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THE "WARREN COURT"—the Supreme Court over which Earl Warren presided as Chief Justice of the United States from 1953 to 1969—wrought a kind of legal revolution in this country. Alexander Hamilton, writing in "The Federalist," referred to the judiciary as "beyond comparison the weakest of the three departments of power." In the years of Earl Warren's Chief Justiceship, it might almost have been called the strongest department. For the Supreme Court, in certain emergent situations, assumed a leadership abdicated by the executive and legislative departments in meeting the challenges of change and in adapting vital American institutions to new social needs and developments. It is hardly too much to say that the Warren Court revitalized democracy in America.

Earl Warren came to the Court from a political, not a judicial, background. He had been a crusading prosecuting attorney and attorney general in California—not particularly tender about civil liberties. Backed at first by rightwing elements and later by majorities of both political parties, he had been for three terms the most popular governor in the history of that state—and the best, too, in the opinion of one of his successors, a member of the opposition party—although he had shown scant feeling for the rights of "radicals" and of the Americans of Japanese ancestry ruthlessly evacuated from their West Coast homes after the Japanese assault on Pearl Harbor. He had been the Republican Party's nominee for Vice President in 1948 and had unsuccessfully sought its presidential nomination in 1952. President Eisenhower nominated him to be Chief Justice because, as the President put it, he was supposed to have a "middle-of-the-road philosophy."

So it surprised everybody, including President Eisenhower, when Warren, as a Justice, turned out to be what they called "a radical activist." He brought to the Court, in addition to his prosecutorial and administrative experience, a robust, idealistic sense of the law as an instrument of justice and of progress. Inequality and inequity outraged him. He sought to redress grievances and right wrongs. Ethical values perhaps even more than abstract judicial principles animated his approach to cases. Before long, some of those who had extolled him, together with southern segregationists and the John Birch Society, began agitating for his impeachment.

In the very first term of his tenure, the Court decided *Brown v. Board of Education,* unanimously overturning the ancient separate-but-equal doctrine approved by the Court 58 years earlier in *Plessy v. Ferguson.* The opinion was written by the Chief Justice, and the unanimity of a court previously rent by personal animosities among the Justices was in large part achieved through the Chief's patience, tact and skillful leadership. That unanimity was maintained through a maze of cases challenging racial discrimination in various aspects of American life. Unhappily, the Court's tremendously significant and liberating decision received virtually no support, moral or political, from the Eisenhower administration. The Court was left, for a while at least, to bear alone the whole burden of enforcing its edict.

In a television interview in 1972, Chief Justice Warren said that the most important case decided during his tenure, in his opinion, was *Baker vs. Carr,* the case that opened the courts to reapportionment questions and led to the one-man, one-vote doctrine. When state and national legislatures seemed powerless to throw off their bondage to rural rule in a country grown overwhelmingly urban, suburban and industrial in its economy, the Court reasserted the basic tenet of democracy, that men and women, wherever they may live, are entitled to an equal voice, in the political process.

Finally, under Earl Warren's leadership, the Supreme Court, case by case, brought about striking modifications in the criminal law. Over the vehement objections of police officers and prosecutors, the Court applied to state prosecutions almost all the standards that safeguard defendants in the federal courts. Probably the most controversial of all the decisions in this area was *Miranda v. Arizona,* written by the Chief Justice himself. It brought realistically into play the view, rooted in Warren's own long experience as a prosecutor, that if the right to counsel and the privilege against self-incrimination were to have real meaning, they must be protected in the police station where the process of convicting a defendant actually starts. The Miranda decision has been under challenge ever since and has suffered some erosion, but even succeeding justices are unlikely to dispute the basic principle of fairness at its core.

Throughout Earl Warren's tenure as Chief Justice there ran two intertwining strands: one was an unswerving equalitarianism that made him insist always upon equal treatment for rich or poor, for black or white, for the educated or the ignorant. "There are neither rights nor freedoms in any meaningful sense," he wrote in his book, "A Republic . . . If You Can Keep It," "unless they can be enjoyed by all." The other strand was a confidence in the viability of free institutions and in the ultimate capacity of the American people to summon up the self-restraint and responsibility that maintenance of such institutions demands.

It would be difficult to overestimate Warren's own contribution to the American tradition of individual freedom. Less subtle and sophisticated than some of his contemporaries on the Court, his mind was, nevertheless, healthy, strong and unafraid of challenging shibboleths. All his life he was an outdoorsman and a sportsman, a lover of nature, of games that involved vigorous bodily activity, and, above all, of the American tradition of fair play. He embodied the best and most wholesome characteristics of the American people.