

The proposal we had before the Senate was exceedingly reasonable, carefully negotiated, and desperately needed, but Senate Republicans blocked a mere debate on COVID aid, knowing full well of the consequences for the American people. In knowing the consequences, Republicans said no to merely debating more money for booster shots and vaccinations and research into future treatments. In knowing the consequences, Republicans said no to merely debating more testing. In knowing the consequences, Republicans said no to merely debating no less than \$5 billion for lifesaving therapeutics—an indispensable tool for those with COVID illnesses.

And why did Republicans say no?

Because they wanted to cripple COVID funding legislation with poison pills that they knew would derail this bill—would derail the bill. Let me say it again. Instead of joining Democrats to begin a simple debate on COVID legislation, Republicans wanted to kill this bill with unrelated poison pills.

This is potentially devastating for the American people. Vaccines, therapeutics, and testing were negotiated in good faith, and they should not—they should not—be held hostage to extraneous, unrelated issues. This is too important for the health of our country.

The administration, for months, has made clear that new COVID funding is a matter of the highest urgency. Some critical COVID response measures are already being scaled back due to dwindling funding. Their message that Congress had to act—the administration's message—was unmistakable.

I hope Republicans will get serious about this. It should not be so difficult to do something so good and important for our country.

Let me say one other thing.

Our Republican colleagues think they may be gaining some temporary advantage, but God forbid a second variant hits and people ask: Why aren't the vaccines there? Why aren't the therapeutics there? The answer will be that the Senate Republicans, to a person, blocked the ability to move forward and get this legislation done because they wanted to play politics and inject extraneous issues into the debate.

But it is not going to deter us from getting this done. It is vital for keeping schools, churches, business, and other communities open if and when a future, more potent variant rears its ugly head. It is certainly better to act now than to pay the price 10 times down the line. We are going to keep working to make sure that Congress sends COVID funding to the President's desk.

#### NOMINATION OF KETANJI BROWN JACKSON

Mr. President, on SCOTUS, the U.S. Senate, happily, wonderfully, is on the brink of completing one of the most important responsibilities entrusted to it under the Constitution: consenting to the President's nominee for the U.S. Supreme Court. As I said, happily and

wonderfully, it will be the first African-American woman to ever serve on that august body.

Any time the Senate elevates someone to the highest pinnacles of the Federal judiciary, the impact literally lasts a lifetime and, often, far beyond that. The men and women who sit on the Supreme Court have the power to render judgment on any question they see fit that comes before them. The consequences of their decisions are seen and felt and reckoned with from here to the farthest corners of our country. So confirming a Supreme Court nominee is, in other words, a big deal to the Senate—one of the biggest deals, in fact. And, before the week is out, the Chamber is set to follow through, once again, on this august and awesome responsibility.

But, of course, even though this is one of the biggest deals for the Senate to do in any situation, it is even a bigger deal now. This time is different. The nominee, the 116th Justice, is different in some important ways than those who came before.

Judge Ketanji Brown Jackson, like many before her, is brilliant, accomplished, and qualified to be on the Court, but never—never before—has the Supreme Court had a Black woman bear the title of Justice. She will be the first, and I have no doubt, in my mind, that she will pave the way for others in the future.

The exultation among so many who have waited for this moment—of young girls throughout America who may say, "I can do this, too"; the untapped potential even for young people, particularly women of color, who are not interested in the law or in the Supreme Court but who say, "I can go somewhere; I can do something; I can get there"—is going to be great for America.

There are many considerations that the Senate should ponder when we are faced with the question of confirming judges. Diversity and representation is certainly one of them. It is a key feature of a healthy and vibrant democracy. When Americans of all walks of life come before the court, of course they should have confidence that those who don the robes have the ability to walk in their own shoes—to see and understand their sides of the story.

That is why diversity of background and experience has been one of the most important priorities in the Senate as we have confirmed the President's judges, and over the last year, as has been noted, we have made incredible progress on that front.

Of the 58 Senate-confirmed judges, three-quarters have been women, and two-thirds have been people of color. To be clear, these judges are diverse not just through their backgrounds but in their experiences. More public defenders, more civil rights attorneys, more nonprofit lawyers have been added to the Federal bench.

After years of the previous administration's confirming judges who were

disproportionately White, disproportionately male, disproportionately from big law firms, Senate Democrats are working to bring balance back to our judiciary. It will make our democracy healthier, fairer, and stronger.

