

# Veto by Assassination?

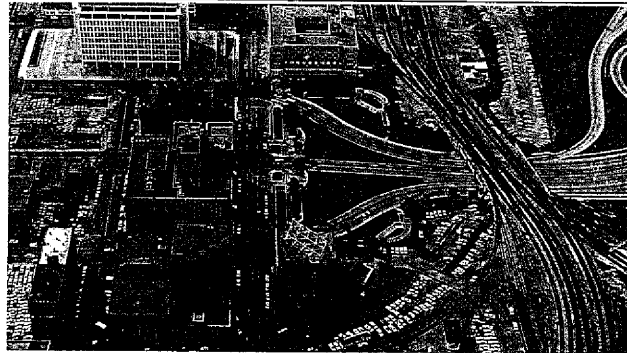
by Conor Cruise O'Brien

To Mr. Mark Lane belongs the credit of having been the first to raise an effective voice against the Warren Report at the time when that shabby and shoddy document was still receiving the byzantine obeisances of the press of the United States and the English-speaking world generally. Most of the major questions which expose the twisted relation between the language of the Report and the evidence which the Report cites were first raised by Mr. Lane. His book, *Rush to Judgment*, established the real character of the Warren Report as being not a judicial or quasi-judicial finding but a brief for the prosecution against Oswald and Oswald alone. And his book also proves, to the satisfaction of anyone who reads it attentively, checking on the key points against the evidence cited by the Warren Commission itself, that a defense counsel of Mr. Lane's competence would have been able to secure the acquittal of Lee Harvey Oswald (unless the jury were hopelessly prejudiced by the pre-trial in the press).

To say this however is also to note a limitation in Mr. Lane's book. He writes as an advocate. As advocates do, he occasionally cuts corners—for example, if the language of a witness can be construed in either of two ways, he construes it in the sense more favorable to his case. He does not push this procedure to anything like the scandalous lengths to which the authors of the Warren Report itself have shown themselves prepared to go. But one is always conscious that he is presenting a case. To present this case, with the high professional skill which is his, was indeed his inestimable service to the public.

Sylvia Meagher's approach to the subject is analytical, not forensic; it has been relatively slow and extremely careful. As author of the *Subject Index to the Report and Hearings and Exhibits*, (Scarcecrow Press, New York, 1966), she has acquired a familiarity with the basic data which I believe to be unrivalled; certainly, as is amply demonstrated by the internal evidence of the Re-

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—Photo by Penn Jones, Jr.

port itself, the authors of the Report were far inferior to Mrs. Meagher in their command of the data on which they claimed to rely. *Accessories After the Fact* is not a case against the Report but a methodical and exhaustive critique of it. It would not be true to say that it is a cold demonstration; Mrs. Meagher does not altogether conceal her entirely legitimate anger and scorn towards those who perpetrated this great fraud upon the public, towards those who hailed the fraud for its majestic integrity, and towards those who still reserve for the fraud their politic acquiescence. She also shows—and it emerges in her dedication—deep indignation at the cruelty and injustice of the official world, not only towards Lee Harvey Oswald but towards the inconvenient witnesses in the case, so many of whom were bullied by Commission Counsel, traduced in the Commission's Report, and subsequently harried in their personal lives and subjected to a mortality-rate millions of times higher than their comparable fellow-citizens.

### "Speculation" vs. "Facts"

Mrs. Meagher does not conceal her feelings about these proceedings, but she keeps them well under control. Indeed the presence of strong emotion beneath her usually level and measured prose, gives her analysis at times an almost Swiftian resonance. Her

*Accessories After the Fact: The Warren Commission, the Authorities & the Report*, by Sylvia Meagher. Bobbs-Merrill, Indianapolis-New York, 1967. 477 pp.—\$8.50.

writing is lucid and crisp, touched at times by a dry wit, which one feels she would have liked to resist but which is almost imposed on her by the character, at once sly and ludicrous, of the Report itself as it appears when systematically compared with the evidence from which it purports to derive. Comic effects which she may not necessarily desire are elicited by the necessities of summarizing what the Commission's Report, when analyzed, is found to say, as in the following passage: "One day in January, 1963, Oswald was cleaning his rifle (which was mailed by Klein's Sporting Goods some two months later in March, 1963) . . ."

