

If confirmed, I am confident Mr. Quarles' experience and skill will continue to be effective in terms of helping the Board promote the effective operation of the U.S. economy and serving the public interest.

He has previously received, as I said, bipartisan support, being confirmed last year as Vice Chairman by voice vote, and as a Board member by a vote of 65 to 32. Earlier today, the Senate's cloture vote on Mr. Quarles' nomination was 66 to 33—yet again another indication of strong bipartisan support for this nomination.

I urge all my colleagues to support Mr. Quarles' nomination today and vote for his confirmation.

I yield my time.

The PRESIDING OFFICER. Under the previous order, all time is expired.

The question is, Will the Senate advise and consent to the Quarles nomination?

Mr. CRAPO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 33, as follows:

[Rollcall Vote No. 158 Ex.]

YEAS—66

Alexander	Flake	Nelson
Barrasso	Gardner	Paul
Bennet	Graham	Perdue
Blunt	Grassley	Peters
Boozman	Hatch	Portman
Burr	Heitkamp	Risch
Capito	Heller	Roberts
Cardin	Hoeven	Rounds
Carper	Hyde-Smith	Rubio
Cassidy	Inhofe	Sasse
Collins	Isakson	Scott
Coons	Johnson	Shaheen
Corker	Jones	Shelby
Cornyn	Kennedy	Sullivan
Cotton	King	Tester
Crapo	Lankford	Thune
Cruz	Lee	Tillis
Daines	Manchin	Toomey
Donnelly	McCaskey	Van Hollen
Enzi	McConnell	Warner
Ernst	Moran	Wicker
Fischer	Murkowski	Young

NAYS—33

Baldwin	Harris	Murray
Blumenthal	Hassan	Reed
Booker	Heinrich	Sanders
Brown	Hirono	Schatz
Cantwell	Kaine	Schumer
Casey	Klobuchar	Smith
Cortez Masto	Leahy	Stabenow
Duckworth	Markley	Udall
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Gillibrand	Murphy	Wyden

NOT VOTING—1

McCain

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid

upon the table and the President will be immediately notified of the Senate's action.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant bill 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 Andrew S. Oldham, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Mitch McConnell, Roger F. Wicker, Steve Daines, Richard Burr, Mike Rounds, Bob Corker, Mike Crapo, Thom Tillis, Chuck Grassley, John Boozman, Johnny Isakson, Orrin G. Hatch, John Cornyn, David Perdue, John Barrasso, John Hoeven, Roy Blunt.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Andrew S. Oldham, of Texas, to be United States Circuit Judge for the Fifth Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. HOEVEN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 49, as follows:

[Rollcall Vote No. 159 Ex.]

YEAS—50

Alexander	Flake	Paul
Barrasso	Gardner	Perdue
Blunt	Graham	Portman
Boozman	Grassley	Risch
Burr	Hatch	Roberts
Capito	Heller	Rounds
Cassidy	Hoeven	Rubio
Collins	Hyde-Smith	Sasse
Corker	Inhofe	Scott
Cornyn	Isakson	Shelby
Cotton	Johnson	Sullivan
Crapo	Kennedy	Thune
Cruz	Lankford	Tillis
Daines	Lee	Toomey
Enzi	McConnell	Wicker
Ernst	Moran	Young
Fischer	Murkowski	

NAYS—49

Baldwin	Feinstein	McCaskey
Bennet	Gillibrand	Menendez
Blumenthal	Harris	Merkley
Booker	Hassan	Murphy
Brown	Heinrich	Murray
Cantwell	Heitkamp	Nelson
Cardin	Hirono	Peters
Carper	Jones	Reed
Casey	Kaine	Sanders
Coons	King	Schatz
Cortez Masto	Klobuchar	Schumer
Donnelly	Leahy	Shaheen
Duckworth	Manchin	Smith
Durbin	Markley	Stabenow

Tester	Warner	Wyden
Udall	Warren	
Van Hollen	Whitehouse	

NOT VOTING—1

McCain

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 49.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Andrew S. Oldham, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. The Senator from Iowa.

NOMINATION OF BRETT KAVANAUGH

Mr. GRASSLEY. Mr. President, as I have done two or three times before in the last week, I would take some of my colleagues' time to discuss the nomination of Judge Kavanaugh to serve as an Associate Justice on the Supreme Court.

I think the debate surrounding his confirmation has highlighted the deep divide between how conservatives view the role of the judiciary versus how liberals view it. The reason liberal outside groups oppose Judge Kavanaugh's nomination is quite simple: They don't think he will promote their preferred policies and the outcomes of those policies while on the Bench.