As the country grows increasingly diverse in this century, Judge Jackson's confirmation will be a major step toward achieving that goal, and I so look forward to finishing the work to confirm this most qualified, most deserving, most historic nominee.

#### RUSSIA

Mr. President, finally, as Russia's war in Ukraine reaches an abominable level of brutality—you see these pictures of the people, innocent civilians who were shot—young, old, children, men, women—every single American should unite on the side of the Ukrainian people and against Putin's indiscriminate violence.

The pictures we have seen coming out of Ukraine and coming out of the town of Bucha are a pure manifestation of evil, hundreds of civilians murdered in cold blood—men, women, children, the elderly, the defenseless, people who were tied with their hands behind their backs, clearly civilians, shot in the back of the head because they are Ukrainians. It is the only reason. It is a genocide. It was called a genocide today by a Ukrainian official. It is a genocide. When these people are shot simply because of their nationality—they don't have arms—that is genocide, especially when it occurs in the large numbers it has already, individuals trying to live their own lives, targeted to be killed because of their nationality.

Putin is a war criminal. When Putin says Ukraine and Russia are together after he did this, no Ukrainian is ever going to believe it. Even the isolated Putin must know that, but he is cornered. And so he is a war criminal.

Any nation that indiscriminately and intentionally targets civilians should not enjoy doing business with American companies. But, shamefully, Koch Industries is continuing to do business in Putin's Russia and putting their profits ahead of defending democracy.

There is an explosive report this morning that the Koch political arm is now pushing for the United States to abandon our allies and back off the hard-hitting sanctions the Biden administration has imposed on Russia. The Kochs are selling out democracy for their own profits.

Every Senator—Democrat, Republican—we all care about Ukraine. Every Senator needs to condemn this push by the Koch brothers and call on Koch Industries to immediately suspend their operations in Russia. I look forward to every tough-talking Senate Republican to come here to the floor and call out the Koch brothers for undermining America's resolve against Putin's illegal, unprovoked, and criminal invasion of Ukraine.

Senate Democrats are working on legislation to add Russia to existing

laws that already deny foreign tax credits for taxes paid to North Korea and Syria. American companies that continue to do business in Russia should not receive U.S. tax benefits that offset taxes paid to Putin's regime.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

NOMINATION OF KETANJI BROWN JACKSON

Mr. Kaine. Mr. President, I proudly rise to speak about the nomination of Judge Ketanji Brown Jackson to be an Associate Justice of the U.S. Supreme Court.

When I began law school in the fall of 1979, the only woman Justice at the Supreme Court was a white marble statue on the steps. There were no women members of the Court. There had never been women members of the Court.

The motto engraved over the Court's entrance, "Equal Justice Under Law," sounded great, but it also rang hollow for the more than half of the U.S. population that had never seen themselves represented on the U.S. Supreme Court.

And it was more than just the absence of women on the Court. In 1868, the 14th Amendment to the Constitution was adopted in core memorable phrase guaranteeing to all persons the equal protection of the law. But the Court, for more than 100 years, refused to extend equal protection to women.

In one of the first cases testing the meaning of the phrase "equal protection of the law to all persons," the Supreme Court considered an Illinois State law restricting the practice of law to men only. A dynamic, young, feminist activist, Myra Bradwell, passed the Illinois bar exam and applied for a law license to practice law in Illinois. She was turned down because she was a woman. She appealed her case to the Illinois Supreme Court, and they turned her down because she was a woman. And then she came to the U.S. Supreme Court and said: We have just changed the Constitution to guarantee equal protection of the law to all persons, surely, you cannot turn me down in my quest to practice law after I have passed the Illinois bar exam.

The Supreme Court of the United States, in 1873, by a vote of 8 to 1, ruled that she was not entitled to an equal right to practice the profession of her choosing.

Let me read you a key part of the decision in that case:

The paramount destiny and mission of women are to fulfill the noble and benign office of wife and mother. This is the law of the Creator.

So a wife and mother can't be a lawyer? So every woman must be a wife and mother? That is what the Supreme Court determined in analyzing the simple phrase "all persons are entitled to equal protection of the law."

