

DREW PEARSON

## Senate Ignored Burger Real Estate Deal

WASHINGTON—A real estate deal involving Chief Justice Warren E. Burger has just come to light, which illustrates why the Senate should not have rushed his confirmation through with such a 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 predecessor, 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 slum property, a building at 901 East Capitol Street. The lobbyist, Rowland Kirks, apparently having established something of a reputation as a result of his partnership with Justice Burger, went on to develop a long list of other real estate deals. And one of the questions which 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 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.

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A FEW DAYS later, this talk about careful scrutiny vanished in thin smoke. Var-



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ious Senators, led by Sen. 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 building at 901 East Capitol Street from Dr. Myron Drapen.

The FBI would have found that Justice 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.

Automobile litigation frequently comes before the U.S. Supreme Court, and presumably there will be more of it now that Congress has passed automobile safety legislation. Kirks was the registered lobbyist for the automobile dealers, now represents the American Textile Manufacturers Institute. Textile matters also come before the supreme court.

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 \$33,000. In other words, Burger and Kirks paid \$47,000 for a piece of property, then sold it for \$33,000 — 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.

Mr. Strawberry immediately put a mortgage of \$40,000 on the building as against the \$33,000 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.

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THERE MAY have been absolutely nothing wrong with Burger's real estate deal, even though other judges — notably Chief Judge David Bazelon and Justice 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 Con-

cord 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 for 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 that 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.

Kirks further stated that his relations with Justice Burger "except for this one transaction have been purely social; we have never been associated in any other financial transaction. I have never appeared in any case in the U.S. Court of Appeals since he has been on the bench."

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FORMER Defense Secretary Clark Clifford went through many qualms before telling the story of how he was converted from a hawk to a dove.

Clifford's chief worry was hurting his old friend and chief, President Lyndon Johnson.

After Clifford first spoke before a group in New York where he told of his conversion, Sen. Fulbright asked him to testify before the Foreign Relations Committee along the same line. But Clifford specified that his testimony be in closed-door session for fear of hurting President Johnson.

As an unofficial adviser to Johnson, Clifford had urged him to prosecute the Vietnam war up to the hilt. Along with Abe Fortas, he was one of LBJ's chief hawk advisers.

But when Clifford got into the Pentagon as Secretary of Defense and came face to face with Vietnam problems, he became the chief force for peace inside the cabinet.