

# Kavanaugh hearings highlight corporate control of US Supreme Court

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The Senate Judiciary Committee hearings on the nomination of Brett Kavanaugh to the US Supreme Court are a predictably stage-managed affair.

For the Trump administration and the congressional Republicans, and the nominee himself, the sole aim in the hearings is to avoid any self-inflicted wounds, secure in the knowledge that the 51-49 Republican majority will suffice to push through the nomination. The Democrats will not only do nothing to stall it, but will supply some votes of their own to back the right-wing judge.

Hence Kavanaugh's presentation of himself as a sincere do-gooder, who feeds the homeless at Catholic Charities and coaches girls' basketball, not the reactionary who has given 50 speeches to the ultra-right Federalist Society during his 12 years as a federal judge, before which he played a key role in the attempted political coup against Bill Clinton led by Kenneth Starr.

Senate Democrats are seeking to make a show of opposition to the nomination to promote illusions in the Democratic Party as the "resistance" to the Trump administration and its ultra-right policies, while allowing a select group of Democrats facing reelection bids in November in states carried by Trump in 2016 to vote for Kavanaugh.

Minority Leader Charles Schumer has flatly rejected demands from civil rights, women's and gay groups that he engage in protracted delaying tactics to block the nomination, let alone repeat the methods employed by his Republican counterpart, Mitch McConnell, who blocked Obama's nomination of Merrick Garland in 2016 so that Trump could fill the vacancy on the court with his ultra-right nominee Neil Gorsuch.

In such matters, the Republican Party is invariably the more determined, aggressive and politically ruthless faction in capitalist politics because it is less hindered

by the necessity of making a pretense of defending democratic rights or the interests of working people against the corporate elite.

This political reality forms the background to the remarkable statement given Tuesday during the opening hearing on Kavanaugh by Democratic Senator Sheldon Whitehouse of Rhode Island. Whitehouse engaged in an 18-minute exposure not only of the Kavanaugh nomination, but of the Supreme Court majority that is led by Chief Justice John Roberts and includes Clarence Thomas, Samuel Alito, Gorsuch and Anthony Kennedy, whose retirement has created the vacancy Kavanaugh is to fill.

Whitehouse labeled these justices the "Roberts Five" and focused on 80 decisions since Roberts became chief justice in which the five justices appointed by Republican presidents voted as a bloc against the minority of four justices appointed by Democratic presidents. In the 73 of these cases in which the court ruling would have a significant impact on wealthy corporate interests, Whitehouse explained, the "Roberts Five" pushed through a pro-corporate decision every time. The score sheet was 73 to zero.

The senator's presentation was remarkable in that it dropped the usual pretense that the Supreme Court is "above politics" and mocked the claims that the five-member conservative majority represents "judicial restraint" or opposes "legislating from the bench."

"When the Roberts Five saddles up, these so-called conservatives are anything but judicially conservative," he said. "They readily overturn precedent, toss out statutes passed by wide bipartisan margins, and decide on broad constitutional issues they need not reach." Principles like "originalism" and deference to precedent are tossed out the window whenever they are an obstacle to reaching the desired pro-corporate result.

Among the court decisions he referenced were

*Shelby County v. Holder*, which gutted Rights Act; *Citizens United*, which overturned limits on corporate campaign contributions; and *Walmart v. Dukes* and *Epic Systems*, which bar consumers and workers from filing class action suits if they are injured or fleeced by corporations, forcing them into rigged arbitration procedures.

Other 5-4 decisions protected corporations from being sued by workers over pay discrimination, age discrimination, sexual harassment or retaliation for filing charges of discrimination, and shielded US firms from liability for international human rights violations.

The 5-4 decisions include a range of protections for corporate polluters, as well as those on behalf of ultra-right opponents of abortion, gay rights and even contraception. Other such rulings include the upholding of Trump's ban on Muslim travelers entering the United States and a decision insulating investment bankers from fraud claims.

Whitehouse traced the course of nominations like that of Kavanaugh. Corporate donors finance the Federalist Society, which promotes and screens ultra-right jurists. It gave candidate Trump a list he pledged to use for his judicial picks, including for the Supreme Court.

“Then big business and partisan groups fund the Judicial Crisis Network, which runs dark money political campaigns to influence senators in confirmation votes, as they've done for Gorsuch and now Kavanaugh. Who pays millions of dollars for that, and what their expectations are, is a deep dark secret,” Whitehouse explained.

He noted that the US Chamber of Commerce had won nine of ten cases before the Supreme Court this year, since Gorsuch joined the court, and won the votes of the “Roberts Five” in three quarters of the cases in which it has been involved since 2006. “The American public thinks the Supreme Court treats corporations more favorably than individuals, compared to vice versa, by a 7-to-1 margin,” he said.

This warning that the court was becoming discredited in the eyes of the public clearly struck a nerve. Judiciary Committee Chairman Charles Grassley sputtered angrily that Whitehouse had “spent 18 minutes attacking the personal integrity of justices of the Supreme Court. He said that five justices had been bought and sold by private interests. He accused them of deciding cases to the benefit of favored parties.”

Whitehouse is not a political radical, but rather a scion of the New England aristocracy, with a family pedigree that goes back to Plymouth Rock. He is the grandson of a US diplomat, the great-grandson of a railroad baron and related by blood or marriage to a “who's who” of the American ruling elite. He is warning his Republican colleagues in the ruling class that they risk going too far and provoking a response from below.

His critique is of course one-sided, since it focuses only on 5-4 decisions where the partisan split in the court was a factor, not on the far more frequent 9-0 or near-unanimous rulings when the entire court sides with corporations and the wealthy.

Nevertheless, it provides insight into the reality of the corporate-financial oligarchy's corrupt and antidemocratic control over all of the institutions of government and both political parties. This numerically tiny oligarchy has decided to shift the Supreme Court to the far right in order to facilitate mass repression of growing working class opposition. The Democrats, no less than the Republicans, are involved in an elaborate, stage-managed parliamentary farce to implement its decision.

What is revealed is the character not only of the Supreme Court, but of the capitalist state as a whole, including Congress—where the average member is now a millionaire—and the executive branch, where the billionaire president has installed a cabinet of billionaires, ex-generals, ultra-right ideologues and corporate shills.

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