

# FINANCIAL REVIEW

## Supreme Court nominee Kavanaugh skirts abortion, guns, impeachment

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**Washington** | Donald Trump's Supreme Court pick Brett Kavanaugh sidestepped Democratic lawmaker demands he express support for abortion rights, force insurance companies to cover pre-existing health conditions, and explain whether a sitting president should respond to a subpoena.

As a steady drumbeat of protesters were removed from the second day of Senate committee confirmation hearings, Mr Kavanaugh repeatedly cited the example of Justice Ruth Bader Ginsberg - a popular figure among progressives - who said in her 1993 hearings that she would give no hints as to how she might rule on future cases.

Mr Kavanaugh's nomination is being seen as the president's most consequential and lasting domestic decision as it will shift the supreme court's balance decisively to the right, potentially for decades. A successful confirmation would deliver a major victory for many Republicans, who may be opposed to Mr Trump but tolerate his presidency as the price for recasting the nation's top court.

Legal experts anticipate the final vote will be one of the narrowest and most contentious Senate confirmations since Clarence Thomas in 1991; he was confirmed even after being accused of sexual harassment by a law professor Anita Hill.

In a strategy anticipated by many, Mr Kavanaugh, 52, pushed back against questioning by Democrat senators on a raft of sensitive legal debates from campaign finance, to abortion and whether a sitting president should be forced to respond to criminal investigations or civil lawsuits.

Asked by California senator Dianne Feinstein whether a president must comply with a subpoena - something that may come before the Supreme Court in relation to Robert Mueller's Russia probe: "I can't give you an answer on that hypothetical question," he said, using what has come to be known as the Ginsburg Standard.

Pressed on whether Roe v. Wade - the groundbreaking 1973 ruling that legalised abortion - was correct, Mr Kavanaugh avoided a direct answer: "One of the important things to keep in mind about Roe v. Wade is that it has been reaffirmed many times over the last 45 years," he said.

The testimony prompted a rare intervention from Hillary Clinton, who said in a tweet that "of course" he would help gut or overturn Roe v Wade, and pointed out that he has been endorsed by anti-abortion groups.

Senator Feinstein hit back, saying previous nominees Justice Thomas, Samuel Alito, John Roberts and Neil Gorsuch all used the same playbook; "1. Profess loyalty to precedent in Senate hearings. 2. Overturn precedent once on the bench."

"We can't accept vague promises from Brett Kavanaugh when women's reproductive freedom is at stake," she tweeted.

Former White House lawyer David Rivkin and Andrew Grossman, from the Cato Institute, said this week that senators should stick to studying Mr Kavanaugh's more than 300 written opinions as a district judge over 12 years.

"There is no legitimate reason to demand hints, forecasts and previews that Judge Kavanaugh is duty-bound to deny," they said.

While many Democrats oppose Mr Kavanaugh, this week's hearings, just two months from the November mid-terms, threaten to damage some of the party's senators facing re-election in states where his nomination is popular, including West Virginia, Montana and North Dakota.

Democrats from those states are expected to ensure Mr Kavanaugh wins a majority of Senate votes.

President Trump intervened during the hearings on Wednesday (Thursday AEST) saying Mr Kavanaugh's hearing performance have been "totally brilliant".

"I saw some incredible answers to very complex questions," Trump said. "He's an outstanding intellect. He's an outstanding judge. He was born for the position."