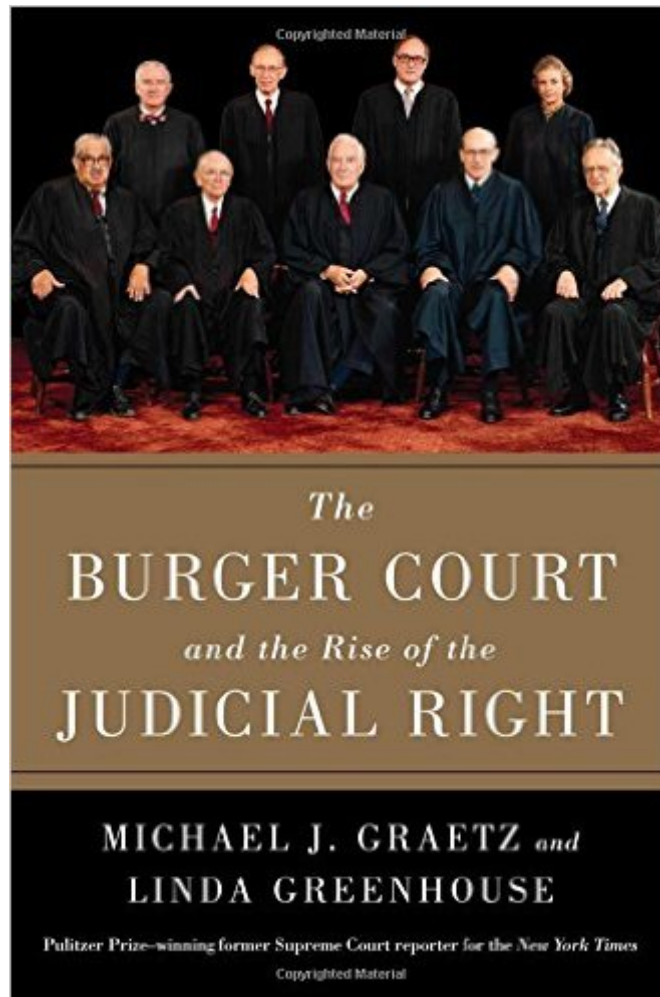


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# The Burger Court And The Rise Of The Judicial Right



## Synopsis

A fresh and revelatory look at the Warren Burger Supreme Court finds that it was not a moderate or transitional court, as often portrayed, but a conservative one that still defines the constitutional landscape we live in today. When Richard Nixon campaigned for the presidency in 1968 he promised to change the Supreme Court. With four appointments to the court, including Warren E. Burger as the chief justice, he did just that. In 1969, the Burger Court succeeded the famously liberal Warren Court, which had significantly expanded civil liberties and was despised by conservatives across the country. The Burger Court is often described as a transitional court between the liberal Warren Court and the Rehnquist and Roberts Courts, a court where little of importance happened. But as Michael J. Graetz and Linda Greenhouse show, the Burger Court veered well to the right in such areas as criminal law, race, and corporate power. Even while declaring a right to abortion in *Roe v. Wade*, it drew the line at government funding for poor women. The authors excavate the roots of the most significant Burger Court decisions and show how their legacy affects us today. The most comprehensive evaluation of the Burger Supreme Court ever written for a general audience, *The Burger Court and the Rise of the Judicial Right* draws on the personal papers of the justices as well as other archives to reveal how the Court shaped its major decisions. It will surprise even legal scholars and historians with its insights into a period that has received too little attention from either.

## Book Information

Hardcover: 480 pages

Publisher: Simon & Schuster (June 7, 2016)

Language: English

ISBN-10: 1476732507

ISBN-13: 978-1476732503

Product Dimensions: 6 x 1.3 x 9 inches

Shipping Weight: 1.5 pounds (View shipping rates and policies)

Average Customer Review: 4.5 out of 5 stars [See all reviews](#) (13 customer reviews)

Best Sellers Rank: #71,981 in Books (See Top 100 in Books) #28 in [Books > Law > Rules & Procedures > Courts](#) #35 in [Books > Politics & Social Sciences > Politics & Government > United States > Judicial Branch](#) #67 in [Books > Law > Legal History](#)

## Customer Reviews

Despite relatively few books on the Rehnquist Court, a steady flow of studies on its predecessor the

Burger Court continue to materialize. A divided opinion about the Burger Court only seems to grow in intensity: was it a counterrevolution to the Warren Court, or largely ineffectual in changing Warren's liberal legacy? This solid volume, co-authored by Linda Greenhouse, former New York Times Court correspondent, and Michael J. Graetz, takes a more nuanced view than opting for one view over the other, but it does lean toward seeing the Burger Court as more significant than some other commentators have conceded. Following an introduction that discusses the court's disputed legacy, the book focuses upon five key issue areas to discuss: Crime, Race, Social Transformation, Business and the Presidency. One interesting feature of the book is that in several areas, such as the death penalty, the authors develop a detailed history of the context of the cases which is very helpful. Yes, the authors discuss a lot of cases, but generally speaking the reader should have no problem in sorting them out and following the discussion. But at 350 or so pages, there is no question the book contains a lot of information. The first section on Crime devotes sustained attention to the death penalty issue and how the court first halted executions (saving some 600 lives) but later handed down decisions facilitating its use and how it was administered. In discussing Miranda and other Warren Court decisions, the authors develop one of their key theories: while in some areas Burger did not directly overrule Warren Court pro-defendant decisions, they did attach conditions and limitations which minimized their impact.

At the outset, Graetz and Greenhouse must be commended for their extensive research efforts. Reading, compiling, and summarizing Supreme Court opinions is undoubtedly an extensive and exhaustive effort, but the authors have managed to effectively undertake such a task. The book surveys the Burger Court years, extending from 1969 to 1986, dividing the analysis of the Court's jurisprudence during these crucial years by subject. Legal historians have often dismissed the Burger Court as unimportant, but the authors almost immediately uproot this old notion. Each chapter contains several sub-chapters, all of which address specific topics in more depth. Consequently, the authors' analysis usually flows quite smoothly as the authors walk the reader through the significant cases before the Burger Court. Each chapter is well researched and offers powerful insight into both the justices who served on the Burger Court and their decision-making processes. The "Race" and "Social Transformation" chapters offer the most comprehensive look into the Burger Court, whereas the "Business" chapter was oddly organized and often redundant. The book's final chapter, which perfectly serves as the book's climax, eloquently captures the significant -- yet delicate -- task before the Court in the wake of Watergate. Admittedly, the book is not without its flaws. First, the authors' argument that the Burger Court led to the rise of the "judicial

right" is set up well, but underwhelming. Undoubtedly, the Burger Court is responsible for many of the legal precedents that shape our lives today - how the Burger Court handed down opinions that the Roberts Court would cite and rely on decades later, or how the Burger Court whittled down certain Warren Court holdings to the present law.

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