Congressman Clifford Hope's Correspondence
With His Constituents: A Conservative View
of the Court-Packing Fight of 1937

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NE OF THE most significant developments in the later New
Deal period was the emergence of the conservative coalition
in the United States congress.¹ This loosely organized bipartisan
group of Republicans and Democrats completely stymied the Roose-
velt administration's attempts to expand its domestic reform pro-
gram after 1937. Since that time, the coalition has fought an
extensive and partially successful rear guard action against the
domestic reform legislation which has marked the evolution of the
American welfare state.²

Prof. James Patterson, an acknowledged scholar on the conserva-
tive coalition, explained the causes of its emergence in the following
terms:

Certain aspects of the coalition are well known and open to little question.
Undoubtedly, both houses of Congress were more cantankerous in President
Franklin D. Roosevelt's second term than they had been in his first, and most
of the uncooperative congressmen were conservative on key issues. They
tended to favor balanced budgets, to oppose welfare programs, to be suspicious
of organized labor, and to speak favorably of states rights and limited
government.³

Continuing, Patterson emphasized the need to seek answers to
more basic questions about the development of the coalition.

... historians have seldom ventured beyond these generalizations. They
have not identified the members of the coalition. They have not tried to
generalize about them as a group. They have not probed into the questions
of why or when the coalition began. Finally, they have not shown whether the
coalition was consciously organized, well disciplined, or coherent on crucial
roll calls. These matters deserve attention.⁴

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1. James T. Patterson, "A Conservative Coalition Forms in Congress, 1933-1939," The
   359-352; William E. Leuchtenberg, Franklin D. Roosevelt and the New Deal (New York,


4. Ibid.
CLIFFORD RAGSDALE HOPE, SR.
(1893-1970)

A native of Iowa, Clifford Hope, Sr., came to Kansas and attended the Washburn law school in Topeka, where he was graduated in 1917. Following war service in France he commenced law practice in Garden City. He was elected to the Kansas house of representatives in 1920, and to the United States house of representatives in 1926, where he served for 30 years, the longest tenure of any Kansas house member.
In an excellent article and a subsequent book, Patterson proceeded to present well researched, judicious answers to these questions.\(^5\)

Patterson and numerous other prominent historians of the New Deal have emphasized the importance of the struggle over the reorganization of the federal judiciary which occurred from February-July, 1937, as the catalytic agent which galvanized congressional discontent and turned it into open rebellion against the Roosevelt administration. Patterson reflected this view when he assessed the court fight in the following terms:

The court reform plan, presented in February 1937, provided these fractious congressmen with the ideal occasion for open rebellion. While Harrison and some other leaders remained outwardly loyal, the plan caused many formerly dependable Democrats to oppose the President openly. In addition, it united progressive and conservative Republicans, created intense personal rancor, and left all but the “100 percent New Dealers” suspicious of the President’s motives. Above all, it emboldened congressmen who had not dared speak out before.\(^6\)

Similarly, James MacGregor Burns regards the court reorganization bill as the major mistake of Roosevelt’s career because it hastened the breakup of the New Deal coalition which had assured Roosevelt nearly total success of his program up to that time.\(^7\) In another similar assessment of the court fight’s significance, William E. Leuchtenberg concluded:

The Court fracas destroyed the unity of the Democratic party and greatly strengthened the bipartisan anti-New Deal coalition. The new Court might be willing to uphold new laws, but an angry and divided Congress would pass few of them for the justices to consider.\(^8\)

Thus, while not ignoring the constitutional aspects of the court struggle, all of these scholars emphasized the political significance of the court fight of 1937. The student of American history is left with the impression that the constitutional beliefs of the participants in the court fight were of secondary importance.

This study is an attempt to present a more precise picture of the role of constitutional beliefs and arguments in the court fight and, by extension, in the emergence of congressional opposition to the New Deal. It seeks to do this through an examination of the impact of the constitutional aspects of that controversy on a congressman who was involved in both the court fight and the emergence of the

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\(^6\) Patterson, “A Conservative Coalition,” p. 765; See, also, Patterson, *Congressional Conservatism*, pp. 126, 127.

\(^7\) Burns, *Lion and the Fox*, pp. 298-300; See, also, Joseph Alsop and Turner Catledge, *The 168 Days* (Garden City, N.Y., Doubleday, Doran & Co., Inc., 1938) for an accurate account of the entire court fight.

\(^8\) Leuchtenberg, *Franklin D. Roosevelt*, pp. 238, 239.
conservative coalition. When using this approach, the historian is confronted with the challenge of finding source materials which will enable him to reconstruct accurately the interaction which occurred between the constitutional arguments, the political factors, and the personalities involved in the court fight. One possible source of such information is the correspondence between congressmen and their constituents during the struggle.

