



From the Desk of
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Vice President for Academic Affairs

5/27/99

Dear Norm,

Here is the David Young interview — all of it, the original. Also included is an interesting fictional dialogue that includes you and (I hope) the final draft of "Days".

We greatly enjoyed our dinner at Trent Street.

Dawn sends her love.

Best,
Jill

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AN INTERVIEW BETWEEN

NORMAN MAILER AND DAVID YOUNG

conducted in 1970

9/1/72

INTERVIEWER

I am interested in your definition of what an
artist is.

MAILER

I'm not sure I know.

INTERVIEWER

Let me give you a statement that stuck with me.
Just one sentence. An artist is someone who perceives
relations that are not noticed by other people.

MAILER

By that logic an inventor's an artist; a mathematician is an artist; a physicist is certainly an artist. Besides there are great artists who don't see that many new relations but have an exceptional sense of how various styles and manners work. . . . There are playwrights who don't have original plots.

INTERVIEWER

Shakespeare. . . .

MAILER

I think in one sense he's actually quite an inventor-- the relations he discovered in language. His metaphors are extraordinary. I'm sure certain people could work up a thesis that much of that modern English philosophy which comes out of Moore and Wittgenstein is a reaction against the metaphorical concepts Shakespeare gave us.

INTERVIEWER

Let's go back to our first question.

MAILER

It's a riddle, talking about an artist. I feel as if I'm just sliding around.

INTERVIEWER

Maybe a definition of art might help. Have you ever read Martin Johnson's Art and Scientific Thought? He defined art as the communication of feeling. And science as the communication of measure. But how do you measure feeling? I don't think it's possible. Now you can measure an orgasm I guess by some means, cardiograph and encephalograph and all that kind of stuff, but I don't think that is giving you any truth of that particular experience. I have a feeling that art and science and myth and magic are tending to grow together as our thinking progresses in a general sense. I was particularly struck by this when I was discussing anti-matter with a scientist. He said the top twenty scientists who can really deal with this subject have had to invent their own language form in order to be able to discuss it, it's so far out. And it has been discovered that 5000 years ago in Tibet a very similar language form was developed by certain monks who were discussing the sciences. It seems like the magic has come full circle. To me art has always been--well, indigenous to magic in one sense or another.

MAILER

Yet we have so many artists who literally invade technology, serious artists. We've even had that art-and-

technology movement in New York. It's getting to the point where if you go to the Guggenheim, three out of four new artists are in technology as much as art. In fact some of it looks as if an engineer took pages out of his workbook and stuck them on a wall. Of course, we can also say that the physicist invokes magic when he works, that he deals with magic. Oppenheimer has his famous remark about how he always knew he was on the trail of something good when the hair stood up on the back of his neck.

INTERVIEWER

Robert Graves used that as a test for a poem.

MAILER

Yes. If you stop to analyze it, the equation sign is nothing but a statement of metaphor. When you say: "y equals x^2 " you are in effect establishing a metaphor. Or, the obverse: Some kid in a gallery, looking at a painting, says "I see God in the yellow." All right, that's a metaphor which can be stated mathematically: the yellow in this painting is a function of God. A simple mathematical statement. Either way, artist or physicist has penetrated an equation into the substance of things. In that sense I'd say the physicist and the artist are closer to one another than the artist and the gallery owner, or the physicist and the engineer.

INTERVIEWER

Right. They might be married in the older sense of alchemy.

MAILER

You could say that they separated at that point where alchemy entered science and those who refused to go along with the controlled experiment, were left in witchcraft and magic. (They insisted on the personal touch.)

INTERVIEWER

That was when men dealing with the heavens split into separate camps of astrology and astronomy.

MAILER

Maybe the essential intent which separates the artist from the physicist is in their relation to theology, but I'd rather not use the word theology. Brutally, it is in their relation to God.

INTERVIEWER

You mean to their own notion of God?

MAILER

Obviously, they all have their own notion. If many of them can easily--physicists and artists alike--think of themselves as atheists, and I then come along and say it

hardly matters how they think of themselves, I will still say the difference is in their relation to God, it is obviously a way of saying that I believe in God. Obviously. Then, everything I try to comprehend is going to come out of this fundamental belief. That is, of course, a terrible arrogance. But just as obviously, the only way I ever begin to comprehend anything is by indulging such a stance. I don't believe it's possible to approach a tricky or mysterious question without assuming that you're right every step of the way--at least until you find out you're not right. Then you can begin to search for the error in your intuition. But recognize that other kinds of inquiry lead to the computer. There you put in your collected experience plus the reported experience of others and wait for a statistic.

INTERVIEWER

No room for the intuitive leap.

MAILER

I would assume that while the physicist is titillated, even thrilled, by experience of magic in his work, and while the artist is often drenched in statistical detail (since he has to deal with a world that grows more and more technical and difficult to comprehend), at bottom their interests are

opposed and they're enemies. Because the physicist is finally trying to destroy the fundament of magic, and the artist is trying to blow up the base of technology. The artist believes (and this is the greatest generalization I can make) that all cosmic achievement is attainable within the human frame, that is, if we lead lives witty enough and skillful enough, bold enough and finally illumined enough, we can accomplish every communication, and make every vault within the cosmos that technology would attempt to make. In fact we're now coming face to face with the fact that technology has come to the end of one of its limits. As we go off into space, what we're up against is the knowledge that even if technology keeps expanding at the same extraordinary rate, nothing seems to offer any possibility of getting out the solar system for thousands of years. Which means we may have taken the wrong road. Somewhere five, ten, and twenty thousand years ago man took the wrong road. He separated himself from those dire disciplines of magic which might have enabled him to communicate with the cosmos. In fact this language of the Lamas that you were talking about might have been precisely that same language. They were dealing with matter and anti-matter, they were communicating.

INTERVIEWER

I have a feeling that an artist pursuing that notion now may be the thing that will save us.

MAILER

Well, I don't know if we can pursue it. I'm talking about savage sensibility. The sensibility of the primitive who requires it to exist. You see, the primitive obviously had a life of extraordinary difficulty as well as incredible sensitivity. He had senses which were closer to the animal. He also had fears closer to the animal. These fears are so intense--anyone who has ever felt dread in any real way knows it's so unendurable an experience, that one'll do almost anything to avoid it. So I would come near to arguing that civilization came out of man's terror at having to face dread as a daily condition. Therefore we created a civilization which would insulate us from the exorbitant demands of existence. I'm not speaking now of those smaller or unbelievably pressing demands in that time of growing or killing enough food to be able to live simply. I'm talking of that greater terror when the trees spoke to one, and the message of the trees was not agreeable, and worst of all the trees were right. The message one got from the trees was true. The storm they told you about--that terrible storm which was going to

make the river wash over its banks and destroy your hamlet in three weeks was true. What a terror. What a terror. I'm saying that man did everything he could, you see, to get away from that kind of intimacy with nature, that foresight, that dread.

INTERVIEWER

Do you think that the invention of the devil might have come about from that phenomena?

MAILER

Well, I'm not so convinced the devil is an invention.

INTERVIEWER

~~JUNG~~ Which brings me to one of my favorite quotes of Carl ~~Young~~. "The moment you remove the devil from society, you only allow him to re-appear in an infinite variety of anonymous forms."

MAILER

I would make an obeisance to that remark. A doctor inoculated my two-month-old daughter for diphtheria yesterday. He caught me at a weak moment. I argued with him feebly. They've found through experience that it's easier to inoculate kids at the age of two months than it is to inoculate them when they're four years old or five years old because the kids pass through the discomfort of

the inoculation in a few hours when they're infants and they're sick for a day or two later on. The larger argument that maybe people who get diphtheria should die of diphtheria can't begin to be ventured into. The doctor would have looked at my daughter and me through slant eyes. But what ate at me was that I had slipped my daughter into the technological chain of being. Chemicals stuck into her body at the age of two months. She was now going to be part of the chemical balance, imbalance, balance, imbalance, that all modern medicine consists of. She had gotten into that synthetic chain where chemicals which never grew out of the earth are installed into our bodies and we react to that in ways nobody understands. I think they keep giving us more chemicals to keep finding that balance that they've lost.

INTERVIEWER

It's like a liar lying through to. . .

MAILER

Yeah. . .

INTERVIEWER

. . .to his first lie.

MAILER

As I was talking about it, I suddenly said--I said, you know, they do to human beings what they wouldn't do to

machines. And it's absolutely true that technology has more regard for the machine and fucks with it less than modern medicine plays with the human body. That's what I expect is the ubiquity of the devil. At the least, looking at it phenomenologically, there are powerful forces working to separate man's mind from his body. The intent of technology is to allow man to be a mind independent of all needs which keep the body within limitations. The fundamental notion of technology probably is that there is no fundamental wisdom of the body which the brain cannot relocate within itself. In other words, the astral brain, the disembodied brain, is a superior piece of intelligence to the corporeal flesh-enclosed brain. As an expression of that, a lot of the functions of the brain having to do with habit are being taken over by the computer, with the terrible danger that about the time we lose the mental ability to do the intellectual tasks we are passing into the computer, we will be unable to spot errors in the computer. That is, we will be able to spot the errors but we won't be able to locate where they are and how they got there. Nobody will have the will, or the simple stamina, to trace out the circuits to see where the error got in. It'll be too boring since we will have lost the habit of undertaking drudgery in mental work. Boredom will be as insupportable to the mind in such a future time as fire now is to the flesh.

INTERVIEWER

I'd like to give you a quote. A friend of mine says "Art is inarticulately certain, and science is articulately uncertain."

MAILER

I think that's true. But it doesn't help much. For next you have to get into fundamental philosophical questions like the relation of the articulate to existence. An existentialist could argue that because something is articulate does not by itself offer proof that it has any relation to being true. It may have a relationship to being--we usually assume it has a relation to being--but it may not. For example: the yellow matrix of the pyramidal doughnut probably has no relation to being.

INTERVIEWER

Are you speaking of articulate in the sense of the word?

MAILER

The word as opposed to the feeling, to the hunch, the unvoiced sentiment, the unvoiced apprehension of things. Language may bear the same relation to man that technology bears to husbandry, or at least to any of the activities by which primitive man hewed out his existence. For instance, if I am a primitive, and alone in a forest, and live with

all the terrors and agreeable forces of that forest, and walk with the principalities of the gods of that forest,-- or so I as the primitive hold them in my mind--terribly aware of the huge and ominous sense of pride in that giant oak which I believe is the center of the forest, well then as I pass by its periphery I may have an exceptional sense of over how far a distance extends the hegemony of the oak. Think of that as equivalent to talking about the anima which surrounds a human. When we speak of charisma we suggest that as you approach someone who possesses it you can't get too near before you feel that you're entering some envelope of their presence. You can be three feet away from them, but something has changed in your own psyche. It's what people speak of usually as vibrations. At least one form of vibrations. Like entering a field of resonance which surrounds certain people who are highly charged.

INTERVIEWER

Like an induction coil?

MAILER

Like a magnetic field. I think the primitive lived in a world in which all natural objects around him had these fields. Wherever one powerful psychic field met another there was a mood. Where the presence of the oak met the presence of the field of tall grass, so there was a mood,

and in that mood the savage walking through was aware that he was a third presence who was picking up some sense of events to come. Or picked up some sense of the past. One of the characteristics of most primitive languages, I suspect, is that their sense of past and future is different from ours. For instance in primitive Hebrew, which is to say the earliest forms of classic Hebrew, there is no separation of the tense for past or future, no firm difference between past and future. In fact, there are merely two tenses, the present, and another tense which has to do with actions which occurred either in the past or in the future. Only a very simple shift is made in that verb form. If you want to talk about the past, you say "I left." If you wish to say "I will leave," you express it by, "And I left." My God, I spent years thinking about this. What a different sense of existence! Since primitive man keeps no records, the ability to distinguish between his memory of the past, and a dream becomes next to impossible. Of course, primitive people also employ last night's dream as something which will give them intimations of the future. And, of course, it's possible the dream, far from being a wish fulfillment, is actually that instrument which enables us to anticipate those problems we can afford to take on in the future. In other words, the anxiety system of the dream gives us clues as to how much intensity our nervous system

can take in different directions. That is why we use the experiences of the day before and re-play them through the complications of the dream. We dramatize them in our imagination. We put ourselves in tense situations to see how much anxiety and dread we can bear. Therefore the dream deals with the future as it is based on the experience of the past. Which means the two, past and future, are part of the same psychic river. So it's as if the primitive Hebrew saw his experiences forming into two halves: two tenses, two modes of being, the sensuous at hand; and the sense of that other time which was not at hand.

INTERVIEWER

That would tend to make the present of less importance, I would think. . .

MAILER

I don't know. Particularly since primitive man was not self-conscious in the way we are. His present, whatever it was, had to have an extraordinary difference from our present. He had to be immersed in it much more than we are as he walked through the forest picking up intimations from nature. Of course, I'm going along now on the not necessarily mystical notion that nature is an exquisite receiving and transmitting set. It's possible that one of

the ways God would communicate with the earth and the earth communicated back with God, if you will, is that every tree and blade of grass is capable of sending transmissions. Because parenthetically we know nothing about radio. If you scratch a crystal, and lead the vibratim out to a wire of a certain length, called an antenna, another wire of a certain length attached only to a crystal somewhere else can pick up your signal. Beyond that all we've done is improve the technique. Put it through a million improvements. Amplified it unbelievably. Yet that's all we know about the nature of such communication. The assumption may not be unreasonable that other ways of communicating are equally good. One petal of a flower communicating to a bee, literally, literally. Some of the messages we don't begin to perceive.

INTERVIEWER

Right, right.

MAILER

And so, as I say, primitive man, moving through these fields, still able to communicate with these oaks, these fields, would have intimations beneath the level of language. At a certain point he knew through these intimations, knew in the way a plant knows or a tree knows, that a storm was coming, or disaster was on the way, or the sun would be beneficent on the morrow.

INTERVIEWER

Yes. And we've lost that. Almost completely.

MAILER

Well, let me say, we may have lost it at the moment language began. Here is the point: Once there is language, then man has feedback. He no longer communicates to other men the way he once had a dialogue with the oak and the field. So long as he was communicating beneath the level of formal language, he had only to come back from the field and other men would see something in his presence which communicated his message. We just assume that primitives grunted at one another. We don't know. Primitive man may have moved into the clearing or into the caves where others lived and others knew his message. Because he was transmitting mood, they could decide whether he was true or false. But language, while it will often create moods, must as its first function interrupt mood, interpose itself against mood. Mood may be able to survive this insertion, but it is a different mood.

