

SHORTER WSJ: GEORGE BUSH IS IRRELEVANT AND SO IS MCCAIN

This WSJ editorial beating up on Dems for their shiny new FISA spine is full of the illogical blathering you'd expect. Take this paragraph, which claims that even with immunity from PAA and even with a FISA court order, the telecoms simply won't do as they're mandated to do.

Mr. Reyes claims that existing wiretap orders can stay in place for a year. But that doesn't account for new targets, which may require new kinds of telecom cooperation and thus a new court order. Mr. Reyes can make all the assertions he wants about immunity, but they are no defense against a lawsuit. For that matter, without a statute in place, even a renewed order by the Foreign Intelligence Surveillance Court is likely to be challenged as illegitimate. A telecom CEO who cooperates without a court order is all but guaranteed to get not merely a wiretap lawsuit, but also a shareholder suit for putting the company at legal risk.

Apparently, the WSJ believes that even if the telecoms have immunity, it's no defense against a lawsuit (someone better tell Mitch and Mike McConnell that all their immunity efforts are for naught). And even if the FISA Court issues a warrant under that statute known as "FISA," the telecoms would regard such an order as illegitimate, because there's no statute supporting it.

And of course, the WSJ parrots the now mandatory claim that ACLU and EFF are really trial lawyers wearing low-paying disguises.

So instead they're trying to do it through the backdoor by unleashing the

trial bar to punish the telephone companies.

I'm most amused, though, by the closing paragraph, which gets to the heart of the panic over FISA.

Mr. Bush has been doing his part in this debate, but his political capital is waning. The Republican who needs to make himself heard now is John McCain. The Arizona Senator is voting the right way, but he seems curiously disengaged from a debate that plays to his national security strengths. The time to speak up is *before* the next 9/11 Commission. [my emphasis]

Bush's "political capital is waning" must be GOP-speak for "don't look now because the Democrats have stood up to Bush." And, pathetically, the WSJ whines that John McCain isn't cowering Democrats into unquestioning obedience, either.

It's like flying without a net, isn't it, WSJ? When you can't rely on Bush's "political capital" to cow others into compliance?