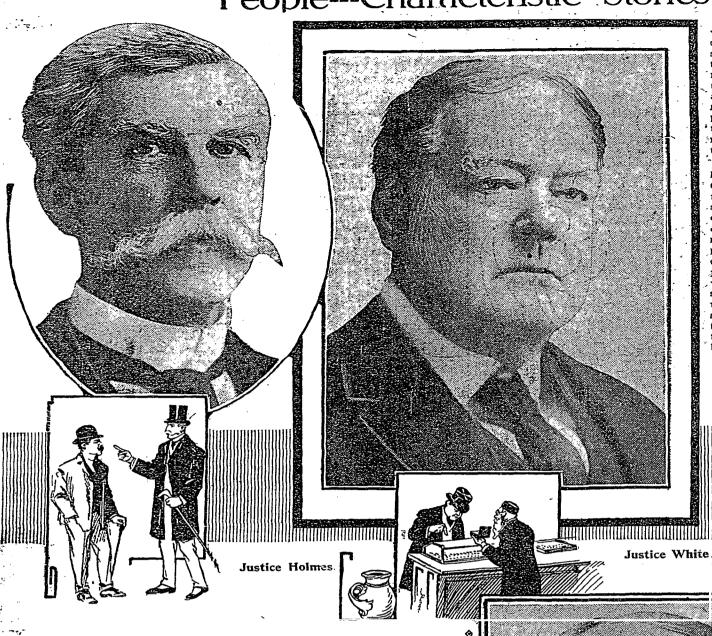
## MEMBERS OF THE SUPREME COURT AS HUMAN BEINGS: When Not on the Bench ...

By E.J. Edwards.

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# MEMBERS OF THE SUPREME COURT AS HUMAN BEINGS

# When Not on the Bench They Are Pretty Much Like Other People---Characteristic Stories About Them.



courtroom late in the afternoon, when the pected to hear a gentle rebuke from that stock market had closed, he heard that quarter. the petition had been denied, but the announcement, instead of being made from Holmes, showing the greatest possible the bench, had been handed to the chief faith in the decision of her husband. elerk by Chief Justice Fuller, and the former had carefully summoned the newspaper men to his private office and given them the information to be sent to the newspapers. What the lawyer said about the coup would not look well in print.

Although the fact is not generally known, it is nevertheless true that it was Chief Justice Fuller who put a stop to the Roosevelt propaganda for phonetic spelling, so far as his co-ordinate branch pointed Mr. Moody he said to a group of the Government was concerned. One newspaper men at the White House: day Solicitor General Henry M. Hoy made the opening argument to the Supreme Court in a land case. By the order of President Rooseveit all documents printed for the executive departments were spelled phonetically. On this occasion Chief Justice Fuller happened to pick up the brief in the case, which had been ent from the Department of Justice to of the society set of Washington witthe Government Printing Office. The first nessed the ceremony than had ever bething that struck his eye was a reported fore graced the chambers of the Supreme literal quotation from a decision of the Court on a similar occasion. When his

without hearing a word. As he left the expression on his face as though he ex-

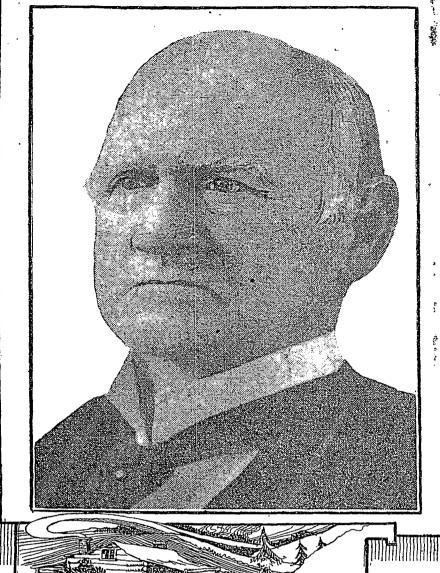
spect for Mr. Holmes

"When Mr. Justice White turns loose," remarked one of them recently, "I do not mind him much. But when Justice Holmes gives me a broadside he talks as though he meant it." President Roosevelt appointed three

members of the Supreme Court-Justices Day, Holmes, and Moody. When he ap-"I have been to bat three times on this Supreme Court Justiceship business, and have struck out twice.'

