

AN IMPRESSION OF THE LATE CHIEF JUSTICE

Charles L. Black, Jr.*

I have already spoken out my estimate of the judicial work led by the late Chief Justice:¹

I think it plain that we will not be or remain a nation worth calling a nation unless we plant ourselves on the moral ground to which the Warren Court has given its outlines — not in all the details of all the decisions of that Court, but following the broad lines the Warren Court has laid out. We need this moral basis of citizenship — common, growing citizenship — as we need cleaner water and air. It is conceivable that there may exist sometime, somewhere, a national state with no other vocation than the modest one of preserving itself. But we have a different birth from that; we live congenitally under a different and inescapable commandment; we have stood together at the foot of the mountain. If a sense of rightness and mission is a thing we need so as to be able to face the future, and if extension, to all, of . . . citizenship . . . is the only mission to which we can worthily give ourselves, then the Warren Court, like the Marshall Court, has been trying to make us a nation.

I have made a large claim for the Warren Court — the largest possible against the background of our history. I have asserted that there was set to us, in our beginning, a task that is not two but one — the task of making a nation, based on the consent and will of one people, wherein full citizenship should prevail for all. If this is right, then in the joint company of John Marshall and Earl Warren we are questing after a nationhood with moral meaning and purpose, after a political society as good as politics can make it.

I stand on that, and add only a note on experiences in a very different context.

For years, I served on the Advisory Committee on Admiralty Rules, meeting on the ground floor of the Supreme Court Building for a few days at a time, several times a year. We broke for coffee every day at eleven. If Earl Warren was not there, to greet and converse with the people who were engaged in this utterly non-

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¹ Black, *The Unfinished Business of the Warren Court*, 46 WASH. L. REV. 3, 12-13 (1970).

political and unglamorous work, we were told the reason why. It was always a good reason; most such mornings, by far, he was there.

This speaks for itself, as to his concern for every phase of the judicial work, and as to his high courtesy.

Something else that I saw does not speak for itself; indeed, I don't know whether I can adequately express something that was a feeling I never verbalized at the time. I saw him on several occasions, in those days, leaving the building alone at night. One could feel in the salute of the guards the respect of people who had felt and experienced his respect for them, an unfeigned respect that showed in his return of their "good night."

I watched that lonely figure leaving. I think I saw in it the steadfast calm of a man who had found his great work, and had that day done the part of it that fell to that day. He saw his work. He did it, by the light given him and with all his might. He has earned his rest.