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OPINION: SCHIEFFER



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December 18, 2011 12:17 PM

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(CBS News) Below is a rush transcript of "Face the Nation" on December 18, 2011, hosted by CBS News chief Washington correspondent Bob Schieffer. The guest is Republican presidential hopeful Newt Gingrich.

Schieffer: And good morning again. Welcome to Face the Nation, Mr. Speaker. Did you get or did you see Christine O'Donnell's support.

Gingrich: No . You have great researchers. That's an amazing clip.

Schieffer: The Des Moines Register, this morning, endorsed Mitt Romney. I have to get your reaction.

Gingrich: Well I'm actually delighted because the Manchester Union Leader, which is a reliably

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conservative newspaper, endorsed me. The Des Moines Register, which is a solidly liberal newspaper, did not endorse me. I think that indicates who the conservative in this race is.

Schieffer: I want to talk to you a little bit about this whole business. You really turned up the heat on what you call activist judges. You talked about this the last time you were on Face the Nation and yesterday you had a telephone conference call with reporters because you want to put this out front and center. In fact, your folks said to me be sure and ask him about judges so I know this is something you want to talk about. Basically, what you said was, sometimes in the past, presidents have paid no attention to the Supreme Court when it issued a ruling and you said there might be times or there would be times now when a president should just ignore the Supreme Court. I'm not sure I understand how that works

Gingrich: Well, Bob, I think part of the advantage I have is that I'm not a lawyer. And so as historian, I look at the context of the judiciary and the constitution in terms of American history. The fact is, I'll just give you two examples -- Judge Biery's ruling on June 1st that he would jail the superintendent if anybody at the high school graduation used the word benediction, used the word invocation, asked for a moment of silence, asked the audience to stand, or mentioned God, he would jail the superintendent was such an anti-American dictatorship of speech that there's no reason the American people need to tolerate a federal judge who is that out of sync with an entire culture. So I have to ask the question, is there an alternative? What's the recourse? Well, one recourse is impeachment. The Supreme Court, in Boumediene...literally inserted the American civil liberties onto the battlefield. Now this is the opposite of World War II where Franklin Delano Roosevelt told the Supreme Court, through his attorney general, that the 14 German saboteurs that have been picked up in the U.S. would be tried by military tribunal and executed and that he would not tolerate a writ of habeas corpus as commander in chief. And so you have this real problem that since 1958, when the war in court asserted by itself, that the Supreme Court was supreme over the president and the congress, you've had a fundamental assault on our liberties by the courts, you have an increasingly arrogant judiciary, and the question is, is there anything we the American people can do? The standard conservative answer has been, well, eventually we'll appoint good judges. I think that's inadequate. The constitution promises a balance of the judicial branch, executive branch and legislative branch. The Federalist Papers say specifically the weakest of the three branches is the judiciary. Jefferson abolishes 18 out of 35 federal judges.

Schieffer: They'd just been created, though.

Gingrich: They'd just been created and they'd been appointed. And he abolishes them. Over half of all the judges. Jackson says of the court, they think the bank of the United States is constitutional, I don't think it's constitutional. Their opinion doesn't matter to me. I'm the president, they're over the judiciary, he vetoes it. Lincoln spends part of his first inaugural because people tend to forget, the Supreme Court in Dred Scott, ruled that slavery extended to the whole country. And Lincoln said very specifically, that's the law of the case that is not the law of the land. Nine people cannot create the law of the land or you have eliminated our freedom as a people.

Schieffer: Mr. Speaker, the old saying in legal circles is that the Supreme Court is not last because it's right, it's right because it's last. There comes a point where you have to accept things as the law of the land. How do you decide, how does the president decide what's a good law and I'm going to obey the Supreme Court or what's a bad law and I'm just going to ignore it?

Gingrich: I think it depends on the severity of the case. I'm not suggesting that the congress and the president review every decision. I'm suggesting that when there are decisions, using Boumediene as an example, in which they're literally risking putting civil liberty rules in battlefields, it's utterly irrational for the Supreme Court to take on its shoulders the defense of the United States. It's a violation of the constitution.

Schieffer: Brown vs. Board of Education was a very controversial decision. There were large number of people in the United States that didn't want to do that. Are you saying that should the president have been so disposed, he could have just ignored that?



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Gingrich: I'm saying that in the case of Dred Scott, which was an equally important and terrible decision, remember the court's sometimes right, the court's sometimes wrong.

Schieffer: Well that was then, this is now.

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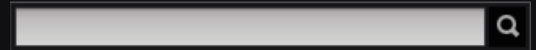
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Gingrich Says He Would Arrest Judges With Capitol Police Or U.S. Marshals



First Posted: 12/18/11 12:10 PM ET Updated: 12/18/11 12:20 PM ET

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WASHINGTON -- With just weeks to go before the Iowa Caucus, Newt Gingrich has turned his presidential campaign into a veritable megaphone warning about the dangers and elitism of America's judicial system. The former House Speaker held a half-hour phone call on Saturday during which he pledged to abolish courts and eliminated activist judges he believed were either outside the mainstream or infringing too deeply on the commander in chief's authority.

On Sunday, he followed that up by saying he would be willing to arrest a judge who he thought was out of line.

"If you had to," he said on CBS's "Face the Nation" when asked if he would send a Capitol Hill police officer to round up a judge, "or you would instruct the Justice Department to send the U.S. Marshal." His preference, he added, would be to impeach the judge in question.

That Gingrich is willing to resort to these measures isn't necessarily surprising to longtime watchers of the former Speaker. He has made criticism of the judiciary a rallying point for many years, peppering speeches to conservative audiences with calls to simply get rid of the Ninth Circuit Court of Appeals and U.S. District Judge Fred Biery in San Antonio. As his prospects of actually winning the Iowa Caucus have improved, the rhetoric isn't being tempered. If anything, it's getting more fiery.

"You have an increasingly arrogant judiciary," he said on "Face the Nation." "The question is: Is there anything we the American people can do? The standard answer has been eventually we'll appoint good judges. I think that's inadequate. The

constitution promises a balance of the judicial branch, the executive branch and the legislative branch. The federalist papers say specifically the weakest of the three branches is the judiciary.

As he singled out the Ninth Circuit, once more, for determining that it was unconstitutional for public schools to require the recitation of the Pledge of Allegiance and Biery for outlawing prayers in graduation ceremonies, the CBS show's host, Bob Scheiffer seemed frightened.

The Appeals court had overturned Biery, Scheiffer noted. "The system worked."

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"Mr. Speaker," Scheiffer said, "you know, the old saying in legal circles is that the Supreme Court is not last because it's right. It's right because it's last. There comes a point where you have to accept things as the law of the land. How does the president decide what is a good law -- and I'm going to obey the Supreme Court-- or what's a bad law and I'm just going to ignore it."

"I think it depends on the severity of the case," Gingrich replied. "I'm not suggesting that the Congress and the president review every decision. I'm suggesting that when there are decisions ... in which they are literally risking putting civil liberty rules in battlefields. I mean it is utterly irrational for the Supreme Court to take on its shoulders the defense to the United States. It is a violation of the constitution."

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It is this way the GOP often comes close to flirting with fascism! Funny, how they do not even realize it because they cloak it so in patriotism. Gingrich's reactionary idea would trump the idea of separation of powers, clearly making the power of the judiciary beholden to the executive who can bring charges against judges if they decide an issue the wrong way. How can the judiciary be [Read More...](#) independent when it can be arrested by U.S. marshals for making an opinion Gingrich considers too liberal? Gingrich reveals he is not at all interested in governing a democracy, but being an emperor where he can fight his culture war battles with no constraints at all.

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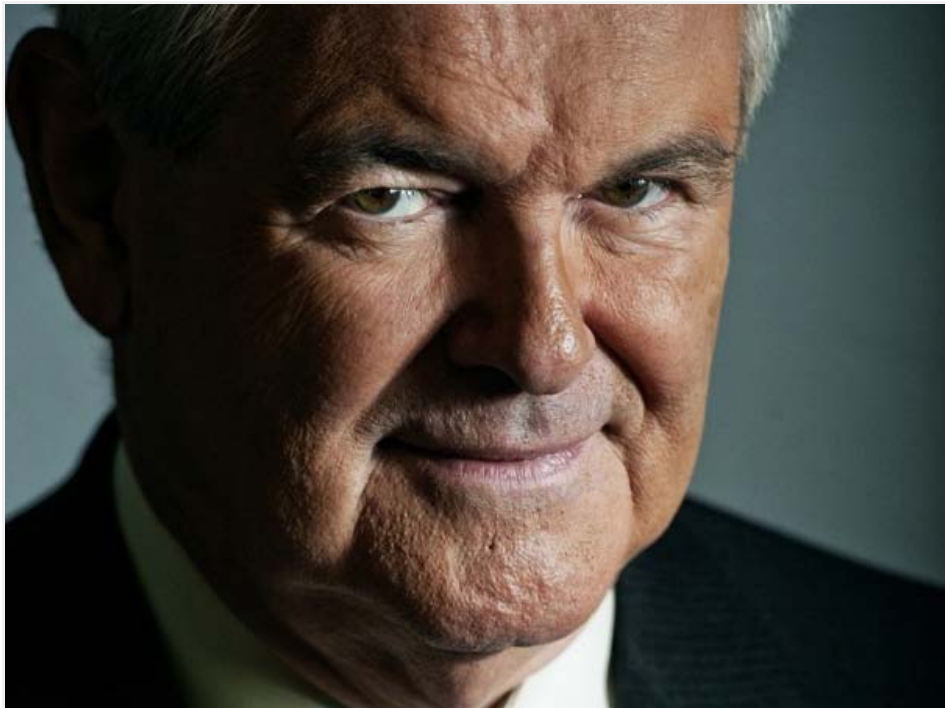


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Newt Gingrich's assault on 'activist judges' draws criticism, even from right



View Photo Gallery — A look at the former House speaker now seeking the GOP presidential nomination.

