

Where Warren's attacks 'malicious

SUNDAY TELEGRAPH

SEPTEMBER 25, 1966

critics fail: or ignorant

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an authority on law on both sides of the Atlantic, finds little substance in the criticisms of the Warren Commission Report by two authors whose books were published last week in Britain

"IF the Warren Commission had allowed Mr. Lane to contest the evidence before judgment there would have been no need of his book." So writes Professor Trevor Roper of Oxford University in an introduction to Mark Lane's "Rush to Judgment," one of two further books about the Kennedy assassination published in English editions last week.

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, emphasised 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 reservation, 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.

Similar question

in the Vassall case

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 rumours concerning the favours 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 rumour 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

"Rush to Judgment" by Mark Lane, Bantam Books, 42s.

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



MARK LANE
Three tests of confidence

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, Prof. 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 sixth-storey window in a building which the motorcade had just passed. The assassin was J. Lee 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 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 situation 100 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.

What the Professor failed to say

Prof. 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 5ft. 10in. 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 Prof. 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, 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.

Mr. Lane refused informant's name

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 honour 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



EDWARD JAY EPSTEIN
An 'incredible suggestion

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

nate him. 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 jeopardise 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 Nov. 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.

Ruby wanted lie-detector test

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, the extreme Right organisation. 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

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 testi-

mony." Most of Mr. Lane's other criticisms in this book are of similar calibre.

The case as seen by Mr. Epstein

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 Com-

mission'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 rumours."

This is obvious because, as Mr. Macmillan said when appointing the Vassall Tribunal, unchecked rumours 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 rumours be dispelled regardless of the

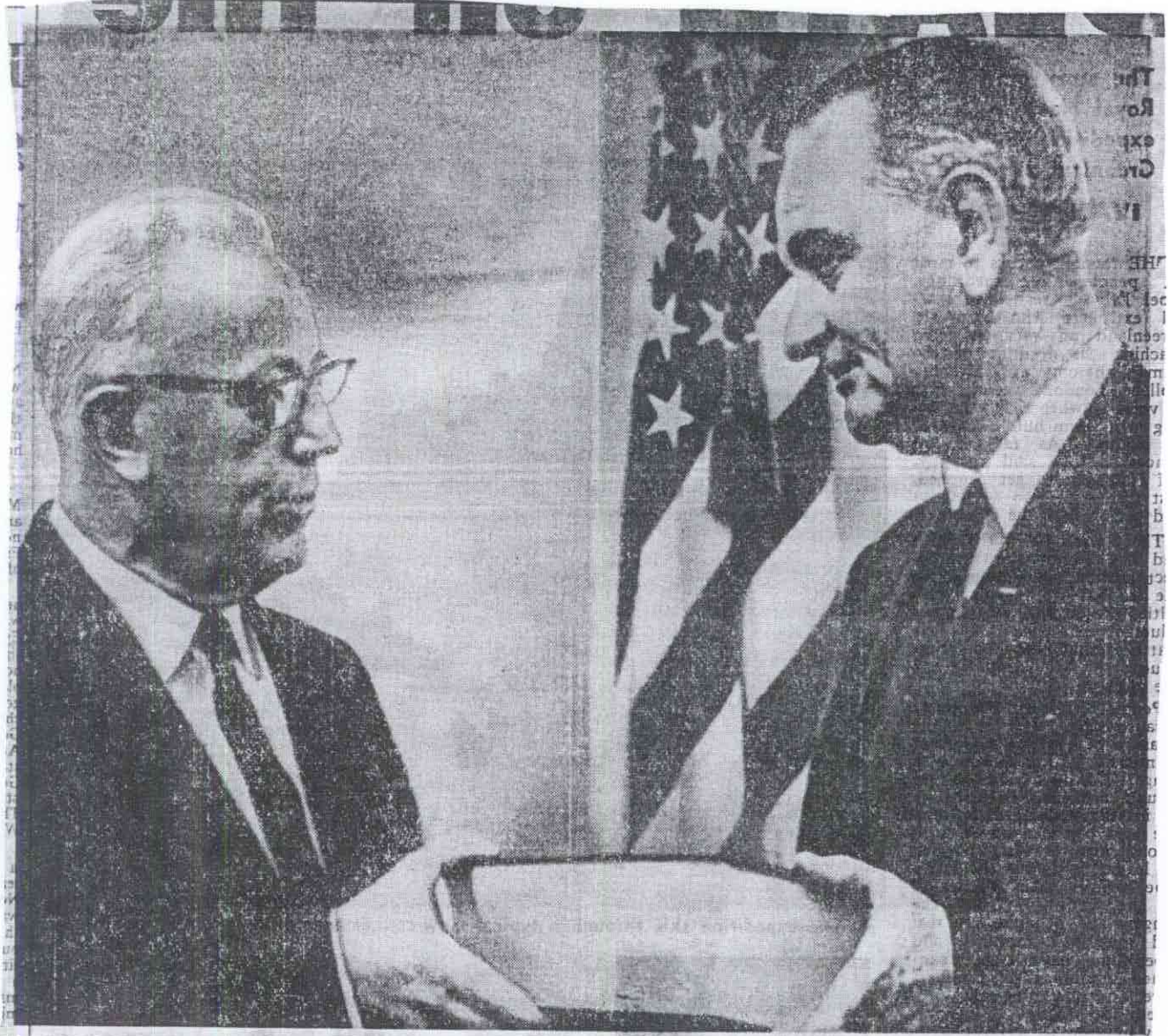
"Inquest" by Edward Jay Epstein

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."



Mr. Earl Warren (left), U.S. Chief Justice, handing the Warren Report to President Johnson two years ago. This was only the beginning of the controversy.

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 conflict," 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 this category.