INTERVIEWER

Exactly.

MAILER

The moment primitive man began to speak words to other primitive men, in other words, the moment the articulate

was commenced, so the nature of man's reception of an experience larger than himself began to be altered profoundly.

INTERVIEWER

Which brings me, if I may interject, to the idea of art being inarticulately certain. I think what you've just said. . .

MAILER

. . .is an expansion of that remark. Right. In other words, art bears a relation to those intimations of the primitive. I know it's similar to the experience of every artist if I say that when I get an idea for a piece of work, I get it. There's an illumination in my head at that moment with which I don't have to argue. Trouble starts because you can't keep that incandescence, that illumination, that moment. And in fact, the reason it usually requires twenty or thirty years to make a good artist who's dependable as well as good, is it takes all those years to learn how to lose the mood and recover it, lost it and recover it, and learn how finally to be able to get it back each day in some tremendously diluted and warped and tortured form, but nonetheless, get it back. Enough so you can continue with your work. If you will, it's a function of the artist's relation to magic. For instance, you said a

while ago that the artist now tries to return to magic. But I think the horror of it is there's no one alive who can return us to anything. Our senses are so destroyed that we may be a light-year away from that primitive man. There may be no road back to him. Noneever. We may not be able to begin to do--to comprehend where we lost the way, or where or how we can restore it. The artist may finally be merely some sort of extraordinary recorder of the failure.

INTERVIEWER

I think the big problem for art today is to try to get back to the sense of creating a spell.

MAILER

Maybe you have brought us to the real separation between the artist and the physicist. Because the artist always seeks to create a spell. Today, of course, the artist is no primitive man, he's all but completely insulated from the senses primitive man had, and he usually acts as a mediator between magic and technology, between the world as instinct and scientific fact. But no matter how technologized the artist is in society, his central impulse is to create a spell equivalent to the spell the primitive felt when he passed the great oak and knew something deeper than his comprehension of things was reaching him. It's possible the primitive felt something analagous to what we

feel when we encounter a great work of art which tunes us into some deeper comprehension of something we can't even quite call any longer our knowledge, or our philosophy. It's larger and less definable; to employ the word again, it's more resonant. It's as if art seeks to restore men and women by reproducing in them that sense of a lost spell, as if the artist is some sort of magician or midwife between the lost life of the primitive and the modern world of technology. And, if you will, the ultimate intent of the technologist, and the physicist who is drowned in technology one way and another, is to try to elaborate ways of coping with existence which can be independent of the spell. For the spell cannot be measured. (It must be distorted by the shift in mood at the attempt.) Which comes back to your remark earlier about the articulation of uncertainty as opposed to the certainty which remains inarticulate.

INTERVIEWER

Do you think, just from an objective point of view, that art has much chance to flourish in this regard?

MAILER

Well I think it has more now than it had ten years ago because I think we've begun to come around some extraordinary corner. There is a recognition, even among technologists

themselves, that something desperately bad is happening in the very foundations of technology. It's as if there is a collective recognition beginning that these foundations are indeed ill-founded. That the whole machine of technology finally has been bolted to a base which will not remain permanent, which is in fact rotting beneath that planned future machine of technology. It's not only until man enters a series of failures which destroys belief in a huge endeavor that another huge endeavor in an opposite direction can begin. I think this is happening now. I think the one note of hope that we can feel in these times is that faith in technology is beginning to waver and in fact, it's possible that technology is going to go through a period that will be as destructive to it as technology was to theology over the last hundred years.

INTERVIEWER

That in a sense is healthy.

MAILER

We could advance the huge argument that theology was a species of spiritual technology designed to insulate man from his existential existence, from those lost senses of the primitive. And failing to work, technology replaced theology, but technology, in turn, if it fails to work,-- well, at that point, it seems to me there is nothing left but

a return if there's anything left to the old notions of magic which orbit around the fundamental notion that we're all capable of extraordinary psychic communication, not only with each other, but with elements of the universe we haven't begun to conceive. That may be the great turn of the wheel of history, if we can clear the ecological system of the world as we know it. We may not be able to. We may be in the position of an invalid who's going to linger, even for centuries, in some sort of half existence. That could also happen. There's no reason to assume man was incapable of permanently injuring the world he inhabited. We may live on as some sort of crippled social existence.

INTERVIEWER

Well perhaps the best thing we can do as artists now is to persist in making that notion available. For example, a lot of the movements, ecological, etcetera, are spreading and are, I think, positive, but there seems to be a lack of a coherent vision going on when you think of all the different groups which are trying to make the different changes. I think that lack of vision is fundamentally a religious one, I mean the lack of the religious notion. The whole notion of God has become suspect, I think partly because so many of the church systems have degenerated into bureaucracies. The Catholic church is very guilty of that, even though they do it with great flourish and pomp, etcetera.

MAILER

Except that the Catholic church has these enterprising ministries. The Berrigan brothers with their enormous influence on young Catholics. While there are many more radicals among the Protestants, such intensity of thinking among devout Catholics has to be impressive because the Church is so structured. Since Catholicism is also closer to magic than Protestantism, profound changes in the power-structure of the Catholic church are exciting. Given the Church's extraordinary ability to pass down all the rapids of history, it may end by leading people out of ecological disasters.

INTERVIEWER

Of course the worst thing about Protestantism is it eliminated magic.

MAILER

Yes, it eliminated magic.

INTERVIEWER

Church in the 15th Century was a pretty lively place. It was a place where everybody connected. All deals were made, all kinds of--it was a big catch-all. And there was the center of life and celebration involved. In present day times you find that in voodoo in Haiti--not voodoo in any of

the mumbojumbo, but a voodoo session. It's a gathering. It's a Saturday night party and it's profoundly religious and a tremendous amount of leg pulling being put on as music, dancing, this eroticism, this healing--it's an all around bag. And it's the only experience I ever had directly that I would ever consider profoundly religious and extremely human. It made me think back on the nearest thing we had to it years ago in places like the Delanto Bar in New Orleans. And it seems to me that what's happening here now, with God is Dead and all such stuff is that there has been an incredible decline, co-incidentally or not, an incredible decline in feeling itself. And I say that in terms of ordinary people-to-people contact, not in a broad sense. But that's what I've noticed in, for example, bars, which used to be I can remember 10 years ago much warmer places to be, much more fun, much more social intercourse going on and a lot of gaiety, and there would be fights and all of that sort of thing too but more vitality. Seems to me now. . . .

MAILER

Yes. Ten years ago, particularly in New York, one could feel we were moving toward an exciting world because we knew more about a good life than we saw in our society. And we were beginning to have a glimmer of the possible success of

that life. I think the magic of the Kennedy years was precisely the feeling that, yes, we're getting into an interesting world where the government is going to be not that far away from us. We're going to be working in the same direction. We used to use words like expanding, and all two many spoke (badly) of getting into human possibilities, or enjoying the richness of an interesting relationship. So on. I think we were getting rid of that old dead traditional Fifties baggage, absolutely dead. What's happened of course is that as this liberation began to develop, the drug revolution came along and completely accelerated us out of any natural orbit between man and his government, and flung us into some extraordinary place where nothing is related to anything else any more. Not by measure, morals, or proportion. So nobody has the faintest confidence today that they contain knowledge, or at least nobody I know has the confidence they have knowledge which is necessarily going to improve the world. Of course, there are any number of revolutionaries, black revolutionaries and women revolutionaries who feel they have an experience which will prevail. But there's something in the character and style of their arguments which doesn't give us this confidence. They're so harsh and angry. The tone is nihilistic rather than revolutionary. Still we listen. For nihilism is speaking to the fundamental suspicion that there's too

much human material on earth. It may still be a valid revolution but for reasons other than the revolutionaries are arguing. The future real function of such a revolution might be that it cleaned a lot of people out of there. Too many people around, too many products, too much pollution. In fact we reach a real cure for some of our ecological diseases by wiping out nine tenths of the people on earth. It may be easier for the earth to rid itself of nuclear wastes from an absolutely disastrous war than for it to go on suffering in our over-labored, poisonous system of economy and technology. So one of the things one begins to question in many revolutionary movements is whether their collectively unconscious intent is not to rid the earth of excess. That's one reason we're respectful of these movements. It may also be why one doesn't feel any great urge to cry out, "They're evil." We've lost entirely the notion that we have some idea of who the good and evil are, or who even the funny people are. At least in the Fifties we used to have a feeling that Eisenhower was funny and there was warmth in the underground, that much we knew. A lot of America didn't know it, but they were going to find out.

INTERVIEWER

All of the black humor came out of that period, Lenny Bruce, Mort Sahl, and those guys. The violence of those various revolutionary groups now would indicate to me an eruption of despair.

MAILER

Well, we feel that we've lost any idea that we might be of use to the world, that our ideas are good, and the real problem is to get our ideas out to people. I mean now, whenever we have a new idea, the first thing we say to ourselves, is "My God, should we send this out? Wouldn't it be better to avoid polluting the intellectual waters?" It's as if we've become part of the plague. And yet for years I've been writing that a plague is coming. Of course it's more than a metaphor, but still the metaphor I use is cancer. Cancer is the disease which transcends other diseases. I've even argued that other diseases are solutions. When you get into a chronic psychic imbalance, when the ways in which your body and mind are collaborating are warped and out of tune, then the local disease comes along literally as your friend. It stops you. It makes you face your own reality.

INTERVIEWER

I think you're right.

MAILER

Of course, what's happened with antibiotics and with the technology of medicine, is that we keep evading such a confrontation. I've always felt the main reason cancer keeps increasing in spite of all the money, and research, that goes

into it, is we've gotten so much better at destroying the old diseases that we keep displacing measles and scarlet fever into unlocatable viruses. Finally we get to that one disease we can't displace, because, by God, it's there. Cancer. The body has revolted against the mind; the body is now developing its own cells, body cells free from mental organization, going off into some biological future which nobody can begin to comprehend. Well I think you can say one of the comparable things happening socially is all sorts of metastasis in the body social, all sorts of ideas which would have been considered straight-out nihilism a hundred years ago (of the sort that Dostoevski was always attacking with such accurate paranoid fire) are now viewed with dignity. Is it because of this feeling that the world as we know it has to be destroyed? Has to because we've lost the way, and the only route to find that way again--so goes the unspoken argument of the nihilist--is to see what survives?

INTERVIEWER

Don't you feel that there is one thing we can do now, I mean improve education for children? That's a way of seeing what survives.

MAILER

I don't know if it's possible. The gulf is in the tap root. For instance, we can't even begin to teach arithmetic until we are able to abstract the object we're looking at. That means we have to divorce ourself from any intimate notion of its presence. The reason many sensitive children (black children particularly!) have a terrible time with numbers or arithmetic is because they've giving up a vital faculty of perception about the time they come to say that three apples and four apples make seven apples, and three horses and four horses make seven horses. What they have had to do is alienate themselves from the presence of the apples and the horses. Which is to say, ignore objects that are communicating to them. Seven horses in a meadow speak of many more vital matters to a child than numbers.

So if the faculty of measure in science is a species of communication, existential communication had to be destroyed in order for scientific measure to begin. Natural communication destroyed to provide mechanical communication. The false assumption that's been made by society was that mechanical communication (which is, by now, ubiquitously, electronic communication) was an addition to all other forms of communication. It's not. It's at the expense of other forms. The ability to measure comes out of the fact that we have destroyed those faculties which once gave a more acute

sense of measure. To primitive man, it wasn't of first importance whether there were seven horses or five horses in a field. More important was the communication that he got off that tribe of horses. That herd. Five horses in a powerful and dangerous mood are obviously much more meaningful to him than seven horses placidly eating. Again, the mood. That was the only kind of measure to primitive man and it was a true measure I would think because it was a non-psychotic evaluation of the field of environment before him. Number cleaves the brain and encourages psychosis. If we are to talk of teaching children, the present permissive notions of instruction by which children learn have something, I think, fatal in them. Fatally dull. For example, you were talking to me earlier, while we were not recording, about some friend of yours who had studied with Lamas, and how the Lamas would beat the students with bamboo rods if they weren't learning the lesson. I was pondering that, and it seemed to me, of course! that was indispensable. The modern pedagogue would exclaim, "What an awful way to instruct; these people are learning in fear." And the students will of course be in fear, will have a certain, let's say, ugly incentive to learn as well as a fine incentive. That may come closer to matching the dualities of the student's nature. Perhaps beating with rods is also done for the instructors because, well these

instructors are trying to instruct students in spiritual matters of the utmost delicacy. There's nothing will destroy everybody's delicacy more than deadening the teacher. A teacher who's determined to be kind and tolerant and humane to his pupils at any cost to himself, while certainly a lady or a gentleman, is not necessarily refining his own qualities.

INTERVIEWER

By not communicating, in effect.

MAILER

By not communicating the rage a pupil arouses in him at an inability to learn. It may be a purification rite for the teacher to whip those students. Think of the way in which an artist turns on himself or turns on others when they fail to embody his vision, or how most theatrical stage directors or movie directors are sadistic to their artists when they fail to deliver the work. Perhaps the master is entitled to whip his students. At least let the question remain open. I don't think we're going to be able to teach children a great many things so long as we have notions of letting them advance at their own rate in a gentle atmosphere, advance in the confidence that whatever expression issues from them is going to be a happy expression, and that all expressions are equal. Perhaps the most intense expression

of education is to go through the experience of being afraid of a teacher, dominated by a teacher, fascinated by a teacher, and yet be able to transcend that teacher ultimately. It may be the only true education is through transcendence. Parents can bring every good to their children, can try to teach them in the tenderest way. But it isn't necessarily incumbent on the educational system to also present children with tenderness, because to bring up a child in an atmosphere of vastly greater geniality than exists in the world is a dubious venture. You wouldn't send armies into battle without having given them rigorous training. I think the direction for future education may be for the disagreeable aspects of school to emerge more than they do today. Let kids know what it is to wrestle with a closed system. To have that closed system killing things in them literally, so that they have to fight back, develop powers of adaptation to cope with a repressive and difficult system. In compensation, let's have other parts of the educational system freer than today. We need a sense of opposites. I don't trust any concept of education which assumes there is a way to teach children better than all other ways.