Sometimes the comic effect is obtained not by any special use of language on Mrs. Meagher's part, but from the Commission's own magisterial posture, suddenly brought into contact with one more of the tin tacks lurking in its evidence. Thus the Commission indulges in the practice of labelling various kinds of statements, which have in common only that they fall into the "inconvenient" category, as "speculation," while labelling as "fact" various theses which it wishes to commend to the public. This is a procedure which struck awe into almost all the earlier commentators on the Report, from *The New York Times* to the *New Statesman* (but not into *The Minority of One*). Mrs. Meagher, facts in hand, is not easy to overawe:

Warren Commission Report:  
*Speculation*: The rifle found on the sixth floor of the Texas Schoolbook Depository

was identified as a 7.65 Mauser by the man who found it, Deputy Constable Seymour Weitzman.

Mrs. Meagher's footnote: "This so-called speculation is of course a mere statement of known fact accepted as fact by the Commission itself. The real speculation, that there was a substitution of rifles to incriminate Oswald, was not confronted explicitly by the Report."

It is impossible in a review to give anything like an adequate impression of a book like this, whose task of demolition is conducted through a multitude of detailed investigations. The effect is cumulative and the book should be read in its entirety. Certain passages however stand out, like this one from the chapter, "The Autopsy and Medical Findings":

"Apologists who still insist, in the face of all the facts, that the Commission's assertions and conclusions are correct and honest say, in effect, that it is only innocent coincidence that:

"(1) The bullet holes in the back of the clothes are too low.

"(2) The entrance wound is shown well below the neckline on the autopsy diagram because of an error by Dr. J. Thornton Boswell which happens to correspond with the clothing holes and erroneous eyewitness descriptions.

"(3) Federal Agents Sibert, O'Neill, Hill, and Bennett mistakenly describe the wound as too low and in a position corresponding with the clothing holes and the autopsy diagram.

"(4) The chalk mark representing the site of entrance of a bullet is correspondingly low on the back of the stand-in for the President in photographs taken at the on-site re-enactment tests of May 24, 1964.

"(5) The Commission did not question the autopsy surgeon about the low position of the wound when the autopsy diagram was admitted in evidence.

"(6) FBI agents Sibert and O'Neill were not asked to give testimony.

"(7) The description of the wound in the Sibert-O'Neill report of November 26, 1963 and in the FBI Summary and Supplemental Reports of December 9, 1963 and January 13, 1964 respectively is not mentioned in the Warren Report.

"(8) All three FBI reports are excluded from the Hearings and Exhibits.

"(9) The autopsy photographs and X rays were not examined by the Warren Commission and although they were deposited at the National Archives (on October 31, 1966) they remain unavailable for examination by independent experts, researchers, or any other individuals (including government agents and officials).

"(10) The Commission published photographs of the President's clothes which do not show the bullet holes in the back, although it had in its possession photographs which do show them.

"One can believe in innocent coincidence but not when it reaches epidemic proportions and works persistently in favor of the Commission's fixed lone-assassin thesis. I

can more readily accept as innocent coincidence some of the evidence which appears to incriminate the accused—a man who had no counsel or experts for his defense, in life or in death, while the Commission that convicted him had unlimited government resources at its command, yet stands incriminated by deceit and falsehood, in letter and spirit."

Here as elsewhere Mrs. Meagher documents what she says. Indeed one of the many merits of her book is the inclusion of a number of key verbatim extracts from the evidence (where other commentators and the Commission itself rely much more heavily on summaries, citing references only).

