

The Senator from Pennsylvania.

NOMINATION OF KETANJI BROWN JACKSON

Mr. CASEY. Mr. President, I rise today to speak on the nomination of Ketanji Brown Jackson to serve as an Associate Justice on the Supreme Court of the United States.

When confirmed later this week, Judge Ketanji Brown Jackson will be the first Black woman on the U.S. Supreme Court in its 233-year history.

Yesterday morning, I had the privilege of meeting with her, and we discussed her judicial methodology as well as her story and her path in the law. Rising up to overcome so many barriers, Judge Jackson's story and her family's story is truly an American story. It is a story of hard work and sacrifice. It is a story of commitment to excellence.

Judge Jackson's academic credentials are impressive: graduating from Harvard College and Harvard Law School with honors from both college and law school.

Her unparalleled professional credentials and the breadth of her legal experience equal or exceed that of any nominee in recent history. She has worked in private practice. She has worked as an assistant public defender—Federal public defender—and as a law clerk at every level of the Federal judicial branch, including a law clerk to Justice Breyer, who is going to be retiring from the Court. Perhaps most important, she has worked as a Federal judge for nearly 10 years, presiding over trials and later hearing appeals.

During our meeting yesterday, Judge Jackson spoke about her career transition from attorney to Federal judge and specifically highlighted how her career as a trial attorney helped her grow into becoming a Federal judge.

Often lost in our discussions regarding Federal judges are the people, the people who are impacted directly by our legal system in our judges' decisions. At its core, our court system, more so than any other institution, is dedicated to the idea that everyone—everyone, not just the wealthy or powerful—should have a fair shot at justice and that no one—no one—is above the law.

The Beatitudes in the New Testament speak to this idea of justice. We have all heard it over and over again:

Blessed are they who hunger and thirst for justice, for they shall be satisfied.

The power—the power—of our judicial system and our judiciary stems from the integrity and the independence of our judges. It stems from their unrelenting commitment to the rule of law and to equal justice for all Americans.

Throughout her career but particularly as a public defender—a Federal public defender—Judge Jackson has fought for a more equitable and a more just America, representing individuals accused of committing crimes and those who cannot afford a lawyer. All of those cases are difficult cases for

any lawyer. The lawyer must be committed to upholding a core American value that our legal system must protect all Americans, including defendants, to ensure “Equal Justice Under Law,” as is inscribed on the front of the Supreme Court itself.

Judge Jackson has lived this commitment to justice, to equal justice. She understands the awesome power that will be bestowed upon her as a Supreme Court Justice. She has seen firsthand the impact that a judge's decision can have on plaintiffs and defendants alike. It is why Judge Jackson has discussed how, when she was a district judge, she would often take extra care to communicate with defendants in her courtroom to ensure that they understood the complexities of the legal proceedings happening before them. For when a defendant is before the bar of justice, their liberty is at stake, and Judge Jackson wanted to make sure that they understood what was happening before them and what could happen to them.

Her commitment to equal justice is also evident by her impartial rulings and the widespread support she has received from across the political spectrum.

As a district court judge and as a circuit court judge, Judge Jackson has ruled for and against the government, in favor of prosecutors and for criminal defendants, for labor and for business, for civil plaintiffs and defendants.

Her nomination received the support from several Republican Senators, Republican-appointed judges, and former Republican-appointed officials.

She received broad support from law enforcement organizations, including the Fraternal Order of Police, the International Association of Chiefs of Police, and other top law enforcement officials, including former Philadelphia Police Commissioner Charles Ramsey, as well as crime survivors, and other advocates.

Her nomination has received further support from civil rights organizations as well as business organizations.

Of course, Judge Jackson's nomination is about more than simply the great support that she has received and her impeccable credentials. Both are important, but that is not it.

Yesterday morning, after my meeting with Judge Jackson, she was kind enough to meet with several members of my staff who have graduated from law school or who are getting ready to apply to law school, some of whom have been accepted. She offered some salient advice about law school. I won't disclose what it was here, but it was good advice. And she encouraged them to keep going, to persevere.

