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# OSWALD

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## May We Have Some Facts, Please?

by Murray Kempton

The Warren Commission began June in the prayerful but barely confident hope that this will be the last month of six through which it has searched for a definitive judgment on the murder of President Kennedy.

Commission Counsel Lee Rankin still had a long enough list of unheard witnesses to expect that he would need close to two weeks for its disposal. There would remain the examination of 12,000 pages of testimony, the assessment of a mass of physical evidence, and then the final draft and the discussion and the approval of its report. On June 1, the Warren Commission sat as a court which had neither examined all its witnesses nor commenced its final arguments. Such a moment, so near the moment of decision, is peculiarly one when we can demand of a court that its mind move upon silence.

And so, that June 1 on the front page of The New York Times, there appeared this headline: "PANEL TO REJECT THEORIES OF PLOT IN KENNEDY DEATH. Warren Inquiry Is Expected to Dispel Doubts in Europe That Oswald Acted Alone."

This banner described a report composed by Anthony Lewis, the *Times'* specialist in the processes of federal justice.

"The commission's report," Lewis wrote, "is expected, in short, to support the original belief of law enforcement authorities in this country that the President was killed by one man acting alone, Lee H. Oswald." The commission, he went on, is troubled by those speculations, general in Europe if infrequent here, that Oswald could not have acted alone and that Mr. Kennedy was the victim and Oswald the pawn of a conspiracy.

"A spokesman [italics added] for the commission said that none of these critical works, foreign or domestic, had come up with any new factual information. He said the commission had found 'just a rehash of the same material. The same questions and each man's conclusions'.

"The commission spokesman expressed the conviction that its report, when issued, would completely explode the theories published [abroad]. He said that not

even the authors of these theories would stand by them.

"We'll knock them out of those positions", he said."

What we know about Anthony Lewis' own discretion gives us the right to pronounce the harshest judgment possible on the discretion and fairness of the official who uttered the statements he quotes. Lewis has a reputation for care and honor special even for the *Times*. That honor would not permit him to use the word "spokesman" except to describe a source both official and prepared to speak for the entire body he serves. The vulgar and aggressive tone of these statements must be taken then as an official voice of the Warren Commission; and it is the voice of a court which has not yet finished hearing the case.

This spokesman tells Mr. Lewis that there were just three shots fired upon Mr. Kennedy and that all "unquestionably" came from the Texas School Book Depository. He does not, of course, feel that he has yet the liberty - or, more seriously, seem to recognize the necessity - of giving any of us the hard-and-fast medical and ballistic evidence which we must have to decide whether these are statements of fact or mere assertions. No declaration, however official, which is unaccompanied by the release of tangible, relevant evidence, could serve to allay the doubts of Europe. The character and the tone of this particular performance can, in fact, do nothing better for our country than to arouse the distrust of those great numbers of us who until now, have held to their faith in Mr. Justice Warren and in that system of equity he has so delicately and bravely represented for the last 10 years.

The Warren Commission has come to the moment of decision, and now the only voice we hear from it takes us back to Lord Jeffreys, so exacerbated by the mere sight of a defense, that he cannot endure the formal processes of its trial before shouting it down from the bench. That posture in this case could hardly spring from the inner nature of Mr. Lewis' "spokesman"; it comes from the outside and from a peculiarly distorted vision of the commission's charge.

The Warren Commission began with the serious handicap of a conception that its duties included a cos-

metic job on the American image. Its assignment was not just to find out the truth about a terrible tangle of events but also — one fears even primarily — to reassure and unite America and to reassure and quiet down Europe. This aspiration reflected itself in the composition of the commission. It cannot be said that every American trusts every member of the commission; but certainly every member happens to be trusted by someone or other whose good opinion is worth having. Senator Russell is trusted by Senator Eastland among others; Congressman Boggs is trusted by President Johnson among others; Congressman Ford is trusted by the more curious and serious members of the House; Senator Cooper is trusted, among many others, by the more socially responsible of the well-brought-up; Chief Justice Warren is trusted by those who have learned to depend on him as their protector against the oppressions of irresponsible agents of the state; and former CIA director Allen Dulles is trusted by those who revere agencies of the state to the very extent that their functions are secret and beyond any control except that provided by their own inestimable, because classified, good sense.

