

SURROGATING THE 2016 AMERICAN PRESIDENCY

Tonight was the opening of the Democratic National Convention. It was a rather stunning difference from the scenes on the street yesterday and today, where there were minimal and well behaved cops in Philly as contrasted with the warrior cop oppressive stormtrooper presence in Cleveland. From my reporter friends from the Arizona Republic, the food is totally better in Philly too. Hey, armies move on food, and cheesesteaks rule.

Is everything coming up roses? Nope. There was the whole Debbie Wasserman Schultz thing. She was well advised by our friend David Dayen to stay away and excommunicate herself from the convention podium. But, crikey, the rest simply looks beautiful. Sanders supporters marching in the streets for change, mostly unfettered and unoppressed, other voices being heard, and all relative delegates meeting and co-existing in the halls. This ain't the dysfunctional RNC bigoted shit show. That, in and of itself, would be worth this post. There is more.

Don't let cable coverage and the relentless yammer of their panels of self interested toadies fool you, the few true camera pans at the RNC showed more than a few empty seats and a far smaller crowd (especially in the upper decks) than displayed tonight at the DNC.

The real tell, in difference, was in the quality of the speakers and presentation. The only lasting memory from the RNC's opening night was the embarrassing plagiarism in Melania Trump's speech. Honestly, my bet is that is not on her, but the understaffed and idiot handlers her narcissistic, yet bumbling, husband provided. That said, it was a *res ipsa loquitur* deal and, in the end, spoke for itself. What else do you remember from that night other than Tim Tebow did not appear? I got nuthin.

The first night of the DNC in Philly, however, came with a litany of decent and well presented folks presented to a full and energetic hall. Emphasis on full. The dynamics in staging and presentation were stark. As were the quality and mental coherence of the speakers. The first electric moment came when Sarah Silverman, who along with Al Franken, was doing a bit and intro to Paul Simon singing (a geriatric, albeit mesmerizing) Bridge Over Troubled Water. Silverman and Franken had to kill an extra 120 seconds or so and she blurted out some hard, and real, truth that her fellow Bernie Sanders supporters who refuse to help Clinton defeat Trump are flat out "being ridiculous". Truer words have never been spoken.

But soon came Michelle Obama to the podium. I am not sure I have the words to describe how good Michelle was. As a convention speaker, a surrogate, a leader, a mother and as a First Lady embodying all of the above. Michelle Obama killed it. She blew the joint up. I don't know how else to describe it, but if you did not witness it live, watch the video up at top. Just do it.

Frankly, at the conclusion of Michelle Obama's speech, it was hard to see how the last two key speakers, Elizabeth Warren and Bernie Sanders, could possibly top the moment. Sadly, they could not. Liz Warren gave a great, and often in depth, speech. One that absolutely slayed Donald Trump in nearly every way. On its own, it would have been noteworthy. But sandwiched between the brilliance of Michelle Obama and Sanders, with his acolytes cheering and hers still reeling, it seemed good, but not great.

Bernie Sanders caught a little more fire, but mostly because of his young contingent of supporters. And that is not just a good thing, it is a great thing. Sanders did everything, and more, he should have done in this speech by ginning up the classic points and issues his campaign, and its followers, were built on...and then transferring them to Clinton.

It did not work perfectly, but this will be a process up until the election date on November 8. Bernie went a long way, gracefully and patiently, tonight. And, while the cheering crowd appeared to be much more than just the "Sandernistas", all of the hall seemed to get on board. That, along with Sarah Silverman telling holdout Bernie Busters to wake up and not be ridiculous, were giant steps in unifying support for Clinton over Trump.

Listen, I have been around the block a few times, and know I am supposed to lead with the headline. Sorry, this one worked up to it, and here it is. The RNC and Trump got their lousy bounce because the media, once again, cravenly portrayed what happened in Cleveland as normal, and tit for tat, with what is happening, and will happen, in Philadelphia. That is simply a ratings and craven click germinated lie. The difference is stark.

Nowhere is it more stark than in the picture painted as to the surrogates who will come out of the respective conventions to campaign for their respective candidate between now and November 8.

Um, let's see, for the GOP we have Newt, Carson, Melania, Thiel, Flynn, Joe Arpaio and Chachi Baio. I excluded Ivanka because she might actually be competent. Seriously, that is basically it for Trump surrogates. From the whole convention. Even Clint Eastwood's chair took a pass in this, the year of the Orange Faced Short Fingered Vulgarian Bigot.

Let's compare that with what came out of the Democratic Convention's first night. Sarah Silverman, Al Franken, Paul Simon, Eva Longoria, Corey Booker and, then, the big three...Michelle Obama, Liz Warren and Bernie Sanders. That is just the first night folks.

See a bit of a dichotomy in personality and credibility there?

Then picture that Clinton's road warrior surrogates will include not just the above, but

also Joe Biden, President Barack Obama and the Big Dog himself, Bill Clinton.

Elections are won in the trenches. Say what you will about Hillary Clinton, and I will probably join you on many negatives, but the Clintons do have a ground operation. And their surrogates are like the 1927 Yankees compared to the Bad News Bears for Trump and the RNC. How will Trump bolster his bench, by bringing in Roger Ailes to molest the women of America? Is there another ground plan for the Trump Juggalos?

Sure, Clinton can still muck it up and lose. She, and the DNC, have been beyond pathetic in how they have treated nearly half their party, and much of their activist base, during the primaries and aftermath. Not just ugly, but stupid. They deserve any hell they get for that, whether it comes from appropriately enraged Sanders supporters or from press reporting on hacks (THE RUSSIANS ARE COMING, THE RUSSIANS ARE COMING!!!)

Bottom line is this: Which set of surrogates would you think would do a better job spreading out over the country: Crazy Newt, Racist Flynn, Bigot Arpaio and Chachi, ... or Michelle Obama, Liz Warren, Bernie Sanders, Barack Obama and Joe Biden?

Think I will go with the latter, and I think they will reach a heck of a lot more voters who will actually engage than will the trite and petty bigots Trump will have on the public offer.

And the Dems have a laundry list of other quality surrogates who will stand up. Trump has apparent Klan worthy members like Jeff Sessions, felons like Don King and Mike Tyson, and people who seek to be them.

Who you gonna call when it comes time to vote?