The correspondence of Republican Congressman Clifford R. Hope with his constituents in the 7th Kansas congressional district during the court fight is particularly susceptible to this suggested approach. Although the correspondence contains only sporadic treatment of the specific events of the court controversy, it is replete with detailed discussions of the general significance of that struggle. Moreover, Hope, a seasoned political observer who prided himself on close personal contacts and frank discussions of issues with his constituents, was not at all reticent about sharing his views on the court fight with them. For these reasons, this study will use the Hope correspondence as its frame of reference to examine the role of constitutional beliefs in the court fight. Prior to a discussion of specific aspects of the Hope correspondence, some basic information about Clifford Hope and his district is in order.

Clifford Ragsdale Hope was serving his fifth consecutive term in congress when President Roosevelt introduced on February 5, 1937, the judicial reorganization bill which precipitated the court fight. Born in Iowa in 1893, Hope and his family moved to Garden City, the county seat of Finney county, in southwestern Kansas, in 1906. Hope was educated at Nebraska Wesleyan University and at the Washburn University School of Law in Topeka, from which he was graduated in 1917. After serving as a lieutenant in the United States army during World War I, he returned to Garden City, established his law practice, and became an active member of the Presbyterian church, the Masons, and the American Legion. A moderate Republican, Hope worked actively in local party affairs and served in the state house of representatives from 1921 to 1927. A man of strong convictions, he openly opposed the Ku Klux Klan's

9. All of the letters cited in this paper are in the "Clifford Hope Collection" in the manuscript division of the Kansas State Historical Society, Topeka. Unless otherwise indicated the correspondence used in the preparation of this paper can be found in the four folders marked "Supreme Court (Legislation)" under the "Religious-S" heading in his legislative correspondence for 1936-1937. Hereafter the specific letters used will be indicated by citing the writer or receiver and the date on which the letter was written. Clifford R. Hope, private interview at his home in Garden City, January 23, 1970. Hereafter referred to as Hope interview.

attempts to establish itself as a legal corporation during his term as speaker in 1925.\textsuperscript{11}

In 1927 Hope, with strong support from the local newspaper editors in the 7th congressional district, defeated five other candidates in a runoff in the Republican primary, and went on to win the first of his 15 consecutive terms in congress. The rural nature of his constituency, the troubled state of American agriculture, and his assignment to the house agriculture committee combined to cause the young lawyer to become a serious student of agricultural policy and problems.\textsuperscript{12} Through hard work, he soon established himself as a leading congressional expert on agricultural policy.

The political climate in which Hope worked underwent tremendous changes as a result of the shattering effects of the depression which followed the stock market crash in 1929. After 1932 Hope was a member of the Republican minority which found itself unable to understand or prevent the massive amounts of federal spending, bureaucratic control, and confusing experimentation which characterized Franklin D. Roosevelt's New Deal. Hope's hostility towards much of the New Deal did not prevent him from working very hard to secure as much federal aid as possible for the beleaguered farmers in his district. Despite the fact that he voted against the Agricultural Adjustment Act in 1933, Hope labored after its passage to see that the farmers in his district received their full share of its benefits.\textsuperscript{13}

Hope in 1937 was one of the remaining 89 Republicans in the house who had survived the 1936 Roosevelt landslide. The 7th congressional district, a traditionally Republican 32-county area which comprised the southwest quarter of Kansas, had returned him in 1932, 1934, and 1936 with 55.6%, 54.6%, and 56% respectively of the total votes cast in those elections.\textsuperscript{14} This showing is particularly impressive in light of the strong Democratic electoral tide which swept Kansas from 1932-1936.\textsuperscript{15} Both President Roosevelt and the Democratic senatorial candidates carried the 7th district with ease in 1932 and 1936.\textsuperscript{16} Hope attributed his success to the

\textsuperscript{11} Hope interview.

\textsuperscript{12} Ibid. Hope commented that he really did not know much about farm problems prior to his election to congress in 1927. See Theodore Saloutos and John D. Hicks, \textit{Twentieth Century Populism} (Lincoln, Neb., University of Nebraska Press, 1951) for a comprehensive treatment of the problems faced by American farmers from 1900 to 1939.

\textsuperscript{13} Francis W. Schruben, \textit{Kansas in Turmoil, 1920-1936} (Columbia, Mo., University of Missouri Press, 1969), pp. 108, 111, 159, 164-166; Hope interview—Hope claimed that he voted against the AAA because he objected to certain technical aspects of it.

