

## *Benediction*

### ‘Friends . . . My Friends’

Silhouetted by the white lights’ glare, the old man stood alone, transfixed by the past. Poised amid Alabama’s political landscape—past, present, and even future—Black stood like a solitary oak rising amid a flattened, infertile field, a near century-old tree shed of all greenery, but shaped majestically by a body of broken and crooked branches stemming from one deep, authentic root still nurturing in the soil of an obscure, hallowed place. Now, as if it had been but a moment, the old man gently awoke from the past, as the admiring crowd at Birmingham’s Parliament House sat anxiously awaiting Judge Black to speak again of his Alabama days.

Black, however, no longer wavered in the transit of prophesies, dreams, and reality that crisscross between birth and death. Too little and too much had passed away for him to convene a telling of his story and their history. Once, a few years earlier, he had attempted writing his autobiography and, inspired by his visit to Alabama, he would try again. But, his heart was not in it. He was a joiner of the here and now, a lover of people, and a lawgiver of enduring knowledge, not a poet or history teller. He would leave to others a full accounting of his past and theirs. They would have to take care of it by themselves.

Now, within two years of death, Justice Black offered a common prayer, a simple benediction on his story in Alabama. “I had some fine friends,” he recalled, “. . . who remained *my friends* throughout their lives.” And there he left it. On the riddled meaning of his forty years in the heart of Dixie, Black laid it down to the essence of simply “my friends.” Like an Irish leprechaun’s sentimental rhymes, his last words on the subject appear mischievous, banal, and ceremonial, signifying little and baring nothing. Yet, in the eye of the

beholder of his life and times, Black's simple words are the shorthand of his own wisdom.

In the final weighting, balancing all, beyond all books of deeds and words, Black cast his own life as a story about friends and neighbors, good citizens, loyalty, and personal convictions—not so much a sweeping pageantry of the complex conflict of great ideas, terrible wrongs, and clamoring movements which took him from Clay County into America's twentieth century. No, it was more a parable of individual integrity and personal loyalty. A story of friends. It is left, perhaps, to the voice of Black's ancestral past to sing the final stanzas of his riddle. Poet William Butler Yeats, also reared on Robert Emmet's "magnificent" words, spoke for all Irish who brought everything down to that sole test, "Dream of the noble and beggarman" as equals before God, law, and humanity:

You that would judge me do not judge alone  
 This book or that, come to this hallowed place  
 Where my friends' portraits hang and look thereon;  
 . . . history in their lineaments trace;  
 Think where man's glory most begins and ends  
 And say my glory was I had such friends.<sup>1</sup>

Here, in his own Alabama, along the straight lines of abstinence, self improvement, careful consistency, historical Baptist morality, and learned moderation, Black had navigated the first half of his life amid economic, social, political, and moral conflicts that ultimately formed the character of both the New South and the new America. Yet, now near his own end, Black concluded, as he had after the Smelley trial, that reckoning friendship, loyalty, and personal integrity amid the crooked branches of humanity was the place on God's earth where man's glory most begins and ends.

Throughout his life, Hugo Black prized friendship as far more than a set of personal, pleasing relationships. Friendship defined much of his own identity and the means for pursuing his ambitions. As a teenager in Ashland, Black's friendship with Barney Whatley first helped to define his independence from his own father, and, after both of Black's parents died, friends began substituting for father and family. As a young Birmingham lawyer, Black shared with friends a precarious struggle for survival. These friendships, however, were built on

more than a common, difficult experience. They grew from genuine bonds of solidarity and support among people who held mutual respect for one another's character and ambitions. Unlike more modern examples, Black's friendships rarely involved personal intimacy or shared emotional problems. As men who looked outward towards society far more than inward towards self, Black and his friends were bound together by the mutual regard and intense loyalty of good citizens struggling to build their own prosperity and a just world.

