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Racial Politics, As Ever

Democrats will be demagogic; when will Republicans counter them?

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On issues involving race, Republicans are cowards. That's nothing new, but the cost is escalating as the gap between rhetoric and racial reality grows. Racial demagogues on the left set the terms of national debate. Republicans sometimes run for cover, remaining silent in the face of pernicious nonsense; but on other occasions they do much harm, joining forces with those on the left who speak and act as if white racism were still the unconquered enemy.

Here's a taste of the disconnect from reality in the mainstream Democratic camp that evokes not a peep of protest from Republicans. Deval Patrick was inaugurated as Massachusetts's first black governor on January 4. Soon afterward, on Martin Luther King Day, he said: "I wonder how many of us know that in this term, right now, the Supreme Court is seriously considering overruling the *Brown v. Board of Education* decision."

Of course the Supreme Court is not contemplating overturning *Brown*. We await decisions in cases involving racial balancing in Seattle and Jefferson County, Ky., schools. If the petitioners win, the only effect will be to end racial quotas in the assignment of children to schools — at least in some settings. But Governor Patrick knew that his MLK Day speech would validate his moral credentials, put him on the side of the angels, remind voters of what terrible things a Republican administration does — appointing Supreme Court justices who might drag the country back to the days of Jim Crow.

One might think that Republicans would protest against the slander implicit in Patrick's statement. But such statements cost him nothing — and never have. As President Clinton's assistant attorney general for civil rights in the mid-1990s, he was a quota king. In 1994 a *New Republic* article described him as having "committed the Clinton administration to a vision of racial preference that fulfills the most extravagant fantasies

of a conservative attack ad.” But this was a record that Lt. Gov. Kerry Healey, his Republican opponent in last year’s gubernatorial race, did not dare mention.

Likewise, members of the Congressional Black Caucus — enjoying unprecedented power in Nancy Pelosi’s House — pay no price when they indulge in racially and politically inflammatory rhetoric, much of which targets Republicans.

“The Democrats are back, and the CBC is in the lead, in the lead!” Pelosi jubilantly announced on her first day in office as Speaker. Indeed it is. It has 40 members with full House voting privileges (others are delegates whose voting privileges are limited). One of them, James Clyburn, is majority whip; others chair important committees — Judiciary, Ways and Means, Homeland Security, Standards of Official Conduct (Ethics), and House Administration.

Here’s a sampling of some of the CBC members’ more interesting statements: Maxine Waters called the first president Bush a “racist,” and the current President Bush a “liar.” Mel Watt, Bobby Scott, Elijah Cummings, and Bobby Rush have all charged the administration with botching its response to Katrina precisely because blacks were so hard hit. Chaka Fattah has depicted the president as standing “in front of the schoolhouse door to deny African Americans a higher education.” Jesse Jackson Jr. has noted that only 2 percent of the concessionaires at the Baltimore Orioles’ stadium are black, from which he has concluded “there is still modern-day slavery on modern-day plantations.”

Black *Seattle Times* columnist Lynne K. Varner has asked “whether the [CBC] members can deliver more than a feisty speech to the hometown crowd.” That is, in positions of responsibility, will the CBC move closer to the political center, where the majority of American voters are? Not likely. Why should they? For the most part, thanks largely to congressional Republicans, their seats are super-safe. The 1965 Voting Rights Act has ended up forcing states across the nation to engage in race-conscious districting. When district lines are redrawn after every census, the need to protect black and Hispanic incumbents and to create new “opportunity to elect” districts where possible tops the agenda. It’s a priority imposed by two provisions in the statute, one of which was renewed by Congress in a lopsided vote this past summer. Moreover, that near-unanimity was spearheaded by Republicans, who were trying to demonstrate civil-rights enthusiasm.

