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BRANDEIS TELEVISION RECOLLECTIONS

A Conversation with Earl Warren

ANNOUNCER:

A conversation with Earl Warren, Chief Justice of the United States Supreme Court from 1953 to 1966. This is the first edition of the Brandeis Television Recollections, an annual program recorded in connection with the awarding of the Dretzin Prize to the man or woman whose career has contributed with great distinction and benefit to the quality of contemporary civilization. The host of this program is Abram Sachar, historian and Chancellor of Brandeis University.

Earl Warren came to Boston on May 3, 1972, to receive the Dretzin Prize. On that day the conversation you are about to see was taped in the studios of WGBH-TV. It is the first national television interview the former chief justice has ever granted. Abram Sachar comments on the experience...

SACHAR:

Earl Warren is a phenomenon in American life. He was elected Governor of California as the joint candidate of both Republicans and Democrats. He ran for Vice President in 1948 with Tom Dewey. Many liberal Republicans believe that this was a kangaroo ticket--much stronger in the back than in the front. He was called to Washington by President Eisenhower to become Chief Justice of the United States and his thirteen year tenure was seeded with epoch-making decisions. Few interviews that I have

WARREN (cont.): And I think that while that didn't help either side, either the Republicans or the Democrats, no one knows just who will be benefited by it in the future, whether it will be the people in the cities, or the suburbanites, or the people in the farming areas, still, if we believe in our institutions, if we believe that we're all supposed to be equal, every man's vote should be worth the same as every other man's vote, and that eventually our problems will be solved in that manner.

SACHAR: It's because of course that decision was recognized as so important that so many attempts have been made to find loopholes in it, and even to overturn it by a Constitutional amendment.

WARREN: That's right, you'll find the same kind of opposition that you find to the Brown vs Board of Education and the other cases. But the, that seems to me to be the most basic off all the cases we have tried. And I say that because I do have faith in our institutions and like our late lamented friend, Justice Brandeis, I believe in our institutions because I believe in our people. And I believe that they are capable of solving their own problems if we will take off of them all of the handcuffs, I speak of handcuffs not in the criminal sense, but I mean all the things that handicap them and give them a free opportunity in our American life to decide their own questions.

SACHAR:

I know the rules of this discussion. You made them very plain, you wanted to be perfectly certain that we would not get into any discussion which would be interpreted either directly or indirectly as judgement on what's happening today with reference to the court, and ancillary activities. I respect that and yet, knowing full well the political consequences of a commission that would investigate the assassination of President Kennedy, inevitably, regardless of how objective the chairman of the commission and the commissioners themselves would be, willy-nilly it would have to become part of the political scene and the hurly-burly of politics, you accepted the chairmanship of what became known as the Warren Commission.

WARREN:

Yes.

SACHAR:

What is the story in back of that, if I may ask that?

WARREN:

Well, it's a very very simple one. The members of the Court, and including me, have always been of the opinion since I have been there, that the members of the Court should not serve on Presidential commissions, because it does take them into the realm of politics or so perilously close to it, that it's really a departure from the judicial process. And I had expressed myself to that effect not only in the conference room, but publicly on a number of occasions. I was thinking back to the old Tilden-Hayes affair, you remember, when they had two members of the Supreme Court, or three members

WARREN (cont.): of the Supreme Court, and three members of the Congress, and three members of each house in the Congress, to determine that election which was a political thing entirely. And they did and it caused great havoc in our country, and caused a whole change of approach to our Constitutional problems. And we thought that, I did at least, that Justices never should do anything of that kind again. There were those who were very critical of Justice Roberts going over to Hawaii to investigate, as head of a commission, Pearl Harbor (oh, yes) attack and there were those who were very critical of Justice Jackson leaving the court for a year to go to Nuremberg on the trials of the Nazis, and so were very much agreed that it just wasn't good policy for us to do anything of that kind. And so when President Kennedy was assassinated the President sent the Attorney General and the Solicitor General over to see me and tell me that he wanted me to set up a commission, and he'd like to have me be the head of it. And I told him much the same thing that I'm telling you now, and told him that I was sure the court didn't approve of such appointments and I had expressed myself publicly against it, and I thought that it should not be done. And I made certain suggestions to him as to other people whom I thought might do the job just as well, and let it go at that. Well, in about two hours I got a call from the White House, it was President Johnson, asking if I could come up to see him, and I said I could, so I went up there, and he told me that he felt the conditions around the world were so bad at the moment--and mind you, this was only just a few days after the assassination--

SACHAR:

Yes, every kind of rumor was...

