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**Burger Bars
Hearing on
Bomb Suit**

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Chief Justice Warren

Burger denied yesterday at request that the Supreme Court convene in an extraordinary session to decide whether to stop the bombing of Cambodia by U.S. planes.

He rejected the petition less than two hours after it was filed by Rep. Elizabeth Holtzman (D-N.Y.) and four Air Force officers who suffered the latest setback in their effort to halt the bombing by court order.

As they lost their fourth consecutive legal move, the Cambodia case was provoking unusually strong criticism by Justice William O. Douglas of his eight colleagues.

Douglas charged that the court flouted the law by issuing an order Saturday which contradicted one of his orders. The other justices acted improperly by not meeting in unison instead of allowing themselves to be polled by Justice Thurgood Marshall, he said.

"A Gallup Poll type of inquiry of widely scattered justices is, I think, a subversion of the regime under which I thought we lived," Douglas wrote in a dissent made public yesterday.

Congresswoman Holtzman's petition yesterday asked the chief justice to convene a special session of the court whose

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members are now scattered on vacation.

The court has agreed to such extraordinary sittings only four times in the past thirty years.

Rep. Holtzman's attorneys at the American Civil Liberties Union in New York said last night they had not decided what their next legal step will be.

One possibility is a request for the Supreme Court to review Monday's ruling by the Second U.S. Circuit Court of Appeals. That decision overruled the District Court which had held the bombing to be unconstitutional because Congress never had authorized U.S. military action in Cambodia.

District Court Judge Orrin G. Judd ruled on July 25 that the President lacks authority to spend money to bomb in Cambodia.

The bombing is scheduled to cease at midnight Aug. 14 as a result of congressional action setting a statutory bombing halt Aug. 15.

It was an attempt to hasten the cessation of bombing that led to the legal action which provoked Douglas last weekend and prompted him to issue the blistering dissent that was released yesterday.

Douglas, from his vacation retreat in Goose Prairie, Wash., on Saturday vacated a stay of the District Court order which had been issued by the Second U.S. Circuit Court of Appeals. For a while, it seemed to mean that the U.S. bombing would have to cease under the District Court order.

However, within six hours Marshall, at the government's request, issued a stay of the District Court's stop-the-bombing order. That had the effect of reversing Douglas. Marshall wrote that the other seven members of the court had agreed orally with his decision to issue a new stay.

It was Marshall's action in polling other justices that angered Douglas and set off his indignant dissent. He maintained that only a quorum of the court — six members — could do so.

"If we who impose law and order are ourselves to be bound by law and order, we can act as a court only when at least six of us are present," Douglas wrote. "That is the requirement of the Act of Congress."

Telephone calls to the justices cannot substitute for discussion of a case in conference by at least six members, he said.

Douglas said he had participated in enough Supreme Court conferences to know that "profound changes" are sometimes made when the judges explore issues together.

Douglas said he was not speaking of the "social propriety" involved in being overruled. "With all respect, I think the court has slighted that law."