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NATIONAL MEDIA IGNORE FACTS ABOUT USDA FIRING

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, the national media have been quick to blame conservative news outlets for the firing of Agriculture Department official Shirley Sherrod.

For example, a recent New York Times article points a finger at Fox News. The article, which mentions Fox seven times, describes the network as being in ''pursuit of Ms. Sherrod.'' However, Fox did not air any stories about Ms. Sherrod until after she had already resigned.

The New York Times and the rest of the national media have largely ignored the truth. The rush to judgment that led to Ms. Sherrod's firing came from the Obama administration, not conservative media outlets.

The Times article is another example of the media giving the White House a free pass. Media outlets should be more honest in their reporting if they want the trust of the American people.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 301, PAKISTAN WAR POWERS RESOLUTION

Mr. CARDOZA, from the Committee on Rules, submitted a privileged report (Rept. No. 111–567) on the resolution (H. Res. 1556) providing for consideration of the concurrent resolution (H. Con. Res. 301) directing the President, pursuant to section 5(c) of the War Powers Resolution, to remove the United States Armed Forces from Pakistan, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. DAHLKEMPER). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECTIFY MISTREATMENT OF NATIVE AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. LYNCH) is recognized for 5 minutes.

Mr. LYNCH. Madam Speaker, I rise this evening to talk about a United States Supreme Court decision that could have far-reaching social and economic impacts on the American Indian population.

Carcieri v. Salazar, a 6–3 decision by the United States Supreme Court issued on February 24, 2009, held that the Secretary of the Interior exceeded his authority in taking land into trust for an American Indian tribe that was not under Federal jurisdiction or recognized at the time the Indian Reorganization Act was enacted in 1934. I speak tonight to the injustice of that result and to the moral imperative that we as Members of the United States Congress have to see that that decision is corrected.

For centuries, now, the American Indians who called these lands home long before Europeans have arrived have been pushed to the geographic and societal fringes of this great country. They have suffered disruption, violence, and relocation to make way for continued expansion. The Indian Reorganization Act, ironically, of 1934 sought to actually rectify so many of those mistreatments.

From 1934 to 2009, the Department of the Interior has restored lands to enable tribal governments to build schools, health clinics, hospitals, housing, and community centers to serve the American Indian people. The Secretary of the Interior has approved trust acquisitions for approximately 5 million acres of former tribal homelands, far short of the more than 100 million acres of lands lost through the Federal policies of removal, allotment, and assimilation.

The Supreme Court decision in Carcieri v. Salazar, if left in place, has the potential to undo that effort. The decision threatens tribal sovereignty, economic self-sufficiency and self-determination, as the Indian Reorganization Act provides not only for the authority of the Secretary of the Interior to take lands into trust for tribes, but also for the establishment of tribal constitutions and tribal business structures.

The Carcieri decision also has the danger of establishing two classes of American Indian tribes in this country today: those recognized as of 1934 for whom land may be taken into trust, and those recognized after 1934, who would be unable to have land taken into trust for their benefit. This is simply unacceptable and contrary to the intent of Congress. In fact, the Federally Recognized Indian Tribe List Act, passed by Congress in 1994, provides that all tribes are treated equally regardless of their date of recognition.

Since 1934, the Department of the Interior has construed the Indian Reorganization Act to authorize the Secretary to place land into trust for all federally recognized tribes. Trying to right our Nation's wrong, Secretary Salazar and his predecessors have taken steps to return to American Indians a small portion, a fraction of the lands that their ancestors called home.

And for the Supreme Court—for any court for that matter—to render a narrow decision like this based on supposition that 76 years ago the writers of the act gave particular meaning to one word in their decision is a further slap in the face to this proud people.

Current history leaves many Americans to associate the restoration of American Indian tribal lands with the development of casinos and gaming, but it is about much more than that. It is about providing resources for a nation to survive. It is about restoring sacred lands on which their ancestors hunted, prayed, and were buried. It is about rebuilding communities, heritage, and proud nations.