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By Amy Gardner and Matt DeLong, Published: December 17 | Updated: Sunday, December 18, 2:20 PM



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Never one to be accused of timidity, Republican presidential contender Newt Gingrich is turning up the volume of his ongoing assault on “activist judges” so high that even conservatives say he is going too far.

In a half-hour phone call with reporters Saturday, Gingrich said that, as president, he would abolish whole courts to be rid of judges whose decisions he feels are out of step with the country.

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A look at how the 2012 Republican candidates for president differ on key issues.



Former Speaker of the House Newt Gingrich explained to Bob Schieffer on "Face the Nation" his views of the U.S. judicial system. The Republican presidential candidate said that he would send U.S. Marshals to bring judges before Congress if the president disagrees with the court's ruling. (Dec. 18)

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“Are we forced for a lifetime to keep someone on the bench who is so radically anti-American that they are a threat to the fabric of the country?” Gingrich asked. “What kind of judge says you’ll go to jail if the word ‘invocation’ is used? If this isn’t a speech dictatorship, I’d like you to show me what one looks like.”

The former House speaker Sunday showed no sign of letting up on his assault on such judges. During an appearance on CBS’s “Face the Nation,” Gingrich suggested the president could send federal law enforcement authorities to arrest judges who make controversial rulings in order to compel them to justify their decisions before congressional hearings.

When host Bob Schieffer asked how he would force federal judges to comply with congressional subpoenas, Gingrich said he would send the U.S. Capitol Police or U.S. Marshals to arrest the judges and force them to testify.

In campaign speeches, he likes to criticize by name a federal judge in Texas who blocked prayer in a public school. On Thursday in Sioux City, Iowa, at the most recent presidential debate, he called for judges to be compelled to explain their decisions before Congress.

Gingrich has been emboldened by his reception on the campaign trail, where conservative voters have cheered his view that judges who have ruled in favor of gay marriage or against prayer in school are “activists” who should be thrown out. In particular, Gingrich has criticized the US Court of Appeals for the 9th Circuit, on the West Coast, as well as U.S. District Judge Fred Biery of Texas, who ruled this year that a public school district in Texas could not, among other things, use the words



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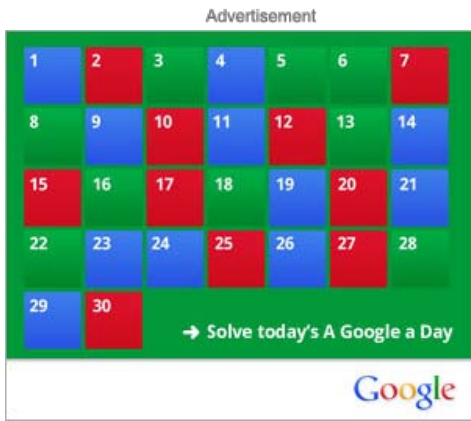
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“prayer,” “amen,” “invocation” or “benediction” during a graduation ceremony.

Judicial experts, including conservatives, are questioning the constitutionality of Gingrich’s stance. The Constitution specifically grants federal judges life terms with good behavior, many of Gingrich’s critics note, and provides only for impeachment as the way to remove bad judges. To do so by other means, they say, is an encroachment on judicial independence and an affront to the

separation of powers doctrine that underlies the entire document.

“Overall, he’s racing towards a cliff,” said Bert Brandenburg, executive director of the nonpartisan [Justice at Stake campaign](#), which advocates for an independent judiciary. “It may be expedient to appeal to specific voters in primaries or caucuses, but it’s a constitutional disaster. Americans want courts that can uphold their rights and not be accountable to politicians. When you get to the point where you’re talking about impeaching judges over decisions or abolishing courts or calling them before Congress, it’s getting very far away from the American political mainstream.”

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Gingrich who claims to be a historian ... See More

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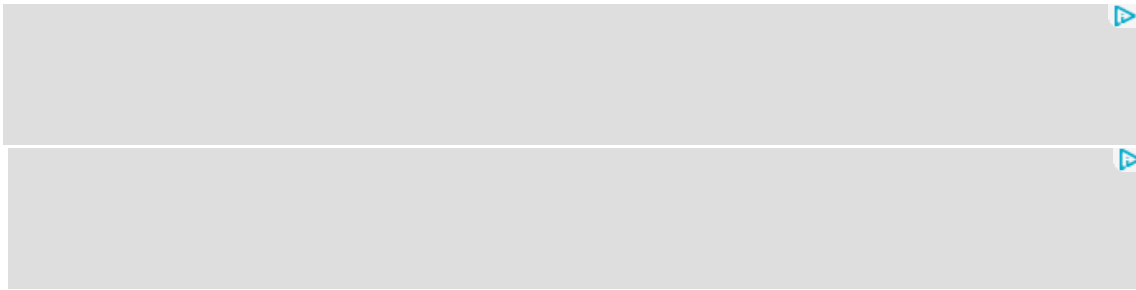
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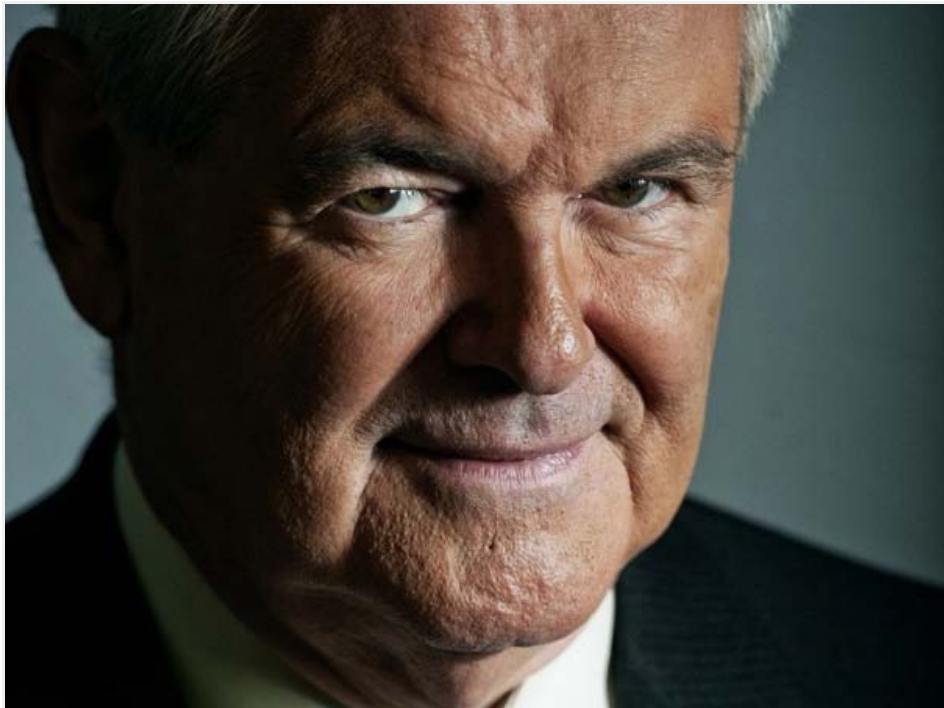


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Newt Gingrich's assault on 'activist judges' draws criticism, even from right



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outlines of his dim view of judicial activism. They include two former attorneys general under President George W. Bush — Michael Mukasey and [Alberto Gonzales](#) — as well as [columnist George Will](#).

Mukasey, [in an interview with Megyn Kelly of Fox News](#), said some of Gingrich's proposals were "dangerous, ridiculous, totally irresponsible, outrageous, off-the-wall and would reduce the entire judicial system to a spectacle."

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A look at how the 2012 Republican candidates for president differ on key issues.

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Former Speaker of the House Newt Gingrich explained to Bob Schieffer on "Face the Nation" his views of the U.S. judicial system. The Republican presidential candidate said that he would send U.S. Marshals to bring judges before Congress if the president disagrees with the court's ruling. (Dec. 18)

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Gingrich's opponents are seizing the opportunity to cast Gingrich as too far out on a limb, feeding a narrative that some of his ideas are simply too out there to qualify him for the nomination.

Fellow front-runner [Mitt Romney](#), a former Massachusetts governor, and [Rep. Ron Paul \(R-Tex.\)](#), pushed back against Gingrich's proposals during the debate Thursday. Romney rejected the idea of letting Congress police judicial decisions and said constitutional amendments are the way to "rein in excessive judges." Paul was harsher, calling the subpoena idea "a real affront to the separation of the powers."

Gingrich, with his penchant for citing history, told reporters Saturday that there is plenty of precedent to support his idea, going all the way back to Thomas Jefferson, who, as president in 1802, led the abolition of three federal circuits and 16 judgeships that had been created — and filled — by his political foes before he and his party took power.

"It's clearly constitutional, and Jefferson did it," Gingrich said. ". . . I raise that issue not because it's necessarily something that we would do but to indicate to the justices that there are clearly powers that historically have been used."

Asked whether such an act would provoke a constitutional crisis, Gingrich replied: "Actually, the courts are forcing us to a constitutional crisis because of their arrogance and overreach. The courts have been trying to impose an elitist value system on a country that is inherently not elitist."

Gingrich's critics say that it is one thing to abolish newly created courts and not



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replace them, as Jefferson did 200 years ago, but that it is another to remove judges and then replace them because of specific judicial decisions.

Michael W. McConnell, director of the Constitutional Law Center at Stanford University and a former federal appeals judge appointed by Bush, also observed

that conservative audiences “should not be cheering” and “are misled” if they believe Gingrich’s proposal is in their interest at a time when Republicans are looking to the Supreme Court to declare President Obama’s health-care law unconstitutional.

“You would think that this would be a time when they would be defending the independence of the judiciary, not attacking it,” he said. “You can’t have it both ways. It can’t be that when conservative Republicans object to the courts, they have the right to replace judges, and when liberal Democrats disapprove of the courts, they don’t. And the constitution is pretty clear that neither side can eliminate judges because they disagree with their decisions.”

