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Inside WEST

THE WARREN COMMISSION VS. THE CRITICS

Who killed President Kennedy, and why? In the minds of some Americans, those questions are as real today as they were in the stark moments following the assassination in Dallas three years ago last Tuesday. The first question—who?—seemed to have been answered by the Warren Commission two years ago, when it concluded that Lee Harvey Oswald, acting alone, had shot the President. As for the second question—why?—any certain knowledge was denied the public forever when Jack Ruby pumped a bullet into Oswald in the basement of the Dallas police headquarters.

But in recent months the questions have begun again. Did Oswald really pull the trigger? If so, was he really not part of a conspiracy? Did the Warren Commission leave significant stones unturned in its investigation? Has there been a conspiracy in Washington to protect conspirators in Dallas?

In preparing his two articles for *West* on the Warren Report and the spate of books critically examining its findings (*The Warren Report: The Critics and The Cultists*, p.14), writer John D. Weaver traversed once again the tortured landscape of the Kennedy murder and found that the Commission's critics offer not answers but, for the most part, only more questions.

For Weaver, the search for answers began—almost accidentally—nearly

three years ago, when he was asked to prepare a three-part series of articles on Chief Justice Earl Warren for *Holiday* magazine. Fired by the challenge, he began to see the project on a larger scale, as the full-length study of a controversial Californian who, as governor, served his native state during a time of explosive growth and, as Chief Justice, has presided over a judicial revolution. Weaver's book, *Warren: The Man, The Court, The Era*, is to be published this spring by Little, Brown & Company. (Both this week's article on Page 14 and the second part next week were adapted from a chapter of this book.)

Starting in the Chief Justice's lined chambers in the Supreme Court Building in Washington, D.C., Weaver tracked the Warren story from its humble beginning in Los Angeles on March 19, 1891, through the early years in Bakersfield, the Warren Era in California, and the turbulent years on the bench, from school desegregation to reapportionment from the administration of criminal justice to the rulings on prayer and Bible readings in public schools.

"Although it represents only months out of more than 40 years of public life, the Warren Commission is at present the most timely and controversial phase of the Warren story," says Weaver. "The critics and cultists have had great sport shooting holes in the Report, but my hunch is that now a sanity backlash is beginning."

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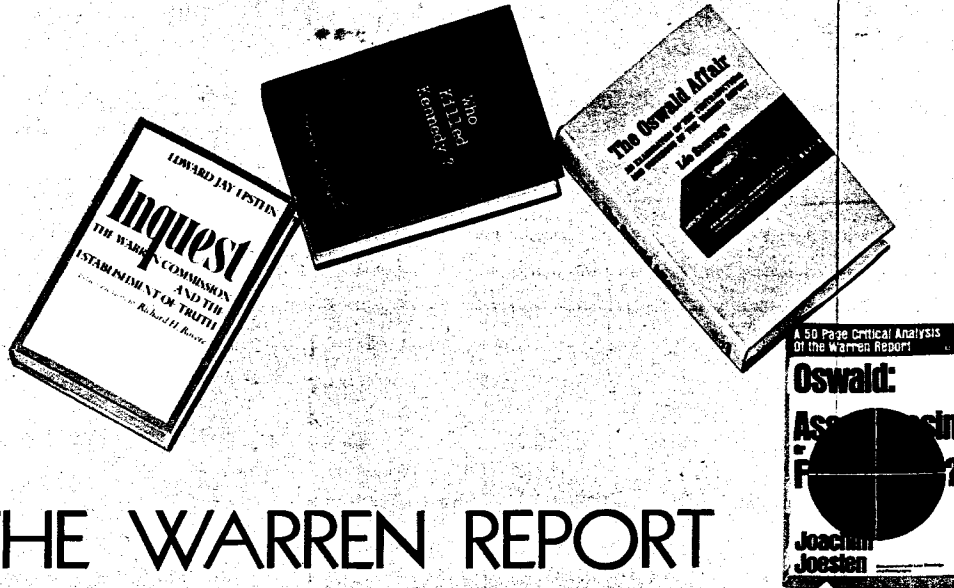
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THE WARREN REPORT

THE ASSOCIATED PRESS



THE WARREN REPORT

American," said Revilo P. Oliver, a professor of classical philology who served for years on the council of the John Birch Society.