Justice Moody and the Society Women.

When Mr. Moody, bachelor, was sworn in as a meniber of the court more women



Justice Harlan

has read history and law together until, here?" was Mr. McKenna's greeting to he is thoroughly familiar with the cir- his caller. cumstances leading up to most laws now on the statute books. While Attorney from the tremendous amount of reading to horseback riding to keep in good phy-After starting, however, he thor-

oughly enjoyed the exercise. Not infrequently Mr. Moody has been mistaken for President Roosevelt, and on the latter's political trip of speechmaking through the West in 1903 Mr. Moody made a number of speeches from the back platform of the train which left his auditors fortunes together and agreed to look out in doubt as to whether they had heard for each other as they progressed in pub-President Roosevelt or somebody else. Hic life. Whether this story, illustrative It has been said that Justice Moody would of the Justice's humanness, is entirely have made a good actor. He has a highly correct or not, the fact remains that artistic temperament, and as an orator possessed the essential quality of personal his Attorney General, and a year later

The Court's Real Baseball "Crank." Bench.

Mr. Justice Day, President Roosevelt' first selection for the Supreme Court, is He possesses this faculty to such a dethe baseball "fan" par excellence of the gree as to excite the admiration of the court. While Justices White and Mc- entire legal fraternity. It is a common Kenna never miss a game if they can help occurrence for the Justice to review th it, Justice Day is a real baseball "crank." most complicated kind of a lawsuit for He knows as much about the rules of fifteen or twenty minutes extemporanethe game as he does about the rules of ously, and then to connect the main points the Supreme Court itself, and he knows in the case with the decision of the court practically all the players in the big in such lucid manner as to be thoroughly league clubs, not only by name and repu- convincing. In fact, the extemporaneoustation, but by sight. When the schedule ly announced decisions of Justice White of the Supreme Court comes into conflict sound more convincing when delivered with the schedule of the Washington ball than those read by the other Justices. team, Justice Day attends the perform- In a somewhat lesser degree, Mr. Justice ance of the former under dire protest. If Holmes has this same faculty. he can possibly arrange to get away, he will shed his judicial robes without fur- the game of baseball, Justice White has ther ado, and hie himself away to a a fad for precious stones. He does not grand stand seat where he can pass judgment on the chasers of the baseball, rather than on the merits of arguments of lawyers engaged in shadowing the Consti-

Physically, Justice Day, who is a small man, has fooled a lot of the old-timers in Washington, who have been expecting to see him die every time they have looked at him. Even as far back as 1898 the late Senator George Frisbie Hoar of Massachusetts said, when he heard of Mr Day's appointment as Secretary of State: 'If his health lasts he will do.' that time Mr. Day has gone cheerfully on through a successful career as Secretary of State, as Chairman of the commission which negotiated the treaty of peace with Spain, and as Associate Justice of the Supreme Court, which latter position he

has held seven years. The other two "fans" of the bench are the only members of the court who be long to the Catholic Church. Through out his career Justice McKenna has been noted for his courteous yet somewhat stiff" manners. He is always the perfect gentleman, and his one vice-if it can, be called that—is his fondness for the great National game. He has been singualong his official career. The one story that is told of him in Washington is that when he was serving as Attorney General for President McKinley he took espedent Roosevelt, Justice Moody was one of the few civilians, to hold that office and cial pains not to be interrupted when at work at his desk. On one occasion former Attorney General called on him, and, running the gantlet of secretaries and messengers, succeeded in getting un announced into the presence of Mr. Mc Kenna. The man's mere presence was not so astounding to Mr. McKenna as the fact that he was on hand without being gated to the limbo of outworn super-

duly heralded. "How in the dickens did you get in

from the tremendous amount of reading General of the United States he found that the Justices of the Supreme Court his work so confining that he had to take have to do. Within very recent years he has had to wear a shield for his eyes when sitting on the bench, and this is o'clock he was heard to say: "I sup-sven more useful to him after the court pose I have to go out on that blamed adjourns, when he takes up the legal briefs." and law books for a minute study of the

