

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Faculty Scholarship

2015

The Theft of Social Security

Constantine Katsoris

Fordham University School of Law, CKATSORIS@law.fordham.edu

Follow this and additional works at: http://ir.lawnet.fordham.edu/faculty_scholarship



Part of the [Social Welfare Law Commons](#)

Recommended Citation

Copyright 2016 Capitol Hill Publishing Corp., a subsidiary of New Communications, Inc.

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.



April 30, 2015, 05:00 pm

The theft of Social Security?

By Constantine N. Katsoris

Gov. Christie of New Jersey (R) recently gave a speech where he proposed gradually reducing Social Security benefits for recipients with non-Social Security incomes above certain levels (i.e. starting at \$80,000 and ending at incomes exceeding \$200,000).

In a recent article "[Christie Begins Needed Debate on Entitlements](#)" (which appeared in Investor's Business Daily on April 23, 2015) its author, Robert J. Samuelson, commented:

Let me also add: Christie has hedged his bets. He pledges that his proposals would "not affect seniors currently in these programs or seniors approaching retirement." Why not? Raising eligibility ages now by two months a year wouldn't impose major hardship. Neither would trimming benefits for richer recipients. (Emphasis Added)

Apparently, Samuelson seems to suggest why not trim or cancel benefits for wealthier recipients - - even if done retroactively as to those seniors already locked in the program. What Samuelson forgets is that these seniors contributed into this system with their own after-tax dollars with the good faith understanding this would be a building block in their retirement income in later years. In essence, it was similar to an annuity, and now Samuelson seems to suggest that it is immaterial and we can now confiscate those contributions if the seniors saved, worked hard for and now have additional other income for retirement. SUCH AN IDEA IS TANTAMOUNT TO CONFISCATION OF PROPERTY of what was SUPPOSED TO CONSTITUTE TRUST CORPUS.

Let me share a personal example with you. Suppose X, who is now in his 80's, still working and has been paying into Social Security since his early teens - - at a time when his wages were meager and largely went to pay for his college and law school tuition without the benefit of student loans, tuition grants or other hand-outs. Later X, while still working, started collecting Social Security benefits upon reaching the age of 65; but, continued to pay Social Security upon his post 65 earnings. Indeed, he had to report the bulk of this Social Security he presently receives for income tax purposes, even though a good part of what he receives could very well constitute a return of capital (his after-tax contributions into the system for seven decades). Under the circumstances to now tell X he is no longer entitled to his Social Security annuity because his income level - - for whatever reason (i.e. just won the "Irish Sweepstakes") - - exceeds some bureaucrats' concept of what income he should be comfortable with is confiscation and the taking of property without due process of law.

X in the above example is an actual person and one of many similarly situated who would strongly oppose Samuelson's suggestion as grossly unfair, irresponsible, and indeed unconstitutional and would be challenged in the courts.

Furthermore, quite aside of issues of confiscation and unconstitutionality, Samuelson's suggestion would act as a disincentive to millions of hard working Americans as they seek to climb the ladder of success for themselves and their families.

Finally, and ironically, I haven't seen any suggestions that senators, or Congress members or other elected officials should forfeit their benefits if they should retire on a comfortable income.

Katsoris is Wilkinson professor at Fordham Law School.

The Hill 1625 K Street, NW Suite 900 Washington DC 20006 | 202-628-8500 tel | 202-628-8503 fax

The contents of this site are ©2016 Capitol Hill Publishing Corp., a subsidiary of News Communications, Inc.