

# Sustaining a filibuster on Alito is critical to the future of Congress

*Confirmation will condemn America to decades of radically expanded government power and intrusion into citizen's lives — while diminishing the role of Congress*

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*If ever a filibuster was justified, this is it! We must not let Judge Alito, through his unitary executive theory, bestow apparent legitimacy on President Bush's power grabs.*

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**T**hough President Bush has only recently publicly admitted ignoring Congress's expressed wishes, during his terms of office he has cited *the unitary executive theory* at least 95 times to justify such things as torture, secret prisons, imprisonment of Americans without trial, and now the warrantless monitoring of *all* electronic communications within the U.S.

Bush has declared, through his assertion of this theory, that he is above the law. The theory makes the completely unsupportable claim that a president does not have to enforce or abide by a law as long as *he* thinks it is unconstitutional. But here's the danger: even if the theory is unsupportable, as long as Bush is in charge of enforcing the law, he will continue to act as though the theory is valid.

An honest, rational executive or jurist would subscribe to the view that has served us so very well for over 200 years: that if a president believes a statute to be unconstitu-

tional, he has the right to challenge it and have the courts rule on its constitutionality.

But not anymore. Bush has taken the extreme view—not only supported by Judge Alito, but actually developed by him—that the president's interpretation of a law is just as important, if not more so, than the intent of Congress. Therefore, if a president feels a law is unconstitutional, he does not have to enforce or abide by it.

The unitary executive theory is nothing more than a repackaging—in fancy legal terms to give it the appearance of legitimacy—of the American Fascists' call of the 1960s for an authoritarian government in the America.

## **The danger is imminent**

Throughout his hearing, Judge Alito repeatedly refused to condemn this obviously flawed view. He misleadingly stated what everyone wanted to hear—that no one is above the law—but then immediately negated it by adding “But what I am saying is that sometimes issues of executive power arise, and they have to be analyzed under the framework that Justice Jackson set out.” He effectively said *No one is above the law, except when the Constitution allows it.*

Any reading of the Constitution that gives dictatorial powers to the chief executive, in peacetime *or* in war, is patently absurd and besmirches the history of that incredible document—unless you hear *Fox News* explain it. But when given the chance to repudiate his previous writings and finally calm our fears that he would support an authoritarian government, Judge Alito merely called them “inapt.”

His writings claim the president is not only the enforcer of the law, but also the judge of it. And with Bush's liberal use of executive orders, he has already usurped much of Congress's duties as the legislator of the laws as well. All three branches of government are conveniently rolled into one. If you can explain the difference between what Bush is now doing and a dictatorship, please let others know. In all practical respects, Bush *is already a dictator*, albeit in his early stages. It's time to publicly say so!

## **The remedy is obvious**

There is only one remedy for a president who embraces such a radical concept and disobeys the specific and repeated instructions of Congress: IMPEACHMENT. Anything less will be ignored. If we do not impeach now, he will rightfully

conclude we do not have the courage to oppose him and he will do what all unopposed dictators throughout history have done: grab more power. He will continue to ignore Congress and the courts, and he will grow in strength at an accelerated rate.

### **The last step**

We won't suddenly wake up one morning and find ourselves completely engulfed in dictatorship. Rather, we've been traveling towards that destination in small steps, each just a little worse than the last, and each preparing us for the next. The goal is to have us doubt the seriousness of each step along the way so we ask "If I did not object to the last step, why should I object to this?"

Well, *this* is the step that *must* be stopped. There is no tomorrow. If we do not stop Bush now, he will have grown too strong to stop later. We are at a critical point when future historians will either congratulate us for pulling back from the brink, or point out that we missed our last opportunity to prevent the downfall of our nation.

Bush has challenged Congress by saying "If I don't like your laws, I'm not going to obey them. What are you going to do about it?" If we learned anything from World War II, we learned you can not appease a dictator. We must not do so now.

### **Judge Alito's entire career has expanded government power**

But as an important prerequisite to impeachment, we must first stop Judge Alito's nomination. If *ever* a filibuster was justified, *this* is it! We must not let one of the theory's architects poison the court and bestow apparent legitimacy on Bush's power grab. Even if Bush leaves office, an Alito confirmation will condemn America to decades of radically

expanded government power and intrusion into citizen's lives —while diminishing the role of Congress.

If Republicans are foolish enough to further abuse their power by outlawing a filibuster, it will dramatically strengthen the arguments Democrats will present during the State of the Union rebuttal. It will also be legal grounds for the removal of Judge Alito once sanity is restored to our leadership after the next elections.

### **A call for unity**

So, after the filibuster, please join William Rivers Pitt in urging all Patriotic senators and representatives to turn their back on Bush and walk out of the State of the Union address. Congress should show at least as much courage as was shown by the law school students present during Attorney General Gonzales's address at Georgetown University.

Desperate times demand desperate measures. Unprecedented action after unprecedented action must drive home the point that we are not experiencing "government as usual." The live television time following the State of the Union must be used to explain the absolute urgency of the crisis at hand. After detailing Alito's extreme views, the rebuttal should make a public call for impeachment proceedings to begin *immediately*.

The ball will then be in the Republican's court. They can either begin impeachment proceedings now, thereby guaranteeing they will continue to have a Republican president until 2008. Or they can gamble and wait until after the next elections when a Democrat will assume the presidency once George W. Bush, Dick Cheney, and Donald Rumsfeld are all impeached and convicted by a Democratic House and Senate.

### **Right wing propagandists assert we need a dictatorship**

To close the State of the Union rebuttal, we should illustrate how right wing apologists are barely trying to hide Bush's intentions anymore. They claim we should be thankful Bush is willing to usurp all this power to protect us from the big bad terrorists. Every defense of his actions is prefaced by an appeal to our cowardice.

They're using misdirection and sleight of hand to make sure we're so afraid of a terrorist attack that we don't think to ask critical questions: Shouldn't we be much more afraid of the enormous power concentrated in the hands of a man who strongly argues to retain the right to torture? Shouldn't we fear a man who will imprison, without trial, anyone *he* deems to be an enemy combatant? Is our memory of the Soviet KGB and other infamous secret police forces so faded that we somehow feel immune to their horrors?

### **It can happen here**

Judge Alito's nomination is the latest step toward achieving the unthinkable. So enormous are the consequences of believing the increasingly obvious, that we naturally search for *some* other explanation —*any* other explanation—allowing us to cling to the fantasy that it can't happen here.

As a senator, however, you can no longer remain in denial. You must look again at the evidence that's accumulated these past five years. But this time view it through the prism of recent revelations. It will then be obvious:

It *can* happen here.

It *is* happening here.

But *you* can stop it.