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In Memorium: Chief Justice Warren E. Burger: Biographical Profile

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BIOGRAPHICAL PROFILE

Warren E. Burger was born on September 17, 1907, Constitution Day, in Saint Paul and grew up in the Dayton’s Bluff neighborhood on the city’s east side. His parents, of Swiss and German descent, were Charles Burger and the former Katharine Schnittger.

Warren, one of seven children in a family of modest financial circumstances, had a paper route and, as a “stringer” reporter, wrote and sold high school sports and news stories to the *Saint Paul Dispatch* and the *Saint Paul Pioneer Press*. At John A. Johnson High School, he was president of the student council and editor of the newspaper, and he lettered in football, swimming, hockey, and track. He graduated from Johnson in 1925.

Through the efforts of Edna Moore, “one of the most remarkable teachers that I encountered in my entire life,” Burger was offered a scholarship to Princeton University. He declined it because he felt an obligation to help support his family.

He worked during the summer of 1925 as a laborer in the construction of Saint Paul’s Robert Street Bridge. He was then hired by the Mutual Life Insurance Company of New York. He started as “essentially an office boy” but soon was promoted to more senior clerical work. He enrolled in the night school division of the University of Minnesota. Two years later he entered the Saint Paul College of Law—now William Mitchell College of Law. He continued with evening classes at the University between law-school sessions. He graduated magna cum laude from the law school in 1931.

He accepted an offer to join the Saint Paul law firm of Boyesen, Otis, Brill & Faricy. He became a partner in less than three years, and the firm—today Moore, Costello & Hart—became Faricy, Burger, Moore & Costello.

Burger was invited to teach contracts at the Saint Paul College of Law, beginning in the fall of 1931. He taught at the law school for a dozen years. He later served as a member of the board of trustees of William Mitchell College of Law.

As a Saint Paul attorney, Burger was president of the Junior
Chamber of Commerce, a member of the board of directors of the Saint Paul Association of Commerce, first president of the Saint Paul Council on Human Relations, and a member of the Governor's Interracial Commission.

A progressive Republican, he supported Harold Stassen's successful campaign for governor. As a leader in Stassen's 1952 presidential campaign, he delivered the votes Dwight D. Eisenhower needed to win the Republican nomination when, as a Stassen floor manager at the national convention, he sent word to the platform that Minnesota was switching its votes to Eisenhower.

After the 1952 election, Burger was appointed assistant U.S. attorney general in charge of the civil division. In 1956, President Eisenhower appointed him to the U.S. Court of Appeals for the District of Columbia Circuit.

On May 21, 1969, President Richard M. Nixon nominated Warren E. Burger Chief Justice of the United States. Burger was promptly confirmed by the Senate and sworn in on June 23.

The new Chief Justice was introduced to many Americans as a symbol of "law and order" and "strict construction." But if the Burger Court halted the advances of its predecessor, the Warren Court, in some areas, it remained an activist court in others. "The court is today more of a center for the resolution of social issues than it has ever been before," wrote Supreme Court scholar A. E. Dick Howard in 1981.

The Burger Court created new constitutional doctrine in such areas as the right to privacy, due process, access to the courts, and sexual equality. It has been said that Burger wrote more than any Justice in the Supreme Court's history about the separation of powers among the three branches of government. In INS v. Chadha1 the Court, in an opinion by Burger, struck down Congress' half-century-old legislative veto powers. In United States v. Nixon,2 Burger, writing for a unanimous Court, ordered President Nixon to surrender tapes and records subpoenaed in the Watergate coverup trial, a ruling that led to Nixon's resignation two weeks later.

Burger—who liked to point out that he was Chief Justice not only of the Supreme Court but of the United States—was a

champion of the reform and modernization of judicial administration. He helped create the National Center for State Courts, the Institute for Court Management, and the National Institute of Corrections. He transformed the Federal Judicial Center into a major center for research and publishing about the courts.

After retiring from the Court in 1986, Burger served as unpaid chairman of the Commission on the Bicentennial of the United States Constitution, heading the nation’s celebrations of the 200th anniversary of the Constitution in 1987 and the 200th anniversary of the Bill of Rights in 1989.

The federal building in Saint Paul was named the Warren E. Burger Federal Building and U.S. Courthouse in Burger's honor in 1987. In 1990, Burger was joined by Justice Sandra Day O'Connor of the U.S. Supreme Court and 1700 other guests for the dedication of the Warren E. Burger Library at William Mitchell College of Law.

Burger was a gardener, a connoisseur of wine, a collector of antiques, and a painter and sculptor of considerable accomplishment.

Burger's wife, Elvera, died in May 1994. The Chief Justice's final, six-day visit to Minnesota, in September 1994, included a dinner given in his honor by the Minnesota State Bar Association and William Mitchell College of Law. Burger—appearing frail but clearly enjoying the company of longtime friends—spoke briefly, concluding: “Let me say that I’m grateful from the bottom of my heart for all of the things that have been said. I hope some of them are true!”

A book by Burger, *It is So Ordered*, was published in 1995 by William Morrow. It is his account of fourteen cases that helped shape the Constitution.

Chief Justice Burger died of congestive heart failure on June 25, 1995, in a Washington, D.C. hospital. On June 28 his body lay in repose in the Great Hall of the Supreme Court as family members, Supreme Court colleagues, other friends, and citizens paid their respects. He was buried at Arlington National Cemetery on June 29 following a funeral at Washington's National Presbyterian Church.
He is survived by a son, Wade, of Annandale, Virginia; a daughter, Margaret Mary Rose, of Washington, D.C.; a brother, Jack, of Holdingford, Minnesota; and two grandchildren.

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