"In his last tax message to the Congress before his death, the President had proposed a serious reduction in the oil depletion allowance," wrote Thomas G. Buchanan, a left-wing American expatriate who insisted a conspiracy had been contrived and financed by right-wing multimillionaires determined not only to protect their tax break but also their munitions plants, which had been threatened by Kennedy's disarmament policies.

The Dallas tragedy demanded a more emotionally satisfying denouement than could be drawn from evidence that the President had met his death at the hands of an insignificant youth who, in the words of his widow, had wanted "to do something that would make him outstanding, that he would be known in history." To accept Oswald's guilt, rejecting all plots, cabals and conspiracies, was to accept a murder without meaning. In a drama of such noble proportions, the Young Prince is not to be killed by a stockroom clerk.

During the first stunned week after the assassination, two Presidential emissaries from the Justice Department approached Chief Justice Earl Warren and asked if he would preside over an investigation designed to clear up the mystery surrounding the President's death and, thus, put an end to the wild rumors circulating at home and abroad. He declined. He was invited to the White House and drafted.

The Warren Commission (its official title was The President's Commission on the Assassination of President Kennedy) was composed of two senators (Richard B. Russell and John Sherman Cooper), two representatives (Hale Boggs and Gerald R. Ford) and two prominent lawyers who had served both Republican and Democratic Presidents (Allen W. Dulles and John T. McCloy). At its

Continued

by John D. Weaver

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**Mark Lane
Rush to
Judgment**

A critique of the Warren Commission's entry into the murders of

Introduction by Hugh Trevor-Roper

WHITELASH
-the report on the
Warren Report

Photographs by Fritz Taggart

WARREN REPORT

Continued

first meeting on December 5, 1963, acting on a suggestion put forth by the chairman, the Commission chose James Lee Rankin, a former Solicitor General, as its chief counsel.

"Truth is your only client," he told his staff at its first meeting, and truth seemed to have been well served in September, 1964, when the Warren Report was published to almost universal acclaim. Now, two years later, it is being as enthusiastically criticized and condemned. And yet no new suspect has been produced, no hitherto undetected evidence of a conspiracy has been brought to light. It is not the facts that have changed, but the emotional climate.

The public, in the fall of 1964, still hoped for the best from the new President. By 1966 his Administration had bogged down in an Asian war most Americans apparently wanted neither to fight nor to lose. Negroes were burning and looting their ghettos. Streets were unsafe. Living costs were up, stock market prices down. George Hamilton had not been drafted.

Once the Warren Commission came under attack, it drew to itself the massive indignation of the emotionally disposed, who saw the Report as another big lie put out to hide an untidy truth that would be embarrassing to the Establishment, the White Power Structure, the Communist Conspiracy or the Texas Oil Oligarchy. Seeds of doubt and suspicion, planted in such fertile soil, have caught on like crabgrass.

Nothing easier to create than an atmosphere of suspicion.

As John Sparrow, the English scholar, wrote in reply to Hugh Trevor-Roper, an Oxford colleague who delivered an inaccurate and intemperate attack on the Warren Report in December, 1964: "Nothing is easier to create than an atmosphere of suspicion, nothing—so long as the crackpots and the credulous abound—more difficult to dispel."

One of the most important pieces of evidence available to the Warren Commission was the 8-mm. motion-picture film of the assassination taken by Abraham Zapruder, a dress manufacturer who kept shooting through a telephoto lens and screaming: "They killed him, they killed him!" The Zapruder film enabled the Commission to re-enact the crime from the moment the President's car rolled past the Texas School Book Depository.

"Look up in the window!" a news photographer in the motorcade had shouted right after the third shot, pointing to the southeast corner window on the sixth floor. "There's the rifle!"

Three spent rifle cartridges were found on the sixth floor near this window less than 45 minutes after the President was shot at 12:30 P.M. A bolt-action rifle with a telescopic sight was located near the back staircase at the northwest corner of the same floor. Deputy Constable Seymour Weitzman, who never actually handled the weapon, mistook it for a 7.65 Mauser.

"In a glance, that's what it looked like," he said later.

Actually, it was a 6.5 Mannlicher-Carcano, serial No. C-2766, which was traced to Klein's Sporting Goods Co. in Chicago. It had been shipped to A. Hidell, Post Office Box 2915, Dallas on March 20, 1963, a week after receipt of an order signed "A. Hidell." The signature and the return address on the envelope were both in Oswald's handwriting.