Staff writer Robert Barnes contributed to this report.

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purpledrank wrote:
3:34 PM EST

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FergusonFoont wrote:

11:31 AM EST

Ol' Newtie seems to think he can strike a responsive chord with the ignorant Republican rank-and-file with these full frontal attacks on our system of justice. Many Republicans, particularly the bigot wing of their party that makes up about 50% of their total or more, blame our courts for things they hate, like the fact that they can't go around blatantly discriminating against minorities any more like they could in what they view as the "good old days." And these WOMEN, thinking they have RIG... See More

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OhMy wrote:

11:27 AM EST

The judicial was created independent of the other two branches of government in order to allow judges to rule without the interference of politicians. Judicial independence allows the courts to make their rulings without the improper influence brought to bear by other branches of government or political processes. The judiciary makes their rulings based on the law. They are able to make decisions based on the law even if the decision is unpopular.

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woodyag wrote:

11:22 AM EST

If we're looking for that kind of future, yes indeed, Kim Jong Grinch is ready to serve. Even has the same face! Makes you wonder about all the cloning noise from the Koreans...

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To Win Over Iowans, Gingrich Aims At Judges

by ARI SHAPIRO



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Charlie Neibergall/AP

Republican presidential candidate Newt Gingrich greets local residents after speaking at the Willow Ridge Golf Course on Dec. 15 in Fort Dodge, Iowa.

December 19, 2011

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In the final leg of the campaign in Iowa, the Republican presidential candidates are talking about judges. No one has made them a bigger issue than Newt Gingrich.

Overhauling the judiciary has become one of his key proposals on the stump.

Conservatives have used "activist judges" as a battle cry for many election cycles now. But in Iowa, the issue has special resonance since the judiciary became a potent political issue two years ago.

In 2009, the state Supreme Court legalized same-sex marriage. And conservative activist Bob Vander Plaats decided the people responsible needed to go. "We're going to become crystal clear in our focus on unseating three justices on the Nov. 2 ballot," he announced in August 2010.

That effort was successful. Those three justices are no longer on the state Supreme Court.

Drake University professor Rachel Caufield says that's thanks, in part, to Gingrich. "Newt Gingrich provided the seed money for that anti-retention campaign. And in doing so, he really created Bob Vander Plaats as the leader of the social conservatives in the state of Iowa," Caufield says.

'His Best Applause Lines'

So it's no surprise Vander Plaats has been praising Gingrich all over the state, and the candidate has made judges one of his key talking points.

But the Gingrich plan goes far beyond the kind of recall effort that was successful in Iowa. He has promised to eliminate entire courts and ignore Supreme Court decisions on issues ranging from national security to school prayer.

"I was, frankly, just fed up with elitist judges imposing secularism on the country and basically, fundamentally changing the American Constitution," Gingrich said on a conference call with reporters on Saturday.

On CBS's [Face the Nation](#) Sunday, he returned to the issue, saying Congress should subpoena and perhaps impeach judges who issue some controversial rulings.

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The host, Bob Schieffer, asked, "How would you enforce that? Would you send the Capitol police down to arrest him?"

"If you had to," Gingrich said. "Or you'd instruct the Justice Department to send the U.S. marshal."

Some prominent conservative legal scholars have called these proposals ridiculous and irresponsible. But Caufield, who opposed the effort to recall the Iowa justices, says Gingrich's ideas are resonating with voters.

"These are his best applause lines at these events across Iowa," Caufield says. "In large part, I think that's because we had an anti-retention campaign, and this is now a key issue among social conservative voters."

That's helpful for Gingrich, because his stance on abortion and his three marriages have alienated him from some social conservatives. This issue may bring some of those voters back into the Gingrich fold.

Making Judges A Target

And Gingrich is not the only candidate to talk about judges during the campaign.

Recently, Texas Gov. Rick Perry had a memory lapse in front of the *Des Moines Register's* editorial board — he had to be reminded of Justice Sonia Sotomayor's name when talking about President Obama's appointment of "activist judges."

Former Pennsylvania Sen. Rick Santorum regularly talks about the hours he put in on the "judge bus" that traveled around the state during the recall campaign in Iowa. And Minnesota Rep. Michele Bachmann often praises Iowa's voters for throwing out those justices.

"People in Iowa are sick and tired of having judges tell them what their laws are," she said on Fox. "They're not a superlegislature. They're judges. And they need to act like judges."

Judges are always a useful target for politicians, because they tend not to fight back. But Gingrich is the only one who has made this a core issue of his campaign in such an ambitious way.

Caufield says some of his proposals are things a president cannot do on his own. Others might create a constitutional crisis between the White House and the courts.

"There have been other times where we've seen concerted attacks against the courts," she says. "Those attacks on the courts usually fail."

But in the short term, they can succeed at rallying voters behind a candidate.

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Jim Smith (JimII) wrote:

Maybe after he's done taking the power away from the Supreme Court, he can take the power away from congress as well.

Wednesday, December 21, 2011 2:13:16 PM

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Joseph Danko (XUnivac) wrote:

Well, it looks like its 1935 in the Weimer Republic of Iowa. Heil Newt!

Wednesday, December 21, 2011 10:07:02 AM

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Ken Rhinewise (PORTY) wrote:

Here is what scares the bejesus out of me. When a republican candidates want to increase his or her poll numbers it's just a matter of dumbing down.

Tuesday, December 20, 2011 5:42:58 PM

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Isaac Bresnick (IBnpr) wrote:

That's not how our government works, Mr. Gingrich. Sorry. If you'd like, you can push for Constitutional Amendments to overturn Marbury v. Madison, but that's about all you got, bro.

Tuesday, December 20, 2011 3:50:06 PM

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Bruce Foster (bwf27) wrote:

The little demons normally living in Newt's mind finally escaped their flimsy containment module at Newt's lunar colony where they make the mirrors to beam down sunlight to Mother Earth and maintain the defense shield agains EMP attacks. If the Newt the Prez believes a judge is engaged in judicial activism(and just how does Newt the Prez divine this?.. why, with his divine gifts of superior intellect and extaordinary judgement, yes?)The Newt will arrest him! arrest the scoundrel! boil him in oil! Have him tarred and feathered and run out of town on a rail! have him drawn and quartered! How dare a mere judge pretend to know the heart and soul of our most sacred Constitution? Written by the Hand of God through the pens of our Founders? The clear understanding of which is only granted to a most select few! Like The Newt. El Presidente Newt. El Generalissimo Newt. Lord Newt.

Tuesday, December 20, 2011 3:29:47 PM

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L L (yinyang) wrote:

Where in the Constitution, Newt, does it say judges can pick the POTUS? Didn't have any outrage there. Impacted way more lives than letting gay people get married in one state. I bet Newt's life wasn't impacted one bit by those gays gettin hitched. But we got 9/11, two wars, and a financial meltdown out of that Supreme Court decision. Way to set your priorities.

Tuesday, December 20, 2011 3:11:16 PM

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L L (yinyang) wrote:

Yeah Michelle, they need to act like judges and quit issuing judgements on cases...that come

@michele_norris On Twitter

Framers did not imagine or anticipate many things that are standard facts of life today

about 2 hours ago

Is constitution set in stone as framers imagined. Or, is law like a river flowing past field & factory & offices filled w/ computers & women

about 2 hours ago

Very interesting convo on @drshow about the 14th amendment

about 2 hours ago

And yea she is a member of THAT Ifill family.

about 2 hours ago

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This was a hilarious piece about swag from @sami_yenigun <http://t.co/qdsjtccz>

about 18 hours ago

On air now: piece abt touch technology w/ 2 montages of almost every song @ASILVERMAN could think of w/ "touch" in it <http://t.co/5Zuya5UK>

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We also love it. @Kinsale42 One of my favorite things about the holidays is the Sleigh Ride version of the @npratc theme song. :-)

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before them. How dare they.

Tuesday, December 20, 2011 3:07:29 PM

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Team Burgers (TeamBurgers) wrote:

God help us if this kind of thinking ever comes to power.

Tuesday, December 20, 2011 1:22:10 PM

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Gene K (genek1953) wrote:

Back in the 60's someone conducted a little survey in which they asked people on the street to read a copy of the Bill or Rights and comment. A substantial percentage thought it was the work of Karl Marx or Mao-Tse-Tung. Some things never change.

Tuesday, December 20, 2011 1:09:18 PM

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Lostn Translation (RagDoIIcat) wrote:

Sadly, I think Newt is beginning to believe his own press releases. I believe his "original objective" was to score points for his forthcoming books (Always marketing his "brand"), so anything he said could get his foolish followers to buy his panderings (Ann Coulter and Sarah Palin are also experts in that area: Fleecing the Republican faithful.) But now he may actually be delusional. Or just doing more marketing. Either way, he'll have a book out soon, explaining all (and making \$\$\$ at his followers' expense.) P.T. Barnum (probably was a Republican!) had it right: "There's a sucker born every minute...". Newt has proven he's lost his academic credentials as a history professor, but he keeps acting like he's still got tenure. I don't know what's sadder: His delusions, or the people who believe and follow him. But that's good. Maybe he'll decide to go the independent ticket. He'd be doing everyone a favor.

Tuesday, December 20, 2011 12:46:40 PM

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Remarks by Former Speaker of the House Newt Gingrich

NEWT GINGRICH: You know, you're here at a historic moment. I think this is the first time in American history that two Georgians running for president have been back to back talking to an audience. (Laughter, applause.) I was just -- I was just comparing notes with Herman offstage. I don't know if you've watched it, but the elite media said several weeks ago this was now a two-person race. And Herman and I have decided that may be right, but they have the wrong two people. (Cheers, laughter, applause.)

And it is kind of interesting that the two guys who have gotten the most money have lost the most votes, and the two guys who had the most ideas have gained the most votes. And that might -- I don't want to be too optimistic, but that might convince the elite media that maybe there is more to politics than fundraising and consultants, and maybe having a heart and a brain actually matters a lot. (Cheers, applause.)

