

STATEMENT BY REP. THEODORE R. KUPFERMAN (R. - N.Y.) IN THE HOUSE OF REPRESENTATIVES UPON THE INTRODUCTION OF A CONCURRENT RESOLUTION TO ESTABLISH A JOINT COMMITTEE TO DETERMINE THE NECESSITY OF A CONGRESSIONAL INVESTIGATION OF THE ASSASSINATION OF PRESIDENT KENNEDY, SEPTEMBER 23, 1966.

THE KENNEDY ASSASSINATION
and
THE WARREN COMMISSION

Pursuant to Executive Order 11130 dated November 29, 1963, the President's Commission on the Assassination of President Kennedy investigated the assassination which took place one week before on November 22, 1963, of President Kennedy, and the subsequent killing of the alleged assassin, and reported to President Lyndon B. Johnson.

The President's Commission, more popularly referred to as the Warren Commission because the Chief Justice of the United States Supreme Court, Earl Warren, was designated by the President to serve as its Chairman, was directed to evaluate all the facts and circumstances surrounding the assassination of President Kennedy and the shooting of Governor Connally and the subsequent killing of the alleged assassin Lee Harvey Oswald.

Following ten months of exhaustive investigation, and after reviewing testimony of 552 witnesses, 25,000 FBI interviews, 1550 Secret Service interviews and other documents which compose a stack of papers that is said to fill 300 cubic feet in the National Archives, the seven-man Warren Commission publicly submitted its report to the President on September 24, 1964. On September 23, 1964, the Warren Report was made public.

It was the conclusion of the Commission, among other things, that Lee Harvey Oswald, acting alone, killed the President. The shots which killed President Kennedy and wounded Governor Connally, the Commission found, were fired from the sixth floor window at the southeast corner of the Texas School Book Depository. The Commission concluded that the weight of the evidence indicates that there were three shots fired. The Commission held that it was not necessary to any of its essential findings to determine just which shot hit Governor Connally, but that very persuasive evidence from the experts indicates that the same bullet which pierced the President's throat also caused Governor Connally's wounds. While the third conclusion of the Commission states that Governor Connally's testimony and certain other factors have given rise to some difference of opinion as to this probability, the Commission states there is no question in the mind of any member of the Commission that all the shots which caused the President's and Governor Connally's wounds were fired from the sixth floor window of the Texas School Book Depository, and the shots which killed President Kennedy and wounded Governor Connally were fired by Lee Harvey Oswald.

The Commission found no evidence that either Lee Harvey Oswald or Jack Ruby was part of any conspiracy, domestic or foreign, to assassinate President Kennedy. Moreover, it concluded that in its entire investigation the Commission found no evidence of conspiracy, subversion, or disloyalty to the U. S. Government by any Federal, State, or local official.

The stated purpose of the Commission was to investigate all the facts and circumstances surrounding the assassination and the subsequent killing of the alleged assassin. But, as a practical matter, no doubt President Johnson knew the value of reinforcing the public confidence in its institutions and Governmental agencies.

There was a natural outburst of public emotion following the tragic and shocking events which took place so rapidly on November 22, 1963, and an increasing wave of speculation in this country, and even more so in Europe and Latin America, concerning the possibilities of conspiracy and plotting of right or left-wing elements.

It was obvious in President Johnson's approach to selecting the composition of the Commission, that he wanted men of the highest integrity and national reputation so that the Commission's findings would have the necessary standing to ensure quick acceptance of its findings and thus provide what some have called "domestic tranquility."

This view is epitomized by the fact that President Johnson chose the Chief Justice of the United States, Earl Warren, to act as Chairman of the Commission. Indeed, all of the seven members of the Commission are men of national reputation for intelligence, competence and integrity.

The difficulty comes in the fact that many people feel that the findings of the Warren Commission have not been accepted. In this regard, Fletcher Knebel writing in Look Magazine, July 12, 1966, reports that a Harris Survey taken in the fall of 1964, soon after the publication of the Warren Report, showed that 31% of Americans still believed Oswald had accomplices, and that less than half the people believed the Commission told the full story.

It is obvious that it would be an impossible task for the seven-member Commission to persuade even a majority of the American people as to the exact nature and circumstances of all the horrible events that took place on that Friday. But, the fact remains that if the purpose of the Warren Commission was to allay or set at rest doubts that a great many people naturally had following that event, and to restore a feeling of relative security and calm as a result of its search for the facts, then it is at least questionable whether it succeeded.

