



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 115th CONGRESS, SECOND SESSION

Vol. 164

WASHINGTON, THURSDAY, SEPTEMBER 6, 2018

No. 148

Senate

The Senate met at 12 noon and was called to order by the Honorable DEB FISCHER, a Senator from the State of Nebraska.

PRAYER

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

Let us pray.

O God, the Father of light, today give our Senators the light to guide them, the courage to sustain them, and the civility to unite them. Give our lawmakers humility in prosperity and patience in adversity. Provide them with a quiet awareness of Your presence, sustaining them with Your great power.

Lord, make us all grateful for the blessings You shower upon us each day. Increase our faith until we experience peace that flows like a river in our hearts.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

Washington, DC, September 6, 2018.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEB FISCHER, a Senator from the State

of Nebraska, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

NOMINATION OF BRETT KAVANAUGH

Mr. MCCONNELL. Madam President, day 2 of Brett Kavanaugh's confirmation hearings proved to be a marathon session. For 13 hours, Judge Kavanaugh was grilled by our colleagues on the Judiciary Committee. Through that testing, the Senate got to see exactly why the American Bar Association deemed this nominee to be unambiguously "well qualified," which is the highest possible rating, a distinction that many of our Democratic colleagues in the past called the gold standard.

We saw precisely why he has earned such praise from accomplished legal figures, like Lisa Blatt, a self-described liberal and a leading Supreme Court litigator who proudly introduced Judge Kavanaugh before the committee; and Neal Katyal, the Obama administration's Solicitor General who said: "It's very hard for anyone who's worked with Judge Kavanaugh, appeared before him, to frankly say a bad word about him."

Judge Kavanaugh was patient and professional. His answers showed total command of everything, from the fine details of case law to the principles upon which our Founders built the Constitution.

In July, one of Judge Kavanaugh's former Yale Law School professors ex-

plained that he is "an avid consumer of legal scholarship. He reads and learns."

It certainly shows. Judge Kavanaugh's widely acclaimed temperament was on full display. He gave thoughtful, expansive answers, while also respecting the independence of the judiciary. Even as some of our Democratic colleagues seemed to forget—seemed to forget—that we are examining a potential Supreme Court Justice and not interviewing a superlegislator who will be writing his own policy preferences into law, Judge Kavanaugh remained very gracious and spoke at length about his past jurisprudence and his understanding of the role judges play in our Republic.

It was striking to contrast Judge Kavanaugh's poise, on the one hand, and professionalism with the continued unhinged—literally, unhinged—antics of the far left, which once again resorted to yelling and screaming and interrupting the hearing with nonsensical protests. The Capitol Police deserves all of our gratitude for keeping order, as does Chairman GRASSLEY for keeping the proceedings moving smoothly.

Perhaps it is finally dawning on the far left that Judge Kavanaugh is an impressive, mainstream, and brilliant nominee who almost any objective observer would agree is more than qualified to serve on the Supreme Court. Maybe that is why they are resorting to futile attempts to disrupt the proceedings. Maybe that is why no fewer than 66 individuals were removed from the hearing room for interruptions.

I will be perfectly clear about this. Hysterical stunts are not going to stop the U.S. Senate from completing its business. There is no heckler's veto here. I look forward to more excellent testimony from Judge Kavanaugh today.

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



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TRIBUTE TO DR. WALTER
OLESZEK

Mr. McCONNELL. Madam President, I want to say a few words about a loyal and valuable public servant as he reaches a remarkable milestone. Over the past 50 years, Members of Congress have come and gone, but all the while, Dr. Walter Oleszek has been on hand at the Library of Congress to answer Members' and staff's toughest questions about the inner workings of American government.

Walter arrived in Washington in the summer of 1968 from Upstate New York. He signed on with the Legislative Reference Service, now the Congressional Research Service, and has been serving ever since.

Over five decades, Walter has grown into an institution unto himself. He is not only the longest serving CRS team member but also a dedicated and integral part of its operations, while also finding time to teach and lecture on the side.

Alan Frumin, the former Senate Parliamentarian, was actually one of Walter's students at Colgate University years ago. According to Alan, "If there's anything about Congress that Walter does not know, then that thing doesn't exist." In my experience around here, the Parliamentarian is usually the smartest one in the room. So that is especially high praise, and Walter has earned it.

Today, on behalf of the Senate, I want to thank this scholar, author, internationally sought adviser, and dedicated steward of the U.S. Congress. We congratulate him on his career thus far and look forward to continuing to work alongside him.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The majority leader.

