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## Senate

The Senate met at 3 p.m. and was called to order by the President pro tempore (Mr. HATCH).

### PRAYER

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

Let us pray.

Lord of the Universe, we find our joy from trusting You. Today, we trust in Your promise to supply all our needs from Your glorious riches in Heaven. As we differ in faces, so we are different in our needs. Provide for our needs from the riches of Your grace.

Lord, surround our lawmakers with the shield of Your Divine favor. Remind them that they wrestle against forces that are often stronger and more determined than they may imagine. Help them to claim Your promise that You will not withhold any good thing from those who do what is right. Inspire our Senators to call on You in all of life's seasons.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The President pro tempore 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.

### RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. YOUNG). Under the previous order, the leadership time is reserved.

The majority whip.

### NOMINATION OF BRETT KAVANAUGH

Mr. CORNYN. Mr. President, it is hard for me to believe, but it has only been 2 weeks since I was at the White House, along with many of our other colleagues, to await the President's an-

nouncement of who would fill the Supreme Court vacancy left by the retirement of Justice Anthony Kennedy. At that time, the President had said he had narrowed the candidates to a field of four, all of whom were well known and well qualified.

I was personally pleased that he had selected Judge Brett Kavanaugh, a candidate whom I had been proud to introduce and support early in my career in the Senate when he was nominated and confirmed to the U.S. Court of Appeals for the DC Circuit. That would have been back in 2006. His academic background, his longstanding experience in public service, and his now 12-year record of faithfully applying the law as an appellant judge on the DC Circuit Court of Appeals, I believe, make him exactly the type of jurist we should want to serve on our Nation's highest Court.

We know the attacks already began even before the nominee was announced. To me, that was the most telling thing of all. One leftwing group's literal fill-in-the-blank press release confirmed all of the terrible things that nominee xx was going to do when nominee xx was nominated to the Supreme Court. Last week, the leader rightfully referred to this as the "fill-in-the-blank" opposition. If you can come out with such certainty and such vigor against an unnamed nominee, it looks to me like you really don't have an open mind in the first place.

Now Judge Kavanaugh's name has been filled in, and the attacks have been more direct and more personal. They have attempted to attack his qualifications, but that has sputtered out pretty quickly given that Judge Kavanaugh's qualifications are unsailable. No one can argue that he is not impeccably well suited for a seat on the Nation's highest Court.

The Nation first got a glimpse of Judge Kavanaugh's character when he spoke at the White House. We heard about his being an only child who had

grown up with two hard-working parents and who still refers to his mom as being the original Judge Kavanaugh because of her service on the State court bench in Maryland. We heard about his being a loving father of two daughters and being referred to as "Coach K" because of the coaching of his daughters' basketball teams. We also heard about his being a public servant who has been devoted to supporting his community and living out his faith. Yet let's set all of these character traits aside for a moment because, in the end, these aren't the primary measures we will use to confirm this nomination.

Judge Kavanaugh graduated with honors from Yale College. He attended Yale Law, and he clerked for two Federal appellate judges before clerking for Justice Kennedy on the U.S. Supreme Court. He then went on to private practice, and, from there, he went to work at the White House, where he started in the counsel's office before becoming the Staff Secretary to President George W. Bush.

Let me pause there for a moment and remind people what the Staff Secretary does because, I suspect, there are going to be requests for a lot of documents he touched during the time he was Staff Secretary. As I understand the role of Staff Secretary at the White House, there has to be one final person who determines that a document is ready for the President's signature. Has it been properly vetted for policy statements? Is it in the correct application of whatever the current law is that pertains to that topic? More than anything else, it just has to have one final stop that tells the President: OK. We have checked all of this out. We have consulted with all of the relevant people, and this document is now ready for your signature.

In almost no case did Judge Kavanaugh generate the document or author the document. It was written by somebody else. He had merely confirmed it was in its proper shape after

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



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having consulted with the people who did write it and after having consulted with the authorities who were responsible for that policy.

I suspect we are going to hear of requests for millions of documents that came across his desk while he was Staff Secretary, virtually none of which will have any bearing whatsoever on his fitness or qualifications to serve on the Supreme Court.

More relevant, though, are the 12 years he served on the Federal appellate bench here in Washington, DC. The DC Circuit Court has sometimes been called the second highest court in the Nation. We have seen Judge Kavanaugh earn a reputation for being a fair, well-respected jurist who has a record of faithfully applying the law as written.

While it is clear that Judge Kavanaugh is uniquely qualified to serve on the Supreme Court, if I were dreaming up the right qualifications and temperament and experience, I am not sure I could have picked a better person. In its failing to find fault with his character and his qualifications, here is where the opposition has moved in its outlandish claims about how he may apply personal political views to the law.

The opposition started by digging up an old law review article Judge Kavanaugh wrote for the Minnesota Law Review that made the case that Congress should consider enacting legislation to govern a sitting President's lawsuits and investigations. Some of our colleagues have already begun to twist the words in the article and mislead the American people into believing he argued the President could never be investigated or prosecuted.