INTERVIEWER

I think children have to be taught to be agile, to be able to keep their wits, and learn to preserve that center

of their being, allow it to flourish. The education of our future is possibly the one thing that is going to allow a future to be.

MAILER

I have a different notion about a viable future. I repeat: I think we've lost the way. I suspect we're only going to find out what works by allowing more variety to the notion of society than any previous civilization has even begun to conceive.

INTERVIEWER

A hundred different life styles.

MAILER

Yes, but not embodied in sects and clans and groups and secret societies. Rather, have open societies founded on other notions than the political and the economic. That was the idea with which Breslin and I were working when I ran for mayor in the Democratic primary. The only way New York could begin to save itself, we argued, was to let people have a little power over their immediate environment. Indeed that's the only way you ever learn. I think one reason why artists sometimes live to an old age and are rather nice looking old men is because they are able to try an idea and see the result of it. A man who doesn't have the life of an

artist lives in this--it seems to me--almost unutterable anguish, in an almost implacable hostility toward any idea that's new because of the fact that he, poor ribbon clerk or hard hat, has had no chance whatsoever to test out his own ideas. I mean, the closest an ordinary man can come to such verification is if he gambles, which is one reason for a passion for gambling. If you think a team is better than another, the only way you're likely to remember your perception is if you win or lose money that day. Well I think if we could get to a point where people could gamble on the kind of society they think might work, I think we might begin to see some way of opening new possibilities. For example, why can't people who think their children should be brought up strictly have that right in their schools just as people who want a permissive system of education should be able to create their schools from the bottom up. People who believe that policing city streets is a voluntary activity ought to be entitled to live in a particular community where they can do that, where they each serve a certain number of hours a week as policemen on a voluntary basis. Other people who think that a slight schizophrenic element to modern life is healthy, and they don't want to see the dirty work, could hire the best or the cheapest police force that they want, or even the worst gang of bullies they want. If they prevail where societies founded upon more idealistic impulses don't

work, that's interesting too. At least we'll know that much. Because we don't know anything now.

INTERVIEWER

In other words, allow more possibilities. . .

MAILER

It's not a matter of allowing it. You know, one of the notions we could never get across in the mayoralty campaign is that if we had ever won, it isn't as if we then would have sat down with twenty brain-trusters and parceled up New York, here a little plot for such an idea and this nice terrain for that cause. New York would have become, in the notion we had, the 51st state--at that point various groups of people might have chosen to incorporate themselves as hamlets, towns, sees, or compounds. But the people in these places would have had to come together and decide what was the common denominator for their enclave. These particular towns, hamlets, principalities, whatever you want to call them, would have come into existence only by people forging them, choosing to create them out of hard work. So it would have been a pioneer endeavor in a highly developed urban environment. To the extent people didn't do it, to the extent that people were apathetic, New York would just have changed over from being a city to being a state and would still be administered from the top. In other

words, as groups of people came together and decided that they wanted something for themselves, wanted a society in which they could live within a larger society, so we would have relinquished power to them. But it wouldn't automatically have been conferred upon them.

INTERVIEWER

In other words you would set a lot of forces in motion presently stalemated and stagnant.

MAILER

Forces now in stasis would have been able to crystallize. Black people by the way often loved our idea. "Give us the power. We'll show you what we can do." I heard that over and over again. Of course the big argument liberals always advanced against us was that we'll just have black ghettos again. Well, we wouldn't be a white authority setting up the black ghettos. Black people would be choosing to have territories in that city which were theirs, where they would run things their way. When it was pointed out that of course there would be white areas which would make it very hard for a black man to enter, they would laugh. Because, they would say, we don't get onto that turf anyway. Of course there would be probably a great majority in the city to sit on the sidelines and say, "Hey, look, I work hard all day. When I come home at night I don't want to get involved in

local government. Give me an apartment, a nice big anonymous building; let me do what I want my own way." And they would. These crystallizations into self-elected power would possibly occur very slowly in the beginning. If the notion worked. It would grow only if people began to believe that these societies formed by men and/or women having one collective notion on which they could agree, or even just one collective compromise on which they could agree, were working more interestingly than a lot of anonymous societies.

INTERVIEWER

Because they were creating a kindred sense and thereby an enthusiasm? Perhaps the beginnings of a spell?

MAILER

Well just suppose for example that you have a community which decided that police were too expensive, and they wanted to have their own voluntary police system. They had nothing terribly valuable to protect in the area. But they wanted security out on the streets. So they had their own volunteer--their own vigilante system, if you will. Suppose what happens is these guys discover they have to put in one night a week working as a cop after work. They go out and they're scared stiff and they work, and they come back, and they're feeling pretty good. Let us say that

night their sex with their wife is a little better. Because the guy feels a little closer to a western range rider. Now that might begin to illumine a community. Maybe you can measure a good society by the number of sweet fucks that take place on a given night. Science wants to measure society, do it that way. It's as good a measure as money. Of course you could also argue that a lot of these vigilantes might go in for freaky or corrupt activity. At least a professional cop, corrupt as he may be, has his professional standards, no matter how tarnished they have become. And you say what is the answer--I say I don't know the answer. I'm not going to sit here and claim vigilante cops are going to be better than professional cops. I don't know. It may be that it won't work and people will find they have to hire professionals again. If it does however work, what we will have learned will be incomparable. And if it doesn't, the police, at least, will be honored with a bit more value.

INTERVIEWER

It would also force people a little more into their own resources. . .

MAILER

Of course, that can not only be healthy but killing. People who have been living a lethargic life for too long

can be wrecked by becoming too energetic. That's why apathetic people sometimes cling to apathy with the last passion left in them. They hate the whole idea that you want to make them run in the street.

INTERVIEWER

Well, maybe they're the guys waiting for the freeze bags.

MAILER

I wouldn't doubt it. It's the apathetic people, I'd guess, who generate huge passions on the idea of a freeze bag. Technology sells people the notion they're going to give them something for nothing. Which is the essence of the message of the devil. The reason the devil is associated with magic in people's minds is that magic implies it will give something for nothing. But the word rather would imply that there are subterranean relations between things which are deeper than we recognize. But never never will you get something for nothing. Precisely, it's technology which promises that something for nothing by sidestepping all the disciplines of magic.

INTERVIEWER

Perhaps it's this awareness of subterranean relations between things that does constitute a good part of what an artist is today.

MAILER

Well I expect an artist secretly assumes he has some fine and subtle and possibly quite private relation to magic. In some way! Some little part of magic is his. He often pays for it by finding himself ineffectual and even tortured by the world. So it isn't as if he's getting something for nothing with his magic. But it's as if, if you will, that people who opt for magic are deciding that they want a life which will have huge advantages and tremendous disadvantages. They're stepping out of the sort of ordinary expectations other people have. Stepping into more and into less.

INTERVIEWER

Choosing perhaps to be more alive.

MAILER

More alive and more bugged. More reduced. I mean, think of people you've known who lived in depression for ten years at a time--you think quickly of artists. . . . Because of their sensitivity, their paranoia, because of their relation to magic. . . . their exquisite sensitivity to the possibilities of magic, to that communication between subterranean events which everything paranoid in one (for paranoia has to be a disturbed function of the magical sense) would believe is having a powerful effect upon superficial

everyday events. So when things are not breaking well, such an artist will never get free of anxiety. His sense of magic will keep producing more exotic conclusions. I mean there's a reason why man deserted magic and went into technology. Men led lives of exacerbated desperation when they lived in the time of primitive man and his magic. They sought, after all, to escape primitive existence and existential life, in order to gain technological life. For precisely the reason that they thought it would be easier. Now we've found that it isn't easier. It may even be deadly. So now we've got to go back.

INTERVIEWER

Would you see any relation to this going back in hippies wearing their grandmother's clothes out of the attic or just any kind of thing they felt like putting on? Is that sort of stepping outside of fashion and in a sense stepping outside of time?

MAILER

Oh, I think that's no mean nor small phenomenon. Maybe it isn't so much stepping outside of time, as some profound desire to reverse time. You see, hippies taking all those exceptional trips on LSD saw futures in man's continuation that were so terrifying that they recoiled. That recoil has projected them back to the nineteenth century. It's

interesting that most of them do go for 19th Century styles. You could say it's for practical reasons. 19th Century styles are easier to find, to copy, imitate and wear, than 18th Century styles--I mean, it's pretty tough for girls to walk around in hoop skirts. But it's possible if it continues that we will see all the centuries repeated, possible that people will yet be wearing all the clothes that were worn on earth. Yes, suppose we have got to go back to that universal dread we tried to escape five, ten, fifteen, twenty-five thousand years ago, and it's now become the underlying trip of the world?

Late May, 1999

DAYS
NORMAN MAILER

- 1891** Isaac Barnett "Barney" Mailer born Lithuania.
- 1891** Fanny "Fan" Schneider born in Lithuania.
- 1922** Barney and Fan marry in Manhattan on 12 February.
- 1923** Norman Kingsley Mailer born in Long Branch, New Jersey on 31 January. Mailers live with Fan's family in Long Branch, at first with them on Morris Ave., and then in "Kingsley Court," a cluster of three cottages at Beach and Ocean Avenues, owned by Fan's parents.
- 1925** In the fall, Mailers move to Cortelyou Road in the Flatbush section of Brooklyn, but continue to summer in Long Branch.
- 1927** Barbara Jane, Mailer's sister, born on 6 April.
- 1928** In September, Mailer enters Public School 181, Flatbush.
- 1933** Mailers move to Crown Heights section of Brooklyn in January. Mailer transfers to Public School 161, where he skips two half-year terms. In the summer he writes a long science fiction story, "The Martian Invasion."
- 1935** Graduates from P.S. 161 in June, and in September, enters Boy's High School in Brooklyn.
- 1936** Celebrates his Bar Mitzvah on 15 February.
- 1939** Graduates from Boy's High School in June, and in late September enters Harvard planning to study aeronautical engineering.
- 1941** In April, is taken onto the board of the college's literary magazine, *The Harvard Advocate*, which that same month publishes his short story, "The Greatest Thing in the World." In late spring, it wins *Story* magazine's eighth annual college contest and a \$100 prize. In September, completes "No Percentage," a novel (408 manuscript pages), still unpublished.
- 1943** Graduates from Harvard in June with a S.B. degree (with honors) in engineering sciences; most of his electives are English writing courses. Moves to his parents' apartment on Pierrepont Street in Brooklyn.

- 1944 Drafted into the U.S. Army in January. On 7 January, he marries Beatrice "Bea" Silverman. In February, completes his second novel, *A Transit to Narcissus*, which is not published until 1978. In late March, is inducted into the army. His novella, "A Calculus at Heaven," is included in Edwin Seaver's *Cross-Section: A Collection of American Writing*, published in April. In August, after five months of training at Fort Bragg, North Carolina, he is sent to Fort Ord, California as an artillery trainee. In early December, he ships out from San Francisco on a troop ship, arriving in Leyte Gulf, the Philippines, on 29 December.
- 1945 In mid-January, joins the 112th Cavalry Regimental Combat Team in Leyte. He serves in the Luzon campaign in the Philippines as a clerk and then a rifleman, and in Japan after the war ends he becomes a cook. Meets Francis Irby "Fig" Gwaltney (same outfit), who in 1975 introduces him to his sixth wife, Norris Church.
- 1946 Discharged from the Army on 2 May, rents a small apartment in North Truro, near Provincetown, Massachusetts in June, and begins work on his war novel. He will spend the greater part of most summers for the next half-century in Provincetown at the tip of Cape Cod. Mailer's friend Adeline Lubell, an editor at Little, Brown, reads 186 pages of his manuscript, but no contract is offered by Little, Brown because of the novel's alleged obscenity. Mailer then turns to the New York firm of Rinehart. In November, they offer and Mailer accepts a \$1250 advance for *The Naked and the Dead*.
- 1947 Turns in the completed manuscript of *The Naked and the Dead* to Rinehart in September. In early October, he and Bea leave for Paris to study at the Sorbonne on the GI Bill. In Paris, he begins *Barbary Shore*, and meets Jean Malaquais, who later becomes his mentor and lifelong friend.
- 1948 On 6 May *The Naked and the Dead* is published. It tops the *New York Times* best seller list for 11 straight weeks during the spring and summer, and remains on the list for a total of 61 weeks, including 19 in the top position and 43 in the top five. The novel is nominated for the Pulitzer Prize and the Gutenberg Award, and the Associated Press names Mailer "Man of the Year" in literature. Mailer returns from Europe in late July to campaign for Progressive Party presidential candidate Henry Wallace. He moves to a rented house in Jamaica, Vermont shortly after Harry S. Truman's election.
- 1949 Mailer resumes work on *Barbary Shore*. From 25 to 27 March he attends and speaks at the Cultural and Scientific Conference for World Peace (Waldorf Conference) in New York, which is attacked as a Communist front in *Life* magazine (4 April). In June, the Mailers

move to Hollywood, where they are joined by Jean Malaquais. Susan born to Bea 28 August. Finishes first draft of *Barbary Shore*. Mailer and Malaquais work on scripts for Samuel Goldwyn.

- 1950 In June, the Mailers return to Provincetown. He completes work on the final version of *Barbary Shore* in Putney, Vermont, where the Mailers move in October.
- 1951 Having met Adele Morales on a visit to New York City, Mailer separates from Bea in the winter, and begins living with her on the lower East Side. Bea and Susan move to Mexico. *Barbary Shore* is published on 24 May to almost unanimously bad reviews.
- 1952 Mailer and Bea divorce in February. Begins work on *The Deer Park*.
- 1953 In April, "The Language of Men," a short story, is published in *Esquire*, the first of over 40 Mailer appearances in this magazine. Mailer and Adele visit New Orleans and Mexico in the summer and early fall.
- 1954 Publishes his first essay, "The Meaning of 'Western Defense,'" in *Dissent*, and joins its editorial board, remaining on it until the 80s. In the spring, completes *The Deer Park*, marries Adele, and visits Mexico for several months. Upon their return to New York City in November, they move into a duplex on East 55th Street. In the same month, with publication less than three months away, Rinehart stops publication of *The Deer Park* because of six lines describing *fellatio*. The novel is subsequently rejected by six publishers before being accepted by G.P. Putnam's Sons.
- 1955 Mailers visit Barcelona and Rome in the summer. *The Deer Park* is published on 14 October and on 13 November climbs to number six on the *New York Times* bestseller list. With Edwin Fancher and Daniel Wolf, Mailer founds *The Village Voice*, and gives the new paper its name. The first issue is 26 October. For a time he is circulation manager of the *Voice*.
- 1956 Publishes 17 weekly columns, the first 14 titled "Quickly: A Column for Slow Readers," and the last three, "The Hip and the Square," in *The Village Voice* from 11 January through 2 May, at which point he resigns from active participation because of editorial differences with his partners. In early May, "The Man Who Studied Yoga" is published in *New Short Novels* 2. The Mailers spend the summer in Paris where they meet James Baldwin. In the fall, they move to Bridgewater, Connecticut near the homes of William Styron and John W. Aldridge.

