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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SHELLEY MOORE CAPITO, a Senator from the State of West Virginia.

PRAYER

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

Let us pray.

Eternal God, our help in ages past and hope for years to come, we honor Your Name.

Today, have mercy upon us. According to Your loving kindness and tender mercies, have Your way in this Chamber and in the hearts of our lawmakers. Lord, our Senators are the clay, and You are the divine potter. Using Your wisdom, mercy, and might, mold and make our legislators to be instruments of Your divine purposes. Give them the courage and wisdom to surrender and yield to the unfolding of Your unstoppable providence as they acknowledge that our times are in Your hands.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. HATCH).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 5, 2018.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHELLEY MOORE CAPITO, a Senator from the State of West Virginia, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

Mrs. CAPITO thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

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

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Madam President, would you inform me of the amount of time I have to speak.

The ACTING PRESIDENT pro tempore. There has been no time agreement made.

Mr. GRASSLEY. I thank the Acting President pro tempore.

Madam President, 100 days ago, Justice Kennedy announced his retirement from the Supreme Court. Shortly thereafter, on July 9, the President announced the nomination of Judge Brett Kavanaugh to serve as the newest Justice.

Judge Kavanaugh has spent 25 years of his career in public service. He spent the last 12 years on the DC Circuit—considered the second most important Federal court in the country. His record there has been extremely impressive because the Supreme Court adopted a position advanced in Judge Kavanaugh's opinions no fewer than a dozen times.

Judge Kavanaugh is also a pillar of his community and in the legal profession. He serves underprivileged communities, coaches girls' basketball, and is a lector at his church. He has shown a deep commitment to preparing young lawyers for their careers. He has been a law professor at three prestigious law schools and a mentor to dozens of judicial law clerks.

This should have been a respectable and dignified confirmation process. In a previous era, this highly qualified nominee would have received unanimous support in the Senate. Before leftwing, outside groups and Democratic leaders had him in their sights, Judge Kavanaugh possessed an impeccable reputation and was held in high esteem by the bench and the bar alike. Even the American Bar Association, which the Democrats say is their gold standard for judges, gave him its unanimous ''well-qualified'' rating.

What leftwing groups and their Democratic allies have done to Judge Kavanaugh is nothing short of monstrous. I saw what they did to Robert Bork. I saw what they did to Clarence Thomas. That was nothing compared to what we have witnessed in the last 3 months. The conduct of leftwing, dark money groups and their allies in this body has shamed us all.

The fix was in from the very beginning. Before the ink was even dry on the nomination, the minority leader announced he would oppose Judge Kavanaugh's nomination with everything he had. Even before he knew the President's nominee, the minority leader said he was opposed to all 25

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

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well-qualified potential nominees listed by this President. One member of my committee said those who would vote to confirm Judge Kavanaugh would be ''complicit in evil.'' Another member of the committee revealed the endgame when she suggested that Senate Democrats could hold the vacancy open for 2 years if they defeated Judge Kavanaugh and took control of the Senate in these midterm elections.

I oversaw the most transparent confirmation process in Senate history based on the fact of the more than 500,000 pages of judicial writings, publications, and documents from Judge Kavanaugh's executive branch service. This is on top of the 307 judicial opinions he authored. Despite the Democrats' efforts to bury the committee in even more paperwork, the Senate Judiciary Committee held a timely, 4-day hearing on Judge Kavanaugh's nomination last month. Judge Kavanaugh testified for more than 32 hours over the course of 3 days. Judge Kavanaugh showed the Nation exactly why he deserves to be on the Supreme Court—because of his qualifications.

Judge Kavanaugh's antagonizers couldn't land a punch on him during his 3 days of testimony. Even when they made false or misleading arguments, they couldn't touch him. Some of my colleagues accused Judge Kavanaugh of committing perjury. For that false claim, the Washington Post Fact Checker awarded my colleague three Pinocchios. Another colleague claimed Judge Kavanaugh described contraceptives as ''abortion-inducing'' drugs. The video my colleague shared on the internet was doctored to omit the fact that Judge Kavanaugh was describing the plaintiffs' claims in a case that he had decided and not his own views. My colleague was awarded four Pinocchios. Those, of course, are the most Pinocchios you can get.

Yet they still had one big card to play, which they had kept way up their sleeves for a month—actually, for 45 days, I think. In July, the ranking member received a letter from Dr. Christine Blasey Ford, alleging that Judge Kavanaugh sexually assaulted her in high school 36 years ago. Instead of referring Dr. Ford to the FBI or sharing these allegations with her colleagues—either of which would have respected and preserved Dr. Ford's confidentiality and is what Dr. Ford requested—the ranking member referred Dr. Ford to Democratic-activist attorneys who were closely tied to the Clintons. The ranking member shamefully sat on these allegations for nearly 7 weeks, only to reveal them at the eleventh hour, when it appeared that Judge Kavanaugh was headed toward confirmation because he was so qualified.

The ranking member had numerous opportunities to raise these allegations with Judge Kavanaugh personally. I will give you six examples.

She could have discussed them with Judge Kavanaugh during their private meeting on August 20—a meeting which took place after her staff had sent Dr. Ford to Democratic lawyers—or shared them with 64 of her Senate colleagues who had also met with him individually; the ranking member's staff could have raised them with Judge Kavanaugh during a background investigation followup call in late August; Senators could have asked Judge Kavanaugh about the allegations during his 32 hours of testimony over the course of 3 days; Judiciary Committee members could have asked Judge Kavanaugh about this in the closed session of the hearing, which the ranking member didn't attend. The closed session is the appropriate place to bring up issues about which confidentiality is supposed to be respected, and there were no questions about these allegations among the 1,300 written questions that had been sent to Judge Kavanaugh after the hearing. This amounts to more written questions being submitted to this nominee after a hearing than to all Supreme Court nominees combined.

Keeping the July 30 letter secret deprived Senators of having all the facts they needed to have about this nomination.

It was not until September 13—July 30 to September 13, nearly 7 weeks after the ranking member received these allegations and on the eve of the confirmation vote—that the ranking member referred them to the FBI. Then, somehow, they were leaked to the press. It was not until those news reports on September 16 that I even learned of Dr. Ford's identity. This is an outrage. The political motives behind the Democrats' actions should be obvious to everyone.

Dr. Ford requested the opportunity to tell her story to the Senate Judiciary Committee. After a lot of foot-dragging by Dr. Ford's attorneys, they finally agreed to a public hearing. As promised, I provided a safe, comfortable, and dignified forum for Dr. Ford as well as for Judge Kavanaugh. Dr. Ford was sincere in her testimony, as was Judge Kavanaugh, who emphatically denied the allegations.

It is true that confirmation hearings aren't a trial, but trials have rules based on commonsense notions of fairness and due process, not the other way around. It is a fundamental aspect of fairness and a fundamental aspect of due process that the accuser have the burden of proving allegations. Judge Kavanaugh was publicly accused of a crime, and his reputation and livelihood were at stake. So it was only fair that his accuser have the burden of proof. The consensus is, the burden was not met.

Ultimately, the existing evidence, including the statements of the three alleged eyewitnesses named by Dr. Ford, refuted Dr. Ford's version of the facts. Our investigative nominations counsel, Rachel Mitchell, who has nearly 25 years of experience in advocating for sexual assault victims and in investigating sex crimes, concluded there was a lack of specificity and simply too many inconsistencies in Dr. Ford's allegations to establish that Judge Kavanaugh committed sexual assault even under the lowest standard of proof.

She concluded:

> A ''he said, she said'' case is incredibly difficult to prove. But this case is even weaker than that. Dr. Ford identified other witnesses to the event, and those witnesses either refuted her allegations or failed to corroborate them. For the reasons discussed below, I do not think that a reasonable prosecutor would bring this case based on the evidence before the Committee. Nor do I believe this evidence is sufficient to satisfy the preponderance-of-the-evidence standard.

We have thoroughly investigated Judge Kavanaugh's background.

In addition to the prior six FBI full-field background investigations with the interviews of nearly 150 people who have known Judge Kavanaugh his entire life, the committee also separately and thoroughly investigated every credible allegation we received. Our more than 20 committee staff members have worked night and day over the last many weeks in tracking down virtually all leads, and at the request of undecided members, the FBI reopened Judge Kavanaugh's background investigation for another week.

The FBI interviewed 10 more people related to the latest credible sexual assault allegations, and the FBI confirmed what the Senate investigators already concluded, which is this: There is nothing in the supplemental FBI background investigation report that we didn't already know.

These uncorroborated accusations have been unequivocally and repeatedly rejected by Judge Kavanaugh, and neither the Judiciary Committee nor the FBI could locate any third parties who can attest to any of the allegations. There also is no contemporaneous evidence.

This investigation found no hint of misconduct, and the same is true of six prior FBI investigations conducted during Judge Kavanaugh's 25 years of public service. Nothing an investigator, including career FBI special agents, does could ever be good enough to satisfy the Democratic leadership in Washington, who staked out opposition to Judge Kavanaugh before he was even nominated.

There is simply no reason, then, to deny Judge Kavanaugh a seat on the Supreme Court on the basis of the evidence presented to us. The Democratic strategy used against Judge Kavanaugh has made one thing clear: They will never be satisfied, no matter how fair and thorough the process is.

Thirty-one years after the Senate Democrats' treatment of Robert Bork, their playbook remains the same. For the leftwing, advice and consent has become search and destroy, a demolition derby.

I am pleased to support Judge Kavanaugh's confirmation. I am sorry for what the whole family has gone through the last several weeks. We

should all admire Kavanaugh's willingness to serve his country, despite the way he has been treated. It would be a travesty if the Senate did not confirm the most qualified nominee in our Nation's history.

The multitude of allegations against him have proved to be false. They have also proved that no discussion of his qualifications have shown he wasn't qualified. We had a campaign of distraction from his outstanding qualifications, a campaign of destruction of this fine individual.

What we have learned is the resistance that has existed since the day after the November 2016 election is centered right here on Capitol Hill. They have encouraged mob rule.

When you hear about things like ''Get in their face; bother people at every restaurant where you can find a Cabinet Member''—these are coming from public servants who ought to set an example of civility in American society, and it has been made worse by what has happened to Judge Kavanaugh.

I hope we can say no to mob rule by voting to confirm Judge Kavanaugh.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Madam President, I understand that in the order I have 15 minutes; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mrs. FEINSTEIN. Thank you very much.

Madam President, this has been my ninth Supreme Court nomination hearing, and I must say, I have never experienced anything like this.

Never before have we had a Supreme Court nominee where over 90 percent of his record has been hidden from the public and the Senate. Never before have we had a nominee display such flagrant partisanship and open hostility at a hearing, and never before have we had a nominee facing allegations of sexual assault.

The nominee before us being considered for a pivotal swing seat, if confirmed, would be the deciding vote on some of the most important and divisive issues of our day.

I would like to start by speaking about some of the issues in relation to Judge Kavanaugh.

President Trump promised to nominate to the Supreme Court only individuals who would be pro-life and pro-gun nominees and who would automatically overturn Roe v. Wade. In my judgment, Judge Kavanaugh clearly meets the test.

In a speech in 2017, Judge Kavanaugh focused on praising Justice Rehnquist and his dissent in Roe v. Wade, where he challenged the right to women's privacy as protected in the Constitution.

Also, last year, Judge Kavanaugh argued in a dissent in a Texas case that a Jane Doe should not be able to exercise her right to choose because she did not have family and friends help her make the decision. If adopted, this argument could rewrite Supreme Court precedent and require courts to determine whether a young woman has a sufficient support network when making her decision, even in cases—as is in this one—where she had gone before a court.

His reasoning demonstrates that Judge Kavanaugh not only is willing to disregard precedent, but his opinions fail to appreciate the challenging realities women face when making these most difficult decisions.

When I asked him about whether Roe and Casey were settled law and whether they were correctly decided, he refused to answer. He would say only that these cases are ''entitled to respect.''

As we all know, Roe v. Wade is one of a series of cases that upheld an individual's right to decide who to marry, where to send your children to school, what kind of medical care you can receive at the end of life, as well as whether and when to have a family. According to these cases, the government cannot interfere with these decisions.

Another issue that gives me great pause is Judge Kavanaugh's extreme view on guns. In reviewing his record and judicial opinions, it is clear his views go well beyond simply being pro-gun.

During a lecture at Notre Dame Law School, Judge Kavanaugh himself said he would be ''the first to acknowledge that most lower-court judges have disagreed'' with his views on the Second Amendment.

Specifically, in District of Columbia v. Heller, Judge Kavanaugh wrote in a dissenting opinion that ''unless guns were regulated either at the time the Constitution was written or traditionally throughout history, they cannot be regulated now.''

In his own words, he said gun laws are unconstitutional unless they are ''traditional or common in the United States.''

Judge Kavanaugh would have struck down DC's assault weapons ban because they have not historically been banned. This logic means that as weapons become more advanced and more dangerous, they cannot be regulated at all.

When I asked Judge Kavanaugh about his views that if a gun is in ''common use,'' it cannot it be regulated, he replied this way:

> There are millions and millions and millions of semi-automatic rifles that are possessed. So that seemed to fit ''common use'' and not be a dangerous and unusual weapon.

Think about that. Judge Kavanaugh made up a new standard that had nothing to do with ''common use'' but instead relied on whether a gun is widely possessed and owned as determinative of whether it is subject to any regulation.

The United States makes up 4 percent of the worldwide population, but we own 42 percent of the world's guns. By Judge Kavanaugh's standard, no State or locality will be able to place any limitation on guns because of widespread ownership in this country.

I am also concerned about his views on Presidential power. Specifically, he has said that sitting Presidents cannot be indicted, cannot be prosecuted, should not be investigated, and should have the authority to fire a special counsel at will. In other words, the President of the United States is above and outside the law.

These views raise serious concerns that should concern us all, especially at a time when the President continually threatens to fire the leadership of the Department of Justice for failing to be loyal and reigning in the Mueller investigation.

These views alone are sufficient for me to vote against Judge Kavanaugh, but what we have seen and experienced in the past several weeks has raised serious new concerns—concerns I believe should worry us all.

Judges are expected to be ''even-handed, unbiased, impartial, [and] courteous''; however, at the hearing last week, we saw a man filled with anger and aggression. Judge Kavanaugh raised his voice. He interrupted Senators. He accused Democrats of ''lying in wait,'' and replacing ''advice and consent with search and destroy.''

He even went so far as to say that Dr. Ford's allegations were nothing more than ''a calculated and orchestrated political hit, fueled with pent-up anger about President Trump and the 2016 election,'' and ''revenge on behalf of the Clintons.'' How could he?

This behavior revealed a hostility and belligerence that is unbecoming of someone seeking to be elevated to the U.S. Supreme Court. His display was so shocking that more than 2,400 law professors from around the country have expressed their opposition.

They wrote: ''Instead of trying to sort out with reason and care the allegations that were raised, Judge Kavanaugh responded in an intemperate, inflammatory and partial manner, as he interrupted and, at times, was discourteous to senators.''

The professors concluded: ''We have differing views about other qualifications of Judge Kavanaugh. But we are united as professors of law and scholars of judicial institutions, in believing he did not display the impartiality and judicial temperament requisite to sit on the highest court of our land.''

Madam President, finally, I want to mention the serious and credible allegations raised by Dr. Christine Blasey Ford and Deborah Ramirez, the two women who came forward to tell their experiences facing sexual assault.

When Dr. Ford decided to make her story public, she faced all her worst fears. She was harassed. She received death threats. She had to relocate her home, her husband, and two children. Yet, in less than a week, she came before the Senate and told 21 Senators she had never met, along with millions

of Americans, about the most tragic, traumatic, and difficult experience of her life. She did so with poise, grace, and, most importantly, bravery.

Unfortunately, she was met with partisanship and hostility. My Republican colleagues have largely chosen to ignore her powerful testimony.

Senators weren't allowed to hear from any witnesses who could corroborate or refute her account. They refused to gather evidence or do an impartial investigation into her allegations.

Deborah Ramirez also reluctantly came forward to tell her story. Like Dr. Ford, Ms. Ramirez offered to speak to the FBI. Both Ford and Ramirez submitted evidence to support their allegations, including naming over two dozen witnesses each.

Unfortunately, the limited investigation that was conducted by the FBI failed to interview any one of the witnesses these who women identified who could support her account.

Let me say that again. They refused to investigate—to talk with—any of the 24 witnesses that could have supported their accounts.

I think it is important to remember why we are here today. We are here to determine whether Judge Kavanaugh has demonstrated the impartiality, the temperament, and the even-handedness that is needed to serve on this great High Court of our land.

If confirmed, he will join eight other individuals who are charged with deciding how the laws of the land are interpreted and applied. He would be a deciding vote on the most important issues affecting our country and every American for generations to come.

Based on all of the factors we have before us, I do not believe Judge Kavanaugh has earned this seat.

Thank you.

RECOGNITION OF THE MINORITY LEADER

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

Mr. SCHUMER. Madam President, from start to finish, President Trump's nomination of Judge Brett Kavanaugh to the U.S. Supreme Court will go down as one of the saddest, most sordid in the long history of the Federal judiciary.

The well was poisoned from the outset when President Trump selected Judge Kavanaugh from a list of names preapproved by hard-right special interest groups for whom the national interest is a trifling concern compared to repealing Roe v. Wade, cutting people's healthcare, and achieving a partisan majority on the Supreme Court. The rot worsened when the Republican majority on the Judiciary Committee shielded the bulk of Judge Kavanaugh's records from the public, discarding decades of bipartisan precedent and thwarting norms of transparency and fairness. Finally, the dam broke under the weight of credible allegations that Judge Kavanaugh committed a sexual assault in high school.

In 2018, the Republican majority conducted a hearing that made the Anita Hill hearings in 1991 look fair by comparison. At this hearing, there were no corroborating witnesses on either side and no independent investigation of the facts to inform the questioning. They even hired an outside counsel to put a witness, Dr. Ford, on trial. Only at the eleventh-hour urging of breakaway Members of their caucus, Republicans submitted, reluctantly, to a 1-week investigation of the allegations—an investigation which was then severely circumscribed by the White House.

Our Republican friends blame us for this process. They are always finding a straw man. But nothing could be further from the truth. First, they blame us for delay, knowing full well that Majority Leader MCCONNELL has complete control of when nominees are brought to the floor. Leader MCCONNELL could have moved this nominee 2 weeks ago or 1 week ago. Democrats had no say—and don't—when it comes to what is scheduled for floor debate. But in each case, Leader MCCONNELL couldn't move the nominee forward because he was blocked by fellow Republicans—not Democrats—from moving forward. When it comes to complaining about delay, two words never come from our Republican friends' lips: ''Merrick Garland.''

Republicans are also saying that we engaged in ''a smear campaign'' or the ''politics of personal destruction'' with this nomination. In reality, again, they are using Democrats as a straw man, because what they are really talking about is what Dr. Ford said. Democrats did not induce her to come forward; her conscience did. Are our Republican friends accusing Dr. Ford and her deeply held memories of what happened to her of a smear campaign? Are they accusing Dr. Ford of a smear campaign, of engaging in the politics of personal destruction? Because that is who they are actually blaming. They are decrying her testimony and then trying to blame Democrats. I don't blame them—they have a flawed nominee. They don't want the focus on the nominee.

When future Americans look back at these proceedings, let them draw no lessons from the Senate's conduct here. Let them look back on this chapter as the shameful culmination of the scorched-earth politics practiced by the hard right in America—people who will stop at nothing to entrench an advantage on our Nation's courts. Let the confirmation process for Judge Kavanaugh be recorded as a sorry epilogue to the brazen theft of Justice Scalia's seat, the ignominious end of bipartisan cooperation and consultation on the confirmation of Supreme Court Justices. And for what? For whom were Senate Republican leaders willing to discard all semblance of fairness to confirm? Judge Brett Kavanaugh—certainly a product of an elite education but also someone with a hard-right, conservative jurisprudence, far, far away from what average Americans believe.

Why most Democrats opposed his nomination at the outset feels like ancient history now, but let's not forget that, most importantly, we strongly disagree with a number of Judge Kavanaugh's views. He is deeply skeptical of unenumerated rights, including a woman's right to make fundamentally private decisions about her medical care. He is deeply skeptical of the government's role in protecting Americans with preexisting conditions. He is deeply skeptical of nearly all rules and regulations that protect consumers, workers, and the environment.

The flashing red warning sign at the center of Judge Kavanaugh's jurisprudence is his views on Executive power and accountability. Somehow, this conservative judge and scholar of the Constitution sees at the heart of American democracy a President-cum-King; an Executive who is unaccountable to the laws he is sworn to uphold; a head-of-state who, while in office, should be beyond the reach of subpoenas, criminal investigations, or civil investigations.

This moment in American history demands deep skepticism about Judge Kavanaugh's views on Executive power, nominated as he was by an Executive who disdains the constraints of his office and who is, at this very moment, the apparent subject of investigations his Supreme Court nominee believes should be invalid.

I met with Judge Kavanaugh for almost 2 hours, and I asked him about all of those issues. His answers were constantly evasive and utterly unsatisfactory. It was deja vu all over again in the first round of hearings, when Judge Kavanaugh deliberately avoided talking about his views on Roe, healthcare, Presidential accountability, and more. There was no legal reason, rule, or logic that prevented him from being clear and saying what he thought. He was evasive because he knows that his views are deeply at odds with the progress America has made over the last half century of jurisprudence and at odds with what most Americans believe. His performance was not only unfair and frustrating to the Senate, it was unfair to the American people. When a nominee refuses to disclose their views, chances are you have a nominee whose views are far outside the mainstream of America, whether they be far right or far left.

My colleagues on the other side of the aisle may not have as grave a concern about these views as we do, but let no American be surprised if Judge Kavanaugh becomes a decisive vote to restrict the rights and privileges of the American people, while stretching the bounds of privilege for the current occupant of the White House.

Judge Kavanaugh's nomination ultimately does not only encompass questions of ideology or credentials but questions of character. Here again, Judge Kavanaugh falls woefully short of what Americans expect and deserve

in a Supreme Court Justice. He has repeatedly misled the Senate about his involvement in some of the most serious controversies of the Bush administration, including warrantless wiretapping of American citizens, our policy against torture, the theft of electronic records from Democratic Senators, and his involvement in the nomination of very controversial judges. Faced with credible allegations of various types of misconduct, Judge Kavanaugh's credibility was again tested, and he continued to dissemble and even prevaricate about easily refuted facts.

Beyond the issue of credibility, Judge Kavanaugh presented to the Senate the bitterest partisan testimony I have ever heard coming from a candidate seeking the Senate's approval, whether they be for the bench or the executive branch.

There are many who think that what happened when Judge Kavanaugh was 17 years old should not be dispositive. Even if you believe that, his actions at age 53 in terms of demeanor, partisanship, and, above all, credibility, should be dispositive. Judges at every level of the Federal bench should be held to the highest standard of ethics and moral character. Judges at every level should be judicious and credible and independent but especially—especially—on the Supreme Court.

I do not see how it is possible for my colleagues to say with perfect confidence that Judge Kavanaugh has the temperament, independence, and credibility to serve on the U.S. Supreme Court. So I ask my colleagues on the other side of the aisle: Why Judge Kavanaugh? There is no dictate that you have to march blindly forward with a nominee when there are others available to you. There are many judges whom I am sure conservatives would be happy to have on the Court. I would remind my colleagues, the seat that Brett Kavanaugh aspires to fill was held by a Justice who assumed the Bench after one nominee was voted down by the Senate and a second nominee withdrew his nomination. But the Republican majority has pressed forward blindly on Judge Kavanaugh, even when brave women came forward to speak truth to power. Why? For what cause? For the sake of winning? That is not reason enough.

My colleagues on the other side, if you have doubts about Judge Kavanaugh's credibility, about his ability to tell the truth, about his ability to be impartial and nonpartisan—no matter what you think of his jurisprudence or what he may or may not have done in high school and college—you should not vote to confirm him to the Supreme Court.

So my friends, Democratic and Republican, for all the controversy, all the heavyhandedness of the process, all the hyperbole and vilification of both sides, there is always hope that the Senate can save itself. We can salvage some decency here at the end.

If Judge Kavanaugh is rejected, President Trump will select another nominee—likely right-of-center, probably not to my liking but without the cloud that hangs over this nominee—and we can proceed to consider that nominee in a much less bitter, much better, less partisan way. A bipartisan majority of Senators, considering fully the weight of Judge Kavanaugh's testimony, record, credibility, trustworthiness, and temperament, considering fully the heartbreaking testimony of Dr. Christine Blasey Ford, can vote to reject Judge Kavanaugh's nomination and ask the President to send the Senate another name.

For the sake of the Senate, of the Supreme Court, and of America, I hope, I pray, my colleagues will do so.

I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. MCCONNELL. Madam President, it was 88 days ago that President Trump announced his nomination of Judge Brett Kavanaugh to fill the current vacancy on the Supreme Court.

Judge Kavanaugh is a nominee of the very highest caliber, a brilliant legal mind and an accomplished jurist with a proven devotion to the rule of law. Today, the Senate has the opportunity to advance his nomination. Every one of us will go on record with one of the most consequential votes you ever cast in the Senate.

The stakes are always high for a Supreme Court nomination, but, colleagues, the extraordinary events of recent weeks have raised them even higher this time. When we vote later this morning, we will not only be deciding whether to elevate a stunningly well-qualified judge to our highest Court. Not anymore. Not after all this. The Senate will also be making a statement.

We will either state that partisan politics can override the presumption of innocence, or we will reaffirm that in the United States of America, everyone is innocent until proven guilty.

We will either state that facts and evidence can simply be brushed aside when politically inconvenient and signal that media bullying and mob intimidation are valid tactics for shaping the Senate and that the mob can attack and the Senate will cave, or we will stand up and say that serious, thoughtful, fact-based deliberation will still define this body.

We will either give notice that totally uncorroborated allegations are now officially enough to destroy an American's life, or we will declare that our society cannot, must not, will not set the bar so low.

Today is a pivotal day in the nomination process of this excellent judge, but it is a pivotal day for us here in the Senate as well. The ideals of justice that have served our Nation so well for so long are on full display.

So let's step back and sample a few of the choice moments that the Senate and the American people have been treated to during the disgraceful—absolutely disgraceful—spectacle of the last 2 weeks.

The very night Judge Kavanaugh was announced as the President's choice, we heard the junior Senator from Oregon declare that this nominee would ''pave the path to tyranny.'' His audience? Crowds of far-left protesters, still filling in the blanks on their picket signs. They weren't quite sure who the nominee was going to be yet.

We heard the junior Senator from New Jersey describe Judge Kavanaugh's nomination as a great moral struggle in which there are just two camps: ''You're either complicit in the evil . . . or you are fighting against it.''

More recently, we heard the junior Senator from Hawaii argue that her personal disagreement with Judge Kavanaugh's judicial philosophy meant—now, listen to this—he deserved less of a presumption of innocence when it came to allegations of misconduct. If you agree with her, you are not entitled to the presumption of innocence when it comes to allegations of misconduct. That is from a member of the Judiciary Committee? That is the definition of ''due process''? Apparently, you get due process only if you agree with her.

Even more recently, we saw the junior Senator from Rhode Island hold forth with great confidence—great confidence—offering his expert interpretations of goofy jokes in a high school yearbook from the early 1980s. That was incredibly enlightening. Innocent jokes? Beer-drinking references? Oh, no. Our colleague was quite positive there must be some other hidden or sinister meanings at play—until, of course, a number of Judge Kavanaugh's classmates set him straight earlier this week.

So stop and consider these snapshots. The absurdity. The absurdity. The indignity. This is our approach to confirming a Supreme Court Justice? This is the Senate's contribution to public discourse?

Before the ink had dried on Justice Kennedy's retirement, our Democratic colleagues made it perfectly clear what this process would be about: delay, obstruct, and resist.

Before the ink had dried on Judge Kavanaugh's nomination, colleagues across the aisle—including Democratic members of the Judiciary Committee—were racing to announce they had made up their minds and were totally opposed to his confirmation.

Mere hours after Judge Kavanaugh was nominated, my friend the Democratic leader promised—''I will oppose him with everything I've got,'' he said hours after he was nominated. It was thus abundantly clear that his No. 1 political goal was to defeat the nomination by any means necessary.

It was right there from the beginning, a clear declaration, plain as day: Nothing—nothing—could get most

Democrats to consider this nominee with an open mind. It would be delaying tactics, obstruction, and the so-called resistance until the final vote was called.

For a few weeks, their efforts played out along the lines that have sadly become somewhat ordinary around here. There were excuses for delay. Those fell flat. There were gross distortions of Judge Kavanaugh's record that were batted down by outside fact-checkers. There were all the usual phony, apocalyptic pronouncements that are shouted whenever a Republican President dares to nominate a Supreme Court Justice. It happens every time. Hostile to women. Hostile to vulnerable people. Hostile to workers. The same old tricks. The same old playbook. But here was the problem: The old plays weren't working. The distortions were being literally drowned out by the facts.

Senators received and reviewed more pages of background materials on Judge Kavanaugh's nomination than for every previous Supreme Court nomination combined. We read Judge Kavanaugh's 12-year record of judicial rulings from our Nation's second highest court—300-plus opinions. We heard sworn testimony and written accounts from hundreds of character witnesses from all stages of Judge Kavanaugh's life and career. The picture painted by these facts was nothing like the caricature—nothing like the caricature.

So it was clear that the old tactics weren't working and weren't going to get the job done. The resistance demanded more. Try something new, they said. Well, we all know what happened next. Uncorroborated allegations of the most sensitive, most serious sort were quickly sharpened into political weapons.

One such allegation, shared by Dr. Ford in confidence with the Democrat side of the Judiciary Committee, somehow mysteriously found its way into the press. Chairman GRASSLEY immediately set out on a sober, focused search for the truth. The committee collected testimony, organized a new hearing, and most recently asked for a supplemental FBI background investigation, Judge Kavanaugh's seventh—seventh—FBI investigation.

By any fair standard, the facts—the actual facts—proved to be straightforward: no corroborating evidence. None—none—was produced to support any of the allegations leveled against Judge Kavanaugh. There was no corroborating evidence from the FBI inquiry or from anywhere else. Nothing.

Well, that wasn't enough for our Democratic colleagues, of course. The facts were not exactly the point. After all, we sort of get it by now. When the very FBI investigation for which they had been clamoring turned up no new evidence, the Democrats moved the goalposts yet again.

I believe the latest story is that the whole investigation is invalid—listen to this—because individuals who had only recently been told secondhand or thirdhand about nearly 40-year-old allegations weren't treated as essential witnesses.

Let me say that again. The latest story is that the whole investigation is invalid because individuals who had only recently been told secondhand or thirdhand about nearly 40-year-old allegations weren't treated as essential witnesses—never mind that they didn't actually witness anything. They didn't witness anything.

So let's be clear. These are not witnesses. These are people supposedly in possession of hearsay that they first heard 35 years after the supposed fact. What nonsense.

The people whom Dr. Ford claimed were witnesses have spoken with the FBI. We know that because they, through their attorneys, put out public statements saying so. What we know now is what we knew at this time a week ago: There is absolutely no corroborating evidence for these allegations—the same thing we heard a week ago. If there were, you bet we would have heard about it, but there isn't.

Notwithstanding that, the leak of Dr. Ford's letter—in violation of her privacy and against her wishes—opened the floodgates. The feeding frenzy was full-on. The weaponization of her letter by the left led to a torrent of other, equally uncorroborated allegations. They were dumped on Judge Kavanaugh and his family, and, breathlessly, the media seized on them—the more outlandish, the better.

Americans were informed that Judge Kavanaugh masterminded violent drug gangs as a young teenager, until that accuser walked her story back. We were informed that Judge Kavanaugh beat someone up on a boat in a Rhode Island harbor, until that accuser totally recanted. We heard another tall tale of physical assault, until that account was thoroughly debunked by a sitting Federal judge. Oh, and, yes, we were informed that juvenile jokes in his high school yearbook were actually sinister secret references.

Oh, the Keystone Kops were on the case, and Senate Democrats cheered them on. They read parts of this uncorroborated, unbelievable mudslide into the Senate RECORD. They cited them in an unofficial letter, demanding that Judge Kavanaugh's nomination be withdrawn.

Were they true? That was quite beside the point, so long as they were convenient. Every effort was made to ensure the fact-free verdict of the mob and the media would win out over the actual evidence; make sure the mob prevails. The uncorroborated mud and the partisan noise and the physical intimidation of Members in the Senate will not have the final say around here. The Senate will have the final say.

We are almost at the end of the runway. The crosswinds of anger and fear and partisanship have blown strong these past weeks. They have harmed a good man and his family. They have tarnished the dignity of this institution, but all of it can end today. The time has come to vote. The Senate stands on the threshold of a golden opportunity.

We have the opportunity to advance the nomination of an incredibly well-qualified and well-respected jurist to a post that demands such excellence. We have the opportunity to put Judge Brett Kavanaugh on the Supreme Court, where his distinguished service will make us and our Nation proud for years to come. We have the opportunity to do even more.

Today, we can send a message to the American people that some core principles remain unfettered by the partisan passions of this moment. Facts matter. Fairness matters. The presumption of innocence is sacrosanct. The Senate has turned its back on these things before but never for long and never without deep regret.

This institution does not look back proudly on the era of Joseph McCarthy nor on any of the other times when the politics of personal destruction poisoned its judgment. No, the Senate looks back on those things with shame and with the conviction that we cannot go down that road again. We know the Senate is better than this. We know the Nation deserves better than this.

By confirming Judge Brett Kavanaugh on the Supreme Court, this brilliant jurist will be charged with upholding the rule of law and honoring American justice. We must hold ourselves to that very same standard. We must seize the golden opportunity before us today, to confirm a Supreme Court Justice who will make us proud, and to reaffirm our own commitment to the justice that every single American deserves.

The ACTING PRESIDENT pro tempore. As a reminder to our guests in the Galleries, expressions of approval or disapproval are not permitted in the Senate Galleries.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Brett M. Kavanaugh, of Maryland, to be an Associate Justice of the Supreme Court of the United States.

Mitch McConnell, Orrin G. Hatch, Thom Tillis, Roger F. Wicker, Tim Scott, Deb Fischer, Roy Blunt, Cindy Hyde-Smith, John Cornyn, Johnny Isakson, Lamar Alexander, John Boozman, Joni Ernst, Mike Crapo, John Thune, John Barrasso, Pat Roberts.

Mr. MCCONNELL. I ask unanimous consent that the mandatory quorum call be waived.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

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

The question is, Is it the sense of the Senate that debate on the nomination of Brett M. Kavanaugh, of Maryland, to be an Associate Justice of the Supreme Court of the United States shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 51, nays 49, as follows:

[Rollcall Vote No. 222 Ex.]

YEAS—51

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

NAYS—49

Baldwin	Hassan	Peters
Bennet	Heinrich	Reed
Blumenthal	Heitkamp	Sanders
Booker	Hirono	Schatz
Brown	Jones	Schumer
Cantwell	Kaine	Shaheen
Cardin	King	Smith
Carper	Klobuchar	Stabenow
Casey	Leahy	Tester
Coons	Markey	Udall
Cortez Masto	McCaskill	Van Hollen
Donnelly	Menendez	Warner
Duckworth	Merkley	Warren
Durbin	Murkowski	Whitehouse
Feinstein	Murphy	Wyden
Gillibrand	Murray	
Harris	Nelson	

(Disturbance in the Visitors' Galleries.)

The ACTING PRESIDENT pro tempore. As a reminder to our guests in the Galleries, expressions of approval or disapproval are not permitted in the Senate Galleries.

On this vote, the yeas are 51, the nays are 49.

The motion is agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Madam President, as the world knows now, we just held a successful cloture vote on the nomination of Brett Kavanaugh to become the next Associate Justice on the U.S. Supreme Court.

I am glad we were successful in closing off debate. We now know that under the Senate rules, 30 hours are available for Senators to debate, and I am sure there will be many Senators who will be coming to the floor and offering their thoughts.

To my mind, what the Senate just voted for was to end the games, the character assassination, and the intimidation tactics that unfortunately have characterized so much of this confirmation process. Our vote today was important, not only because it will allow us to move forward and conclude this confirmation process, but it was important because it showed the Senate will not be intimidated. We will not be bullied by the streams of paid protesters and name-calling by the mob. We will not be complicit in the attempts to tarnish a good man's character, destroy his career, and further delay this confirmation process—a constitutional process of advice and consent.

What has been particularly galling on the part of some of our colleagues over the last 24 hours is the fact that the FBI investigation they called for, they are virtually ignoring or, in some cases, disparaging. They called for that supplemental background investigation just last Friday. Let's all remember what our friend the senior Senator from Minnesota said last weekend. He said: Let's give this 1 week. Well, that is what we gave them. The junior Senator from Delaware asked for the same period of time at the hearing—a 1-week-long FBI investigation.

Our colleagues got what they asked for, and unfortunately, since they had already decided to vote against the nomination, they must have been somewhat disappointed that the supplemental background investigation came up with no new information, no corroboration at all.

I actually think, in some ways, our colleagues who called for a 1-week delay have done us a favor because every lead that could be followed has been followed and exhausted. As the majority leader was saying earlier, in America, under our constitutional system, where we don't presume you are guilty and require you to prove your innocence and where we believe in due process of law, I think the FBI investigation was a useful way to demonstrate to the American people that none of these allegations that had been made against Judge Kavanaugh of sexual misconduct has been proven.

It also, I think, gives us a chance to pivot from what has been a shameful and disgraceful confirmation process. If this is the new norm for the Senate—that somebody could be denied a confirmation based on an unproven allegation—I can't imagine people would be willing to subject themselves to that in the future. It would be a dark day for the Senate, for the United States, and for our system of justice that believes in a fair process and a constitutional presumption of innocence. When an allegation is made, the person making that allegation actually has to come forward with some evidence.

A number of Senators—actually, it was a bipartisan consensus—wanted the FBI to conduct a limited investigation into current, credible allegations that were pending. They wanted the FBI to interview individuals like Mark Judge, who had already offered a sworn statement under penalty of felony, and others who may have had information who were identified by Dr. Ford as being present on the day this alleged activity took place. There was no confirmation. There was no corroboration.

In fact, there was a refutation. The people she said were there and could be witnesses to what happened said: I have no knowledge of that.

Dr. Ford's best friend, Leland Kaiser, said: I don't even know Brett Kavanaugh. I never met him.

Well, we have all had an opportunity to read the confidential report. We have seen who was interviewed, what they were asked. Any doubts people may have had should now have been put to rest by what the contents reveal. These fantasies about Judge Kavanaugh being some sort of serial high school or college predator have been exposed as only that—myths not based on fact. There is no reliable evidence, whatsoever, to support any of these baseless allegations against Judge Kavanaugh.

As we know, this wasn't exactly designed to be a truth-finding process. This wasn't a search for the truth. Our colleagues across the aisle already made up their mind a long time ago, some even before Judge Kavanaugh had been nominated. This was more of, as the majority leader said earlier today, not a search for the truth but a search-and-destroy mission.

Obviously, as they continue to move the goalposts, calling for more delays, more investigations, there have been seven background investigations by the FBI of Judge Kavanaugh during his public service. The FBI talked to more than 150 witnesses. Don't you think, if there were anything to these outrageous allegations, some of that would have come up at some point in the seven FBI background investigations that have been conducted?

But our colleagues across the aisle continue to resist, putting a definitive end to this process and unfortunately caring little, if any, about the reputation of somebody who has demonstrated his outstanding qualifications and his commitment to public service. I think some of these attacks have become exhausting, politically exhausting, quite frankly.

Our colleagues don't realize what they have unleashed when Senators get coat hangers mailed to their home, paid protesters show up on their doorstep or at their office or they are accosted in the Halls of the U.S. Congress. These paid protesters reportedly, once they get arrested, actually make more money from their funders than they do if they don't get arrested. That is what has been unleashed.

Chairman GRASSLEY called it mob rule, and that is exactly right—where the Judiciary Committee, during the first confirmation hearing for Judge Kavanaugh, Senators said: I am breaking the rules. I am releasing committee confidential information. I know the rules prohibit me from doing that—and they don't care.

If there are no rules and there are no norms and if we don't have enough respect for this institution and the people whose lives we touch, this is what gets unleashed.

I feel bad for Dr. Ford, in particular. She wanted none of this three-ring circus. She sent a letter to the ranking member and asked that her identity remain confidential, only to find, after the first confirmation hearing, that it was leaked to the press. Then the press came to talk to her, and I guess she figured she had no other recourse but to actually tell her story to the press once her wishes were violated. She didn't consent to that. She didn't authorize the release of that confidential letter to the press, but that is what happened.

When we gave her an opportunity to have a bipartisan, professional investigation, to have staff go out to California and interview her confidentially, she said: Nobody explained to me that was an option. Well, the lawyers that the ranking member referred her to apparently didn't even tell their own client she had the opportunity to avoid this three-ring circus and the embarrassment associated with it by doing something confidentially.

That is how the Judiciary Committee ordinarily operates when allegations are made. They are investigated by committee staff or by the FBI—actually by both—but that didn't happen here until after this mob rule unleashed what we have seen here in the last few weeks.

We know, when Dr. Ford sent her letter to the ranking member, it wasn't shared with the FBI initially. It wasn't shared with Judiciary Committee investigators. It wasn't shared with the committee itself in a closed-door session, which followed the open session, where Judge Kavanaugh was asked about other personal matters that came up during the course of the background investigation. The ranking member didn't even attend that closed-door session, nor did anybody mention it to the judge when he went to talk to some 60-plus Members of the Senate one-on-one.

The ranking member, when she had that one-on-one meeting with Judge Kavanaugh, said nothing to him about the allegations. She could have asked him about the allegations, generally, without revealing the identity of Dr. Ford. We know at that point, she had already talked to Dr. Ford and recommended partisan lawyers. We know those lawyers arranged for a polygraph examination to be administered. Other preparations were being made, plans were being hatched. Our colleague from California said nothing.

I really think that Dr. Ford has been treated terribly by this ambush, by this hiding of evidence and allegations that could have been investigated and should have been investigated in a more dignified and appropriate sort of way.

Once Dr. Ford was identified, in consultation with colleagues—both Republicans and Democrats—we decided Dr. Ford should be given an opportunity to tell her side of the story. Unfortunately, we were not able to mitigate or reverse a lot of the awful circumstances under which she had found herself because of what had already been unleashed, but we did our best. We tried to do whatever we could to accommodate her. As I said, investigators offered to go to California. We brought in an experienced sexual crimes investigating attorney to ask questions in a respectful sort of way in order to illicit as much information as we possibly could get about her claim even though it was 35 years old.

Throughout the hearing, we listened to Dr. Ford, and we tried to understand what she was telling us. We took her allegations seriously and treated her in the same way we would have wanted our wives or our daughters to have been treated if they had found themselves in similar circumstances. Yet we knew, at the end of the day, there was no other witness to corroborate or to confirm what she had said, even by the ones she had identified as having been present.

This is not about believing women or believing men. It is not a zero-sum game. As the junior Senator from Nebraska said the other day, it is not about being for the #MeToo movement or against it. Who could be against it?

I hope there is some good that comes out of this disgraceful display. One of the things that might be good would be that more women would feel confident in coming forward and telling their stories to the appropriate authorities and producing the sort of information that would be necessary to make a criminal case—to investigate the case, to charge the case, to try the case, and to convict the people who commit sexual offenses. I hope there is some good that comes out of this. There is also, maybe, some legislation that we could work on together to try to heal the wounds that have been caused by this abominable process.

I have worked a lot with colleagues here to pass anti-human trafficking legislation, to end the rape kit backlog, and on other things to try to help victims. I think, maybe—just maybe—in putting our heads together, in talking with each other, and in working in good faith, we could come up with some legislative response that might find some good from this terrible situation.

The other thing about these allegations that have been made against Judge Kavanaugh is that they are completely out of character. We know he has been a circuit court judge for 12 years, authored more than 300 opinions, clerked for Anthony Kennedy on the Supreme Court, worked at the White House as a lawyer and as Staff Secretary for the President, taught at Harvard, and had been hired by now Justice Elena Kagan to teach at Harvard, as well as having taught at Georgetown and Yale.

By all accounts—every account of anyone with personal knowledge of Judge Kavanaugh's character and treatment of women—he has treated women with respect. And it is not just conservatives who sing his praises. A liberal law school professor at Yale called Judge Kavanaugh's selection the President's finest hour, his classiest move. The same professor complimented Judge Kavanaugh's studiousness and said he has already shown flashes of greatness. Lisa Blatt, a self-described liberal feminist lawyer who has argued numerous cases before the U.S. Supreme Court, has said Judge Kavanaugh is supremely qualified. That echoes what the American Bar Association has said—the gold standard for some of our colleagues when it comes to judicial nominees. The American Bar Association has said that Judge Kavanaugh is unanimously well qualified. That goes for his temperament as well. So I believe this nominee is about as good as it gets.

On July 10, the day after Judge Kavanaugh was nominated, I said that my Republican colleagues and I would not back down from this all-out assault on this nominee, but never in my wildest dreams could I have imagined that this fight would devolve into the mob rule that we have seen—of Senators and staffs taunted, threatened, and of millions of dollars spent in advertising and in paying protesters to show up on Senators' front lawns, to harass them at restaurants, and to attack them in the halls of Congress. I never imagined that this would get this bad, when Senators would say ''I am breaking the rules'' and would dare anybody to do anything about it. This has turned into the kind of nasty and venomous politics that I had hoped never to experience.

This also has demonstrated the dark underbelly of Washington, DC, where power is so important to some people that they will do anything to get it. They will destroy you. They will tarnish your good name. They will condone threats on family members, including on children. They will harass you. This has really been disgusting.

I am an optimist, so I don't believe this is our fate. I don't believe we are condemned to work in a Senate and live in a country where this kind of activity is condoned or ignored. Actually, I think, by defeating Judge Kavanaugh's nomination, we would be signaling that this is somehow the new normal. We would be setting the precedent of, yes, that kind of thing works, so let's try it again. I am not saying it is just one party or the other.

The day after Judge Kavanaugh was nominated, I also said we would defend the record of Judge Kavanaugh, who is a thoughtful public servant, against deliberate attempts to denigrate him. I stand by that statement, and we have defended him. Yet we have not just defended him but have defended the Constitution, fundamental notions of fairness and fair play that are reflected in

our commitment to the due process of law, and the rights of somebody who has been accused of a crime, which Judge Kavanaugh has been accused of on multiple occasions.

Even as the mud has been slung on all of us, even as insults have been hurled against this nominee and as his family has faced ridicule over atrocious exploits that never even happened, at least, I think, we can be proud of the fact we have tried to defend the Constitution, this institution of the Senate, and have pushed back with everything we have had against mob rule.

Unfortunately, those who wanted to take down this nominee viewed Judge Kavanaugh as a sacrificial lamb in some sort of vengeance campaign. Thankfully, they have now failed to stop his nomination from going forward.

This nomination is no longer simply about Judge Kavanaugh and the current vacancy on the Supreme Court; it is also about the principles we must stand up for and defend. It is about validating public service and decades of honorable conduct. It is not about forgetting all that a man has done, all that he is, and all that he has worked for at the drop of a hat based on unsubstantiated, uncorroborated allegations. It is about standing firm in the turbulent political winds. If I think about any institution in this country, I think about the Senate and how it ought to be the place in which standing firm against the turbulent political winds occurs.

We all had a chance to read the FBI report, which failed to corroborate Dr. Ford's allegations. Then we did exactly what we needed to do today, which was to vote—to stop the circus, to stop the high jinks, to stop the character assassination, and vote. I am glad our colleagues decided to close off debate now as this 30-hour postcloture period ensues. I look forward to concluding the confirmation process and confirming Judge Kavanaugh to be the next Associate Justice on the U.S. Supreme Court.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Madam President, I would like to respond to my colleague from Texas with regard to at least one or two aspects of what he said.

He has characterized the opposition to Judge Kavanaugh as ''mob rule.'' I don't think that is a fair characterization. The opposition to Judge Kavanaugh is on many different levels. My colleagues on both sides of the aisle have looked at this nomination seriously, and they have come to opposite positions. I don't believe we are influenced, frightened, or in any way moved by mob rule. I just don't get it.

Have I seen conduct that I think is untoward and really should not be condoned by people who feel strongly about this issue? Of course. Do I believe that people should have their freedom of speech limited or stifled? No, I don't. Even if it is something I don't want to hear, people have a right to speak. Of course, I will never condone violence or any physical activities against anyone, including Members of Congress. Some people have either come close to that line or have stepped over it, but I don't condone that in any way, shape or form.

If we are truly committed to the Constitution that we have sworn to uphold and defend, the First Amendment creates opportunities for American citizens that others around the world long for and never see once in their lives. Part of that is freedom of speech. Part of that is the right to petition your government. So if some have stepped over the line, I will not defend them when it comes to violent conduct, but in expressing their points of view with a sign or a march or even a chant, I have to say that it is part of our constitutional birthright, thank goodness, in the United States of America.

Last week, I saw Dr. Christine Blasey Ford for the first time. I had heard her name for a week or more. I had seen one photo of her in sunglasses, but I had never seen her or heard her speak. She came forward at great risk to herself and to her family after having been dislocated, with her kids, from two different homes. She came here to face the Senate Judiciary Committee and the Nation and to speak under oath. She had absolutely nothing to gain by coming forward. She did it, as she said, out of a sense of civic duty. She wanted to, in her own words, be helpful so that the Senate and leaders of this Nation would know what had happened to her before there would be any vote on the confirmation of Brett Kavanaugh to the Supreme Court. Her testimony was credible and powerful. She answered every question and tried to be helpful whenever she could.

I was struck by the statement from the Senator from Texas. He said that in some way, we want to make sure that our wives and daughters are treated fairly if they come forward with this kind of information. I couldn't agree with him more, but we all know what happened after her testimony. Even President Trump, before a Mississippi rally, ridiculed and belittled Dr. Ford. After once calling her a credible witness, she became the butt of his joke at a rally in Mississippi. That is unfortunate.

When Dr. Ford came before us, she had nothing to hide. The Republicans on the committee were so concerned about her testimony and their relationship in the questioning of her that they were unwilling to risk direct questioning as she sat in front of them. They pointedly enlisted a woman prosecutor to do their job. The prosecutor's examination was meandering and without any clear focus other than as an attempt to try to discredit Dr. Ford. That Republican prosecutor failed as Dr. Ford calmly replied to all of her questions.

It was clear, however, that despite this testimony, even despite this hearing, many Republicans had made up their minds, as the majority leader had characterized it, to plow right through regardless of Dr. Ford's testimony. We hear so many tributes to Dr. Ford from the Republican side out of one side of their mouth, and then they turn around and say that it is a smear. A smear is a lie.

I don't believe she was lying. They can't praise her on one hand and call her testimony a smear on the other. The majority leader did that for 3 successive days on the floor of the U.S. Senate.

They even went so far as to schedule a committee vote before that hearing with Dr. Ford and Judge Kavanaugh had started.

Then, last Friday, two of our colleagues, Republican Senator JEFF FLAKE and Democratic Senator CHRIS COONS, came together and joined Dr. Ford's call for a nonpartisan and thorough FBI investigation into the pending allegations against Judge Kavanaugh. That should have happened long before. Make no mistake. There would not have been a hearing with Dr. Ford were it not for Senator FLAKE, a Republican Senator, demanding it, and there would not have been an FBI investigation if he hadn't demanded it as well. I thank him for his leadership in doing that. Those were two reasonable requests, and I am glad that he was in a position to make it happen when Democrats could not. It was the right request.

Of course it would have been helpful for Senators exercising the advice and consent role if neutral investigators at the FBI were allowed to question all of the relevant witnesses, follow the facts wherever they may have led, and get to the bottom of the allegations brought by Dr. Ford, Deborah Ramirez, and Julie Swetnick. Unfortunately, the White House and Senate Republicans were determined not to let such an FBI investigation go forward.

A Whitehouse spokesman, Raj Shah, has now publicly acknowledged that Senate Republicans were allowed to severely constrain the scope of the FBI investigation. He said it. He said it publicly. He said it before the cameras.

Senate Republicans allowed only a handful of witnesses to be interviewed by the FBI. Deputy Press Secretary Raj Shah said: ''There was an initial list of four''—four—''provided to us by the Senate.'' There were reportedly almost 40 corroborating or character witnesses who have been trying to share information with the FBI. The FBI has refused to contact them, even though their names had been provided.

Dr. Ford's and Deborah Ramirez's attorneys both sent letters yesterday with lists of corroborating witnesses who were not interviewed by the FBI. There is no good explanation as to why these witnesses weren't interviewed by the FBI, nor can I explain why Dr. Ford and Judge Kavanaugh themselves weren't interviewed. Those are basic steps for a legitimate and credible investigation.

Some of my Republican colleagues have claimed that the FBI's supplemental investigation provides no corroboration of Dr. Ford's or Ms. Ramirez's complaints, but, of course, you will not find corroboration if the investigation systematically excludes corroborating witnesses.

Unfortunately, the effort by the White House and Senate Republicans to tie the FBI's hands in the Kavanaugh investigation is part of a pattern of concealment when it comes to the background of Brett Kavanaugh.

The Senator from Texas says: I hope this isn't a new standard for hearings on Supreme Court nominations. I hope it isn't either. There are some things we have done in this particular nomination hearing that were unheard of.

Millions of pages of Judge Kavanaugh's public service record have been blocked from release to the public and even to the Senate. There was a time when Senator Jeff Sessions—now Attorney General—demanded documentation on Democratic nominees, and at that time the Democratic chairman agreed with him. We provided all of the information requested, as we should have. In this case, with Republicans controlling the committee, we were limited.

We have been denied access to an entire 35-month period in Judge Kavanaugh's White House career when he worked as one of the President's closest advisers as the White House Staff Secretary. During that time, he worked on controversial issues, such as same-sex marriage, abortion, torture, and Executive power.

It is likely that there are documents in Kavanaugh's Staff Secretary record that would impact how Senators would vote on his nomination, and that is why they were hidden.

There was also an unprecedented partisan effort to screen and limit the documents that the committee itself could see. I listened as the Senator from Texas said: Dr. Ford had a partisan lawyer. Well, guess who screened the documents that were going to go from the official archives to our Judiciary Committee to review for the nomination of Brett Kavanaugh. The man's name is Bill Burck. He is Kavanaugh's former deputy. By every measure, Bill Burck is a partisan lawyer. I guess it is no surprise. What I was surprised was to find that an individual lawyer would have such power over a constitutional provision of advice and consent.

Overall, when all is said and done, after the denials from the White House of certain records, after the claims of Executive privilege, after Bill Burck went through and screened what he considered to be appropriate and inappropriate documents for the American people to see, less than 10 percent of Judge Kavanaugh's White House record has been disclosed.

Those documents are going to come out some day, and those who are quickly voting for him now without reading them run the risk that they are making a mistake, which they are going to have to explain at a later time.

Just yesterday we learned from a FOIA lawsuit that the National Archives has hundreds of documents concerning Brett Kavanaugh's work in the White House on warrantless surveillance programs. We will not see those documents before tomorrow's vote. The White House apparently fears their contents and prefers to plow through.

Why has so much of Judge Kavanaugh's record been concealed? Most likely because these documents contradict what he said. We have seen a pattern with Judge Kavanaugh from his Senate testimony in 2004, 2006, and again last month. When he is asked about controversial issues that he has been involved with in the past, he tries to deny or downplay them. He has done this repeatedly when testifying about matters he worked on at the White House, including the rules governing detention of combatants; warrantless surveillance; controversial judicial nominations, such as Pryor, Pickering, and Haynes; communicating with the press during the Starr investigation; and his work with Manny Miranda, a Republican Senate staffer who stole documents from Democratic Senators' computers, including my own, and shared them with Brett Kavanaugh when he was working at the White House.

On each issue, we have seen documents and reports showing that Judge Kavanaugh had far more involvement than his testimony let on. On issue after issue, Judge Kavanaugh's sworn testimony was either misleading or false.

This is a judge who claims that words matter. He says that he is a strict textualist who holds other people accountable for their words, but when it comes to his own words, he is happy to take liberties and refuses to take responsibility. We have been forewarned of what we can expect if he is given a lifetime appointment on the Court.

We saw this pattern again last week when he was asked about his high school yearbook and excessive drinking. They were legitimate questions that were relevant to the sexual assault allegations at hand. Many of Kavanaugh's answers to these questions simply weren't credible. His explanation of things he wrote in the yearbook didn't pass the laugh test. Multiple people who knew him and socialized with him quickly and publicly rebutted his denial that he ever drank, in their words, ''to the point that it would be impossible for him to state with any degree of certainty that he remembered everything that he did.''

I was particularly struck when Senator AMY KLOBUCHAR of Minnesota explained that she understands alcohol abuse because her father was an alcoholic and then asked Judge Kavanaugh if he had ever blacked out. Instead of responding, Kavanaugh said: ''Have you?'' Conservative columnist Jennifer Rubin has written: ''It was a moment of singular cruelty and disrespect.''

It has been hard to take Judge Kavanaugh's testimony at his word on matters both large and small. That matters a lot when we are talking about a nominee's judgment, temperament, and integrity.

Judge Kavanaugh's judicial record and his academic writings raise even more concerns. Not only did he check the box on President Trump's litmus test of opposition to the Affordable Care Act and Roe v. Wade, his judicial opinions consistently find ways to favor big business and undermine protection for workers, consumers, women, and the environment.

He claims to be a textualist, but he has a habit of creatively defining words. In the Agriprocessors case, which I asked him about directly in the hearing, his dissent abandoned the text of the controlling statute. Instead, he borrowed a definition from another statute in order to argue against the right of slaughterhouse workers to vote to form a union. When I asked Judge Kavanaugh whether he ever worked in a job himself that was dirty and dangerous, as dangerous as a slaughterhouse, he told me he used to cut grass and worked one summer in construction.

Look at his dissents in the White Stallion and Mingo Logan cases, where the judge gave his own definitions to key terms in the Clean Air and Clean Water Acts—so much for stare decisis.

Judge Kavanaugh claims he follows precedent, but as we have seen in case after case, he goes his own way.

Look at his interpretation in the Supreme Court's 2008 Heller decision. Judge Kavanaugh believes the Supreme Court created a history and tradition test for considering challenges to gun safety laws. This test would have courts ignore the public safety impact of gun laws. Judge Kavanaugh admitted that he is ''a lonely voice in reading Heller that way.''

His approach would put at risk many commonsense laws, such as keeping guns out of the hands of domestic abusers. Judge Kavanaugh is not a lonely voice on gun safety; he is an extreme and frightening voice on gun safety.

After he wrote a dissent laying out his interpretation of the Heller precedent, a majority panel of DC Circuit judges—all of them Republican appointees—said this of his interpretation: ''Unlike our dissenting colleague, we read Heller straightforwardly.''

Judge Kavanaugh's reading of Heller may be music to the ears of the gun lobby, but it is manipulating precedent, nothing else.

