

Wheels Within Deals:
How the Kennedy Assassination
"Investigation" Was Organized

Sylvia Meagher
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(I am indebted to Tom Bethell for making available to me the unpublished documents and correspondence between authorities of the State of Texas and the Warren Commission which are discussed and quoted in this article).

Waggoner Carr, Attorney-General of the State of Texas, officially represented his State at the funeral of the assassinated President, John Fitzgerald Kennedy, on November 25, 1963. Carr's presence in Washington provided the opportunity for private discussions at the White House about the need for an investigation of the assassination, "the attempted assassination of Governor Connally, and the murder of Dallas police officer Tippit."

The convening of a Texas Court of Inquiry was announced by Carr in a press release issued the day after Kennedy's funeral. The press release explained:

"It is necessary that all investigating officials, local, state, and federal, have an opportunity to place such evidence on record and before the public in a judicial manner. No investigations held heretofore are conclusive as they have not been evaluated before such a body, nor before the public. The witnesses have not been publicly examined under oath with penalty of perjury and, under the present circumstances, the Court of Inquiry is the only such forum available which will provide for such interrogation."

Whether the idea of holding a Texas Court of Inquiry originated with Waggoner Carr, or with the White House, is not clear. According to "Notes of General Carr on Court of Inquiry" dated November 26, 1963, Carr had had conversations with LBJ's right-hand man Walter Jenkins, whose career later came to a pathetic and sordid end with the revelation of "indiscretions" in his private life. "At the direction of Mr. Walter Jenkins," Carr talked with Abe Fortas, a long-time confidante of LBJ and now a Justice of the Supreme Court, on or before November 26, 1963.

"Mr. Fortas informed me that he had been assigned to co-ordinate the FBI, Department of Justice and Texas Attorney General's efforts regarding the assassination of the President. He pledged the full co-operation of the federal government in working

with the State of Texas. To illustrate this to the world, he noted he had ordered Assistant Attorney General Herbert Miller, Chief of the Criminal Division of the Department of Justice in Washington, to call on me that night. Mr. Fortas suggested a press conference and pictures which would aptly point out the close co-operation between the two governments. He stated that the report of the FBI would be made available to us in order that the State of Texas might conduct our court of inquiry. He authorized me to say upon questioning that I had, at all times, been in contact with and consulted with the White House staff."

Apparently there was no thought on Tuesday November 26th of convoking a Presidential Commission (the Warren Commission) to investigate the assassination - or, if a commission was contemplated, that was not made known to Carr. The idea of a Texas Court of Inquiry, if it was not actually conceived in the White House, was embraced with seeming enthusiasm and given the go-ahead.

Yet, only three days later, the White House announced the appointment of a Special Commission headed by Chief Justice Earl Warren "to study and report upon all facts and circumstances relating to the assassination" (but not the murder of Tippit). The White House press release of November 29, 1963, noted that:

"An inquiry is also scheduled by a Texas Court of Inquiry convened by the Attorney General of Texas under Texas law ... The Attorney-General of Texas has also offered his co-operation (to the Special Commission)..."

There was as yet no thought of abandoning the Texas Court of Inquiry and on December 2, 1963 Carr announced the appointment of Houston attorney Leon Jaworski as Special Counsel for the "upcoming Texas Court of Inquiry ... to investigate and ascertain all facts concerning the assassination ...". Carr and Jaworski immediately embarked upon three days of "conferring with Mr. Katzenbach, Deputy Attorney General, and with Mr. J. Edgar Hoover, Director of the Federal Bureau of Investigation ...". In the course of the discussions, Carr sent a four-page letter dated December 5, 1963 to Chief Justice Warren, to explain to him and the other members of the Warren Commission "the nature of the Texas Court of Inquiry to which the President's statement appointing the Commission specifically referred."

Carr's Three Points

Carr proceeded to make it clear that the convening of a Texas Court of Inquiry was "the product of a conference with the White House, and the White House staff joined ... in preparing the actual form of the statement." He then explained that "under our Texas laws a Court of Inquiry may be called by any Justice of the Peace for the purpose of ascertaining facts which may establish the commission of a crime" and that the Court has "State-wide power to subpoena witnesses, and also full judicial power to punish contempts. Witnesses are questioned under oath and may be prosecuted for perjury in the event of false testimony. A full transcript is kept."

Carr referred to his appointment of Jaworski as special counsel and to his hope that Robert G. Storey, a past president of the American Bar Association, would also agree to serve.

Next, Carr said that "three points concerning the Court of Inquiry may be of special interest to the Commission."

"1. Its activities will not involve publication of the report of the Federal Bureau of Investigation. While we were assured, both privately and in public statements, that the identity of material witnesses, evidence, laboratory findings, etc., would be made available to the State of Texas, the F.B.I. report itself would be neither published nor introduced in evidence. The Court of Inquiry will make its own record."

