

going broke, that is just factually not true. Social Security can pay out every benefit owed to every eligible American for the next 19 years.

We also hear the argument: Well, we have a large deficit, and Social Security is one of the causes of our deficit and our national debt. That is absolutely inaccurate. Social Security has not contributed one nickel to our deficit or our national debt, because Social Security, as every worker in America knows, is independently funded through payroll tax contributions from workers and employers—6.2 percent from each—and it does not receive funding from the Federal Treasury.

So, a, Social Security is not going broke; and, b, it is not contributing to the deficit. But I will say this about Social Security. In an incredibly volatile economy, the stock market goes up, the stock market goes down. Social Security, from its inception 79 years ago, through good economic times and bad economic times, has paid out every nickel owed to every eligible beneficiary with minimal administrative cost.

Social Security is not an investment program. You can invest money on Wall Street, and sometimes you do well. You can invest money on Wall Street, and sometimes you lose your shirt. Social Security is a social insurance program. It has never failed 1 American in 79 years. That is a pretty good record.

But even with Social Security being strong and solvent for the next 19 years, we have to recognize we do have a retirement crisis in America today. I fear very much that the appropriations bill just passed the other day, which will allow pensions for millions of workers to be cut, is only going to exacerbate that problem. Today in America only one in five workers has a traditional defined benefit that guarantees income in retirement.

Amazingly enough, when we talk about anxiety among the American people, stress among the American people, and why people are angry, why they are fearful, over half of all Americans have less than \$10,000 in savings. Stop and think about that. If you have less than \$10,000 in savings, an automobile accident or needing a new car can wipe you out; an illness can wipe you out; a divorce can wipe you out. So we have millions and millions of Americans sitting there wondering how they are going to retire with dignity when they have \$5,000, \$8,000 or less in savings.

Here is the importance of Social Security: Two-thirds of senior citizens today depend upon Social Security for more than half of their income; one-third of all seniors depend upon Social Security for at least 90 percent of their income.

So when we talk about cutting Social Security, understand that a third of seniors depend upon Social Security for at least 90 percent of their income. This is not extra money; this is not fun

money; this is life-and-death money. This is money that people need to buy medicine, food, and to keep their homes warm in the wintertime.

I wish I could say otherwise, but the truth is that the percentage of seniors living in poverty in America is going up. In 2011, the official senior poverty rate was 8.7 percent. Last year the official senior poverty rate was 9.5 percent. That is a pretty significant increase in senior poverty.

But if we look at the Census Bureau's more comprehensive measure of poverty, which takes a careful look at the out-of-pocket medical costs for seniors, the poverty rate for seniors is even worse. According to this supplemental poverty measure from the Census Bureau, the real senior poverty rate in America is actually 14.6 percent. What that means is that one out of seven seniors living in America last year could not afford to meet their most basic needs.

The average Social Security benefit today is just \$14,000 a year. As someone who will be the next ranking member of the Budget Committee, I intend to do everything I can not only to oppose vigorously any efforts to cut Social Security, I am going to do everything I can to expand Social Security benefits.

In fact, the best way to expand Social Security is to ask the wealthiest people in our country to pay more into the system by scrapping the cap on income that is subject to the Social Security payroll tax. As the Presiding Officer knows, right now a billionaire pays the same amount into Social Security as someone who makes \$117,000 a year. So if there is a multimillionaire here—somebody who is making \$50 million—and somebody who is making \$117,000, they both contribute the same amount into the Social Security trust fund. This is regressive. This is unfair. This is absurd. If we lifted this cap and applied the Social Security payroll tax to income above \$250,000—not \$117,000, but \$250,000 a year, we could not only extend the solvency of Social Security for decades to come—which is what we want to do—but we could also provide the resources necessary to expand Social Security benefits. That is exactly what we should be doing, and that in fact is what the American people want us to do.

In August 2014, a poll by Lake Research Partners asked likely voters if they support the idea of:

... increasing Social Security benefits and paying for that increase by having wealthy Americans pay the same rate into Social Security as everybody else.

Interestingly, the poll found that 90 percent of Democratic voters said they support the idea, and 75 percent strongly support that idea of lifting the cap; 73 percent of Independent voters support that idea, 55 percent strongly support it; 73 percent of Republican voters support that idea, 47 percent strongly support it.