Judge Kavanaugh's claim that he follows precedent is also contradicted by his view of the Supreme Court decision Morrison v. Olson. Rather than admit the majority's decision in the case still holds, Judge Kavanaugh clings to Justice Scalia's dissent, which lays out the so-called ''unitary executive theory'' of Presidential power.

Judge Kavanaugh has been explicit that he would overturn Morrison. Let's

be clear. While Judge Kavanaugh may claim that he will scrupulously follow precedent, he has shown he is willing to overturn it when it suits him. I have cited just a few examples.

Also particularly troubling is this judge's view of Presidential power. Judge Kavanaugh wrote a striking passage in the Seven-Sky decision, dissenting from the majority's upholding of the Affordable Care Act. He wrote: ''Under the Constitution, the President may decline to enforce a statute that regulates private individuals when the President deems the statute unconstitutional, even if a court has held or would hold the statute constitutional.''

This is a truly breathtaking claim of Presidential power, a claim particularly problematic at this moment in history.

Then there is Judge Kavanaugh's evolving view on investigations of sitting Presidents. When he was working for Ken Starr and investigating President Clinton, he was pretty ferocious. But in 2008, he gave a speech and wrote a law review article arguing that sitting Presidents should be immunized from criminal investigations and civil suit. This was after Judge Kavanaugh spent a period of time working in the Bush White House.

He claims that he has an open mind on the constitutionality of criminal investigations of sitting Presidents, but consider what he wrote in that law review article in the Minnesota Law Review:

> If the President does something dastardly, the impeachment process is available. No single prosecutor, judge, or jury should be able to accomplish what the Constitution assigns to Congress.

These are not the words of a judge with an open mind.

It was a telling moment when Judge Kavanaugh at his hearing would not answer whether he believed a President should comply with a grand jury subpoena.

Here is the reality: We have to consider why this President chose this Supreme Court nominee at this moment in history when the Mueller investigation is closing in.

Just a few weeks ago, Judge Kavanaugh himself said: ''The Supreme Court must never be viewed as a partisan institution.'' But the testimony and demeanor of Judge Kavanaugh last Thursday belies any claim he makes of nonpartisanship.

I can understand emotion and indignation from Judge Kavanaugh when one considers the gravity of the charges against him and the pain he and his family must feel, but there was fire in his eyes when he read the words he assured us he had personally written.

Benjamin Wittes has been a colleague of Brett Kavanaugh. He has published his writings, and he even lent his name as a character reference for the judge. He called Judge Kavanaugh's performance before the Senate Judiciary Committee ''a howl of rage.'' Wittes went on to describe Kavanaugh's partisanship as ''raw, undisguised, naked and conspiratorial.''

Charlie Sykes, a conservative commentator, said of Kavanaugh's statement before the committee last Thursday: ''Even if you support Brett Kavanaugh . . . that was breathtaking as an abandonment of any pretense of having a judicial temperament.''

Judge Kavanaugh abandoned any veneer of neutrality last week before our committee.

Out of one side of his mouth, he claimed that he bore ''no ill will'' toward Dr. Ford. Then he called her allegations ''a calculated and orchestrated political hit,'' citing ''apparent pent-up anger about President Trump and the 2016 election and revenge on behalf of the Clintons.'' He even threatened Democrats when he said: ''What goes around comes around.''

In my 20 years on the Judiciary Committee, I have never heard anything like that—or even close to that—from a judicial nominee. It is hard to imagine how a nominee who has displayed such raw partisanship could then claim to serve as a neutral umpire on the Supreme Court. Judge Kavanaugh, through his testimony, has called his own impartiality into serious doubt.

Retired Supreme Court Justice John Paul Stevens, a man who is respected for his integrity and service to this Nation, said this week that the performance by Judge Kavanaugh shows he should not serve on the Supreme Court. I agree. At a time when our President plumbs the depths of bad behavior on a daily basis, we should not allow the highest Court in our land to now sink to that same standard in their ranks.

From a broader perspective, let's be clear what is at stake in this decision. We are at a moment in American history where our system of checks and balances is being profoundly tested. We have a President who has shown disrespect for the rule of law and the role of an independent judiciary. It is likely the Supreme Court will soon consider fundamental questions about Presidential authority and accountability. With so much at stake, we should not confirm a nominee to the Court unless we are sure of that nominee's credibility, integrity, independence, and judgment.

Serious questions have been raised about Brett Kavanaugh. Dr. Ford's testimony was serious and credible. When I asked her directly what degree of certainty do you have that Brett Kavanaugh was your attacker, Dr. Ford answered, without hesitation: ''100 percent.''

I believe her.

Judge Kavanaugh's testimony was simply not credible. From his contrived explanations of his embarrassing yearbook entries, to his ''I love beer'' declarations, he was a sharp contrast to Dr. Ford's measured accounting of a horrible day in her life she cannot forget.

I had hoped the FBI would be able to provide us with information to resolve unanswered questions, but they can't do their job if their hands are tied. When the Republicans in the committee and the White House decided to limit the number of witnesses, unfortunately, the investigation could not be completed to meet professional standards.

I will say this to my colleagues. We have to think about what it would mean if Judge Kavanaugh were to be confirmed to the Supreme Court with credible sexual assault allegations against him. Specifically, what it would mean to the millions of women across America who are survivors of sexual assault—women who have been scared to come forward with their stories for fear of being mocked, ridiculed, and shunned. What would it mean for them to see Brett Kavanaugh sitting on that bench in that Court across the street, day after day, for decades, casting what may be the deciding vote on cases that profoundly affect their rights. It would shake the confidence of millions of Americans in the integrity of our Supreme Court. We should not take that risk.

There are other qualified lawyers besides Brett Kavanaugh who could be nominated for this vacant seat—nominees whose legal views I may not agree with but who do not have serious questions about their fitness for office. If there are serious questions about a nominee's temperament, credibility, or judgment—as there clearly are for Judge Brett Kavanaugh—we owe a duty of caution. We should give the benefit of the doubt to protect the integrity of the Supreme Court.

With so much at stake, we should not confirm a nominee to the Court unless we are sure the nominee's qualifications are beyond question. I do not have that confidence in Brett Kavanaugh. I will vote no on his nomination.

The PRESIDING OFFICER (Mr. KENNEDY). The Senator from North Carolina.

Mr. TILLIS. Mr. President, I would like to summarize. The Presiding Officer and I have had a front row seat in this process. We both serve on the Judiciary Committee.

I think oftentimes people come to the floor, and they want to just give the American public a little slice of what is going on that benefits their narrative rather than stepping back and thinking about what has happened since early July when Judge Kavanaugh was nominated to be on the Supreme Court. That happened on July 9.

Before July 9, there were many people on the other side of the aisle who had already announced their opposition not to Judge Kavanaugh but to anyone whom President Trump would nominate. We know who they are. They are very well publicized. I understand that. As a Member of the Democratic conference, I wouldn't deny them their

right to do that. They oppose the President and anything he stands for.

Then, on July 10, there was a press conference, now that we knew who the nominee was, and a majority of the Democratic Members also said they opposed him. As a matter of fact, the minority leader said he would fight the nomination with everything he has, and he has, but there are some pieces to the mechanics that I think are important for people to understand.

Briefly, after Judge Kavanaugh was nominated, the chair and the ranking member got together, and they tried to come up with a framework for releasing as many documents as possible. In fact, that went on for 2 or 3 weeks. In fact, the documents some of my colleagues on the other side of the aisle said the Republicans refused to produce were going to be made available on a very focused basis but with what they call search terms—the way to get into those 100,000 secret documents they are talking about. We estimate that if our colleagues on the other side of the aisle would have done what they have traditionally done—that is, come up with an agreement on document production—they would have gained a lot of insights into the documents we considered relevant but not necessarily the documents they would like to use to create another political narrative, but they refused to cooperate, and we moved forward. As a matter of fact, we moved forward and provided more documents for this Supreme Court nominee than the total number of documents provided for all, in total, of the last three or four Supreme Court nominees.

We also went on to question—they call it questions for the record. What that means is that any member on the committee is entitled to compel the nominee to answer questions after the hearing. Judge Kavanaugh was subjected to over 1,200 questions for the record, under oath, that he had to submit back to the committee members. Those questions for the record are a multiple of any one nominee in the past; and, in fact, I understand it is probably the sum total of questions for the record that all the nominees on the bench were subjected to.

So the questions were asked. The documents were presented. All of that document production was going on in the latter part of July and August; the first tranche of documents came in about the second week of August.

What else was going on in the latter part of July and August? A letter, which was first submitted to a Congresswoman from California, was then routed to the ranking member, the senior Senator from California, at the end of July—a document that was expected to be held in confidence. It is a document we now know was authored by Dr. Ford, provided to the Judiciary Committee, with the understanding that her name would not become public.

In the past, the chair and the ranking member have a great relationship. They have a trusting relationship. In the past, when you had something you thought was material to the consideration of a nominee, a ranking member and a chair would try to figure out how to actually assess that information to treat the person in question—in this case, Dr. Ford—fairly and to hold her information in confidence. That didn't happen here. Actually, there was no communication with the chair by the ranking member.

A few weeks into it, we do know there was some consultation from what Dr. Ford says was a committee staffer to retain an attorney who has a very well-publicized reputation for being partisan. I don't have any problem with that because we have partisan attorneys on both sides of the aisle, but at the recommendation of the committee staff, which is what Dr. Ford said under oath, they retained an attorney who is working pro bono.

Now, I am really wondering whether some—not all but some—of the people on the other side of the aisle genuinely cared about what I believe is a traumatic experience in Dr. Ford's life, genuinely care about trying to go through a process that would provide Dr. Ford with some closure because if they had, maybe they would have gotten someone who could interview her in the way that people experienced with sex crimes interview persons who have experienced a traumatic event. These attorneys who were retained didn't do that. Maybe, when the attorneys she retained, who are pro bono attorneys—that means they are not being paid, they are doing it at no cost or at least no cost to Dr. Ford—if the attorneys really cared about Dr. Ford versus the outcome, maybe they should have recommended to Dr. Ford to have the hearing, but that didn't happen either.

Now we move further through, and at the hearing—we had 32 hours of hearings. The letter was known to the ranking member. I don't believe it was known to any other member on the committee—32 hours of hearings. Each one of us had two rounds, virtually an hour to ask questions of Judge Kavanaugh, not even an abstracted series of questions protecting the identity of Dr. Ford but questions that could have potentially raised the issues we now saw after the hearing. Thirty-two hours of hearings, nothing mentioned. An hour and a half private hearing that, unfortunately, Senator FEINSTEIN, for whatever reason, wasn't able to attend, never brought up. After the hearing, then we heard about these allegations.

Now, I have had some people on the other side of the aisle say we rushed the committee process. The fact is, it was delayed for 2 weeks after we found out about the allegation; 1 week was to get to a point to where we could accommodate Dr. Ford and have her come and testify before the committee. Chairman GRASSLEY was criticized by some of the folks on my side of the aisle because they said he shouldn't be accommodating, delaying; set a deadline and moving forward. He didn't. He spent the weekend trying to figure out a setting, a method, that Dr. Ford would be comfortable with.

Let me back up a week earlier. A week earlier, the chairman and the committee offered to Dr. Ford to go to California to interview her outside of the lights, outside of the circus that sometimes occurs here, and have the attorneys present during the interview. In the hearing we had with Dr. Ford, the question was asked: Were you aware that the committee offered to come to California in a confidential setting and allow you to give your testimony? Her response to that question was: I did not understand that. So that really raises a lot of doubts in my mind about either the competence or the agenda of her counsel.

So now, at this point, I believe there are two sets of people who are opposed to Judge Kavanaugh's nomination. There are some who just genuinely disagree with his judicial philosophy. I actually vote for some judges when I disagree with their judicial philosophy. There are some on the agenda that I will again, but I am going to vote for them—and I am going to get criticized by people on the right side of the aisle—because they are considered unanimously ''well qualified'' and just because I don't like the way they rule in certain cases, that is not enough reason to vote against them, but maybe for people on the other side of the aisle there is.

Then there is another group of people over there who I genuinely believe have used witnesses, have used this process, to just advance a political message and a political agenda.

Another reason I believe that is how the narrative changes depending on what sticks. We have received the additional background investigation. I should mention Judge Kavanaugh has had seven background investigations over the last 25 years. I saw a stack of documents in a secure facility that is about that thick; I would estimate 600 to 1,000 pages of prior Federal FBI background investigations to clear him for other roles he has had, as well as in this case. Over 25 years talking to 150 people, some as recently as about 10 years, or less than 10 years after he was in college, and not a whiff of any of the allegations we have seen put forward—not a single note.

So as more information comes up, we see the narrative going from the weight of the allegations—because, honestly, in every instance where an accuser has made an allegation and said these people were present, those people have been interviewed if they were willing to, and none of them have corroborated the allegations that were made—none. In the followup investigation, it even further undermined the sort of inference you draw when somebody says: Yes, these people were there. Check with them. We went back

and checked with them, and it further undermined the veracity of the allegations that were made.

Now it looks like the narrative on the allegations is beginning to wane, so now the new narrative—and this is the last I will be talking about—is that, well, even if the allegations are untrue, the way Judge Kavanaugh behaved in the hearing—he was angry—raises a question about his judicial temperament.

Ladies and gentlemen, first, the American Bar Association has voted Judge Kavanaugh unanimously ''well qualified'' twice. In at least the most recent rating, they even spoke specifically to his temperament on the bench. I saw his temperament during the hearing for 32 hours. He sat in that chair in some cases for 2 or 3 hours without getting up and was patient when some unfair questions were being asked. He was cut off repeatedly, and he maintained his composure. He did well in about 31, 32 hours' worth of testimony.

Last week, I didn't see Judge Kavanaugh in the hearing; I saw Brett Kavanaugh. I saw a father, I saw a husband, I saw a son who was defending his honor. I saw somebody dragged through the mud without a single allegation with any corroborating testimony defending himself as a human being, and he did well for about 2 hours.

One final note. I firmly believe that Judge Kavanaugh is going to go to the Bench, and I firmly believe that because of his independence, he is going to make some rulings that I am not going to like, but he is going to do it for the right reasons.

What he is going to say is ''Instead of treating us like a nine-member legislature, go do your job, Congress. Change the law if you want me to have a different opinion'' when it comes to the Court. We should now be in that light, thinking about how we work together on a bipartisan basis to change things that we don't like, not expecting a nine-member legislature to do our job.

This has been a very difficult process. I know it has been extraordinarily difficult for the Kavanaugh family and for Dr. Ford. I pray for Dr. Ford's peace. I hope she finds closure. I hope there is some way she will be able to reexamine the facts of that summer in 1982 or 1983 and identify precisely what happened, precisely who can corroborate it, and have someone held accountable for that act. But I don't believe by any stretch of the imagination, based on the information presented to us, that that is Judge Brett Kavanaugh. For that reason, I will be voting no tomorrow—I will not be voting no tomorrow; I will be voting yes tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, the deeply misguided vote to move forward on Brett Kavanaugh's nomination has taken the Senate a step closer to a moment that will cause enormous pain for millions of Americans, particularly women and survivors of assault.

Some may say that the Senate is rolling back the clock on women in America by confirming Brett Kavanaugh. After seeing what has happened to the women who have spoken out and talking to women in Oregon, I question how much the clock ever ticked forward. Indeed, this process has shone a spotlight on the double standard women across this country face just so they will be believed.

On the other hand, Dr. Ford never wanted any of this. The way she has been treated by Republicans in the Senate and the President of the United States is inexcusable. In one of the most un-Presidential speeches I have ever seen or heard, the President belittled a survivor in front of a crowd of thousands.

Dr. Ford came to us as a citizen who was doing her civic duty to provide the Senate with crucial information about a nominee before us. She called the front desk of her Congressperson; she didn't run to the news media or the cable shows or try to sell a book. She volunteered to tell her story under oath. She recounted the details of her assault in 18 minutes of testimony that will not soon be forgotten. It was heartbreaking to watch. At times, it was just excruciating.

What did Dr. Ford get for her courage? She was put on trial by the Republicans on the Judiciary Committee, who actually hired an experienced prosecutor to grill her. The questioning was clearly designed to tar Dr. Ford as a political pawn. It attempted to delegitimize the trauma caused by her assault. It attempted to paint her as a liar.

It was stunning how little of the questioning Republicans subjected her to was focused on what Brett Kavanaugh did on the night in question. It is clear now that the focus was on undermining Dr. Ford's story and destroying her credibility. But Dr. Ford's credibility held up. I have said that I can't imagine a more credible witness, nor can I imagine how difficult it must have been for her to relive that experience and maintain such extraordinary composure. What she did took unknowable strength. Her testimony, delivered under what amounted to prosecution, was unforgettable. She is trained in psychology. She was even forced to act as the expert witness in her own trial, diagnosing the lifelong effects of her own trauma. She explained to the committee how memories of traumatic events implant themselves on the brain.

At one point, she described what she remembered most about the assault by Mr. Kavanaugh and Mark Judge. She answered, delivering on her training, that ''indelible in the hippocampus is the laughter.''

I believe Dr. Ford when she says she was assaulted in that room in 1982. I believe Dr. Ford when she says that her attackers locked the door, a hand was pressed over her mouth, and she feared for her life. I believe her when she says she remembers them laughing.

For all the grueling prosecution the Republicans put Dr. Ford through, it is important to compare that to the treatment of Brett Kavanaugh. When it was Kavanaugh's turn to deliver testimony, he was seething. He was raging in a manner completely unbecoming a Federal judge. He behaved in a manner that directly contradicted what Brett Kavanaugh said in a widely publicized speech a judge should be all about. In his own words, Mr. Kavanaugh said judges need to keep their emotions in check, to be calm amidst the storm. Mr. Kavanaugh failed his own test—his own test—last week. He offered the most partisan testimony I can recall when he talked about the Clintons and said ''what goes around comes around.''

Imagine if a female nominee had snapped at a male Senator about his drinking habits. The President of the Senate is an experienced judge and prosecutor. I am telling you, if a female nominee had done that, game over right there—right there. There again, you have the double standard.

When a few questions posed by the Republican prosecutor actually got to relevant questions, the majority side of the committee told her to just take off.

For that to be the only hearing on these allegations I think is just plain disgraceful. The committee should not have moved on to the vote. The allegations brought forward demanded a robust investigation. Yet the Senate has ended up light-years away from that. What kind of investigation looks to settle matters and doesn't interview the accuser and the accused? That just doesn't pass the smell test.

This is not about tarnishing Brett Kavanaugh's reputation or digging up salacious details from his high school days. The accusations against Mr. Kavanaugh and the possibility of perjury—both of which he denies—relate directly to his binge drinking and sexual behavior. That is why the FBI background check should have been a robust inquiry into those matters. It is clear now that didn't happen. You ask yourself, why not? It is hard to find an explanation other than the investigation was handcuffed to predetermine the outcome.

Dr. Ford has said publicly that the FBI didn't talk to her, and they didn't look at the therapy notes she offered to turn over. They didn't talk to Mr. Kavanaugh. They didn't talk to the dozens of individuals who Deborah Ramirez said could potentially corroborate her story. They closed the investigation a full day ahead of the arbitrary deadline, and it is not clear why.

Based on that, in my view, this investigation was a whitewash. It was not legitimate. It was the product of intense political meddling, in my view, by the Trump administration. That means, if Brett Kavanaugh's nomination is confirmed, there are going to be questions about his legitimacy looming large for years to come.

I believe Dr. Ford. I have heard the Presiding Officer discussing this this morning on television. I respectfully would say I know the Presiding Officer doesn't share my view. But I felt that Brett Kavanaugh's behavior before the Senate last week ought to be disqualifying on its own. If you compare what he said last week to what he wrote ought to be the requirements for how a judge behaves, there is a very large gap between what Brett Kavanaugh said ought to be expected of a judge's behavior and what we saw last week when he testified.

From the time his nomination was announced, Kavanaugh portrayed himself as a trustworthy individual who had the kind of levelheaded temperament Americans expect and deserve from members of the judiciary. My view was that appearance last week before the committee my colleague serves on was a textbook case of raw partisanship.

In his afternoon testimony last week, Brett Kavanaugh was disdainful and sarcastic toward the Democratic Senators who questioned him. Brett Kavanaugh responded to what he considered to be unsubstantiated allegations by making truly unsubstantiated allegations of his own. Without any evidence, he declared the credible accusations that had been brought forward a ''calculated and orchestrated political hit'' by the Democrats. He pushed these baseless, conspiratorial comments about how this was all just revenge for the Clintons. And in a tone that just struck me as dripping with menace, he just said: ''What goes around comes around.''

If you look last week at how he presented himself to the chairman of the Senate's committee, I think you have to ask yourself: How can anybody expect that Brett Kavanaugh would offer a fair hearing in a politically charged case?

My conclusion, based on what I have described, is pretty simple. You just do not get to behave the way Brett Kavanaugh behaved last week and get to serve on the United States Supreme Court.

Finally, my concerns go further than the temper tantrum we saw last week. There is hard evidence that shows that Brett Kavanaugh lied repeatedly and on a variety of subjects. For example, just yesterday, there was new evidence in scores of emails that the nominee lied about his involvement in government wiretapping programs.

The Presiding Officer of the Senate has been very gracious over the years in talking to me about these issues. He knows I care deeply, as a member of the Senate Intelligence Committee, about government wiretapping programs. I am here this afternoon to say I am not alone. Millions of Americans care about this issue. As I have said in my conversations with the Presiding Officer of the Senate, security and liberty are not mutually exclusive. You can have both.

What these emails—scores of them yesterday—prove is there is new evidence that Brett Kavanaugh did not tell the truth about his involvement in government wiretapping programs. There is hard evidence that shows he lied about using stolen documents, hard evidence that shows he lied about his involvement in the confirmation process of certain Bush nominees, hard evidence about the statements made by the other individuals who were present at the party where Dr. Ford was assaulted, hard evidence the nominee lied about when he learned of the second set of allegations made against him. The nominee even lied about small stuff. When you can't trust somebody to tell the truth, they don't belong on the Supreme Court.

It is important, before I wrap this up, to take a hard look at what has happened to the Court over the last few years. In 2016, Senate Republicans blocked a mainstream nominee to the Court—an individual who many Republicans had praised extensively—extensively—in the past. They held a Supreme Court seat open for nearly a year until a Republican President picked someone to their liking.

In 2018, the Trump White House interfered with the vetting of a second nominee, hiding key information from the Senate and the American people.

The floor debate on this nomination is going to be cut off before all the questions about sexual misconduct can be answered and before the statements I have outlined here today—ones where there is hard evidence—can be examined for perjury. These actions by the Republicans and the Trump White House, in my view, are taking a sledgehammer to the public's trust in the Court as an institution.

The Court used to have a healthy separation from the partisan battles that take place here in the Congress. I heard my colleague talking about that this morning on television. That healthy separation doesn't exist today. I just say, we have a lot of heavy lifting to do in the U.S. Senate to revive the vision of the Supreme Court held by the Founding Fathers after what has happened.

I am going to close by going back to the question of whether anything has changed since 1991 and the tragedy of Professor Hill. When Professor Hill testified in 1991, she was dragged through the mud. She was called a scorned woman. Perhaps you can say it represents some measure of progress that Dr. Ford wasn't slandered and insulted in quite the same way. But I don't know how much that matters if this nominee is confirmed.

The language used during the debate might sound different, but the outcome is the same. The failure by my colleagues on the other side to step back, suspend the partisan warfare, and recognize the seriousness and legitimacy of this information, in my view, will go down over time as a historic disappointment.

This was never a smear campaign. It wasn't a political hit job. Dr. Ford came forward out of a sense of civic duty. She knew the sacrifice she faced, and she wondered to herself if it would really make a difference. Why suffer through annihilation if it will not matter, she asked. Over and over again, she told us she only wanted to be helpful. I have never seen a witness—like my colleague presiding today, I have seen a lot of witnesses. She was a textbook case of being courteous, always saying: What can I do to be helpful?

Senators ought to consider the dangerous signal being sent to survivors of assault and to young people across the country from this debate. Dr. Ford wasn't on trial; nonetheless, she was prosecuted by the majority party. She got smeared as a political pawn, a liar, belittled, with her accusations dismissed by many almost immediately.

I made notion of how, a few days ago, the President mocked Dr. Ford, mocked her in front of thousands. What a cruel and un-Presidential moment. If the mockery and dismissiveness are not bad enough—if they weren't bad enough, there is the return of the sickening old notion that boys will be boys, what happened in the bedroom was ''roughhousing,'' and what happened was just too long ago. Today, survivors from sea to shining sea are asking: How are we going to be heard? How will we find justice?

I fear many survivors are going to conclude that coming forward with their story is going to be pointless, and there is very little likelihood of justice—very little likelihood of justice. Even if you are strong, composed, and constantly courteous, it will not help.

On the other hand, the signal to boys is this: Even if you engage in violence against women and lie about your conduct, the power structure is going to step up and protect you. The Senate has to be better than this.

I hope Senators are going to recognize that it is time to take these horribly outdated attitudes towards women and sweep them out like the cobwebs from an abandoned theater stage and start over. It can begin by rejecting this nomination today.

I will be voting no.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, as a Member of the U.S. Senate, my role in providing advice and consent to the President on his or her nominations to the Supreme Court is among our most important constitutional duties.

In fulfilling that duty, I have a pretty clear criteria on how I go about making these decisions. The first is whether the nominee has the character to serve on the Supreme Court; the second is whether the nominee has the intellect and the experience and the academic credentials to serve on a Court that hears complex and difficult questions of law; and the third is does the nominee believe in the proper role of

the Supreme Court, which, in my opinion, is to interpret and to apply the Constitution, not to change or manipulate it to reach a certain policy goal.

There is broad bipartisan support for the first two parts of my criteria. We can all agree that people who serve on the Court should have the character to do so. We can all agree our nominees and those who serve on the Court have to have the intellect and the experience and the academic credentials to be on the Court.

Much of our fights around here center around the third part of my criteria. In fact, it goes to the heart of most of the nomination fights we have. There are some who would like the Supreme Court to become a policymaking branch, a place that makes policy and makes laws, but I believe the job of an appellate court is to decide whether a policy decision of the political branches is constitutional. Appellate courts and trial courts are different. Trial courts are triers of fact. Appellate courts are triers of law.

The debate about the proper role of the Court plays out most vividly on some of the most divisive cultural issues, and it always has. For example, on the difficult issue of abortion, the question before the Court in Roe v. Wade was not whether it was good or bad for abortion to be criminalized or constricted, the question was whether the Constitution gave the State or Federal Government the authority to pass laws that banned or restricted abortions.

The question before the Court in Obergefell v. Hodges was not whether same-sex marriages were good or bad for America. The question was whether the Constitution allowed States to define marriage as being between one man and one woman.

In deciding these kinds of questions, I believe Justices, both on the Supreme Court and appellate-level judges, should apply the strictest interpretation of the Constitution according to its original intent, irrespective of whether the policy result of their decision is something they personally agree with. The reason for that is because if the Constitution can mean whatever people at a given moment want it to mean, then the Constitution doesn't really mean anything at all. We can change our laws. That is why Congress has to respond to the electorate, why we debate laws, and then are held accountable for it, but the Constitution has to be something that is constant, irrespective of the political tides of the moment.

Now, you can change the Constitution. The Founders gave us a process to do that through Article V, the constitutional amendment process, and that has been used in this country. They would not have given us that process if it were their intent that the Supreme Court be the one that could change the Constitution.

The reason I outline that criteria is because that is the criteria I used to evaluate Judge Kavanaugh's nomination when it was first presented. I found myself with no doubts about his intellectual ability or his academic credentials, and I don't think anyone has raised those.

I have seen seven FBI background checks that turned up no issues with his character, and I had 12 years of his service as a Federal appellate judge as proof that he shared my criteria for the proper role of the Court and the proper standard for constitutional review.

So it was based on that and on those facts that in August I announced I supported Judge Kavanaugh's nomination.

Then, several weeks ago, the allegations, first by Dr. Ford and then by others, emerged. Sexual harassment and assault is something I feel very strongly about. It is, for example, one of the reasons I have been involved for a number of years now in a bipartisan effort to reform and improve how we handle claims of sexual assault on our college campuses. Our Nation is now facing a reckoning for decades of not addressing sexual violence appropriately.

While I obviously will not betray anyone's confidence or privacy, I have personally seen how victims of sexual assault often find their claims dismissed and ignored. I have seen how sometimes they are told things like: You are partially to blame for putting yourself in that position. I have seen how so many never came forward and don't want to come forward because they don't think anyone will believe them or they don't believe anything will ever happen.

That is why I believe anytime anyone comes forward with allegations of sexual assault or harassment, abuse, these allegations cannot be swept aside, and they cannot be ignored. When these allegations emerged in this case, my immediate reaction was to say these claims should be taken seriously and his accusers should be fully heard. I said I would have no further comment on his nomination until we knew more about these allegations. What that meant was, my support of Judge Kavanaugh was now contingent on the information that emerged from the hearings and the investigation and the work that needed to be done.

I will say today what I said at this time last week. I believe neither Dr. Ford nor Judge Kavanaugh have been treated fairly in many instances. Some—I saw you—immediately basically dismissed these claims as a political ploy. Others went on television almost immediately and said they believed Judge Kavanaugh was guilty without any information before them.

Despite the shameful behavior of so many, a process did ensue. Through all the noise, that did produce additional information. The Senate's Judiciary Committee and then the Federal Bureau of Investigation gathered and made available to every single Member of the Senate additional relevant information.

The committee took sworn testimony from several named witnesses. I know for a fact they chased down and investigated a seemingly endless stream of incoming information every single day, and it provided both Dr. Ford and Judge Kavanaugh the opportunity to give written statements and then participate in hours of public testimony, not just before the committee but before the entire Nation.

When that hearing ended last Thursday, the information before us was as follows: The sworn and unequivocal allegations by Dr. Ford, the sworn and equally unequivocal denial from Judge Kavanaugh, no witnesses with knowledge of these allegations, and no independent evidence to corroborate them.

After the hearing, a week ago today, some of the Senators on the committee wanted a short delay. I watched that hearing. It was agreed to by everyone there, a short delay, 7 days, so the Federal Bureau of Investigation could gather even more information, and I had no objection to that.

Over the last week, the FBI interviewed 10 additional witnesses and gathered additional relevant information for every single Senator to review.

First, I was briefed on these interviews and information; then I had occasion to review them for myself. Here is what I know now about the allegations against Judge Kavanaugh. I have the sworn and unequivocal testimony of Dr. Ford and Ms. Ramirez making these allegations against Judge Kavanaugh. I have the sworn and unequivocal denial of these allegations from Judge Kavanaugh. I now have before me the testimony of 10 additional witnesses, including those identified by Dr. Ford and Ms. Ramirez as having been present when Judge Kavanaugh allegedly assaulted them, and not a single one of them had any recollection of the alleged gatherings, much less any knowledge of these allegations, and I still have no independent evidence which corroborates these allegations as well.

That is the information before me as I stand here at 1 p.m. eastern time on the 5th of October with regard to the nomination of Judge Kavanaugh to the Supreme Court of the United States. That is the same information that is before every other Member of the Senate who has access to the exact same information that I saw, that I read, and that I was briefed on.

I have listened to the arguments made by some of my colleagues and others urging me to still vote against the nomination. The most direct argument made to vote no is that the FBI did not interview enough people.

First, my view is that the only people who could corroborate those claims are those who were there when it happened because anything other than that is hearsay. If you didn't see it happen, all you can testify to is what someone else told you. The only people who could corroborate that something happened are either people who received physical evidence or people who

witnessed it. From what I read yesterday, every single person the accuser said was present when it happened testified that they do not know anything about it.

By the way, the other point I would make is that these interviews that we saw yesterday, the 10 additional ones—it would be unfair to view them in a vacuum, as if they were the only information we have to go off of. Here is a fact: Over nearly the last two decades, the Federal Bureau of Investigation has interviewed over 150 people, asking questions about Judge Kavanaugh's background and past. Over 150 people have been interviewed about Judge Kavanaugh over the last two decades and across seven background checks, and not a single one of them has ever testified as to any sexual assault against anyone at any time.

It struck me that there isn't a single Member of the U.S. Senate, I think—maybe I am wrong, but I doubt seriously that there is any Member in the U.S. Senate who has had the FBI question over 150 people about what they have done throughout their life. In fact, I would venture to guess that there are probably few, if any, Americans who have had the FBI interview over 150 people about what they have done throughout the course of their lives. I believe it is reasonable to assume that if Judge Kavanaugh was someone who had engaged in a pattern of abusive behavior toward women—on a pattern—at least one of these 150-some-odd people would have noticed and would have said something about it. Yet not a single one of them did.

I would be remiss if I didn't mention that there is clearly another factor that is driving much of the anger and passion around this nomination, and it has nothing to do with partisan politics or politics at all, for that matter. It is the fact, as I mentioned earlier, that, sadly, far too often, particularly women who come forward with allegations of harassment, abuse, or assault are ignored, dismissed, and even blamed. The fact is, because of this, there are potentially millions of victims who have never come forward and who suffer in silence.

I understand that for the victims and for those who love them and for those who are survivors, to hear about these allegations brings back powerful and painful memories of what happened to them, of how they were ignored, how they were not believed, how they were blamed, and how their abuser got away with it. What has happened to these survivors is an injustice. It is wrong. It is something that we as a nation must reckon with and we as a people must fix. But the solution to injustice is never injustice, and it would be unjust to turn this nomination into a proxy fight over the broader, important issue of how we have treated victims of sexual assault in America. As important as that topic is, this debate is about a specific case involving specific people and specific allegations. Fairness and justice require us to make our decision on this matter based on the facts before us on this matter.

It was wrong for some to immediately dismiss these allegations almost as a reflex, but it is also wrong to claim that a vote for Judge Kavanaugh's nomination means that you do not care about and do not as a matter of course believe victims of sexual violence.

My colleagues and my fellow Americans, this case is about this case, and although the ways in which both the accuser and the accused have been treated are shameful, we must still make our decision based on what we know.

I want to make one thing abundantly clear: I do want people on the Supreme Court who believe that the proper role of that Court is to interpret the Constitution according to its original intent, but if I had any evidence—or if any evidence emerges that corroborates these or any allegations of this kind—I would have voted against this nomination in a heartbeat because someone who has committed sexual assault shouldn't be on the Bench, they should be in jail. If you lie about it to Congress, you should also be charged with perjury. But after 7 background checks and over 150 people having been interviewed, we don't have any independent evidence to corroborate these allegations against him—none.

So with regard to this specific case, on the basis of the facts that I have before me, that we have before us—on the basis of what facts am I supposed to not just vote down this nomination but in the process of doing so, render what will forever be perceived as a verdict of guilt? On the basis of what facts can anyone say or do that?

It is legitimate to vote against him because you don't agree with his judicial philosophy, but it isn't fair to say you are voting against him, as some imply, because we are on the verge of putting someone who is a confirmed and verified sexual abuser on the Bench. That isn't justice, and no matter how just the cause is, a just cause never, never justifies an unjust means.

Based on the specific facts before us regarding this specific nomination and this specific case, I already voted to end debate on the nomination of Judge Kavanaugh, and tomorrow I will vote to confirm him as an Associate Justice of the Supreme Court of the United States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, good afternoon. I rise today to address the nomination of Judge Brett Kavanaugh to serve on the U.S. Supreme Court.

As we all know, the stakes are always high when this Chamber vets and debates and votes to confirm any of the President's Supreme Court nominees, as they should be. This is, as we know, the highest Court in our land. The job comes with a lifetime appointment—not 2 years, like they have in the House of Representatives; not 4 years, like the President; not 6 years, as we have—a lifetime. As we know, looking at one of the Justices on the Supreme Court who is, I think, now 85 years old, that could be a long, long time.

Those who serve on the Supreme Court make decisions that will affect the lives of millions of Americans almost every day. That is precisely why we expect Presidents to look for the best and brightest candidates possible. That is why the vetting process in the Senate should be serious and thoughtful. That is why nominees should strive to be above reproach. Indeed, we all should strive to be above reproach. This absolutely should be one of the toughest job interviews around because the stakes surrounding any Supreme Court seat are just that high.

The stakes surrounding the seat vacated by Justice Kennedy may be even higher. The next Justice may shift the balance of our Nation's highest Court for a generation, maybe even longer. The next Justice may very well be asked to rule on questions of Executive power that test our democracy.

We are fooling ourselves if we refuse to acknowledge that the stakes are so high in large part because this Chamber has yet to reckon with the grave injustice that was done to Merrick Garland and to our Constitution in 2016.

As many will recall, Judge Garland, who serves as the chief judge of the DC Circuit Court—the highest Federal appeals court in our land—was nominated by President Obama over 2 years ago to fill the seat held by the late Justice Scalia on the Supreme Court. Shamefully, he was denied any kind of consideration by this body. He waited 293 days for a hearing and a vote that never came. Most Republican Senators refused to even meet with him. A good man was treated badly, and so was our Constitution.

The unprecedented obstruction our Republican colleagues mounted against Judge Garland was a shameful chapter of the U.S. Senate. I am still deeply troubled by those 293 days. I know some of my colleagues are as well. It is likely that I will continue to be troubled by them for the rest of my life.

We may never agree which side pulled the pin out of the grenade, but we must all recognize that this institution will never be the same if stealing Supreme Court seats and creating one set of rules for Democratic Presidents and another set for Republican Presidents is the new norm.

Despite the injustice done to Merrick Garland, Judge Gorsuch was ultimately confirmed last year—on a bipartisan basis, I might add.

When Justice Kennedy retired earlier this year, President Trump nominated, as we know, Judge Brett Kavanaugh to fill that seat. More than 12 years ago, I met with Judge Kavanaugh in my office here in the Capitol when the Senate considered his nomination to the

DC Circuit Court of Appeals. Back in 2006, I voted my hopes over my fears. Unfortunately, over the last decade, many of my worst fears have come true.

I believe that Judge Kavanaugh's extreme record on the bench that has unfolded over the past dozen years stands in stark contrast to the views of most Americans on too many important issues. For example, Americans overwhelmingly support protection for those living with preexisting conditions. Brett Kavanaugh ruled against upholding the Affordable Care Act in 2011. That is why we expected he would side with conservative Justices if and when cases like Texas v. United States come before the Court. If he does, the ACA's protection for people with preexisting conditions will be invalidated for tens of millions of Americans.

Speaking of healthcare, Americans overwhelmingly support women having the freedom to make their own healthcare decisions. Brett Kavanaugh, while working in the Bush White House in 2003, wrote an internal memo stating that Roe v. Wade may not be considered ''settled law of the land'' because the Supreme Court ''can always overrule its precedent.''

Americans also overwhelmingly support independent checks on Executive power. We believe no one in America is above the law. Yet Brett Kavanaugh, in a July 2009 Minnesota Law Review article, wrote that Congress should pass a law to exempt a sitting President from criminal prosecution or investigation. When I learned of this, my reaction was: You have got to be kidding. Apparently, he was not kidding. Ironically, that declaration came 11 years after Brett Kavanaugh played a key role in drafting the Starr Report, which laid out grounds for impeachment of then-President Bill Clinton.

The greatest threat Brett Kavanaugh may pose to this country and its people is with respect to our environment. In all my years, I have yet to meet anyone who doesn't want to make sure we have clean air to breathe and clean water to drink. A review of Judge Kavanaugh's nearly 300 opinions over the last 12 years, both concurrencies and dissents, shows Judge Kavanaugh has voted to weaken or block environmental protections a staggering 89 percent of the time. In fact, Judge Kavanaugh has never dissented in a case that would weaken environmental protections and admitted as much in his response to questions for the record from Senators FEINSTEIN and HARRIS. In other words, almost 9 out of 10 times, he has sided with those who weaken environmental protections over those who would strengthen it.

I fear that if confirmed, Judge Kavanaugh could well turn out to be the next Scott Pruitt. We remember him. However, unlike former EPA Administrator Pruitt, whose tenure ended finally after 18 tortuous months, Brett Kavanaugh could damage our environment for a quarter century or more if he serves on the Supreme Court.

For example, just last year, Scott Pruitt's attempt to delay rules limiting methane emissions from oil and gas drilling was challenged in the DC Circuit Court, where Judge Kavanaugh now serves. In that case, Judge Kavanaugh sided with Scott Pruitt and the fossil fuel industry, voting against his colleagues who found Pruitt's delay illegal.

Judge Kavanaugh also attempted to severely limit EPA's authority to regulate toxic emissions and greenhouse gases under the Clean Air Act. In 2012, he blocked the air pollution restrictions that covered nearly half of our country, endangering thousands of lives. This is especially concerning to those of us who live in downward States like Delaware, where over 90 percent of our air pollution comes from dirty emissions in States to our west that drift across our borders.

When I was Governor, I could have shut down my State, taken every car, truck, van off the road, shut down every business, and we would have still been out of compliance for clean air requirements because of the upwind States putting their pollution up in the air, and it is simply blowing to Delaware or Maryland or New Jersey or any other State that happens to live along America's tailpipe on the east coast.

Strictly based on Judge Kavanaugh's environmental record on the bench over the past 12 years, I was prepared to vote no on his nomination many weeks ago. Then last week the Senate and much of our country was riveted by compelling and, I believe, powerful testimony from a private citizen and a victim, Dr. Christine Ford. She came forward to share the most dramatic experience of her life.

She stepped forward despite the serious threats it posed for both her and her family—death threats, having to move out of her house. She testified despite being terrified. She did so despite being unsure that her story would make any difference at all. She did so because she said it was her civic duty to share the truth. She showed a whole lot of courage.

Like many of my colleagues, I have been contacted by sexual assault survivors since Dr. Ford's testimony who have been inspired to come forward and share their stories. It serves as further proof that this problem is not only underreported but that men and women who are victims of sexual assault can and do bury this trauma, not for weeks, not for months, not for years but for decades.

Some of our Republican colleagues have acknowledged that Dr. Ford's testimony was credible, but despite her credibility, they say they don't see her testimony as reason enough to deny Judge Kavanaugh a lifetime appointment to the Supreme Court. They say they don't have enough evidence to believe her. Instead, they painted this as something of a he said, she said situation involving young people.

Well, let's look at what he said then. Last week, Judge Kavanaugh, who currently sits on our Nation's second highest court, came before the Senate and unleashed a torrent of unbelievably partisan attacks. I have never seen anything like it in testimony before any committee I have served on or known of.

He claimed that the allegations against him were fueled by ''pent-up anger about Trump and the 2016 election.'' He went so far as to say the claims were merely ''revenge on behalf of the Clintons.'' He threatened Democratic Members saying: ''What goes around comes around.''

There is an old saying, adversity does not build character, it reveals it. Well, that day, Judge Kavanaugh revealed himself to be a partisan during that hearing. After witnessing the vitriol Judge Kavanaugh spewed, how could any left-leaning cause think they would ever possibly get a fair shake from him should their case come before the Supreme Court? His temperament was clearly unbecoming of a judge, let alone a Supreme Court Justice.

What is perhaps even more disturbing is, it seems clear Judge Kavanaugh was willing to be so brazenly partisan in order to appeal to an audience of one watching the proceedings from 1600 Pennsylvania Avenue.

Judge Kavanaugh's testimony last week also raised additional questions regarding his truthfulness. For weeks, my colleagues on the Judiciary Committee, including Senators DURBIN and Senator LEAHY, raised serious concerns that Judge Kavanaugh may have misled the Judiciary Committee about the extent of his role in the Bush administration helping several controversial judicial nominees navigate the Senate confirmation process.

Judge Kavanaugh may have also misled the Judiciary Committee about the extent of his role in the Bush administration helping shape several controversial decisions in the wake of the September 11 terrorist attacks, including warrantless wiretapping and the rights of enemy combatants.

During his most recent hearing about the allegations brought forward by Dr. Ford, Judge Kavanaugh answered several questions about his younger days in ways that were, at best, misleading and, at worst, lies under oath. Judge Kavanaugh's less-than-truthful answers on matters large and small point to a troubling pattern and raise serious questions about his credibility.

Even if my Republican colleagues don't want to believe Dr. Ford, and even if they agree with Judge Kavanaugh's judicial record, the fact that he came before this body and so brazenly misled our fellow Senators should, I believe, by itself be disqualifying.

Before coming to the Senate, I was privileged to serve, as you may recall, as Governor of Delaware for 8 years. In that role, I nominated dozens of men and women to serve as judges in several courts of national prominence—including the Delaware Supreme Court,

the Delaware Superior Court, and the Delaware Court of Chancery, to name a few. While the roles of those courts differed, the qualities I looked for in my judicial nominees were similar. I looked for men and women who were bright. I looked for men and women who knew the law. I looked for men and women who had good judgment, who are able and willing to make a decision, including a difficult decision. I looked for men and women with a strong work ethic. I didn't want to nominate somebody for tribunal chairman so I could watch them retire on the job.

I looked for nominees who were collegial and able to build consensus in courts that had a larger panel, but there were three qualities that were most important to me: judicial temperament, impartiality—treating everyone before them fairly and not showing partiality—and, finally, truthfulness.

In fact, in my first term as Governor, I denied a sitting Justice of the Delaware Supreme Court the opportunity to serve an additional 12-year term because he lacked appropriate judicial temperament. I am told that was unprecedented, but his judicial temperament and what I thought was appropriate were not one and the same.

It gives me no joy to say what I am about to say, but the temperament Judge Kavanaugh exhibited at the Judiciary Committee last week was not just unacceptable for a Supreme Court Justice, it would be unacceptable for a judge in Delaware serving on the Delaware Court of Common Pleas.

Last week, in an effort to actually get to the truth and ensure that body could have all the facts before taking such an important and consequential vote, my Delaware colleagues and I called for the FBI to conduct a nonpartisan investigation. Unfortunately, what we ended up with falls far short of what the Senate deserves and certainly what the American people deserve.

What we got was a process that was certainly not designed to inform. If this process was designed to inform, the White House and Republicans would have actually allowed the FBI to speak to the more than 40 individuals whose names Dr. Ford and Ms. Ramirez submitted as people who could potentially corroborate their accounts. The FBI never talked to any of those people.

If this were a process designed to inform, the dozens of individuals who contacted the FBI to share potentially helpful accounts and information would have received calls in response to those concerns; they did not.

If this process were designed to inform, the White House and Senate Republicans would have allowed the FBI to expand the scope of this investigation; they did not.

If this process were designed to inform the majority leader, he would have at least waited to schedule a vote on Brett Kavanaugh's nomination until after we received and read the FBI report; he did not.

Sadly, this process has been a sham from the start. I know our Presiding Officer is proud to hail from the State of Louisiana. I am equally proud to hail from the First State. As you may know, we are called the First State because we were the first State to ratify the U.S. Constitution—the longest living, most emulated Constitution in the history of the world.

One of the fundamental reasons our Constitution and our democracy has endured is because of the intricate system of checks and balances our Founding Fathers crafted just up the road in Philadelphia some 231 years ago.

The process we have been through in the last several weeks, unfortunately, makes a mockery of that system of checks and balances. I believe we all must recognize that, to use the majority leader's words, ''plowing through'' with Judge Kavanaugh's nomination will diminish the credibility of the Supreme Court as an institution that stays above the political fray. In fact, confirming Judge Kavanaugh will enshrine doubt in every controversial 5-to-4 decision in our moving forward from this time. It also calls into question the legitimacy of us, of this very Chamber.

Let me say to my colleagues who are still wavering on Judge Kavanaugh's nomination—and I will leave you with this—that we will not only be judged by voters this November; we will be judged by history. We say that a lot. Sometimes it is trite and overstated. In this case, it is not. We are going to be judged by history in this regard.

I would implore each of you who is still thinking this through, who is trying to figure out what is the right thing to do, to show that we are still worthy of being called the world's greatest deliberative body. Let's show that we have made progress since 1991 in a previous Supreme Court nomination-confirmation episode. Let's show that we are willing to take a stand and do the right thing because if we are not, any short-term political wins will be forever eclipsed by the permanent stain left on our legacy in this body from which there may be no recovery.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. INHOFE. Will the Senator yield?

Mr. BLUNT. I yield to the Senator.

Mr. INHOFE. Mr. President, at the conclusion of the remarks of the Senator from Missouri, I ask unanimous consent that I be recognized for such time as I may consume.

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

Mr. BLUNT. Mr. President, I want to talk a little bit about what my good friend from Delaware talked about with regard to our being judged by history. Some of what I want to talk about today is of the history of this system and of others who have served.

I have read several times in the last 30 days, particularly, that the Democrats feel they can do anything because of the way Merrick Garland was treated. I don't think there is any comparison between the way Merrick Garland was treated and the way Judge Kavanaugh has been treated. The only comparison I can think of is that they are both on the DC Court of Appeals and that they have both said very kind things about each other, but there is no comparison.

Merrick Garland was nominated in the last year of a Presidency. The last time someone was put on the Supreme Court who was nominated in the last year of a Presidency was in 1932. The last time that happened was in 1932. The last time someone went on the Supreme Court when the President was of one party and the Senate was of the other and when it was a Presidential election year was in 1888. There is no comparison.

In fact, Vice President Biden—then-Senator Biden—said on June 25 of 1992, in what turned out to be the last year of the Bush Presidency: If there is a vacancy, there will be no hearing until after the election.

There was not a vacancy, by the way. They were just putting that historical marker down that if there were a vacancy, there would not be a hearing until after the election. Of course, that meant there would not be a hearing that mattered. Unless the President were to be reelected and the majority in the Senate were to stay the same, there would be no reason to assume there would be a judge appointed by this President this year.

Senator SCHUMER said in July of 2007, in his not wanting to wait until election year but just wanting to put his position on the table even earlier in the last year of another Bush Presidency, that we should not confirm any Bush nominee—I think he meant—from that moment on. As a matter of fact, he did say we shouldn't confirm any Bush nominee from that moment on except in extraordinary circumstances. I am sure he didn't mean one vacancy on the Supreme Court would be an extraordinary circumstance but a circumstance that would be dealt with just like Judge Garland's was dealt with, and people were heard. Yet that is not what this is about, and it sets no precedent any more than Senator Biden or Senator SCHUMER set a precedent that should have been a surprise for anybody.

So what do we have with Judge Kavanaugh as we decide in the next few hours or in the next day or so whether he becomes Justice Kavanaugh?

This was the seventh background check of this judge by the FBI. There had never been a more extensive review of a Supreme Court nominee—seven times in slightly more than a dozen years—in going through this background check.

More than 150 people had been interviewed.

He had 36 hours of testimony before the Senate, during which you and others on the Judiciary Committee could

have asked him anything you had wanted to ask.

He had 65 private meetings with Senators, during which they could have asked him everything they wanted to ask—including, by the way, the ranking member on the Judiciary Committee, who had had this information available to talk about.

More than 500,000 pages of executive branch documents had been provided—more than for the last 4 nominees. Of all of his opinions as a judge and of all the cases he was part of, there were about 300 of those. By the way, that is the best way to look at what kind of judge he would be.

He was asked over 1,200 questions for the record. That is like, after you have asked all of the questions you could publicly think of, then one has about a week to answer any questions that have been submitted for the record. He had 1,200 questions submitted for the record that he had to answer in that short period of time.

There were three confidential calls with the committee.

Then, last Friday, our colleagues decided—and I think, as it turned out, maybe wisely so—to do one more final FBI review of whatever they might not have asked about in the other seven FBI interviews that had occurred over the years. The outside number was 1 week. A week ago, 1 week was what was going to be plenty of time. I think some Members in the minority at that time said: Well, maybe even 3 or 4 days. That is what it took with the Clarence Thomas hearing. By the way, that was before these issues became public, because it was turned over to the FBI like it should have been, and in 3 or 4 days, they had talked to everybody they could talk to. So, last week, 3 or 4 days might have been enough, but certainly a week would have been enough, according to the other side. Of course, that was never going to be the case. A week was never going to be enough.

By the way, in background checks, when you are asked to be part of that—if it is your background check—one of the questions you are asked is, are there any drinking problems? Are there any drug problems? He had been asked that over and over again. I think anybody who is interviewed is always asked, do you know of any problems like that?

Usually, a question is, Have you ever heard of anything that we would be interested in if we had heard about it?

Another question often is, Would you tell us three people whom we might not have talked to who might know something about Judge Kavanaugh that we should know?

Over a decade and a half, there have been 7 FBI interviews and 150 people interviewed, the behavioral question, the drinking question, the drug question, which hasn't come up as far as I know, but it is always asked. It has been asked over and over again.

Then you and I and Senator INHOFE went the other morning to hear a review of this last set of interviews, wherein people who possibly would have been able to corroborate something were interviewed and couldn't corroborate it. In many ways, the case got weaker as that moved forward, but we heard that.

Then I heard that afternoon that Senator SCHUMER said that this is full of hints of misconduct. So I went back this morning and looked through the six prior background checks, and I looked through this background check. As it turns out, I agree with Senator GRASSLEY, who said there was no hint of misconduct.

If there had been a hint of misconduct in the previous five, he would have never been nominated. If there had been a hint of misconduct in the sixth one, he wouldn't have been nominated. It wouldn't have sustained itself. If you look at the pages that are new, there is none there now. So you can say anything you want to say. You can say it is not time enough. You can say, even though no witness ever saw any of these events, you just haven't talked to enough people yet, even though you have talked to everybody who has been mentioned, as far as I know, with any credible charges.

So here we are. Now it is temperament. I don't think there are many Senators who would not have had his same indignation in being accused of something that he, without equivocation, swore did not happen, not only in those instances but in any other instance.

It took 43 days for Ruth Bader Ginsburg to be confirmed. We are at about 83 days, or something like that, now. I looked up a couple of articles just to refresh my memory. When she shows some fire—and she has plenty of it, and I admire that—the description of her is her ''well-known candor.'' That is how you describe it when Justice Ginsburg has her own opinion, like what she said about the Republican nominee last year: He is a faker. He has no consistency about him. He should withdraw. She said: I can't imagine what this place would be and can't imagine what the country would be with Donald Trump as our President.

Now, is that a temperament issue, or is that too political?

By the way, I am not offended by political. The Court never was either. John Marshall, one of the great Justices of the Court, was the Secretary of State for the person who appointed him. Earl Warren, who certainly set a standard for the Court, had never been in any public office except politically elected office before he became the Chief Justice. When he joined the Court in 1953, there were three former Senators sitting on the Court. There were two former Attorneys General sitting on the Court. Both had been appointed by the Presidents for whom they had been Attorneys General. Elena Kagan was the principal lawyer for President Obama. Yet, suddenly, political becomes a problem or temperament becomes a problem.

Thurgood Marshall said while he was on the Court—by the way, I admire him in so many ways. I admire Thurgood Marshall's work and what he did as a lawyer, and the decision that President Johnson made was clearly historic.

As a Justice, Thurgood Marshall said: I wouldn't do the job of dogcatcher for Ronald Reagan.

About President Bush, while he was still a Justice, Thurgood Marshall said: It is said, if you can't say something good about a dead person, don't say it. Well, I consider him dead.

Obviously, he considers him dead and takes the first injunction that he doesn't have anything to say, but there is nothing wrong with people on the Court having opinions.

In this case, we have a judge for whom you could look at 12 years of judging, and you could look at 300 opinions, and you could look at his law school classes he taught. There is plenty to look at. It all, I believe, leads to a couple of conclusions:

One, the way this nomination has been treated has been outrageous. I think my good friend who spoke before said he had never seen anything like it. Well, there has never been anything like this: Hold on to information that can't be corroborated. Only release it after it is clear that the judge has the votes to be confirmed and when you want to do, as the majority leader said, anything you can possibly do as the minority leader to slow down and stop this nomination.

We have plenty to look at here. We cannot set a standard of guilty until proven innocent because then anybody can make any charge at any time, particularly when there are many reasons to believe that there is nothing in 7 background checks, that there is nothing in 150 interviews, that there is nothing in a very visible public career to ever suggest that Judge Kavanaugh is anything different from what he said he was and those of us who will vote for him believe him to be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, before the Senator from Missouri leaves, confession is good for the soul, and I want to share something that will shock him, which is that there are a number of things that I did when I was in high school and in college that are not very prominently displayed in my campaign material. So, there, I have said it.

We had a vote this morning, but a lot of people who have been on the phone today have not really been sure what we did with that vote this morning. We had the vote this morning because we had to move forward in order to have the final consideration of this great nominee tomorrow. It was filibustered by the Democrats, and, of course, we had to do a cloture vote. I know this is somewhat in the weeds here, but that is what we have to do. That vote took place.

At some time tomorrow we will actually have this vote. I start by saying that I am enthusiastically a ''yes'' vote tomorrow. I think that goes without saying.

I met with Judge Kavanaugh in my office back when he was first nominated. In fact, I have studied him before. I remembered him when he was nominated the first time, about 6 years ago, and I talked to him at that time. I thought: Well, has he really changed that much? Is it necessary? I even said: It is really not necessary; I have followed his career and all of that. But he came by anyway.

The things that I like—and I am not a lawyer—are the things that he did that show him as a human being, more than just a nominee to be a Justice on the U.S. Supreme Court—the human things that he did. I know for a fact because I talked to her—one of his good friends who died had a wife and two girls, like his two girls. When back-to-school night comes, he takes those two girls with his to back-to-school night. This is the type of thing he does.

We have heard all of the warm things about what he has done as a coach and other things. That is the human being I know. Meeting with him wasn't necessary because I was sold on him anyway after looking at his record.

On the eve of Kavanaugh's nomination, heading toward certain nomination, we were hit by a bomb. It was an uncorroborated attack that the Democrats sat on for 2 months. That is critical. You have to stop and think about that. Why would they take something they thought was so important to destroy this fine man and wait for 2 months and sit on it? I am surprised they didn't let it slip. It is just because they wanted to make sure people were talking about it.

The details of the allegation were of the worst kind—an aggressive, ugly sexual attack.

Sexual assault and violence is wrong, period. It is wrong, and so many women who experience sexual assault and harassment do not feel empowered to come forward even years later—maybe never.

It is also unjust for someone to be accused of a crime that he or she did not commit and be convicted in the court of public opinion without any evidence or corroborated accounts.

It is hard to wrap your head around the fact that someone who has been in the public eye for decades, respected by his colleagues, his law clerks, his students, his friends, his family—everyone—and never had a whisper of wrongdoing in all of those years, and all of a sudden he is accused of such a heinous crime.

Like many Americans, I watched the hearing last Thursday in the hope that it would provide more clarity and some answers, and I think it did. It would be easy to get wrapped up in the conflicting media coverage and all the spin and so on; instead, I looked at what we know to be true—what we know to be true.

The people Dr. Ford places at the scene that night have either denied the events or do not recall any party or gathering that matches her description, so that is an idle accusation.

Her lifelong friend—in fact, some people characterize her as her best friend—is a person Dr. Ford named in her allegations as the only other girl at that small gathering. So here is a small gathering; she is accusing him of this behavior. There was one other girl there, and the other girl says that she does not know Brett Kavanaugh and has never attended a party where he was there. It can't be more definite than that, and that is from her best friend.

When Dr. Ford's testimony is compared to other statements that she made to her therapist, to the Washington Post, to the ranking member, and her statement for the polygraph exam, there are various inconsistencies that should not be ignored.

