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Senate

The Senate met at 10 a.m. and was called to order by the Honorable CINDY HYDE-SMITH, a Senator from the State of Mississippi.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by Pastor Sam Steele of Chapel by the Sea from South Padre Island, TX.

The guest Chaplain offered the following prayer:

Good morning.

Christ Jesus sent people out two by two.

Let us pray.

Eternal God, as our Senators gather—two from each State—they break down barriers that divide, create an environment of honest dialogue, and bring about positive compromise so that there is unity in our diversity and so our Nation is steadfast in the foundation of the people, by the people, and for the people.

Loving God, we lift up to You our brothers and sisters touched by the weather across our land. May we reach out our hands of love and help. Comfort those who suffer, and strengthen those who serve.

Creator God, pour Your wisdom upon each Senator. Bless them with humility as they serve, and make us once again "we the people."

In Your Holy Name we pray. 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 25, 2018.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CINDY HYDE-SMITH, a Senator from the State of Mississippi, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

Mrs. HYDE-SMITH 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 senior assistant legislative clerk read the nomination of Peter A. Feldman, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission for the remainder of the term expiring October 26, 2019.

RECOGNITION OF THE MAJORITY LEADER

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

NOMINATION OF BRETT KAVANAUGH

Mr. McCONNELL. Madam President, in the past week and a half, the American people have seen a confusing and chaotic process play out right here in the Senate.

They have seen uncorroborated, decades-old allegations of wrongdoing pop up in the press at the last minute, just as Judge Brett Kavanaugh's confirmation process was winding down.

They have seen an accuser's request for privacy disregarded and ordinary standards of fairness completely discarded.

They have seen a disturbing pattern play out on two separate occasions already. It goes like this: No. 1, our Democratic colleagues on the Judiciary Committee get wind of or maybe even go looking for a sensitive allegation. Second, they decline to share it with the majority, meaning the committee cannot promptly take appropriate action. Third, they allow the allegation to leak to the press at the last moment.

Fortunately, in stark contrast to this malpractice, the American people have also seen the exemplary manner in which Chairman GRASSLEY has led the Judiciary Committee throughout the entire process. The chairman has acted swiftly and transparently in pursuit of the truth. He has treated Dr. Ford with kindness and respect. Acknowledging that the irresponsible and irregular manner in which her allegation was brought to light was no fault of hers, the chairman opened a dialogue with Dr. Ford's counsel. He deferred to her preferences on the timing of her hearing and a number of other details.

I will quote from a letter the chairman wrote to Dr. Ford yesterday. Here is what Chairman GRASSLEY had to say:

I am committed to fair and respectful treatment of you. . . . [The] hearing on Thursday will allow you to testify and also will allow the nominee to address the allegations. . . . Both of you deserve a credible and fair process in a secure and professional setting.

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



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That was Chairman GRASSLEY.

So we have one side that is handling these sensitive matters with dignity, with professionalism, by the book, and we have another side that chose to sit on allegations and keep them secret until they were leaked to the press—the same side as the Democratic leader's, who had already made up his mind mere hours after Judge Kavanaugh was chosen and said: "I will oppose him with everything I've got." Well, apparently so.

Look, the American people know that sexual misconduct is gravely serious. They expect this to be treated seriously and addressed promptly. That is precisely what Chairman GRASSLEY has done and is doing. But the American people also insist that vague, unsubstantiated, and uncorroborated allegations of 30-plus-year-old misconduct—where all the supposed witnesses either totally deny it or can't confirm it—is nowhere near grounds to nullify someone's career or destroy their good name. Justice matters. Evidence matters. Facts matter.

Let's look at one of the supposed witnesses, Ms. Leland Keyser. She is not a friend of Judge Kavanaugh's. In fact, she says she doesn't even know him. Rather, she is a longtime friend of Professor Ford's. What does Ms. Keyser say about the allegations? Through her lawyer, she says that she "does not know Mr. Kavanaugh and she has no recollection of ever being at a party where he was present, with, or without, Dr. Ford." In other words, she backs up Judge Kavanaugh's statement.

Look, this is America here we are talking about. We are supposed to uphold fairness and a presumption of innocence. Everyone deserves better than this—not just Judge Kavanaugh; everyone deserves better than this.

I was surprised and disappointed by the recent statements on television from some of my Democratic colleagues, including one statement this weekend that Judge Kavanaugh is not owed the presumption of innocence. One of our Democratic colleagues said Judge Kavanaugh is not owed the presumption of innocence, because they disagree with his judicial philosophy. That is not a standard we want to set in America.

No matter how loudly my Democratic colleagues try to say otherwise, we have never been and do not wish to be a society in which a single, uncorroborated allegation—disputed by everyone who supposedly has some knowledge of it—can float out across decades and wield veto power over somebody's life.

Judge Kavanaugh is an immensely bright and qualified nominee. We have heard from legal experts and scholars that he is one of the fairest and most brilliant jurists anywhere in our country. We have heard from hundreds of character witnesses from his high school days to the present who vouch for his character and his integrity.

Yet the need for a fair process runs even deeper than Judge Kavanaugh

himself. As he wrote in his own letter to Chairman GRASSLEY yesterday, the weaponization of unsubstantiated smears—that is what we have here, the weaponization of unsubstantiated smears—"will dissuade competent and good people of all political persuasions from service."

This isn't what Members want the Senate to be. This isn't what Americans want our society to be. So I look forward to hearing from both Dr. Ford and Judge Kavanaugh under oath this Thursday morning. I am glad we will be able to hear testimony from both. Then I look forward to an up-or-down vote on this nomination right here on the Senate floor.

THE WEEK'S BUSINESS

Madam President, on an entirely different matter, as I noted yesterday, the Senate continues to make progress on critical national priorities. We are restoring the regular order appropriations process; we are securing common-sense reforms to infrastructure policy and the longest authorization of FAA in over 35 years; and, this week, we are confirming more of the President's well-qualified nominees. Yesterday, the Senate voted to confirm Jackie Wolcott as the U.S. Representative to the International Atomic Energy Agency and to the United Nations in Vienna. Today, we turn to consider the nomination of Peter A. Feldman to be a Commissioner of the Consumer Product Safety Commission.

I urge each of our colleagues to join me in voting to confirm Mr. Feldman and in continuing to process nominees for vital roles in the executive branch.

TAX REFORM

Madam President, on one final matter, for months, we have heard the firsthand accounts of American workers and job creators who have felt the immediate impacts of the Republicans' pro-growth, pro-opportunity agenda.

We have heard from working parents who have received raises and special bonuses as a result of once-in-a-generation tax reform. We have heard from small- and medium-sized business owners who have been able to make larger investments in their workers, facilities, and products, thanks to increased regulatory certainty. With every new job created and every pay raise passed along, we have seen that these stories are not disconnected anecdotes. Rather, they are part of larger trends in an American economy that is reaching new heights.