- 1957 Danielle born to Adele 16 March. "The White Negro" is published in the summer number of *Dissent*.
- 1958 The Mailers move from Connecticut to Perry Street in Greenwich Village. In the fall, spends a week at the University of Chicago and meets Robert F. Lucid, who later becomes his authorized biographer. He is invited to join the Actors' Studio (Playwright and Directors Unit) in New York City.
- 1959 Elizabeth Anne born to Adele 28 September. *Advertisements for Myself* is published on 6 November.
- 1960 On 25 May, receives a \$1,500 award from the National Institute of Arts and Letters. In July, covers the Democratic National Convention in Los Angeles for *Esquire*, and publishes "Superman Comes to the Supermarket" in the November issue. On 20 November, stabs his wife Adele with a penknife after a party at their apartment on West 96th Street; he is committed briefly to Bellevue for 17 days of psychiatric observation.
- 1961 On 9 March, pleads guilty to assault charges; later that month he separates from Adele. During that same month, meets Lady Jeanne Campbell. On 13 November receives a suspended sentence and is placed on probation.
- 1962 *Deaths for the Ladies (and Other Disasters)* is published on 30 January. In early spring, divorces Adele in Juarez, Mexico. In April, marries Jeanne Campbell, and in late spring they move into 142 Columbia Heights, Brooklyn, a brownstone he had purchased and renovated in 1960. Mailer has lived there continuously since, except for his sojourns in Provincetown, where he has spent the majority of the year since the mid-1980s. Kate born to Jeanne on 18 August. Attends the International Writers' Conference in Edinburgh, 20-24 August. In November, begins a column, "The Big Bite," in *Esquire* (through December 1963), and a bi-monthly column, "Responses and Reactions," in the December *Commentary* (through October 1963). In late fall, separates from Jeanne Campbell.
- 1963 In March, meets Beverly Bentley and marries her in December, shortly after divorcing Jeanne Campbell. *The Presidential Papers* is published on 8 November. In addition, he publishes more than thirty pieces (poems, book reviews, essays, interviews, columns, letters, debates and a short story) in a dozen different places, the acceleration of a periodical blizzard that began in 1959 and continues until abating somewhat in the mid-1970s. Scott Meredith becomes his literary agent in the fall.

- 1964 Serialization in eight installments of *An American Dream* in *Esquire*, January-August. Michael Burks born to Beverly 17 March. In August, covers the Republican Convention in San Francisco for *Esquire*. "In the Red Light," his account, appears in the November issue.
- 1965 In January, testifies on behalf of William Burroughs's novel, *Naked Lunch*, at its Boston obscenity trial. *An American Dream* (revised) is published on 15 March. On 21 May, speaks against the Vietnam War at the Berkeley campus of the University of California. In December, addresses the Modern Language Association in Chicago.
- 1966 Stephen McLeod born to Beverly on 10 March. In June, purchases a house in Provincetown on Commercial Street. *Cannibals and Christians* is published on 29 August.
- 1967 "The Deer Park: A Play" opens at Theatre DeLys in New York on 31 January; it closes 21 May after 127 performances. On 24 May, he is inducted into the National Institute of Arts and Letters. Publishes four books: *The Short Fiction of Norman Mailer* (11 May); *The Deer Park: A Play* (7 August); *Why Are We in Vietnam?* (15 September); *The Bullfight* (mid-November); makes two experimental films, "Wild 90" and "Beyond the Law." On 21 October, is arrested at an anti-war protest at the Pentagon. *Why Are We in Vietnam?* is nominated for the National Book Award.
- 1968 "Wild 90" premieres on 8 January. "Beyond the Law" premieres on 2 April. Preceded by long excerpts in *Harper's* and *Commentary*, *The Armies of the Night* is published on 6 May, 20 years to the day after *The Naked and the Dead*. In July, makes his third experimental film, "Maidstone," on Long Island. In August, covers the national political conventions, and publishes his account, *Miami and the Siege of Chicago*, first in *Harper's* and then in book form on 24 October.
- 1969 *The Armies of the Night* wins several awards: National Book Award in arts and letters (12 March); George Polk Memorial Award for magazine reporting (27 March); Pulitzer Prize for general nonfiction (5 May). In addition, *Miami and the Siege of Chicago* is a finalist for the National Book Award in the history and biography category. On 1 May, he announces his candidacy for the Democratic primary for mayor of New York (with Jimmy Breslin as his running mate); he comes in fourth in a field of five. Awarded honorary Doctor of Letters by Rutgers University on 4 June. Also in June, running as an "insurgent" candidate for the Harvard Board of Overseers, he is defeated in an alumni election. In July, he begins coverage of the Apollo 11 mission for *Life*. Separates from Beverly Bentley in late summer.

- 1970** In January, testifies at the trial of the "Chicago Seven." On 18 April, is awarded Harvard University's Signet Society Medal for Achievement in the Arts. In early May, he serves a three-day sentence for his 1967 arrest at the Pentagon. He summers in Maine with five of his children and Carol Stevens. In August, "Maidstone" is shown at the Venice Film Festival.
- 1971** Preceded by three excerpts in *Life*, *Of a Fire on the Moon* is published on 11 January by Little, Brown, the first of eight books by Mailer to be published by this firm. It is later nominated for the National Book Award in the sciences category. "The Prisoner of Sex" is published in the March *Harper's*, which contributes to the resignation of its editor, Willie Morris. Maggie Alexandra born to Carol on 21 March. On 30 April, takes part in "A Dialogue on Women's Liberation" at Town Hall in New York City, along with Germaine Greer, Diana Trilling and others. The evening forms the basis for Donn Pennebaker's documentary film, "Town Bloody Hall." *The Prisoner of Sex* is published in book form on 27 May, and is later nominated for the National Book Award in the arts and letters category. "Maidstone" premieres at the Whitney Museum in New York City on 23 September, and is published as *Maidstone: A Mystery* in October. *The Long Patrol: 25 Years of Writing from the Work of Norman Mailer*, edited by Robert F. Lucid, is published on 25 October. In December, he appears on the "Dick Cavett Show" with Janet Flanner and Gore Vidal.
- 1972** Mailer begins work on "the Egyptian novel." During the year, he speaks at more than 20 colleges. *Existential Errands* is published on 17 April. In the summer, covers the national political conventions, and publishes his account of them, *St. George and the Godfather*, in late October (with excerpts appearing earlier in *Life* and *New York Review of Books*). In September, he and Carol Stevens move to Stockbridge, Massachusetts where he purchases a house. On 12 October his father dies. In November, he begins working on a biography of Marilyn Monroe.
- 1973** At his 50th birthday party (celebrated on 5 February), he announces his idea for "The Fifth Estate," a citizen watchdog group to keep tabs on the FBI and CIA. Preceded by excerpts in *Ladies Home Journal*, *Atlantic* and *New York Review of Books*, *Marilyn: A Biography* (with photographs assembled by Lawrence Schiller) is published on 1 August. On 18 August, he is awarded the Edward McDowell Medal at the McDowell Colony in Peterborough, New York.
- 1974** In May, *The Faith of Graffiti* (with photographs by Mervyn Kurlansky and Jon Naar) is published simultaneously in *Esquire* and book form.

In October, he covers the Muhammad Ali-George Foreman fight in Zaire.

- 1975 In March, meets Barbara Norris (later Norris Church) in Arkansas through "Fig" Gwaltney. *The Fight* is published on 21 July, after long excerpts appear in *Playboy*. During the summer—spent largely in Mt. Desert, Maine—he separates from Carol Stevens and begins living with Norris Church and her son Matthew at 142 Columbia Heights in Brooklyn. In December, excerpts from *The Fight* in *Playboy* win the magazine's Best Nonfiction Award.
- 1976 On 25 February, he is awarded the 1976 Gold Medal for Literature by the National Arts Club. *Some Honorable Men: Political Conventions, 1960-1972*, is published on 1 April. In September, he profiles presidential candidate Jimmy Carter for the *New York Times Magazine*. Preceded by an excerpt in *American Review*, *Genius and Lust: A Journey through the Major Writings of Henry Miller* is published in October. In December, receives *Playboy's* Best Major Work in Fiction Award for "Trial of the Warlock."
- 1977 Continues work on "the Egyptian novel." Summers in Mt. Desert, Maine.
- 1978 A facsimile of the manuscript of Mailer's unpublished novel from the 40s, *A Transit to Narcissus*, is published in January. John Buffalo born to Norris on 16 April. Summers in Provincetown and Mt. Desert, Maine.
- 1979 *The Executioner's Song* is published on 15 October, with excerpts appearing in *Playboy*, October-December. It climbs to number three on the *New York Times* bestseller list in January 1980. In late October, he meets Jack Henry Abbott at the Marion Federal Penitentiary in Illinois. In December, *The Executioner's Song* is nominated for the National Book Critics Circle award, and wins the Best Major Work in Fiction Award from *Playboy*.
- 1980 On 14 April, *The Executioner's Song* wins the Pulitzer Prize for fiction. In November, he divorces Beverly Bentley, marries and divorces Carol Stevens, and marries (on 11 November) Norris Church. *Of Women and Their Elegance* is published on 26 November, the same month that he and Norris play cameo roles in Milos Forman's film, "Ragtime."
- 1981 In late June, he writes the introduction for and helps arrange the publication of *In the Belly of the Beast: Letters from Prison* by Jack Henry Abbott. On 18 July, Abbott stabs to death Richard Adan in New

York City. Abbott is subsequently convicted and sentenced for the crime. Mailer attends his trial.

- 1982 *Pieces and Pontifications* is published on 21 June. *The Essential Mailer* is published on 1 August.
- 1983 Preceded by advance excerpts in *Playboy*, *Vogue*, *House and Garden* and *Paris Review*, *Ancient Evenings* is published on 4 April. It climbs to number six on the *New York Times* bestseller list in mid-May. In August, he moves from Little, Brown to Random House. In late September, Mailer is nominated for an Emmy for his screenplay based on *The Executioner's Song*. In October, purchases his current home on Commercial Street, Provincetown.
- 1984 Visits Russia for the first time in March; returns with Norris in June. On 11 July, he is elected president of the PEN American Center for a two-year term. Preceded by excerpts in *Vanity Fair*, *Tough Guys Don't Dance* is published on 20 August. Inducted into the American Academy of Arts and Letters on 7 December. Begins work on *Harlot's Ghost*.
- 1985 On 28 August Mailer's mother dies. On 20 November, he receives Lord and Taylor's annual Rose Award for public accomplishment.
- 1986 Presides over the PEN International Congress meeting in New York, 12-18 January. In the same month, "Strawhead," a play adapted from *Of Women and Their Elegance*, is staged by the Actors Studio in New York with Kate Mailer as Marilyn Monroe. From 14 October to 13 December, in Provincetown, directs his own filmscript based on *Tough Guys Don't Dance*.
- 1987 In May, "Tough Guys Don't Dance" is screened (outside the competition) at the Cannes Film Festival. On 16 September, it premieres in New York.
- 1988 *Conversations with Norman Mailer*, edited by J. Michael Lennon, is published on 31 July.
- 1989 In February and March, attends meetings and writes statements in support of Salman Rushdie. On 11 October, he receives the Emerson-Thoreau Medal for distinguished achievement in literature from the American Academy of Arts and Sciences.
- 1990 Continues work on *Harlot's Ghost*.

- 1991 In March, accepts the position of writer-at-large at *Vanity Fair*. In late October, *Harlot's Ghost* is published after advance excerpts appear in nine publications, including *Esquire*, *Playboy*, *Rolling Stone* and *Partisan Review*. On 13 November, he receives the New York State Edith Wharton Citation of Merit. Begins work on *Portrait of Picasso as a Young Man*.
- 1992 Covers the August Republican Convention and publishes his account in the 12 October *New Republic*. Begins six months of research in Minsk, Belarus (1992-93) on Lee Harvey Oswald. Andrew Wylie becomes Mailer's literary agent after the death of Scott Meredith.
- 1993 Along with Susan Sontag, Gay Talese and Gore Vidal, Mailer takes part in a 15 February reading (which he directs) of George Bernard Shaw's "Don Juan in Hell" at Carnegie Hall. In late July, his line drawings are shown at the Berta Walker Gallery in Provincetown. In late November, gives the keynote address at the Third Assassination Symposium on John F. Kennedy in Dallas. Continues work on *Oswald's Tale: An American Mystery*.
- 1994 On 23 April, receives (for the second time) Harvard University's Signet Society Medal for Achievement in the Arts.
- 1995 Preceded by excerpts in the *New Yorker* and *New York Review of Books*, *Oswald's Tale: An American Mystery* is published on 12 May. Receives honorary Doctor of Humane Letters from Wilkes University in Wilkes-Barre, Pennsylvania on 27 May. *Portrait of Picasso as a Young Man: An Interpretive Biography* is published on 15 October. Begins work on *The Gospel According to the Son*.
- 1996 Covers the 1996 political conventions in the summer. His report on them appears in the November issue of *George*. He then covers the campaign of Senator Dole and President Clinton in the fall.
- 1997 Mailer's article on the 1996 campaign appears in the January issue of *George*. In the spring, he begins work on *The Time of Our Time*. Preceded by serial publication (19 parts) in the *New York Daily News*, *The Gospel According to the Son* is published on 18 September.
- 1998 On 6 May, 50 years to the day after the publication of *The Naked and the Dead*, Mailer's anthology of his work, *The Time of Our Time*, is published.

