

1 OPEN EXECUTIVE SESSION TO CONSIDER FAVORABLY REPORTING
2 THE NOMINATIONS OF JUSTIN GEORGE MUZINICH, OF NEW YORK,
3 TO BE DEPUTY SECRETARY OF THE TREASURY; AND MICHAEL J.
4 DESMOND, OF CALIFORNIA, TO BE CHIEF COUNSEL FOR THE
5 INTERNAL REVENUE SERVICE AND AN ASSISTANT GENERAL
6 COUNSEL IN THE DEPARTMENT OF THE TREASURY

7 WEDNESDAY, AUGUST 1, 2018

8 U.S. Senate,
9 Committee on Finance,
10 Washington, DC.

11 The executive session was convened, pursuant to
12 notice, at 9:30 a.m., in room 215, Dirksen Senate Office
13 Building, Hon. Orrin G. Hatch (chairman of the
14 committee) presiding.

15 Present: Senators Grassley, Thune, Heller, Wyden,
16 Cantwell, Carper, Cardin, and Casey.

17 Also present: Republican Staff: Nicholas Wyatt,
18 Tax and Nomination Professional Staff Member.
19 Democratic Staff: Michael Evans, Chief Counsel; Ian
20 Nicholson, Investigator. Nondesignated staff: Joshua
21 LeVasseur, Chief Clerk and Historian; Athena Schritz,
22 Hearing Clerk.

23

1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE

3

4 The Chairman. We are happy to welcome everybody
5 out here this morning to today's executive session.

6 This morning we will consider the nominations of
7 Justin Muzinich to be the Deputy Secretary of the U.S.
8 Department of Treasury and Michael Desmond to be Chief
9 Counsel for the IRS and Assistant General Counsel in the
10 Department of the Treasury.

11 If confirmed, Mr. Muzinich will be responsible for
12 assisting Secretary Mnuchin with the administration of
13 the Treasury Department, including executing tax
14 reporting which we are already beginning to see spur
15 economic growth. It is also creating jobs and it is
16 boosting wages.

17 Mr. Muzinich's position will be key as we expect
18 him to implement new code efficiently and as intended so
19 that all American taxpayers can continue to benefit from
20 this legislation.

21 In addition, Mr. Desmond, if confirmed will serve
22 as Chief Counsel for the IRS and the Assistant General
23 Counsel in the Department of the Treasury.

24 In these roles, Mr. Desmond will act as the chief
25 legal advisor to the IRS Commissioner on all matters

1 relating to interpretation, administration, and
2 enforcement of the tax code. The Chief Counsel is also
3 responsible for overseeing an office responsible for
4 providing IRS agents and taxpayers with guidance on how
5 to comply with our tax laws.

6 The ranking member has said that Mr. Muzinich has
7 been insufficiently responsive to the committee's
8 questions. However, Mr. Muzinich has been prompt and
9 fully responsive to all questions he is able to answer
10 at this time. I have full faith he will continue to be
11 so should he be confirmed.

12 Before we move to the markup, however, I want to
13 address again an issue my Democratic colleagues have
14 insisted on raising as we consider these two
15 appointments. As I am sure most of you know by now,
16 just a few weeks ago, the Treasury Department released
17 new regulations that caused histrionics from the
18 Democratic members of this committee.

19 Now my colleagues have railed on this action time
20 and time again, despite its obvious irrelevance to these
21 nominations. They also brought up this issue while we
22 considered the important nomination of Mr. Rettig to
23 lead the IRS.

24 I suppose if there is an opportunity to make a
25 straightforward vote on a critical nominee, our friends

1 from the other side see it as an opportunity to
2 grandstand. That is why -- though I hope to be wrong --
3 I expect my Democratic colleagues will argue against
4 these nominees on the basis of these recent policy
5 changes.

6 I spoke to this issue directly in a speech on the
7 Senate floor just late last week. I also addressed this
8 issue during the hearing on Mr. Muzinich's and Desmond's
9 nominations. But considering that my comments have
10 continued to be ignored, I will briefly reiterate some
11 history and the likely benefits of this proposed change.