\textsuperscript{14} June G. Cabe and Charles A. Sullivant, \textit{Kansas Votes, National Elections 1859-1956} (Governmental Research Center, University of Kansas, Lawrence, 1957).


\textsuperscript{16} Cabe and Sullivant, \textit{Kansas Votes}. . . .
following factors: his close personal contact with his constituents, his constituents' awareness of his important position on the house agriculture committee, and his close working relationship with the editors of the newspapers in his district.\textsuperscript{17}

Regardless of the reasons, the fact that Hope was "safe" in his own district is significant. It made him less fearful and more openly critical of the Roosevelt administration than many of his congressional colleagues. Moreover, it shows that Hope possessed one of the principal characteristics shared by the members of the emerging conservative coalition in the 1930's, electoral invulnerability.\textsuperscript{18}

Hope's district in 1937, predominantly rural, had experienced little population increase since 1930. Despite the development of salt, oil, and natural gas resources, the production of winter wheat and beef cattle formed the economic backbone of the district. Available statistics reveal a steady increase in the value of beef and winter wheat produced in all of the 32 counties in the district from 1932-1936.\textsuperscript{19} This was true despite the intense drought and severe dust storms which created "dust bowl" conditions in the western two-fifths of the state in 1935-1937.\textsuperscript{20} The AAA farm program, the effects of the Federal Land Bank, and the work of the Soil Conservation Service must certainly be credited as major causes of the improved economic conditions in the 7th district by 1937.\textsuperscript{21} The rural characteristic of the district was another of the important common denominators shared by the members of the conservative coalition.\textsuperscript{22}

A survey of Hope's correspondence during the period between the Republican debacle of 1936 and the introduction of the court plan provides some insights into the state of Hope's mind and the general political situation on the eve of the court struggle. Immediately after the election, Hope expressed deep discouragement over the plight of the Republican party in a letter to an old friend.

\textsuperscript{17} Hope interview; Schraben, \textit{Kansas in Turmoil}, p. 220.—This author maintains that much of the dichotomy in the attitudes of Kansans toward the New Deal reflected their willingness to accept those parts of the New Deal which benefited them without fully accepting the Roosevelt revolution.

\textsuperscript{18} Patterson, "A Conservative Coalition," p. 762.

\textsuperscript{19} See 28th and 30th Biennial Reports of the Kansas State Board of Agriculture (Topeka, 1935, 1937); Zornow, \textit{Jayhawk State}, pp. 298-300; Robert S. Eckley, \textit{Mineral Resources and Industries—Economic Development in Southwestern Kansas}, pt. 3 (Lawrence, Bureau of Business Research, University of Kansas, 1957); pp. 31, 52, passim; Richard Finger, \textit{Manufacturing—Economic Development in Southwestern Kansas}, pt. 6 (Lawrence, Bureau of Business Research, University of Kansas, 1953); pp. 60, 61, passim.

\textsuperscript{20} Zornow, \textit{Jayhawk State}, pp. 276, 277; "Hope Collection," 1935-1937, passim.—Both Hope's general and legislative correspondence files are replete with discussions of "dust bowl" conditions in his district.

\textsuperscript{21} Zornow, \textit{Jayhawk State}, pp. 274, 275; Hope interview.

\textsuperscript{22} Patterson, "A Conservative Coalition," p. 762.
This is certainly a discouraging proposition. I notice that quite a number of the older and more experienced members of the House in the East were defeated, which will naturally make our opposition more ineffective.23

However, Hope became far less pessimistic about the political situation after the new session of congress began. While he continued to express his fear that the new congress would probably be a mere rubber stamp for Roosevelt's proposals, he did see a glimmer of hope in the friction generated by President Roosevelt's proposal to reorganize the executive branch: "However, I can see where there is room for a good many differences of opinion and it may develop that there will be a real division in the Democratic camp before the session is over." 24

Hope's statement proved to be almost prophetic. His discussions of the congressional reaction to the plan made it clear that many congressmen feared that the plan would lead to further extension of the already inflated powers of the executive at the expense of the legislative branch.