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HARLOT'S GHOST AND JFK: A FICTIONAL CONVERSATION WITH NORMAN MAILER, OLIVER STONE, EARL WARREN, AND HUGO BLACK*

Rodney A. Smolla†

ROD SMOLLA: It is my honor and pleasure to be delivering the Thirty-Eighth Donahue Lecture.

I would like to first introduce and ask you to welcome my fellow panelists, who have graciously agreed to appear with me this evening on the program. They are, in the order in which they are seated on the stage, first, to my far left:

Oliver Stone. Mr. Stone is one of America's most powerful and provocative filmmakers. Among his films are *Platoon*, *Born on the Fourth of July*, *Wall Street*, and *The Doors*. His direction and his films have won numerous Academy Awards. His film *JFK*, depicting a massive conspiracy leading to the assassination of President John F. Kennedy, has been by any account one of the most controversial films ever produced in the United States.

Seated next to Mr. Stone, is:

Earl Warren. Earl Warren was Chief Justice of the United States from 1953 to 1969. Warren's career in California politics culminated in ten years as the state's Governor. President Eisenhower appointed him Chief Justice of the Supreme Court. The "Warren Court" ushered in an

* This article is based on a speech which Rodney Smolla delivered as a part of the Donahue Lecture Series. The Donahue Lecture Series is a program instituted by the Suffolk University Law Review to commemorate the Honorable Frank J. Donahue, former faculty member, trustee, and treasurer of Suffolk University. The Lecture Series serves as a tribute to Frank Donahue's accomplishments in encouraging academic excellence at Suffolk University Law School. Each lecture in the series is designed to address contemporary legal issues and express the Suffolk University Community to outstanding authorities in various fields of law. This article is based on the Donahue Lecture delivered at Suffolk University Law School on November 19, 1992.

† Arthur B. Hanson Professor of Law, and Director, Institute of Bill of Rights Law, College of William and Mary, Marshall-Wythe School of Law. Author's note: This is a work of fiction. The statements attributed to Norman Mailer, Oliver Stone, Earl Warren, Hugo Black, Gore Vidal, and Rod Smolla are the product of the author's imagination, and should not be understood as factual. For elaboration on this point, please see the discussion in the Appendix to this Article, and notes 1-21, *infra*.

entire new epoch of American constitutional law, creating dramatic changes in areas such as racial equality, rights of the criminally accused, freedom of speech, and separation of church and state. President Johnson appointed Chief Justice Warren to serve as Chairman of the President's Commission on the Assassination of President John Kennedy, popularly known as the "Warren Commission." The Commission found that President Kennedy was shot by Lee Harvey Oswald, who acted alone, and who was unconnected to any conspiracy.

Seated to the right of Chief Justice Earl Warren is:

Norman Mailer. Mr. Mailer is one of the nation's most distinguished men of letters. Beginning with his critically acclaimed first novel, *The Naked and the Dead*, published in 1948, Mr. Mailer has written over twenty-seven books. He won the Pulitzer Prize and the National Book Award in 1968 for *Armies of the Night*. He won the Pulitzer Prize again in 1980 for *The Executioner's Song*. His most recent novel, *Harlot's Ghost*, is a prodigious literary achievement that makes substantial use of the devices that are largely the subject of this panel discussion. The novel, an exploration of the American Central Intelligence Agency, is a work of expansive imaginative power. The novel includes hundreds of characters, some of whom are fictional creations, and others of whom are real persons, such as John Kennedy, Fidel Castro, J. Edgar Hoover, E. Howard Hunt, Frank Sinatra, Sam Giancana, Allen Dulles, and countless others.

And finally, seated to the right of Norman Mailer, is:

Hugo Black. Hugo Black served as Associate Justice on the United States Supreme Court from 1937 to 1971. Black had previously been involved in politics in Alabama, where he served as United States Senator for ten years, before being appointed to the Court by President Franklin Roosevelt. Justice Black emerged as one of the most eloquent jurisprudential voices during the Warren Court years, and is particularly remembered for his staunch commitment to freedom of speech.

Mr. Stone, Chief Justice Warren, Mr. Mailer, and Justice Black, welcome.

The topic for discussion today is the artistic device of blending real historical events and characters with fiction. We will explore and critique this device from both an artistic and legal perspective. I want the panelists to feel great freedom to roam at large over the topic, but I do wish to use, as our two principal exhibits for discussion, Oliver Stone's movie *JFK*, and Norman Mailer's novel *Harlot's Ghost*.

I should begin by clarifying for the audience that Earl Warren and Hugo Black are familiar with these works. Justices Warren and Black, you've seen the film, and read the book, correct?

HUGO BLACK: Yes, we have full access to all films and books. It's quite extraordinary, really, one can absorb these works at a fantastic speed, with astonishing clarity and comprehension! I am able to keep track of current events throughout the world, to read and digest not only new opinions of our Supreme Court, but of the many other constitutional courts that have emerged in other democracies throughout the world. It is exhilarating. I often read two or three books a day—though it still took me a week to finish *Harlot's Ghost*. I've also seen *JFK*.

ROD SMOLLA: That's interesting. I'd always considered the speed of thought a constant in the universe, like the speed of light.

HUGO BLACK: I didn't say we were in this universe.

ROD SMOLLA: And Chief Justice?

EARL WARREN: My habits are a bit different than Hugo's. I lean toward sports. I still believe that the sports pages record man's achievements, and the news pages his failures. We have access to every sporting event taking place on the globe, you know.

ROD SMOLLA: It sounds like the "Mother of all ESPNs." But you have read the book and seen the film?

EARL WARREN: Yes. I read Mr. Mailer's novel, in anticipation of this panel; very amusing, to say the least. And I saw *JFK* even before it premiered—we have special access to the reviewer's screenings, you know, and so—

NORMAN MAILER: —And where might that be, Chief Justice?

EARL WARREN: What? What are you talking—

NORMAN MAILER: —Are you viewing these events from the rapturous fields of the Elysium, or the bottomless pits of perdition?

EARL WARREN: I don't understand what you are driving—

HUGO BLACK: I think he wants to know if you are in heaven or in hell, Chief.

EARL WARREN: Professor Smolla, I agreed to this on the condition that it would be a dignified, academic discussion. I have no intention of sitting here to be insulted and offended by Mr. Mailer.

NORMAN MAILER: I intended no offense. I was asking out of existential curiosity—what happens when we die? Or I guess I should say even more pointedly, what happens when a man like Earl Warren dies? Heaven? Hell? A great void?

I've always believed in reincarnation, myself. Earl died in 1974. What form of life might he be now? Perhaps he has reappeared as a young campaign worker for Jerry Brown. But it sounds like I may have to

adjust my metaphysics. So let me just rephrase: Can you at least verify, Chief Justice, that there is a heaven and a hell?

EARL WARREN: Professor Smolla, again I object. This is not why we are assembled—

ROD SMOLLA: —Your objection is sustained, Chief Justice. Mr. Mailer, we have already agreed on the ground rules. No afterlife questions.

Now let's please get to the heart of the matter. First, is it artistically legitimate for novelists and filmmakers who chose to use historical events and persons as the grist for their artistic works, to deviate from the known history, creating fictional characters, events, dialogue, actions, and motives? And, apart from artistic legitimacy, should real persons who find themselves fictionalized have recourse in courts of law, through lawsuits for libel or invasion of privacy?

Perhaps I can start with Oliver Stone. In *JFK* you present a film in which Lyndon Johnson, the FBI, the CIA, the anti-Castro Cubans, Clay Shaw, and countless other shady characters are linked in a conspiracy to kill President Kennedy. Did the harsh reaction to *JFK* by many critics and members of the press take you by surprise?

OLIVER STONE: Not really. Remember that much of the reaction came from the press, the pundits, the reviewers—the cultural elite who like to hold themselves out as the only legitimate interpreters of the American experience. I knew before the film was released that there were a thousand and one vultures out there, crouched on their rocks.

ROD SMOLLA: Do you believe the press was part of the conspiracy? Why would the press have it in for you?

OLIVER STONE: Members of the media establishment get upset when art becomes political, especially when they disagree with the politics and fear the viewpoint advocated by the artist. When this priesthood is challenged as the sole or privileged interpreters of our history, they bludgeon the newcomers, wielding heavy clubs like 'objectivity' and charging high crimes like 'rewriting history.'

ROD SMOLLA: What, if anything, do you think your film accomplished?

OLIVER STONE: It certainly accomplished one thing: Congress passed, and the President signed, a law that will mandate disclosure of many of the secret documents surrounding the Kennedy assassination.

ROD SMOLLA: The new law sets up a five-member Review Board with the power to obtain records on the Kennedy assassination from any governmental office, including the CIA and the FBI. The Board can

hold hearings and subpoena witnesses or documents. Are you happy with the new law?

OLIVER STONE: I'm happy, as far as it goes. It still did not go far enough.

ROD SMOLLA: In what respect?

OLIVER STONE: The Board retains the power to decide that some documents should not be released. So if any documents are kept secret, suspicion will continue. The best way to allay all suspicion is to release absolutely everything, and damn the consequences.

ROD SMOLLA: But the law clearly contemplates wide-ranging disclosure. Surely you don't think that now, thirty years later, anyone involved in this Board could still be complicit in a conspiracy or cover-up?

OLIVER STONE: Why should I be so sure of that? The Board will be a political body, appointed by the President and confirmed by the Senate. Who knows what documents they will see? Who knows what pressures will be visited on them to keep some matters secret? If you doubt the inexorable governmental impulse to cover up the truth, I refer you to the statements made by President Bush on the day he signed the law.

ROD SMOLLA: Aren't George Bush's statements now moot, in light of the election of Bill Clinton to the presidency?

OLIVER STONE: Presidents will be Presidents.

ROD SMOLLA: What does that mean? Look, even George Bush announced that he agreed with the intent of the law, and that was why he was signing it. I mean George Bush was not exactly afraid to use his veto power.

OLIVER STONE: He signed the law, and simultaneously attempted to preserve for himself—or now, for Bill Clinton—the prerogative to disregard it. Let me quote from my notes of his public statement, released when he signed the bill. "Because of legitimate historical interest in this tragic event," Bush stated, "all documents about the assassination should be disclosed, except where the strongest possible reasons counsel otherwise." And who is to determine if these reasons exist? The new Commission? Not necessarily. Bush asserted the power to override the law and exercise what he said was his constitutional authority to keep secret "executive branch deliberations, . . . law enforcement information" and "national security information."

ROD SMOLLA: Are you suggesting that George Bush was part of the plot?

OLIVER STONE: I'm not saying that he was working with the CIA in 1963, or that he was in Dealey Plaza in Dallas. But he was later the

Director of the CIA. He probably does know a lot that he has never revealed. I'd suggest more that he may be an "accessory after the fact."

ROD SMOLLA: But on the basis of what? What evidence? Other than your imagination?

OLIVER STONE: Just listen to Bush's own words—painful as that sometimes might be. On the day he signed the bill, he proclaimed, "My authority to protect these categories of information comes from the Constitution and cannot be limited by statute. Although only the most extraordinary circumstances would require postponement of the disclosure of documents for reasons other than those recognized in the bill, I cannot abdicate my constitutional responsibility to take such action when necessary." Now I read that statement, and I smell one big Oval Office rat.

HUGO BLACK: Professor, may I interject something here?

ROD SMOLLA: Yes, Justice Black by all means, please—

HUGO BLACK: —I am appalled, I should say, *shocked*, at this statement by George Bush! He obviously has not read, or does not understand, the United States Constitution. I wrote for the Court when we held that Harry Truman had no power to seize the steel mills, "In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute." Now here comes George Bush, *signing* a law that mandates disclosure of the Kennedy assassination records, and *stating* the grounds on which documents may be withheld, and giving the *Commission* the sole power to make that decision. George Bush could have vetoed the law, but he signed it, and that ends the matter. He has no constitutional authority to override the law.

EARL WARREN: Now, now, Brother Hugo—

HUGO BLACK: —Don't give me that Brother Hugo routine, Chief. And don't try to defend George Bush. Indeed I must tell you, Chief, that some of the things that are coming out make me very concerned about your role in all of this, and what you may have done to the institutional integrity of the Court.

EARL WARREN: These conspiracy theories are a vicious and evil libel, a libel that touches me personally. I was *Chief Justice of the United States Supreme Court*! I led the Court in *Brown v. Board of Education*. I helped create the revolution in our constitutional law that altered the fabric of society. To suggest, to accuse, *me* of complicity in the assassination of John Fitzgerald Kennedy, whom I deeply admired and loved,

to think that I would do something like this, engage in a cover-up, it's just unthinkable, it's outrageous, it's malicious, twisted and evil! To place this *blood libel*, this *mark of Cain*, on me. Mr. Stone, you defiled me! I stood for, you turned wretched all that my entire public life embodied, you—

OLIVER STONE: —No one is saying you were part of the plot to kill John Kennedy, Chief Justice. My film does not suggest that.

EARL WARREN: Your *film*, as you call it, does not even deserve the name! Your film is filth! Garbage! And to cast *Jim Garrison* as the actor to *play me* in the film! What could you have been thinking? The insult, to have *Garrison* play me! The blasphemy!

NORMAN MAILER: You're not God, Mr. Warren. You can't be blasphemed. You were just a politician who became a Supreme Court Justice, which is an extension of politics by other means. Now as long as we've got you here, I want to ask you about the cover-up—about the pressure Lyndon Johnson brought on you, about—

EARL WARREN: —Your question has a preposterous premise. There was no cover-up, no pressure from President Johnson.

NORMAN MAILER: He pressured you to head the Assassination Commission, you admit that much, don't you?

EARL WARREN: He persuaded me. There was no pressure. There was nothing sinister. On Friday, November 29, one week after the assassination, I received a request for a conference with Nicholas Katzenbach, who was the Deputy Attorney General, and Archibald Cox, who was the Solicitor General. I agreed to see them immediately. They stated that President Johnson, in an effort to bring order out of confusion, decided to create a bipartisan commission of distinguished Americans to investigate the entire affair. The President wanted me to serve as Chairman. I refused.

ROD SMOLLA: But Johnson got you to change your mind, right?