Dr. Ford's inability to remember key details of the alleged attack—things like the date, the place, and other circumstances surrounding the event—places Judge Kavanaugh in a difficult position to defend himself as Democrats and the media unjustly shift the burden of proof from the accuser to the accused. I don't remember that happening before. This is still America.

From the beginning, Judge Kavanaugh has categorically denied the accusations and has not wavered or equivocated on this point.

He has cooperated with the Judiciary Committee's investigation—that is Senator GRASSLEY's committee—every step of the way, including speaking with committee staff under oath several times over the course of the last couple of weeks and providing documentation to help clear his name. He has done it all. Everything we have asked of him, he has done.

On the other hand, Dr. Ford's attorneys have refused to turn over key evidence that her testimony relied on to corroborate her claims: her therapist's notes that were shown to the Washington Post but not to the committee, messages she exchanged with the reporter, the documentation, and the recordings related to the polygraph test she took in early August. They were refusing to turn over key evidence. They didn't have any evidence they could turn over, so no wonder there are no witnesses who can corroborate the accusations that have been made against this fine man.

I am not going to go into the other allegations. There are two others that came along.

The timing of this is kind of interesting. First of all, they withheld this document that Dr. Ford had for 2 months. It is hard to keep a secret around this place, and I am surprised that didn't come out. They did it for a purpose. What do you think that purpose was? What other purpose could it have been, other than they were waiting for the last minute to come out with something that was never discussed before? No other accusation had been made. That is what happened.

Based on the totality of what we know, to condemn anyone for an offense that has been denied and not proven—I would caution anyone against doing the same thing.

John Adams, our second President of the United States, wrote—now listen to this—''But if innocence itself is brought to the bar and condemned, perhaps to die, then the citizen will say 'whether I do good or whether I do evil is immaterial, for innocence itself is no protection,' and if such an idea as that were to take hold in the mind of the citizen that would be the end of security whatsoever.'' That is what he said.

Let's look at what Scripture says. Numbers 35:30 says:

> If anyone kills a person, the murderer shall be put to death on the evidence of witnesses. But no person—
>
> No person—
>
> shall be put to death on the testimony of one witness.

Think about that. That is a direct violation of what they are trying to do.

So you have Adams, you have the Bible, and then there is our judicial system. It is reflected in our judicial system as well: innocent until proven guilty. It is more than just a phrase; it is a cornerstone of the rule of law since before our founding, and its wisdom has been borne out time and again throughout history: Innocent until proven guilty.

That is really what is on trial here: innocent until proven guilty. I have never seen this happen before, and I have been around for a long time. It cuts through the drama and focuses on the facts. That is why I continue to support Judge Kavanaugh's confirmation.

Judge Kavanaugh's name has been unjustly run through the mud by these subsequent allegations that even the New York Times did not deem fit to print and that were brought forth by a known publicity seeker with an ax to grind against the President, looking for nothing but attention and more fame for himself.

I am dismayed that my colleagues on the other side of the aisle have taken these uncorroborated and fantastical allegations at face value and run with them. I feel the Democrats showed their hand in the days since last week's hearing when the agreement on the supplemental FBI background investigation was made. The narrative has shifted from allegations of sexual misconduct to ones of judicial temperament, as my friend from Missouri pointed out.

I am not a lawyer, but everyone knows the saying that if the law is on your side, argue the law. If the facts are on your side, argue the facts. If neither the facts nor the law are on your side, pound the table. That is what we are hearing right now. The difference here is that the Democrats are trying to outdo each other in pounding the table.

They know the allegations are not proven. They know that Judge Kavanaugh remains committed to his innocence and the process, and they know that Republicans will remain committed to the facts, so they must change tactics, move the goalpost one more time, and attack him on other grounds.

The first of these is to question his temperament. Because he defended himself, his family, career, and his name so forcefully and passionately, he did not demonstrate the calm, measured, and detached demeanor that one should expect of a judge. Well, the problem with this characterization is that it ignores the fact that Judge Kavanaugh was not a disinterested party while hearing the arguments of opposing counsel. He was the subject of the accusations, and it was he who was being attacked and condemned. There is a big difference there.

I dare anyone to be calm and dispassionate if they had to sit by for 10 days and watch and listen to everything they have worked for and have built over a long career of public service be torn down in an instant without any proof—without any proof at all—to see your high school yearbook picked apart by conspiracy theorists who seek nefarious meanings behind juvenile jokes and 30-year-old slang, to see your friends and family be threatened and harassed, and you can do nothing to stop the angry mob.

This idea completely ignores the fact that Judge Kavanaugh has proved, over the 12 years that he has been on the bench of the second most powerful court in the country, that he does have the temperament we look for in our judges. This fact is supported by an ABA ranking of unanimously ''well qualified''—which is considered to be the gold standard for Democrats—and the countless testimonies by people across the political spectrum who have worked with him, who have argued a case in front of him, and who know him well.

In the last few days, the discourse has further devolved into perjury claims based on the judge's drinking habits in high school and college. I will leave the legal arguments to those more knowledgeable than I in that department who have thoroughly debunked that particular myth. Suffice it to say, he testified that he liked beer. He drank beer, and sometimes he drank too much. He did some things in high school and college that maybe he now thinks he shouldn't have done, but that is what he did. He wasn't hiding anything when it came to drinking in his youth. He said that right up front in one of the earlier hearings.

There were six background investigations by the FBI over the course of lengthy public service, decades in the public eye, and never has anyone brought any allegations or concerns to the attention of the investigators or the press in all of that time.

I was here when he was up for the appellate judgeship, and none of this came up at that time. There is a difference here. I think the other side is—let's face it. The Democrats said at the very beginning: It doesn't matter who our President nominates to be on the Federal bench, we are going to oppose him. So here we have them opposing him.

Well, with each new breathlessly reported account of a party, alleged ice-throwing incident, or juvenile jokes about passing gas or cussing from the early to the mid-1980s, it becomes clearer and clearer that Democrats are not serious in their concern about the more serious allegations as the focus of their attacks become more and more absurd and desperate.

The fact that they have to focus on Judge Kavanaugh's school days further reinforces the idea that Brett has led an exemplary life as a husband, a father, and a public servant.

I would like to take just a moment to commend my good friend from Iowa, the chairman of the Judiciary Committee. My wife called this morning, and she said: Be sure you single him out and sit him down and tell him how proud I am of him. My wife and I have been married for 59 years, and when my wife is proud, I am proud.

Once he was made aware of the allegations that the Democrats kept from him for weeks, he and his staff went right to work to investigate. They postponed the committee—this is the chairman we are talking about. They postponed the committee vote, gathered statements and other evidence, and offered Dr. Ford the opportunity to provide her testimony in any way that would be comfortable for her, eventually scheduling a follow-up hearing. All along the way, Dr. Ford and Judge Kavanaugh were treated by our chairman of the Judiciary Committee with the respect they deserve and should have received, starting when the allegations were first brought to our attention.

He and his staff have kept us informed in the Senate of the various investigations at almost every step in the process. The chairman has built a well-deserved reputation for protecting whistleblowers. This is one of the things he has been outspoken about for a long time, and he has protected them over the course of his career. He has proven himself once again during this process.

I look forward to voting for Judge Kavanaugh. I would hope that we could put an end to the search-and-destroy campaign that is being waged by the Democrats and their enablers and this media, but I won't hold my breath.

Thank you, Mr. President.

I yield the floor and suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Hawaii.

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

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

Ms. HIRONO. Mr. President, I rise today in opposition to the nomination of Brett Kavanaugh to the Supreme Court of the United States. Based on an in-depth examination of his legal career, academic writings, and judicial record, I conclude that he has a long pattern of misstating facts and misapplying the law in order to further his partisan political agenda.

His partisan, ideologically driven agenda is particularly troubling in cases involving women's intimate personal decisions.

Roe v. Wade and its progeny represent an acknowledgment in American law and life that women ought to have control over whether and when to bear children, but it is more than that. As Justice O'Connor explained in Casey v. Planned Parenthood, ''It is a promise of the Constitution that there is a realm of personal liberty which the government may not enter.''

The Supreme Court's jurisprudence on reproductive rights is based on case law going back decades that has assured Americans the right to educate their children as they see fit; to marry anyone, no matter their race; and to decide whether to use contraception inside or outside of marriage. It is part of a jurisprudence of privacy and autonomy that became a bedrock of American society that we have all relied on to create families, choose professions, and raise children. But Brett Kavanaugh, through his political choices and affiliations, as well as his legal and judicial writing, has told us loud and clear that he does not respect a woman's right to make her own intimate, personal decisions and will do whatever he can, once confirmed, if confirmed, to narrow and overturn Roe v. Wade.

A recent speech Kavanaugh delivered gives us further insight into his own legal views on the topic. In 2017, at the American Enterprise Institute, Kavanaugh gave a speech in tribute to the late Chief Justice William Rehnquist. In his remarks, Kavanaugh praised Rehnquist's dissent—dissent—in Roe v. Wade where the late Chief Justice found no constitutional right to abortion because the right was not ''rooted in the traditions and conscience of our people.'' Thank goodness the rest of the Supreme Court did not follow Chief Justice Rehnquist.

To learn about Brett Kavanaugh's own legal views on reproductive rights, we need only look at his dissent in last year's DC Circuit case Garza v. Hargan. Here, a 17-year-old undocumented immigrant sought release from government custody to obtain an abortion.

Kavanaugh's first fundamental misstatement in this case was mischaracterizing it as a ''parental consent'' case. It was not. The young woman had already received a proper judicial bypass from a Texas judge and therefore did not need parental consent.

For a judge applying for a promotion to the Supreme Court to completely misstate the issue in the case was astounding to me. In my view, a first-year law student would not have deemed the Garza case to be a parental consent case, but that is what he said.

Then, when applying the legal test under Roe and Casey to determine whether the young woman's rights were being subject to an ''undue burden,'' Judge Kavanaugh would have ruled against her. He thought nothing of keeping a 17-year-old as a prisoner of the government Office of Refugee Resettlement instead of releasing her to get an abortion that was entirely within her rights to seek.

Compare that to the ease with which Judge Kavanaugh found that religious employers, in the case of Priests for Life v. Department of Health and Human Services, were burdened by filling out a two-page form. The employers there were seeking to avoid paying for any employee's health insurance that covered contraception, saying it burdened their free exercise of religion.

The majority of the DC Circuit held that asking the employers to fill out a brief form to let the government know of their objection was not a substantial burden, but Judge Kavanaugh disagreed and would have ruled to deny the female employees their proper health coverage, siding with the Priests for Life. Judge Kavanaugh's colleague on the DC Circuit went out of her way to write a concurring opinion to directly rebut Judge Kavanaugh's dissent and correct his misstatements of the case.

To Judge Kavanaugh, holding a woman in government custody unnecessarily and against her will does not represent an undue burden on the exercise of her constitutional right to an abortion, but when it comes to a religious employer opting out of providing contraceptive coverage to an employee, a two-page form is too great a burden.

The pattern of Judge Kavanaugh's views on the right to abortion is clear. Anyone who feels assured he will uphold Roe v. Wade is living in a fantasy world.

Laws that narrow women's reproductive rights in States like Texas, Iowa, and Louisiana are currently making their way to the Supreme Court, and all evidence shows that Judge Kavanaugh will side with them. Advocates for women's reproductive rights are against Judge Kavanaugh's ascent to the Supreme Court with good reason.

Another aspect of his judicial record that argues against confirmation is Judge Kavanaugh's pattern of dissents. Dissents are revealing. It is where judges go out of their way to voice their disagreement with the majority on the court to show what their views are. Judge Kavanaugh has the highest dissent rate among active DC Circuit judges at 5.1 dissents per year.

One study I introduced at his hearing showed that he consistently sided against workers and immigrants and only once favored consumers in his dissents.

Another study showed he consistently sided against protecting the air we breathe and the water we drink. So environmental and consumer rights groups are against Judge Kavanaugh's ascent to the Supreme Court with good reason.

Yet another study analyzed his dissents and found that Judge Kavanaugh tended to dissent more often along partisan lines than his colleagues and his ''divisiveness . . . ramped up during political campaigns'' before Presidential elections. This is more than mere coincidence. It also found that he had the highest rate of what the study called ''partisan dissents''—where the other judges in the majority were appointed by the opposing party; in other words, by Democratic Presidents. Again, this is not the sort of fairminded consideration of the facts and the law necessary for a Supreme Court Justice.

His partisanship was clearly on display for all to see at his Thursday hearing.

For me, as a Senator from Hawaii, Judge Kavanaugh's pattern of misstating the facts and misapplying the law is evident in his work on the case of Rice v. Cayetano and the rights of Native peoples.

President Trump has demonstrate through signing statements, budget proposals, and proposed regulations that he views programs for our indigenous communities as unconstitutional racial classifications, and he found a like-minded Supreme Court nominee in Brett Kavanaugh.

Brett Kavanaugh has a long history of misstating facts and misapplying the law in order to curtail the rights of indigenous peoples—Native Hawaiians, Alaska Natives, and American Indians.

As an attorney in private practice in 1999, Brett Kavanaugh coauthored a friend-of-the-court brief in support Harold ''Freddy'' Rice's challenge to the voting structure of the Office of Hawaiian Affairs—a State office established in Hawaii to work for the betterment of Native Hawaiians. Mr. RICE sued then-Governor of Hawaii Benjamin Cayetano, and the case made its way to the U.S. Supreme Court.

Judge Kavanaugh coauthored his amicus brief with other highly conservative legal advocates, including Robert Bork—a harsh critic of the Civil Rights Act of 1964 when it was proposed. Judge Kavanaugh separately, in addition to working on this amicus brief, wrote an op-ed for the Wall Street Journal titled ''Are Hawaiians Indians?'' that made false and offensive arguments.

In his op-ed and amicus brief, Judge Kavanaugh relied on incorrect facts and misstatements, ignoring obvious truths that contradict his position. He relied on these incorrect facts in order to reach his political conclusion that Native Hawaiians and arguably other indigenous communities who do not fit his limited view of Tribal structure are not afforded any special protections by the Constitution.

He called OHA's voting structure into question under the 14th Amendment, calling it a ''naked racial spoils system.'' In describing the Native Hawaiian community, he went out of his way to ignore their history, cobble together blatant falsehoods, and call into question their status as an indigenous people.

His op-ed argues that Native Hawaiians are not entitled to constitutional protections given to indigenous Americans because, as he put it, ''They don't have their own government. They don't have their own system of laws. They don't have their own elected leaders. They don't live on reservations or on territorial enclaves. They don't even live together in Hawaii.''

Judge Kavanaugh is saying that Native groups in the United States derive their rights from having been herded onto reservations and cheated out of their land and that they surrender their rights when they move outside of these artificial boundaries. It is not only factually wrong but deeply offensive. Kavanaugh argues that an indigenous community must have its own government, system of laws, its own elected leaders, and live together on a reservation to be considered indigenous. By that, he means that only federally recognized Tribes in the lower 48 States are afforded any protections.

After Judge Kavanaugh made his troubling and misleading arguments in the amicus brief and op-ed, the U.S. Supreme Court decided Rice v. Cayetano. They ruled that Hawaii's voting structure for the Office of Hawaiian Affairs violated the 15th Amendment's voting rights guarantees. The Supreme Court, in Rice, relied only on the 15th Amendment. It did not address the 14th Amendment argument Judge Kavanaugh made in his amicus brief, which claimed that the Office of Hawaiian Affairs' voting structure was an unconstitutional ''racial voting set-aside.'' But Judge Kavanaugh and his conservative allies continued to misstate and misconstrue the holding in Rice for their own political purposes.

In the Bush White House, Judge Kavanaugh continued to misapply the law in Rice to argue that Native Hawaiians could not be the beneficiaries of targeted programs, when clearly the case stands for a much narrower proposition having nothing to do with government benefits.

In fact, the Supreme Court declined to address Judge Kavanaugh's question of whether the Office of Hawaiian Affairs' voting structure could be an unconstitutional, race-based classification under the 14th Amendment.

In one email, when he was in the Bush White House, Kavanaugh wrote: ''I think the testimony needs to make clear that any program targeting Native Hawaiians as a group is subject to strict scrutiny and of questionable validity under the Constitution.''

In another, he wrote: ''White House Counsel objects and raises questions

about the constitutionality of this bill, including but not limited to the portions that refer to Native Hawaiians. See Rice v. Cayetano.''

At his hearing in front of the Judiciary Committee, when I asked him about his misapplication of the law, Judge Kavanaugh again misstated the holding of Rice and refused to correct his misstatement when I asked him to clarify. He testified before the Judiciary Committee that Rice ''was a straightforward violation of the 14th and 15th amendments of the U.S. Constitution.'' He was wrong, but when I pressed him on this point and asked him to show me where the majority decision in Rice cited the 14th amendment, he refused to answer. Why? Because he was clearly wrong.

It is deeply troubling to have a Supreme Court nominee for a lifetime position who doesn't adhere to facts or correctly present the law. Judge Kavanaugh's answers on this topic fit his pattern of evading and skirting the truth.

His reliance on these stereotypes and bigoted tropes about Native Hawaiians, as well as his misapplication of the law, represent a clear and present danger to Native people all over this country, including in Hawaii.

Notably, in his writings against Native Hawaiians, Judge Kavanaugh completely avoided any reference to the Alaska Native Claims Settlement Act, ANSCA. Under ANSCA, Alaska Natives organized themselves not as a tribe in Judge Kavanaugh's understanding of the word but as village and regional corporations with shares that individual Alaska Natives hold. This is a novel and unique system for facilitating the U.S. trust responsibilities and arguably not at all in keeping with what Judge Kavanaugh believes deserves constitutional protection. That is why Native communities across the country, including the Office of Hawaiian Affairs, Council for Native Hawaiian Advancement, Alaska Federation of Natives, and the National Congress of American Indians have come together to express deep concern over Judge Kavanaugh's nomination.

In the context of his views on Native peoples, I no longer find it curious that Judge Kavanaugh devoted so much time back then to writing an amicus brief and an op-ed on a case that involved Native Hawaiians.

I will have more to say tomorrow about other aspects of this nomination—in particular, what Dr. Christine Blasey Ford's account of her attack by Brett Kavanaugh reveals about the nominee, the Senate, and the American culture.

For now, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Ms. HARRIS. Mr. President, I ask unanimous consent to enter into a colloquy with my colleagues, the Senators from Washington and Connecticut. I also ask to be notified when we have used 45 minutes of the Democrats' time.

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

Ms. HARRIS. Mr. President, given the serious and troubling allegations against Judge Brett Kavanaugh, I am deeply disturbed that the Senate is moving forward with this nomination.

When it was announced that the FBI could investigate these serious and credible allegations, I had hoped there would be a legitimate investigation. As the former Attorney General of California, I have tremendous, tremendous respect for the sworn law enforcement officers at the FBI. This should have been a search for the truth. They should have been allowed to do their full job, but instead, the White House did not allow it. This was not a search for the truth. Instead, this was about politics and raw power to push through an unfit nominee.

I am a former prosecutor. I have led investigations, and I have prosecuted all types of crime—particularly violent crimes, including a specialization in sexual assault cases—as a prosecutor. I have tried these cases in a courtroom. I have spent hours—hours—with assault victims, and I can tell you that when we look at what happened during the course of these days—these few days—in reviewing and giving regard and respect to Dr. Ford, we have fallen short. We have fallen short.

Sixty-three percent of sexual assaults are not reported to the police in our country. Delayed reporting is normal. I will tell you that when I was personally prosecuting sexual assault cases, we would be in a courtroom. I would be there as the prosecutor, with the accused, the accused's attorney, a judge, and a courtroom full of prospective jurors, and we would engage in a process called voir dire, where we would talk with prospective jurors to determine if they would be able to sit as a juror and, without bias, listen to the case and then make a determination about the facts and the law.

I cannot tell you the number of times, colleagues, that a prospective juror would raise their hand and ask could they quietly speak with me and the defense attorney and the judge in the judge's chambers outside of the courtroom and outside of the sight and the ability for anyone else in the courtroom to hear. We would go into the judge's chambers, and I cannot tell you the number of people who would sit in a chair, and, with tears in their eyes, tell us that they had been a victim of sexual assault and had never told anyone, not even their spouse, but because of what they had experienced, they knew they could not possibly sit in a courtroom and hear the testimony they knew would come related to the charges they knew the case was about.

This is an issue that impacts so many Americans, most of whom don't report it and don't tell anyone, and usually when they do, it is because something precipitated the telling of their story that was beyond the time during which they endured the assault itself.

Dr. Ford's experience in this regard is no different from the majority of sexual assault victims, and she should be believed. I know what it means to engage in an investigation and a search for the truth, having been a part of investigations to determine what has happened and, in particular, if a crime has occurred.

Now, let's be clear about one thing. There has been a lot of conflation around here about the subject and the need for an investigation into Dr. Ford's allegations. Ours was not a search to determine whether a crime occurred. Ours was not a search to determine whether we had enough facts to prove beyond a reasonable doubt that a crime had occurred. No. Ours was an investigation to figure out enough about what happened to determine if Brett Kavanaugh is fit to serve on the highest Court in our land. Is he fit to be a jurist in the place where we have said justice in our country occurs, in the house where we listen to evidence and truth and make determinations based on the veracity and truthfulness of what has occurred? That is our role when it comes to Dr. Ford's allegations, and we fell short. We fell short. We did not do her justice, and we did not do the American people justice.

We were given 1 week to investigate. The Republicans said: You will get 1 week. They threw out 1 week—an arbitrary amount of time—and in less than 1 week we were presented with paltry documents. Clearly, when the White House directed the FBI to do its work, it appears from everything I have seen, the FBI was not permitted to look at all of the allegations. That is clear to me. It is clear the White House did not permit the FBI to request Mark Judge's Safeway employment records. It is clear, from everything I have seen, the White House did not permit the FBI to investigate the dishonest testimony of Brett Kavanaugh or to examine and listen to the evidence that would have been provided by a list of over two dozen witnesses who would have been, at the very least, able to corroborate or deny the allegations that were made. This was not a meaningful investigation into the allegations that are before us, and this, most importantly, was not a search for the truth.

Media outlets have reported that there are more than 40 people with potential relevant information who are willing to share their information but only 9 people were interviewed. This is a travesty. They did not interview the Georgetown Prep alumni or others from that era who contradict Kavanaugh's testimony. They did not interview Dr. Ford's husband or a number of her friends who she told of the assault before—before—Kavanaugh's nomination. They did not interview the former FBI special agent who conducted Dr. Ford's polygraph. They did not interview Kavanaugh's roommate at Yale who has contradicted Kavanaugh's testimony. They did not

interview another one of Kavanaugh's neighbors in the dorm at Yale. They did not interview three of Kavanaugh's friends from Yale who wrote in the Washington Post just last night:

Brett also belonged to a Yale senior secret society called Truth and Courage. We believe that Brett neither tells the former nor embodies the latter.

They did not interview Dr. Ford at all—they did not interview Dr. Ford at all. They did not give her the ability to speak her truth during the so-called investigation, and they did not interview Judge Kavanaugh about these allegations.

This was not a search for the truth. This was not an investigation. This was an abdication of responsibility and duty. This is on the heels of a process that began with hiding more than 90 percent of Judge Kavanaugh's record. We only received approximately 400,000 pages out of an estimated 6.9 million pages of documents. The Republicans have been saying: You should be happy you received thousands of pages of documents because they want us to treat crumbs on the table like it is a feast. These were crumbs on the table compared to the vast amount of information that is available to some about his background.

This process has left the American people with more questions than answers. This has not been a search for the truth.

The minimum standard for a Supreme Court nominee should be someone who we are confident will demonstrate impartiality, integrity, and truthfulness, but the nominee we are voting on has not demonstrated those qualities.

Every American is entitled to the benefit of the doubt, but nobody is entitled to a seat on the U.S. Supreme Court.

I yield to my colleague Senator MURRAY.

Mrs. MURRAY. Mr. President, I thank the Senator from California for very clearly outlining, for all of us to hear, why this was not a search for truth on an issue that affects so many people in this country, the victims of sexual assault who often, as she just described, do not talk about it, do not speak about it, do not ever tell anyone until there is a reason to, which is what Dr. Ford did.

While the Senator from California is here, you said this was not a search for truth. When it comes to victims of sexual assault—and you have dealt with them time and again as a district attorney and attorney general in the State of California—what message does this send when they see the U.S. Senate?

Ms. HARRIS. Senator MURRAY, you and I have talked about it. We all talked about it. Part of the pain of this process is a real concern that sexual assault victims and survivors may take away from this process that their stories will not be heard or believed. Part of the pain I am taking away from this process is those who have a story to tell or might have been prepared to have the courage to report may decide: Look what happened to Dr. Ford. It doesn't matter. No one will believe me, and why should I go through that?

I have to say this. You and I have discussed it, and Senator BLUMENTHAL and I have discussed it together. Part of what we must message—even if our Republican colleagues will not—is to all of the women and men out there who have experienced this: We will hear you. We will see you. We will respect you. We will give you dignity. Speak your truth. Do not be afraid. Do not let this system or any aspect of it bully you into silence.

It is critical we talk about this issue. I believe this is an issue right now that is where the issue of domestic violence was about 30 years ago. There was a perception about domestic violence I hope we have gotten beyond. There was a perception about domestic violence: Oh, you know, what happens in the King's castle is the King's business. That is private business. That is not our business.

Then we evolved as a society and realized, no, she is walking around with a black eye or a busted lip; that is everybody's business. She deserves to be safe, and we must stand up for her. I believe this is an inflection moment on the issue of sexual assault, and I hope and pray this is a moment where everyone will agree, no one should silently suffer. Let's talk about this. Let's talk about the fact that every 98 seconds in the United States of America, someone is sexually assaulted. Let's talk about the fact that 63 percent of sexual assaults are not reported to the police. Let's talk about the fact, since Dr. Ford had the courage to speak out, one of the biggest national organizations that addresses sexual assault saw a 738-percent increase in the calls they received from survivors of these cases.

Mrs. MURRAY. I thank the Senator from California, and I so agree. This is one of my biggest fears about this moment. Let me talk about why that is true. I was a mom at home in 1991. I was a State senator but not interested in what was happening here at all. My interest came because I watched the Clarence Thomas-Hill hearings, and I watched how a woman shared a very difficult story with an all-male panel of the Judiciary Committee at the time. She was disbelieved. She was swept aside. She was treated as if her voice wasn't important, and she was not believed.

I was so angry as a woman because like so many women in this country, I knew of so many people with experiences much like hers who, too, at work at that time had been dismissed, not believed, and were afraid to speak up. I was angry, and I went to a gathering that night and told some of my friends in 1991, the night of the hearing, I am going to have to run for the U.S. Senate because I need to be inside that to speak up for these women.

That is what motivated me to run. I was not given one chance of winning that Senate race. Here I am today, 27 years later. Why? Because so many women and men who understood shared that experience and knew that voice needed to be here. That is what brought me to the U.S. Senate.

Let me talk about Dr. Ford because I listened to her, like everyone else did, and I heard her voice and it rang so true to me. I watched her with tears in my eyes because she was honest, she was sincere, she was persuasive, she was credible. She had no reason to lie—none. In fact, I think we should remember, she did not want to come forward initially. She was worried about the attacks that would come. She knew the history, as every one of us do, what happens to those courageous voices when they speak up, the invasion of privacy they have. She knew what it would mean for her family.

She only came forward when Judge Kavanaugh was on the very short list for the Supreme Court, before he was ever sent to us. She came forward and spoke out, but no one called her. She didn't want to do it publicly. She didn't want to have this become what she was known for in her life, but she did. If it weren't for her, we would not be at this point.

Judge Kavanaugh was selected, and only then was Dr. Ford able to get her information to the people who would pay attention. She insisted it be kept confidential, to none of our surprise. She didn't want a spectacle. She didn't want a show. Why did she do that? She felt it was her civic duty that we as U.S. Senators—who were giving, essentially, a job interview to a man who wanted a position on the highest Court of the land and would be judging people in front of him—should know what his character was.

Her story was compelling. She took a polygraph test. She did everything right. She had told people before. She presented her case credibly. It is extremely disconcerting to me, as someone who watched the Clarence Thomas-Hill hearings and is sitting here, that I have heard people dismiss her, put her down, all the way up to the President of the United States. What message does that send across the country today and to other women who are so bravely now telling their stories so it will not happen to anyone else? What does this say to them? What does it say to young girls in high school and college today? They are going to get away with it, so be quiet because it will only ruin your life, not theirs.

I have heard my colleagues say: Well, it was high school, it was college.

Really? Is that what we want young boys in high school today to think; that it is OK, don't worry, whatever you do in high school does not count—whatever you do in college doesn't count?

I do not want my grandson to hear that message. I do not want my granddaughters to hear that message. I want

my country to be better than that. Dr. Ford is a real person. She is not alone.

If any Senator in the U.S. Senate is listening, they will hear voices in their own States, from places they know, from their own relatives, from friends they have not ever known about, bravely come forward because Dr. Ford did. This Senate, with the action we are pursuing, could crush those voices forever.

To my friends out there and to everyone who has a story, do not be silent. That is not how we win this for the future, but know we do believe you. The Senate has changed since then. I was proud of the Judiciary Committee members on our side, because unlike when I watched the Senate in 1991, there were women and men there who were listening, and they are today.

We have to, in this Senate, think about the consequence of this vote to so many people who are listening today and asking: Do I say anything or do I let it happen?

I urge my colleagues to remember the lesson of 1991, where too many people felt ''I can't speak out.'' We are changing. We are growing. We are speaking out. It is so imperative this Senate stand behind those women. We hear you. We believe you. We know that happened to you. You need to tell your story. You need to have the courage, and we will be behind you.

I say to the Senators who are joining me today, both who have been involved in these cases, I am concerned this message could be the wrong one for young men and women who are coming behind us. We have to stand up for them.

I yield to the Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I am honored to join these two eloquent colleagues who have each been champions for this cause as women speaking about the problem of sexual assault in our country—the epidemic of sexual assault that continues to be a scourge across our country. Most of my career in law enforcement, like my distinguished colleague from California, has been involved in making laws work for people and deterring exactly this kind of heinous lawbreaking. It is criminal. It is a crime, but it is one of the least reported crimes because of the public shaming and character assassination and mocking and ridiculing we have seen from men in power over just the last few days and weeks.

I want to say, as a man speaking on the Senate floor—and greatly honored to do so—to other men in this country, those men in power who have mocked and ridiculed Dr. Blasey Ford cannot be our role model. Those men in power—they may be colleagues and they may be the President of the United States who have belittled and demeaned and dismissed Dr. Blasey Ford and Deborah Ramirez and survivors across the country—do not speak for us. I believe Dr. Blasey Ford. I believe Dr. Blasey Ford because she was credible and powerful as a witness before us in what she remembered and what she so candidly said she couldn't remember. I believe Deborah Ramirez. I believe all of you who have written my office or called us, as many of you have done in other States to my colleagues, who have recounted the horrors of your personal experience with sexual assault, who have come to me as I have been in airports or rallies or other public meetings and shared with me your horrific story. I believe you. America believes you.

Let me say to Dr. Blasey Ford's sons, you should be proud of your mom. You should be proud of your mom because she is a profile in courage.

To Mr. Ford, you should be proud of your wife.

To all the men in America, we need to believe survivors of sexual assault. We need to protect and respect them, not just in word but in deed so they will come forward and tell us their stories so we can conquer scourge.

We should be proud of the brave women who have brought us truth that cannot be denied no matter how much character assassination and public shaming they have endured. We know their truth. This issue of how America moves forward on sexual assault is bigger than this nomination. It will last beyond the vote tomorrow. It will be a defining question for each of us as men, as human beings.

Judge Kavanaugh, in facing these allegations, has also revealed something profoundly significant about himself. When he came to the committee after Dr. Blasey Ford, he revealed his true character. He pulled back the mask on the judge and revealed the man. What we saw was someone filled with rage and spite, self-pitying and arrogant, deeply partisan, and threatening. We can disagree on Judge Kavanaugh's views on jurisprudential issues and policy and law. We can disagree on issues relating to his out-of-the-mainstream, far-right ideological position, but what cannot be denied is that picture of Judge Kavanaugh before our committee that indicated profoundly a lack of temperament and trustworthiness. That picture led former Justice John Paul Stevens to revoke his endorsement and to say his performance was disqualifying.

What we saw—as they say, a picture is worth a thousand words—was a man who refused to answer questions; he snapped at my colleagues; he spouted partisan conspiracy theories. That is the real Brett Kavanaugh—the Brett Kavanaugh who characterized Dr. Ford's serious and credible allegations as nothing more than ''a calculated and orchestrated political hit.'' He, in effect, depicted her as a puppet or a pawn of Senators or political figures, not people who came forward voluntarily in their own right and on their own initiative, as truly they did.

He was the Brett Kavanaugh who alleged that it was all ''revenge on behalf of the Clintons.'' He is the Brett Kavanaugh who, as the Portland Press Herald characterized it, ''ripped off the nonpartisan mask'' and never looked back.

He is the Brett Kavanaugh who threatened us, saying, ''What goes around, comes around.''

In Brett Kavanaugh's own words, a judge must be someone who is ''even-handed, unbiased, impartial, courteous yet firm, and dedicated to a process, not a result.'' Those are his own words. That is not Brett Kavanaugh the man. It will not be Brett Kavanaugh the Justice if he is confirmed.

Brett Kavanaugh revealed himself to be a partisan—an angry and bitter partisan—not an impartial jurist, and he did so in prepared remarks, planned and premeditated, well calculated, written word for word, and delivered word for word as he angrily turned the pages, and that is the message that, for me, resonates because I have argued cases in the Supreme Court. I have spent a career standing before judges. Some of their rulings I liked; some of them I disliked. Some of their conclusions I thought were maybe incorrect. But I knew that those men and women wanted to be impartial. When they put those robes on, as Brett Kavanaugh has done, they left party and partisan interests at the door.

Now, when I go to the U.S. Supreme Court, if Brett Kavanaugh is confirmed, there can be no trust or confidence that he will be that impartial jurist. It is and will be a stain, a cloud, on the U.S. Supreme Court. All the Supreme Court has in the way of power is the trust and credibility and confidence of the American people, which will be diminished forever.

So let me pose a question to my colleague from California because she has so well described the voir dire process. It is jury selection, where we make an effort to pick jurors who are impartial and nonpartisan.

I say to Senator HARRIS, if Brett Kavanaugh came to a courtroom where the Senator was trying a case as an attorney general, and he were in the jury pool to be picked for a jury, would the Senator pick him as a juror? After that appearance before our committee, would the Senator allow him to sit on a case where the Senator was litigating?

Ms. HARRIS. I say to Senator BLUMENTHAL, my response would be no. My response is no, and I will tell you why—because one of the most important qualities of a juror in our system of justice is that they have the ability to receive information without bias, without any interest in the outcome, and Judge Kavanaugh has made it very clear to the American public that he is biased, that he is perceiving information and perceives it through the lens of a partisan and through the lens of the person he has been his entire career, which is a partisan operative.

There were moments, perhaps during his initial testimony, where he may have distracted us from that part of his

history, where he talked in a calm voice about certain things. He certainly knows case law and talked about it. But when the issues got hot, when it became about fundamental issues, the veneer was stripped away, and Brett Kavanaugh showed us who he really is.

On the point of temperament, I think it is important for a number of reasons that the American people really review his testimony during those hearings these last days of this process because what he showed us also are two things in the way that he responded to our colleagues and approached the issue.

One, he showed us that he lacks credibility, and I will tell you why I say that. When I was trying cases, I recall an instruction the jury would receive at the close of a case; the judge would give the jury instructions about how they could evaluate—it was a tool to help them evaluate the credibility of a witness, and one of the instructions was that it is relevant and significant for you to analyze the demeanor of this witness toward the proceedings. On this point, let's recall Dr. Ford's demeanor and Judge Kavanaugh's demeanor.

Dr. Ford went out of her way to be helpful and truthful. She corrected herself when she thought there was more to offer. She yielded: Would the committee like a break? If so, I will take one. If not, I can keep going.

By contrast, Judge Kavanaugh was arrogant, he was aggressive, he was accusatory, and, clearly, he was not in control of himself. But I have to believe he was in control of his words because, as the Senator has pointed out, he told us he wrote his speech the night before. He said: I didn't show my staff. I just wrote these.

Well, you know, we often advise people when you are feeling hot about something, write it all out and then sleep on it. Then look at those words the next day, and see if you really want to stand by them.

This is a judge who is meticulous, he says, in everything he does. I believe that he wrote those words the night before. I am sure he slept on it. I am sure he looked at those notes again, and he decided that is what he was going with because it wasn't just about the heat of that moment. These are the things he really believes. That is why he said it, so let's believe him at his word. He is a partisan.

For that reason, I answer the Senator's question by saying, no, I would not select him to be on a jury.

Mr. BLUMENTHAL. I think this issue of temperament—and I am going to pose a question to my colleague from Washington—is fundamental to our system of justice in this country. Courtrooms are sometimes really emotional places, and sometimes they are angry places. The function of the judge is to remove the emotion and the anger, to be impartial and balanced and even keeled.

So for a judge on the DC Circuit Court of Appeals to engage in the kind of angry outburst—it was not spontaneous; it was not the result of some accusation in the moment. It was calculated. It was premeditated. It was written the day before. It was inexcusable and unacceptable.

I will ask my colleague from the State of Washington, since she is not a lawyer, perhaps to her credit: If the Senator were appearing in a courtroom with Judge Kavanaugh, wouldn't the Senator ask that he step away from the case, that he recuse himself in light of what he has said about all Democrats, about vast classes of people—this anger that he has expressed?

Mrs. MURRAY. I thank the Senator from Connecticut. No, I am not a lawyer. I was a preschool teacher, and one of the things I do know is that I wanted my students to know it is not OK to bully. You have to take a pause and do what is right.

But let me tell you, what I would want for every one of the kids I have ever taught in preschool is to know that if anything they deeply care about—an issue or they themselves—ever appears in a court, then they should feel, in the United States of America, that they would be given a fair shot, and win or lose, the judge presiding over them would leave them with that feeling at the end of the day. That, to me, is why temperament is so important.

If Americans lose the sense that no matter who they are or what their issue is or where they come from or how much money they make in our court of law, they stand a chance to be heard, even if they lose or if they win—that is why temperament is so important to me as a nonlawyer and someone who cares deeply about this country.

Mr. BLUMENTHAL. I will yield back to my colleague from California, but let me just close my part of this colloquy by saying that we saw the real Brett Kavanaugh before us on that day at that moment, and I think my colleagues, if they review that picture, a picture is worth a thousand words. If they apply common sense—we should not leave common sense at the door. If they put themselves in the shoes of someone appearing, seeking justice, they will vote against Brett Kavanaugh and the disrespect that he showed that brave survivor, Dr. Blasey Ford.

I yield back to my colleague from California.

Ms. HARRIS. I thank my colleagues from Washington and from Connecticut. I agree, we can find a better nominee, and I yield to the Senator from the great State of Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. KAINE. Mr. President, I also rise to speak on the nomination of Judge Brett Kavanaugh to the Supreme Court.

When he was nominated to fill the vacancy occasioned by the retirement of Justice Kennedy, I immediately began to read all I could about his record. I reviewed his judicial opinions, law review articles, speeches, and I reviewed, such as they were made available, documents produced from his time working with the Bush administration and his work with the special prosecutor, Ken Starr.

Following the review, I met with him to ask him serious questions about his record. I then watched his Judiciary Committee hearing with interest. After that hearing, based on all I had seen and read, I announced my opposition to his nomination for two reasons.

First, the Nation needs a Justice with the backbone to stand up as an independent check against both the President and Congress. That is why our Nation gives judges life tenure, so they can render independent rulings without fear of losing their jobs.

In a whole series of writings, speeches, and rulings over the course of many years, both as a lawyer and as a judge, Judge Kavanaugh has embraced an unusual deference to Executive power. I think this is one of the reasons the President nominated him, and I don't have confidence that Judge Kavanaugh will hold the President accountable to the law.

Second, Judge Kavanaugh's writings as a Bush administration lawyer—at least those that the majority has allowed us to see—demonstrate his personal view that settled law is settled only until five Justices decide to do something different.

This is true, as a matter of realpolitik, but I am left with serious questions about what other areas of settled law might be unsettled, should he ascend to the Court.

I can understand how my colleagues might reach different conclusions on the two issues that led me to oppose this nominee, but since I announced my position, two additional issues of great importance have arisen.

The first is how the Senate, as an institution charged with leadership, will respond to the real and pervasive problem of sexual assault. The second issue is how blatantly partisan we would want the Supreme Court to be.

Christine Blasey Ford has come forward alleging that Judge Kavanaugh sexually assaulted her in high school. Deborah Ramirez has come forward to allege that he sexually humiliated her during a party during his time at Yale.

The two allegations by two people who do not know each other, about instances that happened in different times at different places, have striking similarities. Both Ford and Ramirez allege that Kavanaugh was under the influence of alcohol and, in the presence of other people, assaulted or sexually humiliated them while others stood by laughing—laughing. In both allegations, the sexual abuse of a woman was treated as some form of entertainment for other persons.

People who have suffered from sexual assault or harassment are watching to see how the Senate responds to these serious charges. And what do they see?

A hearing where Dr. Ford described her experience calmly, credibly, and candidly, while Judge Kavanaugh attacked her claims, as well as those of Ms. Ramirez, as nothing more than a partisan political conspiracy; a narrowly limited, 5-day investigation by the FBI, which, under orders from the White House, contacted a handful of witnesses, while dozens of witnesses proffered by Dr. Ford and Ms. Ramirez were ignored; and a single copy of the FBI investigation notes made available for Senators to read, provided that its meager contents not be shared with the press or public.

Even that minimal investigation raises serious concerns about these claims and Judge Kavanaugh's general truthfulness, but by moving forward to a vote anyway, the unmistakable message to survivors is that the Senate does not take allegations of sexual assault seriously.

More than 150 survivors of sexual abuse from Virginia have reached out to me to share their personal stories and ask that the Senate show we care about survivors. Some of these people are women I have known for decades who had never shared their stories with me.

A woman from Alexandria wrote:

As a citizen, veteran, assistant professor, mother, grandmother, wife and sexual assault victim at age 17 in 1968, I want to thank Dr. Blasey Ford for her testimony. I have never told anyone of the sexual attack, and I am 68 years old.

A woman from Sterling wrote:

I want my future daughters to grow up in a country where sexual assault and abuse is taken seriously by every official and legal professional in the United States.

A man from Chesapeake wrote:

As a male sexual assault victim, I understand how difficult it is to come forward. I strongly and respectfully urge you to attempt to empathize with those of us who have been abused.

A survivor from Radford wrote expressing dissatisfaction with the minimal investigation, saying, ''It makes me feel like if my attacker were nominated for the Supreme Court, that I wouldn't be taken seriously either.''

A woman from Williamsburg wrote:

Dr. Ford has agreed to full investigations into her experiences, but our leaders are failing her and every American citizen. I watch this unfold with anticipation, hoping that my representatives will listen to us.

An immigrant from Henrico:

When my family immigrated, an American couple who had helped sponsor our family became my temporary legal guardians. My sponsor mother was wonderful but did not know that her husband repeatedly molested and raped me. It started at age five until I returned to my family at age nine—my older daughter's current age.

What are these survivors asking? First, that a real investigation into the charges be conducted; that the dozens of witnesses proffered by Ms. Ramirez and Dr. Ford not be ignored; and finally, that the Senate not confirm to the Supreme Court a person with a question mark by his name.

To confirm Judge Kavanaugh under these circumstances would send a powerful message that the Senate—and now possibly the Supreme Court—is a hostile environment for survivors of sexual assault.

The second issue raised by these allegations is how partisan we want the Court to be. A person accused of any offense—especially sexual assault—is entitled to defend themselves. It is natural to be emotional and even angry of such an offense if one felt falsely accused. But Judge Kavanaugh went far beyond that. He claimed that the allegations of Dr. Ford and Ms. Ramirez were part of a political conspiracy connected to the Democratic Party, outside activists, and the Clintons.

The performance was insulting, and the conspiracy charge was a complete fabrication. There is no evidence to suggest that politics created Dr. Ford's account of being attacked at a party, her history of seeking counseling years before the nomination, the notes from her therapist, her willingness to take a polygraph, the results of that polygraph, the extensive corroboration of her story of alcohol-fueled house parties in the DC suburbs in 1982, or the admitted exploits of the alleged co-assailant, Mark Judge.

There is no evidence to suggest that politics created Ms. Ramirez's account of being sexually humiliated at Yale. Indeed, if the FBI were willing to interview witnesses who are now speaking publicly, there is ample evidence corroborating the account.

So when a nominee who in the past advocated slash-and-burn partisan tactics as part of the Starr investigation reveals that he still harbors partisan resentment and attempts to shrug off serious claims of sexual assault as a political conspiracy connected to ''outside leftwing . . . groups'' or the Clintons, he reveals a temperament that would be very dangerous if added to the Supreme Court. That is why retired Justice John Paul Stevens has come out urging a ''no'' vote on this nomination.

The good news is that there is a solution to this. There is a solution. We need not settle for a nominee burdened by questions regarding sexual assault allegations or excessive partisanship. There are numerous jurists who could meet the standards of a Republican President and a Republican Senate majority who do not have these issues. Why approve a nominee whose approval would send a hostile message to sexual assault survivors? Why approve a nominee whose nomination and approval would send a message of concern for those who don't share his political views? We can find a nominee who will not cause sexual assault survivors, litigants, or lawyers to fear how they will be treated by the Nation's highest Court.

For the good of the Senate and for the good of the Court, I urge my colleagues to vote no on the Kavanaugh nomination, and I ask the President to send up a nominee who will not hurt the reputation of either institution.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. YOUNG). The Senator from Maine.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. As a reminder to our guests in the Galleries, expressions of approval or disapproval are not permitted in the Senate Gallery.

The Senator from Maine.

Ms. COLLINS. Thank you, Mr. President.

Mr. President, the five previous times that I have come to the floor to explain my vote on the nomination of a Justice to the U.S. Supreme Court, I have begun my floor remarks explaining my decision with a recognition of the solemn nature and the importance of the occasion. But today we have come to the conclusion of a confirmation process that has become so dysfunctional, it looks more like a caricature of a gutter-level political campaign than a solemn occasion.

The President nominated Brett Kavanaugh on July 9. Within moments of that announcement, special interest groups raced to be the first to oppose him, including one organization that didn't even bother to fill in the judge's name on its prewritten press release—they simply wrote that they opposed ''Donald Trump's nomination of XX to the Supreme Court of the United States.'' A number of Senators joined the race to announce their opposition, but they were beaten to the punch by one of our colleagues who actually announced opposition before the nominee's identity was even known.

Since that time, we have seen special interest groups whip their followers into a frenzy by spreading misrepresentations and outright falsehoods about Judge Kavanaugh's judicial record. Over-the-top rhetoric and distortions of his record and testimony at his first hearing produced short-lived headlines which, although debunked hours later, continued to live on and be spread through social media. Interest groups have also spent an unprecedented amount of dark money opposing this nomination.

Our Supreme Court confirmation process has been in steady decline for more than 30 years. One can only hope that the Kavanaugh nomination is where the process has finally hit rock bottom.

Against this backdrop, it is up to each individual Senator to decide what the Constitution's advice-and-consent duty means. Informed by Alexander Hamilton's Federalist 76, I have interpreted this to mean that the President has broad discretion to consider a nominee's philosophy, whereas my duty as a Senator is to focus on the nominee's qualifications as long as that nominee's philosophy is within the mainstream of judicial thought.

I have always opposed litmus tests for judicial nominees with respect to

their personal views or politics, but I fully expect them to be able to put aside any and all personal preferences in deciding the cases that come before them. I have never considered the President's identity or party when evaluating Supreme Court nominations. As a result, I voted in favor of Justices Roberts and Alito, who were nominated by President Bush; Justices Sotomayor and Kagan, who were nominated by President Obama; and Justice Gorsuch, who was nominated by President Trump.

I began my evaluation of Judge Kavanaugh's nomination by reviewing his 12-year record on the DC Circuit Court of Appeals, including his more than 300 opinions and his many speeches and law review articles. Nineteen attorneys, including lawyers from the nonpartisan Congressional Research Service, briefed me many times each week and assisted me in evaluating the judge's extensive record. I met with Judge Kavanaugh for more than 2 hours in my office. I listened carefully to the testimony at the committee hearings. I spoke with people who knew him personally, such as Condoleezza Rice and many others. I talked with Judge Kavanaugh a second time by phone for another hour to ask him very specific additional questions.

I also have met with thousands of my constituents, both advocates and many opponents, regarding Judge Kavanaugh. One concern that I frequently heard was that the judge would be likely to eliminate the Affordable Care Act's vital protections for people with preexisting conditions. I disagree with this contention. In a dissent in Seven-Sky v. Holder, Judge Kavanaugh rejected a challenge to the ACA on narrow procedural grounds, preserving the law in full. Many experts have said that his dissent informed Justice Roberts' opinion upholding the ACA at the Supreme Court.

Furthermore, Judge Kavanaugh's approach toward the doctrine of severability is narrow. When a part of a statute is challenged on constitutional grounds, he has argued for severing the invalid clause as surgically as possible while allowing the overall law to remain intact.

This was his approach in his dissent in a case that involved a challenge to the structure of the Consumer Financial Protection Bureau. In his dissent, Judge Kavanaugh argued for ''severing any problematic portions while leaving the remainder intact.'' Given the current challenges to the ACA, proponents, including myself, of protections for people with preexisting conditions should want a Justice who would take just this kind of approach.

Another assertion I have heard often is that Judge Kavanaugh cannot be trusted if a case involving alleged wrongdoing by the President were to come before the Court. The basis for this argument seems to be twofold.

First, Judge Kavanaugh has written he believes Congress should enact legislation to protect Presidents from criminal prosecution or civil liability while in office. I believe opponents miss the mark on this issue. The fact that Judge Kavanaugh offered this legislative proposal suggests he believes the President does not have such protection currently.

Second, there are some who argue that given the current special counsel investigation, President Trump should not even be allowed to nominate a Justice. That argument ignores our recent history. President Clinton, in 1993, nominated Justice Ginsburg after the Whitewater investigation was already underway, and she was confirmed 96 to 3.

The next year, just 3 months after Independent Counsel Robert Fiske was named to lead the Watergate investigation, President Clinton nominated Justice Breyer. He was confirmed 87 to 9.

Supreme Court Justices have not hesitated to rule against the Presidents who have nominated them. Perhaps most notably in United States v. Nixon, the three Nixon appointees who heard the case joined the unanimous opinion against him.

Judge Kavanaugh has been unequivocal in his belief that no President is above the law. He has stated that Marbury v. Madison, Youngstown Steel v. Sawyer, and United States v. Nixon are three of the four greatest Supreme Court cases in history. What do they have in common? Each of them is a case where Congress served as a check on Presidential power. I would note, the fourth case Judge Kavanaugh has pointed to as the greatest in history was Brown v. Board of Education.

One Kavanaugh decision illustrates the point about the check on Presidential power directly. He wrote the opinion in Hamdan v. United States, a case that challenged the Bush administration's military commission prosecution of an associate of Osama Bin Laden. This conviction was very important to the Bush administration, but Judge Kavanaugh, who had been appointed to the DC Circuit by President Bush and had worked in President Bush's White House, ruled that the conviction was unlawful. As he explained during the hearing: ''We don't make decisions based on who people are, or their policy preferences, or the moment. We base decisions on the law. . . . ''

Others I have met with have expressed concerns that Justice Kennedy's retirement threatens the right of same-sex couples to marry. Yet Judge Kavanaugh described the Obergefell decision, which legalized same-gender marriages, as an important landmark precedent. He also cited Justice Kennedy's recent Masterpiece Cakeshop opinion for the Court's majority stating that ''the days of treating gay and lesbian Americans or gay and lesbian couples as second class citizens who are inferior in dignity and worth are over in the Supreme Court.''

Others have suggested that the judge holds extreme views on birth control. In one case, Judge Kavanaugh incurred the disfavor of both sides of the political spectrum for seeking to ensure the availability of contraceptive services for women while minimizing the involvement of employers with religious objections. Although his critics frequently overlook this point, Judge Kavanaugh's dissent rejected arguments that the government did not have a compelling interest in facilitating access to contraception. In fact, he wrote that the Supreme Court precedent ''strongly suggested'' that there was a ''compelling interest'' in facilitating access to birth control.

There has also been considerable focus on the future of abortion rights based on the concern that Judge Kavanaugh would seek to overturn Roe v. Wade. Protecting this right is important to me. To my knowledge, Judge Kavanaugh is the first Supreme Court nominee to express the view that precedent is not merely a practice and tradition but rooted in article III of our Constitution itself.

He believes precedent ''is not just a judicial policy . . . it is constitutionally dictated to pay attention and pay heed to rules of precedent.'' In other words, precedent isn't a goal or an aspiration; it is a constitutional tenet that has to be followed except in the most extraordinary circumstances.

The judge further explained that precedent provides stability, predictability, reliance, and fairness. There are, of course, rare and extraordinary times where the Supreme Court would rightly overturn a precedent. The most famous example was when the Supreme Court, in Brown v. Board of Education, overruled Plessy v. Ferguson, correcting a ''grievously wrong'' decision, to use the judge's term, allowing racial inequality.

But someone who believes the importance of precedent has been rooted in the Constitution would follow long-established precedent except in those rare circumstances in which a decision is ''grievously wrong'' or ''deeply inconsistent with the law.'' Those are Judge Kavanaugh's phrases.

As the judge asserted to me, a long-established precedent is not something to be trimmed, narrowed, discarded, or overlooked. Its roots in the Constitution give the concept of stare decisis greater weight such that the precedent can't be trimmed or narrowed simply because a judge might want to on a whim. In short, his views on honoring precedent would preclude attempts to do by stealth that which one has committed not to do overtly.

Noting that Roe v. Wade was decided 45 years ago and reaffirmed 19 years later in Planned Parenthood v. Casey, I asked Judge Kavanaugh whether the passage of time is relevant to following precedent. He said decisions become part of our legal framework with the passage of time and that honoring precedent is essential to maintaining public confidence.

Our discussion then turned to the right of privacy, on which the Supreme

Court relied in Griswold v. Connecticut, a case that struck down a law banning the use and sale of contraceptives. Griswold established the legal foundation that led to Roe 8 years later. In describing Griswold as ''settled law,'' Judge Kavanaugh observed that it was the correct application of two famous cases from the 1920s, Meyer and Pierce, that are not seriously challenged by anyone today.

Finally, in his testimony, he noted repeatedly that Roe had been upheld by Planned Parenthood v. Casey, describing it as precedent on precedent. When I asked him whether it would be sufficient to overturn a long-established precedent if five current Justices believed it was wrongly decided, he emphatically said no.

Opponents frequently cite then-candidate Donald Trump's campaign pledge to nominate only judges who would overturn Roe. The Republican platform for all Presidential campaigns has included this pledge since at least 1980. During this time, Republican Presidents have appointed Justices O'Connor, Souter, and Kennedy to the Supreme Court. These are the very three Republican President-appointed Justices who authored the Casey decision which reaffirmed Roe.

Furthermore, pro-choice groups vigorously opposed each of these Justices' nominations. Incredibly, they even circulated buttons with the slogan: ''Stop Souter or Women Will Die!'' Just 2 years later, Justice Souter coauthored that Casey opinion, reaffirming a woman's right to choose. Suffice it to say, prominent advocacy organizations have been wrong.

These same interest groups have speculated that Judge Kavanaugh was selected to do the bidding of conservative ideologues, despite his record of judicial independence. I asked the judge point-blank whether he had made any commitments or pledges to anyone at the White House, to the Federalist Society, or to any outside group on how he would decide cases. He unequivocally assured me he had not.

Judge Kavanaugh has received rave reviews for his 12-year track record as a judge, including for his judicial temperament. The American Bar Association gave him its highest possible rating. Its Standing Committee on the Federal Judiciary conducted an extraordinarily thorough assessment, soliciting input from almost 500 people, including his judicial colleagues. The ABA concluded that ''his integrity, judicial temperament, and professional confidence met the highest standard.''

Lisa Blatt, who has argued more cases before the Supreme Court than any other woman in history, testified:

> By any objective measure, Judge Kavanaugh is clearly qualified to serve on the Supreme Court.
>
> His opinions are invariably thoughtful and fair.

Ms. Blatt, who clerked for and is an ardent admirer of Justice Ginsburg, and who is, in her own words, ''an unapologetic defender of a woman's right to choose,'' said Judge Kavanaugh ''fit[s] within the mainstream of legal thought.'' She also observed ''Judge Kavanaugh is remarkably committed to promoting women in the legal profession.''

That Judge Kavanaugh is more of a centrist than some of his critics maintain is reflected in the fact that he and Chief Judge Merrick Garland voted the same way in 93 percent of the cases they heard together. Indeed, Chief Judge Garland joined in more than 96 percent of the majority opinions authored by Judge Kavanaugh, dissenting only once.

Despite all of this, after weeks of reviewing Judge Kavanaugh's record and in listening to 32 hours of his testimony, the Senate's advice and consent role was thrown into a tailspin following the allegation of sexual assault by Professor Christine Blasey Ford. The confirmation process now involves evaluating whether Judge Kavanaugh committed sexual assault and lied about it to the Judiciary Committee.

Some argue that because this is a lifetime appointment to our highest Court, the public interest requires that doubts be resolved against the nominee. Others see the public interest as embodied in our long-established tradition of affording to those accused of misconduct a presumption of innocence. In cases in which the facts are unclear, they would argue the question should be resolved in favor of the nominee.

I understand both viewpoints. This debate is complicated further by the fact that the Senate confirmation process is not a trial. But certain fundamental legal principles about due process, the presumption of innocence, and fairness do bear on my thinking, and I cannot abandon them.

In evaluating any given claim of misconduct, we will be ill-served in the long run if we abandon the presumption of innocence and fairness, tempting though it may be. We must always remember it is when passions are most inflamed that fairness is most in jeopardy.

The presumption of innocence is relevant to the advice and consent function when an accusation departs from a nominee's otherwise exemplary record. I worry that departing from this presumption could lead to a lack of public faith in the judiciary and would be hugely damaging to the confirmation process moving forward.

Some of the allegations levied against Judge Kavanaugh illustrate why the presumption of innocence is so important. I am thinking, in particular, not of the allegations raised by Professor Ford but of the allegation that when he was a teenager, Judge Kavanaugh drugged multiple girls and used their weakened states to facilitate gang rape. This outlandish allegation was put forth without any credible supporting evidence and simply parroted the public statements of others. That such an allegation can find its way into the Supreme Court confirmation process is a stark reminder of why the presumption of innocence is so ingrained in our American consciousness.

Mr. President, I listened carefully to Christine Blasey Ford's testimony before the Judiciary Committee. I found her testimony to be sincere, painful, and compelling. I believe she is a survivor of a sexual assault and that this trauma has upended her life. Nevertheless, the four witnesses she named could not corroborate any of the events of the evening gathering where she said the assault occurred. None of the individuals Professor Ford said were at the party has any recollection at all of that night.

