

On April 25, 2019, Joseph R. Biden, Jr. announced that he would run for President. Barack Obama's former Vice President had contemplated a run in 2016 but pulled out because of the death of his son Beau. The video announcing Biden's candidacy opens with scenes of the Charlottesville riot in August 2017 showing American neo-Nazis marching with torches shouting Nazi and anti-Semitic slogans such as "Blood and Soil!" and "Jews will not replace us!" Biden alluded to Europe's 1930s and noted that the riot occurred in the home of Thomas Jefferson, author of the *Declaration of Independence*, and criticized President Trump's opinion that there were "fine people" on both sides as establishing a moral equivalence between neo-Nazis and counter-demonstrators. Given the shock of Trump's four years of breaking constitutional norms, he said, the President's reelection threatened democracy. America was in a struggle for its soul: a theme that will mark Biden's presidency.

After 234 years, the U.S. Constitution is increasingly subject to attacks by determined enemies, including by those who claim to defend it and by presidents who claim to support limited government. In 1973, Arthur Schlesinger Jr.'s *The Imperial Presidency* warned that the office had become too powerful, and Trump exploited its power to subvert democracy by breaking down the separation-of-powers safeguards that have kept undemocratic tendencies in American society at bay.

The recent successes scored by authoritarian tendencies in American society can be traced to changes in a Republican Party that once embraced the principles of eighteenth-century liberalism, such as limited government, balanced budgets, and low taxation. It waged war against Democrats who favored increased government intervention in society and economics as the modern world became increasingly more complex.

The Republican involution began in earnest in February 2009, with establishment of the “Tea Party” faction. This title recalls a 1773 incident in which patriots in Indian garb threw cargoes of tea from ships into the Boston harbor to protest taxes on it. The guiding principles of this new group were limited government, lower taxes, anti-establishmentarianism, decreased federal spending, reduction of the national debt, opposition to immigration, and constitutional originalism. Identified with Supreme Court Justice Antonin Scalia—and now guiding the Court —“originalism” affirms that the constitutional system should adhere to the ideas of the founding fathers as expressed in their words, ironic because observers sometimes cannot agree on the meaning of some of these words. The Great Recession of 2008, when President Bush gave 700 billion dollars to save the banking system, and, later, when President Obama pushed through a like amount to stimulate the economy, gave impetus to the Tea Party’s foundation, and adoption of the brutal political style of former Speaker of the House Newt Gingrich. In 2010, Republicans won the House of Representatives, ending Democratic control of Congress, hampering Obama’s ability to achieve much of his progressive agenda, and setting the stage for Trump’s ascendance. The 2020 elections brought a halt to the authoritarian direction in which Trump was taking the country, but is it only temporary?

President Biden has made clear his strategy to end Trump’s influence by following a traditional Democratic, center-left policy, and that his model is Franklin D. Roosevelt. He has stressed returning the country to normality by restoring efficiency, ending the pandemic, and supporting the poor and middle classes. The great fear is that, as a traditional Democratic politician, calm, and a “gentleman,” he is too soft to defeat the battle-hardy, unscrupulous Republicans who have adopted Gingrich’s take-no-prisoners style and Trump’s subversive (some say Fascist) methodology. Biden has countered by touting his parliamentary experience and his

desire to find support within the Republican establishment to restore unity to the country and bipartisanship to politics. However, he has insisted that he will not allow Republicans to obstruct his agenda.

So far Biden's young presidency has achieved several important successes. His encouragement of Americans to wear masks to fight the pandemic—in contrast to Trump's politicization of this simple act—seems largely responsible for the dramatic decrease in infections and deaths. He has increased American efficiency in vaccine production by applying the Defense Production Act. His “American Rescue Plan Act,” signed on March 11, has not only sent \$1400 checks to most Americans, but has refocused the stimulus away from the rich to the poor and middle classes. It includes provisions for increased child-care support, strengthens Obamacare, under siege by Republicans, lowers health insurance costs for Americans priced out of the market, and offers inducements for states to join Medicaid (healthcare for the poor). It includes relief for small businesses, education, nutrition programs, housing, public transportation, paycheck protection, unemployed workers, state and local governments, and tribes.