#### The Empire of Coincidence

In the days before the publication of the Lane and Epstein books it was still customary to hail the Warren Report as a monumental achievement. (Mrs. Meagher, whose proof-reading is sometimes not up to her own exacting standards of accuracy, says "momumental"; happy error which has allowed this spendidly Thurberian word to become extant!) Since the inroads of Lane and Epstein, apologists for the Report (including Commission counsel), have naturally been obliged to take a different line. The Report, it now appears, is of course full of errors. How could it be otherwise, given the speed at which Commission counsel were obliged in the public interest to work? It can be faulted almost infinitely in detail, but this makes no real difference (it is suggested) since the conclusion to which it lurched was so essentially right. This position is quite as untenable as the earlier monumental one, since the fact is that the main thesis which the Commission went to such pains to establish—the "lone assassin" theory—has not stood up to the detailed analysis to which the Report and evidence have by now been subjected. No one with any regard for evidence can read *Accessories After the Fact* and then consider the "lone assassin" theory to be anything better than improbable. And if we can no longer force ourselves to accept the "lone assassin" theory, then we are left with only two possibilities, either:

(a) There was a conspiracy to murder the President of the United States or

(b) there were two or more ill-adjusted personalities simultaneously blazing away at the President on the fatal day in blissful ignorance of one another's existence.

Those who are obliged to relinquish the Commission's lone assassin, with his miraculous marksmanship, prodigious timing and versatile bullet, and who are, at the same time, determined to avoid the conspiracy conclusion, with its dreadful implications, will eventually be constrained to adopt hypothesis (b), with its plurality of murderous monads. Why not? Once we accept what the official theory of the assassination requires us to accept—that the laws of probability have been suspended in Dallas, Texas—then hypothesis (b) will do as well as another. The "Texas is a violent place" cliché has after all been enough to satisfy many minds about what otherwise might seem an extraordinary incidence of violent death among the inconvenient witnesses.

(Mrs. Meagher's Chapter 16, "Death and Misadventure.") The same cliché could, if necessary, be invoked to make a multiplicity of autonomous assassins seem plausible in this peculiar locality.

Those who have been obliged to acknowledge the infirmities of the Warren Report often fall back on what it comforts them to think of as its honesty. These good men may have been mistaken, it is argued, but their mistakes were honest mistakes. This hypothesis adds further dimensions to the already vast empire which coincidence has acquired under the auspices of Earl Warren. For these honest mistakes cluster statistically in a very odd way. The misrepresentations of evidence of which the Report so largely consists all tend in the same direction: towards confirming the verity of the doctrine promulgated by the Dallas District Attorney on the night of the assassination—the doctrine that it was Oswald and "no one else but him." The mistakes which have accumulated so consistently in this direction include one very strange achievement in the field of sincere bungling: what J. Edgar Hoover now calls "the printing error" as a result of which frames 314 and 315 of the Zapruder film are transposed in the evidence as published by the Commission. These are the frames which come just after the impact of the fatal bullet, recorded on frame 313. As Mrs. Meagher says, "the subsequent frames assume vital importance because they indicate the physical reaction to the impact of the head shot, which in turn throws light on the direction from which the bullet came." Mrs. Meagher, who has seen this film some 25 times, speaks of other researchers who have viewed the film and says: "Without exception or hesitation each of the viewers has corroborated the dramatic thrust of the President's body back and to the left in reaction to the bullet that hit his head in frame 313." This is evidence that—to say the least of it—would need to be carefully weighed in considering whether there could have been more than one assassin; the Commission's version of course requires the fatal bullet which seems to have thrown the President back, to have come from behind. No reader of the Warren Report would suppose that this is what the film shows; nor is the reader's awareness likely to be heightened by a presentation of exhibits which reverses the order of the two most crucial frames after the impact. (The Report itself, while a mine of information on such subjects as Ruby's mother and Marina Oswald's uncle, does not think it necessary to show the frames of the film of the assassination except for frame 313, the impact itself; even in the copious Exhibits volumes, the Zapruder film, exhibit 885, is not presented in its entirety, and what is presented suffers from this unfortunate error in sequence. Hoover's theory of "printer's error" is hardly plausible unless we are to assume that the printers of the Report were left to assemble the frames in the order of their choice and caption them as they found convenient.)

