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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, October 31, 2017, at 12 p.m.

Senate

MONDAY, OCTOBER 30, 2017

The Senate met at 3 p.m. and was called to order by the Honorable TODD YOUNG, a Senator from the State of Indiana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, we are grateful for Your goodness. Your faithful love endures forever. We cannot list the miracles You have done throughout our lives and history.

Lord, establish our lawmakers with Your might. When they go through dry and barren places, become for them a stream of water in life's desert. Demonstrate Your mighty wisdom as they seek to solve the daunting problems of our time. May Your promises never fail, as Your will is done on Earth even as it is done in Heaven.

Eternal Spirit, You are the rock of our salvation, our help in ages past, and our hope for years to come.

We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication

to the Senate from the President pro tempore (Mr. HATCH).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 30, 2017.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TODD YOUNG, a Senator from the State of Indiana, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

Mr. YOUNG thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

JUDICIAL NOMINATIONS

Mr. McCONNELL. Mr. President, for the past 8 years, we had a President who selected nominees for our Nation's judiciary based upon what became known as the "empathy standard," an ideological litmus test designed to find judicial nominees who would favor certain groups or individuals over others. It is a great standard if you are the party in a case for whom the judge has empathy. It is not so great if you are the other person. Not only does this standard deny every litigant a fair shake, but it also disregards our Nation's bedrock legal tradition of dispensing equal justice under the law.

President Trump, on the other hand, selected nominees who would help ensure that the judiciary is true to its role in our democracy. Later today, the Senate will vote to confirm one of those nominees, Trevor McFadden, as a district court judge for the District of Columbia. His nomination was approved by the Judiciary Committee without a single vote in opposition. Democrats needlessly delayed his vote on the floor anyway.

We have seen many delay tactics from them already this year. We have pushed through every time. We are going to push through again today. We are going to confirm the impressive judicial nominee before us, and we are going to confirm more judicial nominees in the coming days as well.

Our effort to confirm qualified judicial nominees this year would not be possible without the tireless work and effective leadership of our Judiciary Committee chairman, CHUCK GRASSLEY. To build on the excellent work of his committee, I filed cloture last week on four well-qualified circuit court nominees. These nominees understand that their role as a judge is to put aside their personal preferences and instead decide cases based on what the law says. We will confirm all of them this week, no matter how long that takes.

The first of these four circuit court nominees that we will confirm this week is Professor Amy Barrett, who was nominated by the President to serve on the U.S. Court of Appeals for the Seventh Circuit. A mother of seven, Professor Barrett began her

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



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legal career by clerking for Judge Laurence Silberman of the DC Circuit and then for Justice Antonin Scalia. These prestigious clerkships gave her the opportunity to work closely with two giants of the legal field. Today, she is a respected professor at the University of Notre Dame, where, by the way, she was honored as Distinguished Professor of the Year twice. Professor Barrett will bring a wealth of knowledge to the bench.

Professor Barrett happens to be a Catholic. Her faith is important to her. She has spoken freely about it and its impact on her life. But she also understands the role of a judge, which is not to let personal beliefs dictate how cases are decided.

Unbelievably, some on the political left, including some of our Democratic colleagues, are criticizing her because as a law student she cowrote a law journal article that argued just that. Her coauthor of the article, John Garvey, is now the president of Catholic University. He recently wrote the following:

Amy Barrett, a law professor at Notre Dame, was grilled on Wednesday by Democrats on the Senate Judiciary Committee about an article she and I wrote together in 1998 when I was a law professor and she was my student. In that article we argued that the death penalty was immoral, as the Catholic Church teaches (in common with Quakers, Episcopalians, Presbyterians, Methodists, and the 38 member communions in the National Council of Churches). We went on to say that a Catholic judge who held that view might, in rare cases, have to recuse herself under . . . [the] federal statute that asks a federal judge to step aside when she has conscientious scruples that prevent her from deciding a case in conformity with the facts and the law.

President Garvey went on to write:

Perhaps the Alliance for Justice, which has mounted a campaign to discredit Professor Barrett, didn't get that far in reading the article. Its website says this: "Stunningly, Barrett has asserted that judges should not follow the law or the Constitution when it conflicts with their personal religious beliefs. In fact, [this group claimed] Barrett has said that judges should be free to put their personal views ahead of their judicial oath to faithfully follow the law."

President Garvey noted, however:

Barrett (and I) said no such thing—

No such thing—

We said precisely the opposite.

