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FROM: Chief, WOVIEW

SUBJECT: O Countering Criticism of the Warren Report

ACTION REQUIRED - REFERENCES

PAUL H. FOR OSWALD FILE! 2 COPIES

PSYCH

THIS WAS PULLED TOGETHER BY NED BENNETT OF CA STAFF IN CLOJE CONJUNCTION WITH CIPRA. WE FURNISHED MOST OF THE SOURCE MATERIAL, PROPOSED MANY OF THE THEMES, AND PROVIDED GENERAL "EXPERTISE" ON THE CASE. THE SPECTATOR ARTICLE WAS WRITTEN BY BENNETT. G.E. Doub 23 JAN 1967

1. Our Concern. From the day of President Kennedy's assassination on, there has been speculation about the responsibility for his murder. Although this was stemmed for a time by the Warren Commission report (which appeared at the end of September 1964), various writers have now had time to scan the Commission's published report and documents for new pretexts for questioning, and there has been a new wave of books and articles criticizing the Commission's findings. In most cases the critics have speculated as to the existence of some kind of conspiracy, and often they have implied that the Commission itself was involved. Presumably as a result of the increasing challenge to the Warren Commission's Report, a public opinion poll recently indicated that 46% of the American public did not think that Oswald acted alone, while more than half of those polled thought that the Commission had left some questions unresolved. Doubtless polls abroad would show similar, or possibly more adverse, results.

2. This trend of opinion is a matter of concern to the U.S. government, including our organization. The members of the Warren Commission were naturally chosen for their integrity, experience, and prominence. They represented both major parties, and they and their staff were deliberately drawn from all sections of the country. Just because of the standing of the Commissioners, efforts to impugn their rectitude and wisdom tend to cast doubt on the whole leadership of American society. Moreover, there seems to be an increasing tendency to hint that President Johnson himself, as the one person who might be said to have benefited, was in some way responsible for the assassination. Innuendo of such seriousness affects not only the individual concerned, but also the whole reputation of the American government. Our organization itself is directly involved: among other facts, we contributed information to the investigation. Conspiracy theories have frequently thrown suspicion on our organization, for example by falsely alleging that Lee Harvey Oswald worked for us. The aim of this dispatch is to provide material for countering and discrediting the claims of the conspiracy theorists, so as to inhibit the circulation of such claims in other countries. Background information is supplied in a classified section and in a number of unclassified attachments.

3. Action. We do not recommend that discussion of the assassination question be initiated where it is not already taking place. Where discussion is active, however, addressees are requested:

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9 attachments h/w

DISPATCH SYMBOL AND NUMBER: ~~WE~~ BD 5847

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1 - SECRET 8 att.
8 - Unclassified

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a. To discuss the publicity problem with liaison and friendly elite contacts (especially politicians and editors), pointing out that the Warren Commission made as thorough an investigation as humanly possible, that the charges of the critics are without serious foundation, and that further speculative discussion only plays into the hands of the opposition. Point out also that parts of the conspiracy talk appear to be deliberately generated by Communist propagandists. Urge them to use their influence to discourage unfounded and irresponsible speculation.

b. To employ propaganda assets to answer and refute the attacks of the critics. Book reviews and feature articles are particularly appropriate for this purpose. The unclassified attachments to this guidance should provide useful background material for passage to assets. Our play should point out, as applicable, that the critics are (i) wedded to theories adopted before the evidence was in, (ii) politically interested, (iii) financially interested, (iv) hasty and inaccurate in their research, or (v) infatuated with their own theories. In the course of discussions of the whole phenomenon of criticism, a useful strategy may be to single out Epstein's theory for attack, using the attached Fletcher Knebel article and Spectator piece for background. (Although Mark Lane's book is much less convincing than Epstein's and comes off badly where contested by knowledgeable critics, it is also much more difficult to answer as a whole, as one becomes lost in a morass of unrelated details.)

4. In private or media discussion not directed at any particular writer, or in attacking publications which may be yet forthcoming, the following arguments should be useful:

a. No significant new evidence has emerged which the Commission did not consider. The assassination is sometimes compared (e.g., by Joachim Joesten and Bertrand Russell) with the Dreyfus case; however, unlike that case, the attacks on the Warren Commission have produced no new evidence, no new culprits have been convincingly identified, and there is no agreement among the critics. (A better parallel, though an imperfect one, might be with the Reichstag fire of 1933, which some competent historians (Fritz Tobias, A.J.P. Taylor, D.C. Watt) now believe was set by Van der Lubbe on his own initiative, without acting for either Nazis or Communists; the Nazis tried to pin the blame on the Communists, but the latter have been much more successful in convincing the world that the Nazis were to blame.)

b. Critics usually overvalue particular items and ignore others. They tend to place more emphasis on the recollections of individual eyewitnesses (which are less reliable and more divergent -- and hence offer more hand-holds for criticism) and less on ballistic, autopsy, and photographic evidence. A close examination of the Commission's records will usually show that the conflicting eyewitness accounts are quoted out of context, or were discarded by the Commission for good and sufficient reason.

c. Conspiracy on the large scale often suggested would be impossible to conceal in the United States, esp. since informants could expect to receive large royalties, etc. Note that Robert Kennedy, Attorney General at the time and John F. Kennedy's brother, would be the last man to overlook or conceal any conspiracy. And as one reviewer pointed out, Congressman Gerald R. Ford would hardly have held his tongue for the sake of the Democratic administration, and Senator Russell would have had every political interest in exposing any misdeeds on the part of Chief Justice Warren. A conspirator moreover would hardly choose a location for a shooting where so much depended on conditions beyond his control: the route, the speed of the cars, the moving target, the risk that the assassin would be discovered. A group of wealthy conspirators could have arranged much more secure conditions.

d. Critics have often been enticed by a form of intellectual pride: they light on some theory and fall in love with it; they also scoff at the Commission because it did not always answer every question with a flat decision one way or the other. Actually, the make-up of the Commission and its staff was an excellent safeguard against over-commitment to any one theory, or against the illicit transformation of probabilities into certainties.

e. Oswald would not have been any sensible person's choice for a co-conspirator. He was a "loner," mixed-up, of questionable reliability and an unknown quantity to any professional intelligence service.

f. As to charges that the Commission's report was a rush job, it emerged three months after the deadline originally set. But to the degree that the Commission tried to speed up its reporting, this was largely due to the pressure of irresponsible speculation already appearing, in some cases coming from the same critics who, refusing to admit their errors, are now putting out new criticisms.

g. Such vague accusations as that "more than ten people have died mysteriously" can always be explained in some more natural way: e.g., the individuals concerned have for the most part died of natural causes; the Commission staff questioned 418 witnesses (the FBI interviewed far more people, conducting 25,000 interviews and reinterviews), and in such a large group, a certain number of deaths are to be expected. (When Penn Jones, one of the originators of the "ten mysterious deaths" line, appeared on television, it emerged that two of the deaths on his list were from heart attacks, one from cancer, one was from a head-on collision on a bridge, and one occurred when a driver drifted into a bridge abutment.)

5. Where possible, counter speculation by encouraging reference to the Commission's Report itself. Open-minded foreign readers should still be impressed by the care, thoroughness, objectivity and speed with which the Commission worked. Reviewers of other books might be encouraged to add to their account the idea that, checking back with the Report itself, they found it far superior to the work of its critics.

C. P. Nurnad

CLAYTON P. NURNAD

201-289248

SECRET 4 January 1967

Background Survey of Books Concerning
the Assassination of President Kennedy

1. (Except where otherwise indicated, the factual data given in paragraphs 1-9 is unclassified.) Some of the authors of recent books on the assassination of President Kennedy (e.g., Joachim Joesten, Oswald: Assassin or Fall Guy; Mark Lane, Rush to Judment; Leo Sauvage, The Oswald Affair: An Examination of the Contradictions and Omissions of the Warren Report) had publicly asserted that a conspiracy existed before the Warren Commission finished its investigation. Not surprisingly, they immediately bestirred themselves to show that they were right and that the Commission was wrong. Thanks to the mountain of material published by the Commission, some of it conflicting or misleading when read out of context, they have had little difficulty in uncovering items to substantiate their own theories. They have also in some cases obtained new and divergent testimony from witnesses. And they have usually failed to discuss the refutations of their early claims in the Commission's Report, Appendix XII ("Speculations and Rumors"). This Appendix is still a good place to look for material countering the theorists.

2. Some writers appear to have been predisposed to criticism by anti-American, far-left, or Communist sympathies. The British "Who Killed Kennedy Committee" includes some of the most persistent and vocal English critics of the United States, e.g., Michael Foot, Kingsley Martin, Kenneth Tynan, and Bertrand Russell. Joachim Joesten has been publicly revealed as a onetime member of the German Communist Party (KPD); a Gestapo document of 8 November 1937 among the German Foreign Ministry files microfilmed in England and now returned to West German custody shows that his party book was numbered 532315 and dated 12 May 1932. (The originals of these files are now available at the West German Foreign Ministry in Bonn; the copy in the U.S. National Archives may be found under the reference T-120, Serial 4918, frames E256482-4. The British Public Records Office should also have a copy.) Joesten's American publisher, Carl Marzani, was once sentenced to jail by a federal jury for concealing his Communist Party (CPUSA) membership in order to hold a government job. Available information indicates that Mark Lane was elected Vice Chairman of the New York Council to Abolish the House Un-American Activities Committee on 28 May 1963; he also attended the 8th Congress of the International Association of Democratic Lawyers (an international Communist front organization) in Budapest from 31 March to 5 April 1964, where he expounded his (pre-Report) views on the Kennedy assassination. In his acknowledgments in his book, Lane expresses special thanks to Ralph Schoenman of London "who participated in and supported the work"; Schoenman is of course the expatriate American who has been influencing the aged Bertrand Russell in recent years. (See also para. 10 below on Communist efforts to replay speculation on the assassination.)

3. Another factor has been the financial reward obtainable for sensational books. Mark Lane's Rush to Judgment, published on 13 August 1966, had sold 85,000 copies by early November and the publishers had printed

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140, 000 copies by that date, in anticipation of sales to come. The 1 January 1967 New York Times Book Review reported the book as at the top of the General category of the best seller list, having been in top position for seven weeks and on the list for 17 weeks. Lane has reportedly appeared on about 175 television and radio programs, and has also given numerous public lectures, all of which serves for advertisement. He has also put together a TV film, and is peddling it to European telecasters; the BBC has purchased rights for a record $45,000. While neither Abraham Zapruder nor William Manchester should be classed with the critics of the Commission we are discussing here, sums paid for the Zapruder film of the assassination ($25,000) and for magazine rights to Manchester's Death of a President ($669,000) indicate the money available for material related to the assassination. Some newspapermen (e.g., Sylvan Fox, The Unanswered Questions About President Kennedy's Assassination; Leo Sauvage, The Oswald Affair) have published accounts cashing in on their journalistic expertise.

4. Aside from political and financial motives, some people have apparently published accounts simply because they were burning to give the world their theory, e.g., Harold Weisberg, in his Whitewash II, Penn Jones, Jr., in Forgive My Grief, and George C. Thomson in The Quest for Truth. Weisberg's book was first published privately, though it is now finally attaining the dignity of commercial publication. Jones' volume was published by the small-town Texas newspaper of which he is the editor, and Thomson's booklet by his own engineering firm. The impact of these books will probably be relatively slight, since their writers will appear to readers to be hysterical or paranoid.

5. A common technique among many of the writers is to raise as many questions as possible, while not bothering to work out all the consequences. Herbert Mitgang has written a parody of this approach (his questions actually refer to Lincoln's assassination) in "A New Inquiry is Needed," New York Times Magazine, 25 December 1966. Mark Lane in particular (who represents himself as Oswald's lawyer) adopts the classic defense attorney's approach of throwing in unrelated details so as to create in the jury's mind a sum of "reasonable doubt." His tendency to wander off into minor details led one observer to comment that whereas a good trial lawyer should have a sure instinct for the jugular vein, Lane's instinct was for the capillaries. His tactics and also his nerve were typified on the occasion when, after getting the Commission to pay his travel expenses back from England, he recounted to that body a sensational (and incredible) story of a Ruby plot, while refusing to name his source. Chief Justice Warren told Lane, "We have every reason to doubt the truthfulness of what you have heretofore told us" -- by the standards of legal etiquette, a very stiff rebuke for an attorney.

6. It should be recognized, however, that another kind of criticism has recently emerged, represented by Edward Jay Epstein's Inquest. Epstein adopts a scholarly tone, and to the casual reader, he presents what appears to be a more coherent, reasoned case than the writers described above.

window was probably blocked by the foliage of an oak tree (from frame 166 to frame 207, with a brief glimpse through the leaves at frame 186). In the words of the Commission's Report, "it is unlikely that the assassin would deliberately have shot at [President Kennedy] with a view obstructed by the oak tree when he was about to have a clear opportunity": unlikely, but not impossible. Since Epstein is fond of logical terminology, it might be pointed out that he made an illicit transition from probability to certainty in at least one of his premises.

b. Although Governor Connally believed that he and the President were hit separately, he did not testify that he saw the President hit before he was hit himself; he testified that he heard a first shot and started to turn to see what had happened. His testimony (as the Commission's report says) can therefore be reconciled with the supposition that the first shot missed and the second shot hit both men. However, the Commission did not pretend that the two men could not possibly have been hit separately.

c. The Commission also concluded that all the shots were fired from the sixth floor window of the Depository. The location of the wounds is one major basis for this conclusion. In the room behind the Depository window, Oswald's rifle and three cartridge cases were found, and all of the cartridge cases were identified by experts as having been fired by that rifle; no other weapon or cartridge cases were found, and the consensus of the witnesses from the plaza was that there were three shots. If there were other assassins, what happened to their weapons and cartridge cases? How did they escape? Epstein points out that one woman, a Mrs. Walther, not an expert on weapons, thought she saw two men, one with a machine gun, in the window, and that one other witness thought he saw someone else on the sixth floor; this does not sound very convincing, especially when compared with photographs and other witnesses who saw nothing of the kind.

d. The very fact that the Commission did not absolutely rule out the possibility that the victims were shot separately shows that its conclusions were not determined by a preconceived theory. Now, Epstein's thesis is not just his own discovery; he relates that one of the Commission lawyers volunteered to him: "To say that they were hit by separate bullets is synonymous with saying that there were two assassins." This thesis was evidently considered by the Commission. If the thesis were completely valid, and if the Commissioners -- as Epstein charges -- had only been interested in finding "political truth," then the Commission should have flatly adopted the "one-bullet theory," completely rejecting any possibility that the men were hit separately. But while Epstein and others have a weakness for theorizing, the seven experienced lawyers

on the Commission were not committed beforehand to finding either a conspiracy or the absence of one, and they wisely refused to erect a whole logical structure on the slender foundation of a few debatable pieces of evidence.

2. Epstein's thesis that either the FBI's reports (that the bullet entering the President's back did not exit) were wrong, or the official autopsy report was falsified.

a. Epstein prefers to believe that the FBI reports are accurate (otherwise, he says, "doubt is cast on the accuracy of the FBI's entire investigation") and that the official autopsy report was falsified. Now, as noted above, it has emerged since Inquest was written that the FBI witnesses to the autopsy did not know about the information of a throat wound, obtained from Dallas, and that the doctors' autopsy report was not forwarded to the FBI until December 23, 1963. True, this date preceded the date of the FBI's Supplemental Report, January 13, 1964, and that Supplemental Report did not refer to the doctors' report, following instead the version of the earlier FBI reports. But on November 25, 1966, FBI Director J. Edgar Hoover explained that when the FBI submitted its January 13 report, it knew that the Commission had the doctor's report, and therefore did not mention it. In other words, the FBI reports were essentially reports of FBI information. This seems natural; the FBI knew that the Commission would weigh its evidence together with that of other agencies, and it was not incumbent on the FBI to argue the merits of its own version as opposed to that of the doctors. When writing reports for outside use, experienced officials are always cautious about criticizing or even discussing the products of other agencies. (If one is skeptical about this explanation, it would still be much easier to believe that the author(s) of the Supplemental Report had somehow overlooked or not received the autopsy report than to suppose that that report was falsified months after the event. Epstein thinks the Commission staff overlooked Mrs. Walther's report mentioned above, yet he does not consider the possibility that the doctors' autopsy report did not actually reach the desk of the individuals who prepared the Supplemental Report until after they had written -- perhaps well before January 13 -- the draft of page 9 of that report. Such an occurrence would by no means justify a general distrust of the FBI's "entire investigation.")

b. With regard to the holes in shirt and coat, their location can be readily explained by supposing that the President was waving to the crowd, an act which would automatically raise the back of his clothing. And in fact, photographs show that the President was waving just before he was shot.

c. As to the location of the hole in the President's back or shoulder, the autopsy films have recently been placed in the National Archives, and were viewed in November 1966 by two of the autopsy doctors, who

stated afterwards that the pictures confirm that the wound was high enough for a bullet entering there to exit through the throat. Commander Boswell, who drew the rough sketch used by Epstein to show that the wound was several inches down the back, stated that his sketch had been mistaken, or rather inaccurate, in marking the spot where the bullet entered; he pointed out, however, that the measurements written on the sketch at the time are correct. They place the wound 14 centimeters from the right shoulder joint and 14 centimeters below the tip of the right mastoid process -- the medical term for the bony point behind the ear. Thus the location of the wound was easily high enough to permit a bullet entering there to exit through the neck. (It is interesting to note that, whether deliberately or not, the reproduction of Cdr. Boswell's sketch in Inquest is too poor for the writing to be readily legible, while the reproduction accompanying Epstein's Esquire article has part of the writing lopped off. If we are charitable, and assume that Epstein himself could not read this writing, or could not translate the medical termology, then we must still note that he apparently overlooked the plain printed reference to the location of the wound contained in the Commission's Report (p.89), which also translates the medical term into layman's language; this should have clarified for him the writing on the sketch.)

It is worth considering some of the implications of Epstein's accusation:

a. There was a conspiracy of two or more persons. Yet despite all the evidence found incriminating Oswald, no evidence has been found incriminating any other identifiable person. Oswald would hardly have been the choice of any careful conspirator. A conspiratorial group -- especially a Texan one -- could easily have found a safer and more reliable way of killing the President.

b. The charge that the autopsy document was falsified incriminates at the least a large number of government officials and independent lawyers, as well as the three autopsy doctors. It would presumably involve the seven Commission members, who vary in political background and outlook, but share the attribute of having staked their reputations on the report. Is it really possible that such an awful secret, shared by so many, could be kept? A clerk who was witting of such a scandal could expect to sell his story for a figure running into at least six digits.

It appears that, to put the matter at its lowest, Epstein has jumped to a conclusion on the basis of incomplete, inadequate research in a rush to judgment.

Epstein has caused people like Richard Rovere and Lord Devlin, previously backers of the Commission's Report, to change their minds. The New York Times' daily book reviewer has said that Epstein's work is a "watershed book" which has made it respectable to doubt the Commission's findings. This respectability effect has been enhanced by Life magazine's 25 November 1966 issue, which contains an assertion that there is a "reasonable doubt," as well as a republication of frames from the Zapruder film (owned by Life), and an interview with Governor Connally, who repeats his belief that he was not struck by the same bullet that struck President Kennedy. (Connally does not, however, agree that there should be another investigation.) Epstein himself has published a new article in the December 1966 issue of Esquire, in which he explains away objections to his book. A copy of an early critique of Epstein's views by Fletcher Knebel, published in Look, 12 July 1966, and an unclassified, unofficial analysis (by "Spectator") are attached to this dispatch, dealing with specific questions raised by Epstein.

7. Here it should be pointed out that Epstein's competence in research has been greatly exaggerated. Some illustrations are given in the Fletcher Knebel article. As a further specimen, Epstein's book refers (pp. 93-5) to a cropped-down picture of a heavy-set man taken in Mexico City, saying that the Central Intelligence Agency gave it to the Federal Bureau of Investigation on 18 November 1963, and that the Bureau in turn forwarded it to its Dallas office. Actually, affidavits in the published Warren material (vol. XI, pp. 468-70) show that CIA turned the picture over to the FBI on 22 November 1963. (As a matter of interest, Mark Lane's Rush to Judgment claims that the photo was furnished by CIA on the morning of 22 November; (begin SECRET) the fact is that the FBI flew the photo directly from Mexico City to Dallas immediately after Oswald's arrest, before Oswald's picture had been published, on the chance it might be Oswald. The reason the photo was cropped was that the background revealed the place where it was taken.) Another example: where Epstein reports (p. 41) that a Secret Service interview report was even withheld from the National Archives, this is untrue: an Archives staff member told one of our officers that Epstein came there and asked for the memorandum. He was told that it was there, but was classified. Indeed, the Archives then notified the Secret Service that there had been a request for the document, and the Secret Service declassified it. But by that time, Epstein (whose preface gives the impression of prolonged archival research) had chosen to finish his searches in the Archives, which had only lasted two days, and had left town. Yet Epstein charges that the Commission was over-hasty in its work. (End SECRET)

8. Aside from such failures in research, Epstein and other intellectual critics show symptoms of some of the love of theorizing and lack of common sense and experience displayed by Richard H. Popkin, the author of The Second Oswald. Because Oswald was reported to have been seen in different places at the same time, a phenomenon not surprising in a sensational case where thousands of real or alleged witnesses were interviewed, Popkin, a professor of philosophy, theorizes that there actually were two Oswalds. At this point, theorizing becomes sort of logico-mathematical game, an exercise in permutations

(Survey Cont.)

and combinations; as Commission attorney Arlen Specter remarked, "Why not make it three Oswalds? Why stop at two?" Nevertheless, aside from his book, Popkin has been able to publish a summary of his views in The New York Review of Books, and there has been replay in the French Nouvel Observateur, in Moscow's New Times, and in Baku's Vyshka. Popkin makes a sensational accusation indirectly, saying that "Western European critics" see Kennedy's assassination as part of a subtle conspiracy attributable to "perhaps even (in rumors I have heard) Kennedy's successor." One Barbara Garson has made the same point in another way by her parody of Shakespeare's "Macbeth" entitled "MacBird," with what is obviously President Kennedy (Ken O Dunc) in the role of Duncan, and President Johnson (MacBird) in the role of Macbeth. Miss Garson makes no effort to prove her point; she merely insinuates it. Probably the indirect form of accusation is due to fear of a libel suit.

9. Other books are yet to appear. William Manchester's not-yet-published The Death of a President is at this writing being purged of material personally objectionable to Mrs. Kennedy. There are hopeful signs: Jacob Cohen is writing a book which will appear in 1967 under the title Honest Verdict, defending the Commission report, and one of the Commission attorneys, Wesley J. Liebeler, is also reportedly writing a book, setting forth both sides. But further criticism will no doubt appear; as the Washington Post has pointed out editorially, the recent death of Jack Ruby will probably lead to speculation that he was "silenced" by a conspiracy.

10. The likelihood of further criticism is enhanced by the circumstance that Communist propagandists seem recently to have stepped up their own campaign to discredit the Warren Commission. As already noted, Moscow's New Times reprinted parts of an article by Richard Popkin (21 and 28 September 1966 issues), and it also gave the Swiss edition of Joesten's latest work an extended, laudatory review in its number for 26 October. Izvestiya has also publicized Joesten's book in articles of 18 and 21 October. (In view of this publicity and the Communist background of Joesten and his American publisher, together with Joesten's insistence on pinning the blame on such favorite Communist targets as H. L. Hunt, the FBI and CIA, there seems reason to suspect that Joesten's book and its exploitation are part of a planned Soviet propaganda operation.) Tass, reporting on 5 November on the deposit of autopsy photographs in the National Archives, said that the refusal to give wide public access to them, the disappearance of a number of documents, and the mysterious death of more than 10 people, all make many Americans believe Kennedy was killed as the result of a conspiracy. The radio transmitters of Prague and Warsaw used the anniversary of the assassination to attack the Warren report. The Bulgarian press conducted a campaign on the subject in the second half of October; a Greek Communist newspaper, Avgi, placed the blame on CIA on 20 November. Significantly, the start of this stepped-up campaign coincided with a Soviet

demand that the U.S. Embassy in Moscow stop distributing the Russian-language edition of the Warren report; Newsweek commented (12 September) that the Soviets apparently "did not want mere facts to get in their way." (SECRET: A curious aftermath was that a known Soviet intelligence officer in a Far Eastern country called a U.S. diplomat six times during the week of 20 November, including after working hours, in an effort to obtain a copy of the Russian-language edition. It is not clear whether he wanted it for propaganda work, or to satisfy his own curiosity as to what really happened. End SECRET.)

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(Survey)

January 1967

The Theories of Mr. Epstein

by Spectator

A recent critic of the Warren Commission Report, Edward Jay Epstein, has attracted widespread attention by contesting the Report's conclusion that, "although it is not necessary to any essential findings of the Commission," President Kennedy and Governor Connally were probably hit successively by the same bullet, the second of three shots fired. In his book, Inquest, Epstein maintains (1) that if the two men were not hit by the same bullet, there must have been two assassins, and (2) that there is evidence which strongly suggests that the two men were not hit by the same bullet. He suggests that the Commission's conclusions must be viewed as "expressions of political truth," implying that they are not in fact true, but are only a sort of Pablum for the public.

