

The Theater of Ideas

Debate on the Warren Report, September 1966

Excerpts

(On the Warren Report)

Liebeler There are some things about the Warren Report, with all due respect, that are pretty sloppy too.

(On the single-missile theory, vs. an earlier shot through the trees, when asked, "Where did that bullet end up?")

Liebeler Where did that bullet end up? Well, that was the bullet—that was the bullet that came into the President's back, and then—and then, came out his throat. (Pause) Well, that raises a problem, doesn't it? (LAUGHTER) Yes; yes; so that's why I think...wait a minute, just a minute...And that is why, Mr. Popkin, I think it DID go through the President first and hit the Governor...

Griffin It seems to me that the world is not all black and white—the FBI can make mistakes, and it can do some things right, and it did a lot of things right.

Liebeler I agree with you on that, there's no question about it. The fact that the report says that all the evidence supports the one-bullet theory is simply NOT correct—The report is WRONG in that respect, and there is NO doubt about it.

Meagher That's quite an admission.

Liebeler That's quite an admission?...When you find a statement like this in the report, and I'm going to trace this through eventually and find out how it got into the draft and how it got into the report, you're going to have to go back, and I'm in the process of writing a book about it...

(On the accuracy of the FBI reports)

Griffin We found so many mistakes in the FBI report that if we had published the report (FBI Summary Report of 9 December 1963) you people would really have had a field day.

Liebeler (The Sibert-O'Neill report) is simply is an accurate reflection of the final conclusions that the autopsy surgeons arrived at because they arrived at the conclusions after the FBI agents had left, the FBI had not received the autopsy report at the time they issued their December 18th (sic) report, and it is a fact that the FBI and a very large number of people, including most of the Commission staff, thought for a long time that three bullets were fired and hit, as you indicate...and it wasn't until...the Zapruder film was broken down, frame by frame, and each frame was examined and gone over with a fine tooth comb by magnifying glass, the Commission learned that the FBI had NOT done this, and it probably would never have been done...this was sometime, I would say, in February or March...You certainly can't tax us with what the FBI did on December 18th. Griffin and I didn't even get to Washington until the latter part of January.

(About the statement in the Foreword to the Warren Report that the FBI five-volume report was of principal importance)

Liebeler You know why they put that in there--because they wanted to be nice to the FBI.

Griffin The FBI thought they would be helpful to us, and they gave us these summaries. We immediately realized we'd be utter fools to write a report based on those summaries.

Liebeler The original FBI Summary Report is thin--in fact, most of it is in the back of this book (Inquest). I read through it once, when we first came down here, put it aside, never looked at it again, and I know that's what the other lawyers did too...Maybe it sounds as though we lack humility to sit here and say the FBI had done a very poor job. They didn't have much time to do it, you know, after all, but the fact of the matter is that it was a pretty sloppy piece of work.

(On the stretcher bullet)

Liebeler There's no question about it--there is a conflict on the record, about whether bullet 399 could have done this--but I suggest there is nothing on the record which PRECLUDES the possibility that 399 could have done this. Now, the Commission doesn't conclude that 399 went through the President and the Governor on the basis of this medical testimony primarily at all. It does so on the basis of the reconstruction that they did...

This possibility's been raised--that the bullet's been planted. Now, there's no way--there's no evidence that the Commission was able to develop, there's nothing that we can say here tonight, to preclude the possibility that these bullets were planted--there's no question about it.

(On the conclusion that Oswald was present at the window when the shots were fired)

Liebeler The eyewitness identification of Oswald at the window is not very strong, and the Commission is perfectly forthright in indicating that it is not very strong, and furthermore it says in so many words that it does not rely on Brennan's testimony...There really isn't a great deal of eyewitness testimony putting Oswald in the window, not very much that I'd be willing to rely on...

Griffin The critical question was, was Oswald the assassin, and the evidence that the Commission relied on in this respect--and it was not Mr. Brennan--was the fact that he owned and had possession of the weapon which was used to fire no. 399; the fact that the rifle was found in the building on the sixth floor immediately after the shooting; the fact that there were fingerprints and palmprints on the cartons that were stacked up in the window and on the paper bag; the fact that he killed patrolman Tippit (LAUGHTER); the fact that--well, now, the point is...I say it for this reason--that what Mr. Sauvage has done here and what seems to be the fashion these days is to lay the straw man about Mr. Brennan, whom the Commission did not rely on, and then to ask a lot of questions as if that bears upon the issue of why the Commission concluded that Oswald was the assassin.

Liebeler There's no question--there's no question but that the evidence indicating that Oswald was actually at that--the direct evidence on this question is probably, when you look at the whole thing, the one on which there is the least direct evidence at all, because there isn't any eyewitness that you can put your finger on that I'd be, or that the Commission was, willing to rely on to place Oswald in the window...It was possible for Oswald to have been at the window at that time, because he was not placed in any other position, he was in the building...it was

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possible for him to be at the window and there is some evidence suggesting that he was--it's not strong, but it's consistent with the other evidence, and when you take the whole thing together, the circumstantial evidence indicates that he was very likely at the window at the time of the assassination...the fact that Oswald's fingerprints were on the cartons have no probative value whatsoever on the issue of whether he was in the window or not, because he worked at the...Depository, he could have put his prints there at any time.

Griffin I am not saying positively (that Oswald was at the window).

(On the statement that the ammunition was recent and is currently manufactured)

Liebeler It is quite true that one of the sections, an appendix, deals with speculations and rumors, and one of the speculations and rumors was that the ammunition was faulty or defective...old and unreliable? All right--old and unreliable. The...appendix erroneously states that the ammunition is being manufactured currently...the person who wrote the rumors and speculations section just didn't read carefully that material referred to in another appendix...it was a mistake in the Report, there's no question about it...Now, what's the POINT...if the ammunition has not been manufactured since World War II if in fact as you well knew there wasn't a single misfire in the entire series of tests that were conducted...

