

# Newsweek

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The terrible moments: President Kennedy slumps under assassin's gun

## Again, The Assassination

The assassination of President Kennedy sliced traumatically into the hearts and minds of people the world over, and ten months later almost all of them hailed the Warren commission report with the exuberant gratitude of a patient toward a doctor who has bound up his wounds. The report glittered with authority—who could challenge the integrity of the commission's seven distinguished members? Its documentation was massive—who could fail to be impressed by 469 pages of text, 408 pages of appendix, and 26 volumes of published testimony and exhibits? It offered finality—who did not want to seal up the terrible agonies and doubts of Dallas in the commission's confident verdict that the President had been shot by Lee Harvey Oswald acting alone?

But the doubts have never completely

died, and never have they been more thoroughly articulated than in a shrewdly argued, heavily detailed book published this week by a New York lawyer named Mark Lane.† Lane plots a highly selective course through the tangled stories of Lee Harvey Oswald, Jack Ruby and the events of November 22, 1963, stopping to examine only the areas where Lane finds the Warren report inadequate or misleading. But of these flaws he purports to find enough to warrant calling the report "a brief for the prosecution." Oswald was the accused; Lane maintains that "the evidence against him was magnified, while the evidence in his favor was depreciated, misrepresented or ignored."

Lane, at 39, is a charter member of the "Chief Justice Warren, Senators Richard Russell and John Sherman Cooper, Representatives Hale Boggs and Gerald Ford, Allen Dulles and John McCloy.

†Rush to Judgment. 478 pages. Holt, Rinehart & Winston. \$5.95.

the growing band of the report's detractors. Only a few days after the Warren commission was appointed, he was asked by Mrs. Marguerite Oswald (Oswald's mother) to represent her son's interests in the proceedings. When the commission turned down Lane's request, he struck out on his own—with sometimes infuriating exhibitionism. He interviewed witnesses independently and tried to run down the myriad rumors that spread from Dallas in the wild weeks following the tragedy. In lectures and debates throughout the country and in Europe, he attacked the commission even before it made its report—and thus kept flickering the notion that Oswald might have been the victim of a carefully executed frame-up. When the commission made public its vast array of testimony, Lane pored over every page, checking for weak points in witnesses' statements, for avenues of inquiry left unexplored, for discrepancies between the evidence and the commission's conclusions. The result: a 478-page defense brief which, though it never comes close to establishing Oswald's innocence, does bolster the accused killer's case with an advantage he never had during the commission's hearings—the deftly devised doubts and objections that can be presented only by a skillful lawyer totally committed to one side of the issue.

Some of the main subjects of Lane's exhaustive inquiry include:

**THE GRASSY KNOLL:** The commission found that the fatal bullets were fired from a sixth-floor window of the Texas School Book Depository, some 88 yards to the rear and slightly to the right of the President's limousine. Yet, Lane observes that, out of 90 witnesses interviewed by the authorities and able

to give an opinion on where the shots had come from, a full 58 thought the source was not the School Book Depository but a "grassy knoll" that slopes up from the right-hand side of the street. Seven out of fifteen men standing on the overpass directly facing the whole assassination scene reported having seen smoke in the area of the grassy knoll just after the shots rang out. This information, Lane notes, was never fully developed by the commission: "Instead of questioning them on this important point, the commission relied upon inadequate interrogation by counsel and the hearsay reports of agents of the FBI. Then it concluded that there was 'no credible evidence' to suggest that shots were fired from anywhere except the Book Depository sixth floor."

One important member of the Commission staff—Arlen Specter, now District Attorney of Philadelphia—dismisses these and other Lane charges. The assassination area, he points out, was surrounded by tall buildings on three sides and resounded with echoes like a man-made canyon. Auditory testimony on the source of the bullets ranged far and wide, as did reports of the number of shots (anywhere from two to six). The commission also showed in trajectory studies that the bullets that hit the President and Gov. John Connally must have come from the Book Depository.

**MAN OBSCURED:** One of the commission's most important witnesses was a construction worker named Howard Brennan, who was sitting along the President's route directly opposite the Texas School Book Depository. He testified that he saw a man come to a corner sixth-floor window several times before the motorcade arrived. When he heard shots as Kennedy passed, Brennan glanced up and saw the same man take aim with a rifle and fire his final round. Shortly afterwards Brennan gave police a description of the man that was apparently precise enough to enable Officer J.D. Tippit to identify Oswald as the suspect when he reportedly stopped him on the street some 45 minutes later. But Lane questions how Brennan, 100 feet away and six stories below the window, could accurately have gauged the appearance and the height of a man obscured in the shadows behind it. Moreover, Brennan failed to make a positive identification of Oswald in person at a police line-up later that day. Afterwards, he explained that he did not recognize Oswald at the line-up, but feared to say so publicly lest there be co-conspirators to take revenge on him. Lane points out, however, that this explanation was originally put to Brennan by a Federal investigator who called on him a few days after Oswald's death—and the reader is left with the impression of a man whose testimony was

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significantly strengthened by the author's anxiety that he should say the right thing.

