

From Readers' Letters

TIM O-MARCH '65

OSWALD CENSORED

On Sunday, September 27, 1964, when the Warren Commission Report was released, CBS presented on television a two-hour replay of video tapes. The program was narrated by Walter Cronkite. It included an interview with Oswald in the bedlam of the Dallas Police Department.

I remember that interview from the time I had first seen and heard it soon after the assassination. I told my husband to watch the replay closely, because I remembered that the only time I had ever seen Oswald look frightened was when a reporter told him that he had been charged with killing the President. Thus, my husband and I were watching intently when the scene occurred. The reporter told Oswald that he had been charged with killing the President; Oswald got the frightened look; and then—to my complete surprise—Oswald said, "I'm a patsy!" That remark had not been in the video tape I heard at the time of the assassination; it evidently had been cut.

On Sunday, November 22, 1964, the anniversary of President Kennedy's death, CBS presented a program entitled "Four Dark Days." I set up my tape recorder. CBS again reproduced the same video-taped interview with Oswald which I had heard twice before. This time, too, Oswald's remark, "I'm a patsy!" was missing.

In the Warren Commission Report—Chapter V, pages 200-201—it is stated: "At the Friday midnight press conference in the basement assembly room, he (Oswald) made the following remarks:

OSWALD. Well, I was questioned by Judge—(Johnston). However, I protested at the time that I was not allowed legal representation during that very short and sweet hearing. I really don't know what the situation is about. Nobody has told me anything except that I am accused of, of, murdering a policeman. I know nothing more than that and I do request someone to come forward to give me legal assistance.

Q. Did you kill the President?

A. No. I have not been charged with that. In fact, nobody has said that to me yet. The first thing I heard about it was when the newspaper reporters in the hall asked me that question."

This is followed, in the Report, by a row of asteriks. In place of that row of asteriks, there should have been the following additional exchange:

"REPORTER: You *have* been charged with it.

OSWALD: Sir?

REPORTER: You *have* been charged with it.

(Oswald looks frightened.)

OSWALD: I'm a patsy!"

In Chapter V, page 208 of the Warren report it is stated that at that press conference, "An estimated 70 to 100 persons, including Jack Ruby, and other unauthorized persons, crowded into the small downstairs room."

Thus, after the assassination, the American public was not permitted by CBS to know that Oswald has said that he was a "patsy." But Jack Ruby was in the room when Oswald

said it. The definition of a "patsy" is someone who is being used by others to take the rap or the blame for something the others are guilty of. Jack Ruby certainly knew the meaning of this word.

Hollywood, Calif.

LILLIAN CASTELLANO

98A

Atlantic

DEATH of a PRESIDENT:

The ESTABLISHED FACTS

by LORD DEVLIN

Europeans have had varied opinions about the assassination of President Kennedy. Some attributed it to an international conspiracy, and not a few were highly critical of our police and of the judicial findings which followed. LORD DEVLIN's evaluation of the Warren Report cuts through this confusion with the clarity of an eminent judge. He was Justice of the High Court, King's Bench Division, from 1948 to 1960, and Lord of Appeals thereafter.

THE Lord Chief Justice of England is *ex officio* the chief coroner of the realm, an office he has held since time immemorial. There is therefore to an English mind something fitting in the idea that the inquiry into the death of President Kennedy, in its scope and importance the greatest inquest that has ever been held, should have been presided over by the Chief Justice of the United States. It is an inquest whose verdict was of universal concern; for John F. Kennedy was not only the President of the United States; he was also the captain of the free world. Consequently, the *Report of the Warren Commission* was clearly intended to be read and discussed in many countries outside the United States. I hope therefore that it will not be thought impertinent on my part if I attempt an appraisal of it.

It is a monumental work. Even after taking into account the quality and quantity of the staff which assisted the Commission and the resources which it had at its command, its production within ten months is an outstanding achievement. The mass of material is superbly organized. The structure is clear. Each fact is to be found in its proper place to sustain each conclusion. The minor conclusions support the major, and on the major the verdict rests. There is nothing anywhere to baffle or bemuse the critic. If he wants to dispute a conclusion, major or minor, he can find out with the greatest

ease what sustains it and what it in turn sustains.