Epstein's argument that the two men must either have been shot by one bullet or by two assassins rests on a comparison of the minimum time required to operate the bolt on Lee Harvey Oswald's rifle -- 2.3 seconds -- with the timing of the shots as deduced from a movie of the shooting taken by an amateur photographer, Abraham Zapruder. The frames of the movie serve to time the events in the shooting. The film (along with a slow-motion reenactment of the shooting made on 24 May 1964 on the basis of the film and other pictures and evidence) tends to show that the President was probably not shot before frame 207, when he came out from beneath the cover of an oak tree, and that the Governor was hit not later than frame 240. If this is correct, then the two men would not have been hit longer than 1.8 seconds apart, since Zapruder's film was taken at a speed of 18.3 frames per second. Since Oswald's rifle could not have fired a second shot within 1.8 seconds, Epstein concludes that the victims must have been shot by separate weapons -- and hence presumably by separate assassins -- unless they were hit by the same bullet.

Epstein then argues that there is evidence which contradicts the possibility of a shooting by a single bullet. In his book he refers to Federal Bureau of Investigation reports stemming from FBI men present at the Bethesda autopsy on President Kennedy, according to which there was a wound in the back with no point of exit; this means that the bullet which entered Kennedy's back could not later have hit Connally. This information, Epstein notes, flatly contradicts the official autopsy report accepted by the Commission, according to which the bullet presumably entered Kennedy's body just below the neck and exited through the throat. Epstein also publishes photographs of the backs of Kennedy's shirt and coat, showing bullet holes about six inches below the top of the collar, as well as a rough sketch made at the time of the autopsy; these pictures suggest that the entrance wound in the back was too low to be linked to an exit wound in the throat. In his book, Epstein says that if the FBI statements are correct -- and he indicates his belief that they are -- then the "autopsy findings must have been changed after January 13 [January 13, 1964: the date of

(Cont.)

the last FBI report stating that the bullet penetrated Kennedy's back for less than a finger-length.]." In short, he implies that the Commission warped and even forged evidence so as to conceal the fact of a conspiracy.

Following the appearance of Epstein's Inquest, it was pointed out that on the morning (November 23rd) after the Bethesda autopsy attended by FBI and Secret Service men, the autopsy doctors learned that a neck wound, obliterated by an emergency tracheostomy performed in Dallas, had been seen by the Dallas doctors. (The tracheostomy had been part of the effort to save Kennedy's life.) The FBI men who had only attended the autopsy on the evening of November 22 naturally did not know about this information from Dallas, which led the autopsy doctors to change their conclusions, finally signed by them on November 24. Also, the Treasury Department (which runs the Secret Service) reported that the autopsy report was only forwarded by the Secret Service to the FBI on December 23, 1963. But in a recent article in Esquire, Epstein notes that the final FBI report was still issued after the Secret Service had sent the FBI the official autopsy, and he claims that the explanation that the FBI was uninformed "begs the question of how a wound below the shoulder became a wound in the back of the neck." He presses for making the autopsy pictures available, a step which the late President's brother has so far steadfastly resisted on grounds of taste, though they have been made available to qualified official investigators.

Let us consider Epstein's arguments in the light of information now available:

1. Epstein's thesis that if the President and the Governor were not hit by the same bullet, there must have been two assassins:

a. Feeling in the Commission was that the two men were probably hit by the same bullet; however, some members evidently felt that the evidence was not conclusive enough to exclude completely the Governor's belief that he and the President were hit separately. After all, Connally was one of the most important living witnesses. While not likely, it was possible that President Kennedy could have been hit more than 2.3 seconds before Connally. As Arlen Specter, a Commission attorney and a principal adherent of the "one-bullet theory," says, the Zapruder film is two-dimensional and one cannot say exactly when Connally, let alone the President, was hit. The film does not show the President during a crucial period (from about frames 204 to 225) when a sign blocked the view from Zapruder's camera, and before that the figures are distant and rather indistinct. (When Life magazine first published frames from the Zapruder film in its special 1963 Assassination Issue, it believed that the pictures showed Kennedy first hit 74 frames before Governor Connally was struck.) The "earliest possible time" used by Epstein is based on the belief that, for an interval before that time, the view of the car from the Book Depository

window was probably blocked by the foliage of an oak tree (from frame 166 to frame 207, with a brief glimpse through the leaves at frame 186). In the words of the Commission's Report, "it is unlikely that the assassin would deliberately have shot at [President Kennedy] with a view obstructed by the oak tree when he was about to have a clear opportunity"; unlikely, but not impossible. Since Epstein is fond of logical terminology, it might be pointed out that he made an illicit transition from probability to certainty in at least one of his premises.

b. Although Governor Connally believed that he and the President were hit separately, he did not testify that he saw the President hit before he was hit himself; he testified that he heard a first shot and started to turn to see what had happened. His testimony (as the Commission's report says) can therefore be reconciled with the supposition that the first shot missed and the second shot hit both men. However, the Commission did not pretend that the two men could not possibly have been hit separately.

c. The Commission also concluded that all the shots were fired from the sixth floor window of the Depository. The location of the wounds is one major basis for this conclusion. In the room behind the Depository window, Oswald's rifle and three cartridge cases were found, and all of the cartridge cases were identified by experts as having been fired by that rifle; no other weapon or cartridge cases were found, and the consensus of the witnesses from the plaza was that there were three shots. If there were other assassins, what happened to their weapons and cartridge cases? How did they escape? Epstein points out that one woman, a Mrs. Walther, not an expert on weapons, thought she saw two men, one with a machine gun, in the window, and that one other witness thought he saw someone else on the sixth floor; this does not sound very convincing, especially when compared with photographs and other witnesses who saw nothing of the kind.

d. The very fact that the Commission did not absolutely rule out the possibility that the victims were shot separately shows that its conclusions were not determined by a preconceived theory. Now, Epstein's thesis is not just his own discovery; he relates that one of the Commission lawyers volunteered to him: "To say that they were hit by separate bullets is synonymous with saying that there were two assassins." This thesis was evidently considered by the Commission. If the thesis were completely valid, and if the Commissioners -- as Epstein charges -- had only been interested in finding "political truth," then the Commission should have flatly adopted the "one-bullet theory," completely rejecting any possibility that the men were hit separately. But while Epstein and others have a weakness for theorizing, the seven experienced lawyers

on the Commission were not committed beforehand to finding either a conspiracy or the absence of one, and they wisely refused to erect a whole logical structure on the slender foundation of a few debatable pieces of evidence.

2. Epstein's thesis that either the FBI's reports (that the bullet entering the President's back did not exit) were wrong, or the official autopsy report was falsified.

a. Epstein prefers to believe that the FBI reports are accurate (otherwise, he says, "doubt is cast on the accuracy of the FBI's entire investigation") and that the official autopsy report was falsified. Now, as noted above, it has emerged since Inquest was written that the FBI witnesses to the autopsy did not know about the information of a throat wound, obtained from Dallas, and that the doctors' autopsy report was not forwarded to the FBI until December 23, 1963. True, this date preceded the date of the FBI's Supplemental Report, January 13, 1964, and that Supplemental Report did not refer to the doctors' report, following instead the version of the earlier FBI reports. But on November 25, 1966, FBI Director J. Edgar Hoover explained that when the FBI submitted its January 13 report, it knew that the Commission had the doctor's report, and therefore did not mention it. In other words, the FBI reports were essentially reports of FBI information. This seems natural; the FBI knew that the Commission would weigh its evidence together with that of other agencies, and it was not incumbent on the FBI to argue the merits of its own version as opposed to that of the doctors. When writing reports for outside use, experienced officials are always cautious about criticizing or even discussing the products of other agencies. (If one is skeptical about this explanation, it would still be much easier to believe that the author(s) of the Supplemental Report had somehow overlooked or not received the autopsy report than to suppose that that report was falsified months after the event. Epstein thinks the Commission staff overlooked Mrs. Walther's report mentioned above, yet he does not consider the possibility that the doctors' autopsy report did not actually reach the desk of the individuals who prepared the Supplemental Report until after they had written -- perhaps well before January 13 -- the draft of page 2 of that report. Such an occurrence would by no means justify a general distrust of the FBI's "entire investigation.")

b. With regard to the holes in shirt and coat, their location can be readily explained by supposing that the President was waving to the crowd, an act which would automatically raise the back of his clothing. And in fact, photographs show that the President was waving just before he was shot.

c. As to the location of the hole in the President's back or shoulder, the autopsy films have recently been placed in the National Archives, and were viewed in November 1966 by two of the autopsy doctors, who

(Theories Cont.)

stated afterwards that the pictures confirm that the wound was high enough for a bullet entering there to exit through the throat. Commander Boswell, who drew the rough sketch used by Epstein to show that the wound was several inches down the back, stated that his sketch had been mistaken, or rather inaccurate, in marking the spot where the bullet entered; he pointed out, however, that the measurements written on the sketch at the time are correct. They place the wound 14 centimeters from the right shoulder joint and 14 centimeters below the tip of the right mastoid process -- the medical term for the bony point behind the ear. Thus the location of the wound was easily high enough to permit a bullet entering there to exit through the neck. (It is interesting to note that, whether deliberately or not, the reproduction of Cdr. Boswell's sketch in Inquest is too poor for the writing to be readily legible, while the reporduction accompanying Epstein's Esquire article has part of the writing lopped off. If we are charitable, and assume that Epstein himself could not read this writing, or could not translate the medical termology, then we must still note that he apparently overlooked the plain printed reference to the location of the wound contained in the Commission's Report (p.88), which also translates the medical term into layman's language; this should have clarified for him the writing on the sketch.)

It is worth considering some of the implications of Epstein's accusation:

a. There was a conspiracy of two or more persons. Yet despite all the evidence found incriminating Oswald, no evidence has been found incriminating any other identifiable person. Oswald would hardly have been the choice of any careful conspirator. A conspiratorial group -- especially a Texan one -- could easily have found a safer and more reliable way of killing the President.

b. The charge that the autopsy document was falsified incriminates at the least a large number of government officials and independent lawyers, as well as the three autopsy doctors. It would presumably involve the seven Commission members, who vary in political background and outlook, but share the attribute of having staked their reputations on the report. Is it really possible that such an awful secret, shared by so many, could be kept? A clerk who was witting of such a scandal could expect to sell his story for a figure running into at least six digits.

It appears that, to put the matter at its lowest, Epstein has jumped to a conclusion on the basis of incomplete, inadequate research in a rush to judgment.

December 15, 1966

Legal Ignorance And False Logic

A. L. GOODHART, Q.C.

"If the Warren Commission had allowed Mr. Lane to contest their evidence before judgment, there would have been no need of his book." So writes Professor Hugh Trevor-Roper of Oxford University in an introduction to Mark Lane's *Rush to Judgment*.

Mr. Lane, a New York lawyer, had claimed to act as counsel for Oswald before the Commission, having been retained by Oswald's mother. The Commission, in refusing his application, emphasized that it was an investigating body, so that the adversary system of an ordinary trial would not be suitable.

In support of his claim to represent the dead Oswald, Mr. Lane in his book cites the English law. After saying that the "denial of counsel to the deceased was an act both unprecedented and unfair," he writes: "In England the rule of law is perhaps better understood and the role of counsel better appreciated. A Royal Commission engaged in hearings to determine the innocence or guilt of one deceased as a matter of course provides that counsel for the family may participate fully and without reservations, and such counsel would not be heard to disclaim his function as an advocate."

This statement is both utter nonsense and completely false. There never has been such a trial, and there never has been such an appointment.

A similar question did arise in England in 1962, when a tribunal was appointed under the Tribunals of Inquiry (Evidence) Act, 1921, to hear the Vassall Affair. Vassall, a clerk in the Admiralty, had been convicted of spying for the Russians, and there were many rumors concerning the favors that he was said to have received from high Admiralty officials. After the matter had been raised in Parliament by Mr. Gaitskell, the Leader of the Opposition, the Prime Minister (Mr. Macmillan) announced the appointment of a tribunal with Lord Radcliffe as chairman, saying that the flow of rumor had long passed the point of tolerance.

When the hearings began, Mr. Gerald Gardiner, Q.C. (now Lord Chancellor), applied that legal representation to take part in all sessions should be accorded to Mr. Gaitskell; similarly Lord Carrington, First Lord of the Admiralty, applied for full representation as he was impliedly one of the accused. Both applications were refused by Lord Radcliffe, who pointed out that this was an investigation at which the applicants could give evidence, but that they could not claim the right to cross-examine the other witnesses. This was obviously good sense because otherwise all the other witnesses would be entitled to ask for the same representation; the result would be chaos.

The ruling that Mr. Lane had no right to represent the dead Oswald and cross-examine all the other witnesses did not, of course, prevent him from presenting to the Commission any evidence he wished, especially in regard to the existence of the alleged conspiracy on which the whole of his book is based. He did so on two occasions when giving evidence.

In his introduction, Professor Trevor-Roper says: "We have to admit that we lack confidence in the evidence submitted to the Commission and the Commission's handling of it." Others may take a different view when they compare Lane's statements in this book with the Report and the transcript of the evidence.

The Commission concluded that the President was killed by two bullets fired from a six-story window in a building the motorcade had just passed. The assassin was Lee Harvey Oswald, who an hour later killed Police Officer Tippit, who was patrolling the streets in a car in search of anyone resembling the description of the assassin that was being broadcast by the police. Two days after his arrest Oswald was shot dead by Jack Ruby, but there was no evidence that the latter acted with any other person in the killing.

Mr. Lane disputes all these conclusions. There is, he says, compelling evidence that the President was struck by two bullets, one fired from the building, which hit him in the back of his head, and another fired from a knoll in the opposite direction a hundred yards away, which entered the front of his throat. The official autopsy, which said that both bullets entered from the back, had been intentionally falsified. The killer in the building was not Oswald, but some unidentified man who had been placed there by unidentified conspirators with the connivance of the Dallas police. The man who shot Tippit was some unidentified man acting for the Dallas police, who were afraid that he might disclose some adverse evidence.

Trevor-Roper says that "there is no evidence at all to explain how or why the Dallas police instantly pounced on Oswald," but he fails to state that the police radio alert had described the assassin as being "white, slender, weighing about 165 pounds, about 5 ft. 10 in. tall, and in his early thirties." This

was an almost exact description of Oswald. Finally Mr. Lane suggests that Ruby killed Oswald so as to prevent him from giving evidence to prove his own innocence.

The question of confidence on which Professor Trevor-Roper rightly insists can be best answered by referring to three major points dealt with by Mr. Lane in his book, and comparing his presentation with the transcript of the evidence published by the Commission.

THE FIRST POINT concerns Mr. Lane's own evidence in regard to the alleged conspiracy. On March 4, 1964, when Mr. Lane first appeared, he said: "I would like to request that this portion of the hearing, in any event, be opened to the public." The Chief Justice answered that he had the same right "as any witness would have to request that." (Of the 552 witnesses who gave evidence, he was the only one who asked for this form of publicity.)

Mr. Lane began with a lengthy complaint concerning a photograph which he said had been doctored by some newspapers, although this did not concern the Commission. He then requested the Commission to investigate a "series of most unusual coincidences," the suggestion being that the Dallas police were responsible for the murder of a number of potential witnesses, two of them in California.

He then stated that "the reporters from foreign countries" had been surprised that the airports had not been closed, roadblocks placed on the streets, and all trains stopped and searched after the assassination. What such a complete embargo on all movement would have accomplished when no one knew what to search for was not explained.

It was not until nearly the end of his "testimony" that Mr. Lane said that he had been informed that a week before the assassination Patrolman Tippit and a right-wing carpet salesman from New York named Weissman, who later published an insulting advertisement concerning the President on the morning of the assassination, had met Ruby at his Carousel Club.

When asked for the name of his informant Mr. Lane refused to give it, as he had promised him not to disclose it. He said, however, that he would try to obtain his permission as soon as possible. Nothing further happened for nearly four months, although the Commission sent repeated requests to him.

Then, as the work of the Commission was drawing to an end, Mr. Lane left for England because "I felt it important that somehow the American people be informed about what is taking place, and I found that practically the only way to inform the American people is to speak in Europe." The Commission was, however, so anxious to have him testify that it offered to pay for his return passage. He accepted this, but when he appeared before the Commission in June he again refused to give his informant's name.

The Chief Justice then said: "We have every reason to doubt the truthfulness of what you have heretofore told us. . . . If you can tell us . . . who gave you that information, so that we may test their veracity, then you have performed a service to this Commission. But until you do you have done nothing but handicap us." Mr. Lane replied that he was prepared to give "information," but not his sources. This must be the first time in history that a Chief Justice of the United States has deliberately accused a lawyer of telling an untruth.

Mr. Lane has now given further information in this book. He first heard of the meeting from a journalist who had obtained his information from a "widely respected" visitor to Ruby's club. The visitor went there frequently because one of the dancers was his girl friend. She became pregnant. As he was a married man he did not wish his visits to attract attention.

Mr. Lane felt in honor bound to respect his wishes even though no reference to the girl friend need have been made before the Commission. In England Mr. Lane would have been sent to prison if he had refused the Commission's demand for an answer.

THE SECOND POINT relating to confidence is raised by Mr. Lane's chapter entitled "Ruby's Testimony," in which the visit of the Commission to Dallas to interview Ruby is described. Mr. Lane says that "The Government [*sic*] seems to have been reluctant to let Ruby testify. When at last he did, it was manifestly reluctant to question him. . . ."

This statement is literally true, but its implication that the Commission was trying to hide something is completely false. Every competent lawyer knows that when an accused person has been arrested he must not be asked any questions the answers to which might tend to incriminate him. Chief Justice Warren, therefore, went out of his way not to press Ruby for an answer because, as he said, "I know you do have this case which is not yet finished, and I wouldn't jeopardize your position by trying to insist that you testify."

At his trial in the Texas court, Ruby had been found guilty of murdering Oswald and had been sentenced to death, but his new lawyer was trying to prove that Ruby was guilty only of manslaughter as he had acted without premeditation under an overwhelming emotion. It was this that Ruby repeated again and again.

Mr. Lane argues that he should have been cross-examined by the Commission, which failed to make "the proper efforts." He says that "the most egregious omission of all, perhaps, is that he [Ruby] was not asked whether he had received any assistance in entering the basement of the Dallas Police Building on November 24."

If Ruby had answered this in the affirmative he would have sealed his own death warrant, because it would have proved that he had taken part in a conspiracy. The question could have had no other purpose. It would have been contrary to all the principles on which the Chief Justice has insisted in the recent Supreme Court cases concerning the protection of accused persons against involuntary interrogations.

Equally misleading is Mr. Lane's statement that Ruby thought that "if he told all he knew to the Commission he would lose his life in the Dallas jail." It is true that Ruby did say that he would lose

his life in Dallas, but it is clear that he was talking about the threats made by the John Birch Society. After saying that his sisters would be killed, he added, "Chief Warren, your life is in danger in this city, do you know that?"

The whole point of Ruby's testimony was that he wanted to go to Washington to be given a lie-detector test which would prove that he had told the truth when he said that he had acted on the spur of the moment. He concluded: "I had the gun in my right hip pocket, and impulsively, if that is the correct word here, I saw him, and that is all I can say. And I didn't care what happened to me." Ruby seems to have been a better lawyer than Mr. Lane.

THE THIRD TEST of confidence can be found in Mr. Lane's chapter "The Testimony of Nancy Perrin Rich," which he regards as the "most revealing and important." That lady, who had been Ruby's former barmaid, testified that she and her then husband attended a dinner given by an unnamed colonel. They were offered $10,000 to pilot a gun-running boat to Cuba, but there was "some hitch" about the money arriving.

At that moment Ruby entered the room. He had a bulge "where his breast pocket would be." The colonel and he went into another room, and when they came out the bulge was gone. Everybody seemed to be happy, "so it was my impression," Mrs. Rich said, "Ruby brought money in."

Mr. Lane feels that this testimony showed Ruby's "involvement in international politics." He is bitterly critical of the Commission because it "did not publish one word of the testimony." Most of Mr. Lane's other criticisms in this book are of similar caliber.

WHEN WE TURN to Edward Jay Epstein's book, *Inquest*, we find that he agrees with the Commission that Oswald shot the President, but he holds that "very substantial evidence indicated the presence of a second assassin" who was probably a "loner" like Oswald. The Commission failed to notice this extraordinary coincidence because its "investigation was by no means exhaustive or even thorough."

Mr. Epstein, who is a young research student much interested in psychology, has an ingenious explanation for what he considers to be the Commission's unsatisfactory report. There was, he says, a dualism in purpose when the Commission was appointed. "If the explicit purpose of the Commission was to ascertain and expose the facts, the implicit purpose was to protect the national interest by dispelling rumors."

This is obvious because, as Mr. Macmillan said when appointing the Vassall Tribunal, unchecked rumors may hurt the national morale. But Mr. Epstein then takes a second step which vitiates his entire book. He says that "the Commission's implicit purpose would dictate that the rumor be dispelled regardless of the fact that it was true." He therefore says that "the conclusions of the Warren Report must be viewed as expressions of political truth." By a "political truth" he means a falsehood which is told in the supposed interest of the public.

This is psychology run mad. The suggestion that the Chief Justice of the United States and the six members of his Commission would deliberately falsify the records and issue a misleading report so as to save the American public from a shock is incredible. It is not surprising that, based on this false premise, Mr. Epstein's interpretation of the evidence is almost as twisted as is that of Mr. Lane, although they disagree with each other on most points.

The most important matter discussed in Mr. Epstein's book is the critical question whether a single bullet could have struck both the President and Governor Connally. He says that "there was evidence that all but precluded the possibility that both men had been hit by the same bullet," but if there was such evidence which escaped the notice of the Commission and its staff, it is not included in this book.

In the introduction, Mr. Richard Rovere says that "the Warren Commission was itself divided on this crucial matter," but this is an error. The Commission found that "the shots which killed President Kennedy and wounded Governor Connally were fired by Lee Harvey Oswald," but that "it is not necessary to any essential findings of the Commission to determine just which shot hit Governor Connally."

The majority of the Commission thought that it was more likely that it was the same shot as hit the President, while the minority thought that it was more likely that it was a separate one, but neither group held that the other must be wrong. It was a choice between two possibilities. The "crucial matter," which Mr. Rovere says that Mr. Epstein "brought to light here for the first time," did not, therefore, exist.

In his introduction, Mr. Rovere, when referring to the previous books on the Warren Report, says that "most of the published attacks on it were transparently malicious or ignorant." There seems to be no reason why the present books should not be included in the same category.

J F K IN DALLAS

The Warren Report and Its Critics

By ARNOLD L. FEIN

AS THE war against the Warren Commission escalates, it is time to take stock. It is time to inquire into the supposed deficiencies of the Commission, its investigation, and its Report. It is time also to inquire into the possible deficiencies of the critics, their inquiries, and their conclusions. We deal here not with a political campaign or a newspaper report, where license in speech and in reporting is, unfortunately, too often the rule. We deal rather with the assassination of a great and gallant young man, the President of the United States. We deal also with the killing of a confused and bewildered man, his alleged assassin, both witkin the sight and earshot of an unbelieving world.

The awesome responsibilities of the Commission required that it adhere to the highest standards of which men are capable, to make an objective and thorough inquiry, and to render a fair and impartial judgment, without passion, fear, or favor.

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Perhaps the critics are not obliged to conform to the same standards. But at a minimum should they not be required to state the facts as they are, to report the truth, to avoid the dissemination of unsupported rumors, and to refrain from character assassination and unfounded imputations of improper motives? A decent respect for the opinions of mankind and for the subject matter of the inquiry demands no less.

Did the Commission adequately meet its burdens? Leaving aside for the moment comment on the specifics of the investigation and Report, and the critiques, it is fair to suggest that there is justification for many of the general criticisms of the Commission. Mark Lane and Edward Epstein in particular have fairly and credibly made some of the points. It is now reasonably clear that the Commission should have employed full-time, independent, nongovernmental investigators and more full-time, independent, nongovernmental lawyers. The members of the Commission probably should have devoted more time to their task and should have heard more of the testimony in full-dress formal hearings. The entire investigation should have been further extended in time and scope. The nature of the inquiry required expedition, but not at the expense of adequacy. Speedy justice is essential, but often the only merit of instant justice may be its immediacy. The time required must be measured by the complexity of the problem. Whatever the merits of the dispute between the Commission and the attorney for Marguerite Oswald, Mark Lane, it is manifest that he and the other critics are on sound ground in arguing that a technique should have been evolved for admitting adversary counsel, with the right of cross-examination. It is apparent also that some clues should have been more thoroughly followed and that certain additional witnesses should have been heard and questioned. So too it is evident that a more complete investigation of and report on the inconsistencies in the evidence heard and the official reports submitted to the Commission were required. Conceding the validity of these criticisms, however, does not necessarily require rejection of the Commission's conclusions.