Seems like an easy decision, especially when you consider that the next 30 to 35 years of ideological control of the Supreme Court hang in the balance.

FDL: LOOKING AT THINGS AS THEY WERE; DREAMING OF THINGS THAT NEVER WOULD BE



There
are
multiple
better
voices
here to
address
the
apparent

demise of Firedoglake, whether briefly or at length. I was, in a way, an interloper by chance. By fortune, actually. Because I was asked, for inexplicable reasons I will never fully understand, but will always treasure, to join Emptywheel when it morphed from The Last Hurrah into the Emptywheel blog at Firedoglake. Yes, I had been a decent contributor to both Next Hurrah, and, often, FDL, but still it was a bit of a shock when it came.

I can honestly say I, as a result, encountered some of the finest and most genuine people in my life. That happened because of FDL, both as to the lifetime friendships with people that are here with us, including, most notably, Marcy, and all the others. Marcy, Rayne, Jim White, Ed Walker, Rosalind....and, please, let us not forget Mary and some of the others no longer here. All that came, at least for me, out of seeing Scooter Libby coverage early on nearly a decade ago. At FDL.

This medium may be digital, but it has wings and real life beyond the URL's and binary code or whatever. The people I have met and interacted with as a result of being around FDL were, with

little exception, remarkable, intelligent, wonderful and I think the world has been made better by them.

So, to Jane Hamsher, Christy Hardin Smith, Siun, Pachacutec, Richard Taylor, Karl, Suzanne, Bev Wright (Bev and Book Salon was one of the most awesome things ever), Ellie, each and every one of the fantastic moderators who were the ones who kept the enterprise really alive for so long, and a host of others that allowed me to participate with them, thank you. There are too many to list, and I love one and all. You will all be missed, and I apologize to the too many other friends I met there and have not listed. You know who you are, and thank you.

I am starting to see eulogies all over the web, and most are quite decent. FDL was right, and early so, about the rule of law, the Cheney Administration, torture, surveillance, marriage equality and ACA/Obamacare, just to name a few of the plethora of topics breached on her pages. The voices have not died, but, now, the common enterprise has.

I will leave it to others to say where exactly FDL fits into the hierarchy and history of the blogosphere, but it was certainly up there. Thanks, and vaya con dios FDL.

Update, from emptywheel: bmaz forgot to mention DDay, but I'm certain it was an oversight.

O'MALLEY'S EXPLANATION FOR WHITE LIVES MATTER

As you've no doubt heard the Presidential forum at Netroots Nation was interrupted by a Black Lives Matter action, with probably about 50-75 people (mostly, but not entirely, African

Americans) who interrupted the discussion between Jose Antonio Vargas and Governor Martin O'Malley chanting the names of Sandra Bland and others who have been killed by cops. The action virtually ended O'Malley's discussion, which only got worse when he tried to respond and said, "black lives matter, white lives matter, all lives matter." The term "white lives matter" got used by white people using other racist comments in response to the Black Lives Matter movement. Effectively he was responding to an expression of outrage by repeating language used by people who want to suppress that expression.

I attended a roundtable with Governor O'Malley shortly after the forum.

Angélique Roché, an African American political consultant who serves as a Director at the Women's Campaign School at Yale, asked the first question. She asked how, across a number of issues (including Black Lives Matter, but she named several others), he is ensuring a wide variety of voices are represented: not just people of color, women, orientation, class, but also generation and region. O'Malley responded by talking about keeping a broad circle of advisors, and suggested that, technology allows you to do that in ways that weren't possible [a few] years ago." Roché reiterated that to really hear that kind of diversity represented, you really need to work to make that happen.

Later in the round table, someone asked O'Malley to explain his "white lives matter" comment. He explained that he had first used that term about 90 days ago, and that in the moment he used it again. He hadn't upgraded his lexicon to reflect the new connotation the term has taken on. O'Malley said, "that was a mistake and I shouldn't have said it." (He has since given a similar statement on This Week in Blackness.)

I'll have more to say about the action – which I think fits squarely within a tradition of such confrontations at Netroots Nation – later. But I did want to explain part of what happened right after.

A BIG DAY AT SCOTUS ON OBAMACARE AND FAIR HOUSING



A little more than two hours ago, a fairly monumental day at the Supreme Court got

underway. Two big boxes of opinion were brought out signaling at least two, and perhaps as many as four, new decisions were going to be announced. It was only two, but they are huge and critically important decisions *King v. Burwell*, better known as the “Obamacare case”, and *Texas Dept of Housing v. Inclusive Communities Project*, better known as the Fair Housing case.

Both *King* and *Texas Housing* are big, and both have been the cause of serious apoplexy and fear among liberals and progressives. And both were decided very much in the favor of the liberal position, so it was a very good day on both issues.

First off is *King v. Burwell*, and the full opinion is here. It is a 6-3 opinion written by Chief Justice Roberts. Many people seem shocked that the majority was 6-3. I am not. While I thought the challenger King plaintiffs had a cognizable legal argument, it always struck me as a losing one, and one the Chief Justice was unlikely to sign off on after his sleight of hand to keep the ACA alive in the earlier *NFIB* case.

Similarly, though Anthony Kennedy was a bigger concern because of his states rights history, he has a long history on protecting citizens on social justice issues (which is why we are about to get marriage equality, maybe as soon as tomorrow). And, once Obamacare was upheld in *NFIB*, and all the millions of additional Americans had been given health insurance access (which, let us keep in mind, is still different than actual healthcare), it really became a social justice issue, and thus one Kennedy would be very troubled to strip away.

As to the general overview, Rick Hasen at Election Law Blog has a great summary:

Before the case, so much ink was spilled (and more virtual ink virtually spilled) on the question of deference to the IRS's interpretation of ambiguity under the statute (under the so-called "Chevron" doctrine) as well as principles of federalism, which were used to argue for results for and against the Administration in the case. There were also questions about the standing of various plaintiffs. There were arguments about the intent of the drafters, and what MIT economist Gruber said, or may have said, or may have misspoken about the way the law was supposed to work. In the end, the Court rejected application of Chevron deference to the IRS and federalism made no appearance. Nor did standing or Gruber get discussed. Instead the Court's analysis went basically like this:

The question whether tax subsidies applied to poor people in states that did not set up their own health care exchange is important, so important that it is hard to believe that Congress would have delegated that question to an agency (and particularly to the IRS, whose job it is to collect revenue not

design health care policy). So there is no “Chevron” deference on the question. The court has to use its tools of statutory interpretation to decide the case. The law, read as a whole, is ambiguous. It is certainly possible to read the challenged language as giving subsidies only to people in state exchanges and not in the federal exchange. But there are other parts of the law, read in context, that only make sense if subsidies apply to those in state or federal exchanges. In such an ambiguous case, it is the purpose of the law that should govern. “Congress passed the Affordable Care Act to improve health insurance markets, not to destroy them. If at all possible, we must interpret the Act in a way that is consistent with the former, and avoids the latter.”