For example, here on the floor, I have highlighted small businesses in Montana and the ways they are using tax reform savings to drive their local economies forward—how Stricks Ag has awarded worker bonuses and how Thompson River Lumber has invested in new equipment. Well, earlier this month, Governor Bullock and the Montana Department of Labor released a report that that suggests the State's economy is showing signs of wide-reaching prosperity. In other words, the stories my colleagues and I have

been hearing for months are no fluke. In the last year, Montana's entrepreneurs founded nearly 3,000 new enterprises, and according to Governor Bullock, the employment rate is the lowest it has been in over a decade in Montana.

Over the past year and a half, this united Republican government has implemented a bold, pro-growth agenda to help create the conditions for Montana's workers and job creators to write this new chapter. The signs we are seeing today are truly remarkable, but they shouldn't come as a surprise, for the trends we are seeing across the country today are exactly what this united Republican government had in mind when we passed generational tax reform. They are exactly what one of Montana's Senators had in mind when he voted to deliver it. What a shame that the other Senator joined Senate Democrats in lockstep opposition.

These days, the ball is in the American people's court. They will keep taking it and running with it—creating jobs and new prosperity all across our country. Here in Congress, the Republicans will keep working hard to help them do it.

The ACTING PRESIDENT pro tempore. The assistant Democratic leader.

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

The ACTING PRESIDENT pro tempore. The Senate is considering the Feldman nomination.

Mr. DURBIN. Thank you.

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

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

NOMINATION OF BRETT KAVANAUGH

Mr. DURBIN. Madam President, plow through this nomination. That is what the Republican majority leader said over the weekend, that we are going to plow through this nomination of Brett Kavanaugh for the Supreme Court. It doesn't sound to me like a recipe for fairness, and it certainly doesn't sound like a recipe for getting to the truth. Plow through. That was what the Republican majority leader said the Republican majority would do.

When this all started, I was surprised when a spokesperson for President Trump—Kellyanne Conway, who is not noted for her moderation—made what I thought was a very moderate and thoughtful statement at the beginning of the consideration of Dr. Ford's charges. She said that we are neither going to ignore nor insult Dr. Ford. I thought that was a good standard. Unfortunately, since she has said that, neither the President nor many Republican leaders have lived up to it.

I really come to this as a member of the Senate Judiciary Committee who is trying to think about the gravity of the situation and what is fair. In this situation, we have Dr. Ford's coming forward. I have thought long and hard and have talked to many of my staffers

and friends back home about her motivation. What in the world does she have to gain by putting herself and her family through this? What is at the end of it for her?

I can't see any positives other than the satisfaction that she is pursuing what she believes to be true. She is exposing herself to ridicule, harassment, and attack even by the President of the United States in his tweets. Her family is in danger, and they have had to move out of their home. Her computers have been hacked, and she has had to engage attorneys and get into lengthy negotiations with Republicans in the Senate just for a chance to come and tell her story. This woman had a family and a life and was well respected by her colleagues and the people in her community. It has been turned upside down.

Why? What is in this for Dr. Ford? What is she trying to achieve here?

The more I have thought about it, the more I have concluded that she just believes it is so critically important for the American people to hear her story and understand what she believes to be true about this nominee. So I come to this, certainly, with an open mind in terms of her presentation.

When I hear the Republican leader come to the floor and talk about her situation, he zigs and zags. In one moment, he sounds like he is sympathetic to Dr. Ford and to what she has been through and calls for fairness. Then, before he catches a breath, he calls her charges an unsubstantiated smear.

I would say to my colleague from Kentucky that he can't have it both ways. He can't be respectful of Dr. Ford and of the reason she comes to Washington and then dismiss and discredit everything she has said as a smear. He just can't have it both ways, but he has tried for 2 straight days.

He argues that this situation that we face has been carefully choreographed by the Democrats.

There is the old cliché by Will Rogers: "I don't belong to any organized political party—I am a Democrat." It, certainly, applies to this situation because this has been an unusual development.

Senator DIANNE FEINSTEIN receives a letter from Dr. Ford through a Member of Congress, ANNA ESHOO. When she receives the letter, it reads at the top "confidential," that she doesn't want her identity to be disclosed.

Senator FEINSTEIN told me and others over and over again that she felt duty bound not to victimize Dr. Ford, who claimed to have been victimized already. She tried to find a way to get to the bottom of this—to establish whether Dr. Ford's charges were accurate. After weeks of trying, she came to the conclusion that she couldn't do it through the U.S. Senate and through the resources available to her. She spoke to Dr. Ford. She took the charges seriously. She was in communication with her attorneys. She tried her best to find a way to establish the

credibility of these charges before moving forward and was always constrained by Dr. Ford's admonition: Don't let my identity become public. That is why it took longer than it should have.

Now Senator MCCONNELL has come to the floor for 2 straight days and has somehow suggested that the Democrats leaked this letter to the press. Well, I don't have any knowledge of that whatsoever. I do know, as far as Senator FEINSTEIN was concerned, she was scrupulous in making certain that Dr. Ford's identity was protected as long as she wanted it protected. So I don't know what he is saying or whether he has information to back up these charges that he has made for 2 straight days on the floor.

I take a look at this situation, and I understand where we are today. The bottom line is that Dr. Ford had nothing to gain by doing this—nothing—and still has nothing to gain. Yet then there is one overriding fact here that Senator MCCONNELL continues to ignore. Let me take you back in history.

Twenty-seven years ago was the Clarence Thomas hearing. I was in the House at the time, but I read about it and followed it as most Americans did. On the very day that Senate Judiciary Committee Chairman Joe Biden received the letter from Anita Hill, which charged sexual misconduct against Clarence Thomas, Chairman Biden sent the letter to the President George H.W. Bush White House—to the White House Counsel, C. Boyden Gray. Then on that very day, C. Boyden Gray, the White House Counsel, ordered the Federal Bureau of Investigation to investigate the charges by Anita Hill.

There has been a lot of comment on whether that investigation had been adequate or preemptory. There has been a lot more comment on whether the following hearing had been fair, adequate, and not preemptory. Yet the fact is that the instinct of Joe Biden and the instinct of the George H.W. Bush White House was the same: Investigate it. Don't assume it is true, and don't assume it is false.

Now look at this case. Look at where we are today despite repeated requests to the White House and the Republicans for the Federal Bureau of Investigation to look into this matter. Despite repeated requests for them to ask the FBI to do this, they have refused. The Republicans have refused an investigation of the charges by Dr. Ford. Dr. Ford has called for the FBI to investigate her own charges. They have refused.

