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### Charles Evans Hughes

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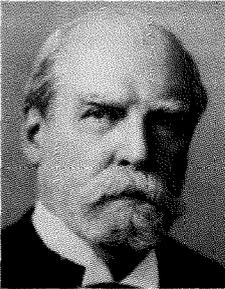
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Chief Justice Charles Evans  
Hughes

**Hughes, Charles Evans** (1862–1948). Lawyer, politician, diplomat, and chief justice of the United States. Hughes was born in Glens Falls, N.Y., the son of a Baptist preacher from the English-Welsh border country who changed congregations from time to time. Young Hughes spent his earliest years in several locations in

New York and New Jersey before the family settled in Brooklyn. A precocious child, he was educated both at home and in public school. At age 14, he began college at Madison (now Colgate) University, a Baptist institution. After his sophomore year, he transferred to Brown, which also had a Baptist tradition. Its more rigorous standards required that he spend an extra year in college, but he graduated at age 19 in 1881. After a year of teaching at the Delaware Academy in Delhi, N.Y., he enrolled in Columbia Law School, graduating in 1884.

Hughes began practice in the New York City law firm of Walter S. Carter, who later became his father-in-law as well as his partner. Vulnerable throughout much of his life to bouts of depression and nervous exhaustion, Hughes left practice in 1891 to teach at Cornell Law School. Two years later, Carter lured him back. For a dozen more years, though he achieved considerable respect among lawyers, Hughes labored in near-total obscurity. But then a rapid-fire series of events made him one of the most famous Americans of his day.

In 1905, he was asked to be counsel to a legislative

committee investigating New York City's gas and electric utilities. Hughes's patient yet relentless investigative style, together with a remarkable ability to digest huge amounts of information quickly, helped him uncover substantial overcharges by the utility companies. Soon after, he was asked to be counsel to another legislative inquiry; though it was known as the Armstrong Insurance Investigation, after the name of the committee chairman, Hughes was the dominant figure. Exposing various forms of malfeasance within the life insurance industry, he drew national attention. During the course of the inquiry, the Republican party tried to draft him to run for mayor of New York City, but he declined because the candidacy would be incompatible with his responsibilities to the investigation. Soon after completing this work—which culminated in the passage of an extensive set of legislation—Hughes accepted another draft, this one to be Republican candidate for governor of New York in 1906, and won the election.

As governor, Hughes demonstrated remarkable independence, which often brought him into conflict with his party's leadership. On some matters, he had a nearly judicial governing style—he actually held evidentiary hearings to determine whether officials should be removed—but he was also effective appealing on policy matters directly to the people. In his first year in office, he secured passage of a law creating a pioneering Public Service Commission; it was during his campaign for this law that he made the famous pronouncement, "We live under a Constitution, but the Constitution is what the judges say it is." In 1908, he was again successful in supporting a law that, in accordance with the state constitution, effectively prohibited racetrack gambling. He also handily won reelection that year. In 1909 and 1910, he fought unsuccessfully for a system of nominating candidates for public office by direct primaries.

As the largely successful governor of the nation's largest state, whose ideology and methods fit well with the Progressive Era, Hughes was a national figure and a presidential prospect. But President William Howard Taft appointed him to the Supreme Court, and he resigned the governorship in October 1910, near the end of his term. By then, Chief Justice Melville Fuller had died, and Taft came very close to nominating Hughes for the center seat.

On the Court, Hughes continued to act on the progressive idea that government and law could be agencies for social betterment and order, and that they must be able to supersede private forces. Thus, he wrote significant opinions reflecting an expansive sense of the powers of state and federal governments.

He looked askance at the doctrine of freedom of contract, and he wrote two landmarks in the early history of civil rights litigation.

In June 1916, he resigned from the Court to accept a draft by both the Republican and Progressive parties as their presidential nominee. Hughes failed to provide a compelling reason to oust Woodrow Wilson, who had achieved considerable domestic success in his first term and was able to claim that he had kept the nation out of war. But the race was close; a switch of fewer than 2,000 votes in California would have sent Hughes to the White House.

