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Senate

(Legislative day of Friday, September 28, 2018)

The Senate met at 10 a.m., on the expiration of the recess, 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.

O Lord, our rock, surround our lawmakers with Your mercy today. Be for them their strength and shield, illuminating their paths with Your precepts and dispelling the darkness of doubt and fear. Lord, be their shepherd in these challenging times; lead them beside still waters, and reward their faithfulness. Help them not to trust solely in human wisdom but to seek Your guidance in all they think, say, and do. Give them the ability to deal constructively with differences and disagreements.

We pray in Your merciful 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 (Mrs. FISCHER). Under the previous order, the leadership time is reserved.

SPORTS MEDICINE LICENSURE CLARITY ACT OF 2017

The PRESIDING OFFICER. The clerk will report the unfinished business.

The senior assistant legislative clerk read as follows:

House message to accompany H.R. 302, a bill to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State.

Pending:

McConnell motion to concur in the amendment of the House to the amendment of the Senate to the bill.

McConnell motion to concur in the amendment of the House to the amendment of the Senate to the bill, with McConnell amendment No. 4026 (to the motion to concur in the amendment of the House to the amendment of the Senate), to change the enactment date.

McConnell amendment No. 4027 (to amendment No. 4026), of a perfecting nature.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

NOMINATION OF BRETT KAVANAUGH

Mr. MCCONNELL. Madam Præsider, if you stop and listen, you can practically hear the Democrats trying to move the goalposts on Judge Kavanaugh's nomination to the Supreme Court. Remember, before Judge Kavanaugh was even named, several Democrats on the Judiciary Committee indicated they would oppose whoever the nominee might turn out to be.

The junior Senator from California, for example, explained on television that whomever President Trump chose would bring about "the destruction of the Constitution of the United States as far as I can tell." That was, incredibly enough, from a member of the Judiciary Committee.

Of course, mere hours after Judge Kavanaugh was announced, my friend, the Democratic leader, made the announcement that has now become famous. "I will oppose him with everything I've got," he said.

Not long after that, another Democrat on the Judiciary Committee proclaimed that anyone supporting Judge Kavanaugh's confirmation was—listen to this—"complicit in the evil."

These statements are the context for every action the Democrats have taken

during this entire process. These statements remind us: Democrats may be trying to move the goalposts every 5 minutes, but their goal has not moved an inch. They will not be satisfied unless they have brought down Judge Kavanaugh's nomination.

It started with straightforward political maneuvering. None of it worked, of course, but there were whatever issues they could find to delay, delay, delay.

First, back in June, the Democrats tried to argue that the Senate shouldn't confirm a Supreme Court Justice in any even-numbered year. Then they were reminded that Justices Kagan, Breyer, and Souter were all confirmed during midterm election years, and that argument evaporated.

Next, the Democrats said the process should be delayed because too few documents were available from Judge Kavanaugh's past public service. Well, then they received the most pages of documents ever produced for a Supreme Court nomination. So guess what came next. The goalposts moved down the field, and the Democrats called for a delay because there were too many documents for them to read.

I wish this fight could have remained in the realm of normalcy, but when none of these tactics worked—when Judge Kavanaugh demonstrated his widely acknowledged brilliance, open-mindedness, and collegiality at his confirmation hearings—some chose a darker road. The politics of personal destruction were willfully unleashed.

I have spoken at length about the underhanded way the Democrats have treated Dr. Ford and her allegation. In brief, for 6 weeks, Dr. Ford's confidential account passed from one Democratic Member of Congress to the Democratic side of the Judiciary Committee, to the Washington, DC, lawyers whom the Senate Democrats hand-picked for her. Then, well after Judge Kavanaugh's hearings had wrapped up,

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



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the supposedly confidential letter found its way into the press—shoving aside proper procedure, shoving aside the accuser's plea for privacy.

This is not politics as usual because let us not forget that Dr. Ford's allegation is not the only uncorroborated allegation that has been breathlessly paraded around. Oh, no. Shortly after Dr. Ford's confidential letter made its way into the press, the floodgates of mud and muck opened entirely on Brett Kavanaugh and his family. Out of the woodwork came one uncorroborated allegation after another, each seemingly more outlandish than the last.

A tabloid lawyer organized a red carpet rollout for someone who wanted to accuse Judge Kavanaugh of masterminding some kind of high school drug and serial sexual assault ring—of hosting one wild party after another, filled with sexual violence, for which there conveniently happen to be zero witnesses but plenty of people to refute the claims. This didn't stay in the tabloids, by the way. This fantastic story was effectively read into the record of the Judiciary Committee by the ranking member, who decided it deserved a mention in her remarks during last Thursday's hearing. Then every Democratic member of the Judiciary Committee seized on this outlandish tale in a formal letter in which they called on Judge Kavanaugh to withdraw his name from consideration.

This is how desperate some became for any way to stop this stunningly qualified nominee. I guess upholding any standards of any kind was just too much to ask.

We heard of another anonymous, unattributed, and now thoroughly debunked account—this time of an anonymous accusation from Colorado that alleged physical abuse 20 years ago. A sitting Federal district court judge quickly stepped up to bat down that anonymous smear.

We heard that Judge Kavanaugh was supposedly responsible for a sexual assault on a boat in Newport, RI, until the accuser recanted the story completely, but it was not before many in the media had begun eating it up.

In short, the Democrats' mishandling of Dr. Ford's letter opened the floodgates for this deluge of uncorroborated, unbelievable mud, and the mudslide was cheered on and capitalized on at every turn by the far left, which has been so eager to stop this nomination.

Just politics? I don't think so.

On the other extreme, some of the other lines of attack have been completely trivial. Last night, the New York Times unleashed this "major" story. Get this—Judge Kavanaugh may have been accused of throwing some ice across a college bar in the mid-1980s. Talk about a bombshell. One can only imagine what new bombshell might be published today or tomorrow.

Here is what we know—one thing for sure: The Senate will vote on Judge Kavanaugh here on this floor this week.

Our Democratic friends will try to move the goalposts yet again. Just yesterday, they submitted a list of 24 people whom they want the FBI to interview. So I am confident we will hear that even the very same supplemental FBI investigation the Democrats had so loudly demanded will now, magically, no longer be sufficient.

Well, after the FBI shares what it has found, Senators will have the opportunity to vote. We will have the opportunity to vote no on the politics of personal destruction. We will have the opportunity to vote yes on this fine nominee.

TAX REFORM

Madam President, on an entirely different matter, the U.S. economy continues to deliver very good news. My home State of Kentucky is, certainly, no exception.

Yesterday morning, I had the opportunity to take part in the announcement of a major new investment in my hometown of Louisville. GE Appliances unveiled its plan to create 400 new jobs and to invest more than \$200 million in Kentucky. It is expanding its laundry and dishwasher production facilities and is upgrading its capacity for innovation.

GE's Appliance Park—where nearly 6,000 currently work—has been a manufacturing landmark in Louisville for more than six decades. The facility has meant a great deal to my community. At its height, it employed some 20,000 workers. However, following the sluggish economy of the last decade, the workforce has shrunk to just one-fifth of its previous strength. So yesterday's announcement marked a step in a very new direction—aggressive expansion, doubling down on American workers. It is the same story that is being written all over America by job creators, large and small.

Where did the new direction come from? What changed? Well, for one thing, the policy climate here in Washington changed.

GE Appliances' President and CEO Kevin Nolan said, "The changes in rates and favorable tax treatment of investments in machinery and equipment play a big role in our expansion plans"—more jobs for Kentuckians, more prosperity for local communities.

I would like to ask the men and women who will get one of these new jobs what they make of the fact that every single Democrat in Congress voted to block the tax reform that is helping this happen.

The Republicans got it done anyway. We delivered sweeping tax cuts for workers and families. Now, thanks in part to our policies, the economy is thriving. Just last month, consumer confidence reached its highest level in 18 years. In other words, American families are feeling better about spending and investing in their communities than they have felt since September of 2000.

In September of 2000, the Senate pages serving here on the floor hadn't

even been born yet, but as these young folks continue their studies and enter the workforce, they will be participating in an American economy with more opportunities, where workers keep more of their hard-earned paychecks. That is the economy Republicans had in mind when we voted to enact generational tax reform and to lift the regulatory burden on investors and job creators. It is the economy we are continuing to work for every day.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

NOMINATION OF BRETT KAVANAUGH

Mr. SCHUMER. Madam President, I like the majority leader. We get along quite well. He even laughs at my jokes, which sometimes aren't very good. We are very proud we are working on the appropriations bills together in a bipartisan way, as this place ought to work. But sometimes his comments are so absurd and so filled with double standard, innuendo, and hypocrisy that you don't know whether to laugh or cry.

He has been on the floor every day saying that Democrats are causing delay. Democrats are causing delay? First, to say that Democrats are causing delay, coming from the same man who delayed the nomination of Supreme Court Justice nominee Merrick Garland for over 300 days without a shrug of his shoulders—give me a break. The leader delayed for 10 months when he thought it was right to do, and he can't wait for a week to get an honest report out of the FBI? What a double standard. How galling. Accusing Democrats of needlessly delaying a Supreme Court nomination is galling and hypocritical coming from a leader who delayed the nomination of a Supreme Court Justice for over 300 days, until his party had a chance to win the White House. So no one—no American—should accept his admonishments about delay. He is the master of delay.

