

JERSEY'S JUSTICES

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In 1787 fifty-six delegates from around the nation met in Philadelphia and developed a new form of government. Embodied in the Constitution, the country would have three branches of leadership: the Executive Branch (the President), the Legislative Branch (U.S. Congress and U.S. Senate), and the Judicial Branch (U.S. Supreme Court).

The U.S. Supreme Court is the highest court in the land. When initially formed it had six members, called Justices. Over time the Court has had its membership increased to the current nine Justices.

How does a person become a member of the United States Supreme Court? Article II, Section 2, Paragraph 2 of the U.S. Constitution provides the answer. It states, "The president shall nominate and, by and with the advice and consent of the Senate, shall appoint . . . Judges of the Supreme Court." There are no term limits for a Justice, nor are there any mandatory age requirements for appointment or retirement. The scope and powers of the high court have evolved over the years, as have the responsibilities of the Justices.

Throughout the nation's history 108 men, and three women, have served as Justices on the U.S. Supreme Court. Of those 111 Justices some have had various connections with New Jersey. For example, current Justice Antonin Scalia and former Justice John McLean (served 1830-1861) were both born in New Jersey but were appointed to the Court out of a different state. Similarly, Justice Ruth Bader Ginsburg was a professor at Rutgers University Law School in New Jersey, yet was appointed by President Clinton as a resident of Washington, D.C. However, only five of the Justices have been appointed from New Jersey itself. This article will focus on "Jersey's Justices."

William Paterson was the first person from New Jersey to be

appointed to the U.S. Supreme Court. Born on December 24, 1745 in County Atrim, Ireland, he is one of only six foreign-born justices to serve on the Court. He and his family sailed to America in 1747 and ultimately settled in Princeton. Paterson was accepted into the College of New Jersey (now Princeton University) at the age of 14. Graduating in 1763 he began studying law under Richard Stockton (one of New Jersey's signers of the Declaration of Independence). He was admitted to the bar in 1766 and began his law practice in New Bromley, Hunterdon County.



The young lawyer was an energetic, public service oriented man whose talents were quickly recognized by those around him. Elected to the First Provincial Congress of New Jersey in 1775, he was instrumental in drafting the State's Constitution. The following year he was appointed as attorney general for New Jersey, a post he held throughout the American Revolutionary War. When the war ended he returned to private practice. Paterson was a delegate to the Constitutional Convention of 1787 and was instrumental in developing the two-house legislative structure of the Federal government. His plan, referred to as the "New Jersey Plan," provided for each state to have equal representation in a house of government. This plan became the United States Senate with its two senators from each state as representatives. In 1788 he was appointed as one of the Garden State's senators. When the Senate first convened in the Spring of 1789 he and a fellow classmate, Oliver Ellsworth of Connecticut, drafted what became known as the Judiciary Act of 1789. This act expanded the Federal judicial branch, adding circuit courts and district courts under the Supreme Court.²

When Governor William Livingston died in July 1790 Paterson was the unanimous choice of the New Jersey legislature to become the state's second governor. He accepted the appointment, resigned his Senate seat, and came back to New Jersey to serve. He was elected to three additional one year terms as governor. During his tenure as Chief Executive the state's court system was improved. The state laws were codified, and court proceedings became more efficient.

New Jersey's first Justice on the U.S. Supreme Court was appointed to the court by President George Washington on March 4, 1793. Washington's letter of appointment read in part, "I think it necessary to select a person who is not only professionally qualified to discharge that important trust, but one who is known to the public, and whose conduct meets their approbation. I shall have the satisfaction to believe that your country will be pleased with and benefitted by the acquisition."³ Paterson accepted the honor and served on the Court until his death on September 9, 1806. During his years on the Court he participated in many of the most famous cases decided by the Court in its formative years. Justice Paterson is buried at Albany Rural Cemetery in Menands, New York.