Judge Kavanaugh forcefully denied the allegations under penalty of perjury. Mark Judge denied, under penalty of felony, that he had witnessed an assault. PJ Smyth, another person allegedly at the party, denied, under penalty of felony, that he was there. Professor Ford's lifelong friend, Leland Keyser, indicated that under penalty of felony, she does not remember that party. Ms. Keyser went further. She indicated that not only does she not remember a night like that but also that she does not even know Brett Kavanaugh.

In addition to the lack of corroborating evidence, we also learned some facts that raised more questions. For instance, since these allegations have become public, Professor Ford testified that not a single person has contacted her to say: ''I was at the party that night.''

Furthermore, the professor testified that although she does not remember how she got home that evening, she knew, because of the distance, she would have needed a ride. Yet not a single person has come forward to say that he or she was the one who drove her home or was in the car with her that night. Professor Ford also indicated that even though she left that small gathering of six or so people abruptly and without saying goodbye and was distraught, none of them called her the next day—or ever—to ask why she left or was she OK, not even her closest friend, Ms. Keyser.

The Constitution does not provide guidance on how we are supposed to evaluate these competing claims. It leaves that decision up to each Senator. This is not a criminal trial, and I do not believe claims such as these need to be proven beyond a reasonable doubt. Nevertheless, fairness would dictate that the claims should at least meet a threshold of ''more likely than not'' as our standard.

The facts presented do not mean Professor Ford was not sexually assaulted that night or at some other time, but they do lead me to conclude that the allegations fail to meet the ''more likely than not'' standard. Therefore, I do not believe these charges can fairly prevent Judge Kavanaugh from serving on the Court.

Let me emphasize that my approach to this question should not be misconstrued as suggesting that unwanted sexual contact of any nature is not a serious problem in this country. To the contrary, if any good at all has come from this ugly confirmation process, it has been to create an awareness that we have underestimated the pervasiveness of this terrible problem.

I have been alarmed and disturbed, however, by some who have suggested that unless Judge Kavanaugh's nomination is rejected, the Senate is somehow condoning sexual assault. Nothing could be further from the truth.

Every person—man or woman—who makes a charge of sexual assault deserves to be heard and treated with respect. The #MeToo movement is real; it matters; it is needed; and it is long overdue. We know rape and sexual assault are less likely to be reported to the police than other forms of assault. On average, an estimated 211,000 rapes and sexual assaults go unreported every year. We must listen to survivors, and every day we must seek to stop the criminal behavior that has hurt so many. We owe this to ourselves, our children, and generations to come.

Since the hearing, I have listened to many survivors of sexual assault. Many were total strangers who told me their heart-wrenching stories for the first times in their lives. Some were friends whom I have known for decades. Yet, with the exception of one woman who had confided in me years ago, I had no idea they had been the victims of sexual attacks. I am grateful for their courage and their willingness to come forward, and I hope that in heightening public awareness, they have also lightened the burden they have been quietly bearing for so many years. To them, I pledge to do all I can to ensure that their daughters and granddaughters never share their experiences.

Over the past few weeks, I have been emphatic that the Senate has an obligation to investigate and evaluate the serious allegations of sexual assault. I called for and supported the additional hearing to hear from both Professor Ford and Judge Kavanaugh. I also pushed for and supported the FBI's supplemental background investigation. This was the right thing to do.

Christine Ford never sought the spotlight. She indicated she was terrified to appear before the Senate Judiciary Committee, and she has shunned attention since then. She seemed completely unaware of Chairman GRASSLEY's offer to allow her to testify confidentially in California. In watching her, I could not help but feel that some people who wanted to engineer the defeat of this nomination cared little, if at all, for her well-being.

Professor Ford testified that a very limited number of people had access to her letter. Yet that letter found its way into the public domain. She testified she never gave permission for that very private letter to be released. Yet here we are. We are in the middle of a fight she never sought, arguing about claims she wanted to raise confidentially.

One theory I have heard espoused repeatedly is that our colleague Senator FEINSTEIN leaked Professor Ford's letter at the eleventh hour to derail this process. I want to state this very clearly: I know Senator DIANNE FEINSTEIN extremely well, and I believe she would never do that. I knew that to be the case before she even stated it at the hearing. She is a person of integrity, and I stand by her.

I have also heard some argue that the chairman of the committee somehow treated Professor Ford unfairly. Nothing could be further from the truth. Chairman GRASSLEY, along with his excellent staff, treated Professor Ford with compassion and respect throughout the entire process. That is the way the Senator from Iowa has conducted himself throughout a lifetime dedicated to public service.

The fact remains that someone leaked this letter against Professor Ford's express wishes. I suspect, regrettably, that we will never know for certain who did it.

To that leaker, who I hope is listening now, let me say that what you did was unconscionable. You have taken a survivor who was not only entitled to your respect but who also trusted you to protect her, and you have sacrificed her well-being in a misguided attempt to win whatever political crusade you think you are fighting. My only hope is that your callous act has turned this process into such a dysfunctional circus that it will cause the Senate—and, indeed, all Americans—to reconsider how we evaluate Supreme Court nominees. If that happens, then the appalling lack of compassion you afforded Professor Ford will at least have some unintended positive consequences.

The politically charged atmosphere surrounding this nomination had reached a fever pitch even before these allegations were known, and it was challenging even then to separate fact from fiction.

We live in a time of such great disunity, as the bitter fight over this nomination both in the Senate and among the public clearly demonstrates. It is not merely a case of differing groups having different opinions; it is a case of people bearing extreme ill will toward those who disagree with them.

In our intense focus on our differences, we have forgotten the common values that bind us together as Americans. With some of our best minds seeking to develop ever more sophisticated algorithms designed to link us to websites that only reinforce and cater to our views, we can only expect our differences to intensify.

This would have alarmed the drafters of our Constitution, who were acutely aware that different values and interests could prevent Americans from becoming and remaining a single people. Indeed, of the six objectives they invoked in the preamble to the Constitution, the one that they put first was the formation of ''a more perfect Union.'' Their vision of ''a more perfect Union'' does not exist today. If anything, we appear to be moving far away from it. It is particularly worrisome that the Supreme Court—the institution that most Americans see as the principal guardian of our shared constitutional heritage—is viewed as part of the problem through a political lens.

Mr. President, we have heard a lot of charges and countercharges about Judge Kavanaugh, but, as those who have known him best have attested, he has been an exemplary public servant, judge, teacher, coach, husband, and father.

Despite the turbulent and bitter fights surrounding his nomination, my fervent hope is that Brett Kavanaugh will work to lessen the divisions in the Supreme Court so that we have far fewer 5–4 decisions and that public confidence in our judiciary and our highest Court is restored.

Mr. President, I will vote to confirm Judge Kavanaugh.

Thank you.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, it is sometimes said that today's Senate does not measure up to the Senate's previous years because we have no eloquent Senators who make compelling speeches. I think Senator COLLINS has just disproved that today. Whether or not one agrees with her, she was eloquent. Her speech was compelling, and she has presented her case in the tradition of another Senator from Maine who was serving here when I first came many years ago as a young Senate aide, Senator Margaret Chase Smith. It is that tradition of independence and diligence which is so valuable and so important, especially in times of stress like this.

I had thought of following Senator COLLINS with some remarks of my own about what I found when I read the background checks today. I went to the section where we read classified documents. I saw that over 25 years, 150 people had been interviewed about Judge Kavanaugh. They had specifically been asked a question about whether they saw any evidence of alcohol abuse, and every single one said no and that there was no evidence of sexual impropriety.

I want to thank Senator COLLINS for her insistence on an extra week so that we could have a seventh FBI investigation. I took the time to review that as well. I saw that no matter how credible Dr. Ford seemed—and she did seem credible to me—no one except Dr. Ford remembers that alleged incident. And the other four, as Senator COLLINS said, who Dr. Ford said were there either don't remember it or said that it didn't happen.

I think the takeaway from what the Senator from Maine has said is that we

have reached what she said she hopes is the rock bottom in the Senate confirmation process. This is not the way things should be. Whether you are a Democrat or a Republican, we know that the most awful allegations—sexual assault certainly is as awful as any—deserve a modicum—there is a standard of fairness. She used the words ''more likely than not'' in her case. But in the U.S. Senate, we should be able to deal with such issues in a much better way than we have dealt with this.

We—all of us; the confirmation process—have victimized Dr. Ford, and we have victimized Judge Kavanaugh. Until 2 weeks ago, Judge Kavanaugh had a reputation among most people who had ever heard of him as one of the leading scholars, judges, and teachers in America. I believe he is that, which is why I am voting for him. I am glad we are voting for him.

I hope we all pause for a moment and listen to what Senator COLLINS said.

I will conclude where I started. There may have been a time when there were more eloquent Senators who made more compelling speeches down the hall in the Old Senate Chamber—we know their great names—but her speech today stacks up with the best of them.

I have heard speeches in this body for nearly half a century, both as a young aide and as a Member of the U.S. Senate, and I will remember this one. It is not just because I happen to agree with her, but because she showed characteristic diligence, independence, fairness, and a suggestion of the lessons that we should have for the future of this unique institution and this unique country that we prize so much.

I am going to think about what she has said. I hope other Members of the body do, and I hope many other Americans do as well.

Thank you.

The PRESIDING OFFICER. The majority leader.

Mr. MCCONNELL. Mr. President, in listening to the Senator from Tennessee, I am reminded that he and I were here in those days as young staffers. I was working for the Senator from Kentucky when Margaret Chase Smith was still here. She had already made her reputation by being the first Member of the U.S. Senate to take on Joseph McCarthy and his tactics. It took the Senate a couple of years to finally develop the courage to stand up to this demagogue and the tactics he employed.

Those of us who are in the Chamber today have had a unique opportunity to listen to a great statesman from Maine once again talk about this institution and how it ought to treat matters like this and to think about how we can rise above the depths to which we have sunk during this process.

I want to thank the Senator from Maine. I have not heard a better speech in my time here, and I have been here a while. It was absolutely inspirational.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. This is as close to McCarthyism as I hope we get in my lifetime. You are guilty until you are proven innocent. Whatever it takes to take you down, we will do. If one allegation is not enough, how about five? To the people who have come forward, we will do whatever we have to do to you to get the outcome we want.

There are two ways of doing this: Senator COLLINS's way or what we have seen in the committee. If you want to go down the road of the committee, God help those who will follow.

The biggest winners today are those who still want to be judges. You may have saved those who want to come after Judge Kavanaugh from humiliation to the nth degree because you rejected it today.

For every woman who comes forward about a sexual assault, only God knows how many never say a word. But to right one wrong, seldom does it help to create another.

Senator COLLINS explained the dilemma we face as a society and rejected the idea that sacrificing Judge Kavanaugh's good name would make anything better.

To the extent that individuals matter in America, you rose to the occasion. To the extent that you rejected the mob rule and accepted the rule of law, we will all be better.

You have to have some way of judging. Yes, we want people to come forward. They deserve to be heard. But there needs to be a process, for the good of us all, to make sure it is disposed of right. If this is enough, to be accused of something that happened 36 years ago and nobody can corroborate it, God help us all in any line of public service.

All I can say is that it is not about you. I have never admired you more, and we often agree, and sometimes we don't. It is about the system that you stood by today that has stood the test of time. I don't know what kind of pressure there has been for you. I can only imagine because you are in a purple State.

I remember what Sotomayor and Kagan were for me—not very comfortable, but I tried to embrace a system that has stood the test of time. But whatever happened to me, it has been 100 times worse for you.

Senator FLAKE, thank you. Without SUSAN COLLINS and JEFF FLAKE, we would not have heard from Dr. Ford, maybe, but you stood up and said that she needs to be heard. Without their insistence that the FBI check the committee's homework, we wouldn't be where we are today. So you did a good thing.

The one thing you wouldn't do is be intimidated. The one thing you wouldn't do is destroy Judge Kavanaugh's life for no good reason. The one thing you wouldn't do is play politics with the law. God bless you. I doubt if I will ever hear anybody more courageous in my political life.

So when they write the history of our times, you will be in it. If John McCain were here, he would be your greatest cheerleader.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I wish my colleagues were here to share in this dialogue because there is such an absence of other Members sharing with each other their perspectives. We have a world that is enhanced by a media world that lives in a different universe that accentuates the differences between the parties.

I think we are on a course that does deepen the differences across America. I hope there is some way we can find in this Senate to be able to communicate across that growing chasm in a more effective manner.

I have heard many of my colleagues speak to the issue of fairness on this floor. I offer just a brief, couple of sentences of points for you to consider as to why not all of America shares the perspective that this has been fair.

When Dr. Ford was invited to come to speak to the committee, she said that she would like to come, but she wanted some time, and she would like to have corroborating individuals be able to appear before the committee. That was denied by the committee, and that bothered many people in this Chamber a great deal. Even in 1991, Anita Hill was given that opportunity.

What is also very bothersome to individuals is that Dr. Ford had put forward a list of eight individuals whom she had asked the FBI to talk to, to be corroborating witnesses, and the FBI could talk only to those within the scoping document that comes from the White House because, at that moment, they are not doing a criminal investigation, they are doing a background investigation, and they have to follow the President's instructions. Those instructions, we are told, were not to talk to any of the corroborating witnesses, not the 8 she put forward and not the 20 who were put forward by Debbie Ramirez. So 28 individuals were not brought before the committee and not talked to by the FBI.

I hope we have lots of opportunities to share our perspectives across the aisle to understand as we struggle with the issue of fairness because for many of us, fairness has not been achieved. The bigger message to these two women who came forward to share their journeys, to share their experiences, is that the U.S. Senate was unwilling to hear them out, unfortunately.

Thank you.

The PRESIDING OFFICER (Mr. SASSE). The Senator from Michigan.

Ms. STABENOW. Mr. President, I am rising today at a very important time for our country because who sits on the Supreme Court matters. It really matters. From healthcare to civil rights, to the safety of the air we breathe and the water we drink, to the ability to raise our families and pursue the

American dream, to the very health of our democracy, decisions made by the Supreme Court affect us every single day.

As my colleagues know, I was born in Michigan. I have lived in Michigan my whole life. My whole family is still in Michigan. I am so grateful for that. Every decision I make in the U.S. Senate puts the people of Michigan first. My decision to oppose Judge Brett Kavanaugh is no exception.

The allegations that have been made against Judge Kavanaugh deserve to be taken extremely seriously. Even before the allegations came to light, Judge Kavanaugh's record and his writings too often have gone against what is best for Michigan families.

When confronted with cases that have special interests on one side and people on the other side, he has consistently sided with the special interests. That is certainly true when it comes to healthcare. Healthcare isn't political; it is personal for every single one of us. Michigan families know what they need: quality, affordable healthcare, including prescription drugs, and Michigan women deserve to make their own reproductive health decisions.

Right now, a court case is pending in which the Trump administration is refusing to defend the law that protects people with preexisting conditions—people like Amy, a small business owner with chronic leukemia, and Louisa, a beautiful little girl born with half a heart. Half of Michigan families include someone with a preexisting condition, like high blood pressure, heart disease, asthma, diabetes, cancer. They deserve to know that healthcare will be there when they need it.

Yet, if this case were to come before the U.S. Supreme Court and if Judge Kavanaugh were a member, I believe many families in Michigan would find themselves with no coverage and no care. We need judges who will make decisions based on what is best for people—not drug companies, not insurance companies, but for people.

A second issue on the minds of our families is our water and the Great Lakes, just like the people of Flint who still struggle with lead in their water. Ask the people in at least 15 Michigan communities whose water is contaminated with what we now call PFAS chemicals. That is an industrial chemical that has been linked to cancer and other diseases. Again and again, Judge Kavanaugh has ruled on behalf of polluters, not people.

In one case, he argued that the Environmental Protection Agency exceeded its authority by trying to address pollution from one State that drifted into another State—as if somehow the air was going to stop at the border. Thankfully, the Supreme Court voted 6 to 2 to overturn his decision. What would happen to our air and water if he is one of the people who is deciding this, particularly if he were to be the tie vote?

Third, I am deeply concerned by his belief in essentially unlimited Presidential power. In 2016, when asked what single case he would like to see overturned, Judge Kavanaugh said he would like to ''put the final nail'' in a three-decades-old Supreme Court decision that said independent counsels investigating the President are constitutional.

Judge Kavanaugh has also written that if a President doesn't like the law, he can simply decide it is unconstitutional. He can simply refuse to enforce it. That might be how things work in Russia, in North Korea, and in Syria. It is not how things are supposed to work in America under our democracy.

We have three separate branches of government. We need judges who will ensure that no one—no one, not even the President of the United States—is above the law.

Also, Judge Kavanaugh's views on what we now call dark money in our elections also concerns me greatly. In one 2011 case, Judge Kavanaugh ruled that foreign nationals could not campaign for or contribute money to candidates. That sounds good. Unfortunately, he then went on to say that foreign nationals can take part in issue advocacy—giving money for issue advocacy in American elections. In other words, Russians can contribute as much as they want to an issue group, which can then spend on behalf of candidates.

In this way, Judge Kavanaugh opened the door for unlimited dark money from foreign nationals—foreign entities in our American elections. Do we imagine he will rule differently from a seat on the U.S. Supreme Court?

Finally, there are the very serious allegations made against Judge Kavanaugh and serious questions about how he has responded to them.

In this country, we have due process. We want accusers to be heard and the accused to be able to defend themselves. That is why it is so important that we heard from both Judge Kavanaugh and Dr. Christine Ford.

I found Dr. Ford to be highly credible. Her testimony was heart-wrenching. I believe Dr. Ford. Her story resonated with so many women because many of us have felt that same fear and heard the same laughter that she described. It takes an incredible amount of courage to speak up, and I know women across the country are grateful to Dr. Ford for doing so. I am grateful for the countless women who have called or written me with their stories of what has happened to them, oftentimes decades ago. I hope we are going to come to a point when all of this is over and use this as an opportunity to make sure that when something happens, women feel they can report it immediately and will be taken seriously, and we will have a due process system that works immediately to address these issues.

I reviewed the FBI background file on Judge Kavanaugh. Unfortunately, I was very disappointed in the very limited scope. It did nothing to alleviate my concerns about the allegations, his truthfulness before the Senate Judiciary Committee, or his suitability to sit on the Supreme Court.

Judge Kavanaugh's demeanor during the hearing was a shocking display of entitlement. No one is promised a Supreme Court seat or entitled to a job interview. There are many people qualified to hold that kind of a position. But his sense of entitlement and condescension toward members of the Senate committee who were simply doing their jobs was shocking to me.

Again, no one is owed a seat on the U.S. Supreme Court. We are talking about a lifetime appointment and an immense amount of power over people's lives.

Someone once said this: ''The Supreme Court must never be viewed as a partisan institution. The Justices on the Supreme Court do not sit on opposite sides of an aisle. They do not caucus in separate rooms.''

That person was Brett Kavanaugh. He clearly has failed to meet his own standard. I know he has failed to meet mine.

The people of Michigan deserve better. The people of America deserve better. They deserve someone on the Supreme Court who understands their lives and will stand up for them, not special interests.

They deserve someone on the Supreme Court who understands that nobody—not even the President of the United States—is above the law.

They deserve someone on the Supreme Court who will work to keep dark money from foreign entities out of our elections.

And they deserve someone on the Supreme Court who has consistently lived up to the high standards we ought to demand of our Nation's leaders.

In Michigan, we teach our children that character matters. Now it is time to show that we mean it.

I urge my colleagues to vote no on Brett Kavanaugh's confirmation to the U.S. Supreme Court.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. HASSAN. Mr. President, I rise today to join my colleagues in expressing my opposition to Judge Kavanaugh's nomination. I will speak later in the evening about my overall assessment of Judge Kavanaugh's record and nomination and about why I think some of my colleagues on the other side of the aisle are focusing on the wrong thing in deciding to support him.

To echo my colleague from Michigan just now, no one has a right to a seat on the U.S. Supreme Court. What we should be focused on is that the country has a right to an impartial, nonpartisan U.S. Supreme Court. They have a right to Justices whose character and fitness for the office is beyond reproach and beyond doubt. Despite everything I have heard from Judge Kavanaugh's supporters, I do not think they can make that case.

My purpose in speaking right now is to express my deep concerns with Judge Kavanaugh's record of ruling against access to healthcare.

If confirmed, Judge Kavanaugh will be a deciding factor in the lives and livelihoods of millions of Americans. Yet, time and again, he has demonstrated a commitment to a partisan agenda that would strip away care from some of our most vulnerable people.

As recently as 2017, Judge Kavanaugh criticized Chief Justice Roberts' decision upholding the Affordable Care Act, and in his confirmation hearing, Judge Kavanaugh would not commit to upholding legal protections for people with preexisting conditions—preexisting conditions such as asthma, cancer, diabetes, and more.

Confirming Judge Kavanaugh to the Supreme Court would put those protections at risk. I have heard from people across New Hampshire who are concerned about what will happen to them if they are denied coverage because of their preexisting condition. People like Kristen from Derry, NH. Kristen relies on medications that cost more than $1,200 every month to stay healthy, but if she lost her insurance because of her preexisting condition, she would not be able to afford that medication. Kristen said:

> I wouldn't be able to breathe correctly. My COPD would worsen. My current standard of living—working full time as a social worker, a runner, active with my children—would quickly come to an end.

That is what is at stake with this vote.

Republican attorneys general, backed by the Trump administration, are suing to eliminate protections for preexisting conditions. This case will soon be in front of the Supreme Court, and the next Supreme Court Justice could very well be the deciding vote in that decision.

We need a Justice who would rise above partisanship, someone who will act impartially and rule on behalf of what is right for the American people. It is evident Judge Kavanaugh is not that person, and there is no reason to believe he would be an impartial arbiter when it comes to issues related to healthcare.

Throughout this confirmation process, Judge Kavanaugh has revealed himself to be staunchly partisan, and never was that more clear than during his hearing on the allegations raised by Dr. Christine Blasey Ford.

During that hearing, he called those credible allegations against him ''revenge on behalf of the Clintons'' and seemed to threaten his political enemies by saying: ''What goes around comes around.''

There is ample reason to believe that Judge Kavanaugh would be an ally on the Supreme Court for the Trump administration and Republicans in Congress who are seeking to undermine our healthcare system, and for the health and well-being of Granite Staters and all Americans, I cannot support his nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I rise today to oppose Brett Kavanaugh's nomination to the Supreme Court and to ask my colleagues—Republicans and Democrats alike—to recognize exactly what is at stake here. The philosopher Nietzsche once said that if you stare long enough into the abyss, the abyss will stare back into you.

My friends, we here in the U.S. Senate are staring into the abyss. What is staring back at us is a future in which the American people's trust in the Supreme Court is being irreparably damaged.

To vote yes on Brett Kavanaugh is to send a message to every woman in America that your voice doesn't matter. If you risk everything—your security, your stability, your reputation—to come forward and speak truth to power about a sexual assault, they will call you credible. They will call you courageous. Yet they will not believe you.

It is a message that says, if you have survived a sexual assault, don't bother telling anyone because you must be mistaken. This traumatic and unforgettable moment in your life never happened. It must have been someone else.

My friends, to confirm Judge Brett Kavanaugh with what we now know would be to forever tarnish the credibility and reputation of the highest Court in our land. Here is what we know. We know Judge Kavanaugh faces multiple credible allegations of sexual assault. Yet the investigation that was conducted looks nothing like the FBI investigation that was promised—not by President Trump, not by the Senators who called for it, or by anyone else.

We know neither Dr. Ford nor Judge Kavanaugh was interviewed by law enforcement—the very essence of what the subject of the investigation is. Neither of them was interviewed. We know dozens of people with corroborating evidence were flatout ignored by investigators.

I have heard some of my colleagues call this investigation thorough. How do you call an investigation thorough when neither the accused nor the accuser was interviewed by the FBI?

How do you call an investigation thorough when 40 corroborating witnesses who volunteered information to the FBI in recent days were reportedly ignored? You can't get corroboration if you don't talk to corroborating witnesses. The answer is simple: It is not thorough, and it is not trustworthy.

This entire process, including the use of Executive privilege to deny the Senate access to hundreds of thousands of documents of Judge Kavanaugh's, has been shrouded in secrecy. And why the secrecy? Because President Trump and his team are desperate to get Judge Kavanaugh confirmed by any means necessary.

Let's remember what is going on. The President of the United States is the subject of a Federal investigation into whether his campaign accepted assistance from a hostile foreign power during the 2016 election. Already, the President's campaign chairman, Foreign Policy Advisor, and former National Security Advisor have pled guilty to Federal crimes.

He could have chosen any of the judges included on the rightwing list assembled by the Heritage Foundation and the Federalist Society. Instead, he picked the one judge with unprecedented views of Presidential power. There is no other explanation for President Trump choosing Brett Kavanaugh that I can think of other than he hopes this will be his get-out-of-jail card.

The last few weeks have been a flurry of breaking news alerts and breathless gossiping in the halls. I am thankful for Dr. Ford's courage and candor. She spoke her truth and has inspired countless others to break their silence. I believe her. I believe survivors. New Jersey is home to 1.8 million survivors. That is 1.8 million reasons to oppose Brett Kavanaugh.

According to the Bureau of Justice Statistics, less than a quarter of sexual assault victims reported those incidents to police in 2016. After this past week, it is all too easy to see why.

Leader MCCONNELL has called the allegations of Dr. Ford ''unsubstantiated smears.'' What an insulting statement. When will we as a society begin to believe women, to trust women? It can't come soon enough.

I was in the midst of my first campaign for Congress when Anita Hill's allegations of sexual assault against Justice Clarence Thomas were investigated but ultimately disregarded by the Senate. I am proud to have been elected to the House in 1992, the so-called Year of the Woman.

Across the Capitol, a record four women were elected to the Senate. My colleague PATTY MURRAY decided to run after watching what happened to Anita Hill. She is still here fighting for survivors, and I am proud to have her as my colleague.

We look back at the Clarence Thomas hearings as a moment that failed America and failed all survivors of sexual assault. Yet here we are in 2018, and it appears as though we have made little progress.

After Dr. Ford's testimony, my Republican colleagues and even conservative pundits praised her credibility. It only took Judge Kavanaugh's outrageous performance—a performance we now know was misleading at best and untruthful at worst—for these same Republicans to cast her aside. The message they have sent to survivors who are brave enough to come forward is clear: We will listen to you, but we will not believe you, and we will not trust you.

Despite having the cards stacked against her, I was shaken to the core

by Dr. Christine Blasey Ford's words last week. She answered every question with bravery, with candor, and with humility. Meanwhile, Judge Kavanaugh was evasive, belligerent, and, according to many of his acquaintances, repeatedly untruthful.

What my Republican colleagues can't seem to grasp is that you can be at the top of your wealthy prep school class and still abuse women. You can be a Yale Law School graduate and still abuse women. Unfortunately, you can even be the President of the United States and still abuse women.

Furthermore, Judge Kavanaugh's partisan outburst was downright disturbing for a potential Supreme Court Justice. How many norms did Judge Kavanaugh shatter in that hearing room? It is one thing to be emotional; it is another to call the allegations of Dr. Ford or Deborah Ramirez and others a coordinated leftwing conspiracy and an act of political retribution for the Clintons. He said the questions posed by Democratic Senators during his confirmation hearing were ''an embarrassment'' and called the process a circus—this coming from a man who pressed Ken Starr to ask President Clinton sexually explicit questions. And we all know the circus the Starr investigation turned out to be. But I guess the same standards don't apply to Brett Kavanaugh. If you are Brett Kavanaugh, you can lie under oath about things big and small and never face the consequences.

At the end of the day, Judge Kavanaugh's hysterical political rant confirmed what many of us already knew about this man: He is a political operative cloaked in judicial robes. As Kavanaugh himself said, ''What goes around, comes around.'' Do those sound like the words of an impartial, independent judge?

Never before in my life have I seen a nominee, let alone a Supreme Court nominee, behave as though he were entitled to this lifetime appointment. He is not. It is the American people who are entitled to a Justice who tells the truth, who conducts himself in a dignified manner, a Justice who doesn't face credible accusations of sexual assault.

The Supreme Court deserves better than Brett Kavanaugh, and so do the American people. More than 1,000 legal scholars—and counting—agree, coming out against Kavanaugh's nomination because his partisan and venomous rhetoric has no place on the Supreme Court.

This process has further poisoned the confirmation process. It was Senate Republicans who orchestrated the theft of a Supreme Court seat with more than 9 months left in President Obama's term. Apparently, being nominated by President Obama is more disqualifying than being accused by multiple women of sexual assault. It is clear my colleagues will stop at nothing to tip the scales of justice against women, consumers, and patients for generations to come.

For women, the stakes couldn't be higher. President Trump promised to only nominate judges who would overturn Roe v. Wade. And, yes, earlier today, a colleague of mine pointed out that the Republican National Committee platform has long included overturning Roe v. Wade. In my view, that is precisely why we cannot trust a longtime GOP political operative like Brett Kavanaugh to uphold a woman's right to choose. There is a difference between saying that precedent deserves respect and saying that it cannot be overturned. They are not the same. I think some of the things I have heard about the aspirations of some of my colleagues about Judge Kavanaugh are unlikely to be realized.

This is what is at stake here: the basic principle that women have a right to make their own private medical decisions. My daughter has grown up never knowing what it was to live in a country where women were denied reproductive rights. Now I fear my granddaughter may grow up never knowing what it was like to live in a country where women had reproductive rights.

It isn't just women's health that is at stake. The Trump administration is arguing in Federal court as we speak that the ACA's protections for preexisting conditions are unconstitutional, which makes Judge Kavanaugh's record of ruling against consumers and siding with corporate interests all the more troubling.

There are 3.8 million New Jerseyans who have preexisting conditions—some illness during the course of their lives, heart attack, diabetes, Parkinson's, maybe some birth defect that in the past had denied them insurance coverage. We eliminated that under the Affordable Care Act. No more discrimination. There are 3.8 million New Jerseyans who have preexisting conditions. For me, those are another 3.8 million reasons to oppose Kavanaugh's confirmation.

So, yes, the stakes have never been higher. The threat to our democracy is real. The decisions coming down from a Supreme Court with Kavanaugh will change the course of America for decades to come.

The Republican majority views the Supreme Court as an instrument to force an unpopular, anti-woman, anti-worker, anti-civil rights agenda on the American people. Meanwhile, President Trump views the Court as yet another weapon to flout the rule of law.

Well, it is time we take a stand for the integrity of our democratic institutions. It is time we live up to our duty set forth by article II of the Constitution to provide advice and consent on Supreme Court nominations. In bestowing on us this responsibility, the Framers entrusted us with protecting the reputation and credibility of the highest Court in our land.

To confirm Judge Kavanaugh in the face of these allegations; in the face of the secrecy of the documents we could not obtain; in the face of the positions he took that are clearly, in the minds of many of us, untruthful before the committee, risks forever tarnishing one of the crown jewels of our democracy.

My friends, we are standing on the edge of a cliff. Should we blindly go over that edge, we risk doing irreparable damage to the reputation and credibility of the Supreme Court. I implore my colleagues in the majority to pull us back in the direction of truth and decency. This isn't about right or left; this is about right and wrong.

A vote to confirm Brett Kavanaugh is a vote against survivors of sexual violence. A vote to confirm Brett Kavanaugh is a vote to overturn Roe v. Wade and end safe and legal abortion in this country. A vote to confirm Brett Kavanaugh is a vote to overturn protections for preexisting conditions. A vote to confirm Brett Kavanaugh is a vote to roll back civil rights and voting rights. It is a vote that will take us back to a time and place none of us, I believe, wants to go to. And it is a vote the American people will not forget—not today, not tomorrow, not this November, not ever.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Utah.

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

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

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, it is an understatement to say that the last few weeks have been unusual in Senate history. I have never seen anything like it in the 8 years that I have been serving in this body. Every day when we show up to work, as we walk to our offices, we have to walk through a sea, a mob, of angry protestors, people screaming, shouting, yelling things at us—not pleasant things. In many instances, Members have to be accompanied as they walk to and from their offices, to and from the Senate floor where they cast their votes, to and from their committee hearings, in and out of rooms where they have to conduct their business.

This is unusual. It is unpleasant. It is relatively unprecedented, certainly, in the time that I have been here. It is unfortunate and unnecessary. You see, this is not how the process is supposed to work.

This is not what the Constitution contemplates or requires in connection with the confirmation of a Supreme Court nominee. It doesn't need to work this way, but in this case, it did. It did because a lot of people, starting with a small handful of people, made a deliberate choice to depart from the norm,

to depart from rules, practices, and operating procedures that are designed to protect the innocent and the guilty, designed to protect accusers and the accused, designed to protect the privacy of people who come forward with allegations as well as those who have been nominated to serve in high positions.

The allegations brought forward by Dr. Christine Blasey Ford were serious. I still remember and will never forget the precise moment when I was briefed on the nature of these allegations on September 13, 2018. I was briefed by a small handful of Judiciary Committee staffers who had clearance to read to me an FBI document they had just received. I wasn't allowed to share the details of that communication with anyone—not even members of my own staff—because at the time they were confidential, couldn't be discussed with the public, and couldn't be discussed with anyone who hadn't received specific clearance from the FBI to do so. At the time these allegations were brought forward, I was able to tell my staff only the following: The allegations raised by this individual—I didn't know her name at the time—are serious. They are serious to the point that I will not support this nominee. I cannot and will not vote to confirm this nominee if these allegations are true, but the allegations are of such a nature that they could be looked into. We can discern whether or not they could be corroborated. We can interview witnesses in an effort to get to the truth.

Over the last roughly 3 weeks, that is what has happened. We have undertaken everything we know how to do to get to the truth.

We have had FBI agents interviewing witnesses. We have had witnesses interviewed by committee staff. We ourselves have interviewed Dr. Ford and Judge Kavanaugh. It was at the hearing where we heard from Dr. Ford and Judge Kavanaugh when we learned for the first time that Dr. Ford's attorneys—I will just state here parenthetically—were oddly recommended by the ranking Democrat on the Senate Judiciary Committee. But Dr. Ford's attorneys—those same attorneys recommended by the ranking Democrat on the Senate Judiciary Committee—failed to ever inform Dr. Ford that, from the outset, she wouldn't have to go through the process this way. From the outset, she could have and would have been given the opportunity to tell her story in private to FBI agents who would have met her at her home in Palo Alto, CA, interviewing her in the privacy and comfort and protection of her own home with confidentiality.

That separate group of FBI agents could have and would have then visited Judge Kavanaugh and any of the other alleged eyewitnesses to this event, and at that point those reports would have been collected and eventually handed over to the Senate Judiciary Committee.

The committee then could have and would have had the opportunity to convene a closed hearing and to investigate these allegations without having to subject anyone to the indignity of discussing very detailed private circumstances of their lives in front of the American people.

It remains clear to me that Dr. Ford never wanted a circus. She never asked for any of this. She was reluctant to come forward. Ultimately, she agreed to allow her name to be released at the moment she recognized that there were enough people who were going to figure out who she was, but she didn't want to have to tell her story in public. She could have and would have and should have been given the opportunity to tell her story in private, but that is not how it happened because her lawyers didn't tell her.

Even after her name came forward, even after she felt compelled to disclose her name, her lawyers apparently didn't tell her that Judiciary Committee staff would be willing to fly out to California and meet with her in private in her home or anywhere else she wanted to meet. That apparently was not communicated to her. One must ask the question why. Why didn't they tell her that? I don't know. At this point I can't know that.

The conversations that occur between attorneys and their clients are typically and permanently confidential, but just as an objective witness to a lot of this and, again, not privy to their private conversations, I have to wonder whether at best her lawyers may have been neglectful in telling her that she had those options. At worst, they may have deliberately sacrificed her privacy, her comfort, and her interests in pursuit of their own vain ambitions or perhaps a political agenda. Either outcome is unfortunate. Either way we got there led to the same outcome, and we are where we are.

For the last 3 weeks we have done everything we can to get to the bottom of these allegations. We have had witnesses interviewed. We ourselves have interviewed Dr. Ford and Judge Kavanaugh.

At the end of this, what we see is someone who has been badly hurt. It is apparent to me that Dr. Ford was harmed and has endured deep pain. Someone hurt her, and they hurt her badly, but there is nothing to corroborate her allegation that it was Judge Kavanaugh who hurt her.

Not one of the alleged eyewitnesses to this event can confirm that such a gathering ever occurred, either in the summer of 1982 or at any other time—not one. A number of the witnesses have said that not only do they not remember such an event ever occurring but that this type of event with this set of circumstances and with this combination and number of people would not have happened. This is not how they gathered.

So we are left with an uncorroborated accusation against an individual who has led an exemplary life, a life of public service that includes now 7 FBI background investigations and some 150-plus interviews conducted by the FBI. Again, a lot of that was conducted prior to his appointment to the U.S. Court of Appeals for the DC Circuit, where he served for 12 years and published some 300 opinions, in which he has had no objective other than to find the right answer under the law.

This is someone who is a model, exemplary citizen from everything we can tell. He serves his community. He feeds the hungry. He clothes the naked. He serves his fellow beings with a love and an admiration for them that is genuine, distinct, and consistent. Against this backdrop, we cannot, we will not, we must not take a single uncorroborated allegation and sink this man's hard-earned good name. The demands of justice are such that we have to hear accusers and those who have been harmed, but without corroboration we cannot assume someone to be guilty in the absence of an adequate evidentiary foundation.

So I would add here that maybe we do know something more than that because other allegations have come forward. Well, yes, there are other allegations, but let's talk about the other allegations for a minute.

The Ramirez allegation came forward about a week after the Washington Post announced Dr. Ford's name. A story by The New Yorker was itself debunked less than 24 hours after the story was run—debunked by the New York Times, which acknowledged having interviewed literally dozens upon dozens of witnesses in an effort to find corroboration for the Ramirez allegations. Not one person could or would corroborate the story—not one. Moreover, as the New York Times concluded, there were a number of instances in which Ms. Ramirez herself, in calling former classmates from Yale, acknowledged that she didn't know whether or not it was Brett Kavanaugh who engaged in the conduct she alleged.

The other allegation brought forward by the client of Mr. Avenatti was itself on its face of a different sort than the others. This allegation was brazen in what it assumed about Judge Kavanaugh and what it asked the public to believe. It accused this man, this lifelong public servant, of engaging deliberately in a sustained criminal enterprise that had as its object the deliberate drugging and gang rape of young women. Here, again, is a story that could not find a single shred of corroboration and was severely undercut by a number of other factors, including the fact that the accuser herself was not even in high school at the same time as Judge Kavanaugh, and no one alleged to have been present had any recollection either of the parties described or of any of the circumstances surrounding these alleged events.

But the timing of these other allegations coming forward was nonetheless

used to smear the good name of Judge Kavanaugh and to imply some sort of guilt on the part of Judge Kavanaugh and some sort of corroboration of the Ford allegation. Again, the Ford allegation was itself serious and had a lot of indicia of credibility on its face. That is why I was so concerned the moment I heard about it. That is why we have now spent 3 weeks doing everything we can to get to the bottom of it and finding no corroboration.

But here we are with these protests going on, with a sea of angry people shouting at us everywhere we go; chasing Senator CRUZ and his wife out of a restaurant as they were peacefully enjoying dinner; verbally and physically assaulting Senator PERDUE and his wife as they were making their way from a flight into Reagan National Airport to their vehicle, for a sustained period of 30 minutes, including a moment when Mrs. Perdue was nearly pushed down a flight of stairs. These incidents come in the wake of other unfortunate events, including a moment when RAND PAUL was attacked at his home and broke six ribs, causing him excruciating pain and injuries that have the potential of affecting him for the rest of his life. This same RAND PAUL was himself also the potential victim of a shooting when a crazed leftist decided to show up at a Republican baseball practice and opened fire on Republican Members of Congress simply because they were Republican Members of Congress, almost killing Congressman STEVE SCALISE in the process.

This moment of emotional intensity came as a result of a process that some are now struggling to say is broken. I insist that it is not. The process isn't broken. There is nothing wrong with the Constitution. It certainly is not broken. To the extent something wrong happened here, it is not because the thing itself doesn't work or because it is flawed by its very nature. It is because in this instance, the left broke it. The left sabotaged it. The left deliberately impeded its ability to do what it was supposed to do.

It is not as though this isn't without precedent. They have done this in the past. They have done it for decades. They did it with Judge Bork, when they converted his last name into a verb when they accused him of being a racist and a sexist. They pretended to be outraged when they found out that Judge Ginsburg had smoked marijuana. Then, a few years later, they engaged in a high-tech public lynching of Clarence Thomas. They later did it again to Sam Alito, calling him a racist. Then they did it to Neil Gorsuch, calling him a sexist.

These efforts aren't limited, of course, to Supreme Court nominees. They also deliberately went after Miguel Estrada, specifically and admittedly because he was Latino. They tried to take down Amy Coney Barrett's nomination to a Federal appellate court because they considered her ''too Catholic.''

This is unacceptable. We have been asked to settle for this. It is not time to settle. It is time to expect more. It is time to demand more. It is time to demand a process that is respectful of human beings—of the accusers and the accused in the world. It is time to do this in a manner that respects this institution and allows us to respect each other.

You have to remember that when we reduce our arguments from matters of policy, in which we acknowledge good faith disagreements, to simple and emotional questions of good versus evil, people are going to tend to believe that characterization. Ultimately, they are going to tend to act on that characterization.

The results will not always be pretty. At some point, this descends to a moment when the victim will no longer be someone's character or reputation or pride or the quiet enjoyment of someone's dinner or the ability of someone not to be injured while mowing his lawn. At some point, this is going to be one of us or it is going to be someone's husband or wife, someone's children.

Earlier this week, we received news that someone had deliberately released personal, private information regarding Members of the Senate—Republican Members of the Senate, not coincidentally—with the promise and the threat that even more information would be released, including information about medical records and histories of our children, for the specific purpose of influencing and intimidating Members into taking a particular position on this nomination. This is unacceptable.

It is also unacceptable that in the response to the attack on RAND PAUL, which I mentioned a moment ago, an MSNBC anchor actually referred to that horrific event for Senator PAUL and his family as one of her favorite stories. That is not OK.

All of this hurts real people, not just Members of the Senate, not just Dr. Ford and her family or Judge Kavanaugh and his family, although it certainly hurt them. It also hurts the Senate. It hurts the Supreme Court. It hurts our very constitutional Republic as it was set up, as it was designed.

So again, we get back to this question: Why does this happen? I think a lot of it has to do with the fact that it happens because you cannot take this many eggs from the American people and put them in one basket without creating a lot of really high, intense emotions.

You cannot require the American people to work many weeks or many months out of any year just to pay their Federal taxes and not have them be very emotional about what happens in Washington.

You cannot concentrate this much power in Washington, DC, and take power away from the American people, where the power is supposed to be mostly exercised at the State and local levels, and move it away from them in two steps: first, from the people to Washington and then, within Washington, from the people's elected representatives, who are supposed to make law, to unelected, unaccountable bureaucrats, who make law without any accountability to the people. You cannot do that without unavoidably, inevitably, and unsustainably raising the political temperature in this country. It cannot be done. It is the nature of the thing itself.

Sometimes we have to stop giving in to the impulse to expand the size and scope and reach of the Federal Government because it tends to make the people less powerful. The whole system was set up so as to lower the political temperature in the country.

We are a diverse country. In one way or another, there has always been great diversity within the country, among and between the States and their different populations. This was understood by the Founders; it is understood today. This is one of the reasons why, by divine design, this whole thing was set up in such a way as to lower the political temperature in Washington by keeping most decisions close to the people at the State and local levels, recognizing that there is a whole lot more unity at the State and local levels than there is at the national level. That is why most powers are supposed to remain close to the people through the States and localities.

Sometimes our instincts are wrong. Sometimes our instincts lead us into danger. Sometimes we fear the wrong things.

People in this country, understandably, are terrified, scared to death of rattlesnakes. I myself am scared to death of rattlesnakes. We have them in my State of Utah. We don't like them. Most people are shocked, however, to discover there are many times more people killed every year as a result of deer than rattlesnakes. Deer, it turns out, cause all kind of accidents, which, in turn, result in a lot of deaths—many more deaths, many times more deaths every year than rattlesnakes. But we fear the rattlesnake more because it looks scary.

Sometimes our instinct leads us in the wrong direction. Sometimes our instinct is to do something through government that might make matters worse rather than better.

It reminds me of a time when I worked across the street at the Supreme Court of the United States. I was a law clerk to Justice Alito. My co-clerks and I worked in a relatively small office. We discovered something during the summer when we started our job. The air conditioning in our office made our office unbearably cold. It was so cold as we sat at our desk and wrote memoranda to the Justices and did our jobs, sometimes our hands would get so cold that we almost couldn't feel them. What did we do? We went over to the thermostat and turned up the thermostat, thinking that would solve the problem. But after

we turned up the thermostat, it didn't do any good. It was still freezing cold. At that point, we opened the window and let in the hot, muggy air that is known to inhabit and pervade Washington, DC, during the summer months. It was inefficient, but we couldn't figure out another way. We talked to the maintenance people in the building. They weren't sure what to make of it, so we moved on.

As summer faded into fall and fall became winter, it got cold. We had a very similar problem, but in the other direction. When it got to be winter, when it was really cold outside, it was burning hot inside our office. It was so hot, we were sweating, so hot we felt compelled to walk over to the thermostat and turn the thermostat down, hoping and expecting, reasonably, that it would lower the temperature and alleviate our discomfort.

It didn't do a bit of good. It was still burning hot. What did we do? We opened the windows. It was inefficient and created a weird feeling in the office—at times burning hot, at times freezing cold, depending how close you were to the window.

After many months of this, the head maintenance inspector for the whole building came in and looked at the heating and air conditioning system within the office. After taking it all apart, he came to us and said: I think I have found your problem. Your thermostat was installed backward. Every time you were turning the thermostat up to raise the temperature, it was lowering the temperature. Every time you lowered the thermostat, it was, in fact, raising the temperature.

Sometimes things have the opposite effect from what we want. I believe it has often been with the best of motives and instincts and intentions that we have taken power to Washington, DC, concentrating, centralizing more power here in Washington, DC, and then allocating it to unelected, unaccountable bureaucrats, and, in some cases, Federal judges.

In the process, we disempowered the American people. We disconnected them from their own government. This, in turn, has raised the temperature when it comes to things like confirming a Supreme Court Justice. This, by the way, was often done in the past by a voice vote without even the need for a roll call vote. Sometimes it was done unanimously; sometimes it was done overwhelmingly. Not every nominee was confirmed. I don't think that should ever be the case.

Even in George Washington's administration, not every nominee to the Supreme Court was confirmed, but nominees were treated with dignity and with respect. This occurred in part, I believe, because the Constitution kept the temperature appropriately moderated; the Federal Government was doing only those things that the Constitution unmistakably placed in the hands of the Federal Government and of Congress, which sets policy for the Federal Government. The people, in turn, remained in touch and connected to that government, to the extent it affected them, because that policy was still being set by the people's elected representatives in Congress and not by unelected, unaccountable jurists or bureaucrats.

The opposite has happened since then. It is not the case that every Supreme Court nominee in recent history has brought about so much contention. You look at the confirmation process that led to the ultimate appointment of Ruth Bader Ginsburg, of Stephen Breyer, of Elena Kagan, of Sonia Sotomayor. These occurred in recent decades. These Justices were confirmed overwhelmingly, and they were confirmed with a lot of votes from Members of both political parties.

It doesn't have to be as contentious as it always is, but in this instance, with Republican nominees—with conservative nominees—the left has been unwilling to allow the process to even move forward as it should and has chosen instead to smear these individuals and to treat them in an unkind, undignified manner.

No mother and no father would want to see a son or a daughter subjected to this kind of treatment, not in our country, not for a position like this. No one would want that. It does not have to be this way.

If we can correct course, if we can figure out that we have in some ways been working with a broken thermostat, if we can acknowledge the fact that in trying to make things better, sometimes we make them worse by bringing more power to Washington and then handing this power over to unelected, unaccountable bureaucrats and judges, we can do this. We can lower the temperature, lower the stakes in the United States of America.

We live in a diverse Republic. We need to allow the people in all of their diverse viewpoints throughout the various States to work things out as they deem fit. Let Utah be Utah; let New York be New York; let Nebraska be Nebraska. We don't have to make as many decisions in Washington, DC, as we have been.

I believe, ultimately, this will come down to a question like this. We have a choice to make—a choice between federalism; that is, restoring the proper balance of power between different actors within our system of government on the one hand, or contention and, ultimately, violence on the other hand.

I choose the peaceful way. I choose the way that doesn't result in as much contention. I choose the constitutional way. I believe that document was written in such a way as to protect our liberty, to respect our divergent interests, and to allow the American people to flourish and prosper because not every decision would have to be made by the same people, and the government would remain accountable to the government. Federalism is the answer.

At the end of this long and grueling process, I am grateful for the system we have. I hope we can return to its constitutional origins and respect the letter and the spirit of the Constitution of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CRUZ. Mr. President, I rise today to discuss the impending confirmation of Judge Brett Kavanaugh. It now appears that tomorrow, Judge Brett Kavanaugh will become Justice Brett Kavanaugh, an Associate Justice on the United States Supreme Court.

It is worth pausing for a moment to reflect why that is of such great consequence for our country. In recent decades, the courts have seized more and more policymaking authority, have intruded into the authority of the democratically elected legislature, and have taken policy issue after policy issue from the hands of the American people and usurped it instead into the hands of five unelected judges.

Given those stakes, the 2016 election in a very real sense was waged over what direction the Supreme Court would go, and there was a markedly different vision, a markedly different promise that was made by Donald Trump and Hillary Clinton. Donald Trump promised to nominate constitutionalists who would defend the Constitution and who would defend the Bill of Rights. That is what the people of Texas want, and I believe that is what the American people want—judges who will follow the law, who will be faithful to the Constitution, who will uphold our fundamental liberties—free speech, religious liberty, the Second Amendment, the 10th Amendment—the fundamental liberties protective of every American in the U.S. Constitution.

The stakes here are high, particularly with this seat—the seat that was held by Justice Kennedy, a Justice who has been the swing vote for three decades now.

Even though the stakes are high, what we have witnessed the last several weeks is unprecedented in the annals of confirmation battles. We saw initially a confirmation hearing that was relatively straightforward. It was marred by protests, coordinated with Democratic Senators, according to media reports. On the first day of the hearing, 70 individuals were arrested for protesting and disrupting the hearing.

But at the end of that opening week of hearings, not a single Senator on the committee had made the argument that Justice Kavanaugh was not qualified to be a Justice—by any measure, he is one of the most respected Federal appellate judges in the country—nor did any of the Senators on the Judiciary Committee make any meaningful argument that raised serious concerns about Judge Kavanaugh's jurisprudence. He has been a court of appeals judge for over a decade.

It appeared at that point that the confirmation was a forgone conclusion and that indeed Judge Kavanaugh was

likely to get a substantially bipartisan confirmation. Then, on the eve of the vote, it was leaked in the press that there were allegations of sexual misconduct and sexual assault. Those allegations sadly had been in the possession of the ranking Democratic member of the committee since July 30 in the form of a written letter that had been submitted by Dr. Ford on July 30 detailing the allegations. The allegations were serious. The allegations deserved to be treated with respect.

In that letter, Dr. Ford requested to stay confidential. She did not want her name thrust into the national news. The Judiciary Committee has a process for handling allegations. As nominations go forward, there are all sorts of allegations that are raised, and the ordinary process would be for the ranking member to refer that letter to the full committee, to the chairman, refer it to the FBI for an investigation, and then the committee has a standing process to engage in a confidential hearing—a closed hearing—where the allegations raised by Dr. Ford could have been considered without dragging her name into the public.

That would have been the right way to do that. That would have been the Senate operating the way it is supposed to operate, but sadly it didn't operate that way. Instead, it appears the Democratic Members of Congress made the decision to leak the letter to the press and to drag Dr. Ford unwillingly into the public square. That did enormous damage to Dr. Ford and her family, and it did enormous damage to Judge Kavanaugh and his family.

When that happened, the Judiciary Committee—the Republican members of the committee met, and I urged my colleagues, once these allegations were made public, that there needed to be a public hearing and that Dr. Ford deserved a full and fair opportunity to tell her story; that she needed to be treated with respect. That, I am glad to say, is exactly what happened.

I also believed Judge Kavanaugh deserved a full and fair opportunity to defend himself and that he, too, should be treated with respect. That, sadly, is not what happened. The hearing we had last week featured one Democratic member of the committee after another dragging Judge Kavanaugh and his family through the mud, raising smear after smear after smear—not just the allegations that Dr. Ford had raised but other, more farfetched and in some cases absurd allegations. Apparently, the threshold for dragging a man's character and besmirching his family in Washington is nonexistent.

At that Thursday hearing, we heard powerful testimony from two witnesses—Dr. Ford and Judge Kavanaugh. It was clear that both were hurting. It was clear that both had been done enormous damage by the politicized way in which Democratic Members of this body launched these allegations in the media. But even though we were seeing political games, that didn't relieve any Members of this body from the solemn obligation we have to advise and consent, the obligation we have to have a fair process, to consider the allegations, and to make the best judgment we can.

After two witnesses presented powerful testimony, it became clear that their testimony was directly contradictory, so we were called to assess the evidence before us. Typically in a court of law, when you have conflicting testimony, the way a court of law will assess that is to look to other corroborating evidence—what other evidence is there that indicates whether particular allegations are true.

In this instance, Dr. Ford had identified three fact witnesses—three named fact witnesses—all of whom gave statements to the Judiciary Committee under penalty of perjury. All three of the named fact witnesses—not only did they not corroborate the allegations, but they affirmatively refuted the allegations. They did so on penalty of perjury, meaning if they were lying, they could face up to 5 years in prison.

For me, the fact that all of the corroborating evidence contradicted the allegations and the fact that Judge Kavanaugh has a many-decades-long record as a distinguished public servant with no allegations whatsoever prior to the eleventh-hour political allegations that were launched by the Democrats—the balance of that, I believe, leads a fair decision maker to make the decision that I have made and that this body is preparing to make, which is to confirm Judge Kavanaugh.

Even so, at the insistence of a number of Senators, the Judiciary Committee went further: Last week, it asked the FBI to conduct a supplemental background investigation, investigate these allegations. The instructions to the FBI were to investigate all current, credible allegations.

The FBI did 10 interviews. I flew back to DC from Texas last night. At 10 o'clock last night, I came to the Capitol and in a classified setting read all 10 of those 302s—the reports the FBI agents prepare coming out of those interviews. Having read every single one of those reports, not a one of them provides additional corroborating evidence for Dr. Ford's allegations. Indeed, the key fact witnesses who had previously given statements—unsurprisingly, their statements are very much the same. They are more detailed, and they are more extensive because the FBI agents questioned them at greater length, but at the end of the day, all three named fact witnesses still continue to refute the allegations. That means that this body, if we are to be fair and impartial, I believe, should confirm Judge Kavanaugh.

That does not mean, as some have seen in this deeply politicized time in our country, that allegations of sexual assault should not be taken seriously—to the contrary. The fact that we had an extensive public hearing to hear those allegations, to treat Dr. Ford with the utmost respect, that the FBI investigated those allegations, sought out the fact witnesses, looked for corroborating evidence—all of that demonstrates the seriousness with which those charges should be taken.

Sexual assault is a growing problem in our Nation. It is a pervasive problem in our Nation. The #MeToo movement—we have seen powerful men in Hollywood, powerful men in journalism, powerful men in politics, and powerful men in business abusing their position of power and harassing or assaulting women. That is unacceptable.

I am glad to have worked with my colleagues on both sides of the aisle in passing legislation through this body ensuring that there are tough standards and that we end the process of secret taxpayer settlements if a Member of Congress is guilty of harassment or assault. We should have no tolerance for that sort of misconduct.

So anyone at home who is watching these proceedings, it would be a mistake to take the politicized charge of Democrats who wanted to defeat Judge Kavanaugh before these charges came along—virtually every Democrat who is voting no was going to vote no before any allegation had been made. Indeed, a great many of the Democratic Senators announced their opposition to Judge Kavanaugh within minutes or hours of his being named. Every Democratic member of the Judiciary Committee announced their opposition to Judge Kavanaugh before the opening minutes of the confirmation hearing, before hearing a word Judge Kavanaugh had to say.

The circus we saw last week was a whole lot of political theater. It featured some Democratic Senators, I believe, vying for the 2020 Presidential nomination and seeing who could be more extreme and put on a bigger spectacle. But the American people expect this body to be fair. The American people expect this body to respect the law and the rule of law. We have been through a process that I believe has been fair, has heard out these claims.

It is my hope that, coming out of this, the anger and rage that have been stoked dissipates. It is my hope that Members on both sides of this aisle and, more importantly, Americans on both sides of the political aisle across the country can remember who we are, can remember how to disagree, to disagree passionately. We can have passionate arguments about whether taxes should be higher or lower. We can have passionate arguments about immigration policy or any other policy matter. But I hope that we can remember how to disagree without being disagreeable, to disagree while being civil, to disagree while respecting each other, while respecting each other's humanity.

It would have been wrong to vilify and demonize Dr. Ford, and I am glad the Judiciary Committee did not go down that road, but it is equally wrong

for Democratic Senators to demonize and vilify Judge Kavanaugh based on a lone accusation without corroborating evidence. That is not fair, and that is not right. It is empty politics. And if we continue down this politics of personal destruction, we are going to find fewer and fewer people willing to step forward and serve, fewer and fewer people willing to serve on the Federal judiciary, willing to serve in the Cabinet.

There was a time when this body was called the world's greatest deliberative body. That was a long time ago, but I do think it is possible for us to get back to that, for us to keep disagreements focused on substance and issues and remember the fundamental humanity even of those who disagree with us.

The American people—certainly the people of Texas—I think a great many were horrified by what they saw last week. Some in the media have characterized that women should necessarily oppose Judge Kavanaugh's confirmation because they are women. I don't think that is right—that is certainly not true from the women I have heard from the State of Texas—because women, like men, want the Constitution followed faithfully, want the Bill of Rights protected, and want our fundamental liberties upheld. Women, like men, want a system of rule of law and a presumption of innocence that is fair. Yes, if there is serious, credible evidence of sexual assault, it should be dealt with seriously. But women and men are mothers and fathers, are husbands and wives, are sons and daughters, and brothers and sisters. Every parent of sons should want a system where due process is protected and where one lone and uncorroborated allegation is not enough to end the career and reputation of their son. And every parent of daughters—and I am the parent of two daughters—should want a regime where your daughters are protected and their lives can't be ruined with an uncorroborated allegation either. But if, God forbid, they face assault or harassment, there is a system of accountability, and the wrongdoers are held accountable.