12 In its Section 990 change, the Treasury Department
13 honored a Nixon administration regulation that required
14 social welfare organizations, labor organizations, and
15 chambers of commerce to report the names and addresses
16 of their donors. This change was made because this rule
17 had a number of underlying problems, most importantly
18 that the IRS was collecting sensitive information it did
19 not even need.

20 After all, the types of donations in question are
21 not tax deductible and are no longer subject to the gift
22 tax. Even if the IRS were to have a need for this
23 sensitive information, it could easily acquire it
24 through a direct request.

25 Now unless you have had your head buried in the

1 sand for the past 20 years, you should understand
2 several reasons why the IRS should be more cautious
3 about the types of information it collects, how it
4 stores it, and the methods they use to collect it.

5 This rule change shows that the Trump
6 administration has also recognized that this change will
7 save precious time and resources at the agency, another
8 longstanding complaint of my friends on the other side.
9 It will also better protect taxpayer privacy.

10 In short, this rule has been changed in an effort
11 to protect taxpayer information -- information that has
12 been improperly leaked at least 14 times since 2010. It
13 has been changed to help redirect IRS resources to
14 better help taxpayers who need assistance, and it
15 reflects a commonsense change in information collection
16 now that we have a new tax code.

17 But if that is not enough for you, I think it is
18 also important to recognize that this change is not
19 actually a partisan change. Dangers to taxpayer privacy
20 and misuse of important resources within the agency
21 caused consternation during the previous administration
22 as well. That is why under the Obama administration the
23 IRS proposed changes to Schedule B reporting beyond what
24 was put in place last month.

25 But again, you never expect that with how my

1 friends on the other side are talking about this change.
2 In fact, you might even think this is the end of the IRS
3 as we know it. Such rhetoric is not only costly to our
4 ability to work together here in this committee, it also
5 undercuts the IRS' credibility, the capacity to
6 function, it makes it harder for the agency to enact
7 commonsense bipartisan politics in the future.

8 All of these reasons are just a few of the
9 highlights for why I approve of the IRS and Treasury
10 Department's decision to cease pointlessly collecting
11 this sensitive information that has only caused problems
12 in the past. It is also why I would like to ask my
13 Democratic colleagues to stop using this positive change
14 as an excuse to grandstand.

15 We have long been above such petty politicking on
16 this committee, and I hope that we can return to our
17 bipartisan form as quickly as possible. Our country
18 deserves it, and its citizens deserve to have two
19 eminent professionals and dedicated public servants like
20 Mr. Muzinich and Mr. Desmond properly installed so that
21 the Treasury and the IRS can do the job they are
22 supposed to do.

23 Since today is very busy and many members have
24 other commitments, we will be holding these votes off
25 the floor later today. Following Senator Wyden's

1 statement, other members will be given time to make
2 statements, but we ask that you please limit your
3 comments to no more than three minutes.

4 So with that, I am going to turn to my good friend
5 and colleague, Senator Wyden, for his opening statement.

1 OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM
2 OREGON

3

4 Senator Wyden. I thank my friend, and I appreciate
5 the fact that we have worked together on so many matters
6 and simply have a difference of opinion on today. That
7 is the way it often is with friends.

8 The Finance Committee meets this morning to vote on
9 the nominations of Justin Muzinich to be Deputy
10 Secretary of the Treasury and Michael Desmond to be
11 Chief Counsel at the IRS.

12 Colleagues, particularly on the Muzinich
13 nomination, the debate changed completely with the
14 breaking news from Treasury on Monday night. According
15 to Treasury sources, the Trump administration is
16 considering flouting the law to cut taxes on capital
17 gains permanently.

18 It is a \$100-billion handout to the most fortunate
19 in America, the super wealthy. Just in case anybody
20 forgot, it was only a few months ago the administration
21 and their Republican allies in Congress forced through a
22 \$1.5 trillion tax bill that overwhelmingly benefited
23 corporations and the most fortunate. It might be easy
24 to get lost in the news cycles these days, but that one
25 is hard to forget.

