Franklin Roosevelt and the Four Horsemen of the Supreme Court

In 1932 America was still reeling from the stock market crash of 1929 and was in the midst of The Great Depression. The American people were fed up with the policies and leadership of Republican President Herbert Hoover and elected Democrat Franklin Delano Roosevelt. Roosevelt was determined to bring America out of the depression using wide spread reforms dubbed the New Deal, there was only one problem. Franklin Roosevelt inherited a Supreme Court with four very conservative justices, Pierce Butler, James Clark McReynolds, George Sutherland, and Willis Van Devanter, commonly referred to as the Four Horsemen. Together, the Four Horsemen formed a powerful voting block within the Supreme Court. They would challenge President Roosevelt, the liberals on the Supreme Court, and the New Deal. The ideological differences between the Four Horsemen and Roosevelt would set the stage for a battle between the Executive and Judicial Branches of the United States Government, in which, the Supreme Court would reaffirm its power.

To better understand the events that took place, an introduction to the main people involved is necessary. One of the most important and influential people in this story is the 32nd President of the United States, Franklin Roosevelt. Franklin Roosevelt was a popular democrat
from the state of New York, where he had served as governor. President Roosevelt’s strategy for bringing America out of the Great Depression was his aforementioned New Deal. The New Deal was a collection of widespread legislative acts and programs designed to stabilize the American economy. Throughout the 1930’s President Roosevelt would be engaged in a long term legal battle with the Supreme Court over his New Deal. The frustration of President Roosevelt would eventually cause a potential constitutional crisis, pitting the Executive Branch against the Judicial Branch, with the Legislative Branch deciding the outcome.

Supporting President Roosevelt and the New Deal legislation, would be the liberal members of the Supreme Court. The liberal members of the Supreme Court were Justices Harlan Stone, Louis Brandeis, and Benjamin Cardozo. Justice Cardozo graduated Columbia Law School in 1891 and spent the next twenty-two years working for his brother’s law firm. He would later become a New York City judge and eventually the Chief Justice of the New York Court of Appeals before being appointed to the Supreme Court by President Herbert Hoover, replacing Justice Oliver Wendell Holmes. Justice Harlan Stone served as the Dean of Columbia Law School and Attorney General before being appointed to the Court by President Calvin Coolidge. Justice Brandeis was a highly respected graduate of Harvard Law School and a very successful lawyer, most famous for his “Brandeis Brief” in the case of Muller v. Oregon.

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3 Ibid, 719.
5 Peppers, T. C. "Isaiah and His Young Disciples: Justice Brandeis and His Law Clerks." Journal of Supreme Court History, 2009: 75.
The liberal and conservative Justices of the Supreme Court would also receive help from the two “swing” votes on the Court, Chief Justice Charles Evan Hughes and Associate Justice Owen Roberts. Chief Justice Charles Evan Hughes may have been the most qualified Justice in the history of the Supreme Court. His resume included being Governor of New York, United States Secretary of State, and former Justice of the Supreme Court. Hughes’ qualifications made him the easy choice to be the next Chief Justice of the Supreme Court. The other swing vote on the Court, Justice Owen Roberts, was a graduate of the University of Pennsylvania, where he would also be a professor of private law. Justice Roberts would excel in both public and private law as well as being a prosecutor during World War I. It would be Justice Roberts that would ultimately decide the fate of the Supreme Court.

Opposing President Roosevelt, the liberals on the Court, and the New Deal were the conservative Four Horsemen of the Supreme Court. President Taft would appoint the first of the Four Horsemen, Justice Willis Van Devanter in 1911. Van Devanter rose to popularity in his home state of Wyoming, where he would serve a brief term as Chief Justice of the Wyoming Supreme Court. A New York Times article said that Van Devanter’s votes “lined up always with the conservatives and voted almost always with big business.” The second of the Four Horsemen, James Clark McReynolds, would be appointed by President Woodrow Wilson in 1914. Justice McReynolds gained popularity by serving as President Wilson’s Attorney General, where he gained a “reputation as a fighting liberal”. The relationship between Justice McReynolds and President Roosevelt was rocky at best. In a conversation with his friend Justice