Go read all of Rick’s post, it is also notable for its explanation as to why *King* is likely the last word on the ACA as a viable entity and Obamacare is here to stay. I concur.

I would like to point out one aspect of the *King* decision I find particularly rewarding – the lack of attention to all the extrinsic noise that has been generated over the many months the *King* case was pending by all the crazed pundits on both sides of the issue at heart. Absent was all the relentless sturm and drang about standing, loss of standing, federalism, what Hans, err Jon, Gruber said or didn’t say, post hoc interviews with Congress members, their staff and lobbyists and what it meant, and all other sundry sorts of faux legislative history by people that apparently would not recognize real “legislative history” if it hit them in the butt. That is very satisfying thing for somebody that thinks appellate decisions should, at their core, be based on the statutes, precedence and the record on appeal.

For this I am thankful for the clarity and

cleanliness of Roberts opinion. As a side note, the majority's scuppering of the *Chevron* basis has created a side issue among us in the legal chattering class as to whether it signals a weakening of the "Chevron Doctrine". Rick seems to think there is a fundamental weakening here. I am not so sure of that at all, even though I have had sincere problems with *Chevron* pretty much as long as I have been practicing law, as it gives far too much deference to often out of control administrative agencies, and the appellate burden is very onerous to overcome bad administrative rulings.

We shall see how the components of today's decision in *King* play out in the future, but it was a very good day for the law, and the ACA, today.

The second, and also huge, case handed down today is the Texas Fair Housing decision, and the full opinion is here. Although it will be overshadowed today by the more famous (infamous?) *King* Obamacare decision, the *Texas* case is absolutely critical to the ability to fight and control discrimination.

As the excellent Lawrence Hurley reports for Reuters:

On a 5-4 vote in a major civil rights case, the court decided that the law allows for discrimination claims based on seemingly neutral practices that may have a discriminatory effect. Justice Anthony Kennedy, a conservative who often casts the deciding vote in close cases, joined the court's four liberals in the majority.

The ruling also was a triumph for President Barack Obama and his administration, which had backed Inclusive Communities Project Inc, a nonprofit group in Texas that claimed the state violated the law by disproportionately awarding low-income housing tax credits to developers who

own properties in poor, minority-dominated neighborhoods.

....

Although a broad win for civil rights advocates on the legal theory, Kennedy, writing for the court, indicated in the ruling that the Texas plaintiffs could ultimately lose when the case returns to lower courts.

The court was considering whether the 1968 law allows for so-called disparate impact claims in which plaintiffs only need to show the discriminatory effect of a particular practice and not evidence of discriminatory intent. There was no dispute over the law's prohibition on openly discriminatory acts in the sale and rental of housing.

Kennedy wrote that Congress indicated in 1988 when it amended the law that it intended disparate impact claims to be available.

"It permits plaintiffs to counteract unconscious prejudices and disguised animus that escape easy classification," Kennedy added.

Kennedy also made clear there are limits to the types of claims that can be brought, saying that "statistical disparity" alone is not enough. Plaintiffs must "point to a defendant's policy or policies causing that disparity," Kennedy added.

As Adam Serwer said on Twitter ([here](#) and [here](#)), "banks and insurance companies have been trying to tee up this case for years because they thought the Roberts court would rule in their favor" and "without this law, it's unlikely any of the banks would have paid any price for trapping minorities in bad loans regardless of credit". That is right. But it goes further than that, the "disparate impact" claim is one of the

most important tools available to fight discrimination that may not be apparent on the face of a cagily crafted provision or business model policy, but which nevertheless is effected by it. Discriminatory animus has gotten very sophisticated, and this tool under the Fair Housing Act of 1968 is necessary to have to fight it.

Texas Fair Housing was a 5-4 decision authored, somewhat surprisingly, by Anthony Kennedy where he joined the four justices of the “liberal bloc”. It is yet another indication of where Tony Kennedy is on “social justice” issues, again a trend that augurs well for marriage equality. We shall know soon enough!

THE DISTURBING PARADOX OF THE DAVID BARRON NOMINATION

Barack Obama has a preternatural preference for ivory tower elites from Harvard when it comes to judicial and executive branch appointees, and David Barron is the latest



example. The White House is in the final stages of an all out push to insure David Barron gets confirmed to a lifetime Article III seat on the First Circuit.

In this regard, Mr. Barron has gotten exactly the kind of fervent support and back channel whipping the Obama White House denied Goodwin

Liu, and refused to give to the nominee at OLC that David Barron stood as the designated and approved Obama acting placeholder for, Dawn Johnsen.

It turns out Mr. Obama and his White House shop really can give appropriate support to nominees if they care, which seemed to be a trait entirely lacking earlier in the Obama Presidency. And by giving the ill taken legal cover to Mr. Obama for the extrajudicial execution of American citizens, that Obama had already attempted once without, Mr. Barron certainly earned the support of the Obama White House.

It would be wonderful if Mr. Obama were to give support to candidates for judicial seats and key legal agencies who protect the Constitution instead of shredding it for convenience, but it appears to not be in the offing all that consistently. Obama has never been the same since blowback from the release of the Torture Memos when he first took office. Even Federal judges like Mary Schroeder and Bill Canby who, less than a month after Obama took office, were stunned by the about face, and wholesale adoption, by Obama of the Bush/Cheney security state protocols. From a New York Times article at the moment:

During the campaign, Mr. Obama harshly criticized the Bush administration's treatment of detainees, and he has broken with that administration on questions like whether to keep open the prison camp at Guantánamo Bay, Cuba. But a government lawyer, Douglas N. Letter, made the same state-secrets argument on Monday, startling several judges on the United States Court of Appeals for the Ninth Circuit.