#### A New Investigation

Mrs. Meagher's careful and formidable book will make it more difficult than before

to resist the demand which she here reiterates for a new investigation:

"The new investigative body should first attack the evidence against Oswald presented in the Warren Report and the Hearings and Exhibits, and present an objective and scientific evaluation of that evidence so that the ambiguity about his role in the assassination will, if possible, be dispelled. The new body must also be given access to the suppressed documents of the Warren Commission. The 75-year time vault must be opened and its contents must be put before the new body—and, at the appropriate moment, before the public, *within* our lifetime. The leads and clues which were not followed up by the Warren Commission, or which were incompletely investigated, now must be pursued with vigor, by *independent investigators* and not by the governmental agencies compromised by their role in the protection of the murdered President."

There are those who think that a new investigation would be a waste of time. Such persons are to be found not only among those who still profess themselves more or less satisfied with the Warren Report but among people who are quite prepared to assume that the Warren Report is a tissue of lies. Such people, who often like it to be supposed that they are engaged in some mysterious and momentous activity on the far Left, regard the effort to reopen the Kennedy inquiry as a typical liberal soul-saving idea, tending to distract attention from the real issues such as the war in Vietnam. (Curiously the same people, in other contexts, are apt to argue that protests against the war in Vietnam are themselves an attempt to distract attention from the real issues, and so on.) It is necessary therefore to emphasize that the reopening of the inquiry into the murder of the President is a matter, not only of abstract justice and truth, but of the first political importance. The people who went to such pains to construct and present as authoritative the flimsy and improbable "lone assassin" theory did so because the probabilities pointed to conspiracy and because the idea of conspiracy was politically unacceptable, both to Goldwater Republicans and to Johnson Democrats. Both had excellent reasons, connected with the excesses of right-wing extremism, Birchite and other, and with the squalid violence of the Texas underworld, for excluding any conspiracy theory. One might think that the mere existence of such political resistances, and the implausibility of the structures which they have created, would arouse among politically-minded people, opposed to the forces represented by Johnson and Goldwater, a desire to probe into the facts or, failing that, at least a willingness to hear those who have been doing the probing. Generally speaking, this has not been the case up to now. We may hope that this book will provide the occasion for a reassessment.

Political reasons for a reassessment are suggested by the hypothesis—it is no more than that—which Mrs. Meagher presents in an attempt to explain in particular the curious incidents which seem to point to "deliberate and informed impersonation" (the "second Oswald" question):

"All these threads can be combined in a web that covers the terrible and unfathomable events of November 22-24, 1963. The nucleus consists of reactionary Cuban exiles who have compiled a record of violence in their new country, ranging from attacks with bicycle chains and Molotov cocktails on peacefully assembled American citizens, to a bazooka attack on the United Nations building; these Cuban counter-revolutionaries are linked to the American ultra-right by many mutual interests, not the least of which was a hatred for President Kennedy kept at the boiling point by systematic propaganda from, among others, former American army officers.

"Is it far-fetched to postulate the formation of a plot among members of those circles to revenge themselves not only against the President whom they considered a Communist and a traitor but also against a Marxist and suspected double-agent who had tried to infiltrate the anti-Castro movement?"

(Mrs. Meagher admits that this hypothesis seems very close to that which Mr. Garrison is exploring in New Orleans but she does not approve his investigation and declares "serious misgivings about the validity of his evidence, the credibility of his witnesses and the scrupulousness of his methods.")

