

XXXVI

JUDGE -- AND BE JUDGED

Posner's test ends with three more supposedly JFK assassination chapters. The first two are his interrelated criticisms of all who have written other than he now does about the assassination and its investigations. What his subtitle, "The Warren Commission and the Conspiracy Bug" has as its title, ^{is} the quotation, "'A Religious Event.'" "Black is White, and White is Black" is his chapter on, its subtitle, "The Jim Garrison Fiasco'." (Garrison was fond of referring to Alice in Wonderland.) Posner's final chapter, again a quotation, as he is predisposed to do with his chapter titles, is "What Happened to the Truth"? The subtitle is "The House Select Committee and the Latest Developments" are Posner's substitution for a chapter of conclusions. But there is an immediate and by now what should be an obvious answer to his questions, "What happened to the Truth?" It is that Posner and those like him happened to the truth, as they did from the outset and as he does in his book and in all the considerable ~~atten~~ attention to it.

Aside from Posner's dishonesty to which in varying degrees all his chapters are testimonial, and to his ignorance of the established facts of the assassination and its investigations, these chapters are excellent illustrations of his ignorance of these well-known facts and of his venom. His book lacks the strength his poison could have held because of his ignorance and because, inherently, one cannot elevate himself by trying to ^{beat} lower others ^{down.} Posner, pathetic man with an unjustified self-concept, does not succeed in making more of himself than the worm he is except to those who lack knowledge and who accept his ignorance, stupidities and lies at the value he puts on them.

No matter how much or how often a worm may dream of wings, a worm remains a worm.

No matter how much Posner may believe he lowers others with his criticisms of them, his book remains for, if no more history's record, proof that he is a callous commercializer and exploiter of the tragedy of the assassination. It is his monument to his own dishonesties, greater by far than those of any others writing on any side in this field.

That he is so indifferent to his own ignorance while criticizing others for it and for other offenses, many real, many imagined, ~~it~~ is his own description of the kind of person and the kind of writer he is.

There is nothing that Posner can write about Garrison's morals, ethics, honesty or decency that can make his own superior

to them in any way. In fact, they are not, and because of his lofty pretensions of his higher role, forgetting the biblical wisdom, judge not lest ye be judged, he invites judgement of himself.

Insensitive to this and to the certainty that he would be inviting it, he was indifferent to what could and would be recorded about himself and his ignorance, about that a small man with an enormous ego might well deceive himself. Posner's compulsive need to make little of others, a need he is prepared to meet with his lack of normal morals, ethics and principle leads to his deceiving himself. He came to believe that what in his own twisted mind he wanted to be real actually was real. At the same time, there also is no doubt that when he makes statements for which he has no sources he knew he was saying what he would not support or what is not true. He also knew it was what he wanted to be true, whether or not it was. Usually it was not.

One does not have to be a Hartogs to understand Posner, the assassin of truth.

He began with that intent and he did not once abandon it. His book is the everlasting proof of it.

There is, inevitably, ample legitimate criticism that can be made of all those who, knowing better, knowing that it is a lie, lump together those with whom they do not agree as "conspiracy critics" or as "buffs," for all the world as though all agree on

everything, have the same approach, and think, work and write alike. Where he criticizes those who deserve criticism, often he is unaware of the more serious criticisms that are justified. Despite this he makes unfair or dishonest criticisms. These are not always from his ignorance. They also come from his dependence upon his sources rather than his own work, his own pretended scholarship.

His criticism of me, for example, is childish, petty, and without factual basis. This does not mean that there are not justified and legitimate criticisms of me. There are. But it does mean that he was too ignorant to make them.

His nagging need to do that however, when he lacked both the knowledge and any factual basis for it, enticed him into an indecent and dishonest irrelevancy he contorted into an intended insult he knew to be a deliberate misrepresentation when he contrived it.

At no point does he reflect any knowledge or understanding of my work and at no point does he even pretend to make the reader aware of anything at all about it other than through his misrepresentations of it. Lacking the knowledge for real criticism, he gave free rein to his lack of principle and of common decency.

He is a man who accepted and described the welcome he got at my home and his unlimited access to what he got free from what he wanted of what by any measure is a great and a costly labor, to

that third of a million pages of official records I got through all that difficult and costly litigation of more than a decade. He had unsupervised access to our copier so he could copy all of those records he wanted too. He copied seven hundred and twenty four pages by his wife's own accounting, and he then controverted an event in my life of about the time his parents were born to fabricate a slur of it, in the course of it lying to make the slur appear to be more credible?

What kind of man is this?

Can anyone describe him in words that condemn him and his purposes more than in this he condemns and describes himself?

