

Mark Lane vs. Melvin Belli

Debate on Warren report blacked out

By PEGGY DENNIS

SAN FRANCISCO — A silence-boycott was clamped down last weekend by every daily newspaper in the Bay area on one of the most controversial issues in the country.

Not one word appeared in local newspapers about the first organized public debate on the Warren Commission Report that took place Oct. 9 at the Masonic auditorium with three nationally prominent lawyers arguing about the report's conclusion that Lee Harvey Oswald was President Kennedy's lone assassin.

Phone calls by this reporter the morning after the debate to San Francisco's three daily newspapers, The Chronicle, The Examiner, The News Call Bulletin, and also to The Oakland Tribune, resulted in practically identical replies from the city desks: "No, we did not send anyone to cover the Warren Report debate last night."

If the newspapers were not interested, the public was; some 2,500 paid admission to hear the debate.

BIG ATTRACTIONS

Not even participation of this city's two colorful attorneys, Melvin Belli and Jake Ehrlich, whose every word and gesture usually makes news here, seemed sufficient to break through what appears to be a conspiracy of silence concerning any public criticism of the Warren Report.

If major news media are seeking to declare the case closed, New York civil liberties attorney Mark Lane, a former state Assemblyman, may well be the indefatigable obstacle to that aim.

Defense of the Warren Commission and its findings rested, in last week's debate, in the hands of Melvin Belli, who attracted public attention as defense attorney for Oswald's killer, Jack Ruby.

Belli got a frequent assist

from Jake Ehrlich, the criminal trial lawyer who had a television series, "Sam Benedict", created in his image. The audience on occasion shouted down Ehrlich's stepping out of the role of moderator to express personal views at length and particularly when he tended to ignore the some 100 questions that had been sent up to the debaters from the audience and proceeded to ask most of the questions himself.

DOUBTS VOICED

That Lane's arguments stirred up doubts and questions among his listeners was apparent as this reporter wandered through the auditorium and spacious lobbies during the intermission break and again at the debate's end. In small groups people talked and argued, on the basis of Lane's contentions.

In the balcony, where seats cost \$1 and \$1.50 each, the crowd was young, the majority were students from S.F. State, the UC Berkeley campus, and Hastings Law School.

In the higher-priced downstairs section the majority were in the mid-thirties and mid-forties age bracket. From the wisps of conversation overhead, many were teachers and lawyers. A number had copies of the Warren Report and followed their texts closely when quotes were read from the platform.

BELLI'S PLEA

Belli's prime defense was his oft-repeated, dramatically gestured cry: "If we cannot

trust the FBI, the CIA, and Earl Warren, then God pity us!"

He accused Lane of "hurting our national image" with his persistent efforts on Oswald's behalf and his implications abroad that "there is a conspiracy."

Belli declared, "We have to tell the world we can come up with an objective report." And he asked Lane, "What are you

contending—that the FBI, the CIA, the police, everyone is trying to protect someone?"

Although Lane's attack upon the many weak spots in the Warren Report was, in the main, more convincing than Belli's line of defense, the fact that Lane consistently bypassed Belli's key question left many in his audience during the intermission and at the evening's end asking each other: "But why?"

In the debate, as on past occasions, Lane did not venture

to answer the question: in your opinion, what explains the Warren Commission's method of inquiry that you term is a violation of democratic due process and its flagrant rejection of such evidence that tends to disprove its claim of Oswald's lone guilt?

This question was put to him again by this reporter after the debate and Lane was surrounded by questioners on the platform. Part of his reply was the same he has given on previous occasions.



IMAGE-CONSCIOUS Melvin Belli presented this image of himself as he brushed aside a newsman's microphone cable while visiting his erstwhile client, Jack Ruby, killer of Lee Harvey Oswald in a Dallas, Tex., jail cell.

"I am not interested in speculating as to their reasons," he said. "I want only to place the questions to show that the Commission denied a fair hearing to Oswald before finding him guilty."

Then Lane added, for the first time, "You heard Mr. Belli tonight speak so much of the need to protect our national image. Maybe Mr. Belli has given you the answer to your question."

PRO AND CON

Touching briefly and lightly on several specific points of evidence on which the Commission based its conclusion of Oswald's guilt, Belli declared, "I am satisfied there are men in prison today and men who have gone to the electric chair on one-fiftieth of the evidence there is against Oswald."

Lane retorted, "But they had a trial."

While the evening was studied with appreciative laughter and applause as one or the other debater scored a fine point or came back with a witty repartee, one had the same uneasy feeling as when one had laughed nervously at the "Dr. Strangelove" movie. The ghosts of President Kennedy and Oswald hovered over that speaker's platform — and over the Warren Commission as well.

