

# ORRIN HATCH TO SUPPORT HOLDER YET THE DELAY AND KABUKI CONTINUES

Understand—this report that Orrin Hatch will support Eric Holder is not news.

Sen. Orrin Hatch (Utah), who chaired the panel for a decade beginning in 1995, told The Hill that he will support Holder.

I intend to,” said Hatch.

His decision could undermine GOP efforts to stall or block the confirmation. Senate Republican Leader Mitch McConnell (Ky.) said Friday that Holder would be the only Cabinet nominee to face a tough confirmation fight.

Hatch said that Republicans should try to strike a cooperative tone with President-elect Obama during the first days of his administration.

“I start with the premise that the president deserves the benefit of the doubt. I don’t think politics should be played with the attorney general,” he said.

“I like Barack Obama and want to help him if I can.”

Hatch said he would support Holder way back in November. Which, even though the Senate Judiciary Committee is the committee most unfavorably positioned until the Senate reorganization (unlike SJC, most other committees have lost Republicans but not Democrats, giving us a bigger majority than we had last Congress), still means Holder’s

nomination will pass the committee and the full Senate, even if by a one vote margin.

Now, maybe Arlen "Scottish Haggis" Specter will dig up something during Holder's nomination hearing that will pick off Democratic support; but seeing as how he's more interested in Elian Gonzales and less interested in Chiquita, I don't see that happening.

Which means the drama surrounding the Holder nomination from the right is—and has always been—kabuki.

Kabuki, an attempt to dredge up Republican greatest hits on Clinton, and—I suggest again—delay.

There are a number of reasons why they'd want to delay Holder's confirmation and not—say—that of Hilda Solis, who will champion the EFCA legislation that will be an early focus in Congress. You see, EFCA will pass or fail regardless of whether Solis has been approved or not. EFCA's passage comes down to the actions of a few conservative Dems and a few moderate Republicans. Republicans oppose EFCA, but they're not going to delay or defeat it by delaying Solis' confirmation.

But there are things that Republicans can delay or prevent by delaying Holder's confirmation, first and foremost, any legal prosecution of George Bush for reauthorizing warrantless wiretaps over the objections of the acting Attorney General.

As I pointed out, Vaughn Walker has ordered the government to give him a document by next Monday—January 19—that will most likely prove the Bush Administration broke the law. It will likely prove that Bush's Administration broke the law on February 19 through February 29, March 10, 11 and 25, April 16, May 13, 22 and 26, and June 1, 2 and 10, 2004—all dates when the al-Haramain lawyers, having seen the document that revealed they were wiretapped, believe they were wiretapped. Thus, the statute of limitations for those possible violations of

FISA would expire on days from February 19 through June 10, 2009.

But those are actions done by people at NSA under orders from George Bush. Those aren't actions done by George Bush himself.

Except, that is, for the actions George Bush took on March 11, 2004, when he reauthorized the program over Comey's objections. And the statute of limitations for that probable crime runs out on March 11, 2009: less than two months after Vaughn Walker might get (barring the delays that are almost guaranteed) the document that proves the Administration violated FISA.

bmaz and LHP assure me that that's already too little time for someone at DOJ to take the evidence and develop it into an indictment strong enough to indict the former President. But I imagine Karl Rove—who, after all, ordered up this kabuki dance in SJC in the first place—doesn't want to take any chances.

There are a number of other reasons the Republicans would like to delay having an operative DOJ. While DOD can close Gitmo and implement some changes to military commissions, they can only do so much without an Attorney General. And no one could act on the crappy legal opinions—particularly those drafted in March 2004—until after we get an Attorney General.

Aside from what you think about a Holder confirmation, what is going on now is mostly kabuki—an attempt to score political points, surely, but just as much an attempt to run out the clock. With Hatch's renewed assurances that he will support Holder, the outcome isn't really in doubt.

The timing, though, is.