"Is there anything material that has happened" that might have caused the Justice Department to shift its views, asked Judge Mary M. Schroeder, an appointee of President Jimmy Carter,

coily referring to the recent election.

"No, your honor," Mr. Letter replied.

Judge Schroeder asked, "The change in administration has no bearing?"

Once more, he said, "No, Your Honor." The position he was taking in court on behalf of the government had been "thoroughly vetted with the appropriate officials within the new administration," and "these are the authorized positions," he said.

Make no mistake, from my somewhat substantial knowledge of Mary Schroeder, that was the voice of shock and dismay. But it was an early tell of who and what Barack Obama, and his administration, would be on national security issues from there forward. And so, indeed, it has been.

What was unconscionable and traitorous to the rule of law and Constitution for Obama, and the Democratic majority in the Senate, under George Bush is now just jim dandy under Barack Obama. It is intellectual weakness and cowardice of the highest order.

So we come back to the case of David Barron. Frankly, it is not hard to make the argument that what Barron has done is actually worse than the travesties of John Yoo and Jay Bybee. As unthinkable, heinous and immoral as torture is, and it is certainly all that, it is a discrete violation of domestic and international law. It is definable crime.

But what David Barron did in, at a minimum, the Awlaki Targeted Kill Memo (there are at least six other memos impinging on and controlling this issue, at a minimum of which at least one more is known to be authored by Barron, and we don't even deign to discuss those apparently), was to attack and debase the the very foundational concept of Due Process as portrayed in the Bill of Rights. Along with Habeas Corpus,

Due Process is literally the foundation of American criminal justice fairness and freedom under our Constitution.

David Barron attacked that core foundation. Sure, it is in the so called name of terrorism today, tomorrow it will justify something less in grade. And something less the day after. Such is how Constitutional degradation happens. And there is absolutely nothing so far known in Mr. Barron's handiwork to indicate it could not be adapted for use domestically if the President deems it so needed. Once untethered from the forbidden, once unthinkable Executive Branch powers always find new and easier uses. What were once vices all too easily become habits. This is exactly how the once proud Fourth Amendment has disappeared into a rabbit hole of "exceptions".

This damage to Due Process occasioned by David Barron can be quite easily argued to be more fundamental and critical to the Constitution, the Constitution every political and military officer in the United States is sworn to protect, than a temporally limited violation of criminal statutes and international norms on torture as sanctioned by Yoo and Bybee. But it is not treated that way by cheering Dems and liberals eager to confirm one of their own, a nice clean-cut Harvard man like the President, to a lifetime post to decide Constitutional law. What was detested for Jay Bybee, and would certainly be were John Yoo ever nominated for a federal judgeship, is now no big deal when it comes to David Barron. Constitutional bygones baybee; hey Barron is cool on same sex marriage, what a guy! Screw Due Process, it is just a quaint and archaic concept in a piece of parchment paper, right?

If the above were not distressing enough, the Barron nomination was supposed to, at a minimum, be used as leverage to get public release of the Barron handiwork legally sanctioning Mr. Obama to extrajudicially execute American citizens without a whiff of Due Process or judicial

determination. Did we get that? Hell no, of course not. A scam was run by the Obama White House, and the Senate and oh so attentive DC press fell for it hook, line and sinker. We got squat and Barron is on the rocket path to confirmation with nothing to show for it, and no meaningful and intelligent review of his facially deficient record of Constitutional interpretation.

Barron cleared cloture late Wednesday and is scheduled for a floor vote for confirmation today, yet release of the "redacted memo" is nowhere remotely in sight. This framing on Barron's nomination, irrespective of your ultimate position on his fitness, is a complete and utter fraud on the American citizenry in whose name it is being played. And that is just on the one Awlaki Memo that we *already know* the legal reasoning on from the self serving previous release of the "white paper" by the Administration. Discussion of the other six identified pertinent memos has dropped off the face of the earth. Booyah US Senate, way to do your job for the citizens you represent! Or not.

Personally, there is more than sufficient information about David Barron's situational legal, and moral, ethics in the white paper alone to deem him unfit for a lifetime Article III confirmed seat on a Circuit Court of Appeal.

But, even if you disagree and consider Barron fit, you should admit the American citizenry has been ripped off in this process by the Democratically led Senate, and an Obama Administration who has picked a dubious spot to finally get aggressive in support of one of their nominees.

If Goodwin Liu and Dawn Johnsen, two individuals who had proven their desire to protect the Constitution, had received this kind of support, this country, and the world, would be a better place. Instead, Mr. Obama has reserved his all out push for a man who, instead, opted to apply situational ethics to gut the most basic Constitutional concept of Due Process. That's

unacceptable, but at a minimum we should have the benefit of proper analysis of Barron's work before it happens.

THE NAKED AND UNBOUND AMBITION OF KYRSTEN SINEMA

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at ground zero in Arizona. The GOP runs the key Executive Branch offices such as governor and Secretary of State but, more importantly in many respects, also the state legislature, and as long as they do state politics will continue to be dominated by clusterfucks and cleanups. But Arizona has issues with their statewide federal elected officials too. The current manifestation is not McCain, Flake, nor even the Pleistocene era brainfart known as Trent Franks.

No, today's issue is the once and forever self proclaimed liberal Democrat, Kyrsten Sinema. The transformation of Sinema, who aggressively sold herself as progressive liberal when seeking election, to a conservative Blue Dog toadie of the Minority centrist Dem leadership has been nothing short of astounding, especially for those of us who reside in her district and voted for her in 2012. She completely betrayed her base constituents in Arizona District 9. That is

mostly a story for another day though, today's story is not about discrete policy issues, but wholesale admission of the deceptive nature of Kyrsten Sinema's incursion into AZ-9 to start with.

The baseline is this: Thursday, longtime Arizona Democratic Congressman Ed Pastor of AZ-7 announced his decision to retire and not seek reelection in 2014. Local politicians, from seemingly forever Maricopa Board of Supervisor's member Mary Rose Wilcox to new and fairly refreshing voices like state legislature member Ruben Gallego, were literally stepping over one another to announce they would be running for Pastor's seat. They are almost all minorities vying to represent a solidly minority district. And this is no small thing, as most all of them have to give up their current position to do so under Arizona's "resign to run" law.