Now, Judge Jackson is already today, and has been for weeks and months now, an inspiration to tens of millions of Americans. Her graciousness, her humility, and her legal acumen are simply unmatched. Her confirmation to the Supreme Court will also inspire many future generations, those yet to

come and not simply future lawyers and advocates. And certainly and particularly, her nomination and her confirmation will be particularly inspiring to young Black women and girls to persevere, as she said to our staff yesterday.

The day of her confirmation will be a good day for America. She lifts our spirits at a very difficult time for our Nation. And while we have a long way to go, Judge Jackson's nomination is an important step to bringing us closer to having our institutions better reflect the great diversity of our Nation as we strive to be a more perfect Union.

I will go back to the Beatitudes again. “Blessed are they who hunger and thirst for justice, for they shall be satisfied.” Judge Jackson, I have no doubt, will continue her work to strive for justice, to act with justice, as one of the great hymns tells us. She will do all of this as she discharges her duty as Justice Jackson.

I look forward to voting for her to serve as an Associate Justice on the Supreme Court of the United States of America.

I yield the floor.

The PRESIDING OFFICER (Ms. HIRONO). The Senator from Maryland.

Mr. CARDIN. Madam President, I rise today in strong support of Judge Jackson to be the 116th Justice of the Supreme Court of the United States.

As a Senator, one of the most important responsibilities I have under the Constitution is whether to provide my consent to a President's nomination to the Supreme Court, the highest Court in our land.

The Framers carefully designed our Constitution using an intricate system of checks and balances. The Framers designed the third branch of government, the judiciary, to be an independent branch from the political branches of government: the legislature and the executive branch.

Judges were given the unusual protection—unlike Congress and the President—to have lifetime tenure and to hold their offices during good behavior. Judges, therefore, do not have to fear retribution or loss of their office or diminution of their paycheck if they make an unpopular decision.

So while the Supreme Court must show a healthy respect for the other coequal branches of government, it must, at the same time, preserve its own independence and ultimately interpret the laws and Constitution of the United States. A critical part of the Supreme Court's role is to preserve and protect the Constitution and to make sure that all Americans are treated equally under the law.

The marble entrance of the Supreme Court has etched above it the promise of equal justice under the law for all persons who enter. The Supreme Court must vigorously uphold the civil rights and civil liberties of all Americans and pay special attention to safeguarding and enforcing the constitutional rights

guaranteed in our system of government.

As we know from our history, the Supreme Court has not always protected all Americans and, indeed, in the past has treated some Americans as less equal than others, simply due to their race, religion, or gender, among other factors. So let us remember the preamble to the Constitution, which declares that “We the People of the United States, in Order to form a more perfect Union, establish Justice”—it is certainly not a perfect union, but I do believe in the words of Dr. Martin Luther King, Jr., that “the arc of the moral universe is long, but it bends toward justice.”

Americans know that the Supreme Court makes profound decisions every day that impact the lives of people across this country. The Supreme Court regularly tackles so many of the controversial issues of the day that involve issues such as voting rights, criminal justice, labor law rights, environmental protection, and many, many more.

Turning now specifically to Judge Jackson's nomination, she would replace Justice Stephen Breyer on the Court, who, fittingly, she had clerked for after graduating from law school. Judge Jackson has an extremely impressive background and legal credentials and now sits as a judge on the U.S. Court of Appeals for the District of Columbia Circuit, often called the Nation's second highest court.

The American Bar Association's Standing Committee on the Federal Judiciary gave Judge Jackson a unanimously “Well Qualified” rating for the Supreme Court, which is its highest rating. The committee notes that to receive this highest rating:

A Supreme Court nominee must be a pre-eminent member of the legal profession, have outstanding legal ability and exceptional breadth of experience, and meet the very highest standards of integrity, professional competence and judicial temperament.

Judge Jackson passed all these tests with flying colors during her Senate confirmation process.