Meagher The point is that you cannot rely upon assertions in the Report --that is the point.

Liebeler You're going to hang the whole Report because of this mistake?

Meagher There are many others.

Liebeler There are many other mistakes like this in the Report, that's correct (LAUGHTER) (GARBLED AND OVERLAP)...You haven't really got going yet--I can go to the Report and find all kinds of mistakes like that...but I don't doubt for one second...but I don't think for one minute --I personally don't have any doubt that the basic conclusions in the Report, that the Commission reached, are correct, in spite of the fact that there are peripheral errors like this, there's no question but what there are...

(On the autopsy photographs)

Griffin I did not say that these were not important, and frankly, if I had been conducting the investigation, I would have produced them, I would have

shown them to the Commission...It would have been far better for the Commission to have brought these out, to have shown them to the staff who were investigating this, who would have used them in their examination of the doctors...but the fact is that we did not have these and so what we are left with is the autopsy surgeons, and I know of nothing that would indicate that these autopsy surgeons were inaccurate on...measurement and what they saw, or that they were involved in some kind of conspiracy to conceal evidence.

Liebeler For some reason or other, I think it was the Chief Justice, concluded that he didn't want evidence before the Commission that he could not make available to the public...Now, I'm not trying to justify or excuse what was done in this sense, because I'm with Mr. Griffin--if it had been my decision whether to look at the pictures or not, I haven't any question what I would have done--I would have looked at them. And the Commission should have looked at them, but they didn't...because for some reason or other, the Chief Justice didn't want to see them--whether it was because of a matter of taste.

Irving Howe (member of the audience) I want to address this question to Mr. Liebeler and Mr. Griffin. I think you are in a very special situation here, which is sharply different from that of the people on the other side ...They can be inept, or irresponsible, and I think some of them were at the very least tonight inept, and it doesn't make any difference--it makes no difference whatsoever, because they are speaking as private individuals, and if they're inept, someone else will be skillful in the presentation of their point of view. But I must say, listening tonight, I found myself shocked, just about five minutes ago--I thought you were doing a pretty decent job on behalf of your point of view--when you admit that there is very important hard evidence which is not publicly available, and I'll tell you why that's shocking: Because all night long you've been saying, well, we can't be sure about Point A, but then there's point ABCDZXZ, Point A is circumstantial, Point C is probable, Point B is a question, Point D we're not sure of. Now here is something that apparently is concrete and specific and not available.

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Liebeler What I am doing...at this point is that I'm going through the 26 volumes and all of the evidence, and I'm in the process of writing a book describing what the Commission did, how it worked, and to set forth, to take the basic propositions that are involved on the question of Oswald's guilt or innocence, and to set forth all the evidence on both sides of this question, in the book, and this is something, frankly, that the Report should have done. It didn't. There's no question but what the Commission reached a conclusion after consideration, it didn't come into the investigation with the conclusion already formed, but during the course of the investigation these conclusions were reached, and many parts of the Report were written in a manner that, that, they only set forth the evidence that supports these conclusions. Now, I think it is impossible for any human being at this point, and I mean any human being, no matter how familiar he is with the details, to sit down and make any intelligent determination about what's really going on here, because arguments are being made on both sides and facts are being misrepresented and distorted and in the heat of argument I probably don't set forth all the facts that I would on calm deliberation. And when I've done this work, and I hope it will be done by spring, I'll certainly be in a better position to make a determination about this. But I think it is unfair to suggest that I haven't thought about it or somehow to suggest that the people who were involved in this--maybe when you know some of the facts about the way the Commission operated, you can better appreciate the position the staff was in, under the circumstances, and after you thought what you, sir, would have done in the same or similar circumstances.

I'm not asking to be absolved of any responsibility for anything I had anything to do with--I'm not asking it now and I'm not going to ask for it--I'm just going to ask you to consider both sides of the question fairly and then make up your own mind about whether the basic conclusions of the Report are correct or not.

(On the Liebeler Memorandum)

Liebeler The criticism I was making was directed at the way the Report was written, not at the investigation itself. The Report should have been written to set forth the evidence on all sides, on both sides of the question. It wasn't...okay, that's the way it goes...

Robert Lowell (member of the audience) If the Dallas Police or the FBI forged evidence, would you be able to detect it?

Griffin I (PAUSE) I think that (PAUSE) and this is taking back to a suggestion I made here earlier (PAUSE) I think it would be a very, very difficult thing (PAUSE) to (PAUSE) if there were falsification--well, just let me say this, from my own experience--I...am satisfied from my investigation that we did not rely (PAUSE) very much that any police officer in Dallas told us about that particular type of activity. Now, could we prove clearly in what way they were lying or misrepresenting, whatever language you want to use about it (PAUSE) it would be very, very difficult...Let me carry this a little further, Mr. Lowell. I think we were all aware from the very beginning that certain of the investigative agencies had vested interests which, if they were falsifying and if we probed, they would be inclined to cover up. And to get back to what I was suggesting before, I think we need a careful examination by law professors, and by people who are experienced in investigations, to sharpen our tools of investigation...I am not at all sure that it's humanly possible to solve this problem.

(On the position of the back wound)

Liebeler I think what we're dealing with all the way through here is possibilities...What is really the likely possibility--that these three physicians were mistaken, or that the FBI agents who overheard some conversations of autopsy surgeons were mistaken, or that the guys who reenacted this thing were mistaken.

Meagher This was reenacted under the supervision of Mr. Rankin and Mr. Specter.

Griffin Well, they're not GOD.

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