

America's Nine Great Legal Lights; The Men Whose Dicta Are Final

THE recent announcement by Mr. Justice Henry Billings Brown of his intention to retire from the United States supreme court bench at an early date marks a rather infrequent happening in the history of that august tribunal. Since the foundation of this court of final resort there have been few voluntary retirements. At the present time there is only one living ex-member, Mr. Justice Shiras.

Although the supreme court was the last department of our system of coordinate government to come into being, it is by no means the least important. As soon as the new government of the infant republic took definite shape it became apparent that some authoritative interpretation of the constitution was absolutely necessary. The first congress realized this imperative need and proceeded at once to supply it. With Washington's approval a supreme court of a chief justice and five associate justices was instituted. The act providing for the creation of this extra judicial tribunal was drafted by a Connecticut lawyer, Oliver Ellsworth, who afterward became chief justice.

That was in 1789. Beginning with six members, the court has never had over ten and now has but nine. The present chief justice is the eighth to bear the title. Altogether there have been fifty-one associate justices. It is quite probable that the average American would be unable to recall the name of any chief justice who came before John Marshall, but there were three of them—John Jay of New York, John Rutledge of South Carolina and Oliver Ellsworth of Connecticut.

At first the amount of business in the supreme court was very small, so small, indeed, that some of the government's critics were disposed to dub it "a useless appendage." Even as late as 1831, chief justice Marshall's first year in office, only ten cases were filed. Nowadays the business is of great bulk and import. Some years nearly 500 cases are filed.

Although the justices of the supreme court hold office for life, the average tenure has not been a lengthy one. Most of the members of the supreme bench come into the dignity when they are already at an advanced age. No legal neophyte need ever aspire to the position. A successful candidate must have demonstrated his fitness by a long and exceedingly illuminative career. There must be no doubt as to his absolute possession of the necessary qualifications. Mere excess of legal talent is not sufficient. Even a phenomenal development of the judicial temperament is not the prime requisite. There must be a combination of all the qualities that make for absolute justice and the exercise of a vigilant impartiality.

Melville Weston Fuller, present chief justice who will retire soon, is a native of Maine, born at Augusta, Feb. 11, 1833. He was graduated from Bowdoin college at the age of twenty, chose the law as a profession and went to the Harvard law school to qualify. By 1853 he was admitted to the bar and hung out his first shingle in the Maine capital. Shortly afterward he became editor of a newspaper and blossomed



forth as the associate editor of a Democratic paper called the Age. A year later he had returned to his first love and was city solicitor and president of the common council. Then he was seized with the western fever and in 1856 located in Chicago. There he remained in the continuous practice of his profession until he was made chief justice in 1888.

John Marshall Harlan, doyen of the associate justices, was born in the same year as was Mr. Chief Justice Fuller and had been a dignified occupant of the supreme bench for ten years when the latter was made presiding justice. Mr. Harlan is a Kentuckian and was graduated at Center college, a small Kentucky institution, at the age of seventeen. He chose the law as a profession and began practice at Frankfort. He went into politics at once and was an elector on the Bell and Everett ticket. At the beginning of the civil war he removed to Louisville and raised the Tenth Kentucky infantry regiment and served in General G. H. Thomas' division. Mr. Harlan was elected attorney general of Kentucky by the Union party in 1865 and at the close of the war returned to his practice at Louisville. He was once a Republican candidate for governor and was named by the delegation of his state for the vice presidency. He was also a member of the Louisiana commission. He took his seat on the supreme bench on Dec. 10, 1877.

David Josiah Brewer is originally from Smyrna, Asia Minor, at which point his parents were missionaries. The justice came to America for his education and was graduated from Yale in 1856, afterward taking the course at the Albany law school. Then he settled in Kansas, and during the succeeding thirty years was honored with almost every elective legal office that it was within the power of his fellow citizens to confer on him. In 1899

he was called to the supreme court to succeed Mr. Justice Stanley Matthews. Henry Billings Brown was born at South Lee, Mass., March 2, 1836. He is another Yale man, having been graduated in 1856. He removed to Michigan and was admitted to the bar of Wayne county in July, 1860. In the following spring, on the election of Mr. Lincoln, he was made deputy United States marshal. In 1868 Mr. Brown removed to Detroit and at once entered on a career of great legal prosperity. He was appointed to the supreme court in 1890 to succeed Justice Samuel F. Miller.

