

Statement of

The Honorable John Cornyn

United States Senator
Texas
November 6, 2003

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

Nomination of Janice R. Brown to be
United States Circuit Judge for the District of Columbia Circuit

Thursday, November 6, 2003, 9:30 a.m.
Dirksen Senate Office Building Room 226

STATEMENT OF U.S. SENATOR JOHN CORNYN

Mr. Chairman, I would like to offer my strong support for this exceptional jurist. I agree with the many others who have said that she handled that contentious hearing with grace, poise, and brilliance.

I know that some members of this committee oppose her. That is their right. But I would ask members of this committee for their respect in return. First, I would like my colleagues to respect the right of a bipartisan majority to vote on this nominee on the floor of the United States Senate. And second, I would ask my colleagues to give this decent human being and brilliant legal talent the respect that she deserves.

The judicial confirmation process is broken. I'm not alone in this view. Earlier this year, all ten freshmen Senators, as well my colleague from New York, Senator Schumer, agreed that this process is "broken." Even the New York Times has agreed.

We often hear the phrase "politics as usual." Frankly, if we could go back to politics as usual, that would be an improvement. Because what we are seeing today isn't politics as usual - it's politics at its worst. The judicial confirmation process is now plagued by both unprecedented obstruction and unconscionable character assassinations.

First, the obstruction. The current filibusters of judicial nominations are unprecedented, in the history of the Senate and the United States of America. Even the chairman of the Democratic Senatorial Campaign Committee, my colleague from New Jersey, recently acknowledged - indeed, he boasts - that the current blockade of judicial nominees is "unprecedented."

This unprecedented obstruction is another step down the low road. It must stop. Even Al Sharpton has said, according to this morning's papers, that he hopes Justice Brown will not be filibustered.

But we are seeing more than just unprecedented obstruction. Senators are not just delaying nominees. They are destroying them - smearing their names and damaging their reputations, and doing so by any means available.

During Justice Brown's confirmation hearing, we saw a vicious, racist cartoon, used to denigrate not only Justice Brown, but also other leading black Republicans Colin Powell, Condoleezza Rice, and Clarence Thomas. Mr. Chairman, we should be proud of these individuals - they are great Americans. Yet, for some special interest groups, the notion that individuals of a certain race do not all think alike is too much to handle - and that individuals who dare think for themselves deserve ridicule.

I'm glad that some of my colleagues on this committee have disavowed this vicious, racist cartoon. But I would submit that it is not enough just to disavow. You must disarm as well. And that means doing two things, in my view.

First, we must condemn all of the groups that support this kind of attack. Blackcommentator dot com published this vicious, racist cartoon. And then, NAACP chairman Julian Bond said that the money spent on publicizing the cartoon was "money well spent." If the members of this committee disagree with this cartoon, we must also agree to condemn these tactics with all our might.

Second, we should condemn not only these kinds of character assassinations by outside groups, but also character assassinations within this body.

One senator has launched a categorical attack against all of President Bush's judicial nominees, calling them all "mean people" - and claiming that these nominees "have this sort of little patina of philosophy but underneath it all is meanness, selfishness and narrow-mindedness." Another senator has accused Justice Brown of having "despicable" views, simply because she has expressed some mainstream conservative views. Yet Justice Brown was endorsed by the San Francisco Chronicle and supported by a higher percent of voters than any other California Supreme Court justice during the 1998 election. One prominent study of judicial philosophy rated Justice Brown as slightly to the left of the average federal appellate judge.

I submit that Justice Brown does not deserve to be called "despicable" or "mean" by members of this body. I submit that the vicious attacks that we see in this body create an atmosphere of legitimacy for vicious attacks by outside groups. I submit that, if this keeps up, distinguished jurists like Justice Brown will simply stop accepting federal judicial nominations - and that will hurt us all.

None of us should be proud of this. We should be embarrassed. This is politics at its worst. And it is spiraling out of control. The people who sponsored the racist cartoon have now launched a vicious attack against two distinguished members of this committee who dared to criticize them - Chairman Hatch and former Chairman Kennedy. I don't want to burden this committee's record

by repeating what they have said. Suffice it to say that their attacks are intolerably vicious and unconscionably mean.

These two distinguished senators do not deserve this. Moreover, these nominees do not deserve this. They have worked hard all of their lives to achieve great success in their professional careers. Many of them, like Justice Brown, have done so only after overcoming great personal obstacles as well. In the end, they may not obtain a particular Senator's support. But they certainly deserve to be treated with respect by all of us.

Thank you, Mr. Chairman.