



What would I—uhhhh. What would I—uhhh—say is my political philosophy? Ohhhh, nope nope nope nope nope nope nope. Ahh, nope nope nope nope nope nope nope nope nope nope nope

Mitch McConnell: Slow Is Overstating It

[Dan's march through the Senate](#), and his fine post today on Wisconsin, might even be more significant than says. He writes:

A President Trump with a Republican Senate could do a lot to carry through on his pledge to dismantle EPA's powers, whereas a President Clinton would receive valuable support from a Democratic Senate. If Clinton wins, Democratic control of the Senate would increase her leverage in dealing with the House, and would allow her a much freer hand with agency and judicial appointments.

But this understates the matter, in my view. Let us suppose that Clinton wins but the Republicans hold the Senate. If that happens, I believe that

1. we will not see a replacement for Justice Scalia for her entire term;
2. virtually no new circuit judges will be confirmed; and
3. large chunks of the executive branch appointments will go unfilled.

People usually say I am being, well, *me*, when I say this. And in an existential sense I am! But there is a logic here.

For the last several years, and at least since 2010, Republicans have been much more afraid of primary challenges than general election opponents. And given the state of the

Republican base — of which, mind you, [fully 72% believe that President Obama was not born in the United States](#) — anyone voting to confirm a Clinton appointment for any judgeship will immediately put a huge target on this back.

“But surely they could not simply refuse to fill a Supreme Court seat.” Why not? The only reason why this is true is because of norms, not rules. It is already clear that Republicans have received no adverse political consequences for their unprecedented refusal to even *consider* the Merrick Garland nomination. The entire nature of the modern Republican Party lies in the breaking of norms, a philosophy I have described elsewhere as [“Gingrichism.”](#)

That is particularly true because under current Senate rules, a Supreme Court nomination still requires 60 votes for cloture. It will be easy for a few Republicans to vote cloture, have it not reach 60, and for Mitch McConnell to declare very sadly that the appointment of, say, Richard Posner is simply too left-wing for the American public.

This pattern will play out with even greater fierceness in the executive branch. Perhaps — perhaps — Republicans will feel enough pressure to confirm Cabinet posts. There are hundreds of sub-Cabinet posts that are critical to the functioning of the federal government that will not get any press coverage at all. So there will no incentive for the GOP to confirm them.

In fact, the incentive will be **not** to confirm them precisely in order to cripple a Clinton Administration. If the government cannot function, this dovetails nicely with the Conservative Movement’s ideology that government is necessarily ineffective. As conservative satirist P.J. O’Rourke has acidly and correctly remarked: “the Republicans are the party that says that government never works and then gets elected and proves it.”

Don’t believe me? Look up Adam Szubin. He is currently the Acting Undersecretary of the Treasury for Terrorism and Financial Intelligence. Note the “Acting.” One might think that confirming such a position would be pretty important. One would be wrong: President Obama nominated Szubin to the position in April 2015. He has yet to receive a hearing.

So if were, say, Gina McCarthy, or Sally Jewell, or Loretta Lynch, and on November 9th I wake to find a President Clinton and a GOP Senate, I’d settle in for a nice long stay.