

Fdr supreme court packing



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Over the course of three terms, starting in 1934, the Supreme Court struck down a large part of the Franklin D.

Roosevelt's New Deal, provoking a continuing constitutional crisis. President Roosevelt naturally criticized the Court on a number of occasions, the last time in June of 1936; but because of the negative response from Congress and members of the media in those instances, he said nothing about the Court during the 1936 presidential campaign. Supporters of the New Deal proposed a variety of ways of bringing the Court into line with their program, including statutes to require an extraordinary majority of justices to strike down a law, constitutional amendments to mandate retirement at 70 or 75, and so on (Ross 1994, Stephenson 1998). During the 1936 election, Governor Landon and other Republicans attempted to use the Court's recalcitrance to portray Roosevelt and the Democrats as enemies of the Constitution, liberty, and property.

Notwithstanding the barrage of criticism, Roosevelt and the Democrats won a massive landslide in 1936, with the President taking all but two states in the Electoral College and Democrats controlling all but sixteen seats in the Senate and eighty in the House. On February 5th, 1937, after months of planning, FDR announced his Federal Court Reorganization Bill. This legislation provided for an additional seat on the Supreme Court for each justice over the age of seventy, with a maximum of six new positions; proctors for litigation in the Supreme Court and lower federal courts; and additional judgeships in lower federal courts for judges over the age of seventy. President Roosevelt couched the bill as a means of improving efficiency, of helping justices who were behind on their work and were

dismissing large number of cases each term. This proposal set almost immediately set off a spectacular political battle, culminating 168 days later in the defeat of FDR's proposal on the floor of the Senate (Alsop and Catledge 1938, Baker 1967, Leuchtenberg 1995). First, despite the passage of more than sixty years, the battle over Court-packing continues to be a matter of contention among historians and law professors.

Gallup Polls are a treasure trove of information on public evaluations of the Supreme Court and on connections between the Court and politics in the minds of members of the mass public during a time of unparalleled constitutional crisis. These Gallup Polls, taken during the infancy of polling, are not rich in items of the sort we expect to find in contemporary surveys, but they provide considerable insight into the social, political, and demographic bases of support for and opposition to Roosevelt's proposal. Data from three of these polls shows that. Throughout history many presidents have elected judges that can work in their favor.

Author Kanner Gideon draws many similarities between presidents who attempted or succeeded to elect their own judges. The author says that Roosevelt's court-packing scheme was the first of its kind. Generated from the frustration that parts of the New Deal had been struck down as "unconstitutional." When a president can manipulate the system as such, what happens to the list of checks and balances? This situation is where we see that maybe the executive branch has too much power and influence in our governmental system. In Similarity, William Raspberry a writer for the Miami Times crosses this boundary in saying that it is in the best interest of

the state to have judicial balance but it is in the presidents favor to have judicial influence over the supreme court.

He makes references to Eisenhower appointing Earl Warren as well as Nixon appointing Harry Blackmun and Kennedy who appointed Byron White (Raspberry, 2005). If Roosevelt is arguably one of the greatest presidents ever then why not give him this advantage. He may have earned the right to manipulate our government to his advantage. If the changes needed were drastic enough than maybe it would have been better if his Judiciary Act had passed.

Rush Limbaugh wrote an interesting article, which compares policy of George Bush to FDR. Speaking mostly about civil liberties and which president is the bigger violator of them. Both of these presidents had to make difficult decisions so we cant blame them for trying to abuse power – if it is out of necessity. A president’s job is to protect America by any means even if our civil liberties must be violated. James C.

McReynolds, who served on the Supreme Court from 1914 to 1941, was one of the worst of the more than 100 justices who have presided from America’s highest bench, and Knox (1907-97) had the misfortune of clerking for him. One of the so- called Four Horsemen , conservative judicial activists who did their best to overturn New Deal legislation, McReynolds and his fellow dissenters provoked Franklin Delano Roosevelt’s “ Supreme Court packing plan,” which attempted to fill the court with supporters. Ironically, McReynolds had proposed the plan previously during the Wilson administration. FDR lost the battle but won the war when one justice started

voting with those in favor of judicial restraints-the “ switch-in-time-that-saved- the-nine. ” An insightful memoir by Knox, who clerked for McReynolds from 1936 to 1937, brings the battle into the justice’s home, where he worked.

McReynolds was a blatant bigot whom William Howard Taft described as “ fuller of prejudice than any man I have known. ” He ran his apartment like dictator-employees were treated like minions and labored in constant fear of displeasing their superior. In Roosevelt’s 1935 term the four horsemen voided FDR’s Agricultural Adjustment Act . In Addition, they also voided legislation regulating the coal industry, NIRA.

The four horsemen were the biggest obstacles in FDR’s way. It was the success of the Horsemen in striking down New Deal legislation that inevitably led to Roosevelt’s court-packing scheme. President Roosevelt’s New Deal certainly had good intentions. If our government is going to have an unbalanced system then maybe the best way to fix the system is to combine it. And it seems the only way to “ combine” separated powers if you will, is to elect judges and officials who will vote in the presidents favor.

America is moving into uncharted territory – with the first black nominee for president who knows what can happen next. Barack Obama is a candidate for change as was FDR. As long as a president is doing what he believes is best for his country – then why does it really matter. As long as change the change is positive I don’t think anyone should complain.

The court-packing scheme may not have worked but Roosevelt felt change was necessary and pursued it without fear.

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