

VANTY FAIR - APRIL 1992

EARL and LYNDON

An imaginary conversation
by NORMAN MAILER

From The Memoirs of Chief Justice Earl Warren, by Earl Warren:

Behind the casket was a saddled but riderless horse with a sheathed sword across the saddle and boots reversed in the stirrups, representing, according to custom, the loss of a leader. Heading the six-block march to the Cathedral was Mrs. Kennedy between the two brothers of her husband, Robert and Edward. Following them were President and Mrs. Johnson; then the rest of the dignitaries who had gathered for this mournful occasion from all over the world. . . .

After the ceremony, the caravan formed again, this time in cars, for the long trip across the Potomac to the last resting place of John Fitzgerald Kennedy in Arlington Cemetery. Hundreds of thousands of grief-stricken citizens silently stood along the route and watched. There, after a brief committal service conducted by Cardinal Cushing, Mrs. Kennedy lit the Eternal Flame at the head of the grave, and the throng, still stunned by sadness, dispersed and went silently to their homes.

Government must go on no matter what impediments confront it, so everyone was at his or her station Tuesday morning. That is not to say that government was normal. It was not. The thinking of most Americans was chaotic. . . . Amazing stories by supposed witnesses were published along with theories predicated on them, and most of the theories had to do with imagined conspiracies of various kinds. Many agencies announced the probability of holding public investigations independent of the others. . . . Things were

moving in a crescendo when on Friday, November 29, there was a request to my office for a conference as soon as possible with the Deputy Attorney General, Nicholas Katzenbach, and Solicitor General Archibald Cox. I agreed to see them immediately, and they arrived in my office very shortly thereafter.

They informed me that President Johnson, in an effort to bring order out of confusion, had determined to establish a bipartisan commission of outstanding people to investigate the entire affair and report the true facts regardless of consequences. . . . The President, they said, wanted to know if I would serve as chairman of such a commission. I told them I thought the President was wise in having such a commission, but that I was not available for service on it. . . . I was sure that every member of the Court was of the opinion that such appointments were not in its best interests.

. . . First, it is not in the spirit of constitutional separation of powers to have a member of the Supreme Court serve on a presidential commission; second, it would distract a Justice from the work of the Court, which had a heavy docket; and, third, it was impossible to foresee what litigation such a commission

might spawn, with resulting disqualification of the Justice from sitting on such cases. I told them that, historically. . . the appointment of Justice Roberts as chairman to investigate the Pearl Harbor disaster had served no good purpose, and that the action of Justice Robert Jackson in leaving the Court for a year to become chief prosecutor at Nuremberg after World War II had resulted in divisiveness and internal bitterness on the Court. I asked the Deputy Attorney General and Solicitor General to convey my respects to the President, but to tell him that, consistent with my own beliefs and those of the other members of the Court as I understood them, I must respectfully decline the honor.

I considered the matter closed. However, about three-thirty that same afternoon I received a call from the White House asking if I could come to see the President and saying that it was quite urgent. I, of course, said that I would do so, and very soon thereafter I went to his office.

[They are alone in the Oval Office.]

LYNDON: Sitting here and meditating, Chief Justice, on the horrible and heart-rending events of last week, I've come to realize we haven't had ten minutes of private conversation between you and me in all these many years of your service in Washington, yet there is nobody in our three branches of government to whom I am ready to tender more respect.

EARL: That's a most generous remark, Mr. President, and I thank you for it.

LYNDON: I want to relieve any uneasiness you might feel over this meeting. I can certainly understand your demeanor this morning. Katzenbach and Archie Cox trotted right back here after their session with you, and they briefed me on your objections. So, it is clear to me why, in all sincerity, you feel that you cannot head up my proposed commission of inquiry into Jack's death. There is a solemn heft to your logic in these reservations. I believe I comprehend. For the Supreme Court to function at the highest level, relations among your nine renowned men must remain collegial, yessir. And that

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Supreme Court
Chief Justice Earl Warren
with L.B.J.