The first chapter of the report contains the summary and the twelve major conclusions. There are seven other chapters. The second and the fifth are mainly narrative, the second being the story of the death of President Kennedy and the fifth the story of the detention and death of Oswald, the man against whom the verdict is given. The eighth chapter deals with the arrangements for the protection of the President and falls outside the scope of this review. It is in the remaining four chapters that the conclusions which support the verdict are expressed and justified.

But for anyone who reads to learn and not to criticize, it is the narrative that is the finest part. Great stories need no great words for the telling. The events that compassed the death of President Kennedy and of his presumed assassin are described in minute and authentic detail. Someday perhaps they will be taken out of the mass of the report and put into a book that will be read over and over again. At 11:40 A.M. on November 22, 1963, the presidential airplane touched down at Love Field outside Dallas. Fifty minutes later the President was shot, and half an hour after that he was dead. At 2:47 P.M. the presidential airplane took off to return to Washington with the new President, sworn in nine minutes before, and with the body of

the old. The events of those three hours will never lose their power to move. Everything big and little that was said and done in this great tragedy is here set down. The language is simple and unaffected; none other could be tolerated. This is what will be woven into poetry and drama when all the rest is stuff for the historians.

How many ages hence
Shall this our lofty scene be acted o'er,
In states unborn and accents yet unknown!

So Cassius was made to say over the corpse of Caesar. If ever there should come another Shakespeare, he will tell in a new idiom an old tale of a crazy impulse that shocked the world, of the death of a hero and the grief of a heroine, and of the parts played by a dozen other actors suddenly caught by the event. By the shock the characters of all are clarified. There is even room, when the time of mourning is over, for the comedy that sharpens tragedy; and the making of a Dogberry and a Verges in the two officials who stepped forward to forbid the removal of the body without the autopsy which Texas law required. But the new President would not leave without the widow, and the widow would not leave without the body, and they went.

But my task is to consider the four chapters that sustain the verdict. The object of the inquiry was not to secure the posthumous conviction of Oswald. He is beyond human justice. If it had been certain that nothing could emerge from the inquiry except his guilt, there would have been no object in it. If that is all that does emerge from it, the episode is over and the book is closed. The object was to uncover the acts of the man or men who were privy to the murder. But the inquiry necessarily began with Oswald as the chief suspect, and its scope depended on whether the suspicion could be proved. If it could, the search could be limited to those among whom he moved and who could have acted through and with him. If it could not, the whole field was open and the inquiry began without a clue.

So the first question inevitably became whether Oswald was guilty, and that matter is dealt with in chapters III and IV. If he was, then the second question is whether anyone else was guilty. That matter is dealt with in chapters VI and VII. The Commission answers the first question affirmatively and the second negatively. The two answers need therefore to be reviewed quite differently. In relation to the first, what has to be considered is whether the evidence assembled by the Commission proves sufficiently the guilt of Oswald. In relation to the second, what has to be considered is whether the inquiry was sufficiently wide and searching to bring all the relevant facts to light, for on the facts that the Commission brought to light there is no evidence of any accomplice.

These four chapters, which in volume make up two thirds of the report, are stiff reading. I do not mean that the style is cumbersome. The text is not difficult to follow and is enlivened by some fascinating vignettes. But the detail is battering. Every hare is chased, and the pursuit is often tedious. For example, several pages are devoted to the question of how many shots were fired at the President and whether one of them missed. What does it matter, one may ask; could not that sort of question have been dealt with in a sentence or two? The answer is that it could not, because the task of the Commission was not simply to reach a true conclusion but also to ascertain and establish, so far as the evidence permitted, every fact, whether relevant or irrelevant to its conclusion, that formed part of the incident. Someday some person may wish to base a new theory on the fact that one of the shots missed; if so, the material is there for him.

Most people will find it sufficient to read the summary and the main conclusions and to take out of these four chapters only enough to satisfy themselves that the investigation appears to have been careful and objective. That is a perfectly sensible attitude to adopt. The quality of the Commission is a sufficient guarantee for ordinary people, who cannot spare the time for intensive study, that its conclusions will be sound. If a man wants to penetrate further, there is no point in his doing so unless he is prepared to read minutely and to weigh the evidence for himself. The Commission gives all the facts. It does not arrange them in order of importance or say that it finds one set more persuasive than another. Again I think that this is right. It is the course that goes best with impartial presentment, but it is one that I am under no obligation to follow. In reviewing the conclusions reached about Oswald's guilt in chapters III and IV, I shall, as a reader would do in his own mind, pick out the factors that seem to me to be of the greatest significance.

