The following address was delivered by Harry L. Hopkins, Administrator of the Works Progress Administration, over a nation-wide hook-up of the National Broadcasting Company from Washington, D. C., between 7 and 7:15 p.m. (Eastern Standard Time) Monday, March 1:

I have come on the air tonight to ask the people of America to look, in a common sense way, at the President's proposal concerning the Supreme Court.

Perhaps you wonder why I see fit to speak on this question. I am not a lawyer. But I am the man who directs the spending of more public money than anybody else in the Federal Government. Because the Works Progress Administration is charged with the primary responsibility of helping those people who are suffering because of the great economic changes which have come about in this country, I probably hear more about the misery and the heartaches of the American people than anybody else. My business is to try to find jobs for the unemployed - the kind of jobs that will jerk good citizens back from the brink of despair, sharpen their skill, boost their spirits and set them on the road back to self-reliance again.

My Agency, along with a dozen others, is trying in every conceivable way to find the road back to private jobs for millions of good Americans willing and able to work. It's a tremendous and complicated task. It needs all the brains and understanding and open-minded helpfulness that the country can muster.

It is a plain fact at the present time that unless the complexion of the Supreme Court can be changed, two or three elderly judges living in cloistered seclusion and thinking in terms of a by-gone day, can block nearly all the efforts of a popularly-elected President and a popularly-elected...
Congress to correct these ills.

I choose to talk on this question because I don't like to keep coming to the President and the Congress asking for another large sum of money. I'd like to see every man and woman who possibly can given the maximum chance for a private job. The Congress of the people will continue to pass the kind of laws that provide such opportunities. It has done so repeatedly. But a few judges of the Supreme Court have decided that such laws shall not be put into operation, and from their decision there is no appeal.

I am in this argument because I feel that the well-being and the hope of millions of people that my Agency is trying to help is definitely at stake. Indeed, the question is vital to everyone of us, because the Court's decisions affect our lives in a thousand ways, and it is a simple question which we can think through for ourselves without delegating the decision to lawyers. I suspect that a great many people feel a good deal like I do about some lawyers. Many of them are experts in confusion. They have a professional trick of taking the simplest problem and making it complicated by their wherases and long Latin words. The result is that people often get bewildered and feel that only lawyers can find the answer.

Today, the average man knows what the country needs. So do Congress and the President. Congress has passed laws providing for unemployment relief, drought relief, minimum wages, aid to the farmers, old age pensions and other necessities. At the election last November, the great majority approved those laws. But a bare majority of the nine judges on the Supreme Court have said all those laws were no good and could not be enforced - because the Constitution made them bad. Now there is not a line in the Constitution that declares them bad; 5 or 6 of the 9 judges of the Supreme Court merely say that the Constitution makes them bad. That's what causes those laws to be thrown overboard. The margin of differing opinion within the Court is often very slight. If 2 or 3 of the 9 judges had voted the other way, then the decisions would have been 5 to 4 or 6 to 3 in favor of those laws, they would have been held constitutional, and we could have had what we want and need. So 2 or 3 judges made those decisions which deprived...
us of laws we must have, if our lives are to be endurable.

Let's get down to brass tacks. Chief Justice Hughes said once that the Constitution is what the judges say it is. Within the last few years this has meant that the Constitution is what 2 or 3 men say it is. And Mr. Justice Stone told us last year that those gentlemen, in so saying, were following their own personal prejudices. What does that mean? That 130,000,000 people are being governed by the personal prejudices of 2 or 3 men.

Is that democracy? Isn't it just plain nonsense to say that democracy is endangered because the President wants to put a stop to the killing of popular laws by two or three judges?

Yet there are those who say that, when the President proposes that Congress should do something to neutralize the power of those few judges, he is starting on the road to dictatorship. One ounce of horse-sense in your thinking will dispose of that absurd statement. Think of all the dictators in history - past or present. What's the first thing they try to do? To curb and stifle the legislature - the Parliament or Congress elected by the people. It is the essence of dictatorship to oppose Parliaments and Congresses. For those popularly-elected bodies are the chief instruments of democracy; dictatorship and a popularly-elected Congress are at opposite poles.

