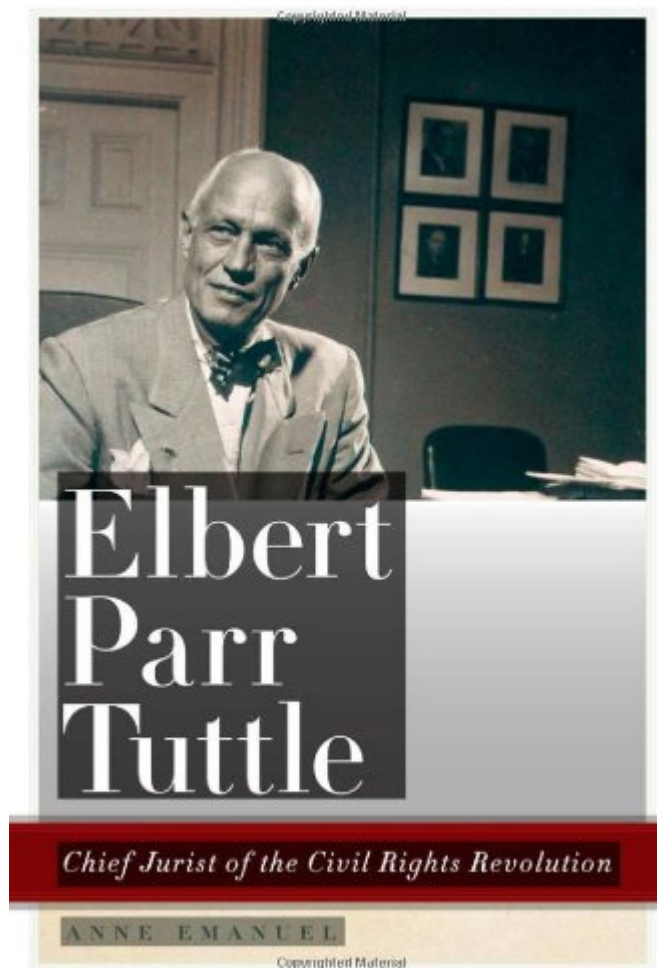


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Elbert Parr Tuttle: Chief Jurist of the Civil Rights Revolution



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Reviewed Work(s)

Elbert Parr Tuttle: Chief Jurist of the Civil Rights Revolution. By Anne Emanuel (Athens: The University of Georgia Press, 2011). Pp. 424. Cloth, \$34.95.

Operating within the traditional paradigm of good versus evil, the civil rights movement of the late 1950s and early 1960s evinced heroes and villains. While this framework is overly simplistic and in many cases denies scholars a more thorough examination of a topic, in some instances it holds true. Judge Elbert Parr Tuttle is one such case. As Anne Emanuel demonstrates in *Elbert Parr Tuttle: Chief Jurist of the Civil Rights Revolution*, his reputation as a civil rights hero is well deserved. Emanuel's biographical approach bolsters Tuttle's standing by revealing a man dedicated to the cause of equal justice. "Under Tuttle's leadership," Emanuel writes of the chief judge of the Fifth Circuit Court of Appeals, "the historic Fifth Circuit stayed the course, remained faithful to its responsibility to recognize and protect the constitutional rights of black Americans, and managed to prevail" (272-273). However, Emanuel's emphasis on Tuttle's achievements misses the point that Tuttle graciously conceded: "We became what I consider a great constitutional court," he said in 1969, "and I think we largely have to thank the black plaintiffs for that" (273).

As a former law clerk for Judge Tuttle, Emanuel has an intimate knowledge of the man. She combines that knowledge with archival research and interviews with Tuttle's friends and family to reconstruct his life. Tuttle grew up in Hawaii and attended college at Cornell before transplanting himself in Atlanta to practice law. From there, Emanuel integrates three storylines: the relationship between Tuttle and his wife, Sara; Tuttle's participation in Republican politics; and his defense of *habeas corpus* and African Americans' constitutional rights. The latter two deserve closer attention.