If they truly believed that there was no evidence, no witness to back up Dr. Ford's charges, wouldn't they, obviously, have called the FBI and said, "Do your job, and find what you can. We are confident, at the end, that Judge Kavanaugh will be exonerated"? Yet they have not. Despite all of the calls for fairness over and over again by Senator MCCONNELL, fairness would

dictate a nonpartisan investigative group like the FBI to look into this matter and come to conclusions, whatever they may be.

I listened as Senator MCCONNELL said this morning that justice matters. Evidence matters, he said. Facts matter, he said. I might add that an FBI investigation matters, too, because it would get to the bottom of all three of those things. Yet, the White House, the President, Senator MCCONNELL, and the Republicans have resisted this FBI investigation despite Dr. Ford's asking for it.

As far as the presumption of innocence, I listened to Senator MCCONNELL say that someone suggested that Judge Kavanaugh is not entitled to that. I disagree with whoever said that. Both Dr. Ford and Judge Kavanaugh are entitled to the presumption of innocence. The case has to be proven; the facts have to be shown as best they can.

I want to add something else too. I am troubled by what President Trump said over the weekend about Dr. Ford's charges—the suggestion that it has been so long that her charges are not credible, the suggestion that if they were truly credible, she would have told her parents what had happened that night in the bedroom and that her parents would have reported it to law enforcement, and we could have read the police reports.

That is not the real world when it comes to this kind of sexual harassment and sexual violence—not at all. It is the reason it took 40 years for altar boys in the Catholic Church to come forward and finally tell their stories. It is the reason many women who have been victims never come forward. It is hard. It is difficult. It is painful. It is divisive. Many of them step away from it and carry those memories for their lifetimes without ever telling anyone.

If you want to be fair to Dr. Ford, and if you want to be fair to the victims of sexual violence, harassment, and assault, then you have to acknowledge the obvious. This is something no one wishes on any member of their family, friend, or person they have met. In fairness, if it occurs, we should be sensitive to the fact that many don't want to come forward at all, and some only do it reluctantly much later.

I want a fair and open hearing this Thursday when both Dr. Ford and Judge Kavanaugh come before us. This is not a smear campaign, as far as I am concerned.

Dr. Ford, with nothing to gain, has stepped forward and told her story. She has subjected her family and her name to the kind of publicity no one would wish on their family, and she has done it because she believes the truth is important.

By the same token, Judge Kavanaugh is entitled to tell his story, and I hope he will. He will have to explain to this committee why he didn't call for a Federal Bureau of Investigation effort on his own behalf to establish the facts,

the evidence, and the witnesses, if there were any. He didn't, and that is a fact.

We also know this charge Senator MCCONNELL made that Senator SCHUMER made up his mind on the Kavanaugh nomination early in some respects is true. Senator SCHUMER announced his position on this nomination early, but if you have been listening to the speeches given by Senator MCCONNELL on the floor from the start, you certainly know where his vote has been. He says he is looking forward to hearing the testimony on Thursday. Well, clearly, he has made up his mind before he hears that testimony. So to fault Senator SCHUMER for taking a position on this nomination early, that he is ignoring the obvious—so did Senator MCCONNELL.

At this point, I will say we face an awesome responsibility. A nation divided politically, a nation where people have strong feelings on both sides in an effort to find the truth—I don't know what the legal standard is for this hearing. When it comes to criminal law, we certainly know the matter of probable cause, which leads to investigation and prosecution, and beyond a reasonable doubt to prove the guilt of someone. We know on the civil side there are different standards. No one has quite spelled out what our standard of proof is, but this much I know. No one—not any single American—is entitled to a seat on the Supreme Court. They have to come before the American people first and certainly the Senate, under the Constitution, and make their case for the advice and consent of the Senate to that nomination.

It is a lifetime appointment to the highest Court in the land. The person who fills that seat can make decisions which swing history one way or the other, decisions which affect justice and privacy and fairness in American life. For that reason, all of us—all the Members of the Senate, certainly the Senate Judiciary Committee—have to take it seriously. I am going to take this very seriously, and I hope Members on both sides of the aisle will.

I also will say this. Senator MCCONNELL followed up with his “plow through this matter” comment and told us: We will stay through the weekend, if necessary, to get this done. We have to get it behind us. We have to move on. Where was Senator MCCONNELL's sense of urgency when the vacancy was created by the death of Antonin Scalia? For almost a year, Senator MCCONNELL left that seat vacant in the hopes that a Republican would be elected President. The idea now of giving a few days to go through the evidence, to go through an investigation, to have a reasonable review of the record of Judge Kavanaugh is now pushed away. This has to be done, it has to be done this weekend, and that is it—why? Why the urgency, Senator MCCONNELL? Shouldn't we value fairness over urgency?

I ask Senator MCCONNELL: Set your “plow” aside for a few minutes, would

you? Take a look at the Senate, this deliberative body, and make sure that in fairness to both Dr. Ford and Judge Kavanaugh, we don't push this through, and we don't rush to judgment. Let us use our opportunity in the Senate and our responsibility in the Senate to treat our constitutional requirement seriously.

I yield the floor.

I suggest the absence of a quorum.

The 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 Democratic leader is recognized.

Mr. SCHUMER. Madam President, yesterday the Republican leader began his speech with a quote of mine. Let me begin mine with a quote of his. “We're going to plow right through it.” That is Leader MCCONNELL: We are going to plow right through it. He was speaking to the Values Voter Summit about serious allegations of sexual misconduct by Supreme Court nominee Judge Kavanaugh. “We're going to plow right through it.” Does that sound like someone who is treating these allegations with respect and fairness and evenhandedness? Does it sound like someone who wants to get at the real facts no matter where they fall? Certainly not to me and not to the American people.

Then, yesterday, Leader MCCONNELL brought the debate to a new low by calling the allegations against Judge Kavanaugh a “Democratic smear job.” Never mind that Leader MCCONNELL has no evidence—no evidence whatsoever—that the recent allegations were contrived by Democrats. They were not. Never mind that Leader MCCONNELL has no evidence—no evidence whatsoever—that the events in question took place or didn't take place. It seems likely they did, but he has no evidence one way or the other because he will not even ask for an investigation of it.

He then unilaterally declared the accounts of multiple women to be “manufactured mud,” part of a partisan smear campaign. Let me address these comments directly that these allegations are part of a “Democratic smear job.”

First, these allegations did not originate with Democrats. These women came forward with principle and courage, knowing they would face abuse and lasting personal pain for doing so, but realizing they had an obligation to the country, they did so anyway.

Dr. Ford came forward and shared her story voluntarily and on her own initiative. She wasn't put up by a Democrat or Republican or anybody else. It came from her heart. The idea that these allegations were cooked up or in-

stigated or encouraged by Democrats in Congress is patently absurd and a real insult to the members of the Judiciary Committee and the Members of this Chamber. It is against the spirit, if not the letter, of our Senate rules.

