

Statement of
The Honorable Sheldon Whitehouse

United States Senator
Rhode Island
June 17, 2010

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Thank you, Mr. Chairman, for your support of the nomination of Jack McConnell for a seat on the United States District Court for the District of Rhode Island. I am grateful that you have taken up his nomination today and I urge all my colleagues to vote to report it out of Committee.

The broad, bipartisan support that Jack McConnell's nomination has received in Rhode Island is no great surprise considering his excellent reputation at home. A native Rhode Islander and a Brown University graduate, Jack has devoted enormous amounts of time and energy to making our community a better place. He serves, for example, on the boards of Crossroads Rhode Island, the state's largest homeless center, Providence's Trinity Repertory Theater, and the Providence Tourism Council. The Providence Chamber of Commerce has praised Jack McConnell as a "well respected member of the local community." In our home state, political figures from across the political spectrum have called for his confirmation. And the Providence Journal has endorsed his nomination by saying that "Jack McConnell, in his legal work and community leadership, has shown that he has the legal intelligence, character, compassion and independence to be a distinguished jurist."

[According to Scott MacKay], "The only real opposition to McConnell has come from some business interests, including the paint industry, who don't appreciate McConnell's use of the courts to hold businesses, such as the tobacco, asbestos and lead-paint industries, accountable for actions detrimental to public health. But business leaders and organizations in Rhode Island, including the Greater Providence Chamber of Commerce, have been supportive of McConnell."

I know Jack well. This description of his decency and his fitness for the bench is spot-on.

I realize that here in the D.C. bubble, national special interest groups have decided to make this nomination a cause célèbre and to attempt to smear a hard-earned reputation for excellence and unstinting decency. Their ulterior motives are, I would hope, obvious to all of us. Taking on the asbestos, tobacco, and lead paint industries generates powerful enemies. And those powerful interests want to make an example of a lawyer who had the temerity to win tobacco and asbestos cases, and to win at trial a lead paint poisoning case. But I hope that, in exercising our duty of advice and consent, we remember two things. First, there is no dishonor in representing regular people who've been harmed. There is nothing wrong with representing poisoned kids, lung cancer patients, or the bereaved widow of a mesothelioma victim. It should not be necessary to be "pro-business" to be a judge. Indeed, that sort of bias is inappropriate. The U.S. Chamber of Commerce should not have a veto.

The most important measures of a judicial nominee are legal expertise, strong character, and a proper understanding of the judicial role - qualities that Jack McConnell possesses in abundance.

It is of course the perfect right of powerful interests to attack this nomination by any means, fair or foul; to use the scorched-earth playbook they have refined in highly funded judicial elections across the country; and to suggest that only defense counsel and not plaintiffs' lawyers have a place on the federal bench. I would note, however, that against their self-interest stands the larger principles of our Constitution, including access for injured Americans to a jury. It should not be a strike against a nominee to have facilitated that constitutional prerogative. The Founders put the jury in the Constitution and Bill of Rights three times, and for a reason: to ensure that in at least one forum, the powerful and the powerless have equal standing. Not for nothing did DeTocqueville describe the jury as "a mode of the sovereignty of the people." And the chapter in which he so describes it is not for nothing the one entitled "On What Tempers the Tyranny of the Majority." Powerful corporate interests may be fighting tirelessly to bring the jury to heel, to make it yet another institution of government responsive to their interests, but until they prevail, the tide of corporate money that influences politics will stop at the hard, square corners of the jury box. The corporate attacks on the institution of the jury may be predictable, but that does not make them any worthier. All Americans deserve a fair day in court and all Americans deserve to be judged by a jury of their peers. Let us not reject judicial nominees merely because they have given life to those principles.

So I call upon all my colleagues to support Jack McConnell's nomination today. Again, I thank you Mr. Chairman for your support of Jack's nomination and I look forward to working with you and the rest of my colleagues as this nomination proceeds to confirmation.