The report of the F.B.I., the "Summary Report" of December 9, 1963, followed Carr's letter to the Chief Justice by some four days. Apparently, Carr (and Jaworski) in conferences with Katzenbach and J. Edgar Hoover had been persuaded to commit the Texas Court of Inquiry in advance not to publish the F.B.I. report. In the first days after the assassination, the impression was given that the F.B.I. report, after submittal to the White House, would be placed before the public.

In the event, this was never done. According to Edward Jay Epstein, the Warren Commission at its second meeting, on December 16, 1963, considered whether the F.B.I. Summary Report of December 9, 1963 should be made public and came to the decision that no evidence should be released before publication of the Commission's Report (Inquest, Viking Press, New York, 1966, page 8). The F.B.I. Report, together with the Supplemental Report of January 13, 1964, in fact remained completely secret from the public until 1966, when critics of the Warren Report (Epstein and Vincent J. Salandria) published excerpts from these F.B.I. reports which flatly contradicted the autopsy findings in the Warren Report.

"2. The Court of Inquiry will make no findings, conclusions or recommendations. Its sole purpose is to develop the facts through sworn testimony adduced through the careful examination by the best qualified attorneys. I speak for all of us, too, when I say that you need have no fear of individual statements about what the evidence shows." (Italics added)

Carr, had he been clairvoyant, might have requested the same commitment from the Chief Justice. The latter, during the course of the "investigation" subsequently conducted by the Warren Commission, was given to informing the press from time to time that he had no reason to believe certain witnesses, or that others had added nothing new or of value in their testimony, and even to "facetious" remarks such as his statement that some of the evidence would not be made public "in our lifetime".

"3. The Court of Inquiry will be concerned only with the facts ... There will be no witch-hunt."

Washington, or certain officials there, had shown almost from the hour of the assassination an overriding anxiety to prevent the Dallas authorities from creating in the public mind the impression or the suspicion that the assassination was the work of a conspiracy. Right-wing spokesmen have darkly hinted or said outright that the federal authorities had deliberately tried to conceal a Communist or Castro assassination conspiracy; the ultra-right has charged that the Chief Justice, its bête noire, had been placed at the head of the Presidential Commission so that he could protect his Communist friends. Certainly, Carr's assurance that "there will be no witch-hunt" does not seem spontaneous. Probably it was elicited after tough and straight talking with Katzenbach (it is difficult to picture J. Edgar Hoover lecturing against witch-hunts to Carr and Jaworski). Dallas District Attorney Henry Wade and spokesmen for the Dallas Police had made repeated statements, while

Oswald was still alive and in their custody, encouraging public belief in a Communist and/or Castro conspiracy against the life of President Kennedy - statements of a most irresponsible and improper character, indeed calculated to spark a witch-hunt throughout the land. Whatever the motives of the Washington sources who intervened, behind the scenes, to stop Henry Wade's babbling, or of the concerted effort which seems to have begun on the afternoon of the assassination to promote the illusion of a "lone assassin", the effect was to smother suspicion of any conspiracy, by the Left or - far more logically - by the Right. Was Washington animated by the desire to prevent a witch-hunt, or just a hunt for the assassins? This is not yet entirely clear.

Completing his letter of December 5, 1963 to the Chief Justice, Waggoner Carr stressed "the great importance of the Court of Inquiry to the people of Texas."

"The assassination occurred in Texas. The people of Texas share with their fellow-countrymen the loss of a great President. Their own Governor was badly wounded. The integrity of Texas justice is deeply involved. I am certain that the people of Texas share my feeling... that it is their local responsibility to have their State officials do everything possible to uncover all the facts."

Texas surely had cause to worry about how much reputation, and what kind, its "justice" would retain in any non-Texan investigation of the assassination of the President and the murder of Oswald while in police custody and on police premises. Texas was not ready to entrust its interests to the Warren Commission alone.

But that is what Warren's Opposition to a Public Inquiry

But that is what the Warren Commission wanted. The Chief Justice replied on December 6, 1967, to Waggoner Carr's letter of the preceding day. Justice Warren wrote:

"All of the members of the Commission are aware of the deep interest of Texas in the tragic event which occurred there ... We share your view that it is desirable to have state officials do everything possible to uncover all the facts...

... We are most anxious, as I am sure you are, to take no steps which could impede investigation or which could lead the public to mistaken conclusions based upon partial factual information."

(Some three years after publication of the Warren Report, perhaps the kindest thing that can be said of it is that it tried to lead the public to "mistaken conclusions based upon partial factual information" but under-estimated the

intelligence of the large majority of Americans who remain unconvinced or openly contemptuous of the official conclusions.)

