

Ex Ante

THE GANTLET

JUST IN TIME come two books, one by Michael Gerhardt of the College of William & Mary and one by the Brookings Institution's Presidential Appointee Initiative, offering guidance on the processes of Presidential appointment of high government officials and Senate advice and consent.

Gerhardt provides a long and surprisingly accessible scholarly historical view. His core lesson might be boiled down to his observation that, "the federal appointments process is a microcosm of the relations between presidents and senators generally," in large part because, "the relevant constitutional structure merely provides the broad outlines within which significant informal arrangements or norms have developed among presidents, senators, interest groups, the media, nominees and others." Gerhardt is sanguine about what he characterizes as a largely informal process of appointment and confirmation:

It is important to understand what this interaction teaches us about the Constitution and the political institutions it establishes and attempts to constrain. As a dimension of separation of powers, the federal appointments process demonstrates the limits of constitutional constraints in practice. These informal arrangements – those not required or clearly prohibited by the Constitution – have come to define the dynamic in the federal

appointments process. The informal arrangements through which the system operates – including senatorial courtesies; logrolling; individual holds; "blue slips"; consultation between presidents, members of Congress, and other interested parties, including judges; interest group lobbying; strategic leaking by administrations, senators, and interest groups; manipulation of the press; the media's efforts to influence the news; and nominees' campaigning – are the sum and substance of the federal appointments process. Studying these arrangements provides even greater illumination than studying Supreme Court decisions or the Constitution itself of how the different branches of the federal government interact on matters of mutual concern.

The Brookings/PAI book, *A Survivor's Guide for Presidential Nominees*, is in many respects the practical appendix to Gerhardt's study: "the *Guide* attempts to answer virtually every question a nominee might have upon being asked to serve." It certainly seems comprehensive, with everything from samples of the requisite paperwork to the distilled strategies of the most practiced shepherds of those marked for greatness or ignominy (see "Korologos's Commandments" on the next page).

Michael J. Gerhardt, *THE FEDERAL APPOINTMENTS PROCESS* (2000); Presidential Appointee Initiative, *A SURVIVOR'S GUIDE FOR PRESIDENTIAL NOMINEES* (2000).