

Paul Moke. *Earl Warren and the Struggle for Justice*. Lanham, MD: Lexington Books, 2015. xiv, 364 pp. (\$110.00 hardback).

The author observes in the preface of this insightful judicial biography that the book originates from three personal experiences or connections. Moke recalls the initial basis being his own memories from attending “one of the first fully integrated public secondary schools in central Ohio” (p. ix). Pursuing his undergraduate degree at Wilmington College (where he now teaches), he subsequently discovered his alma mater and the community after which it is named play a small part in the formation of Warren’s thinking on desegregation in the wake of the landmark *Brown v. Board of Education* ruling.

As Moke notes, “even though these events took place in the hinterland of rural Ohio, they did not escape the attention of [the] Chief Justice” (p. xii). Efforts in Wilmington as well as a nearby community with regards to integrating their public schools provided important background information for the Warren Court. The justices, anticipating the next phase of the *Brown* litigation, were continuing to wrestle with possible remedies as they attempted to address the seemingly intractable issue “with all deliberate speed.”

These historical happenings provided a second source of inspiration for Moke in crafting his thoroughly researched and highly accessible text. A third and final foundation for the book is the author instructing a Constitutional Law class for a group of inmates at a local reformatory for first-time offenders. The students he encountered there “articulated the point of view of the socially dispossessed, an outlook often lacking in most academic discourse on constitutional law” (p. xiii). It’s a vantage point he has never forgotten and, as importantly, is why the life and legacy of Earl Warren is of such interest to him and should be for readers.

Warren adopted an approach to the law best described as “the social imperative of inclusion.” This is why for many, progressives in particular but some conservatives too, his tenure as Chief Justice from 1953-1969 established a so-called people’s court. A combination of his own humble beginnings as well as a faith in the dignity of each and every individual, contributed to developing a “jurisprudence of conscience” as Moke attests.

Based in part on newly available source material, “the struggle for justice” offers an updated and balanced account of an individual who more than anyone in the 20th century profoundly shaped the legal and political landscape of the country. While Warren’s approach was in many ways path-breaking, he was far from perfect; Moke’s biography provides an evenhanded appraisal of the Chief Justice’s shortcomings and misjudgments not only while on the bench but in his public service prior to and beyond the high court.

An equally important contribution of Moke’s book, possibly of greater value in this reviewer’s estimation, reminds us how the Supreme Court’s approach to the law, often guided by its Chief Justice, matters. Warren’s prescription for adjudicating cases proved simple: is the government’s conduct fair? This represents a perspective that is sorely lacking on today’s Supreme Court. In part, this is related to the fact that all of the current court members studied at Yale or Harvard (though Ginsburg graduated from Columbia). It has not always been so.

The current imbalance creates a myopia that goes beyond where the members of the court obtained their law degree. Professor Akhil Reed Amar of Yale Law School himself refers

to this reality as the “judicialization” of the judiciary. He, among others, are critical of a selection process that has become far too narrow and elite, rendering members of the court legal experts with little to no political or advocacy experience. All but one member of the court when *Brown* was decided had **no** prior experience as a federal judge, though five had been elected officials. The Warren Court, epitomized by its Chief Justice, embodied a certain pragmatism, informed as it was by varied personal narratives and real-life encounters outside the judicial world.

This relatively ordinary outlook is no better seen than Warren’s confessed practice of always turning “to the sports section first [when reading a newspaper]. The sports page records people’s accomplishments; the front page has nothing but man’s failures” (Sports Illustrated, 1968). While some have long cited the quote as a celebration of sports journalism (others see in it an implicit criticism of this journalistic genre, one that too often takes on the qualities of a cheer leader), the point here is to simply let it serve as an illustration. The quote captures a court, and its Chief Justice, who didn’t occupy such a lofty place in society they couldn’t relate to the day-to-day realities for most of its citizens over which they possessed an incredible position of power. Moke correctly observes that “...the presence of so many justices from humble backgrounds represented a distinctive feature of the Warren Court, and it serves as one of the leading explanations for why Warren and his colleagues issued so many groundbreaking civil rights, civil liberties, and criminal justice reforms” (p. 224).

Moke’s book is not an exhaustive biography, choosing instead to focus “more carefully on the question of how Warren responded to four important social justice challenges of his day” (p. 23). Towards that end, the text is divided into four corresponding parts as well as a conclusion, organized into fourteen chapters. Part I looks at Warren’s childhood, education and early career, with a special emphasis on the prosecution of *Point Lobos* defendants. Part II turns to his rise on the national scene and Warren’s advocacy for Japanese internment camps/exclusion zones. In Part III, Warren assumes his role as Chief Justice and champions school desegregation, civil rights, and criminal justice while on SCOTUS. Part IV turns to when he was off the bench, particularly his chairing the Warren Commission in the wake of JFK’s assassination.

If there is a criticism of this book, it is a minor one, and unrelated to the quality of the effort. Priced as it is, *Earl Warren and the Struggle for Justice* is unlikely to be adopted for undergraduate classes or purchased by many individuals. Hopefully, it will nevertheless find a home in college and university holdings as well as public libraries; it deserves to be read.

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