Joseph P. Bradley

Born in Berne, New York on March 14, 1813 he was the oldest of twelve children in his family. In 1833 he entered Rutgers College and graduated in just two years. Like many young men seeking a career as an attorney, he undertook an apprenticeship with an established lawyer. Highly motivated, Bradley immersed himself in the law under the tutelage of Archer Gifford, who served as the collector of the port of Newark. The future Justice was admitted to the New Jersey bar in 1839. The next three decades found Joseph Bradley practicing law in the Newark area, where he became a well-respected attorney. In addition to the law, Bradley worked for Mutual Benefit Life Insurance Company as an actuary. He married Mary Hornblower in 1844. The fact that her father was the Chief Justice of New Jersey's Supreme Court did nothing to hurt his standing as an up and coming barrister in the community.



On February 7, 1870 President Ulysses S. Grant appointed the New Jersey Republican Bradley to fill a vacancy on the U.S. Supreme Court. The Senate confirmed the nomination by a 46 to 9 vote. His twenty-two years on the Court saw great advancements in the United States as the nation rebounded from the horrors of the Civil War. In 1877 he was placed in the middle of the most hotly contested presidential election of all time.

During the 1876 presidential election Samuel Tilden, the Democratic candidate, out polled Rutherford B. Hayes, the Republican candidate, but failed to win the necessary electoral votes to garner the White House. A blue-ribbon commission was assembled to decide the contest. The commission was originally comprised of seven Democrats, seven Republicans, and Justice David Davis, an independent. However, Davis declined the invitation and was replaced on the commission by Joseph P. Bradley.

Thus it was that Bradley ultimately cast the deciding vote, determining who the next president of the United States was going to be—Rutherford Hayes. His decision was understandably lambasted by the Democratic press as partisan politics at it worse. Bradley maintained that he did not play politics, but rather based his deciding vote strictly on controlling constitutional reasons.⁴

Bradley came to be considered as a hard-working, highly intellectual Justice. A voracious reader, Bradley's personal library contained over 16,000 books. Often he would pepper his legal opinions with information gathered from his varied intellectual pursuits. He also drew upon his business experience and interests in science and mathematics when considering appropriate cases. His greatest contributions to the Court involved cases dealing with commercial law and interstate commerce. Bradley's dedicated work ethic and intellect served him well. Indeed, one biographer commented favorably about the jurist that, "With his powerful intellect and moral assertiveness, he surpassed all but a handful of judges who have sat upon the Court."⁵ Justice Bradley died on January 22, 1892 and is buried in Mt. Pleasant Cemetery in Newark, New Jersey.

When the first session of the Court convened in 1790, the tradition of justices wearing wigs still lingered. Justice William Cushing was the only justice to arrive at the court wearing the white wig he had worn on the Massachusetts bench. The ribbing he took from boys outside the court apparently turned the tide against the headgear, and he took the advice of Thomas Jefferson: "For heaven's sake, discard the monstrous wig which makes the English judges look like rats peeping through bunches of oakum."

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Mahlon Pitney

Born in Morristown on February 5, 1858 he was the son of a successful lawyer, Henry Cooper Pitney, and his wife Sarah Louisa Halsted Pitney. Like William Paterson before him, Pitney attended the College of New Jersey. Upon his graduation in 1879 the future Justice began studying law in his father's office. After three years of rigorous training Mahlon Pitney was admitted to the bar of New Jersey in 1882.

The new lawyer moved to Dover, New Jersey and opened his own law practice. He also managed a department store and worked as a director of a local iron company. When his father was appointed state judge in 1889 Mahlon returned to Morristown and managed the elder Pitney's law practice, which now included Mahlon's two brothers. His reputation as an outstanding trial lawyer soon began to spread.

When he was 33 years old he married Florence T. Shelton. The pair would have two sons and a daughter, and both his sons followed Mahlon's career choice of the law for a profession. At the same time that he was starting a family Pitney's political activities were bringing him renown as well. In 1894 he was elected to represent the Fourth Congressional District in the United States Congress. Representative Pitney would serve two terms in Washington, where he made a mark for himself while serving on prominent committees like the Foreign Affairs Committee and the Appropriations Committee.