I was asked early on Thursday, not long after Pastor's announcement, by a friend who supports liberal Dems nationwide, about Kyrsten Sinema jumping in. I thought it was a joke question and said so. Because it was crazy talk. The joke, however, was squarely on me and her other constituents in AZ-09. Yeah, Kysten Sinema, who pledged herself to AZ-09, started lusting after AZ-07 the second it was announced available.

Not that Kyrsten Sinema (see her Twitter feed, which is a litany of everything but her contemplated district switch) or her managers/spokespeople will admit it, or even address the subject, but she was ready to walk from second one. How do we know? Because the Arizona Republic/12 News (via the excellent Brahm Resnik) got a copy of an email to Sinema's inside staff proving it.

So, why is this a big deal? Because it shows that, for first term congresswoman Kyrsten Sinema, her own raw narcissistic ambition, in a dynamic situation, immediately trumps loyalty to her constituents and her party.

How it trumps her constituents is easy. Sinema

represents AZ-09, which though a new district emanating out of redistricting from the 2010 Census, consists of a significant portion of John Shadegg's old district that was taken over by Ben Quayle after Shadegg's retirement. Sinema did not live in the still leaning conservative district, and explicitly came from an out of district seat in the state legislature to run for the seat when it opened for the 2012 election. She painted herself as a classic liberal of the old Tucson school, who was a progressive and sexually liberated voice. It was a bill of goods, but Sinema was an extremely aggressive campaigner who worked her ass off thusly selling herself. She eked out a victory over a very weak Republican thanks in part to a helpful diversion of votes by a third party Libertarian candidate.

And, though she has been a disappointment to any liberal, at least we thought we had a Democratic representative of some sort for the foreseeable future. Sinema came here and took our votes, surely she was ours at least until she could run for a Senate seat or something larger, right? Apparently not.

Kyrsten Sinema has proved herself willing to leave her, apparently carpetbagged, home in AZ-09 at a moment's notice before even consummating a whole two year Congressional term.

But Kyrsten Sinema's knee jerk willingness to dally with AZ-07 does not just sell out her constituents in AZ-09, no it is contemplated treachery to her Democratic party and Congressional caucus as well. Why? Because there is no Democratic alternative to replace Sinema in AZ-09. None. Over the last few months, several of us Democrats here in AZ-09 toyed with the idea of finding a primary challenger for Sinema, because she has been so awful as to genuinely progressive ideas and votes in the House. But there simply are none; it was either Sinema or turn the seat back over to the GOP, which was a non-starter. At least for us. So, if

Sinema leaves, AZ-09 is going to flip and the House Democrats are going to lose yet another precious seat.

What's worse is that if Kyrsten Sinema takes her big campaign war chest to try to claim AZ-07, she will be trying to suck up a seat that has been held by a member of the Latino minority, Ed Pastor, for over 22 years. Again, Arizona's Congressional districts have evolved over that time, and AZ-07 is a somewhat a new creation. But the core that Pastor now represents, and has always represented, is well over 60% minority, with the majority of those being Hispanic.

Kyrsten Sinema is not only thinking HARD about abandoning her current constituents that she just came to represent, and abandoning a seat for Democratic caucus to the Republicans, she is thinking hard about trying to pilfer a minority seat away from what would otherwise almost surely be a minority Democratic replacement for Ed Pastor.

Why would Kyrsten Sinema think about doing such a loathsome thing? Raw, naked, selfish ambition is the only explanation. Sinema is an aggressive political climber. And her ability to get her mug in between any scene and the TV camera was clearly learned from the great Chuck Schumer and/or John McCain. She has that skill. What it boils down to is that Sinema is on the move, but a real higher office is not in the offing, either this election or next, as Arizona's two Senate seats are locked up – McCain appears to be running again in 2016, and Jeff Flake is young, just got elected, and may never leave.

So, Kyrsten Sinema is left to ply her trade in the House for the time being. Thing is, AZ-07, once you are in, is a lifetime sinecure for a Democrat. You wouldn't even have to work your ass off to stay elected, like Sinema will have to in the conservative trending AZ-09. In AZ-07, Sinema could kick back and build up her warchest for the future ambition she most surely holds, and if she never gets there, can ride out eternity in the seat easily and safely. That's

why Kyrsten Sinema wants it. Oh, and it was effectively where she came from before she so benevolently decided to insincerely grace the good folks in AZ-09 with her naked ambition.

What Kyrsten Sinema does at this point is anybody's guess, and she is certainly not telling even top political reporters here in Phoenix (see: [here](#) and [here](#)). She is, however, push polling aggressively in AZ-07 over the weekend. Whatever it may be, the real Kyrsten Sinema has been exposed, and it is not a pretty sight for whatever lucky duckies that may be her future district constituents. Blue dogs are going to hunt I guess.

[**UPDATE:** I was negligent in my attribution. I have been discussing, on Twitter and off, the Pastor/Sinema dynamic since news of Ed Pastor's retirement broke last Thursday. A lot of us were talking about Sinema from the start, but the actual first to go to print with the speculation was Rebekah Sanders of the Arizona Republic, who had this report Friday night, the 28th of February.]

50 YEARS: THAT DAY, JFK AND TODAY



Where were you fifty years ago today? If you were old enough to remember at all, then you

undoubtedly remember where you were on Friday November 22, 1963 at 12:30 pm central standard time.

I was at a desk, two from the rear, in the left most row, in Mrs. Hollingshead's first grade class. Each kid had their own desk, and they were big, made out of solid wood and heavy. They had to be heavy, of course, because they were going to protect us when we ducked and covered from a Soviet nuclear strike. There were, as there were in most elementary school classrooms of the day, a large clock and a big speaker on the wall up above the teacher's desk.

I can't remember what subject we were working on, but the principal's voice suddenly came over the loudspeaker. This alone meant there was something important up, because that only usually occurred for morning announcements at the start of the school day and for special occasions. The voice of Mr. Flake, the principal, was somber, halting and different; perhaps detached is the word. There was a prelude to the effect that this was a serious moment and that the teachers should make sure that all students were at their desks and that all, both young and old, were to pay attention.

There had occurred a tragic and shocking event that we all needed to know about. Our attention was required.

Then the hammer fell and our little world literally caved in.

President John Fitzgerald Kennedy had been assassinated. Shot and killed in Dallas Texas. Then without a moment's pause, we were told that the nation was safe, Vice-President Johnson was in charge, the government was functioning and that we need not have any concerns about our own safety. We were not at war.

