

Federal level. There would be no range of State powers that the Federal Government cannot usurp. The 10th Amendment would be a dead letter, as there would be no powers reserved to the States.

Congress exceeded its enumerated powers in passing the individual mandate.

It attempted to create an all-powerful Federal Government that posed a threat to liberty that the Supreme Court unanimously warned against in the *Bond* case. All the Supreme Court need do to strike down the mandate is to adhere to its position in *Bond*. If it departs from that view and upholds the mandate, then our hopes for liberty may depend on a new President charting the course contained in Judge Kavanaugh's dissenting opinion in the D.C. Circuit case. Judge Kavanaugh wrote that a President is not required to enforce a statute that regulates private individuals that the President believes is unconstitutional.

This is true even when a court has held the statute to be constitutional.

Mr. President, the upcoming Supreme Court decision on the constitutionality of the individual mandate is important not only for the fate of that provision, but for its effect on the powers of the Federal Government and the very survival of individual economic liberty.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN of OHIO. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMERICA'S ECONOMY

Mr. BROWN of Ohio. Our economy, as the Presiding Officer and others know, demands two major priorities from Congress right now: to reduce spending and to foster job creation. Equally important, you cannot do one without the other. We cannot only cut our way to prosperity. They cannot be mutually exclusive goals. We can make sensible reforms that reduce the deficit while promoting job creation.

Here is what we should be talking about: first, closing tax loopholes for companies that ship jobs overseas and encourage American job creation. That saves \$19 billion over 10 years. It will mean companies choosing to manufacture in the United States instead of China, instead of Mexico, in many cases.

My State, Ohio, is the third leading manufacturing State in the country.

We produce more than any other State except California, three times our population, and Texas, twice our population.

Second, let's give faster access to generic drugs to treat breast cancer and MS and rheumatoid arthritis. That saves \$2.3 billion over 10 years. It saves for taxpayers. It saves for insurance companies, meaning insurance rates will go up at a much lower rate. It saves for individuals reaching into their pocket and paying copays.

Third, let's strengthen and streamline the farm safety net. That saves \$20 billion over 10 years. There is simply no reason that large farmers who have profitable years need to get direct payments, need to get farm subsidies. Establishing a safety net makes sense. If prices are particularly low for a couple of years, if yields are particularly low for a couple of years, farmers need that safety net because we do not want to lose more family farms. But do not continue to give farm subsidies to farmers who simply do not need them.

Fourth, let's ask the wealthiest Americans to go back to the same tax rate they paid during the Clinton years. That will raise \$800 billion over the next 10 years. During the Clinton years, 21 million private sector jobs—net increase—occurred, even with a higher tax rate on high-income people as we balanced the budget, and during the 8 Bush years, two major tax cuts mostly for the wealthy, which the Presiding Officer and I and others opposed, under the belief that trickle-down economics would work, there was only a 1 million private sector net increase in jobs in those 8 years. We started with a huge budget surplus and ended with a huge budget deficit. We know that kind of economics does not work.

Those four ways are just four of the many I can talk about at another time of reducing our deficit and making our economy stronger. Too many in Washington seek to undermine one of the programs that kept our country strong in good economic times and bad economic times; that is, Social Security.

I am now a grandfather. I turned 59 a couple of weeks ago. Our first grandson is 3 years old. I understand it becomes more personal. I understand how grandparents now get to spend more time with their grandchildren. Margaret Mead once said: Wisdom and knowledge are passed from grandparent to grandchild.

The Presiding Officer, who has enough gray hair, would understand that, understands that because Medicare and Social Security have helped Americans live longer and healthier lives, it does give us—that is why it is personal for me, it does give us more time with our grandkids, and passing on that knowledge and wisdom that only grandparents can then give to their grandchildren.

Yet too many seniors have worked hard, played by the rules, and require Social Security simply to live. More than half of Ohio's seniors get more

than half their income in their retirement years from Social Security. That is how important it is. Some seniors get almost all of their income from Social Security. That may be as little as \$1,000 or \$1,100 or \$1,200 a month. That is what they live on.