The introduction of the judicial reorganization bill on February 5, 1937, precipitated an immediate and intense reaction among the American people. Congressmen, used to apathy among their constituents during the first four years of the New Deal, were amazed at the deluge of mail criticizing the court plan which they received in the first weeks after its introduction. 25 Obviously elated by both the volume and hostility of the public response, Clifford Hope remarked in a letter to a constituent:

This question has stirred the people more than anything which has come up since I have been a member of Congress. It seems to me the President has made a great mistake in submitting this proposal and certainly up to date, at least, the reaction has been very much against it. I understand that the administration is getting ready to launch a counter attack in the way of propaganda coming from WPA workers and others so that the character of congressional mail on the subject may change. Up to date, however, on an average the mail that every member of Congress has been receiving has been ten or more to one against the proposal. 26

Nearly all of Hope's letters to his constituents during the first six weeks of the court fight contain similar statements. There is no doubt that the intensity of the public reaction to the court bill impressed him deeply.

It is also evident from his correspondence that he considered

the letters which he received in the first few weeks of the court fight as a far more accurate gauge of public sentiment than those he received later. In a letter written two and one-half weeks after the introduction of the court plan, Hope explained the reasons for this judgment:

I think beyond a doubt that all of the expressions which have been received in Washington from over the country . . . have been spontaneous. From now on, however, a good many of the protests which are received on both sides will undoubtedly be the result of organized propaganda, hence not so dependable as we have had up to date. I have received something over 300 letters or other statements in opposition to the President's proposal, not including petitions of which I have received several. So far I have had only five letters favorable to the proposal. That proportion seems to be holding good throughout most of the country.27

In another letter written a week later, Hope noted that out of 500 total pieces of correspondence commenting on the court plan, 300 were from his district and of these only five supported Roosevelt.28 For the first time since Roosevelt's election in 1932, there were definite signs that a majority of the American public sharply disagreed with one of his major proposals.

What were the principal characteristics of the correspondence which Clifford Hope received from his constituents during the court fight? Turning first to the question of who wrote the letters, one is immediately struck by the diversity of his correspondents. Farmers, lawyers, merchants, teachers, doctors, laborers, retirees, partisan Republicans, and admitted Democrats all entered the fray with enthusiasm.29 It should be noted, however, that the occupational background and political preference of fully one-half of the correspondents could not be determined. The appearance of the correspondence ranged from grammatically precise typewritten messages on commercial letterhead to scrawled penciled messages on postcards and dime store writing tablet sheets.

An examination of the contents of the correspondence of this varied group reveals their overwhelming opposition to the court plan, and more significantly, a remarkable similarity in the arguments which they presented against it. The existence of such unanimity at the very beginning of the court fight suggests that groups such as the National Committee to Uphold Constitutional Government, the American Bar Association, and the National

Grange which attempted to shape public opinion against the court plan may only have reinforced the strong feeling of doubt already held by many Americans about it.\textsuperscript{30}

By far the most frequently stated argument against the plan was the charge that it would lead to the creation of a dictatorship. Hope's outraged constituents expressed this fear in the following terms:

I personally feel that giving such power to the President would take away so much of the security and independence that we as a people have always enjoyed, and would be one more step toward a dictatorship that is so distasteful to real Americans.\textsuperscript{31}

Certainly we do not want a dictator. Possibly the other suggestions may have some merits. You would be the best judge of this but don't let's disturb the Supreme Court in any way.\textsuperscript{32}

Our liberty is much more important than any whim of the President's. He might be a kind dictator himself, but after the stage is set the next President might be a Hitler or Mussolini. I feel your good sense will prompt you to oppose this measure which will jeopardize our freedom.\textsuperscript{33}

Such expressions of fear that the plan would lead to dictatorship were commonplace throughout the court controversy. Some of the correspondents openly accused Roosevelt of seeking to create a dictatorship; others emphasized the dangerous implications of the plan for the future.\textsuperscript{34}

Hope's constituents presented three major arguments in support of their charge that the plan threatened dictatorship. First, many asserted that the enlargement of the supreme court was a threat to the traditional separation of powers and the checks and balances in the American political system:

The division of power among the independent branches of government is the foundation of our liberty. ... We ask you as a representative of the public to give your best effort to the preservation of the independence of the legislative and judicial branches of government.\textsuperscript{35}

Our government is organized on a three way balance of power. Now when one department in line of duty finds it necessary to check certain acts of an-
other it certainly is bad manners for the executive to try to revamp the judiciary. He can not do it without the help of the legislative. I am asking you to use your best efforts to prevent such legislation.\(^{36}\)

Many of the correspondents thus condemned the plan because they felt that the subordination of the judiciary to the executive would drastically alter the structure of the American government.