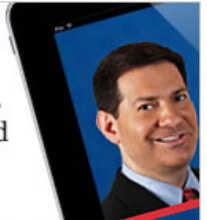
Now, I think we are in a period of enormous challenge. I think that part of that challenge is Barack Obama, but frankly, I think it's much deeper. We have bureaucracies out of control. We have judges who don't understand the Constitution. We have teachers who don't believe in American history. We have an academic class that is in many ways alienated from the American people and an elite media which, frankly, I think, has no understanding of the origins of the United States and the nature of American civilization.

So we have a lot of work to do. Recently I released -- and you can see it at

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newt.org -- a contract -- 21st century "Contract with America." And it outlines the scale of change. It outlines both a legislative program, and it outlines a first-day program of very specific executive orders.

Now, let me you give an example. Imagine about 3:30 or 3:45 on inauguration day, the inaugural address is over. We've said goodbye to folks. We take about an hour and a half, and we start signing between 50 and 200 specific orders moving the government away from Obama and back towards the American tradition. (Cheers, applause.)

Now I don't -- you can go to newt.org and you'll see a section -- and this is open to you -- we will release all the executive orders by October the 1st next year, so it will all be a part of the closing month of the campaign. And if the president says he's for one of them, we'll print it out, he can sign it. (Laughter.)

But -- but I can -- I don't know what all of them will be, but I can tell you what the first one will be. Around 3:45 or 4:00 on the afternoon of the inauguration, about the time that President Obama gets to Andrews Air Force Base to get on Air Force One to go back to Chicago -- (cheers, applauses) -- I will sign executive order number one, which will abolish as of that moment every White House czar. (Cheers, applause.)

Now, I wanted to come today to talk about a historic crisis that only indirectly relates to the president. You know, Abraham Lincoln said, if you debate somebody who does not agree that two plus two equals four, you probably can't win the argument because facts make no difference. And I want to start with that example.

Imagine that by a 5-to-4 vote the Supreme Court decided that two plus two equals five. Under the current theory which the Warren court promulgated in 1958, the only effective recourse would be either, A, to get a future Supreme Court to reverse them, or B, to pass a constitutional amendment declaring that two plus two equals four.

Now I want you to think about the absurdity of this. I mean, do any of you seriously believe that five appointed lawyers decided two plus two equals five, that the rest of us would promptly change our school textbooks, change our accounting systems? I mean, some people may. That could well explain Obama's budgeting system.

But -- (laughter) -- but obviously this is absurd. It can't possibly be true that the Founding Fathers wrote into the Constitution a very elaborate, complex process of amending the Constitution and said, however, that if the Supreme Court is split 4-to-4 between liberals and conservatives, and Justice Kennedy gets up in the morning, he becomes a one-person Constitutional Convention. If he gets up and he feels conservative that day, it must be a conservative Constitution. If he gets up and he feels liberal that day, it must be a -- this is an absurdity foisted on us in 1958 by a historic lie. There is no judicial supremacy. It does not exist in the American Constitution. (Cheers, applause.)

Let me be clear. Judicial supremacy is factually wrong, it is morally wrong, and it is an affront to the American system of self-government. (Cheers, applause.) One of the major reasons that I am running for president of the United States is the 9th Circuit Court decision in 2002 that one nation under God, in the Pledge of Allegiance, was unconstitutional. That decision to me had the same effect that the Dred Scott decision extending slavery to the whole country had on Abraham Lincoln, because I thought, if an American appeals court could be so radically out of touch with America that it could seek to block children from saying one nation under God as part of their description of America, that we had come to a point when we needed a constitutional crisis to reassert the legislative and executive branches' legitimate prerogatives to teach the judiciary that they cannot be anti-American and expect us to tolerate them radically changing our society by judicial dictate. (Cheers, applause.)

Now, what I'm saying to you is in the best tradition of the American Revolution. Read the Declaration of Independence. A very large number of its specific charges against Great Britain involve dictatorial judges. The fact is, the Founding Fathers deeply distrusted judges and thought that the lawyer class was dangerous and that you could not give them unbridled power or they would undermine and



Newt Goes to the Land's End

destroy free society. (Applause.)

AUDIENCE MEMBER: Correct! Right!

MR. GINGRICH: Now, this is not some marginal position. Thomas Jefferson, asked about judicial supremacy, said that is an absurdity; that would be an oligarchy.

And so I think we are faced at one of the great crossroads of American life. And it's doubly dangerous because, you see, if judges think that they are unchallengeable, they are inevitably corrupted -- corrupted in a moral sense. I don't mean taking money. But I mean in a sense of arrogance, in a sense of imposing on the rest of us, whether it's one judge in California deciding he knows more than 8 million Californians about the definition of marriage -- (applause) -- whether it's a judge in San Antonio who rules that not only can schoolchildren not say a prayer at their graduation, they cannot use the word "benediction," they cannot use the word "invocation," they cannot use the word "God," they cannot ask the audience to stand, and if they do any of these things, he will lock up their superintendent.

Now, the idea of an American judge becoming a dictator of words is so alien to our traditions and such a violation of our Constitution, as I will explain in a moment, that that particular judge should be removed from office summarily. (Cheers, applause.)

Lord Acton warned in the 19th century that power tends to corrupt, and absolute power corrupts absolutely. Notice he dropped the word "tends." And the courts in the last 53 years have proven that Lord Acton is right because with each passing decade, the judges have become more hostile to the American tradition. They now openly talk about using foreign sources of information because, after all, the American Constitution is so old and so antiquated. A justice who believes that shouldn't be serving on the American bench. (Cheers, applause.)

We have a very lengthy paper, the work of years of -- of -- of effort by a number of us, edited by Vince Haley, which we have published this afternoon at newt.org, which outlines step by step how fundamentally profoundly ignorantly anti-American the current judicial model is that is taught in virtually every law school in this country. It is profoundly wrong. And as Steve King has pointed out, one of the major impediments and threats to democracy today is the very behavior of the law schools, which teach a usurpation of power in a way that is utterly unsustainable.

The Founding Fathers designed our Constitution based on Montesquieu's concept of the balance of power. We're supposed to have three co-equal branches. There can be no supremacy if there are three co-equal branches, by definition. Otherwise, you'd have a superior branch and two inferior branches.

But it's worse than that. If you read Hamilton in the Federalist Papers, he says the courts couldn't possibly take on the legislative and executive branch because they would inevitably lose. And what did he mean by that? This is, I think, one of the most important things we will explore over the next year.

And because this is a more complicated topic than a 30-second answer during a game-show version of a presidential debate -- (laughter, cheers, applause) -- as the Republican nominee, I will, in my acceptance speech, challenge the president to seven Lincoln-Douglas-style three-hour debates with a timekeeper and no moderator. (Cheers, applause.) One of those debates should be on the Declaration of Independence, the Constitution, the Federalist Papers and the nature of the American judiciary. (Cheers, applause.)

Jefferson is the most clear example of taking on the judiciary. In the Judicial Reform Act of 1802, the Jeffersonians eliminated 18 out of 35 federal judges -- didn't impeach them, just abolished their offices -- told them to go home. (Cheers, applause.) Now, I'm not -- let me be clear: I am not as bold as Jefferson.

AUDIENCE MEMBER: No.

MR. GINGRICH: I think the judge in San Antonio would be an important initial signal, and I think the 9th Circuit Court should be served notice -- (cheers, applause) -- that it runs the risk of ceasing to exist.

Jackson in -- in tackling the Bank of the United States, which he said was a(n) overly centralized form of power -- think of it as the earlier Bernanke -- was told, well, the Supreme Court has said that it's constitutional. He said: Fine, that's their opinion. (Laughter.) And he said: I have a different opinion. I am the president. They're a court. They get their opinion in court. I get my opinion in the White House.

AUDIENCE MEMBER: Right.

MR. GINGRICH: Lincoln spends the -- a large section of his first Inaugural Address explaining with the Dred Scott decision may be the law of the case, but cannot be the law of the land, and Lincoln refuses to enforce the Dred Scott decision while he's president, period.

So people who come in and say, oh, as Nancy Pelosi once said, if the court speaks, it's as though God has spoken. (Laughter.) Now be fair. Having somebody from her branch of the party recognize God is an important step in the right direction. (Laughter, applause.)

On the issue of God in American public life, a country created because we are endowed by our Creator --

AUDIENCE MEMBER: Yeah!

MR. GINGRICH: -- the courts have been historically wrong at least since the late 1940s and have gotten worse and worse, more and more anti-religious, more and more secular, and more and more hostile.

And the question of national security -- in the last few years, the courts, I think, have become virtually out of touch with reality. The idea that the courts are now going to take on responsibility for defending the United States is a clear and fundamental violation of the Constitution and a fundamental violation of the executive branch's power, and the Congress should pass a law repudiating every interference of the courts in national security issues and returning them to the Congress and the president, where they rightly belong. (Applause.)

On abortion, the courts are wavering all over the place. They start with a clear and definitively stupid decision over here, and they've modified it at least twice since then. They don't know what they're doing. The fact is, Robbie George (sp) of Princeton may be right and we should explore very seriously whether we could use the 14th Amendment to define life in a congressional statute and insist that that be in fact the law of the land. And I think it's something we should look at very, very seriously. (Cheers, applause.)

On marriage, it should be quite clear, on issues like the Defense of Marriage Act, that we should simply say it can't be appealed, as it simply -- you -- it's very clear in the Constitution. The Congress can decide what can be appealed. The Congress can exclude things from going to the court. In the Judicial Reform Act of 1802, they refused to let the Supreme Court hear about it for 14 months, until they'd finished wiping out all the judges. (Laughter, applause.) They said -- they said: We want to establish a fact on the ground before you get to hear it. So this is clearly written in the Constitution.