I had the privilege of chairing Judge Jackson's first Senate confirmation hearing in 2009, when President Obama nominated her to serve on the U.S. Sentencing Commission. I then had the opportunity to visit with Judge Jackson earlier this month, prior to her confirmation hearing. It was a real pleasure to speak with her. I am familiar with her background and many of her rulings. She is also a former Maryland resident. We had much to talk about, as she had many connections to my State.

Her brother served both as an infantryman and officer in the Maryland Army National Guard, during which he was twice deployed overseas; and he also served as an undercover narcotics recovery officer in the Baltimore City Police Department.

Judge Jackson is eminently qualified. In our meeting, we talked about

her personal experience and her commitment to equal justice under the law, especially for those who have had difficulty accessing our legal system. She discussed her work as a public defender and providing defense free of charge to the most vulnerable members of our society. In this work, Judge Jackson carried out the mandate of the Sixth Amendment of the Constitution, which provides that:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial . . . and to have the Assistance of Counsel for his defense.

She talked about her outreach to our next generation, in terms of talking to students in high school and college, as well as our next generation of lawyers in law school. I am often reminded of the words of my dear friend, the late Congressman Elijah Cummings of Baltimore, that “our children are the living messages we send to a future we will never see.”

I do think Judge Jackson is having an important and ongoing conversation about democracy with our students. I frankly think she will be a powerful role model for so many who will follow in her footsteps—in particular, women and women of color who see Judge Jackson break yet another barrier and glass ceiling at the Supreme Court. These students can believe that, yes, they belong even in the highest Court in the land and the most elite corridors of power in our Nation's Capital.

We discussed the importance of an independent judicial branch of government and protecting the rights of individuals against powerful special interests that would abuse their power. I was impressed with Judge Jackson throughout our conversation.

Judge Jackson exemplifies the American story and experience. Her parents were public schoolteachers, and Judge Jackson said she was inspired to go into law by watching her father study when he was in law school. Raised in Miami, FL, she attended Florida public schools. She then went on to earn her BA magna cum laude from Harvard University and, later, her JD cum laude from Harvard Law School.

She went on to clerk for three different Federal judges: Judge Patti Saris in the District of Massachusetts, Judge Bruce Selya of the First Circuit Court of Appeals, and then Justice Stephen Breyer on the Supreme Court of the United States.

After working in private practice, she joined the U.S. Sentencing Commission as an assistant special counsel before serving as an assistant Federal public defender in Washington. Judge Jackson then returned to private practice again before being nominated in 2009 by President Obama to serve as a commissioner and, later, vice chair of the U.S. Sentencing Commission.

As I noted earlier, I had the privilege to chair this confirmation hearing for Judge Jackson, after which she was unanimously confirmed by voice vote in the Senate in 2010. In this role, I

noted that Judge Jackson often worked to find common ground with her fellow commissioners, who brought very different backgrounds and perspectives to the Commission. In particular, Judge Jackson made significant strides to make our criminal justice system and sentencing policy more fair and just.

For example, she worked on a bipartisan basis to effectively implement the Fair Sentencing Act, which addressed the 100-to-1 disparity in the law regarding crack cocaine and powder cocaine, which had led to disproportionate and discriminatory treatment of minorities in our criminal justice system.

I am hopeful that Judge Jackson can use these same skills of finding common ground with individuals from different backgrounds and build a consensus as a Justice on the Supreme Court.

In 2013, President Obama nominated Judge Jackson to serve as the U.S. district judge for the District of Columbia, and again, the Senate unanimously confirmed her nomination by voice vote. As a district court judge, Judge Jackson wrote more than 500 opinions and considered a wide array of issues that would come before the Supreme Court. She has a real breadth of experience here, including cases involving constitutional, civil rights, and national security issues; administrative issues involving Federal Agencies; environmental issues; criminal law and procedure issues; and matters involving government transparency.

