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TWO APPRAISALS OF THE WARREN COURT:

INTRODUCTION

The tenure of the "Warren Court" has ended. Historians may now begin the greatest episode in judging the Supreme Court of the "Warren-times."

We are not historians, and do not pretend to be, hence, we will express no opinion about the role of the Supreme Court under Chief Justice Warren. However, we assume the responsibility of publishing two appraisals chiefly because we feel that the time is ripe since Warren is no longer sitting on the Supreme Court bench.

The first appraisal, entitled, "Impeach John Marshall," (An Attempted Appraisal of the Warren Court) by Gilbert Nurick, represents a positive analysis of the Supreme Court decisions rendered when Earl Warren was Chief Justice. Nurick's appraisal in a nut shell, classifies the "Warren Court" as an epoch in U.S. judicial history. Beginning with such landmark cases as *NLRB v. Jones & Laughlin Steel Corporation*, *U.S. v. Darby*, and *Brown v. Board of Education*, the court expanded congressional power under the Commerce Clause, and overthrew the doctrine or "separate-but-equal" educational facilities. The latter case started the national effort of the U.S. government towards the integration of all public schools. In effect, Nurick's analysis suggests that the "Warren Court" surpasses the "Marshall Court" in giving the constitution a more radical interpretation in accordance with the tempo of the time.

The second appraisal is by W. Clark Hanna, entitled, "An Attempted Appraisal of an Attempted Appraisal of the Warren Court." This appraisal is negative in nature and purpose, and this is the way Hanna wants it. The thesis of the article is that the Supreme Court has no constitutional basis to review the decisions of the State Supreme Courts. Hanna cites Art. III, of the U.S. Constitution to support his argument. He criticized the Supreme Court under Marshall and Warren, respectively, for failing to abide by the doctrine of *stare decisis*. The court, Hanna reasoned, engages in radical re-interpretation of the Constitution as an excuse for reversing prior decisions.

These articles represent positive and negative appraisals of the "Warren Court." Only history will reveal the role this court played as a modern judiciary.