

Earl warren vs. william rehnquist



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Abstract

This paper will discuss that, the outlook of the Chief Justice becomes the belief center for the Court; with each new Chief Justice appointed, the outlook of the Court also changes. Two major developments that the Court has gone through over a span of several years, were the periods when the Supreme Court was headed by Warren who became a liberal while on the bench and Rehnquist that remained ultra conservative; both were considered Republican yet had completely different views on how decisions should be made. This paper will compare and contrast their approaches to criminal procedure while on the U. S. Supreme Court, their significant decisions and their effects on the balance between social order and maintenance and individual liberties, and the effects of the Supreme Court's decisions on law enforcement in the United States. Finally, the paper will discuss the Supreme Court's approach to balancing civil liberties against public order maintenance.

Earl Warren vs. William Rehnquist

Introduction

In the beginning of the 1950s, America had become a nation obsessed with freedom and social change. At approximately the same time, the Warren Court mirrored these developments. The following court, run by Burger built and upheld the developments that had already started. Warren and Burger's Courts believed in a new idea, that the Constitution was in fact a breathing and living document, meant to adapt to the times. A new court surfaced, the Court of Rehnquist. This court deferred to the idea that the original

Constitution was not only relevant when it was drafted, but that it remained so in the 20th and 21st centuries.

The Warren Court

During Earl Warren's sixteen years as chief justice (1953-1969), the Supreme Court had profound impact on politics and government in America. The Warren Court was an extraordinarily activist, innovative tribunal that wrought far-reaching change in the meaning of the Constitution.

Among its major decisions, the Warren Court out-lawed authorized racial segregation within public schools, required the equal apportionment of state legislatures and the House of Representatives, set strict national standards to protect the rights of criminal defendants, and ruled that prayers and Bible reading in the public schools were unconstitutional. And it handed down other dramatic decisions that won it both high praise and sharp criticism and engulfed it in great controversy. Riding the crest of the tidal wave of social change that swept through America in the 1950s and 1960s, the Court became a natural target of those who felt it was moving too fast and too far. The political reaction to its bold decisions was symbolized by automobile bumper stickers and roadside billboards that read "Impeach Earl Warren."

Before he retired as chief justice in 1969, Warren was asked to name the most important decisions of the Warren Court. He singled out those dealings with reappointment, school desegregation, and the right to counsel. Each of these cases symbolized one of three broad fields in which the Warren Court brought about far-reaching changes in America: the political process itself, civil rights, and the rights of the accused.

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In its reapportionment decisions, the Warren Court required that each citizen's vote count as much as another's. If the quality of a democracy can be gauged, certainly the individual's vote is a basic unit of measurement. Until the reapportionment revolution of the Warren Court, voters were often powerless to correct basic distortions in the system of representation itself.

The Warren Court's *Brown* decision has not eliminated racial segregation in American schools or American society. But by striking down the officially enforced dual school system in the South, the Court implied that "all racial discrimination sponsored, supported, or encouraged by government is unconstitutional." Thus the decision foreshadowed a social upheaval. The civil rights movement, the civil rights legislation of the 1960s, and the continuing controversy over the busing of public school children all followed in the Supreme Court's wake.

By the 1980s, the goal of integration appeared to be less important to many African Americans than freedom, dignity, and a full share of the economic opportunities of American society. Nevertheless, the *Brown* decision remains a judicial milestone; by its action at a time when much of white America was complacent and satisfied with the existing social order, the Supreme Court provided moral as well as political leadership. It reminded the nation that the Constitution applies to all Americans.

The third broad area of decision by the Warren Court, the protection of the rights of criminal defendants, was yet another milestone for the Warren Court. In a series of controversial decisions, including *Miranda*, *Escobedo*, *Gideon*, and *Mapp*, the Court, bit by bit, threw the mantle of the Bill of

Rights around persons accused by state authorities of crimes. In so doing, the Court collided directly with the electorate's rising fear of crime; it was accused of coddling criminals and handcuffing the police.

The Warren Court moved aggressively in several other areas as well, banning prayers in the public schools, curbing the anti-Communist legislation of the 1950s, and easing the laws dealing with obscenity. All this activity provided ample ammunition to the Warren Court's conservative critics: The Court, they charged, had tinkered with legislative apportionment, forced school integration, overprotected the rights of criminals, banished prayer from the classroom, tolerated Communists, and encouraged pornography. Moreover, as many of the Court's critics frequently pointed out, it decided many important cases by a one-vote margin.

