Republicans Must Prepare For The Next Battle Over Judges

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The name Charles Pickering should not be allowed to fade away in our memories. The Senate Judiciary Committee's 10-9 partisan defeat of President Bush's nomination of this fine judge contains lasting lessons for Republicans, conservatives, and all those who want to stop judicial activism and limit the imperial judiciary to its constitutional role.
What happened to Pickering will happen again, and again, and again, unless the Bush Administration and Senate Republicans realize that the Democrats play hardball to win, and they will win unless Republicans engage them in battle. Bipartisanship is a dead-end road for Republicans.

In rummaging through the archives in my office, I came across a column I wrote 32 years ago about the Senate rejections of President Nixon's Supreme Court nominees. Here it is, just as it was published in February 1970:

"The ordeal that Judge G. Harrold Carswell has been put through by the liberals for a campaign statement he made 22 years ago emphasizes again a major difference between liberals and conservatives. It is an unpleasant truth for conservatives to face.

"The fact is that liberals do their homework in their determination to keep conservatives out of public office. Conservatives are usually too easygoing, too gentlemanly, too unsuspicious, and too tolerant, to do the necessary detective work, to rake over the past, and to mount the attack against a liberal appointee.

"Watch how the liberals operated against Judge Carswell, and before that against Judge Clement F. Haynsworth Jr., and before that against Otto Otepka, and before that against Admiral Lewis Strauss whom President Eisenhower appointed Secretary of Commerce, and against Clare Booth Luce when she was appointed Ambassador to Brazil, and against innumerable other conservative appointees through the years.

"The liberals spend money, hire investigators, go over the appointee's background with a fine tooth comb, dig up all the old skeletons in the closet, examine every statement he made in his life, and make the best case they possibly can to prevent a conservative from being appointed, or confirmed, or elected. The liberals reacted with Pavlovian promptness against Judge Carswell because he is (1) a Southerner and (2) probably a conservative, and they use any club to beat him with, such as the ridiculous charge by Democrat Congresswoman Patsy Mink that he is "anti-women."

"The big question is, why don't conservatives do their homework in like manner when liberals are appointed to high public office? When President Lyndon Johnson appointed his crony, Abe Fortas, to the Supreme Court, his closet was full of skeletons, including secret payments of large sums from smut peddlers and other interests, and a curious deferment from military duty during World War II.

"Why didn't conservatives in and out of the Senate do their homework and expose these skeletons immediately? If they had, we would have been saved three years of bad Fortas decisions while he was on the Supreme Court.

"When Earl Warren was appointed to the Supreme Court, the most cursory review of his career would have disclosed his participation in the most glaring violation of civil liberties in U.S. history: the forcible imprisonment without any trial of thousands of American citizens of Japanese descent, solely on the basis of race, during World War II. Yet, when one Senator announced that he wanted to hold extensive hearings about Warren's fitness to serve on our highest Court, the liberal claque shouted that this was unnecessary, the Warren critics were intimidated, and only a superficial hearing was held.

"Conservatives complain a great deal about the bias of the media. Much of it is biased, as was so forcefully and specifically spelled out by Vice President Agnew, but that isn't the whole story. Conservatives are losing a large part of the media battle by default."

As the French would say, plus ca change, plus c'est la meme chose. The more things change, the more they remain the same.

Since David Horowitz became disillusioned with the radical goals of the left, he has been trying to teach Republicans and conservatives how to combat the left's tactics. He asserts that "the left-wing activists who now make up the core of the Democratic Party understand the nature of political war in our democracy, and Republicans quite simply do not."

Horowitz is exasperated with Republican Party ineptitude. "The Republican Party," he writes, "claims to be the party of personal responsibility, yet it has become a party that takes no responsibility for the predicaments in which it finds itself. Instead, Republicans blame bias in the media, or the liar [Clinton] in the White House, or their unprincipled opponents, or even the immorality of the American people to explain their defeats."

His warning is stern: "In political warfare, if only one side is shooting, the other side will soon be dead." Republicans should study Horowitz's book "The Art of Political War" in order to gird for the next judicial nomination battle that will surely come.

Shakespeare's famous line, "The fault, dear Brutus, is not in our stars, but in ourselves, that we are underlings," is still valid. Horowitz's book explains the political tactics that can remedy the Republicans' fault