Addressing the second part of MCCONNELL's claim, that is even worse. Democrats and Republican are always throwing charges at each other, but the idea that this is a smear job—whatever you think of the veracity of the allegations, it is shameful—shameful—to doubt the women's sincerity. To say they are making it up and to discredit their sincere testimony is nothing more than a partisan hit job.

For too long, people in positions of power have dismissed accounts made by women before any evidence could be brought forward as politically motivated or character assassination. We have come a long way in this country, and we have to be better than that—better than the low standard Senator MCCONNELL has set.

At a minimum, we must respect these women and Judge Kavanaugh by handling these allegations with the seriousness they deserve. Leader MCCONNELL owes an apology to Dr. Ford for labeling her allegations a “smear job.” Let me repeat that. Leader MCCONNELL owes an apology to Dr. Ford for labeling her allegations a “smear job,” and he should apologize to her immediately.

It is galling—galling—for the Republican leader, who has done more than maybe anyone else to politicize the Supreme Court nomination process, to make these trumped-up, hyperbolic charges of partisanship by Democrats.

It is a sad habit of Republicans to accuse the other side of doing what they, in fact, are doing. It happens over and over. That seems to be the case here, as Democrats have over and over urged the FBI to help investigate these allegations, to get to the bottom of it, to get to the truth, while Republicans block any investigation and plow right through with their nominee.

It is simple. If Leader MCCONNELL were truly concerned about these allegations being swept up in partisanship, he would join us in calling for an FBI background investigation, which can be performed quietly, soberly, quickly, and effectively, without fuss, without muss, and without any circus atmosphere. That is the way to get this done. The only reason it hasn't happened is that both the President and Leader MCCONNELL have blocked it, as well as Senator GRASSLEY. Don't they want the truth? They say they do, but their actions belie that because they will not even entertain a background check, which the FBI does over and over, to find out the facts. I think they are afraid of the facts.

Why doesn't Judge Kavanaugh call for an FBI investigation? He went on TV last night and said they are not true. If they are not true, he has nothing to fear from an FBI background investigation, and he should want it, no

matter what Leader MCCONNELL and President Trump say. Why doesn't he call for it? Is he afraid of the facts?

So I challenge you, Leader MCCONNELL. If you are so convinced this is a smear campaign, you will have no problem with an FBI investigation to prove your case. Come to the floor. Come now. Join me in asking the White House to reopen the background check. Let's get the politics out of it. Let's root out the facts. Let's get to the truth—no histrionics, no smearing, no name-calling—as they said in Drag-net, just the facts.

Labeling this a partisan smear job demeans not only the Senators in my caucus, who I know are doing everything they can to treat these allegations with caution and respect for both Dr. Ford and Judge Kavanaugh, but it demeans many, many women who have come forward of their own volition, knowingly inviting abuse, to share their stories. They share them not because they simply want their stories to be told. They want to prevent it from happening again and again and again in the future. They want to protect their daughters and their granddaughters from this kind of stuff, which, as we have seen in the last year or two, has been all too real, all too frequent. They are doing a noble thing. Then, to slander them by calling what Dr. Ford said a smear job is outrageous, demeaning, wrong. Again, Leader MCCONNELL should rethink what he said in the heat of the moment and apologize to Dr. Ford.

So what is really going on here? Why are Republicans falsely claiming that credible allegations are being made for political reasons? Because their nominee to the Supreme Court, frankly, has a gigantic credibility problem.

In his testimony before the Judiciary Committee, Judge Kavanaugh misled the committee on numerous occasions regarding his involvement in some of the ugliest controversies of the Bush administration, including the Bush administration's policies on torture, the confirmation of some deeply flawed judges, like William Pryor and Charles Pickering, and his knowledge of the odious theft of Democratic email records by a Republican staff member named Manny Miranda. In all of those, Judge Kavanaugh did not come clean. He did not tell the truth and nothing but the truth, but far, far from it.

Judge Kavanaugh was in the thick of all of those things as a top political operative in the Bush White House and yet denied any involvement. Here again, with these new allegations brought forward by Dr. Ford and others, Judge Kavanaugh is again issuing blanket denials, but the question looms: Is he credible? Is he credible?

He is opposed to having the FBI investigate, as is the majority leader and as is President Trump. None of them want the facts to come out. They just want to "plow right through it." If not for the courage of a handful of Republican Senators, we wouldn't have even

had the hearing. Leader MCCONNELL and Senator GRASSLEY did not want hearings—even hearings, which they are now saying are fair and right. But a few Republican Senators, to their credit, said: We have to have hearings. At least let's hear this woman out.

I didn't hear them calling this a smear job, thank God. They said: Let's get the facts.

Again, to repeat, the best way to get the facts is not to just plow through it. It is to have the FBI do what they have always done when new information comes up involving a nominee they may have already checked out: Reopen the background check and check out these new facts. It will not take long. It will be done quietly and in private, and then the Judiciary Committee members, on both sides of the aisle, can learn the same facts, done by an objective observer. That is all the American people want.

The American people see what is going on. They are looking at Judge Kavanaugh, and they are finding him less and less credible. That is why his nomination is in deep trouble. Perhaps that is why, in poll after poll, the plurality of Americans say Judge Kavanaugh should not be confirmed.

Let us get the facts. Let us stop smearing women who have the courage to come forward. Let's get to the bottom of this in a correct, appropriate, and dignified way. That is what the American people want, and that is what we should be doing in a bipartisan way in this Chamber.

I yield the floor.

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

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I wanted to come to the floor and talk for a few minutes about the unfortunate circumstances we find ourselves in as a result of the failure of the Ranking Member of the Judiciary Committee to submit a letter that she received from—in this case, we now know—Dr. Ford to the background investigators, who are bipartisan, who would have investigated this matter during the normal course of the confirmation process in a way that protected the anonymity and confidentiality of Dr. Ford, as well as the nominee.

As the Presiding Officer knows, having been a longtime member of the Senate Judiciary Committee, frequently during the course of a background investigation, we will learn things that Senators will want to ask the nominee about, but some of them are so sensitive and, frankly, some of them involve allegations we just don't know whether there is any basis to them or not. So they are handled in a

particularly careful manner by the background investigators, and they are not generally made available to Members of the Judiciary Committee staff because they are so sensitive and potentially embarrassing. Frankly, we just have to get to the bottom of them, but we want to do so in a way that is respectful of both the person making the accusation as well as the nominee.

