

Interview with Chief Justice Earl Warren

March 26, 1974

By Alfred Goldberg

Q. What were the circumstances of your selection and that of the other commissioners?

A. Two or three days after the assassination I was in conference with the Court when I was told that the Deputy Attorney-General -- Nick Katzenbach-- , and the Solicitor General -- I believe it was Archibald Cox-- were waiting to see me. They told me that because of the rumors and the worldwide excitement about the assassination, the President wanted to appoint a commission to investigate and report on the entire matter. The President wanted me to serve as the Chairman of the Commission.

I had given thought previously to the matter of Supreme Court Justices serving on Presidential Commissions and had concluded that it was not a good thing to do. I had expressed myself on the subject in both private and public. I declined the offer and asked Katzenbach and Cox to tell the President why I did not consider it appropriate. I recommended some other people, whose names I do not recall, for the position. Katzenbach and Cox went away, and I thought that that settled it.

About an hour and a half later I received a call from President Johnson asking me to come up to the White House to talk with him. I went to the White House. The President told me that he felt that the assassination was such a torrid event that it could lead us into^a war, and that if it did it would be with another world power. He said that he had been talking with Secretary of Defense McNamara who had told him that the first strike in an atomic war would cost about 60 million people. I stated my views about the matter

but said that if the President thought it that important for me to serve I would subordinate my views. He had already told me the names of the other members of the Commission. He said that all of the others had agreed to serve if I would be the Chairman. The President had pointed out that one of the dangers was that the Attorney-General in Texas would try to set up a hearing and have a carnival down there in Texas. Also, the Congressional Committees in Washington would try to get into the act. He said that if I agreed to serve as Chairman of the Commission all of these other interferences would cease. I said that if it was that important, I would serve. Johnson announced the appointment by 7:30 p.m. My conversation with him took place about 5:00 p.m. Johnson also said he would order the Federal establishment to make any and all facts available and to help us in every way.

I didn't see President Johnson more than two or three times during the whole time we were working on the report. And on those occasions there was never any discussion of the Commission. The same thing goes for everybody else in the White House. No one tried to touch or guide us. We held up the Report while we checked out last-minute items on Oswald, particularlly the one about him stopping in a Texas town that was supposed to have LBJ allies in it. We had to check on rumors and we did. I didn't know that Abe Fortas had any role in getting the Commission idea accepted by LBJ. I had no contact with Fortas at that time.

Q. Did President Johnson communicate to you any of his views about the assassination? He is reported to have believed, at least initially, that it was a Communist plot.

A. It was obvious from my talk with Johnson that he was thinking of Khrushchev and Castro. There were rumors around the world that this was the way the Communists had taken to get rid of Kennedy. These rumors were influencing people here and abroad. It was not clearly expressed by him. There were, of course, two theories of conspiracy. One was the theory about the Communists. The other was that LBI's friends did it as a coup d'etat. Johnson didn't talk about that.

Q. Did you have any preconceived ideas about the assassination? Did you entertain the notion of some kind of a conspiracy at the beginning?

A. As soon as I read about Oswald working at the Texas School Book building and leaving it as he did -- the only employee to disappear -- and after the gun was found, with the cartridges, it seemed to me that a surface case was established. These circumstances, followed by his trip from the building -- getting on a bus and getting a transfer, then getting a cab -- killing Tippett -- and running into a theatre where he tried to shoot the policemen who came to get him -- those made a case. I never put any faith in a conspiracy of any kind.

When this and other information surfaced quickly -- the gun from the mail order house -- there was a case. The only thing that gave me any pause about a conspiracy theory was that Oswald had been a defector to Russia at one time. I don't believe that I ever developed any conspiratorial theory.