The rifle had been paid for by a U.S. postal money order for \$21.45, purchased in Dallas on March 12. The handwriting on the money order (No. 2,202,130,462) was also Oswald's. The application for Box 2915, rented to "Lee H. Oswald," was in the same handwriting. In his billfold at the time of his arrest was a forged draft card with his picture and the name, "Alek James Hidell."

Oswald denied owning a rifle, although his Russian-born wife had seen one in the garage of the suburban home in Irving where she lived with a Russian-speaking friend, Ruth Paine. Ordinarily Oswald drove home after work on Friday with a young fellow-employee, Buell Wesley Frazier. On the day before the assassination—a Thursday—Oswald asked Frazier to take him home that afternoon. He said he wanted to get some curtain rods. The room he had rented in Dallas already had curtains and curtain rods.

On his way to work Friday morning, as Frazier and his married sister noticed, Oswald carried a brown paper bag which he said contained the curtain rods. A handmade paper bag was found near the southeast corner window on the sixth floor of the Book Depository later that day, after the shooting. It seemed shorter than Frazier and his sister remembered, but it was long enough to conceal the disassembled Mannlicher-Carcano, and it bore Oswald's left index fingerprint and the right palmprint.

"Well, that's just a fake, because somebody has superimposed my face on that picture," Oswald said when confronted with a photograph of himself holding the mail-order rifle in his left hand, but his wife, Marina, recalled to the Warren Commission the Sunday she had taken the picture in the backyard of a rented house in Dallas.

"I was hanging up diapers," she said, "and he came up to me with the rifle and I was even a little scared, and he gave me the camera and asked me to press a certain button."

The picture was widely published, but not without having been retouched. In *Life*, the telescopic sight appears quite plainly. In *Newsweek* and the *New York Times* it was brushed out. Examination of the discrepant photographs showed they had been retouched in different ways, but the copies had come from the same original. Expert testimony established that this original had been taken with Oswald's Imperial Reflex camera "to the exclusion of all other cameras."

Experts established 2.3 seconds as the minimum time required to operate Oswald's rifle. If he were the sole assassin, using this weapon, he could have fired only two, or at most, three shots. One bullet seems to have missed the car. Two struck the President in an interval of from 4.8 to 5.6 seconds. But Governor John B. Connally of Texas, on the jump seat in front of the President, was also

wounded (back, chest, right wrist, left thigh).

After a spirited debate about which adjective to use ("compelling" and "credible" were rejected), the Warren Commission agreed there was "persuasive" evidence to support its belief that the same bullet (Commission Exhibit 399) had pierced the President's neck, exited at his throat and wounded Governor Connally. A bullet fired from Oswald's rifle was found at Parkland Hospital on a stretcher thought to have been Connally's. It was in remarkably good condition in view of the damaging route it had presumably taken through two human bodies.

Both . . . were hit by a single bullet or there were 2 rifles?

Lord Devlin, a distinguished English jurist who has defended the Commission against the often reckless and irresponsible charges of Bertrand Russell's "Who Killed Kennedy?" Committee, believes the Warren Report was flawed by its insistence that it was not necessary to "any essential findings" to determine just which bullet hit the Governor. Such a determination was essential, his lordship writes, because "both men were hit by a single bullet or there were two assassins with two rifles."

As indicated by the Zapruder film, Kennedy and Connally appear to have been hit within a time span of about one and one-half seconds. Oswald could not have fired two shots so quickly. If he did not wound both men with one bullet, a fourth shot must have been fired. It could have come only from the rifle of a second assassin. No such weapon or suspect has ever been found.

After covering the story for more than 36 hours, exhausted reporters and television crewmen were banging around the Police and Courts Building Saturday night in the hope of catching a glimpse of Oswald when he was transferred to the county jail. The chief of police told them to go home and get some rest.

"If you are back here by 10 o'clock in the morning," he said, "I don't think that you would miss anything that you want to see."

At 10 o'clock Sunday morning Jack Ruby (christened Jacob Rubenstein) still had not bothered to get dressed. He had scrambled some eggs, made coffee and turned on television. At 10:19 he got a phone call from Karen Bennett Carlin, a 19-year-old stripper who worked as Little Lynn at his night club, the Carousel. She wanted \$25 to pay her rent.