I can't think of a better example that demonstrates how differently liberals and conservatives view the role of the judiciary, so let me tell you how I and most Americans view the role of the judiciary. There are pretty simple things we learned from high school government courses about the checks and balances of government—pretty simple, pretty common sense, because it is all about the purpose of the Constitution of the United States.

Under the Constitution, we have three branches of government. Congress makes the law, the President enforces the law, and the judiciary interprets and applies the law and the Constitution.

The judiciary's role as a coequal and independent branch of government is significant. It is confined. In the words from the Constitution, they can only deal with cases and controversies. As Alexander Hamilton explained in Federalist Paper No. 78, the judiciary "may truly be said to have neither FORCE nor WILL, but merely judgment." In other words, the judiciary must stay in its lane—a very slow lane—calling balls and strikes as the courts see them, without trying to encroach on Congress's authority to make policy through the legislative process. When the Supreme Court goes beyond its mandate and enters the policymaking arena, it threatens the structure of our Constitution.

To preserve the judiciary's independence, Justices of the Supreme Court are appointed for life. They are not directly accountable to the voters for

their decisions. The American people can toss out those of us in Congress if we make bad policy decisions, but if a judge ends up legislating, we are stuck with a judge who made those bad decisions for life.

The benefit of this arrangement is that judges can make decisions according to the laws, not based on the whims of political opinion because they are immune from that political opinion. But the downside is that some judges can see their independence as a green light to override the policy choices of Congress or the States and substitute their own policy preferences. The threat this poses to self-government should be very self-evident: Instead of the people's representatives making policy choices, unelected judges who aren't answerable to the American people make them.

Conservatives believe that judges must rule according to the law as written. In any case, the law might lead to a liberal political result or, it might require a conservative political result, but the judge can't take that into consideration. The law must be interpreted regardless of whether the judge agrees with the political results of the decision. A good judge will oftentimes personally disagree with the result he or she reaches.

Many liberals view the role of the judiciary very differently. Liberals believe that an independent judiciary, unaccountable to the American people, is a very convenient way to achieve policy outcomes that can't be achieved through the democratic and representative process. That is why, in nearly every case before the Supreme Court, it is very predictable how the four Democrat-appointed Justices will rule. In most cases, they will reach the result that achieves liberal political goals. How else can you explain the fact that the Democrat-appointed Justices have voted to strike down every restriction on abortion—a right that appears nowhere in the Constitution—but would uphold restrictions on political speech or gun rights? After all, these rights are expressly covered by the First and Second Amendments.

The unfortunate reality is that liberal jurisprudence is thinly veiled liberal policymaking, and I am very generous when I say "thinly veiled." This explains many of the leftwing attacks on Judge Kavanaugh that are now going on. Judge Kavanaugh has a track record of putting aside any policy preferences that he has and ruling according to the law as it is written. I think this is a virtue. Indeed, it is necessary for judges to do that—to show their impartiality, to show their judicial temperaments. But liberal outside groups and their Senate allies see this as a threat. They want judges who will impose their policy preferences—only have those policy preferences disguised as law, of course. They want politicians hiding under their judicial robes. That is why many of the attacks on Judge Kavanaugh are based on policy outcomes.

Leftwing groups are spending millions of dollars to convince the American people that Judge Kavanaugh is hostile to their preferred policies. I believe this effort will be unsuccessful. What the American people see in Judge Kavanaugh is a judge who will rule according to the law, not for or against various policies.

Nine Ivy League Justices and their cadre of mostly Ivy League law clerks aren't equipped to replace Congress's exclusive lawmaking function.

One attack I have seen on Judge Kavanaugh is that he represents a threat to the Affordable Care Act's protection of people with preexisting conditions. I want to tell you why numerically that just doesn't work out—because the same five Justices who twice upheld the constitutionality of the Affordable Care Act are still on the Court. Justice Kennedy, whom Judge Kavanaugh would replace, voted to strike down the Affordable Care Act. In other words, even assuming you could predict Judge Kavanaugh's vote 1 year or 10 years from now on the Affordable Care Act, his vote would not change the outcome. Moreover, Judge Kavanaugh had two opportunities to strike down the Affordable Care Act on the DC Circuit, where he now serves. He did not do it. So where do they get the idea that he is a predictable vote to undo the ACA?

For those of us for repeal, maybe we ought to vote against him because he hasn't voted that way on the DC Circuit—those of us who thought the Affordable Care Act should be repealed—and because he may not be a sure vote to do that. And even if he were, there are still five votes to preserve it.

The leftwing groups might want to put away their crystal ball. Even the New York Times fact checker threw cold water on the argument that Kavanaugh was a sure vote against the Affordable Care Act. The New York Times labeled the leftwing attacks "exaggerated."

