

Senate Missed Burger's Realty Deal

By Drew Pearson
and Jack Anderson

A real estate deal involving Judge Warren E. Burger has just come to light, which illustrates why the Senate should not have rushed his confirmation as Chief Justice through with such breakneck speed.

If the stacked Senate Judiciary Committee had given Burger a fraction of the same scrutiny it gave retiring Chief Justice Earl Warren or his proposed successor, Abe Fortas, it would have discovered that the new Chief Justice, while a member of the Court of Appeals, was linked with the lobbyist for the National Automobile Dealers Association in a real estate venture.

Furthermore, the Senators would have discovered that the property involved was a building at 901 East Capitol st. The lobbyist, Rowland Kirks, apparently having established something of a reputation as a result of his partnership with Judge Burger, went on to develop a long list of other real estate deals. And one of the questions the Senate should have asked the new Chief Justice was whether he was a silent partner in any of these deals.

Instead the Senate Judiciary Committee held only one hour and 40 minutes of friendly cross-questioning of Burger, compared with two months consideration of Chief Justice

Earl Warren. The Committee then spent five minutes considering Burger's qualifications.

Earlier, both Democratic Leader Mike Mansfield of Montana and Republican Leader Everett Dirksen of Illinois had promised careful scrutiny of all future Supreme Court justices. Sen. Mansfield promised that the Senate would end the usual practice of "almost automatic acceptance" of Presidential nominees.

Sketchy FBI Check

A few days later, this talk about careful scrutiny vanished. Various Senators, led by Sen. J. William Fulbright of Arkansas, urged that Burger's confirmation go over for a couple of days to permit careful consideration. They were outvoted. Sen. Mansfield, who voted for a quickie vote, alibied that the investigation had been done before the Senate hearing, presumably by the FBI.

Obviously, however, the FBI didn't make much of a check. As one Senator remarked: "The FBI couldn't follow the tracks of an elephant in the snow when a reactionary judge is involved."

Had the FBI done even the most superficial checking, it would have found from D.C. real estate records for 1964 that Burger and Rowland Kirks had purchased a build-

ing at 901 East Capitol st. from Dr. Myron Drapen.

The FBI would have found that Burger paid \$47,000 in one lump sum for the property, by check drawn on a Minnesota bank.

If the Senate had not been hellbent for immediate confirmation, it should have asked the new Chief Justice how he was able to raise immediate cash to the tune of \$47,000 and whether anyone helped him raise this rather large sum of money. No mortgage was taken on the house.

Tricky Trade?

The FBI, if it had done any real checking, would have found that one year after Burger and lobbyist Kirks purchased the East Capitol Street property in 1964 they sold it to Kenneth Strawberry, a State Department official. The real estate stamps filed with the District of Columbia indicate that the price was \$38,000. In other words, Burger and Kirks paid \$47,000 for a piece of property, then sold it for \$38,000—a loss of \$9,000 after paying for renovation and repairs. Who absorbed the loss? Or was it a real estate trade, which would have avoided taxes? These are questions the Senate should have asked.

Strawberry immediately put a mortgage of \$40,000 on the building as against the \$38,000 price he paid. This indicated that the property must have been worth around \$60,000 to

\$70,000, for banks normally lend 60 to 70 per cent value on a house.

There may have been absolutely nothing wrong with Burger's real estate deal, even though other judges—notably Chief Judge David Bazelon and Judge Skelly Wright of the Court of Appeals, together with Supreme Court Justice William Brennan—have decided to pull out of a real estate venture in which no lobbyists were involved. There was a straight building development at Concord Village, Va., where they were associated not with lobbyists but with former U.N. Ambassador Arthur Goldberg and Sen. Abe Ribicoff of Connecticut.

But for its own protection and as the protector of the public and for the protection of Judge Burger, the Senate should have cleared up the facts before voting.

Lobbyist Kirks, when asked by this column about the facts said he would consult with Judge Burger and then call back. Subsequently he confirmed the above real estate transaction, in general terms though stating he and Burger had paid \$37,000, not \$47,000. However, the real estate stamps on record in the District of Columbia clearly indicate that the price was \$47,000 and this figure was also confirmed by Dr. Myron Drapen from whom Burger and Kirks purchased the property.