> Justice McKenna, when he wa gress, became a close friend of William McKinley, and it has long been understood in Washington that the two President McKinley made Judge McKenna appointed him on the Supreme Court

> - Justice White is the one member of the

Besides being an ardent enthusiast over wear them for personal adornment, but rarely ever goes to New York or other entres of the precious stone market without hunting up the leading jewelry stores and woking over their stock on hand,

#### Genial Justice Lurton. Washington's present ideas of the hig-

nanness of Justice Lurton are based on the fact that he is exceedingly genial and approachable. Otherwise, he has not been the National Capital quite long enough, for the public to get a familiar "line" on him, so to speak. But as for the Justice he succeeded, the late David J. Brewer, any Washingtonian can tell you that Mr. Brewer could hold his own in repartee with any one. One day when Chief Justice Fuller, who always takes great pride in speaking for his home city. of Chicago, had said: "There are more Jews in Chicago than in Jerusalem; more Irish than in any Irish city; more French than in any French city except Paris: city except Berlin," Justice Brewer quietly added: "And more saints and sinners than anywhere else except heaven and

It is at the lunch hour of the Supreme Court, which is passed by the Justices behind closed doors, where each is served by his own body servant, that these men, who lay down the law for the Republic. undoubtedly show their human sides to one another in interesting profusion. And it is probably the fact that if the general public could get a glimpse of the Supreme Court of the United States at its midday meal the idea that the court is made up of something more than mere human beings would instantly be relestitions.

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By E. J. Edwards.

States, which is just now very much in the minds of the people, owing to the important questions bending before it and the shifting perf the bench, is said to be the most dignified body in the world. It is looked up to by young and old alike as the bulwark of the Republic, and, perhaps, there has grown in the public imagination an exaggerated idea that the members of the

Dut fear of contradiction that while the members of the Supreme Court are always intent upon upholding the dignity Harlan's opponent holed the ball and equal and exact justice to all applicants

Justice Harlan finally holed his ball when of their official office and upon rendering for legal relief, no more human men con-trol the destinies of the Nation and of "Weil. Judge, how ent occupants of the Supreme Court bench of the United States. In private life they have their fads and fancies the same as other men, and as exponents of refined wit and humor they can more than hold their own. Some of the stories told of present members of the court serve well to illustrate the fact that while on the bench they may "temper justice with mercy" they have little "mercy" on those who cross their paths outside of the courtroom. Nevertheless, the Justices are not prone to advertise their ability at repartee, and the fact that few of them rarely ever appear on public occasions, except officially, makes Supreme Court anecdotes a rare jewel among those who **r**elish bon mots.

### The Justice of Many Stories.

More stories are told about Associate Justice John M. Harlan, the oldest sitting member in point of service, than about all the rest of the court put together. He is recognized in Washington life to-day.

Back in 1871, or six years before he took seat on the Supreme bench, Justice Harlan was at the zenith of his political power in Kentucky. He had been men-tioned for bravery at the battle of Mill Springs, Ky., which effectually wrested that State from the Confederacy, more than ten years before, and had also served The State as Attorney General. In that year he was nominated for Governor by the Republicans of the State against J. B. do with it," said the Justice, smiling to McCreary, since Senator, who was nis great personal friend although of opposite political faith. The pair stumped the State together, speaking from the same platforms and traveling in the same con-

One night they reached a mountain hamlet on muleback, to find all the beds in the thanks. He put it in his overcoat pocket local hotel occupied save one. It was therefore necessary that the two rivals Should sleep together. McCreary was a ner.

man of average size, while Justice HarAnother friend of the Justice sent him lan is a man of gigantic stature. Mcout the light and lay down beside his rival he remarked:

Mac, the next Governor of Kentucky is certainly going to be in this bed to-

Just then the slats of the rickety structing to the general hubbub. No sooner had Mr. Harlan regained his senses, however, league.

than he heard McCreary say HE Supreme Court of the United pile of bed clothes and timber "You are right, Judge. The next Governor of Kentucky is still in bed."

