

**Senator Dan Sullivan Floor Speech on the Nomination of Judge Kavanaugh  
As Prepared  
October 6, 2018**

Mr. President. I have been watching and listening to my colleagues speak on the floor about the Judge Kavanaugh nomination for several days.

Like so many of my colleagues, I want to commend Senator Collins of Maine for her thorough, detailed and eloquent remarks yesterday. Sometimes a member gives a speech that we know will always be remembered because of its thoroughness, thoughtfulness, seriousness and statesman-like quality.

That happened yesterday with Senator Collins.

I also want to highlight my very good friend Senator Murkowski's remarks last night. While we voted differently yesterday and will most likely do so again in a few hours, she made some important points, particularly regarding some of the issues surrounding this confirmation process that relate to Alaska. I very much appreciate her friendship. Like so many, this process has been difficult for her.

In fact, for millions of Americans, and no doubt thousands of Alaskans, the process to confirm Judge Brett Kavanaugh to the U.S. Supreme Court has been searing. For Judge Kavanaugh and his family. For Dr. Christine Blasey Ford and her family. For the U.S. Senate family: this has been a very gut-wrenching period.

It has also evoked very traumatic memories of experiences that far too many women in Alaska and America have had. I am hopeful that in the aftermath of all of this, we can go through a much-needed period of healing.

The advise and consent responsibility of the Senate is a solemn one. One of the most important responsibilities we have here.

The process I went through in order to cast my vote for Judge Kavanaugh today has been extensive, thorough, and I believe, fair, which is what I believe my fellow Alaskans want from me.

After the President announced Judge Kavanaugh's nomination, I read hundreds of pages of decisions that he authored. I listened to the views of Alaskans — both for and against Judge Kavanaugh. In my first meeting with him after his nomination, we discussed at length and in great depth his viewpoint on a variety of national and Alaska-focused legal issues.

I had known Judge Kavanaugh when we served together in the Bush Administration. I knew him as an honest, dedicated public servant, and followed his career as a judge on the D.C. Circuit Court of Appeals.

The lengthy meeting in my office convinced me that he is someone who will interpret the law and Constitution as written. He understands the importance of separations of powers and federalism, holds a healthy skepticism regarding the expansive power of federal agencies, and that he is a strong protector of the Second Amendment—all issues that Alaskans care deeply about, which is why I focused on them in my discussions with Judge Kavanaugh.

I was convinced then, and remain so, that he is well qualified to be a justice on the Supreme Court.

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Several weeks after my meeting with Judge Kavanaugh, two issues arose that I took very seriously. The first was a claim that if he were confirmed, Judge Kavanaugh would not fully recognize or respect the rights of Alaska Native people and the U.S. Government's trust responsibilities to them. The Alaska Federation of Natives wrote a memo speculating how Judge Kavanaugh if confirmed would threaten unique laws and programs for Alaska Natives.

The second was that he sexually assaulted Dr. Ford in 1982 when she was 15 years old and he was 17 years old.

I put my heart and soul into investigating such claims further, given how important they were to me and so many Alaskans.

I want to address each of these issues in turn.

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Much of the AFN memo was focused on concerns stemming from an amicus brief written by Judge Kavanaugh 18 years ago when he was a private attorney in a case dealing with indigenous Hawaiians, called *Rice v Cayetano*, in which the U.S. Supreme Court, in a 7 to 2 opinion, essentially agreed with Judge Kavanaugh's position.

Alaska Natives make up roughly 20 percent of my state. Incredible Americans. Patriotic. Hard working. Beautiful cultures. Their legal and sovereign rights, which are based on the U.S. Constitution and federal statutes, have been extremely hard-fought over the decades. Such rights are fundamental to the health and well-being of Alaska Natives.

After the AFN legal memo and similar letters and op-eds were published, I sent them to the White House for Judge Kavanaugh's review. I then spoke directly to Judge Kavanaugh about these issues. He reiterated to me in a thoughtful and thorough discussion that the legal rights of Alaska Natives, to include tribes and regional and village corporations, were very clear, well-established, and completely different from indigenous Hawaiians.

Therefore, the views expressed by the Supreme Court in *Cayetano* that limit the rights of Native Hawaiians do not extend to Alaska Natives and are not applicable to Alaska.

This is because Congress has repeatedly and explicitly recognized rights and tribal status for Alaska Natives, including the federal government's trust responsibility, while Congress has not done the same for Native Hawaiians. In a response to a Question for the Record released by the Senate Judiciary Committee, Judge Kavanaugh unequivocally endorsed this same point.