Second, he blames Democrats for these delays. As the leader well knows, Democrats are not in charge. We can't set the calendar. These things have been delayed because people on his side of the aisle who had sincere concerns about having a fair process said they will not go forward unless the process is made fairer.

Even the initial hearing where Dr. Ford and Judge Kavanaugh testified was because a member of the Judiciary Committee on the Republican side said he didn't want to go forward until he heard from them. It had nothing to do with Democrats. Did we agree that should happen? Of course. And so did most people who are fairminded. But it wasn't caused by us.

On the reopening of the FBI investigation into these new allegations, the background check investigation, I would ask Leader MCCONNELL, who caused that? Who caused this delay? It is not the Democrats. We don't have the ability to do it. It was three Members on his side who sincerely were

seeking better truth because they heard two arguments, they weren't sure which was right, and they saw that without some kind of independent investigation, it would tear the American people apart in ways for which we will pay a price years down the road no matter what the outcome of the vote on Judge Kavanaugh.

Democrats didn't cause the delay, and he knows it. It was the inability of all of the Republicans to be unified—with justification, because the truth should be sought after in a more sincere way for a nomination to the highest Court of the land.

Leader MCCONNELL has said: We are going to "plow right through" the recent allegations. Fortunately, some Members on his side of the aisle didn't want to plow right through. They didn't want to delay unnecessarily. One week—give me a break—compared to 10 months, leaving the Scalia seat open? Who are we kidding? Who are we kidding? Who is making this a political argument? Let's ask.

One final point. The leader kept accusing the people who came forward of engaging in political smear campaigns, of being in the mud. I want to ask the leader to answer a direct question: Does he believe or not believe Dr. Ford? Yes or no. I happen to believe her. He refuses to answer that one way or the other because he knows that Dr. Ford had tremendous credibility. Instead, he calls her names. He uses it as Democrats—but she came forward on her own.

By the way, one of the first things she did was she called the Washington Post and spoke to the reporter who later wrote the story. That was long before any Democrat knew what was going on. She felt a sincere need to come forward.

To call her political—which is what, by ricochet, the leader is doing—is so unfair and is so wrong. To call all three of these women who came forward, whether or not you believe them, political actors is treating women in the same way that unfortunately too many women, as we have learned over the last few years, have been treated in the past. That doesn't mean allegations shouldn't be proven. That doesn't mean there shouldn't be a discreet, fair process to try to get to the bottom of it, which is what the FBI investigation is. That doesn't mean all men are guilty before proven guilty. It means there deserves to be a fair hearing even if it takes 1 week—1 week compared to 10 months of delay.

Finally, the investigation itself should only take a week. That is for sure. No Democrat has called for it taking more than a week. We are not moving the goalpost. But it should be thorough. It should not be limited by the Senate Judiciary staff, who was initially calling the shots, and they have been biased to begin with. When the Democratic staff asked to be on the phone with the counsel to the President, Mr. McGahn, the Republican staff

refused. That is not bipartisan. That is not fair. That is not evenhanded.

Fortunately, yesterday the President said the FBI should go forward. They can interview many people in a week. When there has been a crime situation that called for it or a terrorism situation that called for it, from what I understand, they have interviewed hundreds in a week. So a list of 20 people to be interviewed in a week, when the FBI has thousands of agents, many of them well trained in the art of figuring out how to interview somebody, is not unreasonable. It is only fair.

We hope there are still no limitations on the FBI investigation. We hope there are no limitations because that would jaundice the whole process, and that is not what those who called for it on either side of the aisle had asked for. We had asked for it to be full and fair and open, and then everyone would make his or her judgment. That is all people are asking for.

On that issue, I once again call on President Trump and the White House to release in writing what White House Counsel Don McGahn has instructed the FBI to pursue. Until then, we have to take President Trump's off-the-cuff comments with, perhaps, grains of salt. We have to be shown that what he said is actually being implemented.

Let me read a few quotes. "The Supreme Court must never, never be viewed as a partisan institution." That is what Judge Kavanaugh said in his 2006 confirmation hearings.

Here is one more from a speech Judge Kavanaugh gave in 2015: "First and most obviously . . . a judge cannot be a political partisan." I think most Americans would agree with that. I certainly do.

A lodestar in our consideration of judicial confirmations should be whether the nominee is independent and within the ideological mainstream. The Judge Kavanaugh we saw last Thursday did not meet the standard laid out in his past statements. His prepared statement to the committee—prepared; if you will, malice aforethought—accused sitting U.S. Senators of a phony smear campaign, lambasted "left-wing opposition groups," and portrayed the recent allegations—the allegations of Dr. Ford, Ms. Ramirez, and the third person who came forward, Ms. Swetnick—as "revenge on behalf of the Clintons." Frankly, Judge Kavanaugh's testimony was better suited for FOX News than a confirmation hearing for the august U.S. Supreme Court. But that is in character with Judge Kavanaugh's long history of working for the most partisan legal causes—Ken Starr, Bush v. Gore, all the myriad controversies of the Bush era.

It would be one thing if Judge Kavanaugh discarded his partisan feelings once he donned the black robes of a jurist. Unfortunately, he has been on the bench for many years, and in Thursday's hearing, he revealed that his bitter partisan resentments still lurk right below the surface.

It should give us all pause to consider what it means to elevate such a partisan world view to the Supreme Court, whether it be a Democratic or Republican partisan view, where rulings must be made on the legal merits, not—not—on the side of the aisle which most benefits.

The greatest issue against Judge Kavanaugh, the one that really bothers most people, is his credibility. Is he telling the truth? That issue supercedes all the others.

There may be some who say: Well, what happened in high school shouldn't count. It is many years later. People grow. People change.

I think what happened to Dr. Ford—she seems credible to me—is something you can't predict. It is not what men do. Some may say that, but we are looking at what Judge Kavanaugh said at age 53, not what he did at age 18. We are looking at his credibility now as a grown adult. If you believe Dr. Ford, then Judge Kavanaugh is not telling the truth.

If this were the only instance, it would be one thing. That is bad enough, but there are many more. Over and over again, it is hard to believe what Judge Kavanaugh swore under oath at the committee hearing.

Just yesterday, NBC News reported that either Judge Kavanaugh or people close to the judge were in communication with his Yale classmates to get them to rebut allegations by Deborah Ramirez, later published in the New Yorker.

Beyond the unseemliness of a Federal judge pressuring former classmates to support his nomination, it seems that Judge Kavanaugh was at least very misleading to the Judiciary Committee about Ms. Ramirez's story. When asked by Senator HATCH when he first heard of Ramirez's allegations, he answered "in the New Yorker story." That is when he first heard. Based on the NBC reports, if they are correct, that was not truthful.

It would be one thing if that were one isolated incident, but, again, there are far too many misstatements, far too many inaccuracies, far too many mischaracterizations. He pled ignorance to many Bush-era controversies, only for emails to be released showing he was aware of them all and played a role in many. He offered explanations for high school yearbook quotes. And it is not the quotes themselves or what they indicated; it is that his explanations sort of defy belief. And, of course, based on the accounts by his high school and college classmates, he has grossly mischaracterized his relationship with alcohol.

The common thread is that Judge Kavanaugh repeatedly tiptoes around the truth. He doesn't tell the truth in many instances, it seems, to paint his nomination in a favorable light.

We want a Supreme Court nominee, whatever their politics and whatever their party origins, to be a shining example of someone who tells the truth

without doubt and without equivocation. If you say “Well, maybe he is telling the truth, and maybe he is not,” then he doesn’t belong on the Supreme Court, and I think most Americans are saying that.

Again, even if you want to discount—as some people do—what happened when he was 15 in high school and 18 in college, you cannot discount what he is saying and professing at age 53 when it flies in the face of being truthful. That is the key question here.

There is demeanor. He sure didn’t show the demeanor of a judge at the hearing. There is partisanship. He brought out the most raw form of partisanship, so unbecoming of someone on the appeals court, let alone the Supreme Court, and he did not show any semblance to always being 100 percent honest and truthful, which is what we need in a Supreme Court Justice.

So, again, even if you feel that what happened when he was 15 and 18 shouldn’t matter, what happens when he is 53 does matter, and his credibility is in real doubt—doubt enough, I think, for most Americans to say that this man does not belong on the Supreme Court, and there ought to be somebody—many people—who would be a whole lot better.

I yield the floor.

Mr. DURBIN. Madam President, what is the business before the Senate?

The PRESIDING OFFICER. We are on the motion to concur with respect to the FAA.

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

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

NOMINATION OF BRETT KAVANAUGH

Mr. DURBIN. Madam President, I have been in politics for a long time, but I have never seen anything like what I witnessed when I went back to Chicago last Friday, Saturday, and Sunday. From the minute the plane landed at Midway Airport in Chicago through the entire weekend, everyone—everyone—was engaged. People were coming up to me—total strangers—expressing themselves about the hearing that had just been completed with Dr. Ford and Judge Kavanaugh. I was stunned, and I have done this for a long time. There was the doorman in the rain holding an umbrella at the hotel talking about what he heard and what he remembered from the hearing. The taxicab driver, the person on the street—everyone wanted to speak to me about this.