Unfortunately, none of that happened here because we now know that the ranking member, our friend Senator FEINSTEIN, sat on this letter for some 6 weeks. Then, after the hearing, after all the thousand-plus questions for the record, after being able to examine not only the nominee for 2 days—over a long period of time—having gone through an FBI background investigation, as well as a bipartisan background investigation by the Judiciary Committee staff, this letter comes out in a way that, frankly, puts Dr. Ford in an uncomfortable position but also has consequences in terms of the nominee.

Many of us saw last night Judge Kavanaugh talk about the impact of this accusation that he denies ever occurring, its impact on his children, on his marriage, and on his reputation. This is not something any of us should welcome or take lightly, especially when there is an alternative, which would have protected Dr. Ford and the nominee and allowed us to get to the bottom of this accusation before it would ever have the potential of becoming public.

I just don't buy this idea either that if you are a man, you are on one side of this argument when it comes to accusations of sexual misconduct, or if you are a woman, you are on the other side. All of us have mothers. We all have fathers. Many of us have brothers and sisters. Many of us are fortunate enough to have daughters, as I do. I want to make sure my daughters, my wife, and my sister are treated with the dignity and respect that they are entitled to were they to be so unfortunate as to be caught up in a situation where they were a victim of sexual misconduct by a man. Conversely, this idea that just because you are a man, you are presumed to be guilty because somebody makes an accusation without presenting any evidence to support that accusation strikes me as being uniquely antithetical to our constitutional system and our sense of what is fair play. I will talk about that more in just a second.

I am very proud to support the nominee, Brett Kavanaugh, for the U.S. Supreme Court. I have had the fortune to know him since about 2000. He is an exceptional nominee by all respects. I, along with the majority leader and others, think it is a disservice to him, as well as to our courts, as well as to the Senate and the confirmation process for us to sit idly by and allow our colleagues across the aisle to blow up the normal process and to denigrate the reputation he has spent a career to build—especially, without solid evidence.

Again, we all feel sympathy—we should—for people who claim sexual assault. We owe them an opportunity for a fair chance to tell their story and to produce evidence, and we have recourse in our courts of law and elsewhere when those sorts of serious accusations are made.

But we also need to consider both sides of the equation. We need to consider the impact on the nominee—somebody who served more than 12 years as a judge on the DC Circuit Court of Appeals and, before that, worked for the President of the United States in the White House Counsel's Office. His public service required him to go through not one FBI background check but six FBI background checks, and he passed all of them with flying colors. Never before in any of those six background checks has this accusation been lodged. Not once in his long career has there been any allegation of improper conduct on the part of Judge Kavanaugh toward women—not once—other than this allegation.

As I said, as we think about what a fair process is—and Judge Kavanaugh talked about that last night—we need a fair process. We need not to assume somebody is guilty because an allegation has been made.

Frankly, in the criminal law context, we wouldn't want to give the government that much power to be able to deny us of our liberty, our property, or even our life by just an accusation, without requiring credible evidence to be presented in order to prove it before an impartial jury or judge. This is a constitutional principle—a bedrock constitutional principle—of our form of government.

It is very disturbing, and it is dangerous to hear some of our colleagues try to turn that principle on its head and say it is up to Judge Kavanaugh to disprove the allegations. He said it never happened. How could he possibly disprove the allegation when he said it never happened?

Well, that just shows the extent to which I think we have gotten off track in this confirmation process. We have already heard an awful lot about the judge. By all accounts, he is well qualified, according to friends, mentors, law clerks, attorneys, and professors. Everybody who testified about his nomination considered him to be a man of integrity, and I believe that personally to be the fact.

So it ought to trouble all of us—notwithstanding this orderly, respectful process by which the Judiciary Committee conducts background investigations, including accusations like the one being made by Dr. Ford—when that emerges at the eleventh hour. It makes no sense in terms of what we know about the nominee. It doesn't fit the picture. When something is alleged that is so completely out of character for what we do know about the nominee, it ought to strain our credulity. I, unlike some of our colleagues across the aisle, do not believe we should rush

to judgment and simply assume the worse.

Of course, the other attribute of a fair process would be an impartial judge or somebody who hasn't already made up their mind. We know that is not the case among our Democratic colleagues. The minority leader said he would do everything in his power to stop the nominee long before this accusation came up, and I believe none of the Democrats on the Judiciary Committee would have supported the nominee even before they knew about this allegation.

That is not a fair process. They are not a neutral observer or an impartial arbiter of the facts. They are more than happy to embrace thinly sourced allegations—even character assassinations—based on shreds of evidence, if you can dignify it by calling it that.

But that is not an approach that I think we should support. It is certainly not an approach I can support. I don't think it is a process anybody in the Senate or any American should support. It is shortsighted. It is narrowly focused and wrong.

I once told a friend that when the facts no longer make a difference in an argument, I am going to look for a new line of work. But the facts do matter, and these are the facts. Right now, we have one primary allegation regarding Judge Kavanaugh, and then another one that just popped up in the last day or so that I will talk about in a moment. Americans are all too familiar now with the misconduct that one person claims occurred more than 35 years ago. It is really hard to reconstruct things that happened 35 years ago. I think we all know that from our common experience.

I wonder if anybody within the sound of my voice could answer me: What were you doing 35 years ago on a given day in a given month at a given time? Could you reconstruct, in your own memory, what you were doing at that time and on that date and where you were and who you were with?

We also have to bear in mind that Judge Kavanaugh has said that this alleged incident, simply, did not happen. He said so under penalty of felony. In other words, if you lie to the FBI or if you lie to Congress during the course of a background investigation or in testimony to Congress, that is subject to a criminal penalty. Now, because Dr. Ford didn't go through the normal background investigation, she has not had to give evidence to the committee or to the Congress under that same penalty of perjury. Judge Kavanaugh has, but she hasn't. Yet she will have that chance this Thursday.

I firmly believe that a fair process means that both the accuser and the accused should be required to provide information to the Congress—to the Senate and to the Judiciary Committee—under the same conditions. In other words, if one witness testifies under oath, then both witnesses should testify under oath. If one witness is

subject to a penalty of perjury for lying, then both witnesses should be subject to a penalty in the event of perjury for lying. That is another attribute of the fair process that Judge Kavanaugh talked about last night.

We can't ignore the fact that, so far, no one else has corroborated Dr. Ford's statements and that she herself concedes she told no one about this alleged incident, not even a friend or a family member, until 2012 and, only then, without mentioning Brett Kavanaugh's name. The Judiciary Committee's investigators, as you would want and expect, have already been in touch with the four other people who Dr. Ford claimed were involved in this incident, and all four have denied having any knowledge of this event. That is a fact. You can't ignore it. You shouldn't ignore it. That is something we ought to consider as part of a fair process.

