

[Heather Cox Richardson](#) Feb 26   

This was a historic day in a historic week.

This afternoon, President Joe Biden nominated Judge Ketanji Brown Jackson of the United States Court of Appeals for the District of Columbia Circuit to the Supreme Court. “For too long, our government, our courts haven’t looked like America,” Biden said in a speech introducing Jackson. “I believe it’s time that we have a court that reflects the full talents and greatness of our nation with a nominee of extraordinary qualifications, and that we inspire all young people to believe that they can one day serve their country at the highest level.”

Educated at Harvard, Jackson clerked for Justice Stephen Breyer, who is retiring and whose seat she will take if she is confirmed. Jackson has shown the same focus on democracy that Breyer brought to the court. While so-called “originalists” defer to what they perceive to be the legal limitations written into the Constitution by its Framers, Breyer defers instead to the purpose of the Constitution, deciding cases in part by figuring out which outcome would best defend and expand democracy. His focus on democracy also means he prioritizes consensus and civility.

Republicans who will likely object to Jackson are using her nomination to hit at the Biden administration. Senator Marsha Blackburn (R-TN), who sits on the Judiciary Committee, said it was “extremely inappropriate” for the president to nominate a Supreme Court justice just days after Russia’s invasion of Ukraine, and she said that “Biden is putting the demands of the radical progressive left ahead of what is best for our nation.”

In contrast to Blackburn, one could see the act of nominating a justice in the midst of a crisis in the same way President Abraham Lincoln thought about holding the 1864 election in the midst of the Civil War. In November of that year, he told a group of visitors that no one had been sure that a democratic government could survive in times of emergency, but he believed that if an emergency could interrupt the normal process of democracy, “it might fairly claim to have already conquered and ruined us.” Holding the election was itself a

victory for the rule of law.

Similarly, it seems to me a mistake to characterize Jackson as a part of a “radical progressive agenda” unless democracy itself has become such a thing. Jackson’s tightly reasoned briefs show a focus on democracy that is similar to that of her mentor, Breyer. She has become famous, for example, for a 2019 opinion rejecting the idea that a president’s advisors cannot be compelled to testify before Congress. “Presidents are not kings,” she wrote. “This means that they do not have subjects, bound by loyalty or blood, whose destiny they are entitled to control. Rather, in this land of liberty, it is indisputable that current and former employees of the White House work for the People of the United States, and that they take an oath to protect and defend the Constitution of the United States.” Like Breyer, as well, Jackson has a “reputation for pragmatism and consensus building,” according to former president Barack Obama, who nominated her as a district judge.

At today’s event, Jackson defined America as “the greatest beacon of hope and democracy the world has ever known.”

If she is confirmed, Jackson will be the 116th Justice in American history, University of Texas law professor Steve Vladeck pointed out on Twitter. She will be the eighth who is not a white man; she will be the sixth woman.

Anticipating criticism suggesting that Jackson’s judicial experience has been brief, Vladeck also compiled a chart of the judicial experience of all Supreme Court justices since 1900. The information showed that Jackson’s 8.9 years of prior judicial experience is more than four of the justices currently on the court—Clarence Thomas, Chief Justice John Roberts, Elena Kagan, and Amy Coney Barrett—had combined. It’s also more experience than 4 of the last 10 justices had at their confirmations, or 9 of the last 17, or 43 of the 58 appointed since 1900.

“Today, as we watch freedom and liberty under attack abroad, I’m here to fulfill my responsibilities under the Constitution, to preserve freedom and liberty here in the United States of America,” Biden said.

This week was historic precisely because it brought into the open the degree to which freedom and liberty are, in fact, under attack, as Russian president Vladimir Putin launched

a war of aggression against neighboring Ukraine.

Fighting in Ukraine is approaching Kyiv, where the government has armed its civilians to defend the city. *Washington Post* military reporter Dan Lamothe tweeted information from a senior defense official, who said that Russia is getting more resistance than it expected and that it has not managed to establish air superiority over Ukraine. The U.S. believes that Russia has launched more than 200 missiles at Ukraine, aimed at military sites but hitting civilian areas as well. The United Nations High Commissioner for Refugees said today that 150,000 Ukrainians have been displaced since Russia invaded.

Putin today called for Ukrainians to overthrow their own government and negotiate peace with him.

Putin needed a quick victory in Ukraine, and the heroic resistance of the Ukrainians has made that impossible, buying time for pressure against him to build. Last night, 1800 Russians were arrested for protesting the war at rallies around the country; prominent Russians, including the children of leading businessmen and lawmakers, are speaking up against the invasion.

When Facebook fact-checked Russian state media accounts and put warning labels on them, the Kremlin limited Russians' access to the site, where they were sharing their anger at Putin's war. Apparently, ill-trained Russian conscripts are shocked to be on the front lines in Ukraine—Russian law says only volunteer troops are supposed to be used there.

Tonight Meta, the parent company of Facebook, banned Russian state media from running ads or raising money on Meta platforms anywhere in the world. While the ban apparently does not eliminate third-party ads, it does show which way the wind is blowing.