"The Commission would not wish to interfere in any way with you or other State authorities in the conduct of matters which are your responsibilities, and in which, as you point out, the State of Texas has a proper and important interest. At the same time, it is the view of the Commission, for the reasons stated above, that a public inquiry in Texas at this time might be more harmful than helpful in our mutual search for the truth. Recognizing that the timing of this inquiry is your responsibility and your decision, we cannot refrain from the suggestion that you consider the wisdom of postponement of this Court.

"It would be the Commission's desire that you and your Special Counsel, or either of you, participate in the Commission's work, and counsel with it, it being the Commission's wish that you as the representative of the State of Texas be fully advised of the progress that is made in the course of the Commission's investigation and advance such suggestions as you consider helpful ... Let me assure you of the desire of the Commission to work most closely with you and of our conviction that in the spirit of close co-operation, we can responsibly meet our independent obligations..."

To recapitulate: From November 26, 1963, through December 5, it was the apparent wish of the White House that a Texas Court of Inquiry should be held, either as the main investigation or at least as an adjunct to the Presidential Commission, under certain agreed restraints. The request for "postponement" of the Court of Inquiry came suddenly, on December 6, from Chief Justice Warren writing on behalf of the Commission.

Why was the "postponement" desired, even when Waggoner Carr seemingly had fallen in with all the requests presumably made of him (non-publication of the F.B.I. report; no witch-hunt; etc.)?

No sooner had the request been made than Waggoner Carr held a press conference, on December 6 - the same day as the letter from the Chief Justice - in which he announced that he and Mr. Jaworski were:

"convinced that the investigative authority of the federal government is being used to the fullest extent ... The investigation is being conducted vigorously ... Consistent with the purpose of our State to co-operate closely in this investigation, it is our considered judgment that the Texas Court of Inquiry, if held at this time or in the immediate future, might bring about an interruption in the continuity of the Nation-wide investigation.

"For these reasons, it is my conclusion and decision that the convening of a Court of Inquiry at the present time should be withheld. In the meantime, the Presidential Special Commission has asked the Attorney General of Texas and the Special Counsel selected for the Texas Court

of Inquiry to work with the Commission, attend its hearings and assist with the Commission's important tasks. I have accepted this invitation and we shall make all resources which we have in the State of Texas available to support the task of this Commission."

The instant capitulation of Waggoner Carr suggests that the fine hand of LBJ (who personally persuaded Earl Warren to head the Presidential Commission after earlier encouraging, through his aide Walter Jenkins, the holding of a Texas Court of Inquiry) was used to ensure the "postponement" of the Court. The concurrent Congressional investigations which were planned were also "postponed" indefinitely. (It had been proposed on November 26 that the Senate Judiciary Committee conduct a full investigation into the assassination, and on November 27, that a Joint Committee of seven Senators and seven Representatives undertake the investigation).

At this December 6 press conference, Waggoner Carr answered questions from the reporters. Asked if he was leaving open the possibility of holding the Court of Inquiry after the federal inquiry was completed, he said, "Yes". I think we have that right, if we desire." He said that "We have been discussing what ways we might best work together [with the Warren Commission] without competing with one another." He added, "No one has asked us not to hold a Court of Inquiry. We have worked out a system to postpone it." He also made it clear that he and his associates would not serve as "a member of the Commission itself. That's obvious. The Chief Justice, speaking for the Commission has been gracious enough to invite us to participate in the working and attend its hearings."

An Uneasy Co-operation

The participation, or non-participation, of Waggoner Carr and his two associates (Leon Jaworski and Robert Storey) in the Commission's work was a cause of repeated friction during the term of the Warren Commission. Carr had occasion several times for bitter complaint, charging that the Commission had reneged on commitments made to him, and each time uttering barely-veiled threats to proceed with the convening of the Court of Inquiry if there was no redress or if the violation of the understanding recurred. The first such clash with the Commission was occasioned by the hearing of Marina Oswald in February 1964. Before that time, systematic arrangements had been set up under which transactions between Dallas officials and the Warren Commission, would be routed through Attorney General Carr.

Carr, with his associates Messrs. Jaworski and Storey, convened a meeting on December 3, 1963, attended by Mayor Earle Cabell, City Manager Elgin Crull, Police Chief Jesse Curry, District Attorney Henry Wade and U.S. District Attorney

Barefoot Sanders, all of Dallas, to brief these luminaries on the co-operative arrangements between Texas and the federal government. Carr wrote to Warren on December 30, 1963, reporting that "complete co-operation with our mutual objective was eagerly pledged by those Dallas leaders."

When one considers the personal responsibility of Curry and Wade for the trampling of the rights of the accused Oswald, and for the conditions which led to his murder by a police buff, the very fact that they were enlisted in the "investigation" rather than suspended from office pending the outcome, verges on outrage. Their "eager pledges," communicated straight-face by Carr and presumably received by Warren with solemnity, must be viewed in the light of the personal stake which Dallas and its officials had in the outcome of the investigation.

