

The Chair recognizes the gentlewoman from the District of Columbia (Ms. NORTON) for 5 minutes.

OVERTURN SUPREME COURT DECISION DENYING DAMAGES TO NINTH GRADER WHO WAS SEXUALLY ABUSED BY HER TEACHER

Ms. NORTON. Mr. Speaker, the Supreme Court begins its session today and has announced a set of cases it will decide, among them another troublesome sexual harassment case, this one called Davis versus Monroe County Board of Education. It involves student-on-student sexual harassment under Title IX. We have here a student who was making As and Bs but fell to failing grades, to writing suicide notes, a fifth grader, after 5 months of groping of her breasts and other parts of her body. There were constant complaints from her parents, there were vulgar comments and the rest, until finally the parents simply sued the school after the school ignored the complaints. We have a split in the circuits based on how we have written Title IX, two circuits saying damages are recoverable, two circuits are saying they are not. Well, Mr. Speaker, I hope there will be no split here in this body. If the Supreme Court rules that Title IX does not cover this kind of action, we must take action next term.

Why do I raise this now? Because the Court has already moved in an unacceptable direction on a not dissimilar case last term in the case of Gebser versus Largo Vista School District. There we had a ninth grader whose teacher sexually assaulted and harassed her, and yet the Supreme Court set a standard that makes it almost impossible for a parent and a child to recover against a school system. The reason, the Court said, was that, quote, "the statutory text of Title IX does not shed light on Congress' intent with respect to the scope of available remedies." Understand that this was a child who beginning in the eighth grade had her teacher during Advanced Placement classtime initiate sexual relations with her and at other times and otherwise engage in sexual activity with this youngster.

This decision is a virtual summons to Congress. Justice Stevens thought that Title IX did cover damages. That was not the majority, however. Instead the Court set an absolutely absurd standard that the school had to have actual notice or a deliberate indifference by an official with authority to implement correction measures before damages could be obtained.

What we are left with now is an indefensible distinction in our law. If a principal sexually harasses a teacher, even though the superintendent knew nothing about it, damages are forthcoming under Title VII. We must make sure that teachers who are sexually harassed by other teachers or by their superiors do not have rights superior to when a teacher harasses a student or a

student harasses another student. We must protect students at least as much as we protect teachers from sexual harassment. I am already writing a bill to remedy the finding that sexual harassment by a teacher on a student cannot yield damages.

Mr. Speaker, if the court fails again, this time in a case involving outrageous student on student sexual harassment, this House will have a second provision to correct next term.

VA PSYCHIATRIST LIES ABOUT SEXUAL MISCONDUCT AND IS CONVICTED AND SENTENCED

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, often times in life while you are looking at a problem, you find there is a parallel set of activities that are occurring at the same time while you are looking at your present problem. I have such a case this morning, I think, which is a good example.

Last April the U.S. Department of Justice charged a staff psychiatrist, a female at a VA Medical Center, with obstruction of justice. It seems that in 1992 a male patient sued the female psychiatrist at the VA alleging that the psychiatrist committed medical malpractice when she engaged in sexual relationships with him during an office visit in 1991.

Now, what happened is the psychiatrist requested that the United States Justice Department certify that under the Federal Tort Claims Act that the Justice Department would defend her and substitute itself as a defendant because the alleged misconduct occurred within the scope of her employment. She was a psychiatrist for the VA Medical Center, and she felt the suit should be covered under the Federal Torts Claim Act and that the Justice Department should defend her.

So in 1992, attorneys from the U.S. Attorney's Office interviewed her, talked to her about the case. She denied engaging in a sexual relationship with the patient. The U.S. Attorney, therefore, based upon her testimony, certified that she, the psychiatrist, for her conduct would be certified through the dates of the alleged office incident. So to the extent that the psychiatrist was, quote, certified she would not have been liable for any damages.

On July 13-14, 1995, Chief Magistrate Judge Mikel Williams conducted a hearing to determine the scope of the female psychiatrist's employment at the VA. During the hearing she testified falsely under oath about what had happened between the male patient and her during his visit on June 27, 1991. In so doing, she violated the obstruction of justice statute, Title 18, United States Code, Section 1503. She is scheduled to be sentenced this year before the Honorable Edward J. Lodge.