It is the mark of the man made by the man himself.

This is the real Posner, who is also a thief in it.

As I noted earlier, he used those records he got from me, my work that I let him have, as his work in his book by simply pretending that it was his own. As I did before and do again, I invoke the definition of his own publisher its unabridged dictionary:

"Plagiarism - 1) The appropriation of or imitation of the language, ideas and thoughts of another author, and representation of them as one's original work; 2) something appropriated and presented in this manner."

Under "plagiarize" in that same Random House dictionary it says, "something appropriated and presented in this manner from (a work) by plagiarism."

In tracing the word to its Latin root, this dictionary says it is the equivalent of kidnapping.

Such a man -- this little man -- sits in judgement on others, on any others?

Posner does, and throughout this book I have done as he invited, to the degree where at this point it is not necessary to expose them all. In what follows I do not. But I do seek to illustrate their variety and their character along with the ignorance -- his ignorance -- basic to them.

In his very first sentence in his "Religious Event" chapter he says that at the scene of the crime "the physical evidence seemed overwhelming." This is false. It represents the thinking and the writing of a novelist, not of an experienced investigator, not of one familiar with actual evidence and proofs of a crime and of guilt in it. There were, to any competent police observation and analysis, many too many questions about the shooting and even about any shooting from that sixth-floor window.

The actualities of that "physical evidence" are "overwhelmingly" that it was left to be found, to give the actual assassins "lead time" for their escape. It is only the

misrepresentations of that evidence, first by officialdom and then by officialdom's sycophants, of whom Posner is the most recent, that make it seem to be "overwhelming." Of the available official proofs of this truth, one need only examine the complete bankruptcy of the FBI in its five-volume report ordered by the President before he appointed his commission, to see that rather than proof it depends upon and is, its first or text volume, no more than an uninhibited diatribe against Oswald. This is apparent from its mere two scanty, inadequate and incomplete references to the shooting alone in it. They are reprinted in facsimile in *Whitewash* (Page 195). The evidence, the actual evidence, was such that the FBI did not and could not account for all the shooting! It does not even account for all the wounds.

Not even the cause of death.

Posner has no source for what I quote from his first sentence. This is because there is none possible. It simply is not true.

He has no source on his next page (405) for his statement that in coercing Warren to head his Commission Johnson "told him how many millions of people would be killed in an atomic war" if he did not take that job. That comes from my 1974 book, *Whitewash IV*, from the facsimile reproduction on page 24 of a staff memo "for the record" of Warren telling this to his staff at his first meeting with it. Posner avoided direct quotation to hide his source. He is "appropriating the work of another and representing it as his work." Besides, here and elsewhere he uses, (without reference to it as his source), my work. It would

not make even his picayune criticisms of it look very good if he had been honest and had given his source.

Posner says (on page 406) that besides the Commission's fourteen lawyers "There were also twelve investigators." False! With the grossest ignorance both of the Commission and of its relations with the FBI, startlingly false!

On the very first page of printed matter in the Report, those twelve are listed as what they were, "staff members." They were junior lawyers, as Posner himself was at least that junior, if not more so, in his very brief career as a "Wall Street lawyer." He and his publisher boast about that without indicating its brevity or its nature. That was what paralegals and clerks did when firms and their clients were confronted with massive discovery materials too voluminous for the lawyers on the case to be able to handle or master.

There was a time early in the Commission's life, as this self-exalting ignoramus could not have helped knowing if he had done any real, original work on the subject-matter himself, when some consideration of having its own investigators. Dulles leaked that to the FBI. Hoover's firm, vigorous and outraged complaint about that ended it forever.

Posner writes that the Commission's legal staff is unjustly criticized by those who allege that the Commission "favored witnesses and documents that supported its early conclusion that Oswald alone killed the president," (Page 407). Of this he

says, "this view underestimates the independence of the legal staff." This is fiction. They had no independence at all, of any kind! They were under Rankin's always extraordinarily tight control. That could not call or interview a witness on their own, for example, and they could not and did not raise any questions about the Commission's conclusions when they, as they actually did, wrote that Report.

How much independence did Liebeler have when he got that FBI report on what Loran Hall told it to Rankin, as we saw earlier.