On the bench, her record clearly demonstrates that Judge Jackson impartially applies the law and precedent to the facts in a fair and impartial manner, regardless of her own personal views on the subject. Judge Jackson took special care to make sure the parties before her understood her approach to deciding cases, and she issued clearly reasoned decisions.

As Judge Jackson said in her confirmation hearing for the district court circuit, When I worked with clients as a defender, “[m]ost of my clients didn't really understand what had happened to them. [N]o one really explained to them what they were supposed to expect, so they did not know where things might have gone wrong.”

Therefore, as a judge, Judge Jackson said that she will “take extra time to communicate with” the parties. “I speak to them directly and not just to their lawyers. I use their names. I explain every stage of the proceeding because I want them to know what is going on.”

In reviewing her record, I notice that Judge Jackson's analysis and decision making have led her to rule both for and against the government in different cases, both for and against employers and workers, for and against criminal defendants and prosecutors, based on the merits of the case and her application of the law to the facts of that particular case.

In her confirmation hearing and written answers to questions for the record,

Judge Jackson pledged to support and defend the Constitution and further pledged to rule without fear or favor or prejudice or passion, consistent with her judicial oath. She indicated she understood the limits of the judicial role and the importance of adhering to precedents of the Court.

Just last year, President Biden elevated Judge Jackson to the U.S. Court of Appeals for the District of Columbia Circuit. The Senate confirmed Judge Jackson to this position by a bipartisan vote of 53 voting in favor in an evenly divided Senate.

In that confirmation hearing, Judge Jackson again stressed the importance of courts having “a duty of independence from political pressure, meaning that judges must resolve cases and controversies in a manner that is consistent with what the law requires, despite the judge’s own personal views of the matter, and this is so even with respect to cases and controversies that pertain to controversial political issues.” She is committed to carrying out her oath as a judge.

She particularly noted that she did not pay attention to who was in the administration when ruling on cases, which is consistent with her case record, ruling both for and against the Trump administration in different cases.

Judge Jackson did a superb job during the recent confirmation hearings, as our Presiding Officer knows, and consistently impressed me with her talents. Not only was she eminently qualified—we already knew about her outstanding qualifications; not only was she in command of all the legal subjects—we knew that she would excel in discussing the law and her job as a judge; but her demeanor in the face of repeated and often outrageous assaults by Republican Members of the Senate truly set her apart. She maintained her judicial temperament throughout this week’s hearing and showed why she will be a major factor on the Supreme Court. Judge Jackson’s confirmation hearing reinforced to me how critical it will be to have her on the Supreme Court.

Members of the committee unsuccessfully tried to distort Judge Jackson’s sentencing record. The record clearly rebuts these charges, as Judge Jackson’s sentences are well within the judicial mainstream, and Judge Jackson often followed the recommendations made by the probation office.

The ABA Standing Committee debunked several of these myths when they analyzed Judge Jackson’s record as part of their review process before her confirmation hearing.

The ABA testified at the hearing:

We did speak to various prosecutors and defense counsels for Judge Jackson. . . . None of them felt that she demonstrated bias in any way. . . . One prosecutor said, “I did not observe any bias, and the Judge was fair to all sides in connection with sentencing in all aspects.” . . . We asked pointed questions as it related to bias—whether it be to defendants, whether it be to the government, and we found no bias.

That was the ABA.

In terms of the allegations that Judge Jackson is “soft on crime,” the ABA testified:

We heard consistently, from not only defense counsel but prosecutors, how unbiased Judge Jackson is. We heard phrases like “doing things by the books.” For example, one prosecutor described the sentencing hearing involving a very high profile, sensitive national security matter. What she said was, it was classic Judge Jackson. . . . What really impressed this prosecutor was that after oral argument, Judge Jackson took a recess, went back to [her] chambers, and when she resumed the bench, came out with a sentence that was more in favor of the government. What more impressed the prosecutor was that the Judge’s ruling included arguments that had been made both by the defense and [the] prosecutors during oral arguments. It is not as if she came into the hearing with her mind made up. She listened to what counsel on both sides said and came up with a sentence that the prosecution was quite happy with.