I would like to acknowledge the gentleman from Michigan (Mr. KILDEE) and the gentleman from Oklahoma (Mr. COLE) for their efforts to amend this decision. I would like to acknowledge, also, the Senator from North Dakota, Mr. DORGAN, for his efforts in seeing that this miscarriage of justice is corrected.

While times have been bad for most Americans, they have been worse for a lot of our American Indian friends. Despite their own struggles during the economic downturn of the early 1980s, when I was traveling this country as an ironworker, they gave me a place to live. For 1 year, I was a guest of the Navajos on a reservation in New Mexico on the land that the United States Government put them on to simply survive. Over the years, I have worked alongside Navajo, Wampanoag, Apache, Navajo, and Mashpee ironworkers. I know them to be hardworking, honorable people.

The Carcieri decision serves only to further dishonor them and their ancestors, to deprive them of an opportunity to regain the dignity and the justice that they are owed.

As a Member of this body, I am now in a position to return the kindness of my Navajo hosts and say thank you to the many American Indians I have worked beside on the high iron all over this country. That's why I am a cosponsor of Mr. KILDEE's bill, H.R. 3742, which will make the necessary amendments to the Indian Reorganization Act.

The SPEAKER pro tempore (Ms. WOOLSEY). Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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SUPREME COURT NOMINEE ELENA KAGAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Madam Speaker, I spent 7½ years, before coming to Congress, as a criminal court judge in Tennessee trying felony criminal cases. I tried the attempted murder of James Earl Ray and many other high-profile cases, thus I have a great interest in our legal system, our courts, and especially appointments to the U.S. Supreme Court.

I realize that Elena Kagan will be confirmed very soon as our next Supreme Court justice, but I am very disappointed by her nomination. I certainly have nothing against her personally, but the Supreme Court is our highest appellate court. Courts of appeal basically second-guess trials. I wish our President and all future Presidents would appoint people who have actually tried cases. We should try to nominate justices who have had experience both as trial lawyers and as trial judges, people who understand the heat of the battle, the give and take, the decisions that have to be made on the spur of the moment both by lawyers and judges. Ms. Kagan may be a brilliant woman, but she has none of this experience.

I want to read a portion of an article in the June 28 issue of Human Events by a man who spent over 20 years as a judge before coming to Congress, our colleague, the gentleman from Texas (Mr. POE). Congressman POE wrote, ''Supreme Court nominee Elena Kagan has never been a judge. She's never seen a courtroom from the bench. She's never had a judge's responsibilities.

''Elena Kagan has never instructed a jury or ruled on a point of law—any point of law. She's never tried a criminal case or even a traffic case. She has not decided even one constitutional issue. We don't know whether she believes the Constitution is the foundation of American law or whether she thinks, like many, that the Constitution constantly changes based on personal opinions of Supreme Court justices. But either way, Elena Kagan has never had to make a constitutional call in a court of law in the heat of a trial. She has never admitted evidence or ruled out evidence or ruled on the chain of custody regarding evidence. She has never made even one decision regarding any rule of evidence. She has never ruled on the exclusionary rule, the Miranda doctrine, an unlawful search and seizure allegation, a due process claim, an equal protection violation, or any other constitutional issue.

''She has never impaneled a jury. She has never instructed on reasonable doubt or sentenced a person to the penitentiary. She has never had to decide whether a witness was telling the truth or not. As a judge, she has never heard a plaintiff, a defendant, a victim, or a child testify as a witness. She has never made that all-important decision of deciding whether or not a person is guilty or not guilty of a crime. She has never ruled on a life or death issue.

''Elena Kagan has never made a judgment call from the bench, not a single one. Yet, as a Supreme Court justice she would be second-guessing trial judges and trial lawyers who have been through the mud, blood, and tears of actual trials and actual courts of law. How can she possibly be qualified to fill the post of a Supreme Court justice?''

