the most across America.

Republicans in both branches of government—the executive branch and the legislative branch—have attempted to decimate Medicaid. Although they have been unable so far to fully repeal the Affordable Care Act in Congress, the Republicans have turned to the courts to sabotage the healthcare system and the Affordable Care Act.

By the way, while we are mentioning the Medicaid Program, let's remind the American people what that program is. The Medicaid Program is not a ''them'' program, it is an ''us'' program. It is about us—who we are as Americans, whether we are going to take care of the family of America.

I think my home State is representative of the impact Medicaid has on people across the country. Forty percent of the children in Pennsylvania get their healthcare through the Medicaid Program; 50 percent of the people with disabilities in Pennsylvania rely upon Medicaid; and 60 percent of seniors trying to get into a nursing home for long-term care in the twilight of their lives rely upon the Medicaid Program. Forty percent of the kids, 50 percent of people with disabilities, and 60 percent of seniors rely upon this program—some 70 million Americans.

The decisions by this Congress, or this body, and the entire legislative branch are critically important on Medicaid and healthcare; obviously, the decisions of the executive branch. Now we have to focus as well on the judicial branch, especially with the nomination that could tip the balance in 5-to-4 decisions.

Judge Kavanaugh has twice disagreed with rulings upholding the Affordable Care Act. It is no coincidence he has been nominated by this President, by this administration. President Trump apparently believes he can count on Justice Kavanaugh, were he to be confirmed, to rule against the Affordable Care Act when he is on the Supreme Court, if he were to be confirmed today.

You don't have to take my word for this. A former law clerk of Judge Kavanaugh's said it best when she spoke up about Kavanaugh's view of the Affordable Care Act: ''No other contender on President Trump's list is on record so vigorously opposing the law''—the law meaning the Affordable Care Act that brought healthcare to 20 million Americans, about more than half of them because we expanded Medicaid.

Right now, courts are considering whether people with preexisting conditions should be protected from being charged more, from being denied coverage, or being dropped from their insurance simply because of their health status. Who would ever believe that after putting into law, enacting into law, those protections for 130 million Americans, we would still be debating it and that an entire political party would be in a court of law arguing those protections are unconstitutional? It is an insult to who we are as Americans.

In Texas v. United States, the administration last sided with 20 Republican State attorneys general and is refusing to defend the Affordable Care Act's protections for people with preexisting conditions. What is at stake in this legal battle that could obviously end up, down the road, in the Supreme Court? It is 130 million Americans with preexisting conditions. That means people with diabetes or cancer or anything else that is a preexisting condition could have their lives grossly adversely impacted. The Supreme Court might be the last line of defense to maintaining those protections for people with preexisting conditions. A Justice Kavanaugh could be the deciding vote to rip away protections which are in law now, right now, and they could be taken away.

If Republicans were to win this fight, coverage for millions of Americans who have these protections would be adversely impacted. That is probably an understatement. We also have to be concerned about the fundamentals of our health insurance system—the fundamental stability of our healthcare system, which could be undermined or worse.

Such a decision by the Supreme Court would have real-life consequences. In Pennsylvania alone, 5.3 million people, including 643,000 children, have a preexisting condition. I will tell you the story of one of those children.

Jackson Corbin is 13 years old and lives in Hanover, PA. He lives with his mother Anna, his father Michael, and his brother Henry. Jackson, Henry, and their mom all have Noonan syndrome—a congenital disability that often involves heart attacks, bleeding problems, possible developmental delays, short stature, and malformation of the rib cage—all of that in the life of one child. Jackson's most troubling concern is a form of hemophilia called Von Willebrand disease. Because of this disease, he has to be very careful not to cut himself or to do things that might cause internal bleeding. This means Jackson cannot play sports. He cannot roller skate or even jump on a trampoline. The cost of his healthcare—including medications and treatments and specialists—is more than what his parents would make in a year. Without health insurance coverage they are able to purchase through the Affordable Care Act—including protections for preexisting conditions—the Corbin family would either go bankrupt or Jackson, his mother, and his brother would have to go without treatment, risking their lives.

Last month Jackson testified in front of the Judiciary Committee and spoke about what Judge Kavanaugh's nomination meant for him, Jackson Corbin.

My Noonan Syndrome is part of who I am. It has been a part of me since the day I was born, and will be a part of me for the rest of my life. If you destroy protections for preexisting conditions, you will leave me and all the kids and adults like me without care or without the ability to afford our care—all because of who we are.

Let me repeat those last few words of Jackson Corbin, 13 years old: ''without care or without the ability to afford our care.''

That is what we are talking about here. Judge Kavanaugh could very well be the deciding vote in determining the future of this child and the future of members of his family.

All of us, everybody in this building today, are just one illness away—each of us is just one injury away—from having our own preexisting condition, if we don't have one already.

Maybe Senators and judges and Justices don't have to worry about protections for preexisting conditions. Maybe they can all buy that protection one way or another, but 130 million Americans have to worry and have to worry about this consequential nomination on an issue of such grave importance as healthcare itself and maybe, most especially, protections for people with preexisting conditions.

How about disabilities? Judge Kavanaugh's record on the rights of individuals with disabilities is troubling as well. I will give you one example. Liz Weintraub, like Jackson, testified in front of the Judiciary Committee in opposition to Judge Kavanaugh's nomination to the Supreme Court. I know Liz Weintraub well. She is 51 years old. She is from Rockville, MD. She has cerebral palsy and an intellectual disability. She had two loving parents and three loving sisters, and for 4 months this year, she was on my staff as a legislative fellow. So I am not objective when it comes to Liz Weintraub, but here is what she told us. The work she did, of course, on our staff was significant. She helped to organize hearings and worked on disability issues to educate our office and me, as well as other Senate offices about the importance of hiring people with disabilities.

But Liz experienced low expectations in her life. She was told by educators she could never attend college. She spent 9 years in a private institution. She was told she had to work in a sheltered workshop.

Despite these barriers, Liz persevered and achieved her dream of being a disability policy advocate. Her knowledge, experience, and wisdom made my office a better place on these issues and a better place to work in. It strengthened our office's ability to work on disability policy.

Let's get to the judge's record on these issues.

Judge Kavanaugh, on the DC Circuit, shows a pattern of siding against individuals with disabilities. He has sided with employers over employees who have a disability, making it more difficult for employees to prove discrimination in court and have their rights protected under the law.

In a case called Doe v. District of Columbia, he called into question the very autonomy and right to self-determination of people with disabilities. The case involved three women who had intellectual disabilities and lived in facilities run by the District of Columbia. The District allowed medical professionals to decide when elective surgeries would be performed on these women without even consulting with them and without even trying to determine the wishes of these three women.

The trial court sided with the women in this case and said the District of Columbia had to attempt to determine what these women wanted before making medical decisions on their behalf. Judge Kavanaugh overturned the lower court decision. He questioned the basic liberty of individuals with disabilities. He allowed the government to continue making medical decisions on behalf of these three women in the District of Columbia without ever attempting to determine what they wanted.

This decision is offensive to the American people, but it is offensive, I think, to people with disabilities even more so and to people who have fought for decades to secure the rights of people with disabilities. The decision robbed these women of their autonomy, and it robbed them of their humanity.

Liz Weintraub said in her testimony:

> I worry that if a Justice on the Supreme Court does not believe that we, as people with intellectual disabilities, CAN MAKE decisions for ourselves, then we will have the right to make those decisions taken away from us. . . . That is why I am opposing Judge Kavanaugh.

These are the words of Liz Weintraub, speaking for many Americans with disabilities. I want to thank Liz for her testimony and for coming forward to speak on behalf of those Americans.

These decisions about these rights for people with disabilities don't just impact the individuals in the particular lawsuit. They also set a precedent for future cases and send a message about the values of our country about whose rights we consider worthy of protection.

If our courts don't protect the rights and dignity of people with disabilities, then, what are our courts there for? We have to ask that question.

I want to conclude with just a couple of more comments.

There has been a lot of debate and a lot of commentary and a lot of vigorous disagreement about the back and forth that occurred just last week, but I think I am like many Americans who say I believe Dr. Ford's testimony. I thought she was both credible and persuasive, and I wrote the following earlier this week in an op-ed in the Philadelphia Inquirer dated October 2, in describing part of her testimony, the ''details of a sexual assault she experienced as a 15-year-old''—that made an impression on Americans, of course. Then, I went on to say: ''the terror she felt in that moment, the horror of the physical assault, and the psychological trauma of believing she might die.''

I believe that testimony, and that alone is troubling enough when it comes to making a determination on this nomination.