Over the years, Black decided that, more than anything else, wealth and power tempted people to corrupt democracy, citizenship, and friendship. As a boy, he watched it happen in Clay County where his father and others used public office for private gain. In Jefferson, he quickly recognized how the fee system and the convict lease system perverted public justice for private profit. He saw the petty, cruel misdeeds of corrupt JPs and the Bessemer police. He witnessed how the pursuit of private profit among Birmingham's "moneyed interests" crippled working men and destroyed a community's common good. These were age-old human failings that Black identified in his lifelong readings of the Greek and Roman classics. "Look not for disinterested friendship or for loyalty when a throne is in prospect," warned Cicero, the Roman philosopher, whose words Black later underlined and scribbled for easy reference.

Despite the ancient evils of money and power, Black's friendships were not confined strictly by class. He claimed a number of friends among Birmingham's "best citizens," men like George Ward and Walker Percy. So long as Black believed a man was selfless and upright (if not always right) in trying to promote Birmingham's greater good, he counted him among his friends.

The word "friend" always signified a special status in Black's language. In his attempted autobiography, abandoned three months after his 1970 homecoming, Judge Black wrote sixty pages about his Alabama days. They survive as interesting but usually unrevealing reminiscences, except in one major respect. On average, every other page of the manuscript refers to a "good friend," "friendship" or "loyal friend." The word "friend" appears more often in Judge Black's memoirs than almost any other noun.

During his Alabama years, Black often used a rhetorical style learned in the Populist era as a schoolboy, punctuating speeches with frequent references to "my friends." Black, nonetheless, did not use the term loosely. It always identified or beckoned people with whom Black thought he shared a sense of struggle for the "bigger vision," as he said before Klansmen in Birmingham

in 1926. The word “friend” named those men and women, Kluxers, Pythians, Baptists, or industrialists who would join him in struggling to keep open “the door of hope to the boy that comes up on the humble hillside, or in the lowly valley.”<sup>2</sup>

On these lifelong terms, friendship became the central, organizing principle for Black’s moral code of behavior. According to Black, the only “ethical way” to build a law practice in Birmingham was for him to “make as many friends as possible.” He did so by joining most local men’s groups and building bonds of friendship on the basis of mutual esteem with other men within those groups. In this way, Black advanced himself by winning the respect of others. He gained the early, complete support of Herman Beck, “won the friendship of Judge Lane,” attracted legal business and clients, and won verdicts for his black and white clients whose causes often depended on twelve “good and honest” male jurors.

Black also believed that he could seek public office in an ethical manner only if he relied solely on his own financial resources and on his friends’ influence and volunteer work. In his race for county solicitor, Black often addressed his public statements and ads to “Friends,” the men and women who knew and appreciated his character and notions of fairness. In both of Black’s campaigns, his strategy was literally to befriend as many people as possible in hopes that they and their friends would elect him. As Black told a supporter in 1925, “a man must depend upon his friends when he enters into a political campaign.” In 1926 Black’s election was evidenced not merely in voting returns, which showed his highest levels of support among friends and neighbors in and surrounding Clay County, but equally in his little black campaign book which provided an accounting of each act of aid and kindness from hundreds of new friends throughout the state.<sup>3</sup> Black kept the book until the day he died.

This style of “friends and neighbors” politics was not “friends and favors”—a ruse for patronage and spoils. Black believed his friends elected him to perform public duties with independence, courage, honesty, and tolerance in keeping with his basic principles: to judge the competing claims between those who have and those who want in order to serve the greater good, not to enable a profit for a few. In using the powers of public office, Black felt obligated to help friends who helped him, but only when he thought their claims were legitimate or their advancement furthered justice for all. In fact, Black believed that a duty of friendship was to give special, undeserved favors to none.<sup>4</sup>

Shaped from an early age by the sins of a father who estranged his family, much of his community, and almost all his friends, Hugo Black held friendship as a sacred trust. It shaped the casing of his moral compass and, in many cases, the slippery slopes of his career. "When the time comes when I must repudiate friendship, such as existed between Judge Lane and myself . . . I am willing to resign every claim upon the friendship of any city or any community," Black declared in 1915. "So long as I believe my friend honest," he insisted, "I am for him." Months later, Black rushed across the continent to stand in the dock with Barney Whatley, his old friend charged with killing his own father. Black went without invitation and without knowing the facts because he knew an honest friend was in jeopardy.