But the President, in his proposal, is not trying to throttle Congress. Instead, he seeks to strengthen democracy by restoring to Congress the powers of which it has been increasingly deprived these last few years by a majority of the Supreme Court. He is striving, in that way, to keep the Court from thwarting the desires of the great majority of our people. The Court (or rather, two or three particular men) have been saying to Congress, "You can't do this", or "You can't do that". They have been like a traffic policeman who knows only how to stop traffic, who has lost his green light and always puts up a red one.

It is the present majority of the Supreme Court who have been exercising dictatorship - a negative one, perhaps, but a dictatorship none the less. The President is trying to diminish the rigors of that negative dictatorship. There is nothing of the dictator in that.
A leading lawyer, the President of the American Bar Association, said, the other day, that the Supreme Court has always protected the common man, and that that is its function. How can anybody make such a claim? The court plainly has been upsetting laws passed for the benefit of the common man. I know that the Supreme Court last year, when it killed the A.A.A., struck a direct blow at what millions of ordinary farmers wanted, and that it said the Constitution would prevent the Federal Government from doing all those other things which in a period of crisis it must necessarily do.

Naturally, I was particularly interested because, according to Mr. Justice Stone, who disagreed, the views of the majority of the court meant that work-relief and practically every other intelligent kind of relief for the unemployed which the Federal Government has used since 1933 would be held unconstitutional. Mr. Justice Stone said that, according to the majority, the Federal Government can give away money on the theory that it is helping the general welfare, but it can't do a single thing to see that the money is actually used for the general welfare. Even the lawyers admit that, if Mr. Justice Stone is right (and he was good enough to be President Coolidge's Attorney-General), then most of the United States Government's activities in connection with drought relief, work-relief and all the other things that my part of the Federal Government has been engaged in, may some day soon be stricken down by the court. And I know, from the thousands of tragic letters that come to us every day, what this means to the country.

The Supreme Court has already killed off minimum wages and collective bargaining; and its opinions threaten all intelligent efforts to prevent the washing of the soil into the ocean (that soil from which we get our food) and the most effective methods of stopping our terrible floods.

In other words, because a slight majority of nine men have been too far removed from the shock of the depression and from current needs to understand what life is like for the ordinary man in these United States to-day, they are bent on paralyzing our Government and preventing the overwhelming majority of American people from getting what they imperatively need and have demanded at the polls.
So the lawyers and the Republicans and the Liberty League are worried about dictatorship! I have been working four years among the misery caused by their kind of democracy. Do you remember what their New York Herald-Tribune said on the morning after the November election? It didn't say: "The people have spoken, more forcefully than they ever spoke before." It said: "We still have the Constitution and the Supreme Court." They are not interested in democracy. They are afraid of it. When I was a boy I used to hear it said that the cure for the ills of democracy was more democracy. That is what President Roosevelt thinks. That's why he wants to let the people, through Congress, exercise their constitutional rights.

Now about this question of age. Of course, there are some men old in years but who never really grow old, who remain sensitive to changing needs, who, although cut off from active participation in life, have imagination enough and intelligence enough to sense and comprehend what is going on in the outside world. But such old men are exceptions. Many big corporations know this, and require retirement of their own men at 70.

That idea about old judges did not originate with the President. In New York and other states, judges have to retire when they reach 70. Former Chief Justice Taft plainly said that they should. Mr. Justice McReynolds, now on the Supreme Court, made the same proposal when he was Attorney-General---only he restricted the proposal, for some strange reason, to lower court judges. Chief Justice Hughes feels the same way---except that he says that the retiring age should be 75 instead of 70. But he grants the wisdom of the plan.

