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Fall Guy?

Oswald: Assassin or

Book Review

THE PRINTED TESTIMONY INVITES NEW QUESTIONS ABOUT OSWALD'S GUILT

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"We are the only appellate court the ghost of Lee Oswald will ever know," Murray Kempton wrote in *The New Republic* (10/10/64.) But in fact we are more than that. The second assassination that ended Oswald's chance for trial has made the American people his jury. It is a slow jury, but an ultimately indomitable one, knowing as it does that, until proven guilty, a man is to be considered innocent even of the assassination of a President, and insisting, as it does, that the Case for the Prosecution (as Kempton judged the Warren Report to be) is only half of the story. It is now waiting for the Case for the Defence. When the Defence has been heard, the American people will re-

REPORT OF THE WARREN COMMISSION, Bantam Books, \$1.00
OSWALD: ASSASSIN OR FALL GUY? by Joachim Joesten, Marzani & Munsell, \$2.50

tire, deliberate, announce a verdict: Lee Oswald could hardly ask for more. Kempton's was the first major Establishment assessment of the value, probative and otherwise, of the Prosecutor's case; the latest is Dwight MacDonald's critique in the current issue of *Esquire*. Properly, both are assessments rather than critiques, examples of sharp and insightful scrutiny of the mouth of this Gift Horse. A critique, on the other hand, is a thoroughgoing analysis of the entire horse, and that, to date, is lacking. But the material for it is being assembled, analyzed and considered, and a case is being built by accretion. So far, unfortunately, that

analysis has largely been outward, into the physical evidence. Analysis inward, into the testimony, is only just beginning.

The brunt of most of the external analysis, so far, has been borne by a handful of journalists (Joe- sten, Buchanan, Sauvage of Le Figaro, and several others) and by Mark Lane, the attorney. In combination, they raise the strong objection that the Warren Commission's findings "have to be considered in themselves inconclusive... based on insufficient and secondary evidence." (Vincent Salandria, Liberation, Jan. 1965.) No sooner is the ink on Dwight MacDonald's article dry ("It proves its big point beyond a reasonable doubt--which, by the way, doesn't mean beyond all doubt--namely, that Oswald killed the President and there were no accomplices") than there appears in the March issue of The Minority of One an article by Harold Feldman demolishing the Commission's claim that no credible evidence exists that shots came from anywhere but the Texas School Book Depository Building. Since the bulk of this evidence is taken in testimony, all that was necessary was to show that the Commission's interpretation of that testimony is not in accord with its own printed records: that the overwhelming bulk of testimony in fact indicates the grassy knoll to the right of the overpass as the most likely shot source. This does not by any means rule out the TBD: rather, it indicates that more than one person was firing.

Additionally, Salandria's articles (Liberation for Jan. and Mar. 1965, of which I have seen only the latter) on the analysis of the shots, trajectories and wounds -- indicating that the President suffered one entry wound in the front of his neck and a sep-

arate wound in his back-- support this likelihood. In this light the Commission's failure even to consider these possibilities (since they would destroy the Government's Case, that Oswald and Oswald alone killed the President) is much more grave.

For the charge against the Commission is slowly becoming one not so much of errors of omission as of commission; that, in fact, wilful distortion was indulged in for reasons unknown. From the beginning, doubt about the Commission's ability to achieve its stated purpose has lent a frightening and nearly totalitarian aspect

to the case: it is the merest step from the concept that the Commission will not do justice to the investigation to the concept that it can not. The behaviour of the Commission is in this respect scarcely reassuring: it operated from the beginning in an air of confidence that Oswald would indeed be shown to have acted alone; reports of its "confidential" process and many of its (supposedly not yet formed) conclusions were transmitted regularly to the newspapers, including the unsettling comment by Chief Justice Warren that some of the facts about the case would not be available in our lifetimes; the testimony reveals that the witnesses were subject to continual leading and pressuring toward the pre-ordained conclusions; testimony was not, on the other hand, taken from scores of people whose facts were strongly felt to be relevant by many; and, since suspicion had already fallen not only across high government figures but governmental and local (Dallas) agencies themselves, it was not conducive to reassurance that it was the word of these very agencies (the FBI, the CIA, the Secret Service, etc.) that was taken as final in near-

ly all cases, most spectacular being the naive inquiry by the Commission as to whether or not the FBI or the CIA thought that Oswald had been acting as

an undercover agent of theirs. (No, said the FBI and CIA, not so far as we know. All right, said the Commission, and dropped the subject.)

It is just this sort of peculiar and seemingly purposeful distortion of facts in what can not but seem the most clumsy of all possible ways--by publishing the very volumes of testimony that contain the simple refutation of a great many of the Commission's conclusions--that has led Joachim Joesten, in his book "Oswald--Assassin or Fall Guy?", to charge flatly that "(a) Oswald was completely innocent of the assassination, and (b) it was the work of a powerful conspiratorial group." He clarifies that he does not mean more than "innocent as charged" for Oswald, he thinks, is involved in some manner. (And a peculiar idea is beginning to grow in the same manner about Jack Ruby.)

