

**SPEAKER
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HCR 18 Testimony

The Constitution makes it very clear that the Congress with Presidential approval can decide the number of Supreme Court Justices. From 1789 to 1865 the number of Supreme Court Justices changed several times to meet different political objectives.

Then in 1869 the Supreme Court was established at 9 justices and that number has remained constant for 152 years.

In fact the stability of the Supreme Court's Nine Justices became so important to the American people that the most popular and powerful President of the 20th century, Franklin Delano Roosevelt, was repudiated by a Democratically controlled Senate by a landslide of 70 against and only 20 in favor. Roosevelt was furious that the Supreme Court was limiting his New Deal and he wanted to increase the number of Justices from 9 to 15. While the American people strongly support Roosevelt as President they strongly opposed his effort to pack the Court.

The difference between the pre-1869 changes in the number of Justices and the post-1869 stability was the changed view of the Supreme Court. Before the Civil War the Court was a relatively minor instrument of making the system work. After 1869 the rise of an industrial nation and the growing power of professional classes(including lawyers) made the Court more and more important.

As the Court became symbolically more important in establishing the stability of the government the desire for it to remain above politics and be institutionally stable grew dramatically.

It would be a major mistake to change the number of Justices for political reasons. It would undermine public confidence and weaken respect for the law.