I was further concerned when I listened to the testimony of Judge Kavanaugh, concerned about his lack of judicial temperament—I think that is an understatement in that moment—and also whether or not he could be an impartial Justice based upon what he said in response to the allegations, and especially what he was saying about Democrats in the Senate.

So I will vote no for several reasons, many of them outlined with regard to healthcare and disability policy. I will vote no on this nomination, and I urge my colleagues to vote no as well.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. CORNYN. Mr. President, in a few moments we will vote to confirm Judge Kavanaugh to the U.S. Supreme Court. It is time.

Justice Gorsuch and Justice Sotomayor were confirmed 66 days after they were nominated. Today marks the 90th day since President Trump nominated Judge Kavanaugh. So this is in line with the timeframe for previous Justices.

What is different, though, about this nomination is the manifest unfairness in the way it was conducted and in the tone and behavior of some Senators, as well as the special interest groups that support them.

This institution used to be known as the world's greatest deliberative body, but you wouldn't know it now on this nomination.

The Senator from Maine said yesterday that we have hit rock bottom when it comes to the judicial confirmation process and, sadly, I agree—this, despite the heroic efforts of Senator GRASSLEY, who along with his staff, has been magnificent as chairman of the Judiciary Committee.

What precipitated this embarrassing period for the Senate was the intentional and deliberate withholding of Dr. Ford's allegations from the Judiciary Committee and Judge Kavanaugh until the 11th hour, and then publicly ambushing everyone else concerned.

It has been a process that, in words that echo from another dark period for the Senate, the McCarthy hearings, has been cruel, reckless, and indecent, both to Dr. Ford and Judge Kavanaugh.

Still, despite these hijinks and the weaponization of the confirmation process, we bent over backwards to try to accommodate Dr. Ford once she said she wanted to come before the committee.

We know she requested confidentiality as her allegations were investigated. She did not consent to nor authorize the release of her letter. She didn't want a public spectacle. Judiciary Committee staff even offered to fly to California on a bipartisan basis and interview her confidentially, but this offer was not even shared with her by her partisan lawyers. In other words, she said she never understood that offer was on the table. She thought the only way she could tell her story was

in the midst of the three-ring circus that that hearing became.

But after the damage to her was done when her identity became known, we invited Dr. Ford to testify. She came and did so, and I respect and admire her courage. It could not have been easy. We listened respectfully to her story. We took it very seriously. We treated her the same way we would want our wives or daughters to be treated, and we tried to learn the facts—cold hard facts—as elicited by an expert in dealing with sexual assault cases.

We all know after the hearing what that attorney told us because it became public. She said, as a prosecutor, she would never recommend charges under these circumstances because, in her view, there was no corroboration of Dr. Ford's account and there were inconsistencies in her story regarding the place, the time, and the people involved in relevant events. In other words, this was not a case of he said, she said. It was a case of she said, they said, including everyone Dr. Ford claimed was a witness. Not only was there no corroboration, but the alleged witnesses refuted her claim, including her best friend, Leland Keyser, who said she never met Brett Kavanaugh.

Even after all of that, even after hiding information that should have been shared confidentially with the Judiciary Committee, even after the outrageous conduct by some Senators at the first hearing, intentionally violating committee rules and seeking delay after delay, even after that, we took another additional step to address any lingering concerns. The FBI lunched a supplemental background investigation. There are two words to note about this investigation: ''supplemental'' and ''independent.'' It is supplemental because Judge Kavanaugh has had six other previous background investigations. This was the seventh. It is independent, because now opponents are saying: Well, the investigation was merely checking a box. It wasn't thorough or comprehensive enough.

But that simply doesn't jibe with the facts. The FBI was told to investigate current credible allegations, and they had a free rein to contact anyone they wanted, and they contacted many of the people that our Democratic colleagues, Dr. Ford, and Ms. Ramirez themselves said were eyewitnesses or persons with relevant knowledge. I am talking about folks like Mark Judge and others.

So opponents are trying to have it both ways: They demand an investigation but then badmouth it when it doesn't reveal what they hoped it would. Politics should not have and didn't dictate the terms of this supplemental background investigation. The FBI knows how to do its work, and now opponents of this nomination should accept its findings.

But this has never been a search for the truth by Senators who had already announced their opposition to this nomination—some of them, even before Judge Kavanaugh was named. Rather, it has become a matter of delay, defeat, and destroy.

I do believe the Senator from Arizona and others who joined in his request did us a great favor by insisting on the FBI supplemental background investigation. The American people can feel better that leads have been followed and exhausted for those still interested in a search for the facts.

The American people now know that we took it upon ourselves to take one last step to dispel any doubts about Judge Kavanaugh's fitness to serve on the highest Court in the land, and now that step is complete. So to Senators FLAKE, COLLINS, and others who requested that supplemental background investigation, I say thank you.

Both Dr. Ford and Judge Kavanaugh have been badly treated throughout this process. Dr. Ford has been treated less as a real person than as a poker chip in a card game. Her wishes for confidentiality were ignored, her letter was leaked, and her story was weaponized in a political ambush.

This whole sad charade has likewise been unfair to Judge Kavanaugh. These allegations could and should have been investigated by the committee under normal procedures and timelines designed to protect both the accuser and the accused. Instead, we got mob rule.

Some blame Judge Kavanaugh for his righteous indignation and impassioned defense at the second hearing, but as somebody who served for 13 years on the bench myself, I know the difference between deciding a case as a judge for which Judge Kavanaugh's temperament has been universally praised and defending oneself against character assassination and personal destruction. Judge Kavanaugh understands the difference, too, and I have no doubt whatsoever about his judicial temperament.

Imagine what this has been like for Judge Kavanaugh's parents or his wife or his children or the friends and colleagues who know the real Brett Kavanaugh—shocking or embarrassing doesn't begin to describe it. I am disappointed more than I can say at those who have unleashed these unjustified attacks on the judge and his family and disappointed in their lack of any empathy or remorse for what they have put them through—no empathy, no remorse, none.

For some of them, it seems the end justifies the means. Chew good people up, spit them out. No problem. All in a day's work.

After the dust settles on this dark period, we need to think about the damage all of this has done to the Senate as an institution and to the judicial confirmation process that we most certainly will embark upon again in the near future.

It is my hope—it is my prayer—that the politics of personal destruction, simply because you don't agree with the nominee's judicial philosophy or the President who nominated him or her, will stop. The low road is not available to us anymore because there is no lower road than the one we have been on.

It is my hope that some of the tactics we have seen—intimidation, bullying, violating the rules, taunting Members, trying to coerce them through bribes, carpet bombing them with TV ads, sending them coat hangers in the mail, screaming at them in the hallway—these cannot become the new normal. So we cannot reward those tactics. I guarantee that if these tactics had succeeded in blocking Judge Kavanaugh, they would become the new normal, and that ought to chasten all of us. I hope we have learned a painful lesson these last few weeks and will strive to do better. I pledge my good faith and best efforts to do so and to try to help.

We should recall the not-so-distant past when Ruth Ginsburg, the former counsel for the American Civil Liberties Union, was confirmed by a vote of 96 to 3; when Justice Scalia was confirmed by a vote of 98 to 0; and John Paul Stevens was confirmed by a vote of 98 to 0 as well. In a rational, logical world, Judge Kavanaugh should have similarly lopsided numbers; that is, if people were willing to get past their tribalism and look at our nominee's record, look at over the 300 opinions he has authored, the decisions he has authored that the Supreme Court has unanimously embraced. If they would look at his scholarship, talk to his former colleagues and law clerks, if opponents were willing to do that honestly and thoroughly, they would have found a brilliant individual who cuts no corners in his legal analysis, who lets the chips fall where they may, and respects the very important but limited role of the judiciary in our constitutional system.

In my view, a vote against Judge Kavanaugh is an endorsement of the way the opponents have mishandled and abused the confirmation process, as well as the shameful intimidation tactics they employed.

A ''no'' vote neglects all the man is and all he has accomplished based on unproven accusations about adolescent conduct. It justifies the manipulation and mistreatment of people like Dr. Ford for political gain. It would establish a dangerous precedent and legitimize mob rule, including the presumption of guilt in violation of everything in our Constitution—

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. The Senator will suspend.

The Sergeant at Arms will restore order in the Galleries.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, it would establish a dangerous precedent.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. The Senator will suspend.

As a reminder to our guests in the Galleries, expressions of approval or

disapproval are not permitted in the Senate Galleries.

The Senator from Texas.

Mr. CORNYN. Mr. President, it would establish a dangerous precedent and legitimize mob rule, including the presumption of guilt, in violation of everything our Constitution and fundamental notions of fairness that we stand for.