Several prominent law enforcement organizations support Judge Jackson’s nomination.

The Fraternal Order of Police wrote:

From our analysis of Judge Jackson’s record and some of her cases, we believe she has considered the facts and applied the law consistently and fairly on a range of issues. There is little doubt that she has the temperament, intellect, legal experience, and family background to have earned this appointment. We are reassured that, should she be confirmed, she would approach her future cases with an open mind and treat issues related to law enforcement fairly and justly.

The International Association of Chiefs of Police supports Judge Jackson’s nomination. They wrote:

[W]hen the IACP chooses to support an individual, we do not take it lightly, and [we] take into careful consideration their background, experience, and previous opinions issued as they relate to law enforcement and criminal justice issues. . . . During her time as a judge, she has displayed her dedication to ensuring that our communities are safe and that the interests of justice are served. We believe that Judge Jackson’s years of experience have shown she has the temperament and qualifications to serve as the next Associate Justice on the Supreme Court.

That was the International Association of Chiefs of Police.

Judge Jackson has an unusually broad range of support from law enforcement groups, crime victims and survivors, business associations, and civil rights groups.

Former DC Circuit Judge Thomas Griffith introduced Judge Jackson at her confirmation hearing. Judge Griffith, a President George W. Bush appointee, vouched for Judge Jackson’s “careful approach, extraordinary judicial understanding, and collegial manner. . . . Judge Jackson has a demonstrated record of excellence, and I believe, based upon her work as a trial judge when I served on the Court of Appeals, that she will adjudicate based on the facts and the law and not [in a] partisan [manner].

Former Fourth Circuit Judge Michael Luttig, a President George H. W. Bush appointee who recently advised Vice President Pence, offered a similar

endorsement when he wrote that she is “eminently qualified to serve on the Supreme Court” and is “as highly credentialed and experienced in the law as any nominee in [recent] history.”

Her colleagues have given her the highest ratings. Those who know her best, those who have worked with her, give us all great confidence in her qualifications and ability to serve on the Supreme Court.

A group of conservative lawyers—many of whom served in previous Republican administrations—wrote in strong support of Judge Jackson and said:

While some of us might differ concerning particular positions she has taken as a judge, we are united in our view that she is exceptionally well-qualified, given her breadth of experience, demonstrated ability, and personal attributes of intellect and character. Indeed, we think that her confirmation on a consensus basis would strengthen the Court and the nation in important ways.

It is long past time for the Supreme Court to seat a highly qualified, Black, female attorney as a member. As we strive to provide equal justice under the law to all Americans, she would be only the sixth woman out of 116 Justices to serve on the Supreme Court and only the second woman of color and the first Black woman. A Justice Jackson will bring sorely needed diversity to the Supreme Court, both demographically and professionally.

The Leadership Conference on Civil and Human Rights noted:

This professional diversity is another critical step in ensuring our courts look more like America. Judge Jackson will be the first justice with any significant criminal defense experience since the retirement of Justice Thurgood Marshall in 1991, and she would be the only Supreme Court justice to have served as a public defender. Public defenders play a [critical] role in our legal system, yet they are vastly underrepresented on the federal bench. At all levels of our judiciary, there are nearly six times as many former prosecutors on the federal bench than former criminal defense lawyers, and just over 5 percent of federal appellate judges have experience as a public defender. . . . Our highest court should reflect the diversity of the legal profession, and Judge Jackson’s meaningful experience is greatly needed on our Supreme Court.

I believe that Judge Jackson will faithfully uphold her judicial oath, which contains a special provision whereby judges promise to “administer justice without respect to persons, and do equal right to the poor and the rich.” I believe she respects the separation of powers and checks and balances in our system and that she is committed to uphold the civil rights and civil liberties of all Americans.

I will proudly vote to confirm Judge Jackson so she will become Justice Jackson.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

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Ms. CANTWELL. Madam President, I come to the floor to talk about something that is impacting consumers