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Justice Stewart Retires

Justice Potter Stewart who was appointed to the Court in 1958 by President Eisenhower retired from the Court on July 3, after nearly 23 years of service.

In a June 19 press conference, Justice Stewart provided some insight into his decision which, given his relatively young age and good health, came as something of a surprise to many seasoned "Court watchers."

The Justice reminded the reporters that when President Eisenhower appointed him to the Court of Appeals for the Sixth Circuit in 1954, he had been only thirty-nine years old, which made him at the time the youngest federal judge in the country. He said that he thought it a good idea to retire before he became the oldest. He also reminded the press of his perfect record of attendance at oral arguments before the Court, having never missed a session in nearly a quarter century of service. Perhaps he remembered that several of his former colleagues were forced to retire after serious illness impaired their ability to attend argument sessions. In any event, Justice Stewart stated in his characteristically concise and direct manner that he was convinced that it is "better to go too soon than to stay too long." Finally, and perhaps most important, Justice Stewart said that he had decided to retire while still in good health to permit him more time to spend with his wife, their children and grandchildren.

Eligible for retirement on his sixty-fifth birthday—January 23, 1980—the Justice said that he had delayed retiring so as not to create a vacancy during a presidential election year. In response to a question, Justice Stewart stated that he had decided to retire this year regardless of who won the election. He also mentioned receiving a letter from a high school student in Minnesota asking him why he chose to remain on the Court even though he could retire. Justice Stewart explained in his reply that he had only been eligible to retire for eleven days when he received her letter, and that it had not yet occurred to him that he may have stayed too long.

Born on January 23, 1915, in Jackson, Michigan, Justice Stewart spent his early years in Cincinnati, Ohio. He attended the Hotchkiss School in Lakeville, Connecticut, and took his undergraduate degree from Yale College in 1937, where he was

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Courtesy, Curator of the Supreme Court



Justice Potter Stewart announces his retirement to the press.

President Reagan Nominates Sandra O'Connor to High Court

On August 19th, President Ronald Reagan announced his nomination of Judge Sandra Day O'Connor of the Arizona Court of Appeals to the Supreme Court to fill the vacancy created by the July 3rd retirement of Associate Justice Potter Stewart. While several women have been given serious consideration for appointments to the Court since President Washington first appointed John Jay in 1789, Judge O'Connor

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From Rebel to Patriot: The Life of Edward Douglass White

The post-Reconstruction Era, commencing roughly with the Great Compromise of 1877, heralded the return to power of the traditional ruling classes of the Old South. Prominent among this group in Louisiana was the White family, which first arrived in the French colony in 1799. James White was a middle-aged man of forty when he settled in Louisiana. His father, an Irish Catholic immigrant, had come to America during the 1730's and settled in Philadelphia. He became a successful merchant, so successful in fact that he could send his son to Paris to study medicine.

When James White returned from France, he brought home with him an insatiable appetite for adventure. After dabbling in revolutionary politics in Philadelphia, he travelled south to North Carolina, where he read enough law to gain admission to the bar. He secured an appointment as a member of the State's delegation to the Annapolis Convention of 1786, where he listened with many of the foremost men of the country to Alexander Hamilton's assault on the weaknesses of the Articles of Confederation. Removing himself from the growing battle over the adoption of a new constitution, White accepted an appointment as the first U.S. Superintendent of Indian Affairs. He moved to Tennessee not long thereafter, where he became a territorial representative to Congress in 1794. He finally settled in southwest Louisiana, establishing himself as a prominent member of the local landed gentry by securing an appointment as a United States District Judge.

When James White died in 1809, he left his fifteen year-old son, Edward Douglas, financially secure and politically well-connected. The son put his father's legacy to good use, serving first as a state judge, and then running successfully for three terms in Congress and a term as Governor of Louisiana. As state law prevented him from serving a second term as governor, he returned to Congress for two additional terms before retiring to his 1600-acre sugar plantation in Thibodaux, Louisiana, where he died in 1847.