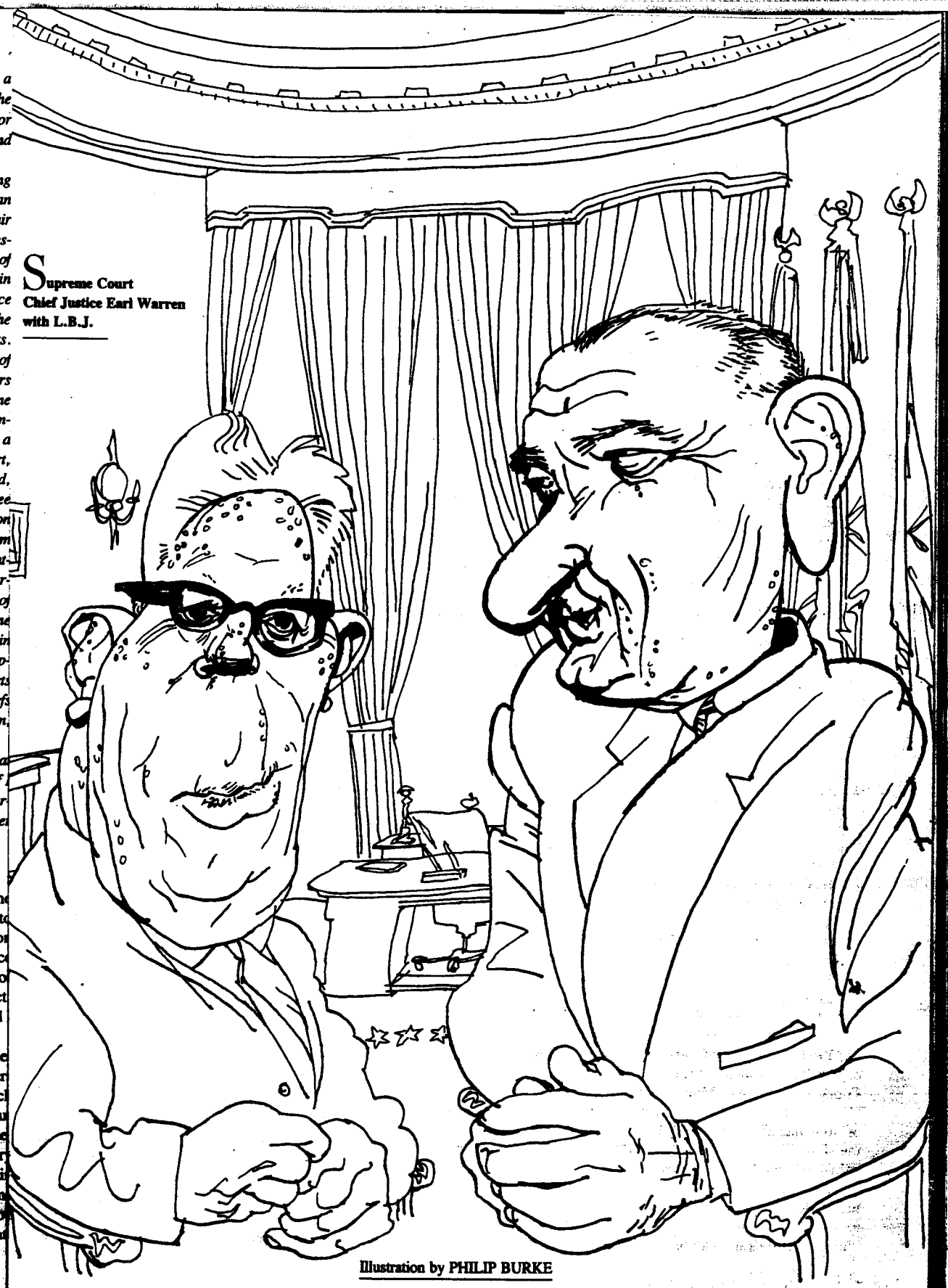


Illustration by PHILIP BURKE

I now recognize, depends on unvoiced agreements with your brethren. I do indeed comprehend. Without the mutual if unspoken understanding that none of you will accept outside tasks, you nine supreme judges, under the most parlous circumstances, could return, even revert, to emotions some of you used to feel, maybe could have felt, before you donned the robes back in those days when you were but nine high-powered lawyers. You do not have to tell me. I know. It figures. A Supreme Court justice has to be highly principled, but it does cut to the quick if one of his brothers should take on some outside role or function that might be viewed as more prestigious by the world of opinion. Hell, there's not supposed to be anything more important than a seat on the Supreme Court, so what is one leaving it for?

EARL: Mr. President, that is what I attempted to convey this morning to Mr. Katzenbach and Mr. Cox, and I see that they relayed my sentiments on to you most accurately, whereupon you have enriched them with your personal interpretation.

LYNDON: That's what it is all about. Before you start to look at a problem, try to see it through the other man's eyes.

EARL: Can I count, therefore, on your full understanding of why, this morning, I did have to decline the honor of serving as chairman of your presidential commission?

LYNDON: You can bet I understood, Chief Justice. I know what you believe in. I honor your work. That is why I appreciate your flexibility in coming over here this afternoon after you said no this morning.

EARL: I had to. You are the president of the United States. Who can conceive of all you have had to bear up under in the last seven days?

LYNDON: Let me nod most lugubriously to that. Last Friday, November 22, 1963, Jack Kennedy was alive. Today, he is one week deceased. From a Friday to a Friday. Mortality feels as close to me at this moment as the palm of my hand if you had just stripped off the skin. I think of Jack all the time. I speak to him in my dreams. "Keep it afloat," he says to me, "keep this mighty republic seaworthy." "I will try to, Jack," I tell him.

EARL: There is no way for us to cease

