

Administration of Joseph R. Biden, Jr., 2022

Remarks on the Retirement of Supreme Court Associate Justice Stephen G. Breyer
January 27, 2022

The President. Good afternoon. I'm going to begin by recognizing both Dr. Breyer and Dr. Biden—[*laughter*]*—and—for being here. And I can't tell you—this is sort of a bittersweet day for me. Justice Breyer and I go back a long way, all the way back to the mid-seventies, when he first came on the Judiciary Committee, but that's another story.*

I'm here today to express the Nation's gratitude to Justice Stephen Breyer for his remarkable career of public service and his clear-eyed commitment to making our country's laws work for its people.

And our gratitude extends to Justice Breyer's family for being partners in his decades of public service. In particular, I want to thank his wife, Dr. Joanna Breyer, who is here today and who has stood by him for nearly six decades and with her fierce intellect, good humor, and enormous heart. I want to thank you. The country owes you as well.

And Stephen Breyer's public service started early. He served in the United States Army as a teenager and in all three branches of the Federal Government before he turned 40. They were the good old days, weren't they? [*Laughter*]

And as—he was a law clerk to Supreme Court Justice Goldberg, a prosecutor in the Department of Justice, a member of the Watergate prosecution team. And I first met Stephen Breyer when I was a Senator on the Judiciary Committee, and he started off as—taking care of one of the subcommittees for Teddy, but then became chief counsel during his tenure as Ted's chairmanship of the Judiciary Committee.

Beyond his intellect and hard work and legal insight, he was famous for biking across Washington virtually every day for a face-to-face meeting with a Republican chief counsel, the ranking Republican counsel. And over breakfast, they'd discuss what would they do for the country together. Whereas, in those days, we tried to do things together. They—that spirit stuck with me when I took over the Judiciary Committee as chair after Senator Kennedy's tenure.

And it was my honor to vote to confirm Justice Breyer to serve in the United States Supreme Court—the Court of Appeals first, in 1980. And then, 14 years later, in 1994, I got to preside as chairman of the Senate Judiciary Committee over his Supreme Court confirmation hearings.

We were joking with one another when he walked in: Did we ever think that he would have served decades on the Court and I'd be President of the United States on the day he came in to retire? I—and he looked at it—anyway, I won't tell you what he said. I'm joking. But I was proud and grateful to be there at the start of this distinguished career on the Supreme Court, and I'm very proud to be here today on his announcement of his retirement.

You know, during his confirmation hearings, way back in 1994, nominee Stephen Breyer said, quote, "The law must work for [the] people." He explained to us his faith that our complex legal system has a single purpose: to help people who make up our country. It was a different time, of course. But his brilliance, his values, his scholarship are why Judge Breyer became Justice Breyer by an overwhelming bipartisan vote at the time.

Today Justice Breyer announces his intention to step down from active service after four decades—four decades—on the Federal bench and 28 years on the United States Supreme Court.

His legacy includes his work as a leading scholar and jurist in administrative law, bringing his brilliance to bear to make Government run more efficiently and effectively. It includes his stature as a beacon of wisdom on our Constitution and what it means. And through it all, Justice Breyer has worked tirelessly to give faith to the notion that the law exists to help the people.

Everyone knows that Stephen Breyer has been an exemplary Justice: fair to the parties before him, courteous to his colleagues, careful in his reasoning. He's written landmark opinions on topics ranging from reproductive rights to health care, to voting rights, to patent laws, to laws protecting our environment, and the laws that protect our religious practices. His opinions are practical, sensible, and nuanced. It reflects his belief that a job of a judge is not to lay down a rule, but to get it right—to get it right.

Justice Breyer's law clerks and his colleagues, as many of the press here know, describe him and his work ethic—his desire to learn more, his kindness to those around him, and his optimism for the promise of our country. And he has patiently sought common ground and built consensus, seeking to bring the Court together. I think he's a model public servant in a time of great division in this country. Justice Breyer has been everything his country could have asked of him.

And he's appeared before—when he appeared before the Judiciary Committee almost three decades ago, we all had high hopes for the mark he would leave on history, the law, and the Constitution. And he's exceeded those hopes in every possible way.

Today is his day—our day to commend his life of service and his life on the Court. But let me say a few words about the critically important work of selecting his successor.

Choosing someone to sit on the Supreme Court, I believe, is one of the most serious constitutional responsibilities a President has. Our process is going to be rigorous. I will select a nominee worthy of Justice Breyer's legacy of excellence and decency.

While I've been studying candidates' backgrounds and writings, I've made no decision except one: The person I will nominate will be someone with extraordinary qualifications, character, experience, and integrity, and that person will be the first Black woman ever nominated to the United States Supreme Court.

It's long overdue, in my view. I made that commitment during the campaign for President, and I will keep that commitment. I will fully do what I said I'd do: I will fulfill my duty to select a Justice not only with the Senate's consent, but with its advice.

You've heard me say in other nomination processes that the Constitution says seek the "advice and consent," but the advice as well of the Senate. I'm going to invite Senators from both parties to offer their ideas and points of view.