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7 Ibid, 122.
8 Ibid, 123.
9 Ibid, 39.
10 Ibid, 102.
McReynolds would say “If Roosevelt doesn’t ruin this country, it will be because it can’t be ruined.” The last of the Four Horsemen, Justices George Sutherland and Pierce Butler, would be appointed by President Harding in 1922 and 1923 respectively. Justice Sutherland rose to popularity by serving as a United States Senator. Once appointed to the Court, Sutherland would lead the conservative majority on the Court. Justice Butler was a Minnesota lawyer who was known for his work with big business. He also had a reputation for being a conservative. With President Roosevelt and the Four Horsemen so far apart ideologically, the lines were drawn for a constitutional battle.

This battle between the Executive and Judicial Branches of the government was nothing new. In 1801 President John Adams attempted to “pack the court” with the *Judiciary Act of 1801*. The Supreme Court, led by Chief Justice John Marshall, took on the issue in the case of *Marbury v. Madison*. Marshall’s ruling in the case would establish the concept of judicial review and give the Supreme Court power to serve as a check to the power of the President as it was originally intended. Another similar battle between the two branches would arise during the presidency of Abraham Lincoln. President Lincoln suspended the writ of Habeas Corpus during the Civil War, as a result, Chief Justice Roger Taney ruled that the suspension of Habeas Corpus was unconstitutional. The battle for power between the two branches would come up again when President Roosevelt faced off with the Supreme Court.

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11 Ibid, 102.
12 Ibid, 67.
15 Ibid, 144-165.
President Franklin Roosevelt and the Supreme Court’s battle would start in 1934 with the case of *Panama Refining Co. et al. v. Ryan* and *Amazon Petroleum et al. v. Ryan*. These cases, often referred to as the “hot oil” cases deal with the National Industrial Recovery Act (NIRA)’s petroleum code, especially section 9(c). Section 9(c) of the NIRA’s petroleum code was “authorizing the president to prohibit shipment in interstate and foreign commerce of petroleum products produced or withdrawn from storage in excess of the amount set by the state.”\(^\text{16}\) This means that the President could regulate the petroleum business, which is a form of governmental regulation of private business. The Supreme Court would decide in an 8-1 decision that section 9c of the NIRA petroleum code was unconstitutional, the only dissenter was Justice Cardozo.\(^\text{17}\) Chief Justice Hughes gave the opinion of the Court in which he stated section 9(c) “gives the president an unlimited authority to determine the policy and to lay down the prohibition, or not to lay it down, as he sees fit.”\(^\text{18}\) The opinion of Chief Justice Hughes sent a very clear message to President Roosevelt that the Executive Branch had overstepped its bounds. *Panama Refining* was a setback to the Roosevelt’s administration’s New Deal, but it would not stop its progress. The Supreme Court would get another chance to interpret the New Deal in a series of cases known as the “gold-clause” cases.

The “gold-clause” cases were a series of cases that stem from President Roosevelt’s reducing the amount of gold that the dollar would be measured against.\(^\text{19}\) In the first of these cases, *Norman et al. v. Baltimore & Ohio Railroad Co.*, the Supreme Court would rule that Congress has the right to change the dollar’s value. *Norman* was a 5-4 decision of the Court with


\(^{17}\) Ibid., 45.


Chief Justice Hughes writing the opinion of the court and the Four Horseman dissenting. In his dissent, Justice McReynolds concludes that the “Loss of reputation for honorable dealing will bring us unending humiliation; the impending legal and moral chaos is appalling.”20 The Four Horseman would dissent again in *Nortz v. United States*, in which Chief Justice Hughes ruled that replacing gold certificates with other currency of equal value is permissible.21 Another case, *Perry v. United States*, would also result in a 5-4 decision with the horseman dissenting.