Nevertheless, we have really done everything we possibly can. We have acceded to every reasonable demand that has been made by Dr. Ford and her lawyers to give her the opportunity to be heard. We welcome her testimony, and we will listen to her at the hearing that has been scheduled for this Thursday. We welcome her participation, but we insist on a fair process—a fair process to her and a fair process to the nominee—one that allows her and Judge Kavanaugh to testify: to explain, to justify, and to corroborate if they can. Again, one of the hallmarks of a fair process is the presumption of innocence. This presumption of guilt, based on an unproven accusation, is un-American. It is absolutely foreign to who we are as a country and the sort of process demanded under our Constitution for people who are accused of serious misconduct.

So far, this process has been patently unfair both to Dr. Ford and to Judge Kavanaugh because the ranking member sat on this letter for 6 weeks and didn't submit it through the regular background investigation process that would have protected Dr. Ford and her confidentiality while it was being pursued. Now, as a result of the way this was handled by the ranking member, her letter, which she requested to remain confidential, and her complaint, which she requested to remain anonymous, was leaked to the press, and a media firestorm ensued. I am confident this is not what Dr. Ford wanted when she sent that letter to our ranking member on the Judiciary Committee.

It is important that Dr. Ford be given the chance to talk about what she believes happened to her. We are in the middle of an important national conversation about sexual assault and how certain people in positions of power wield their influence to coerce and intimidate women in the workplace and at large. This is a long overdue conversation, but we can't let the pendulum swing so far as to deny the accused his or her basic rights.

The Judiciary Committee, as I said, is no stranger to these sorts of allegations as one of our own Members

stepped down during this Congress after he acknowledged his own misconduct. Yet, if, as Judge Kavanaugh says, the conduct in question never occurred, he shouldn't be used as some sort of sacrificial lamb on behalf of larger causes and concerns to which he is in no way attached or implicated. That would be unjust. That would be the opposite of fair. It would also establish a terrible precedent for nominees in moving forward. We can't and we shouldn't let that happen.

I believe Chairman GRASSLEY, the chairman of the Judiciary Committee, has done an extraordinary job under very difficult circumstances. He has been extraordinarily gracious in trying to accommodate Dr. Ford. That is what we all have wanted even after her legal team has ignored offers and deadlines over the course of the last week.

I have to be honest, though. Some of the tactics that have been waged so far make me wonder whether Dr. Ford is still in control of her own story and her own circumstances. It makes me wonder whether she is being exploited by a political cause and whether her handlers and some of her supporters truly have her interests at heart. I wonder this particularly given that, after insisting this sensitive matter be treated confidentially, the letter—in the possession of our colleagues on the Democratic side on the Judiciary Committee—was leaked to the media, and Dr. Ford was forced to go forward publicly. Remember that the reason our friend, the ranking member from California, said she withheld this allegation until the very last minute was to protect Dr. Ford and to respect her request for anonymity. Yet that was then trampled on, ignored, and her wishes betrayed when this letter was leaked to the press.

Again, this is a particularly troubling matter, but one of our colleagues on the other side of the aisle on the Judiciary Committee has gone so far as to suggest that Judge Kavanaugh doesn't deserve the presumption of innocence, that just because a 35-year-old allegation was made, we must presume he is guilty. She said she believes that not because of anything to do with his reputation for honesty or truthfulness or anything about the facts; she said it is because of the way he conducts his judging, the way he approaches cases.

This is an extraordinarily disturbing statement, and I think it should be to all of us—this idea that he is denied what is a constitutional right, when an accusation is made of a crime, because of the way he performs his job as a judge, deciding cases. That ought to disturb all of us. I hope our colleagues will approach Thursday's hearing with more open minds than, apparently, she will.

As I mentioned a moment ago, it is true that now there is a second allegation that has been reported against Judge Kavanaugh. It stems from the New Yorker article that was published a couple of days ago, but, obviously, it

does not hold up to scrutiny. You don't have to take my word for it. Just ask the New York Times. The New York Times looked into it and conducted dozens of interviews. It tried to find anybody who would corroborate this allegation, and it wouldn't touch it because it couldn't get anybody else to say: Yes, that is what happened.

One journalist said on the air that Democrats sought out this second woman and essentially convinced her to make an accusation against Judge Kavanaugh. According to the story, no one the accuser knows has corroborated her claim. That is why the New York Times wouldn't report it. They interviewed several dozen people. They looked really hard. You can imagine how hard those reporters looked to find somebody—anybody—who would corroborate this allegation, but they couldn't find anybody. What they found was that the accuser herself reportedly told others that she was not sure if the perpetrator was actually Judge Kavanaugh. She told others with whom she was talking about possibly corroborating her accusation that she was not sure it was Judge Kavanaugh.

Now this information has been distributed to the press and around the country in a way that really is extraordinarily shameful. I don't say this often, but good for the New York Times. Thanks for upholding a modicum of journalistic integrity by not reporting this uncorroborated allegation in which the person who was making the accusation said: I may have the wrong guy. Shame on the New Yorker and others who have published this junk journalism.

As he said, Judge Kavanaugh is not going away. Despite the allegations made against him, which he says are false and did not happen, despite the smear campaign on his reputation as a person of integrity, despite the threats made against him and his family, he said he will not be intimidated into withdrawing, and he vowed to defend both his integrity and his good name before the Judiciary Committee this week.

As the delay tactics continue to play out and as the news stories continue to pile up, let's not lose sight as to why Judge Kavanaugh was nominated in the first place—his qualifications and the respect that he enjoys from all of those who have interacted with him professionally and personally. His work has been praised by legal practitioners and scholars alike. He has been unanimously affirmed by the Supreme Court on numerous occasions. During his grueling week-long confirmation hearing, he showed the kind of poise and seriousness befitting of the high office to which he has been nominated. He fielded many, many questions from Republicans and Democrats, and he responded to all of them truthfully, articulately, and graciously.

While it is easy to be distracted by the latest irresponsible, unsubstantiated allegation, we need to put that

in a larger context. Surely, these allegations cannot be viewed in isolation nor can the fact that our colleagues across the aisle previously questioned Amy Coney Barrett for her Catholic faith. Judge Kavanaugh is a practicing Catholic as well. Amy Coney Barrett, who had been nominated for the Seventh Circuit, was actually told in the questioning of her Catholic faith that the dogma lived loudly within her, which suggested somehow that because she is a practicing Catholic, she could not be confirmed to the U.S. Court of Appeals for the Seventh Circuit.

We don't have religious tests in this country. No matter what your faith or background or absence of faith in a higher being, we should not be attacking nominees for their religions or their faiths or their lack of faith. We should be confirming good nominees who can apply the law and the Constitution as written. Yet I think it is important to put the Amy Coney Barrett questioning and statement in this context, given the background and faith of this nominee.