So there is for that idea enormously strong support across the political

spectrum, Democrats, Independents, Republicans.

Sadly, despite this overwhelming support for expanding Social Security, the CEOs at the Business Roundtable—the organization representing the largest corporations in America—came out with a plan last year which does exactly what the American people do not want to do. The American people want to expand Social Security and the Business Roundtable came out with a plan that would increase the Social Security retirement age from 67 to 70 and severely cut the COLA of senior citizens and disabled veterans.

The Congress and the Senate here have got to make a very fundamental decision, and that is: Do we listen to the American people who are hurting today—the seniors who have worked their whole lives but who cannot get by in what in many cases are meager and inadequate Social Security benefits—do we listen to them? Do we stand up for and with the people who helped build this country—who worked the farms, who worked in our factories, who served us in our Armed Forces? Do we stand with them and expand Social Security, or do we listen to those on Wall Street and corporate America who want to cut Social Security benefits and in some cases want to privatize Social Security?

This is a huge issue for tens of millions of Americans. I intend to do everything I can not only to resist cuts to Social Security but to do everything we can to expand Social Security benefits for those seniors and disabled vets who desperately need that expansion.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

BOUGH NOMINATION

Mr. GRASSLEY. Mr. President, Members of the Senate, in a few hours, maybe within this day or tomorrow, the Senate will be voting on several nominees to be district judges. I come to the floor to speak about one of these, Stephen Bough, of Missouri, for a seat on the District Court of the Western District of Missouri.

As I do with every nominee, I thoroughly examined Mr. Bough's record with an eye at giving him and others the benefit of the doubt if problematic issues arose. After full consideration of that record, I am regrettably unable to support this nominee. There are just too many data points—red flags, if you will—which tell me that Mr. Bough doesn't have what it takes to serve in a lifetime appointment on the Missouri District Court.

These red flags all relate to one troubling question the nominee's record raises: whether Mr. Bough has the temperament to be a Federal judge. I have come to the conclusion that he doesn't have that type of temperament. So I would explain my conclusion.

First, there is the issue of this nominee's professional conduct. A specific incident from last year demonstrates how Mr. Bough has engaged in what I

believe to be unethical behavior that precludes him from service on a Federal bench.

Last October, a member of the Mississippi bar drew my attention to the nominee's participation in a civil case in Federal District Court. The presiding judge on that case was the nominee's former employer, Senior District Judge Scott O. Wright.

About a week before the nominee signed on to the case, the plaintiff's attorney asked the court to transfer the case to another judge. Judge Wright denied that motion the next day. Then, just 1 week later, the nominee entered his appearance in the case. Mere hours after that, Judge Wright recused himself without any motion from the parties.

Now why did Judge Wright do that? Well, when Mr. Bough joined the case, he created a conflict of interest with Judge Wright. You see, Mr. Bough was Judge Wright's law clerk and remains his close personal friend today. In fact, Judge Wright had added the nominee to his personal conflicts list in January 2006, and Mr. Bough was well aware that he was on the conflicts list. So Mr. Bough knew that by joining the case Judge Wright was guaranteed to recuse himself—and that is exactly what the plaintiffs tried unsuccessfully to do just 1 week before Mr. Bough signed on and forced that recusal by creating the conflict with the judge.

Now we can reasonably ask, why is this significant? Well, what the nominee did here is known as judge shopping. It is an unethical litigation practice that has been strongly criticized by courts throughout the country. Essentially, it is when a lawyer knowingly creates a conflict with a judge in order to get the judge kicked off a case and replaced with a new and perhaps more favorable judge. That is the shopping part.

The Michigan Supreme Court has explained that judge shopping "exposes the legal profession and the courts to contempt and ridicule." The Fifth Circuit calls judge shopping "sheer manipulation of the justice system." Another Federal court has noted that the practice is "universally condemned."

This isn't the kind of professional conduct we can accept in a nominee to the Federal bench.

I gave Mr. Bough several opportunities to explain his conduct in questions for the record that I submitted to him. What I learned from his responses was this: The nominee knew that by joining the case he created conflict requiring Judge Wright's recusal.

I also asked the nominee to provide our Judiciary Committee with the work he says he did while he was an attorney on that case. You see, I wanted to know whether the nominee joined the case in good faith to work and to do it for the client, or joined just to create a conflict with the judge.