Some say we are a nation divided, but I am not so pessimistic as some. I actually hope we can all learn, we must learn, I believe, from this cruel, reckless, and indecent episode, but a ''no'' vote will not unite us; it will help reward despicable tactics and set a new ugly precedent. It will only encourage the spurning of tradition and agreed-upon rules, norms, and process. We should not ignore, we cannot acquiesce in or condone what has happened here. We should send a message loud and clear that the U.S. Senate will not be intimidated.

I will cast my vote in favor of Judge Kavanaugh's confirmation to the Supreme Court of the United States.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. The Senator will suspend.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. The Sergeant At Arms will restore order to the Galleries.

The Sergeant at Arms will restore order to the Galleries.

As a reminder to our guests in the Galleries, expressions of approval or disapproval are not permitted in the Senate Galleries.

The assistant Democratic leader.

Mr. DURBIN. Thank you, Mr. President.

Let me say at the outset that I would like to set the record straight on the question of the FBI interview, which has been raised repeatedly by Members on the other side of the aisle.

It was our request from the start, when we heard the complaints of Dr. Ford and her allegations, that there be a thorough FBI investigation. On the Democratic side, we asked for that repeatedly from the Republican majority. It wasn't until Senator FLAKE and some of his Republican colleagues made a point of saying they wouldn't move to go forward without the FBI investigation that it finally was agreed to.

Let me also add that statements have been made publicly by the public spokesman at the White House about how the witnesses were chosen for this FBI investigation. According to Mr. Shah, who works in the White House, he told us that a list of witnesses was sent by Senate Republicans to the White House, and they were included in their request. That is not the investigation we were looking for. We were hoping the FBI would revert to its professional status and interview all of the witnesses who are relevant. Certainly, among those relevant witnesses would have been Dr. Ford herself who could have been questioned under penalty of criminal prosecution if she misled or lied to the FBI, who could have provided substantial corroborative information. She was never called on. Neither was Judge Kavanaugh by the FBI.

Dr. Ford provided eight different witnesses whom she thought should be called to back up her side of the story, not a single one of them was called by the FBI. Ms. Ramirez suggested 20 witnesses be called on by the FBI on her behalf, and not one of them was called.

This was not the FBI investigation which we sought, nor does it clear the charges against Kavanaugh that were raised by Dr. Ford. In fact, it was a scant interview that involved some 10 witnesses in a matter of just a few days with a limited roster of people who were going to be questioned.

Let me speak to the matter at hand in a larger context. I have been in public life for a few years, but I have never seen the public reaction to this particular nomination and the hearings leading up to it that I have seen in this case.

I went back to Illinois last week on Friday. Before I could get off the airplane at Midway Airport, people were talking to me—just passengers at random, about what had happened the day before with Dr. Ford and Judge Kavanaugh testifying before our committee. The same thing happened with cab drivers, the doorman at the hotel holding an umbrella in the rain and talking to me about the testimony that was given to the Judiciary Committee. For the next 3 days, everywhere I turned, every person had a comment to make. America was tuned in and watching carefully because they knew how important this hearing was. It wasn't just the nomination for someone to serve on the Supreme Court. It was critically important to Americans to know who would be that person, what their views were when it came to the health of women, the protection of our health insurance, our privacy, our right to vote. It also was very clear that we held this hearing in the context of a national debate on sexual harassment and sexual violence. Is it any surprise that this explosive issue, which has touched corporate boardrooms, our churches, sports, Congress, has now been raised in our debate over a nomination to our highest Court?

I ask my colleagues: Is there a single one of us in the last 2 weeks who has not had an experience with someone coming forward, either in writing or in person, to tell you of their experience when it came to sexual harassment and sexual violence?

Just a few minutes ago, I read the latest letters we received in our office. Two women from my State of Illinois told me in their letters they were saying for the first time what actually happened to them many years ago and how much they identified with Dr. Ford and what she had gone through. That is a fact of life.

The fact that this touched a nerve with so many Americans, and particularly women who have gone through this experience, should put this whole debate in context. It should not be cheapened or lessened by political charges. We ought to understand the gravity of this debate in light of the cultural change we are now facing in America.

This afternoon, we have reached that day of reckoning. Those of us who count votes for a living know how this will end, but I want to make it clear there is something we need to remember. One of the closest votes in the history of the Supreme Court will occur this afternoon with Judge Kavanaugh's nomination. One has to go back 137 years in American history to find a closer vote for a Supreme Court Justice. That portrays the seriousness with which this matter has been considered and undertaken by Members of the Senate and how divided we are on this nomination.

I want to ask my colleagues not just to reflect on this afternoon but to reflect on tomorrow. What about the future of this Supreme Court and this important critical institution in our Constitution?

Six years ago, in the days before the NFIB v. Sebelius decision deciding the fate of the Affordable Care Act, a Pew Research poll showed that the public approval of the Supreme Court had reached an all-time low. Citizens United and Bush v. Gore had branded the Supreme Court as a political tool in the eyes of most Americans. Chief Justice Roberts stepped in and wrote a decision in that case which infuriated conservatives but brought momentary credibility to the Court.

Filling this critical Kennedy vacancy with Judge Kavanaugh will again raise the question about Supreme Court politics.

Chief Justice Roberts, are you watching?

What can we expect from this newest Member of the Court, Brett Kavanaugh? After his contentious nomination process, Clarence Thomas gave us 10 years of brooding silence on the Bench of the Supreme Court. What can we expect from this new Justice? Will he be the soup kitchen volunteer or the Federalist Society favorite?

Will he be the man who raged at the Clintons and promised revenge for his ordeal or the judge who impressed Senator COLLINS as more moderate than most of us on this side of the aisle ever found him?

Will he be a Justice forever grateful to President Trump who nominated him, or a Justice who honors the rule of law more than any political leader or political party?

And what about this Senate? What should the next Supreme Court vacancy look like? Will we continue to follow the Merrick Garland plow-it-through playbook of judicial appointments at any cost, freezing out a nominee to the Supreme Court for almost 1

year, abandoning the blue-slip process in the Senate Judiciary Committee, ignoring American Bar Association ratings, overturning rules protecting debate, concealing documents, tweeting confidential background investigation reports? When we sweep aside all of the rules and traditions of the Senate Judiciary Committee just to pile up more and more Republican appointments to the Court, what is left?

Thomas More, in ''A Man for All Seasons,'' said famously:

> And when the last law was down and the Devil turned round on you, where would you hide . . . the laws all being flat?
>
> And if you cut them down . . . do you really think you could stand upright in the winds that would blow then?

So will we establish and reestablish rules and procedures that show mutual respect for one another as Senators and respect for this body we are honored to serve? I sincerely hope that conversation begins and begins soon.

I want to say a word about the leaders on the Judiciary Committee. CHUCK GRASSLEY is my friend. He has been my friend for a long time. We do a lot of legislation together. We have a difference of political views. He is a loyal Republican; I am a loyal Democrat. We have adjoining States, and we find some things that we can work on in common. I want to say personally to Senator GRASSLEY: Thank you for your leadership on this committee. I think there are moments when the White House and even your staff got the best of you. But I trust CHUCK GRASSLEY in terms of where this committee is going. You have it within your power to restore the traditions of the Senate Judiciary Committee, and I hope that you will. I will join you in that effort.

I want to say a word about DIANNE FEINSTEIN too. She has been the subject of more attacks by my colleagues than I have ever heard any Member face in the Senate. It is just not fair. DIANNE FEINSTEIN is a woman of integrity. She is a person who is caring, and she has given a major part of her life in public service at so many different levels.

Some of the charges and innuendo that I have heard on the floor of the Senate are unbefitting this body, and she does not deserve them. I thank Senator COLLINS yesterday for specifically saying that in her remarks. I couldn't be more happy than to join her in those comments.

I want to say a word about protesting and mob rule. I will tell you that if you believe in freedom of speech and our right as citizens to petition our government, then you accept some tough consequences. There are things that are said and done in the name of free speech that you may not agree with. Violence is never acceptable; let me make that clear. But the decision that is about to be made in the United States is not being made by a mob. It is not mob rule. It is a decision made by men and women of the Senate who are acting in accordance with the U.S. Constitution.

One last point on the subject—this is one that I always remind my colleagues and even my opponents of. I believe the hottest ring in hell is reserved for those who attack our children and our families. If you want to take me out on an issue, so be it. Leave my family, my kids alone. That ought to be a rule on both sides of the aisle.

There is another issue we need to face squarely: Will victims of sexual violence be more or less likely to step forward and tell their stories after this high-profile political battle ends?

To Dr. Christine Blasey Ford, to your husband and your children: I will never forget your brave testimony last Thursday. You gave new meaning to the term civic duty. You spoke not just for yourself but for millions of sexual violence victims who will never ever have that opportunity. I am sorry—genuinely sorry—for the pain that you and your family endured. And I am sorry you were mocked by President Trump at his rally in Mississippi last Tuesday.