1 Now the administration is back prospecting for tax
2 handout 2.0. It is like this administration offered up
3 a buy-one-get-one deal on handouts for the super-rich.

4 And let me quote directly from a Congressional
5 research service analysis of indexing capital gains.
6 "It is unlikely that a significant, or any, effect on
7 economic growth would occur from a stand-alone indexing
8 proposal." So according to the independent analysts, a
9 \$100 billion giveaway to the most fortunate produces no
10 economic benefit, has obviously caused some controversy.

11 The White House, yesterday, tried to quiet the
12 outrage, but they walked Treasury's position back only
13 about an inch and a half. According to the Bloomberg
14 News Service, "White House Chief of Staff John Kelly
15 wasn't actively seeking this change as of Monday."

16 When I saw this breaking news on the possibility of
17 more handouts for the fortunate few, my first thought
18 was were not the \$1.5 trillion cash handouts in the new
19 dark money corruption rule enough? I gather not.

20 Indexing capital gains would be another massive
21 policy change that has had no public debate. A change
22 plucked from the wish list of the extreme right. A
23 change that working Americans overwhelmingly oppose.

24 There is compelling evidence that what the Treasury
25 is considering is illegal. The first Bush

1 administration even decided it did not have the legal
2 authority to make the change without Congressional
3 action. There is no question that following through on
4 it now would bring a legal firestorm.

5 So colleagues, it sure seems like the
6 administration feels they have obligation even to try to
7 make a straightforward case to the public for why these
8 changes ought to become law.

9 When Mr. Muzinich came before the committee last
10 week, it was a struggle to get straight answers to
11 questions that ought to have been low hanging fruit.
12 For example, I asked him if the Treasury has a rule
13 preventing foreign actors from interfering in our
14 elections. A simple yes or no would have sufficed, and
15 it is clear from reading the statutes that they have
16 such a role. He gave a vague answer about how he would
17 look at Treasury's specific statutes.

18 Senator Grassley said he and his fellow Republicans
19 often saw Mr. Muzinich up here during the last tax
20 debate, last year. I am not sure any other Democratic
21 committee member saw much of him, but he certainly did
22 not come to meet with me to discuss taxes in a
23 bipartisan way in spite of the fact that I wrote the
24 only two bipartisan bills.

25 When he did come in for a courtesy meeting not long

1 ago, he told me he would be the building manager as if
2 he was looking after windows and office supplies.

3 In response to our colleague, Senator Bennet, the
4 nominee for the number two spot at Treasury repeated the
5 old Mnuchin fabrication that the \$1.5 trillion Trump tax
6 handout would pay for itself. Not even the
7 administration's own economic numbers stick by that one.
8 For Mr. Muzinich to sit in this well and repeat that
9 debunked, absurd claim that is not even backed up by
10 Treasury's own numbers certainly takes -- and my friend,
11 the chairman knows a lot about the Jewish people -- I
12 got to tell you, Mr. Chairman, that comment from the
13 nominee is what the Jewish people call "chutzpah". But
14 I have got to tell you, colleagues, it does not even
15 pass the smell test.

16 I have an extremely difficult time believing that
17 Mr. Muzinich who was profiled glowingly as a Treasury
18 power player by the *New York Times* and Reuters has not
19 been involved in these controversial deliberations. My
20 sense was watching him there at the witness table is his
21 stonewalling would fit right in if he stood next to the
22 Alexander Hamilton Statue outside the Treasury building.

23 In my view, Treasury appointees must exhibit a
24 basic level of candor, respect for both sides of the
25 committee, and a recognition that the Department is not

1 above the law. Those qualities are lacking at this
2 moment among those heading up the Trump Treasury
3 Department. For those reasons I will be unable to
4 support Mr. Muzinich's nomination.