Yet as more and more seniors rely on Social Security, they went 2 years without a cost-of-living adjustment. Why? Because the cost-of-living adjustment under Federal law—this is not the fault of the President, although it may have been several Presidents ago; this is not the fault of the Congress, although it may have been when it was decided several Congresses ago—but the law simply says that the Social Security cost-of-living adjustment is the so-called Consumer Price Index, which is determined for a typical 40-year-old in the workplace, not a 70-year-old who is in retirement. The 40-year-old in the workplace has significantly lower health care costs, perhaps has higher transportation costs getting to or from work, while the senior who is 70 has significantly higher health care costs as a percentage of their income and significantly higher heating costs, just to keep warm in the winter, cool in the summer, because of their lifestyle.

This Consumer Price Index, which is the determination for whether you get a cost-of-living adjustment, is based on a working 40-year-old, not a retired 70-year-old. That is what we want to fix. That is why I have introduced my legislation to do CPI—instead of CPI-W, Consumer Price Index-Working Person, the way it is now, to change it to CPI-E, Consumer Price Index-Elderly, to base it on those who get the COLA.

America's seniors did not get a COLA the last 2 years because it did not reflect their cost as much as it reflected not very high inflation among 40-year-old working families. Belle, a senior community activist from Shaker Heights, recently shared with me her story that seniors across America can relate to, how difficult it is to meet their needs when Social Security benefits do not. Half of her income goes to health care costs not covered by Medicare—hearing aids, glasses, dental care, in addition to supplemental health insurance she pays. And as Belle will tell anyone, she, like millions of Americans, worked hard and contributed to Social Security. They do not see it as—the word we use around here—an “entitlement;” they see it as an investment that they made because every working person in Denver, in Colorado Springs, in Aurora, in Cleveland, Columbus, and Dayton paid into Social Security and Medicare every day of their work lives. They have invested. They have earned it. They were promised it.

But, presently, as I said, COLAs are based on the Consumer Price Index for workers, for wage earners, instead of the Consumer Price Index for the elderly. Those 65 and older tend to spend about twice as much on health care as the general population, twice as much out of a smaller income, than half as

much out of a bigger income that a 40-year-old would get.

So that is where we need to go with the Social Security cost-of-living adjustment. But in the so-called supercommittee, which was not able to come to an agreement, there were many in the supercommittee, particularly Republicans, particularly sort of ultra-conservative politicians who do not much like Social Security to begin with, wanted what is called the chained CPI. The chained CPI. They called it a technical fix. But it is really a regressive tax increase that would cut senior citizens' cost-of-living adjustment.

They did the chained CPI because it would save Social Security money. Well, to save Social Security money, what does that mean? It means you are taking money from benefits, especially for low and middle-income seniors, which is most of them. Those are people who rely on Social Security for most of their income.

Their chained CPI would mean the annual benefits for a typical 65-year-old would be \$136 less. Over time, a typical 75-year-old would receive \$560 less a year, and at 85 they would receive \$1,000 less a year, and at 95, as more seniors live to that age, when they need their benefit, the cut is \$1,400 a year. You know, that may not be much money for my colleagues, but it is a lot of money if you are a senior living on a fixed income.

We know how to balance this budget. We did it when the Presiding Officer and I were in the House of Representatives. We did it with a Democratic President and a Congress that at least would go along with him and did not draw these lines in the sand and make signed pledges to lobbyists. They are signing pledges to lobbyists, saying: I will not do this; I will do not do that, instead of thinking for themselves and signing a pledge only to the Constitution of the United States of America.

We knew how to get to a balanced budget. We can do this. We did it in the 1990s. We got to a balanced budget without reducing the cost-of-living adjustment, without turning Medicare over to the insurance industry. You know, to me there are some radical Members of the House of Representatives, there are some in the Senate, who want to see Social Security turned over to Wall Street, let them run it; Medicare over to the insurance companies, let them run it.