thinking about it. My daughter came into my study on Sunday and said, "Daddy, Lee Harvey Oswald has just been shot." "Oh, Lord, Dorothy," I told her, "don't repeat such rumors." "Daddy," she said, "it's not a rumor. I just saw him shot on television."

LYNDON: There you are. Chief Justice, the nation is in an unparalleled situation. The crazy house has come to town. Nothing like it since the death of Abraham Lincoln. Worse perhaps. We are desperately in need of greatness. Earl—I want to call you Earl—have you ever applied your mind to the concept of what is a great American?

EARL: Mr. President, I muse about that sometimes.

LYNDON: I ponder it all the time. Being a great American goes to the essence of why I asked you over here today. The human dimensions of any great American are, in my opinion, poorly comprehended. In fact, the public attitude partakes of condescension. Most people believe that a great man is born. Period. That's all. Fate takes care of his greatness thereafter. What the hell, he is destined to become great. I say there's more to Abraham Lincoln than predestination. I'll offer you my concept: The great American is a man ready to search out a way through the labyrinths of hell. He is a master of the rite of passage. He can deal with the illimitable corruptibility of the human spirit, yet not turn corrupt himself. That is no ordinary feat. Lord, no! It is the most isolated goddamn condition in the world. It is a true abyss of isolation. Earl, you and I inhabit that vast and empty place. There can't be many people in America who know what is incumbent upon our position. 'Cause we are the ones who make the decisions nobody else wants to get near to, not when the responsibility is cosmically large, and there is no one with whom to share your awesome doubts. We are the two loneliest men in the country. I wish to salute you.

EARL: I've found only one formula. It's to keep my eye on the target and stay at my allotted task. It's to keep on maintaining the collegiality of my eight brothers. It is my belief that the Supreme Court, when convening properly, offers a great sense of peace, security, and wise decision to our American people.

LYNDON: I hear every word you say. I hear every word you say. Nonetheless, I

must reply: Earl, this nation needs you to set out on a long and perilous journey. You must go into the uncharted and the unknown.