In the same letter of December 30, 1963, Carr communicated to Chief Justice Warren the curious intelligence that:

"Mr. Wade is concerned about repeated statements made in the press to the effect that there is no connection between Oswald and Ruby. His point is that such press reports should say that no connection has thus far been established. He is aware that such press statements are not based on any statements or activities of yours, Mr. Rankin's, or anyone connected with the Commission."

If Wade "knew" that the Commission was not responsible for the press statements that concerned him so much, he nevertheless expected Warren to see to it that the statements were suitably modified in future so as not to rule out a link between Oswald and Ruby. (The Commission, in its report, did conclude that there was no link between the two men. That is one of its few conclusions that appears to survive scrutiny.)

A first sign of friction between the Texas Attorney General and the Warren Commission came early in 1964. As Waggoner Carr put it in a letter to Chief Justice Warren dated February 3, 1964,

"On my last trip to Washington I was advised by General Rankin that you were apprehensive of the speeches I have made in Texas on the subject of the assassination inquiry."

He then reminded the Chief Justice that he had agreed to postpone the Texas Court of Inquiry (at the Commission's suggestion),

"with the understanding that should I, or the special counsel (Leon Jaworski) feel later that a useful purpose would be served by the convening of a Texas Court of Inquiry we would do so. It, therefore, became desirable and indeed necessary to explain to the people of Texas why I decided to shift our present effort from Austin to Washington.

"Since our sole and only objective is a full, complete and thorough investigation and public disclosure of all the facts, whatever they may be, the people of Texas look to their representative for assurance that this is being done. I cannot give such assurances unless I know it to be a fact. When the Commission's work is completed I will be called upon to decide whether a Texas Court of Inquiry will serve a useful purpose in the full development of facts.

"You will note that my present public statements declare my confidence in the work and plans of the Commission ... I have no present reason to believe the final result will be other than one which will stand the test of the ages."

(We have already had cause to regret General Carr's lack of clairvoyance.)

"My only interest is to fully and satisfactorily perform the duties of my state office, part of which duties is to be able to tell my people that a thorough investigation has been made - one that is fair and equitable to Texas." (Italics added)

The message of this letter was clearly that Texas would act, by calling the Court of Inquiry or by other means open to it, if the net result of the Commission's work was found to be less than "fair and equitable to Texas." Those who believe that the Dallas constabulary and prosecutor got off easy in the Warren Report (which was "satisfied" with the fairness of the identification lineups, for example, and which found that Oswald's civil rights had not been violated) may find this part of Mr. Carr's letter of some relevance.

Enclosed with the letter of the Attorney General of Texas to the Chief Justice was a transcript of a speech given by the Attorney General before the Rotary Club of Tyler, Texas, on January 23, 1964. On that date, before the Commission had even heard its first witness, Mr. Carr defended Texas, or at least Dallas, against the charge [by our "eastern writers"] of political extremism. As he saw it,

"We could also paraphrase that to state that our citizens hold deep convictions. In any event, it is inconceivable that one political reaction, applicable to ten million citizens, could result from the deed of one twisted mind." (Italics added)

Whose "twisted mind," one wonders, did Mr. Carr mean? Perhaps he did have some clairvoyant talent, after all, and knew already the findings to be written, some nine months later, by the Warren Commission.

On the very day that Waggoner Carr was writing his reassuring letter to the Chief Justice, the Commission was holding its first hearing. The witness was

Marine Oswald. The hearing convened in Washington, D.C., at 10:35 a.m. and adjourned at 5:50 p.m. The next day, Carr shot off a furious letter to J. Lee Rankin.

"I cannot understand why you have apparently broken your commitment to have Texas represented at the time of the examination of Lee Harvey Oswald's surviving widow. Such commitment [illegible word or words] several times by you in my presence and the presence of the special counsel. This development raises serious doubts in my mind as to the wisdom of Texas now relying upon the original understanding that we would "participate in the Commission's work" or upon any future commitment such as the present one we relied upon that we would be invited to be present upon the interrogation of Mrs. Oswald. If this development represents what Texas may expect in the future then we will feel relieved of our agreement to postpone further our own individual hearing."

A copy of this letter went to one Horace Busby of 1001 Connecticut Aven., N.W., Washington D.C.

Apparently there was no written reply to this angry communication; but steps were taken to calm and placate the indignant Texas Attorney General, by Rankin or by others. On February 14, 1967, Carr wrote to the Chief Justice that Leon Jaworski had reported to him on his recent attendance on the testimony of Marguerite Oswald (the second witness heard by the Commission), on his review of the testimony given by Marine Oswald, and on "his talk with you and General Rankin." (It was perhaps during this talk between Jaworski and Warren-and-Rankin that Carr's complaint was satisfied.) Carr reminded the Chief Justice again of his duties to the people of Texas.