#### *How Little We Know*

John J. McCloy is particularly trusted in Europe. There have, in fact, been intimations in recent weeks that, when the Warren Commission reaches its decision, Mr. McCloy may be asked to tour the continent explaining its report to skeptics. That would be an extraordinary anticipation of the opinion and a strange projection of the future service of a judge who could hardly yet have made up his mind. But then every member of the commission seems at once a man of notable personal integrity with a history of being ready to render any sacrifice his country, that is his government, may ask of him. These are admirable qualities by themselves; they do not always abide comfortably together. For 20 years now, our government has been competing with the Soviets, now over which shall be the most trusted and now over which shall be the most feared around the world. The latter, harsher side of this engagement was the commitment of Allen Dulles' career in government; we take nothing away from his private integrity when we say that the Soviets could hardly have respected the CIA if its director had not been a man ready to lie for reasons of state. The gentler side has been the export of the American image; and that has made salesmanship a prime function of the patriot, and conditioned government through most of the fifties to think not of how America was but how it looked. And so that government would watch indifferent when thousands of its own citizens were insulted in public places because they were Negroes and then

would rise in mechanical outrage whenever the same thing was done for the same reason to the secretary of an African legation.

The sin was not the flesh of the injustice but the paper. It was a dreadful standard, and its spirit survives intact to shame us in the voice of a spokesman for the Warren Commission who, at the one moment above all others when he should be sitting alone and turning in his private mind the terrible personal judgment he has been appointed to make for all of us, instead cares only to cry out in a public place his complaints about and his promise next month to crush the opinions of irrelevant and alien strangers.

All that I have said to this point has talked about the Warren Commission as though it were a court and about its members as though they were judges. That, of course, may not have been the notion behind their appointment; the commission may have been conceived as nothing more than a transient instrument to promote foreign relations and to insure domestic tranquillity. But, if it was politics that put them there, it is history which holds these men now, because they are all the servants it has. They sit under the claim of history and of all we owe the memory of John F. Kennedy and, let us not forget, the ghost of Lee Oswald. If the burden of service to all these things does not demand from these men the conduct we expect from a court of law, then just where is the court of law whose functions are so much more consequential than theirs as to demand a dignity, a decorum and a detachment that we do not expect from them?

For one thing, the Warren Commission must be all the inquest we can ever have on the murder of Mr. Kennedy, a person whose loss is a wound unhealed. We forget how little we know about his death.

We do not yet know — without a medical finding we have only allegations from what direction Mr. Kennedy was shot, or with what sort of bullet, or in precisely which parts of his body or even how many times. We do not know these things because, for six months, the Warren Commission has kept the direct physical evidence secret. It is hard to understand why this is necessary; still most of us take the necessity on faith because most of us trust the commission, although that faith might be stronger than it was in the beginning if members of the commission had not so consistently breached decorum in discussing the evidence it withholds.

The pattern has been to say what this evidence shows without ever showing the evidence. The commission's spokesman tells Anthony Lewis, how many shots were fired and where two of them landed without offering the medical report upon which I certainly hope and would like to believe any statement from an official source would be based. Another commission source tells the *New York Herald-Tribune* that "FBI specialists

on hairs and fibers have told the panel that scientific deductions point to Oswald as the gunman."

