

Trump Wins the Kavanaugh Poker Match

by Conrad Black



When the cant and emotionalism and bilious partisanship have subsided, the Kavanaugh episode will be seen as a decisive watershed.

President Trump knew how critical a turn it would be to have a fifth confirmed conservative interpreter of the Constitution for the first time since 1940, three years after Franklin D. Roosevelt threatened to pack the Supreme Court to protect the Tennessee Valley Authority and other key New Deal programs. He nominated a squeaky clean judge the Democrats would have great difficulty finding a reason to rally support against. Over 90 percent of the time on the D.C. Circuit Court of Appeals, Brett Kavanaugh had voted with President Obama's candidate to succeed Antonin Scalia, Merrick Garland. Yet he was a presentable conservative who attracted the unanimous commendation of the American Bar Association and was recommended by the Federalist Society.

Kavanaugh was a sufficiently bulletproof choice, the Democrats had only one throw, and it could not be made in regular hearings; they had to try the same formula used against Clarence Thomas in 1991, and pull out a last minute allegation of sexual misconduct, in the post-Weinstein era, a white-hot issue that could blow up the nomination if it were plausible. In whatever strategy sessions they had, Dianne Feinstein (D-Calif.), the ranking Democrat on the Judiciary Committee, would have mentioned a letter she had received from an academic doctor, claiming gross misconduct against Kavanaugh when they had been in secondary school.

Democratic operatives crowded around the lady, Dr. Christine Blasey Ford, who had asked for anonymity, and was just writing Feinstein to inform her, not to seek a public role. They leaked the existence of the letter and the identity of the complainant so Ford's rationale for anonymity evaporated, gave her the "Dare to be great" speech, asked her to put all the wronged women of America ahead of her own desire to stay out of the public eye, and do her duty to women of the future now that the cat was out of the bag.

Dems Up the Ante When the Bank is Spent

The Democrats may not have known that all Ford's corroborating witnesses would peel off, but this was their only shot and they had to get their ill-assured accuser to the firing range. After a lot of bunk about aversion to flying and white Republican men ganging up on her had been dealt with by the committee majority agreeing they would take her testimony in California, and have a designated woman put the questions for them, Ford consented to appear. The Democrats hoped that the president's notorious penchant for provocative comment would come to their aid, and they strained to find fault with the fair conduct of the Republican majority. The committee was chaired with great diplomacy by the veteran Senator Chuck Grassley (R-Iowa).

She had been an anti-Trump activist and faced up to the

challenge gamely. She was a congenial and presentable witness for very soft questioning. The Republicans had to draw the line between establishing that her testimony was completely unsubstantiated and blowing her apart as the committee normally would, especially on her not flying and not having known that the committee would take her evidence in California. (Every person in the world with a television set knew that; she must have, too.) Aggressive questioning would have stirred great sympathy. The designated cross-examiner, Rachel Mitchell, an experienced Arizona prosecutor in sex crime cases, made the point that there was absolutely no corroboration of her story and the story itself—including the story about the second entrance door on her house and the lack of any idea of where she was on the night of the alleged assault or how she got there or back home—was riddled with holes like Swiss cheese.

How Overplayed Hands Assure Opponents' Victory

As the inability of this witness to knock Kavanaugh out became clear, after he had made a strong if at times overly histrionic performance following Ford's appearance, the Democrats lost their strategic focus.

Large elements of the party, especially some the female senators, including Kirsten Gillibrand, Mazie Hirono, and Kamala Harris, said Ford had to be believed because she was a woman, and Hirono helpfully added that American men should "shut up." The most egregious of the Democratic male posers on the committee, Cory Booker and Richard Blumenthal, fell in like obedient eunuchs with the opinion that held that since Ford had appeared, had only one head, and repeated her allegations in sentences, that was proof of Kavanaugh's criminality.

Those Democrats who better understood how dangerous a position that could be, confined themselves with arguments for delay that might push the process past the midterm elections. They proposed a supplementary FBI investigation and allowed

themselves to be shunted into a cul-de-sac. The corresponding supplementary inquiry by the FBI 27 years before in the Thomas case had only taken three days. Two alleged rape victims screaming at outgoing NeverTrump Republican Senator Jeff Flake was enough to turn him around and ask for further investigation, and the Republicans agreed the supplementary investigation and the president ordered it at once. The 85-year-old Feinstein, befuddled, momentarily objected that Flake's conditional vote to send the nomination to the whole Senate had to be mistaken. The investigation confirmed the spuriousness of the follow-up allegation from Deborah Ramirez, one that even the *New York Times* declined to publish, and confirmed the complete absence of any corroboration for Ford, did not revisit her, thus avoiding the likely emergence of contradictions inviting a perjury charge.

This was the decisive moment where the headless Democrats, lashing out in all directions, were decisively defeated by a Republican effort centrally directed by Trump, Grassley, and Senate Majority Leader Mitch McConnell (R-Ky.).

Trump Played a Smart Hand for the House

As the Democrats dispersed their inchoate rage, the Republicans closed ranks. Kavanaugh had been a Bush appointee and the Bush family remained loyal to him, and a partial public reconciliation between the president and the former presidents occurred. Distinguished *New York Times* conservative columnist Bret Stephens supported Trump for the first time, in convincing terms. The administration treated the NeverTrumpers thoughtfully, and Jeff Flake had his investigation remained in the fold.

Susan Collins, never a toady of the president's, spoke for all Republicans and most women with a very learned, fair, and conciliatory address on October 5. In that ineluctable manner of American politics, she showed that in a crisis, a person who is not especially prominent, will emerge and speak for the country, its history and ideals.

Suddenly, bitter partisanship was pierced by dispassionate, disinterested reason and fairness. It was electrifying, the more so for Collins' absence of oratorical flair. With nothing but respect for all parties including Feinstein and Ford, she learnedly dismembered the arguments that Kavanaugh would roll back the clock on abortion or any other important issues, and made it clear that the Ford arguments had not reached the civil law threshold of balance of probabilities. Only Lisa Murkowski of Alaska defected, in an incoherent speech, and only after it no longer mattered.

The Democrats had cast their lot with those who would appease militant feminism by declaring anyone accused to have been a sex offender, no matter how long before and even with no corroboration at all, and to be a pariah permanently unfit for a serious office. The Republicans stood solidly, from the president down and including anti-Trump Republicans, with the presumption of innocence and the rule of law. The Republicans said nothing to offend a reasonable woman; and every thoughtful American knew that each one of them could be, someday, the subject of a false allegation.

It was a fateful and disastrous tactical and strategic mistake by the Democrats. Their more aggressive spokespeople are doubling down and threatening to investigate and impeach Kavanaugh. Collins and others are being deluged with threats and abuse. Booker and Maxine Waters and other elected Democrats are urging physical intimidation of dissenters. There were screaming mobs of anti-Kavanaugh surging through the halls of the United States Capitol.

The Democrats are a party tainted by extremism. They gambled and they lost and they will pay for it.

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