Twenty four some odd little hearts stopped, plus one from Mrs. Hollingshead. You could literally feel the life being sucked out of the room like air lost to a vacuum. Many of us began looking out the window, because no matter what Mr. Flake said, if our President was dead, we were at war and the warheads were coming. They had to be in the sky. They were going to be there.

Unlike the hokey color coded terror alerts, ginned up fear mongering of Bush/Cheney, Ashcroft and Ridge, and today the terroristic fearmongering of Keith Alexander, James Clapper, Mike Rogers and Dianne Feinstein, things were dead nuts serious at the height of the cold war. If President Kennedy had been killed, we were at war; the missiles were on their way. Had to be. Looking back, the school officials and teachers had to have been as devastated and afraid as we were, yet they were remarkable. They kept themselves in one piece, held us together, talked and comforted us into calm.

We had not been back in class from lunch break for long; it was still early afternoon in the west. Before the announcement was made, the decision by the school officials had been made to send us home. The busses would be lined up and ready to go in twenty minutes. Until then there would be a brief quiet period and then the teachers would talk to us and further calm the situation. Then off we would go to try to forge a path with our families, who would need us as much as we needed them.

Except for me and a handful of other kids. My mother was an educator and was not at home, so I and a few other similarly situated kids were kept at school until we could be picked up. Somehow it wasn't right to be inside, so we all, along with another teacher, Mrs. Thomas, went outside and sat underneath a large palm tree in front of the school. We talked about how it could be that our President, our hero, our king, was dead. Maybe he wasn't really dead, maybe it was all a mistake. Maybe Soviet troops were on their way; possibly tanks. This kind of excited me and the other boys; we perked up at this thought, tanks were cool. The Russians probably had awesome tanks. Each minute that passed made us feel a little better because there were no missiles in the sky. That was a good sign.

In about half an hour, maybe an hour, I don't know any more, my mother drove up and off we went. My mother was also reassuring. It was good

to be with her; mom saying it would all be alright meant a lot. Once home, we ate and sat dumbstruck and transfixed in front of the Curtis Mathes console television the rest of the afternoon and night. We watched Walter Cronkite on CBS and Chet Huntley and David Brinkley on NBC. These men were giants of news and journalism; to say that they don't make them like that anymore is a understatement of untold proportion. Things slowly, but surely, stabilized; but it took awhile. A long while.

Well, that was my day fifty years ago. What was your day? Take a moment and reflect back and share with those of us that know the traumatic event, and help those who are younger to understand what the day was like. The palpable sorrow. The sinking, abiding fear. The comfort of teachers, friends and family. And what it means to you today, on this anniversary.

The last time I wrote this basic post, five years ago today, I ended with, inter alia, these words:

There may be another Kennedy like figure in our midst, Barack Obama. He stands to assume office in a similarly, albeit it from different factors, troubled time. The world roils and America's existence hangs in the lurch; not from Soviet missiles, but our own selfishness, avarice and stupidity.

Well, that was hopelessly idealistic, and not yet tempered by knowledge of the real Obama that would govern, as opposed to the false "Hope and Change" guy who captured the imagination and dreams of liberals and well meaning people throughout the land. We sit in a different posture today.

There is still hope; but the real change, whether on authoritarian government, government surveillance, financial reform, liberal judicial philosophy, environmental protection, income inequality, and a host of other critical

concerns still is yet to be seen.

On the fiftieth anniversary of one of our worst days, let there be hope for better ones ahead.

[Most all of this post was taken from a previous one I did five years ago. I cannot kick the vivid memories I have of November 22, 1963 as a child. It is still all I think of when I think of this day. It is that seared into who, and what I am. So, absent a few additions, it is set forth again herein]

POPCORN FUTURES: CLIENT NO. 9 VERSUS MANHATTAN MADAM IN NY COMPTROLLER RACE

Get out the biggest popcorn bowl you own and extra napkins, find your cushy tushy pillow, and get ready for some serious entertainment.

Former New York State governor Eliot Spitzer (D) has thrown his hat in the ring for state comptroller. He will be running against Kristin Davis (R) for the same seat, along with other less well-known candidates.

Spitzer, you may recall, resigned in 2008 as governor after it was revealed he was Client No. 9 [PDF] in a federal case in which four defendants (not named Spitzer) were charged in regards to prostitution enterprise over state lines.

Davis, you will further recall, was the so-called "Manhattan Madam" arrested and prosecuted in the sweep of the prostitution ring related to the Spitzer scandal.

The popcorn is done, you may serve yourselves and make yourselves comfortable.

When you're done laughing, that is.

When you've finished wiping the tears from laughing so hard, you may also want to revisit the case that caused Spitzer to resign.

Further, you may also want to take careful note of these key dates and events:

14-FEB-2008 – An op-ed written by Eliot Spitzer, Predatory Lenders' Partner in Crime, was published in the Washington Post. It called out the White House about its actions which thwarted efforts of states' attorneys general to prosecute predatory lending.

14-FEB-2008 – Spitzer gave testimony this same date to the U.S. House Committee on Financial Services.

10-MAR-2008 – It was first revealed to the public that Spitzer was linked to a prostitution ring.

12-MAR-2008 – Then-governor Spitzer resigned.

14-MAR-2008 – The Fed Reserve initially agrees to loan Bear Stearns at least \$25 billion; within two days, Bear Stearns is sold to J. P. Morgan for only \$2/share, a mere fraction of its worth a month earlier when it traded for well over \$100/share.

The 2008 financial crisis was set in motion by the cascading pressure for liquidity after Bear Stearns collapsed.

A number of folks near and dear to us looked into the origins of the investigation that caught up Spitzer; it's been said Spitzer's bank turned over suspicious activity to the IRS. However, in light of recent disclosures about domestic spying and datamining, it might be worth asking again whether some other surveillance tripped up Spitzer – especially after the hinky extension on the original wiretap that snagged a call related to Spitzer.

Perhaps this is why Spitzer feels comfortable attempting a political comeback.

And perhaps he knows why the rest of the prostitution ring's clients – a substantive number of them employed by Too-Big-To-Fail financial institutions – weren't disclosed as he was.

In any event, the New York comptroller's race ought to be highly entertaining if not informative. Stock up on popcorn, kids, and buy some popcorn futures.

