

H A R L A N   R I C H A R D S

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End the Filibuster For Judicial Nominees

Ed Whelan, president of the Ethics and Public Policy Center, was quoted as saying:

"The conservative base is now mobilized on judicial nominations in a way that the liberal base has long been."

This is the most blatant instance of revisionist history I have seen in a long time. It's much like the right-wing ideologue claim that mainstream media is liberal.

Conservatives realized decades ago that judicial appointments could fundamentally rewrite the laws of the land that they didn't agree with. They began a decades-long campaign to pack the courts with right-wing reactionary ideologues who would reinterpret the constitution to deprive the rest of us of our constitutional civil rights.

Integral to this strategy was the propaganda offensive branding fair and impartial judges as "judicial activists" who were legislating from the bench. The liberals and elected Democrats were slow to catch on and Republicans made it a point to nominate highly-credentialed candidates with the correct ideology. When the Democrats did try to challenge the ideology of the nominees they were accused of partisan politics. The propaganda war was won and for decades Democrats meekly allowed right-wing ideologues to fill open judicial slots.

Now that Democrats have finally caught on to what's happening and realize that Republicans have been using the judiciary to further their agenda, they are pushing back. However, the current procedural rules of the senate permit a mere 41 senators to block any nomination. This dictatorship of the minority doesn't even require the traditional filibuster.

Once upon a time, if a senator wanted to prevent legislation from passing or block a judicial nominee, he or she had to take the floor and keep on talking - for days if necessary. This was a grueling contest of wills and a senator had to fervently believe in the issue to make that sort of sacrifice. Currently, all a senator has to do is say "I filibuster" and if the other side cannot get more than 60 of the 100 senators to go along, the issue dies.

I think it's time to force senators to actually conduct a filibuster - either that or let matters go on to a vote. Dozens of judgeships have been open for years because Republicans have been blocking Obama's appointees. Force those Republicans to filibuster for days (or weeks) until they realize that the senate will shut down rather than be held hostage to the will of the minority.

It's time to put judges on the federal benches that believe the civil rights of our citizens are more important than either corporations or the police-state focussed criminal (in)justice system.