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Introduction

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INTRODUCTION

*Monroe E. Price**

Associate Justice William J. Brennan, Jr. is the last of the appointees of President Dwight Eisenhower to remain a member of the United States Supreme Court. He speaks with a special memory of change, of the transformation of the Court from Warren to Burger and then from Burger to Rehnquist. This memory is suffused with the witnessing of other massive transformations, changes in the structure of the nation, of its demography, of the expectations of its people.

How does an individual Justice—and ultimately a Court—adjust to such sea changes over time? How does a tenure on the bench that spans the impact of the civil rights movement, the Vietnam War, the effect of altered feminist consciousness, and sharp shifts in the way we think about rehabilitation and punishment cope with the jurisprudence of change?

In his foundation essay for this issue, an examination of passion and reason in the judicial process, Justice Brennan provides strong indications as to the manner in which great social changes can affect a judge. He provides a window into his humanity, and the relationship between that humanity and the process of arriving at decisions. The essay can be read, in some ways, as a continuation of the extraordinary debate, still very fresh, over the nomination of Robert Bork to be Associate Justice of the United States Supreme Court.¹ This symposium issue, coordinated by Professor Edward de Grazia, raises important questions about Justice Brennan's approach and the general debate over constitutional interpretation.

Justice Brennan's essay first appeared as the forty-second annual Benjamin N. Cardozo Lecture, delivered at the Association of the Bar of the City of New York. Because of its exploration of the underpinnings of the judicial process, Justice Brennan's lecture was a fitting homage to the tradition of Justice Cardozo and the spirit that suffused his writings. Because our law school seeks, as well, to serve as a continuation of the Cardozo tradition, it seemed wonderfully appropriate to publish the essay and ask for scholarly responses and comments. We are grateful to Justice Brennan, to the other contributors, to Professor de Grazia, and to the Law Review editors for making this tribute to Justice Brennan—and to the spirit of Justice Cardozo—possible.

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¹ See *The Bork Nomination*, 9 *Cardozo L. Rev.* 1, 1-530 (1987).