This opposition to Professor Barrett is so upside down that it leaves people like President Garvey wondering whether there is something else going on here. President Garvey concluded:

The case against Prof. Barrett is so flimsy that you have to wonder whether there isn't some other, unspoken, cause for their objection.

The president of Notre Dame also weighed in about these criticisms of Professor Barrett. Here is some of what he said in his letter to the ranking member of the Judiciary Committee:

Your concern, as you expressed it, is that "dogma lives loudly in [Professor Barrett], and that is a concern when you come to big issues that large numbers of people have fought for years in this country."

I am one in whose heart "dogma lives loudly," as it has for centuries in the lives of many Americans, some of whom have given their lives in service to this nation. . . . It is chilling to hear from a United States Senator that this might now disqualify someone from service as a federal judge. I ask you and your colleagues to respect those in whom "dogma lives loudly"—which is a condition we call faith.

A condition we call faith.

For the attempt to live such faith while one upholds the law should command respect, not evoke concern.

Professor Barrett has made it clear that she would "follow unflinchingly" all legal precedent and, in rare cases in which her conscience would not allow her to do so, she would recuse herself.

I will say that again:

. . . in rare cases in which her conscience would not allow her to do so, she would recuse herself.

I can assure you that she is a person of integrity who acts in accord with the principles she articulates.

Let me remind colleagues that article VI of the Constitution provides that "no religious test shall ever be required as a qualification to any office." That is the U.S. Constitution. According to the Founders, this was done to ensure that "the people may employ any wise or good citizen in the execution of the various duties of the government."

Professor Barrett of Notre Dame is just such a wise and good person, and when the Senate confirms her to the Seventh Circuit, our judiciary and our Nation will be better off.

I strongly support her nomination and would urge my colleagues to do the same.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

RUSSIA INVESTIGATION

Mr. SCHUMER. Mr. President, good afternoon. This morning, the former chairman of the Trump campaign for President and a close associate turned themselves in to Federal authorities on a dozen charges, including acting as unregistered agents of a foreign power and conspiracy against the United States. The indictments of Mr. Manafort and Mr. Gates show that the special counsel's probe is progressing in a very serious way. Mueller is moving forward.

What we know now is that an alleged unregistered foreign agent, who is charged with laundering tens of millions of dollars from foreign governments on behalf of their agenda, was given a chairmanship of a campaign for the Presidency of the United States and, with it, untold influence on the future President and his party. We know that Mr. Manafort has had continuing contact with the President since his resignation from the campaign.

Just as shocking was the admission by a Trump campaign adviser that he met with a Kremlin contact to discuss so-called "dirt" on Secretary Clinton. While we know that Mr. Papadopolous had extensive email exchanges with other Trump officials regarding his outreach to Russian officials, his admission released today raises many more questions than it answers. Mr. Mueller and his team should be allowed to seek answers to those questions without interference from the President or anyone else.

The stakes could not be higher. We are talking about the pride and wellspring of our grand democracy—free and fair elections—which have been going on for more than two centuries and were disturbed and adulterated by a hostile, foreign power, with no good intent for the people of this country. It is critical that we need to get to the bottom of this. That is Special Counsel Mueller's job, and he must be allowed to perform it without interference.

The rule of law is paramount in America. We pride ourselves on it. The investigation must be allowed to proceed unimpeded. The President must not, under any circumstances, in any way, interfere with the special counsel's work. If he does, Congress must respond swiftly, unequivocally, and in a bipartisan way to ensure that the investigation continues and the truth—the whole truth comes out.

JUDICIAL NOMINATIONS

Mr. SCHUMER. On judges, Mr. President, this week the majority leader has scheduled votes on four circuit court nominations. It is the first time, in my memory, that the Senate is being asked to process four circuit court judges in a single week. The circuit courts have an immense influence on our country, adjudicating some of the thorniest of legal issues. Only the rarest and most vexing circuit court decisions are appealed to and taken up by the Supreme Court. For this reason, we typically don't sandwich circuit court nominees back to back to back to back only a week—only a week—after they have emerged from committee because Members who are not on the Judiciary Committee usually need time—always need time to review these candidates for such important, powerful, and far-reaching positions.

Why has the majority leader departed from this practice? Well, one can argue it is because the Republican agenda has been such a failure in this Congress, the leader has chosen to try and accomplish through the courts what Republicans have been unable to achieve through the legislative process. The Republican agenda has been so unpopular with the American people that it has stalled at every juncture so now they have made a brazen move to pack the courts with activist judges and remake them in their conservative, ideological image.