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The president and the governor who later became chief justices

When Chief Justice Edward Douglass White died in May 1921, President Warren G. Harding immediately turned to William Howard Taft, the former president who had appointed White to the Supreme Court. Taft would serve for just less than 10 years until his resignation on Feb. 3, 1930.

Taft would be replaced by another justice whom he had appointed to the Supreme Court, Charles Evans Hughes, who would serve from 1930 to 1941.

Their tenures saw the expanding caseload of the Supreme Court.

Taft, the 10th chief justice

After graduating with his bachelor's in law degree from Cincinnati Law School, Taft became the assistant prosecuting attorney for Hamilton County, Ohio.

The son of a prominent attorney and judge, Alphonso Taft, his ambition was to become a Supreme Court justice. He would do that and much more in his varied career. He remains the only person to lead both the executive and judicial branches of our federal government.

He practiced law in Cincinnati after his years as prosecutor until he became a judge of the Ohio Superior Court in 1887.

He then became U.S. solicitor general and is the only former holder of that position to become a U.S. president.

In 1892, he was appointed to the 6th U.S. Circuit Court of

Appeals and during part of that tenure served as a law professor and dean at the University of Cincinnati. In 1901, he became the governor general of the Philippines and then was named secretary of war. (He and James Monroe are the only presidents to also serve as secretary of war.)

In 1909, he became president. Best friends with Theodore "Teddy" Roosevelt, Taft's administra-

tion did not go very well. He broke with Roosevelt on a variety of issues and served one term. Taft was said to hate the presidency and was a reluctant politician.

Associate Justice Felix Frankfurter once remarked to Justice Louis Brandeis that it was "difficult for me to understand why a man who is so good a chief justice ... could have been so bad as president." He would fulfill his aspiration to be on the court and loved his job as chief justice.

Taft became president of the American Bar Association after being president of the United States, serving 1913-14. He also became the Chancellor Kent Professor of Law at Yale University, a post he held from 1913 to 1921. On June 30, 1921, Harding nominated him for the Supreme Court, and he easily was confirmed by voice vote, with only four senators voting against his nomination.

Taft would serve for more than nine years and his court would issue a number of notable decisions. One of Taft's dissents challenged the court's upholding of the *Lochner* doctrine, established in the 1905 *Lochner v. New York* case. In *Lochner v. New York*, the court ruled 5-4 that a state law that limited working hours for

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bakers was unconstitutional because it interfered with freedom of contract that is protected by the Constitution.

In his dissent in *Adkins v. Children's Hospital*, Taft stated, "It is not the function of this court to hold congressional acts invalid simply because they are passed to carry out economic views which the court believes to be unwise or unsound." *Adkins v. Children's Hos-*

COTTER'S CORNER



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pital, 261 U.S. 525, 562 (Dissent 1923). Years later in 1937, the court would break with the *Lochner* doctrine. Taft also created the Judicial Conference of the United States in 1922.

He resigned on Feb. 3, 1930, and died on March 8, 1930.

Hughes follows as successor

Charles Evans Hughes was nominated as Taft's successor on Feb. 3, 1930, and confirmed 10 days later by a split Senate, with a vote of 52-26.

Hughes was born in upstate New York to a minister and his wife. Upon graduation from Columbia Law in 1884, he practiced law in New York City and would do so at various times in his career. He became a law professor and lecturer and, in 1907, became governor of

New York.

On April 25, 1910, then-President Taft nominated Hughes to an associate justice position. In 1916, he resigned from the court to run for president as the Republican nominee. Following his defeat, he returned to private practice, until he was tapped for secretary of state. He then served on the Permanent Court of Arbitration and was a judge for the

Permanent Court of International Justice at The Hague.

When Taft announced his resignation from the court, President Herbert Hoover nominated Hughes. Some senators believed Hughes to be too close with businesses.

The Hughes Court would be faced with the various cases brought before it involving the New Deal and struck down a number of pieces of New Deal legislation, until the "switch in time that saved nine" in *West Coast Hotel v. Parrish* (1937).

Justice Owen Josephus Roberts, who had previously been a swing vote and consistently voted against New Deal reforms, changed his jurisprudence in this case which overturned the *Lochner* doctrine. Some historians believe Roberts' shift may have been strategic to prevent Roosevelt from expanding the Supreme Court to 15 justices.

Hughes' court would decide cases such as *Schechter Poultry v. U.S.* (1935) and *NLRB v. Jones & Laughlin Steel Co.* (1937).

Hughes was the second chief who had earlier been an associate justice and left the court for a time. (The first was John Rutledge.) Hughes retired effective July 1, 1941, after the Senate had confirmed his successor, Harlan Fiske Stone, who is the only justice to have sat in each of the nine seats on the Supreme Court.

Looking back

The 10th and 11th chief justices would both be considered good chiefs, and Hughes is considered one of the best.

Next time, I will address Harlan F. Stone and Fred M. Vinson. I will then feature Earl Warren and Warren Burger, separately, followed by a final column on the chiefs, with William H. Rehnquist and John G. Roberts Jr.

The last will be combined not because they don't merit separate columns, but rather because Roberts is still sitting as chief. Seventeen remarkable men and one continuum of our nation's highest court.