Let me quote from his written answer: *“(T)he Supreme Court has recognized that Congress has the ability to fulfill its treaty obligations with Native Alaskan Regional or Village Corporations and American Indian tribes through legislation specifically addressed to their concerns. Unlike indigenous peoples of Hawaii, Congress has explicitly recognized in statute that ‘Indian tribe’ includes any recognized ‘Indian or Alaska Native tribe, band nation, pueblo, village or community.’ Native Alaskans are Indian Tribes and therefore enjoy all of the relevant rights and benefits that come with their trust relationship with the United States.*

In my conversations with Judge Kavanaugh about Alaska Native legal issues, he also reiterated a point emphasized by Chief Justice Roberts in the recent Sturgeon Supreme Court case that because of federal statutes like the Alaska Native Claims Settlement Act, and the Alaska National Interest Lands Conservation Act, Congress has repeatedly made clear that Alaska is different in many ways from the Lower 48. He recognizes that many legal issues involving our state must be viewed through this lens.

To be perfectly clear, if I believed or saw evidence that Judge Kavanaugh's views were somehow opposed or hostile to Alaska Natives — a very important population of my state that includes my wife, three daughters, and mother-in-law — I would not support his confirmation. I told Judge Kavanaugh this directly and was satisfied with his response.

Importantly, Senator Murkowski came to the same conclusion in her discussions with Judge Kavanaugh and she said as much in her remarks last night.

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The allegation regarding sexual assault I likewise took extremely seriously.

I respect very much Dr. Christine Blasey Ford's bravery and sincerity in coming forward to testify in front of the Judiciary Committee. I am convinced she went through a traumatic experience that left deep wounds. I also applaud the bravery of the many women who have called, written and visited my office to share their experiences. So much of this has been painful for them to revisit.

Again, I undertook the diligence that my constituents expect of me and that is required of the Senate's important advise and consent role. I watched the Senate Judiciary hearing on the issue gavel to gavel. I read every piece of information available, including all interviews conducted — under penalty of perjury — by the Senate Judiciary Committee investigators. I read text message threads, witness statements, letters between the Committee and lawyers who have been involved in this issue, and confidential committee documents.

I supported and read the professional and thorough supplemental FBI report recently submitted to the Senate, which looked deeper into this allegation and spoke to additional witnesses in relation to it.

Most importantly, I met with and heard from hundreds of Alaskans who had suffered from sexual abuse and domestic violence. Some flew thousands of miles, most on a moment's notice, to come to my office to meet with me and Senator Murkowski.

I applaud their bravery and passion. So much of this process has been painful for them. Alaska is an amazing state. I come down to the floor all the time to talk about its majesty and beauty and our wonderful people.

But in one area we are not so great, or wonderful, or majestic. Alaska has the highest rates of sexual assault and domestic violence in the country by far. It's horrible and it impacts so many families in the Last Frontier.

Throughout my public career in Alaska, I have worked to combat sexual assault and domestic violence by putting more offenders in jail, bringing more resources to survivors, including much-needed legal services, and raising awareness of this heinous problem by working to change the culture of violence. We have a lot more work to do in Alaska, across America, including on our college campuses. I applaud Senator Gillibrand for her leadership in this area.

The allegations by Dr. Ford have been difficult to address here in the Senate. But one thing is clear to me—her allegations have been taken very seriously — as they should have been.

Mr. President. I have a summary from the Judiciary Committee on its investigation into these and other allegations.

It shows a staff of over 20 literally working around the clock for weeks on all leads involving these serious allegations. They spoke to more than 35 individuals, pursuing any and all substantive leads. I want to commend Chairman Grassley for his serious and diligent work on this regard.

Two important points stand out: First: the Committee has not obtained or received any evidence that would corroborate the claims made by Dr. Ford and others. No corroborating evidence.

Dr. Ford's allegations were investigated respectfully and thoroughly by the Senate Judiciary staff and the FBI. Despite her courage in coming forward, none of her allegations were corroborated. The four people Dr. Ford claims were present had no knowledge or memory of any such event, and the others the FBI asked about the alleged incident had no knowledge. One of them, a lifelong friend of Dr. Ford's, Leland Keyser, said that she didn't even know Judge Kavanaugh. All of these statements were made under the penalty of perjury.

Another important point from the Judiciary Committee summary not picked up on is that the minority staff on the Committee — those representing the Democratic members — refused to

participate in most of these investigations, sometimes by not attending interviews at all, or when they did, refusing to ask questions.