Of course, there was a rash of activity by writers and critics immediately following the publication of the Report who played on difficult and unanswered questions, thus feeding fuel to the fires of speculation in the minds of the doubters and adding to the uneasiness of the people. The obvious difficulty with the products of this first wave of critics is that they played heavily on insinuations and rhetorical questions while failing to answer or offer alternative theories based on reasoned judgments after weighing all the evidence, such as the Warren Commission purportedly did.

However, it is now two years after the publication of the Warren Commission report and a new wave of criticism has developed concerning the work of the Warren Commission. The critics who make up the second wave are not addressing themselves, or the most part, to the integrity of the Warren Commission, or even to the soundness of many of its conclusions.

The serious question raised by the second wave of critics is whether the members of the Warren Commission took the necessary time to examine thoroughly all the available material and evidence to come to an accurate and independent conclusion as to what happened, or whether they were disposed to satisfy a certain view, being persuaded in the public interest to come to a speedy decision.

Those who criticized the Warren Commission or the Warren Report along these lines would find possible support in the fact that President Johnson selected highly competent but busy men to act as Members of the Commission.

One of the many recent books critical of the Commission was written by Edward J. Epstein as an outgrowth of his masters thesis in Government for Cornell University. In the introduction to Mr. Epstein's book entitled, "Inquest: The Warren Commission and the Establishment of Truth," Richard H. Revere, a respected writer, notes in the foreword that Epstein amply demonstrates that the Commission's quest for truth was also a quest for domestic tranquility, and that the second quest often got in the way of the first. Mr. Epstein says the Commission's probe was hampered by an impossible deadline imposed by Chief Justice Warren, by lack of investigation and manpower, and by absenteeism of the busy commissioners. He calculates only three commissioners heard more than half the testimony and measured the attendance at the hearings as ranging from a low of about six percent to a high of about seventy-one percent. Mr. Epstein states that the Commission ignored possible witnesses, sifted the testimony to suit its purposes, and omitted contradictory evidence and inconsistent details.

Finally, the critics suggest as typical of the superficial nature of the Commission's work, that the Commission never independently investigated rumors, whether Oswald was a paid informant of the FBI, but merely took the word of FBI officials, principally J. Edgar Hoover, that he was not. . . . They say the question that the public is left with now is whether the Commission's commitment from the onset of its assignment was less to the discovery of revelation and truth than to dispelling rumors that would damage the national interest.

In an article entitled, "Round Two," written by Fred Graham, which appeared in the New York Times Book Review of August 23, 1966, it was stated that,

Unfortunately, many people may confuse the doubts about the commission with doubts about its conclusion. One of the earliest and most perceptive critics of the Warren Commission, Paul L. Freese of the California Bar, remarked in the Columbia Law Review that the commission was vulnerable because its real task "was not to find the truth but to appear to have found the truth." Mr. Graham says with respect to this statement of Paul Freese, "The pity is that it may have done the opposite." *

Fletcher Knebel, the author of the "Warren Commission Report on the Assassination Is Struck by a New Wave of Doubt" which appeared in Look Magazine on July 12, 1966, examined Mr. Epstein's writing carefully and "...soon became convinced that Epstein was guilty of the very sins of which he accused the Warren Commission distortion, ignoring testimony, sifting the evidence, and adroitly selecting it to fit its theories and assumptions." Mr. Knebel states with respect to "Inquest: The Warren Commission and the Establishment of Truth," "At the worst, Epstein has written a dangerously deceptive book. At the best, he is guilty of precisely what he lays at the door of the Warren Commission--a "superficial" investigation."

Richard N. Goodwin, a former assistant to President Kennedy, in a review written for Book Week of the World Journal Tribune (then on strike) and appearing in New York City in the Village Voice of August 4, 1966, considered Edward J. Epstein's book. In the early part of Mr. Goodwin's review he states,

...those who worked with President Kennedy, even those in the outer rings of relationship such as myself, welcomed with such swift acceptance the conclusions of the Warren Report; even though few had read it thoroughly and almost no one had examined the evidence on which it was based. There was, of course, the fact that the integrity and purpose of the Commission were beyond question and its members were men of skill and intelligence. There was the almost unanimous praise of newspapers and commentators who we assumed, if we thought about it at all, had followed the course of investigation and studied the answers. This would not ordinarily have been enough for those who had learned the lesson of the Bay of Pigs: that neither position, conviction, sincerity, nor expert knowledge precluded the need for independent judgment of the evidence. This time, though, there was only room for grief; and a lone madman compelled neither hatred nor effort nor calculation.