It is gross ignorance, gross dishonesty of both to say that the lawyers had ^{or asserted} any real independence at all. r/

Of all that Posner, had he any honest thoughts at any time, could have said about what actually transpired at the Commission's executive session of January 21, 1964, he could hardly have ^s elected a less important one than the opinion that the assassination ought not be discussed during the coming political campaign. Why neither he nor anyone else ever stated in any meaningful way. u

That transcript I and I alone got through FOIA and of all the books, my *Post Mortem* alone prints it in facsimile. (Pages 475ff). As Posner knows and does not say. He does not report how in it the members confessed their fear of the FBI; of the FBI having already limited what they dared do before they held their first hearing; that it had already concluded, as the Commission therefore would have to conclude and did, that there had been s2/

noconspiracy when, obviously, the FBI had not yet run those leads out. They finally decided to destroy that transcript and to suspend having the court reporter take any more verbatim down. They even confessed their determination to say that there had not been any conspiracy -- before they held their first hearing. And they summed up the FBI's attitude toward it by saying they told us we should fold our tents and go home, they have already done the job and there is nothing for us to do.

None of this is ¹worth Posner's troubling his readers -- or the possibility of his having a book at all with. S/

But this time he does have a source. What is it? "Commission meeting of January 21, 1964." It was not ¹even a ^{more} "meeting." It was a formal, executive session. U

And, knowing the only source, he pretends, by not citing it, that it comes from his own work.

Ever ignorant and ever omniscient, as usual, without any source, at the bottom of this page Posner writes, "J. Edgar Hoover was convinced within days of the assassination that Oswald alone had killed Kennedy." If Posner had made any real use of what I gave unrestricted access to rather than looking for what he could misuse for his own preconceptions, he if he had looked through ^{a folder} that folder I showed him on my desk, of records I keep there to be able to give strangers to the subject, as Posner assuredly remains after all his work on his book, to give them a feel for the realities, he would have known that in Hoover's

interview by William Manchester for his book supposedly on the assassination, beginning at "10:10 A.M., 6-4-64," such being the precision with which Hoover's every breath was recorded, Hoover boasted that he knew immediately that the assassination was the work of one man only. He also boasted, in the words of his note-taker, Cartha DeLoach, "that the FBI immediately entered the case, despite non-jurisdiction. (The copy I cite is not recorded, not the record and indexed copy. It is from the main FBI headquarters JFK assassination file, Section (or volume) 73.) So it was not "within days" but within a few hours on the first day.

Pomnis

His ignorance, the total lack of even high-school debater's scholarship in his work, is blended with his political anti-Kennedyism in his attack on those who do not agree with him:

not bold face type

under single space At the time, the Commission wanted to use the autopsy photos and Xrays as the best evidence of how the President was shot, but the Kennedy family refused to release them. Warren feared that if the Commission had the photos, they might be leaked to the press, and as a result he was hesitant to pressure Robert Kennedy on the matter. But Howard Willens, a staff attorney, had worked for Robert Kennedy and persisted to obtain them. In June 1964, RFK allowed only Warren and Ranken to review them. (Pages 409-10)

Not a word of this is true, and wait until we get to his footnote on what follows this:

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In his memoirs, Warren wrote "[T]hey were so horrible that I could not sleep well for nights." None of the other commissioners or staff ever saw the autopsy photographs or X-rays, nor did the panel utilize independent forensics experts.* Reproduced in the final report are schematic drawings of the President's neck and head wounds, but both were made by an artist who was unfamiliar with the autopsy and never saw the photographs. The artist's sketches were based upon Drs. Hume and Boswell's original measurements of the wounds. Those drawings were mistaken in the placement of both entry wounds, and that later developed into a significant issue for the conspiracy press.** (Page 410).

Arlen Specter, who was in charge of this area of the Commission's work and of whom Posner has but a single mention in all his six hundred pages, was worried about the Commission not having made or had made any real examination of what normally, but not to the Commission, is best evidence of homicide, the autopsy's film of both kinds.

(Posner's single reference to this Commission ^wlayer _n who was in charge of the taking of the medical evidence and the relevant ballistics and other evidence and in charge of that part of the Report is when he refers to Marguerite Oswald, Lee's mother, being unhappy about the way Specter questioned her! (Page 254). That is the real Posner "scholarship." Not a word about Specter's handling of the evidence to which that part of his book is supposedly dedicated! But then their political views are not

that unlike, if they are at all, ^{and} ~~Posner is nothing if not~~
politically fair and impartial.)

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Specter knew he had his own ass to cover. He did not even suggest that in a series of memos the Commission did not publish. In them he campaigned for the Commission to use the pictures and Xrays. He even told Rankin in one of those memos that Robert Kennedy had told them through the Secret ^{Service}, which then had them, that the Commission could have and use whatever it believed it needed. Kennedy was concerned about any improper uses of them. But the Commission's use of them did not require that they be public or published. All parts of the government and both Houses of the Congress have and use and keep secret a simply enormous volume of records of all kinds. So also do the courts. It is a fiction that if the Commission made any use of that film they would get to be public. The real reason, as my *Post Mortem* in particular makes clear but was apparent in my very first book, is because the Commission's conclusions cannot survive careful examination and reporting on this autopsy film.

