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Post 10/30/71

The Nixon Switch on Court

ATTENTION, everybody. Now hear this: Let there be no more criticism of the Supreme Court. That's the signal from the White House now that there is to be a six-to-three Republican-appointed court.

After devoting the last decade to leading a sustained attack on the Supreme Court, Richard Nixon, in announcing his two latest nominees for the court, surprisingly sends forth a reverse flash to his countrymen.

"It is our duty as citizens," he admonishes us, "to respect the institution of the Supreme Court of the United States." And he adds, "Let us never forget that respect for the court as the final interpreter of them all is indispensable if America is to remain a free society."

ALL THIS comes unblushingly from the man who for years has been accusing the court of being soft on law enforcement, of coddling criminals, of distorting the Constitution. During the 1968 presidential campaign, Mr. Nixon told virtually every audience that the court "has gone too far in weakening the peace forces as against the criminal

forces in this country." It went over especially big with those who wanted Earl Warren impeached.

Yet, with a perfectly straight face Mr. Nixon currently says, "I've noticed with great distress a growing tendency in this country to criticize the Supreme Court as an institution." If there is one claim that Mr. Nixon can make without successful contradiction, it is that nobody has surpassed him in fostering the "tendency" he now deplors.

In nominating Lewis Powell and William Rehnquist to the court, the President said, "Except for the contribution he may be able to make to the cause of world peace, there is probably no more important legacy that a President of the United States can leave in these times than his appointments to the Supreme Court."

It is reassuring to learn that Mr. Nixon has overnight been converted to this view. It is not, however, reassuring to recall that Powell and Rehnquist were named only as a last resort, after the American Bar Association rejected the President's first choices as unfit.

It can only be hoped that the President's new standard for justices will prevail in future appointments, not

only in regard to character and distinction, but to legal experience and scholarship. Fortunately, the President seems to have had some second thoughts since he was thinking of appointing a Klansman who had never seriously practiced law and a senator who had not even taken a bar exam.

IN DEFENSE of this, Mr. Nixon, only a few weeks ago, was pointing out that the Constitution does not require a Supreme Court justice to be a lawyer. Today, happily, in calling attention to the impressive legal credentials of Powell and Rehnquist, the President has proclaimed an impeccable "criteria" that he "believes should be applied in naming people to the Supreme Court."

First, he says, the court "is the highest judicial body in this country. Its members, therefore, should above all be among the very best lawyers in the nation... The Supreme Court is the fastest track in the nation, and it is essential that the justices on the court be able to keep up with the very able lawyers who will appear before that court arguing cases."

It is questionable whether the sitting members of the

court will appreciate having their tribunal referred to as a racing strip, just as Mr. Nixon's appointees will probably wonder whether it was necessary for him to say that "their sole obligation is to the Constitution and to the American people, and not to the President who appointed them to their positions."

It may also be that Warren Burger winced a little last week when the President said, "When I appointed Chief Justice Burger I told him that from the day he was confirmed by the Senate he could expect that I would never talk to him about a case that was before the court." Could it not be assumed that the Chief Justice would take that for granted?

Of all the President's latest observations on the court, the most intriguing is his warning against further attacks on the court. This has not gone unnoticed in liberal circles where it is anticipated that the Nixon court, once fully organized, will sooner or later go soft on civil liberties. When, and if, this happens, there will surely be a sharp and vocal reaction. Will the liberals then be reproved for not "respecting" the court?

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