When White died, his son and namesake, Edward Douglass, was only two years old. When the child was four, his mother remarried, and in 1851 sent the boy to be raised at a convent school in New Orleans. Catholicism was an important part of the White family heritage, and the religious toleration of Louisiana provided a favorable environment for White's Catholic education. At the age of 11, he travelled north to Maryland to enter Mount Saint Mary's, a preparatory school run by Jesuits which he attended until he entered Georgetown College in Washington, D.C. Though not an honor student, White did well at Georgetown, until his education was disrupted by the coming of the Civil War. Like hundreds of other young Southerners enrolled in northern schools, he joined the exodus south in 1861.

Although White initially planned to continue his studies in Louisiana, he enlisted in the Confederate Army before the end of the year. Probably owing to his relative youth and educational background, White served for the first eighteen months of the War behind the lines as an aide-de-camp. In July 1863, he and thousands of other rebel troops were trapped by the Union siege of Port Hudson on the lower Mississippi. After enduring weeks of attack without relief, the heavily out-gunned

Southerners surrendered a bloody and disease-ridden battlefield to General Nathaniel Bank's forces. In poor health, White was released after a brief period of detention and returned to the plantation at Thibodaux where he spent the remainder of the War.

When the War ended, White went to New Orleans to study law. He attended classes at the University of Louisiana, and read law under the direction of Edmund Bermudez, a prominent local attorney. White passed the Louisiana bar in 1868, and immediately set out to build his professional reputation by opposing Reconstruction. In 1874, he was elected to the state senate, and his support for the successful Democratic gubernatorial candidate in 1877 earned him an appointment to the Louisiana Supreme Court the following year. As a consequence of a dispute within the party, White lost his seat on the Court, and was forced back into private life.

During the next several years, White strengthened his reputation and standing in the legal community through a series of successful associations with New Orleans' most prominent and influential law firms. He also devoted himself to a number of important civic projects, including the establishment of Tulane University in 1884. White turned his attention to Louisiana politics once again, in the gubernatorial election of 1888. He agreed to serve as campaign manager for his old friend, former Governor Francis T. Nicholls, who had previously put him on the Supreme Court and who was now trying to regain the

Courtesy, Louisiana Office of Program Development



Edward Douglass White's plantation home at Thibodaux, Louisiana.

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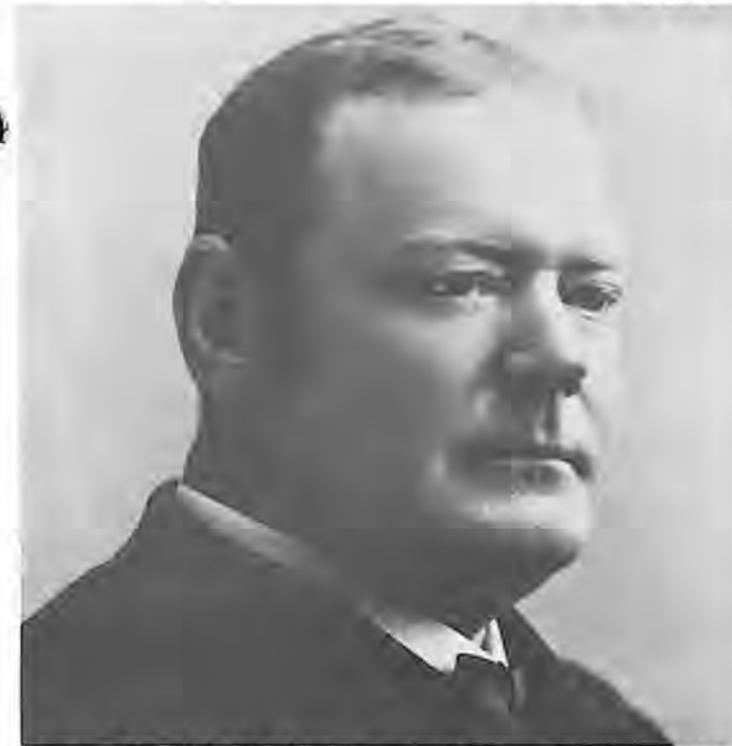
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Courtesy, Library of Congress



Senator White, defender of southern agrarian interests and states' rights.

Governor's office. Nicholls won the election, and rewarded White by appointing him to fill a vacancy in the United States Senate.

Despite a relatively brief tenure in Congress, White enjoyed enormous respect and influence among his fellow senators from the South. During the three years White represented Louisiana in Washington, he repeatedly and vigorously took the floor in defense of states' rights and bills which benefitted the southern agrarian interests.

