

# Doubts Cast on Validity of the Warren Report

BY ROBERT R. KIRSCH

**INQUEST: The Warren Commission and the Establishment of Truth** by Edward Jay Epstein (The Viking Press, \$5, illustrated)

• What began as a master's thesis in government at Cornell University has emerged as nothing less than an explosive piece of superior journalism, raising important and challenging questions about the methods and the conclusions of the Warren Commission, and a supple and lucid essay on political science, which penetrates some of the deeper motives of a postwar government.

All of this is found in a new book (136 pages of text, some 61 pages of notes, appendices, and index) but a volume in which all the major issues are stated and examined, and containing a phenomenal amount of information on both the assassination of President Kennedy and the practical operation of the commission which investigated the circumstances of that crime.

Epstein does not resolve the questions. He does, however, put together a convincing argument that the commission and its staff, operating under staggering pressures of time and complication, torn by a dualism in purpose ("If the explicit purpose of the commission was to ascertain and expose the facts, the implicit purpose was in part of the national interest by dispelling rumors"), confused by a lack of precedent in procedures, accomplished less than was claimed for it, ultimately produced, in Epstein's words, a "version of the truth" to reassure the nation and protect the national interest.

## Doubts Persist

One of the persistent doubts it failed to dispel, Epstein shows through a brilliant ordering of the evidence, is whether Oswald alone committed the crime. He does not question Oswald's involvement in the assassination. But he suggests that to hold it a single-handed action is to ignore evidence (or as the commission may have done, to slight inconvenient evidence) that more than three shots were fired on the day President Kennedy was killed and Gov. Connally was wounded.

In order to sustain the conclusion that Oswald was the sole assassin, it was necessary to accept the theory that Gov. Connally was wounded by a bullet

which this condition. (They state, it will be recalled, that the first bullet did not exit from the front of the President's body.) Furthermore, even if the Summary and Supplemental Report are inaccurate (both incidentally are reprinted in part as appendices) other evidence arose which showed that it was not possible that both men were hit by the same bullet, unless the basic facts and assumption established by the commission are incorrect. There is a strong case that Oswald could not have acted alone.

He goes on: "It is true that the commission found no evidence that others were involved with Oswald in the assassination, but, as has been shown, the investigation was by no means exhaustive or even thorough. The question thus remains: How far did the commission go in approaching the threshold question of a second assassin?"

## Not Far Enough

Certainly not far enough, according to Epstein, and reportedly according to many staff members who were interviewed by him. When the commission reached its conclusions, after what one commissioner called "the battle of the adjectives," the wording was "The commission has found no evidence of a conspiracy." It was Rep. Ford who insisted that this sentence be used rather than a categorical statement in the draft that there was no conspiracy. Commissioner McCloy urged the following qualification.

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

Epstein suggests that the last phrase is more accurate. But he does not either imply or state directly that there was any purposeful suppression of evidence. He rejects the two diametrically opposed categories in which most writing about the assassination falls:



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## The Warren Report

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tion on which they are based.

Instead, he bases his study on a dispassionate assessment of the institution, organization and direction of the investigation, its scope and limits, the practical chances of gathering information and writing the report. His sources are the commission's report and the 26 volumes of testimony and exhibits, the investigative reports in the U.S. National Archives (except for those which remain classified), the working papers of the commission, supplied by a member of the staff, Wesley J. Liebeler (whose critique of the commission report is extensively quoted) and interviews with five of the seven members of the commission, with numerous staff members including J. Lee Rankin, the commission's general counsel.

Because of his access to the working papers and the remarks of the staff, Epstein is able to report the complex tangle of viewpoints and conflicts in the course of the 10-month investigation.

### An Iffy Question

His evaluation of the evidence regarding Oswald must be read in its careful step-by-step development. Whether you accept the doubt raised in that account or not, it certainly suggests that there remains much to be

conceived by some of the commissioners. McGloy, "to show the world that America is not a banana republic, where a government can be changed by conspiracy." Sen. Cooper, "to lift the cloud of doubts that had been cast over American institutions." There was the pressure of public curiosity and the pressure from the White House on the timing of the report.

"The two purposes," Epstein writes, "were compatible so long as the damaging rumors were untrue. But what if a rumor damaging to the national interest proved to be true? The commission's explicit purpose would dictate that the information be exposed regardless of the consequences, while the commission's implicit purpose would dictate that the rumor be dispelled regardless of the fact that it was true. In a conflict of this sort, one of the commission's purposes would emerge as dominant."