In 1899 Pitney resigned his position as Congressman when he was elected to the New Jersey Senate. He aspired to the governorship of the state, and believed a stint as state senator would enhance his chances. Those aspirations were soon dashed when he accepted appointment to the New Jersey Supreme Court on his 43rd birthday. His hard work and thoroughness impressed New Jersey's legal community. In 1908 he was elevated to the position of Chancellor, the highest ranking judicial position in the state at that time. As Chancellor he was responsible for the entire judiciary system, and he carried out his task effectively and efficiently.

President William Howard Taft tapped Mahlon Pitney to fill a vacancy on the U.S. Supreme Court. The appointment surprised Pitney, and came with some controversy. He was attacked as being anti-labor, and the Senate confirmation hearings took 23 days. He was finally confirmed by a vote of 50 to 26 on March 13, 1912.⁶ Upon taking the oath of office Justice Pitney received a welcomed telegraph from New Jersey's governor, Woodrow Wilson, "My warmest congratulations. A better choice could not have been made."⁷

Mahlon Pitney, like many accomplished men of his era, had a number of outside interests to occupy his time. Among other things he was a champion chess player, avid golfer, and hunter. Yet, he threw himself completely into his job as Justice. In the 10 years that he served on the Supreme Court he missed participating in only 19 of the 2,412 cases coming before the Court. His hard work earned him the respect and admiration of his fellow Justices. He suffered a stroke in August 1922, which led to his retirement from the Supreme Court at the end of that year. Justice Pitney died on December 9, 1924 and is buried at Evergreen Cemetery in Morristown, New Jersey.

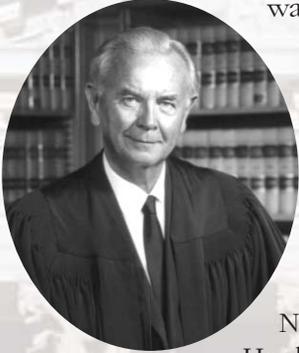


In 1789, the Chief Justice's salary was \$4,000, while associate justices made \$3,500. By 2010, the Chief Justice's salary had risen to \$223,500, with associate justices receiving \$213,900.

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William J. Brennan, Jr.

Justice Brennan had one of the longest tenures on the Court, serving from 1956 to 1990. He was born on April 25, 1906 in Newark, New Jersey. His parents were hard working Irish immigrants who raised eight children and instilled in their offspring a love of reading. The elder Brennan was a laborer and local politician who was well respected throughout the Newark community.



William Brennan graduated from the University of Pennsylvania's Wharton School of Finance in 1928. Although he initially contemplated a career in the financial world, Brennan changed his mind and enrolled in Harvard Law School. One of his professors there was Felix Frankfurter. The two men would meet again over a quarter of century later when they served together as Associate Justices on the Supreme Court! After graduating near the top of his class from Harvard Brennan returned to New Jersey and went to work at the prestigious law firm Pitney, Hardin and Skinner in Newark. The hard working young lawyer developed a niche in the field of labor relations, and by 1938 he was made a partner in the firm. Brennan bought a home in South Orange and moved in with his wife Marjorie and his two sons, William III (who became a prominent New Jersey lawyer and served a term as President of the New Jersey State Bar Association) and Hugh. The Brennans' third child, Nancy, was born in 1949.

The judicial career of William Brennan began in 1949 when Governor Alfred Driscoll appointed him as a trial judge on the New Jersey Superior Court. The following year Brennan was promoted to the Appellate Division. In 1952 he was elevated once again, this time to the New Jersey Supreme Court. New Jersey's Constitutional Convention of 1947 had given rise to a new court system, and Brennan worked tirelessly within the system to improve it. He developed an excellent working relationship with Arthur Vanderbilt, the Chief Justice of New Jersey's Supreme Court.⁸

In the summer of 1956 a vacancy on the U.S. Supreme Court opened up with the retirement announcement of Justice Sherman Minton. President Dwight Eisenhower wanted to fill the spot with a reform minded, Catholic, Democrat state judge. William Brennan satisfied all of those criteria, and Eisenhower appointed him. He took his oath of office on October 16, 1956 and was confirmed by the U.S. Senate on March 19, 1957 (the only dissenting vote being cast by Senator Joseph McCarthy).⁹