Now I said -- I mentioned Jefferson, but there are other steps you could take that -- that are far short of wiping out half the judges. One, you can hold hearings. I -- I think for the Congress to bring in Judge Berry (sp) from San -- San Antonio and say to him, explain to us your rationale --

AUDIENCE MEMBER: Yeah. (Applause.)

MR. GINGRICH: -- by what right will you dictate speech to the American people? How can you possibly take your court order and the First Amendment and tell us that this is about free speech? Just -- judges who knew that when they were radically wrong they'd be hauled in front of Congress would immediately have a sobering effect about how much power they have.

Second -- (applause) -- presidents can follow the precedent of Lincoln. I would instruct the national security officials in a Gingrich administration to ignore the recent decisions of the Supreme Court on national security matters, and I would interpose the presidency in saying, as the commander in chief, we will not enforce this. And by the way, for our liberal friends, the source of that is Franklin Delano Roosevelt. (Applause.)

In 1942 a group of German saboteurs were landed in Florida and Long Island. They were all picked up within two weeks. Roosevelt brought in his attorney general and said: They will be tried in a military court, they will be executed, it should happen within three weeks, and tell the Supreme Court if they issue a writ of habeas corpus, I will not honor, and therefore they should not issue it. I am the commander in chief in wartime. They aren't. (Applause.)

Congress has the power to limit the appeals, as I mentioned earlier. Congress can cut budgets. Congress can say: All right, in the future, the Ninth Circuit can meet, but it will have no clerks. (Laughter.) By the way, we aren't going to pay the electric bill for two years. (Laughter.) And since you seem to be -- since you seem to be rendering justice in the dark, you don't seem to need your law library, either. (Laughter.)

This is, by the way -- I am paraphrasing Hamilton in "The Federalist Papers," in which he is defending -- he says flatly, the judiciary's the weakest of the three branches. I mean, this modern model is just totally opposite the American tradition. (Applause.)

Obviously, I'm only outlining for you item nine of the legislative part of the 21st-century Contract With America. And yet you can tell just from this, I mean, the struggle we're going to have with the lawyer class over shrinking their power and their dreams of being the people who dictate to America how we should behave -- just in that one zone, imagine how big this conflict is, and then you have other zones. How do we create jobs? How do we get the National Labor Relations Board under control so it's not attacking Boeing and other job creators? How do we replace the Environmental Protection Agency with an environmental security -- with an environmental solutions agency that has common sense, cooperation, takes into account the economy?

I mean, step after step of things that really matter: How do we control the border by January 1 of 2014? Which you can do, by the way. You pass a law very early in 2013 that says: We are suspending any regulation or law which would inhibit us from the National Security Act of securing our border -- no environmental impact statement, no confusion; get it done now. (Cheers, applause.)

Each of these steps will be met with substantial resistance by the reactionary forces who had dreams of creating a radically different America. And each of these steps has to win, if we're going to give our children and grandchildren the free, safe and prosperous country that our children and grandchildren -- that our parents and our grandparents gave us.

I came here today because I think this is going to be a tremendous struggle. I did not come here today to ask you to be for me, because if you're for me, you're going to vote and go home and say: I sure hope Newt does it. And I can't; no one person can do this. Under our Constitution, the president can lead the American people in educating the Congress, in changing things. If we shrink the power of Washington by applying the Tenth Amendment, we have to grow citizens back home to fill the vacuum. (Cheers, applause.)

So I came today to take this opportunity to outline for you one of the great historic decisions we will make over the next few years: whether we take back the courts, we rebalance the Constitution, we insist on judges who understand the Constitution. And I can promise you, in a Gingrich administration, only people who are dedicated to the original document and its original meaning will get any court appointment at any level. (Cheers, applause.)

So let me just close and say to all of you I am here to ask you to be with me, to ask you to be with me for eight years, to ask you to stand side by side to make sure that we once again reclaim America from the forces of socialism, from the forces of class warfare, from the forces of secularism, from the forces who would let -- try to get us to not teach our children about the history of this great country.

If you will be with me, together we will decisively defeat Barack Obama, we will defeat the Democrats in the Senate, and over the next few years, we will decisively reclaim America as the land of the free and the home of the brave.

Thank you. Good luck, and God bless you. (Cheers, applause.)

(END)



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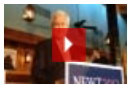
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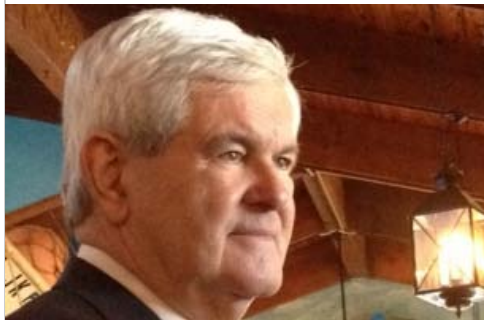


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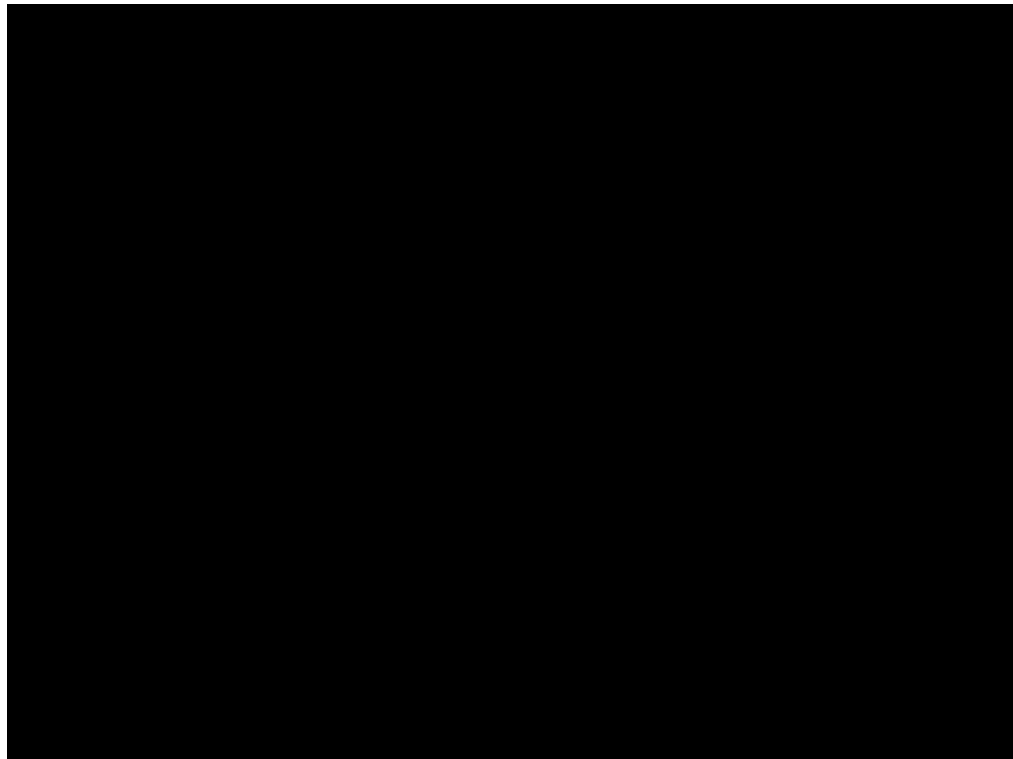
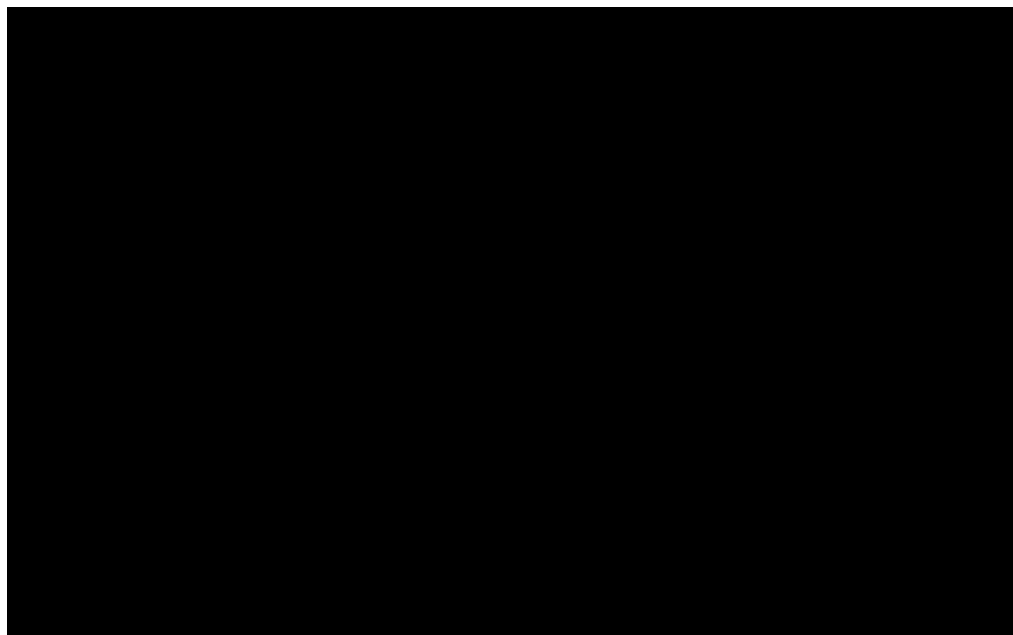


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Restore the proper role of the judicial branch by using the clearly

delineated powers available to the president and Congress to correct, limit, or replace judges who violate the Constitution.

In the last half-century, a political and activist judiciary has stepped far beyond its proper boundaries.

Article I of the Constitution covers the legislative branch, because the Founding Fathers thought it would be closest to the people and therefore the strongest branch. The time has come to reestablish a balance among the three branches of government according to the Constitution.

Article II concerns the Executive Branch because the Founding Fathers had lived through an eight-year war with the British Empire and knew there were times when there would have to be a strong executive and a competent Commander-in-Chief implementing the law and defending the nation.