Mr. Bough responded that he provided advice and edits on only three documents. I requested those docu-

ments twice, and I told the nominee to redact any content protected by attorney-client privilege. The nominee has refused to provide those documents to me. The nominee has not provided to me memorandums, billing records, or any other materials to support his claim that he actually was working on that case; nor did the nominee attend any depositions or other pretrial hearings in that case. He made no filings with the court.

In short, Mr. Bough has provided me with almost nothing to support his claim that he actually did substantial work on the case during the 7 months he represented the client.

It is for this reason and for the circumstances I have already described that I am led to believe that the nominee's entry of appearance was not in good faith. It looks to me like a textbook case of judge shopping.

But the judge shopping is only one of many red flags. Let me discuss another that gives me serious pause.

The nominee has been active in Democratic Party politics in the Kansas City area for a number of years. Now I want to make it very clear that I don't hold that against him. I have said frequently over the years that I never disqualify a judicial nominee just because he or she has been politically active. Instead, the issue for me is whether a nominee has shown that they can shift gears and put aside their previous political advocacy once they put on the judge's robe. This nominee's record makes it abundantly clear that he wouldn't be able to make the switch from political advocate to impartial arbiter of law.

I will give you an example. In recent years the nominee has written a number of blogs and those posts have been about national politics. I have read his posts. I would say some are of a stridently political nature. Those don't bother me. Others though are simply too crude and sexist for me to quote. I challenge any Democrat who is voting for this nominee to read those blogs aloud to the public. I am confident none of my colleagues will do that. So I will just say that the sheer coarseness of those posts led me and other members of our Judiciary Committee to question whether Mr. Bough has a temperament suited to the lifetime judicial service.

Unfortunately it is not just the blog posts that make me ask that question. The nominee has shown in other contexts that he is first and foremost a political operative rather than a zealous advocate for a client or officer of the court. For example, Mr. Bough has lodged two obviously frivolous and abusive complaints with the Federal Elections Commission against a congressional candidate whom he opposed ideologically. In 2008 the Commission dismissed the first of these complaints in a brief opinion. But in 2012, Mr. Bough redoubled his efforts and filed a second 93-page complaint against the same candidate. This time the Com-

mission responded with a lengthy and meticulous opinion that is striking in its strong language dismissing each of Mr. Bough's allegations.

The Commission criticized Mr. Bough's allegations as "vague and speculative" and said any violation which may have occurred was so minor as to not merit consideration. The opinion concluded that Mr. Bough's complaint had no basis for its allegations and was without merit. So the bottom line is that the nominee was using a government agency as a tool to harass a political opponent.

As I said earlier, that is behavior indicative of a political operative, someone who is not going to be able to put it all aside and consider cases objectively once he becomes a judge.

From time to time some of my colleagues on the Judiciary Committee have commented that the best evidence for the type of judge a nominee will be is the type of lawyer they have been. So I think there is a lot of wisdom in that view. With this nominee we know what kind of lawyer he has been, defending an unsavory client or representing an unpopular cause is one thing; we expect lawyers to do that—our system in fact demands that they do that—but acting as a political operative is an entirely different matter, and that is the kind of lawyer this nominee's record shows him to have been: a lawyer steeped in bare-knuckled political combat.

I said at the beginning of this statement that I am inclined to give nominees the benefit of the doubt when I come across something in their record that raises my eyebrows. I probably would have done that with this nominee, too, if there had been just an isolated issue or a noncharacteristic lapse in judgment. But that is not what we have here with Mr. Bough. Not only do we have unethical judge shopping, to that we have to add a number of crass, sexist, and insulting blog posts, and to that we also add a pair of frivolous complaints that abused the jurisdiction of a government agency in order to harass a political opponent.

There are too many red flags for me to support this nominee.

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

THE PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOEVEN. I ask unanimous consent that the order for the quorum call be rescinded.

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

TAX INCREASE PREVENTION ACT

Mr. HOEVEN. Mr. President, I am here today to discuss the Tax Increase Prevention Act. We are now getting down to the end of the year. It is important that we get our work done. An important part of that work is passing the Tax Increase Prevention Act. It is often referred to as the tax extenders package. What it really does is it extends tax credits and deductions used