It was in the midst of an unusually stiff debate over a tariff reform bill which threatened the southern economy that White was called to the White House by President Cleveland in 1894. Although the southern senator had been generally supportive of the Democratic President's legislative initiatives, he was clearly opposed to Cleveland's attempt to lower the tariff barriers which protected southern agricultural products from foreign competition. It was a surprised Edward Douglass White who arrived at the White House expecting to argue with the President over the tariff bill, but departed with a nomination to the Supreme Court.

Cleveland had twice been rebuffed by the Senate in his attempt to fill a seat on the Court vacated by the death of Justice Blatchford in July 1893, and had guessed correctly that the Senate would approve the popular senator from Louisiana. However, if the President thought the nomination would thin the ranks of the opponents concerning the tariff bill, he was mistaken. White remained in the Senate for several weeks following his confirmation to the Supreme Court, and led the battle against the President's tariff reform legislation. Not only was Cleveland's bill defeated, but the opposition succeeded in passing their own legislation substantially increasing the existing tariffs. Having won an impressive victory for his constituents and for the South, White left the Senate in March 1894 to take his seat as an Associate Justice on the Court.

Not many months later, the portly Justice achieved another

important victory—after an intermittent twenty-year courtship, Virginia Montgomery Kent agreed to become Mrs. Edward Douglass White.

Justice White joined the Court during a period of significant judicial transition. Industrialization was straining the seams of the American social fabric, and a growing industrial working class had begun to challenge the political supremacy of the nation's industrial elite. The Spanish-American War had gained for the United States extensive overseas possessions, but had also raised serious questions with regard to whether the Constitution followed the flag to these distant and foreign territories. Legal precedents alone seemed to provide an insufficient response to the challenge of these novel legal issues. Several members of the Court, including Justice White, began to employ new legal concepts and theories to resolve the difficult legal controversies coming before the Court. Their opinions during this period reflect a great degree of subjectivity and reliance upon personal political and philosophical beliefs.

White's opinions were generally conservative, and he had gained a solid reputation for his hard work and sense of fairness during his first fifteen years on the Court. By the end of the first decade of the new century, he was among the Court's most prominent and respected members.

When Chief Justice Fuller died in July 1910, White was among the handful of candidates given serious consideration for the post by President Taft. Another candidate was Charles Evans Hughes, a former governor of New York and friend of the President whom Taft had put on the Court only a few months earlier. The President's own aspirations to sit in the center chair were also well known; Taft had often remarked that he would have preferred to have become Chief Justice rather than President. Undoubtedly, the ages of the two leading contenders played a role in Taft's decision—White was 65 and Hughes only 48. Then, too, if the President were to elevate an associate

Courtesy, Architect of the Capital



Bryant Baker's bust of Chief Justice White is now on display in the Supreme Court's Great Hall.

Justice Story's Son: William Wetmore Story

Joseph Story, appointed to the Supreme Court by President Madison in 1811 when he was only thirty-two years old, is generally considered one of the great justices to have served on the high court. Born on September 18, 1779 in Marblehead, Massachusetts, he was descended from an old and distinguished New England family. Story's father participated in the Boston Tea Party in 1773. Story entered Harvard College in 1795, and was graduated second in his class in 1798. He read law under Samuel Sewall—a Chief Justice of the Massachusetts Supreme Court—and Samuel Putnam, and was admitted to the bar in 1801. At first, he was exposed to considerable ridicule, as the bar was dominated by Federalists and he was a Republican-Democrat. But through his own efforts, his practice grew in prestige and influence. Story served for three years in the Massachusetts legislature and entered the U.S. Congress in 1808. In January 1811, Story returned to the Massachusetts legislature and was elected Speaker of the House, serving only a short while until appointed to the U.S. Supreme Court.

While serving on the Court, Story retained an active interest in many of the projects which had gained his attention as one of



Justice Joseph Story—the father



Courtesy, Library of Congress

William Wetmore Story—the son

Boston's leading citizens. In 1819, he was elected to the Harvard Board of Overseers, and six years later he became a fellow of the Harvard Corporation. Instrumental in the establishment of a school of law at his alma mater, Story moved from Salem to Cambridge, Massachusetts in 1829 to become Harvard's first professor of law. While serving as an Associate Justice and teaching law at Harvard, Story wrote his nine *Commentaries* on the law, which gained for him an international reputation as a jurist. His legal essays and articles for the *American Law Review*, as well as his work on equity jurisprudence, had already won for him a national reputation as one of the nation's foremost legal scholars. When his close friend and colleague, Chief Justice John Marshall died in 1835, Story was undoubtedly the most highly respected lawyer and judge in the country. But his refusal to vote along partisan lines

on the bench had infuriated President Jackson, who named Roger Taney Chief Justice instead of Story.

