

A Supreme Court Justice Resigns (June 1945)

*John Q. Barrett**

Copyright © 2015 by John Q. Barrett.
All rights reserved.

On Monday, June 18, 1945, the Supreme Court of the United States announced its final decisions of its term and began its summer recess.

That same afternoon, Justice Robert H. Jackson, almost eight weeks into juggling his Court work with his presidential assignment to serve as U.S. Chief of Counsel for the prosecution of Axis war criminals in the European Theater, left Washington National Airport on a military plane to Labrador (for refueling), then England, and fulltime work on what became his job as U.S. chief prosecutor at Nuremberg of Nazi war criminals.

Back in Washington, Justice Jackson was not the only Supreme Court Justice who had departed from Washington with something more than the ordinary characteristics of taking the Court's summer recess.

Justice Owen J. Roberts also was gone. He was the Court's senior Associate Justice, appointed by President Hoover in 1930. By 1945 if not sooner, Roberts had become unhappy on the Court. He also had turned age seventy that May and was eligible for a retirement pension.

On Monday, June 4, 1945, Justice Roberts was present on the Court bench and participated in announcing decisions.

He was absent on the next decision day, Monday, June 11th.

He was absent again on the final decision day, June 18th, missing the Court session that concluded with commencement of its summer recess.

* Professor of Law, St. John's University School of Law, New York City, and Elizabeth S. Lenna Fellow, Robert H. Jackson Center, Jamestown, New York (www.roberthjackson.org). I emailed an earlier version of this essay to my Jackson List on June 30, 2015.

For an archive of selected Jackson List posts, many of which have document images attached, visit <http://thejacksonlist.com>.

To subscribe to the Jackson List, which does not display recipient identities or distribute their email addresses, send "subscribe" to barrettj@stjohns.edu.

A SUPREME COURT JUSTICE RESIGNS (JUNE 1945)

Justice Roberts had, in early June, departed Washington for his true home, his farm in Chester Springs, Pennsylvania.

On Saturday, June 30th, Justice Roberts sent President Truman a letter of resignation.

Justice Roberts also wrote, longhand, this letter to Chief Justice Harlan Fiske Stone:

My dear Chief,

I am about to submit my resignation as Associate Justice to the President. I did not wish to do so without advising you. Hence this note.

I do not know when the White House will announce the matter, and I am sure you will hold the news confidential until that occurs.

I wish Mrs. Stone and you a good and restful summer. Mrs. Roberts sends her regards to both of you.

Sincerely yours,

Owen J. Roberts¹

Justice Roberts's decision remained a secret until Thursday, July 5th. At his press conference that afternoon, President Truman announced the decision by reading Justice Roberts's letter to him and his letter of reply.²

¹ Letter from Owen J. Roberts to Harlan Fiske Stone, June 30, 1945 (original), in Harlan Fiske Stone Papers, Library of Congress, Manuscript Division, Washington, D.C., Box 76. A photographic image of this letter is at the end of this file.

² See <http://trumanlibrary.org/publicpapers/viewpapers.php?pid=83>.

Supreme Court of the United States.
Justice's Chambers.

Chester Springs, Pa.,
June 30, 1945.

My dear Chief,

I am about to submit my resignation as Associate Justice to the President. I did not wish to do so without advising you. Hence this note.

I do not know when the White House will announce the matter, and I am sure you will hold the news confidential until that occurs.

I wish Mrs. Stone and you a good and restful summer. Mrs. Roberts sends her regards to both of you.

Sincerely yours,

Owen J. Roberts.

To the Chief Justice.