Tuttle's political participation proved critical for both the building of the Republican Party in the South and for his future appointment to the court. In a region dominated by Democrats, Tuttle attempted to

organize a Republican party in Georgia that could pose a legitimate threat to the Democrats' stranglehold on the state. His efforts in Georgia and his support for Eisenhower's election in 1952 placed him on his path to prominence. He adroitly maneuvered through the local Republican thicket to seat his Georgia delegation at the 1952 Republican National Convention, helping Eisenhower defeat Senator Robert Taft for the closely contested nomination. His efforts earned him a government position in the Treasury and eventually an appointment to the Fifth Circuit Court of Appeals. While Emanuel deftly reconstructs Tuttle's role in these events, she fails to engage with the bigger historical significance surrounding the growth of the Republican Party in the South. Eisenhower's nomination enhanced Republicans' credibility in the South as evidenced by his victories in four southern states—Virginia, Texas, Florida, and Tennessee. Tuttle and Louisiana Republican John Minor Wisdom wrested the nomination away from Taft and engendered legitimate Republican opposition in the South.

In the legal arena, three cases evinced Tuttle's commitment to constitutional fairness. Emanuel begins the book with the story of John Downer, an African-American man who Tuttle helped to save from a lynching and then defended in court. In a second case, Tuttle served as legal counsel to Angelo Herndon, an African-American activist convicted of handing out Communist propaganda. Finally, Tuttle defended a marine accused of passing counterfeit money on the grounds he did not receive defense counsel during his trial. In all three cases, Tuttle turned to the *writ of habeas corpus* to free his client; he succeeded in the latter two cases. Emanuel's focus on these examples demonstrates not only Tuttle's legal prowess, but also his affinity for cases of injustice. For Emanuel, these cases foreshadow Tuttle's later contributions on the bench.

Tuttle's appointment to the court in 1954 came at a fortuitous time. The controversy surrounding *Brown v. Board of Education* (1954), still in its infant stages, would erupt across the South. The Fifth Circuit operated in the Deep South, encompassing the most stalwart segregationist states—Texas, Mississippi, Louisiana, Florida, Georgia, and Alabama. The Supreme Court's flaccid implementation procedures in *Brown II* (1955) forced the lower federal courts to shoulder the burden of *Brown's* enforcement. "Without the support of the federal courts of

the Fifth Circuit,” Emmanuel suggests, “it is entirely possible that the promise of *Brown* would have gone unrealized” (xiii). And, placing Tuttle at the center of the court in the 1960s, Emanuel underscores his role. Absent his leadership “and the moral authority he commanded,” she concludes, “the courts of the Fifth Circuit might not have met the challenge” (xiii). The Fifth Circuit oversaw the dismantling of segregationist jurisprudence and legal connivances such as “freedom of choice” and “pupil placement” plans. The court expanded voting rights for African Americans and fought public battles against the most outspoken southern demagogues—Strom Thurmond and James Eastland. Their exploits are well known, and Emanuel reproduces them all.

Although Emanuel’s biography is thoughtful and informative, its traditional approach falls short in two ways. First, the inclusion of twenty-six chapters makes for a choppy read as Emanuel switches back and forth between Tuttle’s career and his relationship with his wife. Second, Emanuel’s attempt to draw lessons from Tuttle’s life seems trite. Scholars understand that “diversity matters” and “character matters” (xiii, xiv). For a fresher approach, Emanuel could have engaged with other histories of the civil rights movement, such as John Dittmer’s *Local People* (1995) or Clayborne Carson’s *In Struggle* (1981), to make a case for the importance of top-down mechanisms in the shaping of the civil rights movements—an argument her evidence clearly supported.^[1] However, Emanuel’s emphasis on Tuttle avoids the judge’s own recognition of African American actors. She describes Tuttle’s ruling in the 1963 Birmingham Children’s Crusade case as “a ruling that arguably saved the movement” (xv). This amplification of Tuttle over those fighting in the trenches diminishes African Americans’ agency and is symptomatic of an earlier era of historical scholarship that teaches little about the forces of change.

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[1] John Dittmer, *Local people: The Struggle for Civil Rights in Mississippi* (Urbana: University of Illinois Press, 1995); Clayborne

Carson, *In Struggle: SNCC and the Black Awakening of the 1960s* (Cambridge, Mass: Harvard University Press, 1981).



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