



Grade/Subject: US History

Date/Lesson #: 56

FDR & Court Packing

During Roosevelt's first term, the Supreme Court ruled some New Deal programs unconstitutional. Worried that the Court might undo his plan to fight the Depression, Roosevelt proposed to "pack" the Supreme Court with extra justices. This proposal caused a great deal of controversy, and Roosevelt tried to win public support by taking his case directly to the people in the "fireside chat" reprinted below.

Last Thursday, I described the American form of government as a three-horse team provided by the Constitution to the American people so that their field might be plowed. The three horses are, of course, the three branches of government – the Congress, the Executive, and the Courts. Two of the horses are pulling in unison today. The third is not. . . . The Court has been acting not as a judicial body but as a policymaking body.

We have, therefore, reached the point as a nation where we must take action to save the Constitution from the Court and the Court from itself. . . . We want a Supreme Court which will do justice under the Constitution – not over it.

In our courts, we want a government of laws and not of men . . .

In 45 out of the 48 states of the union, judges are chosen not for life but for a period of years. In many states, judges must retire at the age of 70. . . . But all federal judges, once appointed, can, if they choose, held office for life, no matter how old they may get to be.

What is my proposal? It is simply this: Whenever a judge or justice of any federal court has reached the age of 70 and does not avail himself of the opportunity to retire on a pension, a new member shall be appointed by the President ten in office – with the approval, as required by the Constitution, of the Senate of the United States.

That plan has two chief purposes. By bringing into the judicial system a steady and continuing stream of new and younger blood, I hope, first, to make the administration of all federal justice speedier and, therefore, less costly. Secondly, I hope to bring to the decision of social and economic problems younger men who have had personal experience and contact with modern facts and circumstances under which average men live and work. . . .

Source: *The New York Times*, March 10, 1937.

Questions for Discussion:

1. According to FDR, how was the Supreme Court working against the other branches of government?
2. How were the terms of Supreme Court justices different from the terms of most state justices?
3. List three ways in which limiting the terms of justices would benefit the American people.
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4. Why would FDR's plan be seen by some as a violation of checks and balances and the separation of powers in the government?