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Book Review - Eisenhower vs. Warren: The Battle for Civil Rights and Liberties

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EISENHOWER VS. WARREN: THE BATTLE FOR CIVIL RIGHTS AND LIBERTIES, BY JAMES F. SIMON. NEW YORK: LIVERIGHT PUBLISHING, 2018. 448 PP; \$35.00, HARDCOVER.

In this dual biography, James Simon does an admirable job in presenting the lives of two genuine American heroes, showing us how they connected and then confronted each other at the heights of their careers.

Eisenhower and Warren had remarkably similar backgrounds. They came from working-class immigrant families. Both sets of parents emphasized the importance of hard work and education, and their children took that message to heart. Although bright, diligent, and successful, neither one was an outstanding student. Both were gregarious and spent time honing their people skills.

Both had long apprenticeships before they blossomed. Eisenhower labored for a decade as a middle-level officer in the interwar army before General George S. Marshall took him under his wing. After law school, Warren worked in the trenches as a prosecutor for fourteen years before successfully running for attorney general and four years later governor.

After World War II, Eisenhower was the most popular person in the United States. The internationalist wing of the Republican Party, which positioned him to challenge the front-runner for the 1952 nomination, isolationist senator Robert Taft, adopted him. Warren's immense popularity and successes as California's governor catapulted him into national attention. He was Thomas Dewey's running mate in 1948 and a strong candidate for the Republican nomination in 1952—he stood in the wings in case neither Eisenhower nor Taft could obtain the requisite number of votes. Not long after he took office, Eisenhower nominated Warren as chief justice, perhaps because Warren did not challenge him at the convention or perhaps to ensure that he would not be a contender in 1956.

When Warren took his seat on the court in December 1953, *Brown v. Board of Education* had already been argued, and the justices were divided. Sensing the historic nature of the issues, Warren had the case postponed to the next term. That allowed him time to settle in as chief, take the measure of his colleagues, and then apply his gift as a consensus builder to fashion a unanimous decision.

Eisenhower had remarkably different views on racial discrimination from Warren's. He was a "gradualist," which in the meaning of the day meant a supporter of the status quo. Simon suggests that his views were formed by his experience in the army and his long-standing friendships with Georgia senator Richard Russell and other of the more sophisticated leaders of the Southern Resistance. As that resistance hardened, the Warren court turned up the heat and finally, in Little Rock in 1957, supported an order for the immediate acceptance of a handful of black students at all-white schools. In response, Governor Orval Faubus mobilized the State's national guard to thwart the order. Privately boiling with anger at Warren, Eisenhower had no

choice but to countermand Faubus's decision and order the troops to protect the black students.

In none of this did the President ever voice any significant public support for civil rights, and he maintained only that governors did not have the last word on the Constitution. Toward the end of the book, Simon recounts the well-known response by Eisenhower at the close of his presidency when asked which of his presidential decisions he most regretted; without pause he cited his appointment of Earl Warren.

Initially presidential historians gave Eisenhower poor marks for his low-energy leadership style and his failure to assert leadership in the area of civil rights. However, several decades later, presidential historian Fred Greenstein offered a revisionist position that has gained traction. He maintains that Eisenhower successfully led through a less obvious style. Eisenhower, he maintains, presented himself as representative of *all* the American people, thus allowing policies to be developed quietly and beneath a facade of national consensus.

Simon seems to accept this revised assessment, and there is some evidence for it. Eisenhower's attorney general Herbert Brownell and his solicitor general J. Lee Rankin fostered support for *Brown* and were instrumental in framing provisions for the 1957 Civil Rights Act. However, in Simon's account, Eisenhower remains curiously disengaged, as if these were matters for legal experts only and of no concern to him. (Simon never does provide a satisfactory account of why Brownell and Rankin were so active, in contrast to Eisenhower's passivity.) In addition to being friends with Southern racists, Eisenhower often railed against Warren, and he was rude to Martin Luther King Jr. when he finally had to meet him. When the Administration's civil rights bill came to the floor of Congress in 1957, Eisenhower did not offer even token resistance when Southern segregationists gutted its enforcement provision. One final point: If I read Simon right, in a supreme moment of passivity, Eisenhower misunderstood the process of selecting the vice presidential nominee and acquiesced to Nixon, a man he did not want and despised.

In other areas, however, Simon shows us that Eisenhower's instincts were pitch perfect. As president of Columbia University, he protected leftist faculty and campus speakers, and in one area, Eisenhower's strategic silence may have worked. The President was appalled by the actions of Senator Joseph McCarthy but was careful not to be drawn into the expanding fray. Simon suggests that he knew—or hoped—that McCarthy would burst of his own accord. If so, he was right.

In contrast, Simon reveals that Earl Warren continued to grow and expand his understanding of statecraft. While running for attorney general, he engaged in his own Red-baiting. As state attorney general, he actively urged the national government to intern Japanese-Americans, and he vetoed the appointment of liberal Berkeley law professor Max Radin for a seat on the state supreme court. Yet as governor he came under the influence of a new adviser, his Chief Deputy and later executive secretary and aide, William

Sweigert, who led him to embrace more progressive positions in the areas of both social welfare and civil rights.

While he may have known what he wanted from *Brown* before he took his seat on the court, Warren's views in other areas were not yet formed. Dismissing the fawning overtures of Justice Felix Frankfurter, he expanded his notion of equality to cover legislative apportionment. In areas of free expression, he became the willing student of Justice William Brennan, and together they developed new and expansive doctrines of free expression.

Eisenhower and Warren were two titans with enormous talent and emotional intelligence. Both possessed an uncommon ability to lead and both accomplished great things, but when they reached the peak—Eisenhower as President, and Warren as Chief Justice—there was, as Simon reveals, a significant difference: Warren grew with the office; Eisenhower did not.

For Eisenhower, the presidency was the embodiment of the American people as a whole, but he was unable to consider black Americans as part of that whole. This, it seems to me, is the tragedy of his presidency, and indeed the core of the continuing American tragedy. Imagine what might have been if President Eisenhower—war hero, embodiment of the party of Abraham Lincoln, and one who owed his election to votes by African Americans—had acceded to a White House conference on race with Martin Luther King Jr. and had championed the vision of *Brown*.

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