On the other hand, did the critics meet the minimal standards required of them? It is fair to suggest that in many respects they failed to do so. Perhaps the greatest obstacle to an understanding of the investigation and the Report is the widespread public misconception about the nature of criminal trials and investigations. This underlies and infects much of the approach in these books, although it is expressly articulated only by Léo Sauvage, who remarks:

> The writer of detective stories who wants to keep his readers never lets question marks and unexplained clues linger after the words "The End." One would think the public would be no less demanding when confronted not by fiction but by a real life investigation, and above all when the victim is the President of the United States.

If it is true, as this passage suggests, that life must conform to fiction in order to be credible, the Warren Commission was deficient. It did not answer all the questions nor did it explain all the clues. The Report so states at many points. Does this mean that we must reject the Report and the underlying investigation and accept the alternative theories of these critics who not only disagree with the Commission but with each other?

Only rarely does a trial, inquiry, or investigation—civil or criminal—present a tidy package fit for television dramas. More often than not there are loose ends. Guilt beyond a reasonable doubt does not mean beyond all doubt, and so criminal juries must be instructed. The perfect case is usually the fraudulent one.

It was obvious from the outset that there were so many conflicting clues and reports it would be impossible to reconcile them all. But this does not seem to deter our authors. Seizing these gaps or contradictions, some of which were inevitable and many of which the Commission could have avoided or explained, each of these critics has launched an attack on the motives of the Commission, varying in intensity from the professorial tone of Edward Jay Epstein in *Inquest* to the staccato drumbeat of Harold Weisberg in *Whitewash*. Each implies or states that the Commission assumed at the outset that Oswald alone was guilty and then set out to demonstrate or prove it. Perhaps this is so, but these gentlemen have not made the case. It is more easily demonstrable that it is they who have sought to prove their

own predispositions.

Although *Inquest* is written in a sober and scholarly law-school style with a remarkable economy of expression, the book is patently tendentious. Its essence is that the Commission was engaged not in the pursuit of facts but of "political truth," that its "dominant purpose" was "to protect the national interest by dispelling rumors" about "conspiracy" and to "lift the cloud of doubts . . . over American institutions," because "the nation's prestige was at stake." This "implicit purpose," deduced by Epstein from newspaper reports and comments taken out of context, is compared with the Commission's explicit purpose stated in the President's directive "to ascertain, evaluate and report on the facts" including "its findings and conclusions."

Epstein then argues:

> These two purposes were compatible so long as the damaging rumors were untrue. But what if a rumor damaging to the national interest proved to be true? The Commission's explicit purpose would dictate that the information be exposed regardless of the consequences, while the Commission's implicit purpose would dictate that the rumor be dispelled regardless of the fact that it was true. In a conflict of this sort, one of the Commission's purposes would emerge as dominant.

Mark Lane makes the same point in *Rush to Judgment*, although not so precisely. The others state it more crudely.

Why? Is it naïve to suggest that the truth is the best way to dispel a rumor? What rumor was so damaging to the nation that the truth could not be told? In *The Second Oswald* Richard H. Popkin suggests:

> The Western European critics can only see Kennedy's assassination as part of a subtle conspiracy, involving perhaps some of the Dallas Police, the FBI, the right-wing lunatic fringe in Dallas, or perhaps even (in rumors I have often heard) Kennedy's successor.

This paragraph is perhaps the best critique on Professor Popkin's theories and his book. What further commentary is necessary about an inquiry which will repeat without further explanation, clarification, or comment—critical or otherwise—that complicity in the assassination might be attributable to "perhaps even (in rumors I have often heard) Kennedy's successor"?

How could or should the rumor—repeated and undispelled by this its latest circulator, without any suggestion of basis—be dealt with or investigated? The repetition circulates. It neither justifies, explains, nor dispels.

Mr. Epstein does not go so far. He takes up the alleged conspiracy involving the FBI. This evolved from rumors that Oswald was either an FBI informant or in its employ. Epstein concedes that "no evidence developed to substantiate this possibility" and that even if true the relationship "might not be particularly relevant to the assassination itself." Lane concurs.

Lane and Epstein and the other authors make valid criticisms of how the Commission and its staff handled this rumor. The Commission relied largely on information furnished by the FBI itself for its judgment that the story was without foundation, although the Commission had determined to make its own independent investigation. However, this by no means supports Epstein's conclusion that the Commission's intent was to dispel the rumor whether true or not. And yet this instance is the basis of Epstein's second chapter, "The Dominant Purpose," in which he evolves his theory that finding facts was only the Commission's secondary purpose. In his anxiety to prove his point Epstein succumbs to the device he and the others so often charge against the Commission: ignoring the evidence. He writes, "Nowhere, not even in the 'Speculations and Rumors' appendix, does the Report mention the allegation that had so preoccupied the Commission."

To put it mildly, this is inaccurate. As Mark Lane notes, Appendix XII to the Report, "Speculations and Rumors," in a subsection entitled "Oswald and U.S. Government Agencies," discusses and rejects as baseless the rumors and speculations about Oswald's alleged association with the FBI, stating the Commission's reasons. A similar but more extended treatment is to be found in Chapter VI of the Report proper, "Investigation of Possible Conspiracy," in a subsection entitled "Oswald Was Not an Agent for the U.S. Government." Some of the books under review, including those by Lane and Epstein, make a forceful case that the Commission's investigation of these rumors and speculations was inadequate. Even if one agrees, and even if one assumes the Commission's conclusion in this respect is false, this neither supports nor warrants Epstein's inaccurate assertion that the Report does not mention the "allegation that had so preoccupied the Commission." This unfounded charge by Epstein has been picked up and repeated in articles relying on and lauding his book. Thus a new rumor circulates.

If Epstein intends only a criticism of the failure of the Report to mention Texas Attorney General Waggoner Carr, Dallas District Attorney Henry Wade, newspaper reporter Alonzo Hudkins, and Dallas Under Sheriff Allan Sweatt as transmitters of these rumors this hardly sustains Epstein's blanket charge that the Report does not refer to or treat with the rumors. Moreover, it represents a questionable criticism of the way the Report is written rather than a demonstration of the Commission's so-called "implicit" purpose. This illustrates another point too. All too frequently Epstein and the others mix their criticism of the way the Report was written with a criticism of the investigation. Thus even when they are satisfied with a particular phase of the investigation they point their attack at the form of the Report. At other times, when the Report seems adequately to deal with a problem, they seize on the investigation as being inadequate.

I have dwelt at length on this matter because it is the dubious foundation stone for Epstein's theory that the Commission was mainly concerned with "the dominant purpose" of producing "only political truth," which underlies his entire analysis and provides the theoretical basis for his more serious allegations.

WHEN the doctors at Parkland Hospital ascertained that the President was indeed dead, the need for an autopsy was evident. The Dallas hospital officials insisted that the law required it to be performed there before the body was moved. This would of course take some time. Federal intervention was questionable, the assassination of a President not then being a federal crime. Nonetheless, Kenneth O'Donnell was determined that the body be taken immediately to Washington, largely, he said, because Mrs. Kennedy insisted on staying with her husband. By bluff, persistence, and a threat of force O'Donnell, aided by Secret Service Agent Roy Kellerman and others, removed the body from the hospital, took it to the airport, and caused it to be flown to Washington without waiting for a local autopsy.

The use of this incident in some of these books is curiously revealing. Sau-

vage explores it in some detail as an event of "political significance," which established a basis for federal jurisdiction over the investigation of the assassination. He cites it as evidence that the Justice Department legally could and should have taken over the entire inquiry. This is part of his rather complicated and murky argument that the Justice Department delayed intervention or avoided it in order not to embarrass the state of Texas, and his contention that the Texas officials were determined to establish Oswald's sole guilt before such federal intervention. Why is not apparent. Everything is grist to this mill. Sauvage glides over the whole complex question of federal-state relations and ignores the fact that the Justice Department's investigation did continue and that the Warren Commission is in fact a species of federal intervention.

Sylvan Fox at no little length uses the incident to demonstrate the pettiness and "ghastly ineptitudes . . . displayed by the Dallas authorities."

Contrast Weisberg's description of it as "an abuse of the Texas authorities." This in a paragraph in which he also declines to "embarrass" the "public servants" who "forcibly removed the President's body," but is critical of the Report for failing to do so and for not noting whether a Texas official was invited to observe or participate in the autopsy. Sauvage, however, quotes O'Donnell as suggesting that a Dallas doctor "accompany the body and take charge of the autopsy."

Weisberg goes on to defend the rights of the state of Texas, thus disrespected. He then suggests that had the autopsy been performed in Texas "there might have been no questions"—but a few lines later he indicates that had a Texas doctor or official been present "it is doubtful if the results would have differed."

Thus these authors use the same facts to infer what they will, however contradictory.

Weisberg's hints and speculations are the launching pad for his criticism of the autopsy reports and the doctors who performed the autopsy at the National Naval Medical Center in Bethesda, Maryland, the night of the assassination. They were Commanders James J. Humes and J. Thornton Boswell of the Navy Medical Corps and Lieutenant Colonel Pierre Finck of the Army Medical Corps. All concede the expert qualifications of these military doctors. In addition to the medical personnel, FBI agents Francis X. O'Neill and James W. Sibert and Secret Service agents Roy Kellerman, William R. Greer, William O'Leary, and Clinton J. Hill were allegedly present during all or part of the autopsy, which was apparently conducted by Commander Humes.

The autopsy report, signed by the three doctors, states that the President died "as a result of two perforating gunshot wounds, fired from a point behind and somewhat above the level of the deceased." The fatal missile, the doctors found, entered the skull and fragmented; then a portion exited, carrying with it sections of the brain, skull, and scalp.

Much has been written in these books and elsewhere about the head wounds, their source and course. Obviously, the autopsy doctors were not at the scene of the assassination, nor at Parkland Hospital while the doctors there administered to the President in the fruitless effort to save him. The source of the autopsy doctors' conclusion that the fatal missile came from "behind and somewhat above" was necessarily a combination of hearsay and their own observation of the wounds.

These books contain the not unimpressive argument that the head wounds may have been caused by a bullet coming from in front and not from "behind and somewhat above," as the Report states, or even by more than one bullet, and that the bullet or bullets were not and could not have been fired from Oswald's rifle nor by him. Mark Lane's presentation is particularly effective. However, it is fair to say that the conflicts and contradictions and unsupported speculations in these books and the authors' theories on this aspect of the inquiry produce no satisfactory alternative. Here the Commission's Report is the most convincing. The limits of a magazine article do not permit a detailed analysis of the arguments. Nevertheless, on the basis of numerous scrutinies of the Warren Report and its exhibits, as well as each of the books under discussion and their respective exhibits, plus articles in the press and elsewhere, I am inclined to accept the Commission's conclusion that the shot which killed the President was fired from the sixth floor of the Texas School Book Depository by Lee Harvey Oswald, utilizing his Mannlicher-Carcano rifle. The physical evidence points there and nowhere else.

The other wounds in the President's body present far more difficulties, difficulties with the Commission's Report, but also difficulties with the theories advanced in each of these books. The autopsy report signed by the autopsy doctors states:

> The other missile entered the right superior posterior thorax above the scapula . . . and made its exit through the anterior surface of the neck.

This seems to be saying that one bullet, not the fatal one, entered the President's body just below and to the right of the President's neck above the shoulder bone and exited through the front of his neck. This would be consistent with a wound from above and behind, and with an artist's schematic drawing made later under Commander Humes's direction. However, it is inconsistent with a chart made by the Commander during or right after the autopsy, indicating a lower wound in the back and a higher wound in the front of the throat. It is also inconsistent with the FBI reports of the autopsy and certain newspaper reports, obviously founded on FBI leaks.

The autopsy report is undated. Commander Humes testified it was completed and forwarded to higher authority by November 24, within forty-eight hours of the autopsy. Humes's supplemental report was forwarded to The White House Physician on December 6 and shortly thereafter was turned over to the Secret Service. Thus it appears that in December 1963 the Secret Service had the doctors' autopsy reports indicating the President had been shot near the base of the neck from behind and that the bullet had followed a downward course and exited through the lower portion of the front of the neck or throat.

However, the FBI report turned over to the Commission on December 9, 1963, states:

> Medical examination of the President's body revealed that one of the bullets had entered just below his shoulder to the right of the spinal column at an angle of 45 to 60 degrees downward, that there was no point of exit, and that the bullet was not in the body.

The FBI supplemental report, dated January 13, 1964, states:

> Medical examination of the President's body had revealed that the bullet which entered his back had penetrated to a distance of less than a finger length.

The supplemental report also refers to evidence of "an exit hole for a projectile" in front of President Kennedy's shirt about one inch below the collar button.

These FBI reports to the Commission appear to have been founded upon two reports made and signed by FBI agents

Sibert and O'Neill, the first on November 26, 1963, the second on November 29, 1963. The agents' November 26th report states in part that, during the autopsy Commander Humes located a bullet hole "below the shoulders and two inches to the right of the middle line of the spinal column"; that probing by the doctor indicated entry "at a downward position of 45 to 60 degrees" and that "the distance traveled by this missile was short inasmuch as the end of the opening could be felt with the finger." The agents' report notes that the doctors "were at a loss to explain why they could find no bullets"; "no complete bullet could be located in the body either by probing or X-ray" and "no point of exit" found.

The agents state a telephone call was made to the FBI laboratory, which advised that a bullet found on a stretcher in the emergency room at Parkland Hospital in Dallas had been turned over to the FBI; that Dr. Humes was told of it during the autopsy; that he immediately said this "accounted for no bullet being located which had entered the back region and that since external cardiac massage had been performed at Parkland Hospital it was entirely possible that through such movement the bullet had worked its way back out of the point of entry and had fallen on the stretcher."

Further examination of the body, and X-rays of pieces of the skull brought into the autopsy room during the autopsy satisfied Dr. Humes, the agents' report continues, that one bullet "had entered the rear of the skull and had fragmentized prior to exit through the top of the skull," and another "had entered the President's back and worked its way out . . . during external cardiac massage." The agents' November 29 report explains that the piece of skull brought into the autopsy room had been found on the floor of the Presidential car and was taken to Washington in another plane, as was the whole bullet found at Parkland Hospital.

It is obvious that these reports are the foundation for the FBI reports. It is equally obvious that they measurably undermine the elaborate speculations expounded in the books under review about the fatal shots coming from in front.

However, there is also an obvious inconsistency between these reports and the autopsy doctors' report stating that the bullet which entered in the back, near the base of the neck, exited through the throat, despite the doctors' earlier theorizing that this bullet had fallen out. Dr. Humes provided an explanation. During the autopsy he observed that a tracheotomy had been performed on the President at Parkland Hospital, but at the time he had no way of knowing that a projectile wound in the front of the President's neck was used as the point of the incision. Early on the morning of November 23, 1963, following the autopsy, he talked on the phone with Dr. Malcolm O. Perry, who had performed the tracheotomy, and learned of the throat wound, which damaged the trachea and other portions of the neck. From this he concluded that the bullet which entered the President from behind at the right of the base of the neck, or just below it, had exited from the front of the neck or throat. This is the substantiation for that portion of the autopsy report which describes these wounds, stating the back wound was one of entrance and the throat or neck wound one of exit.

It is, as I have said, inconsistent with the FBI reports. It is also inconsistent with newspaper reports based on interviews with the Parkland doctors and with TV statements made by them describing the wound in the front of the neck as a puncture wound, indicating a wound of entrance. Does this mean that the doctors' autopsy report is incorrect or was falsified to sustain a Commission theory or to fasten guilt upon Oswald? It is important to remember that the autopsy report was completed and forwarded to higher authority by November 24, 1963, within forty-eight hours after the assassination, well before the Commission was appointed and before any clear theories of how the assassination had occurred had been formulated. It was also signed by all three of the military doctors who performed the autopsy at Bethesda.

But none of this prevents five of our authors—Messrs. Weisberg, Popkin, Fox, Lane, and Epstein—from launching more or less harsh attacks on Commander Humes and the doctors' autopsy report. The attacks are premised on three grounds: First, that the report is undated—overlooking the fact that the report form provides space only for the date and time of death and date and time of the autopsy, both of which are indicated. Second, that Commander Humes certified in writing on November 24, 1963, that he had "destroyed by burning certain preliminary draft notes." Third, that the autopsy report is inconsistent with the FBI reports. The last is particularly curious because these authors have all been extremely critical of the FBI with respect to this and other aspects of the investigation; they have freely attacked the FBI's credibility and implied that it was the main sponsor, in addition to the Dallas police, of the theory that Oswald alone was guilty. Sauvage, in his addendum, "American Postscript," uses the inconsistency to damn both the FBI and the Commission. Weisberg also seizes on the alterations made by Humes in his draft of the report and his notes of his telephone conversations with Dr. Perry as evidence of deliberate falsification of the record.

They all prove too much. Perhaps the autopsy report is inaccurate or contains excessive speculation. If we accept the FBI report we must remember it was founded on Humes's prior speculation; it remains undemonstrated that the autopsy report was falsified or altered at a later date to fit a Commission theory. The real animus for the onslaught on Commander Humes is the fact that the autopsy report cuts the ground from under the theories that the shots came from in front.

The most circuitous attack is made by Epstein. Having established to his own satisfaction that the dominant purpose of the Commission was to dispel rumors and establish political truth, he posits the theory that the FBI reports are accurate, that the doctors' autopsy report was altered more than two months after the autopsy, and that the autopsy report published in the Warren Report is not the original one. Hedged with enough "ifs," he ventures that this indicates the conclusions of the Report "must be viewed as expressions of political truth." His technique is interesting. He uses the phrase "purported to be the original" when referring to the published report, and he calls it the "Commission's autopsy report" rather than the "autopsy doctors' report." Like Sauvage, Epstein suggests that the inconsistency presents a dilemma, one horn of which is that if the FBI distorted its report on this basic fact doubt is cast on the entire investigation because the Commission's investigation and conclusions were premised on the accuracy of the FBI reports. Epstein overlooks the fact that he himself has already spent a chapter attacking the credibility of the FBI. He also ignores the fact that the Commission accepted the doctors' autopsy report, not the report of the FBI, which indicates that the Commission's conclusions were not entirely premised on the FBI report. Sauvage sees the point and damns both.

Epstein, like the other authors, chooses to accept what the FBI and Secret Service bystanders at the autopsy report that they heard (obviously hearsay) but

rejects what the doctors who did the autopsy wrote and have not denied.

The second horn of the dilemma, says Epstein, is that if the FBI Reports are accurate, the doctors' report must have been altered after January 13. He and Sauvage imply that the alteration was designed to bolster the Commission's theory that the President and Governor John Connally were both hit by the same bullet, and that it went through the President's neck and was the bullet found at Parkland Hospital. Epstein ignores the fact that, as he himself reports, it was not until March, four months later, that the single-bullet theory was first advanced and that it was never fully accepted. One might observe that his line of argument, supported by innuendoes such as "purported," "purportedly," and well-sprinkled "ifs," needs far greater demonstration. Lane advances the same argument and concludes there was a belated alteration in the doctors' report.

ALL of these books except *The Second Oswald* seem to ignore the fact that the FBI reports were based on the reports of Sibert and O'Neill, who were present at the autopsy; furthermore, that the doctors' autopsy report, which was revised or written in final form the next day, after the phone conversations with Dr. Perry at Parkland Hospital, was forwarded to the Secret Service, not the FBI. As Popkin notes, the FBI reports are phrased in the language of Sibert and O'Neill, rather than the technical language of the doctors.

Why is it necessary to assume falsification and a plot? Why cannot the third possibility, the unmentioned possibility —that Commander Humes's explanation is the truth—be accepted? It is not even discussed, except by Popkin. The alternatives proposed by the others involve either falsification by Humes or distortion or worse by the FBI. And although the FBI is their favorite whipping boy on other aspects of the case, here they point the finger at Humes. They do so, I suggest, because this fits more easily into their theories of conspiracy and plot. And if there was a plot to falsify the record, is it inappropriate to ask, "Why didn't somebody tell the FBI?"

It is interesting to note Epstein's comment that the FBI supplemental report implies that the wound in the front of the neck was an exit wound, caused by a fragment from the other bullet, presumably the bullet which entered the head and fragmented. The FBI supplemental report does no such thing. It refers to a wound of exit caused by a "projectile." Since Epstein does not advance the theory of shots from the front and wounds of entrance in front, he has no need to attack the FBI reports, as do the others.

I have expanded on this entire area because I believe it is typical. It is demonstrable that these books use the same technique in dealing with such matters as the identification of the rifle, the proof that it belonged to Oswald, the identification of Oswald, the questions concerning Oswald's marksmanship, the descriptions of J. D. Tippit's murder, the proof that Oswald was Tippit's killer, the source of the bullet found at the Parkland Hospital, the question of how many shots were fired, the sequence of the shots, the number of shots that hit Governor Connally, the source of the shots—front, rear, or both—, how Ruby got into police headquarters, the alleged relationship between Oswald and Ruby, etc. If one were to catalogue the way each of these books treats each of these matters and to list the theories put forth by each writer as to what happened and who was guilty, it would quickly appear that the pattern of treatment reflects the theory advanced. This is perfectly proper if it does not involve distortion and contradiction and the easy assumption that all who disagree are either corrupt, dishonest, or incredible. That is nonetheless the practice. Only Weisberg is consistent. He finds malevolence everywhere.

Nor is the Warren Commission without fault. With respect to the inconsistencies in the doctors' autopsy reports, the FBI reports and the FBI agents' reports, the Commission had a clear duty. Its obligation was to inquire into the inconsistencies, to question all who were involved. It had a duty to report the facts and to include all of the reports in its own Report. Unlike that of a jury, the function of the Commission was not merely to render a verdict of "innocent" or "guilty." Its duty was to disclose the facts and explain its conclusions. It failed to do so.

THIS leads to the single-bullet theory. The autopsy doctors reported that a bullet had entered the President's body at the base of the neck or in the back above the shoulders and exited through his throat. The theory is that the same bullet then entered Governor Connally's body through the back, emerged under his right nipple, went through his right wrist, and pierced his right thigh; later it fell out, landing first on his stretcher and subsequently on the floor at Parkland Hospital, where it was found and turned over to the FBI.

I am dubious about this theory. It flies in the face of evidence, expert and otherwise, concerning direction, velocity, and effect. First advanced by Humes and Commission counsel Arlen Specter in March of 1964, it was a useful hypothesis. By that time examination of films taken by an amateur named Abraham Zapruder had indicated Governer Connally was first hit 1.8 seconds after President Kennedy. Experiments with Oswald's bolt action rifle showed it could not be fired within less than an interval of 2.3 seconds between shots. The single-bullet theory would reconcile this. The Commission and most of the staff lawyers were doubtful about it, as were all the doctors and ballistics experts. Governor Connally insisted he must have been hit by a different bullet because he had heard a shot before he felt the impact of the bullet striking. Since a bullet travels faster than the speed of sound, he reasoned he could have been hit only by a second bullet. The evidence was clear that Kennedy had been hit by the first bullet.

According to Epstein, after the single-bullet theory was thoroughly explored and tested, the members of the Commission were of divided opinion about it. Epstein reports that Commissioner John J. McCloy, who accepted the hypothesis and wanted a unanimous report argued there was evidence both men had been struck by the same bullet but, in view of other evidence, the Commission could not concur on the probability of this. Representative Gerald R. Ford wanted to say the evidence was "compelling." Senator Richard B. Russell, who was doubtful, wished to say merely that there was only "credible" evidence. Commissioner McCloy proposed that the word "persuasive" be used, and this was agreed. The Report states:

> Although it is not necessary to any essential findings of the Commission to determine just which shot hit Governor Connally, there is very persuasive evidence from the experts to indicate that the same bullet which pierced the President's throat also caused Governor Connally's wounds. However, Governor Connally's testimony and certain other factors have given rise to some difference of opinion as to the probability, but there is no question in the mind of any member of the Commission that all the shots which caused the President's and Governor Connally's wounds were fired from the sixth floor window of the Texas School Book Depository.

Epstein and others have made much of the fact that this paragraph represents a compromise in language and does not completely accept the single-bullet theory. It seems appropriate to comment that this is any decision, report, or opinion by a court, commission, or committee made up of several independent-minded men or women must necessarily include compromise language when there are conflicting items of evidence. Not until now had I heard that this was either wrong, unfair, or dishonest. I suggest that this paragraph and others in the Report's conclusions tend to indicate fairness rather than the technique of a prosecutor's brief, as the commentators claim.

THIS brings up the whole question of credibility of testimony. A theme that runs through all of these books is that the testimony of many of the witnesses relied on by the Commission must be rejected because in some respects their statements were demonstrated to be incorrect or false. The authors do not ask that the same standards be applied to their own witnesses, or those upon whom they rely. But this is not the real point. It is a general proposition of law, applicable in all courts I know anything about, that the jury be charged that if it finds a witness has lied about one material point it may reject all of his or her testimony, but is not required to do so. The jury may reject so much as is false and accept so much as it finds credible. This is not a rule solely for legal fact-finders, but a rule of life, utilized by most men in all their decision-making. It is logical and sensible. Why the Commission did not have a right to follow the same practice is unclear.

