

Group Becoming Must for Some Conservatives

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By NANCY BENAC

Associated Press Writer

WASHINGTON (AP) - At a recent Friday luncheon, former Solicitor General Theodore Olson cast his eyes over a hotel ballroom crammed with lawyers and wryly welcomed ``all of you Federalists who seem to have mastered the secret handshake."

``For those of you who just stumbled in off the street, it is my duty to advise you that you have stumbled into a right-wing cabal - you will never be the same again," the government's one-time chief courtroom lawyer deadpanned as chortles erupted from members of the Federalist Society.

The conservative group - which has no secret handshake and opens its forums to anyone - has plenty to be smiling about these days.

Founded by three law students in 1982 as a debating society, it now boasts a membership of more than 25,000 that includes prominent members of the Bush administration, the federal judiciary and Congress. Supreme Court justices, Cabinet members and other top Bush aides take regular turns at the society's podium.

Chances are good that the next Supreme Court justice will be either a member of the society or someone who has addressed the group.

Olson himself has been mentioned as a potential nominee. Newly confirmed appellate Judge Janice Rogers Brown, also mentioned as a possible future justice, was among those in the luncheon audience recently.

Others on President Bush's reputed short list include Federalist Society members John Roberts and Michael McConnell, both appellate court justices. Still others on the list have addressed the group, including appellate Judges J. Harvie Wilkinson, Emilio Garza, Edith Hollan Jones and Samuel Alito, and Attorney General Alberto Gonzales.

While the society has no formal role in consulting with the White House, ``the reality is, given the presence of Federalist Society members within the White House counsel's office and the Bush administration, they are playing a crucial role in selecting judges and likely justices," said Erwin Chemerinsky, a liberal Duke University law professor who has addressed the group.

Georgetown University law professor Mark Tushnet wrote in his book, ``A Court Divided," that Federalist Society conferences serve as ``something like the out-of-town preview of a Broadway show, where ambitious conservative lawyers strut their stuff."

``Appearing at Federalist Society events is one, perhaps the most important, of the ways in which a person who wants to get known as 'reliable' and promotable makes sure that his/her name gets put on 'the list'," Tushnet said in an interview.

Northwestern University law professor Steven Calabresi, a Federalist founder, said the organization has grown ``beyond our wildest dreams. We really started it as a hobby and for fun,

to add to the debate and discussion on campus." Law schools, he said, are largely Democratic in their orientation, so the Federalist Society took off as a countervailing forum for conservative ideas and networking.

"It really is kind of the hobby and extracurricular activity that took over my life," he said.

Not everyone views the organization in such an innocuous light.

The Institute for Democracy Studies, which says it examines "anti-democratic religious and political movements and organizations," calls the society part of "the infrastructure underlying the right-wing assault on the democratic foundations of our legal system."

The Federalist Society does no lobbying and takes no positions on public policies, but its sphere of influence is broader than mere debate. Its 15 "practice groups" bring lawyers together to develop strategy for litigators on issues such as civil rights, religious liberty and national security.

The society keeps a watchful eye on the American Bar Association with its monthly "ABA Watch."

Sen. Dick Durbin, D-Ill., frequently quizzes Bush's judicial nominees in the Judiciary Committee about their ties to the society. He has expressed concern that the group may have some sort of informal filtering role in the selection of judicial nominees.

"As we try to monitor the legal DNA of President Bush's nominees, we find repeatedly the Federalist Society chromosome," Durbin said at a 2003 hearing. "Why is it that membership in the Federalist Society has become the secret handshake of the Bush nominees for the federal court?"

As often as Durbin raises such concerns, they are quickly batted down by Republican Sen. Orrin Hatch of Utah, who says he's "darn proud" to serve as co-chairman of the society's Board of Visitors.

"These aren't just conservatives. These are top-notch lawyers all over this country, top-notch law students who are just sick and tired of the leftward leanings of our government, and, frankly, wanted to bring some balance," Hatch countered at one hearing. He added that the organization regularly invites prominent liberals to speak at its forums and debates.

It is a mark of the society's success that liberals have set out to duplicate the formula, founding the American Constitution Society five years ago as a kind of counterweight. Many liberals speak enviously of their competition on the right.

"They've been remarkably successful in bringing together various parts of the conservative movement," said Duke's Chemerinsky. "I only want the left to have its own Federalist Society."