"In the light of this background I believe you can understand my extreme disappointment when I learned from the press that Marina Oswald was appearing before the Commission. I was impelled to conclude that this was not an oversight because before leaving your office on the occasion when I brought Messrs. Wade and Alexander to Washington for you to interview, General Rankin advised me that while the date for her appearance was not fixed, I would be advised when it was so that I or my representatives could be present." (Italics added)

The occasion when Carr brought Wade and Alexander to Washington to be interviewed by the Commission, long kept secret, was spilled in the book, Portrait of the Assassin, by Gerald R. Ford, Congressional minority leader and member of the Warren Commission. The now-familiar story of the Commission's consternation when high Texas officials brought them allegations that Oswald was an FBI informant on the FBI payroll - and how the Commission disposed of the

problem - has been told in a number of books. (See Inquest, pages 33-41; and Accessories After the Fact, pages 347-350).

Good Advice Ignored

Carr was exceptionally diligent, it must be granted, in the matter of these allegations: not only did he escort Wade and Alexander to the secret meeting at which they told the Commission about this horrible embarrassment, but he made serious and sensible suggestions in a letter of January 29 to J. Lee Rankin, for steps by which the Commission might track down the facts. Carr suggested:

"(1) From the Director of both agencies involved [the FBI and presumably the CIA] there should be obtained the names of every agent and representative in service in the Dallas area between the months of August and December. This information must be complete so that every single representative who acted for these agencies in that area, whether for only a few days or for several months, is to be included.

"(2) Each of the men on these two lists should be examined under oath to determine whether he has any knowledge of the subject matter [never specified in this letter but unmistakable from the context] under discussion.

"(3) The director - the number one man of each agency - as well as the district director of each agency (being the district within which Dallas lies) each should similarly be examined to ascertain whether any of them has any knowledge of the matter under inquiry.

"If there is any substance to the report under investigation, it is possible that knowledge of the matter rests with only one or two individuals and this makes it particularly important that every single person who was in the area during the months involved be available for interrogation." (Italics added)

The Commission did not act upon Carr's excellent suggestions. J. Lee Rankin replied, in a letter of February 4, 1967, that the steps Carr proposed impressed him and the Chief Justice as "sound and thorough" and said "they certainly will be seriously considered by the Commission." (It would be interesting to see the minutes of the Commission meeting at which this serious consideration was given, if such meeting there was, and the reasons why the Commission decided not to act on Carr's ideas.) Rankin said:

"It is our currrent thinking that we may try to secure further information regarding the allegations from the identifiable sources in Texas, and I am sure that your assistance in this regard would be very helpful."

The "identifiable sources in Texas" included a reporter, Lonnie Hudkins, who was never questioned by the Commission or its lawyers, and Deputy Sheriff Allan Sweatt, who was not a witness before the Commission and who apparently was asked not one word about his alleged statements to Hudkins (as reported by Hudkins to the Secret Service, and by the Secret Service to the Warren Commission) about Oswald being on the FBI payroll.

Nor was this the first time that the Commission politely declined assistance freely offered and greatly needed, in any real search for the truth. James W. Osterburg, Department of Police Administration, Indiana University at Bloomington, wrote to the Chairman of the Warren Commission on December 17, 1963, offering the resources and facilities of the American Academy of Forensic Sciences to the Commission, "to assist in the review of the case" and urging an "objective, independent audit of the investigative procedures by people competent in the field of investigative administration." His offer was rejected by J. Lee Rankin, writing on behalf of the Commission on January 15, 1964, with the statement:

"...we are hopeful that the review of the underlying investigative materials by experienced members of our staff will be adequate to ensure that the investigation is thorough and accurate." (Journal of Forensic Sciences, July 1966, page 264)

(How "thorough" and "accurate" the Report of the Warren Commission turned out to be is clear from the critical literature and the alarmed editorials in the nation's major newspapers and periodicals from mid-1966 to the present.)

Unlocking the Barn

Another example of Carr's middlemanship relates to a request by J. Lee Rankin on February 24, 1964, that the Dallas authorities be asked to make no change or alteration in the physical surroundings of the assassination scene. A very sensible precaution, one might think, until reading the Commission's delimitation of the "scene":

"In the Commission's view this would include the area north of Main Street, south of Elm Street, west of Houston, and east of the first viaduct under which the President's car motored after passing the Texas School Book Depository Building."

Outside the boundaries of the "scene" as defined by the Commission is the whole grassy knoll area, from which the fatal head shot was fired! If this is not enough, also omitted is the Book Depository building, which is technically north of Elm Street! Thanks to the exquisite nonchalance with which the

Commission delineated the "assassination scene", the Stemmons Freeway traffic sign could be repositioned and then removed entirely, at an unknown point of time, without violating the Commission's injunction against "changes" and "alterations". Attorney General Carr, no less obtuse (or no less cunning) than the Commission, relayed the request immediately to the Mayor of Dallas. It was a request that could be fulfilled without inconvenience, and presumably it was faithfully respected.