It's hard for me to forget that not a single one of the nine judges now the Supreme Court has gone on that bench since the banks closed in 1933. These Justices do not know what the common man has been experiencing in the last four years unless they are of a mind to find out. They have to guess at what others know. And the guessing of elderly men about the experience of other men is not likely to be very accurate. Old age has its virtues, but sensitivity to new impressions is not ordinarily one of them. Old men tend usually to restrict their interests, to live in accordance with ideas built up in their younger days, and to try to make other men conform to those out-of-date ideas.
In times of ease and prosperity, to be ruled negatively by backward-looking men is not too serious; for in such happy days we do not need to rely too much on Government. But every one knows today (even the Liberty League admits it now and then) that in the period which began with the closing of the banks in March 1933 there has developed an absolute necessity for increased activity on the part of the Federal Government. Our country would have gone to pieces, and would go to pieces now, in the absence of such Governmental activities. We must have more, not less, of that kind of government—government acting positively; government providing for the needy and the distressed; government trying to prevent wasteful labor conflicts; government helping the farmers to help themselves; government providing for old age, fixing minimum wages. Backward-looking men, dreaming of happier days when such activities were not urgently required, are unaware of the desperate need for that kind of government. When those men were part of the real world, there was perhaps some sense in the idea that the best government is the least active government. But today a weak government, not a vital part of our daily affairs, would lead to disaster.

We must have a court that is resilient, that is in close touch with contemporary America, that shares the hopes and fears of the rest of the country, that is not afraid of democracy. If the majority of the court is not revitalized, if it continues to abuse its powers, if it obstinately paralyzes the federal government, then our democracy may, one of these days, become unable to meet our serious economic problems.

And a weak government in a crisis invites dictatorship. So you see again that it is the President who is fighting to strengthen democracy and in that way to avoid dictatorship.

Lawyers tell us that the Constitution provides for the Court to act as a check on Congress and the President. But who is to check the court? Here again the Constitution provides a check, the very check which the President proposes; the power of Congress to increase the number of judges, and the power of the President and the Senate to name the new judges.

That is nothing new. Even the lawyers dare not say it is unconstitutional. And it is as democratic as the Congress which must pass the bill
before it becomes law, or the Senate which must approve any new judge submitted by the President.

Lawyers ask us why we don't amend the Constitution. In the first place, amendments take too long. We have been waiting thirteen years for the Child Labor Amendment, and we're still waiting. The election of last November was a declaration by the people that they want social legislation. They want it now, and they need it now.

But above all, we do not seek to amend the Constitution because we can do everything the President proposes without an amendment, yet with entire legality. Those who don't like the President's plan are the ones who ought to be seeking an amendment—an amendment to deprive Congress of its present Constitutional power to increase the number of judges.

Lawyers say that the President and the Senate would pick men who share their general views. If by this they mean men who in the opinion of the President and the Senate are conscious of the necessities of American life today, of course. That is what Presidents and Senators have always done. Presidents Adams, Lincoln, Wilson and Coolidge named to the Court members of their Cabinets. Presidents Grant and Theodore Roosevelt appointed judges whose opinions on public questions they agree with. President Hoover named Hughes who had been a fellow cabinet officer and who had helped elect him President. These judges were honest. They were not puppets of the President. Far from it. Justice Stone was President Coolidge's Attorney-General and later Coolidge appointed him to the Court, yet he has voted in favor of as much New Deal legislation as any other member of the Court.

There is no reason to think that Justices appointed by President Roosevelt would be less honest or more subservient. Don't forget, they are appointed for life, and once they take their seats on the Supreme Court bench they are answerable to no one. They would have no reason to be subservient. But presumably they would, as younger men, more wisely interpret the Constitution so as to avoid a violent disruption of American life.
So the question comes down to this: Must our vital current needs be denied by a few men who in my judgment refuse to resign because they disagree with the ideas of an administration twice indorsed by the people? Must lives and fortunes of millions of Americans depend on the very life span of those justices? Surely that is a kind of tragic gambling in which we should not and need not indulge.

No, those who oppose this plan are not afraid for democracy. They are afraid of democracy.