The Washington Post reported:

> The President laid into Ford with the ruthlessness of an attack dog and the pacing of a stand-up comedian. The crowd roared with laughter and applause.

No one could have been surprised with the President's performance. And when I hear repeated over and over again on the other side of the aisle ''We wanted to treat her just as we would have our wife or our daughter to be treated,'' that certainly didn't happen when it came to the President's comments. We owe it to our wives, daughters, granddaughters, and all the women and men in this country who have been victimized to treat them with respect, not ridicule. We owe it to these victims to listen, learn, and stand with them as they relive their shattering experiences.

I believe the debate over this nomination has created a stronger force in our Nation for justice for victims of sexual violence, and I hope those who step forward know that they are not alone. Thank you for your courage.

Tomorrow is another day. We are blessed to live in a democracy that protects our freedoms and gives our citizens the last word at the polling place.

Today, I will cast my vote in the Senate in opposition to the nomination of Brett Kavanaugh to the Supreme Court.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I speak, I ask unanimous consent that following my remarks and those of Senators SCHUMER and MCCONNELL, all postcloture time be considered expired on this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I come one final time in support of Judge Kavanaugh's confirmation to serve as Associate Justice of the United States Supreme Court.

Democratic leaders did everything in their power to make Judge Kavanaugh's confirmation about anything except his judicial record and his outstanding academic qualifications. The Democratic leaders promised to oppose Judge Kavanaugh's confirmation from day one and use every play in the book to accomplish that goal.

Even though the Senate had access to more of Judge Kavanaugh's records than we have had for any other Supreme Court nominee, Democratic leaders tried to bury the Judiciary Committee in mountains of irrelevant paperwork.

When routine process arguments failed, they resorted to outright character assassination of the judge. Their smear campaign featured baseless allegations of perjury and claims that, as a teenager, he participated in gang rapes of women.

I have been around long enough to see ugly leftwing smear campaigns against Supreme Court nominees, but this was beyond the pale—even beyond Judge Thomas and Anita Hill, and I was there.

I am encouraged that most of my colleagues had the courage to stand against the politics of personal destruction. Ignored in the media circus that the Democratic leaders created was Judge Kavanaugh's extraordinary record as a judge and also as a citizen.

I have said from the day the President announced Judge Kavanaugh's nomination on July 9 that Judge Kavanaugh is quite possibly the most qualified person ever nominated to the Supreme Court. He has spent 25 years of his career at the highest levels of government, including the last 12 years as a judge on the second most important Federal court.

Judge Kavanaugh's record on the DC Circuit has been outstandingly remarkable. On a court containing some of the brightest legal minds, Judge Kavanaugh has set himself apart. The Supreme Court, in at least 12 separate cases, adopted positions advanced in Judge Kavanaugh's lower court opinions.

As the liberal law professor, Amar, wrote in the New York Times:

> Good appellate judges faithfully follow the Supreme Court; great ones influence and help steer it. Several of Judge Kavanaugh's most important ideas and arguments . . . have found their way into the Supreme Court opinions.

Judge Kavanaugh will not only bring his keen intellect and deep knowledge of the law to the Supreme Court; he will bring some other very important judicial characteristics as well. First among these is a proper understanding of the role of a judge in our constitutional system. He knows that a judge should interpret and apply law as written, not how he wishes it were written. As we all know, it is Congress's job to write the laws, not judges'.

He has explained in numerous cases that the fundamental goal of the separation of powers under our constitutional system is the protection of individual liberty. He has interpreted the

Constitution according to text, history, and tradition, not his own personal views. That is exactly the type of a person we need on the Supreme Court.

Judge Kavanaugh has also demonstrated judicial independence and courage. In the 2 years after he was appointed to the DC Circuit by President George W. Bush, he ruled against Bush administration agencies on 23 cases. So don't let anybody tell you that he is obligated to President Trump. We can expect that Justice Kavanaugh will be beholden to no one and nothing except the Constitution.

Judge Kavanaugh also has a well-earned reputation for collegiality. He has an excellent relationship with all of his colleagues on the DC Circuit, and his judicial record demonstrates the same.

Indeed, Judge Kavanaugh was in the majority in 97 percent of the cases that he participated in on that DC Circuit. His Democratic-appointed colleagues were as likely to join majority opinions written by Judge Kavanaugh as his Republican-appointed colleagues were. He will bridge the divide on the Supreme Court.

Judge Kavanaugh has also shown a dedication to public service, to mentorship, and to diversity. He spent all but 3 years of his legal career in public service. Judge Kavanaugh is a proven mentor to law students and young lawyers.

Judge Kavanaugh has taught courses at Harvard Law School and other top law schools for many years. The Senate Judiciary Committee received a letter in support of his confirmation from these former students. They wrote:

> We may have differing views on political issues surrounding the confirmation process, but we all agree on one thing: Judge Kavanaugh is a rigorous thinker, a devoted teacher, and a gracious person.

Federal judges also play a very important role in mentoring the next generation of lawyers by hiring law clerks. Judge Kavanaugh has clearly taken seriously this mentorship role. His former law clerks submitted a letter to this committee strongly supporting his confirmation.

I quote from that letter:

> It was a tremendous stroke of luck to work for and be mentored by a person of his strength of character, generosity of spirit, intellectual capacity, and unwavering care for his family, friends, colleagues, and us, his law clerks.

One of the areas in which Judge Kavanaugh has had a particular impact is in his commitment to diversity. More than half of his law clerks have been female. When confirmed to the Supreme Court, his class of law clerks will be all female—for the first time in the history of the Supreme Court.

Judge Kavanaugh's female law clerks sent the committee a letter, which reads:

> We know all too well that women in the workplace still face challenges, inequality, and even harassment. Among other things, women do not enjoy a representative share of prestigious clerkships or high-profile legal positions, but this committee and the American public more broadly should be aware of the important work Judge Kavanaugh has done to remedy those disparities. In our view, the judge has been one of the strongest advocates in the Federal judiciary for women lawyers.

As I think about history, it leads me to this: The confirmation of Judge Kavanaugh is particularly meaningful to me. Thirty-one years ago, leftwing groups and their Senate allies fired the opening shots in the judicial confirmation wars. They engaged, at that time, in unprecedented character assassinations against President Reagan's nominee, Judge Robert Bork.

Since then, they have only escalated this war—slandering several Republican nominees to the Supreme Court and expanding their tactics to lower court nominees. So then, as history tells us, more than three decades later, leftwing groups and their Democratic allies in this body went back to the very same playbook. They tried the very same character assassination tactics against the person nominated to the very same seat that Judge Robert Bork was supposed to fill.

They succeeded 31 years ago, but, this time, they failed. So I look forward to voting to confirm Judge Kavanaugh this afternoon and to greeting him as ''Justice Kavanaugh'' the next time I see him.

I yield the floor.

The PRESIDING OFFICER (Mr. TOOMEY). The Senator from Arizona.

Mr. KYL. Mr. President, I know that the Democratic leader is scheduled to speak next, but if there is a minute that I could take in between, I just wanted to comment on my colleague who spoke yesterday, Senator COLLINS. I had wanted to come to the floor to speak on her behalf, but too many other people had been speaking at that time. People had remarked on her comments and reflected on the fact that she had done her homework, and she, indeed, had. I, simply, wanted to relay this anecdote.

When I helped to introduce Judge Kavanaugh to my fellow former Senators, former colleagues, I think of all of the meetings that we had, and many of them were lawyers who are Senators. Probably the most thorough meeting of all was that held with Senator COLLINS. She had clearly done her homework, and the interview with Judge Kavanaugh consumed more than 2 hours without a break. It was a grilling that could have been done by any fine lawyer because she had clearly done her homework and was very well prepared, and I know she did further followup after that.

I do want to commend her for the depth and the breadth of her comments. As the Wall Street Journal said this morning, she not only debated like it used to be done in this body—with evidence and sound reasoning—but also with a reference to our founding principles and the higher things that should motivate our public service and our discussions here on the Senate floor.

So I wanted to take this opportunity to commend her for her remarks and to tell those who don't know her that this was par for the course. Her performance was magnificent, but it was not out of the ordinary for Senator COLLINS. I just wanted my colleagues to know that.

I thank the Presiding Officer.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, in a short time, the Senate will take a final vote on the nomination of Judge Kavanaugh to the Supreme Court. The road that led us here has been bitter, angry, and partisan, steeped in hypocrisy, hyperbole, resentment, and outrage.