Meanwhile, Mr. Carr or his associates, Messrs. Jaworski and Storey, were fully advised about the Commission's schedule of hearings of witnesses, so that one of the three could arrange to be present. For a number of months there were no "incidents" and no renewed hints of convening the Texas Court of Inquiry.

Although the notifications of hearings were regular, General Carr seems to have remained on guard, in the aftermath of his exclusion from the hearing of Marine Oswald. A clue to his continuing mood of vigilance is found in a letter from his aide, Leon Jaworski, dated March 9, 1964, reporting that he had:

"... talked with Lee Rankin at some length while in Washington last Friday about the hearings that will be held this week ... Lee further assured me that the transcripts of testimony of all witnesses ... would be made available for our review at any time you or one of us is in Washington and can find the time to do so. Our relations with the Commission and more specifically with the Chief Justice seem to be on an even keel.

"In line with your suggestion made a few weeks ago, I took occasion, while at the White House on other matters, to review with Walter Jenkins the present status of your relations with the Commission as well as a few of the high points of the problems that arose but which were satisfactorily resolved."

A week after writing to General Carr, Mr. Jaworski addressed a meeting of the American College of Trial Lawyers, on March 16, 1964 at Miami Beach, Florida. He addressed himself to the investigation of the assassination, and to the origins of the "postponed" Texas Court of Inquiry:

"Following the graveside services of President Kennedy, at a conference held at the White House with the Attorney General of Texas, it was determined that it would be advisable for a Texas Court of Inquiry to be called to determine the facts of the assassination and accordingly a public announcement to this effect was made. Under Texas law, a Court of Inquiry ... is invoked for the purpose of discovering facts ... At the time of this decision, the appointment of a Presidential Commission was not indicated but because of subsequent events, such a Commission was considered advisable ..."

What subsequent events, one wonders? The services were on November 25th; the appointment of the Warren Commission was announced on the 29th, four days later. There is nothing in the press for the intervening days to suggest why the appointment of a Commission suddenly became "advisable". Or why a Texas Court of Inquiry ("invoked for the purpose of discovering facts") became inadvisable. The reasons may yet emerge, as sometimes unsuspected secrets do become revealed, in a volume of memoirs still to be written by one of the White House lieutenants of the period.

While Jaworski was speaking at Miami Beach, his colleague Robert Storey was readying himself for a journey to Tripoli, Libya, via London, Bonn and Rome. He notified General Carr that he could be reached at Bonn and Tripoli c/o the American Ambassadors in those cities. While in Washington, before departing for Europe, Storey wrote again to General Carr, on March 24:

"It was good to receive your assistant, Bob Davis, who arrived this morning. I have just returned from a luncheon which I gave to the staff members of the Warren Commission ... Bob Davis was welcomed by them and he has just left for the hearings this afternoon.

"We discussed a great many matters of mutual interest, including welcoming in your behalf the members of the team to Texas, particularly indicating that Bob Davis would keep up with the day-to-day proceedings so that he could brief the three of us."
(Italics added)

The "team" subsequently arrived in Dallas to take depositions from witnesses and to conduct investigations on the spot. Attorney General Carr joined the members of the Commission (McCloy, Dulles and Cooper) and others (Commission lawyer David Belin, various FBI agents, and Roy Truly, superintendent of the Book Depository) at the May 9th re-enactment tests. His notes contain a number of items of interest:

"We had Oswald's rifle and telescopic sight and the difficulty of shooting this rifle was discussed at length. Oswald's rifle was a heavy rifle with not too much kick to it upon being fired. The telescopic sight which had been removed from the rifle was of poor quality and did not bring the objects in very close ... I observed the heavy weight of the foreign-made rifle and the bolt action of the gun. I arrived at the conclusion that Mr. Oswald had to be a crack shot to fire as many times as he did in a period of a few seconds with no more help than he had from the scope. The tree between him and the President ... made the firing more difficult."
(Italics added)

After describing the various points of the Book Depository building inspected, as well as the examination of the "area around the railroad tracks and on the

overpass" and "the surrounding grounds and area," Attorney General Carr continued:

"Subsequent to the investigation, Senator Cooper, Mr. Dulles and I had an interview with the press. After this, Dean Storey and I left and went to his law office where we discussed the situation, together with the events of the previous night when Dean Storey held an informal dinner for the members of the Commission and City officials..."

"As a sideline and note to this memorandum, we were given by Mr. Truly a book of "roller readers." Oswald used a couple of cartons of these "roller readers" to brace his rifle on to secure a steady aim at the President. We secured the autographs of everyone present for this event.

"Senator Cooper and Allen Dulles assured the press at the interview that all of the findings of the Commission would be made public and that the report would be made this summer at the latest. Mr. McCloy found it necessary to catch a plane about 11:00 A.M. and, therefore, left prior to the interview."

