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Harriet Miers Withdraws — The Big Lesson

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The withdrawal of Harriet Miers as a nominee to the United States Supreme Court brings an end to one of the most awkward and confusing chapters in the history of the high court. Furthermore, it avoids a nasty confrontation and the possibility of embarrassing hearings before the Senate's Committee on the Judiciary. The nation is breathing a sigh of relief.

What's the big lesson in all of this? The nation deserves leaders who are driven by conviction and demonstrate clarity of thought. Harriet Miers did not convince a sufficient number of senators — or a sufficient number of citizens — that she met this test.

The Supreme Court of the United States is a forum for intellectual debate and seasoned judgment. There are no perfect nominees, and there is no perfect process for nominating and confirming justices. Nevertheless, the nation deserves more than assurances, however sincere, that the nominee is up to the task.

Of course, there is more. We have witnessed the transformation of our federal courts into laboratories for social innovation and engines for social revolution. Many of the most important and controversial issues of our times are decided by the federal courts. The nation deserves nominees who are public intellectuals with a track record of engagement with the crucial questions of constitutional law, the role of the judiciary, and the interpretation of the Constitution as our governing text. We should not demand to know a nominee's position on every issue, but we deserve to know the structure of a nominee's thought and conviction. At the very least, a basic understanding of an nominee's legal philosophy is absolutely essential.

Beyond this, the record of such ideas and convictions should be public and available to all. Individuals without such a track record of sustained thought should not be nominated to serve on our nation's final court of appeal.

In the end, Harriet Miers' nomination may have crashed on the rocks of several speeches she gave in the 1990s. In one speech, she appeared to defend judicial activism and to promote the concept of individual "self-determination" as the guide to deciding cases dealing with issues such as abortion. This is disastrous, putting Ms. Miers in company with the liberal judges who have pushed a radical agenda of invented "rights" as the basis for judicial decisions.

Did Harriet Miers change her mind over the last decade or more? Possibly. This would explain President Bush's confidence in his nominee. But we have nothing to guide us beyond that assumption — no written evidence, no public speeches, no judicial decisions, no law review articles. In the end, there just wasn't enough.

This is a hard lesson for all, but it is too important a lesson to miss. We need leaders whose basic governing convictions are known and defended in public. Nothing less will do.