WARREN:

Yes, things were so bad that he thought it might even get us into a war, and a nuclear war, and of course that meant that rumors about Castro and Kruschev having been responsible for our President's death. And he said that he had just been talking to Secretary MacNamara about the consequences of a nuclear attack, and he was told by the Secretary that the first strike in this country might cost us sixty million people, and he said, we don't know what this thing might bring forth. And he said, I've arranged to have Senator Russell and, the Senator on the Democratic side, and Senator Cooper on the Republican side, serve on such a commission. I've arranged for the minority Congressman Ford, representing the Republicans and the Congressman from Louisiana whose now the whip of the Democratic Party...

SACHAR:

Hale Boggs?

WARREN:

Yes, and then he would get two prominent lawyers from the outside--McCloy, John McCloy who had served greatly in our government, and Allan Dulles, who had been head of the CIA for some years. They would all serve on a committee, a commission to investigate the causes of the death of the President, if I would serve as the Chairman. And he said in the light of the danger that faced our country, he thought that I should not be in a position to refuse. And I said to him, well, Mr. President, if in your opinion, it

WARREN (cont.): is that bad, surely my personal views don't, shouldn't count, and if you wish me to do it, I will do it. And I did it with the understanding though, that I would not give up my duties on the court, that I would continue to do them as usual and do this in addition. The president allowed us to rent a building just across the street from the Supreme Court and I just wore two hats for ten months while we were investigating the assassination of the President. And I would run back and forth between these two places. I don't believe I left my work before midnight any night for ten months.

SACHAR: As you look back on it, did you get the impression that the President was overstating the danger when he indicated that there might be a nuclear war? Had the rumors reached such a stage?

WARREN: Well, I have no way to substantiate his statement in that regard. I'm sure he thought it was very serious, but whether, I never saw any indication that we were close to a war of that kind, because there were two groups who were, had the conspiratorial theory in that situation. One group thought that it was Krushchev and Castro. The other group thought it was a group of Texas oilmen who were extreme right-wingers. And we explored both of those theories for ten months and found no evidence that either of them was involved in it. But strange enough, those two groups who had the conspiratorial theory joined in condemning

WARREN (cont.): the Commission because they didn't find a conspiracy. And we found no evidence of any kind that there was any conspiracy.

SACHAR: In the years that have passed, of course, there's been a whole stream of books and theories and this has become one the great who-done-its in American history, and in literature for that matter. As you look back on the Commission's report now, how do you react, is there anything there now that you feel needed revision?

WARREN: I have read everything that has come to my notice in the press and I read some of the documents that have criticized the Commission very severely, but I have never found that they have discovered any evidence of any kind that we didn't discover and use in determining the case as we did. Everything that has been written has been conjectured--this might have happened, this could have happened, and so forth. But there has been no evidence of any kind developed to contradict what is in our reports. And you know, we filed not only a report of one volume on this, but 26 volumes of all the evidence that we took from hundreds of witnesses. And to think that they never have been able to find one witness to add to what we found at that time is pretty good evidence that we went into it thoroughly. And there's no reason why we shouldn't because we had the Department of Justice, presided over by the brother of the deceased President, we had the FBI, a great bureau of that was working hand and glove with us, and at the express direction of the President, we had the Secret Service at our

WARREN (cont.): beck and call working on it. For the involvement of foreign affairs we had the CIA and all the military intelligence in the nation. And the President directed every department head of the government to withhold absolutely nothing, no matter how classified it might be, from that commission. And we got everything as far as we know, and as far as we believe, everything that any of those departments had bearing upon it. We hired fifteen independent lawyers, some of them the finest trial lawyers in America, to assist in this work. It was headed up by, the investigative work was headed up by Lee Rankin, who is a distinguished former Solicitor General of the United States, and they had no connection with government or any of its agencies, and they worked independently and they were all in agreement. The Commission itself, although of many different schools of political thought and action, agreed on the report. And I have found nothing since that time to change my view, nor have I heard of anything that has changed the view of any member of the Commission since that time.

SACHAR: Of course it was understandable that there would be a conspiratorial suspicion, especially in the European countries...

WARREN: Oh yes.

SACHAR: How could it be that an event of this kind could take place from the action of someone, an individual coming up from the off-scourings of society with no relationship to a purpose...