We will try our best to get to the truth this week. We will listen carefully, but we will remember all of the evidence, and then we will vote on whether to confirm Brett Kavanaugh to the U.S. Supreme Court.

Our Democratic colleagues have dragged this out long enough. There will be no more delays, and soon it will be the time to vote. I say to my friends, we will hear from Dr. Ford. We have done our best to accommodate her and to give her a safe place where she can tell her story under oath to members of the Judiciary Committee who will be voting on this nomination. Likewise, Judge Kavanaugh will be placed under oath and give his testimony. Both of them will be subject to the penalties for perjury, which is a routine requirement for everyone giving testimony. We have to remember this has to be a fair process, both to the accused and the accuser.

Some of the rhetoric, some of the statements I have heard about the process have been anything other than fair to either one of them, thanks to the fact that this letter was not disclosed earlier but then dropped into the public view, notwithstanding the reluctance of Dr. Ford to have her identity revealed.

So we are where we are. We have a job to do. Under the Constitution, it is the Senate's responsibility to provide advice and consent on nominations to the U.S. Supreme Court, and we are going to do that. We are going to do that after hearing from Dr. Ford and after hearing from Judge Kavanaugh, just as we have heard for days from Judge Kavanaugh and other nominees following an extensive FBI background investigation and investigation by the bipartisan professional staff on the Senate Judiciary Committee. We are going to know everything that can be known about the nominee and about this alleged incident that Judge

Kavanaugh said never occurred 35-plus years ago.

I can't tell you where I was on any given day of the week 35 years ago at a certain time of day. That is why our job is so difficult, but we are going to do our very best, in fairness to Dr. Ford and Judge Kavanaugh, to try to bring this matter to a fair conclusion.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEE).

The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

TAX REFORM

Mr. THUNE. Mr. President, America has always been a place of economic promise. Millions of people have come to this country in search of a better life for themselves and an even better life for their children, but in recent years this dream had started to dim.

Under the Obama administration, our economy stagnated. Too many American families struggled. Worse, some economists were predicting that weak economic growth would be the new normal. Republicans disagree with that assessment. We didn't think the United States was doomed to a future of weak growth and diminished opportunity. We knew American workers and American businesses were as driven, creative, and innovative as ever. We also knew they were facing a lot of obstacles, including burdensome regulations and an outdated tax code that acted as a drag on economic growth. So instead of giving up on the economy, we decided we were going to get the economy going again by removing obstacles to economic growth and job creation.

Over the past 21 months, that is exactly what we have done. We have removed burdensome regulations, and last December we passed a historic and comprehensive reform of our Tax Code.

The Tax Code isn't necessarily the first thing people think of when they think of economic growth, but in actual fact, the Tax Code has a huge effect on our economy.

A small business owner facing a huge tax bill is highly unlikely to be able to expand her business or hire a new employee. In fact, if her tax burden is heavy enough, she may not even be able to keep her business open. Similarly, a large business is going to find it pretty hard to create jobs or improve benefits for employees if it is struggling to stay competitive against foreign businesses that are paying much less in taxes.

Prior to the passage of the Tax Cuts and Jobs Act, our Tax Code was not helping our economy. It was doing the opposite, and so we took action. We lowered tax rates across the board for owners of small and medium-sized businesses, farms, and ranches. We lowered our Nation's massive corporate tax

rate, which up until January 1, was the highest corporate tax rate in the developed world. We expanded business owners' ability to recover the cost of investments they make in their businesses, which frees up cash they can reinvest in their operations and their workers. We brought the U.S. international tax system into the 21st century so American businesses are not operating at a disadvantage next to their foreign competitors.

Now we are seeing the results. Our economy is thriving. The economy grew at a vigorous 4.2-percent pace in the second quarter of 2018. Since the Tax Cuts and Jobs Act was signed into law less than a year ago, 1.7 million jobs have been created. U.S. job openings have hit a record high of 6.94 million. In fact, the number of job openings has exceeded the number of unemployed for 5 straight months. Think about that. The number of job openings has exceeded the number of people who are looking for jobs for the past 5 months.

Wages are rising at the fastest rate since 2009. Middle-class income hit its highest level ever last year—ever—and the poverty rate dropped to its lowest level since 2006. Small business optimism shattered its previous record to reach a new high in August. I could go on.

So what does this all mean? It means that if you need a job, there are more jobs available and jobs with good benefits. It means there are more opportunities for workers to advance and build rewarding and secure careers. It means fewer families are having to live paycheck to paycheck and that more families have money available to plan for the future, such as for their kids' college or for their retirement. It means small business owners can think about expanding their businesses and hiring new workers instead of wondering how they are going to make ends meet.

When the American people elected us to the majority almost 2 years ago, we had one priority, and that was making life better for American families. I am very proud we are succeeding, but we are certainly not stopping here. We are going to continue working to expand opportunity for Americans even further. We are going to continue to build on the work we have done on other priorities, from equipping our military and supporting our veterans to fighting the opioid crisis.

NOMINATION OF BRETT KAVANAUGH

Mr. President, before I close, I want to take a moment to express my profound disappointment with my Democratic colleagues.

It came as no surprise that Democrats were determined to oppose Judge Kavanaugh's nomination. It has become abundantly clear in this Congress that Democrats consider being nominated by a Republican President disqualifies a person from serving on the Supreme Court. It doesn't matter how mainstream you are, how widely respected, or how fair and impartial, if

you are nominated by a Republican President, you are out.

As I said, it came as no surprise that Democrats were determined to fight Judge Kavanaugh's nomination. The ink on the nomination was scarcely dry before the Democratic leader had announced he was going to "fight this nomination with everything I've got."

While I expect the Democrats to fight Judge Kavanaugh's nomination, I expected them to do so honorably. I expected them to make their objections known, to grill Judge Kavanaugh in the hearing, and then to cast their votes against the judge, but that is not what happened.

As it became clear that Judge Kavanaugh was headed toward a vote and confirmation, it was leaked that the ranking member on the Senate Judiciary Committee had a letter containing an unsubstantiated allegation against Judge Kavanaugh regarding an alleged incident when he was in high school. The ranking member had received this letter at the end of July but chose to sit on it for a month and a half without discussing its existence with Republicans.

If the ranking member thought this allegation was credible, she had an absolute responsibility to bring it up immediately so it could be addressed. Holding it until a politically opportune moment was a betrayal of her obligation as a leader on the committee.

On the other hand, if she thought the allegation to be false—which is the only possible justification for her decision to sit on the allegation for 6 weeks—then the subsequent decision by Democrats to exploit the allegation in an attempt to derail Judge Kavanaugh's confirmation is, frankly, despicable. Either way, it is clear that from the beginning, Democrats operated without a shred of real concern for either the individual who made the allegation against Judge Kavanaugh or for the integrity of the confirmation process.