Speaking of Epstein's harsh criticism of both the substantive portion of the Warren Commission's findings, as well as the procedures employed, and the lack of thoroughness of the Warren Commission, Mr. Goodwin states:

...None of this proves or even forcefully indicates that a single disturbed human being was not the cause of President Kennedy's death. Perhaps all the specific examples Epstein uses to strengthen his case will be easily refuted. If there are gaps, further study may swiftly close them. However, the attack on the nature and adequacy of the Commission's work is not easily dismissed. Even if Mr. Epstein is totally wrong in every discussion of specific evidence, and yet if he is right that the investigation itself was seriously incomplete, then we have not established to the limit the possibility that Lee Harvey Oswald acted alone to kill John F. Kennedy.

* The reference to Columbia Law Review must be inadvertent. It is actually at 40 NYU Law Review page 459 (May 1965).

Mr. Goodwin further states:

I find it hard to believe that the investigation was seriously flawed, but here is a book which presents such a case with a logic and a subdued and reasonable tone which have already disturbed the convictions of many responsible men. It may all rest on quicksand, but we will not know that until we make an even more extensive examination than the author has made. An independent group should look at these charges and determine whether the Commission investigation was so defective that another inquiry is necessary. Such a procedure will, perhaps unnecessarily, stimulate rumors and doubts and disturb the political scene. Yet there seems to be no other course if we want to be sure that we know as much as we can about what happened on November 22, 1963.

There have been a host of other writers concerned with the Kennedy Assassination and the Warren Commission including Thomas Buchanan's "Who Killed Kennedy," Penn Jones Jr.'s "Forgive My Grief," Harold Weisberg's "WHITENASH: The Report on the Warren Commission," Mark Lane's "Rush to Judgment," and most recently, "The Second Oswald" by Richard H. Popkin. At the end of this statement I have included as complete a listing as the Library of Congress has been able to compile to date of various articles and books dealing with the Warren Report and the assassination of President Kennedy.

It would seem that the relevant inquiry at this time should not be whether the Warren Commission maintained the expected degree of integrity in its investigations and findings, nor whether Lee Harvey Oswald was actually the lone assassin of President Kennedy, but rather whether the people of the United States feel the desired confidence and finality in the authoritative work that has been done to date. In other words, is the Warren Commission's report enough.

In the past, we find that our country, in the words of the noted attorney Louis Nizer, "has not resorted to commissions as a regular procedure, but chiefly in great emergencies, and, fortunately, therefore infrequently."* A review of American history tells us that one such great emergency was the debacle at Pearl Harbor, which not only shattered our fleet, but to a great extent our confidence and pride. President Roosevelt knew that a report was required following the international disaster of Pearl Harbor on December 7, 1941, that would tell the people the truth which they wanted and needed so desperately to know. He knew that the people could bear up under the truth, but that uncertainty and rumor of plots and conspiracies would, above all, undermine their confidence and destroy their will.

Thus, on December 18, 1941, President Roosevelt created the Roberts Commission. The President designated Justice Owen J. Roberts of the United States Supreme Court as its Chairman. He appointed Admiral William H. Stanley, U.S. Navy, retired, Rear Admiral Joseph M. Reeves, U.S. Navy, retired, Major General Frank McCoy, U.S. Army, retired, and Brigadier General Joseph T. McNarney of the Army to serve with Justice Roberts as members of the Commission.

Many criticized President Roosevelt and the Roberts Commission at the time for the fact that the heavy military composition of the Committee would not be likely to ensure an impartial report on their own services. Those critics were substantially quieted when the Roberts Commission publicly reported to the President on January 23, 1942, and in terms of dereliction of duty and errors of judgment placed a good deal of the blame for the Pearl Harbor disaster upon the Joint Commanders of the Army and Navy who were stationed in Hawaii at that time. The Roberts Commission's 21-page report is listed as Senate Document No. 159, 77th Congress, 2nd Session (1942).

The integrity of the members of the Roberts Commission was uncompromised and its impartiality was beyond question. Thus, it could be a very persuasive report. But, it is important to note that the purpose of the Roberts Commission was to provide a basis for sound decisions as to whether any derelictions of duty or errors of judgment on the part of the United States Army or Navy personnel contributed to such successes as were achieved by the enemy on December 7, 1941. In other words, the Roberts Commission inquiry was inherently narrow in its purpose, if not in its scope.

