

CO-EDITORS:



William Galston



Stan Greenberg



Ruy Teixeira

The **Democratic Strategist** is a web-based publication edited by three leading American political strategists and thinkers—political theorist William Galston, polling expert Stan Greenberg and political demographer Ruy Teixeira. It seeks to provide a forum and meeting ground for the serious, data-based discussion of Democratic political strategy.

The **Democratic Strategist** has three editorial goals—(1) to provide an explicitly and unapologetically partisan platform for the discussion of Democratic political strategy, (2) to insist upon greater use of data and greater reliance on empirical evidence in strategic thinking and (3) to act as a neutral forum and center of discussion for all sectors of the Democratic community.

As **The Democratic Strategists'** editorial philosophy states, the publication will be "proudly partisan, firmly and insistently based on facts and data and emphatically open to all sectors and currents of opinion within the Democratic community".

URGENT:

**A
DEMOCRATIC STRATEGIST
STRATEGY MEMO
ON THE
SUPREME COURT**

TO ALL DEMOCRATS:

**THE REPUBLICAN RIGHT HAS A DEEPLY
DISTURBING COVERT EXTREMIST AGENDA
FOR THE SUPREME COURT – END THE
SEPARATION OF CHURCH AND STATE,
UNDERMINE THE LEGALITY OF SOCIAL
SECURITY AND MEDICARE AND GIVE
INDIVIDUALS THE RIGHT TO IGNORE ANY
LAWS THEY CHOOSE.**

URGENT: A TDS STRATEGY MEMO ON THE SUPREME COURT

The Republican right has a deeply disturbing covert extremist agenda for the Supreme Court – end the separation of church and state, undermine the legality of Social Security and Medicare and give individuals the right to ignore any laws they choose.

Does this sound like a wildly hysterical exaggeration?

It certainly does. But unfortunately, it also happens to be true.

The unavoidable fact is that major elements of the Republican coalition—the elements most likely to become deeply engaged in the battle over the next supreme court nominee like the Christian Right, the Tea Party Movement, and the radical Federalist Society legal wing of the Right—do indeed harbor profoundly extreme views on the Constitution. In fact, since Obama’s election these views have veered even more sharply toward extremism.

- Since the 1990’s, the Christian Right has sought to replace the traditional American separation of church and state with the notion that the U.S. was actually created as a “Christian Nation” in which Christianity was intended to receive favored treatment by government policy. The most startling recent expression of this view was last month’s decision by the Texas School Board to remove Thomas Jefferson—the symbol of America’s tradition of religious freedom and tolerance—from the states’ history curriculum.
- The opponents of Health Care Reform in the Tea Party Movement and among Republicans around the country have advanced the argument that Congress does not have the constitutional authority to enact health reform legislation and are now filing lawsuits based on this view. The **basis**¹ for such suits—typically a denial of the power of Congress to legislate economic matters under the Commerce and Spending Clauses of the U.S. Constitution—is automatically and unavoidably a collateral attack on the constitutionality of a vast array of past legislation, including most New Deal/Great Society programs such as Social Security and Medicare.
- The Republican revolt against any cooperation with Democratic legislation and initiatives has carried an extraordinary number of conservatives into a general attitude of defiance towards the rule of law itself and flirtation with constitutional doctrines of state nullification and succession. These doctrines were developed as arguments for state sovereignty by the Confederacy in the civil war era and as 1950’s and 1960’s era segregationist strategies to thwart desegregation and civil rights for African-Americans.

¹ <http://yglesias.thinkprogress.org/archives/2010/03/constitutional-objections-to-health-reform.php>

Taken together, these three ideas actually amount to a covert three-pronged agenda to radically transform the American constitution:

1. To redefine America as a Christian Nation; and treat Christianity as a state-favored religion
2. To create a legal doctrine that could justify the voiding of all social programs enacted since 1933.
3. To establish the right of individuals or states to ignore and disobey any laws that they happen to interpret as impinging on their freedom or natural rights.

Democrats can—and must—respond firmly and categorically to this extremist philosophy. They must respond by saying that the Democratic Party proudly upholds the traditional American view of the constitution—the view of the founding fathers of this country—George Washington, Thomas Jefferson, Benjamin Franklin, Alexander Hamilton and John Adams.

1. **That the constitution guarantees religious freedom and tolerance for all Americans of every faith and creed.**
2. **That the constitution guarantees the right of the freely elected representatives of the people in a democracy to pass laws for the common good.** The people have the right to elect new representatives who promise to repeal laws with which they disagree, but not to simply ignore and violate laws of which they do not happen to approve.
3. **That the constitution protects individual liberty but is not a prescription for anarchy.** It provides equal rights for all under a system of laws, but does not provide veto rights for anyone who happens to disagree with a particular law.

The battle between these two views is not a battle from which Democrats should shy away. Most Americans aren't likely to react well to the spectacle of conservatives demanding a virtual revolution against a popularly elected government, threatening to undermine the legal foundation of the social safety net many Americans depend on for their well-being and seeking to overturn constitutional doctrines that have been in place for many decades and even since the foundation of the Republic.

Republican strategists will desperately try to frame this debate as an argument between the "founding fathers" on the one hand and the "crazy liberal democrats" on the other. They will attempt to blur the distinction between the two fundamentally different visions of America embodied in the two interpretations of the constitution above.

Democrats should not let them get away with this deception. A substantial part of the Republican base deeply and sincerely believes in the three-pronged extremist agenda described above and will consider any attempt by the Republican leadership to shy away from those views as a betrayal tantamount to treason. If Democrats firmly and consistently demand that Republican leaders honestly say where they stand on these issues, the Republican coalition will become deeply fractured.

So if conservatives want to make a battle over Barack Obama's next Supreme Court nominee, let them bring it on.

-
- Let them bring it on with all the rhetoric Tea Party folk and other radicalized conservatives have been using about Obama's "socialism" and the Nazi-like tyranny of universal health coverage.
 - Let them bring it on with all the segregation-era legal strategies of succession and nullification.
 - Let them bring it on with arguments that programs like social security and medicare are illegal and unconstitutional
 - Let them bring it on with all the attempts to write Thomas Jefferson and the separation of church and state out of American history.

The truth is that Democrats don't want an ugly ideological battle over the next Supreme Court nominee. They would much rather focus on important economic issues like financial reform.

But if the Republicans insist on a fight, let's stand ready to give them a battle they'll wish they never started.