We want a fair system. We want a just system. We want a system that recognizes the rule of law. There are many countries that are ruled by mob, ruled by accusation, and ruled by insinuation. But we need a process. In this case, we have gone through a process that was designed to be fair. And given the evidence, the right decision, I believe, is the decision this body will make tomorrow to confirm Judge Kavanaugh as Justice Kavanaugh, the newest Associate Justice on the U.S. Supreme Court.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I come to the floor today to speak on the nomination of Judge Brett Kavanaugh to serve as an Associate Justice on the U.S. Supreme Court. As a member of the Senate Judiciary Committee, I said on the first day that Judge Kavanaugh appeared before the Senate that this proceeding was not normal. On its face, it looked like a normal confirmation hearing. The family was there. He was sitting in the chair with the table in front of him, ready to address the committee. The cameras were on. The Senators were all seated, prepared to ask questions. All of it looked normal, but nothing about this confirmation process has been normal.

These hearings began at a time when we had access to only a tiny fraction of the documents from Judge Kavanaugh's record. In fact, the night before the proceedings started, we got a document dump of 42,000 pages. Even less of the information—the 3 years of his time as a Staff Secretary in the White House—has been available to the American people or to us. That is still true today.

These hearings were about a nominee, in the end, who was handpicked by a President—a nominee who had good credentials. There is absolutely no doubt about that. There are many nominees—potential nominees—who have good credentials. In this case, this particular person was picked at a time in our history with perhaps the most expansive view of Presidential power possible—a nominee who has actually written in an opinion that a President should be able to declare laws unconstitutional.

These views go beyond the mainstream, and this confirmation process has only gone farther astray. With what happened during the last 2 weeks and in light of Dr. Ford's compelling testimony, it was deeply troubling. I will talk about this at length.

I want to begin where I first started—what we know about Judge Kavanaugh's record and what it suggests about the kind of Justice he would be. In the last decades, the Supreme Court of the United States has decided whom you can marry, where you can go to school, who can vote, and for people like my grandpa, who worked 1,500 feet underground in the mines in Ely, MN, his entire life, the Supreme Court has decided how safe your workplace is.

The next Supreme Court Justice will make decisions that affect people across the country—their lives—forever. The next Supreme Court Justice will rule on cases that could determine whether health insurers can deny coverage to people who are sick or who have preexisting conditions and whether women's rights are protected. The next Supreme Court Justice will be in a position to serve as a check and balance on the other branches of government. That person must be someone who is fair and impartial and who demonstrates a commitment to the truth without consideration of politics or partisanship.

It has been our responsibility—every Senator in this Chamber—to determine if Judge Kavanaugh would protect the careful balance of power among the three coequal branches that our Founders designed. We must determine if he would stand up for the rule of law without consideration of politics or partisanship, if he believes in the simple idea that no one is above the law.

We knew coming into the hearing that Judge Kavanaugh's views of Executive power were among the most expansive we have ever seen and that he has been making the case for strong Presidential powers for decades. In a 2009 piece in the University of Minnesota Law Review, Judge Kavanaugh wrote that a sitting President should not be the subject of an investigation or even be required to answer questions as part of a special counsel's investigation. In that article, he argued, it is not a good use of the President's time to prepare for an interview or questioning by special counsel. He made no exception for an investigation addressing threats to our national security, even when a foreign power has somehow interfered in our country's affairs.

It is not hard to see why these views are relevant during this critical constitutional moment. There is an extensive, ongoing investigation by a special counsel, and the President's private lawyer and campaign chairman have been found guilty of multiple Federal crimes.

The man appointed as special counsel—a man who has served with distinction under Presidents from both parties—has been under siege, as well as the Attorney General and the Deputy Attorney General.

In the same article that Judge Kavanaugh wrote, he made the point that if a President did something ''dastardly,'' then Congress could act, arguing that a criminal investigation should be put on hold until the end of the President's term. When I asked him what ''dastardly'' means, he could not answer, even when I asked about a President. Who knows what he or she could do—commit murder, jeopardize our national security, obstruct an investigation, or engage in white collar crime? I still didn't get an answer about what ''dastardly'' means.

The judge's expansive view of Presidential power is part of a much broader pattern of writing and commentary. More than a decade before, in a 1998 piece in the Georgetown Law Journal, Judge Kavanaugh wrote that the President should be able to remove a special counsel at will.

This is the opposite direction from what we did in the Judiciary Committee when we passed bipartisan legislation earlier this year on a 14-to-7 vote to enact additional protections for the special counsel and all future special counsels.

At a 2016 event at the American Enterprise Institute, the judge was animated and almost gleeful when he said he would ''put the final nail'' in Morrison v. Olson, a Supreme Court decision that upheld the now-expired independent counsel statute. It is hard to imagine that he would respect a 30-

year-old precedent and protect the integrity of a special counsel investigation in light of that statement.

At a roundtable discussion in 1999, he criticized the Supreme Court's unanimous ruling in U.S. v. Nixon that compelled President Nixon to comply with the subpoena to produce tapes and documents written by a Minnesotan, Justice Warren Berger.

When this came up in the hearing, Judge Kavanaugh repeatedly characterized the case as one of the greatest moments in our country's judicial history, but he refused to answer, when asked, the question of whether that case was correctly decided.

These are incredible statements with implications that are clear when you think about what is going on in our country today. The dedicated public servants who work in our Justice Department—including the Attorney General, the Deputy Attorney General, the special counsel, and the FBI—have been subjected to repeated threats and have had their work politicized and their motives questioned.

I asked Judge Kavanaugh if these statements reflect his views today, but he said only that he wasn't making constitutional arguments. He did not dispute that he believes, as a matter of policy, that these are the types of broad powers a President should be able to exercise. He said that he was thinking of ways to make the Presidency more effective.

These are not just abstract legal concepts; they are ideas that could directly impact the future of our democracy, as well as the lives of Americans.

There are other pieces of this puzzle that make clear what a broad view of Executive power Judge Kavanaugh has. To cite one example, his opinion in Seven-Sky v. Holder discusses when a President can decline to enforce a law, even if a court has upheld it as constitutional. The judge wrote that ''the President may decline to enforce a statute . . . when the President deems the statute unconstitutional.''

What does that mean? That means the President could decide he could just hold a statute unconstitutional even if a court has held it is, in fact, constitutional. That is what that means. It is not a law review writing. It is not something written when he was in college or in law school. It is actually something he wrote in a case.

What would that mean for women's health? What would that mean at a time when the administration is challenging protections for people who are sick or have preexisting conditions? I asked him if he believed the President could declare these protections unconstitutional, even if a court upheld them. This isn't a hypothetical example. The administration is now arguing in a Texas district court that the Affordable Care Act's preexisting conditions protection is unconstitutional.

The judge refused to answer whether a President could simply ignore a law, even one upheld by the courts. He didn't answer when Senator DURBIN asked it, when Senator BLUMENTHAL asked it, and when Senator HARRIS posed the same question.

The days of the divine rights of Kings ended with the Magna Carta in 1215. Centuries later, in the wake of the American Revolution, a check on the executive was a major foundation of our country's Constitution, for it was James Madison who wrote in Federalist 47: ''The accumulation of all powers legislative, executive, and judiciary in the same hands . . . may justly be pronounced the very definition of tyranny.''

There is more. None of the judge's colleagues joined the section of his opinion in Aiken County outlining his views on when Presidents can ignore the law, and one who was an appointee of President George H.W. Bush stated explicitly that reaching that issue was unnecessary to decide the case.

Judge Kavanaugh has made very clear over the years that he has an incredibly broad view of the types of protections that should be extended to a sitting President. Without further answers from him during the hearing, we are left only with his writings and his previous statements. These writings say that a sitting President should not have to be subject to a criminal investigation; that a sitting President should be able to remove a special counsel; that a sitting President should not have to agree to an interview with the special counsel; and that a sitting President has the legal authority to ignore the law.

At this time in our history, we need a Justice who is independent and who will serve as a check on the other branches, which is what our Founding Fathers set up—not a judge who would allow the President to avoid accountability or who believes the President's views alone should carry the day.

Despite many opportunities, Judge Kavanaugh did not convince me he would be an independent jurist who would maintain the fundamental idea we all learned in grade school. What is it? No one is above the law.

Another concern I have is what Judge Kavanaugh's views would mean for American consumers. In one opinion that was later overturned by the entire DC Circuit, Judge Kavanaugh argued that the Consumer Financial Protection Bureau was unconstitutional, calling it a threat to individual liberty. He said this about the Consumer Financial Protection Bureau.

The Bureau was founded in the wake, as you know, of the financial crisis and has now helped more than 30 million consumers obtain more than $12 billion in relief. The Bureau helps protect consumers as they deal with financial institutions that offer credit cards, loans, and mortgages.

What did the judge say? He found it unconstitutional. Thankfully, the full DC Circuit came to the opposite conclusion—all the other judges. The majority recognized that millions of families were devastated by the financial crisis, with about 4 million families losing their homes in foreclosure and even more slipping seriously behind on their mortgages.

Judges appointed by Presidents from both parties came to the opposite conclusion of the nominee who is before us today, and the majority on that court concluded that the Bureau should stay in place, as Congress intended.

While the DC Circuit made the right decision in that case, what struck me was just how far the judge had gone in his opinion. The judge was not just talking about the Consumer Financial Protection Bureau in that case. His opinion referred to independent agencies as a ''headless fourth branch''—that is a quote—of government, and it could threaten other agencies, like the Federal Trade Commission, which protects consumers from scams and anticompetitive mergers, or the agencies that helped to stabilize our economy after the financial crisis, like the Federal Reserve and the Securities and Exchange Commission or the Social Security Administration, which distributes benefits to more than 60 million elderly and disabled Americans and has had a single director, just like the Consumer Financial Protection Bureau, for decades, since 1994.

Judge Kavanaugh has called independent agencies a threat to individual liberty not just once—no, more than once. In that same Minnesota Law Review article I mentioned that outlined his expansive view of Executive power, the judge criticized the 80-year-old precedent that upheld the constitutionality of our independent agencies.

I asked Judge Kavanaugh about his conclusion that the Bureau was unconstitutional. He did not dispute this conclusion, but he did say his opinion simply called for a change to the law so the Director of the Bureau could be fired by the President at will. I found that answer problematic.

When Congress drafted the law that created the Bureau, it made the choice—we made the choice right here in this Chamber—to give the Director a 5-year term to provide some independence from politics. This was a choice that we made in this Chamber. Not everyone agreed with it, but by majority vote it passed. It passed in the Senate, and it passed in the House. We made that decision.

During our discussion on the judge's expansive views of Executive power at the hearing, he kept telling me that the scope of Presidential authority was a matter of policy that Congress should decide. He repeated this answer often to me and to others. When it comes to Presidential power, he said that Congress should decide.

Look at what happened here when it comes to protecting consumers. In this case, Congress did decide; we actually passed a law. We said we wanted this independent Director to have a 5-year term over this very important agency that returned $12 billion to consumers

who have been victims of scams and mortgage fraud. It was Congress's decision. Did that matter to the judge in this dissent that he wrote? It did not.

It seems to me, just looking at all these opinions, that the judge's record is this. When he likes what Congress decides, he says: Hey, Congress has the final say. When he doesn't like what Congress decides, he then thinks the judge should make decision.

What does that mean? In this case, he would have rewritten the consumer protection law over the wishes of Congress. What would that mean for the lives of Americans? After what this country has been through, after families who worked hard and tried to save for the future lost billions of dollars, he ruled that the agency that is designed to protect them was unconstitutional, and it is not an isolated example.

In another case, he argued that the net neutrality rules were unconstitutional. Those were the guidelines developed by the FCC to help consumers and small businesses have an even playing field when it came to the internet. Those net neutrality protections would have prevented internet service providers from blocking, slowing, and prioritizing web traffic. One again, the full DC Circuit—those other judges—decided against Judge Kavanaugh, and these key consumer protections were upheld by a panel of judges appointed by Presidents of both parties.

The question I always come back to is this: What will this mean to Americans? Here is the kicker: The outcome that the judge went out of his way to reach in the net neutrality case protects the First Amendment rights of corporations at the expense of the First Amendment rights of individuals. That is why that case is such a problem, but these aren't the only reasons why there is great concern for consumers. In announcing the judges's nomination, the White House touted the fact that he has overruled Federal agency actions 75 times. The White House also said in a document that it sent out that he led the efforts to rein in executive agencies.

When I asked him about this in his hearing, he said that he had ruled both for and against executive agencies, but his record makes clear that he has ruled against them in the overwhelming majority of cases.

Judge Kavanaugh's record suggests that health and safety standards and environmental standards would be at risk if he is confirmed to the Supreme Court. He has called the 34-year-old precedent, a case called Chevron—the same precedent that ensures these protections stay on the books—an atextual invention of courts and a ''judicially orchestrated shift of power.'' That is what he said.

To make it clear, this is not just one case that happens to be sitting out there in the old dusty law books. No, it is the most cited case in administrative law. It has been referenced in more than 15,000 legal decisions, and it has been championed by scholars and jurists across the ideological spectrum, including Justice Scalia. That is that case.

What would happen if we didn't have this case? Well, I guess we would have the judge making decisions instead of agencies with technical expertise. A judge with no scientific background should decide the best reading of dictating how pollution is acceptable in our air, lakes, or rivers rather than scientists.

These decisions have real implications for people across the country. These are the rules that protect our drinking water and keep our workplaces safe. In the end, it wasn't a Federal judge who was helped by the DC Circuit's reliance on Chevron in interpreting a Labor Department rule. It was an hourly Minnesota grocery store worker who got to keep his hard-earned pension.

As a granddaughter of a miner, I can tell you that it wasn't a CEO or a corporate board chair whose life was saved by mining safety rules. It was the Minnesota iron ore workers who, like my grandpa, would go down in a cage, 1,500 feet underground, every single day with their black lunch bucket. That is what my grandpa did every day. All my grandpa, who never got to even graduate from high school, wanted was to send my dad and his brother to college. My dad ended up as the first kid in his family to graduate from college—a community college, a 2-year community college. From there he went to the University of Minnesota and got his 4-year degree—all that because my grandpa went down in that mining cage and saved money in a coffee can in his basement to send my dad to college.

Everyone would gather at the mines and run over there every time the sirens went off because it meant someone died or someone was hurt. My dad still remembers the coffins in St. Anthony's Church lined up in the front. That is what workplace safety rules have changed.

It was the worker protections, coupled with the ability to organize a union, that finally made those miners' jobs safer. Americans rely on these protections to keep them healthy and safe, and we can't have a Supreme Court Justice who would throw those protections in doubt.

The final point I would make about the legal record is what would happen to our antitrust laws. In recent years, the Supreme Court has made it harder and harder to enforce the Nation's antitrust laws when you have big consolidations and market dominance. There are cases called Trinko, Twombly, Leegin, and Ohio v. American Express. There has been a whole series of them.

Why does that matter to us? It matters. It couldn't be happening at a more troubling time. We are seeing this wave of industry mergers. Americans know it in their own life. Companies are getting bigger and bigger and bigger. We have now two companies that have surpassed $1 trillion. Annual merger filings with our agencies here in Washington have increased by more than 50 percent in just the last 5 years.

So we already have a Court that is going conservative right when I think Americans need this protection, but, instead, we have a judge that is before us today that has written two major cases in this area. Both of them were even more conservative than where the Court was. Both of them made it even harder for mergers to be checked by the Federal Trade Commission—even by a Federal Trade Commission that was run by the Republicans. They thought the merger was troubling in one case. They brought it to court. This judge went the opposite way.

Our exchange in the hearing did not convince me that the American people and all those in favor of strong antitrust enforcement that promotes competition and protects consumers should not be concerned.

I think back to my favorite game growing up—Monopoly. The basic premise of ''the more you own, the more you made'' has always been true in American capitalism. If you monopolized the board by buying up multiple properties in the same color or all those railroads, you could take your opponents out of the game.

What does that mean today? Well, the failed merger between Norfolk Southern Railway and Canadian Pacific, something I took on only immediately when it was announced—we defeated that. But even without that merger, where are we today? Ninety percent of the freight rail traffic is handled by only four railroads. That is the same number of railroads on the Monopoly board. I don't think that is a coincidence.

So as we look at his rulings in this area, we realize this isn't just a game. No, this is our economy, and we want judges who are a check and balance, just as the Founders wanted. The Founders cared a lot about monopoly, actually, and they wanted a check and balance in our courts. They set up an independent judiciary.

The last point I want to focus on is Judge Kavanaugh's record and his views on campaign finance.

I requested a number of these campaign finance documents to become public because I thought they raised serious concerns about Judge Kavanaugh's views in this area of law. I actually got those documents public, and it is one of the reasons that a number of my colleagues who are opposed to the judge have been able to talk about those records right here on the floor and the public has been able to see them.

In one email from March of 2002, he discussed limits on contributions to candidates saying—these are his words: ''And I have heard very few people say that the limits on contributions to candidates are unconstitutional, although I for one tend to think those

limits have some constitutional problems.'' That is a big deal because we have very few campaign finance laws left that allow us to be protected from dark money and unlimited money coming into companies.

He also described in another email his ''1A''—that is the First Amendment—views as ''pure.'' This is very concerning when it comes to campaign finance. I have serious doubts, based on his record, as to whether he thinks that Congress has the authority to pass any campaign finance reform and take action to rein in the flood of dark money that has drowned out the voices of ordinary citizens.

What does that mean? Well, when the Court stripped away the rules that opened that door to unlimited super-PAC spending—and that is what we have right now—it wasn't the campaign financiers or the ad men who were hurt. No, it was the grandma in Lanesboro, MN, who thought it mattered when she sent in $10 to support her Senator. That is what we are dealing with, and if we get even narrower or get rid of all the limits on campaign finance, it is only going to get worse.

The American people would not have even known about Judge Kavanaugh's extreme views on campaign finance if I had not sought to have those documents made public. That is because there are still 186,000 pages of documents that have been produced to the Judiciary Committee, but they have not been made available to the American people.

Let me put it another way. Even now, only about 7 percent of Judge Kavanaugh's White House record has been produced to the Judiciary Committee, and even less—that is about 4 percent—is available to all of you, to the public.

On top of that, we are missing 3 years of documents from his time as Staff Secretary. So we have no records to review from that part of Judge Kavanaugh's previous work in the White House.

We also don't have 102,000 pages of documents that the White House has withheld under a claim of constitutional privilege, even though executive privilege has never been used to block the release of Presidential records to the Senate during a Supreme Court nomination under Presidents from both parties.

As a former prosecutor, I know that no lawyer goes to court without reviewing the evidence and the record, and a good judge would not decide a case with only 7 percent of the key documents.

In fact, as I mentioned, we received 42,000 documents the night before. We could not even look at them when we were starting to ask him questions because we had only gotten them the night before.

So I asked him if he thought that a judge would grant a continuance in a situation like that when one party dumped 42,000 pages of documents on the other the night before trial. I didn't get much of an answer.

We have already learned that the information in documents from Judge Kavanaugh's time in the White House is relevant to our consideration of his nomination. We should have those documents before we have this vote, but we don't.

Having full information about the judge's record brings me to the compelling testimony of Dr. Ford. Since Dr. Ford came forward, we have all thought a lot about our justice system. Before I got to the Senate, I was the Hennepin County Attorney in Minnesota. In that job, we used to say that we were ministers of justice and that that meant that we would work to convict the guilty but also to protect the innocent.

I hope my colleagues think about this question tomorrow: Are we truly protecting the innocent in how we are moving forward? What have we done?

A critical part of carrying out justice is having a fair process. That is something that Judge Kavanaugh himself has repeatedly and publicly said he wants.

I appreciate Dr. Ford's willingness to come before the Judiciary Committee last week, but it was unfortunate that she had to do it before the White House had asked for the FBI to reopen its background investigation and follow up on what she had said.

When I think of my work, we always would have those investigations and that information before any kind of a hearing. Back in Minnesota, our office handled all the judicial matters in our county from the juvenile area. In fact, we had about 12,000 cases every year, as well as all adult felonies. We investigated reports like Dr. Ford's. That job gave me a window into how these types of cases hurt women and impact everyone.

I would always tell those stories of those coming before us. I would tell them: You know what. This is going to be hard. You have to tell your story to a jury box of strangers, but you are doing it for justice. You are doing it for the right reason.

As for Dr. Ford, she had to tell her story to a nation. It was a moment. So many people in our country were watching her. I don't think people thought they were going to believe her when they first went in there and they first turned on their TVs, but then they watched her. They watched her grace and her dignity.

But, then, sadly, in the afternoon, for my colleagues on the other side, we saw a lot of anger and chest beating. I believe the strategy was to distract and deflect from the moving and incredible testimony of someone who told her story to the Nation.

This was a woman with no political background, who made an attempt to call the front office of her congressional Representative. That is all she did. All this stuff about her being part of some kind of smear campaign—she did it even before he was a nominee. She had read that he was one of the people under consideration, and she thought she should warn people.

Now, she wanted her name confidential. She explained all that during the hearing. She simply called the front desk of her congressional Representative.

This wasn't the first time that the Senate had confronted this type of situation. When Anita Hill came forward with her allegations against then-Judge Clarence Thomas, President George H.W. Bush immediately requested that the FBI reopen its background investigation.

Dr. Ford was another person who made a credible claim. Chairman GRASSLEY actually thanked her for her bravery in coming forward last week. Several of my Republican colleagues talked about how much they respected her.

Well, I said: You know, if you really want to respect her and you really want to be brave, then, you at least have to give her the modicum of respect by following up on her allegations, and that should have been done the minute that letter went public.

I found out about it, by the way, on the very same day that my Republican colleagues found out about it, and that was just a few weeks ago. I have heard a lot of complaints about that, and I am not going to get into that issue except to say one thing: The justice system is messy. Things come out at the very last minute sometimes. Evidence comes out before trial, but the issue is, When that happens, what do you do with it? What do you do with it when you are in a position of power? Do you just sweep it under the rug, as has happened too many times in this Chamber, in this building? No, you give them a chance to make their case, but also to give them that underlying investigation, and you reopen a background check—not a criminal background check, simply a background check like we do for any other high-level nomination in the Senate.

As I told my colleagues last week, if you want to make a political speech about keeping nominees off the floor, here is exhibit A for you: Merrick Garland, 10 months. For 10 months he was kept off the floor. Yet people have acted in a sanctimonious way that this was some cataclysmic event—to simply go back in and do an FBI investigation.

Dr. Ford's testimony was powerful. I asked her not about what she remembers about that night but what she couldn't forget. Here is what she said:

> The stairwell. The living room. The bedroom. The bed on the right side of the room. . . . The bathroom in close proximity. The laughter, the uproarious laughter.

We also heard from Dr. Ford about how she came forward because she felt she had a civic duty, just like we have a civic duty to look at the record that I just laid out for you in the last hour. That is our civic duty. That is why she came forward.

She talked about how she brought this up in therapy 6 years before and how she had given her husband the name of Judge Kavanaugh. This is before he was famous. This is before he was up for the Supreme Court.

As a former prosecutor, I understand the critical role that law enforcement has in gathering the information necessary to evaluate reports like this one. I don't like living in an evidence-free zone, and while I am glad the White House reopened the background check and at least went in and talked to some of the witnesses, if you go down there—which you can't do, but I could do and the other Senators could do—you realize, and you can see this from the public reports, that a lot of people weren't interviewed. For a lot of the names from Dr. Ford and one of the other victims involved in some allegations, Ms. Ramirez, they were not able to have those witnesses interviewed. That is what you see when you are down there. So this was not a fair process that Judge Kavanaugh said he wanted and that Dr. Ford wanted.

What we heard from the judge later in the day could not have been a sharper contrast from what we heard from Dr. Ford in the morning. She told her story, and it was a story that so many times in our Nation's history has been, as I said, swept under the rug because for so long, people have been told that what happens in a house should never end up in a courthouse.

Now what we can say to Dr. Ford is, well, this may not end up the way you wanted it, and it may not feel worth it to have come forward to have your life turned upside down. But you know what—there is one reason it was worth it, and that is because the American people learned something and they are speaking out because the times, they are a changing.

To conclude, I want to return to some of the thoughts on what this nomination means at this uncertain moment in our history. This nomination comes before us at a time when we are witnessing seismic shifts in our democracy. Foundational elements of our government, including the rule of law, have been challenged and undermined. Today our democracy faces threats that would have seemed unbelievable not long ago.

A man who was appointed special counsel in the investigation that is going on right now involving a foreign country interfering in our democracy—a man who served with distinction under Presidents from both parties—is under siege. Dedicated persons in the Justice Department are under siege. A third branch of government—our courts and our individual judges—has been under assault, not by a solitary disappointed litigant but by the President of the United States.

Our democracy is on trial. It is our duty to carry on the American constitutional tradition that John Adams stood up for centuries ago, and that is to be ''a government of laws and not of men.''

The next Supreme Court Justice should serve as a check on the other branches of government, someone who is fairminded and independent, who will uphold the motto on the Supreme Court building to help all Americans achieve ''equal justice under law.''

We have all thought a lot about the separation of powers in the last few weeks. All the attacks on the rule of law and our justice system have made me—and, I would guess, some of my other colleagues—pause and think many times about why we decided to come to the Senate in the first place, and in my case, why I decided to go into law in the first place. So I went back and I found an essay that I had written back in high school.

I can tell you that not many girls in my high school class said they dreamed of being a lawyer. We had no lawyers in our family, and both of my parents were the first in their families to go to college. But somehow, when I was in high school, my dad convinced me to spend a morning sitting in a courtroom and watching a State court district judge handle a routine calendar of criminal cases. The judge took pleas, listened to arguments, and handed out misdemeanor sentences. It was nothing glamorous—and nothing glamorous like the judge before us is being nominated to do—but it was important just the same.

I realized that morning that behind each and every case, no matter how small, there was a story, a person. Each and every decision that judge made that day affected someone's life, and I noticed how he had to make gut decisions and try his best to take account of what his decisions would mean.

There is something I said back then in that essay that I still believe today, and that is this: To be part of an imperfect system, to have a chance to better that system, was and is a cause worth fighting for, a job worth doing.

Our government is far from perfect, and so is our legal system, and so was this hearing, but we are at a crossroads in our Nation's history where we must make a choice: Are we going to dedicate ourselves to improving the justice system or not? Is this nominee going to administer the law with equal justice as it applies to all citizens regardless of whether they live in a poor neighborhood or a rich one, in a small house or the White House?

Many Americans are troubled today. When they watched the hearing, they were given some hope. They wanted to be fair, and they wanted due process, and I get that, but they also saw the blind partisanship of Washington and its crushing weight.

For many of us, this nomination process does not look like it is going to end the way we want it to, but Dr. Ford opened a window on sexual assault that is never going to be closed. Anyone who works here knows they have heard stories, and people tell stories they had never told before. Then there are those who want to see change in government. Well, they opened a door that will never close, and we welcome them. We need some new people around here.

So I am going to end with a quote from a song I listened to this morning, and it is a Minnesotan—not Prince; it is Bob Dylan. He was born in Duluth, and he grew up very close to where my dad grew up on the Iron Range of Minnesota. These are the last words of his song:

> As the present now will later be past, the order is rapidly fading, and the first one now will later be last, for the times they are a changing.

And they are changing. People's reactions to what happened this week and their focus on government and their focus on making things better—that is changing.

As I said last Friday at the committee hearing, the Constitution does not say ''we the ruling party''; the Constitution says ''We the People.'' And last week, the American people responded like never before. They stood up for something real, for something larger than themselves, for the hope of tomorrow. So that is how we the people prevail, because the times, they are a changing.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER (Mr. CASSIDY). The Senator from Alabama.

Mr. JONES. Mr. President, first of all, let me thank my colleague and friend, Senator KLOBUCHAR, for those sober words. As former prosecutors, we share a lot of the same bonds and knowledge, and we come to this in different ways sometimes than our colleagues. She expressed so many sentiments that I am going to try—and not as eloquently as she—to express today. So I say thank you for those comments.

I come to the floor today both as a new Member of this body and as a longtime admirer and student of the Senate to offer my perspective on the situation in which this distinguished body finds itself today.

I am deeply disappointed and concerned by the process, the posturing, and the partisanship that have degraded what should be one of the most serious, deliberate, and thoughtful decisions we in the Senate are entrusted to make.

Over the course of my almost 40-year career as a trial lawyer, I have represented just about every kind of client you can imagine, from the indigent to the CEO, major corporations and small business owners, individuals charged with serious crimes and those charged with petty offenses. I have also had the incredible honor of serving in the Department of Justice and representing the United States of America. Every one of my clients and every one of those who were on the other side of the litigation in which I was engaged expected and deserved fair, impartial treatment in our courts, and rightly so. But from the moment Justice Kennedy

announced his retirement, the conversation about his replacement seems to have rarely been about fairness and impartiality; instead, it has been about power and politics.

This Supreme Court nomination almost immediately turned into a divisive political campaign, with millions of dollars being spent to sway Senators on both sides of the aisle, including me. In his partisan-fueled tirade last week, Judge Kavanaugh lashed out at the so-called liberal groups who spent so much money attacking his nomination, but he never acknowledged and others in this body have never acknowledged that conservative groups have spent a like amount of money, if not more, promoting Judge Kavanaugh.

I want to make my position clear today. I think that this kind of political campaign for a seat on the Supreme Court of the United States—a political campaign run by either political party—should be condemned as completely contrary to the independence of the judicial branch of our government.

Throughout this nomination process, I have repeatedly expressed my concerns about the way it has been conducted. It was flawed from the beginning, and it will be incomplete at the end because of a needless rush to a confirmation. From the beginning, I have done my best, the best that I know how, in my experience, to exercise my constitutional duty—my duty of advice and consent—in a fair and impartial manner, putting aside the political considerations that were being thrown at me from every angle.

You know, I have often said in the last few months that it seems that for those who supported Judge Kavanaugh's nomination, if I voted to oppose, I would be seen as nothing but a puppet for my party. On the other hand, for those people who opposed Judge Kavanaugh, if I were to vote for Judge Kavanaugh, I would be seen as bending to a political way to try to get reelected in a conservative State. Neither of those is true.

My staff and I have dedicated an incredible amount of time almost every single day since July 10 to reading Judge Kavanaugh's opinions, his speeches, and his articles; reviewing documents at the time he worked at the White House—at least those documents we were able to get ahold of; watching his Senate hearing testimony and his television appearances; meeting with my constituents and advocates; and reading statements and emails both in support of and in opposition to Judge Kavanaugh. This was all done in a very serious effort to give thoughtful and fair consideration to Judge Kavanaugh's nomination without regard to party or politics.

The one thing I did not get a chance to do was to meet with Judge Kavanaugh. Judge Kavanaugh and the White House called my office a couple of times early on in the process to try to get a meeting with me, and I told them at that time or my staff told them that my process was to listen and to read, to understand and do my deep dive into his record and to know all that I can know about him. As a lawyer, I wanted to watch that hearing. I wanted to see what would occur at the hearing and how he would present himself, the questions that he answered and the questions he avoided, so that when I did meet with him following that hearing, it would be meaningful. It would not be a meet-and-greet, like so many of us have in this body, but a meaningful meeting.

As soon as Chairman GRASSLEY called for the hearing shortly after Labor Day, as soon as that was called in August, my staff started calling the White House to get a meeting. We were told that they would still want a meeting, but we continued to get rebuffed. We never got that meeting. We continued to call after the hearing, and we continued to call at least until the time that Dr. Ford's allegations were made public, and at that point, we knew a meeting was probably not likely to happen.

So for all of those detractors who say that I didn't try to get a meeting and that I didn't have the time, I did my best to follow the process of deliberation that I felt appropriate in my due process to make that meeting meaningful, and it never happened, through no fault of mine or my staff.

After all that, we find ourselves in this moment of historical significance, where we as a body have an opportunity to send a loud and clear message to women and men throughout this country.

As I previously have said, I believe Dr. Ford made an incredibly brave decision to come forward publicly and to testify to the full Senate Judiciary Committee. It was hard to do, knowing how she would be vilified. As a former prosecutor, I know how hard it is for victims to talk about these experiences, particularly in cases of sexual assault.

I have been moved by the many reports of thousands of women who have felt compelled by recent events to reveal similar stories that they have buried for many years, some for decades. In the last few weeks, women have shared with me intensely painful and personal descriptions of assaults, some of whom I have known for a period of time but never knew what they were carrying within them.

Many of these happened so many years ago—high school, college, as young professionals. Often, they hadn't told anyone, not even their closest friends and loved ones. Their experiences, while different in detail, have so many similarities. Their feelings of fear and shame and guilt were overwhelming at the time of their encounters. Those emotions exert a powerful hold on these women's lives. Even if they go on to find professional success and fulfilling relationships, it is still buried within them, and they don't speak up because they do not want to be known as victims or they don't want others to have to bear their pain, knowing that nothing can undo what happened to them.

In last week's public hearing, I found Dr. Ford to be a compelling and credible witness. Yes, there were gaps in her testimony. There always are. There are always gaps and lapses of certain memories in situations like these. Those who have worked with victims of assault know that the most traumatic details are seared into their memories, while extraneous facts may fade over time. Reactions of the women, when they see their perpetrators, are different, depending on the circumstances, but they never forget the pain. They never forget the pain of what happened to them, but rather than relive it or face condemnation or retribution, they simply keep it to themselves and go on day after day after day.

If you watched our President this past week at his political rallies, you can understand exactly why these women are afraid to speak out. I am actually appalled at the President's attacks on Dr. Blasey Ford just days after he called her a credible witness—just days after so many in this body called her a credible and compelling witness. His message was simply this: Keep quiet. Nothing happened here. Don't ruin this man's life. Let's continue to stoke the political fires surrounding his nomination.

We have heard time and again that victims must be heard—time and again. So often have we heard that in the last 2 weeks, that victims must be heard, but the message from the President of the United States and those who have surrounded him is, yes, let them be heard. Just don't listen. Just don't listen to them.

Unfortunately, that message isn't new. The President used his platform to try to intimidate survivors into staying quiet and hiding their pain from the world, but I think he is going to find that while he is focused on stirring up his political base with misogynistic comments, women around this country are rising up, and they are gaining their strength. They are finding their foothold. They are finding their voices in an effort to expose what for far too long has been swept under the carpet.

Regardless of the vote tomorrow, we cannot and will not ignore where we are in this moment of history. This is a movement that will not be quieted, nor should it be quieted.

For Judge Kavanaugh's part, I was very disappointed in his testimony last week. If the incident did not happen, then I understand full well his frustration and his anger. I get it. Any man would be. It is understandable. Both he and Dr. Ford have endured the ugliness of our society. But, in my view, he simply went too far by leveling unnecessary and inappropriate partisan attacks and accusations, demonstrating a temperament that is unbecoming a sitting judge, much less a Supreme

Court nominee. His testimony ran completely counter to the image he attempted to portray in his earlier hearing, in all of his interviews on television, and in the photo opportunities with the various Senators.

In addition—and this was incredibly important to me because I had watched it for some time—in simply refusing to acknowledge the need for further investigation, for a further review of his record, as Senator KLOBUCHAR discussed a few moments ago, by failing to acknowledge the need for further review and investigation into these allegations, he demonstrated anything but the independence necessary for our judiciary. Instead, he has bowed to the White House and to the majority of the Judiciary Committee to plow through this nomination process without a full review of his record and without a full, fair, and complete investigation into the very serious and credible allegations made by Dr. Blasey Ford.

I am certainly not alone in my views. It is not just people in the Democratic Party or Senators on my side of the aisle. At last count, I saw that there are some 3,000 law professors, about 40 of which are at Yale Law School, from which Judge Kavanaugh graduated. Those law professors have called for his nomination to be either withdrawn or rejected. Religious organizations, including the editors of the Jesuit Review, have done the same. I am told that just this morning, the American Bar Association—the gold standard of review for judicial nominations—has notified the Judiciary Committee that they are reopening their evaluation of Judge Kavanaugh's character and fitness based on what they witnessed in the testimony last week. That is a significant development that just occurred this morning shortly before our vote to proceed.

Even before the recent serious allegations of sexual assault, I called for a pause so that we could get the documents that are needed, including those that Chairman GRASSLEY himself had requested. The National Archives reported that due to the volume, even producing those documents on a rolling basis would not take place until sometime this month, in October. Well, it is October now, and although we don't have those documents, we have had two hearings and now are scheduled to vote on confirmation tomorrow. Many of those documents that could have been produced for review were withheld after being screened by a lawyer representing a number of people under investigation or at least witnesses in the investigation by Special Counsel Mueller, which raises serious questions as to what documents we got, which ones were being held, and why they were being held.

Despite the lack of documents, the Judiciary Committee forged ahead and conducted its hearings. Before a vote was taken, Dr. Blasey Ford courageously came forward with her very serious allegations regarding a sexual assault that occurred when she and Judge Kavanaugh were in high school. Again, not for the first time, I and others called for a pause to allow for further investigation, to update the background check that every nominee goes through. That call was rebuffed for some period of time.

Finally, faced with mounting public pressure, the Judiciary Committee agreed to a second hearing. Both the committee and the White House subsequently rejected any additional background investigation to be conducted by the FBI. As it turned out, my colleague Senator FLAKE felt compelled to call for such an investigation on the morning of the vote, which delayed the confirmation process for another week.

While I am certainly grateful and glad that the chairman and the majority leader and the President agreed to delay the vote in order to allow for an FBI investigation, I believe the investigation was far too limited to have any real use, especially since no further hearings would ever be held.

In my career of almost 40 years as a lawyer, I have examined many FBI reports, and I have examined many background checks. In my review of what was submitted as a result of Senator FLAKE's request, the FBI was simply not allowed to do what it does best, which is to follow the evidence and the leads. In this case, we put the proverbial cart before the horse. The investigation should have taken place before the hearing so that the Senators on the Judiciary Committee could have had the benefit of all the information they needed when questioning witnesses and evaluating credibility, which is where this is coming down.

I believe that in cases like this, the witnesses should be compelled by subpoena—not just Dr. Ford, not just Judge Kavanaugh, but other witnesses who are named should have been compelled by subpoena, if necessary, to give testimony, whether in the public hearing or by deposition—procedures that have been invoked by this body on many occasions.

This leads me to another more procedural point. Many of those who want to press forward with this nomination have been invoking the presumption of innocence, and I understand that. The presumption of innocence, however, is afforded to those in this country in our criminal justice system. It is afforded to those who are accused of criminal activity, and it requires the government to prove, to rebut that presumption. In other words, that presumption stands between someone accused of a crime and their going to prison and having their liberty taken away from them.

They have now said that the presumption of innocence should be applied to judicial nominations. But the presumption applies in a court before we can deprive someone of their liberty, incarcerate them. It is not necessarily applicable when we are simply looking to provide someone with a lifetime appointment to the judiciary. The presumption of innocence for a nominee would, in effect, turn into a presumption of confirmability that I do not believe is called for in the Constitution.

I certainly would agree, however, that given the most recent circumstances, we, as a body, need to establish some type of standard, some guidelines for our nominees so that this doesn't happen again.

I would say that if we were to have anything close to the high standard of a presumption of innocence, there has to be a full and complete investigation before any hearing in order to determine whether the presumption can be overcome. It is the only way to do it.

Remember, in this instance, there are no appeals; there is no review. We get no do-overs once we make this vote. We have to take the time and put forth the necessary effort to get it right—putting forth the time, even if it means the Supreme Court operates with eight members for a period of time. That is OK. I went to the arguments just the other day, and they got along just fine, listening to the arguments that were heard that day.

The American people are understandably disgusted by the way this has been handled. They are disgusted with people on both sides of the aisle, and they were disgusted even before these allegations came to light. They have reason to doubt the integrity of our independent judiciary now more than ever, with a Supreme Court that will be so divided and appears to be so partisan. There will forever be a cloud over this nomination and this nomination process, regardless of the outcome of tomorrow's vote.

Many also have reason to doubt the integrity of this body for the way this has been handled. When facing difficult decisions, I often reflect on what I learned from one of my most influential mentors, the late Senator Howell Heflin, a former chief justice of the Alabama Supreme Court. Judge Heflin often talked about the Supreme Court as the ''People's Court.'' Every day, he said, the Supreme Court of the United States deals with real people, their basic human rights and liberties. It has a direct impact on the daily lives of every American, and the people who serve on the Court should be held to the highest of standards before being allowed the privilege of making those weighty decisions.

I don't believe this process has led us to the person best suited to hold this position. This isn't about politics; no, it far transcends that. I have always said that I am inclined to vote for Presidential nominees, but they do not have to have that ''presumption of confirmability.'' We have serious doubts about this nominee that may never be resolved. It certainly was not resolved by the limited investigation that the Senators had to go view in bulk—one copy with 10 Senators sitting, passing it around. We have serious doubts

about this nominee. People across this country have serious doubts about this nominee. To quote the late Senator Robert Byrd:

> No individual has a particular right to a Supreme Court seat. If we are going to give the benefit of the doubt, let us give it to the Court. Let us give it to the country.

It was my hope that this body would wind up being on the right side of history with this vote and not a political side chosen in the moment. My preference would have been for the President to send us a new, consensus nominee, much as President Reagan did many years ago when he nominated Justice Kennedy. Send us another nominee and give the Senate a second chance to act as a uniter, not a divider. It now appears, however, that we will need to find another way that we, as a body—which has been described in the past as the most deliberative body in the world; many would question that description today—must find another way to show the American people that we can uphold the lofty ideals we have ascribed to.

Tomorrow, this nomination process will have run its course, but our work for our constituents and all of those sitting in the Galleries tonight and all of those watching across this country who will see and follow this vote tomorrow—our work for our constituents will go on. Our work for this country will go on. Regardless of this vote tomorrow, it will go on, and we, as a body, have to get to a place where we look forward, not backward.

I am confident; I know in my heart that we can restore the Senate to the place it was when I worked here as a young lawyer, a place where compromise meant progress, not a lost battle. Think about that—compromise meaning progress and not a lost battle or war. We must set aside the divisiveness, shoulder our responsibilities, and work together. We must do so for the good of this body, for the sake of the country that we all love.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I come to the floor this evening to share my thoughts on what has been an extraordinarily long, difficult, and truly painful process.

As we took up the cloture motion on the nomination of Brett Kavanaugh to the U.S. Supreme Court, the process that led us to this vote today has been, in my view, a horrible process, a gut-wrenching process, where good people—good people—have been needlessly hurt, where a woman who never sought the public spotlight was, I think, cruelly thrust into the brightest of spotlights; a good man—a good man—with sterling academic credentials, an unblemished professional record, both as the professional lawyer and judge that he was and also as a husband and father of two young girls, has been damaged—damaged terribly.

As both of these individuals, Dr. Ford and Judge Kavanaugh, have been harmed, their families have, too, and we need to, we must, do better by them. We must do better as a legislative branch. We have an obligation, a moral obligation, to do better than this.

I have spent more time evaluating and considering the nomination of Judge Kavanaugh than I have any of the previous nominations to the U.S. Supreme Court that I have been privileged to review. I have had the opportunity to vote on five Justices prior to this, and I took my time. I was deliberate; I was thoughtful. Some accused me of being too deliberate, too thoughtful, taking too much time, but this is important to me. It should be important to all of us, and I know it is important to all of us.

I studied the record. I sat with Judge Kavanaugh for a lengthy period of time—about an hour and a half—and asked the questions that I had, and then I did more due diligence, reviewed the cases, and did my homework, listened to the concerns that were raised by many in my State on issues that were all over the board, whether it was a woman's right to choose, whether it was the Affordable Care Act, whether it was Executive authority, deference to the agencies, Native issues. I took considerable time.

When the hearings came, not being on the Judiciary Committee, I paid attention. I followed the testimony of the judge, the very critical questioning from many of my colleagues on the other side of the aisle, and then at the end of the process—or, seemingly, what we believed to be the end of the process—there were more questions. I went back to Judge Kavanaugh and had a good conversation with him.

Then the allegations that we have been discussing and trying to understand more about came forward, and we all moved from focusing on the issues to truly a discussion that none of us ever thought we would be having when it came to a confirmation process for someone to the highest Court in the land.

There was more work to be done. I was one who wanted to make sure there was a process going forward, and when there were more questions that were raised after the initial process, I was one who joined in asking that the FBI step in and do further review.

I have been engaged in this lengthy and deliberative process for months now, and I was truly leaning toward supporting Judge Kavanaugh in his nomination as I looked to that record. But we know that in our role of advice and consent, it is not just the record itself. There is more that is attached to it. It is why, when in the State of Alaska, nominations for judges go forward, you rate them not only on their professional competence—what they have demonstrated through their record—but also on matters of temperament and demeanor, which are very, very important.

So we moved—we shifted—that conversation from so many of the issues that I had been focused on to other areas that are also important in evaluating a nominee for the courts. But I listened very carefully to the remarks, the strong, well-articulated remarks, of my colleague and my friend who sits next to me here, Senator COLLINS, and I found that I agreed with many of the points that she raised on the floor earlier.

I do not think that Judge Kavanaugh will be a vote to overturn Roe v. Wade, and I also join with her in saying that I do not think that protections for those with preexisting conditions will be at risk.

I also do not think that he will be a threat to Alaska Natives. This was an issue that certainly had been raised, but I had an extended conversation with the judge on just these issues, and I believe that he recognizes, as he told me, that Alaska Natives are not in a place identical to Native Hawaiians. Alaskan Tribes are included on the list of federally recognized tribes, and the fact remains that Native Hawaiians are not. This is a distinction; this is a difference.

I am one in this body who has said that I would like to see Native Hawaiians there, and I worked with my friend Senator Akaka when he was in this body to help advance that; I supported that. But the fact remains that the constitutional status of Alaska Natives and the Indian Commerce Clause are simply not at play with this nomination. I don't believe that. So the question is fairly asked: Do you think he is going to be there on issues that matter to Alaskans, that you have taken strong positions on?

The reason I could not support Judge Kavanaugh in this cloture motion this afternoon is that in my role, in my responsibility as one Senator on this floor, I take this obligation that we have in the role of advice and consent as seriously as anything that I am obligated or privileged to be able to vote on. I have a very high standard. I have a very high bar for any nominee to the Supreme Court of the United States.

The Code of Judicial Conduct rule 1.2—this is one that many, many people in this body know—states that a ''judge shall act at all times in a manner that promotes public confidence and the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.''

I go back, and I look to that. It is pretty high; it is really high: A judge shall act at all times—not just sometimes, when you are wearing your robe, but a judge should act at all times in a manner that promotes public confidence—public confidence. Where is the public confidence?

So it is high, and even in the face of the worst thing that could happen, a sexual assault allegation, even in the face of an overly and overtly—overtly—political process, politicized process, and even when one side of this Chamber is absolutely dead set on defeating his nomination from the very

get-go, before he was even named, even in these situations, the standard is that a judge must act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and avoid impropriety and the appearance of impropriety.

After the hearing that we all watched last week, last Thursday, it became clear to me—or was becoming clearer—that the appearance of impropriety has become unavoidable.

I have been deliberating, agonizing, about what is fair. Is this too unfair a burden to place on somebody who is dealing with the worst, the most horrific, allegations that go to your integrity, that go to everything you are?

I think we all struggle with how we would respond, but I am reminded that there are only nine seats on the Bench of the highest Court in the land, and these seats are occupied by these men and women for their lifetime. So those who seek one of these seats must meet the highest standards in all respects at all times, and that is hard.

We are in a time when many in this country have lost faith in the Executive branch, and it is not just with this administration. We saw much of that in the last as well.

Here in Congress, many around the country have just given up on us. They have completely said: We have had enough. But I maintain that the public still views—I still view—that there is some small shred of hope that remains with our judiciary, this judiciary that must be perceived as independent, as nonpartisan, as fair and balanced in order for our form of government to function.

It is that hope—it is that hope—that I seek to maintain, and I think that is why I have demanded such a high standard to maintain or regain that public confidence because it is so critical that we have that public confidence in at least one of our three branches of government.

I think we saw from the vote earlier today and we have seen from the statements of several of our colleagues that it does appear that Judge Kavanaugh will be seated on the Supreme Court without my vote. It is my hope—it is truly my hope—that Judge Kavanaugh will share that same hope of rebuilding, maintaining a level of public confidence, that he will strive for that ideal every day. It is my hope that he will be that neutral arbiter, the umpire who calls only the balls and the strikes, and that he will be that force for stability.

I believe that Judge Kavanaugh is a good man. He is a good man. He is clearly a learned judge, but in my conscience—because how I have to vote at the end of the day with my conscience—I could not conclude that he is the right person for the Court at this time.

This decision has been agonizing for me. It is as hard a choice, probably as close a call as any that I can ever remember, and I hope—I hope and I pray—that we don't find ourselves in this situation again.

But I am worried. I am really worried that this will become the new normal, where we find new and even more creative ways to tear one another down, and good people are just going to say: Forget it. It is not worth it.

I am looking at some of the comments and the statements that are being made against me and against my good friend, my dear friend from Maine—the hateful, aggressive, truly, truly awful manner in which so many are acting now. This is not who we are. This is not who we should be. This is not who we raised our children to be.

So as we move forward, again, through a very difficult time for this body and for this country, I want to urge us to a place where we are able to engage in that civil discourse that the Senate is supposed to be all about—that we show respect for one another's views and differences and that when a hard vote is taken, there is a level of respect for the decision that each of us makes.

There is something else that I do hope. Again, I refer to my friend from Maine. I will note that if there has been a silver lining in these bitter weeks—which, quite honestly, remains to be seen—I do think what we have seen is a recognition by both sides that we must do more to protect and prevent sexual assault and help the victims of these assaults.

There has been a national discussion. There has been an outpouring of discussions, conversations, fears, tears, frustration, and rage. There is an emotion that really has been unleashed in these recent weeks, and these are discussions that we need to have as a country.

We need to bring these survivors to a place where they feel they can heal, but until they come out of the shadows and do so without shame, it is pretty hard to heal.

I have met with so many survivors, and I know that every single one of us has. I have heard from colleagues as they shared with me that they have been truly surprised—many stunned—by what they are learning is the prevalence of this, unfortunately, in our society today.

In Alaska and, as the Presiding Officer knows, in his State, the levels of sexual assault we see within our Native American and Alaskan Native communities are incredibly devastating. It is not something that we can say we will get to tomorrow. We heard those voices, and I hope that we have all learned something. We owe it to the victims of sexual assault to do more and to do better and to do it now, with them.

I am going to close. I truly hope that we can be at a place where we can move forward in a manner that shows greater respect, greater comity. We owe it to the people of America to return to a less rancorous confirmation process.

In the spirit of that comity—and again, while I voted no on cloture today and I will be a no tomorrow—I will in the final tally be asked to be recorded as present, and I do this because a friend, a colleague of ours, is in Montana this evening, and tomorrow, at just about the same hour that we are going to be voting, he is going to be walking his daughter down the aisle, and he will not be present to vote. So I have extended this as a courtesy to my friend. It will not change the outcome of the vote, but I do hope that it reminds us that we can take very small steps to be gracious with one another and maybe those small gracious steps can lead to more.

I know that as hard as these matters are that we deal with, we are human and we have families that we love. We don't spend nearly enough time with them. I am sure we can do one small thing to make that family a little bit better. That is a better way for tomorrow.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. HOEVEN). The Senator from New Jersey.

Mr. BOOKER. Mr. President, on September 16, Dr. Christine Blasey Ford publicly came forward to share that Brett Kavanaugh had sexually assaulted her when they were in high school. This was a remarkably courageous act. It was one that she hesitated to do. It was something that she struggled with, but she said time and again that she believed it was her civic duty and her sense of citizenship—that act of grace, that feeling that you have a commitment to country, to causes larger than yourself. She put herself forward. She said she was terrified to do so. She said she feared for what the impact would be on her family.

Indeed, the impact on her family was terrifying. She endured hatred and vile poured out to her—death threats. She had to leave her family home and split her family up at times. She had to engage security for her own protection.

When Dr. Ford came before the Judiciary Committee to testify, she reiterated that she was afraid. She reiterated how terrified she was, but she stated again and again this ideal of patriotic duty and civic responsibility because she believed that there is something about our institutions that is sacred and that for the highest Court in the land, there could be millions of qualified people in America, thousands of folks. Indeed, the President's list itself has dozens of folks. She said that this person who sexually assaulted her should not go on the highest Court in the land for a lifetime appointment.

So she sat before us in the face of endless harassment, with glaring public scrutiny into all aspects of her life and the threats against her family. Dr. Ford gave testimony that was powerful and that, to many, was jarring. She talked about her private truth, her experience, and how it affected her life.

She said again and again that she wanted to be helpful to the committee.

She treated every member of the committee on the Republican side and the Democratic side with respect. She extended them grace. She was cross-examined by a prosecutor for the Republicans. She engaged with that prosecutor with a sense of decency and honor. She didn't stretch the truth or try to dodge questions. She spoke honestly and candidly and from her heart. She shared details that she said had been seared into her memory.

She talked about the narrow set of stairs in that house that she climbed to use the restroom. She talked about being pushed from behind into a bedroom. She talked about the music being turned up louder as she struggled. She talked about Brett Kavanaugh on top of her, hand over her mouth, trying to stop her as she yelled for help. She said she thought she was going to be raped. She said she thought she might be accidentally killed.

There was Mark Judge, a person she identified, watching, refusing to help her. Both Mark and Brett were laughing. Dr. Ford described that laughter as searing into her memory. She talked about it as being indelible. She told us she would never forget, and that she would ''never forget the uproarious laughter between the two and their having fun at my expense.''

I believe her. I believe Dr. Ford. I still believe her, and many of my colleagues on both sides of the aisle spoke up, calling Dr. Ford's testimony credible. Many have said they believe her or, at least, that they believe someone assaulted her. They gave credence to the power of that experience—an experience that reflects that of many people who experience trauma. You don't remember it like a video recording, but there are moments that are seared into your mind. Her experience was consistent with people who have experienced trauma. Even though the Senate hearing would not allow experts to come in, we all know enough now to know that the way she described her experiences and the things she remembered all spoke to the ability of a courageous American doing their civic duty.

I was surprised that even the President of the United States called her sincere and called her testimony compelling. That was until he stood at a rally and mocked her. The President of the United States, the most powerful person in the country—perhaps the most powerful person in the world—mocked her and got uproarious laughter. The same thing that was seared in her memory: People were laughing at her. The President ignited that in a crowd and made her again the focus of laughter and mocking.

To this body that I revere, this body that I love; to my colleagues, whom I respect, on both sides of the aisle; to this body that was designed to be the world's most deliberative body; to this body that was designed to be thoughtful, to take the time to analyze, the question is this: We heard words about her testimony, but what followed those words? Were they like dust in the wind or were they substantive words that cause us to believe her, admiring and honoring her courage for coming forward? Did we treat her that way?

Well, if they did believe her, if they did honor her words and her courage and the risk she took, then this body and the Judiciary Committee, of which I am a part, would have insisted on a full, fair, thorough, and complete FBI investigation that included the many witnesses who stepped forward who could have corroborated her testimony and could have contradicted Judge Kavanaugh's testimony. This body would have insisted that we take the time to do a thorough investigation because it is not just about Dr. Ford. There are millions of survivors, women and men, watching how this body will deal with the seriousness of sexual assault.

Will we listen to survivors? Will we honor them enough to fully investigate their charges? These are not just charges alone. These are charges against someone who is up for one of the most important positions in our Nation—a lifetime appointment to the Supreme Court.

No, they did not honor them. If they had honored them, they would have insisted on a full FBI investigation. Indeed, when another survivor, Ms. Ramirez, came forward, talking about her incident with Judge Kavanaugh during college days—when Judge Kavanaugh diminished his drinking, evasively talked about his drinking—classmate after classmate, after his testimony, came forward and said he was lying and he was misleading. Republican and Democratic classmates were offended by the way he talked about his behavior. It was in those college days that Ms. Ramirez said Judge Kavanaugh exposed himself to her. She identified 20 witnesses that were either eyewitnesses or could have corroborated the evidence.

She talked in detail about who could have substantiated her claims about the kind of drunkenness that we heard in public statements from his friends, which seemed consistent and seemed to implicate the truthfulness of someone who was going to the highest Court. Did we honor that woman? Did we honor that survivor by doing an investigation, by going to and at least talking to the 20 witnesses that she put forward—another woman who is being mocked, another woman who is a victim of hate being spewed at her, belittling her? Did we honor a survivor and simply listen and interview the 20 people she said could have proved the factual nature of her allegation?

No, we didn't. We didn't honor a survivor. We didn't listen to a survivor. We didn't take the time in the world's most deliberative body to listen to a woman's claims and take the steps to see if they were true or not.

This is what to me is so deeply offensive. It is that you have two women who come forward making claims that even the President said, at first, seemed sincere and compelling, but we didn't take the next step to fully investigate their claims so that we could know what the facts are.

The truth is something that the American public deserves. An investigation that gets to the truth is something that the American public deserves, that Dr. Ford deserves, that Ms. Ramirez deserves, and that even Brett Kavanaugh deserves—to let the truth come out. But this FBI investigation was part of a larger sham.

People on the right, colleagues of mine, accused Dr. Ford, with her sincere testimony—they accused her of being part of a coordinated, partisan smear campaign. Think about that. She told her husband in 2012 about the attack. Was she somehow coordinating with Democrats back in 2012 before Judge Kavanaugh was anywhere near being on the Supreme Court? No.

She talked about it with her therapist. She talked about it with her husband. She said it was Brett Kavanaugh years before Brett Kavanaugh was even on a list of consideration by the President.

In 2013, she discussed the assault again in an individual therapy session. In that same year, she told a close friend that she had been assaulted as a teenager while she was trapped in the room with two drunken boys. That was not a coordinated, partisan attack back in 2013.

In 2016, she told another friend she had been sexually assaulted in high school by someone who went on to become a Federal judge. In 2017, she told yet another friend about the assault. She told each of these three friends that a person who had assaulted her had become a Federal judge. This does not sound like some kind of partisan smear tactics; this sounds like a woman who has been telling the truth for years about Brett Kavanaugh.

The least this body could do is pause for a moment and not do a sham FBI investigation where they talk to just a handful of people but do a full FBI investigation, because these charges are serious.

Meanwhile, millions of Americans—survivors themselves and others—are watching to see how we deal with something that the Centers for Disease Control says happens to one out of every three women in America. How do we deal with those charges? It happens to one out of every six men in America. How do we deal with those charges? When a survivor comes forward, how does the world's most deliberative body honor that?

What we are seeing here is a coordinated, partisan effort to put blinders on, to not seek the truth, and to rush this to tomorrow to a final vote.

Long before Dr. Ford's bravery, I was one of those Democrats, one of those Senators, one of those Americans who expressed their sincere and deeply held concerns about Judge Kavanaugh's

record. I said early that I would not support him. I opposed his nomination. Then, I opposed his nomination because I was deeply concerned that we have a President of the United States who is the subject of a criminal investigation, and that President picked the one person from his Heritage Foundation and Federalist Society list who had a view of Presidential power that I believed would give that President immunity should issues relating to that investigation come before the Supreme Court.

I am deeply troubled about his views on women's right to make their own medical decisions. I am troubled about his views on workers' rights to organize, on voting rights, on civil rights, and on the principle of equal justice under the law. I am concerned about things that he said about foreign dark money influencing our campaigns. His record demonstrated very clearly to me that, if confirmed to the Supreme Court, Judge Kavanaugh would continue to prioritize the interests of the powerful few over the rights of everyday Americans and that we would see an erosion of individual rights in this country. But I still believed we needed to have a fair and thorough vetting of this nominee consistent with our constitutional obligations and that it would eventually get to the floor and we would have our vote.