Q. How was the Commission Staff chosen?

A. The selection of the staff was left to Lee Rankin. He may have asked me about people sometimes, but I left it to Rankin. He may have known some people were friendly and acceptable. I don't know whether any commissioners recommended any people. I thought that the lawyers ought to come from different part of the country ~~and~~ and not from one group. I wanted the men to be independent and not

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Warren knew left Oswald was from my message New York Reader or at least he needed the information

to have any connections that might later be embarrassing. Rankin showed me a list of senior and junior members and the geography -- where they came from.

Q. Do you think that any useful purpose would have been served by appointment of an adversary counsel?

A. We were plagued at times by Mark Lane. He claimed to represent Oswald's mother and wanted to have an adversary role in the proceedings. We invited the American Civil Liberties Union to participate in our proceedings. They were appreciative but said they didn't want to be there all the time. There were opportunities for public testimony, but only Lane requested an open public hearing. We invited the American Bar Association to sit in on all of the hearings. They accepted the invitation, and a local lawyer sat in for them much of the time. We never offered to hold adversary proceedings. We took the position of not prosecuting but investigating the facts. We may have discussed holding adversary proceedings, but I don't remember. We brought Lane back from Europe to testify, you may remember.

Q. Do you feel that the investigation was thorough enough? What do you consider the most important loose ends?

A. The Commission felt that the investigation had been thorough enough. We couldn't think of anything left uncovered or any witness unheard. I still think so. No one has come forth with anything new. All of the Commissioners were agreed. There were no loose ends.

Q. On reflection, do you think that it would have been better to have permitted ~~the~~ the Commission Staff access to the X-rays of the President?

A. On reflection I do not believe that access to the X-rays should have been given. The public was given the best evidence available -- the personal testimony of the doctors who performed the autopsy. In a trial, the court would not have permitted the X-rays to be introduced because it would have operated against the defendant. The decision was largely mine and the Commission approved. I had

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and also all disagreed with the G/B theory

seen people trying to get artifacts related to the assassination of the President, and I knew that they would try to get pictures of the President's body. The photos were sent to the Department of Justice and were not to be revealed without the consent of the Kennedy family. They should be there for all time to come. They represent sequestered, not destroyed, evidence. President Johnson got a committee of pathologists to go over the X-rays with the consent of the family. They examined the pictures and considered them consistent with the doctors' testimony. For good or ill, I take full responsibility for it. I couldn't conceive permitting these things being sent around the country and displayed in museums. And carnivals and barkers and that sort of thing. You remember that the Department of Justice condemned many of Oswald's artifacts.

Q. What is your recollection of the Commission's consideration of the single bullet theory?

A. I was inclined towards the belief that the first bullet went through both the President and Governor Connally. I felt that the bullet found on Connally's stretcher in the hospital had caused both wounds for the simple reason that neither wound involved bone -- the bullet just went through flesh. The force of the bullet was subdued when it passed through the President and it spent itself going through Connolly. I didn't put much faith in Connally's testimony at all. John McCloy cited two instances in World War I when people who had been shot a considerable time before didn't know they had been struck at all, and then after a few seconds dropped dead. I didn't put much faith in Connally's having heard a shot and then feeling the wound. A shot can deaden one's emotions or reactions for a short time.

Only three shots were fired. No one could have fired from the knoll or the overpass without having been seen. That didn't cause any particular debate on the Commission. Senator Russell was not there -- he was rarely there. I was disturbed about him because he was always saying he was going to resign because he was too busy. He was busy with the Armed Services Committee. I couldn't talk with Russell because of the segregation cases.

I sent Rankin over to talk with him. I wanted Russell to be aware of everything that was going on. I wanted him to put a representative on the Commission Staff. He put a woman lawyer from Atlanta on the Staff and she kept him informed of what was going on. We had no difficulty with Russell then. I don't remember him being in on consideration of the single bullet theory. Before we put out the Report, Russell wanted it held up so he could go down to Texas and go through the Depository Building. He could well have questioned the single bullet theory.

