



Written by [Selwyn Duke](#) on July 23, 2009

Obama Regulatory Pick's Pro-animal Rights and Anti-First Amendment Activism

It's not surprising that Harvard man Barack Obama wouldn't share late writer William F. Buckley's sentiment that "I would rather be governed by 400 people out of the phone book than the whole faculty of Harvard." In fact, although he won't manage to fill the Congress with the staff of his alma mater, he certainly is making sure his administration is replete with its members.



And Obama is now making another addition to his many Harvard-honed underlings with the nomination of Cass Sunstein to be head of the Office of Information and Regulatory Affairs at OMB, a position commonly known as the "regulatory czar."

Sunstein, 54, a scholar specializing in administrative law, constitutional law, environmental law, and behavioral economics who taught alongside Obama at the University of Chicago Law School, is a man of rather eclectic ideology. Yet it is his apparent animal-rights radicalism and desire to stifle free speech that are currently raising eyebrows among critics.

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As to Sunstein's animal-rights credentials, Michael Weber at environmentalist [website](#) PlanetSave.com happily reports, "Sunstein, a vegetarian, co-authored the book *Animal Right: Current Debates and New Directions*, and has advocated for much stricter regulations [sic] of almost every industry that uses animals, including entertainment, clothing, science and agriculture. The Center For [sic] Consumer Freedom claims that he will even attempt to outlaw meat-eating and hunting."

This radical agenda has inspired some opposition, the most recent of which is a "hold" — which prevents a vote on a nominee from coming to the floor — placed on Sunstein by Texas Senator John Cornyn. FOXNews.com tells us of Cornyn's doubts about the academic, writing, "Sen. Cornyn finds numerous aspects of Mr. Sunstein's record troubling, specifically the fact that he wants to establish legal 'rights' for livestock, wildlife and pets, which would enable animals to file lawsuits in American courts," the Republican's spokesman, Kevin McLaughlin, said in a statement to FOXNews.com."

To be precise, lawyer-cum-animal rights activist Sunstein has advocated allowing people to sue on behalf of animals, a move that would be a boon to the legal profession but a bust for many other businesses.

Yet, while Sunstein may be radical, no one can accuse him of being one-dimensional. In fact, it seems he has managed to displease all of his observers some of the time. For example, he has upset some environmentalists with his advocacy of cost-benefit analysis in regulation, something *Wall Street Journal* editors have called a "promising sign." Of this leftward discontent, FOXNews.com writes, "Environmentalists also say Sunstein's nomination is a potential blow to their efforts to roll back what



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they call Bush-era deregulation. Frank O'Donnell, director of Clean Water Watch, wrote that 'progressives would've screamed' if President Bush had nominated someone with similar views for the OIRA post."

While Sunstein's animal-rights activism and seemingly dim view of the Second Amendment appear to be the focus at the moment, his position on the First Amendment is most troubling, frightening both the right and left. The *New York Post's* Kyle Smith registered his alarm, [writing](#), "When it comes to the First Amendment, Team Obama believes in Global Chilling.... [Sunstein] explicitly supports using the courts to impose a 'chilling effect' on speech that might hurt someone's feelings. He thinks that the bloggers have been rampaging out of control and that new laws need to be written to corral them."

WorldNetDaily.com weighed in as well, [writing](#):

[Sunstein] has advocated a "Fairness Doctrine" for the Internet that would require opposing opinions be linked and also has suggested angry e-mails should be prevented from being sent by technology that would require a 24-hour cooling off period.

. . . Sunstein also has argued in his prolific literary works that the Internet is anti-democratic because of the way users can filter out information of their own choosing.

"A system of limitless individual choices, with respect to communications, is not necessarily in the interest of citizenship and self-government," he wrote. "Democratic efforts to reduce the resulting problems ought not be rejected in freedom's name."

And, presumably, Sunstein and his fellow Harvard cohorts would be the ones to decide what constitutes anger, libel, opposing opinions, and excessive choices.

Yet Sunstein has issued reassurances of late, assuaging the fears of some critics. For example, Georgia Senator Saxby Chambliss said he would drop the hold he had placed on Sunstein because the academic had, writes FOXNews.com, "convinced him that he 'would not take any steps to promote litigation on behalf of animals,' and that he believes the 'Second Amendment creates an individual right to possess guns for purposes of both hunting and self defense.'"

This brings us to a problem I have with Washington nomination processes, be it that of Sunstein, Sonia Sotomayor, or someone else. I ask, of what use is nominee testimony during confirmation hearings? After all, at issue here are people who are essentially at a job interview, and they will say what is necessary to land the position. It seems mostly like pomp and circumstance.

In other words, when assessing nominees, the focus should be what they said when *not* seeking a position, when they could let their hair down; the focus should be on past writings and reasoning, not present reassurances.

Isn't this just common sense? If you were assessing an individual's attitude toward you, would you place more stock in a few minutes of ingratiating words said to your face or years of slander uttered behind your back? The answer is obvious, but if any have trouble with the question, I suggest they read the [fable](#) of the scorpion and the frog and ponder the former's closing line. It was the scorpion's explanation for why he stung the naive, trusting frog despite promising not to do so. To wit: "I could not help myself. It is my nature."

Unfortunately, we have far too many frogs and scorpions in government and not enough wise owls.



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