

116TH CONGRESS  
2D SESSION

# H. RES. 1138

Expressing the sense of the House of Representatives that the number of Justices of the Supreme Court of the United States should remain at nine.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2020

Mr. JORDAN (for himself, Mr. SENSENBRENNER, Mr. CHABOT, Mr. GOHMERT, Mr. COLLINS of Georgia, Mr. BUCK, Mrs. ROBY, Mr. GAETZ, Mr. JOHNSON of Louisiana, Mr. BIGGS, Mr. MCCLINTOCK, Mrs. LESKO, Mr. RESCHENTHALER, Mr. CLINE, Mr. ARMSTRONG, Mr. STEUBE, and Mr. TIFFANY) submitted the following resolution; which was referred to the Committee on the Judiciary

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## RESOLUTION

Expressing the sense of the House of Representatives that the number of Justices of the Supreme Court of the United States should remain at nine.

Whereas Article II, Section 2, of the Constitution expressly provides that the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court . . .”;

Whereas the Act entitled “An Act to amend the judicial system of the United States”, approved April 10, 1869 (commonly known as the Judiciary Act of 1869), states that “the Supreme Court of the United States shall here-

after consist of a Chief Justice and eight associate justices”;

Whereas the Supreme Court of the United States has consisted of a Chief Justice and eight associate Justices for 151 years;

Whereas previous attempts to increase the number of Justices to the Supreme Court of the United States have been rejected and widely condemned by individuals of both political parties;

Whereas, in 1937, when former President Franklin Delano Roosevelt proposed the Judicial Procedures Reform Bill of 1937, a bill that sought to expand the number of Justices on the Supreme Court of the United States from 9 Justices to 15 Justices, he was harshly criticized by both parties and his own Vice President, John Nance Garner;

Whereas, during the Trump Administration, Democrats have refused to recognize the legitimacy of President Trump’s Supreme Court nominees and have advocated for packing the court with additional Justices appointed by a future Democrat president;

Whereas, in 2019, the late Justice Ruth Bader Ginsburg stated, “I think it was a bad idea when President Franklin Roosevelt tried to pack the court”, and that “[i]f anything would make the court look partisan, it would be that”;

Whereas the House Committee on the Judiciary Chairman Jerrold Nadler stated in a tweet, “If Sen. McConnell and @SenateGOP were to force through a nominee during the lame-duck session—before a new Senate and President can take office—then the incoming Senate should immediately move to expand the Supreme Court.”;

Whereas Senate Minority Leader Charles Schumer stated, “Let me be clear: if Leader McConnell and Senate Republicans move forward with this, then nothing is off the table for next year. Nothing is off the table.”;

Whereas Representative Joe Kennedy III stated in a tweet, “If [Senate Majority Leader McConnell] holds a vote in 2020, we pack the court in 2021. It’s that simple.”;

Whereas Senator Ed Markey stated in a tweet, “No Supreme Court vacancies filled in an election year. If [Senate Majority Leader McConnell] violates it, when Democrats control the Senate in the next Congress, we must abolish the filibuster and expand the Supreme Court.”;

Whereas, in July 2019, the Democrat Presidential Candidate Joe Biden said, “I’m not prepared to go on and try to pack the court, because we’ll live to rue that day” and “I would not get into court packing. We add three justices. Next time around we lose control, they add three justices. We begin to lose any credibility the court has at all.”;

Whereas the Constitution is based on the principle of separation of powers to provide for checks and balances on each branch of the Federal Government, and expanding the Supreme Court purely for political advantage threatens the separation of powers and the system of checks and balances established in the Constitution;

Whereas the Federal judiciary is insulated from political influence through lifetime appointments and other measures to preserve its independence, and an attempt to expand the Supreme Court purely for political purposes threatens the independence and integrity of the Supreme

Court and, thus, the entirety of the judiciary it oversees;  
and

Whereas any attempt to increase the number of Justices of  
the Supreme Court of the United States or “pack the  
court” would undermine our democratic institutions and  
destroy the credibility of our Nation’s highest Court:  
Now, therefore, be it

1       *Resolved*, That the House of Representatives con-  
2 demns and opposes any attempt to increase the number  
3 of Justices of the Supreme Court of the United States  
4 or otherwise “pack the court”.

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