



Written by [Bob Adelman](#) on January 15, 2013

President Obama Challenges Congress on the Debt Ceiling

At President Obama's final press conference of his first term held on Monday, [he made clear his intention not to negotiate](#) with the Congress over the debt ceiling in his second term. Said the president, "We are poised for a good year if we make smart decisions ... and as long as Washington politics don't get in the way..." His position on the debt ceiling issue is non-negotiable, according to the president:



Republicans in Congress have two choices here. They can act responsibly, and pay America's bills, or they can act irresponsibly and put America through another economic crisis. But they will not collect a ransom in exchange for not crashing the American economy. The financial well being of the American people is not leverage to be used. The full faith and credit of the United States of America is not a bargaining chip.

And they better choose quickly, because time is running short.

And then, just to emphasize the point, the president invoked end-of-the-world-as-we-know-it rhetoric:

If congressional Republicans refuse to pay America's bills on time, Social Security checks and veterans' benefits will be delayed.

We might not be able to pay our troops, or honor our contracts with small business owners. Food inspectors, air traffic controllers, specialists who track down loose nuclear materials wouldn't get their paychecks.

Investors around the world will ask if the United States of America is in fact a safe bet. Markets could go haywire, interest rates would spike for anybody who borrows money: every homeowner with a mortgage, every student with a college loan, every small business owner who wants to grow and hire.

It would be a self-inflicted wound on the economy. It would slow down our growth [and] might tip us into a recession. And ironically it would probably increase our deficit.

So to even entertain the idea of this happening, of the United States of America not paying its bills, is irresponsible. It's absurd.

The response from his targets, notably Senate Republican Leader Mitch McConnell and Speaker of the House John Boehner, was quick in coming. McConnell said that the president must get "serious about spending and the debt limit is the perfect time for it," while Boehner pushed back: "The American people do not support raising the debt ceiling without reducing government spending at the same time."

When the president was asked about his options if the resistance he is inviting results in the government not being able to pay its bills, he discarded out of hand the idea of minting a platinum coin to create another trillion or two of cash for the Treasury. He also eliminated any use of Section 4 of the 14th Amendment ("The validity of the public debt of the United States ... shall not be questioned.") and



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instead said,

There are no magic tricks here. There are no loopholes. There are no, you know, easy outs. This is a matter of Congress author[izing] spending. They order me to spend. They tell me, you need to fund our Defense Department at such and-such a level, you need to send out Social Security checks, you need to make sure that you are paying to care for our veterans. They lay all this out for me, and — because they have the spending power. And so I am required by law to go ahead and pay these bills.

But if time runs out, Obama said he's caught in the middle: "What Congress can't do is tell me to spend X and then say, 'But we're not going to give you the authority to go ahead and pay the bills.'"

Either way, he violates the law. If Republicans refuse to budge, the Treasury, according to Secretary Timothy Geithner, [would have to choose](#) which bills to pay: interest on the national debt, benefits to Social Security beneficiaries and veterans, federal contractors, government agencies, the Internal Revenue Service, and so on.

There is one option that the president would be willing to consider, however: let the Congress give him the authority to raise the debt limit as needed, and avoid all the hassle: "But there's one way to get around this. There's one way to deal with it, and that is for Congress to authorize me to pay for those items of spending that they have already authorized."

Two college professors have proposed [another approach](#): Let Obama ignore the debt ceiling altogether, order Geithner to pay the bills as they come due, and tell him to borrow when necessary to pay them. As Neil Buchanan, professor at George Washington University Law School, and Michael Dorf, professor at Cornell University Law School, wrote, if the Republicans remain intransigent,

President Barack Obama might soon find himself in a quandary which ... prevents him from faithfully executing all of the laws Congress has passed...

Anything the president does would violate some law. Indeed, anything he does would be unconstitutional because all of the relevant powers — spending, taxing and borrowing — belong to Congress...

If every action the president might plausibly take would usurp a power of Congress, what should he do? He should minimize the usurpation.

Specifically he could order Geithner to borrow just enough to pay the bills and then claim that Congress ordered him to do so. He could claim that he is doing what Congress ordered him to do, and just ignore the debt ceiling altogether. Said the professors, "If Congress leaves the president no constitutional options, he must choose the least unconstitutional one: borrowing money beyond the debt ceiling."

It's unlikely that the president will have to choose. At no time since 1917 has Congress failed to raise the debt ceiling. Since 1962 the debt ceiling [has been raised 75 times](#), 11 times since 2001.

The president has joined the battle and thrown down the gauntlet. The Congress predictably will push back, wring their hands, and acquiesce, just as they always have done. And the spending will continue.

Photo of President Barack Obama: AP Images

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