*There was one eyewitness, and one only, of the deed who claimed to identify Oswald as the perpetrator. Howard L. Brennan was watching the parade from a point directly opposite the Texas School Book Depository. Less than a minute after the President's car had passed that point Brennan saw a man, whom he later identified as Oswald, fire a rifle from the southeast-corner window on the sixth floor of the depository. This makes a natural foundation for the case against Oswald. But the Commission — rightly, I think — does not treat it as such. Brennan was 120 feet from the window. He gave a good description of the man he saw, but he was not clearly and consistently sure of his

ability to make a positive identification. Moreover, the identification lineup took place after Brennan had seen Oswald's picture on television. The Commission therefore does not base its conclusion concerning the identity of the assassin on Brennan's identification. It does not go further than to say that the man in the window seen by Brennan closely resembled Oswald.

Thus the inquiry into the assassination divides itself into two parts. Was the President killed by shots fired from the depository window? This is the subject matter of Chapter III. If so, was it Oswald who fired them? This is the subject matter of Chapter IV.

Thirty-two minutes after the assassination, police officers searching the depository found three empty cartridge cases on the floor near the window which Brennan had identified. Ten minutes later in the opposite corner of the room they found a Mannlicher-Carcano rifle fitted with a telescopic sight. Experts testified that the three used cartridge cases had been fired from the rifle; and further, that two bullets (one in fragments found in the front seat of the presidential car, and the other on the stretcher in which Governor Connally was carried into the hospital) were also fired from the same rifle.

There were several eyewitnesses besides Brennan who saw a rifle being fired from the window. The three important ones are those who acted on what they saw before there was any time for retrospective imagination to get to work. There was Brennan himself, who immediately reported what he had seen to a police officer. His description of the gunman was most probably the basis of the description that was circulated by the police fifteen minutes after the murder. The second was a witness who also immediately reported to a police officer, who transmitted the evidence to headquarters six minutes after the murder. The third was a photographer in a press car in the motorcade, who called out to the others in the car with him and took a photograph of the window.

All this is simple to follow and appears to me to establish quite conclusively that the shots that killed the President were fired from the depository. The rest of the evidence is corroborative. There is medical evidence about the nature of the wounds to show that the bullets were fired from above and behind and also evidence that a bullet fragment struck the windshield of the car from behind.

The Commission examined and dismissed the suggestion that shots were fired from in front — that is, from the triple underpass which at the time of the murder the President's car was approaching. It is obviously convenient to deal with this suggestion in this chapter, but it is not strictly relevant to the question of Oswald's guilt. If shots had been fired from another place, the fact would show only

that some other person, presumably an associate of Oswald, was also taking part in the crime.

TURN now to the subject matter of Chapter IV — that is, the evidence to prove that Oswald was the man who fired the shots. Apart from the identification by Brennan, it is all indirect and can be divided into four categories. First, there is the evidence which connects Oswald with the actual shooting. Second, there is evidence that three quarters of an hour after the murder, he shot Patrolman Tippit so as to avoid a possible arrest. Third, there is evidence that he attempted to hide in a cinema and that when he was actually arrested half an hour after Tippit's murder, he resisted with violence.

Finally, there is evidence that in April, 1963, Oswald had attempted to shoot Major General Edwin A. Walker, whom the report describes as "an active and controversial figure on the American political scene." This is the least important category, and it can be mentioned briefly. The charge is based on Oswald's admissions to his wife, corroborated by a note which he left for her before the attempt and in which he refers to the contingency of his being taken prisoner, and by the fact that there were found among his possessions three photographs of General Walker's house taken by a camera which he owned.

