

Nixon and Justice Warren: Rivalry to Reconciliation

By John P. MacKenzie
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The story behind a gesture of reconciliation between Richard M. Nixon and Earl Warren has surfaced with the Tuesday death of the former Chief Justice.

It is a story that began with the sometimes bitter rivalry between the two men as politicians in California and on the national scene, and ended in the extension by a full court term of Warren's historic tenure.

William P. Rogers, Mr. Nixon's first Secretary of State and for many years a close personal friend to both men, agreed yesterday to disclosure of the account, which he held in confidence during Mr. Warren's lifetime.

Late in 1968 Rogers was the intermediary who helped to avert potential embarrassment for Mr. Warren and Mr. Nixon and further political involvement for the Supreme Court, which had been an issue in the Nixon election campaign.

Mr. Warren announced his retirement in June, 1968, but in an unusual letter to then-President Johnson, he declared that his departure would be "effective at your pleasure." Mr. Johnson, who then nominated Associate Justice Abe Fortas as Chief Justice, wrote Warren that his retirement would take effect when his replacement was "qualified."

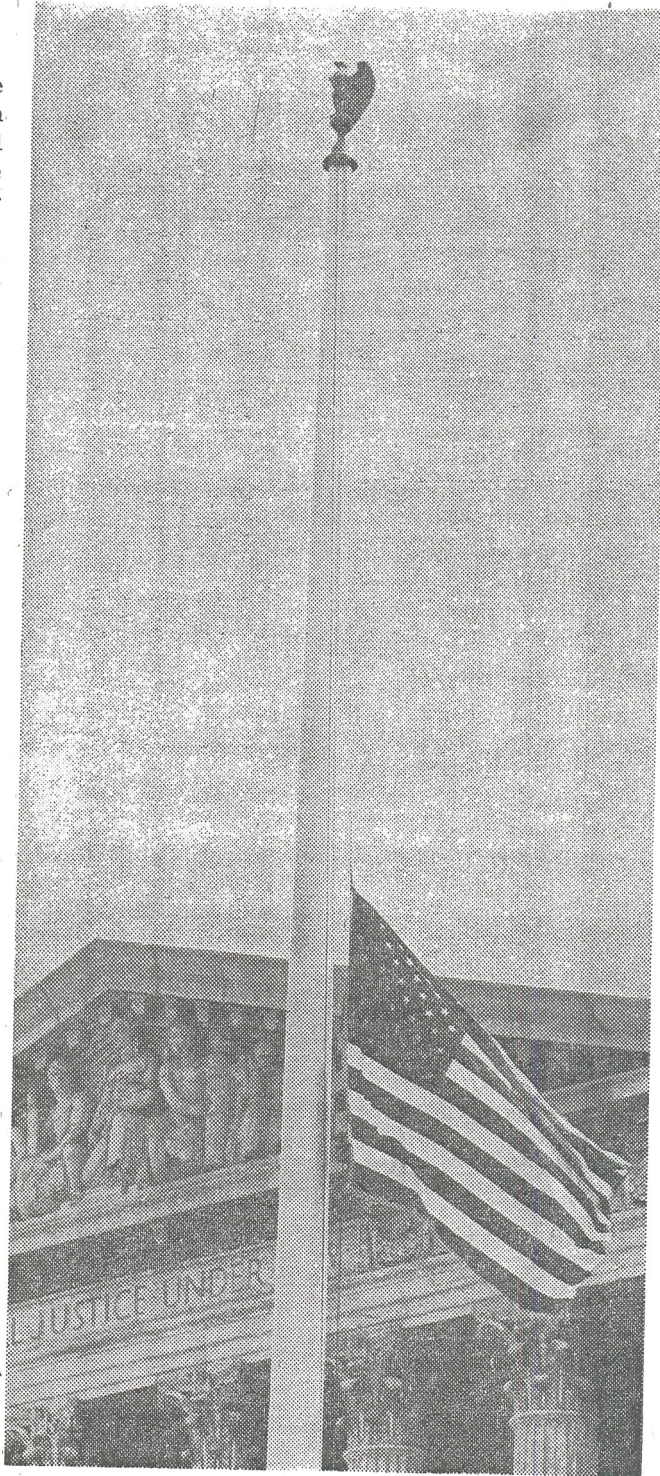
Fortas's confirmation was blocked, however, so Warren began the new court term in October still as Chief Justice.

After Mr. Nixon's election in November, there was speculation that the new President might simply accept the tendered resignation, thereby ousting his erstwhile political enemy in mid-term and creating an immediate vacancy for a "strict constructionist" appointment.

Concerns both for Warren and for the high court were conveyed to Rogers by John Daly, then a television newsman and Warren's son-in-law, in the course of a golf game after Mr. Nixon had chosen Rogers for his Cabinet but before the selection was announced.

Rogers then informed the President-elect, who said he was dismayed to learn of Mr. Warren's uneasiness. He told Rogers that "of course" the Chief Justice should fill out the court term ending in June.

Rogers obtained Mr. Nixon's permission to call on the Chief Justice. Over lunch in



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Flag at half-staff, his court mourns Chief Justice Warren.

Mr. Warren's chambers, Rogers relayed Mr. Nixon's sentiments. He reported that Mr. Warren was "most appreciative" personally and on behalf of the court.

Rogers then arranged a telephone call on Dec. 4, 1968, during which the President-elect asked the Chief Justice both to stay on the bench and to administer the oath of office on inauguration day. Mr. Warren readily agreed to both requests.

The following April Mr.

Nixon honored the retiring Chief Justice with a White House dinner. In the presence of the other justices, the Cabinet and Mr. Warren's family, the two men exchanged toasts. The Chief Justice said he approached retirement "with no malice in my heart" toward anyone.

The only guest at the dinner who was a member of the lower federal judiciary was Judge Warren E. Burger of the U.S. Court of Appeals—the man Mr. Nixon named Chief Justice a month later.