EARL: I'm not here to argue with a president of the United States... I wouldn't know how.

LYNDON: You don't have to. We are engaged in a process of reasoning together. I maintain that incredible times can call for the temporary suspension of our best and most time-honored axioms, precedents, and judgments. This hour might just be one of those rare occasions. Only two of us in this room, right?

EARL: You and me.

LYNDON: Just you and me.

EARL: I believe you see the situation as urgent.

LYNDON: Worse than urgent. The situation is critical. Earl, I am going to lay my cards out. I will conceal nothing. The murder of President Kennedy was a terrible deed, but most of us could kind of comprehend it. To some degree. We could see how one crazy young man could do it. We all know crazy young men. It's a nice family doesn't have such a fellow in the back room. But then Jack Ruby came along two days later. We may never recover from the death he inflicted. The echoes reverberated around the world. Out in the grass huts of Africa and in the rice paddies of Southeast Asia, they now share one belief. It is that John Fitzgerald Kennedy was not killed by a crazy man who in turn was killed by another crazy man. No, they see it as a conspiracy. You have to know what that does to the credibility of this country. We are staggering around with an open wound which has ominous potential. At this moment, down in Texas, the state and local Dallas authorities are getting ready to hold their public investigation with television coverage. Earl, I love Texas, but I have to recognize that it has more polecats per capita than any other state in the union. Venality is as common as cow turds down there. A Texas commission! It cannot fail to be self-serving, inflammatory, and dishonest. The U.S. Senate and the House of Representatives are whipping themselves up equally for high-spotlight investigations. We will have a Tower of Babel. Can we afford it? Earl, my dogs tell me that you are the man to save this situation. You are respected around the world. Even those French intellectuals who don't cotton to

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anything they haven't thought of first respect the hell out of you. So I don't want to hear about collegiality. Because you were a soldier in World War I, right, a first lieutenant, infantry, correct? There wasn't anything you weren't ready to do for that uniform. Well, I'll inform you, there was nothing you could ever do then in that uniform comparable to what you can do for your country right now in this hour of trouble. Earl, we must have a commission headed by a man whom the people of this globe will trust: a Warren Commission. Because the gravity of the situation is such that it could all lead to war. I spoke last night to McNamara. Know what our secretary of defense gave me for his estimate? A nuclear first strike dropped on us would cause the loss of 40 million Americans. Don't even count the dead that our retaliation would produce in Soviet Europe and Asia.

EARL: Mr. President, should the situation be as serious as you say, then my personal views may not have the right to prevail.

LYNDON: That is precisely what I was hoping to hear you say.

EARL: But is it truly that serious? Are we not reacting to the prodigious impact of the shock?

LYNDON: Earl, on the basis of what you know, that is a reasonable remark. But there is dire stuff that you don't know. Which I am ready to tell. But I can't. No, I can't until you are ready to come on board.

EARL: You are saying that I have to take what could become one of the largest steps in my life entirely on faith?

LYNDON: On faith. On faith in me, Earl. It is that serious, it is that confidential. I am your president, and I give you my vow that the situation could most certainly lead to war. My vow, Earl, not my promise. Now, in turn, I need your vow that you are wholeheartedly on board.

EARL: Mr. President, out of respect for your vow, I have to recognize that there is no choice. I am bound, I see, to accept this commission.

LYNDON: Bless you. Bless your kin. Because now I can reveal that which is concealed, and thereby get you to feel a little more wholehearted about your acceptance.

EARL: I would appreciate that.

LYNDON: Speak not only to the mind of a judge, but to his heart.

EARL: Shakespeare?

LYNDON: Texas. Old Texas talk. Speak not only to the mind of a judge, but to his belly. Here, in the capital, I amend it to "heart," but "belly" is about as apt. If you can't digest a case, you can't honor your own ruling. You can't say "So found" in a good voice when there's butterflies in your gut.

EARL: I would call that de facto, Mr. President.