It has been estimated that 6 out of 10 Americans listened or watched the hearing last week. I am not at all surprised. The response I found on the street and in the neighborhoods and in meetings around my State of Illinois and in the city of Chicago certainly gave evidence to that.

It was an interesting response, too, primarily from women but not exclusively—women who came up to me, and I could tell by the look in their eyes and the tone of their voice that some-

thing had just happened publicly in America that touched them personally. Some would confide in me and whisper about a personal experience they had. Others would look into my eyes, and I realized this meant a lot to them for reasons they didn’t want to share.

That hearing last week was a moment I have never seen before in American politics in the time I have been around.

The second thing I noted was the comments about Dr. Ford. Except for a still photograph, I had never seen her before she walked into the committee room last week to testify under oath. I didn’t know what to expect as she sat down, after taking the oath, and began her testimony.

Time and again the people who worked with her described her condition as fragile. In her own words during the course of her testimony, she said she was terrified—terrified. And why wouldn’t she be—at this point in her life, to become a national person, a national profile, a national celebrity; to see her experience turn her family life upside down to the point where she was forced to move out of her home and she and her family had to take refuge and safety in a secure location. There was all of the attention that was being paid to her, some with praise and some with criticism. It is the kind of thing that even politicians are supposed to get used to and never do. So imagine that scenario for an ordinary person.

I listened to her testimony, and I heard what she had to say about why this event took place. I realized that this woman from California believed she had what she called a civic duty to come forward before the White House made its final decision on the choice of a Supreme Court nominee because she believed she had important information about Brett Kavanaugh that the President should know and that Congress should know, and she didn’t know where to turn.

For those who argue that she was part of some political conspiracy, she didn’t know which way to turn. She ended up turning to the place most would, to her local Congresswoman, ANNA ESHOO, and sitting down with her in California and talking about this confidential letter that she wanted to put in the hands of somebody who would make a decision about the future of the Supreme Court. It was a perfectly reasonable explanation of what an ordinary citizen would do, and that is what she did.

When she finally got in contact with the Senate Judiciary Committee with this same confidential letter and had communications with Senator FEINSTEIN, she stressed over and over that she wanted this to remain confidential and that she didn’t want her identity to be disclosed for fear of what it would mean to her and her family—a natural human reaction.

I want to say a word about Senator FEINSTEIN. You may quibble, you may debate, you may argue with the way

she handled this, but I think she did what she thought was right for the very right reasons. She believed that she had an obligation to Dr. Ford—an obligation to protect her identity. I know Senator FEINSTEIN. She is a person of character and values and principles. I have been saddened and, in fact, angry at times when my colleagues from the other side of the aisle accused her of so many things—of plotting some political conspiracy to bring down this nominee. In fact, two of them suggested she was the one who leaked the letter to the press. I am as certain as I stand here, after years of working with her, that neither of those things are even close to the truth. She was trying to do what she felt was the right thing—first, for this woman, this mother, this resident of her home State, and, second, for this country. I don’t question in any way whatsoever—and no one should—her efforts and good faith to serve this Nation in a very difficult process.

But Dr. Ford came forward and told her story. I asked her a question point-blank: “We are now being told that perhaps you were mistaken. Perhaps it wasn’t Brett Kavanaugh who assaulted you in that bedroom in the Maryland suburbs. I wanted to ask you: With what degree of certainty do you believe that Brett Kavanaugh was the assailant?”

Her answer to me was very short and direct: “100 percent.” She was 100 percent certain.

You think to yourself: It happened 36 years ago. How could she be so certain? It was so long ago, but then you realize that, at that moment, it impacted her life in a way that few people ever want to experience. For 36 years she has been carrying the memory of that party, that bedroom, that assault in her life, to the point where she sought therapy—couples therapy with her husband—and told her therapist, as well as her husband, the name of the assailant 6 years ago, long before Judge Kavanaugh was proposed as a nominee for the Supreme Court.

I came away with strong feelings about Dr. Ford—her credibility, her composure, the fact that she was resolute, and the fact that she showed a degree of character that is extraordinary under the circumstances. I believe Dr. Ford, and I believe what she told us.

That is why I am troubled to hear Republican Senators come to the floor today and say: Well, you know, we feel that she was mistreated. Some of the same Senators, including the majority leader, have said that. They came to the floor on 3 successive days last week and dismissed her complaint as a smear. That is the word that was used—“smear”—on the floor of the Senate. Even before she had testified, even before they had seen her under oath say what she did, they dismissed this as a smear. I don’t think that is an indication of respect for Dr. Ford to have said that on the floor of the Senate, and I think that she deserves

more, as anyone would, who is willing to testify under oath.

I would also say that the testimony of Brett Kavanaugh last week was a revelation. He stayed with his story that he was mischaracterized and was improperly and wrongly accused, and he, too, was certain that this event had never occurred, but in his testimony, in his opening statement last week before our Judiciary Committee, I saw something that I had never seen before in the Senate. I saw a level of emotion, which was understandable, considering the accusations that had been made, but there was a level of anger that I have seldom seen, and perhaps have never seen, in the Senate.

Judge Kavanaugh attacked those who had raised these questions about him. He said that he bore no ill will toward Dr. Ford, but then he called her allegations “a calculated and orchestrated political hit,” citing “apparent pent-up anger about President Trump and the 2016 election,” and then he added: “revenge on behalf of the Clintons.”

It is hard to imagine that a person aspiring to serve on the highest Court of the land—where your temperament is so important, where you have to make certain, as best you can, that you take politics out of your legal equation—would be so direct and so specific in blaming his plight on “revenge on behalf of the Clintons.”

This political grace note from Brett Kavanaugh—this “lock her up” grace note—may be appealing to some on the political spectrum, but it speaks volumes about this judge and how he would serve if he ever had an opportunity to be on the Supreme Court.

It has been said over and over by the Republican majority leader that the Democrats are in the midst of a big delay tactic. I have to echo the comments of Senator SCHUMER earlier. It is very difficult to take the Senate majority leader credibly when he makes a statement that we are trying to delay filling a vacancy on the Supreme Court. The Senate majority leader set the record in delaying Merrick Garland’s nomination for more than 300 days when he even refused to meet with the man, let alone consider a hearing, when Judge Garland was nominated by President Obama. To have this majority leader now tell us that we are the ones responsible for delaying really is to ignore history and to ignore the reality of what has occurred here, because of the courage of his Members, three of whom have stepped up and said: We will not dismiss Dr. Ford’s allegations with just a staff phone call; we want an actual hearing. That was inspired by three Republican Members of the Senate, and we backed them up. We thought their request was right.

As for this FBI investigation, I know a little bit about that because I asked Judge Kavanaugh directly during the course of this hearing what he wanted us to do. I did not ask him what the

White House wanted us to do and not what the Senate Judiciary Committee Republican leadership wanted to do, but what he, Judge Kavanaugh, wanted to do when it came to this FBI investigation. My point was, if Dr. Ford is willing to submit her allegations to an FBI review, why wouldn’t you, Judge Kavanaugh? If you believe there are no credible witnesses and no credible evidence, otherwise, why wouldn’t you want a complete investigation done by the nonpartisan professionals at the FBI? But even then, he refused that thought of an FBI investigation.

It wasn’t until Senator JEFF FLAKE, a Republican of Arizona, made it clear that he would not move forward on a vote on the floor without that FBI investigation, joined by Senator COONS of Delaware and many others, that this FBI investigation was under way. So give credit where it is due. Any delay of a week for us to consider this is really inspired by Senator FLAKE’s request, with the support on the Democratic side of the aisle. So to blame us for this delay, unfortunately, again, is not accurate.

It appears now that Senator MCCONNELL, the Republican majority leader, is determined to plow through this, as he has said. He has said this nomination will be on this floor this week. If the FBI investigation is completed Thursday or Friday, there will be a report that is available for Senators to review, as they should, and to read the results of this investigation and draw their own conclusions. That is the regular process of the Senate, but it appears that Senator MCCONNELL can’t wait. He can’t wait for that to be completed and thoughtfully considered by his colleagues in the Senate.

It has to be this week, he has determined, and has said it over and over again. He blames us for delay, delay, delay. If we take a day or two or more to thoughtfully consider whatever the FBI finds, isn’t that our constitutional responsibility filling a vacancy, a lifetime appointment, to the highest Court in the land? That, I think, is my responsibility and should be his as well.

Let me close by saying, this has been a celebrated chapter in history and will be remembered. To have a Supreme Court nomination for the swing vote of the Court that may tip the balance for decades before us is something we obviously consider seriously. That it would come at a moment when these allegations have been made about sexual harassment as we are facing this issue at every level and every sector of American culture really dramatizes the importance that we get this right; most importantly, that we be fair—fair both to Dr. Ford, who had the courage to step forward, and fair to Judge Kavanaugh, who has the right to tell us his memory of events and to be taken seriously as well. The FBI investigation, though it was resisted by Judge Kavanaugh, is a step in the right direction.