At one point in the rapid give-and-take, Lane was asked, "How do you account for Oswald's movements immediately after shooting the President?"

He replied, "I'm at a disadvantage there. Your client (Jack Ruby) killed my client before he could tell his story, so I can't answer for him."

When Belli pleaded, "we have to rely on the integrity of the

witnesses that the Commission accepted," Lane retorted, "Do you accept prosecution witnesses without cross examining them in the courtroom?"

Lane charged the Warren Commission "never got the facts in its lifetime"; that it based its study upon the findings sifted through by the Dallas police and the FBI; that it refused to see witnesses whom the FBI had ruled out ahead of time.

He dealt in some detail with what he charged were discrepancies and conflicting evidence available (that the Commission refused to check out) concerning eyewitness reports of both the Kennedy and Police Officer Tippit shootings, the palm print on the gun barrel, the type of gun used, the direction from which the President was shot.

IMAGE AND SUBSTANCE

Lane's main charge was that the Warren Commission Report is a "prosecution document" that finds Oswald guilty not only in absentia, but without participation of defense counsel to cross examine witnesses, to challenge evidence submitted by the prosecution.

This, together with the fact that the commission worked "behind closed doors," that all testimony is marked "top secret," and the public is given only officially-approved hand-out statements and conclusions; Lane charged, "is a violation of American democratic due process."

In his rebuttal Lane said bitterly, "I'm tired of this plea for concern for our national image. I'm more concerned about the substance of our country."

Notes and Communications

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Studies on the
LEFT

Nach Goldwasser Uns?

James Weinstein

James Weinstein is an editor of *Studies on the Left*.

IN HIS COMMUNICATION on the Oswald case Staughton Lynd closes with the observation that "fascism in America" is a "real and present danger." The conclusion does not flow from the body of his remarks (which I find cogent and relevant), but gives a dramatic and possibly misleading twist to the meaning of the official non-investigation of the Kennedy assassination. Lynd himself gives a better lesson: nobody in a position of power in the United States cares enough about the truth to risk his political career in an open and honest investigation. Put another way, the preservation of the mythology of police, FBI and CIA integrity and disinterestedness is more important, even to the ex-President's brother, than a searching and independent look at the circumstances surrounding the murder of the leader of the "free world." The death of President Kennedy, whose private life we were all made to share, was shocking enough to make men stop and question the moral superiority of our society, the more so if it were found that some of the most sacrosanct defenders of the western way of life were in any way implicated. An investigation independent of the FBI, the CIA and the Dallas police was thus out of the question. Similarly, it became necessary not to take the risk of discovering that the assassination might be more than the work of a single aberrant individual.

But to raise the question of fascism in this context leads us off in the wrong direction. Lynd does not make clear what he means when he tells us that the perspective for the coming period is fascism; however, two possibilities come to mind. First is that the assassination itself was the work of men with a fascist mentality and a fascist purpose—that it was carried out in the belief that Johnson, as President, would be significantly less liberal than Kennedy. But even if this theory is correct it should be clear that the assassination served no such end: that the assassins misunderstood the nature and strength of our liberal "Establishment." The Johnson Administration is as committed to the preservation of the Cold War consensus of the large corporations, organized labor, liberal religious groups, and the official Negro leadership as was

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Kennedy. Indeed, if there has been any change it is in the direction of a slight diminution of the ideological content of the Cold War, a tendency to regard foreign policy more openly in terms of power blocks and economic interests.

The other possible interpretation is that the failure of the mass media to examine honestly the official story of Kennedy's murder, or to publish most of the evidence tending to contradict the FBI version, along with the Bureau's harassment of the many witnesses who have offered conflicting views, are themselves evidence of a fascist-style manipulation of the public mind. Here Lynd is on firmer ground, especially in the light of the Warren Commission's abject failure to conduct an independent investigation and the use of the prestige of the Chief Justice to deny the right of free inquiry. There are, indeed, many similarities between American society today and that of Germany in the years before and during Nazi rule, and the systematic manipulation of public opinion by the government and the commercial press is one of them.

