

JUSTICE BLACK, 85, QUITS HIGH COURT, CITING HIS HEALTH

Sends Note to Nixon From
Hospital—Resignation Is
Effective Immediately

REP. POFF IS MENTIONED
SEP 18 1971

Virginian May Be Named
—Change Could Reshape
Philosophy of Bench
NYTimes

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Special to The New York Times

WASHINGTON, Sept. 13—
Associate Justice Hugo L. Black
retired today from the Supreme
Court after 34 years of service
spanning the administrations
of six Presidents.

The decision was announced
at the White House after Presi-
dent Nixon had received a note
from the 85-year-old Justice
written at the Naval Medical
Center in Bethesda, Md., where
he has been a patient since
Aug. 28.

Ronald L. Ziegler, the White
House press secretary, told
reporters that Justice Black had
reached his decision for "health
reasons" and that the Presi-
dent had accepted the decision
with "deep regret."

Mr. Ziegler said that a search
for "the most qualified man
available" would begin imme-
diately. Speculation quickly
centered on Representative
Richard H. Poff, Republican of
Virginia.

Law and Order Advocate

The nomination of Mr. Poff
would satisfy Mr. Nixon's fre-
quent pledge to name a South-
erner to the Court. Mr. Poff
was also one of the early archi-
tects of Mr. Nixon's tough ap-
proach to the law-and-order
issue in the 1968 campaign, as
well as the candidate's fre-
quent criticisms of some of the
decisions regarding the rights
of suspects handed down by
the Court when Earl Warren
was Chief Justice.

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well were both rejected by
Congress.

Although speculation imme-
diately centered on Representa-
tive Poff to fill the vacancy,
it was by no means certain
that Mr. Nixon would reach
into the South. After Judge
Carswell's defeat, the President
issued an angry statement that
said in part:

"With the Senate as pre-
sently constituted, I cannot suc-
cessfully nominate to the Su-
preme Court any Federal ap-
ellate judge from the South who
believes as I do in the strict
construction of the Constitu-
tion.

"As long as the Senate is
constituted the way it is today,
I will not nominate another
Southerner and let him be sub-
jected to the kind of malicious
character assassination accorded
both Judges Hayns-
worth and Carswell."

Since he made that statement
in the spring of 1970, however,
the composition of the Senate
has changed slightly. After the
1970 midterm elections, Mr.
Nixon contended that although
Republicans generally had not
done well, enough conservatives
from both parties had been
elected to give him an "ideo-
logical majority" in the Senate.

There was talk last year that
Mr. Nixon would have pre-
ferred Representative Poff to
Judge Carswell. According to
this report Mr. Poff would
have been nominated had he
not been technically ineligible
because he would have been
appointed during a term in
which, as a member of Con-
gress, he voted for a bill rais-
ing the pay of Supreme Court
Justices.

Other names figuring in
speculation here today includ-
ed Charles Rhyne of North
Carolina, an old friend of the
President's from Duke Univer-
sity days and a former presi-
dent of the American Bar Asso-
ciation; Lewis F. Powell of
Virginia, another former presi-
dent of the Bar Association,
and Vice President Agnew.

The President conferred with
Mr. Rhyne at 10 A.M. today,
but White House officials said
it was unrelated to the Court.
Mr. Ziegler said the President
had not known of Justice
Black's decision until he re-
ceived the note this afternoon.

Justice Black himself was a
Southerner and served as a Sen-
ator from Alabama. When he
was nominated to the court in
1937 by Franklin D. Roosevelt
he endured bitter attacks from
some Senators because of re-
ports that Justice Black had
once been a member of the Ku
Klux Klan. He was confirmed
63-16, but when he later admit-
ted membership in the Klan,
several Senators said they
would not have voted to con-
firm him had they known this.

which the Court broadened
racial desegregation in the
schools and in public accom-
modations.

Justice Black was born in
Clay County, Alabama, on Feb.
27, 1886. He worked his way
through the University of Ala-
bama, served in World War I,
entered politics, and was elect-
ed to the United States Senate
in 1927.

He vigorously supported
many of President Roosevelt's
public works projects, and in

1937 he supported Mr. Roose-
velt's plan to "pack" the Su-
preme Court to overcome its
opposition to certain New Deal
measures.

In tribute today, Chief Jus-
tice Burger called Justice
Black's retirement "a great
loss to the Court which has had
the benefit of his broad ex-
perience and wisdom." The
Chief Justice said that Justice
Black had won the affection
and friendship of all his col-
leagues, adding:

"His career will rank with
those of the great Justices of
the Supreme Court."

At the White House, Mr.
Ziegler said the President
planned to respond personally
to Justice Black's note telling
Mr. Nixon of the decision to
retire. However, Mr. Ziegler
said, the President had au-
thorized him to convey to re-
porters and to the public Mr.
Nixon's respect for Justice
Black's judicial capacities.