

RIGHT WING FINALLY TALKING ABOUT RULE OF LAW

Don't get me wrong. I'm happy that—after all these years—someone on the right is calling out Presidents Bush and Obama on their abuse of power (watch the video to hear Andrew Napolitano complain about Obama's targeting of Anwar al-Awlaki).

Nader: Is that what you mean also about throwing people in jail without charges violating habeas corpus?

Napolitano: Well that is so obviously a violation of the natural law, the natural right to be brought before a neutral arbiter within moments of the government taking your freedom away from you. And the Constitution itself, as the Supreme Court in the Boumediene case pretty much said, wherever the government goes, the Constitution goes with it and wherever the Constitution goes are the rights of the Constitution as a guarantee and habeas corpus cannot be suspended by the president ever. It can only be suspended by the Congress in times of rebellion which in read Milligan says meaning rebellion of such magnitude that judges can't get into their court houses. That has not happened in American history.

So what President Bush did with the suspension of habeas corpus, with the whole concept of Guantanamo Bay, with the whole idea that he could avoid and evade federal laws, treaties, federal judges and the Constitution was blatantly unconstitutional and is some cases criminal.

Nader: What's the sanction for President

Bush and Vice President Cheney?

Napolitano: There's been no sanction except what history will say about them.

Nader: What should be the sanctions?

Napolitano: They should have been indicted. They absolutely should have been indicted for torturing, for spying, for arresting without warrants.

I agree with everything Napolitano says and I'm glad he's pitching a book saying it. Welcome to the lonely battle of fighting for the rule of law.

But the time for the right wing to make these arguments was probably 2004, not 2010.