I hope my colleagues on the other side of the aisle who have not declared

where they are and how they will vote on the Kavanaugh nomination will wait until the FBI investigation is complete, review their findings, and reflect on the very basic question: Is Brett Kavanaugh the right person at this moment in history to be given a lifetime appointment to the highest Court in the land?

I yield the floor.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

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

USMCA

Mr. CORNYN. Mr. President, I was greatly encouraged to hear yesterday’s announcement by the administration that the United States, Mexico, and Canada have now successfully come to a trilateral agreement to modernize NAFTA.

As the Presiding Officer knows, this is important not only to border States like ours; this is important to the entire country. About 5 million jobs in the United States depend on binational trade with Mexico, and about 8 million depend on binational trade with Canada. So this is really important to our country and, I think, will hopefully calm a lot of anxiety over some of the various trade disputes that we have had recently.

Based on the deal reached Sunday, Canada will now join a pact with the United States and Mexico agreed to in August. The newly named United States-Mexico-Canada Agreement will greatly benefit North American commerce and modernize areas where our economy has evolved since the 1990s.

When we think about what life was like back in the 1990s, digital commerce was unheard of; oil and gas exploration using modern techniques like fracking and horizontal drilling, which have produced the shale energy revolution in the United States, didn’t exist back then; and, of course, as many of my friends in the energy business tell me, the shale we produce oil and gas from in the United States doesn’t stop at the Rio Grande.

Mexico has opened up its economy, greatly allowing foreign investment and embracing some of these modern techniques, which will, I think, have a revolutionary impact on Mexico and its economy. My guiding mantra over the last year for these negotiations has been what is known as the Hippocratic Oath that doctors take: First, do no harm. That is what Ambassador Lighthizer and Wilbur Ross, the Secretary of Commerce, told the Finance Committee when they were confirmed.

I argue that we have to fix NAFTA to be sure because after 24 years, parts of it are outdated, as I said, but not nix it entirely. Although, we are still reviewing the fine print of the agreement, I

think we should be proud of what has been accomplished.

Since last August, Ambassador Lighthizer and his team at USTR, the U.S. Trade Representative, have negotiated for countless hours with our southern and northern neighbors. The road to an updated agreement has not been easy, but I believe those efforts will pay off, and soon the responsibility will be ours in the Senate to vote on this agreement. It will be a few months off, to be sure, but we will have a role in voting on the agreement.

As President Trump said, the new agreement will fix deficiencies in the original NAFTA, reduce trade barriers and open markets for U.S. farmers and manufacturers. I am particularly hearing a lot from my folks in the agriculture sector in Texas that they are excited with some of the negotiations with Canada with regard to agriculture. It modernizes rules for dairy and auto and financial services, as well as many others. The agriculture sector that I think was most concerned about some of these negotiations is breathing a giant sigh of relief.

This is a significant development in our trade policy and a great testament to the productive diplomacy the administration has been engaged in since day one. Sometimes it may seem a little bit like a bull in a China shop, but when you produce good results, maybe that is worth it.

Promises were made to update NAFTA, of course, as long as our neighbors collaborated in good faith, and those promises now appear to have been kept. As I have said, millions of Americans' jobs are supported by trade with Mexico and Canada.

In Texas, NAFTA has been one of the cornerstones of our economy, which helped cause us to create more jobs than any other State in the country in recent years. We have the second largest State economy in the United States, so Mexico, being our top import and export partner, obviously, has implications that are big not only to us but truly national and, I believe, international in scope.

Over the course of the last quarter century since NAFTA was signed, we have reaped benefits in terms of jobs, income, and cultural exchange. These benefits are so significant and widespread that they can't be fully measured. They are arguably why Texas has had more at stake than our 49 counterparts throughout the NAFTA reform process.

This new, enhanced agreement is a positive step. I thank Ambassador Lighthizer, as well as President Trump and all of our U.S., Canadian, and Mexican officials who were involved in crafting this document. I look forward to working with the chairman of the Finance Committee and all of our members on the Finance Committee, as well as the entire Senate, moving forward as we consider congressional implementation of this agreement.

NOMINATION OF BRETT KAVANAUGH

Mr. President, I wish to turn briefly to the ongoing confirmation process of Judge Kavanaugh for the U.S. Supreme Court. I have already said publicly on more than one occasion that this is a dark day; this is a dark period for the U.S. Senate. Never before have we seen a nominee to the Supreme Court or any court treated so badly, although we do know that starting with Robert Bork's confirmation hearing, the gloves came off, and these confirmation processes became, unfortunately, all too ugly.

As we know now, there has been a supplemental background investigation ordered by the FBI on allegations that were sprung on Judge Kavanaugh on the eve of his confirmation. There was never a whiff of these allegations during Judge Kavanaugh's six previous background investigations by the FBI and by the Judiciary Committee and other committees. I think it is telling that the aiders and abettors of this last-minute ambush include political operatives masquerading as disinterested lawyers with only their client's best wishes at heart.

This past Sunday, we heard from Rachel Mitchell, an investigative counsel from Arizona, who interviewed both Dr. Ford and Judge Kavanaugh at last week's hearing. I appreciate the professionalism with which she approached this job. It was not one that many would have sought because she knew, and we all knew, she would be thrust into the vortex of this huge national debate and the circuslike atmosphere that, unfortunately, the Judiciary Committee had become. Yet she did do a public service. She was not pressured in any way to present her own analysis following the hearing, but she chose to do so. What she said, based on her experience as a sex crimes prosecutor, somebody who routinely deals with victims of sexual abuse and sexual assault—she has developed a lot of expertise and wisdom when it comes to approaching these kinds of cases. I think we were the beneficiaries, the country was the beneficiary, of her expertise and knowledge in the way she conducted her careful but respectful interrogation of Dr. Ford.

Her analysis contains crucial points that the FBI's background investigation may flesh out this week even further. First, she said this was not a case of he said, she said; this was a case of she said, they said. In other words, every witness alleged to have been present at the time Dr. Ford alleged that Judge Kavanaugh, when he was 17 years old, physically assaulted her said that they have no memory of such an event or knowledge of such an event. In one case, Dr. Ford's close friend, Leland Keyser, said that she doesn't even remember ever meeting Brett Kavanaugh. Similarly, Patrick Smyth and Mark Judge—two other alleged witnesses Dr. Ford named—said the event never happened. This is not just a case where there is an allegation and no corroboration; this is a case of an allegation and negative corroboration.

I mentioned Dr. Ford's lawyers earlier, and I want to return to that in just a moment. Some of their actions suggest they were more interested in using Dr. Ford for partisan purposes than ensuring her story was properly considered alongside other information during the standard committee process.

We all remember when Dr. Ford's hearing was delayed, the committee was informed by her lawyers that Dr. Ford's trauma prevented her from flying because she experienced claustrophobia. Then, during her testimony, watched by as many as 20 million people in this country, Dr. Ford said she flies frequently for hobbies and work. One has to wonder, why was this delay orchestrated? Was it a stunt concocted by her lawyers to buy more time? You have to wonder.

The truth is, her lawyers were involved long before that point. When the ranking member of the Judiciary Committee, our colleague from California, met with Judge Kavanaugh one-on-one on August 20, she already knew about the allegation, which was dated July 30. On August 20, she met with Judge Kavanaugh. She had in her files an allegation dated July 30 that she shared with no one, and she didn't discuss it with Judge Kavanaugh during their private meeting. Instead, the ranking member recommended that Dr. Ford engage highly partisan operatives to represent her instead of referring the allegations to the FBI.

In other words, why would you take an allegation of sexual assault and keep it in your file and recommend the complainant contact politically active Democratic lawyers? Wouldn't it make sense to provide the allegation to the FBI right away so that the FBI could conduct whatever investigation it saw fit? Unfortunately, she neither presented that to the FBI on a timely basis, nor did she give Judge Kavanaugh a chance to refute it when she had plenty of opportunity to do so when he met with her in her office.

We know the lawyers who have been representing Dr. Ford have played an active role since early August. They were already engaged when Judge Kavanaugh sat through his initial weeklong confirmation hearing. By that point, the lawyers had already insisted that Dr. Ford take a polygraph, although they will not share with the Senate Judiciary Committee or with anybody else the underlying questions and interview. All they shared with us is the conclusion of the polygrapher. Yet none of this—the lawyers, the allegations, the steps being taken—were shared with the Senate Judiciary Committee, which was initially assigned the responsibility of vetting the nominee through an extensive background investigation and, obviously, through the 1,200-some written questions for the record and the hours upon hours of hearings that everybody in the country could witness.

None of this came up at that first hearing, not even behind closed doors,

which is the procedure by which sensitive personal matters are presented to the nominee if Senators on the Judiciary Committee have questions. What we actually try to do in the Senate is not to embarrass or harass or terrorize either the nominee or the witnesses who might have information relevant to the confirmation. We actually have a careful, respectful, and confidential process by which that information can first be supplied to the Judiciary Committee behind closed doors. That could and should have been the process used in this case, but it wasn't.