Yet, it is in practical terms that Epstein is most critical (always gently and soberly). Among the most important, the commission members were necessarily part-time and could not devote the necessary complete attention to the investigation (attendance records ranged from Sen. Russell who heard about 6% of the testimony to Allen Dulles who heard 71%; the average 45%); the commission had no independent investigating group, had to depend on government investigating agencies, some of whom were under question themselves and hardly enthusiastic in their cooperation; the division of areas of concern which tended to fragment the portions of the inquiry; the pass of time, the emphasis on tangential matters, less than one-third of the commission hearings—about 81 hours out of a total of 241—dealt with pertinent facts of the assassination; the failure to use adversary means of questioning; the selection of witnesses and the decisions as to credibility.

### Report Challenged

When some of the staff asked tough questions they were reprimanded. When others doubted Marina Oswald's testimony, wished to examine her further, Chief Justice Warren closed the possibility by saying he considered himself to be "a judge of human beings" and he and the other commissioners fully believed her testimony.

In the writing of the report, the selection and interpretation of evidence buttressed certain versions. Epstein gives a number of examples of pertinent evidence overlooked, rejected or unexplored, and these particularly in expert testimony and in the statements of certain eyewitnesses.

Richard H. Rovere, who has provided an introduction to the book, says

review of the FBI laboratory findings of firearms expert Robert A. Frazier concerning the back wounds of the President indicated to us that the work was of fine quality. So much so, that we saw fit, in the interests of historical justice, to dedicate an article in part to Mr. Frazier.<sup>6</sup> With the purpose of checking out the possible divergence of findings between the FBI and the Warren Commission, I applied to the National Archives and Records Service, Washington, D.C., for permission to inspect the FBI report. The Archives staff apparently does not construe its task as compelling the American people to "rely on the conclusions and the stature of the men on the Commission." For, after having identified myself as a critic of the Warren Commission Report,

the President, could not have also struck Governor Connally.

2. C.E. 399 did not exit from the President's front—which supports the proposition that President Kennedy's neck wound was a separate hit fired by an assassin stationed in front of the President.

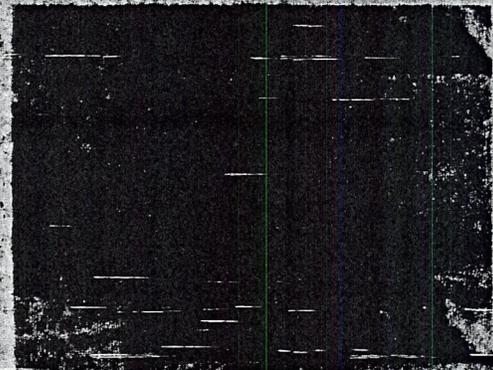
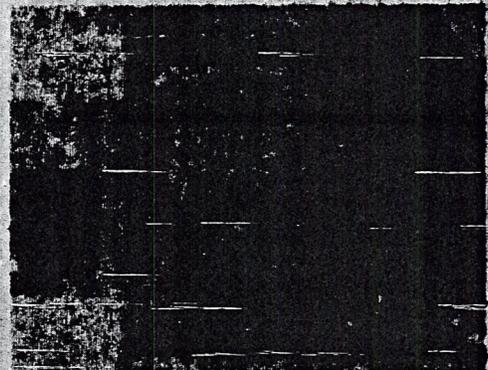
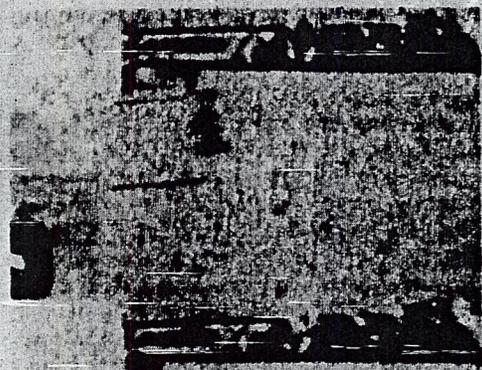
3. 399 could not have struck Governor Connally, hence that a separate bullet had to do so, since the government's Dr. Alfred G. Olivier demonstrated that the last shot striking the President in the head could not have caused all of Governor Connally's wounds. (V H 90) The Commission agreed with Dr. Olivier. (W-586)

4. Since the President's head hit was a separate shot which followed the wound-

possible source of this bullet from other than the southeast window of the Texas School Book Depository Building must be considered. A southwest window could account for a steeper angle.