The Judicial Branch did not come until Article III because the Founders wanted it to be the weakest of the three branches.

The Federalist Papers explicitly recognized that the Judicial Branch would be weaker than the Legislative and Executive Branches. In Federalist 78, Alexander Hamilton wrote reassuringly that the Judicial Branch would lose any confrontation with the two elected branches:

"the judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two."

The Founding Fathers felt strongly about limiting the power of judges because they had dealt with tyrannical and dictatorial British judges.

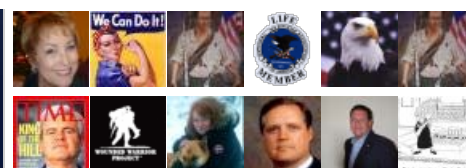
In fact, reforming the judiciary was second only to "no taxation without representation" in the American colonists' complaints about the British Empire prior to the revolution. A number of the complaints in the Declaration of Independence relate to judges dictatorial and illegal behavior.

There are clear legislative and executive remedies for courts and judges that violate their oath of office, act beyond the judicial power, or otherwise act in a manner that violates the Constitution, and these remedies have been used in the past. Since the New Deal of the 1930s, however, the power of the American judiciary has increased exponentially at the expense of elected representatives of the people in the other two branches. The judiciary began to act on the premise of "judicial supremacy," where courts not only review laws, but also actively seek to modify and create new law from the bench. The result is that courts have become more politicized, intervening in areas of American life never before imaginable.

For example, Thomas Jefferson and the new Congress abolished over half the federal judgeships and reorganized the federal judiciary with their repeal of the Judiciary Act of 1801 and their passage of the Judiciary Act of 1802. Congress also has the power under Article III of the Constitution to regulate the jurisdiction of the Supreme Court and other federal courts.




I look forward to having a national conversation about a bill that will establish a constitutional framework for reigning in lawless judges, reestablishing a Constitutional balance among the three branches, and bringing the Courts back under the Constitution.

Read an extended white paper on this topic [here](#).









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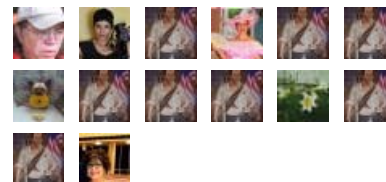
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Focusing on Nomination, Paul Plots a Backup Plan



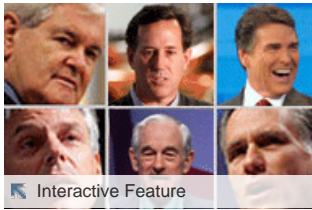
Luke Sharrett for The New York Times

Representative Ron Paul, on Sunday in Myrtle Beach, S.C., is working to amass delegates.

By RICHARD A. OPPEL Jr.
Published: January 15, 2012

LAKE JACKSON, Tex. — [Ron Paul](#) says he has by no means given up on winning the Republican presidential nomination, but he acknowledges that he might not make it.

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“The odds are right now that Romney, he pulls it off,” Mr. Paul, a Texas congressman, said in an interview here. “But he doesn’t even have a guarantee in a week. That whole thing can shift rather quickly.”

So even as his aides plot a strategy to pick up delegates, they are beginning to plan how to use the leverage they are gaining to try to force the party to take his and his supporters’ views into account, signaling what Mr. Paul would want to party officials and rival candidates who are eager for the backing of his fervent following but nervous that he might undertake a third-

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party bid.

One person close to the Paul campaign said this could include support for greater transparency at the Federal Reserve, a commitment to address what Mr. Paul views as the [Patriot Act](#)'s infringement on civil liberties and a curb on the powers of any president to wage war without Congressional approval. And the campaign wants Mr. Paul's supporters to have a voice and a role in the national party machinery — just like they do in many state Republican parties — no matter who becomes the nominee.

"The more delegates I have, the more leverage I have," Mr. Paul said in the interview here, during which he candidly discussed his hopes but remained circumspect

about some issues. "We'll go after delegates, and we have staying power."

Asked whether he believed he would have the leverage to make Republicans more willing to accommodate his supporters and positions, he said: "I don't know how they're going to handle it. Because we're very precise on what we would like, and I can't imagine all of a sudden one of the other candidates changing their position on their desire to go to war constantly."

He added: "How much leverage do I have? How many more votes am I going to get? You know, the more pressure they feel, the more they might be willing to look at some of those issues. We want to change things."

But that is a fallback strategy, and Mr. Paul and his advisers say they are in it to win. They see a route to obtaining the 1,144 delegates needed by not overemphasizing primaries in expensive media markets, especially those where it is harder for independents to vote, and focusing on less-flashy contests where the expected cost per delegate is weighted more in their favor.

They will also try to win delegates through the machinery of state parties, where Paul supporters are now embedded in the apparatus. In Iowa, for example, whose delegates are not explicitly tied to caucus results, they believe they can take delegates that might otherwise be awarded to Rick Santorum, who essentially tied for first place with Mr. Romney, one Paul official said.

This "Moneyball"-like approach to delegates, which takes a page from the 2008 campaign of Barack Obama, is about to be put into play. Mr. Paul may make only one stop in Florida before that state's Jan. 31 primary and will instead focus his efforts after the South Carolina primary on Saturday on caucuses in Colorado, Maine, Minnesota and Nevada and other places where the cost of television and mail programs is less expensive and where election rules favor his strategy.

People close to the Paul campaign say it would cost them \$9 million to \$10 million to run an effective campaign in Florida, where only about 50 delegates are at stake. Florida is a closed primary, so independent voters important to Mr. Paul's strong showing in Iowa and New Hampshire cannot register just before the election. The state is also a winner-take-all contest, meaning only the victor walks away with delegates.

"There are four big caucuses coming up, with twice as many delegates as Florida, that will cost a third as much money, and we are focused on those," one Paul official said.

With 28 delegates at stake, North Dakota also illustrates the strategy: the Paul campaign



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estimates that it will cost just \$500,000 to run an effective campaign there, and delegates are awarded proportionately, so even if they do not finish first they could walk away with a decent allotment.

A version of this article appeared in print on January 16, 2012, on page A15 of the New York edition with the headline: Focusing on Nomination, Paul Plots a Backup Plan.



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Focusing on Nomination, Paul Plots a Backup Plan

Published: January 15, 2012

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That strategic addition of delegates will help Mr. Paul, especially if [Mitt Romney](#) wins the next two primaries and other candidates bow out. Some Republicans say Mr. Paul could win second place in delegate counts, more than rivals who would no longer be able to raise money. Continuing fund-raising may not be the same concern for Mr. Paul, even if Mr. Romney gains momentum, given the nature of Mr. Paul's donors.

So even as the campaign has a "path to victory" that it is committed to pursuing aggressively, said Jesse Benton, Mr. Paul's national campaign chairman, it does not expect to compromise if it is a runner-up. "If there were any negotiations after another candidate secured the nomination, our first rule and guiding principle is that we would refuse to allow our movement and our ideas to be co-opted," Mr. Benton said.

Mr. Paul says he is not thinking about a role at the convention outside of winning the nomination, and he plays down his interest in securing a prominent speaking slot, a potential role that worries many establishment Republicans.

"I've seen others give speeches up there that I never thought amounted to being very much," he said.

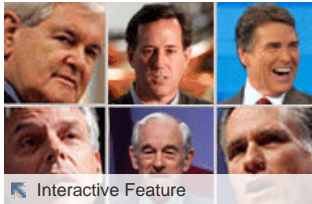
Mr. Paul continues to say that he has no intention of starting a third-party run, but he does not rule it out. "I don't want to give the satisfaction," he said. "Who knows what tomorrow will bring or what will happen? But I have no intention of doing it, and I don't want to do it."

And he is quick to explain why a third-party run would be so difficult. "What do the Republicans and Democrats do

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to any alternative party? They make it practically impossible to get on, unless you are a billionaire. Ross Perot can get on. It's difficult, and you don't get a fair shake from the media."

Then again, Mr. Paul said, the conventional wisdom that a third-party run would draw voters overwhelmingly from the [Republican Party](#) is not necessarily true. "They keep saying, 'Ron Paul would really hurt the Republicans.' Not by our statistics. The base of the Democratic Party is very tired of Obama."

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A version of this article appeared in print on January 16, 2012, on page A15 of the New York edition with the headline: Focusing on Nomination, Paul Plots a Backup Plan.



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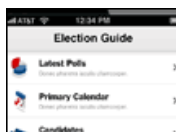
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CUTTING GOVERNMENT WASTE:

Makes a 10% reduction in the federal workforce, slashes Congressional pay and perks, and curbs excessive federal travel. To stand with the American People, President Paul will take a salary of \$39,336, approximately equal to the median personal income of the American worker.

TAXES:

Lowers the corporate tax rate to 15%, making America competitive in the global market. Allows American companies to repatriate capital without additional taxation, spurring trillions in new investment. Extends all Bush tax cuts. Abolishes the Death Tax. Ends taxes on personal savings, allowing families to build a nest egg.

REGULATION:

Repeals ObamaCare, Dodd-Frank, and Sarbanes-Oxley. Mandates REINS-style requirements for thorough congressional review and authorization before implementing any new regulations issued by bureaucrats. President Paul will also cancel all onerous regulations previously issued by Executive Order.

MONETARY POLICY:

Conducts a full audit of the Federal Reserve and implements competing currency legislation to strengthen the dollar and stabilize inflation.

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The Court and the Next President

Published: October 28, 2011

The Republican presidential hopefuls have been [saying](#) alarming things about the federal courts.

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Republicans Turn Judicial Power Into a Campaign Issue (October 24, 2011)

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Newt Gingrich and Rick Santorum want to abolish the United States Court of Appeals for the Ninth Circuit, which Mr. Gingrich says is “consistently radical” — meaning it upholds civil rights and civil liberties and other things he doesn’t like. Michele Bachmann and Ron Paul say they would forbid the Supreme Court from ruling on same-sex marriage, forgetting perhaps that presidents don’t actually get to do that. Rick

Perry has called for term limits for Supreme Court judges, although he hasn’t said whether he meant all of them, or just the liberal ones.