Five years later, without knowing the facts, Black agreed to defend a Methodist minister who had killed a Catholic priest because Black mistakenly thought the defendant was one of his "friends." Two years later, Black joined the Klan after his friend Herman Beck encouraged him to do so. Less than two years afterwards, Black expediently resigned as a Kluxer with assurances that he would remain "I.T.S.U.B."—In The Sacred, Unfailing Bond of Brotherhood. So long as he lived, despite torrents of public criticism, Hugo Black never spoke a single word repudiating that pledge to "my friends" who were among Alabama's Klan members. And, two years after leaving the Klan, as the U.S. senator-elect, Black appeared in a Talladega courtroom for the defense.<sup>5</sup> Because the defendant was "my friend," not because he was a Klansman, Black joined in a blatant travesty of human justice which plagued his conscience for the rest of his life.

In reconciling loyalty to friends and fidelity to principles, Black probably never contemplated fully the ominous consequences of coming of age and influence in a society deeply flawed by oppressive racialism, color-coded democracy, and other damaging human stereotypes. Black did understand, as his Uncle Thomas Toland once wrote, that "your colored friends will be of little use to you" in all-white Southern politics. In elections, courtrooms, and even Klan halls, Black learned to make an honest, effective appeal to ordinary whites without abandoning his color-blind notions of justice for all. Yet, Black never foresaw how the cumulative effects of white supremacy could segregate his actions in Talladega from his heartfelt convictions. By reducing the human function of African Americans to that of things, not persons, Southern white society effectively disqualified Black's "colored friends" from the bonds

of solidarity and mutual, equal obligation that formed the basis for Black's friendships and his code of conduct.<sup>6</sup>

Despite this flaw, Black's friendships took him into territory where few Southern white leaders ever ventured. Within a society controlled by a relatively small number of white men, Black deliberately associated with many men and women across factions, sectors, and the color line. Out of the turmoil of a divided family and community, Black became by choice a progressive democrat in a white male society of conservative Democrats. He cultivated his ideals and ideas for a "bigger vision" often from the seeds of Alabama's poor, working men and women—white men considered "rednecks" or "fuzzy necked" and white women not often deemed worthy of being called a "Southern lady."<sup>7</sup> These white folk helped Black grow a rooted vision of law, equality, and democracy amid the niggardly soil of Southern parochialism, lingering Old South's racialism, and the New South's anti-democratic tactics.

Black understood the moral shortcomings of Alabama's white poor and working class. He knew they could be dangerous and deadly. Along with Black Belt planters, industrialists, and managers of Northern capital, these plain white folk did their part at times to continue many of the South's profound evils. Yet, from the days of Populism through the era of Ku Kluxism, these were Alabama's white folk who crossed the color line in political alliances and union halls, who opposed disfranchisement and supported universal voting, who fought for interracial gains, and who sought to bring the American "glory of citizenship" to all who lived below the Mason & Dixon. From beginning to end, these common white folk's problems constituted the cases and causes that Black often represented, and their votes sent him to Washington to represent Alabama with his "honest convictions" about democracy and justice.

Now, after forty-five years in Washington and near his own twilight, Hugo Black looked back towards those days and those friends. With evident sadness, he told his audience, "I see practically none of those old friends tonight."

