

28 March 1967

The Editors  
Dissent  
509 Fifth Ave.  
New York, N.Y. 10017

Dear Sirs,

In his article "Let's Talk Sense About Oswald," in the March/April 1967 issue, Henri Rabasseire suggests that much credit must be given to the Warren Report because the case for Oswald has been built on material contained in the Report—presumably, in the 26 volumes of Hearings and Exhibits. Mr. Rabasseire seems to assume that the Warren Commission, in a spirit of fairness, purposefully published evidence inimical to its own assertions and conclusions. That is not so. My personal conversations with Commission lawyers or expert witnesses, as well as comments by such spokesmen to my colleagues among the critics, indicate that the Commission and its legal staff are surprisingly unfamiliar with the contents of the 26 volumes and certainly with the last five volumes of exhibits not read into the record during testimony by witnesses.

The published record indicates that the Commission's investigation was so hurried and careless that on one occasion a lawyer asked a witness, "Was there an E.V. Brown?" and the witness had to reply, "That's me." (VI p. 232).

It seems abundantly clear to me, as it must be to any close student of the record, that documents containing information embarrassing or contradictory to the Warren Report were published in the Hearings and Exhibits without awareness of their compromising character, not in spite of it.

Mr. Rabasseire further suggests that it is unfair and erroneous to quarrel with the Commission's method, arguing that the Commission acted properly in refusing to grant Mark Lane the right of cross-examination. I must reject the argument that it was proper to exclude the adversary procedure in any genuine search for the truth. The Commission itself capitulated, belatedly, to that imperative when it appointed the President of the American Bar Association to assume some vague responsibility with respect to the fairness due the accused assassin. This compromise was worse than useless—the gentleman in question (and his "representatives") in no way fulfilled the role of defense counsel. Moreover, it introduces a principle that is wholly unacceptable, indeed, unthinkable—that counsel for the defense may be selected by the prosecution, judge, or jury, or any combination of parties other than the accused or those who argue his innocence.

But over and above these considerations, the real point is that the Commission refused its own lawyers the right to cross-examine particular witnesses whom the lawyers considered to have engaged in perjury or other untruthfulness. Not only was permission to cross-examine requested by them and denied by the Commission but the witnesses in question were cited in the Warren Report as credible witnesses, and their testimony was given great weight in the presentation of evidence against Oswald. An account of this denial of the right of cross-examination, not to Mark Lane but to the Commission's own legal counsel, is found in Inquest by Edward Jay Epstein, Viking Press, New York, 1966, pages 96-97 and 135-136.

Time does not permit me to comment on other parts of Mr. Rabasseire's article, which are also vulnerable in fact or in logic.

Yours sincerely,

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