The second major argument in the correspondence was the contention that the plan was particularly dangerous because Roosevelt already dominated congress. A. F. Styles summarized the attitude of many of Hope’s constituents towards the situation in congress when he noted:

> Through the large Democratic majority, through his control of patronage, and through his use of billions of money which he has had to spend, he has dominated Congress [for] four years. If you give him this additional power, it is clear that instead of three coordinate branches of government, we shall have in fact only one, and that one under a dictator.\(^{37}\)

The more militant expressed the “... hope that the Senators and Representatives become something more than rubber stamps and fight the battle that is ensuing on the Supreme Court. ...” \(^{38}\) In the same manner, Alvin Long, a wholesale grocer from Lyons, put it:

> It seems that many of our Congressmen are forgetting the well-being of this country, while they are looking at bait for their personal gain. We wonder if the people will not some day call on Congress as to why they have given up their duties and obligations to another division of our government. Surely it is time for Congress to again take its place as one essential division of our government. We don’t want a dictator in this country, and it is time that Congress quit placing more power in one man.\(^{39}\)

Quite often, as the following indicates, these calls for the reassertion of congressional power were directed to Hope personally:

> Courageously do everything possible to defeat this preposterous conniving and God will sustain you because “with God all things are possible.” Mat. 19:26.\(^{40}\)

As private citizens there is little we can do to influence legislation. We must depend upon our representatives to remain loyal to us and our rights. Please stand by your convictions and do not let the President and his supporters coerce you. We Kansans like a fighter. You are there to speak for us and not to take orders from the President. ... We count on you.\(^{41}\)

\(^{36}\) From W. L. Dunbar, February 10, 1937; see, also, from Mabel B. Sudley, February 11, 1937.

\(^{37}\) From A. F. Styles, February 17, 1937.

\(^{38}\) From Mrs. D. L. Langmecker, February 15, 1937.

\(^{39}\) From Alvin Long, February 13, 1937; see, also, from W. R. McCoy, February 14, 1937.

\(^{40}\) From Eula V. Hunter, February 16, 1937.

\(^{41}\) From Minnie C. Swanson, February 16, 1937.
Underlying this theme was a strong sense of concern that Roosevelt himself had already become too powerful. The correspondents were uneasy at the tremendous growth of executive power which had occurred in the first four years of the New Deal. To Hope's constituents, the court plan was convincing evidence of the vital need for the reassertion of legislative independence as a check on this executive power.

The third argument which Hope's constituents presented against the plan was that it threatened the integrity of the supreme court. They emphasized that the court was an impartial institution which stood above politics and acted as the preserver of our liberties. The following expressions of reverence for the court were typical:

I consider this problem concerning the packing of the Supreme Court a non-partisan one, because all true American citizens should have the desire of preserving the government for posterity.42

We as a people have always had, as we should, implicit confidence in the learned, unbiased, and non-political decisions of our courts and considered them the final barrier against immeasurable harm that can come from unreliable and experimental legislation.43

The letters provide undeniable proof that many Americans regarded the court as a sacrosanct institution.

Many emphasized that the plan would transform the court from an independent branch into a subordinate political agent. F. H. Lobdell, editor of the Nickerson Argosy, expressed this concern when he wrote:

I am genuinely concerned over the President's plan to virtually abolish the Supreme Court, at least to reduce it to a mere adjunct to the executive department, which is certainly a violation of the constitution as it stands. The President was not honest in his announcement. In his message to congress he said one thing, but it seems to me he meant another thing, and that thing is the creation of a court that will do his will regardless of the constitution or the law. . . . Up to the present time the Supreme Court has functioned as an independent branch of the federal government. Under the new proposition, it will not be a court at all.44

The writer's belief in the nonpolitical nature of the court is apparent. He and many others reiterated their beliefs in the absolute neutrality of the judicial process.

Numerous other correspondents reflected a deep and abiding faith in the court as the protector of American liberties. As might be expected, this argument was generally tied to the more specific

42. From Helen R. Seelye, February 15, 1937; see, also, from Margaret Saxe, February 19, 1937.

43. From F. N. Smyth, February 13, 1937.

44. From F. H. Lobdell, February 14, 1937; see, also, petition from Fair View Grange, February 19, 1937.
notion that the court was the last bastion of defense against the radical changes and experimentation which they saw in the New Deal. One correspondent provided a classic expression of this view when he said:

I believe the Supreme Court is the last safeguard of our liberties as a free people and to revise or weaken same, would prepare the way for a dictatorship of our land. I feel it my duty to my family and before Almighty God to write this letter.  

Another also expressed this attitude when he remarked:

I believe we need a body of old men with character beyond reproach, with ability and experience to keep a visionary President and a visionary Congress from running away with law and order. I believe we have such a court.

The correspondence of Hope's constituents presents an excellent example of the high place of esteem which the supreme court held in the eyes of many Americans in the 1930's. Certainly it was implicit in these letters that the court stood above politics and objectively dispensed justice.