* An analysis and commentary of the Warren Report by Louis Nizer is found in the foreword of the Doubleday & Company, Inc. printing of the Warren Report at pg. iii-a thru pg. xxviii-a.

The Roberts Commission was followed by six other investigations of the Pearl Harbor incident: Immediately following the Roberts Commission was the Hart Inquiry, initiated by order from Secretary of the Navy Knox on February 12, 1944, and concluded June 15, 1944. Following the Hart Inquiry, the Army Pearl Harbor Board was appointed pursuant to provisions of Public Law 339, 78th Congress, and was directed to ascertain and report the facts relating to the attack made by the Japanese and to make such recommendations as it may deem proper. The Board held sessions beginning July 20, 1944, and concluded its investigation on October 20, 1944. Following the Army Pearl Harbor Board was the Navy Court of Inquiry pursuant to Public Law 339, 78th Congress. It held sessions July 24, 1944, and concluded its inquiry on October 19, 1944. The Clark Inquiry was next, conducted from September 14 to 16, 1944, and from July 13 to August 4, 1945. This inquiry was more specific in its scope and testimony being taken concerning the handling of intercepted Japanese messages and the handling of intelligence material by the Military Intelligence Division of the War Department. Finally, there was the Clausen Investigation (Commenced November 23, 1944, and concluded on September 12, 1945) and the Hewitt Inquiry (Commenced May 14, 1945 and concluded on July 11, 1945).

Notwithstanding the work of the Roberts Commission and the six other investigations of the facts and circumstances relating to the attack on Pearl Harbor by the Japanese on December 7, 1941, serious questions, doubts and inconsistencies remained. Finally the Congress of the United States found it necessary to establish a Joint Legislative Committee on the Investigation of the Pearl Harbor Attack. The Concurrent Resolution, No. 27 (as extended), 79th Congress, 1st Session, establishing the Joint Legislative Investigation Committee composed of five members of the Senate and five members of the House, passed the Senate on September 6, 1945. The House concurred on September 11, 1945.

Ten months later, on July 20, 1946, the exhaustive and credible work of the Joint Congressional Committee was presented to the President of the Senate and Speaker of the House. The work is found in a bound Senate volume entitled, "Pearl Harbor Attack."

It is against this background that I propose that a Joint Congressional Committee be created to make a preliminary inquiry to determine whether there exists the necessity to re-investigate thoroughly all of the facts and circumstances surrounding the events that ended in the assassination of President Kennedy, the subsequent killing of his alleged assassin, and the shooting of Governor John B. Connolly.

Should the Joint Congressional Committee determine, after a preliminary investigation of all the accounts, writings and reports, including but not limited to the Warren Report, of the facts and circumstances relating to the Kennedy assassination, that further Congressional investigation is necessary, then that Joint Committee would proceed to investigate fully the entire facts and circumstances surrounding the events of November 22, 1963.

The Concurrent Resolution, which I have introduced today and which follows at the end of this statement, would establish a Joint Congressional Committee composed of five members of the Senate (not more than three of whom shall be members of the Majority Party) to be appointed by the President pro tempore, and five members of the House (not more than three of whom shall be members of the Majority Party), to be appointed by the Speaker of the House.

As the Warren Commission states, it was created in recognition of the right of people everywhere to a full and truthful knowledge concerning these events. The report, in its own words, "has been prepared with a deep awareness of the Commission's responsibility to present to the American people an objective report of the facts relating to the assassination."

We must not hide from all the facts whatever they are, and whatever they indicate. In light of the current and mounting criticism of the Warren Report we must now objectively evaluate the findings of all those who would have us believe the Warren Commission in one way or another did not do all that it could have. In this way the volume of work of the Warren Commission will be called upon to stand a true test. But so will the conclusions and rationality of those who would attack the Warren Commission be put to an equally objective test.

There appeared in the New York Times magazine section on September 11, 1966, an article written by an English political commentator, Henry Fairlie, entitled, "No Conspiracy, But--Two Assassins, Perhaps?" Mr. Fairlie writes that...

The Report of the Warren Commission is now under severe and in some cases, persuasive attack. It is hard to disagree with the general judgment of its critics that it did a hurried and slovenly job. It seems to have been less than thorough in the examination of some key witnesses, less than skeptical of some of the official evidence with which it was supplied, less than careful to consider in detail every possible explanation of the assassination other than Lee Harvey Oswald's sole guilt.

