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Four Look at the Warren Commission

Rush to Judgment by Mark Lane. Holt, Rinehart & Winston, New York, Chicago and San Francisco. 478 pp. \$5.95.

Congressman Gerald Ford, writing of the work of the Warren Commission, of which he was a member, said in his book, *Portrait of the Assassin*, "Twenty-six volumes of testimony, depositions and exhibits like this would undercut the speculations of the Mark Lanes, Sauvages, Feldmans, Buchanans, et al. The most insidious schemer in the world could hardly rig the statements of 552 witnesses. Let those who scoff at the report bury themselves for ten months in the monumental record. After that, if they persist in their scepticism, that's their privilege. May they add to the truth so long as it is the truth and not mere speculation."

After reading Lane's *Rush to Judgment*, along with *Forgive My Grief*, by Penn Jones, Jr.; *Inquest: the Warren Commission and the Establishment of Truth*, by Edward Jay Epstein; and *The Unan-*

swered Questions about President Kennedy's Assassination, by Sylvan Fox, one is astonished at the rashness of Congressman Ford's challenge. These books demonstrate that the report is questionable just on the basis of the evidence—the 26 volumes of testimony, depositions and exhibits—on which it rests. Even more damaging is the amount of evidence which the commission could have availed itself of, and did not, although the availability was indicated in its own working papers.

Of the books at hand, that of Mark Lane, a Villager and former state assemblyman, is perhaps the most direct response to the Ford challenge. Lane had a compelling personal reason for putting the commission report in perspective. His professional reputation had been damaged by highly publicized comments of commission members. When Lane, appearing as attorney for Marguerite Oswald on behalf of her son, demurred at presenting proof of a conversation he had with one Helen Louise Markham about the murder of Officer Tippit, Chief Justice Warren told him, publicly, "We have every reason to doubt the truthfulness of what you have heretofore told us."

Dilemma

Lane's dilemma, in that instance, had been that his proof lay in a tape recording he had made of his conversation with Mrs. Markham: to divulge the recording might subject him to legal prosecution. But after the Bar Association of New York, on reading the Chief Justice's words, instituted preliminary proceedings to find out why Lane had "lied," he gave up the tape, even though he risked further legal reproof in doing so.

That tape, in which Mrs. Markham described Tippit's killer as "short, a little on the heavy side, with somewhat bushy hair," and

her peculiar denials, followed by her inadvertent affirmations, when she was recalled before the commission to hear it played, is painfully revealing of the shakiness of some of the witnesses on whom the commission chose to rely. Another closer witness, who failed to identify Oswald in a lineup, and whose account of the time would not have allowed the Dallas police to broadcast their description of the wanted man—"about 30, 5'8", black hair, slender"—as soon as they did, was not called before the commission, although a deposition was taken from him and appears in Volume II of the exhibits.

As is evident from the tape incident, Lane was already conducting his own investigation of the assassination and of the subsequent murders of Tippit, and of Oswald by Ruby. He had written an article decrying the fact that Oswald was not to be represented before the commission (Walter E. Craig, president of the American Bar Association, was subsequently asked to serve as observer). Marguerite Oswald had seen the article and asked Lane to appear for Oswald. But in his book, Lane strives conscientiously to function not so much as Oswald's defense attorney as an impartial critic of the commission's procedures. In some of his other writings and speeches, it has been evident that Lane has at least a tentative theory about a conspiracy in which Oswald may have participated, or may have been a victim, but he makes no accusation in this book. At one point he states, "It is not my intention to imply that Oswald was employed by the FBI, for I know of no body of evidence which supports such a conclusion. Neither do I believe that if an evidential link between Oswald and some Government agency were established it would necessarily relate to the charge that he participated in the assassination, although it would certainly merit

close examination."

Accounting

Instead of theorizing, Lane devotes himself to a crisp accounting of witnesses not called, witnesses whose testimony was adapted to the conclusion the commission wished to reach, seemingly credible witnesses "discredited" by witnesses who would themselves have been discredited in a court of law, and so on. He starts with the reports, gleaned from depositions, of witnesses to the assassination, and continues:

"The commission knew the names of at least 266 witnesses present at the scene of the assassination. (The names are listed in the appendix to this book.) Two hundred and fifty-nine were able to testify. . . . In the case of 68 persons called as witnesses or interviewed by the police (including the FBI and Secret Service), the examiner forgot or neglected to ask the witness from where he thought the shots came. Of the 90 persons who were asked this important question and who were able to give an answer (five were children and two others were disabled by hearing or circumstance), 58 said that shots came from the direction of the grassy knoll and not from the Book Depository Building, while 32 disagreed."