Section 5 of the Act compels seven southern states, Arizona, Texas, and scattered counties elsewhere (including three boroughs of New York City) to submit to the Justice Department all new districting plans for “preclearance” — approval prior to their use in elections. It is a temporary provision that was designed to deal with the emergency of massive black disfranchisement in the South, and was initially expected to expire in 1970. But it has been repeatedly extended, most recently for another 25 years, in the apparent belief that the emergency of disfranchisement (of Hispanics as well as blacks) has proven to be more or less permanent. The provision puts affected jurisdictions into federal receivership, in effect. And safe minority districts, once created, are a permanent entitlement.

Section 2 of the Act allows plaintiffs in every state to file suit charging that a districting plan has a discriminatory “result.” As Justice Sandra Day O’Connor acknowledged in 1986, this provision has created a right to roughly proportional racial and ethnic representation, minimally constrained by Fourteenth Amendment limits on race-driven public policies.

The process of drawing districting maps is inevitably politically complicated; it involves the weighing of numerous competing considerations. The last thing state legislators want is to end up with a map thrown out by the Justice Department or a federal court. Thus, not only in the jurisdictions of the South and elsewhere covered by Section 5, but in every state with significant numbers of blacks and Hispanics, lawmakers will protect themselves against a voting-rights dispute by creating a maximum number of safe minority legislative seats.

Section 2 is a permanent part of the Act, and it would take the bravest of politicians to suggest it should be repealed or even rewritten. But Section 5 would have expired in 2007 if Congress and the administration, in a panic about Republican civil-rights credentials, had not rushed to reauthorize it.

Only ten out of the 40 CBC members have been elected from Section 5 jurisdictions. Another 13 have won in majority-black districts that are not the product of Justice Department preclearance enforcement, while the remaining 17 have been elected from districts that are actually minority-black. It would be a mistake, however, to see any of the CBC districts as unrelated to the pressures created by the Voting Rights Act to create race-based constituencies. The majority-black districts not under the thumb of Section 5 actually protect the states from Section 2 suits. Their boundaries are clearly race-conscious.

Likewise, the minority-black districts serve as safeguards against charges of electoral discrimination as defined by Section 2. When states cannot find a sufficient number of black residents to form a majority-minority constituency, they have compensated sometimes by including substantial numbers of Hispanics in the district and almost always by running after every possible minority resident with boundaries that wander across the landscape with total abandon. North Carolina 12, which Melvin Watt represents, was the most litigated district in the country in the 1990s and remains, as Michael Barone describes it, a “snake-like agglomeration” that includes black voters in or near six cities in the state. All these districts are litigation-proof; the states have done everything they can to ensure black representatives for black voters.

Someday, perhaps, a majority in Congress will decide that the emergency of black and Hispanic disfranchisement is over and Section 5 is no longer needed. And perhaps, too, it will conclude that Section 2, unless revised, does more harm than good. Until that time, the race-driven districts that are the product of the Voting Rights Act will continue to elect representatives who peddle racial grievance and stand at the far left of the political spectrum.

The statute — and Republican commitment to it — has created a political culture in which it's assumed that black voters must be represented by blacks in office. It's a poisonous message, reinforcing the notion that blacks are . . . well, different from whites. Individual identity is defined by race — precisely the notion that the civil-rights movement fought so hard against. It's a vicious circle because underscoring racial differences only deepens the central problem of African Americans today: their alienation from the norms and vision of the mainstream culture.

Most Americans understand the reality of enormous black progress over the last half century. They know it's 2007, not 1965 in Mississippi. And yet Republicans have joined Democrats in drawing a very different portrait: an America frozen in time, with blacks still needing the federal protection devised in the mid-1960s. With their commitment to race-based districting (“political apartheid,” Justice O'Connor once called it) and their picture of persistent white racism, Democrats and their allies in the civil-rights community have turned their back on the old values and optimism of the civil-rights movement. Shame on Republicans for doing so as well: America needs the GOP to do what the Democrats won't, and speak up for a genuine civil-rights vision.

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