On May 12, General Carr wrote to Rankin:

"You will recall a previous conversation with you in which I informed you of an article in the Texas Observer, a liberal publication in our State, concerning an alleged visit of Oswald's to Austin prior to the assassination. I have been able to secure a copy of the Texas Observer of December 27, 1963, which ... on page 4 sets out such a visit. I wanted you to have this information for whatever it may be worth ... I am informed by the editor of the Observer (Ronnie Dugger) that after the story came out two FBI men came by and discussed it with him and he assumed they passed it along to you ..."

The story in the copy of the Observer transmitted by General Carr with this letter to Rankin concerns an allegation by Mrs. Mary Lee Dannelly, assistant chief of the administrative division of the Selective Service system in Texas, that Oswald called on her about six weeks before the assassination in an attempt to get his discharge changed to "honorable". Rankin replied on June 2, 1964 that the Warren Commission ^{had concluded that} ~~was mistaken~~. Mrs. Dannelly was mistaken.

At about the same time, General Carr forwarded to J. Lee Rankin "a clipping relating to Norman Redlich, who is serving as a consultant to the Commission." In a letter dated May 18, Rankin thanked Carr for the clipping, and stated:

"As you probably know, security requirements for federal employees are governed by President Eisenhower's Executive Order No. 10450, which provides that 'The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation'. Such an investigation has been

made in the case of Professor Redlich by the Civil Service Commission and the Federal Bureau of Investigation and, pursuant to E.O. 10450, the facts which were developed by the investigation are being evaluated by the Commissioners."

Carr, still on the hunt for Communists, wrote again to Rankin, on May 26.

Recalling the Commission's plans to question Jack Ruby, he said:

"I wish to urge you to question him in detail as to his being one and the same person as the Jack Rubenstein of Chicago who several years ago was active in the Youth Communist Movement in America ... There has been a great deal of speculation also on Ruby's trip to Cuba. I would urge you to explore this fully ... May I also suggest that every effort be made to determine why Oswald was headed in the general direction of Ruby's house at the time he was intercepted by Officer Tippit. The other matters, such as conspiracy and any possible connection between Ruby and Oswald I am sure are foremost in your mind. I simply wanted to remind you of the above matters in an effort to be as helpful as possible."

New Dissension

On August 14, 1964, Carr wrote to Rankin in renewed tones of protest and suspicion.

"As a follow-up of my telephone conversation with you August 10, Dean Storey, Leon (Jaworski) and I want to re-emphasize our great concern over any decision by the Commission which would alter our very clear understanding with you that we would have the opportunity to read and study the proposed final report of the Commission prior to the time the report was finally adopted.

"It should hardly seem necessary to remind the Commission again that Texas has placed all of its resources behind a co-operative effort with the Commission to determine all of the facts. As a fundamental part of this co-operative effort we have had a firm understanding that we would be given the opportunity to review the preliminary draft at a time when our suggestions and counsel, if any, would be meaningful and helpful. Should this understanding now be amended by the Commission, we might very well be duty bound to file a Texas report. This should not be construed by you as any kind of threat whatsoever but as a simple statement of a very practical situation where we could feel bound in the performance of our duty to our state to state any conclusions which might differ from the conclusions of the Commission in the preparation of which the State of Texas has been excluded.

"Please be personally assured of our desire that our mutually co-operative efforts be continued to a successful conclusion but we would be less than candid with you and the Commission if we did not take this means of clearly stating the importance of avoiding any such unfortunate development."

Three days later (August 17) Carr wrote again to Rankin, this time requesting that "the Commission will agree to send me copies of the following depositions so that we may immediately begin our study of them (as) it continues to be most difficult for us to make the trip to Washington at this time." Carr gave assurance that the depositions stipulated would be seen by no one other than by him and his two aides, Storey and Jaworski, and returned immediately after they were read. He specified the depositions of: Mark Lane, Robert Hill Jackson, Arnold Rowland, James Worrell, Jr., Amos Euins, Wesley Frazier, Linnie Mae Randle, Cortlandt Cunningham, William Whaley, Cecil J. McWatters, Mrs. Katherine Ford, Declan P. Ford, Peter Paul Gregory, Commander J. J. Humes, Commander J. Thornton Boswell, Col. Pierre Finck, Michael and Ruth Paine, ^{Howard} Brennan, Bonnie Ray Williams, ^{Harold} Norman, ^{James} Jarman, and ^{Roy} Truly.

The next day (August 18) Rankin replied to Carr's urgent letter asking to read the Commission's report before it was published, saying:

"After my telephone conversation with you on August 10, before receipt of your letter of August 14th, the Commission had agreed that you could examine the galley proofs of the proposed final report here in the Commission offices prior to the time the report was finally adopted. The Commission thought that this would be in conformity to the mutually co-operative efforts of the past and expressed gratitude for all of the assistance you have given in its work."

