

Dorothy Thompson: Roosevelt's "Court-Packing" Plan (1937)

President Franklin Roosevelt's 1937 attempt to restructure the Supreme Court, which critics labeled his "court-packing plan," aroused intense opposition in Congress, even among Democrats. Dorothy Thompson, the distinguished journalist and one of the earliest enemies of Nazism, lambasted Roosevelt's efforts to reshape the Supreme Court.

From Dorothy Thompson, "Roosevelt's 'Court-Packing' Plan" *The Washington Star*, February 10, 1937. Copyright © 1937 by Dorothy Thompson. [Editorial insertions appear in square brackets-Ed.]

If the American people accept this last audacity of the President without letting out a yell to high heaven, they have ceased to be jealous of their liberties and are ripe for ruin. This is the beginning of pure personal government. Do you want it? Do you like it? Look around about the world-there are plenty of examples-and make up your mind.

The Executive [President Roosevelt] is already powerful by reason of his overwhelming victory in November [1936], and will be strengthened even more if the reorganization plan for the administration, presented some weeks ago, is adopted. We have, to all intents and purposes, a one party Congress, dominated by the President. Although nearly 40 percent of the voters repudiated the New Deal at the polls, they have less than 20 percent representation in both houses of Congress. And now the Supreme Court is to have a majority determined by the President and by a Senate which he dominates. When that happens we will have a one-man Government. It will all be constitutional. So, he claims, is Herr [Adolf] Hitler.

Leave the personality and the intentions of the President out of the picture. They are not the crux of this issue.... He may have the liberties of the American people deeply at heart. But he will have a successor who may be none of these things. There have been benevolent dictatorships and benevolent tyrannies. They have even, at times in history, worked for the popular welfare. But that is not the welfare, which up to now, the American people have chosen.

And let us not be confused by the words ("liberal" and "conservative" or misled into thinking that the expressed will of the majority is the essence of democracy. By that definition Hitler, Stalin and Mussolini are all great democratic leaders. The essence of democracy is the protection of minorities. Nor has a majority of this generation the right to mortgage a majority of the next. In the Constitution of the United States is incorporated the rights of the people, rights enjoyed by every American citizen in perpetuity, which cannot be voted away by any majority, ever. Majorities are temporary things. The Supreme Court is there to protect the fundamental law even against the momentary "will of the people." That is its function. And it is precisely because nine men can walk out and say: "You can't do that!" that our liberties are protected against the mob urge that occasionally the Court has been traditionally divorced from momentary majorities....

This is no proposal to change the Constitution. This is no proposal to limit the powers of the Supreme Court. This is a proposal to capture the Supreme Court. ...

Don't talk of liberalism! The liberal does not believe that the end justifies the means. Long experience has taught him that the means usually determine the end. No human being can believe in

the sincerity of this proposal. It is clever, in a world sick of cleverness and longing for plain talk and simple honesty. Must we begin to examine every message from the President to see whether there is a trick in it somewhere?

Are the opposition in Washington phonographs or are they men? If they are men we shall see another little "willful group." They are a handful, but they can do one thing: They can see that this measure is not rushed through without debate, they can see to it that the country has time to think about this, to talk about it, to debate it on every forum platform, to act upon it, individually and in groups, regardless of party.

REVIEW QUESTIONS

1. Do you agree with Thompson that Roosevelt's attempt to restructure the Supreme Court resembled fascism? Explain.
2. Do you agree that the "essence of democracy is the protection of minorities"? Why or why not?