When President Bush wanted to privatize Social Security in 1995, the Presiding Officer was in the House of Representatives. Imagine if we had gone along with President Bush's idea to privatize Social Security. Imagine what would have happened. We know what happened to people's 401(k)s. Imagine what would have happened to the monthly Social Security payments.

The government, as much as people criticize it, has never failed once to pay a Social Security check on time. It never failed to pay it at all. Since 1937, when Social Security paid out its first

lump sum, I believe, or death benefit, and in 1940 when Social Security started paying monthly benefits, it never failed to pay, never paid late. So we know how it works.

If we had turned it over to Wall Street, who knows what would have happened. If we had turned Medicare over to insurance companies, as the Ryan proposal over in the House wants to do and as 40 colleagues here want to do, who knows what would have happened. We know it would not be Medicare the way we are used to it. We know it would not be Social Security the way we are used to it or the Medicare that serves the American public or the Social Security that serves the American public. Those two programs, if lifted 75 years ago—it was for the poorest, lowest income, the most indigent part of our population, seniors. It reduced the poverty rate dramatically so that seniors are no longer the poorest demographic of our population. Regrettably, children are, and we need to do better than we have done there.

Mr. President, it is clear that some of these radical proposals to privatize Medicare and turn it over to the insurance companies, privatize Social Security and turn it over to Wall Street, to do this chained CPI that will reduce the cost-of-living adjustment, because some egghead in some think tank in Washington, probably funded by Wall Street and insurance companies, thinks it is a great way to extract a few more dollars from seniors and do whatever they do with more dollars in the Treasury—it is pretty clear what we need to do to get a balanced budget, and it is pretty clear what we should not do. We can all work together and get to that point.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AFRICAN MEETING HOUSE

Mr. KERRY. Mr. President, the African Meeting House in Boston is one of the great landmarks of American freedom, as important to understanding our history as Faneuil Hall and Bunker Hill.

Not only is it the Nation's oldest black church building but throughout

much of the 19th century it also served as the unofficial headquarters of the movement to abolish slavery in America. And on December 6—its 205th anniversary—the African Meeting House will reopen its historic doors after a \$9 million restoration project to preserve the place where giants like William Lloyd Garrison and Frederick Douglass once thundered against the evil of human bondage.

It was in the Meeting House basement where William Lloyd Garrison formed the New England Anti-Slavery Society in 1832. Garrison predicted that the principles set forth by the Society would "shake the nation by their mighty power." Indeed, they did, because they were, in fact, the same principles embodied in the Declaration of Independence, the Bill of Rights, and the other founding documents of our country. The Meeting House is a reminder of the struggle which was inevitable because slavery was written into our Constitution before brave Americans—both white and black—shed blood and spoke powerful words to ensure that it was at last written out of that founding document.

Maria Stewart, an African-American woman William Lloyd Garrison admired greatly, took Garrison's argument further, insisting in a series of speeches at the African Meeting House that under those founding documents, women were entitled to the same rights as men. "It is not the color of the skin that makes the man or the woman, but the principle formed in the soul," she said in one of her speeches in 1833. "Brilliant wit will shine, come from when it will; and genius and talent will not hide the brightness of its luster."

That was never as true as when Frederick Douglass delivered "A Plea for Speech in Boston" at the African Meeting House in 1860 after an anti-slavery meeting elsewhere in the city had been disrupted by a mob. "No right was deemed by the fathers of the Government more sacred than the right of speech," Douglass said. It is "the great moral renovator of society and government," he said. Slavery itself could not survive free speech. "Five years of its exercise would banish the auction block and break every chain in the South," he said.

Tragically, it ultimately required a war to resolve the great contradiction at the heart of our democracy. And with the coming of the Civil War, the African Meeting House joined the war effort, hosting rallies to recruit an all-black regiment of black soldiers. The result was the legendary 54th Massachusetts Infantry made up of volunteers from as far as Haiti, led by Colonel Robert Gould Shaw—the regiment and its commander both immortalized in monuments, literature and, of course, the award winning film *Glory*.

Mr. President, I was proud to work with Governor Deval Patrick and the Massachusetts congressional delegation to get \$4 million in Federal grants