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Senate

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

PRAYER

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

Let us pray.

Eternal God, our hearts are steadfast toward You. Lead us safely to the refuge of Your choosing, for You desire to give us a future and a hope. Provide us with grateful hearts to appreciate Your mercies that are new each day.

Today, give our Senators the power to do Your will, as they realize more fully that they are servants of Heaven and stewards of Your mysteries. Lord, give them Your perspective on their daily tasks and every decision they must make. May faithfulness to You become the focus of their living, keeping them from becoming careless about their spiritual and moral growth.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. YOUNG). The majority leader is recognized.

MONTENEGRO'S ACCESSION INTO NATO

Mr. MCCONNELL. Mr. President, at the end of the Cold War, many wondered whether NATO could or should survive absent the glaring threat from the Soviet Union, which tied together a diverse coalition of Western countries.

That Soviet threat held the alliance together through myriad issues and challenges of burden sharing, nuclear doctrine, and how to balance the roles of the European Union and a security alliance.

The United States, as a global superpower, was at times criticized for not paying enough attention to the alliance and at other times for its heavy-handed leadership.

When the Berlin Wall came down, NATO was forced to evolve. At its core, the alliance is not only about defeating a common threat but also about common values.

When our Nation was attacked on September 11, NATO acted on September 12 and invoked article 5 of the Washington Treaty for the first time in history, and NATO partners have worked to assist us in the war on terror ever since.

With Russia's resurgence and quest for renewed greater power status, NATO has given notice that it will stand up for Western democracies, as well, and has continued to do so.

Let's be clear. President Putin mourns the fall of the Soviet Union. He is intent on using all elements of national power to expand Russia's sphere of influence. He is also threatened by the examples of representative democracies anywhere near Russia's borders, and he is accordingly trying to intimidate other nations from seeking entry into the alliance.

The Partnership for Peace, established in 1994, has given newly independent states a path toward developing capabilities that would bind them closer to the democracies of the West. It has given them something to strive for. Through the use of the Membership Action Plan, NATO is capable of setting forth the various reforms required for membership of those countries that aspire to join the alliance.

This is the path Poland took—and Romania, the Czech Republic, and so many of our friends in Eastern Europe.

Today it is the path Montenegro is taking.

A positive vote on the NATO accession treaty that is before us tells those countries that complete NATO member action plans that this undertaking, while difficult, is not futile.

Let us remember that we face a variety of threats in the world—from ISIL to the Syrian civil war to China's military buildup and territorial ambitions—and our European allies face many threats as well.

NATO remains an incredibly valuable alliance. It is an alliance, however, that must be sustained. That is why we ask our partners to meet their commitments to NATO by spending 2 percent of GDP on defense so the alliance can improve its capabilities, and that is why we must meet our own commitments, including voting yes on the accession treaty before the Senate today.

NOMINATION OF NEIL GORSUCH

Mr. MCCONNELL. Mr. President, on another matter, last week Supreme Court nominee Judge Neil Gorsuch came before the Senate Judiciary Committee for his confirmation hearing. His testimony reaffirmed what we already know about Judge Gorsuch. He is fair and impartial. He has an outstanding legal mind, and he is humble and well respected. He also has a record of building consensus.

Here is what he said about that record at his hearing.

I have decided . . . over 2,700 cases, and my law clerks tell me that 97 percent of them have been unanimous, 99 percent I've been in the majority. They tell me as well that according to the Congressional Research Service, my opinions have attracted the fewest number of dissents from my colleagues of anyone I've served with that they studied over the last 10 years.

So let's repeat that. Judge Gorsuch has ruled in more than 2,700 cases. He has been in the majority 99 percent of the time, and 97 percent have been unanimous decisions.

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



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It is no wonder the American Bar Association—an organization that the Democratic leader and the former Democratic Judiciary Committee chairman have called the “gold standard”—gave Judge Gorsuch its highest rating, unanimously “well qualified.”

In that ABA rating, it noted: “Based on the writings, interviews, and analyses we scrutinized to reach our rating, we discerned that Judge Gorsuch believes strongly in the judicial branch of government, and we predict that he will be a strong but respectful voice in protecting it.”

The ABA isn’t alone in its support for Judge Gorsuch. In fact, people from across the political spectrum have sung his praises, including many on the left that you might not expect—people like Professor Laurence Tribe, former President Obama’s legal mentor, who called Gorsuch “a brilliant, terrific guy who would do the Court’s work with distinction,” and Neal Katyal, former President Obama’s top Supreme Court lawyer, who called him “one of the most thoughtful and brilliant judges to have served our nation over the last century.”

This is the Obama Solicitor General saying that he is “one of the most thoughtful and brilliant judges to have served our nation over the last century.”

