



AMERICAN
CONSTITUTION
SOCIETY FOR
LAW AND POLICY

ACS Convention Wrap-Up

Sens. Whitehouse, Klobuchar Make Case For Importance of Background, Life Experiences In Weighing Judicial Appointees

Judiciary Committee Members Focus On Future Of High Court At ACS Convention

FOR IMMEDIATE RELEASE:
June 21, 2009

CONTACT: Alex Wohl, Jeremy Leaming
awohl@acslaw.org, jleaming@acslaw.org
202-393-6181

Washington, D.C. -- In two enthusiastically received speeches before standing room only crowds at the 2009 ACS National Convention, U.S. Sens. Sheldon Whitehouse and Amy Klobuchar each provided strong rebuttals to opponents of the confirmation of Supreme Court nominee Judge Sonia Sotomayor who have suggested her experience and background is not an asset.

Sen. Whitehouse's stirring speech challenged critics who question the relevance of Judge Sotomayor's background, quoting Justice Oliver Wendell Holmes' famous aphorism that, "The Life of the law has not been logic: it has been experience"

"No matter whether one agrees with the results courts reach, we all should recognize the wide discretion properly left to judges in interpreting the law and applying it to the facts of the case," Whitehouse said.

"Constitutional law," Whitehouse continued, "often turns on the judgment of courts, as the relevant doctrines require the balancing of competing crucial interests to deduce the important objects. Separation of powers cases, for example, require courts to evaluate the competing interests and prerogatives of the branches of government. Due Process cases require a weighing of governmental and private interests, since Due Process, as the Supreme Court explained in *Mathews v. Eldridge*, 'is flexible and calls for such procedural protections as the particular situation demands.'"

Whitehouse stated that Sotomayor's life experiences would prove an invaluable asset to her ability to be an outstanding Supreme Court justice.

"It is harsh, narrow-minded, and ahistoric to contend that a rich life experience and natural empathy" is "at odds with the wise exercise of judicial discretion that is the longstanding

tradition underlying the American system of law,” he said. “Broad and diverse life experiences can make for better judgment and truer justice, and we should celebrate a nominee who would bring these qualities to the bench.”

Sotomayor’s Background An Asset

Whitehouse also questioned the sincerity of the opposition’s arguments that have targeted these experiences, as well as a number of comments regarding her background, education and upbringing.

“Indeed, is Judge Sotomayor’s life experience as a wise Latina woman, or President Obama’s concern for judicial empathy, really the issue?” he said. “Or does that stated concern reveal more about the critics than about the judge and the President? Does it not perhaps reveal impatience with any worldview that has not been groomed in corporate boardrooms, scrubbed by the Federalist Society, cosseted by privilege and exclusion, and comforted by the status quo?”

“Our world, I think, is bigger than that, and our Constitution must be sized to fit that larger world,” Whitehouse continued. “If Sonia Sotomayor represents a part of that larger world, even if she takes some points of view outside their comfort zone, that may be the very best argument for her nomination.”

Whitehouse closed by noting that his “consideration of her nomination will ultimately turn upon her record and the answers she gives at her hearing.”

Video of Whitehouse’s speech is available [here](#).

Klobuchar: Experience On the Bench Matters

Before a packed house, Sen. Klobuchar highlighted the value of Judge Sotomayor’s experience on the bench, noting that she has “seventeen years of reasoned decisions,” and would bring more judicial experience to the High Court than any justice in 100 years.

Klobuchar also said that criticisms of Sotomayor’s judicial temperament were not only unfounded, but disingenuous.

“According to one news story about the topic, ‘the judge developed a reputation for asking tough questions at oral argument and for sometimes being curt with lawyers who were not prepared to answer them.’ Now this sounds a little familiar to me. At least where I come from, asking tough questions and having very little patience for unprepared lawyers is the very definition of a judge. I was hoping that we would get to a point in this country where we could be appointing and confirming as many as rough and to-the-point female judges as we have appointed male judges.

“In the end we evaluate these judges based on their experience,” Klobuchar continued. “Intellectual curiosity and independence, not rigidity, are the hallmarks of our best justices. And that’s what we should be looking for in a good justice.”

Video of Klobuchar's speech is available [here](#).

Links to more ACS 2009 National Convention coverage are [here](#).

The American Constitution Society for Law and Policy is one of the nation's leading progressive legal organizations, comprised of lawyers, judges, students and policy makers committed to promoting the vitality of the Constitution and the fundamental values it expresses. The views of the speakers are their own and should not be attributed to ACS. For more information about ACS, visit www.acslaw.org.

###