J/

Blaming this on the also-assassinated Robert Kennedy, who cannot make any response, represents more than Posner's indulgence of his own political prejudices; more than his simply astounding ignorance, dishonesty of both. From what he had in his possession-from-me-he knew this to a be a vicious indecency, the most indecent of lies. It follows.



The first of Posner's scholarly source notes (Page 571) is to the least scholarly, least impartial most seriously flawed of

J/

recent writing about the medical evidence. It was in several articles in the *Journal of the American Medical Association*, beginning with the issue dated May 17, 1972, the one Posner cites. That and subsequent JAMA stories had the simple, unscholarly, unprofessional approach: that because the autopsy prosectors, in 1964, said they were right, come hell or high water they are right in 1992 and they are right forever. My *Never Again!* book ^{'11'} ~~(being prepared for publication as I write this)~~, is a lengthy and definitive comparison of those JAMA articles and the actual evidence. But what does it mean when Posner cites JAMA's version of the autopsy prosectors' Warren Commission testimony rather than ~~to~~ the original source, that testimony which we can never recall too often he says he studied so very carefully and even indexed?

His source note reads, "Dennis L. Breo, 'JFK's Death: The Plain Truth from the MDs Who Did the Autopsy, *Journal of the American Medical Association*, May 27, 1992, Vol. 267, No. 20, p. 2800'." All this impressive but essentially meaningless and really deception ^{re} citation instead of a citation to their testimony? This is scholarship?

Compare this with his very next source note, to those drawings substituted ^{of} for the best evidence of that film, drawings made not from any records of any kind but from the recollections of what one of the prosectors ^{Humes,} believed he remembered weeks later, and then told the medical artist. At the same point on the same page, the next line, Posner has this," See, e.g., CE 385, W.C. Vol. XVI. The date of issue of that JAMA

was not enough for him, he had to include all the rest, like volume and number, to appear to be so careful, so definitive, when he was in fact directing readers to an unoriginal and at best dubious source. But in citing one of those volumes he studied and indexed, he cannot even give a page number? Not even from his fabled index? ^[in 1967?] If not from Whitewash, where they were first published, ~~but without reference to any page number?~~ ^{S/M/}

With that remarkable index he does not even learn that CE385 was not the only such sketch? That with it on the very same page (977) of that volume, is also another of the three, not the one drawing he said there is. There is a second, CA386. And how with that simply unprecedented index and his unequalled scholarship did he manage not to know about the third of that series of three, CE 388, on page 984?

How he managed this, indeed that he managed it tells us about that supposed index and his vaulted scholarship.

Posner says that Robert Kennedy denied that autopsy film to the Commission.

he masked with two asterisks

Let us now return to that footnote I mentioned earlier (on page 310). This is how it reads, in full:

not told here

****In 1967, former commissioner John McCloy told CBS News, "I think that if there's one thing that I would do over again, I would insist on those photographs and the X rays having been produced before us. In the one respect, and only one respect**

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there, I think we were perhaps a little oversensitive to what we understood as the sensitivities of the Kennedy family against the production of colored photographs of the body" ("The Warren Report," CBS News, Part IV, June 28, 1967).

What Posner does not cite and what he has he got from me, so I know the major contortions he went through not to mention it. To avoid any mention of it. He even quotes my lawyer instead of me on it.

The way he wrote this again blames Robert Kennedy. He says that Kennedy made it impossible for the Commission to have those pictures and Xrays. He says, too, that McCloy in particular regretted that, attributing it to the imagined excuse that the "Commission was perhaps a little over-sensitve to what we understood as the sensitivities of the Kennedy family."

The reader can make an independent judgement on whether what follows accounts for Posner's references to the Commission January 27, 1964 executive session transcript without once telling his readers that through my FOIA lawsuit I did get it and then published it. I published the entire thing, and it is quite long, in facsimile in *Whitewash IV*. It has the subtitle, "TOP SECRET JFK Assassination Transcript" In it I also published in facsimile other pages of other such formerly "TOP SECRET" transcripts?

Remember, Posner has already referred to that of January 21 transcript without telling his readers what it really says or how

it came to be that it is no longer classified, or where they could read it, in *Post Mortem*, where he got that transcript. In *Whitewash IV* I reproduced on page 133, page 35 of the typescript of that transcript. On it, McCloy asks:

let italics stay

widest range of use

Mr. McCloy. Let me ask you about this raw material business that is here. What does it consist of? Does it consist of the raw material of the autopsy? They talk about the colored photographs of the President's body -- do we have those?