How did Congressman Hope respond to his constituents' condemnation of the court plan? His letters during the court controversy confirms his implacable hostility towards the plan. In the course of his attacks on it, Hope presented a clear view of his basic constitutional beliefs. As in the correspondence of his constituents, several major themes are discernible in his treatment of the court plan.

Certainly one of the most persistent themes in Hope's correspondence was his assertion that the ultimate outcome of the court fight was in the hands of the people. He felt that continued public opposition to the court-packing plan would assure its defeat. He explained the reasons for his belief in the following terms:

The most heartening thing about the entire situation is the tremendous interest which is being taken in the matter throughout the country. Since I have been a member of Congress, no public question has aroused the interest that this one has. It seems to me the issue is directly up to the people. If they will continue to make their protests known as they have been doing in the last two weeks, then I do not believe that Congress will blindly follow the President's leadership in this matter. On the other hand, if they become indifferent to the issue, then there is no doubt but what the legislation will be passed.

It is apparent from these examples that Hope regarded the negative public response to the court plan as the most crucial factor because

45. From H. V. Morris, March 22, 1937.
46. From S. B. Lucas, February 24, 1937.
47. To Mrs. Ray Heel, February 20, 1937; see, also, to C. E. Blomquist, February 10, 1937; to Holme Meade, February 10, 1937; to Perry S. White, February 11, 1937; to J. S. Kritzer, February 12, 1937.
of its potential effect on congress. He, like his constituents, hoped for a reassertion of congressional independence.

During the first two months of the court controversy, Hope also expressed a fearful respect for Roosevelt’s ability to sway public opinion. In numerous letters he expressed concern lest “... the administration by means of its great resources in the way of propaganda and patronage is able to convince the country that the proposal is all right. ...” Hope’s fears were well grounded. The Roosevelt administration had experienced four years of seldom-interrupted success in which congress had docilely accepted its legislative program. There was no reason for Hope to assume that the administration would hesitate in its attempt to push the court plan through congress.

Because of this fear, Hope was convinced that the opponents of the court bill should do everything in their power to prevent Roosevelt from making it a partisan issue. As the following letters illustrate, he took great pains to explain this strategy to his constituents:

So far the opposition to the legislation has come very largely from Democratic quarters. That is, the leadership in the fight has come from that source. I think that is the way it should be if we are to win the fight. If the Republican National Committee, the Liberty League, or the American Bar Association undertakes to assume leadership then we are sunk, because all the President will have to do is say, “Look who is fighting the proposition,” and a lot of people will forget all about the merits of the proposal itself and be led astray by the President’s demagoguery. However, everyone understands that in Congress the solid Republican vote, small as it is, will be against this proposal.

On March 1 Hope again explained the efficacy of this strategy:

Any moves, however, which would tend to arouse partisan feeling or any opposition to the President’s proposal on the part of groups or individuals which the President could use as a whipping boy will give the President a great advantage. There has been no man in our political history who was any more adroit in taking advantage of the breaks or in diverting the peoples [sic] minds from the real issues of a political question than the President. Up to date he hasn’t had a chance to do anything except discuss the merits of the issue, which is pretty tough in a case where the issue has no more merits than this one. ... But things are going along so fine just now that I don’t think we want to do anything to rock the boat.

From the preceding, it is apparent that Hope, like his fellow congressional Republicans, accepted the nonpartisan approach as sound political strategy. However, his correspondence indicates that

48. To Mrs. L. M. Schrader, March 4, 1937.
49. To W. R. McCoy, February 19, 1937.
50. To H. H. Henne, March 22, 1937; see, also, to Joe E. Deham, February 26, 1937; to Charles M. Sledd, February 13, 1937.
his reasons for advocating a nonpartisan approach went far beyond the realm of narrow partisanship. His determination to force Roosevelt to discuss the "merits" of the proposal is proof of this. As Hope put it in another letter, the court plan raised "... an issue which goes to the very fundamentals of our government.

Why did Hope feel that the court issue was so important? An examination of his correspondence reveals that he honestly viewed the court plan as a threat to the basic character of American government. Like his constituents, the heart of Hope's argument against the court plan was his conviction that it would destroy the independence of the federal judiciary and the system of checks and balances which he regarded as the bulwark of the American government.