Mr. POE continued, ''Kagan is an elitist academic who has spent most of her time out of touch with the real world and with the way things really are. Being a judge would be an exercise to the new Supreme Court nominee. She has read about being a judge in books, I suppose. She might even have played pretend in her college classroom, but she has never held a gavel in a courtroom. Her first time to render judgment should not be as a member of the United States Supreme Court.

''Aside from being a judge, she has never even been a trial lawyer. She has never questioned a witness, argued a case to a jury, or tried any case to any jury anywhere in the United States. Real world experience makes a difference.'' This was written by our colleague, Mr. POE. And I agree with everything he wrote.

Finally, I want to commend a Member from the other body, the gentleman from Tennessee, Senator ALEXANDER, my own Senator, for his decision to vote against the nomination of Mrs. Kagan. It is a very poor nomination.

NOTHING IS TOO GOOD FOR WALL STREET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Well, big surprise—last Friday, the Obama administration went after the greed and excess on Wall Street during the financial meltdown. They went after it in the form of their esteemed pay czar, Kenneth Feinberg. He got out a feather duster and he waived it vaguely in the direction of Wall Street saying, shame, shame on you. He identified 17 mega-firms on Wall Street who paid out $1.7 billion in bonuses and other emoluments to their executives while they were lining up at the same time with their hands out to take tens of billions of dollars of TARP bailout money to save their firms from the risky bets they had made that were endangering their future that had gone bad.

Now, he described some of these bonuses and payouts as ''ill-advised,'' ''poor judgment,'' ''lacking clear justification,'' but Mr. Feinberg, the all-powerful pay czar who talked so tough at the beginning, won't try and recoup the money. He says, ''It's not contrary to the public interest.'' Shaming, shaming will be penalty enough. But he won't name anybody who got the money. Can you imagine the guys at their really exclusive club or their private resort somewhere smoking their $500 cigars, drinking their expensive cognac, feeling really shamed when he won't even name the people who should be shamed? They don't even know they should be shamed. They got $10 million, they thought it was justified; they don't think he's talking about them.

Now he said, At what point are you piling onto poor old Wall Street, going beyond what is warranted? Not in the public interest, piling on. Just think about it. Some of these executives who drove their firms to the edge of collapse and bankruptcy and tanked the U.S. economy and put 8 million people out of work got $10 million. Now that $10 million little bonus, that's about 250 years pay for an Army captain in Afghanistan, 250 years for an Army captain, one day in the life of a failed Wall Street executive, and Mr. Feinberg says, ''They should be ashamed.''

He went on to say, well, if he had gone after them, it could have exposed them and their firms to lawsuits from shareholders. Now, wait a minute, public interest, isn't that the public part of the corporation, the shareholders? But Mr. Feinberg apparently doesn't care much about the shareholders. This is about the executives, because those poor executives in those firms, why, their shareholders might try and recapture some of the misbegotten gains that these people got.

Now, this all could happen because the original Bush-Paulson bailout didn't put any restrictions on executive pay and bonuses. Hundreds of billions of dollars to bail out Wall Street taken from the taxpayers, no restrictions on executive pay and bonuses; $1.7 billion paid out, ill-advised, poor judgment, lacking clear justification, they should be ashamed. But the pay czar isn't going to try and get it back.

There is one thing very consistent about this administration: Nothing is too good for Wall Street.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MARCELLUS SHALE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON of Pennsylvania. Madam Speaker, I am here today to speak about an incredible opportunity which is in the northeastern part of the United States, and that is the Marcellus shale natural gas. The Marcellus shale describes a natural gas play in Pennsylvania that has created jobs and economic growth, even in the most difficult of economic times. It is one of the largest deposits of natural gas in the world, and much of it is located in my district. However, the play is deep down and requires a process called fracking, in which water, sand, and approved chemicals are pressured into the play to fracture the shale to release the gas. Now it is this process that has come under criticism and has been the subject of a great deal of inaccurate information both in the media and a so-called documentary called ''Gasland.''