But American democracy is still in danger because of the filibuster. No Republicans voted for Biden's plan, despite polls showing 70 percent approval in the country. While seeking Republican votes, Biden contemporaneously followed the “budget reconciliation” method that under certain conditions allows passage of economic measures by a simple majority, but the filibuster requires a supermajority of sixty votes for ordinary legislation to pass the Senate. Because the Senate is evenly divided between Democrats and Republicans, with Vice President Kamala Harris holding a tie-breaking vote, the Act passed, but only barely. Two moderate

Democratic Senators threatened to vote against it if certain provisions were not modified or eliminated—notably the increase of the minimum wage to \$15 an hour.

In trying to pass other Senate legislation, the Democrats will need sixty votes. The first fight will be over the “For the People” bill passed by the Democratic House of Representatives. Biden does not have any Republican votes for this and is in danger of losing the same two Democratic votes. There are ways to get around the filibuster, but they require a simple majority, and those two Democratic votes are uncertain.

On this crucial question rests not only the success of Biden’s democratic agenda, but also the future of American democracy. Biden is counting on his programs to win electoral support for reelection and to hold and possibly increase the Democratic congressional majority. The Republicans are reacting to the 2020 Democratic victory by passing legislation in the states they control to restrict access to voting. Republican-controlled state legislatures have introduced over 250 bills that will make it more difficult for Democratic-leaning voters to have access to the polls—especially African Americans—by limiting early and absentee voting and by giving state legislatures the power to overturn the popular vote for president. Along with gerrymandered districts (constructed in a way that favors one party over another) that have given them control of their states, the electoral college, and the reluctance of a Republican-dominated Supreme Court to rule against state modifications, electoral changes will cement the minority Republican political domination for decades. Consider that the Republicans have taken the presidency twice since 2000 despite their loss of the popular vote, and that in 2020 Trump came close to winning it once again though he trailed in the popular vote by 7 million.

Passing “For the People” in the House of Representatives has been the Democratic response. If adopted by the Senate and signed into law, this Federal legislation will trump

restrictive state legislation by instituting automatic voter registration, setting standards for early and absentee voting, establishing nonpartisan commissions to create congressional districts, reforming campaign financing, combating misleading information, tightening election security, and other fundamental reforms. A Republican Senator has condemned this proposal as having been written by the devil, and others have lamented that if the reforms are adopted Republicans would never win any more elections. More legislative initiatives will be coming from Biden on infrastructure, immigration, civil rights, police reform, and other issues that will transform the U.S. and save democracy. However, if the Democrats fail to eliminate or modify the filibuster so as to allow ordinary legislation to pass by a simple majority, American democracy will remain in danger.

This situation is inextricably entangled with the national nightmare: the possible return of Trump as President. The cover that the Republican Party keeps giving Trump has been attributed to elected Republican officials frightened of losing their positions if they do not swear fealty to him. A minority of Americans have had ideas similar to his base for decades: isolationists opposed American entrance into World War II before Pearl Harbor and Charles Lindbergh's "America First" gave its name Trump's program. In 2016 this minority (estimated at 40 percent) helped elect one of their own and, following Tea Party practice, maintains its clout through the primary system that encourages a small number of dedicated stalwarts to choose party candidates for office. Trump has vowed to incite primary challenges against any Republican hopefuls who do not pledge loyalty to him, and with a \$170 million slush fund raised from his supporters, he is a potent threat.

The question is: will the Republican Party lose seats if it sticks with Trump? The 2020 election did not settle the question; Trump lost reelection, but his party did relatively well.

Despite his denigration of the Republican establishment, it lacks the courage to challenge him.

Will Biden be able to overcome the challenges posed by Trump and Republican politicians who wish to maintain their power at all costs? This depends on modifying the filibuster. If anyone has the experience to do this and navigate a course between moderate and progressive Democrats (who demand the elimination of the filibuster), it is him. Until then, democracy is in danger.

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