Following Justice Story's death on September 10, 1845, the citizens of Cambridge and Boston formed a committee to plan a fitting monument to his memory. In addition to his fame as a lawyer, Story had gained local prominence as a poet and public speaker. Known as the "Poet of Marblehead", he had published "The Power of Solitude" in 1805, and had delivered the Phi Beta Kappa Oration at Harvard in 1826. His love of music and painting were well known, as was his public support of the arts throughout his distinguished career. It came as no surprise, then, that the committee resolved to commission a marble statue to be placed as a memorial in the newly constructed Bigelow Chapel in Boston's Mt. Auburn Cemetery. What was surprising, however, was that the committee chose as the sculptor a prominent local attorney who had never previously received a commission as an artist. The artist was William Wetmore Story, Justice Story's son.

William Wetmore Story was born on February 12, 1819. Sarah Waldo Wetmore, his mother, was the Justice's second wife, his first wife having died in 1806. The Storys had seven children, but only two survived childhood. Justice Story was already a prominent member of Boston's intellectual community when William was born, and the boy grew up in a sophisticated home familiar to many of New England's most influential and accomplished citizens. William was exposed at an early age to the arts and sciences as a result of his father's position and interests, and he developed a keen interest in culture and learning. Like his father, William soon developed an enthusiasm for music, painting and literature which would become an increasingly important part of his life.

In 1838, William Story took his undergraduate degree from Harvard College. During his years at Harvard, Story made many enduring friendships. Notable among them were his relationships with James Russell Lowell and Charles Eliot Norton which remained strong throughout his adult life. Two years later, Story was graduated from the already prestigious Harvard Law School, and quickly established himself as one of Boston's most gifted young lawyers.

During the early years of his career, Story published several impressive works on substantive aspects of the law. His *Treatise on the Law of Contracts*, published in 1844, was heralded as the definitive work in its field. Story was associated in practice with such prominent lawyers as George Hillard, Charles Sumner, and George Curtis, and his published works added a dimension of intellectual respectability to his reputation not commonly associated with lawyers of his day. He maintained friendships made in his youth, and became increasingly involved with a group of Boston's most sophisticated intellectuals, a group which included the Hawthornes, Danas and Emersons. Although he lacked any formal training in the arts, Story expanded his interests in painting and sculpture by trying his hand at sketching and modeling. It was to this dabbler in the arts that the Citizens Committee offered one of Boston's most prestigious commissions—the memorial for Supreme Court Justice Joseph Story.

Story's reaction to the suggestion that he undertake such a project was initially negative. The following excerpt from a letter to a friend explains how Story came to change his mind:

I had hitherto amused myself, in hours of leisure, with modeling, but more with painting, and I used to get up early in the morning to work at these before going to my office. . . . On receiving the commission. . . I declined it, from a sense of incapacity—I didn't think I could carry it out. But I was so strongly urged to try that I finally consented on the condition that I should come abroad first and see what had been done in these ways.

Story and his wife, Emelyn, set sail for Europe in 1847, touring England and the Continent. Having made extensive sketches during his trip, Story returned to Boston with a preliminary drawing of the proposed memorial. He presented it to the Committee, which immediately approved the sketch. During the better part of a year, Story remained in Boston, attending to his law practice and writing a biography of his father. He was haunted, however, by dreams of art and Italy. "Every night," wrote the Boston attorney, "I was again in Rome and at work in my studio. At last I found my heart had gone over from Law to Art, and I determined to go back to Rome."

It is doubtful whether Story's friends could have predicted the effect the commission would have on his life. Story moved to Rome, where he commenced work on the sculpture of his father as well as several other projects. In May 1849, he returned home to Boston with a completed model of the memorial. He briefly resumed his law practice, but again was overwhelmed by the dream of becoming a serious artist. In 1851, Story and his wife said farewell to their friends, and permanently moved their home to Rome.

