

Ill, mother of Bill Moss
'35; Mr. Robt. Riordan,
Registrar; father of Art
Woods (Ly.).

University of Notre Dame
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Ill, George Belting '34;
aunt of D.C. Schmidt (Mor.);
Miss Lois Kamm.

The Supreme Court Should Be Enlarged.

You may recall the letter of a reader, quoted in the Bulletin of February 10, attacking President Roosevelt's attempt to enlarge the Supreme Court. There have been so many answers to that letter that only a summary of the main points made can be printed.

1. The President's plan does present a crisis in American government. The crisis does call for prayer. Let us pray that our Representatives and Senators will pass the legislation introduced by a President who has proved by his record that he is chiefly interested in promoting social justice and who by this effort is fulfilling legitimately the emphatic mandate of a large electorate.

2. You indulge in mischievous and biased speculation when you imply that the new justices to be appointed will ignore the Constitution and the rights of Americans. After all, under the new plan, as before, the Senate will have to approve of their appointment... You say that because a year or so ago the Court adjourned with a clear docket there is no need of expediting procedure. The Social Security Law and the new Railway Retirement Law were enacted more than a year and a half ago. They are important because they aim to protect Americans from unemployment and the penury of old age. These two laws have not yet come before the Supreme Court... The President would retire justices after they have reached 70 years. Is not that proposal a good one? As regards the ability of the average judge to work effectively after the age of 70, the President quoted Justice McReynolds who, as Attorney General, recommended to Congress that when a judge did not retire at the age of 70 "an additional judge be appointed in order that the affairs of the court might be adequately discharged."

3. The President's proposal does not imply the overthrow of the Constitution. What is sacred about "nine" justices; no more, no less? There have been in history various numbers of justices. Are these nine justices hallowed because by a narrow majority they are ultra-conservative? What is the evil of a liberal interpretation as opposed to the ultra-conservative interpretation that we have been getting? The Constitution is broad enough to protect the rights of citizens providing the Constitution is interpreted liberally. The present Court by its conservatism upholds and protects many un-Christian abuses in the present economic system. Is such an economic system to go on unaltered even if it sanctions the unemployment of 9,000,000 workers and causes many of those actually working to fear that they will obtain the actual necessities of life?

4. You say that the Supreme Court exists as an independent judiciary to interpret the Constitution. It should exist in that nature and for that purpose, but it doesn't. The Supreme Court, according to statements made by members of the Court itself, has become a legislative body over which no one has control. Chief Justice Taft, in his dissenting opinion on the District of Columbia Minimum Wage Law states: "It is not the function of this Court to hold Congressional acts invalid simply because they are passed to carry out views that the Court believes to be unwise or unsound." In the AAA decision the minority appeared to accuse the majority of not restricting themselves to their duty of merely interpreting the Constitution.

5. You fear a dictatorship. Do you not fear the continued dictatorship of the laissez-faire element? This element has its supporters on the bench of the Supreme Court who interpret the Constitution according to their own economic theories. Do you not fear the present dictatorship of the Supreme Court? I agree with Msgr. John Ryan when he states: "Probably the worst obstacles to social progress set up by the Supreme Court in the last twenty years were its decisions declaring unconstitutional the Federal Child Labor Law (1916), the District of Columbia Minimum Wage Law (1923), and the Railroad Retirement Act (1935). All these decisions gravely injured human welfare."

6. Finally, don't judge President Roosevelt's intentions by what you read in Hearst papers and in the Chicago Tribune.

PRAYERS: (deceased) Charles Bohan, nephew of James T. Foley '13; grandmother of Al Schwartz (Walsh); friend of Frank Kesioke (How.); Father McCartney's (C.S.C.) father; friend of Bill O'Toole (Car.); Attorney Paul J. Ragan '97. Ill, Dr. Bruening, former Chancellor of Germany; Robt. McLeod (Car.) and E. Estep (Car.), injured. 3 sp. ints.