

# New Book Brings Praise for Earl Warren's Court

Experts Hail Period  
'Judge's Revolution'

By BARRY SCHWEID

WASHINGTON (AP)—A new book about Earl Warren is committed to the proposition that the chief justice has served the cause of democracy magnificently as he guided the Supreme Court through its most active period.

Eleven authors contributed to "The Warren Court: A Critical Analysis," being published by Chelsea House as Warren winds up 16 years as chief justice of the United States.

The most restrained, University of Chicago law Prof. Philip B. Kurland, is reminded of Justice Oliver Wendell Holmes's observation:

"It is not enough for the knight of romance that you agree that his lady is a very nice girl—if you do not admit that she is the best that God ever made or will make, you must fight."

"So, too," writes Kurland, "with the admirers of the Chief Justice and their 'fair lady'."

## LONE DISSENTER

But Kurland is an isolated dissenter, standing alone in the belief that it is too early to tell how history will judge the Warren Court.

Anthony Lewis, who once cov-

ered the court for The New York Times, opens the symposium with a balanced out loving appreciation of the chief justice.

"Earl Warren," says Lewis, "was the closest thing the United States has had to a Platonic Guardian, dispensing law from a throne without any sensed limits of power except what was seen as the good of society."

"Fortunately he was a decent, humane, honorable, democratic Guardian."

Lewis's Warren is a man who was born to act, motivated more by "common sense," a gift for statesmanship and patriotism than by gigantic intellectual, but a great American presiding over a necessary, judges-made revolution.

## 3 TOP DECISIONS

Robert B. McKay, dean of the New York University Law School, follows with the re-portionment story; Robert L. Carter, a prominent civil rights lawyer, writes about school desegregation; and A. Kenneth Pye, dean of Duke's Law School, explains changes in criminal law.

It is in these three areas that Warren himself thinks his court has had its greatest influence. The three leading decisions are reprinted in full.

The remaining contributors write about religious liberty, free speech, labor, antitrust, the

political process and the court's relations with the press.

Kurland brings up the rear, given six pages to play the devil's advocate and to explode various "Warren myths."

Kurland expresses doubt, for instance, that Warren has had much voting or intellectual influence over the 16 men who sat with him. And he disputes the common notion that Warren's generally brought great cohesion to the court.

## BENCH DIVIDED

Rather, says Kurland, "under Warren's presidency, the court has been the most divided, if not the most divisive, in American history."

The "Nine Old Men" who scrapped and battled over early New Deal legislation entered 68 dissenting opinions from 1932 through 1937. The Warren court, conducted by an eminently successful and suave politician, wound up divided 395 times from 1962 through 1967.

Kurland concludes: "In short, the court's good intentions cannot be gainsaid. Indeed, if, as has been suggested, the road to hell is paved with good intentions, the Warren court has been among the great road-builders of all time."

But Kurland is the skeptic in the group, while the others stress the positive accomplish-

ments of the Warren court.

## RIGHTS ENHANCED

Pye, for example, recalls that in 1953, when Warren went on the court, a state criminal trial was not very different from one 50 or even 100 years earlier: The accused man was cloaked with a panoply of constitutional rights, but those rights existed mostly in theory.

Now, as Warren moves off the court, Pye says: "The gulf be-

tween the illusion and reality of our constitutional protection has been narrowed. The quality of justice meted out to the poor more closely approximates that available to the rich. In many areas we are beginning to implement rights to which we have paid lip service for decades."

This observer concludes: "A hundred years from now lawyers will not be amazed by the changes wrought by the Warren court. They will wonder how it could have been otherwise in the America of the sixties."