In fact, the Washington Post fact-check called these claims an "extreme distortion" of Judge Kavanaugh's views. It is a bogus conspiracy theory that is only being made by those who haven't reviewed the article or don't want to but who clearly want to try to damage the nomination. In his article, Judge Kavanaugh explicitly wrote that he believes no one is above the law. His point was not to take away checks on the President but only to say Congress might want to consider passing additional legislation.

Some of our friends across the aisle then argued that if confirmed, Judge Kavanaugh would be the deciding vote to overturn the Affordable Care Act, including to overturn protections for preexisting conditions. This is so far-fetched that the New York Times fact-check from two health law professors debunked the claim and called these arguments "overstated" and that in Judge Kavanaugh's writings on the topic, he focused on specific legal issues, as judges are supposed to do in the cases that are presented to them.

Most every one of our colleagues agrees that preexisting conditions should be covered, but that is a policy decision for Congress. What a specious idea to suggest that somehow this judge who served on the DC Circuit

Court of Appeals for 12 years is some crusader who is determined to undermine preexisting conditions coverage for the American people. It is just a loony idea. It is precisely why we, as elected officials, are the ones to make the law and to make policy and to represent the interests of those we serve. When our constituents don't think we are doing a very good job, they can tell us: Hey, you need to be doing a better job, and if you don't, then I am going to exercise my right at the next election to vote against you.

Judges, though, are presented not with a policy or a political or an ideological agenda that they are supposed to pursue but, rather, with specific cases and facts. Then they are to apply the law without having any predisposed policy preferences. That is what judges do. Opposing him based on a guess of how he might rule on a given case that may or may not ever come before him is an act of pure desperation.

Don't they remember the standards set by Justice Ginsburg, who declined to prejudge any case since she said that would be inappropriate? As she said in her own confirmation, that sort of assurance is completely wrong. Justice Ginsburg gave what, I think, is the correct response to such requests, saying she would offer no hints, no forecasts, and no previews of her specific rulings.

As a former State court judge and justice myself, I strongly believe those who serve in our judicial branch must put their personal, political, and ideological beliefs aside and apply the law as written. If you can't do that, you ought to run for the legislature or city council or county commissioner, not serve as Federal judges. I believe attempts to predict how Justices will decide particular cases are futile, particularly when you have a judge who calls balls and strikes as he or she sees them. Cases depend on specific facts and circumstances as well as on the lengthy and detailed legal arguments by the parties who come before the Court.

I hope our colleagues will spend less time dreaming up hypotheticals that will never come to pass and more time in meeting with and in getting to know Judge Kavanaugh, which, so far, they have declined to do. If they want to get to know the man and the judge, I hope they will take him up on the offer to sit down and talk to them and to answer their questions and explain how his judicial philosophy would be put into action.

Thank goodness for a couple of our colleagues, both the junior Senator from North Dakota and the senior Senator from West Virginia. They were quick to say they will not be influenced by their leadership's pressure or messaging from their far-left base. Let's hope others will follow suit.

In having failed to pick apart Judge Kavanaugh's character or his 12-year judicial record, some of our colleagues are now requesting to see every piece

of paper—every email, every document—from Judge Kavanaugh's career at the Bush White House. I agree we should fully vet the nominee, and it makes sense to review documents that are important to the confirmation process.

Yet, with nearly half of the Democrats having already announced their opposition to this nomination, why are they requesting these documents? Is it because it would cause them to reconsider their opposition to his nomination? I think they have pretty much made a political decision to oppose the nomination, so any effort to force the production of documents that will not have any relevance whatsoever to his qualifications makes no sense. Instead, we know some of these demands are being made merely so they may drag their feet—as a pretext in order to delay Judge Kavanaugh's confirmation.

Instead of chasing after irrelevant records from the Bush White House, I urge our colleagues to read Judge Kavanaugh's opinions and meet with the judge and get to know him. Sadly, I have heard, as I said, that virtually all of the Democrats have, so far, not been able to or have not found time to meet with the judge, which, I think, is a shame.

Despite the attacks, the attempts to distract, and the efforts to stall, though, the American people can be assured of one thing—we will press forward in our vetting process and vote on the confirmation of Judge Kavanaugh this fall in advance of the October term of the Supreme Court. The majority leader, Senator McCONNELL, has made it clear that if there is foot-dragging, and this is drug out beyond the first Monday in November, when the Supreme Court has its first oral argument, we will stay here until the bitter end—all the way up to and including the midterm elections on November 6. That would be the consequence of dragging this out for no good reason, but we will vote on his nomination before the midterm election.

#### NOMINATION OF ROBERT WILKIE

Mr. CORNYN. Mr. President, on another note, we will vote today on the nomination of Robert Wilkie to be Secretary of Veterans Affairs.

Mr. Wilkie brings to this position a firsthand understanding of the mental and physical demands of military life. The son of an Army commander who was wounded in Cambodia during the Vietnam war, he said his father's recovery was at the forefront of his mind when he was offered the position at the Veterans Health Administration. He himself is an Air Force Reserve officer who has spent three decades helping to shape military policy.

In fact, he started out his career in this very Chamber and worked, most recently, for our friend from North Carolina, Senator TILLIS. He holds a law degree and multiple master's degrees, but he has had real-world experience as the Under Secretary of Defense