Q. What do you consider the most important issues faced by the Commission?

A. The non-conspiracy theory was probably the basic decision of the case. Two groups of the public thought there was conspiracy -- they were at opposite ends of the spectrum. It was the Communists or the right-wingers who did it according to these two views. They disagreed violently on what kind of conspiracy and who would be involved. The Commission made the basic decision that there was no evidence of a conspiracy. I think that perhaps Allen Dulles was a little uncertain at times as to whether there had been a conspiracy or not. But this never ripened into bloom. I am not sure but that Ford may have believed in a conspiracy. He may well have said something on the subject, but I don't remember. Ford wanted to fire Ball and Redlich because they had attacked the House Unamerican Activities Committee in the past. Ford also had a complex about the State Department. He wanted to get something into the Report about the State Department. After the Report had been made, Russell made some statement to the effect that he wasn't sure that there had not been a Communist conspiracy. Russell attended the final Commission meeting and went to the White House when we presented the Report to the President.

Q. What do you consider the most important contribution to the Report made by the Commission?

A. It was remarkable that the Commissioners all agreed on anything. Politically, we had as many opposites as the number of people would permit. I am sure that I was anathema to Senator Russell because of the Court's racial decisions. Hale Boggs and Ford were not congenial -- there was no camaraderie between them, they were at different end of the political spectrum. Allen Dulles and Jack McCloy were not partisan at all. McCloy was very helpful throughout. I doubt if he missed any meetings and he heard most of the testimony. McCloy had very positive views, but he was not partisan. He was objective and extremely helpful. Dulles was also helpful. He had a fertile mind but rather proliferate. He was a little bit garrulous, but he worked hard and was a good member.

Normally, in organizing a staff you take people who are similar in thought and have one point of view. To the contrary, the Commission Staff was from all over the country and without any previous connections among them. Consequently, it was less likely that we would get a cohesive report. The diversity of selection of the staff may have made a positive contribution to the Report. On the Secret Service and the FBI, the Commission didn't think that Sam Stern's report was objective or logical. We relegated it to the files and had it reworked. We would have looked bad if we had failed to ~~xxxxx~~ point out that the FBI had had reason to look up Oswald before the event, knowing all that it did about Oswald. J. Edgar Hoover was furious about it. But it just had to be done; it couldn't be passed over. We felt we had to call it to the attention of the public. The FBI had notified the Secret Service about only two people in Dallas before the visit. And we would also have looked silly if we hadn't mentioned the Secret Service agents going out the night before the assassination in Dallas. The staff was in contact with the FBI all of the time during the

Rankin
investigation, and the FBI could influence a lot of people and persuade them not to criticize. There was another factor-- the Department of Justice sent a young man over to the Commission to act as liaison with them. He was very critical of me from the time he came over to us. ~~Lee Rankin as Chief Counsel was in a very delicate position. I had the greatest confidence in Rankin.~~

Q. Did the Commission insist on or push certain lines of inquiry?

A. I can't think of anything in particular. On one occasion we considered the matter of a defector from the Soviet Union. The CIA cleared him of chicanery, and we discussed whether to use him as a witness. I was adamant that we should not in any way base our findings on the testimony of a Russian defector. There was a lot of discussion of this matter among the Commissioners but no argument. After considerable discussion, we decided not to use his testimony. He had given a clear bill of health to Oswald as far as being a Soviet agent. Much later at Anderson House, I ran across CIA Director Helms. He took me aside and told me that the CIA had finally decided that the defector was a phony. Ford was especially interested in international aspects of the assassination. Everybody on the Commission wanted to visit Dallas. Russell couldn't go most of the time, but he went down later. Some of the Commissioners went individually. McCloy scouted the place on his own. Boggs was a good Commissioner. He approached things objectively. I found him very helpful. Boggs was friendly and Ford was ~~quite~~ *agonistic*.