I used the unequivocal response in full, well past where in his answer Rankin turned to other matters, as I do here, to the bottom of that page. I also include ^{my} the footnote at the bottom of that page because it refers to the anti-Kennedy propaganda that came later, blaming the innocent victims for the faults of the official investigators who never intended to investigate the crime itself and did not:

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Mr. Rankin. Yes, it is part of it, a small part of it.

Mr. McCloy. Are they here?

Mr. Rankin. Yes. But we don't have the minutes of the autopsy, and we asked for that because we wanted to see what doctor A said about something while he was saying it, to see whether it is supported by the conclusions in the autopsy and so forth, and then we have volumes of material in which people have purported to have said, or any to various agents certain things, they are not sworn.

widest range of use

The footnote reads,

not b.f.

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This is page 35 of the Executive Session of 1/21/64. Despite later contrary pretenses, Rankin is here explicit in saying the Commission did have "the colored photographs of the President's body", the autopsy pictures. This

not diff on entire page

means there was never any need for the fake sketches used as "evidence" (see p. 136). There is no evidence that "Minutes" ever existed.

lc/

No ifs, no buts, no concerns for the family's sensibilities, no caveats of any kind, McCloy was told when he asked that the Commission did have in 1964 he said in 1967 he was so sorry they did not get! And they had that film before they had even the autopsy protocol, what Rankin refers to as what did not exist, it's "minutes."

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Can there be any finer scholarship than this? Is this what the prestigious historian Stephen Ambrose calls "a model of historical research"?

When it comes to other models of this "model research" it does not take Posner very long to offer one. In fact, another one is in the second sentence of the very next paragraph, (page 410):

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In replicating the firing of the Carcano, and figuring trajectory angles, the Commission used FBI tests that had a platform at the incorrect height when compared to the sixth floor of the Book Depository.

J

His index prepared with all that great effort and the knowledge acquired in preparing it again failed Posner. It failed him where the Sylvia Meagher index he condemned as political would not have failed him. The least of Posner's failures here is not having any source for what he says. He is also once again either ignorant, dishonest or both because those tests were not by the FBI, were not for "figuring trajectories" and they were for timing. That shooting was at the Army's Aberdeen Proving Grounds, about 30 miles north of Baltimore off the road to New York City. They were to determine whether the best shots in the country, all rated as "master" by the National Rifle Association, could duplicate the shooting attributed to Oswald.

Not one of these best shots in the country could do it!

1965 book, Whitewash. It is in greatest detail in my

pages 301-47

[This first effort... NEVER AGAIN!]

not b.o.

No less comfort to Posner in his new formula, not one missed on the first shot, the one he says missed.

And these were the best professionals. They practised religiously (not the "religious event" Posner refers to), a necessity with good shooting as it is for the very best of musicians to practise regularly. Good shooting is a mechanical skill and it is lost easily if not practised regularly. Oswald never had any real experience with rifles and he is not known to have fired one since he left the Marines. He then is known to have fired a different weapon a total of only two times.

I go into this at greater length, with all sources, in *Never Again!* The need for regular practise to preserve firing skill was set for Posner and others in my first book.

Before those very best of experts began to shoot the rifle had been overhauled.

The platform from which those best experts fired was only half the height of that sixth floor window to make the shooting easier.

And with all of this the very best shots in the country could not come close to duplicating the shooting attributed to Oswald.

With this in the same published records from which Posner dredged up the good ol' boy Zahm, Posner preferred Zahm, who said that this was easy shooting.,

More "model historical research."

Or was it to find the Zahms that Posner did his own work in those volumes he fails to cite so often and often cannot cite correctly?

mut b.f.

Not missing a page for our convenience is establishing the regularity of his departures from the straight and narrow path of truth, Posner gives us more opportunities than I use on the very next page again, (Page 411).

S/ S/

He is correct in saying at the top of the page that three members did not agree with the single bullet theory that is indispensable in the Report. In citing Epstein's Inquest as the source he is able to avoid citing my work, which would have directed the reader to what Posner does not report. He knew, not the least of which is from Whitewash IV, that Rankin with or without Warren's help or knowledge, contrived to have no court reporter present for the September 15, 1964 executive session at which this was to have been discussed and at which at least Russell and Cooper wanted to make and leave their record of the basic disagreement for history. It was when I put the proof of this in Russell's hands that he broke a life-long friendship with Lyndon Johnson and never spoke to him again. Russell also encouraged my work to disprove the Report for the rest of his life.

