

leader said he wanted to see, and President Trump promised to nominate Justices “in the mold of Justice Scalia and Justice Thomas.” The American people had that issue squarely before them, and the voters chose that we wanted constitutionalist judges nominated to the Supreme Court. It was not only regarding the Presidential election but the Senate majority. The American people voted for a Republican majority in the Senate in 2014. The American people voted for a Republican majority again in 2016, and, in 2018, the American people grew our majority.

In all three of those elections, the question that the Democratic leader has put forward was directly before the voters. What kind of Justices do you want? The voters clearly decided and had given a mandate.

The President has said he is going to nominate a Justice this week. That is the right thing to do. This body, I believe, will take up, will consider, that nomination on the merits, and I believe we will confirm that nominee before election day. That is consistent with over 200 years of Senate precedent from both parties.

There is, however, something that the Democratic leaders and Democratic Members of this body are threatening that is not consistent with history or precedent or a respect for the Constitution, and that is, namely, a threat to pack the Supreme Court. We have heard multiple Democrats say that, if the Senate confirms this nominee and the Democrats take the majority next year, they will try to add two or four—or who knows how many—Justices to the Supreme Court. Well, you know, there was another Democratic President who tried to do that—FDR. Even though he had a supermajority, the Democratic Congress rejected his efforts as an effort to politicize the Supreme Court.

Since the Democratic leader believes we should follow the wishes of Justice Ginsburg, I think it is worth reflecting on what Justice Ginsburg said about this. She was asked about this in an interview with NPR, and her statement was as follows:

Nine seems to be a good number. It's been that way for a long time. I think it was a bad idea when President Franklin Roosevelt tried to pack the court.

Well, unfortunately, it seems the Democratic leader and Democratic Senators are repeating the partisan mistakes of their predecessors in threatening the Court and threatening to pack the Court, which would be truly a radical and bad idea, as Justice Ginsburg explained.

Accordingly, what I am going to do is propose modifying the Democratic leader's resolution to delete his call that we leave this vacancy open, that we leave the Court with just eight Justices, which opens up the possibility of a 4-to-4 tie, not able to resolve a contested election, and leaving this country for weeks and months in chaos if we have a contested election in Novem-

ber. Instead, let's replace in the resolution the quote from Justice Ginsburg that packing the Court is a bad idea and have the Senate agree that packing the Court is a bad idea.

I am confident that, when I ask the Democratic leader, he is going to reject this because we are, sadly, seeing one side of the aisle embrace more and more dangerous and radical proposals, including trying to use brute political force to politicize the Court. That is neither consistent with the Constitution nor is it consistent with two centuries of this body's precedent.

Accordingly, I ask that the Senator modify his request and, instead, take up my resolution at the desk. I further ask that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. SCHUMER. Madam President, reserving the right to object, I believe Justice Ginsburg would have easily seen through the legal sophistry of the argument of the junior Senator from Texas. To turn Justice Ginsburg's dying words against her is so, so beneath the dignity of this body.

I do not modify.

The PRESIDING OFFICER. Is there objection to the original request?

Mr. CRUZ. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

BIDEN TAX PLAN

Mr. GRASSLEY. Madam President, last week, former Vice President Biden released his Presidential tax plan. I wish he would release the list of people he is going to put on the Supreme Court, like he said he was going to do in June. He hasn't done that, and, I think, yesterday, he said he wasn't going to do it, but we do have his high-tax plan.

He has vowed to raise taxes immediately on U.S. businesses even though our country is recovering from the worst economic crisis since the Great Depression. Usually, when you are in that economic condition, you don't raise taxes, and the very last thing struggling Americans need, and particularly the businesses that create the jobs, is a massive tax increase at this time. Of course, Mr. Biden's tax plan shouldn't come as a surprise to anyone. His party seems to think the answer to every problem in America is to raise taxes and spend more money.

When he was Vice President, the U.S. corporate tax rate was the highest in the industrialized world. It isn't now because of President Trump's tax proposals and the tax reform legislation we passed December 2017. Prior to tax reform, U.S. companies were not competitive with their foreign counterparts. And there were constant headlines about companies that were moving their headquarters overseas, largely because of our outdated tax system.