#### Politics and Assassination

Any serious investigation such as Mrs. Meagher demands must explore hypotheses of this character instead of looking studiously away from them as the Warren Commission did. It is not merely for the historical record that this is necessary. If indeed a conspiracy of this kind did kill Kennedy, then a future President who incurred the displeasure of the same or similar circles would be likely to meet the same fate. To take a specific hypothetical example, if Rockefeller were to become President next year, with Reagan as his Vice President, and if President Rockefeller were to decide to move in the direction of withdrawal from Vietnam, there would certainly be super-patriots who would regard him as a traitor for this and who would deem it both meritorious and politically useful to remove him, opening the way for President Reagan and so, presumably, for policies acceptable to the far Right. This is indeed so obvious that it would be a brave Presidential candidate who would be prepared to accept Reagan as his running mate.

The conspiracy hypothesis about Kennedy's death is probable; if it is correct, then there are people in existence who possess the experience of having mounted a successful assassination conspiracy with impunity, probably with complicity from inside several law-enforcement agencies and certainly with distinguished "accessories after the fact" in the persons of the Warren Commission and their counsel.

If this is so then the American Right will have acquired a kind of veto by assassination over future American policy. Once the "lone assassin" theory of Kennedy's death has been discredited—and it is thoroughly discredited in this book—then veto by assassination becomes more than a possibility, it becomes a probability. And it is the existence of this probability, affecting not merely the past but also the present and future, that makes

it urgently necessary to call for a serious and independent investigation into the assassination of President Kennedy. If the man who became President through that assassination still, after this book, chooses to maintain the fiction that there has already been a serious investigation into the assassination, then it is time for others to give a lead in this matter. It is from the late President's Senatorial brothers that that lead would most fittingly come.

POSTSCRIPT: It has become customary for the members of the Commission and their apologists to dismiss each new inroad into the credibility of their creation by observing that the new work contains "no new evidence." In a manner which is wholly characteristic of the Commission, this evades the main issue, which is that the Commission has been shown to be unfaithful to the *old* evidence on which it claimed to rely. But the point has now been reached where they will be forced to admit that very significant new evidence has also come to light. Mrs. Meagher cites this in a footnote to Chapter 3 of her book:

A truly startling piece of new information came to light early in 1967 when the Miami Police Department released a tape-recorded conversation between a police informer and an unidentified man who was an organizer for a reactionary segregationist political party. On November 9, 1963, this man "said that a plan to kill the President was in the works. He said Kennedy would be shot with a high-powered rifle from an office building, and he said that the gun would be disassembled, taken into the building, assembled, and then used for murder." He said also, and this must sober any objective student of the Oswald case: "They will pick up somebody within hours afterwards . . . . . just to throw the public off."

The tape-recording of this November 9, 1963 conversation was given to the Secret Service immediately, and when the President visited Miami on November 18 "police intelligence took extraordinary steps to guard the President's life. They insisted that he abandon the plan to take a motorcade from the airport to downtown. They put him on a helicopter instead." (Bill Barry, "Assassination Idea Taped Two Weeks Before JFK was Killed," *Miami News*, February 2, 1967, page 1A, cols. 4-7 and page 6A, cols. 1-6) [Italics added].

With a veritable blueprint of the assassination in hand, the Secret Service proceeded to arrange for Presidential protection in Dallas without taking any apparent precautions directed to the plan described in the taped conversation. The tape undoubtedly was transmitted by the Miami Secret Service office to the Protective Research Section in Washington; but the Special Agents responsible for the advance planning of the Dallas trip and for the President's safety during the visit, in their testimony before the Warren Commission, never mentioned the tape in relation to the Presidential visits to either Miami or Dallas. The FBI, which picked up and questioned the unidentified man five days after the assassination, also remained silent about the tape in testimony before the Commission; and if a written report was transmitted, it does not appear in the Exhibits, (*Ibid.*) To dismiss this extraordinary advance description and warning of the tragedy played out two weeks later in Dallas as mere coincidence requires nothing less than a complete suspension of critical judgment.

Such suspension is the feat required of those who continue to resist a new investigation into what took place in Dallas on November 22, 1963.

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