From start to finish, President Trump's nomination of Brett Kavanaugh to the U.S. Supreme Court has been one of the saddest moments in the history of the Senate. When the history of the Senate is written, this chapter will be a flashing red warning light of what to avoid. Truly, Judge Kavanaugh's confirmation is a low moment for the Senate, for the Court, and for the country.

The Republican majority has conducted one of the least transparent, least fair, and most biased processes in Senate history, slanting the table from the very beginning to produce their desired result.

Why do I say this? Because they withheld over 90 percent of the nominee's record from the Senate and the American people; because they refused to allow Dr. Ford to call a single corroborating witness at the hearing, including the only other eyewitness to the incident; because they refused to have an independent investigation of the facts before the hearing in order to inform the questioning; because they hired an outside prosecutor to question Dr. Ford, as if she were on trial; because the White House kept the FBI investigation on a short leash, dictating the scope and even the kinds of questions the FBI was allowed to ask; because Republican Senators, sensing after Dr. Ford's testimony that a debate about the truth and facts was not working, adopted a cynical new strategy to shout, pound the table, and portray Judge Kavanaugh as the helpless victim of some unseen partisan conspiracy; because the President of the United States, stooping to new depths—even for him—chose to stand before a crowd of thousands and cruelly ridicule a survivor of sexual assault; and because this grossly distorted, biased, and unfair process, run by the Republican majority, the Senate is about

to elevate a nominee who doesn't belong on the Nation's highest Bench.

Now, why doesn't Judge Kavanaugh belong on the Bench in the Nation's highest Court? Judge Kavanaugh doesn't belong on the Bench because he obscured his views, shrouding his jurisprudence in smoke so thick that the American people would never know what he really believed.

Judge Kavanaugh doesn't belong on the Bench because he was chosen by a President and a far-right organization, both dedicated to overturning and undermining Roe v. Wade, and he did not a thing to refute the presumption that he would want to overturn it too.

Judge Kavanaugh doesn't belong on the Bench because he was chosen by far-right organizations that are bent on repealing healthcare protections for Americans with preexisting conditions, and he did nothing to refute the presumption that he would too.

Judge Kavanaugh doesn't belong on the Bench because he believes Presidents should not be subject to investigations of any kind while in office—a distortion of our founding principle that no person is above the law.

Judge Kavanaugh does not belong on the Bench because his jurisprudence is deeply skeptical of environmental protections, consumer protections, workers' rights, civil rights, LGBT rights, rights of treaties and agreements with Native Americans, and a host of other hard-earned rights.

Mr. SCHUMER. Judge Kavanaugh doesn't belong on the Bench because he has repeatedly misled the Senate, putting into serious doubt his credibility. A judge must be credible, believable, and honest, above all.

Judge Kavanaugh doesn't belong on the Bench because he is an extreme partisan—something we have seen from his earliest days in his career and reconfirmed when he gave one of the bitterest, most partisan testimonies ever presented by a nominee.

Judge Kavanaugh doesn't belong on the Bench because of his injudicious demeanor. His partisan screed will go down ignominiously in history and make it clear that it would be virtually impossible for him to rule impartially on the Supreme Court. Judges must be temperate, judicious, and evenhanded. Judge Kavanaugh is anything but.

Republican leaders knew before he was nominated that Judge Kavanaugh was a very flawed choice, but once President Trump selected him, Republicans decided they had to rush him through. They became a steamroller over truth, fairness, and our traditions of bipartisan cooperation—any means necessary to reach their desired end. They blamed Dr. Ford and Democrats for Judge Kavanaugh's flaws.

They were intent on shrouding the truth, because they knew that if the truth came to light, Judge Kavanaugh would be exposed as a truly flawed nominee.

So, my colleagues, my fellow Americans, what is the appropriate response?

Our country needs to have a reckoning on these issues, and there is only one remedy. Change must come from where change in America always begins—the ballot box.

So to Americans, to so many millions who are outraged by what happened here, there is one answer: Vote.

If you believe Dr. Ford and other brave women who came forward and you want to vindicate their sacrifice, vote.

If you believe the Supreme Court should uphold women's rights, vote.

If you believe the Supreme Court must protect healthcare and our preexisting conditions that are protected now, vote.

If you believe the Supreme Court should defend workers, consumers, the environment, civil rights, and Native populations, vote.

If you believe the Supreme Court should be a check on an overreaching President, vote.

If you believe the process here in the Senate was a sham and you believe Americans deserve better, vote.

If you believe that Supreme Court Justices should conform to the highest standards of character, impartiality, temperament and, above all, honesty and credibility, vote.

I understand and I share the deep anguish that millions of Americans are experiencing today, but I say to you, my fellow Americans, there is one answer: Vote.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MCCONNELL. Mr. President, ''the Constitution of the United States was made not merely for a generation that then existed, but for posterity.''

Those are the words of Henry Clay, Kentucky's own. They underscore that the decision U.S. Senators will make today will echo in the history of our Nation.

The very survival of our constitutional form of government requires an expert and independent judiciary. Without fair and impartial ''courts of justice,'' as Alexander Hamilton put it in the Federalist Papers, ''all the reservations of particular rights or privileges would amount to nothing.''

The courts guard our rights and the Senate guards our courts. That is why today is such an important day. That is why the vote we take this afternoon—a vote to confirm a new Associate Justice of the Supreme Court of the United States—represents one of the most consequential decisions a Senator ever makes.

The Members of this body are duty bound to ensure we confirm Justices of the Supreme Court who are men and women of the highest character and the most superlative qualifications. Fortunately, that is just the sort of nominee who stands before us today.

Twelve weeks ago, the President nominated a jurist who has been described by legal peers of all political stripes as ''a superstar'' and a ''serious scholar'' who is ''legendary for his preparation'' and possesses ''the qualifications, the temperament, and judicial philosophy to be an excellent Associate Justice.''

The President nominated a brilliant student of the law. Those who taught and knew the nominee at Yale say ''it is hard to name anyone with judicial credentials as strong as Judge Kavanaugh.'' They describe a ''true intellectual,'' ''a leading thinker,'' and a ''wonderful mentor and teacher.''

Those he has mentored—a diverse group of bright young lawyers who clerked for Judge Kavanaugh—talk about his work ethic, his ''unflinchingly honest advice,'' and his ''fundamental humility.''

For 12 weeks, the Senate has seen that this is not empty praise. We have seen the legendary preparation of a tireless judge. We have seen the patience of a committed mentor and teacher. We have seen the humility of a true intellectual who let his record speak for itself.

Each of us has seen this for ourselves. Every Senator who came into this process with an open mind has seen that very same Brett Kavanaugh firsthand.

We have seen his brilliance, his painstaking thoroughness on display in the 300-plus opinions he issued on the DC Circuit. For 12 years, Judge Kavanaugh excelled on the bench that many experts see as the second most important court in our Nation.

We have seen his geniality and kindness firsthand in our private meetings with the nominee—precisely the collegial approach that is so necessary on the Court.

We have seen his professional excellence as we reviewed more pages of documents pertaining to Judge Kavanaugh's career than for any other Supreme Court nomination in our history—pages that depict a meticulous and dedicated public servant. And, yes, we have now studied the results of seven—seven—FBI background investigations—inquiries that have produced no evidence whatsoever to corroborate any prior misconduct but rather are consistent with all we know about this nominee's sterling character.

This historically tall mountain of evidence adds up to one clear message: Judge Brett Kavanaugh is among the very best our Nation has to offer. He will make the Senate and the country proud. He will serve with distinction on our highest Court.

He unquestionably deserves confirmation and the country deserves such a Supreme Court Justice.

Now, as I have explained, the stakes are always high—always high—where a Supreme Court confirmation is concerned, but this time—this time—the stakes are higher—a lot higher than they have been in the past.

I can't sum this up better than our friend and distinguished colleague, the senior Senator from Maine, put it in her historic remarks yesterday. This is

what the senior Senator from Maine said: ''It is when passions are most inflamed that fairness is most in jeopardy.'' She said, ''when passions are most inflamed'' is when ''fairness is most in jeopardy.''

We all know that the events of recent weeks have strained the country's comity and fanned the flames of partisan discord. But, even more critically, our very commitment to the basic principles of fairness and justice is also being tested. The basic principles of fairness and justice are being tested right here.

A vote to confirm Judge Kavanaugh today is also a vote to send a clear message about what the Senate is.

This is an institution where the evidence and the facts matter. This is an institution where the evidence and the facts matter. This is a Chamber in which the politics of intimidation and personal destruction do not win the day.

This is the body whose Members themselves uphold the same commitment to American justice that we seek in the judges we examine.

A vote to confirm Judge Kavanaugh today is a vote to end this brief, dark chapter in the Senate's history and to turn the page toward a brighter tomorrow.