Although Chief Justice Hughes voted against the Four Horseman in this case, he would say that congress overstepped its bounds and approved an unconstitutional joint resolution.22 *Perry* is also significant because it “accused the government of repudiating its obligations, shrinking its moral duty” but “the court majority refused to do anything about it.”23 Chief Justice Hughes’s criticism signified a change, one that would tip things in favor of the Four Horseman.

On May 6th 1935, the Supreme Court, led by the Four Horseman with Justice Roberts, would revoke the Railway Workers’ Pension Act in *Railroad Retirement Board v. Alton Railroad Co.*24 Although the Railroad Workers’ Pension Act was not considered part of the Roosevelt Administration’s New Deal, its defeat would have an impact on its future. By shifting away from Chief Justice Hughes and joining the Four Horseman, Justice Roberts and the Four Horseman could strike down all New Deal legislation that was brought before the Court.

President Roosevelt called the *Alton* decision “rotten” and worried about the future of the

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22 Ibid, 58.
23 Ibid, 59.
National Recovery Administration (NRA). Attorney General Homer Cummings said that Alton “was a forecast of what we may expect with reference to almost any form of social legislation that congress may enact.” With the differences in ideology between the Supreme Court and the Roosevelt administration now clearly outlined, a fight for the future of the NRA was just around the corner.

The Supreme Court would hand down a series of decisions on May 27th, 1935 that would have a major impact on the United States. The first case of the day involved the New York Life Insurance Company, and it would be overshadowed by the other decisions. Justice Sutherland delivered a 9-0 decision of the Court in the case of Humphrey’s Executor v. United States. The case revolved around William E Humphrey, who was a Federal Trade Commission (FTC) member that President Roosevelt fired for “policy reasons.” In his opinion Justice Sutherland would say of the FTC that “its duties are neither political nor executive, but predominately quasi executive and quasi legislative.” President Roosevelt took the Court’s decision as an insult that only fueled his displeasure with the court. Humphrey’s would bring up questions about the power of the executive branch and the separation of powers, it would also set the stage for the Court’s third ruling of the day.

Chief Justice Hughes would deliver another 9-0 decision of the Court in the case of Schechter Poultry v. United States. In his opinion, Chief Justice Hughes would rule the NIRA

26 Ibid., 120.
28 Ibid., 97
unconstitutional in two different ways. The Court found “the code making authority thus conferred is an unconstitutional delegation of legislative power.” meaning that President Roosevelt was granted powers by Congress that he should not have received.\(^{31}\) Also, “The poultry had come to a permanent rest within the state,” meaning that it was a state and local issue.\(^{32}\) This decision served as a major defeat for the Roosevelt Administration. The sound defeat of the New Deal and the NIRA led to May 27, 1935 being nicknamed “Black Monday.” President Roosevelt’s defeat on “Black Monday” also led to a change in the way press viewed the New Deal.

Reporters, like William Allen White, would write “Now the Supreme Court has declared in effect that Franklin Roosevelt is not a Messiah, that he must be circumscribed by the constitutional limitations of the presidency…. He can no longer hide behind emergency legislation.”\(^{33}\) The *Washington Post* would add that the decision of the Court “destroys most of the New Deal, but unfortunately does not end the spending spree” and the *Chicago Daily News* would say “constitutional government has returned to America.”\(^{34}\) President Roosevelt and the New Deal seemed to be on the ropes and public opinion was turning against his administration in favor of the Supreme Court. The Supreme Court had sent President Roosevelt a clear message, the days of congressional grants of power going unchecked are over. It was now up to President Roosevelt to respond, with a Supreme Court decision on the Agricultural Adjustment Act (AAA) soon to follow.


\(^{32}\) Ibid.