And that is as close as any of the Republicans have come to confronting the real significance of the federal courts in this election — the makeup of the Supreme Court. When Chief Justice John Roberts Jr. began the new Supreme Court term by congratulating Antonin Scalia on his 25th anniversary as a justice, it was a reminder that Justice Scalia is now 75 as is Anthony Kennedy and that Ruth Bader Ginsburg is 78.

Since 80 is the average retirement age of justices over the past generation, whoever is elected president could shape the court for the next generation. That means voters should be alarmed by the fringe ideas they have been hearing from the Republican candidates so far.

The Roberts court is closely divided but also the most [conservative](#) since the 1950s. Four of the nine members are very conservative, three of them under 64. If the president is a Republican and has the chance to fill Justice Ginsburg’s seat, that could turn the court decidedly conservative for decades. If President Obama is re-elected and has the chance to fill Justice Scalia’s seat, that could turn the court into a more moderate one.

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The last time the court's future depended so heavily on a single seat was the 1988 presidential election. The retired Justice John Paul Stevens wrote in his [new memoir](#) that when the first President George Bush was elected and got the opportunity to replace the very liberal Thurgood Marshall with the very conservative Clarence Thomas, the "importance of the change" in the court could not "be overstated."

Justice Stevens focuses on major 5-to-4 rulings to explain why: if someone with Marshall-like views had joined the court, it would not have struck down federal gun control laws, or found that the Second Amendment protects a person's right to keep a handgun at home.

If Senator John Kerry had won the 2004 election, Chief Justice Roberts and Justice Samuel Alito Jr., conservatives who have led the court to the right, would not be on the court. And last year's devastating 5-to-4 ruling in the Citizens United case would likely not have happened.

The case came to the Supreme Court as a limited question about interpreting a federal campaign-finance statute. In an aggressive act of judicial activism, the conservative majority made the case a constitutional matter and the signature of the Roberts court. Sweeping aside established precedents that had not been challenged and inserting itself into politics, the conservative majority unleashed unlimited corporate and other money into American politics and gave the Republican Party a large advantage in fund-raising.

It may not be in the Republicans' best interests to have a sober national debate about this issue, which may well be why the G.O.P. contenders are sticking to red-meat throwaway lines.

A version of this editorial appeared in print on October 29, 2011, on page A20 of the New York edition with the headline: The Court and the Next President.

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Republicans Turn Judicial Power Into a Campaign Issue

By ADAM LIPTAK and MICHAEL D. SHEAR
Published: October 23, 2011

WASHINGTON — Republican presidential candidates are issuing biting and sustained attacks on the federal courts and the role they play in American life, reflecting and stoking skepticism among conservatives about the judiciary.



Scott Olson/Getty Images

Newt Gingrich has suggested abolishing an appeals court.

Gov. Rick Perry of Texas favors term limits for [Supreme Court](#) justices. Representatives Michele Bachmann of Minnesota and Ron Paul of Texas say they would forbid the court from deciding cases concerning [same-sex marriage](#). Newt Gingrich, the former House speaker, and former Senator Rick Santorum of Pennsylvania want to abolish the United States Court of Appeals for the Ninth Circuit, calling it a “rogue” court that is “consistently radical.”

Criticism of “activist judges” and of particular Supreme Court decisions has long been a staple of political campaigns. But the new attacks, coming from most of the Republican candidates, are raising broader questions about how the legal system might be reshaped if one of them is elected to the White House next year.

The complaints are in line with the candidates’ general opposition to federal authority. Like the elected branches of the federal government, they say, the federal judiciary

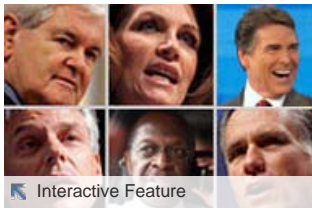
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has become too powerful and intrusive.

“If you want to send a signal to judges that we are tired of them feeling that these elites in society can dictate to us,” Mr. Santorum said at an event in Ames, Iowa, “then you have to fight back. I will fight back.”

Many of the candidates’ proposals concerning the federal courts would, even with Congressional backing, face daunting constitutional obstacles. Yet Congress can limit spending on the courts, short of cutting judges’ salaries, and it may well be able to narrow the jurisdiction of the federal courts in important ways.

The candidates’ criticism reflects a growing desire among conservatives for a return to a court system that they say the country’s founders envisioned.

The political calculus is similar, too. The rise of the [Tea Party](#) in states like Iowa and South Carolina has created a receptive audience for candidates who raise doubts about whether the court system is hindering the causes that these voters believe in.

“These threats go far beyond normal campaign season posturing,” said Bert Brandenburg, executive director of [Justice at Stake](#), a research and advocacy group that seeks to protect judicial independence. “They sound populist, but the proposal is to make courts answer to politicians and interest groups.”

Mitt Romney, the former governor of Massachusetts, has so far shied away from the far-reaching criticisms of his rivals. At a conservative forum in South Carolina, he dismissed the idea of a Congressional confrontation with the Supreme Court over abortion, saying, “I’m not looking to create a constitutional crisis.”

But his rivals have shown no such reluctance in attacking a federal court system in which their side has achieved significant victories.

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Scott Olson/Getty Images

Michele Bachmann wants some types of cases to be off limits to the federal judiciary.

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The Supreme Court [delivered the presidency](#) to George W. Bush, [interpreted the Second Amendment](#) to guarantee an individual right to bear arms and [allowed corporations and unions to spend](#) unlimited amounts of money in elections. And many Republicans are looking to the Supreme Court for vindication in the political battle with President Obama over his [health care overhaul](#).

The Republican candidates have focused their anger at court rulings on social issues like abortion, same-sex marriage and the role of religion in public life. Those issues hold the potential to fire up the party’s base and to provide crucial support in the primaries.

“There’s an even more dramatic overstep on the part of the courts now,” said Marjorie Dannenfelser, the president of the [Susan B. Anthony List](#), a conservative legal advocacy

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group. "With the grass-roots revolution on the ground and the Tea Party movement, there's a desire for a return back to first principles."

"I don't think it's an anticourt movement," Ms. Dannenfelser added. "It's a purifying of the court — trying to return it to where it should be."

Hogan Gidley, a senior adviser to Mr. Santorum, said that on the campaign trail, the courts issue plays well with "those who care about the Constitution and the legal system." Mr. Gidley added: "They move to the edge of their chairs. They want to know what he's going to do with the court system. It absolutely resonates."

In attacking the courts, the Republican candidates sometimes seem to hedge their vows to remain faithful to the Constitution. Many of their proposals aimed at curtailing the power of the courts would require the document to be amended.

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A version of this article appeared in print on October 24, 2011, on page A1 of the New York edition with the headline: G.O.P. Field Stoking Anger At U.S. Courts.



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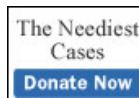
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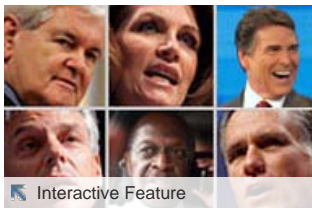
Republicans Turn Judicial Power Into a Campaign Issue

Published: October 23, 2011

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Section 1 of [Article III](#), for instance, confers life tenure on federal judges, saying they “shall hold their offices during good behavior.” But Mr. Perry, in his book “Fed Up!,” wrote approvingly of proposals “to institute term limits on what are now lifetime appointments for federal judges, particularly those on the Supreme Court or the circuit courts, which have so much power.”

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Whatever the difficulty of achieving that change, it is not without support in legal circles. “Perry’s idea has been advanced by me and numerous other academic critics of the court,” said [Paul D. Carrington](#), a law professor at Duke. “On this point, he is absolutely right.”

In his book, Mr. Perry also discussed allowing Congress to override Supreme Court decisions by a two-thirds vote. This too would require a constitutional amendment, assuming that the power of judicial review established in [Marbury v. Madison](#) in 1803 continues to be accepted.

But the Marbury decision, which gave the Supreme Court the last word in interpreting the Constitution, has its critics. Mr. Gingrich, for instance, [told the Values Voter Summit](#) in October that “judicial supremacy is factually wrong, it is morally wrong and it is an affront to the American system of self-government.”

Mr. Gingrich, joined by Mrs. Bachmann and Mr. Paul, has called for limiting the federal courts’ ability to hear certain kinds of cases. Whether that would be constitutional is

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hard to assess.

“The question of the extent of Congress’s power to control the jurisdiction of the federal courts is one of the most contested and unsettled in constitutional law,” said Vicki C. Jackson, a law professor at Harvard.

Mrs. Bachmann and Mr. Paul have taken an aggressive stance. “We have it within our authority to decide what judges can rule on and what they can’t,” Mrs. Bachmann said in Iowa in April. Mr. Paul has written that “Congress could statutorily remove whole issues like gay marriage from the federal judiciary.”

Section 2 of Article III of the Constitution provides that the Supreme Court generally “shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.”

Section 1 of the article suggests that Congress may have even more power over the lower federal courts: “The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.”

Still, the suggestions from Mr. Gingrich and Mr. Santorum concerning the Court of Appeals for the Ninth Circuit, which hears cases from federal district courts in nine Western states, are particularly bold. In February, Mr. Santorum told a Tea Party group in South Carolina that he would “sign a bill tomorrow to eliminate the Ninth Circuit,” adding: “That court is rogue. It’s a pox on the western part of our country.”

Criticism of the Ninth Circuit as too liberal is commonplace, and calls to split it into two or more parts have been floated for decades. But the idea of leaving the western third of the nation without a federal appeals court of its own appears to be a new one.

And although the Constitution forbids Congress from cutting federal judges’ pay, Mr. Gingrich has proposed ways that the power of the purse could be used to discipline that court.

