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## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, October 2, 2018, at 12:30 p.m.

## Senate

MONDAY, OCTOBER 1, 2018

(Legislative day of Friday, September 28, 2018)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the Honorable ROY BLUNT, a Senator from the State of Missouri.

### PRAYER

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

Let us pray.

Gracious God, let Your glory be over all the Earth. Thank You for Your faithfulness that endures forever.

Today, give our lawmakers steadfast hearts that will honor You. Provide them with wisdom to strive to do Your will. May their debates and discussions not degenerate into incivility. Lord, lead them throughout life's changing scene, strengthening them for every challenge. Remind them of the importance of reverential awe, which is the beginning of wisdom.

Grant us all wisdom and courage for the living of these days.

We pray in Your Holy 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 1, 2018.

To the Senate:

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

ORRIN G. HATCH,  
President pro tempore.

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

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### EXECUTIVE CALENDAR—Continued

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The senior assistant legislative clerk read the nomination of Brett M. Kavanaugh, of Maryland, to be an Associate Justice of the Supreme Court of the United States.

### RECOGNITION OF THE MINORITY LEADER

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

Mr. SCHUMER. Mr. President, on Friday, Senators FLAKE, COLLINS, and MURKOWSKI, joined by Democratic Sen-

ators COONS, KLOBUCHAR, and others, made the only fair move to demand that the FBI investigate the credible allegations of sexual misconduct by Supreme Court nominee Brett Kavanaugh. It was the right thing to do. It was fair to both Dr. Blasey Ford and to Judge Kavanaugh.

For too long Republicans have rushed this process forward and likely would have rushed to a final vote if not for the prudent and bipartisan effort of those Senators to demand a full FBI investigation.

What is important now is for the FBI investigation to be serious, impartial, and thorough, to ferret out the facts and do so quickly. That means interviewing all—all of the relevant witnesses and accepting corroborating accounts when they come forward. It also means following up on any leads that emerge from the process of the investigation.

The FBI has ample resources to do this within the 1-week period requested by the members of the Judiciary Committee. No one is asking that it take longer than a week, but everyone is asking that it be done thoroughly and completely within that week.

There is concern that the White House has placed severe constraints on the investigation. Until today, the President tried to dodge that responsibility, with the White House even saying the Senate is somehow responsible for the scope of the investigation. Let me be clear. The Senate has no control over the scope of an FBI investigation of this sort—only the White House.

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



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A few hours ago, I was glad to hear President Trump say he would like to see Dr. Ford and Judge Kavanaugh interviewed by the FBI as part of this investigation and that the FBI should be able to interview anyone—anyone—appropriate. We have to now make sure that those comments reflect what the White House has officially told the FBI.

Democratic Senators, led by Ranking Member FEINSTEIN, have asked the White House what parameters it is giving to the FBI, but we haven't yet received the reply, so we need an official document from the White House made public so the whole country knows what the scope is, and it should outline the scope of the investigation.

We told the President: If you are truly giving the FBI the ability to follow the facts wherever they lead, show us; show us what White House Counsel Don McGahn has instructed the FBI. Because prior to President Trump's off-the-cuff comments in the Rose Garden, there were rumors that the majority staff of the Judiciary Committee were drawing up limited interview lists for the FBI and otherwise circumscribing the investigation. Partisan staffers on the Judiciary Committee should not exercise any constraints over this investigation.

Democratic staffers asked the Republican majority staff to get on the phone with Counsel McGahn to discuss what should be the parameters, and they were told: Forget it. It is the same partisan staff who has blocked documents, who has operated in a purely partisan way, and who couldn't come up with an agreement when these things had always been done in a bipartisan way. To let the partisan Senate staff on the Republican side dictate the terms of this investigation would be wrong.

Ultimately, President Trump and Counsel McGahn know the buck stops with the White House. It is only they who can instruct the FBI. Now that the President has said he wants a full investigation, that he wants both Dr. Ford and Judge Kavanaugh to be interviewed, we assume that will happen, but we want to make sure Mr. McGahn tells the FBI just that.

The Senate and the American people deserve to know what is the scope of the investigation because this investigation must be done in a manner that allows the public to have confidence in its findings. Whether you are for or against Judge Kavanaugh going to the Supreme Court, it will only benefit the country if the investigation is regarded as fair, clear, and not constrained, particularly by partisan means. For that reason, we hope the FBI will be available to brief the Senate on the results of the investigation before a final floor vote.

Democrats are not interested in delay for the sake of delay. This can all be completed quickly, but it must be done right.

