

The Court and Its Traditions

For all of the changes in its history, the Supreme Court has retained so many traditions that it is in many respects the same institution that first met in 1790, prompting one legal historian to call it, “the first Court still sitting.”

Recent Justices have perpetuated the tradition of longevity of tenure. Justice Hugo Black served for 34 years and one month prior to his retirement in 1971. In October 1973, Justice William O. Douglas surpassed the previous longevity record of Justice Stephen J. Field, who had served for 34 years and six months from 1863 to 1897. When Justice Douglas retired on November 12, 1975, he had served a total of 36 years and six months.

As is customary in American courts, the nine Justices are seated by seniority on the Bench. The Chief Justice occupies the center chair; the senior Associate Justice sits to his right, the second senior to his left, and so on, alternating right and left by seniority.

Since at least 1800, it has been traditional for Justices to wear black robes while in Court. Chief Justice Jay, and apparently his colleagues, lent a colorful air to the earlier sessions by wearing robes with a red facing, somewhat like those worn by early colonial and English judges. The Jay robe of black and salmon is now in the possession of the Smithsonian Institution.

Initially, all attorneys wore formal “morning clothes” when appearing before the Court. Senator George Wharton Pepper of Pennsylvania often told friends of the incident he provoked when, as a young lawyer in the 1890’s, he arrived to argue a case in “street clothes.” Justice Horace Gray was overheard whispering to a colleague, “Who is that beast who dares to come in here with a grey coat?” The young attorney was refused admission until he borrowed a “morning coat.” Today, the tradition of formal dress is followed only by Department of Justice and other government lawyers, who serve as advocates for the United States Government.

Quill pens have remained part of the Courtroom scene. White quills are placed on counsel tables each day that the Court sits, as was done at the earliest sessions of the Court. The “Conference handshake” has been a tradition since the days of Chief Justice Melville W. Fuller in the late 19th century. When the Justices assemble to go on the Bench each day and at the beginning of the private Conferences at which they discuss decisions, each Justice shakes hands with each of the other eight. Chief Justice Fuller instituted the practice as a reminder that differences of opinion on the Court did not preclude overall harmony of purpose.

The Supreme Court has a traditional seal, which is similar to the Great Seal of the United States, but which has a single star beneath the eagle’s claws— symbolizing the Constitution’s creation of “one Supreme Court.” The Seal of the Supreme Court of the United States is kept in the custody of the Clerk of the Court and is stamped on official papers, such as certificates given to attorneys newly admitted to practice before the Supreme Court. The seal now used is the fifth in the Court’s history.

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