The chief evidence to connect Oswald with the shooting of the President is as follows. In March, 1963, Oswald bought under an assumed name the Mannlicher-Carcano rifle found in the depository. In November, 1963, Oswald and his family were living at Irving, about fifteen miles from Dallas. Oswald lived there only on weekends, and he traveled in and out of Dallas in a car driven by a neighbor, Mr. Frazier, who also worked at the depository. On the morning of November 21, which was a Thursday, Oswald asked Frazier to drive him home that evening so that he could get some curtain rods. On the following morning, the day of the assassination, Frazier drove Oswald back to the depository. Oswald had with him a large brown paper bag, which he said contained curtain rods. A brown paper bag of a size and shape that might have contained either the disassembled rifle or curtain rods was found alongside the window from which the shot was fired with a palm print of Oswald's on it. Oswald remained in the building during the lunch hour and might have been on the sixth floor at the time of the shooting.

The ownership of a rifle used in a murder does not prove that the owner was the murderer, but it calls for an explanation. Likewise, a story about curtain rods can do with some amplification. So

X it is important to see what was said on these points by Oswald during his interrogation. "Interrogation" is rather a grand word to use, for he was questioned by the Texas police in a very haphazard way. No contemporary record was kept, and the evidence of it consists of memoranda prepared afterward by police officers who from time to time took part in it. It would be unsafe to rely on anything which depended for its force on the actual words used, but the record can be relied on, generally, for the topics discussed and the way in which they were handled by Oswald. He offered no explanation. He simply denied that he had ever bought a rifle or that he had ever said anything to Frazier about certain rods. The Commission was entitled to ask itself why he lied.

2 No fiction writer would provide for the assassination of a public figure in circumstances such as these without assuring his readers that the assassin was a marksman of the highest order. It may therefore come as a surprise to members of the public to be told by the experts that the target was an easy one and well within the capabilities of Oswald, who had been trained as a marksman in the Marine Corps. In the Marine Corps he was said to be a good shot, slightly above average, and by comparison with the ordinary civilian, an excellent shot. This, of course, is not positive evidence against Oswald. It only goes to rebut the suggestion that he could not have killed the President because it was beyond his capabilities to do so. In any event, the point goes to the existence of a conspiracy rather than to the guilt of Oswald. It would not meet the evidence of complicity; it would suggest no more than that Oswald was the accomplice of a superior marksman.

X The evidence connecting Oswald with the assassination of the President would in my opinion be insufficient if there were not evidence connecting him with the murder of Patrolman Tippit. It is most unlikely that Oswald would have murdered Tippit if he had not previously been concerned in the killing of the President. The two things hang together.

X Two witnesses who saw the shooting of Tippit and seven who saw the flight of the murderer with revolver in hand identified Oswald as the man. None of them had much more than a glimpse of him. I have what may be an unreasonable distrust of evidence of identification in sensational cases under such conditions. In considering the evidence of persons who claimed to have seen Ruby and Oswald together, the Commission recorded that it had "encountered numerous clear mistakes of identification." Mistaken identification has probably accounted for more miscarriages of justice than any other single factor. Several of the witnesses had seen Oswald's picture in the news-

paper or on television before the lineup. I am left with the impression that the value of this testimony might at a trial have been much reduced by defense counsel. Nevertheless, nine is a considerable number. The value of their testimony must depend to a great extent on the impression of reliability which they gave, and only the Commission can evaluate that.

For those who neither saw nor heard the witnesses there is more impressive testimony. First, the man who was undoubtedly the murderer was seen immediately after to eject cartridge cases from his revolver. Four of these were picked up by three independent witnesses and given to the police. They were fired from a revolver which had been purchased by Oswald and which was found in his possession at the time of his arrest within half an hour of the murder of Tippit. Second, in the hot pursuit of the murderer after the crime, he was last seen in a parking lot behind a gasoline service station. Within ten minutes of Tippit's murder, Oswald's jacket was found under one of the cars in the parking lot.

Ten minutes later a man without a jacket ducked into a shop door as a police car was passing and so attracted the attention of a Mr. Brewer, the manager of the store. Brewer followed him and saw him go into a theater a few doors away without buying a ticket. The police were sent for, the lights in the theater were turned up, and Brewer pointed out the man he had seen. A police officer approached him and told him to stand up. The man did so; then he struck at the officer and drew a gun. This man, whom the police arrested, was Oswald. The explanation he gave for his being in the movie at this time in the afternoon was that he had been led to believe that there would be no more work in the depository that day owing to the confusion in the building.

