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From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
To: [REDACTED] P6/b(6)
Subject: : Senator Bayh on President's judges proposal

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SNOW: Another issue that played into some election campaigns this year was judicial nominees. It was kind of a surprise issue. A number of those were held up in the Judiciary Committee when Patrick Leahy was chairman. The president now has announced his plans, and I think the Judiciary Committee soon will go ahead and report out a number of those nominees, including Charles Pickering, Priscilla Owens and others. Will you vote for them?

BAYH: I didn't have to get into those specific questions, Tony, because I'm not on the Judiciary Committee.

SNOW: Yes, but you're on the Senate floor, and that's going to come up before the Senate.

BAYH: I suspect I will vote for some of them and against some of them. You've got to take it on a case-by-case basis and assess their qualifications.

SNOW: Did your party make a mistake by shutting off all those nominees?

BAYH: My sense is that that didn't play a big role politically. I think it was more national security, Iraq, and taxes. I think those are the three areas where we fell down.

And taxes, in some way, is a substitute for having an economic strategy. This economy is not strong enough. We need to be a pro-growth party, a pro-jobs party, and have a coherent strategy for making that happen.

HUME: Senator, the president's team came forth in the final days of the campaign with a plan on judicial nominations that would have had retiring judges announce their retirements a year before they did. It would have had a timetable for the consideration of appointments to fill the seats. And it would have provided for a vote on the Senate floor on judicial nominees.

At the time, of course, it was looked as a eleventh-hour proposal, politics. The administration clearly intends to follow up on it and press for it.

What is your view of that proposal? Is that something you'd be interested in seeing passed?

BAYH: I'm willing to give it serious consideration, Brit. I think we need to get away, both parties--you know, this happened when Clinton was president. It's now happening a little bit now. We need to get a more orderly process in place for dealing with these nominations.

The big fight, though, won't be on the district and appellate court nominees. The big fight will be if there's a Supreme Court vacancy and what to do then.

HUME: Right, but do you believe that a president should be entitled at least to a floor vote on judicial nominees?

BAYH: I think in most cases yes. If someone is just clearly beyond the

pale, then the committees do have their rights.

HUME: True, but if someone is clearly...

BAYH: In most cases, yes.

HUME: Clearly beyond the pale presumably means, reported out of the Judiciary Committee with a negative recommendation to the floor, where the Senate, presumably, in its wisdom, if the nominee is beyond the pale, would reject it.

BAYH: In most cases, yes. Unless there's something exceptional.