[As we have seen Russell]

~~-Never Again!~~ carries this forward with later records of their basic disagreement by both Russell and Cooper, with the statement Russell had prepared that he was denied the opportunity to have ^{his views recorded} as was his right, in the Commission's last of those TOP SECRET executive sessions ^{As we also saw} from the Russell archive it also includes his approval of my work. It was not an everyday event for a member of a Presidential Commission to endorse the work of one who disagrees with it, but then Russell was not a Posner.

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If Posner were to be judged as he next judges the Commission (page 411), he would have had no book. He writes, "Few of the witnesses who contradicted the official version of the events testified before the Commission." This is, as we have seen, the practise from which Posner himself does not often deviate.

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In his next observation, of the poor attendance of Commission members when testimony was taken, his one attribution of the many statements in it is again to Epstein. In Posner's version, with all indications it is from ignorance of those volumes he labored over so long and then indexed, Posner says that, the one element of his discussion that he does attribute, "Only three of the seven commissioners heard more than half of the testimony." (Page 422).

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This is false.

Not a single member heard anything like half of the testimony. Most by far was in depositions at which no Member was present. The half of the testimony Epstein referred to was the smaller fraction of the testimony, that ^{taken} in Washington at which as little as a single Member was present to hear the testimony or to participate in any way.

In fairness to Russell, who did have the poorest attendance record, his reason for it should have been stated. It was no secret. Russell told me and I published it.

He believed that Johnson's reason for appointing him to the Commission over his strong objections had nothing to do with LBJ's alleged fear that from this alleged non-conspiracy assassination could come a war in which forty million could be incinerated, as I brought to light and Posner attributes to another source. It is because he believed that Johnson wanted to keep him from leading the fight in the Senate against the civil rights bill in that session.

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(Russell also told me, "I fooled ol' Lyndon. I led the fight against the civil rights bill and attended fewer Commission hearings.")

Russell also told me that in telling Warren he would not sign the Report with the single-bullet theory in it, Warren could still publish it on time. "I told him to just put a little ol' footnote in it saying 'Senator Russell dissents.' But Warren wanted unanimity.")

As he resumes with his previously-cited, biased and unjustified criticism of Sylvia Meagher and her index, which was not slanted the way Posner wanted it to be slanted and very obviously slanted his own -- if any -- Posner states a basic misunderstanding of the purpose of criticism and the obligations of those who criticize: "None of these early critics created a cogent alternative to compare to the one set forth on Oswald acting alone," (Page 413).

As Posner should have learned in law school, ~~whichever of those he said he went to, is as of the time I write this he has a public record of graduating from two~~ he should have learned that for one to prove innocence it is not necessary to solve a crime but to prove that guilt was not proven beyond reasonable doubt.

Those Posner criticizes, including me, and those with whom I do not agree, practised traditional American belief in our criticism of the official findings.

It is Posner who abandons this basic and traditional Americanism, this tradition of criticism as essential to a viable democratic society.

In this forthright and succinct statement of his own belief Posner puts himself squarely and solidly as believing in what is anathema to all American concepts, as a believer in authoritarianism.

Is it not to wonder how carefully that eminent historian Ambrose and those others who provided Posner with those glowing pre-publication, dust-cover

endorsements, read his book when they endorsed this belief so strongly in what they said of the book?

How many accused would even be free if they could free themselves only by doing what the ^{public authority} government had failed to do, solve the crime of which they are accused?

This is Wall Street lawyer Posner's here-stated belief.

Ignorant and resplendent still is his No Source "model of historical research" Posner begins and ends page 420 with his demonstrations of it, particularly the value of having no sources at all for what one writes and for which one is so glowingly endorsed. He is ignorant even of the history of the Freedom of Information Act at the top of the page, and at the bottom of that page, unwilling, as usual, to cite me when I am the source, he misstates still again.

At the top, "On July 4, 1967, Lyndon Johnson signed into law the Freedom of Information and Privacy Act (FOIA)."

This justifies wonder about whether Posner went to either law school.


In 1967, when Posner was in some law school, there was no Privacy Act. That came years later. And July 4, 1967, was not the day Johnson signed the law. It was passed by the Congress months earlier. When it was enacted is when he signed it. July 4, 1967 is the day specified in the legislation for the Freedom of Information Act only to become effective, the law of the land. It and the ^{both} Privacy Act are two separate pieces of legislation and two separate laws.



Simple errors and simple demonstration of ignorance of the laws, the supposed expertise of lawyers. Posner also misrepresents the original FOIA that was effective July 4, 1967, by writing that it opened to FOIA access all government files, "even including those maintained by the FBI, CIA and other sensitive organizations."