During the next several years, Story finished the statue of his father and worked on the seemingly endless flood of ideas which

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Courtesy, The Metropolitan Museum of Art



"The Cleopatra"—Story's most celebrated heroic sculpture.

Story (continued from page five)

crowded his imagination. From their apartments on the second floor of the Palazzo Barberini, the Storys enjoyed a stimulating social life, surrounded by such notables as Robert and Elizabeth Browning, the Nathaniel Hawthornes who had also moved from Boston, and William Makepeace Thackeray. Strolling through Roman gardens and ancient ruins by moonlight, they spent an idyllic life of days and evenings devoted to reading poetry and contemplating beauty. Story was enchanted and overwhelmed by the culture and antiquity of Rome, and by a world he had never known in Boston. His sculpture reflected his love of classical sculpture and his boundless zeal for intellectual associations. His subjects were typically imaginary or mythical figures, intellectualized to the extreme. Story seemed more excited by the concepts and ideals underlying his sculptures, and with their intellectual expression, than with the actual modeling of the forms themselves. His preoccupation with the intellectual and the romantic was not uncharacteristic of his age.

Courtesy, National Museum of American Art, Smithsonian Institution



"The Libyan Sibyl"—Story's statement against slavery

and Story was quickly acclaimed as among the leading sculptors of his day.

The sculpture which brought Story the most fame during his own lifetime was the "Cleopatra", a seated and richly draped figure in marble. Seeking inspiration in the tragic heroines of mythology and antiquity, Story was fascinated by the passion, emotions, and intrigue associated with the legendary Queen of the Nile. Perhaps the subject was suggested by archaeological

Courtesy, The Metropolitan Museum of Art



"The Medea"—one of Story's famous figures from Greek mythology.

explorations in Egypt which focused worldwide interest in the ancient Middle East. Concerned with detail even at the expense of form and composition, Story created a work which for his contemporaries became the ultimate expression of Victorian idealism. Nathaniel Hawthorne was so enraptured with the "Cleopatra", that he devoted a long passage in his book *The Marble Faun* to an extremely favorable description. Hawthorne seemed to capture the essence of the statue's phenomenal success:

In a word, all Cleopatra—fierce, voluptuous, passionate, tender, wicked, terrible, and full of poisonous and rapturous enchantment—was kneaded into what a week or two before, had been a wet lump of clay from the Tiber. Soon, apotheosized in an indestructible material, she would be one of the images that men keep forever, finding a heat in them that does not cool down, throughout the centuries.

As a result of the success of the "Cleopatra," Story was asked by Pope Pius IX to exhibit his work at the 1862 International Exhibition in London. Story accepted, and sent with the "Cleopatra" another heroic marble sculpture, the "Libyan Sibyl".

Intended as an artistic statement against slavery, the "Libyan Sibyl" was a highly intellectualized rendering of a noble African, proud and independent before being enslaved. Although the work had tremendous impact on the sophisticated American expatriate community in Rome, the symbolic references were too veiled and remote to be understood by their fellow Americans at home who were preoccupied with the fierce reality of the Civil War.

During the next twenty years, Story continued to create

O'Connor Nomination (continued from page one)

would become the first woman to sit on the high court if confirmed by the Senate. She would bring to the Court an unusually diverse professional and personal background.

The wife of a prominent Phoenix attorney and mother of three sons, she has practiced law, been active in civic and community service organizations, and served as an assistant attorney general in Arizona. In 1969, she was appointed to fill a vacancy in the Arizona State Senate—she won reelection in 1970 and 1972, and served for two years as Senate majority leader. If confirmed, Judge O'Connor would become the only incumbent Justice on the Supreme Court to have held an elective state office.

She left the state senate in 1974 to campaign successfully for election as a trial judge on the Maricopa County Superior Court. Although frequently mentioned as a likely Republican candidate for governor, Judge O'Connor committed herself to a career in the judicial branch by accepting Democratic Governor Bruce Babbitt's appointment to the Arizona State Court of Appeals. Her service as a state trial and appellate judge distinguish Judge O'Connor from many previous Supreme Court appointees who were elevated to the high court from lower federal courts or from positions in the Justice Department. Of the current justices, only Justice Brennan was appointed to the Supreme Court from a state court, in his case, the Supreme Court of New Jersey. In an article published in the

heroic works which reflected the sophisticated Victorian's fascination with romance, antiquity, and exotic places. However, as an increasingly successful and influential sculptor, much of Story's time after the mid-1860's was devoted to official commissions, such as the portrait statue of Edward Everett sculpted in 1866. It was during this period that Story completed the statue of Professor Joseph Henry, which stands outside the Smithsonian's main building, and the seated figure of Chief Justice John Marshall which until recently occupied a place of honor on the Capitol's west front. The statue is currently undergoing restoration.