Following a discussion of the events and circumstances of the assassination of President Kennedy and Lee Harvey Oswald, Mr. Fairlie states :

At some point, it is clear, there will have to be another independent inquiry. But, even if this is agreed, it is by no means equally clear that the time for such an investigation is now. A portion of the investigative reports in the United States National Archives is not yet declassified. The whereabouts of other important evidence have still not been ascertained. In these circumstances the chances of a further inquiry producing a report which would carry conviction are slight.

And further, Mr. Fairlee quotes the following conclusion of Harold Weisberg, author of "WHITEASH:-", the report on the Warren Report:

A crime such as the assassination of the President of the United States cannot be left as the report of the President's Commission has left it, without even the probability of a solution, with assassins and murderers free, and free to repeat their crimes and enjoy what benefits they may have expected to derive therefrom. No President is ever safe if Presidential assassins are exculpated. Yet this is what this Commission has done.

According to Mr. Epstein, 28 Governmental agencies furnished more than 300 cubic feet of paper to the Warren Commission and there were over 1500 Secret Service interviews or reports and thousands of papers connected with the investigation of the facts and circumstances relating to the assassination of President Kennedy. In addition, the FBI alone sent the Commission 25,000 reports and papers.

I am informed that at the present time two-thirds of the available papers and documents in the National Archives are declassified and open to the public for research purposes.

The remaining one-third of the available documents and papers at the National Archives is composed, in part, of the administrative records and working papers of the Warren Commission. Additional housekeeping records are mixed in with these papers and records and have to be sorted.

The records, reports and papers concerning the facts and circumstances relating to the assassination of President Kennedy which are at the National Archives and are presently classified should be made available to the public at the earliest possible time.

In keeping with the National Freedom of Information policy embodied in Senate Bill 1160, which I supported in the House of Representatives when it passed here on June 20th, and which President Johnson signed on July 4 of this year, we must make every effort to remove the veil of secrecy over papers and documents which can be revealed without violating the public interest.

As President Johnson said upon signing this Federal public records law (P.L. 89-492):

I am instructing every official in this Administration to cooperate...and to make information available to the full extent consistent with individual privacy and the national interest.

There are nine exemptions to the National Freedom of Information Law. With respect to the papers and documents containing facts or circumstances relating to the assassination of President Kennedy which are at the National Archives, the first exemption should be examined. It reads as follows:

Sec. 3. Every agency shall make available to the public the following information:

(e) Exemptions. The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive Order to be kept secret in the interest of the National defense or foreign policy;

As Mr. Bert Mills points out in an article entitled, "What Next on FOI?", published in the National Publisher, September, 1966,

The key phrase here is "by Executive Order." No minor official will make the decision, only the President, and his action in issuing such an order is publicized...

Although the Freedom of Information Law does not become effective until Independence Day, 1967, based upon it and the expressed intent by President Johnson in signing it, I believe the exemption cited above should not be applicable to the materials relating to the assassination of President Kennedy which are presently being held as classified in the National Archives. This view is further supported by the fact that President Johnson asked the Attorney General over one year ago to coordinate an overall agency review of the records and papers furnished to the Commission and in turn deposited with the National Archives in order to make as much of this material available to the public as they possibly could.

On August 17, 1966, the Office of the Attorney General asked the National Archives to apply the same standard of public accessibility to the working papers and administrative reports which it has received from the Warren Commission itself.

To the extent that any doubt remains, the President should be requested to free for scrutiny all documents and evidence of any kind in this area.

It is not, nor has it been, my desire to rush to verdict concerning the outcome of the questions I raise herein. However, I feel that those questions which the critics say were allegedly left unanswered should not be superficially answered nor should they be left unanswered. Let an independent body make a thoroughly dispositive and exhaustive evaluation of all that has been said and written to date, concerning the events surrounding the assassination and the Report of those events, just as the Joint Congressional Committee reviewed Pearl Harbor and the findings of the Roberts Commission four years later.

Moreover, it is just as likely that the work and conclusions of the Warren Commission will emerge further justified and supported. In this way the confidence of the people may be restored and once and for all the majority of doubters should be satisfied that all there is to be known about the events of November 22, 1963, is known, and the tragedy of that day may be allowed to rest with dignity. And if a thorough and objective examination should shed new light on the happenings of that day, then we can only benefit by coming closer to the truth.