The Chamber we are privileged to occupy is often called the world's greatest deliberative body for good reason. We are called the world's greatest deliberative body for a good reason. When the rubber meets the road, when the hour is critical, when a historic precedent needs to be set, the U.S. Senate most often finds its way to doing what is right.

Today, we can honor that history. We can vote to turn away from the darkness. We can vote to set a precedent about fairness and judgment that will define this body for the better. We can vote to confirm an excellent Supreme Court Justice who will make the Senate and the American people proud.

I yield the floor.

The VICE PRESIDENT. As a reminder to our guests in the Galleries, expressions of approval or disapproval are not permitted in the Senate Gallery.

Under the previous order, all postcloture time has expired.

The question is, Will the Senate advise and consent to the nomination of Brett M. Kavanaugh, of Maryland, to be an Associate Justice of the Supreme Court of the United States?

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There appears to be a sufficient second.

(Disturbance in the Visitors' Gallery.)

The VICE PRESIDENT. The Sergeant at Arms will restore order in the Senate.

The clerk will call the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Montana (Mr. DAINES).

Further, if present and voting, the Senator from Montana (Mr. DAINES) would have voted ''yea.''

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 223 Ex.]

YEAS—50

Alexander	Gardner	Paul
Barrasso	Graham	Perdue
Blunt	Grassley	Portman
Boozman	Hatch	Risch
Burr	Heller	Roberts
Capito	Hoeven	Rounds
Cassidy	Hyde-Smith	Rubio
Collins	Inhofe	Sasse
Corker	Isakson	Scott
Cornyn	Johnson	Shelby
Cotton	Kennedy	Sullivan
Crapo	Kyl	Thune
Cruz	Lankford	Tillis
Enzi	Lee	Toomey
Ernst	Manchin	Wicker
Fischer	McConnell	Young
Flake	Moran	

NAYS—48

Baldwin	Harris	Nelson
Bennet	Hassan	Peters
Blumenthal	Heinrich	Reed
Booker	Heitkamp	Sanders
Brown	Hirono	Schatz
Cantwell	Jones	Schumer
Cardin	Kaine	Shaheen
Carper	King	Smith
Casey	Klobuchar	Stabenow
Coons	Leahy	Tester
Cortez Masto	Markey	Udall
Donnelly	McCaskill	Van Hollen
Duckworth	Menendez	Warner
Durbin	Merkley	Warren
Feinstein	Murphy	Whitehouse
Gillibrand	Murray	Wyden

NOT VOTING—1

Daines

The nomination was confirmed.

(Disturbance in the Visitors' Galleries.)

The VICE PRESIDENT. The Sergeant at Arms will restore order in the Gallery.

The clerk may resume.

(Disturbance in the Visitors' Galleries.)

The VICE PRESIDENT. The Sergeant at Arms will restore order in the Gallery.

The clerk will continue.

(Disturbance in the Visitors' Galleries.)

The VICE PRESIDENT. The Sergeant at Arms will restore order in the Gallery.

The clerk may continue.

Ms. MURKOWSKI. Mr. President, my friend, the Senator from Montana, Senator DAINES who is walking his daughter down the aisle this afternoon, if he were present and voting, he would have voted aye. I have voted no. The pair will not change the outcome of the vote. I therefore withdraw my vote.

The VICE PRESIDENT. The Senator has that right.

Mr. CARPER. Mr. President, how am I recorded?

The VICE PRESIDENT. The Senator is not recorded.

Mr. CARPER. Carper votes no.

The VICE PRESIDENT. As a reminder to our guests in the gallery, expressions of approval or disapproval are not permitted in the Senate gallery.

On this vote, the ayes are 50, the nays are 48. The nomination of Brett M. Kavanaugh, of Maryland, to be an Associate Justice of the Supreme Court of the United States, is confirmed.

The majority leader.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table, and the President be immediately notified of the Senate's action.

(Disturbance in the Visitors' Galleries.)

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MCCONNELL. I suggest the absence of a quorum.

(Disturbance in the Visitors' Galleries.)

The VICE PRESIDENT. The Sergeant at Arms will restore order in the Gallery.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Disturbance in the Visitors' Galleries.)

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

DESIGNATING THE U.S. COURTHOUSE AT 300 SOUTH FOURTH STREET IN MINNEAPOLIS, MINNESOTA, AS THE ''DIANA E. MURPHY UNITED STATES COURTHOUSE''

Mr. MCCONNELL. Mr. President, I understand that the Senate has received a message from the House to accompany S. 3021.

The PRESIDING OFFICER. The majority leader is correct.

Mr. MCCONNELL. I ask that the Chair lay before the Senate the message to accompany S. 3021.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, that the bill from Senate (S. 3021) entitled ''An act to designate the United States courthouse located at 300 South Fourth Street in Minneapolis, Minnesota, as the 'Diana E. Murphy United States Courthouse'.'', do pass with the following amendments.

MOTION TO CONCUR

Mr. MCCONNELL. Mr. President, I move to concur in the House amendments.

The PRESIDING OFFICER. The motion is pending.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to concur in the House amendments to S. 3021, an act to designate the United States courthouse located at 300 South Fourth Street in Minneapolis, Minnesota, as the ''Diana E. Murphy United States Courthouse''.

Mitch McConnell, Chuck Grassley, John Boozman, Roy Blunt, Deb Fischer, Todd Young, James Lankford, Susan M. Collins, Richard C. Shelby, Jon Kyl, John Thune, Pat Roberts, Orrin G. Hatch, Marco Rubio, John Barrasso, Roger F. Wicker, John Hoeven.

MOTION TO CONCUR WITH AMENDMENT NO. 4048

Mr. MCCONNELL. Mr. President, I move to concur in the House amendment with a further amendment.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] moves to concur in the House amendment to S. 3021 with an amendment numbered 4048.

Mr. MCCONNELL. I ask unanimous consent that the reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end add the following.

''This Act shall take effect 1 day after the date of enactment.''

Mr. MCCONNELL. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

AMENDMENT NO. 4049 TO AMENDMENT NO. 4048

Mr. MCCONNELL. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4049 to amendment No. 4048.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4049) is as follows:

Strike ''1 day'' and insert ''2 days''

MOTION TO REFER WITH AMENDMENT NO. 4050

Mr. MCCONNELL. Mr. President, I move to refer the House message on S. 3021 to the Committee on Environment and Public Works, with instructions to report back forthwith.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] moves to refer the House message to accompany S. 3021 to the Committee on Environment and Public Works with instructions to report back forthwith with instructions, being amendment No. 4050.

The amendment is as follows:

At the end add the following.

''This Act shall take effect 3 days after the date of enactment.''

Mr. MCCONNELL. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4051

Mr. MCCONNELL. I have an amendment to the instructions.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4051 to the instructions of the motion to refer.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike ''3 days'' and insert ''4 days''

Mr. MCCONNELL. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4052 TO AMENDMENT NO. 4051

Mr. MCCONNELL. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4052 to Amendment No. 4051.

The amendment is as follows:

Strike ''4'' and insert ''5''

Mr. MCCONNELL. I ask that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I ask that the mandatory quorum call be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 640.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Jeffrey Bossert Clark, of Virginia, to be an Assistant Attorney General.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Jeffrey Bossert Clark, of Virginia, to be an Assistant Attorney General.

Mitch McConnell, James Lankford, John Hoeven, James M. Inhofe, Johnny Isakson, David Perdue, John Cornyn, Steve Daines, John Barrasso, Mike Rounds, Thom Tillis, Lamar Alexander, James E. Risch, Jeff Flake, Richard Burr, Roy Blunt, Deb Fischer.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 641.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Eric S. Dreiband, of Maryland, to be an Assistant Attorney General.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Eric S. Dreiband, of Maryland, to be an Assistant Attorney General.

Mitch McConnell, James Lankford, John Hoeven, James M. Inhofe, Johnny Isakson, David Perdue, John Cornyn, Steve Daines, John Barrasso, Mike Rounds, Thom Tillis, Lamar Alexander, James E. Risch, Jeff Flake, Richard Burr, Roy Blunt, Deb Fischer.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. I move to proceed to executive session to consider Calendar No. 866.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of James N. Stewart, of North Carolina, to be an Assistant Secretary of Defense.

CLOTURE MOTION

SENATOR. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of James N. Stewart, of North Carolina, to be an Assistant Secretary of Defense.