Dulles is the most open occasional source of morsels from the classified file. Since he has retired, Dulles is the only member of the commission who does not have near-full-time employment elsewhere, and, as the member with the steadiest attendance record at the commission hearings, seems to have acquired some sense of a host's duty to the reporters condemned to wait outside. Dulles observed one afternoon that the commission had just learned that the putative murder rifle had upon it "the finger prints of Lee Oswald, among others." It is a problem with this case that, when a commission source offers this sort of canape of information, he so often raises more questions than he settles. Who, to take a case, are these "others" whose finger prints show up on Oswald's rifle?

These fragmentary revelations seem to have come out of no impulse higher than occasional annoyance at skeptics. There is something uncomfortably petty about a man who locks up a document and then complains about the ignorance of another man because he hasn't read it. And it is hard to have confidence in a commission which has a spokesman who is so irresponsible as to leak his version of classified material on no better excuse than to show the irresponsibility of an outsider.

The trivial nature of this performance would be less damaging to the commission if it did not take place in an atmosphere where the most detached and conscientious observer can hardly find one other direct source for the slightest coherent public record of some of the most critical events of the day Mr. Kennedy was killed. What do we really know about Lee Oswald's movements in his errant progress across Dallas?

#### *The Commission's Duty*

There seems, for example, to exist in print nowhere a direct quotation from a witness who saw Oswald arrested in the movie theater. The police said there were 20 persons in the audience, and they were unusual persons indeed if not one of them rushed to the Dallas News with his memory of this historic moment. We may assume in fairness that the FBI swore every witness to silence pending his appearance before the commission; it is a sound rule that the more a witness relates his experiences to reporters, the less useful he is to courts of inquiry. But that rule would seem all the more to place upon the commission the restraint of issuing all the case testimony about Oswald or gossiping about none at all.

For what we really know of official police findings so far is the extraordinary exposition District Attorney Henry Wade delivered of the case against Oswald a few hours after Jack Ruby killed him. The flavor of

hard fact in the police case is conveyed by Wade's answer to the reporter who asked him if Oswald was in front of his boarding house when he "shot" officer J. D. Tippett.

"No," Wade answered, "it's not in front of the boarding house. I don't have it exact. It's more than a block." The District Attorney of Dallas was prepared to arraign a man for a murder whose precise location he had not bothered to find out. After that, one of the Warren Commission's assignments would be to raise the police work on a crime likely to touch more of us than any in our life time to the level prevailing in an ordinary slum murder in New York.

But police work is not the commission's largest responsibility. It and it alone among official bodies might have healed a violated public order. The ghost of Lee Oswald represents one violation of the public order — not only because he was murdered while in custody, but because he was convicted by the Dallas police before he had even been arraigned. That is not the smallest among the wounds we had a right to expect the Warren Commission to mend. And now a spokesman for the commission has been quoted in *The New York Times* as convicting Lee Oswald before its decision is written. And we have not even the small consolation we had in the case of Henry Wade. We cannot declare that this thing was licensed by a man alien to us. Mr. Lewis' spokesman represented himself as licensed to do what he did by the Chief Justice of the United States; and those of us who had hoped that here at last we could witness the restoration of the dignity and tradition of the great republic must now see that the main result of this process so far has been to bring down the dignity of, among all persons, Chief Justice Warren.

The report of the commission is still to come, and when it does, we shall have for the first time at our disposal the material upon which we can approach some judgment on what happened in Dallas. But the prelude to that report, I am sorry to say, in no way suggests that Justice Warren's commission can write a report which, by itself, will relieve us of all further thought about this case. There is in me a devil which makes me want Lee Oswald alone to be guilty, because I do not want to think of my country in the image any other explanation at once evokes. That devil, I am afraid, sat at the elbow of Anthony Lewis' source when he displayed his conviction that his duty was not to the public order but to our international image. And so all of us are alone now, and we have to try to read all those 12,000 pages of testimony to come, and remember that this devil will sit always beside us and we have to try not to listen to him and be careful not to neglect any evidence of his presence beside these judges in their courtroom. And from this process we must try alone to come to a judgment each of us trusts.