

Mitchell's Musings 1-27-2014: Learning from History

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Each winter quarter at UCLA, I co-teach a course on *California Policy Issues* with Michael Dukakis. The course, which is mainly for undergraduates, covers a broad range of California topics, essentially skimming the surface of each topic via readings, videos, and guest speakers.¹ Although most of the course focuses on contemporary or recent events and issues, there is a notable history element, too. One of the individuals who figures in that history is Earl Warren.



Earl Warren is mainly known today as the chief justice of the U.S. Supreme Court at the time of the *Brown vs. Board of Education* decision, the decision which required desegregation of the public schools. Later desegregation decisions followed. Other important Warren decisions required redistricting on a “one-man/one vote” basis and the Miranda warning to criminal defendants. Given these major decisions, it is easy to forget that Warren started his career as a California politician and eventually as governor of California, first elected to that office in 1942.

Warren was the only California governor to be elected to three *consecutive* terms and under current rules, there can't be another governor with that record.² Although a Republican, he followed a practice – common at the time he served – of “cross-filing” in both the Republican and Democratic primaries. He always did well in the Democratic primaries and in 1946 when he ran for a second term, won both parties' primaries. As a result, apart from minor party candidates, he was essentially unopposed and won by a landslide in the 1946 general election.

Although being chief justice might seem to be an end in itself, Warren in fact wanted to be president. He failed in 1948 in that endeavor, but he was Tom Dewey's VP running mate in 1948, the slate that lost to Truman.³ In 1952, he was a favorite son California presidential

¹ The latest syllabus is at <http://www.anderson.ucla.edu/documents/areas/fac/hrob/10brd14.pdf>.

² California's current governor, Jerry Brown, is in his third term but it is not consecutive with his first two. Term limits were imposed by voters in 1990, so governors can now serve only two terms. Brown's first two terms, however, came before the 1990 limit, so he was allowed a third term and, assuming he runs, is likely to be re-elected to a fourth term this year.

³ You can hear a radio broadcast he made as a presidential candidate in 1948 at: https://archive.org/details/car_000038. Another radio interview at the time of Warren's 1952 presidential campaign can be heard at: <https://archive.org/details/CaliforniaGov.EarlWarrenRadiointerviewOnHis1952PresidentialCampaign>.

candidate at the 1952 GOP convention. Warren had some hopes that Eisenhower and Taft would be unable to secure a majority of delegates at the convention and that he would become the nominee after a deadlock. However, his strategy was undermined by another Californian, Richard Nixon, who wound up being Eisenhower's VP. As part of a murky convention deal, Warren was apparently promised that he would be named to the Supreme Court by Eisenhower - should a vacancy arise - in exchange for California support for Eisenhower's candidacy.⁴

Warren's name first comes up in the course in the first class as part of a general background presentation about California. A 1946-47 California court case comes up via some video clips, the case of Mendez vs. Westminster.⁵ Mr. Mendez was a Mexican American living in Orange County with his family. In 1942, as the U.S. entered World War II, the West Coast Japanese-origin population was deported to inland internment camps. Mendez leased land belonging to a Japanese family and took over operating their farm. When he moved his family to the farm and tried to enroll his children in the local school district, Mendez was told they would be segregated in the Mexican school.

Mendez appealed to the state courts and eventually won a decision indicating the separate could not be equal several years before the Brown vs. Board of Education case. The NAACP, seeing the Mendez case as a precedent for challenging segregation in the south, intervened in the Mendez case and Thurgood Marshall, attorney for the NAACP, became involved. (Marshall later argued the plaintiff's case in Brown vs. Board of Education before the U.S. Supreme Court.) After Mendez won, Governor Warren signed an order ending segregation in California schools. So two participants in the later Brown vs. Board of Education case, Marshall and Warren, were connected to the California Mendez case. The video mentions the Japanese internment episode as background to the Mendez case, but gives no details.

In the second week of the class, we take up infrastructure issues. One of the readings deals with Governor Warren's role in establishing the California freeway system. You may not think of Warren as the father of the freeways but in 1947, after his landslide re-election the year

⁴ How ironclad the promise was is unclear. A vacancy arose when the incumbent chief justice died. Warren insisted on being named to chief justice. Eisenhower, in principle, could have named Warren to the court as an associate justice and named one of the other justices as the chief.

⁵ Last year's course introduction (Winter 2013, not 2014) with the video clips mentioned in the text can be seen at the links below:

Part 1 <https://archive.org/details/CaliforniaIntroduction-publicPolicy10b-winter2013-part1>

Part 2 <https://archive.org/details/CaliforniaIntroduction-publicPolicy10b-winter2013-part2>

[The video clips on the Mendez case begin around minute 13:28.]

