

RETIREMENT OF MR. CHIEF JUSTICE WARREN.

SUPREME COURT OF THE UNITED STATES.

MONDAY, JUNE 23, 1969.

Present: MR. CHIEF JUSTICE WARREN, MR. JUSTICE BLACK, MR. JUSTICE DOUGLAS, MR. JUSTICE HARLAN, MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL.

THE CHIEF JUSTICE said:

We are honored today by the presence of the President of the United States as a member of this Bar.

Mr. President, may I recognize you at this time.

President Nixon said:

Mr. Chief Justice, may it please the Court:

I am honored to appear today, not as President of the United States but as a member of the Bar admitted to practice before this Court.

At this historic moment I am reminded of the fact that while this is the last matter that will be heard by the Chief Justice of the United States, the first matter to be heard by this Court when he became Chief Justice was the occasion when, as Vice President of the United States, on October 5, 1953, I moved the admission of Warren Olney III and Judge Stanley Barnes to be members of [the Bar of] this Court.

I have also had another experience at this Court. In 1966, as a member of the Bar, I appeared on two occasions before the Supreme Court of the United States. Looking back on those two occasions, I can say, Mr. Chief Justice, that there is only one ordeal which is more

challenging than a Presidential press conference and that is to appear before the Supreme Court of the United States.

On this occasion, it is my privilege to represent the Bar in speaking of the work of the Chief Justice and in extending the best wishes of the Bar and the Nation to him for the time ahead.

In speaking of that work, I naturally think somewhat in personal terms of the fact that not only is the Chief Justice concluding almost 16 years in his present position, but that today he concludes 52 years of public service to local, State, and National Governments:

As District Attorney in Alameda County, as Attorney General of the State of California, as Governor of the State of California, the only three-term Governor in the history of that State.

The Nation is grateful for that service.

I am also reminded of the fact that the Chief Justice has established a record here in this Court which will be characterized in many ways. In view of the historical allusion that was made in the opinions just read, may I be permitted an historical allusion?

Will Rogers, in commenting upon one of the predecessors of the Chief Justice, Chief Justice William Howard Taft, said that "It is great to be great. It is greater to be human."

I think that comment could well apply to the Chief Justice as we look at his 52 years of service. One who has held high office in this Nation, but one who, in holding that office, always had the humanity which was all-encompassing, the dedication to his family, his personal family, to the great American family, to the family of man.

The Nation is grateful for that example of humanity which the Chief Justice has given to us and to the world.

But as we consider this moment, we also think of the transition which will shortly take place. We think of what it means to America, what it means to our institutions.

Sixteen years have passed since the Chief Justice assumed his present position. These 16 years, without doubt, will be described by historians as years of greater change in America than any other in our history.

And that brings us to think of the mystery of Government in this country, and for that matter in the world, the secret of how Government can survive for free men. And we think of the terms "change" and "continuity." Change without continuity can be anarchy. Change with continuity can mean progress. And continuity without change can mean no progress.

As we look over the history of this Nation, we find that what has brought us where we are has been continuity with change. No institution of the three great institutions of our Government has been more responsible for that continuity with change than the Supreme Court of the United States.

Over the last 16 years there have been great debates in this country. There have been some disagreements even within this Court. But standing above those debates has been the symbol of the Court as represented by the Chief Justice of the United States: fairness, integrity, dignity. These great and simple attributes are, without question, more important than all the controversy and the necessary debate that goes on when there is change, change within the continuity which is so important for the progress which we have just described.

To the Chief Justice of the United States, all of us are grateful today that his example, the example of dignity, the example of integrity, the example of fairness, as the chief law official of this country, has helped to keep America on the path of continuity and change, which is so essential for our progress.

When the historians write of this period and the period that follows, some with a superficial view will describe the last 16 years as the "Warren Court" and will describe the Court that follows it as the "Burger Court."

I believe, however, that every member of this Court would agree with me when I say that because of the example of the Chief Justice, a selfless example, a non-selfish example, this period will be described, not only his but that of his successor, not as the Warren Court, not as the Burger Court, not in personal terms, but in this hallowed moment in this great chamber, the Supreme Court. It was always that way; may it always be that way. And to the extent that it is, this Nation owes a debt of gratitude to the Chief Justice of the United States for his example.