Between 1927 and 1970, Alabama had changed and almost all of Black's old friends had gone: David J. Davis, A.O. Lane, Herman Beck, William Fort, and many others including Chum Smelley. Yet, a few had survived, aged but alive: Barney Whatley, Albert Lee Smith, Crampton Harris, and even James Esdale, although the old grand dragon never really had been included in the judge's mental book of "old friends." Whatley was unable to attend the banquet since he was nursing an invalid wife in Colorado, but he remained

always loyally Barney the “country boy” to his friend Hugo the “town boy.” Smith and Harris were living in Birmingham only a few miles away from the hotel. Harris, however, had not been invited as a special guest and did not want to attend in any other role. Albert Lee’s son was a conservative Republican actively aiming to run for the U.S. Congress, and he did not share his father’s friendship or admiration for Justice Black. Both Smiths thought it best that the elder not attend.

These absences did not really matter. Black’s remembrances of friends had become like faded snapshots treasured more for the feelings they invoke and the lessons they taught than for the actual scenes and people they depicted. “When I ask,” Black continued at the podium, “. . . Are you the son of Bill Smith that I knew so well? I regret to say that the answer now is invariably, ‘No, I’m his grandson.’ This does not suit me altogether,” Black confessed, “but age has a way of disappearing through the years.”

Finally, reluctantly, leaving behind those disappearing years, Black took up his self-imposed duty of presenting Chief Justice Warren Burger to Alabama. Black spoke of his new Court colleague as a “new friend” – but a friend according to his old, guiding terms of friendship. “The worst thing I ever heard about him . . . is that he’s a Republican,” Black said of Burger. “But I found out through the years obviously that there are good Republicans, although it was hard for me to reach that conclusion.” Black looked at Federal Judge Frank Johnson sitting in the audience. Yes, there were some good Republicans. “And there are good Democrats,” added Black, unable to forsake old loyalties. “There could even be a good Populist in the old days.”

Guided by his enduring terms of loyalty and friendship, grown from the nurturing soil of his roots, Justice Black proclaimed Warren Burger to be an “honest man” and a “good citizen,” as were his other seven brethren on America’s Supreme Court. All were men who measured up to the old man’s enduring definition of good citizenship and public duty. His colleagues on the Supreme Court were “men of courage, stamina, honesty, tolerance who are not afraid, whatever the cost, to pronounce the judgment they have,” Black proclaimed. “What more can be asked than for a man to have courage, express his views, and be ready to announce them without fear whichever side they happen to fall down on?”

At this final moment, back home, Black’s praise of others in truth measured himself, and in this way he offered an explanation to his beloved Alabama, to

white Southerners, to friends and neighbors as to why and how he had not really betrayed them. Yet, so long as they refused to find their own history in his story, to recognize how he had gathered his own individual integrity, independence, and rightness from their shared, historical soil, Black's words would echo outside the banquet room in George Wallace's Alabama and Richard Nixon's America like an old man's self-appeasing platitudes.

Through careful planning of old law clerks, Black stood publicly for the last time in Alabama, in the forum of his old enemies, as an insider and an outsider, a fellow Southerner introducing a colleague with whom he served the American people outside the South. "I present him to you," Black proclaimed proudly. "He is my chief justice. He's your chief justice. He is the chief justice of the United States . . . I present to you . . . not merely the chief justice . . . but *my friend*."<sup>8</sup>

The audience stood up again, in a crescendo of heartening applause and loving sobs of tears, for they instinctively felt a deep sense of gratitude and sorrow. As the handsome, pompous chief justice rose like a guardian of a new order preparing to relieve a time-worn sentry of his last duties, Justice Black abruptly pulled himself back to the podium, and above the persisting noise he shouted a final amendment to his learned equation of truth.

"That does not mean," Black announced, "that I'm gonna vote with him every time he wants me to!" The crowd roared in concurrence. That much learned of friendship and integrity, past and present, Hugo Black of Alabama left the podium like a satisfied, truculent prophet long accustomed to speaking in the common tongue of a forgotten heritage and naturally finding virtue, wisdom, and glory in the unlikeliest places.