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The Chief Steps Down

With the retirement of Earl Warren as Chief Justice, the nation loses a man of personal courage, progressive conviction and humane understanding who has led the Supreme Court through one of the most decisive periods in the 180 years of its history.

Only three of Chief Justice Warren's predecessors—John Marshall, Roger Taney and Melville Fuller—served longer than his sixteen years and only under the early leadership of Marshall and Taney has the Supreme Court had more critical impact on the law and life of the nation. The Warren Court's school desegregation and other civil rights cases are surpassed in importance in their sphere only by the Taney Court's *Dred Scott* decision, while its reapportionment, redistricting and criminal due process decisions have consequences for the Federal system almost as great as the fundamental interpretations of the Marshall Court.

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When President Eisenhower appointed Mr. Warren in 1953, there was little in his record in public life to foretell the kind of Chief Justice he would become. The school desegregation cases which were pending when he took his seat plunged Chief Justice Warren into racial and regional controversy during his very first year on the Court. But *Brown v. Board of Education* was a unanimous decision which evolved naturally out of several previous cases concerning racial discrimination. While the Warren Court has divided sharply on other issues, it has consistently been unanimous, or very nearly so, in striking down barriers to voting rights and forbidding public and private discrimination.

Chief Justice Warren struck a more distinctive personal note in his sensitivity to individual rights and due process. A concern for fair play, which is a synonym for due process, animated the Chief Justice and a majority of his colleagues in 1957 and subsequently in curbing the House Un-American Activities Committee, the Subversive Activities Control Board and the State Department's passport authority.

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Because the apportionment of state legislatures and the districting of seats in the House of Representatives had long been considered a "political thicket" too dangerous for the Court to penetrate, grave abuses had developed in the American form of government. Beginning with *Baker v. Carr* in 1963, the Supreme Court under Chief Justice Warren came to the rescue of the underrepresented millions in the cities and the suburbs. If American federalism successfully masters the social crises of the coming decade, much credit will go to the Warren Court's rulings in favor of "one man, one vote" and equal districts.

These rulings were not without risk to the Court's authority and prestige because they did carry the Court into that ill-defined border zone where the judicial and the legislative powers meet and mingle. With good reason, critics of the Court contended that the justices had usurped some legislative authority. But defenders of the Warren Court replied that in the reapportionment cases as in the long stalemated issue of school segregation, years of Congressional evasion and irresponsibility made judicial intervention inevitable.

The rights of criminal offenders evoke little sympathy when rising crime rates have become a matter of national concern, but the Warren Court has moved against the tide of popular feeling. The Court has insisted that to have a lawyer, to remain silent, and to avoid being browbeaten into a confession are rights of every citizen. Future court decisions may perhaps reshape the particular definitions of this right as the unending task of judging continues, but the fundamental affirmations of the Warren Court in the field of criminal jurisprudence are in the best American tradition.

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In meeting the issues of his Court service, Chief Justice Warren did not have the legal erudition of a Frankfurter or a Cardozo; the brilliant advocacy of a Hughes, or the thoroughly developed philosophy of a Holmes. He has depended instead upon an unblinking integrity, a firm common sense, and a deep feeling for the liberal and egalitarian values which moved Thomas Jefferson and the other founders of this nation. Those values must be brought to bear on the problems of each generation in live and relevant ways if the American ideal of self-government is to survive and flourish. It is to the lasting honor of Earl Warren that he contributed so effectively to that liveliness and relevance in his time.