March 1961

Dedication

California Law Review
Berkeley Law

Follow this and additional works at: https://scholarship.law.berkeley.edu/californialawreview

Recommended Citation

Link to publisher version (DOI)
https://doi.org/10.15779/Z38DZ16

This Article is brought to you for free and open access by the California Law Review at Berkeley Law Scholarship Repository. It has been accepted for inclusion in California Law Review by an authorized administrator of Berkeley Law Scholarship Repository. For more information, please contact jcera@law.berkeley.edu.
A Dedication

This issue of the California Law Review celebrates the seventieth birthday of the Chief Justice of the United States, Earl Warren. It also marks the eighth term during which Chief Justice Warren has presided over the Supreme Court of the United States. The articles which follow constitute reviews of selected aspects of the work of the Court during this period.

Even the casual newspaper reader is aware that the Supreme Court today is a controversial institution. Disputes over the work of the Court take place at all levels of society—doubtless because at no other time has the Court in its decisions touched directly upon the daily lives of such a large percentage of the people. Judges, scholars, commentators, legislators, governors, ordinary citizens, all are heard to express their views concerning the Court. The Court as an institution and individual Justices or groups of Justices are discussed in terms ranging from fervent approval to fanatical denunciation. All too frequently the positions taken (even, I regret to report, by scholars) appear to be based upon no more profound principle than agreement or disagreement with the results of the Court’s decisions.

Perhaps the major barrier to understanding the work of the Court today is the tendency to oversimplify the problems, to focus attention upon the immediate results of the decisions. Far more emphasis needs to be placed upon the tremendous complexity of the issues which form the daily diet of the Court. There are no easy answers when the competing claims in litigation are each supported by weighty considerations of public policy. The articles in this symposium make perhaps their most valuable contribution to public understanding in exposing to view the kinds of difficult policy considerations which underlie decision in the selected areas covered by the respective authors.

A word of comment on only one of the articles will serve to illustrate the point. Alexander Meiklejohn, a distinguished educator and a layman who has had the courage to mount powerful attacks against both Supreme Court Justices and legal scholars, discusses a case decided in 1959, Barenblatt v.

1 For a view of the breadth and intensity of the controversy, see Tompkins, The Supreme Court of the United States: A Bibliography (1959).
United States. In that case the Court had to decide whether the first amend-
ment to the Constitution prohibited a federal legislative investigating com-
mittee from compelling a college instructor to answer questions concerning
his alleged membership in the Communist Party. Reflect for a moment upon
the kinds of issues which were involved. What, in fact, is the extent of the
danger to national security from the operations of groups such as the Com-
munist Party? How much restriction is in fact placed upon the freedom of
speech and association of citizens generally by legislative investigations of
the type involved in Barenblatt? To what extent is it appropriate for courts
to limit the activities of the elected representatives of the people in Con-
gress in exploring the activities of persons and groups suspected of subver-
sive activity? How far should courts go in examining the motives of such
legislative committees in order to decide whether the purpose of investiga-
tion is fact finding in aid of legislation or punishment of persons regarded
as subversives? Certainly it is not surprising that the resolution of such
issues should create violent controversy both on and off the Court. One
suspects that few persons can make up their own minds as to the proper
decision of such complex and intractable issues without hesitancy and
doubt. And perhaps it is inevitable that decisions made in such a hesitant
fashion should be expressed in terms so positive as to suggest that no intel-
ligent and public spirited citizen could conceivably differ.

Armchair criticism is cheap and easy. But who among us is justified in
assuming that he could do better? Neither agreement amongst the Justices
nor freedom from violent community criticism should be expected. The
Court's docket grows ever longer. Increasing selectivity in choosing cases
to be heard is the necessary pattern of the future. Yet this very selectivity
results in concentrating into each term of the Court almost as many com-
plex issues in sensitive areas of our national life as faced Chief Justice
Marshall in the entire thirty-four years he led the Court. For this reason
it is no small tribute to the Chief Justice to note that after nearly eight
years the Court in still doing business at the same old stand with, if any-
thing, increasing vigor and effectiveness.

Large issues have been touched upon so far in this introduction. Now
it is time to mention the considerations more human and personal which
make it particularly appropriate for this Review to celebrate the birthday
of the Chief Justice. As Californians we are proud that the fourteenth Chief
Justice, the first to be appointed from west of the Mississippi, should be a
man with such a long and intimate connection with the public life of Cali-
ifornia, with the University of California, and with Boalt Hall of Law.

He was born in Los Angeles, March 19, 1891. He was educated at the
University of California, receiving the B.L. degree in 1912 and the J.D.

degree in 1914. From 1919 until 1953 he devoted thirty-four years to public service in his native state, ascending the ladder from deputy city attorney, Oakland (1919–20), to deputy district attorney, Alameda County (1920–25), to district attorney, Alameda County (1925–39), to attorney general of California (1939–43), to Governor of California (1943–53). Over this same span of years he maintained a close association with the University of California. From 1932 to 1940 he served in a part-time capacity as a research associate in the Bureau of Public Administration. During the almost eleven years that he was Governor he also sat as President of The Board of Regents of the University.

The School of Law has itself enjoyed a long and fruitful association with the Chief Justice. He was a member of the first class to have its entire three years of professional study in Boalt Hall of Law, the original home of the School. The faculty of the School includes a number of persons who have been closely associated with him. Professors Emeritus Armstrong and Ferrier knew him as a fellow student in the marble halls of old Boalt Hall. Professor Sherry was a deputy to the Chief Justice when he was district attorney of Alameda County and Professor Kragen served under him as a deputy attorney general. Professor Cohen was law clerk to the Chief Justice during the 1955 Term of the Court; Professor Heyman clerked for him during the 1958 Term. Numerous alumni of the School have worked with him over the years, including recent graduates who have served as law clerks.

With pride and with affection this issue of the California Law Review is dedicated to Earl Warren, Chief Justice of the United States.

Edward L. Barrett, Jr.*

*Professor of Law, University of California School of Law, Berkeley.