

# Warren Era Ending Today After 16 Years of Reform



Ron Nelson for The New York Times  
Chief Justice Earl Warren



The New York Times  
Warren E. Burger

## Burger Seating to Close Time of Controversy and Mixed Results

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WASHINGTON, June 22—The Warren era ends at the Supreme Court tomorrow, after 16 years of bold reforms that have brought raging controversy and mixed results.

When Chief Justice Earl Warren turns over the Court's center seat to his successor, Warren E. Burger, one of the most ambitious and active eras in the Court's history will end.

Mr. Warren intends to disappear from the public scene for several months, going first on a fishing trip to Alaska and then on an autumn jaunt to the Far East, where he will attend a conference in New Delhi on World Peace Through Law.

He will depart on a strong note after issuing a historic opinion last Monday in the Adam Clayton Powell case.

In declaring that the House of Representatives acted unconstitutionally in 1967 when it refused to seat the Harlem Democrat, the 78-year-old Chief Justice asserted for the first time that the Supreme Court had jurisdiction to settle constitutional questions involving internal Congressional matters.

### Results of Decisions

It is too soon to tell whether this will result in a damaging conflict between Congress and the Court or if Congress will accept the Court's judgment.

But even if a donnybrook is avoided over the Powell case, Earl Warren will step down as a controversial figure. The John Birch Society's "impeach Earl Warren" campaign was dropped several years ago, but the genial, strong-willed Chief Justice has remained as a symbol of judicial liberalism that sets conservative teeth on edge.

The controversy over the liberal Warren Court fed on opposition—mostly from political conservatives—against decisions that hobbled government loyalty-security programs, banned prayer and Bible reading in the

public schools, outlawed segregation and malapportionment and limited police action.

Thus, much of the outcry over the Warren Court has been a measure of whose ox has been gored.

Conservatives have tended to denounce the Court (President Eisenhower was said to have called his appointment of Mr. Warren the "biggest damfool mistake I ever made"), while only liberals would be expected to agree with Lyndon B. Johnson's assessment of Mr. Warren as "the greatest Chief Justice of them all."

Yet one complaint about the

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court has cut across the political spectrum. It has been said on both sides that the Supreme Court acted too much like a legislature and not enough like a court—that it translated its own notion of wise policy into constitutional dogma.

These critics complain that in the long run, the development of Supreme Court Justices into Platonic guardians to substitute their wisdom for legislative and executive decisions will undermine American democracy, and that the left is more likely than the right to be the ultimate loser.

In a news conference shortly after he announced his intention to retire, Mr. Warren listed what he saw as the three most significant decisions of the Warren era. They were:

1. Baker v. Carr in 1962, which opened the way for legislative and Congressional reapportionment.
2. Brown v. Board of Education in 1954, which declared school segregation unconstitutional.
3. Gideon v. Wainwright in 1963, which held that all defendants in serious criminal cases were entitled to legal counsel.

The verdict of most legal experts is that the reapportionment decisions have been a success, in the sense that reapportionment has been achieved without as much difficulty as

many had expected. Despite would become mired in the "political thicket," redistricting has been widely accomplished, and the initial outcry has died down. "The mood, even among politicians, is that the decisions are acceptable; the accommodations have largely been made," Robert B. McKay, an expert on reapportionment law, said recently.

### Resistance in South

Every state legislature has made some districting adjustment, he said, and only nine states still have significant discrepancies in the numerical size of their Congressional districts.

School segregation is a much subtler matter. Last year about 20 per cent of the Negro children in the 11 Southern states were in integrated schools.

But resistance to desegrega-

tion is rising in many Southern communities, where the belief is strong that the South is being told to achieve levels of integration that are not required in the North. Northern neighborhood segregation has kept school integration at token levels.

Because of this apparent legal double standard, the Supreme Court may encounter increasing resistance in trying to eliminate all-black schools.

The idea that defendants should be represented by lawyers at their trials had already been accepted by all but five states when Gideon v. Wainwright was announced.

The decision's importance was in establishing the principle that poor people must be furnished the means to exercise their legal rights, in addition to the rights themselves.

<p>This has led to the establishment of public defender and legal aid offices across the country and other efforts to provide more legal assistance to poor people.</p>	<p>ren Court has done on the subject of defendants' rights.</p>	<p>the long view, history will treat the Warren era well.</p>
<p>The cases following from the Gideon decision have precipitated a controversy over counsel in the police station and the authority of the police to question suspects.</p>	<p>Thus Mr. Warren leaves amid a rising chorus of complaints that the hallmarks of the Warren Court — bold, aggressive moves on behalf of society's underdogs—were carried to excess in the criminal field and that the Court's idealism outstripped its practical sense in this regard.</p>	<p>"Generations hence," Prof. William M. Beane of Princeton recently wrote of the Warren Court, "it may well appear that what is supposedly the most conservative of American political institutions, the Supreme Court, was the institution that did the most to help the nation adjust to the needs and demands of a free society."</p>
<p>The Court, meanwhile, has tacitly acknowledged some of the practical problems by declining to apply the Gideon decision to misdemeanor cases.</p>	<p><b>History's View</b></p>	<p>Regardless of the verdict of history, Earl Warren seems obviously satisfied with the results of his tenure.</p>
<p>As a result of charges in many quarters—including some respected legal ones—that the Warren Court had made criminal procedures too brittle, President Nixon made a point of selecting a Chief Justice who rejects much of what the War-</p>	<p>His departure has also been tarnished by a public controversy over off-the-bench activities by former Justice Abe Fortas and Justice William O. Douglas.</p>	<p>At his final news conference, he was asked to describe the major frustrations of the period.</p>
	<p>Mr. Warren had hoped to persuade the Court to adopt restrictions on extra-judicial conduct before he left, but he failed.</p>	<p>He paused for a long moment, then broke into a wide smile and replied that he could not think of any.</p>
	<p>Many observers feel that, in</p>	<p>"It has not been a frustrating experience," he said.</p>