IDENTITY PROBLEM: BLIND JOURNALISM, UNINFORMED TECHNOLOGY, AND CORY BOOKER

This is an op-ed; opinion herein is mine. ~Rayne

A tweet yesterday by technology-futurism pundit and sci-fi writer Bruce Sterling hinted at the problem of technology industry and journalism, with regard to politics:



Bruce Sterling @bruces

He represents the Googly-Facebookish wing of the Democratic Party: nytimes.com/2013/03/23/us/...

The tweet was spawned by a profile in The New York Times of Newark NJ's mayor, Cory Booker, who has used social media regularly as a community outreach tool. In addition to bestowing the inapt label "A Politician From the Future," a critical problem in this article is the labeling of Cory Booker as appealing to "the Googly-Facebookish wing of the [Democratic] party."

Except that Cory Booker is extremely proficient at using microblog platform Twitter, and Twitter

has a significantly different demographic profile with regard to race and age. Further, Twitter's 140-character post limitation has been much easier to use on mobile devices, fitting a mobile business model long before either Google or Facebook.

It's not clear what Sterling thought about the NYT's article, though in a reply he expanded and lumped together the "Twitterly-Googly-Facebook" crowd, suggesting he's missed both NYT's error while not understanding the demographics and politics at play.

Both Sterling and NYT fail to take seriously Booker's actions themselves; they look at the medium, not the message, which is that Booker's deeds are like that of an old-school Democrat, the kind we used to have before the corporatist Democratic Leadership Committee co-opted the Democratic Party to serve somewhat more liberal overlords.

Booker's use of Twitter was carefully noted by TIME back in 2010, after Booker had taken personal, hands-on action to help constituents during a snowstorm. It wasn't a collection of photo ops for a campaign (as another mayor-candidate demonstrated in another city), but actual response to situations where elbow grease and a shovel were required.

What both NYT missed, besides categorizing Booker as belonging to the "Googly-Facebook" portion of the Democratic Party:

- Booker's efforts with regard to his one-on-one interactions with constituents do not compare with a considerable portion of the party to which he belongs;
- His actions are highly transparent, his words sync with his deeds right there in the public forum of Twitter;
- The tool he uses for outreach more closely matches his constituents' demographics, not that of the "Googly-Facebook" crowd.

– Booker uses “big data” to make and justify decisions; “big data” is merely a contemporary expression of polling data used in the near-term past and present.

It’s not clear that Sterling notes these key points, as focused as he was on the social media component and NYT’s representation of Booker as a politician from the future.

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Now let’s look at what computer scientist and tech pundit Jaron Lanier said about social media and “big data” in a recent interview:

“...The only one left standing at some future date is the owner of the largest computer on the network. Whoever has the biggest computer wins in our current system.

Is this true for politics as well?

Yes. If you have the biggest computer and the biggest data, you can calculate how to target people with a political message, and have almost a guaranteed deterministic level of success. Politics then becomes about who has the biggest computer instead of what the agenda is. The way Obama won the last US election was by having the best computer strategy. That method of winning an election works, but if that is to be the future of politics, it will no longer have meaning. The path we are on is not compatible with democracy. ...”

Pay attention to this argument very carefully, because this is what the major parties’ consultants are trying to sell: the more data, the better the results, the biggest computer wins.

It’s utterly wrong.

Ask yourself if any campaign generated message convinced you to vote one way or another in

2012. Or was it the candidates themselves, their history, their ideology, their comparative goodness/badness/rightness/wrongness on grey scale that swayed you?

I personally cannot think of anything that would have persuaded me to vote for Mitt Romney, and I suspect that was the case for much of the 47% he believed did not matter. His personal beliefs about the 47% and his previous track record could be readily seen by voters without a lick of "big data" messaging.

Let's look at Cory Booker through the same lens. His popularity as mayor has less to do with big data than simply being an old-school, hands-on Democrat. If it ever comes out he's done any of his works because "big data" told him to, he'd be dropped hard.

It's inauthentic, inhuman, to do good deeds because "big data" told you to do so.

As long as he genuinely cares about his constituents, makes himself available, is real, his popularity will continue.

The problem Booker must confront is the sublimation of his moral conscience to decision by data. From the NYT article one might infer Booker avoids unpopular actions because data tells him it's not popular.

But should any elected official ever confuse popular with moral and ethical?

Polling data – the older, slower, less granular version of "big data" – informed elected officials that impeaching President George W. Bush was unpopular.

That's why it never took off in Congress. Not because Bush didn't merit impeachment, that his actions may have been illegal, but that going after him for impeachable offenses wasn't popular.

Members of Congress didn't interpret this data to mean they needed to make a better case to the American public as they sought impeachment.

The moral and ethical acts of governance were set aside because of data.

Jaron Lanier also said in the course of his interview,

“...There are a lot of very positive things about the tech world. It’s remarkably unprejudiced and I’ve never encountered racism in it. There are a lot of good qualities, so I don’t want to criticize it too much. I remain in it, and I enjoy it. However, there is a smugness, or a kind of religious aspect to it. There is a sensibility that says: we have skills that other people don’t, therefore we are supermen and we deserve more. You run into this attitude, that if ordinary people cannot set their Facebook privacy settings, then they deserve what is coming to them. There is a hacker superiority complex to this. ...”

The people who will sell the use of “big data” to politicians who’ve already proven popularity is more critical to them than morality are going to be smug about any outcome. They have absolute faith in their products.

Unfortunately, their products are pitched to a black-and-white, yes-and-no, binary – no matter how much geek-speak they use to tell you the algorithms they use are non-linear, complex tools for decision making.

They sell to a binary they don’t even recognize as wrong. They’re pushing the granularity of data to people who only want to know if they can successfully run for office next term, the yes-or-no, not the gradients along a grey scale that come from making a tough moral decision.

Journalism looks on, marveling at the new tools, unable to invest the effort to research the whiz-bang technology, nor willing to take a position on whether use of a tool is good or bad (“the view from nowhere,” as NYU’s Jay Rosen has called it).

Technology is concerned with altogether different issues – the kinds of tools used, whether the progenitors of the tools are honest brokers, and if there's any transparency or oversight.

Except that technology has missed that the decisions being made about these tools are based on popularity – or on popularity measured by campaign contributions received by donors – rather than what is the moral or ethical choice.

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At this point I should insert a map with a sign that reads, *You Are Here*.