Here we are a few weeks later. We have had another hearing, at Dr. Ford's request, in which she shared her story to the best of her ability. I am actually glad she testified. That was her desire, although I believe she did not have to be put through the wringer the Senate Judiciary Committee has put her through. But that has not been our fault so much as it has been the fault of this orchestrated effort.

It is not fair to Judge Kavanaugh, I believe, to string this matter along further. It is not fair to his family, either, or to the many women who have stood with him every step of the way. This process has taken a toll on all of them and all of us.

Now that the FBI is doing a supplemental background investigation, which will conclude hopefully in the next few days, the allegation has been, well, the judge was so angry at the hearing defending his honor and good name against these allegations that this shows a lack of judicial temperament.

If you were accused falsely of committing a crime, wouldn't you be angry too? Wouldn't you want to clear your good name? That is exactly what Judge Kavanaugh did. I think it was a moving, emotional defense of his good name and character.

Our friends who are now making this accusation that somehow this demonstrates his lack of judicial temperament are ignoring his 12 years on the DC Circuit Court of Appeals, the fact the American Bar Association's Standing Committee that reviews these judicial nominees has found him unanimously "well qualified," based in part on his good character and temperament. This is a red herring. You can't accuse somebody of a crime and expect them to sit there and take it. That is illogical, unreasonable.

Now the argument, too, is this: We really have the judge now; we have him. We caught him in some discrepancies—based on what? Based on his high school yearbook. Man, this has been quite an investigation if we are going back into somebody's high school yearbook and asking them to decipher things that would be, I think the judge said, cringeworthy that adolescent boys and adolescents do in their high school yearbook.

I guess this should be a lesson for all of our pages and others who are still in high school that if you have the oppor-

tunity to ascend to the highest Court in the land or other important responsibility, the U.S. Senate is going to go back and scour your high school yearbook and ask you about entries made not by you but by others in your yearbook.

This has become a national embarrassment. I said at the hearing that it reminded me of what I read about the McCarthy hearings. Joseph McCarthy, Senator from Wisconsin was riding high upon the concerns the American people had about communists in government. He went too far, and at one point he was called down, ultimately left the Senate—was expelled from the Senate or resigned from the Senate; I can't remember which. He was asked by one of the lawyers who was representing a young man who was being interrogated who finally asked Senator McCarthy: I have had yet to gauge the depth of your cruelty and your recklessness. At long last, sir, have you no decency?

I recited those lines at the hearing for Judge Kavanaugh because I think, indeed, this whole process has been unfair to Dr. Ford, to Judge Kavanaugh. It has been cruel to the judge's family, and it has been reckless in the extreme. I think it has been an embarrassment. I think it is a stain on the reputation and the standing of the U.S. Senate.

So as the supplemental FBI investigation wraps up, let's be mindful of what our colleagues across the aisle have said they expected from this supplemental background investigation because they, too, understood we were approaching the end of this process. For example, the senior Senator from Minnesota said: "Let's give this one week." She said that last Friday. She indicated her support for the investigation, even saying that we are all in a better spot now than we were before. Well, I hope that is still her position.

We had our colleagues across the aisle agree to both the timeline and the validity of this last step in Judge Kavanaugh's confirmation. The junior Senator from Delaware, during the hearing, called for the same amount of time, just 1 more week. In a television interview, the junior Senator from Hawaii said that 7 days is enough time to "get to the bottom" of these allegations. So I hope our colleagues will remember their own words and their own statements, even though, as we all know, no supplemental information will change their vote.

This is, to me, the irony of where we find ourselves. I think it was Judge Kavanaugh who said a fair process starts with an open mind and then listening to both sides, but Judge Kavanaugh doesn't have a judge or jury in this confirmation process who has an open mind. All of the Senate Democrats on the Judiciary Committee have said they unequivocally oppose his confirmation. So what do they expect this additional supplemental investigation to disclose that might possibly persuade them they were wrong?

Well, it is not about a search for the truth. This is about search and destroy. I have said this is what I hate most about Washington, DC—the political environment in which we find ourselves. It is not just about winning an argument. It is not just about winning an election or winning a vote in the Congress. It is about the politics of personal destruction. That is what we are seeing here. It is an orchestrated effort from start to finish. That is why I think this is such an embarrassment to the Senate. If we somehow decide that people can be essentially convicted of a crime based on an allegation with no evidence, what does that say about our commitment to the Constitution itself, the due process of law, and the presumption of guilt?

I know our colleagues will say: Well, this is a job interview. This is not just a job interview. This isn't just even about Judge Kavanaugh and his confirmation process. This is about us. This is about our national commitment to the Constitution, one that guarantees your liberty unless the government can come in and prove a case against you, where you have a chance to confront the witnesses against you, where you enjoy a presumption of innocence. This is no longer a job interview. This is no longer even just about Judge Kavanaugh.

A vote against Judge Kavanaugh implies that he is guilty not only of teenage misconduct but guilty of perjury now. That is what a vote against Judge Kavanaugh implies. A vote against Judge Kavanaugh is a "yes" vote for more search-and-destroy efforts against public servants and judicial nominees and more ambushing nominees after crucial information is withheld for weeks at a time.

We all know how the Senate operates. It operates on the basis of precedent. Once something has been done, it is precedent for what will be done in the future. If this is the new precedent for the U.S. Senate, woe be to us.

A vote against Kavanaugh is a "yes" vote for more of these despicable tactics being used time and time again in the future—coat hangers being sent to the offices of some of our colleagues, fundraising bribes being offered, mobs attacking Senators and their families at restaurants.

The American people deserve a final and definitive resolution to this process. Judge Kavanaugh deserves the same, as does the Supreme Court. This week after the supplemental background investigation of the FBI concludes, there will be a vote. I trust that Judge Kavanaugh will then finally be confirmed. Then, hopefully, the Senate will come to its senses and realize how wrong, how embarrassing, and how disgraceful this process has been not only to Dr. Ford but to Judge Kavanaugh as well. I hope and pray we will come to our senses.

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

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

LAS VEGAS MASS SHOOTING

Mr. MURPHY. Mr. President, Candice Bowers overcame a lot of challenges in her life. She raised two children as a single mother. She worked as a waitress at Mimi's Cafe. She had a wide circle of friends. She adopted a little girl named Ariel, who was a relative's baby who couldn't be cared for. Ariel was 2 years old, and her children were 16 and 20, a year ago yesterday, when Candice Bowers was one of the over 50 victims of the biggest mass shooting in American history—in Las Vegas.

In speaking about Candice, her aunt said that everybody loved her and that she always had a smile on her face. She would help anybody. She had a big heart. She was just a sweetheart. Robert Layaco, a 78-year-old veteran who served in the Korean war, who was her grandfather, said that everybody else might forget about this in 6 months but that they will never forget about her—he won't, her daughter won't, her little daughter won't, and her son will not forget about her—in thinking ahead to all the Thanksgivings and Christmases at which there will be an empty seat at their dinner table. He said thoughts and prayers are just not going to do it.

Angela Gomez was 20 years old when she was gunned down at the concert a year ago yesterday. She had graduated from Riverside Polytechnic High School in 2015 and was attending classes at a community college. Her former cheer coach said that Angie was a fun-loving, sweet, young lady with a great sense of humor and that she challenged herself all the time. Angie enrolled in advanced placement classes, and she loved the stage. She was involved in cheer, she was involved in choir, and she was involved in the Riverside Children's Theatre. She had an amazing life ahead of her—filled with joy, filled with enthusiasm for performance.

Charleston Hartfield was 34 years old when he was killed in the shooting in Las Vegas. He was a Las Vegas police officer. He was off duty when he decided to attend the Route 91 Harvest Music Festival, and that is when this shooting took place.

One of his friends said:

I don't know a better man than Charles. They say it's always the good ones we lose early. There's no truer statement than that with Charles.

Charles enlisted in the Army in 2000, and he was a paratrooper with the 82nd Airborne Division. He deployed to Iraq in 2003, and he served in a task force that was awarded a Presidential Unit Citation for extraordinary heroism. He survived his deployment to Iraq—one of the most dangerous theaters of combat in modern history. Yet he couldn't

survive going to a concert to hear a singer he liked in his hometown of Las Vegas.

GUN VIOLENCE

Mr. President, I come to the floor every week or so—a little bit less frequently now than I did a few years ago—to talk about who these people were. I think the statistics have kind of come to wash over people. There is no other country in the world—at least in the advanced world, in the industrialized world—that has numbers like these: 33,000 a year dying from guns, 2,800 a month, 93 a day. These are epidemic level numbers, and there are lots of different stories inside these numbers. The majority of these are suicides. We have an epidemic level of suicides alone in this country that is going nowhere but up. A lot of these are homicides. A lot of these are accidental shootings. They are domestic violence crimes. Suffice it to say, it only happens in the United States, and it is getting worse, not better.

Certainly, I can show you a 200-year trajectory of how violence in the United States is getting better, but in the last several years, since these mass shootings have become so regularized, all of it is getting worse. There seems to be a lot of consensus about at least one very narrow-cast idea to try to reduce the likelihood that 58 people could die all at one time, as happened in Las Vegas.

