

## At 88, Justice Stevens gives no hint of retiring

By Robert Barnes, Washington Post | November 19, 2008

GAINESVILLE, Fla. - For all the speculation about how President-elect Barack Obama's nominees may change the Supreme Court, there is one irrefutable fact: He can't make an appointment until there is a vacancy.

Justice John Paul Stevens, 88, the current court's longest-serving member, is considered most likely to provide that opening. But in a question-and-answer session Monday at an event sponsored by the University of Florida's Fredric G. Levin College of Law, Stevens gave no indication that he is ready to retire to his part-time home in Fort Lauderdale.

Reminded that the court now takes and issues full opinions in half as many cases as when Stevens was appointed to the court in 1975, the justice said he does not consider the workload a burden.

"From my own personal point of view, it's definitely a positive," Stevens said to laughter. "And I have to say I think we were taking too many cases when I joined the court."

He added: "It's still a full-time job; I wouldn't want to say otherwise. But if we had the same kind of workload today that we had then, I would have resigned 10 years ago."

Predicting an opening on the Supreme Court may be one of the most difficult tasks in politics. It is almost completely up to the justice when to give up his or her lifetime appointment. And while the members of the Supreme Court may read the election results, there is no evidence that it affects when they decide to retire.

The three most often mentioned - Stevens, Justice Ruth Bader Ginsburg, 75, and Justice David Souter, 69 - are part of the four-member bloc that most consistently votes liberal. Logic would have it that they would want their replacements to be like-minded.

But Ginsburg has made clear lately that she should not be thought of as having one foot out the door, and Souter rarely gives interviews or speeches that would reveal his intentions. They and Stevens have hired clerks for the term that starts in October.

Stevens is the second-oldest justice in the court's history, behind Oliver Wendell Holmes, who retired at 90. Stevens has about four years to go before he would become the longest-serving justice.

Stevens remains a vigorous if unfailingly polite questioner during oral arguments, and he is the leader of the left-leaning justices not just by virtue of experience but also because of his ability to occasionally sway Justice Anthony Kennedy to join the liberals.

He also appears to be in remarkable physical shape, a little hard of hearing but someone who plays golf and singles tennis several times a week and swims in the ocean. He telecommutes from his Florida home when the court is in session but not hearing oral arguments.

Stevens good-naturedly answered questions popular in law school gatherings: about the workload, about whether the practice of having the justices' clerks "pool" their review of petitions means the court accepts fewer cases - he has never taken part in the practice, and he said he thinks it does result in fewer acceptances - and how he feels about stare decisis, the court's practice of reverence for past decisions.

But asked about how he would like to be remembered - a more polite version, perhaps, of "Are you thinking of leaving?" - Stevens was hardly ready to provide a valedictory.

"It's a hard question to answer," he said. "I'd like to be remembered as a good lawyer and have done my best to decide cases correctly. There are some opinions I'm more proud of than others, but it's a little hard - a little hard to give an adequate answer to that question." ■