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Monday, May 10, 2010

Cato On Kagan

Posted by: Jillian Bandes at 9:20 AM

Statement from the Cato Institute's Ilya Shapiro:

Although some on the left are concerned that replacing Justice John Paul Stevens with Kagan "moves the Court to the right," there is no indication that the solicitor general is anything but a standard modern liberal, with all the unfortunate views on the scope of federal power that entails. Another concern is her mediocre performance in her current position – the choices of which legal arguments to make from those available to her in defending federal laws in Citizens United and United States v. Stevens, for example, were not strategically sound – though she may well be better suited to a judicial rather than advocacy role.

In any event, with Democrats still holding a 59-seat Senate majority, Elena Kagan's confirmation is in no doubt whatsoever. The more interesting aspect of the next couple of months, culminating in hearings before the judiciary committee, will be the debate over the meaning of the Constitution and what limits there are to government action. In an election year when a highly unpopular – a Republican senator from Massachusetts?! – and patently unconstitutional health care "reform" was rammed through Congress using every procedural gimmick imaginable, voters are more sensitive to constitutional discourse now than they have been in decades.

From bailing out the financial and auto industries to fining every man, woman, and child who doesn't buy a government-approved health insurance policy – and, coming soon, regulating carbon emissions – the Obama administration is taking over civil society at a rate that alarms Americans and fuels both Tea Party populism and interest in libertarian policy solutions (which Cato is happy to offer but wishes were implemented on the front end instead of being invoked as a response to destructive statism). The Kagan nomination is the perfect vehicle for a public airing of these important issues.



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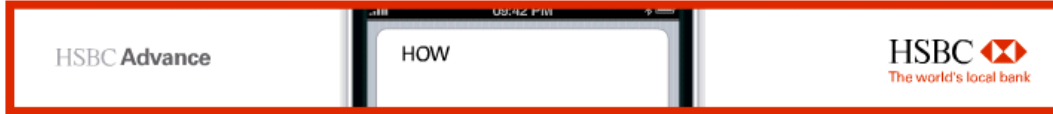
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