WARREN: Well, it's a...that bears upon the difference between our history and the history in Europe. Now, the history of assassinations in Europe were really a revolt of the palace guard, and in this country it's been entirely different. Take the assassination of President Garfield, it was an insane man. Take the man who shot at Roosevelt and Theodore, not Theodore but Franklin D. Roosevelt, and killed Mayor Sirmack of Chicago--a deranged man...

SACHAR: ...unbalanced, yes...

WARREN: ...unbalanced man, and this man...

SACHAR: ...same with McKinley...

WARREN: ...same with McKinley, Colquozz was a deranged man, and this man, we never had him examined psychiatrically, but then he might not have been a deranged man, but he was a weird man, with weird weird thinking, and a loner in the truest sense of the word. He worked with no one, he was always by himself, and had deep passions about things.

SACHAR: A Dostoevski complex--a nobody who wanted a place in history.

WARREN: That's right, that's right. That's the answer. It was really a simple case that would have taken normally only two or three days to try in the court had he been available for trial, but he was shot by Jack Ruby you know, before he could be tried. But the time that we took was occupied in running down all of these rumors that were around the world and we did run them down all over the world, too.

SACHAR:

Well then, the President was right in asking the Justice.. the Chief Justice of the United States with all the prestige attaching to the office, to allay the suspicion that was so natural in every part of the world.

WARREN:

Well, I don't think it was unreasonable at all for him to ask it at that time because you must remember that on that weekend after the President was assassinated, our country was very disturbed, and the world was disturbed, too.

SACHAR:

Well, Justice Warren, you took as the title of your book a phrase that was used by Benjamin Franklin in 1787 at the Continental Congress or Convention where, when the elderly lady asked him what kind of country are we to have, is it to be a monarchy or is it to be a republic, and the answer-- a republic, if you can keep it. If this question, and we can conclude with this, if this question were asked of you, let's say as you're coming down the steps of the Supreme Court where you've had a very productive life, and a very influential one, and with decisions that had an impact not only on the present but on all the future, what kind of a country are we to have and you would say a republic if you can keep it, what would you mean by that in 1972?

WARREN:

I think it would be the phrase itself is far more applicable now than it was in the time of Benjamin Franklin when our Constitution was written. For the simple reason that life was very simple there and the issues that were involved were very very few and a person could very easily keep informed

WARREN (cont.): and keep active in a situation of that kind. But as we have grown in size and grown in complexity, we find that there are wheels within wheels and it is not so easy to keep those wheels greased and running and properly functioning as it was in those days. And the more complex it becomes the more people have to realize that only they can keep this republic. If the citizens of this country don't do it, there isn't anyone on earth who can keep it a republic. And throughout history, republics have gone down the drain because people have lost their interest in them. Before the Christian era, the Greeks had many democracies all around the Mediterranean Sea and everyone of them went down. Not because of invasion from without but because they lost the will to govern themselves, and when they did lose the will to govern themselves, why they allowed oppressive governments to come in and take over for them. In Rome, it lasted a thousand years, it finally became corrupt, the people became, the officials became corrupt, the people became corrupt, they lost their will to govern themselves, they lost that pride in Roman citizenship that was so intense all over the then-known European world, and it went, by the board, to barbarians. And a republic is not an easy kind of government to keep because it depends upon every living soul in it. And it is because I believe the responsibility to keep it must be equated with the rights it bestows that I use the expression of Dr. Franklin to the effect, it's a republic, if you can keep it.

SACHAR:

Well, Justice Warren, it's been a very great pleasure to interview one of the youngest men in my experience.

WARREN:

Thank you.

ANNOUNCER:

On the same day this interview was recorded, former Chief Justice Earl Warren received the Dretzin Prize at Brandeis University and planted a willow tree in the area of the Interfaith Chapel.

SACHAR:

I think there's a special appropriateness about having this Warren tree planted here in the shadow of the John Marshall Harland Chapel.

WARREN:

He was the only one in the court of 1896 to vote against the separate but equal facilities on the ground that the Constitution of the United States is color blind. And sixty years later, his grandson sat in the court and it's appropriate that the Chief Justice should have been presiding over that court in the decision of 1954 that reversed that, and unanimously put it right. We feel that that decision of 1954 is historic and a watershed, and Justice Warren, I'm very proud indeed, as I'm sure our President is, to have you plant this tree which will be here as long as the University is, I hope, as a remembrance of this tradition that we're setting today.

WARREN:

Thank you very much Dr. Sachar, and Dr. Schottland, and Mr. Dretzin. I'm very happy to be here and it's very generous of you to make this award to me and I'm glad you found a left-handed shovel because I can't operate other than left-handed, but it's a great honor to be here.....