THE CHIEF JUSTICE said:

Mr. President, your words are most generous and are greatly appreciated, I assure you. I accept your personal, kind words, but in doing so I must confess that I sense in your presence here and in the words you have spoken your great appreciation of the value of this Court in the life of our Nation and the fact that it is one of the three coordinate Branches of the Government and that it is a continuing body.

I might point out to you, because you might not have looked into the matter, that it is a continuing body as evidenced by the fact that if any American at any time in the history of the Court—180 years—had come to this Court he would have found one of seven men on the Court, the last of whom, of course, is our senior Justice, Mr. Justice Black. Because at any time an American might come here he would find one of seven men on the Bench in itself shows how continuing this body is and how it is that the Court develops consistently the eternal principles of our Constitution in solving the problems of the day.

We, of course, venerate the past, but our focus is on the problems of the day and of the future as far as we can foresee it.

I cannot escape the feeling that in one sense, at least, this Court is similar to your own great office and that is that so many times it speaks the last word in great governmental affairs. The responsibility of speaking the last word for not only 200 million people, but also for those who follow us is a very awesome responsibility.

It is a responsibility that is made more difficult in this Court because we have no constituency. We serve no majority. We serve no minority. We serve only the public interest as we see it, guided only by the Constitution and our own consciences. And conscience sometimes is a very severe taskmaster.

But the Court through all the years has pursued a more or less steady course, and in my opinion has progressed and has applied the principles set forth in the 5,000 general words of the Constitution in a manner that is consistent with the public interest and consistent with our future so far as it can be discerned.

We do not always agree. I hope the Court will never agree on all things. If it ever agrees on all things, I am sure that its virility will have been sapped because it is composed of nine independent men who have no one to be responsible to except their own consciences.

It is not likely ever, with human nature as it is, for nine men to agree always on the most important and controversial things of life. If it ever comes to pass, I would say that the Court will have lost its strength and will no longer be a real force in the affairs of our country. But so long as it is manned by men like those who have preceded us and by others like those who sit today, I have no fear of that ever happening.

I am happy today to leave the service of my country with a feeling of deep friendship for all these men whom I have served with for 16 years, in spite of the fact that we have disagreed on many occasions. In the last analysis, the fact we have often disagreed is not of great importance. The important thing is that every man will have given his best thought and consideration to the great problems that have confronted us.

It was ordered by the Court that the accompanying correspondence between members of the Court and Mr. Chief Justice Warren upon his retirement as Chief Justice of the United States be this day spread upon the minutes and that it also be printed in the United States Reports.

SUPREME COURT OF THE UNITED STATES,
Washington, D. C., June 23, 1969.

HON. EARL WARREN,
Chief Justice of the United States,
Washington, D. C.

DEAR CHIEF:

Your retirement today from our Court brings us mingled feelings—regret that you are leaving and gratitude that you have served the Court and the Nation with such eminent distinction.

We, your brethren, cannot let you leave without expressing our admiration and affection for you. Through our years of service together we have been constantly impressed by your patriotism and your unswerving devotion to liberty and justice. For us it is a source of pride that we have had the opportunity to be members of the Court over which you have presided during one of the most important and eventful eras of our Nation.

We are happy that you leave the Court in good health and wish you many more years of health and happiness in your well-earned retirement.

Sincerely,

HUGO L. BLACK
W. O. DOUGLAS
JOHN M. HARLAN
WM. J. BRENNAN, Jr.
POTTER STEWART
BYRON R. WHITE
THURGOOD MARSHALL

SUPREME COURT OF THE UNITED STATES,
Washington D. C., June 23, 1969.

DEAR BRETHREN:

Your letter of today concerning my retirement was heartwarming for me.

To have been able to serve with you through these many eventful years is one of the great satisfactions of my life, and to retire with the friendship of all of you fills my cup to overflowing.

I shall always be interested in you and your work, and I trust that each of you will, for many years, enjoy continued good health and happiness.

Sincerely,

EARL WARREN.

MR. JUSTICE BLACK

MR. JUSTICE DOUGLAS

MR. JUSTICE HARLAN

MR. JUSTICE BRENNAN

MR. JUSTICE STEWART

MR. JUSTICE WHITE

MR. JUSTICE MARSHALL

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