LYNDON: Good. We comprehend each other. We can get down to the gist of things. There's a hell of a lot of talk going on in this country right now that the Russians did it. The rest of the

K.G.B. reacted when Oswald showed up in Moscow in 1959 with the information that the U-2 used to report in to Atsugi at seventy-five angels.

EARL: Seventy-five thousand feet high?

LYNDON: Exactly. That was highly privileged information in October 1959. You can bet the Soviets looked askance at this ex-Marine who walks in. Just assume you are K.G.B., Earl. They are asked to believe that this particular radar operator on a secret air base in Japan was allowed by the C.I.A., naval intelligence, air-force intelligence, the F.B.I., and the State Department to take

‘ Last Friday, November 22, 1963, Jack Kennedy was alive. Today, he is one week deceased. From a Friday to a Friday. ’

world is offering a lot of equally loose talk that some of us Americans did it. Why? So we could start a war with Russia. That's a built-in drama of nuclear escalation.

EARL: Don't we know that Oswald did it? Can't we arrive at such a conclusion without doubt?

LYNDON: No, sir. Oswald is the wild hair right in the orifice of the problem. To the Russians he does not seem to be just a little dodo with half-assed radical opinions. From their point of view, he is kind of sinister. God Almighty, they had to wonder what was up when he defected to the Soviets in Moscow. Look at Oswald from their point of view. A former U.S. Marine! And he used to work in radar spotting at Atsugi air base near Tokyo. Did you know that the air force was squirreling away a secret plane on that base, and it happened to be nothing less than the U-2, the same U-2 that Francis Gary Powers bailed out of in 1960. Just think how the

a trip to Russia? The K.G.B. had to be convinced Oswald was an agent planted by us.

EARL: Are you saying he was?

LYNDON: Ask, but ye shall not find—our intelligence people are still searching their files. By God, you don't think they can afford to admit they got any tit caught in the wringer, do you? Earl, Oswald was or was not working for U.S. intelligence, but nothing you can work with is going to surface in a hurry.

EARL: You are asserting, then, that the K.G.B. saw Lee Harvey Oswald as some kind of intelligence agent for us? ←

LYNDON: They had to, Earl. They must have had a dozen of their people following his every step. Why, that Russian girl he married might have had to report to them. Who knows? For whatever reason, he comes back with her and their baby. But how does he get back? Why do we let him in? Who is keeping those files now? Which organ of us? Or them? (Continued on page 260)

Earl and Lyndon

(Continued from page 203) What was the K.G.B. doing after he came back? Earl, this is one of those events where all the roads intersect. There's a fellow named De Mohrenschildt. In the last fifteen years, he has probably worked for five or six intelligence services. He was Oswald's best friend in Dallas. I expect that Oswald was under so much pressure from so many intelligence agencies he probably wasn't even sure his own mind was still loyal to him. Earl, those fellows in intelligence are now wondering if they were the ones who drove him crazy enough to kill the president.

EARL: Yes, one can sense the repercussions.

LYNDON: No, it's worse than that. Fidel Castro could have done it.

EARL: He couldn't have. He would never have been so mad.

LYNDON: Maybe not, but Fidel don't know what his people were doing any more than we know what our people were doing. Earl, never let the next revelation leave your lips. This is as top-secret as it is going to get. I was briefed the other day in the most profound atmosphere of containment. The C.I.A. made eight attempts to kill Fidel. Now, whoever was telling them to do it, the point is, Fidel was going to perceive all that as coming from Kennedy. Bad enough? Earl, that is not the bottom of the pit.

EARL: Not?

LYNDON: The C.I.A. was employing the Mafia to do the job on Castro. All the while that Bobby Kennedy was trying to slam Jimmy Hoffa and Carlos Marcello into jail, we were running a goddamn Murder Incorporated in the Caribbean. There is no end to what the Mafia might have been doing. They could have had a gunman in Dallas sitting right next to Oswald. Or maybe he was staked out behind

that fence overlooking Elm Street. But we can't nail the Mafia to the wall. They know too much.