**THE PRESIDENT'S WOUNDS:** John F. Kennedy was killed by a bullet that struck the back of his head, penetrated the brain, and set off shock waves that blasted away a five-inch jagged hole in his skull when the bullet exited. Lane does not really manage to come up with any serious objection to this key commission finding. He devotes considerable space, however, to the path of the other shot that wounded the President. When Kennedy was brought into Parkland Hospital, the doctors who treated him noted a small, clean wound in his throat, just behind the knot of his neck. Most of the physicians who saw it believed it to be an "entrance wound" because "exit wounds" are generally larger and more ragged—and this report gave wings to rumor that there must have been at least one other assassin firing at the President from in front.

The commission report, Lane charges, brushes off rather cavalierly the testimony of the Parkland doctors. But Lane himself ignores one significant fact: the Parkland doctors, trying desperately to save the President's life, had no occasion to turn him over and therefore never noticed another neat wound in his back. At the autopsy at Bethesda Naval Hospital that night, this second wound was discovered, identified as an entry wound (a conclusion borne out by inward-turned fibers around the hole in Kennedy's jacket), and probed to reveal a path leading to the wound in the throat. Lane's book capitalizes on the confusion recently pointed out by Edward Jay Epstein in his book "Inquest" (NEWSWEEK, June 13) about the position of this wound: the commission, on the strength of diagrams based on the autopsy, places the wound "near the top of the back of [the] neck." Other

autopsy sketches and the holes in Kennedy's clothing suggest that it was nearly six inches below his collar—and thus raise puzzling questions on the key point of the bullet's trajectory. These discrepancies are indeed disturbing—as is the fact that autopsy photographs which could resolve the difficulty were turned over to the Secret Service after being taken and never even requested by the Warren commission.\*

**THE UNSCARRED BULLET:** Far more unsettling is Lane's attack on the commission's theory that a single bullet tore through Kennedy's neck, then through Governor Connally's back, wrist and thigh—and then wound up practically intact on a stretcher in Parkland Hospital. Both Governor and Mrs. Connally believed this to be highly unlikely. Connally remembers hearing a shot, swiveling to his right to try to get a look at the President, pivoting back to the left when he couldn't see him, and only then feeling a bullet crash into his ribs. Mrs. Connally testified that the President clutched at his throat after the first shot, that there was then a second report and her husband crumpled in pain. But films of the assassination showed that the moment between first Kennedy's and then Connally's reactions to their wounds was too short to allow even an expert to manipulate the old bolt action of the pre-war Mannlicher-Carcano murder rifle—so either the wounds came from a single bullet, or else there was more than a single assassin.

The commission resolved the problem by subscribing to the single-bullet theory and surmising that Connally only realized he was wounded a second or so after the bullet struck. But, as Lane points out, this interpretation stretches perilously thin when one considers the bullet that is supposed to have wreaked all this damage. Its nose was hardly flattened, its body streaked only with rifling marks. Could so pristine a bullet have emerged from the splintering collisions that smashed Connally's fifth rib and fractured his wrist? Tests were run and the commission was satisfied that this was possible. But it is on this ground that Lane sows some of his most fertile seeds of concern.

**THE TIPPIT MURDER:** As for the commission's charge that Oswald killed Officer Tippit to avoid arrest, Lane bases his defense on two main argu-

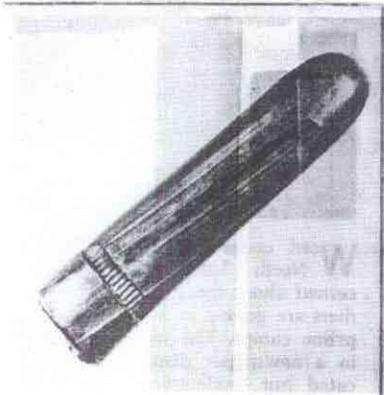
\*The whereabouts of these photographs and X-rays remain one of Washington's most puzzling mysteries. A diligent two-month inquiry by NEWSWEEK has failed to turn up a single government official who can, or will, give a simple answer to the question: "Where are the Kennedy autopsy pictures?" The Secret Service says it no longer has them. The National Archives do not have them. The White House says that Presidential physician George Burkley once had them but gave them to Mrs. Evelyn Lincoln "for delivery to the Kennedy family." Mrs. Lincoln, JFK's secretary, recalls no such transaction. Sen. Robert Kennedy suggests they are in governmental custody. But other sources close to the Kennedys believe they are probably being kept in a vault that can be opened only with the permission of Mrs. Jacqueline Kennedy.



Newsweek—Tony Hoito

Accuser Lane: A verdict prejudged

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The bullet: Pristine, but why?

ments: that Oswald did not have time to reach the murder scene, and that the lone eyewitness identification was faulty. Oswald's landlady saw him enter his room at about 1 p.m., leave three or four minutes later, and then stand at a northbound bus stop. The commission claimed that Tippit was shot at 1:15 or 1:16, the time that the murder was reported over Tippit's patrol car radio. But both witnesses who said they called in the report, Lane notes, testified that they waited a few minutes after the shooting—so the murder must have taken place before 1:15, leaving Oswald only about eight minutes to cover a distance just under a mile—a difficult feat unless he left home earlier than his landlady recalled or else hopped a southbound bus part way toward his encounter with Tippit.