Mitch McConnell, James Lankford, John Hoeven, James M. Inhofe, Johnny Isakson, David Perdue, John Cornyn, Steve Daines, John Barrasso, Mike Rounds, Thom Tillis, Lamar Alexander, James E. Risch, Jeff Flake, Richard Burr, Roy Blunt, Deb Fischer.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum calls for the cloture motions be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, OCTOBER 9, 2018

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 3 p.m., Tuesday, October 9; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; finally, following leader remarks, the Senate resume consideration of the House message to accompany S. 3021, and notwithstanding rule XXII, the Senate vote on the motion to invoke cloture on the motion to occur at 5:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask that it stand adjourned under the previous order, following the remarks of Senator COONS.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

NOMINATION OF BRETT KAVANAUGH

Mr. COONS. Thank you, Mr. President.

I come to the floor to express my opposition to the nomination of Judge Kavanaugh to serve as Associate Justice of the U.S. Supreme Court.

I come with a profound regret. I come today with profound regret that this body has transformed from one that historically confirms Supreme Court Justices with broad and bipartisan support to one in which rules, norms, and courtesies fall away to serve the objectives of the majority and one in which Justices are confirmed by the absolute narrowest of margins.

I know I am not the only one to feel this way. We can simply wish for the bygone era of consensus to return, we can give speeches about bipartisanship with no hope of making progress, but to wish for it without doing the work of reaching across the aisle is empty talk without action, and as one who tries to inject some spirit of bipartisanship in what has been the most bitter and most divisive and most partisan fight I have seen in my 8 years here, I wanted to reflect for a moment before we close today on my views on the nomination of Judge Kavanaugh, the process that got us here and where we go next.

First, in this process, in this nomination, I saw barrier after barrier placed in front of consensus and bipartisanship and the proper functioning of the Senate Judiciary Committee on which I serve. These barriers prevented us from fully and effectively performing the advice and consent function to which we are called by the Constitution. We have to do better. There needs to be a reckoning with all that went wrong here.

I am sure that colleagues from the other side of the aisle may well have different views on exactly which steps or developments led to the sharply divided vote today and the heated and sharply divided hearing and proceedings of last week, and I welcome their input.

But I thought today I should, for me, recount the course of this nomination. It was fraught from the beginning because the Senate Judiciary Committee majority used an unprecedented and partisan process to rush this nomination while blocking access to millions of pages of documents of Judge Kavanaugh's service in the White House, potentially relevant to our deliberations.

For the first time since Watergate, the nonpartisan National Archives was cut out of the process for reviewing and producing the nominee's records, and Judge Kavanaugh's former deputy, who made his career representing Republican and partisan causes, was in charge of designating which documents this committee and the American people got to see.

Nonetheless, the committee pressed forward, despite objections from the minority to Judge Kavanaugh's hearing. During that hearing, I was, frankly, disappointed. Judge Kavanaugh was not fully forthcoming when discussing his interpretation of the Constitution and responding to timely and important questions about his record.

I asked Judge Kavanaugh why he repeatedly criticized Morrison v. Olson, a 30-year-old precedent about a now-extinct statute but a 30-year-old Supreme Court precedent holding that Congress can create an independent counsel with authority to investigate the President and whom the President cannot just fire on a whim.

I asked whether he still believes what he said in 1998, that a President can fire at will a prosecutor criminally investigating him. On these and other critical questions of Presidential power, Judge Kavanaugh would not respond. He would not tell me whether he believes all executive branch officials must be removable at will by the President, according to his view of Executive power.

I asked whether critical rights like rights of access to contraception, to abortion, the right to marry the person you love would be protected under the test to evaluate substantive due process that he has championed. Judge Kavanaugh has repeatedly cited a test for substantive due process that would limit the protection of liberty and interest to rights ''deeply rooted in our Nation's history and tradition,'' but he would not confront the consequences of applying this test going forward.

Judge Kavanaugh would also not condemn President Trump's attacks on the Federal Judiciary and the President's suggestions that the Justice Department should consider politics when making prosecutorial decisions. I asked Judge Kavanaugh about a comment he made on a panel at Georgetown when he said: ''If the President were the sole subject of a criminal investigation, I would say, no one should be investigating that.'' In fact, Judge Kavanaugh testified he didn't say that, but I reviewed the record.

I followed up with a series of questions for the record to get additional information I think the American people should know and to give Judge Kavanaugh a chance outside of our brief exchanges in the confirmation process to explain his suggestions that perhaps I had misquoted him. Unfortunately, I instead received pages of nonanswers.

When I asked Judge Kavanaugh specific questions about his criticism of Morrison v. Olson, he simply referred to his prior testimony and said he had ''nothing further to add here.'' He would not explain how his proffered test for substantive due process is consistent with the Court's landmark marriage equality decision by Justice Kennedy in Obergefell.

After the hearing was over, I learned of Dr. Ford's allegations that Judge

Kavanaugh had assaulted her in high school. Dr. Ford courageously presented her account to the committee and the country. She gave compelling testimony about a terrifying sexual assault she experienced at age 15. She recounted Mark Judge and Brett Kavanaugh, stumbling drunk, pushing into her bedroom, locking the door, laughing, and turning up the music to muffle her screams.

Dr. Ford testified with 100 percent certainty that the person who assaulted her was the judge whose nomination we were considering, whom she had known through acquaintances and socialized with on many occasions.

Dr. Ford had borne the pain of this attack alone for decades, but over time, she told several people she trusted. She told her now-husband in 2002, she told therapists in 2012 and 2013, and friends in 2013, 2016, 2017, and 2018. She proffered their names in the subsequent FBI investigation, but they were never questioned.

Importantly, Dr. Ford wasn't the only person to come forward during this period. Her testimony gave courage to countless others to confront their own trauma and share their own pain so that all of us can understand.

As I just shared in a bipartisan conversation with colleagues at the end of this divisive vote, we have all had the experience of friends and colleagues, classmates and neighbors coming forward with stories long concealed—whether out of shame or fear; whether out of a certainty they would not be believed; whether out of pressures real, recent, or long gone—and we all have work to do together.

Inspired by these survivors, I will never forget the experiences they have shared, and I will not stop in efforts to make certain this body, this Senate, acts in ways that respect them and their suffering and their experiences.

When Dr. Ford came forward to speak to all of us and the American people, I will remind you she had nothing to gain and a lot to lose. She came forward to testify about her assault, and I am going to use her own words to explain why, as she said to us: ''I am here today not because I want to be. I am terrified. I am here because I believe it is my civic duty to tell you what happened to me while Brett Kavanaugh and I were in high school.''

Civic duty to tell the truth.

What always struck me was how Dr. Ford came forward to voice concerns before Judge Kavanaugh was nominated by the President. She reached out to her Congresswoman and anonymously to the Washington Post when his name was on a short list, but he had not yet been chosen.

Later, last Thursday, after Dr. Ford's testimony, Judge Kavanaugh came forward to offer an aggressive, full-throated, angry denunciation of her accusations. Even recognizing the understandable passion of one who believes himself to be defending his honor against unjust assault, I found his prepared opening statement and combative exchanges with my colleagues deeply troubling. As a sitting circuit court judge, he refused to answer fair and relevant questions, instead throwing them back in the faces of two of my colleagues.

He was not candid with the committee about his own history of drinking and aggressive behavior. To quote an editorial recently published by three college classmates:

> Telling the truth, no matter how difficult, is a moral obligation for our nation's leaders. No one should be able to lie their way onto the Supreme Court. Honesty is the glue that holds together a society of laws. Lies are the solvent that dissolves those bonds.

They stated: ''Brett lied under oath while seeking to become a Supreme Court Justice.''

Most concerning of all to me, Judge Kavanaugh broke his own stated rule of staying three ZIP Codes away from politics. In his sharply worded and partisan exchange with Senators, he accused Democrats of ''replacing advice and consent with search and destroy,'' of ''Borking'' him, of engaging in some sort of revenge plot on behalf of the Clintons, and of a calculated political hit. He looked us in the eye and told us: ''What goes around comes around.''

Retired Justice John Paul Stevens explained he changed his mind about Judge Kavanaugh's fitness to serve because his hearing performance ''demonstrated a potential bias.''

I share the concern of my colleague Senator MURKOWSKI's that after last Thursday, the ''appearance of impropriety has become unavoidable.''

Following the intense and emotional testimony of last Thursday, I am grateful that we took a week pause so that the FBI could conduct an investigation into credible allegations of sexual assault, and I remain thankful to my colleague Senator FLAKE for supporting my call for an FBI investigation. It showed courage on his part.

Unfortunately, regrettably, the investigation that ensued had a scope so narrow, so cursory, so incomplete that it did not remove the cloud hanging over Judge Kavanaugh's nomination. Dozens of witnesses who could have corroborated Dr. Ford's and Ms. Ramirez's accounts were never contacted and never questioned, despite their contacts and names being handed to FBI agents and despite the efforts of many offices in the Senate to forward their information.