While I haven't agreed with all the Supreme Court's decisions, yet I can't think that the President's method is the way to get at the matter. Our present form of government can only be maintained as long as we have an independent judiciary in this country and it seems to me that to permit a President who is dissatisfied with the decisions of the Court to make new appointments of judges who will adopt his viewpoint would tend to destroy the balance and division of power which have always been a characteristic of our form of government. 52

On the same day, Hope noted:

There are some people who think that the Supreme Court is a hindrance to progress, and, frankly, I have not been satisfied with all their decisions; nevertheless the lessons of history teach us that the Court has always been on the side of the people when it comes to a proposal to substitute executive power for law and to make this country one of a Government of men rather than laws. It seems to me that an independent judiciary is our last safe guard against Dictatorship and I, personally, am not ready to surrender control of the country to any President no matter how good his intentions are. 53

Hope made it very clear in his correspondence and in a later interview that he disagreed sharply with the AAA and the Railway Pension Act decisions in which the court invalidated New Deal legislation. He expressed a sympathetic awareness of the inhibiting effects which the court's decisions had on attempts to solve many pressing economic problems. 54 His response to the court plan was not based on any tender devotion to the court because it had nullified parts of the New Deal. An examination of his correspon-

51. To Lawrence W. Jefferis, February 17, 1937.

52. To B. T. Robinson, February 16, 1937; also Hope interview.

53. To F. E. Buffum, February 16, 1937; sec. also, to Pawnee county petitioners, February 19, 1937; to V. D. Peachey, February 22, 1937.

54. Ibid.; Hope interview. Hope felt that the Hughes court was a poor one. He was especially critical of Justice Roberts' majority opinion in the AAA decision because he felt it was based on a misunderstanding of the law.
dence in the years preceding the court fight makes this very clear.\footnote{55} To Hope, the court plan threatened a far more important value, the survival of the American system of government.

Four years of frustration as a member of the Republican congressional minority which had vainly opposed Roosevelt's nearly total domination of congress reinforced his basic constitutional beliefs and made it possible for Hope to conclude:

If this bill passes then I am afraid that our American form of government as we have always known it will become a thing of the past. The President already has control of both the executive and legislative branches of the government and if he secures control of the Supreme Court we will, I am afraid, have all the setup for a dictatorship.\footnote{56}

It is not surprising that Hope vowed in many letters to oppose the plan "to the bitter end" even if it meant the end of the Republican party.

Moreover, he was convinced that the plan was a dangerous one regardless of Roosevelt's intentions or his domination of congress because of the precedent which it would set. As he explained:

I am afraid it would be setting a very bad precedent to give the President authority to appoint new judges who have their minds already made up on public questions. President Roosevelt might appoint good judges, but the next President who came along might have entirely different ideas. Under the precedent which we would establish if we pass the President's bill, he might appoint judges who decided cases just the opposite. You can see by this procedure that no one would have any confidence in the courts and we would have gotten entirely away from our traditional system of Government in this country.\footnote{57}

The "future danger" argument proved to be a very effective one for opponents of the court plan regardless of their motives. It permitted them to attack the plan while at the same time avoiding the charge that they were really using the court fight as a smoke-screen to attack New Deal policies.

It is also apparent from his correspondence that the court plan threatened to destroy what Hope regarded as the fundamental character of the judicial process, its mechanical objectivity. Hope expressed this fear in the following terms:

I don't believe that any of us can safely adopt the policy of saying that every judge who renders a decision with which we do not agree must be kicked out of office. After all, the judges have to take the laws as they find them. If after studying a law and comparing it with the Constitution, they find that the law is in conflict with the Constitution then they can do nothing

\footnote{55} To R. J. Laubengayer, January 6, 1936 (two letters) and February 10, 1936, "Hope Collection," general correspondence, 1935-1936, J-L.

\footnote{56} To George W. Gordon, February 22, 1937.

\footnote{57} To Dean E. Bay, February 23, 1937.
but find it unconstitutional even though they might personally be in favor of the law.\textsuperscript{58}

The real problem, according to Hope, was not the judges’ attitude towards the law, but rather “\ldots that the Constitution is not specific enough in some of its provisions to enable us to meet situations which arise in changing times.”\textsuperscript{59}

Although it was sharply challenged by the legal realists in the 1930’s and by other students of the judicial process since, Hope’s belief in the mechanical nature of the judicial process was one which he shared with many Americans during the New Deal era.\textsuperscript{60}

It was the core of a set of beliefs which surrounded the supreme court was an aura of sanctity. Many felt that Roosevelt’s attempt to create a pro-New Deal supreme court was particularly repugnant because it would result in the people losing confidence in the integrity of the judicial system.