EARL: I can see how delicate it will be to unearth the facts.

LYNDON: Earl, we cannot allow ourselves to get interested in facts.

EARL: What have I agreed to? Can I bear to keep to such an agreement?

LYNDON: It's awesome in the abyss. But here we are, Earl. Your vow has matched my vow. And here we are. We simply cannot allow the imputation that Oswald was any kind of intelligence agent. Earl, your commission may have to tread a long road, but you are bound to discover that Oswald was just a poor lonely guy who killed the president on his lonesome, alas, and Jack Ruby was a highly disturbed but chivalrous individual who didn't want Jackie Kennedy to be obliged to testify in court.

EARL: You are asking me to commit acts I have never engaged in before. Acts I despise.

LYNDON: Bullshit, Earl! Nobody is as honest as they believe themselves to be. Show me a lawyer who hasn't steered a case.

EARL: This is not a case. This is a fact-finding commission at the highest level.

LYNDON: Well, you are here and I am here to protect this country. We are sitting on a powder keg installed in a latrine. If that barrel ever blows, this nation will be subjected to unconscionable spew. I warned you, Earl. I am looking for a great American.

EARL: You are asking me to contravene the purpose of the commission which will bear my name.

LYNDON: Yes, and I am asking you in the name of a higher purpose. I want you to protect our nation. We have a half-stable public out there. It pays never to forget that we Americans are the rejected of the earth. They didn't want us over there

in Europe, so we came here. Nobody was around to groom us. We had to learn how to sprout on the soil available. No skillful hands tended us. We grew up as weeds, therefore, and as weeds did this great nation develop. So, we wish to survive. If my roots have got to strangle your roots in order for me to stay alive, well then, don't bother to look, it's a done deed.

EARL: That is a full description of ruthlessness.

LYNDON: We are here to reassure the populace. That has become our mightiest function. Earl, I will be blunt. You have to dead-ass the inquiry. You have to slide the facts around. By that means, you can give us what we need—a world that makes sense. Because everybody understands lonely people who go crazy for no reason. It'll get us feeling right about things again. Face up, buddy, you have to go in the tank.

EARL: Go in the tank? If there is a heaven, I hope it is not hearing us now.

LYNDON: Heaven approves of this, Earl. It's all right. You can take the dive. Hypocrisy has its own integrity. You will find that you shit better when this is all over. That is my private guarantee.

[He puts his arm around Warren's shoulders and walks him out of the room.]

From *The New York Times*, February 5, 1964:

Yesterday, in discussing whether testimony taken by the commission would be made public, Mr. Warren said: "Yes, there will come a time. But it might not be in your lifetime. I am not referring to anything especially, but there may be some things that involve security. This would be preserved but not made public." □

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Robert Morgenthau

(Continued from page 173) fact, unwilling to testify at the time, and that they needed more time to build the case.)

Blum knew there were many other areas to explore—he had been told by a witness that B.C.C.I. was the secret owner of First American. Now he became convinced that he was being thwarted by peculiar maneuvers on the part of Clifford and Altman. He also believed that something untoward was going on at the Justice Department. The number of agents as-

signed to help him investigate the B.C.C.I. case had mysteriously dwindled; witnesses were telling him they had heard B.C.C.I. lawyers were bragging in the London office that they had torpedoed Senator Kerry's hearings. When Florida B.C.C.I. executive Amjad Awan was subpoenaed, he told an undercover agent that Altman was advising him to flee the country. Blum was convinced that Clifford and Altman were stalling delivery of documents that he had subpoenaed for the

Senate. They were, he believed, "feigning complete ignorance of what it was we were going after.

"The thing that infuriated me was that, at the same time we had a subpoena out, there were people inside [B.C.C.I.] who were telling us that documents were being shredded in the bank's Washington office because we had issued a subpoena. That angered me greatly," Blum told me.

"I said to Morgenthau, 'This is the biggest bank fraud in the history of the