In this connection the Commission's utilization of Helen Louise Markham's testimony identifying Oswald as the Tippit murderer is of interest. There are obvious difficulties with her testimony, particularly in the light of Mark Lane's attack on her credibility. However, the portions of the transcript of Lane's tape-recorded telephone conversation with her, quoted by Lane and Sauvage, do not support the comments by them and by some of the others that she varied in her descriptions of the killer or that Lane adequately identified himself in his phone call. He never told her the phone call was being tape-recorded or whom he represented. Both of these matters are the main bases for the vicious attacks on her credibility and on the Commission. The Commission's Report gave her testimony only "probative" value. Epstein reports that Commission counsel Joseph Ball, who wrote the first draft of Chapter IV of the Commission's Report setting forth the case against Oswald, did not wish to rely on her testimony, nor that of Marina Oswald, nor that of Howard Brennan. Epstein also writes that Commission counsel Wesley Liebeler, the source of much of Epstein's material, also disbelieved Mrs. Markham. In this connection it is worthy of comment that several of our authors have sharply criticized both Liebeler and the Commission on the ground that Liebeler's examination of Mrs. Markham as a witness was too weak and too friendly and designed only to protect her and her story. Now we are told he did not believe her. Commission counsel Norman Redlich, who wrote the final version of the chapter, utilized the testimony of all three as support for its conclusion.

Epstein makes a big point of this, as proof that the Commission relied on unreliable witnesses. He ignores the significant fact that Ball and Liebeler, both of whom had doubts about these witnesses, did not disagree with the Commission's conclusion that Oswald alone was guilty, as shown by other evidence—the ultimate concern in this chapter. That every paragraph had to be written and rewritten until it met the approval of all seven Commissioners would seem to warrant Epstein's commendation rather than his criticism.

Despite the attacks on the Commission and the evidence it relied on, there remains adequate evidence that Oswald was guilty. If there was another assassin, he left no trace.

Popkin's suggestion of a second Oswald is sheer speculation. The allegations of conspiracy are equally tenuous. No physical evidence supports the theory that the shots were fired from the railroad overpass or the grassy knoll. If the shots came from in front, how does one explain Governor Connally's wounds? If the FBI reports are correct concerning the President's back wound, as all of these writers except Popkin seem to accept, the shot must have come from behind. The FBI report would also indicate that the bullet found at Parkland Hospital fell out of the President's back during cardiac massage. This bullet was clearly identified as having been fired from Oswald's rifle.

Popkin avoids this implication of Oswald's guilt by hinting that Ruby planted the bullet at the hospital, as farfetched and unsupportable a conjecture as could be imagined.

THE ascertainment of truth is not easy. The adversary method is undoubtedly superior, although it has weaknesses. That method was difficult if not impossible in the case of the Warren Commission. The Commission was appointed because the killing of Oswald meant there could be no adversary trial. If the local officials in Texas believed, as they intimated, that Oswald was the sole assassin, they would pursue the matter no further. However, there were obvious doubts, both about Oswald's guilt and the performance of the Dallas police. An investigation seemed called for. Epstein and others stress the political nature of this Commission. Any Commission would, I believe, be subject to the same criticism.

The Commission had to find the facts. At what point would adversary counsel be appointed? Whom would he represent? And in what manner? Suppose the Commission found evidence indicating someone other than Oswald was guilty? What procedure would it follow? And when would counsel be appointed or permitted? Even though Mark Lane's legal standing was dubious, since he represented Oswald's mother and not his widow or his estate, it might have been better if he had been permitted to act as adversary counsel. How this could have been handled in the light of the Commission's procedures is difficult to determine. Nevertheless, a technique should have been devised. The Commission not only had to be just; it had to appear to be just.

For the same reason, the Commission should have heard several other witnesses and given a more adequate explanation in its Report of the reasons why it accepted certain evidence and rejected other evidence. Of the conclusions postulated, I believe the Commission's are the most credible, and that it made a case against Oswald. Whether guilt beyond a reasonable doubt could have been established in an adversary trial is another matter. Marina Oswald could not have testified. Hearsay testimony would not have been admissible, and adversary counsel would have been present. However, it is fair to say that much of the stuff in these books could not have been utilized either.

As I said at the outset, the critics also have a duty. They have failed it. Each of them in one way or another suggests there was a conspiracy involved. Weisberg asserts, without any evidence in support, that the Commission "exculpated" "Presidential assassins." Again without credible evidence Sauvage maintains that the assassination was the product of a right-wing racist plot and that Oswald was killed as part of a Dallas police plot to prevent discovery

of the first plot. Fox finds Oswald guilty, but suggests, on the most tenuous basis, that there was a plot in which Ruby and Oswald were involved. Lane makes a strong defense of Oswald, points the finger at Ruby, also on a flimsy basis, and likewise suspects a conspiracy.

Lane's is the strongest case for Oswald. He makes some telling points, vigorously and effectively. *Rush to Judgment*, however, is marred in great measure by name-calling imputations of motive, which remain undemonstrated, and by inconsistencies and contradictions in the attack. I have already noted the forced conclusions he attempts to draw from his tape-recorded telephone conversation with Mrs. Markham. Positing a second Oswald, engaged in a conspiracy with the known Oswald to assassinate the President, Popkin holds that the second Oswald and a third man were the real assassins. According to him, the known Oswald was the patsy; the second Oswald was on the sixth floor of the School Book Depository, where he fired some of the shots while the third man fired other shots from the grassy knoll. Popkin concedes the known Oswald killed Patrolman Tippit. All this theorizing arises from evidence that a man who looked like Oswald was engaged in suspicious activity during the months before the assassination. Because, at the times and places involved, Oswald could not physically have been present, the Commission found that this activity, attributed by some to the known Oswald, was that of some other unknown man. Epstein's theory is that Oswald was guilty, but he implies a second assassin. The common theme of the books is conspiracy and, in effect making it part of the conspiracy, improper motivation on the part of the Commission. Repeated often enough, the charge may stick. These attempts to set up doubt, without adequate basis, are dangerous and, on the evidence, unwarranted. Conspiracies have an objective. What objective was served by the assassination of President Kennedy? And what steps have been taken to carry it out? Nowhere in these books is there a suggestion of an answer.

Finally, it should be noted that no one has yet been able to produce a scintilla of proof or a minute reason why the Commission would want to exculpate the real assassin or assassins, if Oswald was even indeed innocent or not alone. Until some credible evidence of this is forthcoming, it is inappropriate so to hint or assert. Or must we just assume that the Warren Commission wished to have the Presidential assassin or assassins on the loose?

Autopsy Surgeon Says Photos Support Warren Report on Wound in Neck

By PETER KIHSS

X-rays and photographs taken during the autopsy of President Kennedy verify the location of a disputed wound at the base of the back of his neck. But by themselves they cannot end the argument over a bullet's path through his body.

This was the opinion yesterday of one autopsy surgeon, who has seen the X-rays and photographs, which were put into the National Archives Oct. 31. It is also the private opinion of two investigators for the Warren Commission.

In a telephone interview from Bethesda, Md., Dr. J. Thornton Boswell, a retired Navy commander now in private medical practice, said he and the chief autopsy pathologist, Capt. James J. Humes, agree the pictures cannot prove the so-called single bullet theory.

This theory holds that one bullet pierced the back base of the President's neck, passed through and emerged at the lower left part of his tie knot and then wounded Gov. John B. Connally Jr. of Texas in the back, chest, wrist and thigh.

The Warren report said there was "persuasive evidence" for the single bullet theory "although it is not necessary to any essential findings."

The commission held that Lee Harvey Oswald alone assassinated the President, firing three shots in less than eight seconds, including one probable miss. If the President and Governor were wounded separately, questions of timing and the possibility that there were two rifles have been raised by critics.

Dr. Boswell said yesterday he saw the photographs for the first time last Nov. 1. They show clearly, he said, the accuracy of the autopsy report and of the autopsy surgeon's testimony as to the location of the wound.

It was his diagram, Commission Exhibit 397, Dr. Boswell said, that critics of the Warren Commission have cited in arguing that the wound was farther down the back. He said this hasty "work sheet," made during the autopsy, had a "diagram error"—a dot that placed the wound incorrectly. But he said the notes he wrote on the diagram did locate it accurately.

The tracing of the bullet's path must still depend on medical interpretation because it went through soft tissues and muscles, Dr. Boswell said. These were bruised, he said, but the pictures do not conclusively show the path.

Dr. Boswell said of the diagram: ATS to BD-5847

"This was unfortunate. If I had known at the time that this sketch would become public record, I would have been more careful. It was strictly a work sheet, the same as rough working notes. You could see that by looking at it. It was very dirty.

"Its sole purpose was to indicate for the autopsy doctors right, left, front, back—things like that. The photographs were to provide the exact visual description."

Autopsy surgeons have "absolutely no doubt in our minds now" that a single bullet hit both President Kennedy and Governor Connally, Dr. Boswell said.

Dr. Boswell said Federal Bureau of Investigation reports used by the critics were "simply wrong." The F.B.I. agents present during the autopsy were "not trained in medicine," he said.

F.B.I. spokesmen have said the agents' reports covered discussions that took place during the autopsy. The reports did not take in the final autopsy report, the bureau said.

In the report, the surgeons, after having spoken the next morning with a Dallas hospital surgeon, concluded that the bullet had gone out through a hole in the throat, which had been obliterated by an emergency operation.

The Warren Commission published "schematic drawings," done by a Navy medical illustrator and based on measurements and verbal descriptions given him by the autopsy surgeons just before they were called to testify. CS COPY

The drawings [illegible] Commission Exhibit 385, which shows the downward path the bullet is thought to have taken through the President's neck, and they remain "sufficient to illustrate the finding," Dr. Boswell said yesterday.

Dr. Boswell noted that his diagram, which differs from Exhibit 385, included his handwritten notes of the specific measurements. These fixed the disputed wound at 14 centimeters, or 5½ inches, from the right acromion process, the tip of the right shoulder joint, and 14 centimeters below the tip of the right mastoid process, the bony point immediately behind the ear.

In his book "Inquest," Edward Jay Epstein had cited the diagram as indicating a wound higher in front than in back. In his first Viking Press edition, Mr. Epstein gave the text of an F.B.I. summary report, placed in the national archives, which said medical examination had reported a bullet entering the President "just below his shoulder."

In a later Bantam edition, Mr. Epstein added an F.B.I. report that said Dr. Humes located during the autopsy an apparent bullet hole "below the shoulders."

"The end of the opening could be felt with the finger" and Dr. Humes had offered an opinion that the bullet possibly "worked its way out of the body during external cardiac massage," the report said.

In the current Esquire magazine, Mr. Epstein wrote that there was a "flagrant contradiction" between the autopsy report and the F.B.I. agents' report. Mr. Epstein argued that "by viewing the photographs the contradiction can be resolved once and for all time."

In his book, Mr. Epstein contended that photographs in one F.B.I. report showed the bullet-holes in President Kennedy's jacket and shirt 5¾ inches and 5¾ inches "below the collar" respectively.

He argued these measurements were "obviously inconsistent" with the wound described in the autopsy report. The jacket, he said, might have been somehow "raised more than six inches" so the jacket hole could coincide with a wound at the base of the neck, but he asserted that "obviously a closed shirt collar could not have been raised six inches on the neck."

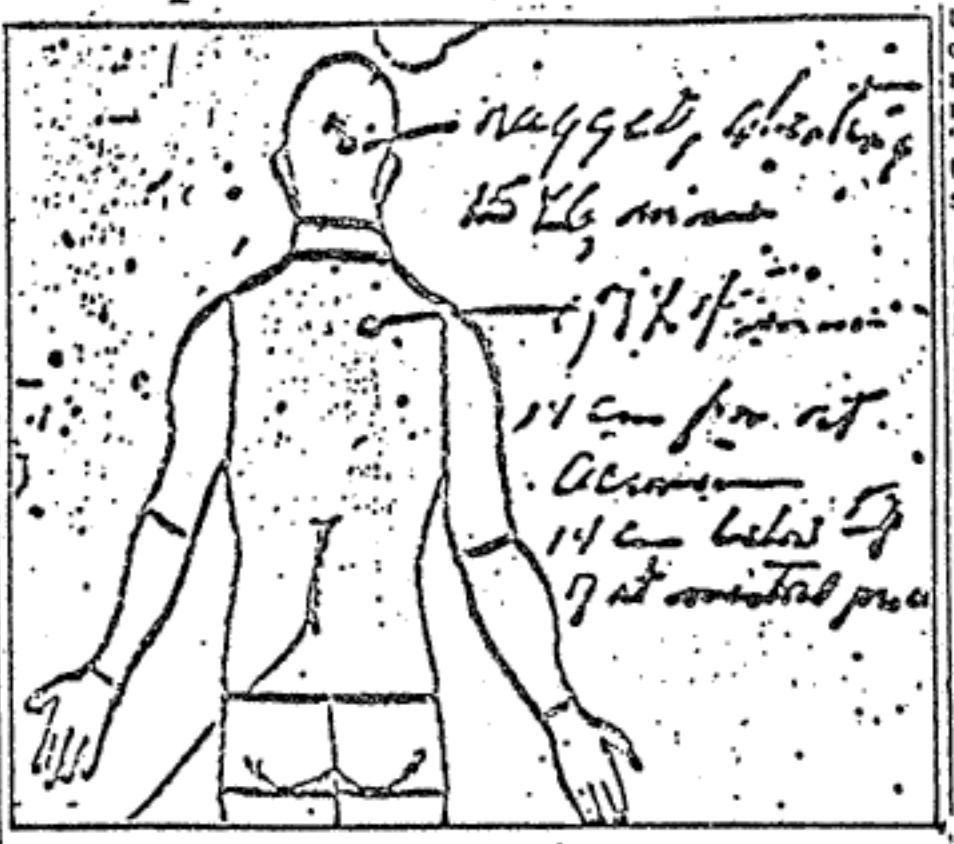
The Warren Report refers to the F.B.I. measurements as "below the top of the collar."

Jacob Cohen, who is writing a book, "Honest Verdict," which will defend the Warren Report and is to be published next year, disputes Mr. Epstein in the current issue of Frontier magazine. Mr. Cohen says the displacement would need to have been only "about three inches."

According to Volume 2 of the Warren Commission documents, Dr. Humes reported that X-rays and photographs had been made before and during the autopsy. He said the physicians studying the "wound in the lower posterior neck of the President" had "examined carefully the bony structures in this vicinity as well as the X-rays, to see if there was any evidence of fracture or of deposition of metallic fragments." They saw none, he said.

President Kennedy's family turned over 14 X-rays, 25 black and white negatives and 20 four-inch-by-five-inch color transparencies to the National Archives Oct. 31.

A letter by Burke Marshall, lawyer for the President's estate, provided for immediate access for all Federal investigative agencies but no public display or release. For the next five years, unofficial investigators may see them only with specific consent of the Kennedy family.



Associated Press

Autopsy sketch made by Dr. J. Thorton Boswell when examining President Kennedy's body. Penciled notation at right places one of the bullet wounds at 14 centimeters from the right acromion process (tip of the right shoulder joint) and 14 centimeters below the tip of the right mastoid process (bony point behind the ear). Dr. Boswell says the notation is correct but that the dot marking the wound was unintentionally drawn too low.

Pre-Dallas Fears Reported

AUGUSTA, Ga., Nov. 24 (AP) — A former chairman of the Georgia Democratic party, J. B. Fuqua, disclosed today that he had persuaded President Kennedy to cancel a speech in Atlanta less than two months before Mr. Kennedy was assassinated. 201-289248

Mr. Fuqua said he was convinced that Mr. Kennedy's plans to visit Georgia might not be wise because of the political turmoil surrounding a civil [illegible]

WASHINGTON POST
20 November 1966

Dallas 'Exposés' Deflated

An Eyewitness—and Marksman—'Heard Just Three Shots and Scoffs at Monstrous 'Plot'

By Merriman Smith

Dean of the White House correspondents corps, Merriman Smith of United Press International won the 1964 Pulitzer Prize for his eyewitness reporting of the Kennedy assassination three years ago Tuesday

MANY AMERICANS, and apparently even more foreigners, persist in the almost mystic belief that there is much more to be told about the assassination of President John F. Kennedy. This belief has been fed by a steadily increasing list of books, magazine articles, statements and lectures which challenge proceedings of the Warren Commission set up by President Johnson to investigate the slaying that took place in Dallas Nov. 22, 1963.

From this torrent of words spread tributaries of rumor: that President Kennedy really is alive and the man shot in Dallas was a double; that Lee Harvey Oswald had conspirators, even one or more riflemen who fired at the same time he did; that Oswald was an FBI man, a CIA man, a Russian spy, a Castro agent; that Jack Ruby was a triggerman who, with the bumbling help of the Dallas police, silenced Oswald, and so on, into even wilder flights of speculation.

None of this mixture of theory and hokum appears to have any basis of provable fact, but that has not stopped the clamor.

A Profit Motive

SOME CRITICS of the Commission, its procedures and findings are quite serious scholars who have dredged the voluminous evidence to assemble minor flaws into what would appear to be one or more larger errors.

Other self-appointed authorities on the case seem to be outright entrepreneurs bent on making a profit from a sad situation. And there seems to be profit of a sort for just about everybody who tackles the subject between book covers or from the lecture platform.

Part of this profitable public acceptance comes from the fact that Mr. Kennedy continues to be a fascinating subject to millions of Americans and many more overseas. Some publishers estimate that more than 20,000 Americans will buy any book relating to the late President.

Continuing deep interest in and grief for the fallen young leader and shock over the manner of his death have combined to create a climate ideal for rumor-breeding, an atmosphere of support for challenging questions aimed at the Warren Commission, almost as if discrediting the investigation might somehow undo the tragedy of Dallas.

Many questions about the assassination and the resulting investigation are, according to U.S. News & World Report, "nagging doubts raised by enterprising authors which seem to find an especially receptive audience abroad." Major Parisian newspapers assigned top men and many columns of space to the subject. The Times of London has called for reopening of the Commission investigation to examine recently raised points of criticism. At least one Congressman, Rep. Theodore R. Kupperman (R-N.Y.), wants Congress to set up a joint committee to determine whether a full-scale legislative investigation of the Commission is warranted. There is doubt that this will be done.

The General Indictment

CRITICS OF the Warren Commission incline generally to the theory that it erred seriously in concluding that Oswald acted alone in killing Kennedy; that there was insufficient study of the possibility that others were involved in a conspiracy; that even in the brief period between the Kennedy slaying and Oswald's own death, Oswald was deprived of proper counsel; that reports by doctors who performed the autopsy on Mr. Kennedy were changed and preliminary notes, in one case, destroyed; that FBI reports were altered.

(Editor's note: Questioning of the official autopsy findings was renewed this month when 65 photographs and X-rays of the autopsy were turned over to the National Archives by the Kennedy family. Critics objected to the conditions attached, which were that the photos and X-ray records could be made available for the first five years only to Federal agencies and then only to qualified pathologists.

(In his news conference Nov. 4, President Johnson said he knew of no "new evidence" in this material or elsewhere to challenge the Warren Commission findings. He thought it was right that the material turned over to the National Archives should not be displayed in "every sewing circle" by people with no serious purpose.

(Prior to the President's comment, the Justice Department had announced that the pictures and X-rays were examined by the two Navy doctors who participated in the autopsy and these physicians said they corroborated their testimony to the Warren Commission.)

Oswald Pinpointed

THE COMMISSION, set up under Mr. Johnson's Executive Order Nov. 29, 1963, under Chief Justice Warren, was intended to avoid overlapping inquiries by state and local authorities while arriving at the truth about the murder of a President. Composed of men of unassailable integrity and with the Government's entire investigative resources at its command, the Commission on Sept. 27, 1964, submitted a 900-page report backed up by six million words of supporting testimony and exhibits contained in 26 volumes.

The Commission came to the conclusion that Mr. Kennedy was killed by shots fired by Oswald from the Texas School Book Depository building in Dallas—and by these shots alone.

In ten months of work, and after taking voluminous evidence from the FBI, the Secret Service, the CIA and other investigative personnel of varying jurisdictions, the Commission could find no evidence of any conspiracy "foreign or domestic."

After reviewing the evidence, the Commission said that "Oswald acted alone." Furthermore, despite rumors to the contrary, it could find no evidence of a link between Oswald and his killer, Jack Ruby.

Had Oswald lived instead of being gunned down by an unstable tenderloin

character who slipped into the p e station during an excited, disorganized period, most of the current books probably could not or would not have existed.

Two Main Targets

IN A VARIETY of books and articles, authors have concentrated chiefly on what they regarded as two major areas of doubt:

• Credibility of the Commission's conduct of the investigation and the validity of its findings.

• Commission failure to disprove the possibility of one or more confederates having been associated with Oswald, even to the point of firing some of the shots credited by ballistics experts to Oswald's 6.5 Mannlicher-Carcano rifle purchased under an assumed name from a Chicago mail order house.

Woven around and through these main branches of criticism are peripheral questions and allegations based to great extent on doubts that Oswald, a former Marine with a rifle rating of sharpshooter, could have been as accurate as he was with an inexpensive mail order rifle and a telescopic sight described variously by the critics as having been either defective or distorted at the time of the assassination.

Author has followed author in citing certain tests made during the Commission investigation to "prove" that the four-power telescopic sight on Oswald's rifle was badly out of line.

To a serious amateur target shooter, many of the questions raised about the case or difficulty of making the shots attributed to Oswald are ignorant, even silly. Even sillier to thousands of serious shooters is the matter of the sight being defective. It would have been an optical miracle if the sight had been truly accurate at the time it was tested —many days after the assassination. As it was, Government testers had to repair the sight.

Sighted It In

WHILE THE SIGHT to begin with was not of the best quality, there is evidence that Oswald sighted it in before the killing. This means that he went out on a practice range and checked the variabilities of the sight under actual firing conditions.

After the assassination, the weapon presumably was thrown to the floor of the Book Depository and Oswald fled. In subsequent investigation, the rifle bounced around in automobiles of police investigators and was handed around by dozens of men on the case. Few high-quality sights could have survived this treatment and maintained their pinpoint accuracy.

Oswald was an experienced rifleman from his days in the Marine Corps. The distance of the shots—from the sixth floor window of the building to the Kennedy touring car—would be almost point-blank range for many competent shooters armed with a 6.5 rifle and a telescopic sight. Small boys at summer camps can do equally well on their target ranges using .22 rifles (much less powerful than a 6.5) and no telescopic sights whatever.

Therefore, much of the literary furor over whether Oswald could have made the shots and whether his weapon had the capability is, to put it charitably, uninformed.

A Fantastic Linkage

TO BELIEVE some of the theories put forth in the current wave of anti-Commission writings would be to believe that somehow the Chief Justice of the United States, the FBI, the Secret Service, leading members of Congress and President Johnson himself entered into a monstrous plot to keep the truth from the public—or that their collective efforts to investigate the assassination amounted to so much stupidity and lack of concern.

It isn't possible to deal with everything that has been said and written about the Kennedy assassination and the investigations of it, but some specifics can be commented on.

"Inquest" by Edward Jay Epstein, a 31-year-old New Yorker now working on his doctorate in American government at Harvard, is one of the more temperate books of the current crop, concerned far more with Commission fact-finding procedures than with its conclusions.

"Inquest" is scholarly, but sometimes querulous. The book carries an introduction by magazine writer Richard H. Rovere, a frequently perceptive essayist and critic. He jumps on Harrison Salisbury of the New York Times for having written that in the Commission report, "no material question remains unsolved." Then Rovere points out that Epstein says that "at least one large question of incontestable materiality—the number of rifle shots fired at the presidential party—was never resolved, not even, astonishingly, to the satisfaction of the commissioners themselves."

Thus we have a case within a case: Salisbury vs. Rovere and Epstein vs. the Commission. While some witnesses reported as many as six shots, the Commission's best judgment was that Oswald fired only three times and one bullet apparently went wide of the target.

A Marksman Himself

I MUST at this point inject a personal note. In addition to being a professional reporter assigned to the White House for more than 25 years, I have been a hunter and target marksman for many years. I am not the world's greatest shot by any means, but there are some professional experts who regard me as being competently familiar with many weapons and their behavior.

I was only a few hundred feet from John F. Kennedy when he was shot in Dallas. I would swear that there were three shots and only three shots fired at his motorcade.

The car in which I rode as a press association reporter was not far from the presidential vehicle and in clear view of it. We were at the point of coming out of an underpass when the first shot was fired. The sound was not entirely crisp and it seemed for a split second like a firecracker, a big one. As we cleared the underpass, there came the second and third shots.

The shots were fired smoothly and evenly. There was not the slightest doubt on the front seat of our car that the shots came from a rifle to our rear (and the Book Depository at this point was directly to our rear). We remarked about rifle fire before we knew what had happened to Mr. Kennedy, although we had seen him slide from view in the rear of the open White House car.