Edward Douglass White is a native of the Polk State, born in the parish of Lafourche in 1845. He comes from an old Louisiana family and was educated by the Jesuits—first a pupil at Mount St. Mary's, Emmitsburg, Md., then a collegian at the Jesuit school in New Orleans and finally a graduate of Georgetown university. Mr. White served in the Confederate army and did not become a lawyer until 1868. He was elected to the United States senate as a Democrat in 1891 and three years

later was made an associate justice of the national supreme court. Rufus William Peckham is the son of an eminent justice of the court of appeals of the state of New York who went down in the ill-fated Ville de Havre in 1873. The associate justice was born in Albany and was educated in the public schools, never going to college. He studied law in his father's office and was admitted to the bar in 1859. From the beginning Mr. Peckham achieved marked success in his profession and at the time of his appointment he had risen to the dignity

of an associate judgeship of the state court of appeals. In 1895 President Cleveland made him a member of the supreme bench. Joseph McKenna is a Philadelphian who removed to California in his twelfth year and afterward became an eminent lawyer. He is now sixty-two years of age and has been an associate justice since 1897, when he was appointed to succeed Justice Field. Justice McKenna was a member of the Forty-ninth, Fiftieth, Fifty-first and Fifty-second congresses, having resigned to accept the position of United

States circuit judge. He was also attorney general in President McKinley's cabinet.

Oliver Wendell Holmes, the hearer of one of America's historic names, is a son of the famous physician-poet and was born in Boston in 1841. Graduated from Harvard at the age of twenty, he went immediately to the front as first lieutenant in the Twentieth Massachusetts infantry. He was wounded three times during his four years of active service and was mustered out with the brevet rank of colonel. In 1866 Mr. Holmes entered the Harvard law school and for several years after graduation devoted himself to the writing of works on legal subjects, lecturing and to the editorship of a law periodical. In 1882 he accepted a chair in the Harvard law school and the same year was made a member of the Massachusetts supreme court, afterward becoming chief justice of that court. He was appointed associate justice of the national supreme court in 1902.

William Rufus Day, the most recent addition to the supreme bench, is a son of Luther Day of the supreme court of Ohio and was born at Ravenna, O., in 1849. He is an alumnus of the University of Michigan. After spending a year in the law school of that institution he returned to Ohio and was admitted to the bar, beginning to practice at Canton, the home of the McKinleys. In 1889 he was appointed United States district judge for the northern district of Ohio by President Harrison, but he declined. In 1893 Mr. Day was made assistant secretary of state by President McKinley and the next year secretary. He resigned the position to accept the chairmanship of the commission which negotiated the treaty of peace with Spain. He was appointed to his present position by President Roosevelt in 1903.

JAMES ETHERIDGE.

THE POPULAR HEIR TO THE BULGARIAN THRONE

Prince Boris, eldest son of Prince Ferdinand, the ruler of Bulgaria and heir to the rather uncertain throne of that principality, is soon to visit America. He is reputed to be a good looking youngster and quite as good as he looks. According to those who should



be qualified to speak, he is a model prince, amiable, accomplished and of a serious and deeply religious turn. Prince Boris lost his mother, eldest daughter of the Duke of Parma, when he was six years of age. He is as popular in Bulgaria as his father is otherwise.

CHURCHYARD NOVELTY.

In the churchyard of the little English village of Pinner there stands a monument quite distinct from all those which surround it. It consists of a tall, square pyramid, overgrown with ivy, through the middle of which projects a coffin made of stone. This monument was raised by a son to his parents, William and Agnes Loudon, as the inscription tells. They do not, however, tell why he chose to have his parents' remains poised in midair in the stone shell instead of being buried in the usual way. This curious act is accounted for in a strange manner. It appears that his parents came into some money which was to be theirs "so long as their bodies were above the ground." When they died, therefore, in order that the money should not pass into other hands, their son "buried" them in this curious manner, and, despite the apparent injustice, his object was attained.

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