\(^{34}\) Ibid, 105.
On May 31\textsuperscript{st}, 1935 Roosevelt would respond to the Court’s ruling in a press conference. Roosevelt would say “we have been relegated to a ‘horse and buggy’ definition of interstate commerce.”\textsuperscript{35} The meaning behind this line for President Roosevelt was simple, the Supreme Court is stuck in the past and not thinking in modern terms. This is important because it reveals President Roosevelt’s frustration with the Court and provides a look into what the ideological differences between them were. The press reaction to Roosevelt’s attack on the Court was one of strong disapproval.\textsuperscript{36} Some people took Roosevelt’s attack as Roosevelt “Thumbing his nose at the Supreme Court.”\textsuperscript{37} The press also expressed “outrage over the ill-tempered attack on a revered institution.”\textsuperscript{38} This likely would not have affected President Roosevelt, who considered the Supreme Court to be a “secular, not sacred institution.”\textsuperscript{40} One thing was clear, Roosevelt had voiced his displeasure with the Court and the Court was about to rule on the AAA.

Before the Court would rule on the AAA, several Justices had already voiced their opinions on the bill. Justice Stone was not in favor of the AAA, but believed that it was a matter of the constitutionality of the bill, not his personal beliefs about the bill.\textsuperscript{39} This is an important aspect because President Roosevelt had considered the Supreme Court to be policy makers influenced by their own personal opinions and beliefs.\textsuperscript{40} Another Justice, Justice Brandeis, would also voice his displeasure with the AAA saying that he “would have designed a much different agricultural program.”\textsuperscript{41} Brandeis, who was not a supporter of big business, would add that unless the growth of big business was slowed he would be “disposed to hold the government’s

\textsuperscript{35} Ibid, 113
\textsuperscript{36} Ibid, 114
\textsuperscript{37} Ibid, 114.
\textsuperscript{38} Ibid, 115.
\textsuperscript{39} Ibid, 128.
\textsuperscript{40} Ibid, 29.
\textsuperscript{41} Ibid, 128.
control legislation unconstitutional for now."\textsuperscript{42} With Justices Stone and Brandeis having concerns about the bill and the Four Horsemen clearly not in favor of the bill, the AAA appeared doomed.

The Supreme Court would rule on the fate of the AAA on January 6, 1936 in the case of \textit{United States v. Butler}. The case revolved around the AAA’s processing tax. Chief Justice Hughes, along with the Four Horsemen and Justice Roberts would form the majority, with Justices Stone, Brandeis, and Cardozo dissenting.\textsuperscript{43} Justice Roberts would deliver the opinion of the Court. The Court would rule that processing tax was unconstitutional because it was a federal tax on what the Court believed to be a state issue.\textsuperscript{44} A person present at Robert’s reading of the opinion stated “Never did a judge kill a legislative creature with more elegance and soft grace.”\textsuperscript{45} In his dissent, Justice Stone would attack not only the majority opinion, but the morals and philosophy behind it as well.\textsuperscript{46} Justice Stone’s dissent was so strongly worded that Justice Roberts went to Chief Justice Hughes and Justice Brandeis hoping they could get Justice Stone to soften the language.\textsuperscript{47} The AAA defeat signified that the New Deal was definitely in trouble.

President Roosevelt’s response to the Supreme Court rulings could be seen through First Lady Eleanor Roosevelt’s statements. The First Lady would say that “Franklin became much troubled over the decisions that the Supreme Court was rendering.”\textsuperscript{48} This quote from the First Lady shows the clear frustration that President Roosevelt had with the Supreme Court. Through

\textsuperscript{42} Ibid, 129.  
\textsuperscript{43} United States v. Butler. 297 U.S. 1, 56 S.Ct. 312 (The Supreme Court, January 6, 1936).  
\textsuperscript{44} Ibid.  
\textsuperscript{46} Ibid, 186.  
\textsuperscript{47} Ibid, 185.  
two more of the First Lady statements, the reasons for President Roosevelt’s animosity toward
the Supreme Court can be seen. The First Lady said President Roosevelt “thought no progress
was possible as long as the Supreme Court invalidated all the Congressional laws” and that “he
also felt that people become too conservative as they grow old and that they should not be
allowed to continue indefinitely to wield great power.”49 President Roosevelt was clearly angry
at the court and knew that something would have to change if his New Deal was to survive.