“Congress can say, ‘All right, in the future, the Ninth Circuit can meet, but it will have no clerks,’ ” Mr. Gingrich told the Values Voter Summit. “ ‘By the way, we aren’t going to pay the electric bill for two years. And since you seem to be rendering justice in the dark, you don’t seem to need your law library, either.’ ”

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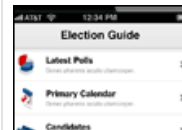
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Mitt Romney has a radio ad up in Ohio attacking Rick Santorum for voting to confirm Sonia Sotomayor to the U.S. Court of Appeals in 1998, "which put her on a path to the Supreme Court." This is the second time Romney has used this line of attack against Santorum. Monday, the DNC issued a statement from their senior adviser for Hispanic Affairs Juan Sepúlveda in response to the ad:

"Mitt Romney is, again, choosing to pander to the extremes in his party and his latest attacks on Justice Sotomayor are yet another clear sign that he is on the wrong side of every issue of importance to Hispanic voters.

"Let's not forget: Justice Sotomayor was confirmed with the support of nine Republican senators because she has unparalleled judiciary experience, intellect, respect for the Constitution, and common sense. That's why she belongs on our nation's highest court, and that's why she's a role model for our families. Unfortunately, this is not Romney's first attack on Sotomayor. It's clear that, in Justice Sotomayor, Mitt Romney does not see a role model, but a political pawn that he can attack at will if it gets him a vote.

"Mitt Romney has shown time and again that he is after the Tea Party vote, not the Latino vote, and with each attack he locks himself more to his extreme positions. Hispanics are listening, and Mitt Romney's attacks will not going unnoticed."

Hispanic leaders condemn Romney for criticizing Sotomayor in ad

By Griselda Nevarez

[VOXXI](#) (February 29, 2012)

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In a recent television add aired in Michigan, Mitt Romney criticized Rick Santorum for voting to confirm Sonia Sotomayor to the federal circuit court in 1998, a move Hispanic leaders say is another sign that Romney is out of touch with Latino voters.

Sotomayor was nominated by President Barack Obama to the U.S. Supreme Court and was confirmed by the Senate in 2009 with a 68-31 margin. She became the first Hispanic woman to serve on the U.S. Supreme Court and is well-supported among Latinos.

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Pierluisi said Romney's recent push to enact a national version of Arizona's immigration law, which is not favorable among most Hispanics, doesn't come unexpected. To go after Sotomayor, however, is taking it too far, he said.

"It's not surprising that Romney is out of touch with our priorities - we already knew that," Pierluisi said. "But it is profoundly disappointing that he would use a highly qualified justice, who received bipartisan support, ... as a political weapon to hit his opponent."

Romney's add, which was released Feb. 24 and in which Sotomayor is described as a "liberal judge," came out the same day he picked up the endorsement of Tennessee Sen. Lamar Alexander, who is among the nine Republican senators who voted to confirm Sotomayor to the Supreme Court.

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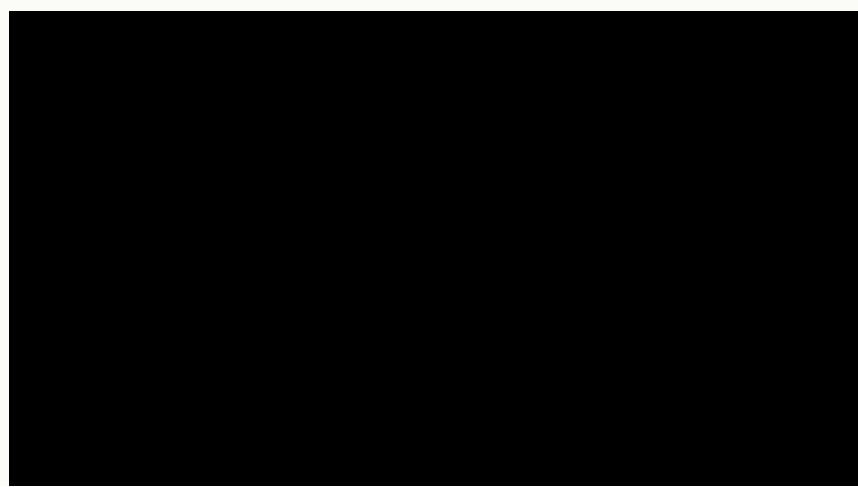
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By Griselda Nevarez / VOXXI Wednesday, February 29, 2012. 8 days ago | No comments yet

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Griselda Nevarez is a reporter with Hispanic Link News Service in Washington D.C.
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By JEFF ZELENY Published: March 7, 2012

Mitt Romney won the delegates, but not necessarily the argument.

His quest to win the Republican

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presidential nomination has always resembled a detailed, methodical business plan. Mr. Romney, who spent much of his life fixing troubled corporations, must now decide whether steps are necessary to repair his lethargic candidacy.

Mr. Romney had hoped that a string of Super Tuesday victories in contests from Vermont to Alaska would effectively bring the Republican race to a close.

But he found himself winning over [Rick Santorum](#) by only the slimmest of margins with almost all the votes counted in Ohio, the most coveted primary of the night, while losing other contests across the South.

The Republican race was always destined to plod on, considering that none of the candidates have reached even half of the 1,144 delegates needed to win the nomination. But the campaign is suddenly bracing for new questions about Mr. Romney's ability to piece together a coalition needed to move closer to a general election fight with President Obama.

Mr. Romney had hoped a commanding victory over Mr. Santorum in Ohio would add another Midwestern battleground state to his tally and provide new latitude to begin directly engaging Mr. Obama. The heart of his case to his fellow Republicans has always been that he is not only the most electable candidate in the field, but also the best prepared and most suited for what is sure to be a brutal general election.

But the outcome of the contests on Tuesday, while allowing him to amass more delegates than any of his rivals, did little to resolve the questions about his ability to connect with voters, especially conservatives.

With the general election exactly eight months away, Republican leaders have increasingly argued that the time had come to move beyond the party's messy intramural fight. They assumed that Mr. Romney's strong financial advantages and muscular campaign organization would make that happen on Tuesday night.

Even the president anticipated a shift in the campaign. He staged his first White House news conference of the year hours before the votes started coming in to assail the Republican field for what he called irresponsible talk about war with Iran. He declined to answer questions



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Rick Santorum with his 93-year-old mother, Catherine, at an appearance at Steubenville High School after the Ohio primary. [More Photos](#) »

Santorum.

But when voters in Ohio and Tennessee were asked which candidate best understood the problems of average Americans, according to exit polls, Mr. Romney fell short of Mr. Santorum.

about specific candidates, but flashed a smile when asked directly about Mr. Romney.

“Good luck tonight,” Mr. Obama said. “Really.”

It was an air of bravado from a man who endured his own long nominating fight four years ago. The story of Mr. Obama’s winding path to the White House is frequently offered as a testimonial by the Romney campaign when faced with questions about potential damage from a protracted and bitter primary season.

Supporters of Mr. Romney worry that he has been politically bruised by the right-leaning shift of the Republican contests, but it is far from certain that any damage will be lasting. Republicans may be deeply divided now, but defeating Mr. Obama is a powerful unifying force in the party.

“I’d love for this to be over sooner rather later so we can focus on the president’s record,” Gov. Bob McDonnell of Virginia, a Romney supporter, said in an interview on Tuesday night. “But however long it takes, the desire to replace President Obama will motivate conservatives and libertarians in such a significant way.”

For Mr. Romney, the Super Tuesday scorecard was decidedly mixed.

He seized upon his wins in Idaho, Massachusetts, Vermont and Virginia — two of which are reliably Democratic states in presidential elections. But Mr. Santorum pointed to victories in North Dakota, Oklahoma and Tennessee as evidence that many Republicans were still looking for a conservative alternative. And [Newt Gingrich](#) held up a sweep of his home state of Georgia as proof of his own revival.

Mr. Romney built his victories Tuesday among a coalition of voters who say electability is their chief concern, as well as among older, better-educated and higher-income voters. The critical set of white, working-class voters divided their loyalties between Mr. Romney and Mr.

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NEWS ANALYSIS

With No Knockout Punch, a Bruising Battle Plods On

Published: March 7, 2012

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The lineup of Super Tuesday states never looked particularly friendly to Mr. Romney. He campaigned in Georgia, North Dakota and Tennessee, hoping to win at least a share of the delegates, but he fought hard to earn a convincing win in Ohio. He fared poorly with very conservative voters and evangelical Christians, according to interviews with voters as they left the polls, and also struggled among voters who said it mattered a great deal that a candidate shared their religious beliefs.

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Mr. Romney, whose candidacy has largely been built around a strategy of letting his Republican rivals fade away, is again facing the challenge of trying to improve his ability to connect with voters and excite them. The next string of contests, including Mississippi, Alabama, Kansas and Missouri, may also be challenging states in which to build momentum.

"I'm not going to let you down," Mr. Romney told supporters gathered in a half-filled hotel ballroom in Boston. "I'm going to get this nomination."

A significant share of advantages in the Republican nominating fight remains on Mr. Romney's side. He has more money at his disposal than any of his rivals, particularly if he decides to invest his own money into the campaign, as he did during his first presidential run four years ago.

Even with a narrow win in Ohio, the scoreboard for Mr. Romney already includes victories in a succession of

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general election battlegrounds: New Hampshire, Florida, Nevada and Michigan. His successes have been more tactical than triumphant, but the delegates are worth the same. And Mr. Romney emerged from Super Tuesday with a strong mathematical advantage that cannot be overlooked.

But one of the best opportunities for Mr. Romney to accelerate his march to the nomination was to convincingly defeat Mr. Santorum in Ohio. The outcome was not clear by the time Mr. Romney took the stage to deliver his speech late Tuesday night.

“This is a process of gathering enough delegates to become the nominee,” Mr. Romney said. “I think we’re on the track to have that happen.”

He offered no predictions of when.

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