

Chicago Daily Law Bulletin®

Volume 161, No. 49

How a schoolteacher and a semi-pro baseball player became chief justices

Chief Justice Charles Evan Hughes announced his retirement from the U.S. Supreme Court in June 1941, and he went on to enjoy the longest retirement of any former chief other than John Jay and Warren Burger.

Following Hughes' announcement, President Franklin D. Roosevelt nominated Associate Justice Harlan F. Stone for chief. FDR was impressed with the support Stone gave to the New Deal. Stone oversaw the court from 1941 until his death in April 1946 and was replaced by Fred M. Vinson, who in turn was succeeded by Earl Warren.

Stone makes a dozen

Stone taught high school in Massachusetts for one year after completing his bachelor's degree. He then went on to Columbia Law School, graduating in 1898. He immediately became a full-time professor at Columbia while also practicing law in New York City. In 1910, he was named dean of the law school, a post he held for more than a dozen years, until he became U.S. attorney general in 1924.

In January 1925, President Calvin Coolidge nominated Stone for associate justice. He served the U.S. Supreme Court in that post for 16 years, and though he was a Republican who campaigned for Coolidge's re-election, Stone eventually aligned himself with Justices Louis Brandeis and Benjamin Cardozo in supporting New Deal programs, voting to uphold the Social Security Act of 1935 and a national minimum wage, for example.

Stone's pro-regulation stance caught the attention of Roosevelt, who nominated him to replace

Hughes and become the nation's 12th chief justice. Stone was the second of three chiefs to be elevated from sitting associate justice to chief. (Edward Douglass White and William H. Rehnquist also were promoted.)

Among the decisions he wrote during his more than two decades on the court, Stone is often remembered for the 1938 opinion in *U.S. v. Carolene Products Co.*, which included the famous Footnote 4 that set forth a framework for enhanced judicial scrutiny in certain circumstances — what's now called strict scrutiny.

As chief, Stone's court in 1942 upheld the president's powers to try Nazi spies caught on U.S. soil (*Ex parte Quinn*), and he penned the famous *International Shoe v. Washington* decision that every law student since has read to learn the standards for state courts to exercise personal jurisdiction over litigants.

His tenure ended suddenly. During an open session of the court, Stone was reading a dissenting opinion when he suffered a cerebral hemorrhage. He died a short time later at his home on April 22, 1946. His term as chief justice was the third shortest of the 17 who have served.

Vinson dissented from the 6-3 majority decision, taking great umbrage at his colleagues and giving a history of presidential seizures.

Vinson fields the call

After graduating from Centre College in Danville, Ky., where he played on championship baseball teams, Vinson took a turn at semi-professional ball. The shortstop

COTTER'S CORNER



DANIEL A. COTTER

Daniel A. Cotter is vice president, general counsel and secretary of Fidelity Life Association and an adjunct professor at The John Marshall Law School, where he teaches SCOTUS Judicial Biographies. He is also president of The Chicago Bar Association. The article is Cotter's opinion and not to be attributed to Fidelity Life, the CBA or John Marshall.

shifted his attention, however, to legal studies at Centre and began practicing law in 1911 at the age of 21.

Vinson interspersed periods of private practice with other positions. From 1917 to 1919, he served as a private in the U.S. Army and an officer trainee. After World War I, he was elected the commonwealth attorney for the 32nd Judicial District of Kentucky. He served two stints as a U.S. representative for Kentucky, putting in a total of 12 years.

Afterward, Vinson became a judge on the U.S. Court of Appeals for the D.C. Circuit. He was the first chief to have served on that court.

During his time in Washington, he became friends with

Harry S. Truman, who as president counted Vinson as a trusted adviser and named him treasury secretary and, ultimately, chief justice.

Vinson joined the high court at a difficult time in its history, with

the sitting justices deeply at odds. The acrimony had been so severe that Justices Hugo Black and Robert H. Jackson each allegedly warned Truman that he would resign should the other be named chief. But the job went to Vinson, who is credited with mending relations between the factions.

In the meantime, a different divide faced the nation. The Vinson court addressed racial discrimination, ruling in *Sweatt v. Painter*, for instance, that states that employed racial segregation must provide truly equal facilities.

These cases were some of the building blocks that Thurgood Marshall and the NAACP argued leading up to *Brown v. Board of Education*. (When Vinson died suddenly of a heart attack on Sept. 8, 1953, *Brown* had been set for reargument. A decision waited until Vinson's successor, Earl Warren, became chief justice.)

In other areas of the law, the Vinson court's legacy includes *Youngstown Sheet & Tube v. Sawyer*, which limited the president's powers. In the midst of the Korean War and facing a strike by the United Steelworkers of America in 1952, Truman wanted to take control of U.S. steel mills in the interests of national security.

Vinson dissented from the 6-3 majority decision, taking great umbrage at his colleagues and giving a history of presidential seizures. The decision in favor of the steelmakers was a blow to Truman.

Vinson was the fourth, and to date last, chief justice appointed by a Democratic president.

The 12th and 13th chief justices stewarded the court for a dozen years. Their terms were the shortest consecutive terms since the first three chief justices. They were followed by three justices who each presided for more than 15 years.