Some of the best stories on Justice Harian had their origin on the golf course. On one occasion he was playing with a friend who, driving off from the home To his great alarm the ball soiled to reappear and the friend undertook to make the cow disgorge by pounding it on the derstanding this treatment, took or its neels across the course and finally dropped the ball on the edge of the green of the hole toward which it was being played By an extraordinary good put Justice

"Well, Judge, how many strokes did

"I took eight," replied Mr. Harlan. "Well, I made it in two," said his "You mean thirty-two," replied

Kentuckian. 'How's that?" asked his rival. "I counted one for every belt you gave that cow," was the reply.

Justice Harlan's One Great Hobby

If Justice Harlan has only one hobby it is Kentucky and all it contains. It is said in Washington that no Kentuckian can ask Justice Harlan for an indorsement for any office without getting it. At the present time, Gov. A. E. Willson of Kentucky is the apple of Mr. Harlan's eye, and nothing would please the Justice better than that the Governor should succeed him upon the Supreme Court bench. Incidentally, Justice Harlan is partial to Kentucky "institutions."

While riding down from the Capitol one day he had his cogitations interrupted when a woman got on the car at Center s one of the most human men in public Market. She wore a heavy coat with large open sleeves in which a small valise might easily have been hidden. Passen gers on the car noticed Justice Harlan sniffing the air with great gusto. Finally, bending forward, he was seen to look up the woman's sleeve nearest him. "Madam, is that mint?" he was heard

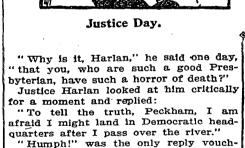
> to say. The woman, recognizing the Justice, re-

plied that it was. "If I had it I know just what I would himself.

No sooner had this remark been made than the woman took a large bunch of the mint from her sleeve and divided it in two equal parts, one of which she handed to the Justice. Mr. Harlan was observed to accept the proffered gift with and reaching behind him rang the bell to stop the car and left it at the next cor-

case of fine old Kentucky bourbon. Mr. Creary was first to bed. As Harlan blew Harlan did not see the friend again until sation is of the solid and profound type, he went to church the following Sunday. and in such gatherings he is a conspicu-After church he hailed the donor with "That was fine—"Then, seeming to real-ize where he was, Justice Harlan added, Day, and it is recorded that on one oc-

hastily, "The sermon, I mean." ure gave way and Justice Harian feli on strong fear of death. Whether the fear ready for the Monday morning session of his head on the floor, while McCreary actually exists or not, it nevertheless af the court he turned it over to his secrewent down in the midst of the wreck, the forded the late Justice Peckham, who was tary to read. collapse of the head and foot boards add- a Democrat, an opportunity to open a conversation along this line with his col-



safed by Justice Peckham. Justice Harlan has served on the Su reme bench longer than any other man save only John Marshall, J. Story, and S. J. Field. He is said to be one of the few members of the Supreme Court who brought a host of friends with him to Washington to back up his application for he job. Both he and Chief Justice Fuller

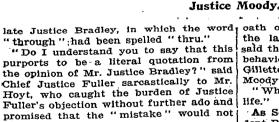
are shining examples of the longevity of those who sit upon the Supreme bench. How the Chief Justice Fooled a Law-

Chief Justice Fuller, who, in many ways, is the direct antithesis of Justice Harlan, has no particular liking for dong things which attract public attention outside of his decisions from the bench. He likes quiet dinners where the converous personage. Incidentally he has casion where it was absolutely necessary It is said that Justice Harlan has a that the proof of a decision should be

A year ago the Chief Justice fooled a Washington lawyer who had been in the habit of playing the stock market or Supreme Court decisions, and he did it in such a neat manner that even the court attaches have not vet been able to figure out whether the Justice knew what was going on or not. They presume, however, that Chief Justice Fuller was using his eyes to a good purpose, and deliberately blocked the game.

