

RETIREMENT OF JUSTICE STEWART

SUPREME COURT OF THE UNITED STATES

THURSDAY, JULY 2, 1981

Present: CHIEF JUSTICE BURGER, JUSTICE BRENNAN, JUSTICE STEWART, JUSTICE WHITE, JUSTICE MARSHALL, JUSTICE BLACKMUN, JUSTICE POWELL, JUSTICE REHNQUIST, and JUSTICE STEVENS.

THE CHIEF JUSTICE said:

Before we turn to the regular business of the Court on today's calendar, we wish to take note of the retirement of Justice Stewart as a member of the Court. Our tribute to him as a colleague and friend is expressed in a letter to him signed by all other members of the Court. That letter and Justice Stewart's response will be made part of the journal of today's proceedings.

Justice Stewart's 23 years on this Court embrace a stirring period of major political, economic, and social changes in our country. As Lord Bryce and others observed many years ago, most of the problems of the changes in our society have a way of finding their way into this Court. This is not—as some observers erroneously suggest—that courts reach out for these problems. On the contrary, the problems are thrust upon the courts. This trend has shown a marked acceleration in recent years. As it increases, the mythology of the courts' seeking out controversies expands apace.

In this period Justice Stewart has sought constantly to maintain a balanced view of the role of the judiciary as one limited by precedent and tradition as well as by the Constitution itself. He has sought to preserve appropriate boundaries consistent with the constitutional duties placed on the

judiciary by Article III. His opinions particularly reflect his strong views on guarantees of individual liberty and freedom of expression and those views make up a substantial body of our jurisprudence of the past two decades.

Our letter to Justice Stewart is as follows:

SUPREME COURT OF THE UNITED STATES,
CHAMBERS OF THE CHIEF JUSTICE,
Washington, D. C., July 2, 1981.

DEAR POTTER:

Your decision to retire from the Court took most by surprise and even after several weeks we are not fully reconciled. We respect your view that "twenty-three years is enough" but you will be missed in the deliberations at the conference table where your close grasp of the cases decided during your long tenure—as well as those before—were a very valuable resource to the Court.

You have had a long tenure on the Court, but we know that longevity is but one measure of the contribution of a Justice. You have combined more than two decades here with more than a quarter of a century of judicial service in a period of significant changes in the law and your important contributions are a matter of record.

Apart from our work as colleagues, as friends we will miss these regular contacts with you on the bench and in conference. However, although it goes without saying, we firmly assert that we expect you to share our table as you have for 23 years at the Court. A long and close relationship such as we share here, is not to be changed on the personal level by the act of retirement.

All of us join in repeating to you and Andy our heartfelt wishes for continued good health and for many good years ahead.

Sincerely,

WARREN E. BURGER

WILLIAM J. BRENNAN, JR.

BYRON R. WHITE

THURGOOD MARSHALL

HARRY A. BLACKMUN

LEWIS F. POWELL, JR.

WILLIAM H. REHNQUIST

JOHN PAUL STEVENS

Justice Stewart's response is as follows:

SUPREME COURT OF THE UNITED STATES,
CHAMBERS OF JUSTICE POTTER STEWART,
Washington, D. C., July 2, 1981.

MY DEAR COLLEAGUES:

Your kind letter has greatly touched Andy and me. The decision to retire was not easy, but it would have been much harder without the knowledge that in my retirement our friendship will continue unaffected.

I shall greatly miss participating with you in the work of the Court. But, though no longer a professional colleague, I shall look forward with happiness to the personal companionship of each of you in the years ahead.

Best wishes to you all.

Sincerely yours,

POTTER STEWART

The first of these is the fact that the United States is a young nation. It is only about 150 years old, and its history is therefore a history of growth and development. The second is the fact that the United States is a large nation. It covers a vast area of land, and its population is one of the largest in the world. The third is the fact that the United States is a diverse nation. It is made up of many different peoples, races, and religions, and this diversity has been one of its strengths.

The fourth is the fact that the United States is a nation of immigrants. Many of the people who live in the United States today are the descendants of immigrants from other countries. This has helped to make the United States a more tolerant and accepting nation.

The fifth is the fact that the United States is a nation of pioneers. The people who first settled in the United States were pioneers, and they have left behind them a legacy of courage and adventure. This legacy has helped to shape the United States into the nation it is today.

The sixth is the fact that the United States is a nation of freedom. The people of the United States have fought hard to win and maintain their freedom, and this freedom has been one of the most important factors in the development of the United States.

The seventh is the fact that the United States is a nation of progress. The people of the United States have always been looking for new ways to improve their lives, and this has led to many important advances in science, technology, and industry.

All of these factors have helped to make the United States the nation it is today, and they will continue to shape its future.

William D. Howells	Henry A. Howells
Thomas J. Howells	James H. Howells
John H. Howells	William H. Howells
Frederick Howells	John H. Howells