In the many weeks leading up to Judge Kavanaugh's hearing before the Judiciary Committee, many Democratic colleagues and I pushed for the same kind of transparency and a process. Even if we knew where we were going to go, the process should have been fair. The process should have been bipartisan.

The Judiciary Committee has a long history of the majority and minority working together to set ground rules for the committee process. I watched the Judiciary Committee for many years before I came to this body. It was the No. 1 committee I wanted to be on 5 years ago when I came to the Senate. There are legends still on that committee, statesmen on both sides of the aisle, men I respect. But this process from the very beginning has been a sham. It has undermined the ability of Senators to perform our constitutional duty to advise and consent on the nominee because of the withholding of critical information that I believe is absolutely necessary to evaluate someone.

This constitutional duty means that we should have a process that allows transparency into that person's record. The public has a right to know who the individual is that we are voting on tomorrow, what their record is. The public has a right to know. Why would we hide their record from public scrutiny?

Step 1 of the sham was the Republican majority's refusal to request any records from Judge Kavanaugh's time as Staff Secretary to President George Bush. Zero records were requested whatsoever. Brett Kavanaugh himself held that position for 3 years. He called those 3 years of his year the ''most interesting and most formative years'' of his career, the most interesting and formative in shaping his approach to serving as a judge and during which he presumably advised the President on everything from national security policy to a proposed constitutional ban on same-sex marriages. So many critical issues that are germane to his job and his experience and the formation of his ideals were happening during those times. But they said we could see nothing from his record, even things that are not classified, not national security, things that would give us a better window into who he is.

Step 2 of the sham was to create a wholly unaccountable process for the fraction of the White House records that the Republican majority did request from Kavanaugh's time in the White House Counsel's Office. This process was essentially made up. It had no reflection on the history of his body of work—no reflection at all.

What happened was they put into place a practice where a private lawyer, Bill Burck—who happens to be a longtime political operative, who was a former deputy to Brett Kavanaugh himself when he was Staff Secretary—was put into part of the process as a choke hold on documents getting to Senators for our evaluation. Most of the documents of this candidate's work product have not been seen by any Senator here. In fact, about 90 percent of his relevant work experience, his relevant work product, has not been reviewed by any Senator here.

Imagine hiring somebody whose resume you have only seen 10 percent of because 90 percent is obscured. Most of the folks here wouldn't hire an intern in their office if somebody was hiding 90 percent of their resume.

Then there is step 3 of the sham. In conjunction with Mr. Burck, the committee chairman designated 186,000 pages something that was new called ''committee confidential'' in order to hide them from the public because they might harm the nomination. Imagine this: With the public having a right to know, the public needing transparency, now they are hiding yet again, under the name ''committee confidential,'' critical documents. They withheld 102,000 pages from the committee altogether, threatening to invoke some nebulous constitutional privilege. As a result, today, just hours before the final vote, only 7 percent of Kavanaugh's record from the Bush White House has been released to Senators. We are making a decision knowing only 7 percent of his work product.

When women's rights, workers' rights, LGBTQ rights, voting rights, and affordable healthcare are all in the balance, we know so little about this candidate. Because of all that is at stake, several colleagues and I made a decision to release those documents, but it was still just a fraction.

Meanwhile, Judge Kavanaugh's initial testimony before the Judiciary Committee raised my concern because he continued to evade questions, refused to answer our questions.

After Dr. Blasey Ford came forward, he gave his testimony, and I was stunned. You see, at Judge Kavanaugh's initial hearing in early September, he testified that he wanted to stay ''three zip codes away from politics.'' He insisted that the Supreme Court must never—I emphasize that word—never be viewed as a partisan institution. But when he came before the Judiciary Committee again last week, Judge Kavanaugh jettisoned his own advice, his own belief in judicial temperament, his own belief in how a judge should behave and be nonpartisan, and he leveled blatantly political accusations. He said that the allegations against him were nothing more than ''an orchestrated political hit,'' even speculating that they were motivated by ''a revenge on behalf of the Clintons.'' He cast blame on outside, left-wing opposition groups. He told the Democrats who were questioning him that the hearings had been ''an embarrassment.'' He was belligerent. He was evasive. At times, he was outright deceptive, and at times, he was deeply disrespectful to my Senate colleagues. He displayed the type of fierce partisanship that no American should ever want to see in a Federal judge. He went on to say almost as a menacing threat that ''what goes around, comes around.''

Is this someone who can sit on the highest Court in the land, where political issues might come before him? Has he not already revealed himself to be deeply partisan? Has he not already revealed himself to have a deep-seeded anger toward people of certain political stripe? Is this someone who shows the kind of judicial temperament, not for a district court, not for a circuit court, but for the highest Court in the land, the Court of last resort?

He didn't say all of this in response to questions. These weren't off-the-cuff comments. This was part of his prepared testimony. Those quotes were in his prepared testimony.

In another instance during his testimony, he warned that ''this is a circus.'' He said, ''The consequences will extend long past my nomination. The consequences will be with us for decades.''

That is how I want to end. What are the consequences for a sham process, for a sham FBI investigation? What are the consequences in relation to women who came forward before the world's most deliberative body with credible accusations of sexual misconduct, of sexual assault, of sexual violence? What are the consequences to a body that runs a partisan process, that ignores the truth, that shields relevant aspects of his record—90 percent—from the public? What are the consequences as they rush to the Senate floor hoping nobody knows the truth and ignoring investigating some of the most serious charges that could be leveled against

someone—charges of violence, charges of assault? What are the consequences for us in this body behaving in this way? What are the consequences for Dr. Christine Blasey Ford, who has forever altered her life for her civic duty, for her patriotism, for her love of country? She sacrificed to come forward, and how do we treat her?

This has been an emotional week for so many. I have seen and heard and witnessed the pain and the trauma that has been dredged up. I have heard from some of my colleagues in private meetings about dozens of people coming forward to them, having never told people about their sexual assault, and now they come and tell their Senator, hoping that their story and that their pain that they haven't even shared with their spouse will somehow make a difference in the larger story of our country, will somehow make a difference at this moment when two women are not being listened to and when their stories are not getting worthy recognition, worthy investigation. I heard colleague after colleague tell me the stories, the painful stories.

I heard them myself from friends of mine who I never knew had been assaulted. I never knew of their pain, never knew of their trauma. But at this moment in American history, they felt they had to come forward. They had to tell their truth, like Christine Blasey Ford, like Ms. Ramirez. They felt now was the time to speak up and stop this Nation from making a mistake and try to stop the injustice and try to end a national nightmare where one out of three women is assaulted and most of them don't feel comfortable coming forward. They don't feel safe coming forward. They feel that if they come forward, they will be maligned, hated, disrespected, disregarded; that their charges will be swept under the rug; that their charges will be ignored. Yet a chorus of women and men all across this country have been telling their stories, screaming at this Nation, hoping the national conversation will shift in this country from abusing those who have been abused to elevating truth again.

This body has had a test, and we are failing that test. This body has had a chance. This body has had a responsibility, and we have surrendered that responsibility. So tomorrow we vote. It seems like the die is cast.

I heard there were celebrations and cheering in the White House. And in the last few hours, I also heard the pain and the anguish and the hurt, and I have heard the tears. It seems so unjust. It seems so unfair that two courageous women came forward to this body, and we couldn't even investigate their claims. We couldn't even take time to talk to witnesses. A lot of folks are now asking me: What now?

I want to conclude by reading some words from another painful period where people didn't know what this body would do. There was injustice in this land. People didn't know what this body would do. Hundreds of thousands came forward to march and to protest and to sit in. They didn't know what this body would do, but they stood anyway and they fought anyway. Sometimes they were beaten. In one case, on a bridge in Alabama, they were beaten and bloodied. One of my colleagues in the other Chamber, JOHN LEWIS, had his head split open. They eventually got over that bridge and got to Montgomery, and a man named King gave this speech to those people who were tempted to surrender to cynicism in that time. He gave this speech to those people who wanted to give up. He gave this speech to those people who were hurting. This is what he said:

> I know you're asking today, ''How long will it take? Somebody's asking, ''How long will prejudice blind the visions of men, darken their understanding, and drive bright-eyed wisdom from her sacred throne?'' Somebody's asking, ''When will wounded justice, lying in prostrate on the streets . . . be lifted from this dust of shame to reign supreme among the children of men?'' Somebody's asking, ''When will the radiant star of hope be plunged against the nocturnal bosom of this lonely night, plucked from the weary soul with chains of fear and the manacles of death? How long will justice be crucified, and truth bear it?''
>
> I come to say to you this afternoon, however difficult the moment, however frustrating the hour, it will not be long, because ''truth crushed to the earth will rise again.''
>
> How long? Not long, because ''no lie can live forever.''
>
> How long? Not long, because ''you shall reap what you sow.''
>
> How long? Not long, because the arc of the moral universe is long, but it bends toward justice.

I say to every American who is hurting tonight, every American who is angry tonight, tomorrow we face a defeat, but we shall not be defeated. Tomorrow, it may seem like a loss, but all hope is not lost.

I have faith in us as a country. I know it has been a long journey. I know we have suffered much, but I have a faith in this country that is abiding and cannot be destroyed because we are a nation that always finds a way to move forward, to learn, to grow. What is dependent upon us doing that is for us to never ever give up. Never give up.

The days ahead will be difficult. It will not be easy, but I have faith in America. We will learn. We will grow. We will get better. We will come together if we never give up.

Tomorrow, the vote may be what it is. The die may be cast, but I will never give up on this country. I will never give up on women. I will never give up on the ideals and principles we all swear an oath to that this Nation, one day, truly will be a nation of liberty and justice for all.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, several of my Republican colleagues have mentioned that some of us came out in opposition to Judge Kavanaugh almost immediately after he was nominated by the President. Count me in. I was one of those people. I say that without any apologies whatsoever because I was familiar with the record of Brett Kavanaugh on the court where he sits. I was familiar with his record as a member of the Bush administration.

I didn't have all of the information, but I surely had enough to understand that if confirmed and seated, he would absolutely be a member of the hard-right majority, which has done so much harm to the people of this country over the last many years. Right off, within 24 hours, I was opposed, and that was exactly the right decision. That is why tomorrow I will vote against the seating of Judge Kavanaugh.

Many people in this country do not fully appreciate the role the Supreme Court plays in our lives. They know what the President does. Maybe they know what Congress does. They don't know what the Supreme Court does.

I would suggest that in North Dakota and Vermont and all over this country, you have people who are saying: What kind of corrupt campaign finance system do we have? It is not just progressives who say that. Conservatives say that. Republicans say that. Democrats say that. Who believes in the United States of America that a handful of billionaires—some Democrats, mostly Republicans—can spend hundreds and hundreds of millions of dollars to elect candidates who represent their interests? Who thinks that is right? Not many people do.

People do not understand that we are in that position today because of a 5-to-4 Supreme Court decision regarding Citizens United—a decision that is now undermining American democracy. There are those who think Citizens United did not go far enough, that billionaires should be able to give money directly to Senators and Congressmen, make them directly their employees. I have zero doubt that Judge Kavanaugh will continue that majority approach to allowing billionaires to control our political system.

In 1965, an enormously important act was signed by Lyndon Johnson, called the Voting Rights Act. It said that all of our people, regardless of the color of their skin, should have the right to vote. It is not a very radical idea. Yet a few years ago, the majority of the Court gutted that decision and said that it wasn't necessary anymore. States would do the right thing; time has come and gone. Days, hours after that decision was made—a 5-to-4 decision—attorneys general all over this country and Governors were working overtime to figure out how they could suppress the vote, how they could make it easier on themselves to deny people of color, poor people, and young people, the right to vote. That was a Supreme Court decision.

If you are upset and you are wondering about how in America we have States trying to make it harder for people to vote when our voter turnout

numbers are pretty low compared to the rest of the world, that was a Supreme Court decision. I have zero doubt again, when it comes to protecting our democracy and the rights of people to vote, that Judge Kavanaugh will be on the wrong side of that issue.

Today in America we are the only major country on Earth not to guarantee healthcare to all people. The Affordable Care Act was an important step forward. By a 5-to-4 decision, the Supreme Court ruled that expanding Medicaid in a State was optional, and we had many—I think 17—States that said: No, we are not going to expand Medicaid. Millions of low-income people, children were denied the healthcare this Congress voted to give them. I have zero doubt that Mr. Kavanaugh will continue that effort to make it impossible for us to guarantee healthcare to all of our people.

The Janus decision attacking unions was a 5-to-4 decision; the Muslim travel ban, a 5-to-4 decision. I didn't need to hear about the issue of sexual assault in the beginning before it arose. I knew this nominee would be highly partisan, and that was only confirmed more strongly just a couple of weeks ago when he went before the Judiciary Committee again. That is issue No. 1.

If any of you out there are now dealing with cancer, diabetes, heart disease, or other life-threatening illnesses, understand that Republicans in a number of States in this country are trying to get the U.S. Supreme Court to rule that major parts of the Affordable Care Act are unconstitutional, including the protection for people who have preexisting conditions. If you are struggling with diabetes, cancer, heart disease, serious illness, worry, and worry a lot, about what Mr. Kavanaugh will do with the other four members of the hard right in taking away your ability to get the healthcare you desperately need at an affordable cost.

If you are a woman or, in fact, a man or, in fact, 70 percent of the American people who believe a woman has the right to control her own body and you don't want to see Roe v. Wade overturned—and that is the last poll I saw, 70 percent of the American people holding that opinion—worry, and worry a lot, because I fear very much if a case—and we think a case may come before the Supreme Court on Roe v. Wade—worry about what Kavanaugh will do with the other four rightwing members of the Court. That is issue No. 1.

If Brett Kavanaugh were a choir boy, if he were one of the most wonderful human beings ever to walk the face of this Earth, based on his policies, based on his decisions, I would vote against him. It turns out that maybe he has not been a choir boy.

I could only concur with my colleague from New Jersey, Senator BOOKER, in expressing what we are hearing in our own office. I come from a small State. Yet as a result of Dr. Ford's testimony, we have received comments from 11 Vermonters who relayed, to some degree, their stories about sexual assault. We received a letter from a woman who was 70 years old, who told us about a horrific experience that happened to her when she was 14 years of age. While almost all of the comments that came in were from women, there were some from men who were abused as boys.

Some 20 to 25 percent of women in this country have been sexually abused. Wow, that is a crisis. That is an epidemic. Clearly, our goal must be to do everything we can to make it easier for women to come forward with these terribly painful and life-lasting experiences, make it easier for them to speak their truth.

It is hard to talk about President Trump and continue to use the word ''unbelievable'' because things he does literally are unbelievable every other day, but I think maybe he might have hit a new low, even for Trump. Dr. Ford brought forth her testimony. I think the vast majority of the American people believed her. The President of the United States—the man who should be telling women we want to hear your truth, we want to hear your pain—this President, in the most vulgar way imaginable, actually mocked Dr. Ford. What kind of message does that send to women all across this country who are suffering? It sends the message that they will not be believed. They will be dismissed, and the most powerful person in this country will mock them. Even for a disgraceful President like Trump, this is, in fact, a new low.

It is not even the policies I am quite convinced that Kavanaugh will pursue. It is not only the very serious and credible allegations regarding sexual assault that were in no way fully investigated by the FBI. I read the report, and it was a very limited report. It certainly did not do justice to Dr. Ford. The FBI agents did not even interview Dr. Ford or Judge Kavanaugh. I don't know how you have an investigation in which you don't interview the two major figures in that charge, that allegation.

It is not only the lingering question that came from two—at least two—credible women, but it is also the very important question of Judge Kavanaugh's veracity, his honesty. I think I heard more than one Republican Member of this body say: Well, you know, if he is lying, he should not be seated on the U.S. Supreme Court.

Yet there is, in fact, very strong evidence that the testimonies Judge Kavanaugh gave recently and in years past, when he was first appointed to a judgeship, were not honest. Let me give you a few examples. In his previous testimony before the Judiciary Committee, Judge Kavanaugh was asked more than 100 times if he knew about files stolen by Republican staffers from Judiciary Committee Democrats. Republican staffers stole files, and that was pretty clear. The question that was asked of Judge Kavanaugh was, in fact, had he seen those files; was he familiar with those files? The answer he gave was no, he was not familiar with those files.

It turned out the emails released as part of these hearings show these files were regularly shared with Kavanaugh while he was on the White House staff. One of the emails, in fact, had the subject line ''spying.''

In 2006, Judge Kavanaugh told Congress he didn't know anything about the NSA warrantless wiretapping program prior to its being reported by the New York Times this year. An email revealed that while at the White House, he might have been involved in some conversations about that program. It sounds as though he was not telling the truth.

In 2004, Judge Kavanaugh testified that the nomination of William Pryor to the Eleventh Circuit Court was not one that ''I worked on personally.'' It turns out that may not have been true as well.

In 2006, Judge Kavanaugh testified: ''I was not involved and am not involved in the questions about the rules governing detention of combatants.'' New evidence released that is part of these confirmation hearings suggests that statement may not have been true.

Judge Kavanaugh repeatedly said that he did not have a serious drinking problem, that he had never blacked out, never acted in a belligerent way. There are a number of his classmates who suggest otherwise. In fact, there is a piece in the Washington Post today, signed by three of his classmates, I believe, at Yale who suggested the very opposite. Are they lying? Are these people coming forward into the public eye to be abused? Are they lying or, in fact, is Judge Kavanaugh not tell the truth?

Judge Kavanaugh testified he treated women ''as friends and equals'' and ''with ''dignity and respect.'' Numerous entries in his school yearbook would seem to contradict this.

The issue is not just what he did; the issue is that he is not telling the truth about what he did. Judge Kavanaugh was not the only person in America to drink a lot in high school and in college, not the only one. If he had come forward and said ''Yeah, you know, I did have a drinking problem; I have overcome it, but I did,'' that would have been perhaps telling the truth, but that is not what he said.

On it goes. It is likely, as I understand it, that those of us who are opposed to Judge Kavanaugh will, in fact, be on the losing side of that vote tomorrow. I am very sorry about that.

History has a funny way of responding to what goes on. I think this nomination, to a much greater degree than I think anyone would have expected, has aroused the American people from coast to coast. It has aroused them in terms of the issue of sexual assault and whether we deal with that issue honestly. It has aroused the American people in terms of the issue of veracity

and whether or not we are going to have a member on the Supreme Court who, in fact, is honest. It has aroused the American people in understanding that the function of the U.S. Supreme Court is to render justice with impartiality, with justice for all—not to simply represent the wealthy and the powerful and billionaire campaign contributors.

So I think this whole process has been an enormous learning experience for the American people. While we may lose tomorrow, I think the end result of what has taken place here—the disgrace of what has taken place here—will reverberate in a very positive way for the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, as a U.S. Senator and a member of the Judiciary Committee, giving careful consideration to Supreme Court nominations is among my most important responsibilities. These lifetime appointments can change not only the course of the Nation but the course of lives.

I began with deep concerns about Judge Kavanaugh: his unfettered views of executive power, effectively believing that the President is beyond the law; his refusal to commit to well-established precedents on critical issues, like women's constitutional rights regarding abortion; his affinity for unlimited and dark political money and his studious blindness to its harm to our democracy; and his very selection and support by big special interest groups. I had significant concerns about his truthfulness and temperament—concerns proven more than justified over the course of these hearings.

Another warning sign was flashing. Senate Republicans were stopping at nothing to get this nominee through. Why, it made we wonder. Why?

Behind all of the shattered norms and traditions of the Senate, behind all of the hidden documents and unanswered questions, stands the looming question: Why?

In my opening comments in the committee, I chronicled a pattern under Chief Justice Roberts, an unpleasant pattern of 5-to-4 partisan rulings for the big corporate and special interests that are the lifeblood of the Republican Party—not 3 or 4 times, not even a dozen or two dozen times, but 73 times—73 times and all 5-to-4 partisan decisions, all wins for the big corporate and special interests that are the lifeblood of the Republican party—73 times.

The pattern is clear in these 5-to-4 partisan decisions. Every time big corporate and Republican special interests are involved, the big interest wins—every time, 73 to 0.

On its way to delivering these Republican special interest victories, the Roberts Court—or I should say the five of them who do this; call it the ''Roberts Five''—leaves a trail—a trail of wrecked precedents, a trail of sketchy, nonfactual fact-finding, a trail of long-standing statutes ignored or rewritten, and a trail of supposedly conservative judicial principles, like modesty, deference, originalism, and stare decisis, all violated. The pattern of these 73 partisan ''Roberts Five'' decisions explains why. It explains why big Republican interests want Kavanaugh on the Court so badly and why Republicans shredded so much Senate precedent to shove him through. The big Republican interests want to be able to pull 5-to-4 wins out of the U.S. Supreme Court as if it were a legislature they controlled.

What are the areas of law where the big Republican corporate and special interests have a stake where the Roberts Five delivered for those big Republican Party stakeholders?

Well, first, they helped Republicans to gerrymander elections in Vieth v. Jubelirer, 5 to 4. This was a big deal. It let Republicans gerrymander their way to control of Congress, to control of the House of Representatives, in a year Republicans lost by a million votes. They lost the House by a million votes and won it by gerrymandering.

The Roberts Five has helped Republicans to keep minority voters away from the polls: Shelby County, 5 to 4; Bartlett v. Strickland, 5 to 4; Abbott v. Perez, 5 to 4. Making it harder to vote—harder for minorities or poor people or the elderly—is a Republican electioneering tactic, and Republican State legislatures went right to work, passing voter suppression laws right after these partisan decisions.

The Roberts Five also helped to unleash big-money political influence, giving big interests unlimited power to buy elections and threaten and bully Congress. McCutcheon and Bullock and the infamous, grotesque 5-to-4 Citizens United decision were their tools.

This is the sockdolager, the really big deal, by the way. There is a very small world of very big interests that have unlimited money to spend and a business strategy to spend it to influence politics. It is not a big group, but it is a powerful group, and it is the heart of the Republican funding machine. These few but big Republican interests were given unprecedented political artillery by the Roberts Five, at least unprecedented since Teddy Roosevelt cleaned house over a century ago.

Our politics since Citizens United has been contorted and corrupted, but those big influences are, oh, so happy.

What else do the big influencers want to get out of courtrooms?

Big special interests that can muscle their way around Congress and capture executive agencies hate courtrooms. There is this annoying thing in courtrooms of being treated equally with regular people. There is this annoying thing in courtrooms about having to turn over your actual documents. There is this really annoying thing in courtrooms about having to tell the truth. So, bingo, the Roberts Five protected corporations from group class-action lawsuits—Walmart v. Dukes, 5 to 4; Comcast, 5 to 4; Epic Systems, 5 to 4—and helped corporations to steer customers and workers away from courtrooms and into corporate friendly mandatory arbitration—Concepcion, Italian Colors, and Rent-a-Center, all 5 to 4 at the hands of the Roberts Five.

What else? Of course, to bust unions, a perennial Big Business special interest classic, kind of a golden oldie for big Republican influencers: Harris v. Quinn, 5 to 4; Janus v. AFSCME, 5 to 4.

And, of course, to protect polluters. Big polluters pour big money into the Republican Party. They do this, they will tell you, to protect your freedom. They talk a lot about freedom. It turns out that it is your freedom to breath dirty air, drink dirty water, smell the river going by, eat chemicals with your food, and have climate havoc and acid oceans. It is all about freedom—indeed, the freedom for big polluters to pollute for free and get away with it. Right with them there is the Roberts Five over and over, for the polluters, even stopping the Nation's Clean Power Plan 5 to 4 for the coal industry.

The list goes on. It totals 73 partisan 5-to-4 decisions under Chief Justice Roberts, each giving big wins to big Republican interests. It is an indelible pattern.

Although the American people might not be keeping exact score—they might not know that the number is 73—they feel the Court is rigged, and the Court is flying all the warning flags of a captured agency, dancing to special interest tunes and rampaging through precedent and principle to get there.

This pattern is a disaster for the Court, and I know Kavanaugh will contribute to that disaster.

How do I know this? I know this because Kavanaugh's record tells me. That is why he is the nominee, after all. That is the why. He has been signaling the big influencers with over 50 speeches to the Federalist Society. I think he has the human record for speeches to the Federalist Society, signaling that he is their guy.

And he has been signaling with his record as a judge on the DC Circuit Court of Appeals in the most controversial and salient civil cases, those decided by bare 2-to-1 majorities. When Kavanaugh was in the majority with another Republican-appointed judge, he voted to advance the far-right and corporate interests a striking 91 percent of the time. That is almost a perfect match for the Roberts Five majority rulings in 5-to-4 cases where these conservative groups show up.

The Roberts Five gives conservative groups a 92-percent win rate. Kavanaugh gives conservative groups a 91-percent win rate. No wonder he is their guy.

Ninety-one percent—remember that number.

Kavanaugh reliably voted for polluters and for dark money and for corporate interests with a healthy dollop of anti-choice, pro-gun, religious-right

politics thrown in. Ninety-one percent is how he campaigned for this job.

Big special interests have a habit of turning up regularly in appellate courtrooms like the DC Circuit. Their tool of influence is one of the worst policed tools of special-interest influence in America—the so-called amicus brief, where big special interests fund front groups to file these amicus briefs to instruct courts how they want the courts to rule.

They are called amicus briefs because they are supposedly appearing as a friend of the court, but this has nothing to do with friendship. It is a scandal of secrecy, deception, and manipulation.

How does this involve Kavanaugh? In cases where conservative groups weighed in with these amicus briefs before him, Judge Kavanaugh sided with them—wait for it—91 percent of the time—again, 91 percent. Call him ''Judge 91 percent,'' and you understand why those big interests want him so badly on the Supreme Court and why the Republican Party drove like drunk kids over the curbs and across the lawns, smashing mailboxes of procedure and propriety to get him there.

The overlap between the groups in Kavanaugh's 91-percent club and the groups who fund Leonard Leo, the Federalist Society architect of Kavanaugh's nomination, is telling. The multimillion-dollar scorched-earth ad campaign by groups like the Judicial Crisis Network is funded by big dark money interests.

The NRA poured its own millions into campaigning for Kavanaugh. They promised NRA members that Kavanaugh would break the tie. They are 91 percent sure.

In the face of all this, Kavanaugh feigned impartiality, but then came the ''tell.'' When Kavanaugh returned to the Judiciary Committee to defend himself against accusations of a sex assault, his veneer of impartiality was pulled away, and we saw—America saw—the fierce and rabid conspiracy-mongering partisan within. His performance was recently described by a right-of-center columnist as his ''partisan, unhinged diatribe and nonjudicial demeanor.''

Mr. President, I ask unanimous consent that the article from which I am quoting be appended to the end of my remarks.

(Mr. LANKFORD assumed the Chair.)

He even blamed Bill and Hillary Clinton—seriously.

It shows where we are in this country that this display was not by itself disqualifying. But for the big special interests behind ''Judge 91 Percent,'' this was not at all disqualifying. This was reassuring. This was great stuff. It just confirmed what they knew: Judge 91 Percent would be their boy. The Roberts Five would get back in the saddle, and they would get 73 more 5-to-4 partisan victories.

But that moment gave the rest of the country the opportunity to take true measure of a man who claims he is impartial—a man who asks the Senate to grant him a lifetime seat in judgment of others and claims he will judge fairly—fat chance.

One longtime observer of the judiciary who was an early supporter of Kavanaugh recently withdrew his support. He wrote in the Atlantic magazine:

> I cannot condone the partisanship which was raw, undisguised, naked, and conspiratorial from someone who asks for public faith as a dispassionate and impartial judicial actor. His performance was wholly inconsistent with the conduct we should expect from a member of the judiciary.

Extraordinarily, even former Supreme Court Justice Stevens has warned against Kavanaugh for the same reasons. Kavanaugh's raw, undisguised, naked, and conspiratorial partisan screed may have excited the donors, but it did nothing to address the concerns that had prompted the hearing in the first place. So in addition to an epic fail of any reasonable test of impartiality, Judge Kavanaugh still bears credible allegations of sexual assault levied against him.

I will confess, I believe Dr. Blasey Ford. We have a big dispute here, but I do hope that in this Senate we at least can agree on one thing. If Dr. Blasey Ford's testimony was true, I hope we can all agree that Kavanaugh has no business on the Court.

Well, I believed her then, and I believe her now, and I did not find him credible at all. I found him belligerent and aggressive—just as his Yale drinking buddies said he was while drunk in college—and evasive and nonresponsive.

Dr. Ford's allegations were credible enough to get her here before the Senate. Her testimony here was quiet, open, and powerful. She was calm, composed, and utterly believable. Even President Trump called her testimony ''credible'' and ''compelling.'' So did many of my Republican colleagues.

But then came the smear campaign to discredit and demean her, led by the President's sickening taunts and mockery in Mississippi. Then came the majority leader's criticisms. He knew it wouldn't do to say outright that she lied, but his every accusation fell to pieces if she was telling the truth. His attacks were a bank shot—a relentless, indirect bank-shot smear of Dr. Ford's credibility.

One element of the smear of Dr. Blasey Ford was to describe her testimony as ''uncorroborated.'' We have heard that over and over. The majority leader said that again just this morning on the floor—uncorroborated. Well, first, that just isn't true. Prior consistent statements are a well-known form of corroboration, and Dr. Ford's prior consistent statements are abundant. It is ironic to have Republicans complain about a lack of corroboration when Republicans did everything possible to prevent corroborating evidence from coming forward. It is deeply unfair to Dr. Ford to disallow, prevent, and freeze out corroborating evidence and then call her testimony uncorroborated, which bring us to the, to put it politely, abridged FBI investigation.

First, the FBI background investigation was closed to this new evidence in an unprecedented break from the entire history of background investigations. Then, the investigation was limited by secret orders from the White House we still have not seen.

What do we see? We see the dozens of credible, percipient, and corroborating witnesses who came forward to say that they couldn't get an interview from the FBI, who were never contacted when they made themselves known to the FBI.

I ask unanimous consent that that two letters from the representatives of Ms. Ramirez and Dr. Ford explaining this be added at the end of my remarks.

Mr. President, many witnesses were fobbed off into a black hole of a tip line—a tip line from which no tip appears ever to have been pursued, a tip line that was just a dumping ground for unwelcome evidence. As a U.S. attorney, had I received the set of witness summaries we saw, I would have sent the package back for more investigation.

A sincere and thorough investigation designed to get at the truth would have broadly interviewed Kavanaugh and Blasey Ford's known contemporaries to probe their recollections.

An investigation to get at the truth would have interviewed the witnesses who corroborated Dr. Blasey Ford's prior consistent statements.

An investigation designed to get at the truth would have tested Kavanaugh's calendar and yearbook entries with contemporaneous witnesses.

An investigation designed to get at the truth would have done interviews of witnesses who corroborate the incident alleged by Ms. Ramirez, like the classmate ''100 percent sure'' he was told at the time that Kavanaugh had exposed himself to Ramirez.

An investigation designed to get at the truth would have interviewed people who recalled Kavanaugh's propensity to drink to excess and his behavior when drunk relevant to these incidents.

An investigation designed to get at the truth would have certainly sought to interview the alleged victims, like Christine Blasey Ford and the accused perpetrator, Brett Kavanaugh.

From public reporting, we know that none of this happened. It is difficult to escape the conclusion that like everything else in this nomination, such as hiding 90 percent of the records from the Bush White House days, putting bogus ''Executive Privilege'' cover over other documents, and claiming documents are ''committee confidential'' through a nonexistent process that was

partisan from start to finish—like everything else, it is hard to escape the conclusion that this investigation was designed not to get at the truth, but to step carefully around it.

I am a huge fan of the FBI. I admire that organization immensely. It must have killed the agents to do such a half-baked and incomplete job because of marching orders from the White House. My heart goes out to the experienced FBI professionals hamstrung by the Trump White House through this investigation. They know better than anyone the holes in what they did, but in this matter they don't have the independence of a criminal investigation. The White House is the client. They must do what they are told. This was yet another Trump abuse of a proud American institution.

So here we are.

A defendant in a criminal prosecution enjoys a presumption of innocence until proven guilty. A defendant in a civil trial must be found culpable by a preponderance of the evidence. An executive agency must make decisions based on substantial evidence. But the question before us is none of those. The question before us is whether Brett Kavanaugh is a man with the character, credibility, impartiality, and temperament to sit in judgment on America's highest Court.

We now know Brett Kavanaugh is not that. He is not close, and Americans know it. But the big Republican interest groups don't care because they see that 91 percent, and they yearn for 73 more 5-to-4 partisan victories.

Service to the law has at its heart an earnest pursuit of the truth. In Kavanaugh's pursuit of office, truth has too often not been his goal but his casualty. The history of falsehoods is well chronicled: denying that he worked on the nomination of the controversial Judge Pryor, denying that he knew of documents stolen from Judiciary Committee Democrats when he was at the Bush White House, denying that he was involved in questions about the knowledge of the secret detention program or the warrantless wiretapping program, denying what he himself said about Presidential immunity from investigation, and complicit in the coverup of millions of documents we should have seen, and on and on.

Once Dr. Blasey Ford and then Ms. Ramirez came forward with sexual assault allegations, the lies came fast and furiously—that he knew nothing about the Ramirez allegations until the ''New Yorker'' story was published; that he had no alcohol problem and never drank to the point of impairment of his memory; that he had unique definitions of phrases in common parlance he related to binge drinking and sex; that he ''always treated women with dignity and respect''; and that claiming himself as a girl's ''Alumnius'' was a sign of affection. As the woman herself retorted: ''There is nothing affectionate or respectful in bragging about making sexual conquests that never happened.''

On they came, little lies and big lies about not having connections to get into Yale, about honoring grand jury secrecy while helping the Ken Starr investigation—none perhaps individually fatal but together adding up to a pattern of dissembling and prevarication. Even before Kavanaugh was nominated, Leader MCCONNELL smelled trouble and urged the President not to nominate someone he knew was a badly flawed nominee with a lengthy paper trail that would likely disclose how extreme and partisan Judge Kavanaugh truly is.

So much has been left by the wayside in the mad rush to jam this nomination through—documents, facts, Senate rules and traditions, real investigation, simple respect for truth—all smashed-up wreckage in the wake of this nomination. But as my fellow New Englander John Adams said, ''Facts are stubborn things.'' The truth has a way of coming out. The millions of hidden pages of Kavanaugh's White House records will come out. The nonassertion assertion of Executive privilege will fall or yield to time. The unheard witnesses will ultimately be heard, and others may come forward, which brings me back to the question I began with: Why all the wreckage? Why all the rush? Why all the damage? Why all the violation? The answer is in the numbers: 5 to 4, 73, and 91 percent. At the end of the day, we go back to a Supreme Court far too often dancing to the tune of a handful of big Republican special interests. The record of this—the pattern of this—is undeniable. As I said, it will be a disaster for the Court, and Kavanaugh will eagerly contribute to that disaster.

This whole mess has been a dark episode for the U.S. Senate, for the Supreme Court, for our image around the world, for our democracy. But there is one bright jewel that can be picked in the midst of all the filth and wreckage and lies; that is that something very special is happening out there. The testimony of Dr. Christine Blasey Ford of her assault at the hands of Brett Kavanaugh, though studiously ignored by so many Republicans and mocked by the President of the United States, has lit a fire.

Just in my small State of Rhode Island, at least 10 women have written to me to share their own personal stories of survival of sexual assault. Like all of us, I get mail everyday about various policies that are being debated here in the Senate. I am coming up on 12 years, and I have never, never had mail like this. These women have come forward from widely different ages and backgrounds—college students and grandmothers—to tell their stories. Some have held these secrets close for years, even for decades. Several of these women gave me permission to share their words—words they have allowed me to free on the Senate floor after years of silence. What a privilege it is. What an honor for me to be trusted in this way by these remarkable women.

Some were moved to tell their stories because they see their own fears reflected in Dr. Blasey Ford's brave testimony—the fear of not being believed, the fear of losing the respect of family or of friends. But they knew that Dr. Blasey Ford's memories were real, and they told me they wanted me to trust that Dr. Blasey Ford's memories were real because they knew that their own memories were real, because their own memories of their assaults were seared into their minds. One told me: ''I am Dr. Ford.''

A woman wrote to me:

> I am sure my rapist hasn't thought of me since that night 21 years ago either. In fact, he, like Kavanaugh, would likely deny anything had ever happened. But here's the thing about rape—the victims never forget.

The coverage of Dr. Blasey Ford's appearance before the Senate for some stirred deep and disquieting emotions. As one woman wrote:

> The past few weeks have been doubly difficult with Dr. Ford coming forward and all of the constant news threads and social media threads. I have been triggered with nightmares, fear of being alone, and emotionally wrecked. PTSD and triggers are real. No matter how much therapy and time goes by, one small statement or physical interaction can trigger someone who has experienced a traumatic assault.

One letter read:

> As a rape survivor (I was 19 years old—I am now 66 years old), I want you to know that that experience does color the rest of a person's life, informing decisions that you make, where and how you go somewhere, how you raise your children and relate to your husband and all other people. Sometimes through the decades, you think about it consciously and on purpose, and sometimes outside events can bring it back without your willing it to be so.

Dr. Blasey Ford's quietly compelling testimony has forced our Nation to face up to the tough questions about how women have been treated. The redemption, if there is one, for this foul nomination process is for us to grasp the power of this moment, for our country to act on the power of this moment. This is about far more than a troubled and troubling nominee. Something big is happening. Women across the country, like these extraordinary women in Rhode Island, are reconciling with their truth, fighting through a long and deeply unfair legacy of shame, fear, and stigma. They are stepping up. They are coming forward, determined, as one wrote to me to leave a different world for their daughters and granddaughters than the world that silenced them for years, for decades.

For me, it is a true personal honor to share this moment with them, to be trusted with these long-held stories, to have the chance to help end that bitterly unfair legacy, and to support them toward that new and better world for their daughters and granddaughters.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Oct. 5, 2018]

IS THE SUPREME COURT SALVAGEABLE?

(By Jennifer Rubin)

Judge Brett M. Kavanaugh's frantic op-ed in the Wall Street Journal insisting that he is a fair, impartial judge—and that we should disregard his partisan, unhinged diatribe and nonjudicial demeanor during last week's Senate testimony—serves as some recognition that the partisan wars in which he has taken up arms now threaten the legitimacy of the Supreme Court. Other than denying a seat to an overt partisan such as Kavanaugh, what can be done to recapture at least the illusion that the high court is something more than another blue-vs.-red battlefield?

It helps to understand how we got here, how we got to the point at which a Supreme Court nominee doesn't bother to conceal his animosity toward an entire political party.

The federal judiciary and the selection process for it were not intended as expressions of representative democracy. We didn't even directly elect senators who in turn confirmed judges until the 17th Amendment. It wasn't intended to be an expression of popular will. The expansion of judicial power in the 20th century was a mixed blessing to be sure, serving as both a last line of defense for individual rights against a growing administrative state and an imperfect, sometimes counterproductive tool for ameliorating deep social conflicts. (As an aside, an unelected judiciary with vastly expanded power used to be the right's nemesis; now it is a political prize and a midterm election base-pleaser.)

The high court certainly became a bone of contention for the right during the tenure of Chief Justice Earl Warren, but the nature of the justices and the institution itself changed when our parties become more overtly ideological, with fewer centrists. Still, matters were not dire for the court due to a very undemocratic instrument—the filibuster. That required some small degree of consensus for judicial confirmation and bestowed greater legitimacy on the courts. A justice acceptable to at least a small number of the opposition party's members had to contain his or her partisanship; he or she couldn't be a gladiator for one side or the other.

Sen. Mitch McConnell (R–Ky.) decided that he had enough of that. He envisioned the Supreme Court as simply another arena for bare-knuckle brawls. Custom and comity went out the door. He denied a mainstream liberal judge, Merrick Garland, so much as a hearing. He did away with the filibuster for the high court. Post Opinions contributing columnist Ron Klain, speaking to the New Yorker, put it brilliantly: ''If [Republicans] can, they will.''

Republicans saw no need to release all of Kavanaugh's records. What could Democrats do other than holler? They saw no need to take Christine Blasey Ford's allegations seriously (they'd ''plow right through,'' McConnell said). So what if Democrats squawked? With impunity they could order an FBI inquiry designed to hopscotch around problems for Kavanaugh (e.g. his claims about drinking). Democrats didn't have the votes to block him, and the GOP moderates could be counted on to crumble. Hence we got a Supreme Court nominee pleading his case on Fox News and the Wall Street Journal op-ed page.

In some respect, the fix for the Supreme Court is the same as the fix for our politics—leveling a right-wing populist party that abhors democratic norms and building a center-left to center-right coalition. (Some structural reforms such as ranked voting, eliminating gerrymandering and automatic voter registration would help.)

In the near-term, the goal would be to depoliticize the Supreme Court, reducing the vicious partisanship that accompanies a lifetime appointment. A term limit of 12 to 15 years for justices and a 60-vote threshold seem increasingly attractive. A constitutional amendment would be needed for the former and probably for the latter (unless both sides finally agree that losing the filibuster has been a disaster). That's no easy task considering that an amendment must be proposed by either a two-thirds vote by both houses of Congress, or a call by two-thirds of the state legislatures for a constitutional convention (a prospect so alarming given the extremism and anti-democratic passions of the day that it should be avoided at all costs). However, given the right's former antipathy toward a powerful executive and the left's recent experience in a hyper-politicized nomination process, it might be doable.

The Supreme Court can do its part as well. It has resisted adopting its own ethics rules, including guidelines for recusal. That should end. Justices have become less reticent about making public, political remarks. That should end as well. Judges should eschew appearances before overtly ideological groups. If they act more like judges of old, they might recapture some of the luster the Supreme Court once had.

We've witnessed the destruction of a slew of executive branch norms and the collapse of Congress (which is now a partisan handmaiden to the president rather than a coequal branch of government). If we let the court go to seed, we will have pulled off a trifecta. But it's not an accomplishment that any of us should seek.

KATZ, MARSHALL & BANKS, LLP,
Washington, DC, October 4, 2018.

Re Supplemental Background Investigation of Judge Brett M. Kavanaugh—UPDATED

Hon. CHRISTOPHER A. WRAY,
Federal Bureau of Investigation.

DEAR DIRECTOR WRAY: As you are aware, the Federal Bureau of Investigation failed to interview our client, Dr. Christine Blasey Ford, in connection with its Supplemental Background Investigation of Judge Brett M. Kavanaugh. It also declined to interview witnesses whose names we provided to the FBI as possessing information highly relevant to Dr. Ford's allegations. We write to provide you with the names of several of the witnesses we requested that the FBI interview in connection with this matter. None were contacted nor, to our knowledge, were more than a dozen other names we provided to the FBI whose interviews would have challenged the credibility of Judge Kavanaugh's testimony before the Senate Committee on the Judiciary on September 27, 2018. They remain available to talk with law enforcement.

Jeremiah Hanafin:

Mr. Hanafin is a former FBI agent and professional polygraph examiner. He conducted Dr. Ford's polygraph examination on August 7, 2018, and determined that Dr. Ford's responses were not indicative of deception. Mr. Hanafin had the data from the examination reviewed by four independent reviewers, who all agreed with his conclusions. Mr. Hanafin would be able to discuss the examination with the FBI, as well as provide the polygraph examination data to the FBI for its independent review. He also would have been able to refute the false statements made in Rachel Mitchell's report about Dr. Ford's mental state on the day of the examination.

Russell Ford:

As described in his sworn declaration provided to the Judiciary Committee, in 2012 Dr. Ford told her husband and their couples therapist that she was sexually assaulted by Brett Kavanaugh when she was in high school. He can explain how and why this issue arose in therapy. Mr. Ford has been married to Dr. Ford since 2002 and can attest to her character and credibility.

Keith Koegler:

As described in his sworn declaration provided to the Judiciary Committee, Dr. Ford told Mr. Koegler in 2016 that she was assault led by a man who was then (in 2016) a federal judge. Shortly after Justice Anthony Kennedy's resignation and prior to Judge Kavanaugh's nomination, Dr. Ford sent an email to Mr. Koegler naming Judge Kavanaugh as her assailant. Mr. Koegler has been close friends with Dr. Ford for over five years and can attest to her character and credibility.

Adela Gildo-Mazzon:

As described in her sworn declaration provided to the Judiciary Committee, in 2013 Dr. Ford told Ms. Gildo-Mazzon that she was previously sexually assaulted by a man who was then (in 2013) a federal judge. Ms. Gildo-Mazzon has been friends with Dr. Ford for over ten years and can attest to her character and credibility.

Rebecca Olson:

As described in her sworn declaration provided to the Judiciary Committee, in 2017 Dr. Ford told Ms. Olson that she was previously sexually assaulted by a man who was then (in 2017) a federal judge. Ms. Olson has been friends with Dr. Ford for over six years and can attest to her character and credibility.

Kirsten Leimroth:

In interviews with the media, Ms. Leimroth described a lunch meeting with Dr. Ford and Jim Gensheimer at a beachside restaurant with Dr. Ford in early July 2018, before Judge Kavanaugh was nominated. At that meeting, Ms. Leimroth says Dr. Ford named Judge Kavanaugh as her assailant and described her fears about what would happen if her name and her accusations against Judge Kavanaugh became public. Ms. Leimroth is a family friend of Dr. Ford's and can attest to her character and credibility. See https://www.mercurynews.com/2018/09/17/metoo-spurred-christine-blasey-ford-to-open-up-about-alleged-attack-year-before-kavanaugh-nomination-friends-say/.

Jim Gensheimer:

In interviews with the media, Mr. Gensheimer described a lunch meeting at a beachside restaurant with Dr. Ford and Ms. Leimroth in early July 2018—the same meeting as the one described by Ms. Leimroth—before Judge Kavanaugh was nominated. At that meeting, Mr. Gensheimer says Dr. Ford named Judge Kavanaugh as her assailant and described her fears about what would happen if her name and her accusations against Judge Kavanaugh became public. Mr. Gensheimer has been friends with Dr. Ford for over eight years and can attest to her character and credibility. See https://www.mercurynews.com/2018/09/17/metoo-spurred-christine-blasey-ford-to-open-up-about-alleged-attack-year-before-kavanaugh-nomination-friends-say/; https://www.cnn.com/2018/09/18/politics/kavanaugh-accuser-friend/index.html.

Monica L. McLean:

Ms. McLean has been friends with Dr. Ford for many years. A letter released to the public on the night of October 2, 2018, apparently written by Brian Merrick, an ex-boyfriend of Dr. Ford during her 20's, falsely claims that Dr. Ford helped Ms. McLean prepare for a potential polygraph examination sometime in the 1990's. Ms. McLean can attest to the falsity of the claims contained in this letter, as well as the character and credibility of Dr. Ford and that of the former boyfriend.

It has come to our attention that another person who requested anonymity came forward to the FBI with information highly relevant to Judge Kavanaugh's behavior in high

school and was turned away. His sworn statement was published on October 3, 2018 in the New Yorker: https://www.newyorker.com/news/news-desk/will-the-fbi-ignore-testimonies-from-kavanaughs-former-classmates.

In addition, had the FBI interviewed Dr. Ford, she would have provided her direct account of Judge Kavanaugh's assault and answered any questions about it, including questions that Ms. Mitchell and the Judiciary Committee members were unwilling or unable to ask during the hearing. She would have also provided corroborating evidence, including her medical records and access to the phone from which she messaged The Washington Post about Judge Kavanaugh's assault prior to his nomination to the Supreme Court. The FBI could have also asked her about her conversations with the witnesses referenced above in order to establish those witnesses' credibility. Such an interview would have played a crucial role in providing the FBI with a full picture of all of the facts involved in this important and serious matter.

We were heartened on September 28, 2018, when Senators Flake and Coons announced that the FBI would conduct a supplemental background investigation. All those mentioned above, and more, could easily have been interviewed in the time allotted. It took tremendous courage for Dr. Ford to come forward. As she testified before the Judiciary Committee, she was eager to talk to the FBI. The ''investigation'' conducted over the past five days is a stain on the process, on the FBI and on our American ideal of justice.

Sincerely,

DEBRA S. KATZ,
LISA J. BANKS,
MICHAEL R. BROMWICH,
Attorneys for Dr. Christine Blasey Ford.

KAISER DILLON PLLC,
Washington, DC, October 4, 2018.

Hon. CHRISTOPHER A. WRAY,
Director, Federal Bureau of Investigation, c/o Dana Boente, General Counsel.

DEAR DIRECTOR WRAY: My firm represents Deborah Ramirez, as does the law firm of Hutchinson Black and Cook, LLC. As you likely know, a reporter recently reached out to Ms. Ramirez to ask about an incident involving Brett Kavanaugh, President Trump's nominee for the United States Supreme Court. Ms. Ramirez answered the reporter's questions, and he, after interviewing a number of additional witnesses, wrote a story: https://www.newyorker.com/news/news-desk/senate-democrats-investigate-a-new-allegation-of-sexual-misconduct-from-the-supreme-court-nominee-brett-kavanaughs-college-years-deborah-ramirez.

As you likely also are aware, two of your agents met with Ms. Ramirez this past Sunday, September 30, 2018, in Colorado. Ms. Ramirez spoke with the agents for approximately two hours, answering a host of detailed questions. Ms. Ramirez offered credible and compelling information—as everyone in the room would acknowledge.

Later that day, Ms. Ramirez, through counsel, provided the FBI with a list of more than twenty additional witnesses likely to have relevant information. Ms. Ramirez suspected that a number of those individuals could corroborate her account of Mr. Kavanaugh's behavior.

Fewer than four days later, however, the FBI apparently has concluded its investigation—without permitting its agents to investigate. We are deeply disappointed by this failure. We can only conclude that the FBI—or those controlling its investigation—did not want to learn the truth behind Ms. Ramirez's allegations.

We know this much, however: If your agents had been permitted to investigate Ms. Ramirez's allegations, they would have uncovered substantial corroboration. Just last night, The New Yorker published a new article: https://www.newyorker.com/news/news-desk/will-the-fbi-ignore-testimonies-from-kavanaughs-former-classmates. That article highlights Dr. Kenneth Appold, a professor at the Princeton Theological Seminary. The article reports that, at the time of the relevant incident, Dr. Appold was a Yale undergraduate, a resident of the relevant dormitory (Lawrence Hall), and a suitemate of Mr. Kavanaugh. The article further reports that Dr. Appold has confirmed that, shortly after the relevant incident occurred, he learned of it, including that Ms. Ramirez was the victim and Mr. Kavanaugh the perpetrator. Dr. Appold is one of the witnesses that Ms. Ramirez had suggested that the FBI contact; the FBI never did.

Dr. Appold apparently himself recounted this incident, years ago, to another individual, Michael Wetstone. The New Yorker article cited immediately above reports that Mr. Wetstone has confirmed that Dr. Appold in fact relayed the story in late 1980s or early 1990s. Mr. Wetstone is another of the witnesses that Ms. Ramirez had suggested that the FBI contact; the FBI apparently never did.

If your agents had been permitted to investigate, they would have uncovered still more corroboration:

Dr. Richard Oh is an emergency room doctor in Santa Clara, California. He attended Yale for his undergraduate studies, between 1983 and 1987, i.e., at the same time as Ms. Ramirez and Mr. Kavanaugh. He recalls, during his freshman year at Yale, a female student ''emotionally reporting'' what can only have been the same incident as described by Ms. Ramirez. See Decl. of Dr. Richard Oh (Oct. 3, 2018), attached. Dr. Oh is another of the witnesses that Ms. Ramirez had suggested that the FBI contact; the FBI never did.

There may be many additional witnesses who could offer still further corroboration (if any additional corroboration were needed, which it is not). But we likely never will know, given that your agents were barred from investigating. What we do know, despite that lack of investigation, is that multiple witnesses have corroborated Ms. Ramirez's allegations. Respectfully, your agents should have been permitted to develop that information.

Sincerely,

WILLIAM PITTARD.

Mr. WHITEHOUSE. I yield the floor.

The PRESIDING OFFICER (Mr. ROUNDS). The Senator from Maine.

Mr. KING. Mr. President, first I want to congratulate and thank the Senator from Rhode Island for his moving and eloquent remarks—so moving and eloquent, in fact, that I contemplated foregoing my own.

The Senator expressed the feelings of many of us, particularly in his closing, which was very powerful, and, I think, very well encapsulated the one possible positive result from this sorry process.

I stated my opposition to Brett Kavanaugh's appointment to the U.S. Supreme Court before Dr. Ford's allegations became public—before I had ever heard about them, before anyone had ever heard about them, as far as I know, except some members of the Judiciary Committee.

Therefore, I don't believe you have to believe Dr. Ford to conclude that Judge Kavanaugh should not be elevated to the Supreme Court—first, because of his judicial philosophy.

If you will pardon me, I want to digress for a moment into constitutional history—preconstitutional history, if you will. There is a basic paradox of government. We give power to something called the government in order to protect our security, to protect us as individuals, to protect our liberty. The paradox is that we then have to worry about the government to which we have given the power abusing us.

James Madison captured this in the 51st Federalist:

> If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men—

And, of course, today Madison would say men and women over men and women—

> the great difficulty lies in this: you must first enable the government to control the governed, and in the next place oblige it to control itself.

The Romans put it this way: ''Quis custodiet ipsos custodes.'' Who will guard the guardians?

The other philosopher who talked about this was the English philosopher Lord Acton: ''All power corrupts and absolute power corrupts absolutely.''

The American Constitution, in my view, is the most sublime answer to this ancient question of any instrument of government ever formed by people on this Earth. It is based upon a profound understanding of human nature: If you give people power, there is the potential for it to be abused—not the potential, the likelihood that it will be abused.

So the Constitution is an elaborate scheme for preventing that abuse. The first line of defense is the structure of the government itself. What Madison was talking about was obliging the government to control itself—this herky-jerky, complicated, Rube Goldberg device involving two Houses, checks and balances, the President, the veto, submitting treaties, two-thirds votes, advise and consent, and then the whole level of the State government and local government, the division of responsibilities between the governments, and enumerated powers. The Framers wanted it to be difficult for majorities to ride roughshod over minorities. They wanted it to be difficult to legislate, and they succeeded beyond their wildest dreams.

It is a very difficult piece of machinery to bring into action, but even after the Framers had designed this elaborate structure specifically in the name of protecting the rights of the people, they weren't satisfied. They wanted to take another step, because going back to our other fundamental document, the Declaration of Independence talks about certain inalienable rights—life, liberty, and the pursuit of happiness—and that word ''inalienable'' isn't defined much. Not much attention is paid

to it. ''Inalienable'' means neither can you give it away nor can it be taken from you. To alienate is to give away or have it taken from you. That is what ''inalienable rights'' mean.

Going back to when they said we have this elaborate structure that will be very complicated to operate, what if the majority makes this structure work in such a way that is amicable to the fundamental rights of people? The first thing Congress did was to adopt the Bill of Rights. The Bill of Rights is the second shield for us as individuals. I always thought of it as a force field around individuals that protects the basic rights, even if the government follows all of the procedures.

Congress shall make no law abridging the freedom of speech, establishing religion, or controlling the free exercise thereof. Search and seizure must be reasonable. You don't have to give testimony against yourself. All of these rights in the Bill of Rights are designed to protect us as individuals from the government.

The framers then had an interesting problem when they got to the Bill of Rights, and they listed the rights. Somebody—and I can't remember who it was right now—came up with the problem that if you list the rights, then people will later say: Well those rights are listed. Therefore, there aren't any other rights that can be protected. So they added the Ninth Amendment, which is one of the most unappreciated and undiscussed amendments to the Constitution. The Ninth Amendment says: ''The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.'' In other words, there are rights that exist—they recognize that—that aren't the ones listed that we all think of in the First through the Fifth Amendment—rights such as freedom of speech, the press, freedom from unreasonable searches, the right to bear arms. They were afraid they would appear too exclusive. So they passed as part of the Bill the Rights the Ninth Amendment.

What does this have to do with Judge Kavanaugh? To understand Judge Kavanaugh's jurisprudence, what kind of judge he will be—by the way, that is what we are all doing here. This is an exercise in forecasting the future. What will this person decide? What kind of judge will they be? That involves things like demeanor and temperament, but it also involves judicial philosophy.

To understand the judicial philosophy of Judge Kavanaugh, you have to understand the judicial philosophy of Justice William Rehnquist. Judge Kavanaugh has characterized Justice Rehnquist as his judicial hero. He gave a speech about him in 2017. He says that the article in the Texas Law Review in 1976 written by Justice Rehnquist is one of the most important legal documents ever written.

What do Justice Rehnquist and Justice Kavanaugh have in common? They have a very expansive view of what States can do to limit your rights and a narrow view of what the Federal Government can do to protect your health, welfare, the environment—you name it.

Justice Rehnquist voted against Roe v. Wade. Justice Rehnquist criticized Griswold v. Connecticut. He voted against Roe v. Wade because he said the right of a woman to control her own reproductive health is not enumerated in the Constitution. Obviously, it is not listed in the first two or three Amendments, but the Court found that it was a basic human right of women, and that is the basis of Roe v. Wade.

The problem with Justice Rehnquist's approach and Judge Kavanaugh's approach to unenumerated rights is that they say unenumerated rights could be recognized by the courts only if the asserted right was rooted in the Nation's history and tradition. That is called originalism, or it is a piece of originalism. In other words, you can't assert a right unless you can show that the Framers thought about it when they passed the amendments, or that it was somehow rooted in the tradition. If abortion was legal across the country in 1897 or 1867 or 1787, then you couldn't do it. The Court would be making law.

The problem is that this approach freezes rights in history, and it allows no room for the evolution of ethics and morality. A good example is Loving v. Virginia, which is the case that overturned misogynation laws that made it illegal in many States in the country, including Virginia, at the time—and this was in the 1960s—for people of different races to marry one another.

It is hard to argue using the Kavanaugh philosophy that that is a legitimate exercise of judicial authority because certainly, at the time of the passage of the Bill of Rights and the passage of the 14th Amendment, anti-misogynation laws were all over the place. So Rehnquist and Kavanaugh would say you can't do that. This isn't judicial lawmaking. This is judicial protection of individuals' rights from State incursion.

In Griswold v. Connecticut, in many ways, Griswold was the case that said the State of Connecticut could not constitutionally prohibit the sale of contraception to married couples. It has been widely criticized in many ways. The Griswold case, I believe, was the founding document of the Federalist Society. It was in reaction to Griswold and the following cases that the Federalist Society arose in the 1980s.

So this philosophy is that the States have wide latitude to restrict these rights—enumerated or not. That is why I believe there is—I don't know—a 50–50 chance, 60–40, or 70–30 that a Justice Kavanaugh would repeal Roe v. Wade. I give it 99 percent that he will gut Roe v. Wade. There are something like 15 cases headed for the Supreme Court right now from various States around the country where the right of a woman to control her reproductive future is under assault. The decisions may not be an outright repeal, but by piecemeal, chipping away at that right, making it harder and harder to exercise Roe v. Wade, it will be a hollow shell.

Judge Kavanaugh said in his hearing: I am not going to make these value judgments, ideological judgments. I am going to call balls and strikes like an umpire.