Okay, now we are here in 1998. As I mentioned Judge Mikel Williams conducted a hearing to determine the scope of the female psychiatrist's employment at the VA and what occurred at this hearing. But in so doing, it turns out she was not telling the truth, and she violated the obstruction of justice statute, which is Title 18, United States Code, Section 1503.

So here we are, Mr. Speaker. She testified falsely under oath about what happened during the patient's visit in 1991. So in so doing, she was charged with violating the Federal statute, and in effect she was lying about her misconduct and her sexual relationship with this patient who came in to see her. In this case, she lied about sex under oath and violated a Federal statute and was convicted and sentenced. I might add these activities occurred in a Federal building, on federal time, and while she was on a federal salary.

Today our Committee on the Judiciary is meeting to discuss something that parallels this case. They have a constitutional duty to the public to investigate and remedy breaches of public trust. Of course it will be painful, but they have a responsibility to ensure that future holders of the Presidency, whoever they might be, have to be accountable for their statements. To neglect to do so would be to debase our Constitution.

Let me conclude by referring to the former Representative Peter Rodino, Jr., who was Chairman of the House Committee on the Judiciary during the Watergate scandals. This is what he said.

We cannot turn away out of partisanship or convenience from problems that now are our responsibility to consider.

So I bring to the attention of my colleagues a very similar case to what is being discussed today by the Judiciary Committee involving not telling the truth about a sexual affair and obstructing justice. I put that into the RECORD, Mr. Speaker, because I think it is helpful to know this information. It shows the U.S. Justice Department prosecuting a federal employee for lying under oath about sexual misconduct and obtaining a conviction. Isn't that what we are talking about today at the judiciary hearing. Often times there are past activities that can be used to judge the present activities.

AMERICA'S ROLE AS THE LEADER IN THE GLOBAL ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, at a time when the eyes of the capital and the news media are focused on the Judiciary deliberations and the scope and authority of impeachment inquiry, when others are struggling to deal with the slaughter in Kosovo, it is hard perhaps for us to give attention to the

mounting global economic crisis and the role that United States leadership will play. Yet I sincerely believe that world peace, alleviating human suffering and poverty, and averting environmental disaster are all tied in the long run to the United States economic leadership far more than military might.

Ten days ago we suffered a setback on the floor of the House of Representatives with the rejection of the fast track authority, not just the rejection of that authority itself, but how and why it was done. I do believe that America's Presidents need the ability to negotiate some treaties that Congress votes on an up-or-down basis. Every President since Richard Nixon has had that power. Recently the authority for the Clinton administration expired, and it has been unable to be renewed. Last year we were close to a vote, but because it was deemed that we were short of the votes and we could not afford a defeat, the matter was withdrawn.

This year with the world economy in turmoil, Asia in crisis and the United States stock market on a volatile roller coaster, a vote was scheduled and forced through without bipartisan leadership, without the discussion of the areas of concern, without administration backing. The result was to lose at least 20 Republicans from last year's tally, over a third of the Democrats, either changed their vote to no or present, and it froze a number of sympathetic lawmakers who had legitimate concerns into a no column without working either to accommodate or even to listen to their concerns. This will have consequences far beyond the fast track authority.

At a time when over half the world's people are under some threat of sanction from the United States, we do not know how to evaluate them, how to stop them. For example, with the Pakistan-India situation, United States sanctions simply penalized American farmers and we quickly backtracked. The United States has more difficulty with its China relationship than any other country in the world, and we have significant global environmental concerns to be worked out with the World Bank, with the IMF.

Mr. Speaker, these are not simple items, they are not items that we can ignore, and reckless partisan behavior, for example, as we had on fast track gets us nowhere. We need to start now to repair the damage in the remaining days of this session, and even more important, we need to be clear-eyed, cooperative and thoughtful in our approach to America's role as a leader in the global economy for the next Congress. The stakes are simply too high for us to be diverted by the media issue du jour or attempts to gain partisan advantage.

SURPLUS TAX REVENUE, A NEW CONCEPT IN WASHINGTON

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Illinois (Mr. WELLER) is recognized during morning hour debates for 5 minutes.

