

OPEN LETTER TO THE PRESIDENT

Sir:

Re: Studied Befuddlement

While an American citizen may yet do so with impunity, I exercise the prerogative of expressing sincere opinions concerning a question of fundamental importance to the entire Nation at this time.

As everyone has been remarking, it requires no sage to penetrate the reform plea which veils the true purpose of your proposal for catastrophic Federal Court changes, and to recognize in it a palpable and astounding effort to throttle the entire judiciary by swallowing up the power balance of the Supreme Court and maneuvering the activities of the lower courts – all at one fell swoop.

You, Mr. Roosevelt, who took oath and solemnly swore to abide by and protect the Constitution, have now suggested, in substance, a violation of the most sacred spirit of that great charter of the American Republic. That inspired document intended independence of judiciary and now you, after one hundred and fifty years of satisfactory adherence to that safe principle, urge abandonment thereof. Why? Because the fundamentally honest and genuinely American Supreme Court has functioned effectively in checking certain overenthusiastic legislative and administrative convulsions – inconsistent and dangerous experiments which threatened the American Democracy. Therefore, it appears, you seek now to emasculate that liberty-protective institution which was so wisely designed to stand between Government and People to insure equity, justice and stabilization.

In my opinion, a true champion of the masses could never conceive such a presumptuous attempt to impair the power and destroy the usefulness of the high Judiciary. The matured decisions of that so-far politically-free branch of Government certainly bear no mark of the senility or exhaustion which you overtly suggested. But that was merely one phase of an obviously studied befuddlement of your proposal's real nucleus. The aim has the ear marks of disguised usurpation.

The question, from America's standpoint, is: Shall a single, fallible, human individual be permitted to wield dictatorial powers encompassing legislative, executive and judicial branches? Granted that you, President Roosevelt, are guilty of no malevolence or misanthropy and have no thought other than the public welfare, what assurance is there that your successors would be as public-spirited? In other words, the most serious aspect of your plan is that America would be exposed not only to possible executive abuses in the present Administration but would be largely powerless against all manner of brain-stormed despotism on the part of future Chief Executives.

It is just such procedure and such precedent which “builds up instruments of power which in the hands of political puppets could become shackles to the people”. That is why such ordinary citizens as I hope that the character of the Supreme Court may be maintained so that our beloved people may at all times be protected against dangerously radical and “deeply pink” tendencies of any single human being who heads for awhile the Executive Branch of the Government of the United States.

If we eradicate “horse-and-buggy days” entirely, we might discover too late that our people need reliable, “stable” horse sense. We might suddenly become mere slaves of a master mechanism with one operator empowered to move controls setting massive machinery moving in any direction desired by him. What mad, reckless driver might gain such a seat of power in the future – what mad, monomaniacal driving there might be? How pitifully helpless and without remedy might 130 million Americans become when one power-craving individual holds all the controls – confusion and pandemonium might ensue for our Democracy.

You have brought about many salutary results such as bank reform, prohibition repeal, et cetera. But that is not justifiable reason why 130 million people should display unreasoning and unquestioning loyalty and support in everything. Why should so many people blindly continue loyalty when in certain circumstances it may help to stifle their own future freedom and that of the next living generation in this always exemplary democracy?

Over 60% of those who went to the polls last Fall trustingly voted to leave the reins in your hands for four more years. I sincerely believe that in this your proposal you have betrayed their trust. And it is rather obvious that your election campaign dodged this court issue because you feared to present these violent plans to the test of the ballot box and the sober reflection of American voters on a typically American question. You refused to submit such a specific idea to the people who certainly have the right to govern themselves by learning of plans in advance of election. There must have been greater confidence for the success of such a court plan through use of the Congressional whip of patronage, be it jobs, fund grants or what not, whereby our Senators and Representatives have been wont to do executive bidding unmindful of the best interests of their constituents.

This particular court proposal might, however, alter that responsiveness of Congress in a manner which possibly even your strategy may not have considered. It is my belief that many members of Congress were secretly pleased at nullification of certain laws for which they themselves had voted. That final outcome left them in a safe position. They had supported the Administration and yet the ultimate effects of certain ill-advised legislation did not go on. Thus far they could carry water on both shoulders. They could vote the White House way on measures such as N.R.A. and yet avoid blame at home for ultimately colossal harm because the Supreme Court could be depended on to correct bad legislation by nullifying it. There were, as a result, probably many members of both Houses who secretly echoed the aptly-expressed sentiment: “Thank God for the Supreme Court”.

You have, Mr. President, labeled yourself as a doctor ministering to your country’s ills. Is it not customary for any ethical doctor to gain the consent of the patient prior to the performance of a major piece of surgery – and point out the seriousness of the work and the

chances for success? Is it not likewise proper for America's Public Servant No. 1 to secure the master's approval on such a definitely controvertible policy or aim?

In my opinion, if you would set aside some of your obdurate ambition to force certain legislation empowering you to pursue a turbulent campaign to "master" industry and capital – if you would subordinate your lust for power – I say that if you would prove magnanimous enough for that in connection with this momentous court question, you would still be in a position to build upon the foundation of good things already accomplished and assure for yourself and for the pride of your descendents a high place in history as a true friend of the people, in truth as well as in assertion. Rather a place with Lincoln who abolished slavery, or Washington who did so much to guide the infant Republic, than in the unlovable place of a one-man mastery for mere mastery's sake.

In fairness to you, Mr. President, I must add to the previous mention of good accomplished by your Administration the remark that: viewing photographs of you, listening to you "on the air" and reading certain impassioned messages, I do surely feel in your efforts and activities a deep background of sincerity and humanitarianism. In other words, your original, motivating and underlying forces or intentions are for the commonweal. But in that excess of ardor common to reformers you have undoubtedly developed an infallibility complex.

This is a sincere, carefully considered utterance of one individual in a largely inarticulate mass of Americans and reflects views existing in the minds of many other people with whom this individual is in contact.

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