I fear that with the confirmation of Judge Kavanaugh to the Supreme Court today, we will look back on this moment not only as a moment of raucous turmoil for the Senate but as a moment where the norms and traditions of blind justice, a justice blind to partisanship, will have slipped away.

The Court is critical to the rule of law in our country, and I am deeply concerned that its legitimacy will be harmed with the addition of an explicitly partisan Justice.

The Supreme Court plays a pivotal role in defining the scope of the President's power in determining whether the President is above the law.

The Supreme Court impacts essential rights enshrined in our Constitution—the rights to privacy, intimacy, marriage, contraception, abortion, the freedom to worship as we choose, the ability to participate in our democracy as full and equal citizens, and the promise of equal protection of the laws. There are so many more I could list. These issues are not academic, and they are under assault. There are cases proceeding to the Supreme Court now that are relevant to so many of these concerns.

There are cases challenging the constitutionality of the ongoing special counsel investigation now. A lawsuit that is aimed at striking down the Affordable Care Act is proceeding in Texas now, and the Trump administration is refusing to defend protections for people with preexisting conditions. A challenge to restrictive regulations for abortion clinics—regulations aimed at putting clinics out of business—is headed to the Supreme Court now. Right now, there are also lawsuits across the country in which LGBT Americans are challenging discrimination they have faced in employment, in schools, and in government service.

Our Supreme Court should be a bulwark against violations of law, deprivations of freedom, and abuses of power. Yet we may now enter a perilous time when the Court will, in fact, be shifting far right and will end up issuing decision after decision on clearly partisan lines—significantly more conservative than the majority of Americans at a time when a President elected by a minority of Americans will have appointed the Justice with a deciding vote, after his confirmation, by the narrowest of margins. The Justice who has been confirmed today is one who, in his conduct, will lead some to fairly doubt his impartiality. He will likely play a central role for decades in charting a course for interpreting our laws and rights and freedoms.

I hope and pray that I am wrong, that my interpretation of his writings, of his speeches, and of his opinions is flawed, that the apology and retraction he offered is genuine, in an opinion that was published yesterday, about his partisan screed in his confirmation hearing, and that his behavior as a Justice will put to rest all of the concerns I have raised and that he will be a model of moderation and balance. Yet I have profound doubts and grave concerns about Judge Kavanaugh's ability to serve on the Supreme Court in an evenhanded and nonpartisan way.

As I conclude, let me make a personal plea to those who are listening and those who may watch: that we in the Senate, in going forward, must address the flaws and weaknesses of the process that got us to today and that we must do better. Simply retreating to our partisan cloakrooms when we are faced with our Nation's challenges will not solve them.

If we do not work to repair this institution, there will be nothing left worth saving. If this Senate does not work, our Congress does not work. If our Congress does not work, our Nation does not work. If our Nation does not work, we teach the world that democracy is not the model to follow. If we, simply, reflect the bitter partisanship that is growing and festering across our Nation—fueled by some here in Washington—we will fail.

We in the Senate must, instead, follow the Founders' vision for us and, in fact, lead the country to common ground, to consensus, and to a better future. We should, therefore, work together to get back to a place where it is possible for Supreme Court Justices to be confirmed with broad and bipartisan majorities, where it is possible to legislate together on the issues compelling to our time, and where it is possible to hear each other and to hear the concerns of all of our people.

I hope my colleagues will hear my remarks today as an invitation to work together to face this challenge. We owe nothing less to the Supreme Court, to our country, and to our people.

I yield the floor.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. COONS. Mr. President, I ask unanimous consent that the Senate proceed to legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE EXPLANATION

Mr. DAINES. Mr. President I would like to discuss my strong support for the nomination of Judge Brett Kavanaugh to be Associate Justice of the Supreme Court of the United States. In July I had the opportunity to meet with Judge Kavanaugh in my office, and it was clear to me that President Trump had nominated an outstanding jurist who was well-qualified and ready to be our next Supreme Court Justice.

From the very beginning, just minutes after his nomination, some of my Democratic colleagues had already decided to oppose Judge Kavanaugh at all costs. They refused to meet with him, spread a misinformation campaign about his record, and claimed he was outside of the mainstream. The indisputable fact is that Judge Kavanaugh is the mainstream. His reasoning has been adopted by the Supreme Court more than a dozen times, and he is well respected by people across the spectrum, from fellow judges to those who have argued before him.

Judge Kavanaugh sat through more than 30 hours of testimony before the Senate Judiciary Committee and subsequently responded to 1,287 questions for the record, more than every previous Supreme Court nominee combined. It was not until the 11th hour, when Judge Kavanaugh was on the verge of being confirmed, that unsubstantiated and uncorroborated claims from 36 years ago were leaked to the media in a last ditch effort to derail his nomination. The F.B.I. conducted yet another background investigation, its seventh, and yet again, nothing was discovered that would disqualify Judge Kavanaugh from sitting on the Supreme Court.

Montanans overwhelmingly want a Supreme Court Justice with impeccable academic credentials, someone who does not legislate from the bench, but upholds the rule of law and who follows the Constitution. Judge Kavanaugh is without a doubt that person.

Yesterday, I was happy to cast my vote in favor of bringing debate to an end on this nomination. While I was unavailable this afternoon for the vote due to a longstanding family commitment, I spoke with Judge Kavanaugh and assured him that, if my vote was needed for final passage, that I would return as soon as possible. I would like to thank my good friend and colleague, Senator MURKOWSKI, for pairing votes so that my absence would not change the outcome.

However, I would be remiss not to mention that we would not be in this position had my friends across the aisle not turned this entire process into a political circus. They have done this for no other purpose than to obstruct and delay this nomination through the election in hopes that they take back control of this body and block all of President Trump's nominees. I fully support Judge Kavanaugh's confirmation look forward to his many years of service on the Supreme Court.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BARRASSO:

S. 3559. A bill to amend the Internal Revenue Code of 1986 to terminate the credit for new qualified plug-in electric drive motor vehicles and to provide for a Federal Highway user fee on alternative fuel vehicles; to the Committee on Finance.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4048. MR. MCCONNELL proposed an amendment to the bill S. 3021, to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, to provide for water pollution control activities, and for other purposes.

SA 4049. MR. MCCONNELL proposed an amendment to amendment SA 4048 proposed by Mr. MCCONNELL to the bill S. 3021, supra.

SA 4050. MR. MCCONNELL proposed an amendment to the bill S. 3021 , supra.

SA 4051. MR. MCCONNELL proposed an amendment to amendment SA 4050 proposed by Mr. MCCONNELL to the bill S. 3021, supra.

SA 4052. MR. MCCONNELL proposed an amendment to amendment SA 4051 proposed by Mr. MCCONNELL to the amendment SA 4050 proposed by Mr. MCCONNELL to the bill S. 3021, supra.

TEXT OF AMENDMENTS

SA 4048. Mr. MCCONNELL proposed an amendment to the bill S. 3021, to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, to provide for water pollution control activities, and for other purposes; as follows:

At the end add the following.

''This Act shall take effect 1 day after the date of enactment.''

SA 4049. Mr. MCCONNELL proposed an amendment to amendment SA 4048 proposed by Mr. MCCONNELL to the bill S. 3021, to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, to provide for water pollution control activities, and for other purposes; as follows:

Strike ''1 day'' and insert ''2 days''

SA 4050. Mr. MCCONNELL proposed an amendment to the bill S. 3021, to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, to provide for water pollution control activities, and for other purposes; as follows:

At the end add the following.

''This Act shall take effect 3 days after the day of enactment.''

SA 4051. Mr. MCCONNELL proposed an amendment to amendment SA 4050 proposed by Mr. MCCONNELL to the bill S. 3021, to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, to provide for water pollution control activities, and for other purposes; as follows:

Strike ''3 days'' and insert ''4 days''

SA 4052. Mr. MCCONNELL proposed an amendment to amendment SA 4051 proposed by Mr. MCCONNELL to the amendment SA 4050 proposed by Mr. MCCONNELL to the bill S. 3021, to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, to provide for water pollution control activities, and for other purposes; as follows:

Strike ''4'' and insert ''5''

PRIVILEGES OF THE FLOOR

Mr. DURBIN. Mr. President, I ask unanimous consent that Manpreet Teji,

a judiciary staffer from my office, be granted floor privileges for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL TUESDAY, OCTOBER 9, 2018, AT 3 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 3 p.m. on Tuesday, October 9, 2018.

Thereupon, the Senate, at 4:43 p.m., adjourned until Tuesday, October 9, 2018, at 3 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 06, 2018:

SUPREME COURT OF THE UNITED STATES

BRETT M. KAVANAUGH, OF MARYLAND, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.