There are other parallels. One of the most striking of these has recently been pointed up by the almost paranoid reaction especially on the part of Jewish liberals and radicals to Hannah Arendt's brilliant demonstration in *Eichmann in Jerusalem* that it does not take evil men to do incredibly evil things. Like so many American bureaucrats and military men, Eichmann emerges from Miss Arendt's account as a man of very limited ideological commitment, interested primarily in advancing his career within the moral framework established by his society. To most Americans, of course, Nazi morality is more obviously insane than is their own, but the point is that Eichmann carried out his part in the "final solution" not out of any uncommon hatred of the Jews, but simply in order to win favor in the eyes of his superiors: to gain respectability and to advance his status. In this sense he was the prototype of those Americans who help plan and execute the "defense" of the "free world" in Viet Nam or Cuba. More important, just as the German people were unconcerned over the fate of the Jews (most were anti-Semitic in any case and looked on the Jews as not fully human) and did not want to know what was being done to them, so most Americans are determined not to know what we do, or "aid" others to do in the colonial areas of the world, and are only reluctantly and partially aware of our own Nazi-like racial oppression in the deep South. Any American could know about the use of jellied gasoline to wipe out entire villages, or the use of chemicals to poison and defoliate agricultural communities, or the perpetual round of bombings, maimings, shootings, and murders in Mississippi and Alabama, but to do so might involve a responsibility to interrupt the easy life, to protest outside the living room might jeopardize a job, or a raise, or subject one's children to social ostracism.

THE MASS CONFORMITY, the feeling of individual helplessness and irrelevance in the face of our liberal oligarchy, the privatization of human goals and motivation are reminiscent of the attitudes of most Germans under the Nazis. These, however, are functions of a society dominated by the large corporations and their mass-market imperatives, and are the

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result of a process of education of the public sponsored by the liberal "Establishment." The closing out of popular participation and initiative in political decision-making started in the Progressive era, accelerated during the New Deal, and was institutionalized under Truman, Eisenhower and Kennedy. True, this situation leaves us with the social prerequisites of fascism, but fascism is not an inevitable stage in the development of capitalist society, and entails more than mass conformity and political non-participation. The particular institutional arrangements of fascism involve the abandonment of the forms of democracy as well as its content. To warn of the danger of fascism is to warn of the elimination of the *formal* democracy to which liberals and most conservatives have a deep ideological commitment. Furthermore, in the past fascism has been an alternative not lightly chosen. It has come about under two conditions: a breakdown in the mechanism of constitutional democracy, and an imminent or at least serious threat to the underlying institutions from a radical party (the Socialists in Italy, the Communists in Germany). Neither condition exists in the United States.

Lynd presents his conclusion about impending fascism in opposition to Arthur Waskow's contention that the "Establishment" is more humane and amenable to reason than Waskow had supposed, and that the absence of an expected reign of terror after the Kennedy assassination proved this. But these are not the only alternatives. To characterize an establishment that thinks nothing of conducting systematic chemical warfare and napalm bombing against the people of South Viet Nam as humane is a feat that only the liberal mind could accomplish. This aside, against whom did Waskow expect a reign of terror? Possibly against the labor movement or against the liberals? But they are the mainstays of the Cold War consensus, without whom it could not long continue. Perhaps against the Communists? But they are too insignificant and were already being persecuted under the McCarran Act. As for the general left it is too weak and amorphous to bother with.

In one respect Waskow is correct. The "Establishment" is amenable to reason. The most reasonable and farsighted representatives of the large corporations and financial institutions (and their academic and political ideologues) make up the "Establishment." As individuals, I suppose, they are also humane. Their political reason, however, is not motivated by their humanity, but by the long range interests of the corporation-dominated system, as they perceive them. This does not rule out the use of inhuman devices, even of atom bombs, as at Hiroshima and Nagasaki, but it does mean that these will usually be employed judiciously—after calculating the immediate and long-range gains against the liabilities. Humanity plays its part here primarily as a negative or limiting factor. That is, the unfavorable world reaction to the use of these inhuman devices must be weighed against the practical advantages they offer. If the "Establishment" appears more humane these days it is only a result of the sobering confrontation with the changing balance of world power.

* In domestic affairs the liberal oligarchy has been even more humane and reasonable. Why give up the liberal consensus under which labor, liberals, the trade unions bureaucracy, farm organizations and civil

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rights leaders all give their voluntary support to a society organized around the interests of the large corporations? Why impose government censorship or supervision on a press that is already devoid of news and committed to every corrupt value known to the society? Why regulate a trade union movement whose top leadership has already abandoned the unemployed, gives only lip service to the movement for Negro equality, and is in the fore-front of the Cold War and deeply involved in imperial intervention in such areas as British Guiana? Why eliminate elections when the minor parties are so painfully irrelevant and liberals are so deeply absorbed in the meaningless politics of "good man" reform? In short, why should the "Establishment" turn to fascism when liberalism so well serves its purpose?