As we came out of that shooting a year ago, it seemed that we all, at the very least, agreed that these things called bump stocks—these things that are manufactured to turn a semiautomatic weapon essentially into an automatic weapon with which you can fire multiple rounds with one pull of the trigger—shouldn't be legal, that they shouldn't be allowed to be sold. We had all made a decision a long time ago that notwithstanding our differences as to whether these semiautomatic, tactical weapons should be sold in the commercial space, we at least knew that automatic weapons should not be available to consumers. Now this modification was being allowed to turn semiautomatic weapons into automatic weapons.

We are now a year since the Las Vegas mass shooting, and you can still get one of these. You can still turn a semiautomatic weapon into an automatic weapon with ease. In fact, bump stock manufacturers don't need a Federal firearms license to sell them—you don't even need a license to sell these things—because the Federal Government classifies them as accessories, not as firearms.

To me, it is just unbelievable that our ability to work on the issue of gun violence has broken down so badly that even on an issue about which we profess agreement a year after 58 people were killed—and by the way, 800 people injured—we still haven't done anything in this Congress about the narrow issue of bump stocks, which turn a semiautomatic weapon essentially into an automatic weapon.

In February of this year, President Trump directed the Department of Justice to propose a rule that would do this. Just last week, the Department of Justice announced that it was submitting its rule to the Office of Management and Budget—one of the final steps in the rulemaking process. Yet, as we all know, that rulemaking process takes a long time. You are talking about a rule that will not be effective until at least 2019. Even when that rule is put into place, it will be easily contested in the courts because we all know that it is doubtful as to whether the administration has the ability to ban bump stocks given the nature of the underlying law.

It would be so much easier for us to just pass a law that says bump stocks are illegal, thus taking the question away from the courts as to whether the administration has the power to do it. We could also do it much more quickly because this rule is still going to take months and months and months before it is fully put into effect, putting more and more people in this country at risk.

I wear my frustration on my sleeve when it comes to the issue of gun violence because I just don't understand why there is only one issue like this about which the American public has made up its mind. The polling tells us that universal background checks enjoy 97-percent support in this country. By a 2-to-1 margin, people want these assault weapons off the street. The ban of bump stocks enjoys ratings similar to that of universal background checks. Yet we still can't get it done, and there are consequences.

If you look back over the history of this country, we have always been a more violent nation than our parent nations in Europe from which a lot of the original settlers came. Yet we are more violent now by a factor of 5 or 6 or in some cases by a factor of 20 because the vast majority of our violence in this country today is done by guns.

The data tells you that in places in the United States that have invested in the kinds of reforms that we would like to take nationally, like universal background checks or the bans on certain dangerous capacity weapons, the violence rates are much lower and gun deaths are much lower. So it is not a guessing game as to what works here if you actually want to reduce the number of people who are killed by guns. Ultimately, we know what works.

One of my chief frustrations continues to be the fact that we pay attention to the issue of gun violence only when 50 people are killed or when it is the 1-year mark of 50 people being killed. This is a daily number. Every day, 93 people are being killed by guns, and they do not make it on the evening talk shows. They don't make headlines, but the pain for those 93 families today who will lose a loved one from a suicide or a homicide or an accidental shooting is no different from the pain that comes from losing a brother or a sister

or a son or a daughter in Parkland or Las Vegas or in Newtown.

Betty Sandoval had a toxic relationship with a man who had been threatening her for some time. There were text messages found on her phone, threatening her life if she ever left her boyfriend. One day, she was followed home by this young man, who shot and killed her out of anger that their relationship was going the wrong way. Betty was 16 years old and was shot in a fit of passion by a young man who had easy access to a weapon with which to try to exercise his demons over the relationship.

This is the story of America. We don't have more mental illness than any other country in the world. We don't have more broken relationships than other country in the world. We just have more guns. So when a young man is really upset about how things are going with his 16-year-old girlfriend, he can easily find a weapon.

That is the story of suicides as well. There are tons of data that show that if you don't have easy access to a gun in those moments when you are contemplating taking your own life, you have a chance to survive that moment, to get help, to have a conversation with your mother or your father or a friend, and that gets you to a different place. It is the proximity of that weapon that makes a difference, as it did for Betty Sandoval, who died just about 3 weeks ago in Houston, TX.

Dezmen Jones was 15 years old and Jameel Robert Murray was 28 years old when they were both shot to death in York, PA. Of Jameel Murray, one of his mother's friends said that he was always smiling. She said: "He was just larger than life."

Classmates of Dezmen Jones said that he was "a really cool person" who "had lots of friends." Dezmen was 15 years old, and he rode his bike all around town, from friend to friend, back and forth to William Penn Senior High School. He was 15 years old when he was gunned down.

Jameel's mother's friend set up a fundraiser on Facebook because Jameel's family didn't have enough money to bury him. They didn't have enough money to do a funeral, so they asked for donations online so that they could give Jameel, who was 28 years old, a proper burial. That shooting happened a week ago, on September 26.

Close to home, in Waterbury, CT, on September 2, Matthew Diaz was shot in the back early Sunday morning in the Berkley Heights housing complex. This is about 3 miles from our house in Connecticut. He was the father of two. He had an 11-year-old son and a 2-year-old daughter. Imagine having to tell an 11-year-old kid: Your dad is gone, and he is never coming back.

Matthew's mother said:

He loved his children to the fullest. He would do anything for his children. He would do anything for me. He was my friend, my protector, my comedian.

Diaz was unconscious when the police found him. They tried to perform CPR,

but he was pronounced dead about an hour after arriving at the hospital.

Every single one of these stories is exceptional because when an 11-year-old loses a dad or when you lose your mom or when a newly adopted 2-year-old no longer has her adoptive mother, everything changes. Everything is cataclysmically different for those families.

There are 93 of those stories every single day, and it doesn't have to be that way. It is not inevitable. It is within our control.

I think these numbers just tend to stun people after a while. I think these numbers don't mean anything to folks. So I am going to continue to come to the floor and tell the stories of these victims, to give voices to these victims, especially today as we mark 1 year since the worst mass shooting in the history of the country. We recognize 1 full year since we pledged to do something about it, since we talked about the narrow area of agreement around bump stocks, 1 full year of total inaction on the one thing we thought—we thought—we could do together to make the country a safer place.

Thank you.

I yield the floor.

The PRESIDING OFFICER (Mr. CRUZ). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

NOMINATION OF BRETT KAVANAUGH

Mr. CASEY. Mr. President, I come to floor, once again, to raise concerns about the nomination of Judge Brett Kavanaugh to the Supreme Court. I think these concerns permeate every aspect of the nomination process and the nominee himself.

When Judge Kavanaugh's name came forward because of the nomination by President Trump, he came from a list of 25 names. These names were assembled by the White House in consultation with—the record indicates—just two groups: the Heritage Foundation and the Federalist Society. Both are far-right organizations that have a view of public policy that on most issues I don't agree with, but I think that is true of most Pennsylvanians. I can't speak for the whole country, but I would be willing to guess many people around the country are not in agreement.

The Heritage Foundation, for example, has called labor unions cartels. That is one view they seem to have about labor unions.

I come from a State where we have a proud labor history, where people literally bled and died for the right to organize, whether it was the Homestead strike in Southwestern Pennsylvania back at the turn of the previous century or whether it was the Lattimer massacre in Northeastern Pennsylvania or whether it was the strike by anthracite miners in the early 1900s in my home area, the region where I live

in Northeastern Pennsylvania. These fights for the right to organize, the right to bargain collectively for wages and benefits were not just hard-won, but they represented the values of the people of Pennsylvania.

When I consider that history and consider the attacks that organized labor is currently undergoing—the Janus case by this Supreme Court is one example and I am afraid will be one in a series of cases that will be decided against the interests of working men and women—I am especially concerned about any nomination to the Supreme Court on those and other issues but, maybe, especially the nomination of Judge Kavanaugh.

I think even someone who would disagree with me on my views of organized labor or my views on his record would agree that it is highly unlikely, if not impossible, that we would have an American middle class without organized labor, without all of that work, all of the sacrifice that was undertaken to achieve the right to organize. That right is threatened now, and I think this nomination is one of the threats to that basic right.

It should come as no surprise that this nominee has sprung from that same process that I mentioned earlier. I believe this list that has now been put on the table—in other words, no one could be nominated to the Supreme Court by this administration unless you are on that list of 25 that was chosen by those two groups, the Heritage Foundation and the Federalist Society. If you are a conservative, if you are seen as a conservative judge, a Federal court judge either in the district court or appellate court or maybe a State supreme court justice where we have had some members of the U.S. Supreme Court have their start—if you are not on that list of 25, if you are one of the hundreds of judges appointed by Republican Presidents, you need not apply because you don't have any chance of getting on the Supreme Court if you are not on that favored list of 25.

I think we can reach—and I think the administration could and should reach—a lot further than just a list of 25 that represent a very narrow view of justice, a narrow view of jurisprudence, and certainly a troubling view of the rights of working men and women, just by way of example.