Justice Brennan was an integral member of the Warren Court. He consistently voted with the liberal majority and helped usher in many of the civil liberty protections enjoyed by all today. For example, he voted with the majority in the *Miranda* case, which requires police to provide criminal suspects with their rights. He also voted with the majority in the *New York Times* case that expanded protection of free speech. A prolific, persuasive writer, Justice Brennan penned more than 1,200 opinions during his thirty-four year stint on the U.S. Supreme Court. He retired from the Court on July 20, 1990 at the age of eighty-four. His impact was widespread. After his retirement a colleague, Justice Harry A. Blackmun, stated that, "By any measure, William J. Brennan, Jr., must be classified as one of the great justices of our time and, indeed, of all those who have served on the Supreme Court of the United States. And he has exerted a profound influence upon his colleagues over the long period of his service. We are all the better because of that influence."¹⁰ Justice Brennan died on July 24, 1997 and is buried in Arlington National Cemetery.

The longest serving justice was William O. Douglas, who retired in November, 1975, after 36 years and six months on the bench. John Rutledge had the briefest Court tenure. He was appointed chief justice and served for four months, at which point the Senate rejected his nomination.

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Samuel A. Alito, Jr.

The only son of Samuel A. Alito, Sr. and the former Rose Fradusco, he was born on April 1, 1950 in Trenton, New Jersey. He grew up in Hamilton Township and graduated as the valedictorian of his high school class. Early on in life he developed a passion for baseball and became an ardent Philadelphia Phillies fan.¹¹



Sources

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The future Justice attended Princeton University, graduating in 1972 with a Bachelor of Arts degree from Princeton's Woodrow Wilson School of Public and International Affairs. Interestingly, his yearbook claimed he would "eventually warm a seat on the Supreme Court."¹² Upon graduation Alito enrolled in Yale Law School. While there he was an editor of the Yale Law Journal. After graduating from law school Alito served active duty with the U.S. Army Signal Corp as a Second Lieutenant from September to December 1975. He remained with the inactive Reserves after that until obtaining an Honorable Discharge as a Captain in 1980.

During the 1976-1977 court year Samuel Alito served as a law clerk for the Honorable Leonard I. Garth of the U.S. Court of Appeals for the Third Circuit. His next legal position was that of Assistant U.S. Attorney for the District of New Jersey. During the Reagan Administration he served as Assistant to Solicitor General Rex E. Lee (1981-1985) and as Deputy Attorney General to Edwin Meese (1985-1987). In 1987 the U.S. Senate unanimously confirmed him to be United States Attorney for the District of New Jersey, a position he held until President George H.W. Bush nominated him to the U.S. Court of Appeals for the Third Circuit. When the Senate confirmed him he took the bench there in 1990. At age 40 he was the second youngest person to serve as a Federal judge at that level.

On November 10, 2005 President George W. Bush placed Alito's name into nomination before the U.S. Senate to fill a vacancy on the U.S. Supreme Court caused by Justice Sandra Day O'Connor's retirement. The Senate Judiciary Committee held hearings on the nomination from January 9 to January 13, 2006. By a 10 to 8 vote on January 24th Alito's nomination moved on to a full Senate confirmation proceeding the following day. On January 31, 2006 Samuel Anthony Alito, Jr. was confirmed as the 110th Justice by a 58 to 42 vote.

Justice Alito married Martha-Ann Bomgardner in 1985. They are the parents of two children. After being confirmed to the Supreme Court, Justice Alito moved with his family from West Caldwell, New Jersey to Washington.

New Jerseyans should be proud of their five fellow citizens called upon to render invaluable service to the nation on the United States Supreme Court. These five men of different backgrounds all brought to the position of Associate Justice a love for the law, a dedicated work ethic, and an inherent compassion that served them well. The Garden State has been well represented on the country's highest court. The nation should be grateful that Jersey's Justices have shared their time and talents with the American people to help protect, defend, and define the United States Constitution.

