

Judge Breyer is always ready to talk with any group of lawyers or to appear at any event if it is helpful to lawyers or judges. He is as thoughtful and helpful with new members of the bar as he is with established Bar leaders and litigators. I recall a talk that he gave some years ago at the American Bar Association at the ceremony of the "Franklin Flaschner Judicial Award" given each year to an outstanding jurist of a court of limited jurisdiction. Not so many attend that particular ABA ceremony each year—certainly not the many hundreds who flock to the meetings of the big ABA sections. As is typical of him, Judge Breyer took the assignment seriously, and chose on that occasion to reflect on the relationship between appellate judges and those whose decisions are reviewed on appeal. It was a thoughtful and—to me—illuminating talk, reflecting real sensitivity and insight on the role of appellate judicial making, delivered to judges who had a real interest in the subject. Judge Breyer has worked hard and effectively to bridge the gap between judges and lawyers. Every bar president would be fortunate to have as the Chief in her Circuit a judge of Judge Breyer's qualities.

I have known Judge Breyer personally for a number of years, and let me make a few comments about him as a friend. His qualities include enthusiasm, willingness to listen, interest in a wide range of subjects, humor, gentleness. In a crowded room he will notice who is excluded, and move to include them. I have been taken aback at the suggestion that Judge Breyer lacks passion: one senses always his enthusiasm, and his intensity. It is true that one sometimes has to run to keep up with him, but the attempt to keep up is a pleasure.

I think of another great First Circuit Judge, Calvert Magruder, the first Supreme Court law clerk of Justice Brandeis, later close to Justice Frankfurter, and himself a distinguished member of the Harvard Law School faculty. Judge Magruder was known for his "intelligence, fairness, integrity and realism."¹ Judge Breyer is a man in the Magruder tradition. As a Justice of the Supreme Court he would give distinguished service to this Nation, even as we in Massachusetts would regret his departure from the First Circuit.

The CHAIRMAN. Thank you, Ms. Marshall.
Ms. Corrothers.

STATEMENT OF HELEN G. CORROTHERS

Ms. CORROTHERS. Yes, Mr. Chairman and members of the committee. It is so good to see you again. I still remember and appreciate the support that you and this committee rendered for our efforts on the Commission.

The CHAIRMAN. We appreciate the work you did. It was heavy lifting.

Ms. CORROTHERS. That is right. Thank you.

I appreciate the opportunity to appear before the committee today to support the nomination and recommend confirmation of the chief judge of the U.S. Court of Appeals, first circuit, Stephen Breyer, for the post of Associate Justice, U.S. Supreme Court.

I would like to offer what may be for you a different kind of testimony. You have no doubt been inundated with opinions attesting to Judge Breyer's important educational and professional credentials, with statements about his wit, keen intelligence and knowledge. And I agree with all of these assessments.

But I invite you to share my perspectives concerning Steve Breyer as an associate and fellow human being in a professional setting. Steve and I were colleagues at the U.S. Sentencing Commission, and I am going to address the qualities and traits that I observed during that period.

It is important to consider the fact that, at the beginning of our work effort, it was necessary for us during a short period of time to find office space, hire staff, develop an organizational structure,

¹ Dargo, George "A History of the United States Court of Appeals for the First Circuit: Volume 1, 1891-1960," p. 216.

begin and complete the initial set of guidelines, an unprecedented task, and at the same time deal with numerous issues concerning each area of concern addressed by the guidelines.

During this early period and at different points later, long hours and hard work proved to be routine. It was a time when seven people, all eager to make a personal contribution to the product, were faced with the knowledge that there was not an automatic consensus on important issues.

Hectic periods of this sort often brings out the worst traits in people. So it is meaningful for you to know that it is from this in the trenches perspective that I saw Steve Breyer's true character. Also, it will be necessary for me to examine Judge Breyer's qualities against the background of my own personal values.

The first trait I would like to mention is Steve Breyer's ability to relate to persons from diverse backgrounds. Judge Breyer is from a world of privilege, from the I believe western and north-eastern part of the country. Conversely, I am from a background of poverty, from the southern part of the country. As a woman born of African descent in the rural segregated South. It would not be surprising if we failed to relate to each other.

However, I found that I could relate to him and his ideas. I also noted that, as Steve Breyer listened to my opinions on various matters of the years, that he had the extraordinary ability to not just listen, but to hear and to comprehend the information. He understood that each Commissioner brought a different strength and perspective to the Commission, and that we each had something of import to share.