The Rehnquist Court

After Warren Burger retired in 1986, President Reagan elevated William Rehnquist to chief justice and appointed Antonin Scalia, another conservative, to the Supreme Court. Even though Rehnquist was not as conservative as Burger, his associates were all supportive and pleased, even his Democratic opposites. His nomination was received with honest excitement on the part of not just his friends on the Court but also others who he had only had minimum contact with. The appointment of Anthony Kennedy in 1987, and President Bush's appointments of Justices David Souter in 1990 and Clarence Thomas in 1991, meant that for a time, eight of the nine members of the Court had been appointed by Republican presidents. In the space of a relatively few years, the members and political

philosophy of one of the three branches of the federal government had changed measurably.

When William Rehnquist was sworn in as chief justice of the United States in September 1986, many political observers expected that his appointment would usher in an era of conservative decisions by the highest court. One location that various researchers expected to view substantial alterations in was the limiting of power of the federal government and increasing the power of the federal government and increasing the power of state governments. In time the Court did become more conservative, but that was not the case initially. During the Rehnquist Court's first term, the liberals won all but two of the major cases and the conservatives prevailed only in the area of criminal law. A moderate-liberal coalition, led by Justice William J. Brennan, Jr. decided cases on affirmative action, teaching creationism in the public schools, protection for pregnant workers, and political asylum for illegal aliens. Moreover, the Court, by a vote of 8-0, threw out the Reverend Jerry Falwell's suit against *Hustler* magazine. In so doing, the Court declined to curb criticism of public figures.

But by 1988 the Rehnquist Court shifted in a more conservative direction, giving public school officials the right to censor school newspapers and plays, for example. However, many of Rehnquist's wins directed toward the federalist objective of limiting Congress's authority over the states had minimal practical impact. And after the appointment of Justice Anthony Kennedy, the Court in several decisions made it more difficult for workers to sue employers for discrimination. The Court's action alarmed liberals and led to speculation that a conservative majority had finally emerged. In May

1988, in another decision that some analysts seemed to believe reflected a more conservative trend, the Court ruled 6-2 that police may, without a warrant, search through trash that people leave outside their homes to be collected.

Rehnquist voted with the bulk of the Justices in *City of Boerne v. Flores* and later referred to the decision as a model for requiring Congress to give way to the Court in regards to the interpretation of the Equal Protection Clause and including the Fourteenth Amendment, in several cases. *Boerne* stated that any statute that Congress used to enforce the guarantees of the Amendment had to demonstrate both proportionality and a congruence between the injury that was deterred or fixed and the means adopted to this end. Rehnquist's Court proportionality and congruence theory took the place of the ratchet theory that had controversially been advanced in *Katzenbach v. Morgan*. Due to the ratchet theory, Congress was able to ratchet up civil rights beyond the Court's recognition, but Congress would be unable to ratchet down the rights the courts already recognized. The Rehnquist Court's congruence and proportionally theory made it less difficult to revive older models that prevented Congress from over extending itself in enforcing equal protection of the laws.

But, as always, the decisions varied; the Court in 1990 struck down the federal law that sought to ban flag-burning. And in 1991, it invalidated New York's "Son of Sam" law, which had barred criminals from earning money from books about their crimes; the Court said the state law violated the First Amendment's provisions of free press and free speech. In 1999, Rehnquist was the second Justice to oversee a presidential impeachment trial, against <https://assignbuster.com/earl-warren-vs-william-rehnquist/>

President Clinton. Rehnquist, in 2000, delivered a dissenting decision in *Bush v. Gore*, the case that ended the election controversy in Florida. He agreed with four justices in the case that the Equal Protection Clause did not allow a standard less manual recount of votes as was ordered by the Florida Supreme Court.

Conclusion

In conclusion, the Rehnquist Court moved more cautiously in the 1970s and thereafter and narrowed the sweep of some of the Warren Court's decisions, particularly in the areas of criminal justice and pornography. The Supreme Court might do so even more dramatically in the future. The doctrines of equality, freedom, and respect for human dignity laid down in the numerous decisions of the Warren Court cannot be warped back to their original dimensions. Generations hence 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.

As this paper demonstrates, the decisions of the Supreme Court are often unpredictable, and the Court's direction is not always easily categorized. Although by the year 2000 the Court's conservative bloc was often a dominant force, it did not always prevail.

References

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