



THIS DAY IN POLITICS

FDR unveils 'court-packing' plan, Feb. 5, 1937



President Franklin D. Roosevelt ultimately prevailed in establishing a majority friendly to his New Deal initiatives on the court. | AP photo

By **ANDREW GLASS**

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In the afterglow of his landslide reelection victory in 1936, President Franklin D. Roosevelt unveiled on this day in 1937 a court-packing plan that would have added up to five justices to the Supreme Court with the approval of the Democratic-controlled Congress. In advancing his Judicial Procedures Reform

Bill, FDR reacted to the court's repeated striking down of his signature New Deal programs as unconstitutional.

Roosevelt did not want to present the proposed legislation to Congress before the annual White House dinner for the Supreme Court, scheduled for Feb. 2. With a Senate recess from Feb. 3 to 5 and the weekend on Feb. 6-7, Roosevelt had to settle for Feb. 5.

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The plan would have allowed the president to nominate one new judge for each federal judge with 10 years' service who did not retire or resign within six months after reaching 70. Furthermore, under the proposed legislation, the president could nominate no more than six younger Supreme Court justices and no more than two on any lower federal court.

Roosevelt's initiative failed. Contemporary observers broadly viewed Roosevelt's initiative as reflecting unseemly political maneuvering.

Traditionally, administration-sponsored legislation first goes before the House. However, Roosevelt didn't consult congressional leaders before announcing the bill, which stopped any chance of passing the bill in that body. Rep. Hatton W. Sumners (D-Texas), the House Judiciary Committee chairman, refused to endorse the bill, actively chopping it up within his panel to block the bill's chief intended effect of expanding the Supreme Court.

Congressional Republicans decided to remain silent on the matter, denying the Democrats the opportunity to use them as a unifying force. Republicans then watched from the sidelines as the Democrats split in the ensuing Senate fight.

Sen. Henry F. Ashurst (D-Ariz.), the Senate Judiciary Committee chairman, delayed hearings on the measure, saying: “No haste, no hurry, no waste, no worry — that is the motto of this committee.” The bill languished in committee for 165 days before Ashurst brought it up; opponents credited him as instrumental in its defeat. The death of Sen. Joseph T. Robinson (D-Ark.) at 64, the majority leader and bill’s chief senatorial advocate, further contributed to its failure.

Historian Michael Parrish observed in 1983 that “the protracted legislative battle over the court-packing bill blunted the momentum for additional reforms, divided the New Deal coalition, squandered the political advantage Roosevelt had gained in the 1936 elections, and gave fresh ammunition to those who accused him of dictatorship, tyranny, and fascism. When the dust settled, FDR had suffered a humiliating political defeat at the hands of Chief Justice [Charles Evans] Hughes and the administration’s congressional opponents.”

Roosevelt, who died in office in 1945 at 63 while in his fourth term, ultimately prevailed in establishing a majority friendly to his New Deal initiatives on the court.

SOURCE: “*This Day in Presidential History*,” by Paul Brandus (2018)

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