Even before Mr. Kennedy's body reached the hospital in a chilling, high-speed dash, I reported from the car by radiotelephone to the UPI Dallas bureau that three shots had been fired at the Kennedy procession.

'I Was There'

NOT UNTIL we pulled up at the Parkland Hospital emergency entrance in a screaming skid and I ran to the side of the Kennedy car did I know for certain that he was badly hurt.

When I saw Mr. Kennedy pitched over on the rear seat and blood darkening his coat, and Gov. John Connally of Texas slumped face up on the floor with brownish red foam seeping from his chest wound, not one hospital orderly, doctor or nurse had reached the vehicle. Several careless authors would have their readers believe that medical attendants were on the scene at this point. They were not. I was there.

Clint Hill, the Secret Service agent who raced from the follow-up car to the presidential vehicle to shield the fallen leader and his shocked wife Jacqueline, heard only three shots. Malcolm Kilduff of the White House

press staff, who was seated beside me in the front seat of the pool car, heard only three shots. I heard only three shots. Now, who knows more about it—Edward Jay Epstein and Richard H. Rovere or the trained, professional observers who were there?

To disprove that more than three shots were fired would be impossible. Nor would it be possible to prove more than three, beyond a shadow of doubt. Therefore the Commission had to settle for what the burden of evidence showed—three shots. Yet here is a point regarded by Epstein and Rovere as unresolved. It is a classic example of the almost Puckish impossibilities on which some of the current assassination books are built.

There are many other current volumes attacking the Commission, its procedures and findings. One of the more widely mentioned is "Whitewash —The Report on the Warren Report." The author is Harold Weisberg, who by his own description is a Hyattstown, Md., "intelligence and political analyst" as well as "an expert on waterfowl."

For Weisberg to be taken seriously by other writers is to demonstrate their quick willingness to seize upon almost any line of reasoning as long as it supports the idea of Commission error, omission or cover-up. A sample Weisberg conclusion:

". . . the President was shot from both front and back. Nothing else makes sense. Nothing else is possible. God alone knows how many shots were fired by how many people from how many weapons and from how many directions. But one thing is now beyond question: there was not a single assassin . . ."

Without depreciating from his purpose and fierce determination, Weisberg seems to be more of a zealous pamphleteer than a meticulous analyst. It is amazing that his book has received serious consideration by other authors. On the first page, he is wrong about the weather on the day of the assassination and wrong about the makeup of the Kennedy motorcade in Dallas. With this for openers, it becomes difficult to accept some of Weisberg's other material as gospel.

Philosopher's Surmise

ANOTHER WIDELY distributed author who believes that there were at least two assassins is Dr. Richard H. Popkin, chairman of the department of philosophy at the University of California branch in San Diego. His book is called "The Second Oswald."

As most of these books do, "The Second Oswald" starts with a long introduction by a cheer-leader for the author this time, New York journalist Murray Kempton. Kempton says that the Commission's investigative and reporting processes have been so discredited that its findings are "much less plausible than Popkin's theory," which is to say, "Two Oswalds were together at the Texas Book Depository and that each played his part in the assassination."

For Popkin the philosopher to challenge the Commission report as a document is one thing. For him to surmise certain things contrary to Commission conclusions also would seem fair enough. But the Professor insists on becoming a ballistics authority: "He (Oswald) had to fire a cheap rifle with a distorted sight and old ammunition, at a moving target in minimal time, and shooting with extraordinary accuracy."

This simply is not fact, but the opinion of a college professor. Fact: A weapon's price does not necessarily indicate its accuracy. Fact: There is no evidence whatever that the sight was "distorted" when Oswald fired at Mr. Kennedy. Fact: As to "old ammunition," the age of a rifle load does not necessarily control its accuracy or power.

Not Quite as Shrill

ANOTHER HEAVILY exploited and apparently widely read book is "Rush to Judgment" by Mark Lane, who, with the encouragement of Oswald's mother, set himself up as "defense counsel" for the accused assassin during the Commission proceedings.

Bertrand Russell and Arnold Toynbee read the manuscript and made suggestions according to the author. Hugh Trever-Roper, a professor whose causes are many in his native England, wrote the introduction, in which he maintains that the Commission case against Oswald was wrongly one-sided and that Lane, a lawyer and lecturer, was to be commended for pressing, in the book, his belief that Oswald's side of the matter should also be heard thoroughly and fairly.

"When both sides have been heard, and not before, posterity may judge," says Trever-Roper.

The Lane book is better than most in that it is not quite as shrill as some of the others, but again, his technique is to take tiny variations in evidence before the Commission and build a mountain of doubt. Lane believes that while the Commission suppressed "a vast amount of material of paramount importance, there was enough in the published evidence "to question, if not overthrow, the Commission's conclusions."

Satisfying Foreigners

ONE OF THE late President's close friends spoke of the current round of books recently, asking that he not be identified. He did not want to become embroiled in some of the tensions within the Kennedy family concerning still another book about the assassination, a so-called "authorized" version by William Manchester. In any case, this close friend of JFK said:

"Why continue twisting this dagger in the guts of America to satisfy largely the sensationalists of other countries? The President was killed by Lee Harvey Oswald. This is the opinion of the best police experts we have. It would have been interesting historically to have had Oswald on a witness stand, but there really is no evidence of which I am aware that would have changed the basic facts of the matter."

"The present critics of the Warren Report must be careful that they do not, in opening the popular mind to doubt, open it also to fear and hysteria."

No Conspiracy, But— Two Assassins, Perhaps?

By HENRY FAIRLIE

IT is uncomfortable to live with uncertainty, but it seems time to acknowledge that we—and perhaps even future generations—may never know the truth, certainly not the whole truth, about the assassination of President Kennedy.

"The Vulnerability of Facts" is a chapter heading used by Edward Jay Epstein, one of the current critics of the report of the Warren Commission. He might have added another: "The Inaccessibility of Truth." I do not suggest that, because the truth may be inaccessible, inquiry should stop: Merely that, if further inquiry does not get us very far, we should not be surprised, and should not feel tempted to construct our own elaborate explanations.

The report of the Warren Commission is now under severe and, in some cases, persuasive attack. It is hard to disagree with the general judgment of its critics that it did a hurried and slovenly job. It seems to have been less than thorough in the examination of some key witnesses, less than skeptical of some of the official evidence with which it was supplied, less than careful to consider in detail every possible explanation of the assassination other than Lee Harvey Oswald's sole guilt. Even so, it is worth adding, the apparent slovenliness may be in the written report rather than in the actual investigations of the commission. It still seems to me possible that the report does not do justice to its own inquiries.

HENRY FAIRLIE is an English political commentator who is now a temporary resident of Washington, D. C.

Nevertheless, doubt has been aroused, and there are signs that in the next few months this doubt may become an obsession in at least some quarters—perhaps eventually in the popular mind, which has so far been resistant. Neither in Europe nor in America, in fact, have I hitherto found much popular interest in the possibility that the Warren Commission reached the wrong conclusions.

IT is true that some of the earliest questionings of Oswald's guilt, or his sole guilt, came from Europe. But they made very little impression on most people. When Hugh Trevor-Roper delivered his main attack on the conventional explanation of the assassination, the general attitude, I remember, was to wonder how the Regius Professor of Modern History in the University of Oxford, a man not given to causes, had got himself mixed up with this one.

Since then, in Britain, the issue has been dead. I can recall no important article in any British publication which has raised the subject since the flurry after the publication of the Warren Report. I sat with a British journalist the other day, and we could not remember any conversation either of us had had in Britain during the past 18 months in which the circumstances of the assassination had drawn more than a passing reference.

Some Americans—mostly intellectuals—give the impression that they no sooner land at London Airport than they are assaulted by questions and theories about the assassination. They may move in circles I do not know, but there are perhaps two other explanations.

To one kind of intellectual, a mysterious assassination, such as that of President Kennedy, provides an irresistible temptation to play "private eye." I have sat, often enough, at high table at Oxford or Cambridge, and wondered at the capacity of dons for imagining that the world outside—the world of men and affairs—is one of intelligibly related events, for which there must be a visible explanation and, if not, then a deliberately concealed one.

Americans abroad are also likely to encounter professional anti-Americans, and not recognize them. There is, in Europe, a close link between anti-Americanism and conspiratorial theories of the assassination, which emerged at the time in the expected pronouncements of Bertrand Russell. As the London correspondent of The Washington Post pointed out the other day, anti-Americans in Britain are already finding a connection between the assassination and Charles Whitman's murders from the University of Texas tower in Austin.

I can speak with less certainty of opinion in other European countries, but my impression is that much the same is true there as in Britain, except that conspiracy theories of the assassination, where they are held, are held more intensely, especially in Paris. This, I would suggest, is hardly surprising in countries whose politics are perpetually excited by conspiracy theories, and often with considerable justification since conspiracy is part of the stuff of their politics.

IN America, both last year and this year, I have found a popular interest

'...It seems to me possible that the report does not do justice to its own inquiries...'

in the circumstances of the assassination only in one area: the South. (I must admit, however, that I have not yet been in the West.) As I made my way through the South, I became accustomed to conspiracy theories of every kind, most of them constructed out of fantasy. Again and again, the assassination of President Kennedy was woven into the fantasy, although not in a manner which would be very agreeable to the current critics of the Warren Report.

The most prevalent popular theory which I encountered in the South was the obvious one: that Oswald was part of a left-wing conspiracy whose involvement had been deliberately concealed by Communists in the Administration and by the arch-Communist himself, Chief Justice Earl Warren. The second theory, almost as prevalent and advanced with considerable ingenuity, was that Oswald had been the tool of an F.B.I. conspiracy to discredit the right wing: the F.B.I. being, too, a Communist organization.

Not only did I get used to these theories in the South, I even got used to the fact that they could coexist in a single mind. Nowhere else in the United States, either last year or this year, until the recent controversy began, have I found any hint of either widespread or deep interest in the circumstances of the assassination. I may have been at fault in not raising the question. But the important fact, surely, is that Americans have never spontaneously raised it with me.

This, today's critics would say, is a fault in the American people; that they are merely closing their eyes to uncomfortable facts or possibilities. But, like all true Tories, I have a considerable faith in popular wisdom, and I do not believe that, if there was the smell of a genuine conspiracy in the land, the ordinary people of America would be acting with such a lack of fear and hysteria. Rumors would have spread, and the popular imagination been fired. But it has not happened.

If I am right in this estimate of popular attitudes, then it seems to me that the present critics of the Warren Report must be careful that they do not, in opening the popular mind to doubt, open it also to fear and hysteria. I am not arguing, let me make it clear, that they should not continue to search for the truth or press for a further inquiry. I am arguing only that from their various viewpoints, interested or disinterested, they should avoid elaborating theories of conspiracy which are based on evidence quite as selective, and argument quite as tendentious, as they claim the Warren Report to be.

THE Warren Commission's conclusion that there was a single assassin is based on what has come to be known as the "single bullet" theory. In other words, that the first wounds which both President Kennedy and Governor Connally received were caused by a single bullet which passed through the back of President Kennedy's neck and emerged at his throat before striking Governor Connally.

It is easy, as most of the critics have done, to show that this "single bullet" theory, on the evidence supplied by the commission itself, is weak. But the fact remains that the alternative explanations offered by the critics (such as the presence of more than one assassin, and the existence of a conspiracy) are equally easy to fault, and rely equally on improbable chances.

Anyone who has read most of the current debate—the books and the reviews, and one of the reviews, at least, is quite as important as the books—can choose between several attitudes, even if he accepts the criticism that the commission did a slipshod job:

(1) Although the commission's arguments and its use of evidence may not seem an adequate support for its conclusions, these may yet be the right ones. This is an important point, because there may be a tendency to allow the faults in the commission's report to override a commonsense appreciation of its findings.

(2) Without deciding whether the commission's conclusions are right or not, he can simply agree that the the weaknesses of its report make it desirable that a further independent inquiry should be established.

(3) He can decide that the arguments of the critics make it clear that Oswald did not act alone, without committing himself to any conspiracy theory. The fact that more than one person is engaged in an enterprise does not necessarily make it a conspiracy. This is the leap which alarms me, and it is a leap (I do not wish to imply any conscious motive) which ambitious authors perhaps find a little too easy to take.

(4) He can accept the idea that there was a conspiracy, without necessarily feeling obliged to commit himself to one or other of the conspiracy theories which have already been offered, or which seem likely to be offered in the next few months.

It is, of course, the idea that there was a conspiracy which is intriguing, and of which I remain more than a little skeptical. I have always found some difficulty in assuming conspiracy in public assassinations. They depend far too much on coincidence and accident to be the work of determined political conspirators, and I therefore find myself demurring when Harold Weisberg, the author of "Whitewash," says that "by their nature, assassinations usually involve conspiracy."

"Top" conspirators, it is true, can always know with some certainty where their victim will be, can even help to arrange that he will be there. The conspirators in the "July 20" plot knew where Hitler would be, and when. So did the conspirators against Julius Caesar, although it was, in fact, touch and go whether he would make it to the Senate that morning. Even so, it should be noted, the "July 20" plot, although carefully planned, went awry.

To plan dangerously then, and then to rely on a public appearance on a trip to Sarajevo, or the theater, or Dallas—this seems to me hardly in the nature of political conspiracy, although it may be in the nature of a fanatic, or two or three fanatics.

In two and three-quarter years there has been a remarkable amount of nonevidence

Art Buchwald, in his Paris days, once interviewed Miss Nancy Mitford. When he asked her what she liked to read, she replied that she loved history and biography, and was at the moment halfway through "The Day Lincoln Was Shot." "Of course," she went on, "I don't know anything about American history; I don't know whether it is accurate. But it reads like a detective novel. Only one thing worries me. I'm terrified dear Mr. Booth goes to the wrong theater."

I am afraid I am rather in the same frame of mind about assassinations as Miss Mitford. The chances seem to be too great, the coincidences too improbable, for serious political conspirators to rely on cheerful public occasions for their deeds.

ONE of the current critics of the Warren Report goes to great trouble to describe the elaborate way in which, he suggests, the conspirators went about the business of duplicating the known Oswald by a "second Oswald." Such preparation! Such detail! Yet, with it all, these determined and imaginative conspirators chose to place the actual assassins at a point on a route which President Kennedy might not take, in a city which he might not even visit, and where, although the shot was easy enough, there was only a brief time in which to hit him.

But there are other improbabilities in a conspiracy theory of the assassination. If there was a conspiracy, not only would more people be primarily involved, but also more people, such as gun dealers, would be secondarily involved. In a country such as America—and Americans of sense and commonsense have put this point to me many times in recent weeks—someone would have broken.

There are at least two magazines which would be willing to spend a small fortune for a clue to a conspiracy. Yet, in two and three-quarter years, none has been forthcoming. Some magazines have been engaged in tireless investigations of their own, employing what Time magazine engagingly likes to call "task forces" of their own correspondents. Yet, in two and three-quarter years, they have turned up not a hint of conspiracy.

From the time of the assassination, Lee Harvey Oswald's mother pursued the possibility of his innocence; and Mark Lane, through all these years, has kept the issue and his own investigations alive, yet his final report, "Rush to Judgment," reveals no real evidence of a conspiracy. Other private investigators have bored their way through the available facts, yet only one of them, to my knowled, claims to have identified even c conspirator, even one other man wi was in collusion with Oswald. In two and three-quarter years, this is a remarkable amount of nonevidence.

Moreover, if there was a politically determined conspiracy there must have been a politically determined motive. One critic of the Warren Report, having reconstructed the conspiracy which he believes may have caused President Kennedy's death, at least recognizes this difficulty. "The political or economic nature of the conspiracy," said Richard H. Popkin in The New York Review of Books, "must be purely speculative at this stage."

Just how speculative, he then makes clear in three wildly speculative sentences. "Maybe Oswald met some far-right extremists when he went to hear General Walker on Oct. 25. Maybe some right-wing Cubans involved him in a plot when he was in New Orleans. Maybe he got involved with some leftist plotters in New Orleans, Mexico City or Dallas." That gives us quite a lot from which to choose.

Popkin, in the end, is true to his predispositions, managing to suggest a right-wing conspiracy without offering any supporting evidence. "A conspiracy to defame the President was going on in Dallas among a handful of rightists. Why was this possible, but not a conspiracy by others to shoot him?" No reason at all, except that no one has yet turned up any evidence of an organized conspiracy fired by "political or economic" motives.

SUCH a conspiracy would, presumably, have a political motive beyond the mere assassination of the President. Yet, having had such a striking success in its first action, it never acted again, and never acted during those terrible first days when conspiracy was a real fear in the minds of the American people and their Government. No plans to prevent a peaceful transfer of power, no plans to change men or policies: What an abbreviated conspiracy!

For two and three-quarter years, we are asked to believe, a conspiracy which organized the death of a President has lain silent and dormant, while his successor has pursued much the same policies, often with the same men. It seems more than unlikely. I am not denying that there may have been more than one assassin—the available evidence seems to me confusing—but, even if one makes this supposition, it still does not justify making the long leap to a conspiracy theory of the assassination.

Conspiracy is a term which should be allowed to keep a little distinction. A political conspiracy—and it is this which we are being asked to consider—must have, at least in the minds of the conspirators, some of the justification of "reasons of state." Whether left-wing or right-wing, the object of a conspiracy is to subvert the state; and there is a sense, in fact, in which a state may be considered ready for conspiracy, as Marx said it can be ready for revolution. The German state was in such a condition in 1944.

In spite of all the patient reading I have done, I can find not a tittle of evidence that subversion of the state—an abrupt change in the political forces governing the country—was one of the motives of President Kennedy's assassination.

Again, it is Popkin who approaches the problem with at least some political nous, who recognizes the difficulty. He scrapes his way out of it by indicting a whole society, and any reader of pamphleteering political literature will recognize this passage as familiar:

"The American press, as well as others in positions of responsibility, would not, and could not, dream of a conspiratorial explanation. In a world in which conspiracies are going on all of the time—in business (the anti-trust cases), in crime (the Mafia), in foreign affairs (the C.I.A.)—it somehow was still not imaginable that two or more persons could decide to assassinate the President of the United States." And it is from there that he proceeds to hint at a "far-right" conspiracy.

So it is to this, to a politically angled attack on a whole society, that the apparently objective and painstaking exposure of political conspiracy in the end reduces itself. Even the Inquisition would have marveled at such audacious dissembling of the truth.

Popkin even resurrects the tittle-tattle — "in rumors I have often heard"—that the President's assassination may have been organized by his succeasor. It is the suggestiveness of "in rumors I have often heard" which is hard to forgive.

None of this, I must repeat, is to deny that there may have been two or more people involved in the assassination — although, the greater the number suggested, the less credible the proposition seems. I am merely arguing that it is possible to regard such people as fanatics or nuts and nothing more, not involved in any serious political conspiracy and not reflecting any organized subversive interest, or even any organized political passion, within the body of society.

TO an outsider, as he sinks himself slowly into American society and politics, nothing is more alarming (even though he may have half expected it) than the prevalence of conspiracy theories of political power and political behavior. By the time he has submerged himself no more than ankle-high, he no longer needs Richard Hofstadter's brilliant guide to the "paranoid style" in American politics to remind him that such theories run far back in American history.

But what amazes him most is that those who pooh-pooh the familiar McCarthyite theories of left-wing conspiracy are themselves ready to construct almost as fanciful theories of right-wing conspiracy. Moreover, whereas those on the right who indulge in fantasies of Communist conspiracy are usually on the far right, those on the left who indulge in fantasies of right-wing conspiracy are often paraded, and parade themselves, as level-headed liberals.

THUS there is a second conspiracy which is being discovered in the current debate: a conspiracy on the part of the Warren Commission to suppress, or distort, the truth. It must be said that this theory has not yet gained much ground. But it is explicit in all Weisberg's attributions of malevolence, and it is implicit, although in the most sophisticated way, even in Epstein's otherwise careful, otherwise level-voiced, book, "Inquest."

Epstein's main criticisms are of the slovenly way in which he believes that the commission worked. But his first and last explanation of this slovenliness is that it was eager to find an explanation of the assassination which would restore American prestige abroad, and the prestige of American institutions at home. In short, he suggests that the "Establishment" assumptions and inclinations of its members made their findings inevitable.

I was, although I do not now often like to admit it, responsible for making the phrase "the Establishment" part of our current political vocabulary. The occasion was an article in The (London) Spectator in 1955, in which I gently suggested that Guy Burgess and Donald Maclean had not needed any cover, either for their activities or for their eventual disappearance to Russia, simply because they belonged—and here I first used the word—to "the Establishment."

From this half-serious, half-mocking suggestion that, because of their connections, they were always given the benefit of the doubt, the phrase "the Establishment" caught on like wildfire, and I have been troubled by its success ever since. I began to be troubled when I realized that the phrase could be used, and was being used, as a sophisticated version of a conspiracy view of politics, instead of a rather jolly way of describing a curious English phenomenon.

Exactly the same process of exaggeration is to be found in Epstein's book. Although he himself provides several convincing explanations of why the commission did such a hurried and slipshod job, he in the end leans to a conclusion which has the smack of conspiracy about it: "In establishing its version of the truth, the Warren Commission acted to reassure the nation and protect the national interest."

This is to make a judgment of motive, even conspiratorial motive, and it is the hint of conspiracy, of one kind or another, which has become the hallmark of all the theses produced by the critics of the Warren Report.

THE American people are, as I have said, open to conspiracy theories, and it seems to me to be to their credit, and not merely evidence of their complacency, that they have so far refused to be stampeded into imagining conspiracy, either left-wing or right-wing, in the assassination of President Kennedy. Those who are today purveying their conspiracy theories appear to be bent on producing precisely the kind of hysteria which, requiring only doubt and never proof, begins a witch-hunt, either on the left or on the right.

At some point, it is clear, there will have to be another independent inquiry. But, even if this is agreed, it is by no means equally clear that the time for such an investigation is now. A portion of the investigative reports in the United States National Archives is not yet declassified. The whereabouts of other important evidence have still not been ascertained. In these circumstances, the chances of a further inquiry producing a report which would carry conviction are slight.

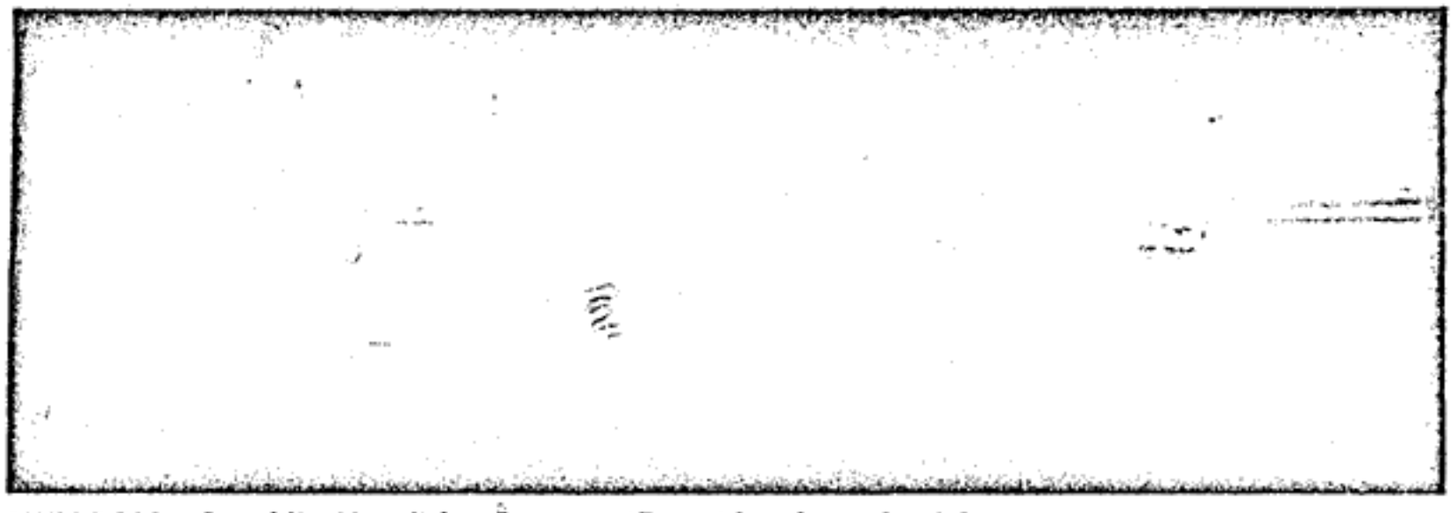
To set up another independent body, with no promise that it could succeed, would be to agitate public doubt without being certain that it could, in the end, settle it. Popular fear and hysteria are dangerous weirds to excite, and Weisberg, for one, makes it clear that he is willing to excite them. In his conclusion, he makes the flesh creep:

"A crime such as the assassination of the President of the United States cannot be left as the report of the President's commission has left it, without even the probability of a solution, with assassins and murderers free, and free to repeat their crimes and enjoy what benefits they may have expected to derive therefrom. No President is ever safe if Presidential assassins are exculpated. Yet that is what this commission has done."