Consequently, Hope concluded that:

The forthright way to settle these questions is for Congress to submit a constitutional amendment and let the people themselves decide whether they want the Federal Government to have the power to regulate agriculture and industry without any reservations. After all, under our form of Government, that is a question which ought to be settled by the people themselves and the provision for amending the Constitution offers an unquestioned method of doing this.\textsuperscript{61}

Hope’s call for the use of a constitutional amendment to remove the impasse created by the supreme court’s restrictive attitude towards the federal regulation of the economy was an entirely consistent extension of his basic political beliefs. Throughout the court controversy, he insisted that the outcome of the struggle would be determined by the people.

Hope’s correspondence illustrates the process through which his experiences in the first four years of the New Deal, his own clearly defined beliefs in the nature of constitutional government and the judicial process, and the overwhelming condemnation of the plan by his constituents combined to shape his opposition to the court plan. The letters to and from his constituents reveal total agreement that the court plan posed a serious threat to the American

\textsuperscript{58} Ibid.

\textsuperscript{59} To Mrs. A. Burr, February 27, 1937; see, also, to Dean E. Bay, February 22, 1937.


\textsuperscript{61} To Mrs. A. Burr, February 27, 1937; see, also, to Dean E. Bay, February 22, 1937; to Mrs. George Woodward, February 19, 1937.
system of government. The use of the same arguments by Hope and his constituents to justify their condemnation of court-packing, the strong sense of alarm which permeated the correspondence, Hope's frank explanation of the strategy used by the congressional opponents of the plan, and his patient attempts to explain what he felt were the dangerous implications of it all point to the conclusion that the court plan deeply disturbed many Americans.

One final aspect of Hope's discussion of the court plan should be noted because of the light it throws on the motives behind his use of constitutional arguments. In a letter written shortly after the senate had killed the court plan by recommitting it to the judiciary committee, Hope concluded:

I was rather disappointed in the outcome of the Supreme Court bill in the Senate. That is, I hoped that the matter would be fought out to a logical finish to the end that the matter might be settled more definitely. As it is now, while the President can be said to have met a decisive defeat in the matter, yet I very much doubt if it is a closed issue. I don't know how soon or in what form it will pop up again, but I am satisfied that the President intends to again make a political issue out of it. The President apparently doesn't comprehend at all the opposition which his response has aroused among the rank and file of the people. He seems to take the view that it has been sabotaged by a group of reactionaries in the Senate and doesn't seem to comprehend that the country had condemned the proposal long before the Senate got around to doing so.62

Hope's obvious disappointment at the outcome of the court fight is apparent despite his pleasure that Roosevelt had suffered a stunning political defeat. His expression of concern about the possibility of a future Roosevelt attack on the court substantiates the sincerity of the position he advocated during the court fight. He did regard the issue as a nonpartisan question.

What caused Hope and his constituents to react so sharply against the court-packing aspects of the judicial reorganization bill? Even after granting a generous place for partisan political motives (which could in themselves be the product of more fundamental beliefs), the foregoing examination of the Hope correspondence reveals that the court plan conflicted with the basic constitutional beliefs of many Americans. The correspondence graphically portrays the emotional opposition which developed because the plan challenged the myth of sanctity which surrounded the United States supreme court. Both the immediacy and the massiveness of the public reaction against court-packing support this conclusion.

62. To A. Lewis Oswald, August 9, 1937, “Hope Collection,” general correspondence, 1936-1937, Misc-P.
If the hostile reactions were mere expressions of anti-New Deal sentiment, why had there been no such outpouring of letters on previous aspects of the New Deal? Why weren't the anti-New Dealers able to stimulate massive public responses against the Roosevelt program prior to February, 1937? Why did avowed Democrats join in the condemnation of the plan? The reaction which the plan precipitated revealed something much deeper than mere partisan motivation. For many Americans, already uneasy about the tendency toward centralization in the New Deal and the growth of totalitarianism abroad, the court plan did represent a threat to the American way of life.

It is not the intent of this article to disprove the generally accepted interpretation that constitutional arguments were used for partisan political and economic purposes during the court fight.\textsuperscript{63} However, examination of the Hope correspondence does suggest that basic constitutional beliefs may have played a much more influential role in both the public and congressional reactions against the court plan than previously assumed. If further research proves this to be the case, it may be necessary to develop a new frame of reference for the study of congressional opposition to the New Deal. Such a frame of reference would certainly include a careful assessment of the influence of constitutional beliefs on those individuals who became members of the conservative coalition, the way in which various aspects of the New Deal conflicted with their beliefs, and the actual effect of the court fight on their behavior. Such a study might very well lead to a clearer picture of the importance of ideology as a motivating force in American political development.