Detailed examination of the investigation concerning the direction of the shots, the conflicting testimony about the nature of the wounds, the supposed weapons, the placement and credibility of witnesses, the apparently provable, but not probed, relationships of some key figures—all add up to a dismaying picture of a too-hasty



Mark Lane

finding. Reviewing this book on TV this week, Edwin Newman referred bluntly to the need of the commission to issue its report before the national elections (in 1964). Lane, himself, is kinder. He says, "The commission's responsibility to maintain public confidence in the American institutions overshadowed its mandate to secure and report the facts."

Taken alone, *Rush to Judgment* would be a frustrating book if one did not have handy the commission report and the 26 volumes of testimony and exhibits, and one should also have the only recently reclassified, five-volume *FBI Report to the Warren Commission*, as well as many other related documents now reposing in the National Archives. Penn Jones's book *Forgive My Grief, Vol. 1, The Midlothian Mirror, Midlothian, Texas*, 188 pp. \$2.95 is helpful, because Jones covers some of the most salient points covered by Lane, and Jones quotes the references.

Helpful Book

The Jones book is interesting in its own right. The author, a native Texan, is editor of the *Midlothian Mirror*, and the book is a collection of articles which have appeared in the weekly. Jones was disturbed when he found that the Warren Commission was not calling witnesses whom Jones felt to be reliable and important, and even more disturbed when the commission dismissed testimony offered it because the testimony didn't coincide with the commission's picture of events. A case in point is that of Seth Kantor, a newsman who had worked for the *Dallas Times Herald* for two years and was covering the President's visit for the Scripps-Howard newspapers. Kantor, along with most newsmen in Dallas, knew Jack Ruby by sight. As did two other witnesses, he testified that he saw Ruby at Parkland hospital while the President's body was there. The commission, having come by its own involved reasoning, and Jack Ruby's testimony, to the conclusion that Jack Ruby was elsewhere, dismissed the Kantor testimony with the observation that Kantor must be mistaken.

Jones was also disturbed by the mounting number of violent or mysterious deaths among the witnesses and persons who had had access to Jack Ruby and close as-

sociates immediately after the tragedies: One of two newsmen admitted to Ruby's apartment where his roommate, George Senator, was holding forth the night Ruby shot Oswald, was killed by

a karate chop as he stepped out of a shower in his Dallas apartment a few months later. The second newsman, a former reporter in Dallas who was then working in Long Beach, California, was shot through the heart as he sat reading a book in the police station press room. (The policeman who shot him first said he dropped the gun, then said, when the angle proved baffling, that he was practicing "quick draw.") The attorney who got the two newsmen into the apartment died in questionable circumstances, as did the taxi driver who allegedly drove Oswald to his boarding house after the assassination. And so on.

Jones had counted 13 such deaths by the time he published this book. He calls it Volume I, and has expressed a determination to spend the rest of his life, if necessary, to determine what really happened in Dallas, November 22-24, 1963. Inasmuch as Jones appears to have definite theories as to conspiracy—mainly involving members of the Dallas police, rightwingers and underworld types—and all but names a couple of them, he may sometimes wonder if he will be able to finish Volume II.

Real Research

For those who prefer the scholarly approach—and historians may find this book the most useful published so far—there is Epstein's *Inquest: the Warren Commission and the Establishment of Truth* (Viking Press, New York, \$5). Begun as a college thesis on how an extraordinary government body would function in an extraordinary situation (suggested by Cornell professor Andrew Hacker), the work involved Epstein's interest to the point that it grew into a full-scale inquiry into how the commission had gone about its task. Epstein studied the report and supporting documents, the available material in the National Archives, and, most important, talked at length with members of the commission staff. The latter

apparently talked to the student more freely than they might have to a professional writer.

The Epstein work points up the major commission weakness, the lack of a trained investigative staff not already in the employ of federal, state or city government. The commission relied on the reports of the FBI, the Secret Service, and the Dallas authorities, none of whom could be considered entirely disinterested parties, and staff work of young attorneys not especially trained in investigative work.

This weakness was noted early by Sylvan Fox while he was still city editor of the *World-Telegram and Sun*. He wrote *The Unanswered Questions about President Kennedy's Assassination* (Award Books New York. 221 pp. 75 cents) soon after the commission report was published. He asked the kind of "how could . . ." questions that would occur to a good detective, or a good reporter. The first two editions of this book sold out, and it is mentioned now because a new edition, with added material and a foreword by Fox, is to be published shortly.

—R.B.