It is my judgment that the American people today are in a remarkably unhysterical frame of mind, even in the middle of a difficult and controversial war. Certainly, they are showing every sign of resisting the temptation to further witch-hunts. It would be a tragedy if articulate makers of opinion led them into another.

EXHIBIT 399

Like the ripples from a stone dropped in a pond, the doubts about the report of the Warren Commission surround a moment of sudden impact: Did a single bullet, labeled Exhibit 399 by the commission, hit John F. Kennedy in the back of the neck, pierce a hole in his throat and then severely wound Governor John Connally of Texas who was sitting on a jump seat in front of the President? For though this was not the assassination bullet (of the two other shots the report says were fired that day, one "probably" missed the car and the other shattered Kennedy's head, killing him), it is over Exhibit 399 and the "single bullet theory" that the argument hinges.



WEAPON—Oswald's Mannlicher-Carcano rifle, with telescopic sight.

One reason is mathematical. According to movie film taken at the scene by an amateur and later studied by commission investigators, the maximum time that could have elapsed between the wounding of the President and of the Governor was 1.8 seconds. Yet tests on Oswald's bolt-action rifle showed it could not fire twice in less than 2.3 seconds. Hence, the "single bullet theory." Coupling this with the premise that Oswald fired the gun, the commission arrived at its basic conclusion: Oswald was the lone gunman and the President's assassin. "To say that they were hit by separate bullets is synonymous with saying that there were two assassins," one staff lawyer declared.

The mathematical evidence was substantiated to the commission's satisfaction by studies of the trajectory of bullet 399 and, more significantly, by an autopsy performed at Bethesda Naval Hospital hours after the shooting. The medical testimony published by the commission described the path of the bullet through the President's neck and ballistics tests showed it could have kept going with enough velocity to hit Connally.

Against this weight of evidence, Edward Jay Epstein, a Cornell graduate student who wrote "Inquest" as a master's thesis in government, weighed in with newly discovered documents that challenged the Warren Commission's theory of a single bullet and a single assassin. Epstein dug up two recently declassified F.B.I. reports which contradicted the Bethesda autopsy. The reports stated that the nonfatal bullet entered President Kennedy's right shoulder and did not bore through his body.

Epstein's conclusion: The F.B.I. reports are correct and the Bethesda autopsy report published in the Warren Report was altered between the time of the assassination and the time of publication to conform to the "single bullet theory." "It indicates," said Epstein, "that the conclusions of the Warren Report must be viewed as expressions of political truth"—that is, that the single assassin, assumed to be Oswald, had been found.

The Warren Commission Report on the assassination is struck by

A NEW WAVE OF DOUBT

A SECOND WAVE OF CRITICS is assaulting the Warren Commission's conclusion of almost two years ago that Lee Harvey Oswald, unaided, shot and killed President John F. Kennedy.

The first wave, rushing into print from the wild side, has come and gone, pocketing its profits and leaving uncounted Europeans and Latin Americans convinced that Oswald was but a pawn for conspirators. If the books and articles made less impression in the United States, where political assassination plots are not considered necessary baggage of government, many people nevertheless were ready to believe that the Warren Report was less than the final word.

If the Commission, headed by Chief Justice Earl Warren, hoped to allay doubts in the land, it failed. A Harris Survey in the fall of 1964, soon after publication of the Report, showed that 31 percent of Americans still believed Oswald had accomplices and that less than half the people believed the Commission told the full story. If anyone thinks time has quieted the suspicions, he has only to mention a Mannlicher-Carcano 6.5-mm rifle's firing speed and the subsequent wrangle will persuade him otherwise. Not only are millions of Americans still doubters but thousands of them have become assassination sleuths, ready to cite page and line from the published testimony.

Into this fertile field of conjecture marches the new wave of critics. None of them purports to name a second assassin, much less members of a conspiracy, but almost all of them open the probability of a second assassin—a direct challenge to the seven-man Warren Commission's main findings after ten months in being, and after 552 witnesses, 25,000 FBI interviews, 1,550 Secret Service interviews and a stack of papers that fills 300 cubic feet in the National Archives.

There are two leading assailants. One is Mark Lane, a New York lawyer whose freewheeling attacks on Commission findings have stirred lecture audiences in Europe and America. The other is Edward Jay Epstein, a 30-year-old doctoral student at Harvard whose master's thesis for Cornell University turned into a hot publishing property entitled *Inquest*.

Both men are being published by prominent houses. Lane's *Rush to Judgment*, due August 15, is being launched with heavy advance publicity by Holt, Rinehart & Winston and includes a prestige intro-

duction by Hugh Trevor-Roper, professor of history at Oxford University. Epstein's *Inquest*, just published by Viking Press, carries an enthusiastic introduction by Richard H. Rovere, a respected writer, and a vote of confidence as to Epstein's scholarship from Andrew Hacker, the Cornell professor of government who supervised the work that earned Epstein his master's degree this spring.

On first reading, and even second and third, Epstein's book appears impressive. It comes clothed in the full garments of the academy, replete with footnotes, citations, source materials and index. Epstein appears to hide absolutely nothing. His mood is muted and his style pedestrian, twin earmarks of the scholarly work. He interviewed five members of the Commission and ten members of its staff. What's more, he footnotes exactly who told him what. He read the full Warren Report and all 26 volumes of the hearings and exhibits. With such vestments of scholarship, he proceeds to an examination of the Commission. The results, put forth in his 156-page book, are explosive. Here are highlights of Epstein's conclusions:

FINDINGS OF THE OFFICIAL AUTOPSY on President Kennedy's body, conducted at Bethesda (Md.) Naval Medical Center the night of the November 22, 1963, assassination by three military physicians, apparently were later changed to accommodate the theory that a single bullet went through both President Kennedy and Gov. John Connally of Texas, who was sitting on a jump seat in the death convertible immediately in front of Kennedy.

THE AUTOPSY REPORT printed in the Warren Report evidently is not the original version prepared by the physicians. Epstein does not say who he thinks changed the report, but he broadly implies that it was either the doctors or members of the Commission's staff.

TWO FBI REPORTS, one dated December 9, 1963, and one dated January 13, 1964, flatly contradict the autopsy report and say that the bullet that entered Kennedy's back did not exit from his body—and thus could not have struck Connally.

THE SINGLE-BULLET THEORY was adopted because the proven time span for firing the Oswald rifle was too short to embrace one shot hitting Kennedy and another striking Connally. (None of the discussion in this article involves the later fatal bullet that shattered Kennedy's brain.) Thus, if both men were struck by separate bullets, a second assassin had to be considered. But since the Commission was early wedded to a belief that Oswald operated alone, it ruled out separate bullets on insufficient evidence.

THE SINGLE-BULLET THEORY was advocated by a Commission lawyer, Arlen Specter, now district attorney of Philadelphia, and the Commission, following his lead, never thoroughly investigated the possibility of a second assassin.

THE SUPPOSEDLY MASSIVE INVESTIGATION was actually "superficial." Epstein says the probe was hampered by an impossible deadline imposed by Chief Justice Warren, by a lack of investigative manpower and by the absenteeism of the busy commissioners.

THE COMMISSION ignored possible witnesses, sifted testimony to suit its purposes, left questions unresolved and, in writing the Report, omitted "contradictory evidence and inconsistent details."

THE COMMISSION never independently investigated rumors that Oswald was a paid informant of the FBI, but merely took the word of

FBI officials, principally Director J. Edgar Hoover, for it.

MOST OF THESE SINS, if not all, stemmed from the Commission's commitment, which from the outset of its assignment was less to the discovery and revelation of truth than to dispelling rumors that would damage "the national interest."

These are sensational charges. Many of them, of course, have been advanced previously by lurid and irresponsible writers, but now they appear to be buttressed by a man bound by the disciplines of academic research, skilled in analytical thought and determined to follow the evidence wherever it may lead.

On the basis of the scholarly aura and the responsible auspices attending the book, LOOK arranged for an exclusive interview with Epstein and an advance study of the volume. I was assigned by LOOK to interview the academician and write an article about him and his product. Both the interview and the initial readings of the book were compelling. I was at first persuaded that this young man had, by dint of digging and hard analysis, come up with one of the big stories of the decade, namely, that the eminent Warren Commission had done a fantastically sloppy job and that few of its major conclusions were to be credited any longer.

Then, I started to check some of Epstein's statements . . . and I soon became convinced that Epstein was guilty of the very sins of which he accused the Warren Commission: distortion, ignoring testimony, sifting the evidence and adroitly selecting it to fit his theories and assumptions. At the worst, Epstein has written a dangerously deceptive book. At the best, he is guilty of precisely what he lays at the door of the Warren Commission—a "superficial" investigation.

Epstein's story, parenthetically, is that he began to study the operations of the Warren Commission with no expectation of writing more than a placid master's thesis on the functioning of a governmental body. Then, last summer, he interviewed Wesley J. Liebeler, a Commission lawyer, and found that Liebeler had a treasure trove of documents that indicated fights within the Commission and possible substantive errors by the Commission. From that time forward, Epstein's research became freighted with excitement as he followed the tracks of what seemed to be a big story.

When I pointed out what appeared to be overlooked chances for confirmation of facts in *Inquest*, Epstein said that he was not in the business of investigating Kennedy's assassination. His boundaries, he said, were the Report and hearings, investigative reports in the National Archives, Commission working papers, and interviews with commissioners and staff. He contended that he was not required to check statements made in his book with the person involved. Thus, he erected for himself remarkably secure and comfortable academic ramparts from which to fire a barrage at the Warren Commission. Yet any newspaperman who assumed such a stance—that people involved in highly suspect operations need not be asked for their version of the story—would be fired in a week.

There are a number of distortions in Epstein's book, but one in particular illustrates his method of operation. It can only be called devious. On the basis of this episode alone, an informed reader would weigh the remainder of *Inquest* with reservations, to put it mildly.

AN 18-YEAR-OLD MAN named Arnold L. Rowland testified before the Commission that he saw a man with a rifle in a sixth-floor window of the Texas School Book Depository building before the assassination and that he also saw a Negro man "hanging out" another sixth-floor window shortly before the Kennedy motorcade passed. Previously, he had been interviewed by the FBI. He said he had told the FBI agents about this second man, but "they didn't seem very interested." No FBI report mentioned such a statement by Rowland.

Epstein alludes to this testimony three times in his book to prove that the FBI interviews were less than thorough and that the Commission tended to reject new evidence that might alter its "basic suppositions concerning the assassination."

"When a witness did give new evidence," he writes, "in the Commission hearings, it became suspect *ipso facto*, because it was not included in a prior statement. For example, Arnold Rowland testified before the Commission that he had seen a second man on the same floor with the assassin. The Commission, however, rejected this portion of Rowland's testimony partly because of 'Rowland's failure to report his story despite several interviews until his appearance before the Commission.' It will be recalled that Rowland insisted that he *did* mention this fact to FBI agents but that they were interested only in whether or not he could positively identify the assassin. The Commission never called the FBI agents as witnesses on this matter."

Epstein's argument seems convincing, but he fails to quote the full reason why the Commission rejected Rowland's testimony. The Commission's reason is set out on page 252 of its Report as follows:

"Rowland's failure to report his story despite several interviews until his appearance before the Commission, the lack of probative corroboration, and the serious doubts about his credibility, have led the Commission to reject" the testimony. The key phrase here is "serious doubts about his credibility." It was explained on the previous page, 251, of the Warren Report:

"Mrs. Rowland testified that her husband never told her about seeing any other man on the sixth floor except the man with the rifle in the southwest corner that he first saw. She also was present during Rowland's interview with representatives of the FBI and said she did not hear him make such a statement, although she also said that she did not hear everything that was discussed. Mrs. Rowland testified that after her husband first talked about seeing a man with the rifle, she looked back more than once at the Depository Building and saw no person looking out of any window on the sixth floor. She also said that 'At times my husband is prone to exaggerate.' Because of inconsistencies in Rowland's testimony and the importance of his testimony to the question of a possible accomplice, the Commission requested the FBI to conduct an inquiry into the truth of a broad range of statements made by Rowland to the Commission. The investigation showed that numerous statements by Rowland concerning matters about which he would not normally be expected to be mistaken—such as subjects he studied in school, grades he received, whether or not he had graduated from high school, and whether or not he had been admitted to college—were false."

Rowland's testimony and FBI matching exhibits (in Volume XXV of the Commission hearings) throw more detailed light on why the Commission and staff lawyers preferred not to believe Rowland.

He said he graduated from high school in June, 196.., but school records showed he dropped out of two high schools and had not graduated. He testified he had an IQ of 147. School records showed the figure was 109. He testified that he received straight A's in high school, with the exception of a "couple of B's" in his senior year. Records showed the B's, C's, D's, E's and F's outnumbered the A's. He testified he had been accepted by four colleges, including Southern Methodist University. The chief clerk of the SMU registrar's office told the FBI that Rowland had never applied for admission. Rowland said he had "much better" than 20-20 vision, as evidenced by a recent eye examination at Finn & Finn, Dallas optometrists. Dr. John E. Finn, noting that his firm's records covered all patients running back 15 years, told the FBI there was no evidence that Rowland had ever been examined by the firm. Further, one of Rowland's high-school counselors told the FBI that Rowland "could not be trusted and would not tell the truth regarding any matter." Another high-school official told the FBI that Rowland "would not hesitate to fabricate a story if it was of any benefit for Rowland to do so." He further stated that he had informed Secret Service agents in advance of Rowland's appearance before the Commission that "anything Rowland might tell the President's Commission would be questionable."

All this is recounted not to embarrass Rowland at this late date but to show the kind of witness on whom Epstein relies to make several supposedly telling points against the Commission. Nowhere in Epstein's book is there the slightest indication of any evidence that Rowland was a man who lied to the Commission and whose testimony was not to be trusted. To withhold this information from the reader is a form of literary rape. For a scholar, it is surprisingly shifty behavior. If Epstein, as a Warren commissioner or staff lawyer, had insisted on crediting the reliability of Rowland's testimony, his colleagues would have laughed him out of Washington.

EPSTEIN IS ALSO GUILTY of seemingly small but important errors. An example is provided by Kennedy's jacket and shirt after the assassination. Both show bullet holes in the back, and Epstein argues that they are too low to permit a bullet to thus enter from the back and exit through the throat, as the Bethesda autopsy report states. He is entitled to his opinion, which is essential to his theory that there may have been two assassins. But in stating his case, he deceives the reader. His book contains FBI photos of Kennedy's coat and shirt. Epstein writes: "These photographs, which were omitted from the Warren Report and the twenty-six volumes of supporting evidence, show that the bullet hole in the jacket is 5 and $^{3}/_{8}$ inches below the collar and that the bullet hole in the shirt is 5 and $^{3}/_{4}$ inches below the collar." In the context of the book, this has a menacing aspect. It sounds as though the Commission withheld the measurements from its Report. Epstein footnotes the statement, and the footnote indicates that he took the figures from Vol. V, page 59 plus, of the hearings. The unwary reader might conclude that the Commission wished to bury the data.

But the Commission quite fully discussed the jacket and shirt holes, and gave measurements, on page 92 of the Report, drawn from the examination made by FBI Agent Robert A. Frazier, a ballistics expert. Furthermore, the Commission cited Frazier accurately, which Ep-

stein does not do. The Commission said, as did Frazier, that the bullet-hole measurements were from "the top of the collar." Epstein, in the case of both the jacket and shirt, says "below the collar," thus gaining at least an inch in his argument against the Commission.

A mere inch may seem a small thing over which to quibble with Epstein, but his entire case involves fractions of feet and fractions of seconds. In this instance, Epstein is trying to prove that a bullet shot from above could not enter Kennedy's back at the designated point and exit from his throat because the point on the back supposedly is lower than the throat wound. (A Commission photo disputes the point by reconstructing the probable angle.) Thus, in his battle over the jacket and shirt, if Epstein can gain an inch, he resembles a high-school team gaining a yard against the Cleveland Browns for first down.

EPSTEIN ACCUSES THE Commission of failing to pursue proper investigative leads because of a fear the information might damage "the national interest," but in making his case, he himself fails to pursue obvious leads. As an illustration, there is Epstein's contention that the Commission never independently investigated rumors that Oswald was a paid FBI informant, but relied on the denials of a battery of FBI officials, headed by Director J. Edgar Hoover, as sufficient evidence to dismiss the rumors as unfounded.

Epstein says the Commission heard from two Texas officials of a rumor that Oswald was a paid FBI informant. The source appeared to be Alonzo Hudkins, then a Houston newspaperman. Epstein says a Secret Service report quoted an interview with Hudkins, in which Hudkins gave Allan Sweatt, chief of the criminal division of the Dallas sheriff's office, as his source, quoting Sweatt as saying Oswald was paid $200 a month by the FBI and had informant number S-172.

Hudkins, now a Baltimore newspaperman, says he was never interviewed on this matter by the Secret Service, that he never heard the rumor from Sweatt, that he heard a similar rumor elsewhere and that later, because of his own work on the case, he became convinced that Oswald had not worked for the FBI. Sweatt says he never made any such statement to Hudkins or to anyone else, and that he had no knowledge of Oswald's connections with any Government agency.

Epstein says that Leon Jaworski, special counsel for the State of Texas on the assassination, was asked to speak to Hudkins about the rumor and that Jaworski reported to Warren Commission lawyers that there was nothing to it. Hudkins says Jaworski never spoke to him about the rumor, and Jaworski says he never spoke "to anyone named Alonzo Hudkins."

"I did suggest to Rankin [J. Lee Rankin, Warren Commission general counsel] that a thorough check-out had to be made of the Oswald-FBI rumors," says Jaworski. "We did make this check, and we made it independently of the FBI. We made a thorough investigation of it in Texas, and I came to the conclusion that there was nothing to it, and so reported to the Commission staff."

Epstein's statement that the Commission did not itself probe the FBI-Oswald rumors by hearing witnesses outside the FBI is correct, but his statement that the staff made "no efforts" to investigate the rumors is challenged by two staff lawyers who worked on the matter, as well as by Leon Jaworski. Also, as the Warren Report states, the staff made

an independent review of FBI files on the Oswald investigation and did not rely solely on the word of Hoover and his assistants. Epstein says that "nowhere" in the Warren Report is there a mention of the allegation. If he means the specific rumor credited to Hudkins, he is correct, but his implication is wrong. The Report does discuss Oswald's alleged role as a secret FBI agent on pages 326-327. Finally, Epstein said in an interview that he never saw a Secret Service report quoting Hudkins on the source of the rumor, but only a quotation from the report in a file supplied him by Wesley Liebeler.

Epstein contends that the Commission should have called Hudkins and Sweatt as witnesses. This is fair criticism of the Commission's methods. It is also fair criticism of Epstein's methods to say that he, Epstein, should have interviewed Hudkins, Sweatt and Jaworski as well, before publishing secondhand reports about them in his book. Writes Epstein: "The surest and safest way to dispel the rumor was *not* to investigate it. . . ." And the surest and safest way to make sure that people don't contradict what is said about them is *not* to question them.

Epstein's most spectacular theory is that the autopsy report printed on pages 538-545 of the Warren Report is not the original one and that someone, unnamed, changed or altered that original, written following the examination of President Kennedy's body at Bethesda Naval Medical Center. In essence, this accuses either the doctors or some members of the Commission or staff of monumental dishonesty. It implies that someone in authority deliberately falsified the most celebrated American autopsy record of this century in order to support a hypothesis of how Kennedy and Connally were shot. This is altogether a sensational line of reasoning to emerge from the cloisters. Epstein hedges and qualifies his language, and well he might. For he is dealing in pure speculation, unsupported by any evidence from the doctors and lawyers whose professional integrity is at stake.

Epstein bases his theory on two FBI reports on the autopsy that he uncovered during his research. It was quite a find, and he is to be congratulated for his enterprise in coming up with these unpublished documents. The first of these reports, dated December 9, 1963, conflicts almost *in toto* with the autopsy report published in the Warren Report. The FBI report said that one bullet entered Kennedy's body "just below his shoulder to the right of the spinal column at an angle of 45 to 60 degrees downward, that there was no point of exit, and that the bullet was not in the body."

The official autopsy report, signed by three physicians—Navy Cdrs. James J. Humes and J. Thornton Boswell and Army Lt. Col. Pierre A. Finck—said the bullet "entered the right superior posterior thorax above the scapula," bruised the upper right lung and went out through "the anterior surface of the neck."

A second FBI report, dated January 13, 1964, reiterated that the bullet entered the back and "penetrated to a distance of less than a finger length." The next paragraph is ambiguous as to the nature of the projectile that caused the exit hole in JFK's shirtfront.

The FBI, which had observers at the autopsy, said the bullet did not exit from the body. The three doctors who made the examination said it did. In this head-on collision of reputable authorities, whom to believe? Epstein makes it clear that he believes the FBI (although else-

where in the book he indicates that FBI agents disregarded significant data [and on the basis of his belief, he makes this sweeping assessment:

"If the FBI reports are accurate, as all the evidence indicates they are, then a central aspect of the autopsy was changed more than two months after the autopsy examination, and the autopsy report published in the Warren Report is not the original one. If this is in fact the case, the significance of this alteration of facts goes far beyond merely indicating that it was not physically possible for a lone assassin to have accomplished the assassination. It indicates that the conclusions of the Warren Report must be viewed as expressions of political truth."

Epstein cites a number of factors to show that "all the evidence indicates" that the FBI reports are accurate. Some of these are persuasive. Some aren't. In any event, the real point is that Epstein, having in hand such a startling discrepancy in reports, questioned neither the doctors involved nor the FBI on a matter vital to an assassination that rocked the world. A scholar may find reasons to put such strange restraints on his curiosity, but no police reporter could.

The fact is both Commander Boswell, one of the autopsy physicians, and the official spokesman for the FBI say that the FBI reports were not accurate.

Dr. Boswell, now retired from the Navy and practicing medicine in Bethesda, Md., says: "Our autopsy report went downtown to Admiral Burkley (Vice Adm. George G. Burkley, Medical Corps, U.S.N., the President's physician) at the White House on November 25, after the three of us had signed it on November 24th. It appeared in the Warren Commission Report exactly as it was written November 24th, and it was never changed or altered in any way."

Says an official FBI spokesman: "It is completely contrary to the facts to indicate that the FBI and the Commission are in opposition on the findings of the Commission. Our first reports were merely to chart a course and were not designed to be conclusive. It is entirely possible that Humes's autopsy report did not get into the hands of the FBI until later, and so our initial reports did not reflect the doctors' decision."

THREE COMMISSION LAWYERS and one of the autopsy doctors give this version of what happened: The autopsy on Kennedy's body was conducted from 8 p.m. until 11 p.m., November 22. Two FBI agents witnessed the autopsy and then left, as did Secret Service agents. At the time, the doctors were puzzled. They found a bullet entrance in Kennedy's back, but were unable to determine if or how it exited, although reason indicated that a high-velocity bullet would not enter a short distance and then drop out. The doctors knew that a tracheotomy had been performed on the President at Parkland Memorial Hospital in a futile effort to save his life. The Bethesda physicians conferred by telephone early the next morning with Dr. Malcolm Perry of Dallas. Dr. Perry said the surgical incision had obliterated a small bullet wound on the front of the President's neck. The Bethesda physicians then reconstructed and reanalyzed their autopsy work and came to the conclusion that the bullet passed through Kennedy, exiting at his neck. They signed their report, so stating, on November 24 and sent it to the White House, typed, on November 25. The report went from the White House to the Secret Service. When it reached Warren Commission lawyers the next month, it came as an enclosure from the Secret Service, not the FBI. When the Commission published

the autopsy report on September 28, 1964, nothing in the report had been changed from the November 24, 1963, writing.

The doctors may well have erred in their autopsy finding. They were not oracular. They even called the throat wound one "presumably of exit," and they noted that the bullet's path through the body could not be "easily probed."

Epstein writes, "There can be no doubt that the autopsy findings were known to the FBI when it prepared" its December 9 report. This statement is contradicted by the Treasury Department. It says a search of Secret Service records shows that the doctors' autopsy findings were not forwarded to the FBI until December 23.

Norman Redlich, now executive assistant corporation counsel of New York City, was a top staff lawyer for the Warren Commission, credited by Epstein with being a prodigious worker on the investigation. "The doctors' autopsy report was forwarded to the Commission by the Secret Service, not the FBI," says Redlich. "I saw the autopsy findings on December 20 when I came to work for the Commission, and we immediately saw the conflict with the FBI's report of the autopsy. We discussed it thoroughly. Not only that, but we studied the individual reports of the FBI agents who saw the autopsy, and thus we saw how the discrepancy could have occurred."

Arlen Specter, the key lawyer on this phase of the Warren Commission's investigation, says: "It is ridiculous to indicate that the autopsy findings were changed after November 24, when Commander Humes finished the report. I saw both the longhand and the typewritten reports when I came to work for the Commission in mid-January. They were identical, and neither was changed from the original in any way at any time."