Another attack on Judge Kavanaugh is that he is hostile to abortion rights. This attack misrepresents his record on the DC Circuit. There, Judge Kavanaugh acknowledged that the court must decide the case based on *Roe v. Wade* and subsequent abortion decisions. He applied the precedent, as precedent requires judges to do so.

We hear the same fearmongering over abortion every time there is a Supreme Court vacancy. I remember that 38 years ago when Sandra Day O'Connor was going to be the first woman appointed to the Supreme Court, there was real worry then that *Roe v. Wade* was in jeopardy. She is one of those who preserved it in the *Casey v. Planned Parenthood* case 12 years later, as she got on the Court. Yet *Roe v. Wade* is still the law of the land. Justices have a way of surprising us. I think Justice Kennedy, now leaving the Court, was one of those because even though we didn't pursue this in depth with him at his hearing, those of

us who are pro-life—and I am one of them—were pretty assured that Kennedy might be one of those votes to override *Roe v. Wade*. Yet, in 1992, in the *Casey v. Planned Parenthood* case, Kennedy was one of the majority who voted not to do any harm whatsoever to *Roe v. Wade*.

There is no way to predict how a Justice will rule in a particular case. Many times, this Senator has been disappointed by what he thought a Justice might do if approved. Who could have predicted that Judge Scalia, for example, would strike down a ban on flag-burning? Just this term, we saw how Justices appointed by Republican Presidents can reach decisions with liberal political results because that is what the law requires. In *Sessions v. Dimaya*, Justice Gorsuch sided with an immigrant who challenged a statute under which he could have been deported as unconstitutionally vague. In *Carpenter v. the United States*, our Chief Justice Roberts, who most of the time is considered a conservative or strict constructionist, held that police were required to obtain a warrant before searching cell phone location data. If you are a law enforcement person, you consider that a bad decision. If you are a privacy rights person, you consider Chief Justice Roberts to be right.

It is sad—very sad—but not surprising that leftwing groups and their Senate allies oppose Judge Kavanaugh's confirmation based on policy concerns rather than on legal concerns. Luckily, a majority of Americans and a majority of Senators believe that the mark of a really good judge is someone who does what the Constitution assigns them to do—interpret the law as written, regardless of whether the result is liberal or conservative or even anything in between. As Justice Gorsuch said, judges wear robes, not capes.

In his 12 years on the DC Circuit, Judge Kavanaugh has a clear track record of setting aside any policy preferences and ruling according to law as Congress wrote it. Criticizing the results of certain decisions says more about his critics than about the judge himself.

We are already seeing an attempt at Borking Judge Kavanaugh. I was in the Senate when liberal groups and some of my colleagues smeared the highly respected Judge Bork after he was nominated for the Supreme Court. Judge Bork was very candid with the Senate Judiciary Committee. He was unfairly attacked for being so candid. We are seeing liberal groups and their Senate allies try to replicate this shameful episode.

But since the nomination of Justice Ginsburg to the Supreme Court, the tradition has been for nominees to, in her words, give "no hints, no forecasts, no previews" of how they would vote, and that applies to how they would address certain cases. In a press conference last year, the minority leader affirmed that "there is a grand tradition that I support that you can't ask"

a judicial nominee “about a specific case that might come before them.” That is exactly the Ginsburg rule.

I expect, if Judge Kavanaugh wants to be on the Supreme Court not only for the sake of being on the Supreme Court, getting there, but also to serve the role he ought to serve as an impartial Justice, that he is going to follow the Ginsburg rule when he comes before my Judiciary Committee. I implore my colleagues not to try to extract assurances about how he will rule in specific cases in exchange for a confirmation vote, because they ought to get the answer from Kavanaugh that Ginsburg would give and, as far as I know, every one of the nominees since then.

The only question that matters is this: Does Judge Kavanaugh strive to apply the law as written by Congress, regardless of his personal views? From what I know about Judge Kavanaugh—and I haven’t gone through all of his 300 opinions yet that he has written as a circuit judge, but the answer appears to be yes.

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. THUNE. 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. THUNE. Mr. President, if there is one thing we have been able to rely on over the past half century or so, it is Democratic hysteria over Republican Supreme Court nominations. No sooner does a Republican President announce a nomination than the Democrats are off and running. It doesn’t matter who the nominee is—the playbook is the same. The Democrats warn that equal rights are in jeopardy; that our system of government may not survive; in fact, that Americans may not survive. That is right. In the lead-up to Justice Gorsuch’s confirmation, the head of one liberal organization stated that there was “substantial evidence” that if Gorsuch’s “egregious views were to become law, Americans’ lives . . . would be put at risk in untold ways.” I am happy to report that a year into Justice Gorsuch’s tenure on the Supreme Court, Americans seem to be doing OK.