Moreover, he could articulate or accurately communicate our views in subsequent discussions or in his famous amazingly clear, I guess you could call them summations or review of all matters covered before decisions were made.

I would like to mention why I value this attribute. We are a diverse nation. We have different professions. There are differences that are physical, such as race, gender and age. Additional differences are less visible, but also important, such as cultural heritage, personal background, functional expertise, and certain strengths and skills which are both inherited and learned.

The Nation is best served, if the Justices on the court of last resort are able to understand, then communicate and articulate that understanding, as the law is construed and applied to particular situations.

The second trait I observed was one of accountability. I believe that Steve Breyer holds the same commitment as I do about the importance of accountability in a criminal justice system that strives for effectiveness. Now, such a system must be strong on accountability and replete with fairness.

Of course, as you know, the Commission's overall goal had to do with providing a structure and framework for sentencing decisions, so that similar offenders who commit similar offenses are sentenced in a similar fashion or to enhance fairness.

I came to believe that Steve Breyer cared about this precious entity. He shared significant sensitivity to my deep-seated concerns about fairness. A person from my background might view justice as a hoped-for miracle, and fairness as a scarce and valuable commod-

ity. I think Steve Breyer on the highest court can contribute to the dispensation of that precious commodity called justice.

I would like to mention briefly industriousness. It is relevant to this appointment to note that Steve Breyer is one of the hardest working people that I know. His thoroughness and preparation for our meetings on the Commission was key to his ability to serve as a stimulus for compromise. Not only was it necessary for him to research and think through his own perspective or position on subject issues, but it was necessary for him to examine the issues from a variety of perspectives.

His penchant for hard work and thorough preparation, along with his God-given wisdom, enabled him to synthesize the various seemingly dissimilar ideas sufficiently to be the leader in effecting compromise on numerous occasions.

I would be remiss, if I failed to note his temperament, his pleasant disposition and respectful treatment of staff and other individuals with whom he had contact on a routine basis.

Finally, Judge Stephen Breyer is a man who can relate to all Americans, and he is fair, a man of great integrity and sound judgment. He is a decent human being. I am confident that should you confirm him, he will through his service on the Court bring great honor on this committee, President Clinton and to our Nation.

[The prepared statement of Ms. Corrothers follows:]

PREPARED STATEMENT OF HELEN G. CORROTHERS

CURRICULUM VITAE

Aug 1993 recipient of her profession's highest award, the E.R. Cass Correctional Service Award from the American Correctional Assn.

A native of Pine Bluff, Arkansas, Helen G. Corrothers recently completed a term of office as the President of the American Correctional Association, the largest correctional association in the world. In 1985, she was appointed by President Ronald Reagan to the post of Commissioner, United States Sentencing Commission. She served in this capacity from October 1985–November 1, 1991. The Commission's purpose is to meet the Congressionally imposed mandate, which includes the establishment of sentencing policies and practices for the federal criminal justice system that meet the established purposes of sentencing and ensure certainty and fairness while avoiding unwarranted sentencing disparities among like defendants. Corrothers received her first appointment from President Reagan in 1983 to the United States Parole Commission. In addition to her national policy development and formulation responsibilities, she assumed command in January, 1984, for the fourteen-state Western Region with headquarters in Burlingame, California. This position included responsibility for administration, release decisions, the training of several hundred probation officers and quasi-judicial duties to include the issuance of summons, warrants, and subpoenas that were implemented by the United States Marshals Service.

Prior to her federal posts, she was Superintendent/Warden of the Women's Correctional Facility for the State of Arkansas. Violent offenders consistently constituted the bulk of the prison population throughout her tenure. She developed a successful program of administration and rehabilitation and ensured the facility's recognition through receipt of national accreditation. Additionally, she is a veteran. She advanced through the ranks in the United States Army from Private to Captain and served with distinction in the Far East, Europe, and the United States. She was Distinguished Military Graduate from Officer Leadership School and has received the Good Conduct Medal, the National Defense Service Medal, and the Army Commendation Medal.

She has served on numerous local, state, and federal policy-making boards, has extensive experience in the Criminal Justice field and has received numerous awards for her contribution to the field of corrections. She is currently an officer and member of the Executive Committee of the American Correctional Association; an officer and member of the National Board of Directors for the Volunteers of America, Inc.; and member of the National Board of Directors for The National As-