Another New Deal program would go before the Supreme Court in 1936, the Tennessee
Valley Authority (TVA). In this case, Ashwander v. Tennessee Valley Authority, the Court would
rule to uphold the validity of the TVA.50 This is significant because it is the Supreme Court
going against the recent trend of striking down New Deal legislation. Chief Justice Hughes is
said to have been trying to “preserve the prestige of the Court” because he knew if they would
rule against the TVA, the Court would lose the respect of the people.51 The only dissent in this
case was one of the Four Horsemen, Justice McReynolds, who focused his dissent on
constitutional merits.52 With the Ashwander decision, the Supreme Court showed that it was not
just striking down every piece of the New Deal that came before it. It wanted to give the
perception that Court was being fair and treating everything on a case by case basis. By deciding
in favor of the New Deal in Ashwander, the Court had taken away President Roosevelt’s best
argument that the Supreme Court was intentionally striking down every piece of legislation in
the New Deal.53

49 Ibid, 142.
50 Ashwander v. Tennessee Valley Authority. 297 U.S. 288, 56 S. Ct. 466 (The Supreme Court, February 17,
1936).
51 McKenna, Marian C. Franklin Roosevelt and the Great Constitutional War. New York, New York:
52 Ibid, 190.
53 Ibid, 193.
Although the decision in *Ashwander* gave supporters of the New Deal hope, it would prove to be a false sense of security. The Supreme Court would hand down a series of rulings all going against the New Deal, starting with *Jones v. Security Exchange Commission*. This case revolved J. Edward Jones who filed a statement from the Security Exchange Commission, then withdrew it to avoid an investigation.\(^{54}\) In his opinion, Justice Sutherland called the acts of the Security Exchange Commission to be “intolerable.”\(^{55}\) Justice Sutherland also ruled that the Commissions actions were an “arbitrary invasion of civil rights.”\(^{56}\) The New Deal would experience another setback when the Court handed down the decision in *Carter v. Carter Coal Company*. The Court would strike down Guffey Coal Act, which was designed to help the coal industry. The majority would be formed by the Four Horsemen joined by with Justice Roberts once again.\(^{57}\) The Court’s decisions and defeat of the New Deal legislation only fueled President Roosevelt’s resolve and desire for change.

President Roosevelt would win reelection in 1936 and his first order of business was to find a way to get around the “nine old men” of the Supreme Court.\(^{58}\) After his reelection, President Roosevelt believed that the American people had given him a blank check to rule as he saw fit.\(^{59}\) Republicans had warned during the Presidential election that if reelected, Roosevelt would attempt to “pack the court” or in other words, fill the Court with people who would vote favorably towards his ideas.\(^{60}\) The republicans’ warnings would turn out to be true when

\(^{54}\) Ibid, 193.

\(^{55}\) Ibid, 194.

\(^{56}\) *Jones v. Security Exchange Commission*. 298 U.S. 1, 56 S. Ct. 654 (The Supreme Court, April 6, 1936).


President Roosevelt announced his Court Packing Plan or *Judicial Reorganization Act of 1937*. The court packing plan was President Roosevelt’s way around the Supreme Court and he had every intention of carrying it through.

The announcement of the Court Packing Plan sent shock waves through the country. Newspaper headlines read “Roosevelt asks for power to reform Courts” and “Increasing Supreme Court to 15 justices.” President Roosevelt had succeeded in getting the attention of the nation and of the nine currently sitting Supreme Court Justices. Upon hearing the news and noticing the Justices reaction, one person commented “My god the Court is punch drunk.” The Supreme Court Justices, by tradition, are not supposed to speak out publically or be influenced by outside events, but they were clearly affected by Roosevelt’s attack. Justice Brandeis would receive thousands of letters asking him “not to waver under fire or resign under pressure.” One thing was very clear, the Executive and Legislative Branches were in a fight for control and power.

