



Written by [Bob Adelman](#) on March 22, 2022

Supreme Court Nominee Ketanji Brown Jackson Adopts “Originalist” Position on the Constitution

Joe Biden’s appointee to the Supreme Court, Ketanji Brown Jackson, knew she would be pressed hard for her views on the Constitution: Is it, in her opinion, a “living” document, subject to judicial “interpretation?” Or is it to be interpreted in light of what its authors intended at the time they wrote it?

So, she tried to head off the question by answering it in advance. [In her opening statement](#) to the Senate Judicial Committee as her confirmation hearing began on Monday, she said:



AP Images
Ketanji Brown Jackson

I decide cases from a neutral posture. I evaluate the facts, and I interpret and apply the law to the facts of the case before me, without fear or favor, consistent with my judicial oath.

If she is confirmed she will take this oath:

I, Ketanji Brown Jackson, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.

So help me God.

On Tuesday, the second day of her confirmation hearing, Jackson reiterated her fealty to originalism:

The adherence to text is a constraint on my authority — trying to figure out what those words mean, as they were intended by the people who wrote them....

I’m not importing my personal views or policy preferences. The entire exercise is about trying to understand what those who created this policy or this law intended.

She expanded on her position by specifically rejecting the theory that the Constitution is a “living document” that must be adjusted to changing times and circumstances:

I do not believe that there is a living Constitution in the sense that it’s changing and it’s infused with my own policy perspective or the policy perspective of the day.



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Instead, the Supreme Court has made clear when you're interpreting the Constitution, you're looking at the text at the time of the founding, and what the meaning was.

Perhaps this is a ploy, to disarm Senators ready to challenge her judicial philosophy. By answering the question before it is asked, it puts those Senators on the defensive. If they press the matter, Jackson is free to remind them that she already answered the question.

Is she really a conservative? A black conservative, in the mold of Justice Clarence Thomas? If so, then she will greatly disappoint the far-left liberal group Demand Justice, funded with dark money through the Sixteen Thirty Fund, which itself is funded in part by George Soros and his Open Society Foundations. It was Demand Justice that provided Jackson's name to Joe Biden and pushed him to nominate her over another equally qualified but more moderate candidate, Michelle Childs.

Jackson provided a clue in her opening remarks on Monday. She looked back fondly on her days as a law clerk for liberal Justice Stephen Breyer:

On the day of his Supreme Court nomination, Justice Breyer said: "What is Law supposed to do, seen as a whole?"

"It is supposed to allow all people — all people — to live together in a society, where they have so many different views, so many different needs, to live together in a way that is more harmonious, that is better, so that they can work productively together."

By contrast, French political philosopher and economist Frédéric Bastiat, author of *The Law*, first published in 1850, wrote:

The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over all.

This should answer the question: Will Jackson, if confirmed, be another Stephen Breyer, as expected? Or will her term as justice on the high court surprise and anger those who thought she was in their liberal, "living constitution" camp?

One senator on the committee, Marsha Blackburn (R-Tenn.), isn't persuaded. She has hinted that she will grill Jackson about her real agenda and her real judicial philosophy:

I can only wonder: What's your hidden agenda? Is it to let violent criminals, cop-killers and child predators back to the streets? Is it to restrict parental rights and expand government's reach into our schools and our private family decisions?

Is it to support the radical left's attempt to pack the Supreme Court?... Is it your personal hidden agenda to incorporate critical race theory into our legal system?

These are answers that the American people need to know.

Jackson's confirmation hearing is likely to extend into the middle of April before the committee issues its vote to confirm, or not.



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