

'All Deliberate Speed' Was Unwise

By John P. MacKenzie
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Looking back on the Supreme Court's role in school desegregation, Justice Hugo L. Black said last night that the "all deliberate speed" edict may have been unwise because it "delayed the process of outlawing segregation."

He strongly implied, but stopped short of saying directly, that he had preferred a different approach but had gone along with others on the Court in the spirit of unanimity that attended the historic school decisions of 1954 and 1955.

In a rare departure from Court tradition, the 82-year-old Justice appeared in a nationally televised interview, discussing and defending controversial criminal law and obscenity decisions as well as the basic decision against "separate but equal" public education.

The interview, conducted by Eric Sevareid and Martin Agronsky of CBS, was taped in Black's Alexandria home in September and broadcast last night over WTOP-TV.

Black, an Alabamian, said the 1954 cases involved basically "a simple question"—whether Negro school children were being denied equal protection of the laws on account of their race. He went on:

"Well, I've lived in the South all my life, practically, until I came up here. And of course I knew what it was. I didn't need any philosophy on

changing times to convince me that that was a denial of equal protection of the law. And I never, for one moment, based my decision on anything except I thought it was a denial of equal protection of the law then, had been in the past, and will be in the future."

Sheds Some New Light

Black then shed some new light on the Court's 1955 decision that set the pace of implementing the 1954 ruling. Asked about the consequences of calling for "all deliberate speed" in desegregation, he said:

"Looking back on it now, it seems to me that it delayed the process of outlawing segregation. It seems to me, probably, with all due deference to the opinion and my brethren, all of them, that it would have been better—maybe—I don't say positively—not to have that sentence, to treat that case as an ordinary lawsuit and force that judgment on the counties it affected, that minute. That's true, that it would have only been one school and each case would have been only one case. But that fitted into my ideas of the Court not making policies for the Nation."

Liberal critics of the Court have argued that the "all deliberate speed" approach invited the sort of disobedience that developed in the South. Defenders of the method have said it was the only practical way to cope with the problem.

Black's remarks tend to confirm the emerging evidence that the Supreme Court's unanimity on the 1954 and 1955 school decisions masked the views of Justices pulling in several directions. Black thus appeared to be pulling in the liberal direction while at least one Justice has been said to have prepared, but never delivered, a dissent in the 1954 case.

In the field of criminal law, Black chided critics who accuse the Court of restricting police and aiding criminals. "When they say the Court did it, that's just a little wrong. The Constitution did it," Black said.

Court Critics Chided

Asked whether decisions involving confessions made it more difficult for police to

Policy, Black Feels

"combat crime," Black replied, "Certainly. Why shouldn't they? What were they written for? Why did they write the Bill of Rights?"

Black also discussed his strongly held anti-censorship views and his practice of not looking at allegedly obscene material in cases that reach the Court.

"Why should I go and look at them when it doesn't make

any difference what the talk is or what it is, I don't think it violates any law?" said Black.

Speaking of smut, Black said, "I don't like it. I don't use it. I never have. I've always detested it." But he said most alleged smut was "an expression of opinion" protected by the First Amendment, about "one of the strongest urges in the human race."

Parents and organizations

who write the Court to complain "ought to take care of their children and warn them against things themselves rather than try to pass a law."

On other subjects, Black cited Walter Lippmann as an example of a non-lawyer qualified for the Supreme Court and said the Vietnam struggle is a "war" that he did not like but one in which "your very life is at stake."



JUSTICE HUGO BLACK
... presents views