When the Consolidated Gas case from New York was decided in favor of the people at a previous sitting of the court habitues of the courtroom noticed the lawyer in question rush to a telephone, and he was overheard ordering his brokers to sell 1,000 shares of gas stock for him at once. The result of the deal was a net profit to the lawyer of \$17,000. The next day everybody about the courtroom knew of the speculation and its outcome.

A few days later the gas company filed a petition for a rehearing. The lawyer. being well acquainted with the decisions friend had lost his wife shortly after the of the court, recalled one relating to a Southern water company which seemed to parents/insisted that the baby should be be on all fours with the gas case. To



é repeated again. Shortly afterward the House of Representatives plucked up the courage to vote down phonetic spelling in the legislative branch of the Government, and thereafter President Roosevelt, although sticking to it himself, permitted his subordinates

spell as they pleased. Vigorous Justice Holmes.

Of the two New England:-members of the Court, Justices Moody and Holmes, it s said of the latter that he has taken his father's brilliant career so much to heart that he has made himself pretty much unlike his sire in looks and in the polish of his manners. Close friends of Mr. Justice Holmes are authority for the statement that whenever he says anything in public of extraordinary wit or humor ar expression passes over his face which seems to say: "Gee whiz, that sounds too much like father. I must not do that

Nevertheless, Mr. Holmes is perhaps the freest and easiest talker from the bench of any of his colleagues; and he is noted as a most vigorous talker in private con versation when he is on a subject in which he is deeply interested.

Not long ago an artist of National repute who was painting his picture happened to tell Mr. Justice Holmes that a birth of their child, and that the wife's getting worse by shouting to Mr. Roose turned, over to their care to raise.

oath of office was read to him one of the ladies noticed that his credentials said that he "was appointed during good behavior." Turning to Representative Gillette of Massachusetts, one of Mr. larly free of leaving a trail of anecdote Moody's bosom friends, she remarked: "Why, I thought he was appointed for

As Secretary of the Navy under Presi-

his dinner at the same time. Only once

during his career did he become seasick. On that occasion he started from Charleston on the Dolphin and stuck it out until midnight. He finally sent for the Captain and told him to put him ashore. The ship was turned into Beaufort Harbor, and Mr. Moody came home by train. In Washington Mr. Moody, who is now in Massachusetts fighting rheumatism, has kept bachelor quarters for many years with Representative Gillette of Massa-chusetts and Brig. Gen. William Crozier.

While on a visit to Annapolis with Sen ator Hale of Maine on one occasion, Mr. Moody, then Secretary of the Navy, was thrown out of his carriage when horses ran away, and was severely shaken up. When he had reached the stage of convalescence President Roosevelt called upon him at his apartment one night to see how he was. Mr. Moody was engaged in a social game of cards in a back room. "Is the Secretary in?" inquired Presi-

dent Roosevelt. "He is, but he cannot see any one, 

see him," said Mr. Roosevelt. "President of what?" was the retort. Mr. Moody, recognizing the voice of the President, prevented the situation from velt to come in.

Like most bachelors, Mr. Moody has "I would see them in hell first," Just always been a reader until the "wee make certain he was right, however, he "I yould see them in hell first," Just always been a reader until the "wee attended court, intending to use the tole tice Holmes is reported to have said. The sma' hours of the night. He is especial phone again if the court decided as he artist noting the presence of Mrs. Holmes ly strong on the history of English law, thought it would He listened all day in the room turned to her with a snocked which underlies the American code. He