10. Since the FBI must have at least partly based its finding of no exit from the President's back wound on the original autopsy report, and since the present autopsy report describes a missile as exiting from "the anterior surface of the neck" (W-543), the burning of "preliminary draft notes relating to the Naval Medical School Autopsy Report" may be a euphemism for an original autopsy report which was burned.

11. Among the most devastating critics of the Warren Report is the FBI.



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I was afforded the courtesy and helpfulness of devoted public servants of the National Archives who performed their job well as trustees of public information. In short, I was permitted on February 26, 1966 access to the four-volume work entitled *Investigation of Assassination of President John F. Kennedy, November 22, 1963*, which work bears the name of John Edgar Hoover, Director of the Federal Bureau of Investigation.

In Volume 1, page 18 of the FBI report our quest for the answer to the historical riddle came to a successful conclusion:

"Immediately after President Kennedy and Governor Connally were admitted to Parkland Memorial Hospital, a bullet was found on one of the stretchers. Medical examination of the President's body revealed that one of the bullets had entered just below his shoulder to the right of the spinal column at an angle of 45 to 60 degrees downward, that there was no point of exit, and that the bullet was not in the body. An examination of this bullet by the FBI Laboratory determined that it had been fired from the rifle owned by Oswald. (Exhibit 25)"

Exhibit 25 is labeled "BULLET FROM STRETCHER," and this bullet is none other than Commission Exhibit 399.

#### Implications of the FBI Finding

If the FBI finding is correct—and all the evidence seems to bear out the FBI and to negate the possibility of the Commission's finding of a double hit—then some crucial implications naturally flow therefrom:

<sup>6</sup> Salandria, Vincent J., "A Philadelphia Lawyer Analyzes the President's Back and Neck Wounds," *Liberation*, March 1962.

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ing of Governor Connally. (W-100) this head hit acquires a minimum of four bullets in the assassination picture.

5. The wounding of James T. Tague while standing between Main and Commerce Streets (W-116), when combined with every other evidence of missed bullets, compelled the Commission to conclude "... one shot probably missed the Presidential limousine and its occupants" (W-117) Therefore, a minimum of one more bullet as a minimum total of five bullets now escape in the assassination.

6. Commission Exhibits 205 and 206 (XVI H 977)—drawings which I indicated in a previous article "contradict the back wounds of the President as depicted on the autopsy face sheet, Exhibit 107, (XVII H 48)—are fabrications, for they show a channel of exit which apparently did not exist for President Kennedy's back wound. Now the withholding of the X-rays and photographs taken at the autopsy of President Kennedy, on which the FBI must have relied for reaching its no-exit conclusion, takes on an ever-more ominous significance.

7. Arlen Specter's failure to question the FBI firearms expert, Robert A. Frazier, on the FBI finding of no exit for the back wound seems to demonstrate on Mr. Specter's part a compelling desire not to clutter the hearing record with the FBI finding which comported with all the evidence.

8. The Commission conclusion that C.E. 399 came from the stretcher of Governor Connally was unwarranted.

9. The 45 to 60 degree angle downward course of the bullet through the President's back would indicate that the first assassination bullet to strike the Presidential limousine did so when the car was considerably closer to the Texas School Book Depository

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We again submit that there was a conspiracy of at least two and possibly more men to kill President Kennedy on November 22, 1963. Without fear of being gainsaid, we maintain that this conspiracy is now proven. Reasonable men have made in determining how President Kennedy was killed.

We call upon the United States Government to release to the National Archives, for purposes of examination by interested persons, the following essential evidence which has not been produced to date:

1. The wound-ballistics test bullet—all of them.
2. Zipper frames 208, 209 and 211.
3. X-rays and photographs taken at the autopsy of President Kennedy.
4. Films of the Hugh William Betzner, Jr., Mervyn Muehmann, Orville O. Nix films.
5. All FBI data dealing with the shooting on the assassination site.

None of the above can be rationally included in the category of "national security and intelligence" material, unless our society is much less free and much more closed than it is supposed to be. If such is the case, we must redouble our demands that the evidence be released for examination at the rightful repository, the National Archives.

The Warren Commission is not the country; the people are.