IF THE case against Oswald is stripped of everything that does not amount to practical certainty, what is left is this. He was in the building at the time of the assassination of the President and could have been on the sixth floor. The President was killed by a gun which belonged to Oswald and which he falsely denied buying or owning. The man who fired it was not unlike Oswald. Three quarters of an hour later Patrolman Tippit was shot with a revolver belonging to Oswald. Oswald's jacket was found along the path taken by the murderer in flight. Then Oswald was found with the revolver in his possession, and he used violence in resisting arrest. He was a man who had attempted assassination before. In the report these bare bones are fully fleshed. An exhaustive

investigation has produced a mass of corroborative evidence and nothing at all to shake the natural conclusion.

It is of course permissible to say that the evidence was never tested by the due processes of justice. If Oswald were being condemned to death in his involuntary absence, one could only say that he was condemned on evidence that appeared to be irrefutable. The inability of an accused to testify is not always to his disadvantage. Sometimes his testimony hampers rather than assists his defense. The ingenuity of counsel often exceeds that of his client. A defense counsel who was given free leave by the court to invent any explanation which would account for the facts in this case and yet be consistent with his client's innocence would have had a desperate task.

But the Commission was not condemning Oswald to death. It was endeavoring to establish a historical fact. Historians generally will agree with Professor Trevor-Roper, the Regius Professor of Modern History in the University of Oxford, who is one of the Commission's severest critics in Britain, that evidence is to be preferred to speculation. But if, as he does, they require a higher degree of proof than this of historical fact, history will soon perish for lack of facts, with the sad but inevitable consequence that historians will perish with it.

So it seems to me to be quite unreasonable to suggest that the Commission, when it embarked upon the second part of its task, should have looked for a conspiracy to which Oswald was not a party. There are three factors on the surface of events which at the beginning must have made it look more likely than not that Oswald had accomplices. I have not in mind as one of them the rumored shots from the triple underpass. It is highly unlikely that two sets of conspirators would have arranged a time in advance irrespective of the point on the route, or that they could have arranged a point on the route which would have suited both equally.

The first superficial factor is the doubt whether a crime of this magnitude and difficulty can be successfully committed by a man who is acting entirely alone. If Oswald was acting alone, luck was with him all the way.

The second factor is the killing of Oswald by Ruby, which by a curious coincidence gives rise to an improbability of the same sort. To British eyes at first — though the view has been changed by the Commission's descriptions of activities at the Dallas police headquarters — to kill a man while in the custody of the police at their headquarters would be a far more difficult task than to kill a statesman in a public parade. Was this task also accomplished by a man acting alone and with nothing to prompt him except his own inspiration?

The coincidence remains even after all the facts are told. Oswald and Ruby both emerge as curious characters acting with motives that seem incomprehensible to the ordinary man. It is not surprising that, as the Commission says, "almost immediately speculation arose that Ruby had acted on behalf of members of a conspiracy who had planned the killing of President Kennedy and wanted to silence Oswald."

The third factor is Oswald's Communist background. In 1959 he went to Moscow and applied for Soviet citizenship. He married a Russian girl and remained in Russia until June, 1962. His Marxist sympathies remained with him. Back in the United States he kept in touch with the Soviet embassy and engaged in Fair Play for Cuba activities. Less than two months before the assassination he had gone to Mexico City, where he visited the Cuban and Russian embassies.

This third factor, while it lends force to the idea of a conspiracy, has also the effect of limiting the area of search. Unless something appears to show that Oswald's Communist sympathies were not genuine, there is no need to look except in a precautionary way for other sources for the conspiracy.

There is another limiting factor in the time. Oswald's employment in the depository began on October 15. No detailed plotting for the assassination could begin until the motorcade route was known. The planning of the route was not started until November 4 and not finally announced until November 19. But the destination, the trade market in Dallas, was announced on November 15, and after that date there was at any rate a probability that the motorcade would pass the depository. This leaves a bare week for a plot to be made. The movements of Oswald and of Ruby during that period would obviously have to be closely investigated. The other period for close investigation of the movements of Ruby would be the period between the death of the President and the death of Oswald. If Oswald's death was planned by others besides Ruby, it must have been during that period that the plan was made.

