

How Chief Justice John Roberts Rewrote the Constitution

By Lisa Graves

In this excerpt from her new book, Lisa Graves documents how Roberts and his fellow politicians in robes on the U.S. Supreme Court have helped undermine U.S. democracy. One important lesson to learn: who you vote for in presidential and gubernatorial elections matters immensely.

John Roberts ascended to the Supreme Court and for nearly two decades maintained a reputation as a fair referee. But most people really have no idea who Roberts is, what a destructive force he is to American jurisprudence, and how he has helped fracture our political system and our society.

In 2002, as part of my work for the Senate's Judiciary Committee, one of my first tasks was to evaluate Roberts, whom George W. Bush had nominated to the US Court of Appeals for the DC Circuit. Roberts would impress some of the senators with his amiable confidence, his calm reassurances, and his easy smile. He looked like a Norman Rockwell-style embodiment of judicial restraint and rectitude. But a thorough examination of his record and career path convinced me that, his carefully constructed résumé and polished persona notwithstanding, he would make a seriously detrimental addition to the federal appeals court. In the Senate hearings on his elevation to the Supreme Court, he demonstrated his grit for disarming opponents when he proclaimed, "I will remember that it's my job to call balls and strikes, and not to pitch or bat."

The image of Roberts as an impartial umpire proved to be persuasive and durable, but instead of being a genuine expression of his temperament and approach, it was a meticulously planned and effectively delivered public relations strategy. He presented himself as a dedicated institutionalist who sought to uphold American judicial traditions. Far from being a protector, however, he has used his position as chief justice to orchestrate a pattern of extreme decisions that have unmoored American democracy from its foundations – and that was before Donald Trump's three appointees joined the Court. Despite Roberts's claims that there are no Republican or Democratic federal judges, he has established himself not as a fair referee but as a diabolically effective player rewriting the Constitution and remaking America in accord with his reactionary political agenda, as he strategizes how to move the ball forward and disarm the opposition.

Roberts's reactionary docket has included destroying environmental rules that protect our planet from predatory billionaires, overturning legal precedents that limited access to deadly guns, forging the shield of religious freedom into a sword to attack equality and access to healthcare, decimating labor unions' power to bargain for workers' rights, and unleashing waves of billionaire spending in our elections in ways that corrupt our representative democracy and sever public institutions from vital traditions of impartiality. Democrats credited him with, and Republicans lambasted him for, saving the *Affordable Care Act* (dubbed Obamacare), but Roberts is playing for team GOP, and his occasional nods at moderation allow him to more effectively realize his long-term agenda. Kicking millions of Americans off of health insurance could have caused the GOP even



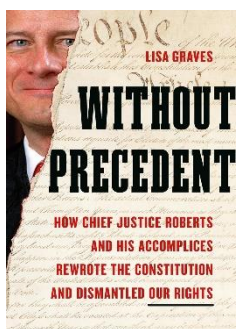
John Roberts smiling at fellow arch conservative Clarence Thomas as they pose for an official portrait.

bigger losses in 2012, and embracing the dubious legal theories against Obamacare would have undermined the power to enact tax policy that favors the rich.

Devastatingly, Roberts has systematically altered the very structure of our democracy by sabotaging voting rights and permitting illegitimate and undemocratic electoral maps that have all but eliminated incentives to seek compromise, fueling extremism and division. But Roberts's masterstroke was alchemy: turning gold into speech by judicially rewriting the First Amendment to allow mountains of gold in the form of dark money to distort our elections. His Court did so by barring Congress from regulating the corrupting influence of unlimited cash supplied by billionaires seeking to manipulate our elections. The result in that case, called *Citizens United v. FEC*, was orchestrated by the Roberts Court, which ordered an out-of-season oral argument on new questions to clear the decks for a surge in secret cash for the 2010 midterms – just in time to try to rein in America's first Black president, Barack Obama. That tsunami of cash has been deployed to distort the ensuing elections, epitomized by the actions of the richest man in the world, Elon Musk, who spent \$288 million to procure the presidency for Donald Trump (and an unelected co-presidency for a while) in 2024. Big money has also altered the makeup of the nation's highest court and, with it, how our Constitution and laws are interpreted, creating a self-reinforcing circle of corruption. Roberts's success in dismantling the guardrails needed for fair elections and fairness in general has greatly weakened – and, in fact, imperiled – our democracy.

Through action and inaction, Roberts has also allowed a culture of corruption to run rampant. For more than a decade, he has worked to stall congressional efforts to require an enforceable code of conduct for the Supreme Court, even though every other judge in the nation is subject to such rules. He has not taken any public action to redress the numerous investigative reports about the mountain of secret gifts and serious ethical failures associated with Clarence Thomas and others. Roberts stood silent as Thomas sat on the case involving Donald Trump's immunity claims in a criminal case about Trump's efforts to subvert the 2020 presidential election, even though Thomas's wife, Ginni Thomas, actively sought to stop the count and even to secure fake electors. Roberts adopted the same do-nothing approach toward Samuel Alito, despite evidence that flags tied to the January 6 insurrection were flown over his homes. Why? Roberts needed their votes in order to accomplish his most reactionary agenda to date and to cement the most unprecedented edict of all: to effectively pardon Trump and pave the way for his return to power, emboldened by kinglike immunity from prosecution for any of his "official acts" as president.

The pattern of conduct is clear: Roberts has made extraordinary efforts to ensure that those with great power and wealth have the opportunity to corrupt every aspect of our politics and society, and when the long-festered corruption of his Court has become front-page news, he has refused to clean up the mess. On the surface, his response has been singularly feckless and an insult to the institution of the Court, but on a deeper level, he understands that actually cleaning up the Court would undermine his overarching political agenda to remake the law. On Roberts's watch, the Court has become a creature more beholden to the influence of the richest few – and their political operatives – than at any time in the past century. This is not a bug; it is the design.



Adapted from [*Without Precedent: How Chief Justice Roberts and His Accomplices Rewrote the Constitution and Dismantled Our Rights*](#) by Lisa Graves, Copyright © 2025 by Lisa Graves