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A Judge Roy Bean Ethos Too Often Guides Judiciary

February 15, 2006; Page A17

In regard to your Feb. 9 and Feb. 10 editorials "Abolish FISA" and "President Kollar-Kotelly": As a practicing lawyer for 40 years, I believe the idea of entrusting any aspect of our national security to the judiciary is absurd. In both federal and state courts, it is tantamount to "Law West of the Pecos by Judge Roy Bean." In Bean's court, the law was what he said it was; in 21st century courts that attitude is still too often true of arbitrary decisions by an unchecked judiciary. Our Founding Fathers gave scant attention to providing necessary checks, which has come back to haunt us.

Also, because of the enormous case backlog in our federal courts, too often young law clerks are making decisions that judges should make, which is outrageous and irresponsible. Thus it is not surprising to realize how little some federal judges know about the cases that are before them -- for example, when oral arguments occur.

Equally disturbing is the fact that some members of the federal judiciary seem to believe that both the executive and legislative branches of government are subservient to the judiciary. This merely reflects the fact that far too often judges are arrogant, self-righteous, condescending and incompetent, and seem to enjoy abusing the power of their offices.

Thus, the conclusion of "Abolish FISA" -- which may shock some people, certainly the judiciary -- seems totally appropriate: "Far from expanding FISA, Congress could best serve the country by abolishing it." Americans will rue the day they entrusted national security to an unelected, unchecked judiciary that is ill-equipped to prevent another 9/11.

Timothy D. Naegele
Washington

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