The second period is dealt with in great detail in the report. Ruby's movements are accounted for almost hour by hour. The first period is not. All that the report says of Ruby's movements during that period is that he gave several detailed accounts of them and that scrutiny "has revealed no indication of any unusual activity." Oswald's activities over the same period are not the subject of any specific finding, the days are not dealt with chronologically, and I have not found any indication that they were closely investigated. This is rather surprising in a report that is so careful of detail. Of course, Oswald lived alone in Dallas, and unlike Ruby, had not the contacts which

would make his normal activities easily discoverable. We know that at his wife's suggestion he did not go home to Irving for the weekend of November 16 and 17. We are not told whether in the week that followed he was at work during the normal hours.

Apart from this, all the lines of inquiry that one can think of are pursued in the report. Oswald's finances are inspected. All his known associations after his return to the States are probed. His activities on his visit to Mexico City have of course been examined in detail. Any evidence that might suggest the presence of another man at the window at the time of the shooting has been carefully considered.

All this is negative. On the positive side the careers of Oswald and Ruby have been traced from birth. An appendix is devoted to each of them. The picture that emerges of them both makes it, to my mind, more likely that each of them would have acted as a solitary than as a conspirator. Their motives are inexplicable by ordinary standards, but there is something in the character of each that makes them at least plausible.

It is impossible within a reasonable compass to give the effect of all this evidence, whether it be positive or negative. I can only say that after reading it all and apart from the one omission I have noted (which by itself affords too slender a basis for criticism, for there may well be some explanation I have overlooked), I am left with the impression of a searching and objective investigation and a completely impartial analysis. The appropriate conclusion cannot be put better than the Commission puts it.

Because of the difficulty of proving negatives to a certainty the possibility of others being involved with either Oswald or Ruby cannot be established categorically, but if there is any such evidence it has been beyond the reach of all the investigative agencies and resources of the United States and has not come to the attention of this Commission.

THE best tribute to the solidity of the report comes from its critics. It would, I should have thought, have been obvious even to an amateur that he could not make much impression on the structure of this report unless he had a charge of high explosive to put under some part of it. But all that the critics seem to be doing is to clamber about on the surface, chipping away with a hammer and chisel as if the height of their ambition were to deface the exterior slightly.

I do not suppose that all the criticism circulating in the United States has reached Britain, but it is reasonable to think that the best points have

been selected for export. In an article cabled across the Atlantic and printed in the *Sunday Times* of December 13, 1964, Professor Trevor-Roper exemplified his severe strictures with four specific points. I take the first of them so as to illustrate the nature of the criticism.

Brennan's description of the man he saw at the window, the report says, "most probably led to the radio alert sent to police cars at approximately 12:45 p.m." Why only "most probably"? "Unpardonably vague," the professor says. "Either the police description was based on Brennan's statement or it was not." If it was, why did not the police immediately search the room which Brennan had also identified? If it was not, then there must have been some other evidence on which the alert was issued and which the police have not revealed to the Commission.

The former hypothesis carries with it at most a criticism of police methods. Attentive to the celebrated advice of Mrs. Beeton that hares must be caught before they are cooked, the police were concerned at first with catching the murderer rather than proving the case against him. Of course, if the murderer's plan had been to stand by the window waiting to be arrested there, the police would have wasted about a quarter of an hour in catching him. If it was thought more likely that he would try to get away, it was not a foolish idea to seal off the building and search it systematically. Anyway, where does this sort of point lead? Or any point that can be made on the alternative hypothesis? If there were two or more witnesses, instead of only Brennan, who gave a description of a man closely resembling Oswald, how does that diminish the strength of the case against Oswald, and why should the police want to suppress it?

But there is not any real dilemma at all. A cautious judge uses a phrase such as "most probably" when he is not absolutely certain and when the difference between high probability and absolute certainty is not material to his finding. The evidence shows that the radio call was based on a description by an Inspector Sawyer, who said that he got it "mainly from one witness," whose identification was uncertain.