Despite the demand of official commissions, Story continued to create private works, including the bust of Elizabeth Barrett Browning made for her grieving Robert, and the cemetery memorial sculpted for his own beloved wife, Emelyn.

Although his work is adjudged by modern critics as overly romantic and idealized, Story was unquestionably regarded as one of the leading sculptors of his day. Lawyer, poet, musician, and scholar, Story, as well as his art, represented the perfection of Victorian Society—the "Renaissance Man," knowledgeable and accomplished in both art and science, the true gentleman. He was part of an historic period which survived the turn of the century, but not the First World War.

Story himself, disconsolate after the death of his wife, closed his studio in Rome, and retired in 1894 to live with his daughter in Vallombrosa, Italy. He died the following October, and was buried next to his wife in Rome. The son of one of America's greatest jurists, and a man frequently heralded as a likely candidate for the Court himself, William Wetmore Story in middle age chose instead the life of the artist.

Whether or not one of history's greatest sculptors, he was unquestionably a truly remarkable man.

Summer 1981 issue of the *William and Mary Law Review* entitled "Trends in the Relationship Between the Federal and State Courts from the Perspective of a State Court Judge," Judge O'Connor urged federal judges to give greater consideration to factual findings of state court judges.

Judge O'Connor majored in economics at Stanford University, taking her degree with great distinction in 1950. She decided to stay at Stanford to attend law school and served as an editor of the school's law review, and was inducted into the Order of the Coif, the distinguished legal honorary society. One of her classmates in law school was John Jay O'Connor, III, a doctor's son, whom she married in 1952. Another was William H. Rehnquist who became an Associate Justice of the Supreme Court in 1971.

Despite her outstanding record of academic and professional achievement, it was perhaps Judge O'Connor's personal background which attracted the President's attention. The daughter of Harry and Ada May Day. Judge O'Connor was raised on the "Lazy B," a 253 square mile ranch straddling the Arizona-New Mexico line in Arizona's southeastern Greenlee County near Duncan. Founded in 1881 by her grandfather, Henry Clay Day, a pioneer with roots in Vermont and Kansas, the 150,000 acre ranch stretches from the Gila River basin to desert high country once roamed by the Apache Indians. Home to 2,000 cattle and little else, the ranch had neither electricity nor running water, and was extremely remote. With no schools or

continued on next page

O'Connor Nomination (continued from page seven)

churches within miles, the Days sent their daughter, one of three children, to live with her grandmother in El Paso during the school year. She spent her summers, however, helping on the ranch, repairing fences, and fixing windmills. Although perhaps a little lonely at times, the ranch experience nurtured family traditions of hard work, integrity, and concern for one another. Her independent and self-reliant spirit owe a great deal to her days spent on the ranch.

Now a resident of Paradise Valley, one of Phoenix's most attractive and prosperous suburbs, Judge O'Connor is considered an extremely hard working person. Known for her intelligence and meticulous attention to details, she has been described by some who have appeared before her in court as stern and demanding. As a trial judge, she had a reputation among attorneys as a no-nonsense judge who insisted that lawyers come prepared to do their very best in representing their clients. Firm rather than inflexible, and determined rather than dogmatic, Judge O'Connor has won praise from lawyers and fellow judges for maintaining very high standards and for her straightforward style.

Despite the pressures and demands of her public career, Judge O'Connor has always had time for her family, retaining a sense of priorities which puts personal relationships first. Several times a year, she travels the 250 miles from Phoenix to the "Lazy B" to help with the work and to renew family ties. An avid hiker and skier, Judge O'Connor and her family also spend time together at a mountain cabin retreat near Prescott, Arizona. When at home, she enjoys a good game of golf or tennis.

