

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

by small businesses across this country. The Tax Increase Prevention Act will extend for 1 year 55 different tax credits and deductions that expired either at the end of 2013 or during 2014.

This is a bill that has already passed the House, and it passed with a huge margin, with a bipartisan vote of 378 to 46.

One of the most important provisions in the act is the section 179 depreciation and expensing provision for small businesses. That is the provision I particularly want to focus on today and talk about and discuss why it is so important for our small businesses and for our entire country.

Section 179 allows farmers and other small businesses to expense and depreciate property they have purchased or repaired for their operations. That is important to them so that they don't see a tax increase, but it also keeps our economy going. Without it, small business will buy and repair less equipment, slowing down our manufacturing base and slowing down our economy. Quite simply, that means fewer jobs. It is not only because small business's costs are increased, but it is also because of the uncertainty that is created when they don't know the rules of the road. That is why this fix needs to be done on a permanent basis.

I think it could have been done on a permanent basis this year. We were working on a deal until the President threatened to veto that legislation. So now we have a 1-year fix, but we have broad support in this Chamber for the 1-year fix. We need to pass it now and then go back to work on a permanent fix next year.

I was home for the weekend about a week ago, and I was talking to some of the farmers in our State. They told me what they have been telling me for some time now; that is, they need the section 179 expensing and depreciation, they need to know the rules of the road, and they need to know it now.

We are at year-end. They are doing their year-end planning. They are doing their tax work. Some are still negotiating on buying equipment for next year. The depreciation and expensing rules affect the decisions they make. They will also affect the number of jobs in our economy. Agriculture alone is responsible for 16 million direct and indirect jobs in our economy. Ag is also a sector of our economy that produces a positive balance of trade. American agriculture provides the highest quality and lowest cost food supply in the world. It is something that benefits every single American every day.

Section 179 expensing and depreciation is important for other small businesses as well. And it is not just small businesses, it helps keep our large industries going too. For example, Case New Holland and John Deere have manufacturing plants in my home State. They produce tractors, balers, and other equipment. In addition, they also make industrial equipment. When farmers and other small businesses

slow down their purchase of equipment, these manufacturing facilities slow down as well. It means less business, fewer workers needed, and fewer jobs. That is how it works. It is that simple. The truth is that small business is the backbone of our economy in this country.

The hallmark of America is that it has historically been the best place in the world to do business. It is where everybody has always come to do business. We have always had the best legal, tax, and regulatory business climate. We provided the certainty businesses need to invest, to hire people, to create jobs, and to grow the economy. That is the rising tide that lifts all boats—a higher standard of living for our people and revenue from economic growth, not higher taxes, to reduce our debt and deficit to get them under control as well.

Let's create that certainty for our farmers and small businesses across this great Nation. Let's make sure their taxes don't go up. Let's start by passing the Tax Increase Prevention Act and section 179 expensing and depreciation now.

I would like to close by reading from some of the letters I have received from some of my constituents. I think so often that the hard-working taxpayers of North Dakota, the small business people there who are getting it done every day, say it best.

The first one is from Dick Hedahl, owner of Bismarck-based Hedahls Auto Plus. He said: Without section 179 and the bonus depreciation, Hedahls Auto Plus would really have felt the pinch last year when we purchased equipment to service diesel powered trucks and heavy equipment.

Since the growth in the Bakken, his services have been especially important because he can save clients thousands of dollars by refurbishing worn diesel engine blocks. What makes the refurbishing possible is the 100 percent American-made equipment Hedahl bought in 2012 and 2013 for \$450,000. At a 34-percent tax rate, he says he would not have been able to make those equipment purchases work, but with section 179 expensing and depreciation, he was able to make those things work. As a result, he is providing jobs in the western part of our State. Hedahls Auto Plus employs more than 200 people.

Another constituent wrote in. Leann Slaubaugh of Rolette writes:

I am concerned about Section 179 and what this is doing to the agricultural sector in North Dakota. Farm equipment is not being sold, as the farmers are concerned about the amount they will have to pay taxes on. I farm with my husband and work at a small town farm supply. Farmers have quit spending due to low commodity prices and Section 179. I am concerned with the effect on our small town economy if Section 179 is not revised. After meeting with our tax consultant, we are concerned with the possible tax liability we are facing and what this means to the future of our family farm. Please push for revision of Section 179.

Dennis Miller, who grew up in Stark County and worked for an ag equipment dealership for 28 years, is similarly concerned. I am going to paraphrase from his letter. Four years ago he started his own business, Southwest AG Repair, Inc. He sells new McCormick tractors and repairs all brands of farm equipment. He has six employees.

Mr. Miller wrote to me earlier this year, anxious about the expiration of section 179:

It is going to cut sales of farm equipment drastically if the farmers don't get a tax incentive to purchase equipment. The loss of sales will create backlash in the economy throughout the State and the country. There has to be a better way to create the tax revenue.

Mr. Miller, there is. You create tax revenue with economic growth, not higher taxes, just like you create jobs, create economic activity, getting that rising tide that lifts all boats—that is when it enables us to invest in the future of our country, the roads and bridges, our schools, and all of the things people want for this great Nation. But it comes from a growing economy. Of course, that is what creates the jobs we need for our families across America.

So when we talk about the Tax Increase Prevention Act, that is what we are talking about. We are talking about making sure here at the end of the year that taxes don't go up on hard-working taxpayers across this country, that taxes don't go up on our small businesses across the country, and that we understand that is truly the backbone of our economy, that all those people and all those small businesses are the ones who make our economy go every minute of every day.

It is time to act. The time is here. The votes are here on a bipartisan basis in this body to get it done. Let's get it done. Our American citizens, our hard-working taxpayers have waited long enough.

With that, I yield the floor.

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

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

SALDANA AND DEYO NOMINATIONS

Mr. CARPER. Mr. President, it is good to see you here today. The place is a little empty. I am glad the Presiding Officer, our staff, and our pages are all here.

I rise today to urge my colleagues to support two critical nominations to the Department of Homeland Security. They are Russ Deyo to be the Under Secretary for Management at the Department of Homeland Security and Sarah Saldana to be the Assistant Secretary for Immigration and Customs Enforcement.

The committee which I am privileged to lead, along with Dr. TOM COBURN,