

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—a 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."

Fracking has been used for 100 years, hydro-fracking for 60 years. The safety is documented with zero confirmed cases of groundwater contamination in 1 million applications over that 60 years. The director of the Pennsylvania Department of Environmental Protection's Bureau of Oil and Gas Management said that he has never seen an impact to fresh groundwater directly from fracking.

Another piece of incorrect information is that no one knows what goes into fracking fluid. Well, first of all, more than 99.5 percent of the fluid is sand and water. For the remainder, Pennsylvania law requires companies to disclose all chemicals used in the fracking process, just not the specific formula. A complete list of those chemicals is available on the Pennsylvania Department of Environmental Protection Web site. They include materials that help deliver the water down the well bore and position the sand in the tiny fractures created in the formation.

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One of the more prominent substances is guar gum, most commonly used as an emulsifier in ice cream.

You know, there are contentions that fracking is not well regulated. To the contrary, eight Federal and 11 Pennsylvania acts or laws regulate the impacts of drilling. The film "Gasland" goes so far as to assert that "the 2005 energy bill pushed through Congress by Dick Cheney exempts the oil and natural gas industries from the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, the Super Fund law, and about a dozen other environmental and Democratic regulations."

Well, that is patently false. It must comply with all of these laws with the caveat that the hydraulic fracturing process was never regulated under the Safe Drinking Water Act in its 60-year history, and that particular energy bill was supported by 74 "yes" votes in the Senate, including those at the time of Senators Obama and Salazar.

Most alarmingly, "Gasland" has a stunning scene of a man who is turning on a tap, sticking a lighter under it and watching it ignite. "Gasland" blames natural gas development for the flaming faucet, but the Colorado Oil and Gas Conservation Commission wrote: "Dissolved methane in well water appears to be biogenic." Madam Speaker, that means naturally occurring in origin. "There are no indications of oil- and gas-related impacts to well water."

Though perhaps the most telling repudiation of this film comes from John Hanger, Secretary John Hanger of the Pennsylvania Department of Environmental Protection, who for 10 years was president and CEO of the environmental organization called Citizens for Pennsylvania's Future. He appears briefly in the film. John Hanger said the film was "fundamentally dishonest" and "a deliberately false pres-

entation for dramatic effect." He called the producer a "propagandist."

Now, I am 100 percent behind producing natural gas in a safe and environmentally sound way. If there are violations of the rules or laws, either State or Federal, we rely on the good offices of the Pennsylvania Department of Environmental Protection to do whatever is necessary to bring enforcement to the situation. They have proven to be capable and aggressive.

Gas drilling creates jobs and economic growth and contributes to our energy security in this country. It needs to be done right with environmental protection. It doesn't deserve a propaganda film which doesn't educate but which serves to simply demonize an industry for personal gain and political reasons.

KARZAI'S LIP SERVICE ON CORRUPTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, I think we have seen this movie before.

Last week, President Hamid Karzai of Afghanistan, before an audience of international leaders on whose support he depends, pledged to root out corruption, implement reforms and run a better government, but we heard the same promises at an earlier conference this January; and we heard them again when President Karzai came to Washington for a state visit in May. There seems to be little accountability when he fails to keep his word, as he never comes away from any of these gatherings with more than a slap on the wrist, if that.

If Mr. Karzai is serious about cracking down, why doesn't he start by reining in his own brother, a strongman who rules Kandahar with iron-fisted intimidation? What does President Karzai have to say about the fact that billions of dollars in cash have been flown out of Kabul Airport in the last few years?

Lip service and vague promises are really not enough, Madam Speaker. What is sustaining the Taliban more than anything else is the Afghanistan Government's failure to have any competency or legitimacy. No one is more frustrated than the Afghan people, who voiced their displeasure with government corruption in a recent survey conducted by an Afghan watchdog group.

Bribery shakedowns are increasingly seen as a way of life. The cost of securing basic services from the government depends on paying somebody off. Even when the government isn't dishonest, it is slow and ineffective. Embarrassingly, in the provinces where they have established a foothold, the Taliban runs a tighter ship than does the Afghan Government, doing a competent job of making the trains run on time.

This cannot go on, Madam Speaker. Our continued support for a feckless re-

gime is eroding our national credibility. The American people, who are fighting off a recession and who are badly in need of the money right here at home, resent sending that money to Afghanistan. They can't be expected to keep on doing this. They can't be expected to keep giving their bravest young people and their hard-earned tax dollars to prop up leaders who have no ability to govern responsibly.

Yet, even as skepticism about the war in Afghanistan grows here in our country, our leaders could be going in the opposite direction. There is legitimate concern that they might be going wobbly on the commitment to start the military redeployment out of Afghanistan 1 year from now.

At the conference in Kabul, Secretary of State Clinton said that the July 2011 date represented the start of a new phase, not the end of our involvement. She added that the United States has "no intention of abandoning our long-term mission of achieving a stable, secure, peaceful Afghanistan."

Well, Madam Speaker, if the Secretary means that we would achieve that mission with civilian resources—a Smart Security strategy which is focused on development projects, on humanitarian aid and on more support for anti-corruption efforts—then count me in, but if she means that our military commitment and occupation to Afghanistan will extend well beyond next summer, I think the American people will have something to say about that. In fact, they are saying it now. They are saying it loud and clear.

We have sacrificed enough for a failed war. It is time to bring our troops home.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

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

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

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

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

(Ms. ROS-LEHTINEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)