The battle between President Roosevelt and the Supreme Court came to a head in the case of *West Coast Hotel v. Parrish*. *West Coast Hotel* involved the federal minimum wage law for women. In the Supreme Court decision for this case, Justice Roberts would switch sides voting against the Four Horsemen and for the New Deal. This case would mark the end of the Four Horsemen’s dominance of the Court. Another case, *Steward Machine Company v. Davis*, would also reaffirm the end of the Four Horsemen’s run as Justice Roberts would once again vote in favor of a New Deal policy. The sudden reversal of Justice Roberts and subsequent vote

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63 Ibid, 290.
64 *West Coast Hotel v. Parrish*. 300 U.S. 379, 57 S. Ct. 578 (The Supreme Court, March 29, 1937).
against the horsemen has sometimes been given the nickname “the switch in time that saved nine.”\textsuperscript{66} What made Justice Roberts change in his stance will never be known, however, it is likely that President’s Roosevelt’s threat and the Court Packing Plan influenced the Justice Roberts.

Although Roberts’ switch did help uphold a piece of the New Deal, the fate of the Court Packing Plan still had to be decided. President Roosevelt’s Court Packing Plan would be discussed and debated in the Senate vigorously before the final decision on the bill was made. In a seventy to twenty vote, with five senators not casting a vote, the Court Packing Plan was defeated in the Senate, ending the constitutional crisis.\textsuperscript{67} The Legislative Branch had served as check to the power of the Executive Branch, which was seeking to limit the power of the Judicial Branch. With the Senate decision the Supreme Court was able to reaffirm its power and keep the number of Justices at nine. The switch by Justice Roberts to support a piece of New Deal legislation may have played a role in the senate’s decision, whether it did or not, the end result was the same, the \textit{Judicial Reorganization Act of 1937} was dead.

The struggle for power between President Roosevelt and the Supreme Court would forever change the relationship between the Judicial and Executive branches of the United States government. Throughout the 1930s much of President Franklin Roosevelt’s New Deal legislation would go before the Supreme Court with the result almost always culminating in defeat and overturning of the policy by the Court, led by the Four Horsemen. President Roosevelt’s frustration with the Supreme Court, especially the Four Horsemen, would lead to his infamous Court Packing Plan of 1937. The Court Packing Plan of 1937 was a direct challenge to the

\textsuperscript{67} Ibid, 521.
authority of the Judicial Branch. President Roosevelt was determined to reform the Supreme Court in order to get his New Deal legislation passed. The Court Packing Plan of 1937 would undergo a long series of debates in the senate until its final defeat. With the Court Packing Plan defeated the constitutional crisis was over, the Supreme Court emerged victorious, but President Roosevelt would also benefit. With Justice Van Devanter’s retirement in 1937, the run of the Four Horsemen had come to end, leaving President Roosevelt virtually unchallenged in the Supreme Court. The legacy of the confrontation between President Roosevelt and the Four Horsemen serves as a warning of what could happen if one branch of government attempts to grab too much power.

A connection between the Hughes Court of the 1930s and the Roberts Court of today can be made. Both Courts served under a Democratic President and had four conservative justices of the Court. The modern Roberts’ Court includes Justices Antonin Scalia, Clarence Thomas, and Samuel Alito along with Chief Justice John Roberts. President Roosevelt hoped for wide spread social and economic change within the country as does current President Barrack Obama. Although the economic situation in the United States is not as bad as it was in the 1930s, the economy is still trying to recover from a recession. Both President’s new policies and legislation would be challenged and go before the Supreme Court. With possible healthcare and immigration battles on the horizon, one has to wonder if history will repeat and the two branches will feud once again.

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Bibliography


This is one of the “black Monday” cases that angered President Roosevelt. I will use this source to get the opinion of the Court and quotes from the Justices. I will also use this source as a reference to the legal battle between President Roosevelt and the Court.

Ashwander v. Tennessee Valley Authority. 297 U.S. 288, 56 S. Ct. 466 (The Supreme Court, February 17, 1936).

This is a good case to use as an example of the Supreme Court not flat out striking own the New Deal. In Ashwander, the Court would uphold the TVA, going against the recent trend of rulings against the New Deal.


This is a good source to use to provide background for Justice Cardozo. I will use this source to describe where Justice Cardozo came from and how his career progressed. I will also use it as a reference to who appointed him to the court.