ORDER OF PROCEDURE

Mr. McCONNELL. Madam President, pursuant to the order of August 28, at 1:45 p.m. today, the Senate will proceed to executive session to consider Calendar Nos. 693, 731, 778, 779, 782, 838, 839, and 893, as under the previous order.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY
LEADER

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

NOMINATION OF BRETT
KAVANAUGH

Mr. SCHUMER. Madam President, today the Senate Judiciary Committee continues its hearings on Judge Brett Kavanaugh's nomination to the Supreme Court. During yesterday's session, the American people got to see a nominee who refused to answer even the most basic, fundamental questions about his jurisprudence. They got to see a coverup of Judge Kavanaugh's records by himself and the Republican members of the committee.

When Judge Kavanaugh was asked specific questions about important issues that might someday come before a court, like women's reproductive freedom, he pleaded the need for independence and refused to answer. When Democratic Senators asked him hypothetical questions, instead, to avoid the possibility of the judge tipping his hand on a future case, then he said he wouldn't engage in hypotheticals—can't talk about specific cases, can't talk about general situations. He is ducking. He is hiding.

Judge Kavanaugh was asked how he might view the constitutionality of a Presidential subpoena arising from the Mueller probe. He said he could not tip his hand about a potential issue before the Court. Asked, then, about the constitutionality of a Presidential subpoena in general, he said he would not engage in a hypothetical. This is not a hypothetical issue; this is a fundamental constitutional issue.

There is no legal, ethical, or judicial reason for Judge Kavanaugh to avoid directly answering these questions unless he has something to hide. If the nominee can't answer questions about already decided cases, pending cases, or hypothetical cases, honestly, what is there left to talk about—charity work and basketball? Your favorite Federalist Paper?

How does the nominee expect the Senate and the public to evaluate him? He doesn't. He doesn't want it. His lifelong record as a hard-right warrior, if he talked about it and talked about his views, would rule him out, so he hides. That should not happen when it comes to nominating one of the most powerful positions in American society.

Let me just mention a few topics Judge Kavanaugh ducked.

Judge Kavanaugh would not expand or even revisit his views on Presidential power, where he already enumerated some in a Minnesota Law Review article. As Senator KLOBUCHAR pointed out, he has already talked

about them publicly. Why can't he elaborate? He has given his view on that one. Very bad view. Does he still hold it? Nobody knows.

Judge Kavanaugh could not assure the American people he would uphold the healthcare law, including protections for up to 130 million Americans with preexisting conditions, protections that are under threat right now by a lawsuit in Texas.

He could not assure the American people he would uphold the landmark decision in *Roe v. Wade*. He did repeat a view, which he reportedly shared with Senator COLLINS, that *Roe v. Wade* was settled precedent of the Court, but as Judge Kavanaugh himself points out in a 2003 email made public this morning, "I am not sure that all legal scholars refer to *Roe* as the settled law of the land at the Supreme Court level since [the] Court can always overrule its precedent, and three current Justices on the Court would do so." That is an email from Brett Kavanaugh explaining that *Roe vs. Wade* is only settled law until a majority of the Court decides it isn't.

Since the time he wrote that email, one more Justice has joined the Court likely to overturn *Roe*. Judge Kavanaugh could be the deciding vote, and he will not even talk about it. That is an issue that affects all Americans. It is an issue that is so important to our jurisprudence. It is an absolute disgrace that a nominee for the Supreme Court refuses to talk about such a fundamental issue at the core of one of the great debates of American society and hides behind legal subterfuge, chicanery, so he doesn't have to speak—verbal chicanery.

I wonder why the Republican majority labeled the email about *Roe v. Wade* "committee confidential" until this morning. Was that email withheld for privacy reasons? No. National security reasons? No. It is ridiculous. The only explanation is that Judge Kavanaugh's record was being withheld for political reasons. They don't want the American people to see his view. If the American people knew that Judge Kavanaugh would decide against *Roe v. Wade*, as it seems this email feels he thinks he can, not bound by legal precedent if he changes his mind, if the Court changes its mind, they would rise up and say: Don't put him on the bench. So, instead, they hide the records.

My Republican colleagues set up an entire process to go around the non-partisan National Archives, and it appears that the purpose was to hide documents that might shed real light on Judge Kavanaugh's actual record.

Now, finally, a little late in the game, the truth is coming out, but this is only the tip of the archives. These are the only documents that have slipped through the Republican filter. What else is hidden in Judge Kavanaugh's record? What else don't we know about the nominee? When did the Republican majority decide that