Fast-forward to Judge Kavanaugh’s Supreme Court nomination, and once again, Democrats are predicting that the sky will fall if a Republican President’s Supreme Court nominee is confirmed.

Faced with an eminently well-qualified, mainstream nominee, they have been forced to resort to distortions or outright conspiracy theories to make their case. Their statements have been so extreme that they have already been called out more than once by the mainstream media.

The New York Times—not exactly known as an apologist for the Repub-

lican Party—published a fact check with the headline “Democrats Overstate Kavanaugh’s Writings on the Affordable Care Act.”

The Washington Post published a fact check that described a Democratic characterization of Kavanaugh as “extreme distortion.” Two tweets offering a truly absurd conspiracy theory about Justice Kennedy’s resignation received four Pinocchios from the Washington Post—a rating that qualifies the tweets as “whoppers.”

At the root of Democrats’ frenzy is their belief that the only good Supreme Court Justice is a Supreme Court Justice who shares their political beliefs and who will rule in support of them. That is a very disturbing point of view. Our system of government is based on the rule of law, but the rule of law depends on having judges who will rule based on the law and the facts, not on their personal opinions.

Once judges start ruling based on their political opinions or their feelings about what they would like the law to be, then we will have replaced the rule of law with the rule of individual judges. That is exactly what Democrats are pushing for. They are looking for Supreme Court Justices who will rule based not on the law but their personal beliefs. More specifically, they are looking for judges who will rule based on Democrats’ beliefs. Just look at the Democrats’ statements since Judge Kavanaugh’s nomination. Democrats aren’t interested in whether Judge Kavanaugh is qualified or will rule in accordance with the law; instead, they are concerned about his views on specific issues and whether those views line up with Democrats’ opinions.

Democrats want a Supreme Court that will ratify the opinions of the Democratic Party, whether or not those opinions are in line with the law or the Constitution. Of course judges have political opinions. Of course judges have personal feelings. When you are a judge, your job is to leave those things at the courtroom door. Your job is to judge based on the law and the facts, even when you don’t like—especially when you don’t like the outcome. As Justice Gorsuch has said, “A judge who likes every outcome he reaches is very likely a bad judge—stretching for results he prefers rather than those the law demands.”

I don’t know how Judge Kavanaugh would rule on the cases he would face as a member of the Supreme Court, but I do know that in each and every case, he would look not for the results he prefers but for those the law demands.

In a 2017 speech at Notre Dame Law School, Judge Kavanaugh said:

I believe very deeply in those visions of the rule of law as a law of rules, and of the judge as umpire. By that, I mean a neutral, impartial judiciary that decides cases based on settled principles without regard to policy preferences or political allegiances or which party is on which side in a particular case.

That is it. That is the job of a judge—to serve as the umpire, to call the balls

and strikes, not rewrite the rules of the game.

When you are considering a candidate for Congress, political opinions, like those the Democrats are demanding, matter. When it comes to judges, there are really only two important questions: First, is this judge well qualified? Second, does this person understand the proper role of a judge? When it comes to Judge Kavanaugh, the answer to both questions is yes. His qualifications are outstanding. He is a graduate of Yale Law School. He clerked for a Supreme Court Justice. He is a lecturer at Harvard Law School. Most importantly, as a judge on the DC Circuit Court of Appeals, he has handed down thoughtful, well-respected decisions that reveal his deep respect for the law and the Constitution and his understanding that it is a judge’s job to interpret the law, not to legislate from the bench.

It is unfortunate that Democrats’ belief that the only good judges are liberal judges is preventing them from giving an outstandingly qualified nominee like Judge Kavanaugh a fair hearing. There is still time for them to abandon their partisan political opposition and take a real look at Judge Kavanaugh’s qualifications for the Supreme Court. I hope they will.

Mr. President, I yield the floor.

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.

TRUMP-PUTIN SUMMIT

Mr. SCHUMER. Mr. President, I join with my colleagues this afternoon to talk about the President’s deeply embarrassing and disgraceful meeting with President Putin yesterday.

But first, allow me to comment on what we just heard from the President. A few minutes ago, President Trump seemed to say that he accepts the findings of the intelligence community that Russia meddled in our election. Well, welcome to the club, President Trump.

We have known since the middle of the 2016 election that they meddled. For the President to admit it now is cold comfort to a disturbed public that has watched him bend over backward to avoid criticizing Putin directly. President Trump may be trying to squirm away from what he said yesterday, but it is 24 hours too late—and in the wrong place—for the President to take a real stance on Putin’s election meddling.

Amazingly, President Trump, after reading his statement that he accepted the intelligence community’s conclusion that Putin meddled in our election, added, in his own words, “could be other people also. A lot of people out there.” This is just like Charlottesville. He made a horrible statement,