EARL WARREN: Lyndon Johnson was not an easy man to refuse. I tried to explain to the President that I didn't think it was proper, under our system of separation of powers, for a sitting Supreme Court Justice to serve on a presidential commission.

HUGO BLACK: Well at least you got that much right.

EARL WARREN: Now Hugo, please try to put yourself in my place. I explained to Johnson that in my view the acceptance of diplomatic posts by Chief Justices John Jay and Oliver Ellsworth had not contributed to the welfare of the Court, and that the service of five Justices on the Hayes-Tilden Commission had demeaned it. I informed President John-

son that I did not think it had served any worthwhile purpose when Justice Owen Roberts had been appointed chair of the commission that investigated Pearl Harbor, and I reminded him that—as you well know, Hugo—the action of Justice Robert Jackson in taking a leave of absence from the Court to serve as the prosecutor for the United States in the Nuremberg war crimes tribunal had created great bitterness and discord on the Court.

HUGO BLACK: I never forgave Robert Jackson for that.

NORMAN MAILER: But Chief Justice Warren, you *did* serve. You capitulated under the "Johnson treatment."

EARL WARREN: Later that same afternoon President Johnson called me and asked if I would come to the White House.

NORMAN MAILER: And you went.

EARL WARREN: Of course I went. How could I not respond to a presidential request?

HUGO BLACK: Just say no! That's how you respond. You knew what LBJ wanted. You should never have gone, Earl, never have gone. I fear it was the start of an immense evil.

EARL WARREN: It was the start of an immense service. An immense service to the nation, of which I am proud. None of you were there. None of you know what it was like, what it was about. None of you—

OLIVER STONE: —And who's fault is that? We don't know because of a conspiracy of silence, deceit, and abuse of power. That's why we don't know.

NORMAN MAILER: I'd like to know what happened in the Oval Office between you and LBJ that day, Mr. Warren. I have a pretty good idea what it must have been like. Johnson tells you that the nation has endured the greatest shock since the assassination of Abraham Lincoln. He tells you that the nation is in crisis, in paralysis. There are wild rumors circulating; everyone thinks that there was some kind of conspiracy, that Lee Harvey Oswald and Jack Ruby are somehow linked. He tells you that these rumors, and the possibility of investigations and commissions springing up all over Texas and all over Congress to investigate the episode could result in accusations running in every direction. Certain people are already starting to suggest that maybe the Russians were behind it. Others wonder out loud if some Americans wanted Kennedy removed from the scene—perhaps even Americans in positions of governmental power. And to add a little verisimilitude, Johnson lets you know that Lee Harvey Oswald just may have some ambiguous relationships to the CIA, or the KGB, or both.

He fills you in on a few dirty little secrets involving Cuba and Fidel Castro. Seems like our government tried *eight times* in recent years to kill Castro. We were using the Mafia to help with the job—using them at the same time Bobby Kennedy is trying to put Jimmy Hoffa and Carlos Marcello in jail! And there are connections between Oswald and the whole Cuban mess. So it could easily—very easily—come out that Oswald is not a deranged individual operating on his own, but a *spy*, an intelligence agent, maybe working for us, maybe working for them, maybe working for both us and them. And if that gets out, and gets believed, we could be toe to toe all over again with the Russians and the Cubans in nuclear con-frontation. I'm thinking maybe he told you these things, in the privacy of the White House, Mr. Warren. And that you and Lyndon Johnson arrived at an understanding of what the Warren Commission would and would not discover before it ever even began its operation.

EARL WARREN: There was never any such conversation. There was never any such understanding.

OLIVER STONE: Sure. And Oswald acted alone. And one magic bullet caused seven different wounds to John Kennedy and John Connally, and ended up in almost pristine condition. With all due respect, Chief—give us a break, do you really expect us to swallow—

EARL WARREN: —Oh, I don't expect you to swallow anything. Because you're a damn fool. Worse than a fool. You feed on paranoia and suspicion. You exploit and devour for your own aggrandizement. You make what was altruistic and public-spirited seem sinister and corrupt. I did not want the job, I took it because I saw it was in the best interests of the country.

NORMAN MAILER: Let's assume we trust you—let's assume we fully accept that you thought you *were* acting in the best interests of the country. But what did you perceive those interests to be? The truth? What if the truth was too horrible to contemplate? What if the truth took you to the edge of the abyss? I think Johnson made you see that it was in the best interests of the country for the Commission to *avoid* much of the truth. I also think that there was a solemn accord between you and Johnson when you left the White House that day—an accord that you probably thought was for the good of the nation.

EARL WARREN: There was never any such accord. Your suggestions are unthinkable. Lyndon Johnson wanted the truth. He wanted it as much as anyone. He wanted me to lead the Warren Commission in any direction I deemed appropriate. The Commission was to report the true facts, whatever the consequences. You say you write fiction, but you

write lies. You are a dangerous man, Mr. Mailer. Perhaps not as dangerous as Mr. Stone, here—but that is only because movies have replaced books as the leading modern agents for deception and propaganda. Your imagination is every bit as insidious and self-serving as Oliver Stone's. The two of you are of a piece. To sell books and movies, you invent yourselves in the wildest and most paranoid of fantasies, and then market them as if they were history. You spread suspicion, distrust, and lies, for your own titillation and profit. You're both disgusting.

OLIVER STONE: But why should we believe you? Your Commission's report is shot full of contradiction, cover-up, and lies. I think Norman has probably got it right. You were a man with a mission, from the start. Why else would you change your mind and agree to the job?

EARL WARREN: I am not denying that some aspects of the conversation between Lyndon Johnson and myself were quite as Mr. Mailer imagines it. LBJ did observe that because Oswald had been killed, there would be no trial, and thus unless the facts were explored objectively and conclusions reached that were respected by the public, it would always remain an open wound, a wound with ominous potential. And yes, he did note the problems of multiple investigations competing for attention, leaving the public bewildered and overwrought.

NORMAN MAILER: What did he tell you about the Russians? The Cubans? About Castro? About Oswald?

EARL WARREN: We never got into specific facts. That would have been unseemly and inappropriate.

NORMAN MAILER: Well whether or not we believed you then, Chief, we don't believe you now.

ROD SMOLLA: Let me intervene here, and try to put these issues on a more general plane. Shouldn't filmmakers cross-examine power? Doesn't Oliver Stone, or Spike Lee, provide a much-needed service in modern times? I mean, at least people like Oliver Stone or Spike Lee are trying to say something about the issues of the day. So my question is, do artists owe any obligation at all to history?

NORMAN MAILER: You are wrong to ask the question in those terms. The film *JFK* is not about history, it's about myth—the story of a huge and hideous event, in which the gods warred and a god fell.

OLIVER STONE: I accept the characterization of *JFK* as myth. Indeed, the movie is not just a war of the gods, but a war of the myths. My myth is no less credible than the myth propagated by the Warren Commission. And I believe my myth, my outlaw history, rings more true than the Warren Commission's official history. Most Americans do not believe Oswald acted alone. Most Americans believe there was a conspir-

... And much of our modern national life has been a narrative about the abuse of power in high places; Vietnam, Watergate, Iran-Contra, the Savings and Loan debacle, Iraq-gate, the BCCI scandal. I am attacking the ultimate modern American myth, the myth of the manifest decency of the American power-elite.

ROD SMOLLA: Mr. Stone, did you have any sense of obligation to the authenticity of the character portraits in your film? How, for example, would you make Jim Garrison—portrayed with understatement so effectively by Kevin Costner—such a sympathetic figure? The real Garrison was a scoundrel, wasn't he? Haven't you totally inverted his character, and manipulated your viewers in an artistically dishonest way?

OLIVER STONE: The movie is not about Jim Garrison. Whatever liberties I took with Garrison were necessary to present the case, because I did not want Garrison's complex personality to get in the way of the story.

ROD SMOLLA: You actually used the real Jim Garrison in your film—you cast him in the role of Earl Warren. What is your view of Earl Warren? I mean, he is a liberal icon. Why would he aid and abet the dark side of the force?

OLIVER STONE: For the reason that conventional liberals always aid and abet the establishment. For their own comfort, and to insure domestic tranquility.

ROD SMOLLA: Norman Mailer, what do you make of the firestorm surrounding *JFK*? Do you approve of Stone's film?

NORMAN MAILER: Oliver Stone has produced a great film, a powerful film. But it lacks artistry.

OLIVER STONE: Here it comes.

NORMAN MAILER: *JFK* is crude, Oliver. All your films are crude. That is not surprising, for you are a brute. But at least you have the integrity of a brute.

EARL WARREN: If I can break up this incestuous fest, let me say that I think these self-serving statements are ludicrous. Fact is fact, and fiction should be fiction. The distinction should be maintained. When the distinction is not honored, there is a great rift in the artistic universe. When you mix fact and fiction you do not get a hybrid. You do not get a "higher truth," or a "deeper truth," you get pure fiction. The fiction overtakes the fact, overwhelms it. So what you get is fiction, but fiction that pretends to be fact. That is artistically dishonest, and I don't think it is protected by the First Amendment.

ROD SMOLLA: So you would approve some kind of legal accountability for this type of depiction?

EARL WARREN: Yes—I think there should be legal accountability for the propagation of this kind of conscious deceit and manipulation.

ROD SMOLLA: What kind of legal accountability?

EARL WARREN: Libel suits, for one thing. I think the people libeled in *JFK* should be able to wring Oliver Stone dry for his behavior. He has exploited them, debased them, corrupted their good names. They should have full recourse through the libel laws.

ROD SMOLLA: But Chief Justice Warren, what about the decision in *New York Times Co. v. Sullivan*? You joined in the majority opinion in that case.

EARL WARREN: I would have no difficulty finding against Oliver Stone under the standard announced in the *New York Times* case. We held in that case that public officials could not recover in a libel suit unless they demonstrated, with clear and convincing evidence, that the libel was published with knowledge of its falsity, or with reckless disregard for truth or falsity. I doubt that there are many examples in the history of American film of a director so *intentionally* and *recklessly* misrepresenting the truth. In fact, he just made the whole wild story up.

ROD SMOLLA: Is the *New York Times* standard even appropriate for works of fiction? In one sense, it is *of course* true that works such as *JFK* or *Harlot's Ghost* engage in a form of "intentional" falsification. Their creators *create*—they create dialogue, characters, and motives, by extrapolating from the known evidence.

EARL WARREN: With all respect, Professor, I think that is a crock. We are not talking about traditional fiction here. Oliver Stone did not present *JFK* as a work of fiction. He presented it as truth. He presented it as history. He presented it as journalism. If Stone wants to play with the big boys, he's got to play by the big boys' rules. When a fiction writer attempts to do a cross-over into portrayals of real people and events, he or she should leave the tools of fiction behind. They have no place in the objective milieu of factual reporting.

HUGO BLACK: Can I get into this? I really think the Chief has gone off the deep end here. It seems to me he is effectively ruling an entire genre of speech out of bounds. Docu-dramas and historical fiction are now being labeled beneath the dignity of the First Amendment. I don't see how persons such as Oliver Stone or Norman Mailer could even ply their craft if the Chief is correct.

EARL WARREN: You are not listening closely, Hugo. I am willing to

proceed that in a *genuine* work of fiction, the writer does "make up" the narrative, and that it may well not be appropriate to apply the *New York Times* standard in a literal sense when a real person comes along and makes the claim that a fictional character is him, and then stakes his claim on the theory that, because the author admittedly wrote "fiction," it follows that the work must be knowingly or recklessly false. But I am saying that when the writer is trying to have his cake and eat it too—to capitalize on a real event, to sell his movie or his book to consumers on the pretense that he is presenting reality to them—and then to disclaim any responsibility for intentional or reckless distortions, that it is just plain wrong. It's morally wrong, artistically wrong, and legally wrong.

ROD SMOLLA: And you really believe Oliver Stone engaged in this kind of intentional deception? Look at him. Do you really think he is that big a demagogue? Don't you think he sincerely believed all that he presented in his film?

EARL WARREN: I'd like to put Mr. Stone on the witness stand right now. I'd like to seem him squirm. I've got a list, here, of twenty-seven severely damaging factual misrepresentations in *JFK* that either flatly contradict all the known evidence or are utterly speculative. I'm going to run through them —

ROD SMOLLA: —Chief Justice, I don't know if this is the place—

EARL WARREN: —Let me continue! You let Stone and Mailer ramble on. Here, let me start with a few minor points. Is it not true, Mr. Stone, that many of the key scenes depicted in your movie are pure conjecture on your part? Or even worse—outright fabrications? The character played by Donald Sutherland, the former CIA agent who meets with Garrison and supplies hints and innuendos of an expansive conspiracy did not even exist, isn't that right? Your suggestion that the photo showing Oswald holding the Mannlicher-Carcano 6.5mm rifle was doctored was pure surmise, wasn't it? You omit the unanimous medical finding in the autopsy on Kennedy that all the shots that struck him came from the rear, don't you? You misrepresent eyewitness testimony asserting that Oswald was the man who shot Officer Tippit. You conveniently forget to tell your movie viewers of the evidence that Oswald carried a long thin paper parcel, which he called "curtain rods," into the building that morning. As to the magic bullet, you completely make up the scene in which some mysterious person is depicted placing a bullet on the stretcher—

OLIVER STONE: —I don't really see the point of all this. If you or anyone else wants to put me on the witness stand, with a team of lawyers, I'll be only too happy to indulge you. And I'm very confident I'd win, in

front of any decent jury in the country. All I would have to do is put you on the stand.

ROD SMOLLA: That might be difficult.

EARL WARREN: I would simply point to the opinion I wrote in *Curtis Publishing Company v. Butts*, a case that involved an article published in the *Saturday Evening Post* claiming that two college football coaches, Wally Butts and Bear Bryant, had conspired to fix a college football game between Georgia and Alabama. I stated that the *Post* was guilty of "actual malice" under the "knowing or reckless" standard of *New York Times Co. v. Sullivan*. The *Post*'s actions paled in comparison to Mr. Stone's hatchet job. Joseph Stalin would have been proud of Stone's techniques. Control the past and you control the future.

ROD SMOLLA: Perhaps you should elaborate.