Epstein may well be within scholarly bounds in doubting the conclusions of the autopsy physicians, but to leap to the assumption that the findings were later falsified to match a theory of the assassination that proved politically appealing is quite a leap for an academician.

Writes Epstein: "If the FBI's statements are accurate, it would appear that the autopsy findings were revised some time subsequent to January 13, 1964." But those intimately connected with the situation say the FBI reports were not accurate. And, to adopt Epstein's own guarded style of exposition, if they were inaccurate, then a central pillar of Epstein's thesis collapses.

Epstein's book does reveal much that is significantly new: fights within the staff, disputes over selection of evidence for the Report, and a Commission "battle of the adjectives" over how to describe the Commission's controversial conclusion that a single bullet probably hit both President Kennedy and Governor Connally, a conclusion that Connally himself strongly doubted.

Epstein measured the seven commissioners' attendance at the hearings and found much absenteeism. He says the attendance ranged from a low of about six percent for Sen. Richard B. Russell (Dem., Ga.) to a high of about 71 percent for Allen W. Dulles, the former Central Intelligence Agency director. Only three commissioners heard more than half the testimony, Epstein calculates. This highlights a possible major flaw in establishment of the Commission. President Johnson selected very busy men whose national reputations would lend credence to eventual Commission findings. Seven men of lesser

prominence, but fewer conflicting interests, undoubtedly would have bent a more attentive ear to the testimony. A similar complaint can be lodged against some of the senior counsel named to the staff. They were too busy with their own affairs.

It is when Epstein deals with the thrust of the evidence—and concludes that the Commission never thoroughly examined the possibility that Oswald was not the lone assassin—that his own methods and thoroughness stir deep doubts. Even a brief ten-day scrutiny of Epstein's book discloses, in addition to the instances cited above, six other critical areas where Epstein's reasoning runs shallow—either because of dubious selection of testimony to buttress an assumption or because of failure to pursue unresolved questions via available witnesses. In short, Epstein, author of *the* reputed scholarly critique of the Warren Commission, is guilty of the very lapses for which he indicts the Warren Commission. The Commission's general counsel, J. Lee Rankin, now corporation counsel of New York City, says: "This book is full of distortions."

But it is doubtful that flashing a caution light on Epstein's book will have much effect in staving the new clamor over the Warren Commission. Already, in a mighty prepublication blast, Mark Lane says he will deal with the same FBI autopsy report, and he declares the report "devastates the Commission's conclusions that all of the shots were fired from the rear and that they were fired by a lone assassin."

As yet undisclosed facts may perhaps demolish the Commission's findings someday. But the man who discovers them will have to do more than weave his tortured way through the Report, its 26 volumes of testimony and exhibits, and the thousands of attendant documents. As Allen Dulles said to LOOK recently: "If they've found another assassin, let them name names and produce their evidence." END

U. S. NEWS & WORLD REPORT, Oct. 10, 1966

Truth About the Kennedy Assassination, Told by a Top Official Investigator

"OVERWHELMING EVIDENCE OSWALD WAS ASSASSIN"

Interview With Arlen Specter, Assistant Counsel, Warren Commission

Is there more to the assassination story than appears in the mass of testimony and findings made public by the Warren Commission? In this exclusive interview with the lawyer who investigated the physical facts, you get in precise detail what the evidence proves about that fateful day in Dallas three years ago.

Q Mr. Specter, were you the Warren Commission's chief investigator on the facts about the assassination of President John F. Kennedy—how many shots, where the shots came from other facts?

A I would not describe my role at all beyond what appears in the work of the Warren Commission. It is possible from the notes of testimony to observe that I was responsible for taking the testimony of Governor Connally, Mrs. Connally, the autopsy surgeons, the doctors from Dallas, the wound-ballistics experts—so that it is apparent from that area what my role was. But I think, as an assistant counsel for the Commission, it would be presumptuous of me to characterize my role as that of "chief investigator" on a key part of the assassination investigation.

Q You indicated you were responsible for the evidence concerning the autopsy. Is it your understanding that the Federal Bureau of Investigation did get a copy of the final, official autopsy report?

A I would have no way of being able to state categorically what distribution there was on the autopsy report. I do know that the autopsy report from Dr. Humes and Dr. Boswell and Dr. Finck was in the hands of the Commission early in January when I joined the Commission, so that the Commission had it at that point. I would presume the FBI had it. [Comdr. James J. Humes, Comdr. J. Thornton Boswell, and Lieut. Col. Pierre A. Finck were the pathologists from the armed forces who performed the detailed autopsy of President Kennedy. Dr. Humes was chief autopsy surgeon.]

Q You have no certain knowledge that the FBI had it?

A Oh, absolutely not—I had no way of knowing precisely when the FBI got which documents which were not under their general investigative ken.

Q How do you explain the difference between the autopsy report and the FBI's report of December 9 on President Kennedy's wounds—the FBI having reported that one bullet went in only to a finger's length, whereas the autopsy report said it went through the President's neck?

A The FBI's report in early December reflected the doctors' comments overheard by FBI agents who were present at the autopsy. Those comments were based on factors which were originally thought to be true on the night of the autopsy, when there was relatively limited information available to the doctors actually performing the autopsy.

At that time, the autopsy surgeons did not know that there had been a bullet hole on the front of the President's neck. The bullet hole on the front of the President's neck had been obliterated by the tracheotomy performed by the Parkland [Hospital] doctors in Dallas. [Parkland doctors cut a hole in the President's windpipe in an effort to help him breathe.]

The autopsy surgeons, on the night of November 22, had very limited information. For example, when they started their autopsy, they knew that there was a hole at the base of the back of the neck and a finger could probe between two large strap muscles and penetrate to a very slight extent.

The autopsy surgeons in Washington also knew that there had been external heart massage applied at Dallas. They also had the fragment of information that a whole bullet had been found on a Dallas stretcher. So it was a preliminary observation, or very tentative theory, which was advanced in the early stage of the autopsy, that the bullet might have penetrated a short distance into the back of the President's neck and been forced out by external heart massage, and that the bullet might have been the whole bullet which was found on the stretcher in Dallas.

When we first reviewed the FBI reports, we were very much concerned with that tentative autopsy conclusion which had been formulated. But, when we later took testimony from the autopsy surgeons and had the whole picture, knowing more—for example, the evidence of the path of the bullet through the President's neck, showing that it entered between two large strap muscles and then went over the top of the pleural cavity and sliced the trachea and exited in a hole in the front of the neck, or at least showing that there was a bullet path through the President's neck, without getting at this juncture into the question of whether the bullet entered or exited in the front of the neck—when this whole picture was presented later, it was apparent that the preliminary conversations reported in the FBI document were only very tentative.

In fact, Dr. Humes had formulated a different conclusion, tentative as it might have been, the very next day when he had a chance to talk to Dr. Perry by telephone in Dallas [Dr. Malcolm O. Perry of Parkland Hospital, one of the doctors attending President Kennedy]. That was when he found that there had been a bullet hole on the front of the neck, before the tracheotomy was performed.

As the autopsy had gone along, Dr. Humes had found the bullet path through the body, and that led to the phone call to Dr. Perry for more information.

Q If the FBI had received a copy of the final autopsy report, completed on November 24, why did it write into its December 9 report the tentative conclusion that a bullet entered the upper back for a short distance—and then repeat that same theory in a later report dated January 13?

A That is a question which would best be directed to the FBI. The only responses that I could give you would be my inferences. The Federal Bureau of Investigation may not have had the autopsy report when its report, dated December 9, was originally prepared. [An unimpeachable source told "U. S. News & World Report" the autopsy report was delivered to the FBI on December 23.] As to the January report containing the same information, some data from the earlier report may have been repeated without carefully focusing on it—as such later reports frequently are repetitious without any special reason, except perhaps to give the reader the information if he missed it earlier.

I do know that the FBI itself came to the same conclusions that the Commission did. Mr. Hoover testified to this, and nobody in the Bureau placed any substantial credence in the preliminary thoughts as reflected in the early reports.

THE AUTOPSY REPORT—

Q Mr. Specter, can we get a little more on the picture of the autopsy itself? How long did the autopsy surgeons have with the President's body? Did they have sufficient time to make a thorough autopsy, or were they being pressed to deliver his body to the undertaker?

A In response to a specific question like that, I would refer to the autopsy report. My general recollection is that they were not pressed at all, that they started on it in the early evening on November 22 and they worked on the body through the night, and the body was not prepared for burial until the morning of November 23, and that it was taken to the White House to lie in state somewhere in the 4-to-5 a.m. area on November 23.

Q So they had only a few hours in the night of the 22nd?

A That is correct, but, to the best of my information, that is an adequate opportunity to perform a comprehensive autopsy report subject to supplemental studies, as, for example, were done on the brain. There was a supplemental autopsy report on the President's brain.

Q Then is there any reason to believe that you did not get a thorough, competent medical-autopsy report?

A No. Beyond that, there is every reason to believe that we did get a comprehensive, thorough, professional autopsy report from trained, skilled experts.

Q Were there preliminary autopsy reports or memoranda of any kind that were destroyed?

A Yes, the record is plain that there had been a series of notes taken by Dr. Humes at the time of the actual performance of the autopsy [on the night of Friday, November 22] which had been destroyed when he made a written—handwritten—autopsy report on Sunday, November 24.

Bear in mind, on that point, that, when Dr. Humes was called upon to conduct an autopsy of the President and then retired to his home on Sunday to make a formal report which he knew was important, he did not quite have the perspective of a historian who is culling the premises with a fine-tooth comb.

He had never performed an autopsy on a President, and he was using his best judgment under the circumstances, never dreaming that loose, handwritten notes would become a subject of some concern.

That matter was of concern immediately to his superiors, and he was questioned on it. He made a formal report on it, and he explained his reasons fully before the Commission.

Q Is his testimony in the open record—for the public to read?

A It is—absolutely.

Q Mr. Specter—going now to the crucial point of whether the wound in the neck was caused by a bullet coming from the front or rear—can you say how it was determined that the exit point for the bullet was in the front, rather than the rear?

A Yes, I can tell you how the evidence was analyzed to determine which conclusion was accurate.

The President was found with a series of bullet wounds when examined both at Parkland Hospital and by the autopsy surgeons. At each place, they had only limited access.

First, at Parkland, the President's body was not turned over, for a number of reasons—most specifically because they dealt with the very grave problems of trying to restore his breathing, which was impaired by a hole in his throat, and, secondarily, to try to get circulation through his body, which was impaired by a massive head wound.

So he was gone before they could cope with the problems on his front side.

The autopsy surgeons were limited, to some extent, because they did not see the original hole in the front of the neck, to make observations on what it might have been.

The hole on the front of the neck was visible only for a relatively short period of time by the doctors at Dallas—from the time they removed his shirt and cut away his tie until the time Dr. Perry performed the tracheotomy.

The hole on the back of the President's neck was visible for a protracted period of time by the autopsy surgeons who worked on him at the Bethesda Naval Hospital.

The autopsy surgeons described, in detail, the characteristics of the wound on the back of the President's neck, and there was no doubt but what those characteristics showed it to be a wound of entry—a round, regular hole, which showed it to be a point of entry.

PATH OF THE BULLET—

Q Were pictures taken of these wounds?

A Yes, they were. But, before we get into that, I want to develop this business of exit and entry wounds. The question

is a very complex one, so let me continue to tell you what the characteristics were which indicated what was on the back and what was on the front of the President.

Besides the characteristics of the wound on the back of the President's neck, as testified to under oath by the autopsy surgeons, indicating it to be a point of entry, the fibers of the shirt on the back of the President and the fibers of the suit jacket on the back of the President were both pushed inward, and both indicated that the hole in the back of the President's neck was an entry hole.

The fiber on the front of the shirt was inconclusive—it was a slit. You could not determine in which direction the fiber was pushed, nor could the nick on the tie be used to determine what was the direction of the shot.

The hole on the front of the President's neck was such that, by its physical characteristics alone, it could have been either a wound of entry or a wound of exit.

The reason that such a hole would be inconclusive turns on the consideration that the bullet which passed through the President's neck met virtually no resistance in the President's body—it struck no bone, it struck no substantial muscle. It passed, in fact, between two large strap muscles. It did cut the trachea, and it passed over the pleural cavity. It exited through the soft tissue—or it passed through, without showing whether it entered or exited—the soft tissue on the front of the throat.

Tests were performed by wound-ballistics experts at Edgewood, Md., where the composition of the President's neck was duplicated, through a gelatinous solution in one sample, through a goat-meat mixture in another, and through a third of, I believe, horse-meat composition. And goatskin was placed on each side of the substance made to duplicate the President's neck.

The Manlicher-Carcano rifle, which was found on the sixth floor of the Texas Schoolbook Depository Building, was used in the experiments, as was the same type of bullet found on the stretcher in Parkland Hospital. The distance of approximately 180 feet was used, so as to set the stage as closely approximating the actual conditions as possible.

The characteristics of the entry and exit marks on the goatskin show that it is not possible to tell conclusively whether the point of exit on the goatskin, from a bullet that had traveled through the simulated neck, would be a wound of entry or a wound of exit, because of the factors involved in a high-powered missile which is stable when it passes through a relatively porous material.

Now, when Dr. Perry answered questions at a news conference called in Dallas on the afternoon of November 22, as reported in the Commission work and as referred to in a "New York Herald Tribune" report of the same day, he was asked a series of hypothetical questions based on what was known at that time—for example, the fact that there was a wound on the front of the throat and a big wound in the top of the head.

And Dr. Perry said that those wounds could have been accounted for by having a bullet come in through the neck, strike the vertebrae in back, and glance up through the top of the head—which would be an extraordinary combination, but one which was conceivable in the light of the limited information available to the Dallas doctors at that time.

But, when all the factors I have described were studied in the context of the "overlay"—that is, all the things we had good reason to believe occurred—when they were all put together, the Commission concluded that the wound in the front of the neck, whose characteristics were not determinative, was actually a wound of exit.

Q When Dr. Humes called from the Bethesda Naval Hospital to Parkland Hospital in Dallas, in connection with the autopsy, were the doctors in Dallas able to shed any light on the wound, in the front of the throat, that had been obscured by the tracheotomy?

A As I recollect it, the best information that could be provided by the Dallas doctors involved the location of the wound and its general characteristics, without any definite statement as to entry or exit.

You must bear in mind that as each individual, in many contexts in this investigation, saw the evidence, he saw only a limited amount of the evidence.

And the overlay, as the Commission saw it, with literally thousands of pieces of information, is something quite different from the way any individual saw one incident or parts of the evidence.

THE AUTOPSY PICTURES—

Q Could we get to this matter of the pictures of the President's body? Have you seen the pictures?

A The complete set of pictures taken at the autopsy was not made available to me or to the Commission. I was shown one picture of the back of a body which was represented to be the back of the President, although it was not technically authenticated. It showed a hole in the position identified in the autopsy report. To the best of my knowledge, the Commission did not see any photographs or X rays.

Q Why were all the pictures not shown?

A Because the Commission decided that it would not press for those photographs, as a matter of deference to the memory of the late President and because the Commission concluded that the photographs and X rays were not indispensable.

The photographs and X rays would, in the thinking of the Commission, not have been crucial, because they would have served only to corroborate what the autopsy surgeons had testified to under oath, as opposed to adding any new facts for the Commission.

Q Right now, in view of the fact that within the last couple of years many doubts have arisen, do you or do you not think that these photographs might allay some of those doubts?

A It is my view now, and it has always been my view as a general proposition, that the greater the quantity of relevant evidence on any subject, the better off the fact finder is in knowing all of the material factors.

So, from that generalization, it would follow that, even as corroborative information, photographs and X rays would always be helpful.

But that is a different question from passing on the propriety of the Commission's exercise of its discretion in deciding, as a matter of taste, not to insist upon the photographs and X rays at that time.

Q Who ordered these photographs to be sequestered?

A That is a question that I could not answer, because the limitation of my role as a Commission assistant counsel imposed upon me the obligation to search for evidence, including requests, and to sift for evidence that was obtained. An answer to the question you just posed is not one within my personal knowledge.

WHAT THE SURGEONS SAID—

Q Mr. Specter, would not those photographs, if they were available, clear up, beyond all doubt, the question of whether the hole in the back of the neck was higher or lower than the hole in the front of the throat?

A They would corroborate that which is already known, which, in my opinion, has cleared up that question once and for all.

To follow the theory propounded by E. J. Epstein, for example [that the hole in the back was lower than the hole in the front, thus indicating the President could have been shot from the front]—is to say that the autopsy surgeons were perjurers, because the autopsy surgeons placed their hands on the Bible and swore to the truth of an official report where they had measured to a minute extent the precise location of the hole in the back of the President's neck, as measured from other specific points of the body of the President. So I believe that those factors are well established on the basis of the existing record.

The photographs would, however, corroborate that which the autopsy surgeons testified to.

Let me add one thought at this point, and that is that at the time the autopsy surgeons testified, in March of 1964, they had no way of knowing whether the photographs and X rays would later be available to the Commission, to corroborate or to impeach their testimony.

As a matter of fact, Chief Justice Warren directed a question to Dr. Humes as to whether he would change any of his testimony if the photographs and X rays were available—and the record of hearings would speak on that—and Dr. Humes said that he would not.

Q Where are these photographs now?

A I do not know. I have only heard speculation on that subject. Since I never had possession of them and have not talked to anyone who has, I would not at all be able to answer that question.

Q Just to make certain that we understand: You feel the autopsy report itself, coupled with the sworn testimony of the surgeons, was adequate to establish the location of wounds and the probable exit and entry points of bullets, and that the photos and X rays would merely have been corroborative evidence?

A The statement which you have made I think is accurate, with the possible limitation of what may be conceived to be "adequate." Any lawyer or any investigator likes to have every conceivable piece of information available to him.

I do not think, as an assistant counsel on the Commission, that it is within any appropriate range of my authority to disagree with the exercise of discretion of the Commission in deciding not to press for some evidence which they felt was only corroborative and which they felt should be excluded for other reasons of taste.

Q Mr. Specter, is there any doubt in your mind now that the assassin of President Kennedy was Lee Harvey Oswald?

A The evidence is overwhelming that Lee Harvey Oswald was the assassin of President Kennedy.

There can be no real doubt on that subject, based on the factors of ownership of the weapon which was found on the sixth floor of the Texas Schoolbook Depository Building, the handwriting links to Oswald's having ordered that weapon, the fact that it is scientifically, ballistically proved beyond question that the whole bullet found on the stretcher in Parkland Hospital came from that weapon, that the two major fragments found in the front seat of the presidential limousine came from that weapon.

Further indications of Oswald's guilt are his rapid exit, fleeing from the site of the Texas Schoolbook Depository Building and the later killing of Officer [J. D.] Tippit, which was witnessed by several people, plus photographs showing Oswald holding a rifle identified as being the Manlicher-Carcano which was used.

In conjunction with a whole host of other evidence, those were just highlights which, I think, answer conclusively and far beyond that which we normally prove in criminal cases that Oswald was the assassin.

Q Do you recall any evidence that indicated or suggested that more than one assassin might have been involved? Are you just as certain that only one assassin was involved as you are that Oswald killed President Kennedy?

A The converse question is much more difficult because it involves the proof of a negative, and it is much more difficult to prove conclusively that something did not happen than it is to prove that something did happen.

To take the simplest illustration: If you wish to prove that John Jones was at Broad and Chestnut on January 1, you need only a witness or two who saw John Jones at Broad and Chestnut on January 1. If, on the other hand, you want to prove that John Jones was not at Broad and Chestnut on January 1, you must have, over a 24-hour period, sufficient witnesses who were looking for John Jones at that spot to prove that he was not there. So it is substantially more difficult to prove a negative.

The very most that can be said, and the most that was said by the Commission, was that no evidence came to its attention which in any way supported a conclusion that there was a conspirator with Oswald.

Q Could you tell us your own personal feeling about this,—having delved into it so deeply? What is your own hunch about it? Would you go beyond what the Commission said?

A I would certainly stand foursquare behind the Commission's conclusion that there was absolutely no evidence called to the Commission's attention which would indicate a coconspirator on the case.

The Commission did an exhaustive job, in conjunction with using research facilities from the many federal agencies, to see if there was any connection, for example, between [Jack] Ruby and Oswald, since that was the thought that came first to mind in terms of the possibility of a coconspiracy.

The Commission left no stone unturned to track down Oswald's background to the maximum extent possible, to see if he had dealings with anyone else who might have been a coconspirator.

And also the same thoroughness was used with Ruby's background, to make the same determination.

And I am confident that the Commission did the very best job that could have been done under the circumstances.

Q Did you have enough time, when you went to Dallas, to investigate thoroughly the evidence on such points as whether a shot could have come from the grassy knoll?

A It is my view that the Commission used ample time in finishing its investigation and coming to its conclusion. The Commission was flexible in its timetable.

It started out with the thought that the investigation could be in the three-to-six-month range. When the investigation required more time, more time was taken.

It was hoped that preliminary reports and drafts would be submitted in early June. They were submitted in only a couple of cases in early June. And the completion date for the report moved back into early July, and then to mid-July and early August, and then mid-September, and then late September.

You must bear in mind, as we review the matter more than two years after the Commission's report has been published, that there was great concern all around the United States—and around the world, for that matter—on what were the facts in connection with the President's assassination.

Some doubting Thomases, who have evidenced themselves in prolific fashion in recent months, were also writing and talking before the Commission's report came out. Some of those men who are now authors were spokesmen at that time.

. . . "Officers saw no shooting from the grassy knoll"

And he Commission felt under a duty to publish its report with reasonable promptness.

The area of responsibility which I worked on, as shown by the notes of testimony, was such that I was able to complete the drafts of reports and submit them by early June. The testimony of the autopsy surgeons and the Dallas doctors and the key participants around the scene of the incident had all been taken, and the on-site tests had been completed—and I was available in the months of June, July and August, as the reports show, to help in other areas.

I was asked to go to Dallas for the Ruby polygraph in mid-July and go to the West Coast to track down some matters relating to Ruby on some individuals we hadn't been able to locate earlier. So that, if I had wanted to perform any further investigation, there was ample time for me to do so.

Q Could we take up specific points that are raised by critics of the investigation? One is the statement that 58 of 90 witnesses at the scene of the assassination believe, or testified, that shots came from the grassy knoll in front of the President's car. Why did you reject their testimony?

A Because auditory response on the origin of shots is totally unreliable in so many situations, especially where you have the acoustical situation present at Dealey Plaza in Dallas, where tall buildings were present on three sides.

The witnesses in the vortex of the assassination event thought the contrary to what those farther away thought. They testified in terms of shots coming overhead and to the right and rear, as the witnesses in the presidential caravan itself said.

There were officers on the overpass who had a good view of the grassy knoll, and they saw no shooting from the knoll. Digesting the evidence as a whole, there simply was no credible evidence that any shot came from the grassy knoll.

Q Was there any evidence at all that conflicted with the theory that the President was shot from above and behind?

A There was no credible evidence, by which the Commission meant believable evidence. There were people who ran off in the direction of the grassy knoll, but there was no one who saw anyone on the grassy knoll with a weapon, as, for example, eyewitnesses did see a rifle protruding from the sixth floor of the Texas Schoolbook Depository Building.

There were no ballistic marks of any shot having come from the area of the grassy knoll, as there were indications that shots came above and to the rear—for example, the wound on Governor Connally's back and the wound on the back of the President's head, and the mark on the windshield of the presidential limousine, which indicated that at least a fragment of a bullet had struck the windshield from the rear.

Q Was that mark on the inside of the windshield?

A Yes.

Bear this in mind: While some may speculate on the characteristics of the President's wounds because of the absence of the pictures, none can speculate with any just cause on the wounds of Governor Connally. He took his shirt off in front of the Commission, and we took a look at his back in the presence of the thoracic surgeon who operated on him. And it was perfectly plain as to the fact that the bullet had struck the Governor in the back and had exited below the right nipple at a lower angle on the front of his body.

Q Yet the Governor is in opposition to the theory that that's the same bullet that went through the President—

A Not precisely. The Governor is of the opinion that he was struck by the second shot—by a shot subsequent to the first shot which he heard—which conclusion was based on the factors of the speed of sound from a shot, as opposed to the speed of a bullet.

But the Governor's testimony was weighed with great care, as was the testimony of every single witness, and the Commission concluded that the overlay of the evidence was such that the Governor's opinions were not followed. But every one of his opinions was fully published and set forth for every reading American to see.

Q And you talked to the Governor, as counsel for the Commission—is that correct?

A Better than talk; I questioned him in front of a court reporter, where every syllable that he uttered was taken down and preserved for everyone to read—after a very brief preliminary discussion as to Commission procedure and a brief session where the Governor witnessed the Zapruder films [a tourist's movie of the assassination]. But the details of his testimony were stenographically transcribed.

Q How did you determine how many shots there were?

A The best that can be said on the number of shots is what the evidence indicates. And here we're not dealing in terms of mathematics; we're dealing in terms of probabilities, to put it realistically.