There were two eyewitnesses to the Tippit slaying, and only one of them, Mrs. Helen Markham, identified Oswald as the murderer. But Mrs. Markham, as Lane pictures her, was one of the most confusing witnesses that the commission had to deal with: she seemed to contradict herself, she littered her account with discrepancies from the testimony of others who rushed up after the shots. Lane himself telephoned her in March 1964 and in their taped talk she described the killer as "a short man, somewhat on the heavy side, with slightly bushy hair"—which is at odds with Oswald's appearance on every score. This glaring contradiction was never explained, and Lane concludes that the commission's criteria for deciding what part of her testimony to believe "appear less related to the immanence of the testimony and the consistency with which it was offered than to the commission's disposition to accept only that which seemed to lend credence to its findings."

This, indeed, is the heart of Lane's contention—that whatever the soundness of the commission's conclusions, its method of investigation and treatment of evidence were flawed by a precise

position to complete the case that already had begun to be built against Oswald. He finds that witnesses who bolstered that case were uncritically credited; witnesses who weakened it were sometimes misrepresented or ignored. Most alarming of all, he cites a number of witnesses who claimed to have been badgered by the FBI to modify their evidence.

**Sense of Propriety:** Though Lane's book has not yet made the rounds of the commission's members and staff, they themselves remain steadfastly convinced of the accuracy of their report and the fairness of their investigation. Some Washington insiders, however, contend that the task was rushed, due largely to the insistence of chairman Earl Warren and, perhaps, pressure from the White House to complete the job before the 1964 elections. Warren's court sense of propriety, too, was a source of bitter frustration for some of the staff. It was he who refused, over staff protests, to have the autopsy pictures



Witness Markham: Old discrepancy

X-rays admitted even as secret evidence—Warren contended that it would be "tasteless" to look at pictures of the President's corpse. He also resisted calling Jacqueline Kennedy as a witness, in spite of her crucial vantage point at the assassination scene, and he gave in only when he found that she had discussed the assassination with friends. But with a short list of velvet-gloved queries prepared, the testimony was taken in the parlor of her Georgetown home. Her replies concerning the President's wounds—out of consideration for her feelings—were deleted from the published record and impounded for 15 years. Finally, President Lyndon Johnson himself was never called to testify. Most of questions for him was in fact prepared and submitted to Johnson's confidant Abe Fortas (then a Washington lawyer, now a U.S. Supreme Court Justice). Fortas returned a veto of the idea;

Warren, to the staff's dismay, agreed. "Rush to Judgment," at a quick reading, is an impressive document. Its style, except for some sarcastic sallies, rivals the Warren report itself for spare, dispassionate prose—for which Lane is heavily in debt to Benjamin Sonnenberg Jr., who edited the final version. Its massive substructure of research juts prominently into the text in the form of 4,526 footnotes. Yet once all this is said, the fact is that Lane has adopted the very trick of which he accuses the commission—carefully selecting the evidence to fit his case. It is perhaps more excusable for him—he is an advocate, not an impartial board of inquiry—but it is just as damaging to his assertions.

**Bizarre Web:** Throughout the book, Lane has taken advantage of the bizarre web of chance and coincidence that weaves through everyone's lives but stands revealed only when, as in the Dallas tragedy, a gigantic investigation digs into the time-crannies of history. Why, Lane asks darkly, did an automobile horn sound twice in the police headquarters basement—once when Oswald was brought out, and once just before Ruby stepped forward to fire his fatal shot? What was the significance of the rifle attack on witness Warren Reynolds and its astonishing aftermath? A few days after Reynolds told the FBI that the man he saw running from the Tippit murder scene did not seem to be

Oswald, he was shot in the head without apparent motive. An arrest was made, but the suspect was released when his alibi was supported by Nancy Jane Mooney, a stripper who once worked at Ruby's nightclub. Miss Mooney herself was arrested eight days later for disturbing the peace. Two hours after being jailed, she was found hanged in her cell and her death was ruled a suicide. The Warren report and testimony, thanks to its very thoroughness, contains plenty of the makings for tales of conspiracy—and Lane makes use of them all. But despite its flaws and its overreaching, Lane's book deserves a reading, albeit a critical one. The Kennedy assassination was one of those epochal events that will command attention and debate for many years to come. If there are major flaws in the commission's work, doubts now scattered will only coalesce in the course of time into widespread suspicion that this notorious murder was never fully solved. Better that the doubts should be resolved promptly in a confrontation of Lane's one-sided but exhaustive case for the defense with the voluminous record of the commission's own findings. Lane believes "the final failure of the commission to be that it has prepared a fertile ground for the cultivation of rumor and speculation." His book, at the least, will put that proposition to the test. end

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