

Earl Warren Stands Tall

"A judge should not be a youth, but old," Plato wrote in "The Republic." Chief Justice Earl Warren was appointed to the United States Supreme Court at the comparatively "old" age of 62. He grew correspondingly younger in outlook during his fifteen years on the bench. Now that he is going to retire, the astonishing vigor of his interests, awareness of the new forces in the country and judicial magnanimity become all too apparent in retrospect.

He came from California with a strong reputation as an Attorney General and Governor, but with no renown as legal philosopher or interpreter. He had been the Vice-Presidential candidate on the 1948 Republican ticket, headed by Thomas E. Dewey, and when President Eisenhower appointed him in 1953 it was widely assumed that a nice, moderate Republican was being rewarded for party loyalty.

From the beginning he turned out to fit no stereotype. He proved to be what ideally the post called for: the chief judge setting a high standard for the highest court in the land. His past political affiliation, even his lack of experience on the bench, faded into obscurity. He became a healing force of fairness.

Judicially, he helped to shift the balance of decisions to the liberal viewpoint. Here his great experience as a prosecutor and Governor came into play. He based his decisions upon pragmatic reasoning without binding himself in doctrinaire fashion to one or another philosophical position. But underneath his opinions could be found a deep recognition that the Constitution was a living document written, and in need of preservation, by human beings of understanding and compassion.

Oliver Wendell Holmes once said of the Supreme Court: "We are very quiet there, but it is the quiet of a storm center"—an observation that applied with special force to Chief Justice Warren's Court. In his case, it stemmed from the landmark opinion he wrote in *Brown v. Board of Education* in 1954. In that famous school desegregation case the Chief Justice—speaking for a unanimous Court—wrote:

"In the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

There followed other opinions by the "Warren Court" which, in future and less passionate years, will be recognized as revolutionary only in the sense that the United States Constitution—which the justices are sworn to uphold—is a revolutionary document. Decisions on individual liberties and civil rights right up to the end of the Supreme Court term last Monday underscored historical awareness, not historical destruction, by the Chief Justice and the majority of his colleagues.

These decisions will stand as guardians of freedom long after the "Impeach Earl Warren" bumper stickers are forgotten. There will be understandable controversy about his replacement and about the impact of the succession on the "liberal" vs. "conservative" complexion of the Court. But the entire Warren career offers one reassurance: Any attempts to shape or pack the Court, one way or another, are unpredictable in terms of result. For men grow on this bench; none has grown taller in our time than Earl Warren.