It was not until the 1974 amending of FOIA that the records of those agencies were as a matter of law within FOIA requests. The need for the particular amendment that opened those records to FOIA access was in the debates, referred to as the "legislative history," attributed to one of my earliest FOIA lawsuits, my first for the results of the FBI's scientific testing. It was Senator Edward Kennedy, personally, who saw to it that the legislative history would be clear on this and he cited my lawsuit in doing that, (*Congressional Record, Page S9336, May 30, 1974.*)

This also is not exactly an everyday event, that a private citizen, by what Judge Gerhard Gesell, in the federal district court for the District of Columbia was later to refer to as unusual "persistence" (*Washington Post, January 17, 1978*) proves, in Andy Jackson's words, that one determined man can become a majority, I do not attribute Posner's ignorance to the failings of ^[his law school] ~~whichever of those law schools,~~ separated as they are by the width of the continent he went to. Nor do I believe it fair to attribute this to Wall Street practise of the law. It is merely the real Posner being the real Posner.


He can't get out of that single paragraph before again flaunting his lawyer's ignorance of that law. He says its only exemptions were "under privacy and security exemptions." Security, what is referred to as "national security," is the first of the Acts seven exemptions. Privacy ^{is} within the second exemption and is one of the seven different exemptions of the seventh exemption. There are those other six of this last of those identified by seven exemptions, and there are the other five exemptions, each assigned a number that exist despite Posner's interpretation that they do not exist.


 Not averse to covering up for the FBI and averse to giving my work credit for anything at all Posner has no difficulty giving my lawyer exclusive credit for what I did in FOIA lawsuits against the FBI. In selecting from what Jim Lesar told him, as Posner uses that it does cover the FBI's ass. He has me only as a bystander in those lawsuits in which I accomplished what I did by the unusual means of stating everything under oath rather than in lawyers' pleadings. This challenging prosecution of myself -- in litigation against that prosecutor -- if I misstated anything. Thus Posner manages to say what is not in any sense true, that it was only that "the FBI hated" FOIA that causes it to keep so much secret. The FBI did and does hate FOIA but it was the reason for that hatred, the exposure of the FBI's errors and misconduct ending its self-protecting ^{secrecy} "servicing" that caused the FBI's intense desire to suppress what could embarrass it. This is what led to its vigorous and determined oppositions to my lawsuits.

In his attributing my work to others, he attributes the coming to light and the access to a special FBI JFK assassination index to "researchers" in his footnote. It was these unnamed "researchers" who "discovered the existence of" that index. They, according to Posner, not I, "discovered" it in my suit "for the Dallas field office files," he says. (That suit was not for all those Dallas office files. It was limited to those relating to the JFK assassination.)

Posner, so glib in this not infrequently unjustified or just plain erroneous criticism of others, spent three days with me. Never once did he discuss this matter or anything relating to it with me. While it is important only as a measure of Posner and of his writing, the fact is that I alone made that "discovery" and it was not in the lawsuit Posner says it was. It was from the knowledge I obtained of how the FBI works through all those lawsuits and it was not only in an entirely different and entirely unrelated lawsuit, it was not even from the ^{for JFK assassination} files of the Dallas office. That lawsuit was C.A. 78-0322. It was not filed until 1978. In a ^{for} King assassination lawsuit, C.A. 75-



1996,¹ which was filed in 1975, that I was able to determine, through records originating in the FBI's ^{Chicago office that} what later enabled me to prove that the Dallas FBI had that special index the existence of which it had already denied under oath. 5

Posner, model of historical research Ambrose says he is, misuses what he says Lesar said to make it appear that the FBI has no retrieval system, that save for this special index it had to read documents page by page to determine whether they were within any FOIA request. In fact the FBI had and has the most elaborate of indexes, overflowing with "see" or cross-reference cards.

That special Dallas index had no entry not already in the general index of that office. This special index had a special purpose the FBI did not want reflected at its headquarters. Because of the FBI's bureaucratic structure, with cases having "offices of origin" through which records are funnelled to headquarters, Dallas made this special index for the very special purpose of permitting FBIHQ to know ^{that} it had made available to the Commission. Control is the name of the FBI's game and this index was a means of that control in letting the FBI know what it had and had not provided to the Commission. u

All the information in it existed separately in the very large central indexes to all the Dallas FBI records. The FBI needed only its ¹⁹⁶ existed and virtually all-inclusive central index to retrieve all its JFK assassination records. This special index, which did not include "all," served only the one purpose stated above. —

Despite what "model researcher"/lawyer Posner says.

