



Biden's Control of Supreme Court "Critical for Our Democracy"

As President Biden mentioned in his campaign-quit speech, he wasted no time calling for Supreme Court reform after the court repeatedly stepped in during his term to reverse longstanding constitutional abuses, many that were advantageous to the political left. We'll look at some historical parallels to previous court attacks and what entity can actually bring about the right kind of Supreme Court reform, if it is so inclined in today's *Analysis Behind the News*, bringing you perspective and solutions you won't get anywhere else.



Bill Hahn

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Imagine being president of the world and issuing orders and edicts that you think carry the legal weight of law. However, one entity continues to rise up again and again and slap down these orders as unconstitutional, taking away the teeth you need to get your policies obeyed by a gullible citizenry. Well, welcome to the world of Joe Biden, except that he's not president of the world, rather of a country that is founded on obeying the rule of law and not the rule of man.

The U.S. Supreme Court and some federal courts have ruled against the Biden administration on numerous occasions, including student-loan forgiveness; OSHA Covid shot and mask mandates for private businesses, federal contractors, and healthcare workers; moratorium on evictions; curtailing the use of obstruction for prosecuting January 6 defendants; the order to restart the Trump-era Remain in Mexico policy; as well as the longstanding policies of federal agency regulation through the *Chevron* doctrine, affirmative action, *Roe v. Wade*, oil-drilling rights, and such First Amendment battles as not forcing a web designer to serve gay clients.

With the Judiciary Branch acting as a check on the Executive Branch, you can see where the president can get a little frustrated. Yet, it was only a year ago that [CNN reported](#),

Despite his criticism of the court, Biden has rejected some liberal suggestions on reforming the panel. He opposes expanding the number of justices that sit on the court and hasn't embraced term limits.

"If we start the process of trying to expand the court, we're going to politicize it, maybe forever, in a way that is not healthy," Biden said during a friendly interview on MSNBC shortly after Thursday's decision on affirmative action.



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Why has he changed his mind? Perhaps it was changed for him, as Kamala Harris was just quoted as saying that there is no daylight between Joe’s policies and her policies. Now, he’s arguing that by making such reforms as judicial term limits and introducing a new code of ethics that these will “strengthen the guardrails of democracy.” In a [Washington Post article](#), the president calls the U.S. Supreme Court “mired in a crisis of ethics” after having made “dangerous and extreme decisions that overturn[ed] settled legal precedents.”

He wrote further into the article, “I served as a U.S. senator for 36 years, including as chairman and ranking member of the Judiciary Committee. I have overseen more Supreme Court nominations as senator, vice president and president than anyone living today. I have great respect for our institutions and the separation of powers.”

But then, even though he has great respect for these institutions, he goes on to call for changing the Supreme Court and suggests, “We are a nation of laws — not of kings or dictators.”

But if these reforms are implemented — and it appears they won’t be, but if they are — then we turn further away from a nation of laws and closer to an authoritarian form of government as these reforms will directly lead to a friendlier court to the policies of the Left, when instead it’s the policies of the Constitution that the Supreme Court must obey and follow.

Robert Welch, founder of The John Birch Society, wrote a definitive guide on the differences between a democracy and a republic. The differences are very important, and must be known by a citizenry that is responsible for keeping the government accountable. So when President Biden suggests the reforms will “strengthen the guardrails of democracy,” we need to know what this will look like.

Of republic and democracies, Mr. Welch wrote,

The two words are not, as most of today’s liberals would have you believe — and as most of them probably believe themselves — parallels in etymology, or history, or meaning. The word “democracy” (in a political rather than a social sense, of course) had always referred to a type of government, as distinguished from monarchy, or autocracy, or oligarchy, or principate. The word “republic,” before 1789, had designated the quality and nature of a government, rather than its structure.

To illustrate this, he quoted the Roman Senator and historian Tacitus, who had once complained, “It is easier for a republican form of government to be applauded than realized.” As Mr. Welch pointed out, when Tacitus made this complaint, “he was living in an empire under the Caesars and knew it. But he was bemoaning the loss of that adherence to the laws and to the protections of the constitution which made the nation no longer a republic; and not to the fact that it was headed by an emperor.”

Benjamin Franklin echoed this in his answer to the question of whether the 1787 Constitutional Convention had given the people a republic or a monarchy. “A republic, ma’am, if you can keep it,” he had said.

Studying the changes in governments throughout history reveals the pressures placed on rulers by the people to advance the cause of freedom, culminating in the American experiment of self-governance. Mr. Welch called this “a fatal struggle for freedom against slavery, for existence against destruction.”

The Founding Fathers thought as much, too. Samuel Adams said in 1776, “Our contest is not only whether we ourselves shall be free, but whether there shall be left to mankind an asylum on earth for



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civil and religious liberty.”

Likewise, Benjamin Franklin wrote in 1777, “’Tis a Common Observation here that our Cause is the Cause of all Mankind; and that we are fighting for their Liberty in defending our own.”

In his booklet, Mr. Welch further defined republics and democracies. He wrote,

The word “democracy” comes from the Greek and means literally “government by the people.” The word “republic” comes from the Latin *res publica* and means literally “the public affairs.”

The historical development of the meaning of the word republic might be summarized as follows. The Greeks learned that, as Dr. [Will] Durant puts it, “man became free when he recognized that he was subject to law.” The Romans applied the formerly general term republic specifically to that system of government in which both the people and their rulers were subject to law. That meaning was recognized throughout all later history, as when the term was applied, however inappropriately in fact and optimistically in self-deception to the “Republic of Venice” or to the “Dutch Republic.” The meaning was thoroughly understood by our Founding Fathers. As early as 1775 John Adams had pointed out that Aristotle (representing Greek thought), Livy (whom he chose to represent Roman thought), and Harrington (a British statesman) all “define a republic to be ... a government of laws and not of men.”

