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## Another Truly Incredible Nominee

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Imagine for the moment what the response from the Left would be if a Republican president nominated to the D.C. Circuit a 43-year-old lawyer who:

- Testified at his confirmation hearing that “the best way in which we can interpret [the Constitution] is to look to the text and the original intent of the Framers”;
- Opined (in the face of contrary Supreme Court precedent) that it is *not* “ever appropriate to rely on foreign law in deciding the meaning of the U.S. Constitution”;
- Rejected Justice William Brennan’s constitutional vision;
- Stated that judicial doctrine should not “incorporate the evolving understandings of the Constitution forged through social movements, legislation, and historical practice”; and
- Rejected the notion that empathy should play a role in a judge’s consideration of a case.

Further assume that the nominee has net assets worth eight million dollars, and I think that it’s rather clear that the Left would attack the nominee as a fatcat reactionary.

Well, it turns out that the nominee I’ve described is none other than President Obama’s pick for the D.C. Circuit, Caitlin Halligan. Why, one might wonder, is the Left supporting the nomination? And why aren’t conservatives celebrating it? The answer, I’d submit, is that everyone recognizes that Halligan’s confirmation testimony is, in the core sense of the word, incredible—not believable.

As it happens, Halligan’s responses to post-hearing questions provide additional reason (beyond her record, which I’ve addressed in previous posts) to disbelieve her testimony. In particular, asked whether she had ever before espoused the “original intent” methodology, Halligan responded, “I do not recall expressing an opinion on this issue in the past.” Halligan gave the identical answer to the question whether she had ever before stated that it is not appropriate to rely on foreign law in deciding the meaning of the Constitution. (See answers 1.b and 3.b to questions from Senator

Sessions, on pages 15 and 17 of this collection of Halligan's responses to post-hearing questions.) I guess that the prep sessions in which Halligan was apparently coached to testify as she did about original intent and foreign law didn't fall within the ambit of the questions.

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