

The Rise of Executive Tyranny

by Stephen Elliott-Buckley - Tuesday, October 04, 2005

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"In our great democracy, the Supreme Court is the guardian of our constitutional freedoms and the protector of our founding promise of equal justice under the law. Over the past five years, I've spoken clearly to the American people about the qualities I look for in a Supreme Court Justice. A Justice must be a person of accomplishment and sound legal judgment. A Justice must be a person of fairness and unparalleled integrity. And a Justice must strictly apply the Constitution and laws of the United States, and not legislate from the bench."

- [w.Caesar, October 3, 2005](#)

But also important is that a Supreme Court Justice must merely be a lawyer. A Justice should not necessarily have to have been a judge. Anywhere. For any length of time. At any level of the judiciary.

It is just gall that w.Caesar has nominated White House Counsel Harriet Miers for the Supreme Court of the United States. While she may be a fantastic lawyer, and certainly a w.Caesar team player (and a Texan, and a [member of a group](#) working to cover up w.Caesar's drunk driving record when he was Texas Governor), having never been a judge before is ramming a pointed stick in the eye of American political and constitutional convention by a president who is quick to disregard tradition and convention in order to accomplish his personal goals.

Nominating John Roberts to be Chief Justice despite his never having been on the Supreme Court for one day, the Miers nomination follows the same trend. The [John Bolton appointment](#) as ambassador to the United Nations is similar: he would not have been confirmed by Senate so his was a recess appointment. There have been dozens of such appointments in w.Caesar's White House, all designed to circumvent senatorial confirmation.

Now, without having done a study of all presidents, I cannot say for sure that w.Caesar is the only one to make such liberal use of his constitutional loophole to make recess appointments and ignore convention, I would however argue that do so, so much of the time, with such high profile positions--Chief Justice, Associate Justice, ambassador to the UN--it is clear that w.Caesar's respect for his place as the head of an equal branch of government is very low indeed.

But [complicity](#) of the US Democrats was briskly forthcoming, as they continue to fashion themselves as merely Republican-lite: "Senate Democratic Leader Harry Reid was complimentary, issuing a statement that said he likes Miers and adding 'the Supreme Court would benefit from the addition of a justice who has real experience as a practicing lawyer.'" At least Barbara Boxer had the independence of mind to point out the glaring absence of Miers' judicial record.

In the end, w.Caesar prefers judges who do not legislate from the bench. Fine. That's a fine line at the best of times. The galling hypocrisy, however, rests in the fact that as president, he'll undermine the

legislature's right to confirm nominations whenever it suits him. Three equal bodies of government? Each to do its own work? Separation of Powers? It's empty rhetoric from a president who is content to get elected with the GOP dirty tricks machine scrubbing Floridans from the voter list in 2000 and putting too few and low-tech voting machines in Democrat areas of Ohio in 2004.

It is easy to conclude that he just doesn't get it. But scarier is that I think he does; he just doesn't care.