

88th House District
Seneca and Sandusky County



Committees
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Gary Click
State Representative

Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski and honorable members of the House Civil Justice Committee, I thank you for the opportunity to give testimony today on House Resolution 57, to urge the protection of the integrity and independence of the United States Supreme Court, and to declare that “Nine is Fine.”

I ask you to take note that we have fifty-three cosponsors in addition to my joint sponsor, Representative Adam Bird and myself.

In short, this resolution urges President Biden to dissolve his Presidential Commission on the Supreme Court of the United States, urges Congress to reject the House Judiciary Act of 2021 and supports Senate Joint Resolution 9, also known as the Keep Nine Amendment.

In their great wisdom, our founding fathers created a system of checks and balances that established three branches of government. They are both interdependent and independent from each other. The Supreme Court was designed to be the least political branch of government and its sole purpose is to interpret the law in the light of the supreme law of the land, The United States Constitution.

This is a huge task. Regardless of how educated and dedicated our justices are, in the end, they are only human. It requires a huge amount of self-discipline to render a judgement based on the law that may reflect what the law says and yet opposes one’s personal beliefs. One justice noted that if they were doing their job accurately, they would likely not favor some of their own opinions because their political views would contrast with their legal views. It is not the role of a justice to change the law but rather to discern and maintain the law as written and according to the intent of its authors.

While a stoic adherence to the role of interpreting the law in the light of the Constitution is an admirable goal, we know that we have not always achieved that lofty ambition. In fact, politicians go to great lengths to achieve just the opposite.

Franklin Delano Roosevelt is easily remembered as a president who played politics with the high court. When the opinions of the court were unfavorable to his political goals, he too proposed a radical change to the court through his own court packing scheme in 1937. While he did not succeed in packing the court, he did achieve his political goal. Justice Owen Roberts keenly felt the political threat from the president. Not coincidentally, he began rendering opinions favorable to Roosevelt. This shifted the balance of the court from 5-4 opposing the president to 5-4 favoring the president’s political ambitions. This abrupt change is recorded in our history books as “The Switch in Time that Saved Nine.”

State Representative Gary Click
Ohio House of Representatives
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President Biden's Presidential Commission on the Supreme Court of the United States and Representative Jerrold Nadler's House Judiciary Act of 2021 are a transparent attempt to recreate Roosevelt's success in intimidating and influencing the court. These actions are a clearly a message to the nine justices on the Supreme Court designed to sway their opinions and alter their findings. This political gamesmanship should stop immediately.

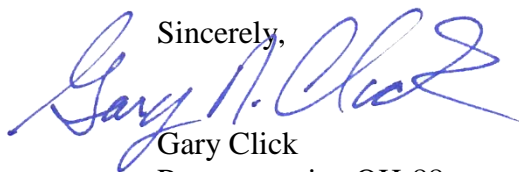
This resolution notes that the late justice Ruth Bader Ginsburg stated, "Nine seems to be a good number. It's been that way for a long time," and "I think it was a bad idea when President Franklin Roosevelt tried to pack the court," and "If anything would make the court appear partisan, it would be that — one side saying, 'When we're in power, we're going to enlarge the number of judges, so we would have more people who would vote the way we want them to.'"

Furthermore, Justice Stephen Bryer stated, "It is wrong to think of the Court as another political institution," and "Structural alteration motivated by the perception of political influence can only feed that perception, further eroding that trust."

The best way to ensure that this political gamesmanship is unavailable to either party both now and in the future is to pass the Keep Nine Amendment of which Ohio Senator Rob Portman is a cosponsor and this resolution advocates.

I yield to my joint sponsor, Representative Adam Bird. After his testimony, we will be happy to take your questions.

Sincerely,



Gary Click
Representative OH-88