Continuing, Mr. Welch wrote, “They also knew very well indeed the meaning of the word democracy, and the history of democracies; and they were deliberately doing everything in their power to avoid for their own times, and to prevent for the future, the evils of a democracy.”

In short, we are either ruled by laws or we are ruled by a mob or a majority. A freedom-loving people seek the stability and the protection a self-governing, rule-by-law society offers. But as we discussed before, the tendency for a republic is to devolve into something other than its original form or intent. Removing the horizontal checks and balances within the three federal branches as well as the vertical checks and balances coming from the states, offers a large opportunity for a republic to devolve into a democracy.

Mr. Welch created The John Birch Society to help save the country from falling into this trap — a trap that is still alive and well today and is orchestrated by a conspiracy of those advocating for more and more government, global integration, and a New World Order run under world government.

Biden’s frustration with Big Government policies being reversed by the U.S. Supreme Court has led to his call to reform. But this is nothing new; it’s merely a revised page from an old leftist playbook.

Thomas Jefferson warned us of schemes like this when he wrote in 1788, “The natural progress of things is for liberty to yield and government to gain ground.”

President Franklin Delano Roosevelt also proposed reforming the U.S. Supreme Court, but by adding many more justices that were friendly to his New Deal policies that he was pushing Congress to adopt. Yet, many of his fellow Democrats were against such a policy, and even though he tried to replace them with others that would support his efforts, the next election of 1938 resulted in large gains for Republicans due to FDR’s court-packing schemes.

As Supreme Court Justice William Rehnquist said in a 1984 speech that “history shows ‘court-packing’



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attempts are usually not successful because appointees become more independent the longer they serve on the Court and often end up voting contrary to the political or philosophical principles of the President who appointed them.”

While President Biden isn’t calling for court-packing, he is betting his reforms will have the same effect, but as Justice Rehnquist once said, it’s not a guarantee. Look at how many times the so-called conservative justices have ruled for unconstitutional measures.

Specifically looking at Biden’s proposal for term limits for these justices, we ask if it is really necessary. To answer, we go to the Constitution for guidance. Article III addresses the judicial power of the United States, stating that it “shall be vested in one supreme Court.... The judges, both of the supreme and inferior Courts, shall hold their offices during good behavior.”

In *Federalist* 81, Alexander Hamilton explained that the judiciary should not be part of the legislative branch, but be its own federal branch. Within the list of grievances in the Declaration of Independence, the Founders wrote, “He has made Judges dependent on his Will alone, for the Tenure of their Offices, and the Amount and Payment of their Salaries.” The Founders did not want to see this type of control over the judiciary and made it a separate branch. Hamilton also wrote in *Federalist* 81 that justices appointed for a lifetime of good behavior should not be placed into the hands of term-limited legislators. In other words, the possibility that the legislators could be voted out during the frequent elections, especially those that did not have the judicial knowledge that a qualified justice would.

But who determines what is good behavior? Turning once again to the Constitution, Article VI, Clause 3 states “all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution.”

Discipline for those that do not support the Constitution should be treated to impeachment as provided for in Article I. According to an [article on History.com](#), only one Supreme Court justice has ever been impeached, but Justice Samuel Chase was acquitted by the Senate and not removed. However, the article also wrote that 14 federal judges have been impeached from 1803 to 2010.

The Constitution also gives Congress the power to limit the Court’s appellate jurisdiction, in Article III, Section 2, so any reform has to be met with a substantial constitutional hurdle, so the court isn’t forced to do political biddings and so a horizontal check and balance isn’t wiped out — which would occur if President Biden and VP Harris get their way.

Yet, Congress could certainly act within its constitutional means to be a check on the Supreme Court, again, either to limit its appellate jurisdiction or to discipline justices. Mr. Welch brought great attention to Congress’s role when he launched the Impeach Earl Warren campaign in the 1960s through The John Birch Society. Many Americans saw the related billboards across the country, and many wrote their Congressmen and speaker of the House to make the case for impeachment based on legislating from the bench. Many also locally organized *ad hoc* committees to have resolutions passed. While the campaign did not see the chief justice impeached, he retired in 1967, and the country was much the wiser for having learned Congress’s role of checking the Court.

Reforming key components of the American Republic would be detrimental to its longevity. Those that advocate for it are either ignorant of the system and how it was intended to work or are complicit in the conspiracy to end the experiment of freedom.

American citizens must learn the basics of our unique system or suffer the consequences. Members of The John Birch Society engage the community with educational literature and videos to teach these



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basics. Nearly all problems in our country can be solved by less government and more individual responsibility. To learn what this looks like, you need to understand the basics.

One of these is the difference between a democracy and a republic. Download a free PDF of Mr. Welch's booklet, read it, and share it. This is a staple that we recommend every JBS member have a small supply of to help orient others. Staff recently told me that the booklet was the hottest item on the table at a county fair thanks to a local chapter who hosted a booth. It's that type of active engagement that results in more activity, membership recruitment, and advances in our mission. Links are in the description to download and to purchase physical copies.

Then, if you believe in less government, more responsibility and — with God's help — a better world, then join this great organization to work with others on strategic projects to safeguard liberties and freedom in your community.

I'm Bill Hahn for The John Birch Society, and until next time, learn more, and take action!

ACTION ITEMS

Read and share or distribute *Republics and Democracies* ([free PDF](#) or [physical copies](#))

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