EARL WARREN: The *Post* was suffering from declining advertising revenues, so an editorial decision was made to change the image of the magazine to boost circulation. The *Post* announced that it intended to embark upon a program of "sophisticated muckraking" designed to "provoke people" and "make them mad." Right after that, the *Post* purchased the "fixed football game" story. It was a story shot through with slipshod journalism. The story relied on a source of dubious credibility and important evidence was ignored—all for the purpose of producing a racy expose that would titillate readers and increase magazine sales. Oliver Stone's actions were exactly parallel to the *Post*'s, but magnified one thousand times in their damage to the nation.

HUGO BLACK: For me, this all underscores what is wrong with the rule in *New York Times Co. v. Sullivan*. As I argued in my concurring opinion in that case, we should have adopted an absolute rule prohibiting public officials from bringing libel actions arising from criticism of how they do their public duties.

ROD SMOLLA: What about public figures who are not public officials, Justice Black? Would you apply your absolute rule to them? Take Clay Shaw, for example, a private citizen accused by Jim Garrison of conspiring to kill President Kennedy. Shaw was acquitted in his trial. Yet Oliver Stone comes along and depicts him as if he were guilty, often by creating creepy scenes and dialogue—scenes that apparently come largely from Stone's imagination. If Clay Shaw were still alive, would you grant Oliver Stone absolute immunity from a libel suit filed by Shaw?

HUGO BLACK: Yes, I certainly would. I said as much in the *Butts* case the Chief Justice has already mentioned. I went along with the Court's public figure doctrine in *Butts* and its companion case, *Associated Press v. Walker*, because I decided it would be best to settle on a concrete

set of rules for libel cases. But I expressly noted that I thought the whole enterprise was doomed, and that we should provide absolute immunity for citizens who speak out on public affairs. Clay Shaw may have been a private figure, but when he is accused of plotting to kill the President, then citizens have as much right to say what they will about him as about any public officials who might be implicated.

My larger point, though, is that it is just wrong for the Supreme Court, or any other court, to get into the quagmire of what is good or bad journalism, good or bad novel-writing, or good or bad movie-making. The very kinds of delicate judgments and fine lines that we are discussing on this panel concerning *JFK* or *Harlot's Ghost* prove my point. Let the critics blast away all they want at Mr. Stone and Mr. Mailer. They're tough guys, as you can well see. But judges and juries are not literary and film critics. And more importantly, they are not the arbiters of history.

The Chief Justice accused Oliver Stone of acting like Joe Stalin, of trying to control history. My answer is that of course serious filmmakers and novelists try to "control" history, if by control we mean challenge the official version of history. That is often what art is all about. To challenge our settled sensibilities. To make us see the world in a new way. It is also what dissent is all about. What terrifies me is not a filmmaker or a novelist offering a new version of history, but *governmental institutions*—juries and a judges, presuming to declare that history "wrong," and assessing millions of dollars of penalties against the heretics whose errant history causes damage to persons wrapped up in those historical events.

EARL WARREN: Subsequent legal developments in the libel area, both in the Supreme Court and in lower courts, clearly vindicate my views, and not my Brother Hugo's. I note, for example, that recently the Supreme Court in the *Milkovich* case refused to recognize any special First Amendment protection for opinion. And in a case called *Masson v. New Yorker Magazine, Inc.*, the Court dealt with something very close to what we are debating—manufactured quotations.

In *Masson*, a writer had allegedly interviewed a subject, and then composed an article that contained many quotations from the interview. The quotations, however, were allegedly altered—they did not match the statements contained on a tape-recording of the interview. In many cases the alterations were material—to put it quite simply, they made the subject of the story sound like an ass.

NORMAN MAILER: Maybe he was an ass.

EARL WARREN: If I can finish, please, he certainly was a character—quite a wild character, I'll grant you. And many of his actual statements

on the tape-recording would have been extremely helpful for the kind of racy story the author wanted to write. But she apparently wasn't content to let his own words do the work, she had to jazz them up, to sensationalize them. She had to make him more *dramatic*, and the Supreme Court slammed her for it.

The Supreme Court said authors cannot intentionally or recklessly alter quotations in a material way, making someone appear worse than they are, and then claim the shelter of the First Amendment. So I put *Milkovich* and *Masson* together, and to me it spells liability for the likes of Norman Mailer and Oliver Stone, if their characters ever sue them. They can't hide behind the facile dodge that "it's just their opinion" they are expressing about these characters, about Clay Shaw, Frank Sinatra, or Howard Hunt, *Milkovich* takes care of that. "Just my opinion" won't cut it anymore. And *Masson* makes clear that they can't put words in people's mouths. If you can't alter a quote, you sure as hell can't make one up.

HUGO BLACK: I disagree with your characterizations of the Court's holdings in *Milkovich* and *Masson*. The Court in *Milkovich* did not repudiate the notion that expressions of opinion are protected by the First Amendment. It merely rejected the terminology of "fact v. opinion," substituting a distinction between "fact and non-fact."

ROD SMOLLA: Why do you think that, Justice Black?

HUGO BLACK: Well first, because Justice Brennan stated that he agreed with the Court's analysis of the law. As Earl Warren well knows, Bill Brennan would never sign on to a rule that allows speakers to be punished for their opinions.

ROD SMOLLA: Maybe *Milkovich* was a stealth ruling. Maybe the majority slipped one by Justice Brennan.

HUGO BLACK: Absolutely not. Look at *Milkovich* closely, and it resembles Gertrude Stein's description of the city of Oakland, "There's no there, there." *Milkovich* goes out of its way to reaffirm the principle that under the First Amendment a defamatory statement must be an assertion of fact. And the Court cites with approval cases such as *Hustler Magazine v. Falwell*—a case that involved a fantastical statement that no person believed was intended to be understood as factual. So *Milkovich* retained protection for expressions of opinion, though in a somewhat inartful and backhanded way. I would have preferred it if the Court had used the "O-word," and stated flat-out that factual statements are actionable, but statements of opinion are not.

EARL WARREN: I don't see that you have refuted my argument, Hugo, for even if your version of *Milkovich* is more accurate than my

version—something I don't concede except for the sake of argument—I still say that you can't properly characterize the things that Norman Mailer or Oliver Stone do as "non-factual" or as "opinion." Use whatever terminology you want, I don't care. There is no way that Mailer or Stone should be able to hide behind the notion that they are merely expressing opinions. They are presenting portraits of factual reality. Stone is telling his viewers that the government shot John Kennedy. He is telling them Clay Shaw was part of the project. Those are factual statements. And he and Mailer do these things, worst of all, by putting words in people's mouths, and thoughts in their heads. And *Masson* tell us that's wrong.

HUGO BLACK: *Masson* tells us no such thing. *Masson* involved a non-fiction article. The author was presenting a portrait of a person in a non-fiction piece, and was purporting to quote directly from the subject. *Masson* merely holds that one cannot materially alter quotations in that type of work and get away with it. But there is a world of difference, artistically and legally, between manufacturing dialogue in dramatic or fictional works, and altering quotations in non-fiction. The two do not equate.

EARL WARREN: Well we can go round and round on this Hugo. I think they *do* equate, and I've got a majority of the Supreme Court on my side. So you just go ahead and write a dissenting opinion if you want.

ROD SMOLLA: But to return to a point Justice Black has been pressing here, doesn't your view result in censorship of an entire genre of art—historic fiction—effectively making it impossible for artists to creatively render real events?

EARL WARREN: If they want to be creative, let them be truly creative. Write genuine fiction. Don't use real people and real events unless you are willing to remain true to the historic record. If you have the urge to depart materially from that record, then depart *all the way*. Use fictitious names. Alter the physical appearance, age, sex, and biographies of the characters. Place characters in different geographic settings. Alter relationships and personality characteristics. If you want to be creative, be creative. If you want to write fiction, write fiction. But don't mix it up. Mixed genres are worse than mixed metaphors.

ROD SMOLLA: Shouldn't we be careful to distinguish among various styles of fiction and film? Are we lumping too many things together here? Shouldn't it matter how the artistic work presents itself? And shouldn't it make a difference, for example, whether the work simply draws generally on an historical period, or actually uses real people and events?

HUGO BLACK: These may be valid artistic distinctions. But under the First Amendment, all genres are created equal. I would suggest, for example, that it is utterly unimportant whether or not Robert Penn Warren's *All the King's Men* is an authentic rendering of Huey Long. And it is utterly unimportant whether Orson Welles' *Citizen Kane* is an authentic rendering of William Randolph Hearst. What matters is whether they are authentic renderings, period.

EARL WARREN: Renderings of what? There is no rendering in the air. One renders something else. So if they're not to be taken as authentic portrayals of Huey Long or William Randolph Hearst, of what?

HUGO BLACK: They are authentic renderings of what makes a Huey Long or a William Randolph Hearst possible.

EARL WARREN: There is no great fault in using history as the fodder for entertainment. But it deserves no credit as history. As myth, perhaps, but not as history. Margaret Mitchell's *Gone With the Wind*, or Harriet Beecher Stowe's *Uncle Tom's Cabin* were not history, they were mythology. Upton Sinclair's *The Jungle* was not history. John Steinbeck's *The Grapes of Wrath* was not history. D.W. Griffith's movie *Birth of a Nation* was not history, when Woodrow Wilson saw the film he described it as 'trying to write history with lightning.' When myth masquerades as history, as it does in Stone's film, the law should intervene.

ROD SMOLLA: Let's shift gears a bit. Aside from the First Amendment issues you have been debating, Stone benefits from the fact that most of the persons who are really defamed outright in the movie are dead. And the traditional common law rule in libel cases is that libel suits are extinguished upon death. Dead men don't wear plaid, and they don't sue for libel.

EARL WARREN: Perhaps that rule should be changed.

HUGO BLACK: Earl, are you serious?

EARL WARREN: I don't think our culture should declare open season on a person once he or she dies. We have always thought of reputation as an asset. Shakespeare wrote that, "... he who filches from me my good name Robs me of that which not enriches him And make me poor indeed."

We allow other forms of property, including intellectual property such as copyright, to pass through to a person's estate. Conceptually, I would see no great difficulty in permitting libel suits to be brought for say twenty-five or fifty years after death. The legislature could make the appropriate judgment concerning the length of time. And I think there would be a strong public interest in such a change, an interest that goes beyond the interests of the estate. The rule that immunizes a writer from

legal accountability once a person dies creates an incentive to warp history to earn a fast buck. The truth is what really should matter under the First Amendment. Writers should have as much obligation to truth when they are writing about a dead person as when they are writing about persons still alive.

HUGO BLACK: This is a pernicious idea, our First Amendment absolutely prohibits such a thing.

EARL WARREN: The First Amendment is not even implicated, Hugo! That's the beauty of it! The principle that there is no "libel of the dead" is simply a common-law rule. States may change it by legislation as they please. And I should say, Hugo, that I think the momentum of recent libel decisions by the Supreme Court, which we talked about earlier, is on my side here. The Court has essentially said that the fault principles emanating from *New York Times Co. v. Sullivan*, coupled with the First Amendment rule that places the burden of proof on plaintiffs to demonstrate that the statements about them are false, provide all the protection necessary under the Constitution.

The Court has been unwilling to invent new First Amendment protections in libel law. For example, it has refused to outlaw punitive damages in libel cases. And whatever you may say to the contrary, I am convinced that in *Milkovich* the Court meant what it said, and refused to recognize a free-standing First Amendment privilege for expressions of "opinion." So I seriously doubt that the Court would strike down legislation allowing libel suits to be brought in the name of deceased persons.

ROD SMOLLA: Let me bring the artists back into this discussion. Norman Mailer, Oliver Stone, what is your response? Are Earl Warren's points well-taken? Or is the artist's only obligation a duty to the personal integrity of the work? I remember in the opening chapter of *The Scarlet Letter* when Nathaniel Hawthorne describes the "small red cloth, much worn and faded," and the "foolscap sheets," containing "many particulars respecting the life" of one Hester Prynne—and then announces: "I must not be understood as affirming, that, in dressing up of the tale, and imagining the motives and modes of passion that influenced the characters who figure in it, I have invariably confined myself within the limits of the old Surveyor's half a dozen sheets of foolscap. On the contrary, I have allowed myself, as to such points, nearly or altogether as much license as if the facts had been entirely of my own invention. What I contend for is the *authenticity of the outline*." Did Hawthorne have it right? The artist's only obligation is to the "authenticity of the outline?"

Let me try to pursue this with Norman Mailer. I'd like to start with a broad question. How could you presume to write about the internal machinations of the CIA? You are an outsider to the Agency.

NORMAN MAILER: I wrote *Harlot's Ghost* with the part of my mind that has lived in the CIA for forty years.

ROD SMOLLA: As wonderful as that sounds, what does it mean? Don't get me wrong, now—I should probably disclose my bias: I think *Harlot's Ghost* is one of the most ambitious and authentic portrayals of American experience in the history of our literature. I think it is a masterpiece. I found that it rang true, but I am not sure what it was that caused me to react this way. Perhaps it was just your craft: your characters, your human insights, your language, your images. Those are the things that rang true. But can I trust the other aspects of the book? Can I trust it as a portrait of the real CIA? As moved as I am with its artistry, I am fretful of its authenticity.

NORMAN MAILER: Look, a writer need not have been part of a culture to understand the tone of its inner workings. Imagine a Russian Jew of the early nineteenth century who happened to be consumed with interest about the nature of the Orthodox Church. He would not have to be on intimate terms with a priest to feel that his comprehension of Russian Orthodoxy was possessed of some accuracy.

ROD SMOLLA: But suppose he writes a novel expressing what he comprehends. Could we trust it?

NORMAN MAILER: That depends on the skill of the novelist. If he was good, you could certainly trust it. To pull it off, of course, would require some inner link, some sense that if he had been born into Russian Orthodoxy, he might have become a monk.

ROD SMOLLA: But do you think you have such an "inner link" to the CIA?

NORMAN MAILER: I do have the link, or I could not have written *Harlot's Ghost* in a manner that you, and many others, found convincing. It would not have been all that impossible for me to have spent my life in the CIA if I had come from a different background and political bent.

ROD SMOLLA: Howard Hunt obviously didn't think you knew what you were talking about. He said of your book, "The writer who presumes to reveal the inner world of espionage without having experienced it is comparable to a young man haunting a brothel exit and asking patrons what it was like."

NORMAN MAILER: Hunt suffers from a failure of imagination.