"It will take me about 20 or 30 minutes to get dressed, and then I will go down," Mrs. Carlin remembers Ruby saying after he had agreed to wire her the money.

It was nearly 11 o'clock when he drove downtown to the Western Union office, situated a block from the city jail. Oswald was to have been transported to the county jail an hour earlier, but he was still being questioned. No precise time for the transfer had been set when Ruby parked his car in the lot across from the Western Union office. He apparently locked his keys and billfold in the trunk, placed the trunk key in the glove compartment, before crossing the street and waiting his turn at the Western Union counter.

Ruby filled out the necessary forms, paid

for the telegram and was given a receipt. It was one of three documents stamped with the time of the transaction. The time was 11:17. At approximately 11:21 Oswald was led from the jail office into the basement where reporters and television cameras were waiting. Ruby lunged forward with a .38-caliber revolver and fired one fatal slug.

"It was claimed that Ruby got in there pretending to be a reporter," says Mrs. Nancy Perrin Rich, who used to mix illegal drinks for members of the Dallas Police Department. It was inconceivable to Mrs. Rich that any of them would ever fail to recognize their host. "Ye gods," she continued, "I don't think there is a cop in Dallas that doesn't know Jack Ruby. He practically lived at the station. They lived in his place."

According to some theorists, Ruby's ability to stroll into the guarded basement of police headquarters and, in the presence of 70 to 75 lawmen, commit the first nationally televised murder could be explained only in terms of a conspiracy, but as Ruby pointed out: "You wouldn't have time enough to have any conspiracy . . ."

Any such theory must explain how Ruby could have been tipped off to the exact time of Oswald's transfer one hour and 12 minutes behind schedule. Plans were still being changed while Ruby was standing in line to be waited on at the Western Union counter. Belief that Ruby was hired to do in Oswald must also accommodate the bizarre notion that a man bent on murder would risk losing his only chance to shoot his victim in order to dispatch \$25 to a distressed stripper.

"Gentlemen," remarked Ruby, "my life is in danger here . . ."

In Dallas, when Jack Ruby was led into an austere jury room to give his testimony, he was so tense that one of the Commissioners wondered "whether we could keep his nerves from exploding." Although Ruby's lawyers produced experts at his trial to attest to "organic brain damage," his testimony has been accepted in anti-Commission circles as that of a man in full possession of his faculties.

Much has been made of Warren's refusal to grant Ruby's request to be taken to Washington for further questioning, but the Chief Justice's decision can be rationally appraised only if it is placed in the full context of Ruby's rambling testimony, which Professor Alexander M. Bickel of Yale Law School describes as "pathetically deranged . . ." ("Do I sound dramatic? Off the beam?" . . . "Now if I sound screwy . . ." . . . "Gentlemen, my life is in danger here . . ." . . . if they found out I was telling the truth, maybe they can succeed in what their motives are, but maybe my people won't be tortured and mutilated").

The Commission's conspiracy-minded critics might hesitate to admit in public that Jack Ruby's people are in imminent danger of being tortured and mutilated, even in Dallas, but in the cult that has formed around the assassination mystery, it is widely believed that Ruby's life is, indeed, in danger. Aside from the professional hazards of dealing in plots to kill Presidents, his security is up against an-

other bit of assassination folklore—The Kennedy Curse.

In view of the more than 27,000 interviews conducted by the FBI, the Secret Service and the Commission, it is not surprising that some of the interviewees have died in the three years since the assassination. Among them are the diabetic manager of Oswald's rooming house (heart attack), the taxicab driver who picked him up shortly after the shooting (killed in an automobile accident), a witness who had a good view of the grassy knoll (another automobile accident) and a lawyer friend of Ruby's (heart attack).

Two reporters who met with Ruby's roommate at Ruby's apartment the night Oswald was shot have come to strange and violent ends. One, a young Dallas bachelor, was found with a broken neck, apparently the result of a karate chop. His apartment had been ransacked. He was working with two colleagues on a book about the assassination. The other reporter was a Californian, Bill Hunter, who was accidentally shot by a Long Beach detective.