Today, members of the European Union and Britain froze the European assets of Putin and Foreign Minister Sergei Lavrov. The U.S. also sanctioned Russian Defense Minister Sergei Shoigu and Chief of General Staff Valery Gerasimov, as well as Russia's sovereign wealth fund, which is intended "to attract capital into the Russian economy in high-growth sectors," according to White House press secretary Jen Psaki. The Russian Ministry of Defense was hacked and taken down, and the personal information of its employees was leaked; the

hacker group Anonymous claimed credit.

For the first time in its history, the North Atlantic Treaty Organization (NATO) activated its rapid response troops that can deploy quickly in case Russian troops cross the borders of NATO countries.

Putin is rapidly becoming isolated. Russia vetoed a U.N. Security Council resolution condemning the invasion and calling for an immediate end to hostilities and the withdrawal of Russia's troops from Ukraine, but it was notable that China, India, and the United Arab Emirates abstained rather than vote. Also today, President Milos Zeman of Czechia and Hungary's Prime Minister Viktor Orbán, both of whom have been supporters of Putin, came out strongly against the invasion. So did Romania and Bulgaria. Kazakhstan has refused to send troops to Russia.

The Ukraine resistance has given rise to the Ghost of Kyiv, a fighter pilot who may or may not be real, and who may or may not be a woman, and who has shot down six Russian planes. Such a superhuman legend symbolizes Ukraine's people this terrible week.

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Notes:



Steve Vladeck @steve_vladeck

Judge Jackson has 8.9 years of prior judicial experience. That's more than four current Justices (Thomas, Roberts, Kagan, & Barrett) had *combined.* It's also more than 4 of the last 10 Justices had at their confirmations; 9 of the last 17; and 43 of the 58 appointed since 1900:

Prior Judicial Experience: SCOTUS Justices, 1900–Present

#	Justice	President	Federal		State		Total (Years)
			Appellate	Trial	Appellate	Trial	
115	Barrett	Trump	2.99	0	0	0	2.99
114	Kavanaugh	Trump	12.36	0	0	0	12.36
113	Gorsuch	Trump	10.67	0	0	0	10.67
112	Kagan	Obama	0	0	0	0	0
111	Sotomayor	Obama	10.83	6.15	0	0	16.99
110	Alito	Bush 43	15.76	0	0	0	15.76
109	Roberts	Bush 43	2.33	0	0	0	2.33
108	Breyer	Clinton	13.65	0	0	0	13.65
107	Ginsburg	Clinton	13.11	0	0	0	13.11
106	Thomas	Bush 41	1.62	0	0	0	1.62
105	Souter*	Bush 41	0.38	0	7.00	5.00	12.38
104	Kennedy	Reagan	12.71	0	0	0	12.71
103	Scalia	Reagan	4.11	0	0	0	4.11
102	O'Connor	Reagan	0	0	1.78	4.93	6.72
101	Stevens	Ford	5.13	0	0	0	5.13
100	Rehnquist	Nixon	0	0	0	0	0
99	Powell	Nixon	0	0	0	0	0
98	Blackmun	Nixon	10.72	0	0	0	10.72
97	Burger	Nixon	13.24	0	0	0	13.24
96	Marshall	Johnson	3.89	0	0	0	3.89
95	Fortas	Johnson	0	0	0	0	0
94	Goldberg	Kennedy	0	0	0	0	0
93	White	Kennedy	0	0	0	0	0
92	Stewart	Eisenhower	4.47	0	0	0	4.47
91	Whittaker	Eisenhower	0.80	1.96	0	0	2.76
90	Brennan*	Eisenhower	0	0	5.54	1.50	7.04
89	Harlan II	Eisenhower	1.13	0	0	0	1.13
88	Warren	Eisenhower	0	0	0	0	0
87	Minton	Truman	8.39	0	0	0	8.39
86	Clark	Truman	0.00	0	0	0	0
85	Vinson	Truman	5.45	0	0	0	5.45
84	Burton	Truman	0.00	0	0	0	0
83	Rutledge	Roosevelt	3.79	0	0	0	3.79
82	Jackson	Roosevelt	0	0	0	0	0
81	Byrnes	Roosevelt	0	0	0	0	0
80	Murphy	Roosevelt	0	0	0	6.73	6.73
79	Douglas	Roosevelt	0	0	0	0	0
78	Frankfurter	Roosevelt	0	0	0	0	0
77	Reed	Roosevelt	0	0	0	0	0
76	Black*	Roosevelt	0	0	0	1.00	1.00
75	Cardozo	Hoover	0	0	15.15	3.03	18.17
74	Roberts	Hoover	0	0	0	0	0
73	Stone	Coolidge	0	0	0	0	0
72	Sanford	Harding	0	14.72	0	0	14.72
71	Butler	Harding	0	0	0	0	0
70	Sutherland	Harding	0	0	0	0	0
69	Taft	Harding	8.00	0	0	0	8.00
68	Clarke	Wilson	0	2.01	0	0	2.01