As he continues to allocate all government opposition to any disclosure of information only to obduracy and to opposition to the Act itself, Posner is specific in saying the government had nothing "to hide" in my suit for the records relating to the 5/

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FBI's JFK assassination testing. Again, having spent three days here, which means with ample opportunity to ask me, he again misuses what he says my lawyer Lesar said; (Page 421). In this Posner still again covers up for the Commission.

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This is one of the points where Posner admits that the Dallas curbstome of that missed shot was "chipped," as the curbstome dug up and in the National Archives is not. He also says that the Commission got from the FBI "the results" of its "spectrographic testing." Once again covering up for the FBI, Posner says that I sued only for "the underlying data." I also sued for those "results" that the Commission never did get. In that lawsuit, incredible as it may seem, impossible to believe as it is, the FBI swore that it had never put those "results" together or made any such report on them.

What we saw earlier relating to the FBI's testing of the curbstome when it knew it was testing a patch and not the impact of the bullet that caused the mechanical damage to the curbstome makes credible the FBI's claim not to have put a comprehensive report on the results of all its testing together in comprehensible form. It could not have done that and still maintained that there had been no conspiracy, that there had been a lone assassin.



And, to see that this could not be done in the future, it consigned that thin filmed record of that test to history's memory hole with the most ridiculous of explanations, that this was to "save space."

Without secret hearings where there was no legitimate need for them to be secret this kind of horrible fraud could never have been perpetrated.

The point I have been making about Posner's attribution of my work to others is not that he treated me badly. That bothers me little. The real point is that in all he

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does he covers up what he claims to be exposing and this includes covering up for those who failed us and themselves. Why he does it is not central. That he does it, is. Here we see how he does it. Any personal reasons he has are irrelevant. The foregoing shows what he did and how he did it.

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If Posner had not so often and so pointedly boasted of his need to make that close personal study of the Commission's evidence, including from the FBI, with that urgent need for him to make his own index of it, something he kept boasting about after his book was out, it might seem to be an unfair question to ask what kind of lawyer it is who cannot distinguish between incompetent, hearsay testimony, and that exists, and the carefully tabulated statement of the results of scientific testing, put on paper and explained on paper, which does not exist.

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By itself this tells us what kind of lawyer Posner is when he studied evidence in law school. It tells us what kind of man he is. And what kind of writer. It is another of Posner's self-descriptions.

If in that great study and indexing of his Posner did not find any such prepared and on-paper statement of results, as he would not have if he had sought it, he certainly, even if he had not taken a single case to court when he had what he described to the Chicago Tribune (of October 3, 1993) as his own law firm for two years after his two years as something a little less than as a "Wall Street lawyer," he certainly knew that the Commission had only hearsay testimony and had not a single reference in all its testimony to the FBI's preparation of any statement of "results" of the scientific testing Posner refers to (on page 421).

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While it is true, as Posner states, that "the FBI steadfastly refused to give Weisberg the underlying data," it is not true, as Posner represents, that this "underlying data is all that it "refused to give" me. It also is not true, as he says next,

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that this was from "obstinacy" only. What I state above with regard to the curbstome testing alone makes this apparent. The FBI was determined to withhold fact and evidence, and it did precisely that, with the Commission and ultimately to a lesser degree with me. Here "ultimately" means over more than the decade Posner refers to, from the time of my first request for it in 1966 through the last court proceeding, in 1981.

That a lawyer has no question about the FBI's failure ever to state fully all these testing "results" in any document that includes all the testing and all the meaning derived from that testing is that lawyer's own statement of his competence, his honesty, his intelligence and his knowledge of the law and his intentions in the work upon which he is supposedly engaged.

Posner does not even know that in so important an investigation the FBI never prepared any such thing and that it swore to the federal courts that it had not.

This is its own reflection of what is a "model of historical research."

This is, I think, too, enough time to devote to what Posner seeks to denigrate and ridicule as "A Religious Event" to those who did not agree with the Warren Report and said so.

Posner is a man, a scholar, a lawyer, a researcher and a writer who cannot distinguish between what is worthy of ridicule and what is an expression of patriotism, by even those who are misguided in it. It is a citizen's effort to correct governmental error or failings.

That, no matter how wrong they were in what they said, how they said it, what they sought or used as the basis for saying it or in any of the many other things those Posner incorrectly lumps together as of one mind as "conspiracy critics" did, said or wrote, is what all tried to do, exercise the responsibilities of citizenship in a country like ours.

On the other hand, Posner devotes his book to his effort, regardless of truth, fact, evidence, proof or any other consideration to covering up for and justifying the government and its misdeeds and failures, albeit with a few feathers wafted near the government wrist.

In his judgements of them he asks that he be judged.

He is.

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mailed did not touch
other writers but the
rest of his does apply
to him and to his
book (140)

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