Points of this type cannot possibly lead to any alternative conclusions to those found by the Commission. They appear to be relied on as evidence that the Commission was reluctant to ask the proper questions, with the result that they failed to detect "suppressed police and medical evidence." The medical evidence "suppressed" consisted of the preliminary draft notes which one of the pathologists made for the autopsy report and which he himself said he had destroyed after he had prepared the report. I need not dwell upon

the "suppression" of the paper bag in which it was believed that Oswald carried the rifle into the depository. According to the professor, the police destroyed it and substituted their own fabrication. In fact, both the original bag and a replica prepared by the police (because the original had been discolored in laboratory examinations) were exhibited at the hearing.¹

All these points have been duly dealt with in the British press with no longer delay than necessarily elapses between one Sunday and another. Their significance to me is simply to show the quality of the criticism that has emerged, even after the publication of all the evidence. The ordinary reader, such as myself, of such an enormous work may doubt whether he has given to it enough study and perception to perceive every flaw. He may have missed some vital point. But if this is the best criticism that can be produced by those who have spared neither time nor money in the dissection of the report, he need not worry.

It is not surprising that there has been criticism or that in the beginning there was suspicion. The behavior of the authorities in Texas, which, as the Commission said, virtually made it impossible for Oswald to be given a fair trial, aroused the repugnance of many both inside and outside the United States. As a dispeller of suspicion, there is nothing to equal complete publicity. Captain King of the Dallas Police, seeking to justify the publicity in which his inquiries were made, said that if the police conducted all its investigations behind closed doors, if they gave no reports on the progress of the investigation and excluded newsmen from it, they would leave themselves open to the criticism that they were fabricating a suspect and would cause people to lose faith in their fairness and so to lose faith to a certain extent in the processes of law. This well expresses the function of publicity in a free society, though few will disagree with the Commission's view that in Dallas on this occasion it was carried to excess.

It might on the other hand be said that the Commission in its own processes, which being semijudicial lent themselves much more easily to publicity than a police investigation, paid too little attention to the value of publicity. The decision whether to hold its inquiry in public or at least in part in private was bound to be a difficult one, but surely there must be better reasons for privacy than those given in the foreword to the report. The first of these is that testimony regarding the killing of Oswald might interfere with Ruby's rights to a fair and impartial trial. But this covers at most only a small part of the evi-

dence, a part which, one would think, might have been taken after Ruby's trial was concluded on March 14, 1964. The second reason given is that testimony, which might be inadmissible in judicial proceedings, might prejudice innocent parties if made public out of context. If this is a sound reason, it means that no inquiry which receives legally inadmissible evidence, as nearly all inquiries in which a man is not on trial do, ought to be held in public. Nor ought the inadmissible evidence to be subsequently published as has been done in this case, for inadmissible evidence, if really injurious, will not be rendered harmless by the context. The third reason given is that as testimony could not always be taken in logical sequence, partial publication as the investigation progressed could be misleading. The danger of publication out of logical sequence is a matter of opinion, but to my mind is not seriously to be weighed against the advantage of a public hearing and the public presentment and discussion of opposing views. All these reasons were qualified by the Commission's decision that the hearing should be open if any witness requested it. Only one witness did in fact request a public hearing, but if privacy were necessary in the interests of Ruby and other innocent persons, it is difficult to see why any witness should have been given the power to veto it.

By its decision to sit in private, whether right or wrong, the Commission necessarily gave hostages to its potential critics. If it had been presided over by any lesser figure than the Chief Justice of the United States, if it had failed to publish the whole of the evidence, or if for its conclusions it had had to rely upon nicely balanced decisions turning upon the credibility of one or two individuals interviewed in private, the hostages might have been irredeemable. As it is, after everything at all questionable has been discounted, the conclusions of the Commission upon the guilt of Oswald rest securely upon the residue.

As to the second part of the inquiry, privacy did not so seriously affect the evidence covering the possibilities of a conspiracy since that evidence consisted mainly of the reports of investigators who had turned up nothing. It is no doubt distressing to the logical mind when after an immense investigation, two extraordinary murders occurring in the course of the same story are explained only as disconnected and senseless actions. But life is often more distressing than logic. And what is the alternative? Perhaps one day the critics will produce one. If they can suggest one that is even faintly credible, they will deserve more public attention than they are likely to get by making charges of suppression that are more than faintly ridiculous. END

¹ After this article was written, in the SUNDAY TIMES of January 3, 1965, the professor made a handsome apology for his mistake.