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# Dedication: Chief Justice Earl Warren 1891-1974

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*The Board of Editors of the DePaul Law Review respectfully dedicates this issue to the late Chief Justice Earl Warren for his never ending commitment to the equality of all people under the law.*

## CHIEF JUSTICE EARL WARREN 1891-1974

On December 6, 1973, DePaul University conferred upon Mr. Chief Justice Earl Warren (retired) the degree *Doctor of Laws Honoris Causa*. While the DePaul University community had the privilege of only a brief personal encounter with Earl Warren, all were overwhelmed by his vitality, charmed by his personality, and made confident of his wisdom.<sup>1</sup> His death is deeply felt.

When Earl Warren retired from his position as Chief Justice of the United States Supreme Court on June 23, 1969, he ended a 49-year career of public service. Through his distinguished career, from Assistant District Attorney, to Attorney General and Governor of California, to Chief Justice of the highest court of the land, he never forgot the goal of his service—to serve the people. During his term as Chief Justice, the Supreme Court brought the Constitution back to the people by emphasizing the Bill of Rights and the limitations it places on government action. It was the protection of the individual against the oppression of the majority and the injustices of a system for which the former Chief Justice and the Court, named after him, will be remembered.

In deciding the proper relation of the individual citizen to the State, many of the decisions of the Warren Court were of landmark dimension. Their importance was not the result of constitutional legal precedents of great magnitude, but rather of great social questions which were in need of answers. During the Warren years, Blacks began to win the equality under the law promised nearly a hundred years earlier.<sup>2</sup> Justice no longer depended on the wealth

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1. See Warren, *Law, Lawyers and Ethics*, 23 DEPAUL L. REV. 663 (1974).

2. *Brown v. Board of Educ.*, 347 U.S. 483 (1954).

of the accused. All people, rich and poor, were afforded the procedural safeguards necessary for a fair due process hearing at both state and federal levels.<sup>3</sup> Earl Warren found unequal justice to be a contradiction in terms.

Warren considered *Baker v. Carr*<sup>4</sup> and the subsequent reapportionment cases the most significant accomplishment of the United States Supreme Court during his term as Chief Justice. Under these decisions, the people were again given equal representation in the political process. In Earl Warren's view, this was the essence of a government *by* and *for* the people.

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests . . . . [T]he basic principle of representative government remains, and must remain unchanged . . . . [T]he weight of a citizen's vote cannot be made to depend on where he lives.<sup>5</sup>

The precedents set by the Warren Court reasserted the values of equality, justice, and free political choice—the values on which the Constitution and the country are anchored. Earl Warren was the prime mover of the “activist” Court which produced the great social changes of the 1950's and 1960's.

Throughout his political career in California, Warren strove to make his office responsive to the needs of his constituency. He was characterized as a man who was slow and deliberate in making a decision, but once a decision was reached, he took quick, effective action. When he was elevated to the position of Chief Justice, the problems of the Nation and the expectations of the people became his.

At that time in history, and throughout his term as Chief Justice, neither the President, Congress, nor the States would take the initial steps necessary to remedy the nation's pressing societal problems. A power vacuum existed. As a seasoned politician, Earl Warren knew that one could not, with any certainty, expect the political processes to remedy the injustices of racism or inequality. Since the Constitution commands the government—state and federal—to treat all people equally, the Supreme Court would demand obedience. In

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3. *Miranda v. Arizona*, 384 U.S. 436 (1966); *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Griffin v. Illinois*, 351 U.S. 12 (1956).

4. 369 U.S. 186 (1962).

5. *Reynolds v. Sims*, 377 U.S. 533, 562-67.

commenting on the "activist" role the Court had taken under his leadership, the Chief Justice commented;

Our Judges are not monks or scientists, but participants in the living stream of our national life, steering the law between the dangers of rigidity on the one hand and formlessness on the other. Legal scholars may still debate whether the life of the law is reason, as Coke maintained, or experience, as Holmes claimed. I think it is both. Our system faces no theoretical dilemma but a single continuous problem: how to apply to ever changing conditions the never changing principles of freedom.<sup>6</sup>

Mr. Justice Warren has been criticized for failing to master the art of opinion writing or clearly articulating the legal doctrines on which the Court's major decisions rested.<sup>7</sup> His critics believe the judicial doctrines of the Court were attributable to the legal philosophies of Associate Justices Black and Douglas which emphasized individual liberties, rather than to Warren. However, these are not the qualities which made Earl Warren a great Chief Justice. What he provided for the Court, the legal profession, and the nation was an example of dynamic, moral leadership. It is as a leader and mover that Earl Warren must be compared to John Marshall.

Showing a concern above the mere intricacies of law, Earl Warren would question counsel in oral argument as to the "fairness" of the law in question. These were not matters of legal doctrine depending on *stare decisis* or precedent for their existence, but the basic values on which our country was founded. These were the values Warren pressed the other Justices to consider before deciding a case. His was an attempt to articulate the values in which he thought the American people truly believed.

No form of government, however nearly perfect, can itself secure justice and freedom under the law for any country. The true safeguard is the spirit and devotion of the people, a passion for justice and freedom that is widely shared and deeply felt.<sup>8</sup>

By believing in and living the values of freedom, justice, and equality, Earl Warren provided not only the Court, but the nation, with great moral leadership.

Richard C. Groll\*

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6. *The Law and the Future*, FORTUNE, Nov. 1955, at 107.

7. See Chicago Sun-Times, July 14, 1974, § 1A (Viewpoint), at 2.

8. *The Law and the Future*, FORTUNE, Nov. 1955, at 226.

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