5 Furthermore, as I have made clear to this
6 committee, I plan to hold all Treasury nominees until
7 the Department quits stonewalling our oversight
8 requests. Since I made this announcement in June, I
9 have made requests to the Treasury Department for
10 suspicious activity reports relating to Michael Cohen,
11 Aleksandr Torshin, Maria Butina, and the National Rifle
12 Association.

13 Our committee uncovered how Michael Cohen, the
14 President's lawyer, was selling access to the White
15 House. Maria Butina was indicted two weeks ago for
16 using a gun rights group as a conduit to interfere with
17 our elections and undermine our democracy.

18 Aleksandr Torshin, a Russian national who was
19 sanctioned early this year for being a Putin ally, is
20 reportedly being investigated by the FBI for money
21 laundering. Ms. Butina was Mr. Torshin's assistant at
22 the Central Bank of the Russian Federation in 2015.

23 As I said, these are not petty issues. Nobody on
24 this side is asking for anybody's high school diaries.
25 This committee is attempting to pursue information that

1 is key to uncovering corruption and protecting our
2 democracy from foreign interference.

3 There is no legitimate reason for the
4 administration to go to such enormous lengths to conceal
5 this information from the committee of jurisdiction. So
6 for that reason, in line with the pledge that I made
7 back in June, Mr. Chairman and colleagues, if Mr.
8 Muzinich's nomination is reported out of committee, I
9 will place a hold on its debate on the floor.

10 Thank you, Mr. Chairman.

11 The Chairman. We are happy to know where you
12 stand.

13 We will just continue this off the floor.

14 Senator Wyden. Mr. Chairman, could I -- I realize
15 I omitted one thing.

16 With my colleagues indulgence, I would also like to
17 say this morning that it is my intention to support Mr.
18 Desmond when we have a vote off the floor.

19 Thank you, Mr. Chairman.

20 The Chairman. All right. Are there any other
21 members who want to make statements?

22 [No response.]

23 The Chairman. Without that, we will just do this
24 off the floor then. I hope that everybody will
25 cooperate.

1 Thanks so much. We appreciate you. We will wait
2 until we can get everybody on the floor.

3 [Whereupon, at 9:45 a.m., the executive session
4 was recessed to reconvene off the floor.]

5

6 The hearing was reconvened, pursuant to notice, at
7 11:00 a.m. in room S-216, The President's Room, United
8 States Capitol.

9 The Chairman. The Committee will come to order. I would
10 entertain a motion to favorably report the nomination of
11 Mr. Muzinich.

12 Senator Grassley. So moved.

13 The Chairman. The clerk will call the roll.

14 The Clerk. Mr. Grassley?

15 Senator Grassley. Aye.

16 The Clerk. Mr. Crapo?

17 Senator Crapo. Aye.

18 The Clerk. Mr. Roberts?

19 Senator Roberts. Aye.

20 The Clerk. Mr. Enzi?

21 Senator Enzi. Aye.

22 The Clerk. Mr. Cornyn?

23 Senator Cornyn. Aye.

24 The Clerk. Mr. Thune?

25 Senator Thune. Aye.

1 The Clerk. Mr. Burr?
2 The Chairman. Aye by proxy.
3 The Clerk. Mr. Isakson?
4 Senator Isakson. Aye.
5 The Clerk. Mr. Portman?
6 Senator Portman. Aye.
7 The Clerk. Mr. Toomey?
8 Senator Toomey. Aye.
9 The Clerk. Mr. Heller?
10 Senator Heller. Aye.
11 The Clerk. Mr. Scott?
12 Senator Scott. Aye.
13 The Clerk. Mr. Cassidy?
14 Senator Cassidy. Aye.
15 The Clerk. Mr. Wyden?
16 Senator Wyden. No.
17 The Clerk. Ms. Stabenow?
18 Senator Stabenow. No.
19 The Clerk. Ms. Cantwell?
20 Senator Cantwell. No.
21 The Clerk. Mr. Nelson?
22 Senator Nelson. No.
23 The Clerk. Mr. Menendez?
24 Senator Menendez. No.
25 The Clerk. Mr. Carper?