There are liberal law professors, including Alan Dershowitz, who said Gorsuch would be “hard to oppose on the merits,” and Donald Elliot, who called him “a brilliant mind” who “tries very hard to get the law right . . . [and] follows the law as best he can wherever it might lead.”

At his confirmation hearing last week, we heard from former and current colleagues on the Federal bench who enthusiastically support his nomination. These are all Federal judges who know him well.

Judge John Kane, who was appointed to the district court in Colorado by President Carter, wrote that Judge Gorsuch has voted both to affirm and reverse his decisions. “In each instance,” he remarked, “I have felt I was clearly understood and properly informed.” He goes on to say:

I think Judge Gorsuch listens well and decides justly. His dissents are instructive rather than vitriolic. In sum, I think he is an excellent judicial craftsman.

Former colleagues on the Tenth Circuit testified last week on his behalf as well. Two former chief judges of that circuit—one appointed by President Reagan and another appointed by President Clinton—have written that Judge Gorsuch was “like most good judges, assiduously attentive to the facts and law in each case.” Judge Deanell Tacha and Judge Robert Henry went on to say that if Judge Gorsuch were confirmed to the Supreme Court, his other important traits are not likely to change either—things like “his fair consideration of opposing views, his remarkable intelligence, his wonderful judicial temperament expressed

to litigants and his collegiality toward colleagues.”

They conclude by saying:

If we seek to confirm to the Supreme Court a noted intellect, a collegial colleague, and [a] gifted and eloquent writer—as well as a person of exhibited judicial temperament—Gorsuch fits that bill. He represents the best of the judicial tradition in our country.

Perhaps David Frederick, a board member of the left-leaning American Constitution Society, best summed up why the Senate should confirm Judge Gorsuch. In a recent Washington Post op-ed, he praised Judge Gorsuch for his “reverence for our country’s values and legal system.”

Mr. Frederick states:

The facts developed in a case matter to him; the legal rules established by legislatures and through precedent deserve deep respect; and the importance of treating litigants, counsel, and colleagues with civility is deeply ingrained in him.

Therefore, this self-proclaimed “long-time supporter of Democratic candidates and progressive causes,” said that “the Senate should confirm [Gorsuch] because there is no principled reason to vote no.”

Let me repeat that. “The Senate should confirm him,” he said, “because there is no principled reason to vote no.”

Unfortunately, some of our Democratic colleagues are trying desperately to find any excuse to block this nomination. Although this is unfortunate, it is not surprising. Recall that the Democratic leader stated before Judge Gorsuch was even nominated that he would oppose any person on the President’s long list of qualified candidates, even if it meant keeping the seat open for years.

Look, we know that our Democratic friends are under an enormous amount of pressure from some on the far left who want them to “resist.” It is clear that many radical special interest groups simply refuse to accept the results of the election and would like nothing more than to obstruct the serious work before the Senate.

We saw the impact that had on the Cabinet confirmation process, which represented a historic level of obstruction. We are seeing the same calls for obstruction now.

This much is clear. If our Democratic colleagues choose to hold up this nominee, then, they are acknowledging that they will go to any length—any length—to block any Supreme Court nominee of a Republican President. If Neil Gorsuch can’t be confirmed, there is no nominee of any Republican President who our friends on the other side would argue deserves 60 votes. This isn’t about the nominee at all. It isn’t about his background. It isn’t about his temperament. It isn’t about his reputation as a judge. It is about those on the far left who want to prevent our country from moving forward.

Judge Gorsuch’s suitability for the appellate court was so noncontroversial that not a single Senate Democrat

opposed his nomination—not then-Senator Obama, not then-Senators Biden, Clinton, or Kennedy, not even my good friend the Democratic leader—and there is no reason that Judge Gorsuch shouldn’t receive similarly overwhelming bipartisan support now. This is an important moment for our country.

I urge each of our colleagues to rise to the moment and together move forward with the confirmation of our next Supreme Court Justice, Judge Neil Gorsuch, and give him the up-or-down vote that he deserves.

Will the Presiding Officer announce the business of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

PROTOCOL TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF MONTENEGRO

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of Executive Calendar No. 1, the Montenegro treaty, which the clerk will report.

The legislative clerk read as follows:

Treaty document No. 114-12, Protocol to the North Atlantic Treaty of 1949 on the Accession of Montenegro.

AMENDMENT NO. 193

Mr. McCONNELL. Mr. President, I have an amendment that is at the desk that I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 193.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end add the following:

“This Treaty shall be effective 1 day after ratification.”

Mr. McCONNELL. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 194 TO AMENDMENT NO. 193

Mr. McCONNELL. Mr. President, I have a second-degree amendment at the desk.