ROD SMOLLA: But that's the point, isn't it? That Hunt does not have to imagine the CIA? He knows the real CIA.

NORMAN MAILER: Why are you so sure of that? It is true the CIA that I created in *Harlot's Ghost* "exists" only in my mind. But the same

is true for Howard Hunt, and for all the men and women who have spent forty years working within the Agency. They have only their version of the CIA to know, even as each of us has our own America, and no two Americas will prove identical. And I emphatically believe that my CIA is as real—or even more real—than most of the lived-in ones.

ROD SMOLLA: Sometimes you use fictional names for your characters. At other times your characters bear the names of the real persons they represent. How did you make those choices?

NORMAN MAILER: The device of taking a real personage, whom all readers will identify, and giving him a fictional name, is often lame and silly. I could have given John Kennedy a fake name in *Harlot's Ghost*—named him "President Fennerly" or something. The character would have lost all its fictional presence. Readers would have read the name as an author's wink, and thought "Oh yes, I'm with you Norman, Fennerly is really Kennedy, and now we will see what made Kennedy tick."

ROD SMOLLA: So you are saying, in a sense, that the reader may in some cases treat the character as more of a fictional creation when the character's real name is used?

NORMAN MAILER: Something like that—though I am more concerned with my writer's intuitions concerning the resonance and verisimilitude of the character, than with your lawyerisms. You keep looking at these works from the pathological sense. What happens if the novel triggers a lawsuit? If the character sues, are we better off if we named him or didn't name him?

I suppose one is usually better off, from a strictly legal perspective, in going through the motions of providing a fake name. I am simply pointing out why, as you have suggested, the doctrinaire channels of the law do not parallel the more open-ended seas of the creative imagination. There are sound artistic reasons at times for using the real name, and at times for using a fake name. The decision should be driven by all that drives good fiction writing, including that rather pretentious search for "truth." But I don't write a novel, at least not a great novel, by thinking in terms of "What happens if my characters sue me?"

ROD SMOLLA: Let's lay to rest, for a moment, the artistic decision not to disguise John Kennedy—that seems to be an easy case, both artistically and legally. It would have been pointless to disguise Kennedy's name, and, of course, he is dead, and from a legal perspective, and until Earl Warren gets his way, the dead cannot sue for libel. But what about Howard Hunt? He is alive. Indeed, the real Howard Hunt actually reviewed your book, for the magazine *Gentleman's Quarterly*. That's prob-

ably a first, a fictional character reviewing the novel he appears in. In any event, why did you decide to use the real name of Howard Hunt?

NORMAN MAILER: To be candid, I struggled with that one. I debated for a time whether to call him Charley "Stunt" Stevens. But I was sure that sophisticated readers and reviewers would quickly identify Stevens as Hunt, and that linkage would become part of the lore surrounding the book. I viewed that as the cruelest invasion of Hunt's integument, for it would actually encourage readers to think that everything I wrote about Stevens—a.k.a. Howard Hunt—was literally true.

ROD SMOLLA: But won't readers make the same assumption when you use his real name?

NORMAN MAILER: No. I am convinced that using the real name often emancipates the imagination of both the writer and the reader. The readers, if you will, are now free to disagree. They can say, "This is not at all my idea of Howard Hunt." Also, I should point out, that my portrait of Howard Hunt is favorable, even flattering. He is no ogre. He comes off, in many instances as stoic, even heroic. Indeed, my portrait of the CIA itself is very balanced. No one could call this an anti-CIA novel. In getting inside the human beings, and in creating a living organism out of what we so often caricature as a cold and sinister bureaucracy, I have, if anything, made the agency more endearing. The novel is not particularly judgmental.

ROD SMOLLA: Has your own book seduced you? Have you been taken in by your own CIA? I understand that when you were invited to speak at a CIA luncheon recently, you even suggested that you were not necessarily opposed to "wet jobs," operations involving murder or assassination. This is from the person who had over the years often blasted the agency as a devious threat to democracy.

NORMAN MAILER: I know some think that I glorified the CIA in *Harlot's Ghost*. But as I've already suggested, I think I merely captured its essential inner truth, and captured it with a sense of proportion. It may have seemed a glorification because everyone was posed for a scathing attack. There is too much self-righteousness in America, even too much self-righteousness in picking on the CIA. It is a national disease, and I am trying to fend it off, at least in my own writing. And as to wet jobs, do you think the American people would balk in massive moral indignation at the news that the CIA was working on a secret plan to knock off Saddam Hussein?

ROD SMOLLA: Is it?

NORMAN MAILER: We'll see. I haven't written that part yet.

ROD SMOLLA: Okay—to get back on track—you've explained your

artistic decision to use the real name of Howard Hunt. But what about the legal ramifications? You must admit that you do take liberties with Mr. Hunt's character, attributing to Hunt hundreds of pages of dialogue, dramatic action, and motives that you imagined. How did you get away with that? Weren't you worried he'd sue you for libel?

NORMAN MAILER: There was never any real risk. We used classic cold war deterrence theory on Mr. Hunt, something he understood quite well.

ROD SMOLLA: Please explain.

NORMAN MAILER: According to my lawyers, if Hunt were to sue us, we would rely, among other things, on the defense of truth. Not so much on a winning legal defense, but a *detering* legal defense. We'd drag him through hell in what the lawyers call "discovery." We'd put E. Howard Hunt and the CIA on trial, not Norman Mailer. We'd go through everything in his record at the agency. His whole life, actually, because he also must prove that his reputation was damaged. So we'd attempt to establish that he didn't have much of a reputation to damage. We could retry Watergate, call Richard Nixon to the stand—Hell, I'm starting to wish he would sue! You get the picture, Professor. You're the expert on libel law, I don't have to spell it out for you.

ROD SMOLLA: You're saying he couldn't afford to sue you, because of what you might uncover through the litigation process.

NORMAN MAILER: Put it this way: if you were Howard Hunt, would you like to hand Norman Mailer a subpoena to look into every book and cranny of your life?

ROD SMOLLA: I'm *not* Howard Hunt, and I wouldn't like it.

Okay, one final theme—let's explore what happens when you *do* decide to create a fictional name for a character that is suggested by a real person. I am interested in what you feel you owe to real personages when you use them as touchstones for fictional characters.

In *Harlot's Ghost*, for example, you create a character named Modene Murphy, a woman who has affairs with John Kennedy, Frank Sinatra, and Sam Giancana. Her glamorous life unravels as the book progresses. She is harassed by the FBI, and ends up in a state of pathetic misery. Modene Murphy is based, is she not, on a real person—Judith Campbell Exner—who wrote a book called *My Story* that detailed her affairs with Kennedy, Sinatra, and Giancana?

NORMAN MAILER: Yes, Judith Campbell Exner was the inspiration for the character Modene Murphy. I thought her book rang true; I believe she did have affairs with Kennedy, Sinatra, and Giancana. I didn't feel, however, that I could provide more insight into her life than she had

already provided in her book, and so I remained true to the *sketches* of events of her story. Modene Murphy's actions parallel Campbell's actions in many ways, but her persona was entirely of my creation. Her inner feelings, her dialogue, and most of the specific moments described in the book belong not to Campbell, but to Modene Murphy.

ROD SMOLLA: Is that legitimate? It's easy to say that your ultimate obligation is to the "truth," and then make the self-serving assertion that the artist seeks a "higher truth" than the cold and objectively verifiable facts may reveal.

NORMAN MAILER: I don't use the phrases "truth," or "higher truth." Those are your words. All writers hope for a grain of truth, a grain of perception, in their writing, but few of us ever achieve it, consistently, and only a pompous fool would stake his literary claims on anything so ostentatious.

ROD SMOLLA: But if you're going to use the raw material of history, such as real persons and events, doesn't the obligation to "truth"—even with a small "t"—require some sense of restraint? Doesn't intellectual honesty require the artist to refrain from making extrapolations or interpretations that cannot be justified by a judicious weighing of the evidence? George Will calls this an "ethic of literature." Isn't he right?

NORMAN MAILER: George Will is wrong, though at least he's literate. You are wrong, and not even literate. You are a lawyer. Lawyers seldom make good novelists—or even decent historians—precisely because they think and speak in phrases such as "extrapolations or interpretations that cannot be justified by a judicious weighing of the evidence."

ROD SMOLLA: Are you telling me you *don't* weigh the historical evidence?

NORMAN MAILER: No, of course a writer of historical fiction "weighs" the evidence. The good writer immerses himself in the evidence; wallows in it, consumes it. But the evidence is the starting point of the process, not the end. The end is wisdom, revelation, creation. The end is the *insight* from the fierce concentration required for creative writing.

ROD SMOLLA: Maybe Henry James had it right when he said that the historian "essentially wants more documents than he can really use." But I want to keep pushing—let me take another pass at you. Whether you are using a real name or a fictional name, when you create a character that is grounded in some sense in an historical person, do you feel bound by any literary or artistic *ethic* at all? Or are you bound only by "what works," in your judgment, creatively?

NORMAN MAILER: I am bound. Whether I would choose to call it an "ethic" or not I don't know—but I don't want to quibble with your question—I accept it in the spirit it is offered. The answer is "Yes." I do feel constraints, constraints that are bound up in my obligations to my art, to myself. I set out, in *Harlot's Ghost*, to render a model of reality. It is a complex book, and the rendering was accomplished through many different artistic strategies, some of which we have gone over. But the events described are either real, or able to respect the proportions of the actual events. I have imagined, but have not exaggerated. I have fictionalized, but not lied.

ROD SMOLLA: Let's now bring our discussion to a conclusion, by seeing if there are any general cultural lessons to be gleaned from a comparison of *Harlot's Ghost* with *JFK*. I perceive a sort of literary gyroscope operating within Mr. Mailer's novel, keeping it in mean balance. But many who have attacked *JFK* have in effect argued that Stone had no such gyroscope—or that he flicked off the guidance system.

HUGO BLACK: If I can offer a non-legal observation, I think part of the reaction of the critics may be influenced by the difference in the media. Films, because they deal in visual imagery, influence us in different ways than books.

ROD SMOLLA: Should the First Amendment be applied differently to movies than to books?

HUGO BLACK: No, I would not accept that idea, at least not in the context we are talking about—legal accountability for the portrayal of public events. When the First Amendment says, "Congress shall make no law," it means *no* law, with no ifs, ands, buts, or whereases.

I think that the discussion we have had with Mr. Mailer and Mr. Stone demonstrates precisely why the First Amendment should be understood to prohibit the law from forcing artistic and creative choices on writers and filmmakers. But I should hasten to add that while I defend the First Amendment rights of Mr. Mailer and Mr. Stone to speak what they will, that does not mean that I endorse all their concepts of writing and filmmaking. Although I do not believe, as Earl Warren does, that fiction must be kept entirely separate from non-fiction, I do believe that when the distinction is blurred, the result is often intellectually dishonest.

ROD SMOLLA: What do you mean?

HUGO BLACK: I was, for example, deeply offended by the movie *Mississippi Burning*. To me it was outrageous that J. Edgar Hoover's FBI was portrayed as a positive moral force in the civil rights movement. I think that American culture is losing its ability to distinguish fantasy from reality.

ROD SMOLLA: In what sense?

HUGO BLACK: We are experiencing an intellectual breakdown. The breakdown is in part caused by evolving conventions in both the presentation of news and entertainment. News is increasingly packaged as if it were entertainment, and entertainment as if it were news. All those docu-dramas and made-for-television dramatizations of real events have inured us to the notion that there is *virtue* in examining reality the old fashioned way, by *earning* one's truths through rigorous analysis and objective sifting of the evidence.

ROD SMOLLA: Why has this happened?

HUGO BLACK: I think the electronic media is partly to blame. I agree with Marshall McLuhan's thesis that print media encourage rigorous thought and debate, while visual images and electronic communication tend to short-circuit the brain, conditioning us to think of *images* as valid.

ROD SMOLLA: Is this part of the fault you find in *JFK*?

HUGO BLACK: Absolutely. The movie adopts the cinematic syntax of MTV.

ROD SMOLLA: You watch MTV?

HUGO BLACK: Only as an artifact of culture. *JFK* is a bombardment of splintered visual images. There are thousands of cuts—thousands of different camera angles and setups in the film. It is a jangle of special effects, splices, edits, flashbacks, flash-forwards, all masterfully calculated to hypnotize. There will be a whole generation of Americans, young people born after Kennedy was shot, born even after Vietnam, who will be mesmerized by Stone's film, who will identify with Stone as an MTV prophet, and who will think that Stone's warped vision of the assassination, of *America* itself, is genuine.

ROD SMOLLA: Does this mean you believe the Warren Commission?

HUGO BLACK: I didn't say that. I've always been skeptical of the notion that Oswald acted alone. I've always been skeptical of the "magic bullet" theory invented by Arlin Specter. But to go from the possibility that Oswald acted in concert with others, to the sweeping paranoia of Stone's film is a travesty.

NORMAN MAILER: If I can get into this, I'd like to say that I agree with much of what Hugo Black just said, particularly about the corrosive effects of an electronic culture. The pounding beat of MTV, the rhythms of crass commercialism that dominate our television screens—in which a thirty second commercial is now considered rather long—have dissolved the national attention span. I see a future, for example, in which the

and no longer lives in the culture in the way we know it. A novelist twenty years from now may be the spiritual and economic equal of the poet—a person who writes for the love of the art, or out of single-minded determination to express creative impulses—but with no realistic hope of a widespread audience or financial reward.

ROD SMOLLA: Oliver Stone, out of fairness, perhaps you deserve the last word.

OLIVER STONE: I'd just like to say that I'm afraid that, ultimately, Hugo Black is no different from Earl Warren. With respect, Justice Black, you are unable, when all is said and done, to shed your own establishment biases.

What you said a moment ago about *JFK* is very revealing, for it exposes the *real* paranoia—not my paranoia, but the paranoia of those who actually run America. The establishment is afraid that my films will infect the nation's youth with the virus of radicalism. You are afraid that a new generation will not buy into the storybook picture of democracy that you want us to believe in.

HUGO BLACK: Now that's just not—

ROD SMOLLA: —Justice Black, I must cut you off. I'm afraid our time is up. Oliver Stone, Norman Mailer, Earl Warren, and Hugo Black, thank you for joining us.