

**From:** "Leitch, David G."  
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**Subject:** Fw:  
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From the Weekly Standard. The web site described is really way over the top -- citing, among other things, the President's "secret" meeting with the Chief Justice.

-----Original Message-----

From: P6/b(6)  
To: Leitch, David G. <David\_G\_Leitch@who.eop.gov>  
Sent: Sat May 10 15:21:00 2003  
Subject:

The Democrats' Preemptive War

From the May 19, 2003 issue: Bush's Supreme Court nominees are under attack before they've even been named.  
by James L. Swanson  
05/19/2003, Volume 008, Issue 35

THE DEMOCRATIC NATIONAL Committee has just declared war on President Bush's first nominee to the U.S. Supreme Court. But how can that be? There is no vacancy to fill and no nominee to attack. Well, that doesn't matter, according to the DNC's new website "Supreme Court Countdown," because the real enemy is George W. Bush. Indeed, the site screams, "American Values Are at Risk Under a Bush-Packed Supreme Court!"

The "Supreme Court Countdown" ([www.democrats.org/scotus](http://www.democrats.org/scotus)) is part of an unprecedented political campaign to thwart a president from appointing any justices to the High Court. It is no secret that, for the past two years, Senate Democrats have been readying to oppose Bush's first Supreme Court nominee. But now they aren't waiting for an actual vacancy and nomination. The DNC's site boasts that it is part of a preemptive "campaign that is vital to defeating extremist nominees to the Supreme Court." Why now? Because the DNC fears that one or more justices might retire when the Court's term ends in late June.

The DNC is right about one thing--core constitutional values are in danger. The threat, though, comes not from President Bush or his putative High Court nominees, but from those who seek to politicize our federal courts by undermining the president's ability to staff the federal judiciary with judges who follow law, not politics.

The authors of the "Supreme Court Countdown" employ classic propaganda tactics. First they induce panic in their followers by declaring a state of emergency: "Bush will name ultra-conservative nominees who will vote quickly to overturn decades of Supreme Court protections of our cherished American values; his choices for the nation's highest court will be way out of the mainstream; with the Court already hanging in a delicate balance, any change puts our most fundamental freedoms at risk; our most precious and fundamental rights are in danger."

Next, they smear those they oppose with labels. The DNC never refers to the president's appellate or potential Supreme Court nominees as simply "Republicans" or "conservatives." No, they're "extremists," "way out of the mainstream," or, worst of all, "extremist right-wing ideologues" who display "hostility to Constitutional rights" and

"attack working families."

Then they distort history. The DNC accuses President Bush of wanting to "pack" the Supreme Court. "Court packing," of course, was the invention of Franklin D. Roosevelt, who tried unsuccessfully in 1937 to add six new justices to the Supreme Court. If a vacancy occurs, President Bush will simply nominate a replacement for the retiring justice, which the Constitution requires him to do.

Finally, the DNC site pairs misleading words with emotional imagery. As the website tallies up the rights that George W. Bush seeks to destroy--including free speech, civil rights, voting rights, religious freedom, and more--it flashes images of Martin Luther King Jr. at the Lincoln Memorial, of African Americans being subdued by fire-hoses, Norman Rockwell's painting of an American everyman speaking at a town meeting, a teacher, and hands clasped in prayer--as though the president's judicial nominees would silence King, turn Bull Connor's hoses back on, censor public debate, close classrooms, and forbid prayer.

The graphic climax is a bar chart--the "Supreme Court Advisory System"--which, in grotesque mimicry of the Department of Homeland Security's terrorist warning system, purports to assess the threat level of a Bush-packed Court. (The current danger level is "HIGH: High Risk to American Values," just one step below the maximum danger of "SEVERE: Severe Risk of Right-Wing Court.") Yes, it has gone that far. We're invited to believe that President Bush's appointment of a Supreme Court justice is tantamount to terrorism.

With the "Supreme Court Countdown," the left's accelerating politicization of judicial nominations has reached a new low.

James L. Swanson is a senior fellow in constitutional studies at the Cato Institute and editor in chief of the Cato Supreme Court Review.

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