Yet Lynd's fears are more meaningful than Waskow's Panglossian view. The implications of Waskow's conclusion is either that we can relax and trust our fate to the good intentions of the liberal oligarchy, or, at most, that it is the function of socially conscious liberals and radicals to advise the Establishment, to make it more efficient and to help make the system run more smoothly. To accept this position, however, one would also have to accept the long-range interests and the social values of the large corporations as his own. Lynd sees that these values and this morality paved the way for fascism in Germany, and although historical conditions are sufficiently different in the United States so that a similar institutional prospect does not seem to be in store for us, the nature of the two societies draws ever closer. Furthermore, the fascist mentality of the ultra-right is real enough, although it is not the Birchites that have imposed deadening conformity upon our society, nor the ultra-right that orders our lives in accordance with the imperatives of the largest corporations.

FASCISM, as a set of political institutions, is a last-ditch response to massive social and political fragmentation, while the success of the American political economy has been based on social and political harmony. The emergence of Goldwater and the ultra-right may threaten this harmony, especially with its implicit racism and war-like tendencies, but it appears more likely that the major corporations and financial institutions will rally to the Democrats and tighten their hold on the organizations of labor and the minority groups, rather than choose Goldwater and irresponsibility. The question then becomes what radicals should do. In Germany, when the threat of fascism became imminent, the Communists and Social Democrats could have prevented it by moving together in defense of the Republic. But there the radicals had a mass constituency and were operating in the midst of social chaos. Here, left support of the liberal establishment cannot possibly have any significant impact on political events; it can only reaffirm the irrelevance of American radicalism, since it is the liberals who have brought us to our present condition by twenty years of Cold War politics and social compromise. To continue supporting the liberals can only lead to further strengthening of the right; it leaves the initiative in the hands of the Goldwaters and enables them to determine the character of political debate in the United

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States. The danger of the wolf cry of fascism is that it may paralyze the left and rally it to defensive support of the liberal cause, and to the further acceptance of liberal values and ends. This is what happened in the 1930's when radicals dissolved themselves into the New Deal consensus and helped lay the groundwork for that which they thought they opposed. To allow the content of the political dialog to continue to be molded by the liberal-right confrontation can only bring further drift toward reaction, and reduce the incentive of the dominant economic interests in this country to sponsor a politics of the center. From the point of view both of principle and tactics it is time for the left to gain independent initiative by developing a politics of its own. This is the only way in which effective opposition to the right can develop.

REPLY:

WHAT I meant was not, of course, that America is already Fascist. What I meant was that one sign of approaching Fascism in Germany was the increasing use of violence for political purposes, in the form of assassinations, breaking-up of public meetings, persecution of Jews, etc. I believe, without being able to prove it, that President Kennedy was killed for political reasons by a right-wing conspiracy. If this is so, the fact that the assassins are evidently so powerful that the government (or that portion of the government which was not involved in the assassination) chooses not to risk a public confrontation, seems to me a significant index of the drift toward acceptance of the use of violence for political purposes toward Fascism.

What I most object to in the attitude of many radicals as well as liberals toward the Liberal Establishment, is the implicit assumption that it has reached a balance or stable state which can go on indefinitely. This assumption is just as evident in the radical concept of "permanent war economy" (my italics) as in the liberal concept of the "affluent society." I think the assumption is dangerously wrong. Internationally, at least, the world is changing, with America's position becoming ever weaker. Even within the United States, it appears to me that the restlessness of our internal colonial population (the Negroes) may resemble the threat of Communism in Germany more than Weinstein is prepared to grant. The emergence of a New Left and of a New Right in the United States is at heart a response to changing *objective* conditions: shrinkage of that part of the world which American imperialism can readily exploit; chronic and increasing structural unemployment with the domestic economy. These are problems which the large corporations cannot solve. We must not overestimate either the power or the rationality of men faced with insoluble problems.

Is it altogether too far-fetched to suggest that John Kennedy was killed because he appeared to the Far Right to be on the verge of sponsoring a Negro-Labor coalition which would turn away from a preoccupation with Cold War issues and raise, for the first time since the 1930s, some fundamental questions about the domestic structure of power? Finally, I don't accept Weinstein's position that to make the

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danger of Fascism a central concern requires a tactical alliance with the Liberal Establishment. An example: in Mississippi, true enough, the civil rights movement works with the Justice Department — at the same pressuring it in good liberal fashion — to stop public lawlessness in the state. Also, however, the Freedom Democratic Party poses the possibility of realignment-from-below of the Democratic Party or (what is more probable) the emergence of the first radical third party since the Wallace campaign of 1948.

If it is true, as I believe it is, that the only answer to the conditions which breed Fascism is socialism, then one can be preoccupied with the danger of Fascism and *precisely because of that danger* work for the emergence of the independent Left which both Weinstein and I passionately desire.

Staughton Lynd

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