I have a new principle for judging Supreme Court nominees: Anybody who says all they are going to do is call balls and strikes is an automatic no because they are conning us. Deciding whether a particular rule in a State that restricts the ability of a woman to control her reproductive future is unduly burdensome is not a mechanical ball and strike. It is a value-laden judgment call. Don't tell me there is some easy ball-and-strike thing here. You are making judgment calls based upon values.

I don't have any doubt that a Justice Kavanaugh is going to vote to restrict, to control, to limit, and ultimately, to gut Roe v. Wade. Indeed, that is what the President said he was going to do—to appoint a judge who was going to take that step. That is why he is so widely supported in some parts of the country.

By the way, he said Roe v. Wade is a precedent. That is like saying this is a chair. That is a statement of fact. That is not a value. That is not a philosophy. That is just a statement of fact. Then he says: Well, we have Planned Parenthood v. Casey. So we have a precedent on a precedent. That is like saying this is a chair and this is a desk. That is a statement of fact. That is not anything that gives you any indication of what he says he is going to do.

By the way, Justice Gorsuch sat in my office and talked to me about precedent and how committed he was to precedent. He had written a whole book about precedent. I don't think he was on the Court even a year, and he voted in the Janus case to absolutely trample 40 years of precedent in a very important area of American law. So when somebody tells me it is a precedent or it is settled law, that doesn't convince me of very much. That is not a predictor of what they will do.

He has an expansive view of the State power to restrict individual rights. He has a narrow view of the national legislature's ability to protect individuals, whether it is healthcare, and I will give you 75 percent that he is going to start voting to undercut and destroy the Affordable Care Act.

In 16 out of 18 cases on the environment that came before his court, the DC Court of Appeals, he voted with the polluters. He narrowed the authority of the Environmental Protection Agency. In one case particularly relevant to my State, he decided against the right of the EPA to tell upwind States they had to control their pollution in order to benefit downwind States. Maine is in

the tailpipe of the Northeast. All the air moves from west to east and ends up in Maine. We could shut off every automobile and every factory in Maine and still have air pollution problems. Telling the EPA they can't regulate air that moves across State lines is a direct shot at the State of Maine.

As for campaign finance reform, I predict he will join with the 5-to-4 majority to continue the deregulation of campaign finance, one of the most serious issues facing this country.

He even said that net neutrality was unconstitutional because of the right of large internet service providers to have free speech. That is a case that would deny free speech and freedom of activity to millions of internet users across the country. You don't have to believe Dr. Ford to oppose and believe that Brett Kavanaugh should not be elevated to the Supreme Court.

You also don't have to believe Dr. Ford to believe that Brett Kavanaugh should not be elevated to the Supreme Court because of his views on Presidential power, but first let's establish what he said. In the Minnesota Law Review, he said we should not burden a sitting President with civil suits, criminal investigations, or criminal prosecutions. He has an elaborate argument about that involving impeachment and that the Congress should pass a statute and a whole lot of other things. We can argue about that. They are legitimate disputes about the meaning of article III and how it relates to impeachment and how it relates to the subject of the President being subject to criminal prosecutions. I understand that. I understand we can have those arguments, but once he stated that position, he should have announced that he would recuse himself from any case involving the President who appointed him—the first rule of the judicial canons.

Canon No. 2 is that a judge shall avoid not only impropriety but the appearance of impropriety, and 2a, from the Code of Judicial Responsibility says that a ''judge should act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary. Let me read that again: ''A judge should act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary.'' The reason for that is obvious. The Judiciary doesn't have the power of the purse. It doesn't have an army. It has to rest on public confidence.

He already violated that principle in his testimony to the Judiciary Committee last week. He violated that principle. Imagine the reaction of the public if a newly minted Justice Kavanaugh, within the next couple of years, votes in favor and, indeed, can provide the deciding vote, the swing vote, on a case involving the President who appointed him. I am not saying he can't take this position ever in his judicial career, but to have not recused himself when he had an opportunity to do so, to announce he would do so, to me, is disqualifying. It is obvious and mandatory that he should not take a position on a case coming before the Court involving the President who appointed him.

No. 3, we don't have to believe Dr. Ford to conclude that Judge Kavanaugh should not be confirmed to a lifetime job because we have been denied the ability to learn about his record.

Imagine, Mr. President, you are doing a job interview for a very important job in your company, and a guy comes in and says: I would like this job, and I am going to show you 10 percent of my work product. The 10 percent that I am going to give you is going to be picked out by an old buddy of mine whom I used to work for. In fact, he used to work for me. Oh, and by the way, once you hire me, you can never fire me; I am there for life.

Nobody would take that deal. Any employer in America would laugh at that job applicant. Yet that is exactly what we are doing here this week. We have seen 10 percent of his record in the White House and have been given no reason whatsoever why we can't see it all. People talk about, oh, we have seen 100,000 pages or 200,000 pages. That is not the point. He has a huge record, so the number of pages isn't the issue; it is how much of it we have seen as a percentage, and we have seen 10 percent of it.

If I were on the side of this case preparing to vote for this gentleman, I would be terrified about what is going to come out because it is all going to come out. The records of the Bush administration are going to be available in 2020 under the Presidential Records Act—12 years from the end of the administration. In 2020, all of these records will come out. In fact, I think they are going to start coming out in the next couple of weeks from the National Archives. I don't know what is in those records. There may be nothing. The fact that they are being withheld raises my main suspicions. Are they worried that something is in there that will derail this nomination, or do they know it?

Asking us to vote on this lifetime appointment, with no do-overs, no amendments, no chances, no repeals, when we haven't seen the entire record, is beyond me. There is no justification for it.

Even if I were inclined to vote yes, I would say: Wait a minute. You can't ask me to vote for this until I see all his records.

We haven't done it. It is ridiculous. There is no other word for it.

No. 4, we don't have to believe Dr. Ford to conclude Judge Kavanaugh should not be elevated to the Supreme Court because he has demonstrated he lacks the temperament and demeanor to be a Justice of the Supreme Court.

First, I think it is only fair to state the standard. What should be the standard for temperament and demeanor for a judge? Here is the standard, as I have seen it:

> To be a good judge and a good umpire, it's important to have the proper demeanor. Really important, I think. To walk in the others' shoes, whether it be the other litigants, the litigants in the case, the other judges. To understand them. To keep our emotions in check. To be calm amidst the storm. On the bench, to put it in the vernacular, don't be a jerk.

This isn't me; this is the standard published to show and help display that you are trying to make the decision impartially and dispassionately, based on the law and not based on your emotions. Who established that standard? Who wrote it? Brett Kavanaugh. Those are his words from a speech several years ago at Catholic University. Proper demeanor. Calm amidst the storm. On the bench, don't be a jerk. Help display that you are trying to make the decision impartially and dispassionately based on the law and not based on your emotions. I don't see how anybody, with a straight face, can argue that Brett Kavanaugh met that standard last Thursday afternoon.

I had an interesting experience that day. I was in a hearing in the afternoon while he was speaking, and there was a television screen in the hearing room, but the sound was off because we were doing other committee work. Every now and then, I could look at the screen, and I could see him. I turned to the person sitting behind me and said: He is coming unhinged. What is going on? What is he saying? He is shouting.

You could see it. You could see his face contorted. Then, of course, I saw what he was saying. No one could argue that he demonstrated judicial demeanor in that hearing. In fact, something like 3,000 law professors, including 40 from Yale, have come out and said that based on that performance, he should not be confirmed to the Supreme Court. Justice John Paul Stevens, a retired Justice, in an extraordinary moment, said: This man should not be confirmed for the Supreme Court.

If you were from Mars, Mr. President, or from South Dakota and you knew nothing about the history of this matter, you knew nothing about the documents, the opinions, the philosophy, none of those things, and all you saw was that hearing that afternoon, you would say: This guy has no business anywhere near a courtroom.

His defense is, I was angry. I was being charged with something. My family is being threatened, and I am being threatened.

I understand that. All of us have thought about how we would feel if some unjust or untrue charge were made against us, whatever the nature, and a particularly heinous charge was made against him. I understand that he was passionate. But here is what really bothers me: What he said—the conspiracy, the direct insults to the Democratic Senators, the idea that he was a victim of a smear campaign—he had written down. That wasn't a spontaneous outburst—that he was so mad

and caught up in the moment and said something he regretted—it was in written testimony. He had written it down, his answers to the questions.

Back to canon No. 2, avoid anything that would undermine confidence in the judiciary. He actually said, looking at the Democrats, ''What goes around comes around.'' Everybody knows that is a threat. He was looking at RICHARD BLUMENTHAL, who is the plaintiff in a case called Blumenthal v. Trump, which is in the Federal district court in Washington and will eventually make its way to the Supreme Court based on the emoluments clause. How can RICHARD BLUMENTHAL possibly believe he would get a fair and impartial hearing from somebody who said: ''What goes around comes around''? That phrase itself should be disqualifying. Anybody who talks about a political party or a group of people or millions of people or anybody else and says ''What goes around comes around''—that is disqualifying.

I think that based upon judicial philosophy, his failure to recuse himself from issues involving the President who appointed him—his refusal to say he will recuse himself in issues involving the President who appointed him, the incredible lack of documentation based upon his record, and his demeanor last week disqualify him.

No, you don't have to believe Dr. Ford to conclude, as I have, that Judge Kavanaugh should not be elevated to the Supreme Court.

Before I close, I should add one note: I do believe Dr. Ford.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. DUCKWORTH. Mr. President, as I begin speaking tonight, we are less than 24 hours away from handing a seat on the Supreme Court to a man credibly accused of sexual assault—a lifetime appointment that would give him immense power to determine the right of every American to access healthcare, to start or grow a family, or even have access to what the Founders called the inalienable rights of life, liberty, and the pursuit of happiness.

From the beginning, this nomination process has been a sham. The confirmation hearing was rushed. Bush- and Trump-era Republicans worked shoulder to shoulder to ensure that thousands of documents never saw the light of day. Questions about Kavanaugh's seeming habit of perjuring himself only grew by the day. That was all before Dr. Christine Blasey Ford stood up and spoke out, before she took a deep breath and began to relive the worst moment of her life over and over again on the national stage, credibly accusing Brett Kavanaugh of pinning her down, covering her mouth, and changing her life forever.

Now, even after she has testified about the night she was nearly raped, even after she talked of the memories indelibly etched into her mind and her 100 percent certainty that it was Brett Kavanaugh that night, some on the other side of the aisle have prioritized partisan tribalism over justice, over truth—two of the pillars that supposedly define our Supreme Court.

How can the FBI investigation be considered anything but a GOP-led sham when Dr. Ford was not even interviewed, when Mr. Kavanaugh himself wasn't even questioned or the dozen-plus people Dr. Ford and Deborah Ramirez have said could help collaborate their stories?

Why the rush? What are the Republicans afraid of? If they are so convinced that their nominee is not a serial sexual assaulter, why have they done everything in their power to curb and hinder investigations into the incidents in question?

The Republicans who angrily claimed on TV yesterday that this nomination is taking too long, that the Democrats are obstructing for the sake of obstructing, are literally the same people who delayed the consideration of Merrick Garland's nomination for 293 days simply because he was nominated by President Obama.

For the chairman to claim that this nomination has gone on longer than the ''average'' Supreme Court nomination ignores the reality that their nominee, who has been credibly accused of multiple sexual assaults, is being jammed through at lightning speed compared to the only other nomination he has ever overseen as chairman—Merrick Garland.

To Leader MCCONNELL, Chairman GRASSLEY, and my Republican colleagues, I warn you, history has its eyes on you. I beg you to slow down and consider the stakes of this debate.

Like Neil Gorsuch just a year ago, there are countless other conservatives scattered throughout the Federal judiciary who could be confirmed instead of Judge Kavanaugh, potential nominees with zero credible allegations of sexual assault, who are willing to release their records, who are capable of demonstrating the thoughtful, careful temperament we should demand from any possible Supreme Court Justice.

As a nominee, Kavanaugh brought his confirmation hearings two things: his record and his character. His record revealed that he would eagerly be the deciding vote in cases that would take away a woman's right to make her own healthcare decisions, tear healthcare away from millions of Americans with preexisting conditions, and even empower this President to act as though he were above the law.

Equally important, his character can be summed up in just a few words: untruthful, dishonest, intemperate, and unfit to serve. Anyone who watched the Judiciary Committee hearing last Thursday should have serious, if not disqualifying, doubts about Brett Kavanaugh. He spewed out conspiracy theories about the Clintons, went on partisan rants, appearing belligerent and outraged that anyone would dare keep him from getting what he appears to feel entitled to. He shouted over Senators, attacked and insulted them personally, even pledged to exact revenge on his political adversaries.

Only a man who has never served in harm's way would dare complain that tough questioning was equivalent to his enemies trying to ''blow him up.''

Judge Kavanaugh, I have been on the receiving end of an RPG blast, so I can tell you that sitting in a fancy, air-conditioned hearing room with a nice glass of ice water for a few hours is nothing at all like being under attack in the desert and fearing for your life in the middle of a war zone.

Over and over again, he told what seemed to be bald-faced lies. He lied about the meaning of his yearbook page, about whether he had any possible memory loss or had ever become aggressive while drinking, about what he knew at age 53 and what he did at age 17.

Sadly, we shouldn't even be surprised. Kavanaugh has a habit of appearing to lie under oath. Over the years, he has dissembled and been dishonest under oath on a number of issues, including his role in developing the Bush administration's policies on torture.

This consistent dishonesty, this disregard, even distaste for the truth should be disqualifying for any Supreme Court nominee, but my colleagues on the other side of the aisle are turning a blind eye, seemingly not bothered one bit by his dishonesty, much less the credible allegations of sexual assault against him.

Today is the 1-year anniversary of the New Yorker's Harvey Weinstein story that broke open the #MeToo movement. Now, exactly 365 days later, we in the Senate are faced with a choice: Do we believe the survivors who come forward to tell their stories, or would we rather take the easy route, dismissing their claims as misguided or mixed up, as one of my colleagues put it, ignoring their claims, ignoring their pain?

Well, I, for one, believe Dr. Ford and Deborah Ramirez. ''Courage'' is the word that comes to mind when I think of these women. They didn't ask for this burden. They did not want this spotlight or the death threats and fear that have come right along with it. They have put country before self and have spoken out anyway, knowing full well that some would vilify them for doing so.

Take a moment to imagine what they have gone through. Imagine being a teenage girl alone and scared, outnumbered and overpowered and terrified. Imagine carrying that trauma with you every day for decades, then having to relive it in front of the entire country, and then being called a liar, having your life threatened, and being victimized all over again in the process.

It now rests on the U.S. Senate to listen. We must set an example for the rest of the country and avoid repeating

the sins of confirmations past. We must condemn efforts to shame survivors even when—especially when it is the President himself doing the bullying.

By refusing to confirm Brett Kavanaugh, we can send the message that victims of sexual assault matter, that their voices will be heard, and that seeking justice for these survivors is more important than the confirmation of any single individual. We can recognize the bravery it took for these women to speak out. Doing so would make clear that, at least in the U.S. Senate, if not in the White House, time is truly up for any judicial nominee credibly accused of sexual assault. Doing so would at least begin to restore integrity to how the Senate carries out its constitutional responsibility to provide advice and consent.

To any of my colleagues considering voting yes on this nominee, please take just a few minutes to listen again to the opening words of Dr. Ford last Thursday. Hear the pain in her words, the truth in her voice.

I will be voting no on Judge Kavanaugh's nomination. On behalf of Dr. Ford and survivors everywhere, I am begging—begging—each of my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. HASSAN. Mr. President, I rise to join Senator DUCKWORTH and Senator KING and so many of my colleagues in opposing Judge Brett Kavanaugh's nomination to the Supreme Court.

One of the most solemn responsibilities of a U.S. Senator is providing advice and consent upon the President's nominating an individual to the Supreme Court. This is a duty and a decision that I do not take lightly. This is a lifetime appointment to the highest Court in our land, which will impact the lives of every single person in this country.

Supreme Court Justice is not a position that any person is entitled to. Any individual nominated to the Court must be subject to security on the totality of their record, their temperament, and their past actions.

Yet, throughout the process of this nomination, my colleagues in the majority have made clear that they will stop at nothing to get Judge Kavanaugh on the Court, no matter his record, no matter his temperament, no matter his character.

When Dr. Christine Blasey Ford's serious and credible allegations came to light, we saw a truly disturbing scene from both Judge Kavanaugh and my colleagues on the other side of this aisle. Judge Kavanaugh himself lashed out, claiming a political conspiracy against him, refusing to answer questions, and seemingly threatening those who raised serious, good-faith questions about his fitness. He said these words: ''What goes around, comes around.'' His behavior and his words reflected a partisan who sees those with whom he differs as enemies, not opponents.

While many of my colleagues in the majority praise Dr. Ford's bravery in sharing her story, and even agreed that her testimony was credible, they blocked any serious professional attempt to get to the facts.

I want to take a minute here to address one of the most disingenuous claims I have heard from the majority when it talks about Dr. Blasey Ford.

Over the last week, Members on the other side of the aisle have expressed concern and regret that Dr. Blasey Ford's letter outlining her allegations was leaked, forcing her story into public view. But the fact that Dr. Blasey Ford didn't choose if and when to reveal her allegation to the public does not relieve the U.S. Senate of its duty to pursue the truth or to treat Dr. Blasey Ford with the respect and compassion the majority says it feels for her, something it could simply demonstrate by acceding to her request for what normally happens after a report of sexual assault: a full investigation before the hearing.

I, too, will note that I watched and listened to Dr. Blasey Ford's testimony. I considered the additional evidence that would have particular weight in a court of law of her corroborating statements well prior to any suggestion that Brett Kavanaugh would ever be nominated to the Supreme Court of the United States. I compared her testimony to that of Judge Kavanaugh, and I believe Dr. Blasey Ford.

Even though the committee rejected the doctor's request for an investigation prior to the hearing, which would have been normal course, which would have produced a much more meaningful and insightful and fact-based hearing, I was hopeful when it was announced last week that the nomination process would be paused for the FBI to investigate Dr. Blasey Ford's allegations. I was so hopeful that there would be a thorough, intensive process in order to get to the truth.

But after reading the FBI report that was presented to Senators, it is clear that the FBI was not allowed to conduct a serious investigation.

I am an attorney, and I have to say that any good attorney allowed to read the FBI's supplemental background investigation—what we have been calling the report here—would tell you that it is not the type of comprehensive investigation that could lead to the truth. The limited scope of the investigation produced a sham.

Let me be clear. Nothing in the FBI report exonerated Judge Kavanaugh. It wasn't comprehensive enough to prove or disprove Dr. Blasey Ford's allegations or Judge Kavanaugh's denials. It was clearly designed just to provide cover so that the majority could vote yes and jam this nomination through.

Even before Dr. Ford bravely stepped forward with her allegations of sexual assault, I had concluded that Judge Kavanaugh's nomination should not go forward, that Judge Kavanaugh did not belong on the Supreme Court of the United States.

Having reviewed his record and hearing his testimony before the Senate Judiciary Committee, it is evident that he does not have the impartiality that is required to serve on the Supreme Court. His record shows that he is a partisan who promotes a partisan rightwing ideology deeply at odds with the will of the American people.

On issue after issue, Judge Kavanaugh has promoted a judicial philosophy that diminishes the rights of individuals, particularly women, and puts corporations before people.

On healthcare, Judge Kavanaugh's agenda has been clear. As recently as October 2017, Judge Kavanaugh criticized Chief Justice Roberts' decision to uphold the Affordable Care Act. In his confirmation hearing, Judge Kavanaugh would not commit to upholding protections for people who have preexisting conditions, such as asthma, cancer, diabetes, and more.

The Trump administration and the majority in Congress have been relentless in their attempts to sabotage our healthcare system, underscoring the need to have a Supreme Court that would rise above partisanship, but Judge Kavanaugh will not do that.

On the issue of reproductive rights and a woman's right to chart her own destiny, Judge Kavanaugh has repeatedly tried to dodge and mislead, but none of his judicial opinions or comments indicate that he believes Roe v. Wade was rightly decided or that he would respect Roe's precedent if he had the opportunity to do so.

With Judge Kavanaugh on the Bench, Roe and the personal, economic, and reproductive freedom that it has delivered to women is directly threatened.

When it comes to checks and balances on the President's power, Judge Kavanaugh's record and opinions are also extremely concerning, particularly given that a clear pattern of criminality continues to emerge from the Mueller investigation.

Judge Kavanaugh has a history of supporting an unchecked Presidency. He has written that Presidents should be essentially above the law by claiming that they should not be the subject of civil lawsuits, criminal prosecutions, or even criminal investigations.

During his hearing, Judge Kavanaugh refused to commit to recusing himself from matters involving investigations of the very President who nominated him. Especially at a time like this, it is too dangerous to place a Justice on the Supreme Court who believes in virtually no checks on a President's power, but it appears that the majority is committed to doing just that.

This nomination has been an outrage, and the way it has been handled is a failure of this institution. The majority has put the interests of its party and a nominee who has made clear he will serve those interests before the interests of the court and the country.

The nominee, who will apparently—given today's developments—be confirmed tomorrow, is without the character or temperament needed to serve on the Supreme Court without the credibility that the American people deserve. He is, in fact, the antithesis of that impartial arbiter that a Supreme Court Justice has to be.

The people of New Hampshire deserve better. The people of the United States of America deserve better. That is why I will be voting no on Brett Kavanaugh's nomination tomorrow, and I would urge all my colleagues on both sides of the aisle to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, I come before this body this evening after having heard several remarks from a number of my distinguished colleagues, whom I like, whom I respect, whom I admire, and with whom I greatly and substantially disagree on many matters discussed tonight.

Just in the last little while I have heard arguments presented first by the Senator from Maine, a good friend of mine, who made some arguments that he put into roughly four categories. He opposes Judge Kavanaugh on the basis of judicial philosophy, on the basis of his refusal to agree anticipatorily to certain types of recusals, to the absence of documentation he claims was available to the committee, and to Judge Kavanaugh on issues of demeanor. I would like to address each of these allegations in turn.

First, with regard to judicial philosophy, my friend from Maine—who truly is a friend—explained that, in his view, Judge Kavanaugh was unacceptable because, among other things, he counts among those he admires, among his judicial role models, the late William Rehnquist, Chief Justice of the United States. The reason that is apparently a bad thing, according to my colleague from Maine, is that this somehow indicates that he would view himself sort of as an umpire, calling the balls and the strikes, reading the law on the basis of what it says rather than on the basis of what he or anyone else might wish were the law.

Jurists, you see, are not philosopher kings, not even when they get onto the Supreme Court of the United States. They are not there to impose will but judgment.

You see, as Alexander Hamilton explained in Federalist 78, there is a difference between the type of government activity that goes on in the judiciary and the type of government activity that goes on in the legislative branch. In the judiciary, they exercise judgment; that is, they read the law. They figure out what the law says. When two or more parties come before the court's proper jurisdiction, they interpret the law on the basis of what the law says. That, Hamilton explains, is judgment.

Will, on the other hand, is deciding what the law should say, what policies are best for the U.S. Government. That is the prerogative of this branch. That is the prerogative of the political arms of the Federal Government. That is not the prerogative of our friends across the street who wear black robes.

So I was surprised to hear that my colleague from Maine, the junior Senator from Maine, Mr. KING, was saying that he objects to the judicial philosophy of Judge Kavanaugh on the basis that he says he would call the balls and strikes as he sees them. It seems to me that this is the essence of what Federalist 78 was talking about, about the difference between will and judgment.

Hamilton explained that if ever the judiciary started exercising will instead of judgment, it would upend the entire constitutional order. That, we cannot have. That is not how it should be.

Next my colleague from Maine went on to explain that Judge Kavanaugh's association with the Federalist Society was somehow a problem, that the Federalist Society is somehow some sort of demonic conspiracy to overthrow the U.S. Government—or something to that effect. I embellished slightly his characterization of it, but you would think from what some of my colleagues say about the Federalist Society that there is something terribly wrong with it. Let me tell you about the Federalist Society.

I have been aware of the Federalist Society for most of my life. I attended my first Federalist Society event while I was still in high school. I mean, what teenager doesn't want to attend a Federalist Society event at a nearby law school? That was something we considered to be a lot of fun in Provo, UT.

At every Federalist Society event that I have ever attended, starting when I was in high school, all the way through college, through law school, throughout my career as an attorney, and since then in my career in politics, one thing has been consistent: The Federalist Society, when it puts on an event, allows for all sides to be represented. You will see views that are widely divergent. You have people, such as Nadine Strossen, former president of the American Civil Liberties Union, who have long been affiliated with the Federalist Society and participated in their symposium. This, you see, makes the Federalist Society rather unlike most American law school experiences, wherein one side is presented—not both. The Federalist Society prides itself in focusing on open, robust, honest debate.

So if some people want to criticize the Federalist Society or those who, heaven forbid, have ever attended a Federalist Society event, what they are doing is criticizing academic freedom, criticizing a robust discussion of law and public policy. We should all be grateful for the Federalist Society for Law and Public Policy Studies. This is an enterprise that really represents the core of what the American people should value—certainly what those who study and admire and respect the law should value. This is not something people should be criticized for participating in. Last I checked, academic freedom and robust discussion of what the law says and which branch of government ought to exercise will and which ought to exercise judgment—that is something to be rewarded. That is part of America's bedrock. Its core institutions of civil society are people who are willing to come together, not under the auspices of government, not under the control of some bureau or bureaucracy, but rather on their own to discuss and debate things that will inure ultimately to the benefit of the people.

Next, my colleague from Maine, Senator KING, referred to Judge Kavanaugh's refusal to agree anticipatorily to a recusal in certain cases. As Judge Kavanaugh very capably explained in his hearing, this is not the kind of judgment a person makes before taking the Bench, before assuming a particular judicial office to which he or she has been nominated. It wouldn't be appropriate for him to anticipatorily agree to recuse himself in a type of case that he has even yet to see.

I am not sure why some of my colleagues wanted to put him on the record as taking himself off of a certain broad category of cases, but that, nonetheless, seems to be what they were after. That, in most circumstances, is improper, just as it would be improper to get Judge Kavanaugh to agree in advance of his confirmation as to how he would vote in a particular type of case.

This, too, many of my colleagues find troubling, by the way; yet this, too, is part of the canons of judicial ethics. We don't want people campaigning as if on political issues to get onto the Supreme Court of the United States. We will get back to that a little bit more later.

Next, Senator KING referred to the supposed lack of documentation from the Bush administration where Judge Kavanaugh worked—the lack of documentation, meaning the lack of documents coming out of the White House. It is important to know that Judge Kavanaugh doesn't own the documents in question. No, those are owned by the Bush administration. They own the privilege, and under the Presidential Records Act, which Congress itself has enacted, there are terms set. There are agents identified, agents who get to assert certain privileges and decide when, whether, and to what extent certain documents will be released and available for our review. I am not sure what it is that they are so terrified might be out there, but whatever it is, it is in a document that doesn't belong to us, a document to which we have no access, to which we have no rightful claim, but a document that in all events is not Judge Kavanaugh's call. It is not his call to decide what happens to those documents—when, whether, under

what circumstances we receive them. It is not his fault. It is not under his control. He has no say on that. Do not hold that on his head. That is not his burden.

Then my colleague from Maine went on to address Judge Kavanaugh's demeanor. Senator KING is not a member of the Judiciary Committee. I am. Senator KING acknowledged to have viewed some of the hearings from a television while in other parts of the Capitol Complex, sometimes with the volume on, sometimes with it off. He said something to the effect that if he were watching from another planet, he would conclude that this man is not fit for office. Maybe he wasn't watching the same hearing I was, but I know one thing: Senator KING wasn't in that room; I was. Let me tell you what I saw.

I saw a man who has devoted most of his adult professional career to public service; a man who volunteers his time to feed the hungry, the homeless; who coaches his girls' basketball team, which he has done for a very long time; who teaches; and who supervises those whom he employs.

His law clerks over the last 12 years—by the way, men and women of every background in the United States—rave about him, call him the kind of boss that every American would want to have, that every young lawyer would dream of working for, for the simple opportunity of learning under his tutelage, for the opportunity of serving in a judicial apprenticeship of sorts under a true master of the law.

I don't know what Senator KING was referring to, but he wasn't in that same hearing I was. He certainly didn't see the same thing I saw, which is someone who was seeking sincerely to defend his own record of public service and his own private conduct against great adversity, moreover, in circumstances in which he and his family have been dragged through the mud by no choice of their own.

As to the suggestion that he was somehow leveling a threat when he uttered the words ''what goes around comes around,'' I was in that room. I understood that to mean one thing and one thing only, which is to say that when we mess with the process, that process might well remain messed up. That is all he meant. He was not making any threat. That was apparent to anyone watching that meeting with anything approaching an open mind. Anyone watching that with an open mind would have understood what that meant in context. He was simply stating the obvious: When we allow politics to come into play excessively in the process of naming and confirming people to the Supreme Court of the United States, it messes it up. It messes it up now and messes it up for the future. We should all be concerned about that.

I also heard comments from my colleague, the distinguished junior Senator from Illinois. She said, among other things, that the investigation conducted into allegations involving Judge Kavanaugh were ''a sham.'' A sham. Think about what that means. It means that she is suggesting that those investigating didn't want to get to the truth.

I don't know what documents she has reviewed, but I can tell you the documents that I have reviewed. Those compiled by the Federal Bureau of Investigation and those compiled by the very faithful investigative staff on the Senate Judiciary Committee were thorough. We are talking about hundreds of pages of transcripts, to say nothing of the more than 30 hours of testimony provided by Judge Kavanaugh himself before the Senate Judiciary Committee. We have been thorough in what we have gone through, and to call this a sham is simply disingenuous. It is inaccurate. It is inconsistent with anything I have seen.

I heard my colleague from Illinois also refer to what she characterized as untrue statements made by Judge Kavanaugh in connection with Judge Kavanaugh's alleged participation in the development of the so-called torture policies in the Bush administration.

As has been stated over and over again by Judge Kavanaugh and those who worked with him, he wasn't even cleared, didn't even have access to that program, was not involved in that program's creation. The documents to which they refer in claiming otherwise show only that he was asked about certain arguments that may be presented in court, which is completely different from the question they are talking about—whether he had anything to do with the development, the design, the creation of that program, which he did not. So to say that he lied about that is completely dishonest, it is not borne out by the facts, and I find it shameful that this accusation would be made. It is completely contrary to the evidence.

Next, my colleague from Illinois referred to concerns about what she referred to as healthcare outcomes—outcomes in particular cases involving healthcare. She went on to extol the virtues of the Patient Protection and Affordable Care Act, also known as ObamaCare, and spoke at length as if to suggest that Judge Kavanaugh were being considered not for a judicial position but a position involving lawmaking, policy-setting. He has, after all, been nominated to a position of Associate Justice of the Supreme Court, not policymaker. His exercise of judgment, of interpreting the law based on what it says rather than on the basis of what he wishes it said, is his role. It is unfair to compare him to another standard.

Moreover, if we are going to compare him to that standard, she has to acknowledge that when we are talking about the Affordable Care Act, he actually wrote an opinion upholding it. That is beside the point here, but if she is questioning his judgment and his ability to handle the law and apply the law on the basis of how he views the law and to do so objectively, she ought not to be concerned.

If she is concerned about the outcome of cases relating to the Affordable Care Act—which I don't think she should be—as separate and apart from the judgment part of his role, then she ought to be consoled by the ruling that he made upholding the Patient Protection and Affordable Care Act.

In any event, it is simply not fair to compare him to this standard and to say that because they fear—because my colleagues fear that he might reach a different policy outcome than she might prefer, she is attributing to him political views that he doesn't have, that he isn't allowed to have as a jurist, and that he has not expressed.

If you can point to any one of his 300 written published opinions in the Federal reports, bring them to me—any one of those that suggest that he is incapable of being impartial in healthcare or in any other arena, please bring them to me. I would love to see them. Yet they can't, they won't, and they haven't, because such opinions do not exist. That is why they resorted to other things. That is why they are talking about policy. That is why they are trying to smear this man's character and destroy his good name, because they have looked through those opinions, and they can't find a dud among them.

My colleague, the distinguished Senator from New Hampshire, also spoke. She regretted the fact that, in her view, there hadn't been a full investigation into the allegations against Judge Kavanaugh and suggested that additional evidence would have been helpful and that additional evidence exists corroborating the allegations made against him.

Well, having reviewed hundreds and hundreds of pages of transcripts of interviews resulting from the FBI investigation and from our competent Judiciary Committee staff, I don't know what she is talking about because the only potential corroborators in this case—that is, the alleged eye witnesses to the accusations in question—those allegedly present in the circumstances in question, say that they can't remember any instance in which anything like this happened—not just the underlying bad acts themselves as alleged but the events in which they allegedly occurred. That is what we call corroboration. You cannot have a statement you describe as corroborating unless there is someone who at the time saw or heard or was otherwise made aware of something at or around the time it occurred. That is what corroborating evidence is, and that is what is noticeably absent in this case.

She also claimed that the FBI was not allowed to conduct a serious investigation. I do not know what she means. What I do know is that what the FBI was asked to do involved conducting a supplemental investigation

into current credible allegations of sexual misconduct, and that is what they did. We, the Senate Judiciary Committee, didn't put guardrails around that, didn't tell them they couldn't follow up on leads they deemed significant, didn't tell them they couldn't look past a certain witness, didn't tell them they couldn't follow up on something that might shed light on this candidate's credibility or his eligibility to serve in judicial office.

That leads to another point. This man has now endured 7 FBI background investigations, with over 150 people interviewed during that time—150 people interviewed extensively about what they know about him and about what they know about his character. Those interviews and the report that was produced back up this man's character. And separate and apart from the fact that there is no corroborating evidence for these allegations, these independently backed him up.

My colleague from New Hampshire, like my colleague from Illinois, also brought up the Affordable Care Act, as if assuming from the outset that, on the basis of policy, Judge Kavanaugh would rule a certain way in this or that aspect of anything having to do with healthcare. Here again, we have characterizations that would be much more fitting in a political debate for a political office, but, alas, that is not what we have here.

My colleague from New Hampshire referred to the Mueller investigation. I don't know how that is tied to the nomination of Brett Kavanaugh to be an Associate Justice of the Supreme Court of the United States, but somehow she tried to make that an issue. I don't know what she is talking about. I don't know how that could possibly be relevant here.

She made the argument—the very serious accusation—that Judge Kavanaugh somehow believes that the President of the United States is above the law. I challenge my colleague from New Hampshire to tell me what evidence she has that he believes that. This is a serious accusation and one that should not be made lightly.

I have never ever heard of Judge Kavanaugh having said or written anything suggesting that the President of the United States is above the law. Yes, Judge Kavanaugh acknowledged, as he has repeatedly on a number of occasions in a number of settings, that there is a dispute among scholars as to the timing and manner of liability that might be faced by a current sitting President of the United States, but he has never said the President of the United States is above the law—never—never hinted at it, never concluded that, and it is therefore unfair to attribute that view to him.

Finally, my colleague from New Hampshire characterized Judge Kavanaugh as being someone who is without character and sort of the antithesis of being an impartial arbiter.

I think the very best way we can view that with regard to his character is through his life of public service, through the way he has interacted with those he knows, those who have truly known him not just over the last 36 years but for his entire lifetime.

The best we can evaluate his ability to be an impartial arbiter is to review the 300 published opinions he has written while serving as a judge on the U.S. Court of Appeals for the DC Circuit. I challenge any one of my colleagues to bring me any one of those opinions or any combination of those opinions that show that he is incapable of being impartial or that he is in any way challenged as to impartiality. They can't do it. They won't do it. They haven't done it because such opinions don't exist.

Judge Kavanaugh is a good man. He is eminently qualified to serve on the Supreme Court of the United States. I endorse President Trump's nomination of him. I was pleased to vote in favor of cloture, and I look forward to voting for his confirmation in the coming hours.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Thank you, Mr. President.

At some point during the confirmation hearing—now seemingly years ago but probably only just a month or so ago—I saw young women going through the halls of the Capitol with T-shirts that said ''I am what's at stake.'' I want to thank those young women and all of the countless women and men of all ages who have come to our Nation's Capital to show us what democracy looks like.

I know that some of my colleagues have been displeased—in fact, have called it mob rule—but the power and force of democracy within those voices and faces—a lot of them were from Connecticut, and I am proud of your coming here to tell us what you think both for and against this nomination. That is what democracy looks like. When we reject the voices and faces of democracy coming to tell us their truth, we lose something very precious. It is of equal importance to the townhalls and the meetings and parades and all we do at home. I do a lot of it at home, but I was proud of the folks from Connecticut who came here and the folks who came from all over the country from as far away as Alaska and Hawaii to give us the benefit of their insight and perspective. ''I am what's at stake'' is the message those women were conveying to us in real time.

We talk here in words. Sometimes we hold up posters. We talk in abstract; that is, the legal parlance of the courts and our legislature. But our decisions have real-life consequences, and the appointment of Brett Kavanaugh and the confirmation that likely will take place tomorrow will affect real people in real time for generations to come because it is for a lifetime.

The courts are among the most antidemocratic institutions in our country, the greatest democracy in the world and the most enduring of any democracy. They are lifetime appointments. They are insulated generally from attack or even criticism because folks who criticize a judge in his or her presence can be held in contempt. They have powers to punish contempt by immediately jailing someone. They are anti-democratic so long as they fail to reflect the will of the people if there are excesses, if the nomination and confirmation process goes off the rails. And that is what is happening here—a broken promise and process that has caused a rush to judgment simply for the sake of arbitrary deadlines and irrational timelines placed on a nomination that is fundamentally flawed.

A lot of my colleagues have relied on personal assurances from Brett Kavanaugh in their chambers. He talked to me an hour, and he assured me, I heard my colleagues say. He assured me that he will not overturn Roe v. Wade, but his answers to us under oath on those topics were evasive and misleading.

When I asked him, for example, in our hearings about Roe v. Wade, he repeated the vague commitment to settled precedent, but he couldn't explain why he referred to that precedent in his Garza dissent as ''existing precedent.'' It would be like introducing your wife as ''my current wife.'' How long do you think that wife is going to be around?

He referred to abortion-on-demand. These kinds of code words sent a signal to the Federalist Society and the Heritage Foundation, and they were the direct cause—or at least one of them—for his being on the President's short list after he hadn't been on it before he issued that dissent.

Looking to what he has actually written and said is a much keener, more reliable insight into what he will do, more than personal assurances.

His writings indicate that he believes, in effect, in a President who can refuse to enforce the Affordable Care Act simply because he deems it unconstitutional. He concludes, in his vision of the Constitution and his interpretation of the statute, that they are in conflict, even after the Supreme Court of the United States upholds it and a prior President signs the law and a Congress passes it.

That kind of monarchial power is an anathema to our constitutional sense of checks and balances, and the result could well be—in fact, likely will be—that millions of Americans will be deprived of protections when they suffer from diabetes and heart disease, Parkinson's, high blood pressure, pregnancy—the preexisting conditions for which the Affordable Care Act was designed to afford people protections in insurance.

Healthcare, women's reproductive rights, the right of a woman to decide when she wants to have children, the

right of people across America to decide when they want to marry the person they love, consumer rights, workers' rights, environmental protection—all are at stake to real people in their real lives for generations to come. ''I am what is at stake'' applies to every American.

I have never been angrier or sadder since coming to the Senate. This nomination was essentially the result of a rush to judgment and of a coverup, starting with the concealment of millions of pages of documents. Those documents are in the National Archives. They belong to the people of the United States, but the White House chose to hide them.

Then, there was a straitjacketed sham of an investigation into sexual assault—yes, a sham; really, a whitewash—that refused to interview dozens of witnesses, some of them eyewitnesses who could corroborate the credible and powerful allegations made by sexual assault survivors.

My office spoke directly to Kerry Berchem. There is a more recent report out tonight—an excellent report by NBC—about how she and others tried to be interviewed. They sought and beseeched the FBI to talk to them, but the FBI was given a list because the purpose of that investigation was not to find the facts. It was to offer cover. It was to permit our colleagues to say there has been a seventh investigation.

Have my colleagues read those six investigations? Do they understand that the general practice—we can't talk about the details on the floor, of course—of the FBI is to begin at age 18, not before? Do they understand that the general practice of an FBI background investigation is to interview professional colleagues, coworkers, supervisors, and references that are suggested by the nominee to any particular position?

The seventh investigation was really the crucial one regarding those allegations of an individual 17 years old or even 18, in college, where there was no reason in those earlier six investigations to go back. The FBI was straitjacketed, and that is a disservice to the U.S. Supreme Court, to the Senate in our constitutional responsibility, to the people of the United States, and, ultimately, to Brett Kavanaugh, himself, because these allegations will not be going away any time soon. They will hang over him and the Court as a cloud and a stain for years and years to come. Facts and evidence have a really powerful way of coming out. Eventually, facts and evidence have a way of finding a way to the public realm.

From the beginning, this nomination has been a crucial test for the Senate and for the Nation, but this fight is about more than just this Supreme Court seat. It is about a courageous and credible sexual assault survivor who came forward. Actually, she expressed concerns to friends before the nomination was made about Brett Kavanaugh's possible nomination. She recounted her story years before even the seat opened, as documented by her therapist's notes and her husband, who, by the way, was never interviewed. Her husband was never interviewed. Talk about corroborating witnesses. Her therapist's notes were never reviewed, and she herself was never interviewed by the FBI. That is an absence of fact-finding. And, of course, Judge Kavanaugh was never interviewed, as well.

She came forward to say she was sexually assaulted by Brett Kavanaugh, and the details of her claim were lacking in some part. She was frank to admit that she couldn't remember everything, which is not atypical of sexual assault survivors, as the experts would have told the FBI if they had interviewed some experts. But she could remember some parts of that story, and they are details that I will never forget: the laughter from Brett Kavanaugh and Mark Judge, the third person she knew to be in that room—the laughter at her expense. The mocking and ridiculing laughter are so vivid in her memory. It is the same mocking and ridiculing laughter that we heard at some of the rallies where the President mocked and ridiculed her—the same mocking and ridiculing that, for decades, have been applied to survivors of sexual assault who come forward. She has endured the same nightmare of public shaming and character assassination and threats—potential retaliation that all too often has silenced sexual assault survivors. She braved that nightmare, knowing full well what was coming, but maybe she thought it would not come from Members of the Senate. Maybe she had that naive hope, and if she had it, she was wrong.

Our colleagues here said she was mixed up. They said they believe her, they find her credible, but she must be wrong about the identity of the person who attacked her. Well, that echos to the second point that rung true and vividly in her testimony when she was asked: Could it be mistaken identity? Absolutely not. Was she sure it was Brett Kavanaugh? 100 percent sure.

I have a message for my Republican colleagues: You can't believe the survivors only when they say what you want to hear. You can't believe the survivors for only those parts of the story that are comfortable and convenient. You can't believe them only when they tell you how they have been hurt, horrifically harmed, but not the person who harmed them and hurt them. And you can't believe them if you reject the possibility of a thorough, complete, fair, and impartial investigation into all of the facts and the evidence.

My Republican colleagues say they would like to believe Dr. Blasey Ford and they would like to believe Deborah Ramirez, but there is no corroborating evidence. You cannot believe survivors without seeking the corroborating evidence. You cannot believe them if you turn a blind eye to witnesses who come forward and not only are willing but, actually, in effect, pound at the FBI's door.

I reviewed those interviews with the people who were on the list that the FBI permitted to be interviewed, but I have also reviewed the mounds of tip line records. I don't know how many of my colleagues have done so. They are fascinating and illuminating and profoundly revealing because there are actually tips from people who came forward and had a personal connection to the events of interest. Of course, I am barred from providing details, but none of them were contacted or interviewed. That is not an investigation. That is not an investigation by the FBI worthy of the FBI's name.

I offer no criticism of the FBI because they were, in effect, narrowly circumscribed, limited, straitjacketed, handcuffed by someone in the administration. We need to find out who it was and how it was done. Both women offered evidence of the kind that is routinely offered in sexual assault cases. They can prove that they told others about their experiences long before the current nomination fight. Christine Ford had a polygraph test and therapist notes. And both women can point to a history of Brett Kavanaugh acting inappropriately when drunk. What my Republican colleagues apparently mean when they say there are no corroborating witnesses is that none were permitted to tell their story to the FBI, not that they weren't available.

I would like to say that this approach to sexual assault survivors is a thing of the past, a throwback to some other time, but the fact is that it remains real in the lives of survivors around this country today. They should know that we are going to stand with them, that this example of, in effect, failing a proper and complete impartial investigation is far from acceptable to us.

I want to make a commitment to my colleagues and the public that I will continue fighting to find the facts. The American people deserve to know why the FBI failed to complete a full investigation of these powerful and credible allegations. They deserve a full understanding of what the investigation would have found. They deserve full access to Judge Kavanaugh's record—those millions of pages of documents that were concealed and that raise the question: What are they hiding? What are they afraid of the American people seeing from the time that Brett Kavanaugh served in the White House as Staff Secretary?

I filed an FOIA suit to force disclosure of millions of pages of Judge Kavanaugh's documents that have been hidden from the country. The majority leader chose to vote without seeing those documents, but I have no intention of stopping in this effort until they have been disclosed—and they will be. They will come out, adding to the cloud and the stain.

The allegations here are desperately serious. They are credible and powerful, and our job was to make sure that the facts and the evidence either supported them or not.

Debates over the Supreme Court often focus on civil rights and civil liberties, those protections enshrined in the first 10 Amendments to the Constitution. Make no mistake. Those rights and liberties are at stake here. But this Supreme Court debate is also about the fight between powerful corporate interests and ordinary Americans. Corporations have become adept at using the courts when their arguments fail to persuade policymakers and the American people.

When the EPA bans polluters from spewing poison into the environment, polluters go to court to stop that Agency. When the FCC prevents cable giants from censoring the internet, those companies go to court to stop that enforcement.

When the Labor Department or the NLRB take action to protect workers or when the CFPB or FTC take action to protect consumers, big employers and financial services firms go to court to stop them. If you want to breathe clean air and drink clean water, if you want a free and open internet, if you want to work or purchase products free of corporate abuse and fraud, this fight is about your life. It is about you.

This nomination poses a clear and present danger to those enforcement efforts. He poses a danger to the rights of women to decide when they want to have children and to millions of Americans with preexisting conditions who want to keep their affordable health insurance. He poses a danger—clear and present—to workers and consumers who want to live free of corporate domination. He poses, most dangerously, a threat to the checks and balances that prevent a President from running this country like his own personal fiefdom.

In his opinions, his speeches, his writings, and his testimony, we can see where this nominee will take the country if he is a swing vote, as he is likely to be on so many of these issues. He has used those dog whistles or bumper stickers in his campaign for his nomination, those terms and buzz words, ''abortion on demand.'' Sometimes he uses a bullhorn, as when he promises conservative organizations that he will overturn longstanding, near-unanimous precedents that have fallen out of favor with the rightwing or when he goes out of his way to publish long dissents, articulating a radical understanding of the law and its value.

He has been not so much a nominee as a candidate for office. He has been campaigning for this job since law school. Like many candidates for office, he has spent that time demonstrating to potential political patrons that if they pick him, he will diligently represent their interests. He is their guy. That is how he became a member of that elite group on the President's short list.

I will conclude by saying that most chilling—indeed, frightening for me—was his appearance before this committee when he gave a rant and a screed that was written the day before, so he said. It was delivered word for word from that text. It was hardly the result of some spontaneous insult or outburst. It was calculated and planned. It took back the mask of the judge and revealed the man—bitter self-pity, rageful, and a deep partisan, which he had demonstrated before throughout his career as a party operative but perhaps not on the bench. The man revealed there said to us: ''What goes around comes around.''

He said that the powerful allegations of the sexual assault survivors were the result of a leftwing conspiracy fueled by revenge on behalf of the Clintons. Those remarks demean the brave and courageous survivors who came forward on their own initiative, without any encouragement by any Senator, and they were degrading to Christine Blasey Ford and Deborah Ramirez and to the survivor community. They were directly contrary to Judge Kavanaugh's own test of what a judge should do:

> The Supreme Court must never be viewed as a partisan institution. The Justices on the Supreme Court do not sit on opposite sides of the aisle.

He was sitting on one side of the aisle. In fact, he was sitting on one distinct side of that side of the aisle. That is the reason former Justice John Paul Stevens found his appearance before that committee—not only his prepared remarks but what he said after—as disqualifying. That is the reason the 2,400 lawyers and professors and former judges have written urging that his nomination be rejected. That is the reason I find most frightening.

I have appeared four times before the U.S. Supreme Court. Every time has been an extraordinary honor, and I have spent a good part of my career standing in front of judges, sometimes with juries and sometimes not. What I prized in judges most importantly was that they were nonpartisan, that they were objective and neutral. I don't know how lawyers or ordinary parties to any case could stand before Judge Kavanaugh now and feel they will be judged fairly and impartially.

My colleagues have come to accept these vague assurances from nominees that they will simply call balls and strikes, that they will follow settled precedent, but we have seen those vague promises betrayed when judges or Justices actually reach the Court.

I look to what he said in that hearing before the Judiciary Committee as a warning about what will happen if Justice Kavanaugh is confirmed. What he wrote in the op-ed today in the Wall Street Journal provides no assurance because the real Brett Kavanaugh came before our committee, and the real Brett Kavanaugh wrote down in advance what he felt. The real Brett Kavanaugh should not be confirmed to the U.S. Supreme Court. Even at this late hour, I hope my colleagues will heed that warning.

We may lose this battle, but we cannot lose the broader struggle for justice in this country. I will stay angry. I hope my colleagues and others around the country will as well.

To the young people who came to these halls wearing that T-shirt, ''I am what's at stake,'' you are right. You are what is at stake. Stay angry.

I yield the floor.

The PRESIDING OFFICER (Mr. TILLIS). The Senator from Oregon.

Mr. MERKLEY. Mr. President, our Founders had a very clear design for the ability to put individuals into high posts of great responsibility. They really wrestled with it. They considered giving the ability to appoint judges and executive officers to the assembly, as it was referred to. I think we have to worry a lot about individuals swapping favors. One person saying: You support my friend, and I will support yours—that wouldn't lead to those with the best qualities serving in these key positions.

They concluded after great debate that it would go to a single individual, the President, to nominate. They realized that the President can go off track. They thought the President might express favoritism of a variety of sorts. Alexander Hamilton talked about this at some length: maybe favoritism to people in the home State, maybe favoritism to a close group of friends, maybe favoritism to individuals who were doing favors for the President. Who knows? Therefore, there had to be a check on the potential abuse of the appointment process. That is where the Senate came in, to advise and consent—the President, to nominate; the Senate, to consent. What that meant is that the Senate could not interfere with the President on the nomination process, and the President was not to interfere with the Senate in the confirmation process. Yet we have right now, for the first time in U.S. history, as far as anyone has been able to ascertain, a case in which the President of the United States has interfered greatly, first of all by requesting that the Senate not look at all 3 years in which this individual, Kavanaugh—the nominee—served as Staff Secretary to President Bush. Second of all, the President appointed an individual to provide the stamp of Presidential privilege on documents for when he served at the White House that they did not want the Senate to see. We have some of those documents. He said: Those are OK. Yet they censored 100,000 documents with the Presidential privilege stamp. This has never been done, ever, as far as we can determine.

This body, on a bipartisan basis, requested all of those documents. This was not a case of the President saying ''Please don't request,'' like with the Staff Secretary; this is a case in which the Senate together said ''Give us the documents,'' and the President refused.

This is something we should all stand together and say: Unacceptable. It is unacceptable that the President stepped across the separation of powers to interfere with the work of this body to review the nominee's record. The fact that there have not been loud cries of protests from the leadership of this Senate is a shame on this institution—that it has not fought for the separation of powers embodied in the Constitution. It has not fought for the ability of each and every Senator to be able to exercise full responsibility when we took our oath of office to review the records of nominees, engage in the advice and consent exercise.

Is this to be a precedent for the future because the leadership here has so shamefully abandoned the core principles of the Constitution and the responsibilities of this Chamber? I hope not. I hope that, together, all 100 Senators will find in the future they will make sure the President cannot interfere with our responsibility.

This is only one of the many problems, the many concerns, about Brett Kavanaugh. Brett Kavanaugh didn't raise a single voice about the interference of the President with the exercise of this body. He is being nominated to the Supreme Court. He is supposed to have read the Constitution at some point. He is supposed to understand the separation of powers. He is supposed to stand up for the principles embodied in that great document, and he did not. That alone should tell you this man does not belong on the Supreme Court.

Then, of course, there is the fact that he has a view of Presidential power that is above and beyond the law. Try to find that in the Constitution.

Among the 25, he was the one who had the most expansive view of Presidential power. He is the one the President chose. Why is that? Because the President is under investigation for conspiring with Russia to fix the election. That is why. He is worried. He is up at night. He wakes up early. He tweets out to the world—angry, hostile. He wants to make sure he has a Justice on that Court who can help write a ''get out of jail free'' card. What a conflict of interest. What a conflict of interest that this Court might have to rule on whether a President can pardon himself. It is something we have never had to worry about before, whether a President can fire a special prosecutor, despite the writing under the law.

That is not all. We have before us a nominee who has been deceptive and misleading to this Chamber time after time. Different articles have put up different lists. They all come down to here is what he said, and here is the truth. Here is what he said, and here is the truth.

I want to pivot, though, to perhaps the most shameful, difficult part of this nominee; that is, his record of abuse toward women and the complete failure of this body to look into that.

I heard earlier on the floor of this Chamber a number of my colleagues across the aisle use the word ''fairness.'' ''We want fairness.'' I heard it from one, two, three, four colleagues, ''fairness.'' Did a single one of them express any regret that when Dr. Ford came forward and asked for those who could corroborate her testimony, asked for the Judiciary Committee to hold a hearing with those folks able to testify? Did they express any regret they turned her down?

Even in 1991, the Judiciary Committee brought forward people to corroborate Anita Hill's story. Here we are 27 years later, and we don't treat a woman coming forward to share an experience of sexual abuse—we don't even allow those individuals who can corroborate to testify before the Judiciary Committee.

Did I hear a single Republican stand up and say ''I am embarrassed we treated her so poorly''?

Let's take Debbie Ramirez. She laid out a list of 20 individuals. The Judiciary Committee had a lot to say about her experience. Did they invite her to testify and be able to tell her side of the story? No, they did not. She had a list of 20 individuals who could provide corroborating information. Did they ask a single one of those 20 to come before the committee? Did they allow a single one to come? No, they did not. There was no fairness in that committee. Let's be clear about that.

Let's not hear more highfalutin arguments about fairness from the other side of the aisle when these two women were treated in such an egregious and awful fashion.

Then, there is the phony FBI investigation. I praise my colleague who insisted that the record be reopened, the background check be reopened for the FBI to provide an opportunity to check out these experiences shared by Debbie Ramirez and by Dr. Ford. On a background check, it is not a criminal investigation, and the FBI can't decide who to talk to.

Did I hear a single Member across the aisle express any embarrassment about the fact that they let the President constrain the investigations so not one—not one—of the eight people Dr. Ford asked to be talked to was talked to? Not one. Zero. You call that fair? That is not fair. That is not fair to her, that none of the people she asked to be talked to were talked to.

Did I hear a single person across the aisle express any reservations about the fact that that FBI investigation was so constrained by the President of the United States, with advice from the Republican leadership, that they did not talk to one of the 20 people Debbie Ramirez asked to be talked to about her experiences in college?

You know, 1 of the 20 was a suite mate of Mr. Kavanaugh's. Well, when you go through your freshman year and you are a suite mate, you share a common living area, and there is one bedroom here and one bedroom here, so you are with each other all the time. You know a lot about the other folks. Well, that is a pretty powerful association. That individual is now a professor at Princeton Theological Seminary, and he heard this story when it happened. He heard about it, and he lived right there in the suite, and he thought it was horrific.

I heard some colleagues say there was no one who could substantiate her story. That is simply false, and it is shameful to allege that there is no one when you know there is. It is unacceptable to call something fair when you deliberately instruct or encourage the President to make sure that the people who can provide the information are not talked to.

This individual, now a professor at Princeton Theological Seminary, has a very fine reputation. He was so upset about this, he talked about it with his roommate his first year in graduate school long before Mr. Kavanaugh ever came close to any type of nomination debate. So you can't really say that he made it up now when he told another person about it long ago. And that individual was on the list to be talked to, but did the FBI talk to him? No, because the President wouldn't let the FBI talk to him, and the President consulted with the Republican leadership, and they didn't want anybody talked to who could actually corroborate these stories.

That is a rigged system. For anyone on this floor to say that is anywhere close to a form of justice, that is not true.

These women have been horrifically treated by this Chamber. Just as the country knew Anita Hill was treated so poorly, so will, for decades from now, people talk about the abuse of power that emanated from my colleagues across the aisle against these women.

Across this land right now, women have been reliving their own experiences of abuse. It has been an extraordinarily painful experience. They have been calling our offices. I am sure they have been calling all of our offices. I got on the phone and took many calls today. I heard story after story. It takes a lot of energy out of your heart to listen to individuals say, I am sharing this with you, and they start crying on the phone—person after person.

I also have all of the stories that have been written and sent to me as letters. I thought I would share a few of them with you.

Here is a letter:

> What a farce! The disrespect to Dr. Ford and to victims everywhere. I am sincere in saying that this TRIAL is turning my stomach. I have fought back tears. I am a victim of similar offenses. It is no better, and in some ways worse, that it is a woman going after Dr. Ford in a subtle attempt to cloud the trust of her experience.

Well, what is she referring to when she says it is a woman going after Dr. Ford? She is talking about the fact that the leadership on the Judiciary Committee hired a prosecutor to come

in and act as if Dr. Ford were a criminal on trial and to interrogate her as if she were a criminal on trial. That is what this individual said ''is turning my stomach.'' And it turned my stomach, too, to see that abuse of power here in the U.S. Senate.

Another letter:

Hello, Senator. It has been 21 years since I was raped. I had at the time only shared my story with the emergency room doctors, the police, and my mom. Since it occurred, I have only shared my story with my husband, until this week on Twitter with the ''why I didn't report'' hashtag.

With each new accusation against Brett Kavanaugh, it has forced me to relive all the horrible memories from the night my assailant raped me. This moment in history and the fact that the majority of Republican Senators who have either tried to discredit the women coming forward or victim blame and shame them has literally made the event so fresh in my mind; as though it just happened all over again yesterday.

As like Dr. Ford, the details of dates, exact time, exact clothing, are not extremely forthcoming to my memory, although I remember the colors of what we were both wearing. The fear, his actions, what I was feeling, and what was said during the rape, I will never forget. And I will never forget the smell of the cologne he was wearing and how it makes me physically ill when I smell it to this day.

Kavanaugh can have his fake tears and shout his anger all he wants because I guarantee you, if the man who raped me was trying to get a job on the Supreme Court, and if I had the strength to come forward like Dr. Ford did, then he too would yell and scream at the realization he was being confronted and that it was about to be taken away from him. Not to mention, my sexual assault assailant would NOT require an FBI investigation either.