Part 3 <https://archive.org/details/CaliforniaIntroduction-publicPolicy10b-winter2013-part3>

before, he pushed through a bill in the state legislature - over very strong opposition - to begin extensive freeway construction.⁶ The Warren model, an earmarked gas tax in a highway trust fund, ultimately was arguably the model for the interstate system established during the Eisenhower administration in 1956 at the federal level.

Our third week deals with fiscal affairs. We try to combine both state and local government finance in that unit with nonprofit finance, since nonprofit organizations often provide public services and must have funding, budgets, etc., just as governments do. As it happened, our nonprofit guest speaker this year was the head of the Japanese-American National Museum in downtown Los Angeles. That museum devotes significant exhibition space to the World War II internment episode. So that episode, which was mentioned only in passing in week 1, again arose in the course.

The fourth week deals in part with health care. Students learn about a second major effort by Earl Warren as governor to establish a universal health plan for the state in 1945 and again – after that effort failed in the legislature due to strong doctor opposition – in 1947. The 1947 episode also led to a failure in the legislature.⁷ Thus, despite Warren’s evident popularity (winning both parties’ primaries in 1946), he was able to achieve only one of his top goals: freeways but not health care. Students learn something about the constraints that even popular politicians can face by learning about Warren’s ability to get only one out of two key pieces of legislation enacted. The health care story also features some misjudgments by Warren in promoting his agenda. So students also learn that even skilled political figures can make mistakes.

In the fifth week of the course, we take up a variety of demographic issues related to California. At this point, the internment of the Japanese-origin population comes up explicitly and, in particular, Earl Warren’s role in it. Warren was running for governor the first time in 1942 and interning the Japanese was a major element in his campaign which featured charged racist language.⁸ So now the students learn of a side of Warren that had not previously been mentioned. Many biographies of Warren have been written, but the internment episode

⁶ See http://www.anderson.ucla.edu/documents/areas/fac/hrob/mitchell_freeway.pdf.

⁷ See http://www.anderson.ucla.edu/documents/areas/fac/hrob/mitchell_earl_warren.pdf.

⁸ See <http://escholarship.org/uc/item/1bm189vk>. Warren defeated incumbent governor Culbert Olson. You can hear Olson charging Warren with making a political issue of state defense during a candidate’s debate on Jan. 11, 1942 at the tail end of part 2 at https://archive.org/details/car_000043 (a compilation of audio recordings). The crowd laughs when Warren denies using the defense issue for his political campaign.

tended to be glossed over, in part because Warren later didn't want to talk about it.⁹ It is sometimes said that Warren apologized for the internment in his own autobiography. But his very brief statement there isn't a full apology and is more an explanation that bad things sometimes happen in wartime.¹⁰

At this point in the class, we run a video clip from the one-man play, *Thurgood*, starring Laurence Fishburne.¹¹ There is a segment in the play devoted to the Brown vs. Board of Education decision. The case was first heard by the U.S. Supreme Court in 1953 and apparently there was no consensus among the justices. In 1896, the Court had upheld segregation on the separate-but-equal theory. Thus, to decide against segregation would involve overturning a major precedent, something the Court likes to avoid. But then the chief justice died and the case had to be reheard with Warren as the chief. Thurgood/Fishburne notes his concern about Warren, because of the internment episode.

As it turns out, Warren not only voted to end school desegregation but got the other eight justices to make the decision unanimous, although he was the junior appointee to the Court and had never been a judge. Even more, they all were convinced to sign one decision. There were no separate viewpoints. Warren, as a past governor and politician, understood that such a major social decision had to be unanimous and he convinced the other justices of that political truth. Thurgood/Fishburne notes Warren's surprisingly accomplishment.

This history raises an interesting question. Was Warren's performance in Brown vs. Board of Education a kind of penance for his earlier role in the Japanese internment? Warren was not an introspective person. So his autobiography provides no insight into that question. But there is a lesson for the students to consider, nonetheless.

There are few perfect saints in public life, maybe none. People change, and for all kinds of reasons. While it is sometimes said that we don't learn from history, in fact sometimes political leaders do learn - from their own histories.

⁹ An exception is the most recent biography: Jim Newton, *Justice for all: Earl Warren and the Nation He Made* (Riverhead Books, 2006).

¹⁰ Earl Warren, *The Memoirs of Earl Warren* (Doubleday, 1977). Warren died in 1974 before completing the book so conceivably a final version – had he lived – might have been more forthright.

¹¹ A video of the entire play is readily available as a DVD or streamed. A summary is at: <http://www.imdb.com/title/tt1844811/>.