This is truly a mystery to me. One of the constant refrains from my colleagues on the other side of the aisle, which continues today, is the need for more investigations into the allegations against Judge Kavanaugh. But over the course of the past several weeks, they have refused to even take part in the intensive, ongoing investigations from the Judiciary Committee staff investigators.

I am not a member of this Committee, but it is my understanding that this is a very significant break from past bipartisan investigations for most every other previous Supreme Court nominee.

I am not sure why this happened. But it makes one wonder what their true goal was. Perhaps one of my colleagues from the Judiciary Committee could explain this.

So Mr. President. Where does this leave us?

As Alaska's former Attorney General and now as a U.S. Senator, I believe strongly in ensuring perpetrators of sexual assault pay a very serious penalty. I oversaw prosecutors who put such criminals away for decades, and even indicted an alleged rapist according to his DNA sequencing in order to toll the statute of limitations for such a crime when we couldn't physically locate the alleged perpetrator.

But I also believe that the presumption of innocence is sacrosanct and a fundamental American principle, whether in a criminal trial, in a Senate committee hearing, or the court of public opinion. I'm convinced that due process should apply as much to the Senate's advise and consent responsibility as it should in a court of law.

If we lose this basic concept of fairness, then we risk doing irreparable damage to the very foundation of our democracy and core conceptions of American justice, and even liberty.

We do not want a system of guilty until proven innocent in America. Such a principle can even lead to incentivizing false allegations that do lasting damage, especially when coupled with breathless media reports that repeat verbatim such charges. Unfortunately, we have seen this phenomenon in the case of Judge Kavanaugh. I am not referring to the allegations of Dr. Ford, which were taken seriously.

But in the aftermath of her allegations, some horrendous, and what appear to be patently false claims, were made against him.

Such false allegations do tremendous damage to the accused and his or her family. But just as bad, they also risk undermining the credibility of true victims and survivors of sexual assault. This is something that's been overlooked over the past several weeks.

One of the most disheartening aspects of this confirmation process has been how some of my Senate colleagues and members of the media were so quick to publicly embrace some of the

most outrageous and incredible claims made against Judge Kavanaugh — that, for example, he participated in the drugging and raping of women as a teenaged boy.

A senior member of the Judiciary Committee referenced this sickening uncorroborated allegation in her opening statement at one of the hearings.

The immediate damage to the accused and the hurt to his family by such a charge, which reverberated across the nation, was obvious.

Less obvious, but perhaps more damaging to so many more in the long run, is how such false claims undermine the ability of true victims and real survivors of sexual assault to get justice and to be believed.

I certainly hope that that is not one of the outcomes of this dysfunctional confirmation hearing process, but it does underscore how and why we can undermine the entire system of American justice and fairness can be undermined if we abandon the presumption of innocence.

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Finally, again, I applaud the courageous women — including the many Alaskans who have flown to D.C. — who have spoken out about this nomination and who have shared stories about their own experiences with assault. I know that this process has brought on fresh pain and difficult memories for so many. I want them to know that from the bottom of my heart, that I am committed more than ever to work on combatting sexual abuse and domestic violence and trying to change our culture to one of respect.

Indeed, if there is a silver lining to come out of this contentious confirmation process it is that the awareness and commitment to do much more to combat sexual abuse has been heightened. I have heard this from many of my colleagues in the past few days, including Senators Murkowski, Collins, Harris and Klobuchar, and I certainly am committed to working with all of them and others to make this happen.

At the same time, I do not agree with some of the comments made on the floor that somehow a vote in favor of Judge Kavanaugh is condoning sexual assault or not believing survivors. As Senator Collins stated yesterday, “Nothing could be further from the truth.”

A bipartisan majority of U.S. Senators — men and women — are likely to vote for Judge Kavanaugh in a few hours.

To mark all of them as somehow not caring about the broader issue of sexual assault in America is not only untrue and affront to them, but undermines the larger cause of working together to combat this issue.

This is not a binary choice. This is not a Republican versus Democratic issue: this is an American epidemic and frankly, it’s an American male issue. The men are the ones who are committing the vast majority of the abuse, and we need the country united to stop it.

Mr. President. I will be voting to confirm Judge Kavanaugh as the next Associate Justice on the Supreme Court. But on the broader topic I've been discussing, our country as a lot of healing to and work to do. I'm certainly ready to do my part in that regard with all of my Senate colleagues, both Republicans and Democrats.

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