Instead, he returned to the New York bar, this time as one of its clear leaders. President Warren Harding appointed him secretary of state in 1921. Though he had favored ratification of the Treaty of Versailles with mild reservations, Hughes quickly decided that its resubmission to the Senate would be futile. Eventually, he negotiated a separate peace treaty with Germany. Hughes's crowning achievement as secretary, however, was the Washington Naval Disarmament Conference of 1921–22, which he called for, hosted, and dominated. Following closely a plan he dramatically laid out at the opening of the conference, the great naval powers agreed to drastic limitations in the tonnage of their warships.

Back at the bar in 1925, with his stature even further enhanced, Hughes became one of the leading Supreme Court advocates of the day. He also served a term as a member of the Permanent Court of International Justice. His nomination as chief justice in 1930 was opposed by many progressive senators who focused more on Hughes's recent corporate clientele than on his extensive record as a progressive politician and judge. Ultimately, he was confirmed by a vote of 52–26. His appointment along with that of Owen J. Roberts later that year moved the Court substantially to the left. The shift became apparent almost immediately, including perhaps Hughes's greatest contribution to the First Amendment, *Near v. Minnesota* (1931), prohibiting prior restraints except under the most stringent circumstances.

Governmental responses to the Great Depression, however, placed the Court under intense pressure. Four justices were generally inclined not to accept novel exercises of government power, and three justices usually were receptive, while Hughes and Roberts tended to be in the middle. In 1934–35, the Court issued three major decisions, all by identical 5–4 votes. In *Home Building and Loan Association v. Blaisdell* (1934), Hughes wrote the majority opinion, upholding an emergency mortgage moratorium law and explicitly introducing flexibility into the interpreta-

tion of the Constitution's contracts clause. In *Nebbia v. New York* (1934), he provided a crucial fifth vote for Roberts's opinion, which discarded the idea that price regulation was constitutionally permissible only in a closed set of industries determined to be "affected with a public interest." And in the 1935 *Gold Clause Cases*, Hughes wrote for the majority, declining to impose sanctions for congressional abrogation of gold clauses in public and private contracts.

Later the same year, though, Hughes wrote for a unanimous Court invalidating the National Industrial Recovery Act in *Schechter Poultry Corporation v. United States*. In 1936, he wrote a cryptic separate opinion saying briefly that the Bituminous Coal Conservation Act of 1935 went beyond any proper exercise of Congress's power to regulate commerce. He also dissented bitterly, reflecting his long-held views, from the Court's decision invalidating a minimum wage law.

Several weeks after Franklin D. Roosevelt introduced his plan to pack the Court in February 1937, Hughes made known his view that the plan would be counterproductive with respect to its purported purpose of making the Court more efficient. His statement received widespread publicity but ultimately had little impact on the debate, which centered on the ideology of the Court's decisions. Of much greater significance that year, with the support of Roberts, Hughes was able to write a majority opinion upholding a minimum-wage law, and in *National Labor Relations Board v. Jones and Laughlin Steel Corporation* he wrote a magisterial opinion upholding the National Labor Relations Act under the commerce power. He also joined decisions upholding the Social Security Act under the taxing and spending power.

Together, these decisions helped undermine support for Court-packing, but they do not appear to represent an expedient change of view on Hughes's part. Over the remaining four years of his tenure, his views, some deemed liberal and some conservative, remained consistent. So did the Jovian aura that Hughes, with his trimmed white beard, created in presiding over the Court. In 1941, still capable but afraid of continuing under a delusion of adequacy, he retired, thus ending one of the most astonishing careers in American history.

#### RICHARD D. FRIEDMAN

David J. Danelski and Joseph S. Tulchin, eds., *The Autobiographical Notes of Charles Evans Hughes* (1973); Betty Glad, *Charles Evans Hughes and the Illusions of Innocence: A Study in American Diplomacy* (1966); Samuel Hendel, *Charles Evans Hughes and the Supreme Court* (1951); Merlo J. Pusey, *Charles Evans Hughes*, 2 vols. (1951); Robert F. Wesser, *Charles Evans Hughes: Politics and Reform in New York, 1905–1910* (1966).