I'll also consult with leading scholars and lawyers. And I am fortunate to have advising me in this selection process Vice President Kamala Harris. She's an exceptional lawyer, a former attorney general of the State of California, a former member of the Senate Judiciary Committee.

I will listen carefully to all the advice I'm given, and I will study the records and former cases carefully. I'll meet with the potential nominees. And it is my intention—my intention—to announce my decision before the end of February. I have made no choice at this point. Once I select a nominee, I'll ask the Senate to move promptly on my choice.

In the end, I will nominate a historic candidate, someone who is worthy of Justice Breyer's legacy and someone who, like Justice Breyer, will provide incredible service on the United States Supreme Court.

Justice Breyer, on behalf of all the American people, I want to thank you and your family—and your family—for your tremendous service to our Nation.

And I'm going to yield the floor to you, Mr. Justice. I appreciate it.

Justice Breyer. Well, thank you. Thank you, Mr. President. That is terribly nice. And believe me, I hold it right here. It's wonderful.

And I thought about what I might say to you. And I'd like to say—something I enjoy is talking to high school students, grammar school students, college students, even law school students. *[Laughter]* And they'll come around and ask me what is the—"What is it you find particularly meaningful about your job? What, sort of, gives you a thrill?"

And that's not such a tough question for me to answer. It's the same thing day one almost up to day—I don't know how many. But the—what I say to them is: Look, I sit there on the Bench, and after we hear lots of cases—and after a while, the impression—it takes a while, I have to admit—but the impression you get is, you know—as you well know, this is a complicated country; there are more than 330 million people. And my mother used to say: "It's every race. It's every religion." And she would emphasize this: "And it's every point of view possible."

And it's a kind of miracle when you sit there and see all of those people in front of you, people that are so different in what they think. And yet they've decided to help solve their major differences under law. And when the students get too cynical, I say, "Go look at what happens in countries that don't do that." And that's there. I take this around at my job.

[At this point, Justice Breyer held up a pocket copy of the U.S. Constitution.]

People have come to accept this Constitution, and they've come to accept the importance of a rule of law.

And I want to make another point to them. I want to say: Look, of course people don't agree, but we have a country that is based on human rights, democracy, and so forth.

But I'll tell you what Lincoln thought, what Washington thought, and what people today still think: It's an experiment. It's an experiment. That's what they said.

And Joanna paid each of our grandchildren a certain amount of money to memorize the Gettysburg Address. *[Laughter]* And the reason—the reason that—what we want them to pick up there and what I want those students to pick up—if I can remember the first two lines—is that: "Four score and seven years ago," our fathers brought—created upon this—here a new country, a country that was dedicated to liberty and "the proposition that all men are created equal," conceived in liberty—those are his words—and "dedicated to the proposition that all men are created equal." He meant women too.

And we are now "engaged in a great civil war" to determine "whether that nation, or any nation so conceived, and so dedicated, can long endure." See, those are the words I want to see: "an experiment." And that's what he thought. It's an experiment.

And I found some letters that George Washington wrote where he said the same thing: "It's an experiment." That experiment existed then because even the liberals in Europe, you know, they're looking over here, and they're saying, "It's a great idea in principle, but it will never work."

"But we'll show them it does." That's what Washington thought. And that's what Lincoln thought. And that's what people still think today.

And I say, "Oh, I want you"—and I'm talking to the students now. I say, "I want you to pick just this up: It's an experiment that's still going on."

And I'll tell you something: You know who will see whether that experiment works? It's you, my friend. It's you, Mr. High School Student. It's you, Mr. College Student. It's you, Mr. Law

School Students. It's us, but it's you. It's that next generation, and the one after that—my grandchildren and their children. They'll determine whether the experiment still works.

And of course, I am an optimist. And I'm pretty sure it will. Does it surprise you that that's the thought that comes into my mind today? I don't know.

But thank you.

The President. Doctor, I don't know that you've ever been to the White House and the Lincoln Bedroom, but I invite both of you to come and stay. And the Lincoln Bedroom has, against the wall between the windows, looking out, a handwritten copy of the Gettysburg Address written by Lincoln, in that bedroom, allegedly—the sitting room. And so you've got to come and see it. And even if you can't come and stay, bring your grandchildren so they can see it as well.

Thank you all so very, very much for being here.

And I'm not going to take any questions because I think it's inappropriate to take questions with the Justice here. He's still sitting on the Bench, and—I'll give you your mask back. And—but you'll have plenty of opportunities to get me later today and for the rest of the week and next week too.

So thank you very much. Thank you.

Q. [Inaudible]

Q. In deference to the moment——

Q. Mr. President——

Q. ——sir, what will it mean to you to pick the first Black woman on the Court?

Q. Do you think peace is possible in the Ukraine? *[Inaudible]*—Russia yesterday in Paris?

Q. Thank you, Mr. President.

Q. Do you think peace is possible, Mr. President?

NOTE: The President spoke at 12:36 p.m. in the Roosevelt Room at the White House.

Categories: Resignations and Retirements : Supreme Court Associate Justice, resignation, remarks.

Locations: Washington, DC.

Names: Biden, Jill T.; Breyer, Joanna; Breyer, Stephen G.; Harris, Kamala D.

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