This case is important because it is one of the New Deal cases that shows Justice Roberts aligning with the Four Horsemen once again. It also is one of the last few New Deal cases before President Roosevelt would announce his Court Packing Plan in 1937.


This book is a great source to use because it is written close to the time in which the power struggle unfolded. It provides a good indicator of what people at the time thought of events that were unfolding. I will use this source to get an idea of what things were like during that time and reference the political attitudes of that time.


Hall’s book is a great source to use for the structure of the Supreme Court. Hall goes into detail about how the Four Horsemen were able to get a powerful hold on the court. Hall focuses on the power of the Supreme Court and how Roosevelt perceived them as having to much power. It is a great source to use for the legal issues pertaining to power of the Legislative Branch.

This is another of the “black Monday” cases outlining the power struggle between Roosevelt and the Court. This is a great source to use because it was written by Justice Sutherland and contains a very strong opinion. The case also raised questions about the separation of powers and the role of the executive/judicial branches.


This case similarly to Carter, shows the Supreme Court defeating another New Deal legislation. I think this is one of the cases that led up to the Court Packing Plan and fueled President Roosevelt’s animosity towards the Court.


McKenna’s book chronicles President Roosevelt’s struggle to get power away from the Supreme Court. The book discusses several pieces of legislation that Roosevelt tried to pass that were shot down by the court. It also talks about why the justices voted the way they did. This is a great source to use because it talks about the constitutionality of Roosevelt and the Four Horsemen’s actions.


Nelson’s article is a great source to use when examining the court-packing plan and the events leading up to it. Nelson provides a very in depth look at what President Roosevelt was hoping to achieve by the Court-packing plan and why he was ultimately unsuccessful in passing it. I will use Nelson’s article as a reference to the specific issues pertaining to the Court-Packing plan.


This one of the “gold-clause” cases that help define the struggle for power between Roosevelt and the Court. I will use this source to explain the reasons for the conflict between the two branches. I will also use this source to quote Justice McReynolds and his opinion on the case.


This case marks the first time a New Deal law was decided by the court. I will use this source to show the growing divide between President Roosevelt and the Supreme Court. I will also use this source as reference to the changes in the opinion of the Court throughout the 1930’s.

Peppers, T. C. "Isaiah and His Young Disciples: Justice Brandeis and His Law Clerks." Jornal of Supreme Court History, 2009: 75-97.

This source will provide background on Louis Brandeis and his career. I will use this source to provide a brief summary of his career before the Supreme Court. I will also use this source to reference what made Justice Brandeis so famous.

This case marks a major switch in the Court. I will use this case as a reference to when the four horsemen were able to defeat a piece of New Deal Legislation for the first time. I will also reference this case and the switch of Justice Roberts as a major event in the legal battle between the Executive and Judicial Branches in the 1930’s.


This journal article provides some background information of Justice Pierce Butler that my other sources did not include. It shows how Justice Butler got to power and how he typically voted on the Court.


Jeff Shesol books discusses the struggle for power between F.D.R. and the Supreme Court. Shesol goes into great detail about the relationship between F.D.R. and the Four Horsemen. This is a great book to use as a reference to how events unfolded and it gives a unique insight into them.


This case highlights the shift of Justice Roberts away from the Four Horsemen as seen in the prior case West Coast Hotel v. Parrish. I will use this case to show that the shift of Roberts was not a one off, but rather a permanent shift.

United States v. Butler. 297 U.S. 1, 56 S.Ct. 312 (The Supreme Court, January 6, 1936).

This case is a good example of the major divide in the Supreme Court. Justice Roberts opinion and Justice Stone’s dissent, highlighted the major ideological differences in the Court. This case also marked another defeat of the New Deal.

West Coast Hotel v. Parrish. 300 U.S. 379, 57 S. Ct. 578 (The Supreme Court, March 29, 1937).

This case is one of the most important cases in the battle between the Executive and Judicial Branch. In this case, Justice Roberts switches and aligns himself with the more liberal justices. It was this case that is given the nickname “the switch in time that saved nine”