Here is a great trivia question: When did the Supreme Court finally decide that equal protection of the law ap-

plied to women? 1971. It took 103 years after the 14th Amendment was adopted for the Supreme Court to say: Wait a minute, equal protection of the law to all persons, that means women.

In the case of *Reed v. Reed*, the Court ruled that a State statute providing that males must be preferred to females in the administration of estates—it was an estate administration case—the Court ruled, wait a minute, that violates women's rights to equal protection. Who was the lawyer in that case? A dynamic, young civil rights lawyer with the ACLU named Ruth Bader Ginsburg.

So within my career as a civil rights attorney, from when I started law school in 1979 to today—43 years later—I have seen great change in the law's treatment of women and in their representation on the U.S. Supreme Court.

The nomination of Judge Ketanji Brown Jackson will make history. She will be the first African-American woman on the Court. And she will move a Court that had never had a woman member when I started law school to a Court where four of the nine members are women.

What powerful evidence of the capacity we have as a nation to come closer and closer to the equality ideal that was articulated as our moral North Star in the opening phrase of the Declaration of Independence drafted by a Virginian in 1776.

So I celebrate the history-making nature of this appointment, but it is not the reason for my support.

I support Judge Jackson's nomination because of her stellar academic credentials, her prestigious judicial clerkships, her dedicated service as an attorney and member of the U.S. Sentencing Commission, her well-respected tenure as a Federal trial and appellate judge, and the multiple attestations that she has received attributing to her fairness and to her character.

In particular—in particular—I think that her successful confirmation as a Justice will add two critical skill sets to this nine-member collegial body: first, that she is a public defender; and, second, that she has been a trial judge.

That she was a public defender—so much of the Court's docket deals with issues that are at the heart of the American criminal justice system. There are currently members of the Court—Justice Sotomayor, Justice Alito—who had experience as prosecutors in both the State and Federal courts before they began their service in the judicial branch. That experience as prosecutor is really important experience, and it is an important expertise to have on the Supreme Court.

But a Justice Ketanji Brown Jackson will be the first public defender ever to sit on the Court. And for a Court of nine to share perspectives and grapple with resolution of questions involving the criminal justice system, for that Court only to have people who prosecuted cases and not have people who

have defended, in particular, the most indigent criminal defendants—it is a Court that doesn't have the balanced 360-degree perspective that we would want in these important matters. So the fact that she served honorably as a Federal public defender, in my view, is a strong trait for her, but it is even a better trait if you think about what we would need in a nine-member Supreme Court.

Second, she has been a trial judge, a Federal district court judge in the district court for the District of Columbia. And that is really, really important. There is only one other member of the Court now who was a trial judge, and that is Justice Sotomayor. Some of the members of the Court, as far as I know—I can find no evidence—not only were they not trial judges, some of them I am not sure ever tried cases.

What does it mean to have a trial judge on the Court? Well, again, think about the docket of the Supreme Court. So much of the docket of the Supreme Court is ruling on questions and controversies, whose ultimate goal is to make the Nation's trials—civil and criminal trials—more fair: admissibility of evidence, sentencing standards, definitions of police misconduct that could either gain or shed sovereignty immunity in a trial going on in a trial court, how to impanel jurors, how to instruct jurors, when to strike a juror if there is evidence that the juror may have a bias or prejudice. These are all cases that come before the Supreme Court all the time. And these kinds of cases, it is particularly important to have a Court that is well-represented by people who have actually been in the courtroom and done it.

What trial judges have to do is they have to figure out how to instruct and impanel jurors and deal with the juror who may have a bias question. They have to rule on evidentiary objections in a split second; dispose of discovery disputes; rule on dispositive motions like motions to dismiss or summary judgment motions; in bench trials, actually render judgments, which usually involves credibility determinations among competing witnesses.

The judges in the Federal system are those with the power of sentencing, the most difficult power of all. If you have not been a trial lawyer or a trial judge, you might underestimate how difficult and challenging each of those tasks are. But if you have had the experience of being a trial lawyer or trial judge, you understand how important they are.

I asked Judge Jackson as I interviewed her, tell me how you think that being a trial judge might help you on the Court. She said, so much of our opinions are essentially instructions to State and Federal trial courts, here is how to conduct a fair trial. I think my experience will enable me to write opinions that are more workable; that are more understandable; that are more practical; that are more likely to lead to a result that is fair to the parties, but also one that will increase the