1 Senator Wyden. No by proxy.

2 The Clerk. Mr. Cardin?

3 Senator Cardin. No.

4 The Clerk. Mr. Brown?

5 Senator Brown. No.

6 The Clerk. Mr. Bennet?

7 Senator Bennet. No.

8 The Clerk. Mr. Casey?

9 Senator Casey. No.

10 The Clerk. Mr. Warner?

11 Senator Wyden. No by proxy.

12 The Clerk. Mrs. McCaskill?

13 Senator McCaskill. No.

14 The Clerk. Senator Whitehouse?

15 Senator Whitehouse. No.

16 The Clerk. Mr. Chairman?

17 The Chairman. Aye.

18 The clerk will announce the vote.

19 The Clerk. Mr. Chairman, the final tally,

20 including proxies, is 14 ayes and 13 nays.

21 The Chairman. The "ayes" have it. The nomination

22 is ordered favorably reported. I would entertain a

23 motion to favorably report the nomination of Mr.

24 Desmond.

25 Senator Grassley. So moved.

1 The Chairman. The clerk will call the roll.
2 The Clerk. Mr. Grassley?
3 Senator Grassley. Aye.
4 The Clerk. Mr. Crapo?
5 Senator Crapo. Aye.
6 The Clerk. Mr. Roberts?
7 Senator Roberts. Aye.
8 The Clerk. Mr. Enzi?
9 Senator Enzi. Aye.
10 The Clerk. Mr. Cornyn?
11 Senator Cornyn. Aye.
12 The Clerk. Mr. Thune?
13 Senator Thune. Aye.
14 The Clerk. Mr. Burr?
15 The Chairman. Aye by proxy.
16 The Clerk. Mr. Isakson?
17 Senator Isakson. Aye.
18 The Clerk. Mr. Portman?
19 Senator Portman. Aye.
20 The Clerk. Mr. Toomey?
21 Senator Toomey. Aye.
22 The Clerk. Mr. Heller?
23 Senator Heller. Aye.
24 The Clerk. Mr. Scott?
25 Senator Scott. Aye.

1 The Clerk. Mr. Cassidy?
2 Senator Cassidy. Aye.
3 The Clerk. Mr. Wyden?
4 Senator Wyden. Aye.
5 The Clerk. Ms. Stabenow?
6 Senator Stabenow. Aye.
7 The Clerk. Ms. Cantwell?
8 Senator Cantwell. Aye.
9 The Clerk. Mr. Nelson?
10 Senator Nelson. Aye.
11 The Clerk. Mr. Menendez?
12 Senator Menendez. No.
13 The Clerk. Mr. Carper?
14 Senator Wyden. Aye by proxy.
15 The Clerk. Mr. Cardin?
16 Senator Cardin. Aye.
17 The Clerk. Mr. Brown?
18 Senator Brown. Aye.
19 The Clerk. Mr. Bennet?
20 Senator Bennet. Aye.
21 The Clerk. Mr. Casey?
22 Senator Casey. Aye.
23 The Clerk. Mr. Warner?
24 Senator Wyden. Aye by proxy.
25 The Clerk. Mrs. McCaskill?

1 Senator McCaskill. Aye.

2 The Clerk. Senator Whitehouse?

3 Senator Whitehouse. No.

4 The Clerk. Mr. Chairman?

5 The Chairman. Aye.

6 The clerk will announce the vote.

7 The Clerk. Mr. Chairman, the final tally,
8 including proxies, is 25 ayes and 2 nays.

9 The Chairman. The "ayes" have it. The
10 nomination is ordered favorably reported. I thank my
11 colleagues for their time and the markup is concluded.

12 [Whereupon, at 11:15 a.m., the meeting was
13 adjourned.]

I N D E X

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STATEMENT OF:

THE HONORABLE ORRIN G. HATCH
A United States Senator
from the State of Utah 2

THE HONORABLE RON WYDEN
A United States Senator
from the State of Oregon 8