On the District of Columbia Circuit, Judge Kavanaugh has frequently dissented from his colleagues in cases involving workers' rights, discrimination, and retaliation, at times going out of his way to argue that the interests of corporations should override the interests of individual workers.

I serve on the Special Committee on Aging, where I happen to be serving as a ranking member in this Congress, along with Chairman SUSAN COLLINS, and I am especially astounded at some of Judge Kavanaugh's opinions relating to both older Americans and people with disabilities. Just by way of example, he dissented in two cases that

upheld the Affordable Care Act, which is essential to ensuring healthcare for over 130 million Americans with pre-existing conditions.

Right now, the courts are considering whether people with preexisting conditions should continue to be protected from being charged more, being denied coverage, or being dropped from their insurance simply because of their insurance status. The Supreme Court might be the last line of defense in maintaining these protections for people with preexisting conditions, and Judge Kavanaugh could be that deciding vote.

In two cases, Judge Kavanaugh disagreed with rulings upholding—upholding—the Affordable Care Act. A former law clerk for Judge Kavanaugh said it best when she spoke about his views of the Affordable Care Act. She said: “No other contender on President Trump’s list is on record so vigorously criticizing the law”—“the law” meaning the Affordable Care Act.

Also, in notable cases, Judge Kavanaugh sided with employers over employees with disabilities, making it more difficult for employees to prove discrimination in court and have their rights protected under law. In one dissent, he took a narrow view of the Age Discrimination in Employment Act, also known as the ADEA, which has protected the rights of older workers for decades, and Judge Kavanaugh wrote that he did not believe it applied to certain Federal employees.

Perhaps most egregiously, in *Doe v. DC*, Judge Kavanaugh determined that three women with intellectual disabilities could be forced to undergo elective surgery, allowing the government to make medical decisions on their behalf without ever attempting to determine their wishes.

I could go on to a whole other line of cases—or maybe not lines of cases but commentaries he has made on Executive power, but we don’t have time today. That issue is of great concern because of what we are confronted with, where we have an investigation underway by Robert Mueller that involves the executive branch. Of course, a deciding vote on the Supreme Court on any issue is significant, but maybe because of the current posture—or the current circumstances we are in—Judge Kavanaugh’s views on Executive power are a whole series of other concerns we have.

These disturbing views are apparent not just from his decisions and his writings but of course from the public record. What other positions did Judge Kavanaugh take before he was on the bench? What views are set forth, for example, in the record from the time he spent as White House Staff Secretary and in the White House Counsel’s Office? We have to ask that question. We don’t have his full record from his tenure working in the administration of President George W. Bush. Why don’t we have access to those records? We have to ask that question. Why don’t

we have access to that basic information?

We don’t have these records because Republicans in the Senate have been rushing to jam this nomination through before the midterm elections. They have broken norms and deprived the Senate of critical background documents to get Judge Kavanaugh on the Supreme Court bench before November.

Instead of following precedent and waiting for the nonpartisan National Archives to review and release Judge Kavanaugh’s full record, they have rushed to hold hearings and a committee vote before we even have the information all Senators are entitled to before voting on a lifetime appointment.

Let me move to what happened last week. Last Thursday, the Nation watched as Dr. Christine Blasey Ford shared with the Senate Judiciary Committee the horrible details of a sexual assault she experienced as a 15-year-old: the terror she felt in that moment, the horror of the physical assault, and the psychological trauma of believing she might, in fact, die. We heard her describe how two teenage boys, under the influence of alcohol, pushed her into a bedroom, locked the door, turned up the music, and how one of the boys pinned her to the bed and covered her mouth to muffle her screams; how she escaped and heard them drunkenly “pinballing” down the staircase. We also heard how her clearest memory from that assault was the boys’ laughter while it was underway.

Dr. Ford said she was “terrified” as she appeared before the Judiciary Committee to recount these traumatic events, but she decided to do so because she believed it was her “civic duty” to tell the public what she had experienced. She was open with the committee and consistent in her account and was “100 percent” certain that it was Brett Kavanaugh who had assaulted her.

When I watched her testimony from beginning to end, the conclusion I reached was that she was both credible and persuasive. I believed her, and I think a lot of Americans did as well; maybe more than half of Americans believed her, but I know I did.

I also believe Judge Kavanaugh’s response that same day, on Thursday, to these credible allegations has cast even greater doubt on his credibility. It also cast doubt on his temperament and his ability to serve as an impartial jurist. I think anyone, even a supporter of Judge Kavanaugh’s nomination, could have been troubled by his demeanor, and I will use the word “temperament” again, when he came before the committee.

After Dr. Ford presented her moving testimony, Judge Kavanaugh responded with explosive anger and partisan attacks on virtually all Democrats. I was surprised he did that. No one would begrudge him the opportunity and the necessity, if he felt it were necessary, to deny these allega-

tions aggressively. No one would deny him of that, but to question the motives of virtually every Democrat—at least every Democrat on the committee—and to assert some kind of broad, partisan conspiracy, I think was over the top and is not consistent with the demeanor anyone would expect from any judge at any level but especially someone who might be the fifth vote on the most powerful Court in the country and arguably the most powerful Court in the world. I think most people, for or against Judge Kavanaugh, would conclude that his demeanor that day was not demeanor that was consistent with that high position he was seeking.

Another troubling aspect of his testimony that day—and I was rather surprised by this—is when he was asked about an FBI investigation, whether he would support additional investigative work by the FBI, simply to update the background check or to complete the background check, instead of requesting a full and open FBI investigation that would show he had nothing to hide, he dodged questions and misrepresented the testimony of key witnesses.

There is an old inscription on a building where I used to work in Harrisburg, our State capital, the Finance Building, which reads very simply: “Open to every inspection, secure from every suspicion.” In this case, if Judge Kavanaugh were open to that inspection or, in this case, that investigation or a continuing investigation or background check, I think a lot of people would have accorded him more credibility or more confidence in what he was saying—if he said, please, complete the background check and have the FBI take a look at all of these questions—but he kept saying it was not his call. That may be technically true, but I was hoping he would support the investigation. If Judge Kavanaugh has done nothing wrong, as he and the White House and Senate Republicans claim, he should have welcomed a full, open, and independent investigation into these claims against him or any other matter that is relevant.

I am glad the FBI is finally conducting an investigation, although I am concerned about reports that the White House may be limiting the investigation and directing its scope. The FBI must be allowed to question all relevant individuals and follow the facts where they lead. The FBI is the best in the world, and I have great confidence they will do good work. They shouldn’t be constrained in this very limited period of time, this 1 week they are investigating. I hope—and I don’t know the answer to this, but I hope what the President said yesterday; that he and his administration are not constraining the FBI, and I am paraphrasing, not using exact words—that is the policy the administration transmitted directly to the FBI. I hope there is no variance or difference between what the President said and what his

administration is indicating directly to the FBI. I don't know, but I hope there is a consistency there.

I wish to wrap up because I know we have to do that. The Supreme Court decides, as so many Americans understand, cases of monumental importance to our Nation. These cases will impact the day-to-day lives of Americans for decades, if not generations, and many questions will be decided by the Supreme Court. Let me just list a few: the American people's ability to access affordable healthcare, for example; their opportunity to work in an environment free from discrimination; their ability to access the justice system and have their day in court, often against powerful corporate interests; and, as I said at the outset, the basic rights of working men and women, including the right to organize and the right to bargain collectively. I hope that when Members of the Senate are making a determination about this nomination, they will take those interests and those concerns into their deliberations.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I ask unanimous consent that I be able to complete my remarks.

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

FAA REAUTHORIZATION ACT

Mr. THUNE. Mr. President, aviation continues to play a significant role in the American economy and in American life. The industry contributes \$1.6 trillion to the economy on an annual basis and supports more than 10.6 million jobs.

In 2017, 850 million passengers boarded U.S. airline flights for both domestic and international trips. Americans rely on planes to do their jobs, to catch up with far-flung friends, and to take a much needed break from work, to make it to important family events.

Every few years, Congress has to pass legislation to reauthorize the Federal Aviation Administration, the government agency responsible for everything from overseeing the safety of the national airspace to providing grants for critical infrastructure needs at airports. Passing that reauthorization bill gives us the opportunity to take a look at aviation as a whole and to hear from manufacturers, airport administrators, airlines, and the flying public. That is exactly what we did with the reauthorization bill that is before the Senate today.

In the lead-up to this bill, we spent months conducting research, holding hearings in the Commerce Committee which I chair, and listening to the aviation community and to airline passengers. Then we took that information and used it to develop legislation that will strengthen aviation, promote economic growth, enhance transportation safety and security, and improve the flying experience for the public.

I am proud of the bill we have before us today and grateful for the hard work

done by Members of both parties in the House and Senate.

Obviously, security is a massive priority for the airline industry and for the flying public and for the Federal Government. Terrorist groups continue to target passenger aircraft and the aviation sector, but security measures, of course, can also lead to frustration. Who hasn't been caught in a long TSA line desperately hoping to make it through in time to catch a flight? The bill before us today will both boost security and help reduce some of the delays associated with security checks.