Q. Were you generally satisfied with the operation and performance of the Commission Staff?

A. I think that judging from what developed I have to be satisfied with the work of the Staff. ~~Some of the Staff members didn't work too hard. But all in all I think the Staff did a good job. After all, the individuals weren't free to roam over the whole situation. They had to submerge themselves into~~

particular aspects of the investigation and the Report. I gave my attention to the senior members of the Staff. I talked to Joe Ball for instance, and with Bert Jenner and Bill Coleman. I can't give a firm opinion about the younger men. I dealt first with Rankin and then with others. I have always operated by picking someone I could trust and giving him the greatest latitude. I had great confidence in Lee Rankin. He had proved his integrity to me in the Dixon-Yates case when he was Solicitor General. We had to have a minimum of publicity if the Commission was to do its job, but we couldn't prevent witnesses from talking to the press. I had thought of Warren Olney for the Chief Counsel job, but someone said that we shouldn't have anyone who was already in Government for that job. I agreed. McCloy recommended Rankin for Chief Counsel.

Q. Do you think that the Report might have been more thorough and more accurate had more time been allowed for the job?

A. We had all the time we wanted. If we had gone any further we would have gotten into the political mess of the presidential campaign. There were no new avenues left to explore. When we had found something new we did stop and explore. Doubts always arise in investigations such as this one and sometimes mulling things over may lead to doubts that confuse. I believe you have to bring things to a head. Ten months is a long time. This murder case could have been tried in the courts in not more than three days on the facts. The only real question had to do with whether others were involved. Putting it all together was a real job.

Q. Were there any special problems in working with J. Edgar Hoover and the FBI?

A. There were no special problems from Hoover and the FBI. I saw Hoover only once during the investigation. We had lunch. The Secret Service was very cooperative and so was the CIA. People don't remember that we had all the facilities of the U.S. Government investigative agencies at our disposal. The police departments throughout the country helped. We got scientific findings. We had an enormous amount of help. Never in the history of the country have so many responsible agencies focused on the facts and tried to determine them.

Q. ~~Are you aware of any political consideration of any kind or any exercise of political influence on any commissioner from any source?~~

A. ~~I don't believe there was any political activity at all. On the part of Ford it was a matter of political orientation rather than ideology. I am positive there was no hint of political influence. I think I can say the same thing about the staff.~~

Q. What do you consider the chief weaknesses of the Report?

A. I have always had a pride of accomplishment about the Report. I don't feel that there is much left to be desired from the Report. We reported every bit of evidence we took in the case. The records are in the National Archives. We did reach agreement among a group of men who were not noted for their homogeneity. It seemed to me that we had an enormous amount of help from agencies of the government at the direction of the President who instructed them that nothing should be held back. We got everything we wanted. We achieved as much proof as could be achieved. If I had had doubts whether the FBI and the Secret Service were performing and that it would take something additional, I would have insisted on access to their records, and the rest of the Commission would have too.

Q. To what do you attribute the negative criticism of and the growing doubts about the Commission and the Report?

- A. A number of things greatly contributed to putting doubts in the minds of people -- the chaotic conditions in Dallas, the system of news gathering, and the relationship of the press to the news media. Many things that didn't happen at all also contributed. And people all over the world are conspiratorial-minded. And often there have been conspiracies. But our history has not been that way. Outside of the Lincoln assassination, there were no conspiracies. The attempt on Truman was conspiracy of sorts. There's no use discussing this with people overseas. Almost everybody there thinks it was some kind of a conspiracy. I talked with the press a couple of times overseas -- in Ethiopia and Peru. About 1966 or 1967 the Associated Press wanted to go into the whole thing and assigned two men to do a definitive story. They worked a whole year and turned out a book, but it was never published. They agreed with the Commission, and that was not news.
- Q. If you had to do it over again, what would you do differently or have the Commission do differently?
- A. I can't think of anything at the present time. I don't remember anything that was basic to the report or its integrity. I wouldn't want to revise anything at this time.