

IX-NAY ON THE ONSTITUTION-CAY

This is ripe. Apparently, the conservative blogosphere realized there wasn't a good defense for Harriet's claim of immunity from being subpoenaed, so they called the White House and begged for talking points. And then they published those talking points. Which, first of all, exposes to all the world that conservative bloggers are willing to gobble any kind of shite thrown at them.

If Congress pursues criminal contempt and the DoJ refuses to prosecute, how do they move forward? – No one really knows. There isn't any precedent on this point.

[Ed. both the White House and Ed Morrissey are pretending they've never heard of inherent contempt. Snip]

What about the call for a special counsel on Alberto Gonzales? – The law no longer exists for an independent prosecutor, and the "special counsel" is accountable to ... Alberto Gonzales.

[Ed. Someone better tell Patrick Fitzgerald, Alberto Gonzales, and Paul Clement—because they would all beg to differ, both about Gonzales' recusal on this matter or the ability to recuse authority over a special counsel more generally.]

It also demonstrates that neither the "senior official" (is this Fred Fielding, giving transparently erroneous legal advice off the record again?) nor a bevy of conservative bloggers have read the Constitution. At least that's the only logical conclusion I can draw from the fact that Morrissey doesn't correct this claim.

Executive privilege is particularly strong in this case. The power to hire and fire federal prosecutors belongs exclusively to the executive branch. Congress has no particular oversight in these matters, and so the executive privilege claim is very compelling in this instance.

As I have pointed out over and over and over again, hiring and firing federal prosecutors—particularly interim USAs like Tim Griffin—is something the Constitution explicitly gives Congress the authority to legislate. This is authority the White House itself did not contest, neither in 2006 when Bush signed the PATRIOT provision, nor earlier this year when he signed its reversal. So either Morrissey's post is intended to expose conservative ignorance once and for all, it's a secret message for conservatives everywhere that Dick has given the sign that it's finally time to burn their copies of the Constitution, or it's simply proof that conservative bloggers are willing to regurgitate transparent falsehoods if their President gets in a legal bind.

Most likely, it's a combination of all three.

Update: LOL. I hadn't read TRex before I wrote this. He's got a better sense of humor than I about right blogistan's stupidity.