Mr. WELLER. Mr. Speaker, I appreciate very much the opportunity to spend a few minutes talking about not only a great opportunity, but a great step forward that was acted upon by this House in the last couple weeks.

One of the greatest commitments we made when we were elected in 1994 on this new majority was to do something that Washington had failed to do for 28 years, and that is to hold the President's feet to the fire and hold the congressional leadership's feet to the fire and balance the budget and live within our means for the first time in 28 years. We succeeded, and I am proud of that success, and this week, the first week of October, we are actually enjoying for the first time in 29 years surplus tax revenue, more money coming into the Federal Treasury than we are spending, a new concept here in Washington, but prior to 1969 it was standard operating procedure in Washington; that is, to live within your means. And I am proud that in the last 3½ years we brought fiscal sanity back to Washington.

Well, the Congressional Budget Office now projects that we have a projected surplus of extra tax revenue over the next 10 years of \$1.6 trillion because of this fiscal responsibility. The question is what are we going to do with it? Some want to spend it, others want to give it back to the American people in helping save Social Security, and of course tax relief, and I stand on the side of those who want to give it back to the American people.

We have a plan that we adopted here in the House of Representatives and sent to the Senate about 2 weeks ago which takes the \$1.6 trillion of extra tax revenue and sets it aside to save Social Security and get back to the American people tax relief.

□ 1245

I am proud that the 90/10 plan sets aside 90 percent of surplus tax revenues over the next 10 years and we use it to save Social Security. Setting aside 90 percent is 1 trillion 400 billion dollars.

In January, I stood up in a bipartisan applause when the President said let us save and use the surplus for Social Security. At that time, that surplus was \$600 billion. We have done better. We have set aside more than twice what the President had asked for by setting aside 1 trillion 400 billion dollars to save Social Security. What is left, we give back to you in tax relief.

I have often asked in this well a very simple fundamental question. Is it right, is it fair that, under our tax code, 28 million married working couples pay higher taxes under our tax

code just because they are married? Is it right, is it fair that a married working couple with two incomes pays more in taxes than an identical couple with identical incomes living together outside of marriage? That is not right.

We answer that question in the 90/10 plan. In fact, the centerpiece of the 90/10 plan which saves Social Security is we eliminate the marriage tax penalty for the majority of those who suffer it. For 2 million married working couples, we eliminate the marriage penalty, and we provide over \$240 dollars in extra take-home pay that these 28 million working couples will be able to keep back at home in places like Illinois, my home State. That \$240 is a car payment in Joliet, Illinois. We eliminate the marriage penalty for the majority of those who suffer it. We also simplify our tax code by eliminating the marriage penalty for those who suffer it.

President Clinton, in his response to our effort to save Social Security and eliminate the marriage tax penalty, says, well, gee, you know, if you use some of the extra tax revenue and give it back to the American people in eliminating the marriage tax penalty, he calls it squandering that money.

It is very interesting. They always say in Washington you should not listen to what politicians say, you should watch what they do. Because in the 90/10 plan, our effort is to eliminate the marriage tax penalty and help family farmers and small business people, those who want to send their kids off to college, help build schools with school construction bond funds.

We provide about a \$7 billion tax cut next year. President Clinton calls that squandering. Eliminate the marriage tax penalty; that is called squandering under President Clinton's definition. But at the same time, President Clinton calls for spending over \$14 billion of the projected budget surplus of extra tax revenue on the State Department and defense spending and all these other new spending ideas that he does not feel should go through the regular budget process but he wants to use surplus tax revenue for. That just does not make sense.

If we want to eliminate the marriage tax penalty, that is squandering the surplus according to President Clinton. But if you want to spend the surplus, it is okay. That just does not make sense.

Mr. Speaker, this House, with bipartisan support, adopted the 90/10 plan, a plan which sets aside \$1.4 trillion, which is 1 trillion 400 billion dollars, to save Social Security. We eliminate the marriage tax penalty.

We help family farmers. We help small business people. We help those who want to send their kids on to college. We help schools back in Illinois. Let us do the right thing. I hope the Senate will join us in bipartisan support to pass the 90/10 plan.