In fact, a number of Mr. Biden's proposals make me think that he is reliving his time as Vice President. His plan to increase the corporate tax rate from 21 to 28 would very quickly take us back to those days. Once again, this country would be saddled with the highest business tax rates in the industrialized world, taking into account Federal and State taxes in this country. U.S. companies, both large and small, would see higher taxes than their foreign competitors in France, Germany, the UK, and other major trading partners. In some cases, those taxes would be as much as 15 percentage points higher.

Mr. Biden says our tax system encourages offshoring, profit shifting, and inversions. Back when he was Vice President, those things actually happened: offshoring, profit shifting, and inversions.

When Mr. Biden was Vice President, the U.S. tax law allowed companies to defer their foreign earnings until they were brought back to the United States. Why would you bring them back when we had the highest tax rate in the industrialized world?

That system allowed many companies to delay paying taxes on their foreign earnings, and in some cases, that could be indefinitely.

As part of tax reform, we specifically sought to end the parking of profits overseas. We wanted that money to come home so that money would be invested in this country and would create jobs.

That is why we enacted the tax on global intangible low-tax income—or GILTI, as it is referred to—which imposes a minimum tax on foreign earnings in low-tax countries.

And when Biden was Vice President, there were plenty of opportunities for what we call base erosion. That is why we created the base erosion anti-abuse tax—or the BEAT, as it is called—which targets deductible payments made to foreign affiliates. We also imposed limits on the deductibility of interest.

Together, these policies addressed loopholes so companies can't erode the U.S. tax base and avoid taxes.

While tax reform cracked down on notable abuses, it also had the positive effect of making the United States a far more attractive place to invest—not only for profits of U.S. companies coming home but for foreign investment in America as well.

We created the foreign-derived intangible income rules to incentivize companies to keep intellectual property in this country, not abroad.

We also allowed immediate expensing of investments to encourage companies to put their facilities and jobs here on U.S. soil. And President Trump has gone way beyond the new tax law to provide incentives to get industry back to this country.

Now, Mr. Biden may be harkening back to 2014, but let's all remember that companies then were announcing

left and right their plans to invert or move their headquarters overseas, but since our 2017 Trump tax reform, I haven't heard of any companies with inversion plans. Quite the opposite, companies have called off inversions and even brought back operations to this country, and they are citing our tax reform as the main reason for doing it. So why would Mr. Biden want to undo that?

Even more curious is that Mr. Biden's own talking points suggest that he supports a number of our tax reform policies in that 2017 bill.

Kimberly Clausing, who reportedly advises Mr. Biden on tax policy, has said the Tax Cuts and Jobs Act "should be commended for providing some limits on tax avoidance through the GILTI and the BEAT."

What is more, Ms. Clausing has estimated the new rules under the 2017 tax bill will result in a 20-percent decrease in shifting profits overseas.

That is consistent with the Joint Committee on Taxation's macroeconomic estimate in 2017 that found that tax reform would reduce profit shifting and increase the U.S. tax base.

Nevertheless, Mr. Biden wants to double down on increasing taxes on U.S. businesses and, in fact, undo the progress that we have seen since tax reform in 2017.

In addition to higher taxes on domestic earnings, he also wants to increase the rate on U.S. companies' foreign earnings to 21 percent. That is almost double the 12.5-percent rate that the OECD is targeting for its global minimum tax.

I guess the former Vice President wants to ensure that no country can top the United States when it comes to the highest tax rates possible.

And that is not all. Mr. Biden proposes an additional 10-percent penalty on goods and services imported by U.S. companies from foreign affiliates.

Now, even the Washington Post editorial board noted earlier this month that Vice President Biden's policy simply ignores the reality of global supply chains.

Do we, in fact, really want to encourage foreign countries to tax goods and services imported from the United States? That could be a slippery slope.

The truth is, Mr. Biden is trying to fix problems from the last administration. Republicans already met that challenge, and tax reform of 2017 is working.

Data from the Bureau of Economic Analysis clearly shows that tax reform stemmed the flood of offshoring, while encouraging U.S. companies to invest right here in the United States.

In fact, among U.S. multinationals, employment investment, research, and production in the United States has increased at a faster rate in 2018 than the average rate over the past 20 years—faster than the growth rate of U.S. multinational companies that are abroad.

Of course, there is more work to be done. But tax reform has made this

country a more attractive place for businesses to headquarter, invest, and create jobs.