Defying easy labels and traditional stereotypes, Judge

O'Connor certainly seems to fit President Reagan's description as a woman "for all seasons."

Courtesy, United Press International



A snapshot of Sandra O'Connor, age 10, from a family album.

Courtesy, The Washington Post

"Judge O'Connor sits with President Reagan and Attorney General William French Smith in the Rose Garden at the White House.



Stewart Retires (continued from page one)

inducted into Phi Beta Kappa. Following graduation, he spent a year at Cambridge University in Cambridge, England as a Henry Fellow. He returned to New Haven to enter law school at Yale, and graduated first in his class in 1941. He practiced law briefly with a Wall Street firm in New York until joining the Navy where he served as a deck officer aboard oil tankers plying the Mediterranean and Atlantic. In April 1943, he married Mary Ann Bertles. Justice and Mrs. Stewart have three children—Harriet, Potter Jr., and David.

Following the War, Justice Stewart briefly returned to Wall Street, but soon moved to Cincinnati where he joined one of the city's leading law firms. In 1950, he was elected to the City Council, and served as Vice Mayor of Cincinnati from 1952-53. The Stewart name was not a new one to the voters of Cincinnati. The Justice's father, James Garfield Stewart, had served as Mayor of Cincinnati from 1938 until 1947, and was the unsuccessful Republican candidate for governor of Ohio in 1944. In 1947, James Stewart became a justice on the Supreme Court of Ohio, a position he held until 1959.

In 1954, President Eisenhower appointed Potter Stewart to the Court of Appeals for the Sixth Circuit. Four years later, his name was again sent to the Senate for confirmation, this time as an Associate Justice of the Supreme Court of the United States to fill a vacancy created by the retirement of Justice Harold H. Burton.

During his long tenure, Justice Stewart said he tried to remember that each case coming before him was the single most important case in the world to the parties involved. When asked if he thought his approach to his work or his philosophy had changed over the years, and if he had perhaps become somewhat more conservative, the Justice answered that he

Courtesy, Ira Wyman



A rare candid photo of Justice and Mrs. Stewart relaxing by a New Hampshire stream.

could not detect any particular evolution. He remarked that with experience, he had become somewhat more proficient at his work, but that any gains he had made in efficiency had been offset by the increasing workload of the Court. He also expressed his opinion that the Court was no place for a "philosopher-king" who attempts to impose his own political, religious, or philosophical beliefs on the development of the law. He added that the first duty of any judge is to remove from his judicial work his own personal beliefs, and that the first thing a lawyer learns is that his personal likes and dislikes have nothing whatsoever to do with his professional responsibility as a lawyer or judge.

Justice Stewart has indicated that like former Justices Stanley Reed and Tom Clark, he will probably sit on cases in the lower federal courts from time to time. In a letter notifying his colleagues on the bench of his decision to retire, Justice Stewart told the other justices:

This is not a time to try to say what these years as a member of the Court have meant to me. Probably you know. Let me only thank each of you for your friendship and your help.

For The Careful Reader

The Spring 1981 issue of the *Quarterly* contained three typesetting errors. The photograph on Page 2 was originally published in *The Post-Star* of Glen Falls, New York.

The planning mentioned in the "Sixth Annual Meeting" article on page 6 is for the 50th Anniversary of the cornerstone dedication of the Supreme Court building, and the 200th Anniversary of the United States Constitution. In the photograph on page 10, the gentleman third from the left should have been identified as Cass Gilbert.