One of the Tippit murder witnesses who identified Oswald as the man he had seen fleeing the scene of the crime (Warren Reynolds) was shot in the head as he closed his car lot for the night. He survived the curse, but it fell on Nancy Jane Mooney, a sometime stripper at Ruby's night club who provided an alibi for the suspect arrested in the Reynolds shooting. About a week later she was picked up for fighting with a girl-friend. While in the Dallas jail, she hanged herself.

Only the more extreme believers in the curse connect the death of Dorothy Kilgallen with her determination to uncover the truth about Dallas (she was convinced of a conspiracy). Officially her death was attributed to "acute barbiturate and alcohol intoxication, circumstances undetermined," but a fan magazine editor has been quoted as saying that a few hours before the columnist's body was discovered she got a phone call informing her that Miss Kilgallen had been murdered.

The dark legend of the curse has developed simultaneously with speculation about a "second" Oswald, whose possible existence is a product of some intriguing evidence gathered—and published—by the Warren Commission (and exploited by its critics), indicating that a man thought to be Oswald (the real Oswald) was seen at places he could not have been, doing things he could not have done.

Oswald never learned to drive a car, but an automobile salesman swears he rode in a demonstration car with Oswald at the wheel (he drove a bit too fast for the salesman's taste). Oswald II turned up at a furniture store in Irving and a Selective Service office in Austin; fired at targets at the Sports Drome Rifle Range in Dallas and left a rifle at the Irving Sports Shop to be drilled for a telescopic sight (the Italian carbine sent to "A. Hidell" at Oswald's post office box arrived with a telescopic sight already mounted). In late September, 1963, when Oswald I was in New Orleans, a "Leon Oswald" called on Mrs. Sylvia Odio at her Dallas apartment with two Cubans (or Mexicans).

Oswald II provides an all-purpose solution

to the Dallas mystery. He can be used to fit any sort of conspiracy, support any theory. For those who believe the real Oswald was innocent, Oswald II explains how he was framed (Leo Sauvage, a French journalist, has contended from the outset that racists conspired to kill Kennedy and set Oswald up as the patsy). For those who believe Oswald was involved, but not the lone assassin, Oswald II explains how a marksman of relatively modest ability could shoot so accurately, then escape so quickly. One was the killer, the other a decoy.

"Connection between Ruby, Oswald . . . proved groundless"

Fifteen minutes after the assassination, Dallas police were broadcasting a description of a suspect resembling Oswald. It has been theorized that the plotters planted the description as part of their scheme to use the real Oswald to confuse the local constabulary (a simple assignment well within his limited capacities). It would take at least two Oswalds, say the theorists, to cover as much ground and do as many things as the Commission claims for Oswald between 12:33, when he is thought to have left the Book Depository, and 1:51, when arresting officers reported his capture at the Texas Theater, eight blocks from where Officer J. D. Tippit had been shot.

Officer Tippit may or may not have been involved in the plot, depending on which theory is being advanced. He may simply have blundered onto the decoy's path, or Oswald may have been afraid that Tippit had recognized him as the assassin's reasonable facsimile, or he may have suspected that the officer was about to double-cross him. In any event, once Oswald landed in the city jail, it was obvious that They (the Communists, the Birchers, or the oilmen) were never going to let him testify in open court — Ruby was hired to see to that.

"Rumors of a connection between Ruby and Oswald have proved groundless . . ." the Warren Commission concluded.

"It's perfectly obvious that there was enough relationship between Rubenstein and Oswald to prove there was a conspiracy," said former Major Gen. Edwin A. Walker, speaking for the far right, and he was echoed by a Communist writer for *The Worker*, who told a capitalist reporter, "The full story of the plotters of this crime was not told. We refuse to believe that just on his own Jack Ruby would kill Oswald to avenge the President."

In London, when the *Warren Report* appeared, a writer in *New Statesman* sighed with relief: "Now the hysteria ends . . ." In Palo Alto, Herbert L. Packer, a Stanford professor of law, was not so sure. While he found the *Report* a "conscientious and at times brilliant job," convincingly demonstrating that "Oswald, acting alone, was the assassin of the President," he added the warning: "We have not seen the end of this affair." *END*

(Next week: An examination of two of the more lurid attacks on the Warren Report, Mark Lane's Rush to Judgment and Edward Jay Epstein's Inquest.)