As to the number of shots, the witnesses testified from two to six, so you could take a wide range of choice.

There were three spent cartridges found on the sixth floor of the Texas Schoolbook Depository Building. There were three young men on the fifth floor at the time the President was assassinated, and those young men testified that they heard a sound which was later concluded to have been the dropping of a bullet casing to the floor.

There is a record of a test, which was repeated for all seven Commissioners on three different occasions at the Texas Schoolbook Depository Building, where Chief Justice Warren and every other one of the Commissioners stood on the fifth floor where the three young men stood—and the location of those men was pinpointed by a photograph taken at the time of the assassination by a photographer in a car in the presidential motorcade. In that context, all the Commissioners heard a sound which they later concluded, and which the Commission as a whole later concluded, was the sound of a shell which had fallen to the floor.

Based on the presence of three spent shells on the sixth floor of the Texas Schoolbook Depository Building, the Commission concluded that most probably three shots were fired.

The metal recovered from the stretcher and the presidential car indicated one whole bullet and fragments of another bullet, which indicated that there would have to have been at least two bullets fired.

The conclusion that three shots were fired then led to the inference that one shot might have missed or that one shot might have disappeared totally. If there had been other shots, which is highly doubtful, in the light of all we know—there is no remnant or trace of evidence to indicate that there were such other shots.

Q No spectator was struck that day in Dallas?

A There were reports that objects did strike in other parts of Dealey Plaza, which would be consistent with a third shot missing or even with a fragment from the shot that hit the President's head striking in that area.

Q What about the mark on the curbstone, Mr. Specter? Was there not a mark on a Dallas curb that indicated either a bullet or a fragment of a bullet struck the curbstone?

A There was such an indication, and the best thinking was that it might well have been caused by a bullet.

But, there again, it could not be ascertained with precision that it was caused by an event at the specific time of the assassination.

As in so many things, the most that could be said about the tangible physical evidence was that it was consistent with consequences which the Commission found to have occurred.

Q What about the charge that the pieces found from one bullet add up to more than the bullet would have weighed originally?

A It is not correct that there were pieces which would be in excess of what the bullet weighed. If you are referring to fragments which were found of what probably was the bullet which hit the President's head—there were two substantial fragments found in the front seat of the car, one weighing 40-some grains and one weighing 20-some grains. A whole bullet weighed between 160 and 161 grains.

Q But what about the other bullet, the one that was found on the stretcher at Parkland Hospital, which presumably passed through the President's body and the Governor's body? That bullet, plus the pieces found in Governor Connally, is said by critics of the Commission to add up to more than 160 or 161 grains—

A The mathematics does not support that criticism even though the whole bullet which was found on the stretcher had lost relatively little substance.

The substance which was deposited principally in the Governor's wrist was so light that it could not even be weighed. It was described by Dr. Gregory, the orthopedic surgeon, as being in the postage-stamp-weight category. So that by taking the best estimates of the weight of the metallic fragments deposited in the parts of the bodies, there was still a sufficient weight differential so that those small deposits would be consistent with having come from the bullet on the stretcher.

Q Where did the bullet that was found on the stretcher come from?

A There was a bullet found on a stretcher in Parkland Hospital on the day of the assassination, as the Warren Report points out and as testimony shows. The bullet was identified as most probably coming from Governor Connally's stretcher.

Here again, the hospital attendants were not cognizant of the fact that a bullet was about to drop off a stretcher, and they didn't maintain a chain of evidence such as would be highly desirable if we were to introduce matters in a Philadelphia criminal case.

But the bedclothes from President Kennedy's stretcher were wrapped up, and other definite evidence indicated that this bullet was not from President Kennedy's stretcher and that it was from a stretcher that was in an area where a stretcher was located which had been used for Governor Connally.

Q Is this the bullet, identified as exhibit 399, that is thought to have passed through President Kennedy's body and then through Governor Connally's body and subsequently dropped out of the Governor's body on the stretcher?

A The most probable conclusion is that it did just that. But I think it is important to note that the conclusion that one bullet went through the President's neck and inflicted all the wounds on the Governor was not a prerequisite to the Commission's conclusion that Oswald was the sole assassin.

The point is often made that such a conclusion is indispensable to a single-assassin finding, but that is not so.

As a matter of fact, the original thought, before the Commission conducted its extensive investigation, was—or the preliminary thinking was—that a single bullet passed through the President's neck, a second bullet struck the Governor, and a third bullet hit the President's head.

During the course of the investigation, the Commission concluded the probabilities were that the same bullet that passed through the President's neck also struck the Governor, but that finding is not a *sine qua non* for the conclusion that Oswald was the sole assassin.

Q Does it disturb the conclusion at all that Oswald—and Oswald alone—was the assassin?

A It does not, because there was sufficient time for three shots to have been fired even if one bullet did not strike both the President and the Governor.

Q You say there was time for three shots within the time sequence established by the Zapruder films of the shooting and the time required for working the bolt action of the rifle?

A That is correct. The time span ran between 4.8 and 5.6 seconds, from the instant of the neck wound, assuming the President responded immediately, to the impact of the head wound.

And it cannot be ascertained with any more precision, be-

. . . "There was no other bullet found anywhere in the car"

cause approximately .8 of a second was consumed while the President's car went behind the road sign and out of view of the Zapruder film.

The rifle could be fired as rapidly as 2.3 seconds between shots. But bear this in mind: When you fire three times, the first shot is not taken into account in the timing sequence. This point is missed repeatedly by the would-be critics of the Commission report.

For example, aim is taken: Bang!—at least 2.3 seconds must pass while the bolt action is worked and aim is taken again; bang!—2.3 seconds again for bolt action and aim; bang! So that three shots can be fired within a 4.6-second range of time.

Q But didn't the film show that the President was hit and then 1.5 seconds later Governor Connally showed signs of having been hit?

A The film, in my opinion, does not lend to such precision as to pin down exactly in which frame of the film it was that Governor Connally was struck.

The film is two-dimensional, and it was viewed by many of us on hundreds of occasions, but you simply cannot be so precise as to tell exactly where it was that Governor Connally was struck. And if you think you can establish the frame—as the Governor himself indicated in his opinion—you still do not know precisely where President Kennedy was when President Kennedy was struck on the first occasion.

So that the events of the assassination just cannot be reduced to mathematical certainty by use of a stop watch and the Zapruder film, notwithstanding all of our efforts to recreate it with minute precision through the on-site tests which we made late in May.

Q What do you say to the critics who build an entire case of doubt in this area on these figures of time, indicating that the theory of a single shot hitting President Kennedy and Governor Connally is vital to the whole finding of the Commission?

A I think that some critics have chosen to seize on the single-shot theory as a way of charging that there was a rationale of the assassination constructed for ulterior purposes. Actually, the single-shot theory is not an indispensable factor for the Commission's conclusion.

In fact, it was a theory reached after exhaustive study and analysis, largely because of the factor that when the car was lined up, as we lined it up in Dallas, and you looked through the Oswald rifle, as the assassin must have stood, based on all the other independent evidence, the bullet which went through the President's neck would most certainly—or perhaps I should say only most probably—have had to strike either some occupant in the car or something else in the car.

And the car was subjected to a minute examination hours after the assassination and nothing was struck in the car which would account for a major impact caused by a high-velocity bullet having lost so little impact by going through the President's neck.

Q In this same general area of questions, what about the clean bullet? How could this bullet—exhibit 399—pass through two bodies, hitting at least some bones in Governor Connally, without being distorted or dirtied?

A The Commission had an extensive series of tests conducted by the wound-ballistics experts, at Edgewood, Md., of the United States Army. In these tests, an anesthetized goat was shot to simulate—to the greatest extent possible—the impact of a bullet on a rib with a glancing blow such as was given to Governor Connally, as shown by the X ray.

Quite a number of tests were made until one was achieved with just the sort of a glancing blow on a rib that was given to the Governor. Naturally we couldn't reproduce a human body of the same girth, but the difference in dimension was taken into account.

Then cadaver wrists were used to test the wound of the Governor's wrist. And, as a matter of fact, reconstructed skulls were used to test the head shot on the President.

All of this, when put together, showed that it was entirely possible for a bullet to have gone through the President's neck, lost little velocity, then to have gone through the Governor's chest, grazing a rib, but again not striking anything in a smashing fashion.

It would have come out wobbling, as indicated by the large wound on the front of the Governor, and then it would have tumbled through the Governor's wrist.

And there was much independent evidence as to why the wrist wound was caused by a tumbling bullet—for example, the damage done to a nerve and the taking of the clothing into the wound, and a whole host of factors were analyzed by the orthopedic surgeon to indicate that it was not a pristine bullet—which means a bullet which had struck nothing else—that went through the wrist.

And the tumbling bullet would have explained the wound on the volar aspect of the Governor's wrist, and the bullet, which would have lost so much velocity, would account for the slight wound on the Governor's thigh.

The Governor himself thought it likely that the same bullet inflicted all of his wounds, and all of the doctors who attended the Governor thought so.

All of the experts from Edgewood, Md.—the Army wound ballistics people—came to the same conclusion.

Also, there was no other bullet that was found anywhere in the car, which would have accounted for the bullet which inflicted the Governor's wounds. And we do know that his leg, to say nothing of his wrist, was substantially lower than the level of the top of the doors; that, if a bullet had hit his leg, it would have been a curious twist of physics for it to have ended up outside of the car completely.

Q How do you explain the apparent conflict between Oswald's record as a poor marksman and the extraordinarily excellent marksmanship that he displayed on the day of Mr. Kennedy's assassination?

A It is not true that Oswald was a poor marksman.

The Commission examined the details of his record as a marksman with the Marine Corps, going over the original documents of his training, which I believe were published as part of the Commission's report.

The experts in Marine training appeared before the Commission—it was a deposition, but it was available to the Commission—who characterized his ability as a marksman, and they said that he was a reasonably good shot and, compared to civilian standards, would be classified as a very good shot, perhaps even better.

What must be borne in mind on that subject is the nature of the shot which was presented by the situation. Bear in mind that as the assassin stood in the sixth-floor window, with the rifle pointing out, as described by several eyewitnesses at the scene—the angle of pointing—that it was practically a straight line with Elm Street, as Elm Street proceeds on a slight decline, so that there was no necessity for any abrupt shifting of the line of aim of the marksman as he fired multiple shots.

It was only a matter of working the bolt action and keeping it in the same line. And, at a shot under 100 yards with

a four-power scope, the experts concluded that it was not an extraordinarily difficult shot.

Q Was the rifle's telescopic sight accurate or inaccurate, under examination by the experts? It has been alleged that he had a defective sight—

A Yes.

But, here again, what we are dealing with is the evidence after the fact. The weapon was found a good distance from the point of the place where the assassin stood, and it was, in fact, found over near the stairs leading down and out of the building.

This leads to a very reasonable inference that, when the shooting was completed, the man took the rifle with him to see what he encountered, and, as he got near the steps to exit from the building, he most assuredly didn't place it on the ground with great care to preserve it for its next use; he gave it a pretty good toss, by all standards which are reasonable, that could have damaged the sight.

It would be hard to think otherwise, under the circumstances—which goes to point up the great difficulty of examining evidence, even after one event has transpired, and drawing finite conclusions about its condition before that event.

Q Much is also made, Mr. Specter, of the report that the first police officer identified a different rifle—a Mauser—as compared to—

A Well, the Manlicher-Carcano, which it was identified as being, apparently had a reboring of the hole, and you're dealing with a rifle which had many characteristics of the Mauser.

That is the type of error which could have easily been made.

That type of error in identification on a fast glance is relatively unimpressive in the light of the more detailed evidence which ballistically proved that the Manlicher-Carcano fired the bullet found on Connally's stretcher, and the fragments in the front seat of the presidential limousine—and in that area we deal with a precise science—or with the evidence showing the purchase of that weapon from Klein's mail-order house, or with the photographs which show Oswald holding a weapon like that one and with the identification by Oswald's widow—all of which ought to be reviewed by the critical reader at the same time they hear that a police officer made a contrary tentative identification.

Q There is no doubt in your mind that this was the murder weapon—the Manlicher-Carcano rifle that Oswald had at the time on the sixth floor of the Schoolbook Depository—

A None whatsoever.

Q Is it possible that there were any other weapons or that there could have been any switch of weapons?

A All that can be said on the subject of whether there were any other weapons or any switch of weapons is that the painstaking investigation showed no evidence of any other weapon, or any switch.

Q What about the discrepancies in witnesses' testimony with respect to the length of the paper bag that was said to have been used by Oswald to bring the rifle into the building?

A The Commission concluded that the general description of the paper bag was such that it fitted the weapon which Oswald used.

The background on that situation was that Oswald had said that he was bringing in curtain rods for his room. Later it was determined that his room had curtains and rods. The weapon was placed at the house that Oswald came from on the Friday morning.

So all of the evidence tied together to indicate that Oswald in fact brought the weapon into the Texas Schoolbook Depository Building under the pretext of having curtain rods.

Q Were you at all disappointed or handicapped by the fact that the Dallas police did not keep a record of their interrogation of Oswald?

A Well, there again, I believe that the more comprehensive the evidence is, the better it would have been. But I do not believe that the absence was a major obstacle or hindrance.

Q There have been charges that there is a plot afoot to conceal evidence. If some high officials, say, had been in the business of deliberately concealing evidence, do you think it would have been possible to do it?

A I think it would have been absolutely impossible for the autopsy surgeons to perjure themselves. They would have to be in league with numerous other people who were present in the room where the autopsy was conducted, including Secret Service agents and FBI agents and a whole host of people.

When the Commission was formed, President Johnson took great pains to select Commissioners who had high standing and who were independent of the Government or the so-called bureaucracy in Washington. When the Commission then went out to organize its staff, it did not select people who had ties or allegiances to Government who might have been beholden to some department or another for their jobs, but, instead, chose men of outstanding reputation, like Joe Ball from California, a leader of the California bar for many years and a professor there noted for his work in criminal defense.

Similar selections were made on an independent basis from New York and Chicago and Des Moines and New Orleans and Philadelphia and in Washington—so that every conceivable pain was taken to select people who were totally independent, which is hardly the way you set out to organize a truth-concealing commission.

Q Oswald did some pretty fast traveling the first 45 or 46 minutes after the assassination. Are you completely satisfied that he would have been physically able to get to all these places at the times he is said to have appeared?

A Yes. By way of elaboration, Chief Justice Warren himself carried a stop watch from the window of the sixth floor in the Texas Schoolbook Depository building and made the long walk down one corridor and up another and over to the dimly lighted steps where he descended four flights to the second floor to see if he could get to the Coke machine

within the time allotted to Oswald. I saw him click the second hand off, and he made it.

Q Did he go the whole route, to the bus, to the taxicab, over to the Oak Cliff section of Dallas?

A He didn't take the whole route, but I think the toughest lap was from the window to the Coke room.

Q Was the rest of it timed by somebody else?

A Oh, absolutely.

Q Did you ever find where Oswald got his ammunition for that rifle?

A That is not squarely within my area of investigation. But to the best of my knowledge the source was pinpointed, because we did obtain other ammunition for the tests which were made by the wound-ballistics experts.

Q Did the Commission ever have anyone except Oswald under suspicion as the possible perpetrator of this crime?

A The evidence at no time indicated that there was any other perpetrator of the offense. But I think it should be noted that the Commission, contrary to some assertions, did not start with the preconceived notion that Oswald was the assassin. The Commission, I think, did its utmost, and in fact, did maintain an open mind on that subject and surveyed the evidence before coming to its conclusion.

Q Did Oswald have any connection with the FBI or any other Government agency?

A To the best of my knowledge, no.

Q Mr. Specter, here is a specific statement from one of the books about the Warren Commission that has attracted wide attention: "The fact that the autopsy surgeons were not able to find a path for the bullet is further evidence that the bullet did not pass completely through the President's body." What is your answer?

A Dr. Humes traced the path of the bullet through the President's body, and I can give you a citation to his testimony on the point.

Q Is that statement from the book false?

A *Inter alia*—among others. I don't know the word for "many" in Latin, or I would say: "Among many others."

Q What do you think of the "two Oswalds" theory—the presumption that Oswald might have had accomplices, that persons resembling Oswald or giving his name were seen at times and places when Oswald was somewhere else?

A Oh, well, why not make it three Oswalds? Why stop with two?

I believe that that is the type of speculation which will be engaged in for centuries where there is an event of such magnitude and of such interest as the assassination of a great President like John F. Kennedy.

Within the past few years, there have been books appearing on the Lincoln assassination, advancing new theories as to who the criminals were. And I think that there will be this type of speculation on the Kennedy assassination during my lifetime, and beyond.

Q Have you seen, in any of the critical comments on the investigation, any new evidence, beyond what was developed by the Commission?

A There has not been a scintilla of new evidence disclosed in any of the books, to the best of my knowledge—certainly nothing that I have read, although I have not read every line of each of the books which have been written.

In the books I have seen, they are basically a taking of the Commission evidence, which was set forth bountifully, and a reconstruction in accordance with what the authors or others may have formulated to be their views on the events.

It's important to emphasize that point: that the Commission made available all this evidence because it welcomed the free rein of inquiry and expression on this point. It's a free country, and people may formulate their own conclusions. But the evidence—sifted carefully and taken as a whole—I think, forcefully supports the Warren Commission's findings and conclusions.

Q As the district attorney of a big city, do you feel you could have successfully prosecuted the case against Oswald on the basis of evidence dug up by the Warren Commission?

A That would have been a hard one to lose.

Q If you had been on a jury hearing the case, would you have voted for hanging?

A Well, now, you ask a question about penalty. I think that, on the question of innocence or guilt, realistically viewed, there was no area of doubt as to Oswald's being the assassin.

When you move beyond that into the proofs of negatives, you involve the complex matters we have already discussed.

I would say that, in my years of experience as an assistant district attorney and as district attorney of Philadelphia, I have never seen a case presented in a courtroom that is as convincing as is the case against Oswald where there are not numerous eyewitnesses to the crime.

I should add that I have never seen the resources devoted to the determination of the truth as were the resources of the United States of America devoted in this case. We simply cannot investigate a matter which arises from a killing in Philadelphia County with the kind of thoroughness that was used on the Kennedy-assassination investigation. There has been no equal of this kind of inquiry, not only in Philadelphia, but anywhere, to my knowledge.

Q To put it another way: If Oswald had lived and had a good criminal lawyer working vigorously with all the elements in this case, could reasonable doubt have been created in the minds of a judge or a jury?

A On the basis of the evidence which I have reviewed, I think that it is as certain as the presentation of any case can be in court that Oswald would have been convicted.

Q Here is another statement from a book on this subject: "The case of the stretcher bullet illustrates the limits of the investigation. In 10 days or even in 10 weeks, a single lawyer could not exhaust all the facts and possibilities in such a broad area as the basic facts of the assassination. Arlen Specter spent only about 10 days on his investigation in Dallas. Quite obviously, he had to concentrate on major problems and neglect some of the more minor ones."

A The author is sweeping in his criticism, but not specific at all in pointing up what "minor problems," as he theorizes them to be, were overlooked.

The fact of the matter is that I spent more than 10 days in Dallas, that the actual time I was in Dallas accounted for only a minor part of the investigative work which was done for my areas of inquiry—most of which was performed, obviously, by federal investigative agencies, since the Commission lawyers could not do all of the investigation.

On the quotation you just read relating to the bullet on the stretcher, there are other references to a preconceived notion which, says the author, the Commission lawyer had. But what he is not experienced enough to have understood, when he read my questioning of those witnesses where the timing was set forth, is this:

I went to Parkland Hospital in Dallas, for example, and I interviewed everybody at Parkland Hospital in the course of a relatively few hours, some 20-odd witnesses. But I did not go there with a *tabula rasa* to work on, to start gathering names and information likely to be needed.

I appeared at Parkland Hospital having reviewed files of materials as to what preliminary investigation had shown.

So I sent ahead a list of witnesses whom I wanted to see, so I could get to the heart of the matter and question under oath and in more detail perhaps than the previous interviews had been conducted and for the public to read at a later date.

The preliminary information had already been given to me, and I could move in a relatively straight line to the information I sought, because there had already been extensive investigations conducted.

This is virtually always done in any matter where an attorney comes in to look over the evidence—this spade work has been done. Otherwise, he would have to sift through hundreds of witnesses to come to the point where we began that line of questioning on those specific witnesses at Parkland Hospital.

Q Did the Commission deny any witnesses the right to be heard or refuse to hear anyone claiming to have pertinent information?

A Absolutely not. In fact, the converse was true. The Commission went far and wide to solicit information from every conceivable source whatsoever.

Q It has been reported that some members of the Commission did not attend all the meetings. And the presumption is that this affects the credibility, or reliability, of the Commission report. Was it, in fact, necessary for every member of the Commission to be present at all times?

A It certainly could not be categorized as a necessity. Obviously, the more everyone knows, the better would be the position for making judgments and conclusions. But, even though a commissioner was not present at a hearing, the transcript or notes of testimony, was available and was circulated for all the commissioners.

But, as a preliminary to evaluating a matter of that sort, it must be remembered that, when the President asked Chief Justice Earl Warren to serve as chairman of this Commission, he did so with the full knowledge that the Chief Justice had very heavy responsibilities on the Supreme Court.

The same applied to Senator Russell, who had very heavy duties in his senatorial committees, and as well as Senator Cooper. And, in selecting Representatives Ford and Boggs, the President picked two of the busiest members on the Hill.

The same would apply to Allen Dulles and John McCloy, who had other responsibilities. So it had to be known in advance that a great deal of work would have to be performed by staff, with the commissioners themselves exercising the normal executive functions of supervision, review and decision-making.

Q One critic has written this: "The Commission did not do an adequate investigative job, did not weigh all the data carefully, rushed through its work, had no investigative staff of its own, and a few overworked lawyers, who, in a very short time, had to interview and check hundreds of witnesses. And the report was written and rewritten in haste to make a lawyer's brief for the official theory." What is your answer?

. . . "We did have time to do a responsible and thorough job"

A The sweeping generalization of that statement is notable only for its melodramatic conclusion that nothing was done right at all. I think that the earmark of that kind of generalization indicates the motivation of the author.

The facts are quite the contrary.

Taken in individual steps: The lawyers for the Commission worked hard, but, in my opinion, were not overworked. We were under pressure, as is any man who does any responsible job in this country. But we did have sufficient time to do a responsible and thorough job. Where necessary, the times were extended. The commissioners themselves paid close attention to the work of the Commission. The Chief Justice was a dominant figure moving throughout the entire investigation, and so were the other commissioners in terms of knowing and understanding and participating in the scope and depth of the Commission's work.

I believe the Commission's work was exhaustive; it was painstaking, and it compiled the most complete report that was possible under the circumstances—and, I think, clearly an adequate report.

Q Does the fact that you used the Federal Government's

own investigative agencies impair the impartiality or effectiveness of the investigation?

A In choosing the ideal tools available, it would have been highly desirable to have a totally independent investigative force from some other land, coupled with commissioners who could work full time on the project at hand, coupled further with unlimited lawyers to do every conceivable job possible.

But, even with the might of the United States Government at one's disposal, it is not possible to organize an investigative team from thin air. So it was a very reasonable choice to have basic material sifted by federal agencies of one sort or another.

Where the Commission chose not to rely upon a particular federal agency, it had many others to choose from. When that work was done, there was a substantial staff left to cull through the material and make an independent analysis.

I think the independence of the Commission is demonstrated by its candid criticism of the Federal Bureau of Investigation and the Secret Service.

Where criticism was appropriate, the Chief Justice and the other commissioners did not shirk their responsibility to set it forth.

Q Did you also use any private and independent means of investigation?

A Absolutely. When it came to the question of double-check on ballistic material, there were independent experts brought in who had no Federal Government connections. When it came to the question of the depth of some of the tests—such as those made by the wound-ballistics people—they were from the Army, but they were the best experts available. So there was a wide scope of federal talent used, and substantial nonfederal talent used as well.

Q If you had this to do over again, are there any changes in methods or procedure that you would recommend?

A Inevitably in the course of a lengthy investigation, there are procedures which would be improved upon. But I do not believe that the ultimate conclusions of the Commission would be affected in any way by any change in methods or procedures.

Q Would you say that any cover-up of evidence in this case would mean, in effect, that a large number of reputable people were in collusion?

A Well, I think that is the precise thrust of some of the material which has been written—that a conspiracy of deceit goes into the upper echelons of the Commission itself, permeates its ranks, and is widespread throughout everything the Commission has done.

I think it is preposterous to suggest that the Chief Justice or any other commissioner would conceal the truth from the American people, or that reputable federal officers would perjure themselves.

IF INQUIRY WERE REOPENED—

Q Do you think anything new could be brought out by a reopening of this investigation?

A I do not believe that a reopening of the investigation would disclose any additional evidence, based on all that which is known at the present time.

But I would not make any statement which would be in opposition to any such reopening of an investigation, just as I would not make any statement that would suggest a limitation on any scholar's work in reviewing, analyzing or disagreeing with anything the Commission has said. It's a free country.