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KLAMATH FALLS, TUESDAY, JULY 19, 1910

CHIEF JUSTICE'S HIGH RANK

POSITION IS AS HONORABLE AS THAT OF PRESIDENT

Great Men Have Occupied the Office and Important Problems Come Up for Solution

United Press Service.

WASHINGTON, D. C., July 19.—Should Charles E. Hughes resign the governorship of New York to become chief justice of the United States it would prove that history, which repeats itself, also reverses itself for John Jay, first chief justice of the United States, resigned that honorable job in order to accept the governorship of New York. That was back in 1795.

While the talk of Hughes in connection with the appointment is mostly favorable, there is also some opposition. One objection to Hughes is based on the claim that he lacks experience in the supreme court, having tried only one case before that great tribunal. His friends, however, point out that this should not bar him from consideration in view of the fact that Chief Justice John Marshall, whose decisions gave life to the constitution, had tried only one case in the court before he was chosen its presiding judge.

When President Taft names the new Chief Justice he will create a world figure. The position will confer that distinction on the man, even though he be not renowned for his own talents. The appointment will place him at the head of one of the three co-ordinate branches of the government, a station more exalted, in the minds of many men, than the presidency itself.

The term of office will be subject to the pleasure of the chief justice. He may retire at the age of 70 years or continue in the service until death. Whether active or retired, he will receive full salary, which, under existing law, is $12,000 a year.

A duty prescribed for the chief justice, aside from those pertaining to the court, is that he shall preside at the impeachment of a president. That experience came to Chief Justice Morrison R. Waite, who was called upon to preside at the impeachment of President Andrew Johnson.

A salute of seventeen guns is accorded to him by military regulations.

He is a central figure every four years, when, in the presence of countless thousands of his countrymen, he administers the oath to the incoming president of the United States. His presence there helps to dignify the inauguration ceremony, but it is not essential. An oath taken by the president before a notary public would be just as binding.

Honors come to him in many ways. He is chosen to arbitrate controversies between nations and to assist in the negotiation of treaties. Great institutions feel honored by his patronage.

The oath subscribed to by a chief justice of the United States at his installation is as follows:

"I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as chief justice of the United States, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States, so help me God."

It is an interesting coincidence that several of the chief justices have entered upon their duties at times when new questions of the gravest importance confronted the country. In the time of Marshall, who became chief justice in 1801, the great problem was the construction of the constitution, and his decisions shaped the course of the republic. It devolved upon Marshall to place in effect the intentions of those who made the constitution. Some of the men who assisted in the construction of that great instrument differed with the judge as to what the intention of the constructors had been, but it was Marshall's opinion that counted.

It was Marshall who first asserted the right of the supreme court to declare invalid acts of congress that, in the opinion of the court were in conflict with the constitution. He created the American system of jurisprudence and assured the permanancy of a government that until his time was an experiment.

Roger B. Taney of Maryland became chief justice in 1836, a time when the country was about to experience a wonderful development. Railroads had begun to succeed wagon transportation, coal mines were being developed on a large scale, and public works of importance were placed under way. Aside from new questions arising in connection with those matters, however, Taney had to deal with the troublous matters that preceded the civil war. He was the author of the Dred Scott decision, which became a burning issue.

A court order by a chief justice is practically final, but one issued by Taney was an exception to the rule, perhaps the only case in which a chief justice was ever overruled. A man was arrested on the charge of treason in Baltimore, where the operation of the writs of habeas corpus had been suspended by the army. The facts were submitted to Taney, who issued an order that the prisoner be produced in court. The officer in command refused to surrender the man and Taney demanded peremptory compliance with his order. The troubled officer put it up to the war department and the department asked President Lincoln to decide. Lincoln held that under the conditions that prevailed in Baltimore at that time it would be unwise to release the prisoners on writs of habeas corpus or any other writs, especially in treason cases. As Taney had no army with which to enforce his order he was obliged to submit to the president, who was backed up by the military power of the government.

Big problems presented to the court when Morrison R. Waite became chief justice in 1874 grew out of the war and were involved in changing conditions. The court was called upon to construe the new amendments to the constitution and to rule upon the liquor question, polygamy, federal control of elections and the right of states to regulate railroads. It was in Waite's time that the court decided that a woman was a citizen, but without the right to vote.

The new chief justice will take part in the settlement growing out of the corporation tax and the Standard Oil, Tobacco and Sugar trust cases, in which the decisions of the court, in the minds of many men, may have a most important influence on the future of the country.

The supreme court was established in 1789 with a chief justice and five associate justices. The number of associate justices was increased to eight in 1837.

At the first session of the court there were no records, no forms and no cases for trial. The place of chief justice was not an attraction to influential men, but from Marshall's time it has been regarded as one of the very highest honors in the country.