The book picks several

crucial points for examination (the Elm Street procession detour that brought the President past the TBD; the blunder of having the first police alert for the assassin go out five minutes before the assassination; the behavior of District Attorney Wade; the assassination of Oswald; the wounds; Tippit's killing, etc.) and relates in

large part the contradictory nature of the evidence, and the manner in which it was changed and revised by the officials and agencies, to that testimony available before the publication of the Report, from news reports, independent investigations and so on.

One that has always in-

trigued me, which Mr. Joesten resuscitates from the grave of journalistic indifference, is the story of Helen Louise Markham, the sole eyewitness to the actual shooting of Tippett. Mrs. Markham is the woman who identified the killer as "bushy-haired." In due course Mrs. Markham's testimony changed to resemble Oswald more, but not before (according to a recent issue of The Realist) her son—who had offered to sell information he had about the shooting -- fell to his death from the only window in the Dallas jail that was not grilled, and not before she and her husband had been threatened by the Dallas police.

The violence that has surrounded the assassination has never been publicly discussed. The death of Mrs. Markham's son is only one of a series of deaths and shootings that began on Nov. 22, 1963, and which have not ended yet. Mrs. Markham's testimony is not included in the paper back volume of selections, nor is that of the man who concurred in the "bushy-haired" description because he had himself been shot by the same man and left for dead. The bushy-haired man had an alibi, a Dallas stripper who was later found hanged, an apparent suicide, in her jail cell in Dallas. Others are dead, others missing.

Despite its omission of much of the pertinent testimony (the interested are driven, inevitably, to the full 26 volumes of exhibits and testimony, where the full story lies for those who care to read it) "The Witnesses" is in many ways the most valuable book available. One is dealing, in the Warren Report, with conclusions, distortions, and bare statements that X is or is not a "credible" witness -- but the singular fact about the entire case is its very incredibility; it has never for a moment made sense. In "The Witnesses," on the other hand, is laid out the information upon which

these conclusions were based, and the story it tells is vast and wondrous indeed. Some of the most astounding characterizations form gradually and brilliantly through the indirect method of human speech, recollection and idiosyncrasy: Lee Harvey Oswald comes to life, and Jack Ruby, and Marina Oswald, and Ruth Paine, worthy of Dickens at his best; the star is the incredible and nearly Falstaffian Mom, Marguerite the Invincible, for whom the mere existence of others is a subtle affront to her dignity. And the incidents take flesh and relate to human beings, and gradually a tale unfolds, a tale, indeed, Chief Justice Warren, that we may not live to hear told. In our lifetimes.

The trouble with assessments like MacDonald's and Kempton's is that they do not examine the contention against the evidence but against plausibility, rationality, and perhaps most important, acceptability: they cannot entirely consider the truth or falsehood of a matter until they have considered what the consequences are likely to be. Some such spirit evidently possessed Mr. A.L. Wirin of the ACLU in his recent remarks to the effect that, if Mr. I.F. Stone (whom we trust) thinks Oswald acted alone and the Rightists (whom we do not) do not, simple common sense must suggest whom to place our credence in. But our credulity is not at issue. Our ability to form opinions based on evidence is. The Warren Commission has given us theirs; despite its utter improbability, and its conflicting and distorted testimony; if nothing else, it would mean that the schism in the American psyche is much deeper than he is now prepared to think.

Joesten, on the other hand, goes so far as to

suggest the implication of powerful right-wing figures such as H.L. Hunt and General Walker as well as members of the Federal investigative agencies and some of the Dallas Police. It is interesting to note, therefore, that much of the attack on his book has come from the liberal press, equalling in violence the venom we have come to expect from the Radical Right, and underlain, as with the Right, by fear. Very much of the liberal commitment in the United States is based upon the need to believe that such a conspiracy as Joesten outlines (Thomas

G. Buchanan has a different one, which I have not read, in his "Who Killed Kennedy?") cannot happen in the United States and that Johnson's victory over Goldwater proves it. Neither, of course, is the case. Our fear of Oswald's possible complicity in a larger conspiracy is simple fear of the present and of what it would mean we would then have to do. The American liberal is trained in the twin precepts of revisionism and compromise, justified by group or mass approval or need, and the existence of conspiracy would shake irrevocably the tenuous grasp he presently has on his idea of the power of the Right. Thus the fear that Oswald might have been involved beyond himself is precisely what undermines the present liberal attempt to determine whether he was or not, and damages its sincerity.

Truth can never be discovered until there lies within the investigator the willingness to embrace it whatever it might be. The examination in detail of the testimony itself (especially that associated with Ruby, the only witness we have who knows whether or not he acted for reasons other than an outburst of patriotic emotion for "Jackie and the kids") must keep pace with the minute examination of evidence which, day by day, is building a stronger -- and more frightening -- Case for the Defence.

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