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Hughes Returns and Preserves the Court Amidst a  
Great Storm

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When President Herbert Hoover in 1930 nominated Charles Evans Hughes to be Chief Justice of the Supreme Court, an unprecedented second tour of duty on the nation's High Tribunal, he didn't find it necessary to offer much in the way of justification because, he said, "it was the obvious appointment." Hughes's forceful, forbidding Jovian aura commanded attention and respect. Justice Robert H. Jackson, a historic figure in American law, and comfortable in the company of great men, once said of Hughes: "He looked like God and talked like God."

Justice Hughes had resigned from the Court in 1916 for what proved to be an unsuccessful presidential campaign against Woodrow Wilson. Perhaps surprisingly, his sterling reputation was not diminished by the electoral defeat. Rather, he remained in high demand. Suitors for his talents stood in line.

Hughes returned to the New York Bar as one of the nation's preeminent attorneys and a leading advocate before the Supreme Court addressing, as it were, his former colleagues. In 1921, Hughes left private practice when President Warren G. Harding appointed him to be Secretary of State. Once more, Hughes demonstrated extraordinary skills, this time in service of international diplomacy and peace.

Hughes had been an advocate of the Treaty of Versailles and the League of Nations but decided that further efforts to persuade the U.S. Senate would be futile. He negotiated a separate peace treaty with Germany and then championed the cause of an international reduction of military armament. Indeed, his great achievement as Secretary of State was the Washington Naval Disarmament Conference, 1921-1922, which he conceived, hosted and dominated. The great naval powers of the day, including the United States, agreed to drastic limitations in the tonnage of their warships. At Foggy Bottom, Hughes's energies were devoted to preventing another world war.

Exhausted by overwork, Hughes left the state department in 1925 and returned to private practice. In 1928, he accepted appointment as a judge on The Permanent Court of International Justice, which he had promoted and saw as a forum for resolving questions of international law and preventing war. He resigned from the court when President Hoover nominated him to be Chief Justice of the U.S. Supreme Court.

Hughes's credentials to serve on the Supreme Court require no exaggeration. The talents and skills that won him admiration from American and world leaders were put to a stiff test when he ascended to the High Bench at a time of worldwide economic and political emergencies that engulfed the judiciary and challenged the rule of law and the adaptability of the Constitution to the crisis of the times.

Chief Justice Hughes has been viewed by colleagues and judicial scholars as one of the Court's great administrative leaders. Caught in the clutches of the Great Depression, Hughes led the Court in its most important era since the time of Chief Justice John Marshall. The Hughes Court was badly frayed by personal discord among the Justices, deep ideological and doctrinal divisions, and tension with the executive

branch. The so-called Four Horsemen, on constitutional, political and ideological grounds, rejected New Deal legislation intended to lift the country from the depths of the Depression. President Franklin D. Roosevelt smoldered at the judicial rejection of his efforts to govern the nation and attacked the Court's "horse and buggy" jurisprudence and launched a "court-packing plan" to circumvent the Horsemen and restore balance to the Court. Court watchers over the years have expressed admiration for Hughes's ability to keep the Court functioning as an institution.

Chief Justice Hughes was committed to the preservation of an ideal for the Court, one that embodied detachment, impartiality, efficiency, and dignity. He defended these ideals when forces all around him were mocking them. Hughes, for example, defended the Court in the face of FDR's accusations of inefficiency. He took pains to assign opinions in such a way as to blunt the identification of any Justice with a partisan position. He sought to win support for moderate draft opinions. His own opinions reflected careful reasoning designed to distinguish contrary precedents without overruling them, all in the name of stability. As an administrator, he found the means to deal with Justice Benjamin Cardozo's failing health and moderate the bristling acrimony between Justices.

A Chief Justice, however, has limited means to conduct the business of the Supreme Court. His vote, after all, is just one of nine. Despite his colleagues' respect for his leadership skills and commitment to efficiency and order, they were quick to criticize. Justice Louis Brandeis recalled that the Saturday conferences (later replaced with Friday conferences) lasted six hours and that Hughes did all the talking. Justice Felix Frankfurter said that Hughes did not see the conferences as a "debating society" but rather as a "place where nine men do solos." Justice Harlan Stone wanted the sessions to be "much fuller and freer."

Other Justices thought their opinions were summarily dismissed or suppressed in discussion and didn't like being asked to write opinions on subjects that didn't square with their inclinations.

At all events, and despite occasional criticisms, Hughes has been awarded high marks for his steady hand in guiding the Court through challenging years which, to borrow from Justice Oliver Wendell Holmes's apt phrase, placed it in "storm centre."