And what is she referring to there? She is referring to the fact that Dr. Ford took a polygraph exam, and Dr. Ford asked for an FBI investigation. Mr. Kavanaugh did not take a polygraph exam, and Mr. Kavanaugh did not want an FBI investigation. Quite a difference there.

Here is another story:

Five years ago, I was assaulted by a trusted friend in my dorm room. Although I don't recall some critical details, indelible in the hippocampus is the humiliation and fear of retaliation. That is why I never reported, even when school nurses urged me to.

Years later, I suffered PTSD and rarely feel entirely safe.

Watching Kavanaugh's angry, arrogant performance was deeply triggering to me—would my attacker act the same way if I outed him?

And would he also find the support of 33 percent of Americans, just like Kavanaugh?

Until now, I haven't shared that I am a survivor with even the closest of my friends and family. But it is too important to stay quiet now.

Here is another story:

Hello, Senator Merkley. When I was young in the early 1970s, I was raped for an entire year by someone close to our family. I didn't tell. I didn't tell because his warnings and threats were too powerful and frightening for the child that I was.

The man went on to become active in a leadership role. He was, in fact, in a position to give talks about morality and principles, all the while knowing how he affected my life. Because that was the year he took my childhood away.

Watching Dr. Ford's testimony was tough, but I did it.

I always knew if I came forward against the man who did this, it would be his word against mine and as a female, I would lose. So I stayed quiet, never naming him publicly and never will.

But I'm writing today to ask you for two thing, please—if you hear any of your fellow Senators say ''I know his character. He would never do that. He's never done anything like that in front of me,'' please remind them that they don't like witnesses. For me, there was never a hint of an assault until he got me alone.

And if you hear your fellow Senators say, ''But it happened almost 40 years ago,'' please assure them that in the victim's heart, mind and life, it happened last week. It happened yesterday. It happened today. Because you never get past what was done to you. Ever. You can't.

She went on to share that she wrote this letter to me and deleted it and wrote it again and deleted it several times. She had just deleted it again when her husband came in the door carrying a statement that someone had posted on the doors in the neighborhood that happened to have a quote from me, one of her two Senators, and she took it as a sign, and she decided to write that letter again and send it.

She said:

Now maybe what happened to me will bring about some good.

I know all of us are getting letters like this.

When she said she never came forward because it would be ''his word against mine and as a female I would lose,'' she is relating exactly what happened to Dr. Ford.

It was set up he said, she said, with no corroborating witnesses called even though Dr. Ford asked for them. And then because it was he said, she said, my colleagues could stand up and say: Just can't prove it. Can't prove it.

But why didn't my colleagues stand up and say: It is an outrage that we didn't call the people she asked us to call. It is an outrage that there was this phony FBI investigation that didn't talk to any of those people.

What she was talking about right here is how Dr. Ford was treated in this Chamber, that she would lose because men in power would rig the system and find for the man. That is what has happened here.

That is what happened with Ms. Ramirez, Debbie Ramirez. She had corroborating information from the suite mate of Brett Kavanaugh, but we here, this Senate, we rigged the system so that that information could not be considered. That is what this woman is talking about, why she didn't come forward, because it would be her word against a man's. The system would be rigged and would find for the man. That is what is so disturbing to women all over this country—a rigged system, that we couldn't find in our collective judgment, in our collective process, the ability to rise against partisanship and give fair treatment, a fair process, to the individuals who came forward. It may not have changed the course of events and the final vote, but at least women would know we have come from where we were. We may not have been entirely fair to Anita Hill, but we have learned and we have come further. Instead, we did worse. That is a regrettable, powerful consequence of what has happened.

Another constituent wrote to say that although he was not a direct victim of assault, both of his brothers were repeatedly sexually abused by a Catholic priest who spent 8 years in prison for abusing as many as 150 boys. He went on to say that this priest was in charge of a boys' choir even though it was known that he had issues with sexual abuse.

His brothers were part of the choir, and he is troubled, he writes, that his younger brother served in the same choir he did, and even though he was aware there was a problem, he didn't intervene.

He says, referring to the priest:

He ruined our lives. Though I was not directly a victim of his abuse, I carry with me the shame of not knowing to speak up about what I saw.

He says that shame is amplified because his younger brother sang in the same choir for a time.

He goes on to talk about a culture of power and privilege, where people think they can abuse others and get away with it.

He says:

We are seeing this behavior being accepted at the highest level of office in our country.

He goes on to relate that this is similar to the culture of abuse towards women.

He says:

The culture of abuse towards women is being openly perpetuated by the leaders of our country. The people we are supposed to put trust in.

That was the end of his quote.

He went on to say:

I have never felt like it was my story to tell. The only reason I tell it is because it illustrates how dangerous these power structures can be and how easily they can be abused. We have to take great care when choosing who to give great responsibility to.

Have we in this Chamber recognized how easily our power structure can be abused? Did we rise to insist on fairness for individuals who brought their stories forward? Did we insist that they have the opportunity to have their witnesses and corroborating information considered by this Chamber? We did not. We failed them. We failed this country. And when he says that we have to take great care when choosing who to give great responsibility to, he is saying we should have taken great care. And we know that in this particular nomination, there are two powerful pieces of it. One, it is lifetime, so the person will serve for decades. The second is, it is the top Court.

Are there not individuals in this land of hundreds of millions of people who have stellar records of character who could serve on that Court?

I hope that across America, it will come to great discussion and lead to changes in how we think and how we behave. I hope that between now and the vote tomorrow afternoon, there will be some Members of this Chamber who will decide to take seriously the responsibility that we had and that we failed to exercise appropriately. We will decide that, you know what, yeah, we are going to close debate, but we haven't yet voted to put this man on the bench, and with the committee having conducted a completely rigged process, we need to stop and rethink what we are doing and not put Brett Kavanaugh on the Court.

Thank you, Mr. President.

Mr. UDALL. Mr. President, the Supreme Court nomination before us is of historic importance. We have a nominee whose nomination is clouded with credible allegations of sexual assault, whose truthfulness before Congress is questionable, and who showed himself as partisan and lacking in judicial temperament before this body in his supplemental hearing.

As of today, more than 2,400 law professors throughout the country are on record that Judge Kavanaugh's display of lack of judicial restraint during that hearing is disqualifying. The growing list includes professors from all political stripes and professors who had previously supported his nomination. Indeed, former Justice John Paul Stevens, a highly respected jurist, has taken the unusual step of publicly opining the same.

Yesterday, I spoke on the Senate floor about why Judge Kavanaugh should not be confirmed in light of the allegations swirling around him, his lack of candor with this body, and his demeanor during the supplemental hearing. But, Mr. President, on the merits as well, Judge Kavanaugh has not shown himself deserving of elevation to our highest Court.

Let's start with his overly expansive view of Executive power—a view that could shield our current President from being held to account for potential crimes and misdeeds.

Judge Kavanaugh has written and spoken extensively about the need to shield the President from criminal investigation while in office. He is on record that, in his opinion, the President has authority under the Constitution to terminate an independent counsel at will. Indeed, there is probably no other viable candidate to the seat who has argued more strenuously in favor of Presidential immunity and the President's absolute authority to fire a special prosecutor. It is no coincidence, then, that this President, who is under criminal investigation by a special counsel, selected Brett Kavanaugh to sit on the Court.

Judge Kavanaugh is clear that, as a matter of policy, Presidents should be completely immunized from criminal and civil suit while in office. He writes that ''the President should be free from some of the burdens of ordinary citizenship.'' For Judge Kavanaugh, freeing the President of ''burdens'' the rest of us must bear takes precedence over ensuring the President follows the law.

Judge Kavanaugh's supporters point out that his writings in support of broad Presidential immunity represent his policy views, not his constitutional analysis. But his writings do not tell us that he would uphold Special Counsel Mueller's investigation, nor would he tell us during his confirmation hearing that he would hold the President to account for any crimes. In my view, the ''burdens'' of a criminal investigation do not outweigh the dangers of a criminal occupying the Oval Office.

There is nothing in the Constitution that immunizes a President from criminal investigation and prosecution while in office. The drafters knew how to immunize public officials if they wanted. Members of Congress, for example, have express immunity ''from arrest or interrogation for any speech or debate entered into during a legislative session.'' The speech and debate immunity for Congress is narrowly tailored. The drafters gave no immunity—narrow or broad—to the President or members of his Cabinet. While Judge Kavanaugh claims to be a strict constructionist, I have no confidence he would stick to the text of the Constitution and not grant the President immunity.

There is evidence in the public record that close associates and even family of the President may have conspired with Russia, and we have the President's own inexplicable behavior cozying up to and trying to curry favor with Vladmir Putin. There is abundant evidence in the public record that the President has worked to undermine the investigation into Russian interference in our election and investigation into himself. And we have sworn testimony from the President's former personal lawyer that the President directed commission of two campaign-related felonies. If the President has committed crimes, he should be held responsible, just like the rest of us.

Judge Kavanaugh has said he would ''put the final nail in'' Morrison v. Olson. Morrison v. Olson is the 1988, 8-to-1 decision written by Chief Justice Rehnquist that upheld the Independent Counsel Act. That act was passed in the aftermath of Watergate to curb Executive abuse and mitigate the obvious conflict of interest the U.S. Department of Justice would have investigating the President. Judge Kavanaugh sides with the lone dissent in that case and with the idea that the President should be able to fire the person who is investigating him—with no check. If the constitutionality of Special Counsel Mueller's investigation comes before the Supreme Court—and it is likely that it will—there is every reason to believe Justice Kavanaugh would have his chance to hammer in that nail.

Judge Kavanaugh espouses a ''unitary executive'' theory of the separation of powers. Hidden behind this legalese is a simple and dangerous idea: that the President holds absolute power over the executive branch. Under his theory, President Trump could actually fire Special Counsel Mueller because he uncovered wrongdoing by the President. In plain terms, he would let the fox raid the henhouse.

Judge Kavanaugh's theory that the Constitution requires no checks on the President's authority strains that document to the point of breaking. Our entire constitutional system of separation of powers is built on the principle of checks and balances—so that one branch of government does not accumulate and exercise an inordinate amount of power.

Under DOJ regulations, the Attorney General, or Acting Attorney General if the Attorney General is recused, may only appoint a special counsel if it is warranted and there is a conflict with the Department or other ''extraordinary circumstances.'' Only the Attorney General—not the President—may remove a special counsel. And the Attorney General—or in the case of Special Counsel Mueller, the Deputy Attorney General—may only do so for ''misconduct, dereliction of duty, incapacity, conflict of interest, or for other good cause, including violation of Departmental policies.'' The DOJ regulations provide appropriate and constitutionally sound checks on the executive's authority.

The American people deserve to know the truth about Russia's attack on our democracy. They deserve to know whether Candidate Trump or his campaign was part of the attack. And they deserve to know all the facts behind the President's efforts to stop DOJ's investigation into Russian interference and any Trump collusion. The President should not be able to hide the truth and the facts by firing Special Counsel Mueller.

And that is not all. There is open speculation that the President may pardon close associates. His family. Even himself. The new Justice may be called upon to determine the scope of the President's power to pardon and whether that power may be exercised for corrupt purpose. Given Judge Kavanaugh's overly expansive view of Executive authority, I am concerned he would set no limits on the President's power to pardon and would allow a Presidential pardon even if wielded to obstruct justice.

At this point in our history, with so many questions whether the President, his family, or others close to him committed crimes, the American public must be assured that the new Justice will provide a check on the President. And not give him a blank check to commit crimes.

I am proud that New Mexico is a majority minority State, but I am really worried that a Justice Kavanaugh will not protect minority rights. Ten percent of our State's population is Native American. Judge Kavanaugh, however,

has shown a distinct hostility to indigenous people's rights. For example, in Rice v. Cayetano, he argued in the Supreme Court against a voting system limited to Native Hawaiians, arguing they should not be treated like Tribes even though Native Hawaiians and Tribes share a history of forced assimilation. In that case, he represented the Center for Equal Opportunity—a fervently anti-affirmative action group. While the case was pending, he authored an op-ed in the Wall Street Journal arguing that ''any racial group with creative reasoning can qualify as an Indian tribe.'' He called the voting system a ''naked-racial spoils system.'' Such an offensive view demonstrates a level of misunderstanding—perhaps even willful ignorance unworthy of a nominee to our highest Court. While the Court ultimately struck down the voting system, it did not do so on Mr. Kavanaugh's claimed grounds.

Recently disclosed emails that Judge Kavanaugh wrote as a White House lawyer confirm he is a threat to indigenous communities. In his view, if Native peoples are not organized into Tribes and live on reservations, they are not entitled to any special recognition under the law. But not all Tribes are alike. Not all indigenous peoples are organized the same way. Alaska Natives, for example, are organized as Tribes, villages, and regional corporations. Alaska Natives are rightfully concerned whether he will protect their rights.

Bottom line: Judge Kavanaugh questions the constitutionality of programs specifically dedicated to Native Americans—a view that could upend decades of progress for Indian Country on everything from housing to government contracting.

As ranking member of the Committee on Indian Affairs, I wrote to the chair of the Judiciary Committee in August asking for all of Judge Kavanaugh's documents related to Native issues. The Chair refused my request. So we don't even know if we have the full extent of emails and memos from Judge Kavanaugh disparaging Native rights.

But we do know that Judge Kavanaugh is hostile to affirmative action programs. When he was a White House lawyer, he called Department of Transportation regulations designed to remedy past and present discrimination ''a naked racial set-aside.'' But those regulations, which favored ''socially and economically disadvantaged individuals,'' were upheld by the Federal courts under established equal protection principles.

While Judge Kavanaugh advocates strongly for ''race neutrality'' when it comes to distribution of government benefits, he is not so quick to embrace race-neutral policies when it comes to racial profiling. In the aftermath of 9/11, in a series of White House emails labeled ''racial profiling,'' the idea of long-term use of racial profiling at airports and by law enforcement was raised. Mr. Kavanaugh responded that ''the people (such as you and I) who generally favor effective security measures that are race-neutral in fact DO need to grapple—and grapple now—with the interim question of what to do before a truly effective and comprehensive race-neutral system is developed and implemented.'' In other words, maybe we use racial profiling in the interim because coming up with a race-neutral system is so hard.

In New Mexico, almost 49 percent of our population is Hispanic—the largest percentage of any State. If we were to accept racial profiling in New Mexico—coupled with our Native population and other minority groups—over 62 percent of our population would be targeted. That would be wholly unacceptable, as would be doing away with Federal and State programs intended to redress past and present discrimination.

One of the most critical roles the courts play is protecting minority rights, but Judge Kavanaugh's record does not demonstrate he will fulfill this role. He simply doesn't appear to understand or to appreciate the discrimination, oppression, the assault that Native peoples, Hispanics, African Americans, and other groups have faced over time and continue to face. Supreme Court equal protection jurisprudence is informed by this history.

Whether it is affirmative action, voting rights, or redistricting, we must have a Justice on the Court who protects minority rights, and Judge Kavanaugh has not shown himself to be that Justice.

The same is true for women's reproductive rights. Trump the candidate promised only to appoint Justices who would overturn Roe v. Wade. Potential Supreme Court candidates can only make it onto the Federalist Society list if they will vote to overturn Roe.

Judge Kavanaugh's record does not bode well for women's rights. He tried to stand in the way of a 17-year-old pregnant girl, an immigrant held in Federal detention, who wanted an abortion. He would have required her to find a ''sponsor'' in the United States who would provide housing for her and allow her to terminate her pregnancy. And if the Federal Government couldn't find a sponsor, the young woman could return to the district court in 2 weeks. Of course, the longer a pregnancy continues, the greater the risk to the woman's health and safety.

Judge Kavanaugh did not believe these onerous, bureaucratic requirements represented an ''undue burden'' on the young woman's constitutional right to terminate her pregnancy. Fortunately, however, the full DC Court of Appeals did. They quickly overturned the decision and allowed the young woman to immediately exercise her right.

The American public—Democrats, Republicans, and independents—support a woman's right to choose. If Judge Kavanaugh would have this country go back to the days of back-alley abortions, he should have said so during his confirmation hearings, but he would not. I cannot vote for a nominee who is not willing to affirm a woman's right to choose.

A woman's reproductive right is not the only health care right at risk with Judge Kavanaugh's nomination. Our entire system of health care rights and benefits under the Affordable Care Act is in jeopardy. A group of Republican attorney General and Governors has filed suit to gut critical ACA protections. They want to take away protections from the millions of Americans with preexisting conditions and allow insurance companies to discriminate on this basis again. They want to take away the prohibition against lifetime limits on benefits, and go back to the days when you could get booted off insurance because you have high medical expenses. They want to take away the right to cover children up to age 26, to get free preventive care, and prescription drug coverage for seniors. And they want to eviscerate Medicaid expansion, which has given 11 million Americans healthcare they didn't have before.

The Trump administration has sided with the Republican attorney Generals and Governors who want to decimate our health care system despite the President's repeated campaign promises to cover everyone, protect people with preexisting illnesses, and cover children up to age 26.

This case is now before a Federal court in Texas and will likely make its way to the Supreme Court. We do not want a Justice who sides with corporate interests over consumers, who is willing to throw statutory language and constitutional principles aside to get the results he wants. I am concerned that a Justice Kavanaugh would do the President's bidding and gut critical health care rights that Congress has enacted and that the American people overwhelmingly stand by.

But there is more at stake. In his legal opinions, Judge Kavanaugh inevitably sides with business and against the environment, workers, and consumers. His environmental record deserves a spotlight. Interpreting environmental statutes, Judge Kavanaugh will veer far from the legal text he claims to honor to reach the result he wants. For example, Judge Kavanaugh once blocked the Environmental Protection Agency from protecting ''downwind'' states from nitrogen oxide and sulfur dioxide coming from ''upwind'' States under the ''Good Neighbor Provision'' of the Clean Air Act. Nitrogen oxide and sulfur dioxide develop into ozone and cause respiratory illnesses and other health problems. However, the Supreme Court reversed Judge Kavanaugh. In a 6-to-2 decision that included justice Kennedy and Chief Justice Roberts in the majority, the Court found that Judge Kavanaugh ''rewrites a decades-old statute whose plain text and structure'' are clear.

In case after case, whether in dissent or the majority, Judge Kavanaugh votes against the environment and with industry. He voted to invalidate EPA rules to regulate emission of greenhouse gasses by plants and factories, to overturn EPA's mercury and air toxics standards limiting hazardous emissions from powerplants, to allow EPA to delay implementation of its methane control rule, to overturn an EPA rule regulating greenhouse gas emissions from cars and trucks, to overturn an EPA decision to revoke a coal company permit that would harm the environment. This is not the record the American people want from a Justice likely to rule for decades on the most important environmental law cases.

His record on matters addressing climate change is especially troubling. Climate change can hit minorities and low-income communities the hardest. In New Mexico, traditional land grant and acequia communities depend on the land to sustain their families. The climate change-induced drought we are experiencing in New Mexico and the Southwest threatens our way of life.

If we are looking for a Justice who will put balance back into our campaign finance system, Judge Kavanaugh is not a likely candidate. He has been clear that he believes that money equals free speech. So it is a good bet he will not scrutinize Citizens United or the other Supreme Court cases that now allow unlimited, dark money to run roughshod over our campaigns and tear at the fabric of our democracy. Our campaign finance system is broken beyond repair. Unless we change the rules—either through Supreme Court decision or congressional action and constitutional amendment—we will continue to see the kinds of perverse results we now see where a few superwealthy individuals and big corporations drown out the many. But we are pretty much assured that a Justice Kavanaugh will not change the rules that now allow unfettered dark money to pollute our elections.

It is hard to overstate the importance of the Supreme Court nomination before the Senate. New Mexicans and the American people want a nominee who has been 100 percent honest, whose nomination is not tainted by credible allegations of sexual assault and misconduct. New Mexicans and the American people want a nominee who will act as a check on the powerful, but President Trump chose this nominee to do the opposite.

At this critical point in our Nation's history—when we have a President who is under DOJ investigation for conspiracy with Russia to undermine our national election and obstruction of justice, who may have broken campaign finance laws to win the Presidency—we must have Justices on the Court who believe in the rule of law, who believe that no one is above the law, even the President. At this historic juncture, the American people must have assurance that any judicial nominee will hold the President true to our laws, true to our Constitution, but Judge Kavanaugh cannot give the American people this assurance, and I cannot support his nomination.

MORNING BUSINESS

200TH ANNIVERSARY OF BROWN BROTHERS HARRIMAN & CO.

Mr. SCHUMER. Mr. President, I would like to bring the Senate's attention to the 200th anniversary of the New York City-based institution, Brown Brothers Harriman & Co. The firm, which was founded in 1818, is still in operation in the United States and has had a major presence in New York.

The firm evolved from a 19th-century family-operated linen import business among Brown relatives in Northern Ireland, Liverpool, Baltimore, Philadelphia, and New York City and is one of the world's storied financial houses. The first office in New York was located at 191 Pearl Street near the wharfs of South Street. By 1835, the firm had moved to Wall Street as the city experienced the growth in trade from the recently completed Erie Canal and innovations in overseas shipping.

Philanthropy has been a passion of the partners who were early benefactors of the Union Theological Seminary, as well as founders of the New York Association for Improving the Condition of the Poor. Brown Brothers partners also served on a council whose work led to the enactment of New York State's first tenement house law in 1867.

On October 5, family and partners of the firm will gather to celebrate 200 years of their banking history. I wish them congratulations.

ENDANGERED SPECIES ACT

Mr. BARRASSO. Mr. President, today I wish to submit for the RECORD a column written by Mr. Dennis Sun, a Wyoming journalist and rancher, entitled ''The Act is Broken.'' The article was published in the Wyoming Livestock Roundup on August 29, 2018.

Since its passage in 1973, the Endangered Species Act has contributed to the recovery of iconic species like the bald eagle. It has been an important conservation tool, but it is in need of an update.

Wyoming has invested more than $50 million for the recovery of the grizzly bear alone. Twice in the last decade, the U.S. Fish and Wildlife Service has found that the grizzly bear met all recovery targets and no longer should be protected as ''threatened'' under the Endangered Species Act. Courts have twice overturned the delisting decisions and, in so doing, undermined the expert opinion of wildlife biologists who set, approved, and met recovery goals.

Mr. Sun's article highlights the case of the grizzly bear as a prime example for why my efforts to give states more opportunities to engage in conservation under the act have merit. The successful recovery of the grizzly bear took decades, but I am hopeful we will be able to improve the act and improve conservation much faster.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Wyoming Livestock Roundup, Aug. 29, 2018]

THE ACT IS BROKEN

(By Dennis Sun, Publisher)

On Sept. 24, U.S. District Court Judge Dana Christensen issued his decision that stopped the delisting of the Greater Yellowstone Ecosystem grizzly bear.

This ruling was not unexpected, as Judge Christensen had already ruled twice to postpone the planned grizzly bear hunting seasons.

The case was brought by some wildlife advocates and a couple of tribes. They argued the bears face continued threats from climate change and loss of habitat. The case was based on more procedural action that they felt was not included the delisting study. During this trial, the questions Judge Christensen asked gave lawyers for Wyoming and the Mountain States Legal Foundation the notion he was going to rule against the state, and he did. An appeal to the Ninth Circuit Court in San Francisco, Calif. is most likely not going to happen, as that court doesn't rule in favor of the western states often. The Ninth Circuit tends to be pretty liberal in its views.

The grizzly bear is now under the jurisdiction of the U.S. Fish and Wildlife Service (FWS).

Gov. Matt Mead said, ''I am disappointed with this decision. Grizzly bear recovery should be viewed as a conservation success story. Due to Wyoming's investment of approximately $50 million for recovery and management, grizzly bears have exceeded every scientifically established recovery criteria in the Greater Yellowstone Ecosystem since 2003. Numbers have risen from as few as 136 bears when they were listed in 1975, to more than 700 today.''

Gov. Mead also noted, ''Biologists correctly determined grizzly bears no longer needed Endangered Species Act (ESA) protections. The decision to return grizzly bears to the list of threatened and endangered species is further evidence the ESA is not working as its drafters intended. Congress should modernize the ESA so we can celebrate successes and focus our efforts on species in need.''

Government biologists contended that Yellowstone's grizzlies were thriving, having adapted to changes in their diet and are among the best managed bears in the world. If the judge's ruling would have different, FWS would have also lifted federal protection for around 1,000 grizzly bears in the Glacier National Park and the Bob Marshall Wilderness Area of Montana, but the ruling stopped that, as well.

Just like dealing with the wolf issues, this ruling will take some time to get straightened out. Hopefully President Trump, our Congress, Sen. Barrasso and other states will get an improved and revised ESA bill passed—that is what it will take to delist bears. More states are having issues with endangered species. In Washington, ranchers see wolf predation on livestock, so we should have more sympathy to get ESA corrected.

There is a big push today that says many of the risks faced by many species today result from habitat modifications caused by

climate change. Well, if the habitat is changing, usually the species will adapt also. Studies show that is happening. If the grizzly bears are short of white bark pine nuts, that doesn't mean they can compensate by eating livestock or attacking people. Let's be reasonable about this.

REMEMBERING DWIGHT D. EISENHOWER

Mr. ROBERTS. Mr. President, this Sunday, October 14, 2018, we celebrate the 128th birthday of General and President Dwight D. Eisenhower. The last President born, in the 19th century, Ike came of age in both a changing nation and an ever-shrinking world. As Kansas' favorite son, Ike left an indelible mark on the Nation and on the world, from being appointed Supreme Allied Commander during the Second World War, to being duly elected as our President. Ike's character-driven experiences guided him in all of his workings.

Many remember important dates and events surrounding the life of General and President Eisenhower, but October 14, 1890, was probably like any other day in this changing Nation, and the world could not know that one of its staunchest supporters of peace and prosperity would be birthed on that day. President Eisenhower once said, ''When you finally find something that must be done, impossibilities disappear and become merely major obstacles.'' This determination and dedicated belief in America brought Ike from our Nation's heartland in Abilene, KS, to the U.S. Military Academy, to an extraordinary career in the Army, and to the Nation's Capital as a newly elected President.

Among many attributes, Eisenhower embodied the undying American ideal that calls us to achieve more than the previous generation and to strive for a safer and more prosperous world for generations to come. Ike believed this to be his prime duty, and his determination and ability enabled him to achieve that goal. Eisenhower's historical achievements earned him the respect of most citizens in this Nation and from many around the globe.

As Americans, we owe a great deal to the man who led the U.S. and Allied Forces in the liberation of Europe and expelled from the world the evil of Hitler's Nazism. Moreover, Ike's legacy as President included the creation of the Interstate Highway System, NASA, the Department of Health, Education, and Welfare, now known as HHS and the Department of Education, and the FAA. He also brought Alaska and Hawaii into the Union.

As the chairman of the Dwight D. Eisenhower Memorial Commission, I am pleased to report that the national memorialization of President and General Eisenhower is well underway and that the construction of the memorial honoring Ike is near the halfway point of completion. We have a dedication scheduled for May 8, 2020, marking the 75th anniversary of the Allied victory in Europe during the Second World War.

Today I ask my fellow citizens and Senators to celebrate and memorialize this outstanding president, Kansan, and American by wishing Ike a happy 128th birthday.

ADDITIONAL STATEMENTS

RECOGNIZING CENTRAL VALLEY SCHOOL

● Ms. HEITKAMP. Mr. President, I want to congratulate the students, faculty, and parents of Central Valley School, located in Buxton, North Dakota, on being awarded the 2018 National Blue Ribbon School Award.

Founded in 1982, the National Blue Ribbon Schools Program recognizes public and private elementary, middle, and high schools where students perform at very high levels or where significant improvements are being made in students' academic achievement. A National Blue Ribbon Schools flag overhead has become a mark of excellence in education recognized by everyone from parents to policymakers in thousands of communities. Since the program's founding, the U.S. Department of Education has bestowed this coveted award to more than 8,500 of America's best schools.

Central Valley School serves roughly 196 students and was one of three schools in North Dakota to receive the honor of Exemplary High Performing School in 2018. Receiving recognition as a National Blue Ribbon School signifies the hard work and dedication of the educators, students and parents involved, and I have no doubt the students at Central Valley School are on a path to success. At Central Valley School, teachers focus on each individual student using their multi-tiered system of support. This personalized teaching can consist of one-on-one with students to focused instructional help from a web-based program. The faculty meets eight times a year to assess what certain students might need to be successful. Central Valley's innovative commitment to developing student potential has resulted in high student outcomes for which we can all be proud.

Central Valley School holds true to its motto, ''A Commitment to Educational Excellence for Students, Staff, and Community: Achievement; Enhancement; Involvement,'' by constantly looking at the needs of each individual student. I wish the very best to the community of Buxton and congratulations to all engaged at Central Valley School for achieving this high honor. Thank you for your commitment to our children and leaders of tomorrow.●

RECOGNIZING FREEDOM ELEMENTARY SCHOOL

● Ms. HEITKAMP. Mr. President, I want to congratulate the students, faculty, and parents of Freedom Elementary School, located in West Fargo, ND, on being awarded the 2018 National Blue Ribbon School Award.

Founded in 1982, the National Blue Ribbon Schools Program recognizes public and private elementary, middle, and high schools where students perform at very high levels or where significant improvements are being made in students' academic achievement. A National Blue Ribbon Schools flag overhead has become a mark of excellence in education recognized by everyone from parents to policymakers in thousands of communities. Since the program's founding, the U.S. Department of Education has bestowed this coveted award to more than 8,500 of America's best schools.

Freedom Elementary School serves nearly 495 students and was one of 3 schools in North Dakota to receive the honor of Exemplary High Performing School in 2018. Receiving recognition as a National Blue Ribbon School signifies the hard work and dedication of the educators, students, and parents involved, and I have no doubt the students at Freedom Elementary are on a path to success. The school's theme is RICK, which stands for respect, inclusion, compassion, and kindness, which helps ensure all students have the best possible learning environment and treat each other with dignity. They have been successful in developing caring, thoughtful, and respectful students through promoting the RICK philosophy and by incentivizing good behavior and promoting togetherness with various awards and competitions.

The West Fargo Public Schools mission statement reads, ''Educating today's learners for tomorrow's world.'' This mission embodies all that Freedom Elementary is working to accomplish by providing a healthy and respectful learning environment that leads to success. I wish the very best to the community of West Fargo and congratulations to all engaged at Freedom Elementary for achieving this high honor. Thank you for your commitment to our children and leaders of tomorrow.●

RECOGNIZING RICHLAND ELEMENTARY SCHOOL

● Ms. HEITKAMP. Mr. President, I want to congratulate the students, faculty, and parents of Richland Elementary School, located in Abercrombie, ND, on being awarded the 2018 National Blue Ribbon School Award.

Founded in 1982, the National Blue Ribbon Schools Program recognizes public and private elementary, middle, and high schools where students perform at very high levels or where significant improvements are being made in students' academic achievement. A National Blue Ribbon Schools flag overhead has become a mark of excellence in education recognized by everyone from parents to policymakers in thousands of communities. Since the

program's founding, the U. S. Department of Education has bestowed this coveted award to more than 8,500 of America's best schools.

Richland Elementary School serves roughly 152 students and was one of 3 schools in North Dakota to receive the honor of Exemplary High Performing School in 2018. Receiving recognition as a National Blue Ribbon School signifies the hard work and dedication of the educators, students and parents involved, and I have no doubt its students are on a path to success. To effectively bolster reading and writing skills, the school utilizes Sails Literacy which immerses students in oral, written, and visual language. The ability to personalize each student's learning plan helps ensure they are performing to the best of their abilities. Additionally, the school receives constant feedback from teachers on the Sails Literacy program, which allows for the program to be molded to fit new classes. The faculty, staff, and community of Abercrombie are leading the way on literary education in North Dakota, and this innovation serves as a model that all schools can look towards when finding new ways to promote student growth and development.

The Richland #44 School District mission statement reads, ''Students will be taught the skills and gain the knowledge to experience success, positive self-worth, and become responsible citizens in society.'' Richland Elementary School has done an excellent job at providing a positive and enriching learning environment for their students. I wish the very best to the community of Abercrombie and congratulations to all engaged at Richland Elementary School for achieving this high honor. Thank you for your commitment to our children and leaders of tomorrow.●

TRIBUTE TO MASON WILLIAMS ANDREWS

● Mr. KENNEDY. Mr. President, I rise today to welcome home and congratulate a young man from my home State of Louisiana, Mr. Mason Williams Andrews. Mr. Andrews just achieved his mission of setting a new world record as the youngest solo pilot to complete a circumnavigation of the globe, as Mason is about 4 months younger than the current record holder.

Mr. Andrews set out on July 22, on ''Mason's MedCamps Mission'' from Monroe, LA, in an effort to achieve the new world record, as well as raise funding and awareness about MedCamps, which is a summer camp for children with disabilities and illnesses. Today Mr. Andrews has achieved both of his goals and will make his official and final landing in Monroe tomorrow morning, Saturday, October 6.

It is my honor to recognize Mr. Andrews on a job well done. We are grateful for his safe return and applaud his courageous efforts to help a worthy cause by raising over $25,000 for MedCamps throughout his 2 month journey.

On behalf of the people of Louisiana, I would like to express my congratulations to Mason and thank him for his efforts in helping MedCamps continue their mission of serving children.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

In executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOEVEN, from the Committee on Indian Affairs, without amendment:

H.R. 597. A bill to take lands in Sonoma County, California, into trust as part of the reservation of the Lytton Rancheria of California, and for other purposes (Rept. No. 115–344).

By Mr. CORKER, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

H.R. 600. A bill to promote Internet access in developing countries and update foreign policy toward the Internet, and for other purposes.

S. 1862. A bill to amend the Trafficking Victims Protection Act of 2000 to modify the criteria for determining whether countries are meeting the minimum standards for the elimination of human trafficking, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. RISCH:

S. 3552. A bill to amend the Small Business Act to adjust the real estate appraisal thresholds under the 7(a) program of the Small Business Administration to bring those thresholds into line with the thresholds used by the Federal banking regulators, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. RISCH:

S. 3553. A bill to amend the Small Business Act to adjust the real estate appraisal thresholds under the section 504 program of the Small Business Administration to bring those thresholds into line with the thresholds used by the Federal banking regulators, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. KENNEDY (for himself and Mr. RUBIO):

S. 3554. A bill to extend the effective date for the sunset for collateral requirements for Small Business Administration disaster loans; to the Committee on Small Business and Entrepreneurship.

By Mr. CASEY:

S. 3555. A bill to amend the Older Americans Act of 1965 to establish the Office of Older LGBT Policy and a rural outreach grant program carried out by such Office, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BLUMENTHAL (for himself and Mr. MURPHY):

S. 3556. A bill to provide disaster relief assistance to individuals for the purpose of clearing fallen debris, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KING (for himself, Ms. HASSAN, Mr. CASEY, and Mr. HEINRICH):

S. 3557. A bill to strengthen and improve local and regional workforce and economic competitiveness and resilience, and for other purposes; to the Committee on the Judiciary.

By Ms. HIRONO (for herself, Ms. CORTEZ MASTO, Ms. HARRIS, Mr. MERKLEY, Mr. BLUMENTHAL, Ms. KLOBUCHAR, Mr. BOOKER, and Ms. SMITH):

S. 3558. A bill to provide for enhanced protections for vulnerable alien children, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 329

At the request of Ms. CORTEZ MASTO, her name was added as a cosponsor of S. 329, a bill to place restrictions on the use of solitary confinement for juveniles in Federal custody.

S. 339

At the request of Mr. NELSON, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 339, a bill to amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 1862

At the request of Mr. CORKER, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1862, a bill to amend the Trafficking Victims Protection Act of 2000 to modify the criteria for determining whether countries are meeting the minimum standards for the elimination of human trafficking, and for other purposes.

S. 2752

At the request of Mr. VAN HOLLEN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2752, a bill to provide a Federal charter to the Fab Foundation for the National Fab Lab Network, a national network of local digital fabrication facilities providing universal access to advanced manufacturing tools for learning skills, developing inventions, creating businesses, and producing personalized products, and for other purposes.

S. 2784

At the request of Mr. HELLER, the names of the Senator from Colorado

(Mr. GARDNER), the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Nevada (Ms. CORTEZ MASTO) were added as cosponsors of S. 2784, a bill to reauthorize the Family Violence Prevention and Services Act.

S. 2971

At the request of Mr. BOOKER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2971, a bill to amend the Animal Welfare Act to prohibit animal fighting in the United States territories.

S. 3172

At the request of Mr. PORTMAN, the name of the Senator from Nevada (Ms. CORTEZ MASTO) was added as a cosponsor of S. 3172, a bill to amend title 54, United States Code, to establish, fund, and provide for the use of amounts in a National Park Service Legacy Restoration Fund to address the maintenance backlog of the National Park Service, and for other purposes.

S. 3257

At the request of Mr. CRUZ, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from New Jersey (Mr. BOOKER) were added as cosponsors of S. 3257, a bill to impose sanctions on foreign persons responsible for serious violations of international law regarding the protection of civilians during armed conflict, and for other purposes.

S. 3507

At the request of Mr. BROWN, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 3507, a bill to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to prescribe regulations providing that a presumption of service connection is warranted for a disease with a positive association with exposure to a herbicide agent, and for other purposes.

S. RES. 633

At the request of Mrs. MCCASKILL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 633, a resolution expressing the sense of the Senate that Congress should take all appropriate measures to ensure that the United States Postal Service remains an independent establishment of the Federal Government and is not subject to privatization.

S. RES. 667

At the request of Mr. PERDUE, the name of the Senator from Oklahoma (Mr. LANKFORD) was added as a cosponsor of S. Res. 667, a resolution condemning persecution of religious minorities in the People's Republic of China and any actions that limit their free expression and practice of faith.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4046. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 3342, to impose sanctions on foreign persons that are responsible for gross violations of internationally recognized human rights by reason of the use by Hizballah of civilians as human shields, and for other purposes; which was referred to the Committee on Foreign Relations.

SA 4047. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 3342, supra; which was referred to the Committee on Foreign Relations.

TEXT OF AMENDMENTS

SA 4046. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 3342, to impose sanctions on foreign persons that are responsible for gross violations of internationally recognized human rights by reason of the use by Hizballah of civilians as human shields, and for other purposes; which was referred to the Committee on Foreign Relations; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sanctioning the Use of Civilians as Defenseless Shields Act''.

SEC. 2. STATEMENT OF POLICY.

It shall be the policy of the United States to officially and publicly condemn the use of innocent civilians as human shields.

SEC. 3. IMPOSITION OF SANCTIONS WITH RESPECT TO FOREIGN PERSONS THAT ARE RESPONSIBLE FOR THE USE OF CIVILIANS AS HUMAN SHIELDS.

(a) IMPOSITION OF SANCTIONS.—

(1) MANDATORY SANCTIONS.—The President shall impose sanctions described in subsection (d) with respect to each person on the list required under subsection (b).

(2) PERMISSIVE SANCTIONS.—The President may impose sanctions described in subsection (d) with respect to each person on the list described in subsection (c).

(b) MANDATORY SANCTIONS LIST.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a list of the following:

(1) Each foreign person that the President determines, on or after the date of the enactment of this Act—

(A) is a member of Hizballah or is knowingly acting on behalf of Hizballah; and

(B) knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack.

(2) Each foreign person that the President determines, on or after the date of the enactment of this Act—

(A) is a member of Hamas or is knowingly acting on behalf of Hamas; and

(B) knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack.

(3) Each foreign person or agency or instrumentality of a foreign state that the President determines, on or after the date of the enactment of this Act, knowingly and materially supports, orders, controls, directs, or otherwise engages in—

(A) any act described in subparagraph (B) of paragraph (1) by a person described in that paragraph; or

(B) any act described in subparagraph (B) of paragraph (2) by a person described in that paragraph.

(c) PERMISSIVE SANCTIONS LIST.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the President should submit to the appropriate congressional committees a list of each foreign person that the President determines, on or after the date of the enactment of this Act, knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack, excluding foreign persons included in the most recent list under subsection (b).

(d) SANCTIONS DESCRIBED.—The sanctions to be imposed on a foreign person or an agency or instrumentality of a foreign state under this subsection are the following:

(1) BLOCKING OF PROPERTY.—The President shall exercise all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in property and interests in property of the foreign person or agency or instrumentality of a foreign state if such property or interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(2) ALIENS INELIGIBLE FOR VISAS, ADMISSION, OR PAROLE.—

(A) VISAS, ADMISSION, OR PAROLE.—An alien who the Secretary of State or the Secretary of Homeland Security determines is subject to sanctions under subsection (a) is—

(i) inadmissible to the United States;

(ii) ineligible to receive a visa or other documentation to enter the United States; and

(iii) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(B) CURRENT VISAS REVOKED.—Any visa or other documentation issued to an alien who is subject to sanctions under subsection (a), regardless of when such visa or other documentation was issued, shall be revoked and such alien shall be denied admission to the United States.

(C) EXCEPTION TO COMPLY WITH UNITED NATIONS HEADQUARTERS AGREEMENT AND OTHER INTERNATIONAL OBLIGATIONS.—The sanctions under this paragraph shall not be imposed on an individual if admitting such individual to the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or with other applicable international obligations.

(e) PENALTIES.—The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that knowingly violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed to carry out this section to the same extent that such penalties apply to a person that knowingly commits an unlawful act described in section 206(a) of such Act.

(f) PROCEDURES FOR JUDICIAL REVIEW OF CLASSIFIED INFORMATION.—

(1) IN GENERAL.—If a finding under this section, or a prohibition, condition, or penalty imposed as a result of any such finding, is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)) and a court reviews the finding or the imposition of the prohibition, condition, or penalty, the President may submit such information to the court ex parte and in camera.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to confer or imply any right to judicial review of any finding under this section or any prohibition,

condition, or penalty imposed as a result of any such finding.

(g) WAIVER.—The President may waive the application of sanctions under this section if the President determines and reports to the appropriate congressional committees that such waiver is in the national security interest of the United States.

(h) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The President may exercise all authorities under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) for purposes of carrying out this section.

(2) ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the President shall prescribe such regulations as may be necessary to implement this section.

(i) RULE OF CONSTRUCTION.—Nothing in this section may be construed—

(1) to limit the authorities of the President pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or any other relevant provision of law; or

(2) to apply with respect to any activity subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.), or to any authorized intelligence activities of the United States.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMITTED; ALIEN.—The terms ''admitted'' and ''alien'' have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE.—The term ''agency or instrumentality of a foreign state'' has the meaning given that term in section 1603(b) of title 28, United States Code.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term ''appropriate congressional committees'' means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate; and

(B) the Committee on Financial Services, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives.

(4) FOREIGN PERSON.—The term ''foreign person'' means—

(A) any citizen or national of a foreign state, wherever located; or

(B) any entity not organized solely under the laws of the United States or existing solely in the United States.

(5) HAMAS.—The term ''Hamas'' means—

(A) the entity known as Hamas and designated by the Secretary of State as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

(B) any person identified as an agent or instrumentality of Hamas on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Asset Control of the Department of the Treasury, the property or interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(6) HIZBALLAH.—The term ''Hizballah'' means—

(A) the entity known as Hizballah and designated by the Secretary of State as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

(B) any person identified as an agent or instrumentality of Hizballah on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Asset Control of the Department of the Treasury, the property or interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(7) UNITED STATES PERSON.—The term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.

SEC. 5. SUNSET.

This Act shall cease to be effective on December 31, 2023.

SA 4047. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 3342, to impose sanctions on foreign persons that are responsible for gross violations of internationally recognized human rights by reason of the use by Hizballah of civilians as human shields, and for other purposes; which was referred to the Committee on Foreign Relations; as follows:

Amend the title so as to read: ''An Act to impose sanctions with respect to foreign persons that are responsible for using civilians as human shields, and for other purposes.''.

PRIVILEGES OF THE FLOOR

Ms. HIRONO. Mr. President, I ask unanimous consent that Jeffrey Hantson, a law fellow, and Kai Bostock, a law clerk in my office, be permitted floor access for the remainder of debate on the nomination of Brett Kavanaugh to the Supreme Court.

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

Mr. LEE. Mr. President, I ask unanimous consent that floor privileges be granted to Sean Pugh, Marc Marie, and Jared Kelson for the duration of this Congress.

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

Mr. BOOKER. Mr. President, I would ask unanimous consent that two members of my staff, Sophia Brill and Daniel Schuker, be granted floor privileges for the remainder of the postcloture time on the nomination.

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

NOMINATIONS

Executive nominations received by the Senate:

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOSEPH BRUCE HAMILTON, OF TEXAS, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2022, VICE DANIEL J. SANTOS, TERM EXPIRED.

JESSIE HILL ROBERSON, OF VIRGINIA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2023. (REAPPOINTMENT)

LISA VICKERS, OF TEXAS, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2021, VICE JOSEPH BRUCE HAMILTON, TERM EXPIRED.

DEPARTMENT OF ENERGY

RITA BARANWAL, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (NUCLEAR ENERGY), VICE PETER BRUCE LYONS, RESIGNED.

FEDERAL ENERGY REGULATORY COMMISSION

BERNARD L. MCNAMEE, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2020, VICE ROBERT F. POWELSON, RESIGNED.

DEPARTMENT OF STATE

RONALD DOUGLAS JOHNSON, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

DEPARTMENT OF JUSTICE

DONALD W. WASHINGTON, OF TEXAS, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE, VICE STACIA A. HYLTON.

ELECTION ASSISTANCE COMMISSION

BENJAMIN HOVLAND, OF MARYLAND, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM EXPIRING DECEMBER 12, 2019, VICE ROSEMARY E. RODRIGUEZ, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN N. T. SHANAHAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KEVIN B. SCHNEIDER

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. STEPHEN J. HAGER
BRIG. GEN. MARY K. LEAHY
BRIG. GEN. GABRIEL TROIANO
BRIG. GEN. JONATHAN WOODSON

To be brigadier general

COL. TINA B. BOYD
COL. BRIAN T. CASHMAN
COL. WALTER M. DUZZNY
COL. ERIC FOLKESTAD
COL. ERNEST LITYNSKI
COL. NELSON G. ROSEN

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIG. GEN. LAURA L. YEAGER

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. MICHAEL M. GILDAY

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be major

SUNG–YUL LEE

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

HAROLD E. TURKS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C. SECTION 624:

To be colonel

BENJAMIN M. LIPARI
KYLE A. MCFARLAND
CHRISTOPHER L. PAONE
GREGORY S, SOULE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

JENNIFER L. WRIGHT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

CHRISTIAAN D. TAYLOR

FOREIGN SERVICE

THE FOLLOWING–NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE TO BE A CONSULAR OFFICER AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ZACHARY MAXWELL ABERMAN, OF THE DISTRICT OF COLUMBIA
RANISSA VALETYA ADITYAVARMAN, OF NEW YORK
JULIE SOO JUNG AHN, OF MASSACHUSETTS
ANDREA NICOLE ARANGO, OF THE DISTRICT OF COLUMBIA
DAWN THERESA ARGENZIANO, OF FLORIDA
PAULA MARIE ARMSTRONG, OF NORTH CAROLINA
LOCHLAN K. ARMSTRONG, OF VIRGINIA
JOEL ZIGGY F. ARUTA II, OF MARYLAND
AMY L. BAKER, OF VIRGINIA
EVELYN VERONICA BALDWIN, OF VIRGINIA
BRANDON THOMAS BALKIND, OF VIRGINIA
BRITTANY E. BARBER, OF VIRGINIA
MICHAEL ARTHUR BARICS, OF VIRGINIA
TROY THOMAS BATTAGLIA, OF NEW YORK
RAVINDER BEDI, OF VIRGINIA
GAYRON L. BERMAN, OF MARYLAND
JOSEPH BLOUNT, JR., OF MARYLAND
MICHAEL BLYZNIUK, OF VIRGINIA
JONATHAN MARK BRADFORD, OF VIRGINIA
LAWRENCE ALLEN BROWN, OF MARYLAND
MICHAEL CARL BUDD, OF NEW YORK
DAVID LEONARD BURGIN, JR., OF MARYLAND
KAITLIN SHAY BURROUGHS, OF VIRGINIA
CHRISTIAN JAMES BURSTALL, OF TEXAS
CASSANDRA SUE BYRNE–FINLEY, OF VIRGINIA
BRENDA MICHELLE CAIN, OF MISSOURI
MARY PATRICIA CALANDRA, OF MARYLAND
NICOLE PAIGE CANELLAS, OF FLORIDA
CAROLINE CERQUEIRA, OF VIRGINIA
MARTIN H. CHO, OF VIRGINIA
KATHARINE S. CHRISTENSEN, OF VIRGINIA
LUKE ALAN CIRIACKS, OF VIRGINIA
ALEXIS RAMARA COLEMAN, OF TEXAS
WESLEY SCOTT COLLINS, OF VIRGINIA
RACHEL ANN COMICK, OF VIRGINIA
KRAIG CLANCY COOK, OF WASHINGTON
SELICIA M. COPENING, OF VIRGINIA
REINALDO CORIANO, OF VIRGINIA
RYAN JOHN COSTELLO, OF VIRGINIA
DANIEL YARROW COULTER, OF VIRGINIA
JARROD CHRISTOPHER CROCKETT, OF MARYLAND
JEFFREY SAM CROZIER, OF VIRGINIA
WILLIAM SELDEN CULLEN, OF VIRGINIA
CRAIG NATHANIEL DEATRICK, OF CALIFORNIA
JACLYN CICHON DECKER, OF VIRGINIA
TRAVIS MARK DESKINS, OF VIRGINIA
JUSTIN ARNOLD DOOR, OF VIRGINIA
KEVIN P. DOYLE, OF ALABAMA
CHRISTOPHER JON EGAAS, OF GEORGIA
MARY ELIZABETH EILAND, OF VIRGINIA
KATE MACDONELL EKLIN, OF MINNESOTA
JENNIFER L. ELKSNITIS, OF VIRGINIA
DONALD AL ENGELMEIER, OF VIRGINIA
CHAD WARREN ENSLEY, OF VIRGINIA
ALYSSA ROSE EVANS, OF VIRGINIA
DOUGLAS AARON FACTOR, OF DELAWARE
SEAN M. FAULKNER, OF VIRGINIA
ALISON HENK FAUPEL, OF VIRGINIA
EVAN HENDEEN FOWLER, OF THE DISTRICT OF COLUMBIA
NEAL B. FRAZIER, OF MARYLAND
ANDREW A. FULLER, OF THE DISTRICT OF COLUMBIA
ANA MARISOL GARRETT, OF WASHINGTON
GORAN GAVRAN, OF VIRGINIA
MELISSA A. GEORGE, OF VIRGINIA
EVAN J. GIESELMAN, OF VIRGINIA
ANNE GILLMAN, OF TENNESSEE
MARLA JUDITH GILLMAN, OF FLORIDA
LUTHER BROADWATER GOVE, OF FLORIDA
GARRETT ROBERT HAROLD GREENLEE, OF PENNSYLVANIA
ALEXIS LESHELLE GREEVER, OF VIRGINIA
HAROLD MELVIN GREGORY, OF VIRGINIA
FRANCIS ROBERT GRESS, OF VIRGINIA
ZACHARY JAMES HACKLEY, OF VIRGINIA
LATRICIA ANN HALL, OF VIRGINIA
NATALIE ROSE HALL, OF THE DISTRICT OF COLUMBIA
LANDON JAMES HEID, OF MISSOURI
WAYNE CLINTON HEINOLD, OF VIRGINIA
MICHAEL PATRICK HEISE, OF THE DISTRICT OF COLUMBIA
BRIAN E. HIGGINS, OF VIRGINIA
VICTORIA REGINA HILL, OF VIRGINIA
LAURI ANN HLAVACS, OF VIRGINIA
KRISTEN ELIZABETH HOLT, OF VIRGINIA
AUDREY HSIEH, OF THE DISTRICT OF COLUMBIA
AZEC A. IBADOV, OF VIRGINIA
CHRISTOPHER IRIZARRY, OF VIRGINIA
SHASHANK KALYANRAM IYER, OF CALIFORNIA
KAMIL JACHEC, OF VIRGINIA
MARIO JIMENEZ, OF VIRGINIA
CODY JAMES JOHN, OF VIRGINIA
MICHAEL PATRICK JOHNSON, OF VIRGINIA
MARK L. JOHNSTON, OF VIRGINIA
ANAMARIA TRONCOSO KARRELS, OF WISCONSIN
SIMONE NICOLE KENDALL, OF MICHIGAN
BETH ANN KENNEY, OF VIRGINIA
HAYLEY CASEY KING, OF PENNSYLVANIA
JUSTINE ALEXANDRA KING, OF NEW YORK
RACHEL TAMOR KIRBY, OF VIRGINIA
SARAH JASMINE KNIGHT, OF THE DISTRICT OF COLUMBIA
KAHLIL ANTHONY ELLSWORTH KNUTH, OF WEST VIRGINIA
BRIDGET BASIRICO KOENIG, OF THE DISTRICT OF COLUMBIA
LINDSEY MICHELLE KOLE, OF VIRGINIA
AIMEE HERRERA KOZICK, OF VIRGINIA
SUN–BOM KWON, OF VIRGINIA
LAURA P. LAKE, OF VIRGINIA
MARIO TERON LAMAR, OF ILLINOIS
JULIA W. LANDERS, OF VIRGINIA
JOSHUA HUNTER LAWRENCE, OF VIRGINIA
HALLEY LEPPINK LISUK, OF MICHIGAN
JASMINE MONIQUE LOPEZ, OF CALIFORNIA
VINCENT CLAYTON LOWNEY, OF WASHINGTON
IVAN LUIS MALDONADO, OF VIRGINIA
ADAM MASON, OF VIRGINIA
PLAMEN NENKOV MAVROV, OF GEORGIA
CHRISTOPHER R. MCGRAW, OF VIRGINIA
DAMILET MARTINEZ MCKINNEY, OF VIRGINIA
KYLE LOUIS MEDEIROS, OF NEVADA
JOSEPH PATRICK MEURER, OF VIRGINIA
MARK STEVEN MOCK, OF MICHIGAN
EDWARD C. MODINGER, OF VIRGINIA
JOSEPH R. MOERKE, OF THE DISTRICT OF COLUMBIA
SHIVA SHANKAR MOHAN, OF VIRGINIA
WILBERT MORALES–VIERA, OF VIRGINIA
CASEY MARIE MORRIS, OF VIRGINIA
CARLOS GDUARDO MOYA–LINARES, OF CALIFORNIA
VIENNA MUNRO, OF TEXAS
SALLY ROSE NADEAU, OF VIRGINIA
THOMAS FYANS NANCE, OF VIRGINIA
MARITZA NAVARRETE, OF ILLINOIS
COLLIN ROBERT JAMES NEAL, OF CALIFORNIA
DANIEL N. NEWELL, OF VIRGINIA
PAUL MICHAEL NISTLER, OF VIRGINIA
JESSICA LEE PADRON, OF MARYLAND
TIFFANY LYNN PARKHILL, OF VIRGINIA
BRIANNA L. PENNA, OF VIRGINIA
JONATHAN MARK PHILLIPS, OF VIRGINIA
RYAN SCOTT PICKELL, OF THE DISTRICT OF COLUMBIA
VALENTINA PIEDRAHITA, OF FLORIDA
JOHN GABRIEL PINTO, OF VIRGINIA
CLARECE JACQUELENE POLKE, OF FLORIDA
CHARLES GEOFFERY PRAHL, OF MARYLAND
JOSHUA ADRIAN PUNDERSON, OF VIRGINIA
ADAM B. RAABE, OF VIRGINIA
ZOHAIB RASHEED, OF VIRGINIA
ELIZABETH STEELE RAVELING, OF VIRGINIA
CHRISTOPHER REED–WADDELL, OF MISSISSIPPI
APRIL D. REINO, OF MINNESOTA
JORDAN SHANE RENGA, OF VIRGINIA
ZUHAIR IRFAN HAMOOD RIZVI, OF THE DISTRICT OF COLUMBIA
JESSICA ELIZABETH ROGERS, OF TENNESSEE
DION TIMOTHY SANDERS, OF VIRGINIA
MARK PHILIP SARGEANT, OF VIRGINIA
TRACYANNE MARIE SAUNDERS, OF THE DISTRICT OF COLUMBIA
KATHRYN G. SCHOLFIELD, OF VIRGINIA
SEAN RICHARD SCOTT, OF VIRGINIA
CLARE M. SEARBY, OF VIRGINIA
CHRISTOPHER SCOTT SELLS, OF VIRGINIA
KENNETH HARRISON SHANNON, JR., OF THE DISTRICT OF COLUMBIA
CHADWICK IVAN SMITH, OF OHIO
JUSTIN M. SMITH, OF VIRGINIA
WILLIAM D. SPOONER, OF VIRGINIA
JARED MICHAEL SPRAGUE, OF VIRGINIA
LASEANTA E. STAFFORD, OF TEXAS
JOHN T. STEELE, OF OHIO
KIERSTEN LEE STRACHAN, OF TEXAS
JONI H. TARCHICHI, OF NEW JERSEY
DAVID MORGAN TERRY, OF VIRGINIA
FRANCES SARA TEST, OF MAINE
DAMIR TOKIC, OF TEXAS
TAKAKO TSUJI, OF VIRGINIA
ADITI VIRA, OF THE DISTRICT OF COLUMBIA
CARL F. VON BERNUTH, OF THE DISTRICT OF COLUMBIA
HELEN FRANCES VON GOHREN, OF MARYLAND
CAROLINE ANNE WAKEFIELD, OF VIRGINIA
AHMED SHAHAB WALI, OF VIRGINIA
CHRISTOPHER LEE WALKER, OF VIRGINIA
NEIL S. WALTHER, OF THE DISTRICT OF COLUMBIA
BRIAN PAUL WALTON, OF CALIFORNIA
EDWARD LAURENCE WELSH, OF VIRGINIA
CLINTON C. WEST, JR., OF VIRGINIA
SARAH ASHLEY WHEATON, OF FLORIDA
STEPHEN ANDREW WIEGMAN, OF VIRGINIA
IRIS LI WILLEY, OF SOUTH DAKOTA
GREGORY A. WILLIAMS, OF VIRGINIA
WILLOW FORBES WILLIAMSON, OF VIRGINIA
NANDI LOUISE WILSON, OF MARYLAND
BENJAMIN M. WOLKOV, OF VIRGINIA
HOWARD B. WOOD III, OF VIRGINIA
REBECCA KEENE WOOLDRIDGE, OF KENTUCKY
MARY B. WRIGHT, OF VIRGINIA
JOANNA MARIA WYSKIEL, OF VIRGINIA
GREGORY YAGUDA, OF VIRGINIA
JEFFREY DANIEL YOHE, OF MARYLAND
DANIELLA JAOSKA ZELAYA, OF VIRGINIA

THE FOLLOWING–NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER–COUNSELOR:

MARK A. DRIES, OF VIRGINIA
BRUCE J. ZANIN, OF CALIFORNIA

THE FOLLOWING–NAMED CAREER MEMBER OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

RALPH K. BEAN, OF VIRGINIA

N O T I C E

Incomplete record of Senate proceedings. Today's Senate proceedings will be continued in Book II.