We are a society based on the rule of law. It is therefore crucial that the

American people have faith in the judiciary, especially the Supreme Court.

Our job as Senators is to decide if someone has the intelligence, the temperament, the independence, and the credibility to earn the title of Justice for a lifetime. Character matters. Character matters deeply.

Anyone who watched the Judiciary Committee hearing on Thursday should have serious, if not disqualifying, doubts about Judge Kavanaugh's credibility and independence—qualities we should expect in any Supreme Court Justice.

First, let me address the nominee's independence. After Dr. Blasey Ford's courageous, polite, detailed, and credible testimony to the committee, Judge Kavanaugh embarked on a partisan screed, angrily implicating sitting U.S. Senators in a conspiratorial plot to destroy his nomination. He even had the temerity to label the recent allegations a part of some "revenge of the Clintons," an absurd and shopworn boogeyman of partisan Republicans from the Gingrich era on forward. That was from Judge Kavanaugh's prepared opening statements.

When questioned, Judge Kavanaugh impugned the motives of sitting Senators, rudely interrupting and dismissing questions in a way I have never seen tolerated from a witness. Judge Kavanaugh asked a Democratic Member of this Chamber whether she had ever blacked out from drinking—an offensive question asked by a nominee who was there to provide answers, not evade answers by asking very nasty questions.

It was quite clear from Thursday's testimony that Judge Kavanaugh harbors deep, deep partisan resentments. That is not the kind of Justice we need on the Supreme Court.

I must say, this isn't the first time I thought that Judge Kavanaugh was too partisan. When he came before the Judiciary Committee in 2004 and 2006, I noted that he was involved in every major legal partisan fight of the Clinton and Bush eras, from Ken Starr to Bush v. Gore, from torture to signing statements to Manny Miranda's theft of Democratic emails. I wondered then, as I do today, whether we should promote a loyal partisan warrior to a position that calls for independence and judiciousness.

Frankly, Judge Kavanaugh's testimony was a stunning display of partisanship and recrimination that solidified my skepticism about his objectivity and independence. I understand these issues are emotional. I understand that his character was being questioned. But rather than providing sincere and measured testimony in his defense, which would have been far more effective, Judge Kavanaugh revealed that his world view is skewed by a very partisan lens.

Let me address probably the most important question about Judge Kavanaugh: his credibility. President

Trump has suggested that it doesn't matter what someone did 36 years ago in high school. Whatever view you take of that notion—I believe, given the seriousness of what Dr. Ford said, it should matter—the question about Judge Kavanaugh's credibility is one that weighs on us today, on his behavior right now. It is a question not about what Judge Kavanaugh did as a 16- or 17-year-old but what he has said as a 53-year-old nominee to the Supreme Court.

The harsh fact is that we have mounting evidence that Judge Kavanaugh is just not credible. He has dissembled about the Bush administration's policies on torture, the nomination of controversial judges, grand jury proceedings, and the theft of Democratic emails. Thursday's hearing provided fresh examples of Judge Kavanaugh's difficult relationship with the truth. Judge Kavanaugh gave answers about his yearbook page, supposed drinking games, and high school behavior that simply defy credulity. Judge Kavanaugh said he "never" drank so much that he forgot events—a characterization that does not track with multiple descriptions made by many high school and college classmates.

So the 64,000 dollar question is this: Is Judge Kavanaugh credible? Will Judge Kavanaugh say anything, deny anything, mislead about anything to secure confirmation to the Supreme Court? Does he have the integrity, the independence, the credibility to do the job? Does Judge Kavanaugh deserve the promotion of a lifetime, for a lifetime? These very serious questions about Judge Kavanaugh's state of mind and who he is today, not who he was in 1982, should weigh on the conscience of every Senator.

In my experience with Judge Kavanaugh, in 2004, in 2006, and again throughout this process, I am left with the impression that Judge Kavanaugh would dissemble, mislead, even prevaricate—even prevaricate—about everything from the momentous to the mundane—whatever it takes to cast his nomination in the most favorable light. Faced now with the gravest of allegations and the sincere testimony by a very courageous woman, I believe the Senate should consider the issue of credibility to be front and center in deciding whether Judge Kavanaugh deserves a seat on the bench—a lifetime appointment to the most important court in the land.

I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

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

NOMINATION OF BRETT KAVANAUGH

Mr. MCCONNELL. Mr. President, the confirmation process for Judge Brett Kavanaugh, one of the most qualified and most impressive Supreme Court nominees in our Nation's history, is moving forward.

On Friday, the Judiciary Committee reported this nomination favorably.