

The Delray Democrat

The Validity of the U.S. Debt “Shall Not Be Questioned”¹

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The validity of the public debt of the United States, authorized by law . . . , shall not be questioned. *14th Amendment, Section 4*

Under the scary headline [Debt Default Would Cripple U.S. Economy](#), *The New York Times* reported that Moody’s Analytics had estimated the immediate impact of the first government default in American history would be the loss of one million jobs and a recession.

That’s just the immediate impact. A prolonged refusal by Congress to raise the debt ceiling would cause the loss of 7 million jobs and a 2008-style financial crisis.

The devastation that would result from a Republican refusal to raise the debt ceiling is surely warming the cockles of many Republicans. “Nice economy you got there. Be a shame if something happened to it.”

The last two times Republicans extorted an American president into cutting government spending in the midst of a recovery, John Boehner was speaker but House Republicans were really led by the Tea Party. As mad as that bunch was, they look almost deliberative and rational next to the QAnon/MAGA crowd that is today dangling Kevin McCarthy by a string.

In 2011, John Boehner negotiated a Grand Bargain that, he [bragged](#), got him “98% of what he wanted” from Obama in the way of spending cuts. The Tea Party embarrassed Boehner by rejecting his deal and demanding more cuts as a condition to raising the debt ceiling.

Not until two days before the Treasury exhausted its borrowing authority was a bill finally passed. Four days later S&P downgraded U.S. government credit rating for the first time in its [history](#).

Even though the public blamed the Republicans, they were back at it two years later. In 2013, they managed to shut down the government, although a default was averted. Once again the public blamed the Republicans.

And here they go again! The likelihood of a default is arguably greater today. For one thing, while the Tea Party adhered to Nixon’s [Madman Theory](#) (a negotiating tactic in which one feigns madness, giving the adversary the choice of yielding or precipitating some horrifying event), the QAnon/MAGA Republicans don’t need to *feign* madness. .

Secondly, Biden witnessed up close and has clearly learned from Obama’s difficulties in dealing with people whose number one goal was to make him a one-term president. They fell short but

¹ *The Delray Democrat*, March 2023, p. 1.

succeeded in slowing the recovery from the Great Recession they had just created.

Having learned from that experience, Biden has already indicated that he will not yield to extortion, throwing down the gauntlet on raising the debt ceiling:

Raising the debt ceiling is not a negotiation; it is an obligation of this country and its leaders to avoid economic chaos. Congress has always done it, and the President expects them to do their duty once again. That is not negotiable.

The debt ceiling was raised at least 90 times in the Twentieth Century without controversy, until Republicans saw it as a way to hold the government hostage when a Democrat was in the White House. Now, as Eric Levitz put it in a *New York Magazine* [piece](#), “For House Republicans, manufacturing a debt-ceiling crisis under a Democratic president is an act of muscle memory.”

Although raising the debt ceiling was allowed to become a negotiation in 2011 and 2013, Biden is absolutely correct that Congress has no legal authority to prevent a president from faithfully executing the laws as written, that is, laws Congress has already passed.

*The debt ceiling is a limit on the borrowing authority of government to pay for **past** obligations already authorized by Congress.* Unlike a budget submitted by a president to Congress to secure authorization for **future** spending, it is not something that is properly subject to negotiation.

President Biden has also indicated he’s perfectly willing to have a discussion about future spending and ways to reduce the deficit, but that tax increases on the wealthiest Americans are going to be part of that discussion. He recently submitted his budget to Congress that calls for such tax increases, something Mitt Romney has already labeled dead on arrival.

Biden is baiting Republicans, just as he baited them at his State of the Union when he said that “some Republicans” wanted to cut or even end Medicare and Social Security. Thanks to the outburst by the woman later dubbed by a commentator “a serious contender for the stupidest person in the room,” he got Republicans to agree not to cut Social Security or Medicare as a means of reducing the deficit.

Biden knows that, as in 2011 and 2013, raising taxes on the wealthiest Americans is something the public supports by substantial margins. He’s daring Republicans to put forth a proposal that will reduce the deficit without touching the sacred cows or raising taxes. Indeed it’s arguable that the ragtag gang that is dangling McCarthy by a string is even capable of reaching agreement on a counterproposal.

And that leads to a very real possibility that the Republicans will actually try to force the first government default in American history. Even if they are blamed by the public, it is Joe Biden and not Congress who is running for president in 2024 – and they could be right that crippling the economy is the best way to ensure he’s a one-term president.

But Biden has an ace in the hole, and that is to simply direct the government to enter into whatever borrowing is necessary to ensure that the obligations of the American government are met. As Jamelle Bouie pointed out in a recent *New York Times* [op-ed](#), the debt limit law is arguably unconstitutional under the command of Section 4 of the Fourteenth Amendment, which declares

that “The validity of the public debt of the United States, authorized by law . . . , shall not be questioned.”