We are told what to believe by journalists who are blind in a number of ways, about technological tools used upon us by those whose understanding is narrow. Both journalism and the technology industry have exposed their shortcomings with regard to ethics and morals in terms of governance.

And as noted yesterday in my previous post, a substantive number of professionals in both journalism and the technology industry have forgotten or have never known a time when we were more concerned with doing the right thing for our fellow man than simply aiming for the most popular, most read, most used, most sold content/application/candidate.

Cory Booker has all the hallmarks of being a fine Democratic elected official at a level higher than that of Newark's mayor, based on his deeds; he's the kind of candidate that should have emerged after 2006, the kind that I had personally hoped for as an activist.

But Booker also shows a reliance on "big data" for decision making abetted by both journalists and technology alike.

Who will tell Booker the truth? Big data's messing with him, while media's blowing smoke up his ass with beat sweetener profiles. At the same time, Twitter is working for him as a

simple outreach tool, a low cost one-to-one connection with each cellphone user who can tweet him in his highly diverse city.

Who will explain all this to the Democratic Party's rank and file? Technology's hacker ethos thinks they have it coming to them if they're too stupid to grok what's going on, and journalism isn't doing them any favors with shallow puff pieces. Yet a substantive number of them get "the Facebook" while failing to understand or use Twitter.

Where does the delaminated left fit into this mess? They're among those whose data will contribute to decision making by politicians, but whose morals and ethics will be ignored in the process.

And who will spell out all of this to the public? See above, rinse and repeat – especially since dirty bloggers who use words like "blowjob" aren't allowed on broadcast and cable communications.

This is the politics of now, if not the politics and politician of the future in question.

Perhaps that sign should read, *You Are [Expletive] Here.*

IDENTITY PROBLEM: THE DELAMINATION OF THE AMERICAN LEFT

This is an op-ed; opinion herein is mine. ~Rayne

Once upon a time, before the rise of machines – um, before corporations took over and subsumed the Democratic Party, there were people who espoused an ideology of caring for their fellow man. Granted, some of the richest among them ended up elected to office, but they moved

Americans to do the right things.

“And so, my fellow Americans: ask not what your country can do for you – ask what you can do for your country. My fellow citizens of the world: ask not what America will do for you, but what together we can do for the freedom of man. ...”

[source]

This was a rising-tide-lifting-all-boats kind of Democratic Party, increasingly pro-civil rights and antiwar through the 1960s. The ideology was shaped in no small part by a stronger, more organized political left, manifest in student activism of the period a la Students for a Democratic Society (SDS). SDS in particular espoused direct action and participatory democracy, a hands-on approach to society.

Now entire generations – perhaps as much as three generations – no longer connect the liberal activism of the 1960s with the Democratic Party. Too much time has passed along with negative memes and actions actively impelled by the right linking the Vietnam War to Democratic figureheads like presidents John F. Kennedy and Lyndon Johnson, while undermining the work of other Democratic liberal champions like senators Ted Kennedy and Barbara Jordan. Ask any 20-something if they know who either Ted or Barbara were; you’ll get a blank stare most of the time.

They will, however, remember the Big Dog, Bill Clinton, who was truly Republican-Lite. He catered to business while talking a great game, ultimately undermining American democracy. As an example, his efforts to deregulate media eventually lead to a corporatist mono-culture in broadcast media. He also failed to take any real action to support unions and build the Democratic Party grassroots. He’s thought of kindly because his approach to the deficit, a more restrained approach to militarism, in

tandem with the rise of the internet, led to a golden dot-com age pre-dot-com bomb when the standard of living for most Americans was still rising. He and his heir-apparent, current President Barack Obama, are now the face of the Democratic Party for a majority of Americans.

Though its original standard bearers have aged and the world has changed, the fundamental liberal ideology that coalesced in the 1960s still exists; it was a key driver behind the rise of presidential candidate Howard Dean in the 2004 election season. The left wanted direct action and participatory democracy combined with pragmatic achievement of results; barriers to their efforts had decreased because the internet was a cheap and fast facilitator. Obama's 2008 win is owed in no small part to the dispersion of strategy and tactics embracing direct action and participatory democracy.

Since that win, however, the Obama campaign has done little for either direct action or participatory democracy. After the 2008 win, the OFA folks as well as the Obama White House completely ignored the internet-mediated grassroots it had used for more than a year. They missed an enormous opportunity to reduce the friction generated during the healthcare debate. In the big picture, this may not be a bad thing since Obamacare is simply Romneycare at scale. But in terms of the Democratic Party and the American left, this was a horror – there was no countervailing, unified message pushing back at the rising Tea Party's toxins.

The Tea Party's rise is the very antithesis of the 1960s leftist ideology – it was a corporate-funded, corporate-facilitated co-option of direct action and participatory democracy, harnessing ignorance as well as conservative themes in order to realize a corporatist agenda, initially focusing on the 2009 healthcare debate. The internet sped the effort along, while ensuring consistency of its anti-left, anti-Obama, anti-tax, anti-healthcare reform messaging.

Which brings us to the present: the left's ideology has delaminated from the corporate co-opted Democratic Party to manifest itself in a loosely-organized Occupy movement. Again we see evidence of direct action and participatory democracy in Occupy's principles and efforts. Occupy has not gained critical mass, though, because it has not organized effectively (in part out of fear of the same kinds of COINTEL that undermined its 1960s predecessors), nor has it a figurehead to act as a lightning rod to encourage identification with the movement. Until organization improves and recognized spokespersons/figureheads emerge, their works will be more nebulous in their impact and not receive the credit due from a plurality of the American public, nor will it have the long-lasting effect on the citizenry's consciousness.

The youngest of multiple generations do not remember a strong political left, only what passes for left in a corporatist culture. Nor do the overwhelming majority of Americans really understand how their democracy works, often mistaking consumerism for democratic process. These same people now comprise the ranks of journalists and the technology industry, their current industries shaped by decades of rampant corporatism and the paradigmatic cultural shift of analog-to-digital.

They have been herded into knowledge silos by these forces. Most are clueless about the intersection of political ideology and technology. Their lack of deep political awareness, including their own role in the shaping of politics, contributes substantially to the foundering of the American left and its missing identity.

Next: NYT's Googly-Facebook problem, tech industry's political ignorance, and Cory Booker.