For starters, the bill represents the first-ever reauthorization of the Transportation Security Administration in the history of the agency. It establishes a 5-year term for the head of the TSA which will increase leadership stability at the TSA and promote the efficient and effective deployment of security initiatives.

The bill also puts in place measures to speed the deployment of the latest, most effective screening technologies so we can keep up with the latest threats to aviation. It requires an agencywide review at the TSA to look at how to eliminate duplication and redundant senior personnel to ensure that the agency operates in the most efficient manner possible.

This legislation also authorizes more K-9 teams to be deployed in airports and other transportation facilities around the United States, and it creates an outside certification process to enable faster deployment. This is good news both for security and for passengers. K-9 teams enhance security at airports, and security checkpoints with K-9 teams can operate substantially more quickly.

Currently, a majority of explosive detection dogs in the United States come from overseas. Being able to obtain more of these dogs in the United States would reduce the cost and speed up the process of acquiring K-9 teams. That is why this bill helps build our capacity to test and certify explosive detection dogs here at home.

In another victory for anyone who has ever waited in a long security line, this bill also requires the TSA to post real-time security checkpoint wait times not just at the airport but also online. That means you will be able to check the security wait time while you are still at home so you will know if you need to leave for a flight or if you can spend a few more minutes reviewing your packing list.

The bill will also make it easier for travelers to sign up for Precheck and to receive expedited screening—something that will speed up checkpoint wait times and enhance public area security for all passengers.

While we are on the subject of making life easier for passengers, this bill contains some commonsense reforms that will improve the flying experience. For starters, this legislation prohibits airlines from involuntarily bumping from a flight passengers who

have already boarded. I think we can all agree that once you have boarded a plane, you shouldn't be kicked off until you have arrived at your destination.

I also think everyone would agree that when you pay for a service, you should get it. That is why this legislation requires airlines to promptly return fees for services they don't deliver. If you pay for a seat assignment, for example, you should get that seat. If you don't, you should get your money back promptly.

This legislation also directs the FAA to set minimum legroom requirements for seats on commercial flights to ensure safety.

As I mentioned above, the aviation industry makes a big contribution to our economy, and the legislation before the Senate today will help this industry continue to compete and innovate. The FAA sets standards for aircraft designs and other aircraft components, and it certifies these designs to ensure they meet specific requirements. This legislation will take excess bureaucracy out of the certification process so that U.S. air companies can get their products to market on time and successfully compete in the global marketplace. It will also enable U.S. manufacturers to fully use certification authorities that have been delegated to them.

The bill before us today also supports the development of the air-based technologies of the future, including the return of supersonic aircraft and the integration of unmanned aircraft systems—more commonly known as drones—into the international airspace. The bill advances the development of low-altitude traffic management services, which are essential as drone use becomes more widespread. It also provides more flexibility to the FAA to approve advanced drone operations, like extended flights or flights over crowds of people, and it directs the FAA to authorize operators of small drones to carry packages, meaning that sometime in the near future, your Amazon Prime order could arrive via drone.

In the wake of serious accidents on our Nation's roads, railroads, or in the sky, Congress turns to the National Transportation Safety Board to get the facts and to tell us what went wrong. The legislation before us today will strengthen the National Transportation Safety Board's investigation process and make more information available to the public. It will also expand access to assistance for the families of victims of rail and aviation accidents.

There are a lot of other good provisions in this bill, as well, everything from infrastructure investment to upgrades in safety requirements. Mostly unrelated to aviation, this bill also includes critically needed disaster response reforms and a down payment to help communities in the Carolinas recover from Hurricane Florence.

I am very proud of the bipartisan bill we have produced and the advancements it will make for all stakeholders in the aviation industry—from manufacturers to airline workers, to passengers. I thank the ranking member, Senator NELSON, and our counterparts on the Transportation Committee and the Homeland Security Committee in the House of Representatives, as well as other Senate committees that contributed to this bipartisan legislation. The members of our committees and their staffs put in a lot of hard work on this bill, and our Nation's aviation and air transportation system will be safer as a result.

I look forward to casting a vote for this bill and getting this legislation on the President's desk and signed into law. I encourage all of my colleagues here in the Senate to support this legislation when we have the opportunity to vote on it, hopefully, later today.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

EXECUTIVE SESSION—Continued

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Minnesota.

FAA REAUTHORIZATION ACT

Ms. KLOBUCHAR. Mr. President, I rise today to speak in support of the Federal Aviation Administration, or the FAA, Reauthorization Act of 2018. This bill provides needed certainty in aviation and gives the FAA authority to enhance consumer protections and passenger safety. It also maintains critical investments that will help to modernize and maintain our aviation infrastructure.

This agreement is the product of bipartisan negotiations over the last several months. I am proud to serve on the Commerce Committee, which played a major role here. I thank Senator THUNE and Senator NELSON for their work on this bill, and I urge my colleagues to support it.

Minnesota has a long aviation tradition, from Charles Lindbergh to our Minneapolis-St. Paul International Airport. Two years in a row, it was ranked as the best airport in America. We manufacture jets in Duluth at Cirrus. We manufacture parachutes that go with those jets in our State. We have first-rate military training bases for aviation in Bloomington and in Duluth. We have very strong regional airports, including Duluth and Rochester, which has recently expanded its airport. It matters in our State.

For too long, the aviation sector of our economy has had to rely on a series

of short-term extensions. It is not good for workers, and it is not good for businesses. That is not good for travelers who use our services. For airports looking to expand or airlines looking to test new routes, these short-term bills created uncertainty that hampered growth and prevented new investments.

This 5-year reauthorization bill will provide the long-term stability needed to encourage investments and help maintain American leadership in the global aviation marketplace. We know a lot about that in our State, being a major Delta hub, as well as the home of Sun Country Airlines. We know the kind of global competition that we are up against all the time. That is a very important reason for America to be a leader in aviation and not a follower.

Changes in the airline industry in recent years have drastically altered the way consumers travel. New fees and complicated itineraries can make even routine travel confusing and expensive. Thankfully, this FAA bill builds on important work we have done in past reauthorizations to strengthen protections for consumers while shopping, booking, and traveling.

Most people know what it is like to show up to the airport and be shocked to find out that you have to pay extra for your seat or that checking a bag is going to cost you an arm and a leg. When consumers don't have this information up front, they can be left paying hundreds of dollars in fees they didn't budget for, which can mean the difference between a family trip being affordable or not.

It isn't just fees. In some instances, online travel websites have sold unnecessarily complicated passenger itineraries, provided outdated or incorrect travel information on their websites, and failed to provide appropriate disclosures for passengers. That is why I worked to include an amendment to provide a consistent level of consumer protections, regardless of where the airfares are purchased. This part of the bill will ensure that, whether a consumer books tickets directly with an airline or from a third party, the consumer will receive the same level of price disclosures and customer service.

This was a provision strongly supported by consumer groups because it is such a problem that there were different types of price disclosures and customer service, depending on how a consumer booked the flight. It doesn't matter where you book the flight or how you book the flight, you should have consumer protection. This bill includes that provision.

This bill will also make important improvements to the passenger experience on the plane. By directing the FAA to set standards for the size of airline seats, we will make sure passengers can travel safely and these seats will not get even smaller than they already are.

The agreement also includes a provision to make clear that once a pas-

senger has boarded a plane, they can't be involuntarily bumped by an airline. Passengers deserve to be treated with respect throughout their entire journey, and this will end the practice of removing paying customers to accommodate airline employees.

The bill sets new requirements for airlines to promptly return fees for services, such as seat assignments or early boarding, when these services are purchased and not received by a customer.

In addition to the strong consumer protections, this bill makes new infrastructure investments that will help to ensure passengers have a safe and efficient travel experience.

Smaller regional airports provide a vital link to the rest of the world for many rural communities. In my State, both residents and businesses located near these rural airports rely on them to connect to the Twin Cities and beyond.

The Essential Air Service Program is a critical tool that supports rural air service. This bill boosts EAS funding to help maintain the operations of smaller, regional airports across Minnesota and across our country. Of course, funding alone isn't enough to improve aviation infrastructure. We need policies that support the unique infrastructure needs in different regions of the country.

In the 2012 FAA reauthorization, I included a provision to require that the Department of Transportation give priority review to construction projects in cold weather States with shorter construction seasons. For those of us who live in States that happen to have cold weather and snow, our construction seasons are shorter, and that means we have less time to work on these projects than maybe they do in Miami or in California. What we did here was to make sure that the FAA realized that in how they did grants and how they got these construction permits approved.

Anyone who has ever been to Northern Minnesota in April or October understands that our construction season is shorter. There is a reason we have cold weather testing facilities on the Canadian border in our State, because that is the coldest conditions you can possibly have for cars. That makes for this short construction season.

This provision was included again in the current bill, and it will help to ensure that cold weather States like Minnesota can make the most out of our limited construction seasons.

The investments made by this bill are an important down payment that will help to address the growing demand for air transportation. I look forward to building on the progress made by this bill with bipartisan infrastructure legislation to support 21st century aviation infrastructure that is prepared to meet the demands of the 21st century economy.

I wish to thank my colleagues again for their work on this bill. It makes