Now, after a fishing expedition by Democrats, the New Yorker has reported an accusation from Judge Kavanaugh's freshman year in college made by a woman who has admitted her memory of the event is hazy and that she can't be sure Judge Kavanaugh is the individual she has in mind.

The New York Times—not what anyone would call a conservative newspaper—declined to publish the allegation because it could not find anyone to corroborate the story, despite contacting "several dozen people." Yet Democrats have seized on this hazy, unsubstantiated story—a story so shaky that as I have mentioned, the New York Times refused to even print it—and are using that to call for further delays in the confirmation process.

That is not a concern for the truth; it is politics, pure and simple; it is attacking someone's character; and it is a serious matter. If you are going to

impugn someone's character, you need to have actual evidence to back it up, not a story that even the accuser herself has called into question.

Is this what Democrats want subsequent Supreme Court confirmations to look like, a hyperpartisan process in which character attacks don't have to be backed up with actual evidence, in which innuendo can substitute for information, and where a presumption of guilt is the order of the day, no matter how shaky or unsubstantiated the allegations?

I will say it again. I am deeply disappointed in my Democratic colleagues.

I look forward to hearing from Judge Kavanaugh later this week.

NOMINATION OF PETER FELDMAN

Mr. President, I rise today to voice my strong support for the nomination of Peter Feldman to be a Commissioner at the Consumer Product Safety Commission.

Peter has been an exceptional member of my staff throughout my time as chairman and ranking member of the Senate Commerce Committee. Serving as senior counsel for consumer protection on the committee for over 7 years, Peter has been instrumental in drafting and negotiating bipartisan legislation and conducting meaningful oversight of Federal agencies related to consumer product safety, unfair and deceptive trade practices, and sports policy. Those who have had the privilege of working with Peter would attest to his well-earned reputation for building consensus and forming coalitions to improve consumer safety.

Peter's work on significant consumer safety legislation began even before his tenure on my staff. As a staffer for former Senator Mike DeWine, for example, he worked directly on the Virginia Graeme Baker Pool and Spa Safety Act. More recently, on the Senate Commerce Committee, Peter led our work on numerous bipartisan legislative initiatives, including the Consumer Review Freedom Act, the Better Online Ticket Sales Act, and the Child Nicotine Poisoning Prevention Act.

Peter is very well qualified to serve as a Commissioner on the CPSC and enjoys the support of a wide range of stakeholder groups, including safety advocates who describe him as "a professional, thoughtful, and committed public servant." Nevertheless, it is my understanding that some on the other side of the aisle are requiring us to hold multiple votes on his confirmation for reasons that have nothing to do with his qualifications. In a nutshell, Democrats have expressed no objection—no objection—to Peter's qualifications to be a CPSC Commissioner. Instead, Democrats object to the fact that, in addition to being nominated to complete the remainder of a term expiring next year, President Trump has also nominated him to a full 7-year term on the CPSC.

While Peter's situation is somewhat unique, it is not unprecedented. In fact,

in 2005, the Senate confirmed former CPSC Commissioner Nancy Ann Nord to similar successive terms—a remainder term and a second full term—and the Senate did it by voice vote.

What is unprecedented is the level of partisanship that CPSC nominees are facing in the current environment. In fact, since Congress established the CPSC in 1972, there have been only three rollcall votes to confirm CPSC Commissioners. One of those rollcall votes occurred this past May for Commissioner Dana Baiocco after Democrats delayed her confirmation for over 6 months. The other two were in 2014 and in 1976.

Put another way, when we finish voting on Peter's confirmation, we will have doubled in a single year the amount of votes on CPSC Commissioners since Congress established the agency in 1972. That is how easy, in the past, it has been to confirm Commissioners to this agency.

My hope is that we are not yet done confirming CPSC nominees. I am hoping that soon the Senate will turn to the nomination of Acting CPSC Chairman Ann Marie Buerkle. The Commerce Committee held a hearing on Acting Chairman Buerkle's confirmation almost a year ago; nevertheless, Democrats still haven't allowed a vote on her confirmation. While she continues to lead the agency in an acting capacity, the CPSC deserves a Senate-confirmed leader, and we are committed to confirming her nomination as soon as possible.

Let me be clear. I expect and appreciate that more Democrats will likely vote for Peter Feldman's initial term at the CPSC. I expect that we are going to have Democrats here—many Democrats, I hope—who will vote for that initial term. Peter's history of bipartisanship, depth of experience, and mastery of the critical consumer safety issues before the agency will undoubtedly benefit the agency greatly and more than merit such support from both sides of the aisle. Peter's confirmation will also ensure that the CPSC has its full complement of Commissioners to execute its important safety mission. Nevertheless, I find it deeply regrettable that a well-qualified nominee like Peter will face objections from some who have expressed no substantive concerns about his qualifications to be a CPSC Commissioner.

It is my hope that the Senate will soon return to its tradition of bipartisanship in the confirmation of nominees to critical independent safety agencies such as the CPSC.

I urge my colleagues to support Peter Feldman's confirmation for both the remainder of the existing term and for the full term to which he has been nominated.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, all time has expired.

RECESS

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

Thereupon, the Senate, at 12:36 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. Under the previous order, all time has expired.

The question is, Will the Senate advise and consent to the Feldman nomination?

Mr. WICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. FLAKE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 19, as follows:

[Rollcall Vote No. 215 Ex.]

YEAS—80

Alexander	Fischer	Murphy
Baldwin	Gardner	Murray
Barrasso	Graham	Nelson
Bennet	Grassley	Paul
Blunt	Hassan	Perdue
Boozman	Hatch	Peters
Burr	Heitkamp	Portman
Cantwell	Heller	Risch
Capito	Hoeven	Roberts
Cardin	Hyde-Smith	Rounds
Carper	Inhofe	Rubio
Casey	Isakson	Sasse
Cassidy	Johnson	Scott
Collins	Jones	Shaheen
Coons	Kaine	Shelby
Corker	Kennedy	Smith
Cornyn	King	Sullivan
Cortez Masto	Klobuchar	Tester
Cotton	Kyl	Thune
Crapo	Lankford	Tillis
Cruz	Leahy	Toomey
Daines	Lee	Udall
Donnelly	Manchin	Van Hollen
Duckworth	McCaskill	Warner
Enzi	McConnell	Wicker
Ernst	Moran	Young
Feinstein	Murkowski	

NAYS—19

Blumenthal	Hirono	Schumer
Booker	Markey	Stabenow
Brown	Menendez	Warren
Durbin	Merkley	Whitehouse
Gillibrand	Reed	Wyden
Harris	Sanders	
Heinrich	Schatz	

NOT VOTING—1

Flake

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.