Now, if the former Vice President succeeds in his plans, it will not just be our businesses that will bear the brunt.

The Joint Committee on Taxation and Congressional Budget Office have both concluded that 25 percent of the corporate tax is borne by workers. So workers will be hurt. They will feel the burden of the Biden plan thorough fewer jobs, through reduced wages, and through less benefits.

Above all, the Biden tax plan ignores the reality of today. We are trying to see our way out of the global pandemic. Undoing the progress that we have made through tax reform, especially now, is certainly not a prescription for economic recovery and growth.

What is more, the Vice President's plan will do nothing to speed the progress that we made reducing unemployment since the height of the pandemic. Instead, it will do just the opposite, work against it.

The Biden tax increases wouldn't be good policy in the best of conditions, but they are certainly bad policy right now because of the economic hardship caused by the pandemic.

If Mr. Biden really wants to keep living in the Obama era, he should recall President Obama's sound advice on tax policy during a crisis, the financial crisis of 2009 and 2010, when President Obama said this: "The last thing you want to do is raise taxes in the middle of a recession."

That is something we should all be able to agree upon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

(The remarks of Mr. COTTON pertaining to the introduction of S. 4648 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COTTON. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

SUPREME COURT NOMINATIONS

Mr. MENENDEZ. Madam President, our Nation has suffered a historic loss in the passing of legal giant Justice Ruth Bader Ginsburg, and I fear the rush to replace her with just 44 days left before the next Presidential election will have grave consequences for the lives of millions of Americans.

As tempting as it is, I am not here to talk about the stunning hypocrisy of my Republican colleagues who once opposed filling any Supreme Court vacancy during a Presidential election year now changing the reasons for doing so like a willow in the wind.

Well, make no mistake, their willingness to abandon their word in the naked pursuit of power and deny the American people a voice in this process is truly stunning. Today, I want to talk about the consequences of their hypocrisy, not for our process here in the Senate but, rather, for the lives and livelihoods of millions of families across this Nation.

Everything Americans care about and depend on is on the line, starting first and foremost with their healthcare. President Trump has already declared that whoever his nominee is, his nominee to the Court will vote to "terminate" the Affordable Care Act and reverse *Roe v. Wade*.

The Trump administration is closer than ever to tearing healthcare away from millions of people by overturning the law that gave it to them in the first place. It is especially outrageous to see the administration threaten the healthcare of millions of Americans at this perilous moment in our history—with nothing, by the way, to replace it.

Since the passage of the Affordable Care Act, they have said they have a better plan. Well, now 11 years later or so, maybe almost 12 years, we have yet to see what that plan is.

We are in the midst of a deadly, once-in-a-century pandemic. A staggering 200,000 Americans—fathers and mothers, sisters and brothers, dear friends and beloved grandparents—are gone forever. Meanwhile, millions of people nationwide are infected with the coronavirus. To this day, many survivors of COVID-19 are grappling with lasting healthcare challenges, from chronic shortness of breath to lifelong scar tissue in their lungs.

We are still learning about the long-term health impacts of contracting COVID-19, but here is one thing we do know: Every single one of these survivors now has a preexisting condition that makes them vulnerable to insurance company discrimination without the protections guaranteed by the Affordable Care Act. That is in addition to the estimated 135 million Americans who already live with common preexisting conditions like chronic asthma, diabetes, and high blood pressure, to mention a few.

Remember what it was like before the Affordable Care Act? A health insurance company could refuse to cover you or provide your care or even kick you off your plan due to your medical history. A child born at birth with a birth defect couldn't get health insurance. The husband who had a heart attack couldn't get health insurance. A woman with cervical cancer couldn't get health insurance afterward—a preexisting condition. We don't want to go back to those days, but that is exactly where the Trump administration will take us should they prevail at the Supreme Court, as this case is pending before the Supreme Court.

Now, despite what they say, the Republican mission has been clear for a decade: to kill the Affordable Care Act, to strip away healthcare from millions of Americans, all the while lying about how they will protect individuals with preexisting conditions. It is shameful.

Just as dangerous is the prospect of a Supreme Court that will overturn *Roe v. Wade* and roll back the reproductive rights of women. That is what is at stake with this Supreme Court seat—the basic principle that women have a