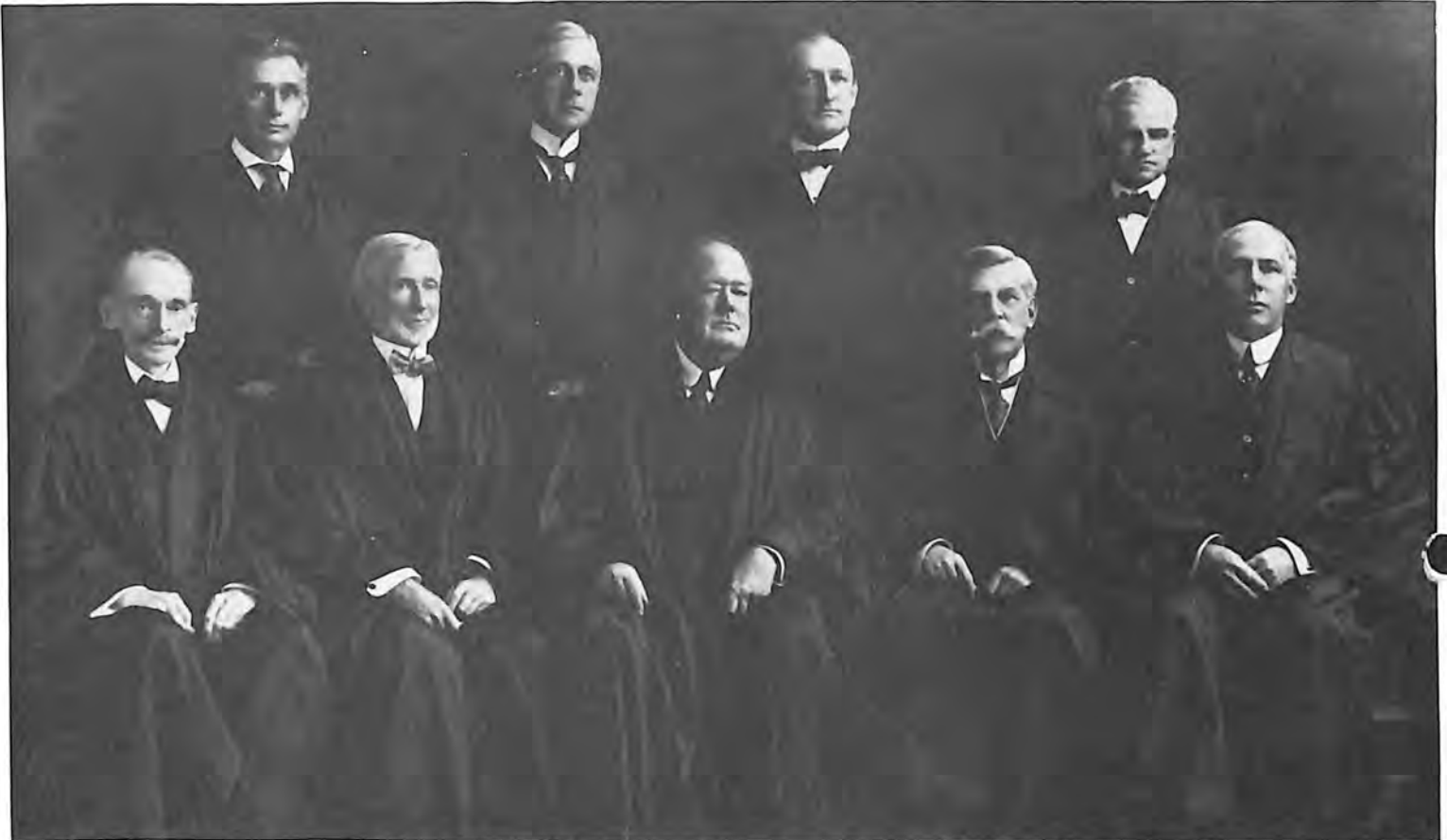
Justice White *(continued from page three)*

justice to fill the vacant Chief Justiceship, it was certainly more prudent to choose one of the Court's senior justices rather than its youngest and newest member. Whatever his rationale, Taft called Justice White to the White House in December 1910 to inform him of his decision to make him Chief Justice. The Senate quickly confirmed the nomination, and on December 19, 1910 Edward Douglass White took the oath as the ninth Chief Justice of the United States, becoming the first associate justice confirmed to that office.

Throughout the remainder of his judicial career, White's

opinions reveal his increasing conservatism, and a patriotic zeal which was heightened by the country's participation in the First World War. By 1920, the Chief Justice was seventy-five years old, and had been on the Court for thirty years. He came under increasing pressure to retire, especially from Republicans anxious to have an opportunity to make Taft Chief Justice. White refused to be accommodating, and insisted that he would remain on the Court as long as he was able. On May 13, 1921, the Chief Justice became seriously ill; he died six days later.

As many had predicted, President Harding nominated Taft to fill the vacancy a month later.



Chief Justice White (front row center) and the Court in 1916: (back row, left to right) Justices Brandeis, Pitney, McReynolds and Clark; (front row, left to right) Justices Day, McKenna, Holmes, and Van Devanter.

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