On August 25, Rankin replied to Carr's request to read the depositions of Messrs. Lane, Jackson, Rowland, et al., stating:

"The Commission decided that it would not permit any of the testimony to be taken out (of the Commission offices) because of the difficulties it has had concerning publications of materials that did not come from the Commission or its staff, but which members of the Press have found it convenient to claim that they have received from "sources close to the Commission." These depositions will be available to you at any time here in the Commission's offices and I am sorry that we cannot make it more convenient for you."

Carr had indicated in his letter of August 14 to Rankin (about reading the Commission's final report before it was issued) that copies of the letter were directed to Jaworski and Storey. Although he did not indicate it on the original, he sent a copy also to Walter Jenkins at the White House. Paul M. Popple, assistant to Jenkins, replied on August 24, 1964:

"With reference to your letter of August 14th to J. Lee Rankin, a copy of which you sent to Walter Jenkins, I have been informed that Mr. Rankin has told Mr. McGeorge Bundy that the Commission has agreed to let you see the ... report before it is submitted to the President. I assume that this will take care of the matter."

Presumably it did.

A Curious Discrepancy

Dallas Police Chief Jesse Curry wrote to J. Lee Rankin on August 25, 1964:

"...I am enclosing a copy of the jail card on Lee Harvey Oswald, indicating the times and dates of visitors and telephone calls which he made. I am also enclosing copies of all of the telephone sheets kept on prisoner's phone calls for the dates of November 22, 23 and 24, 1963. You will note one entry on these sheets involving Lee Harvey Oswald. I am also enclosing affidavits (sic) from all of the jail personnel involved in handling this prisoner in these matters.

"Referring to the Visitor's Permits on page 393 of the Police Report, I refer you to the affidavit of Officer J. R. Stacy; also, to the reports of Detectives Rose, Stovall and Adamcik on page 170 of the Police Report and Detective M. G. Hall on page 207 ... It is apparent that Mrs. Marina Oswald and her mother-in-law both visited Lee Harvey Oswald on the one visitor's card.

"The arrest sheet on page 70 of the Police Report was made at the time the prisoner was booked and indicates the time of the arrest - in this case 1:40 p.m. on November 22, 1963. But, the time indicated on this arrest sheet is not necessarily the time the prisoner is placed in jail. In this instance, Lee Harvey Oswald was booked but was retained in the custody of the Homicide Bureau for questioning. The enclosed copy of the jail card indicates that he was actually placed in the custody of the jail officers at 12:23 a.m., November 23, 1963. This time should not be confused with the times of three telephone calls which he made from the jail and which are noted on the bottom of the jail card. The jail card is made on the fourth floor of the jail at the time the prisoner is searched and assigned a cell. The card then goes with the prisoner to the fifth floor and is filed in alphabetical order ... so that the jail crew on the fifth floor has a record of the prisoners in their custody. On the left-hand margin of the jail card, you will note two entries preceded by the letter "V". This indicates a visitor and may be checked against the visitor's cards. (*Italics added*).

"I hope this material will be of help in clarifying questions the commission may have in connection with phone calls and visitors of Lee Harvey Oswald."

The assertion that Oswald was arrested at 1:40 p.m. appears not alone in this letter written by Police Chief Curry (only a month before the Warren Report was published) but in other documents in the Texas Attorney General's correspondence file. Yet the Warren Report stipulates that the arrest was somewhat later. "At 1:45 p.m., the police radio stated, 'Have information a suspect just went in the Texas Theater...' ... At 1:51 p.m., police car 2 reported by radio

that it was on the way to headquarters with the suspect" (WR 178, 179).

The importance of the precise times relevant to the shooting of Tippit and the timetable of Oswald's alleged movements after the assassination - which create a strong presumption that he could not have been and was not at the Tippit scene nor involved in Tippit's murder - is discussed in Accessories After The Fact (Chapter 13) and in other works critical of the Warren Commission.

Another curious evidentiary question arises from a letter of August 5, 1964 from J. Lee Rankin to Police Chief Curry:

"On Thursday, July 23, 1964, a member of the Commission staff took the testimony of Welcome Eugene Barnett, an officer of the Dallas Police Department. Officer Barnett testified that within three minutes after the assassination, he was ordered to stand at the door of the Texas School Book Depository Building to make certain that no one left the building. According to Barnett, he was ordered to do this by "Sergeant Howard". We request that your department identify Sergeant Howard and obtain from him an affidavit setting forth his activities covering the period immediately before and after the assassination. In particular, we would like to know whether Sergeant Howard issued such instructions to Officer Barnett or to any other police officer. We would also like to know whether Sergeant Howard was told by any of the spectators as to where the shots originated. With regard to all of Sergeant Howard's recollections, we would like him to pinpoint as nearly as he can the exact times of the various events."

Neither this letter, nor any information about Sergeant Howard which Curry may have provided in reply, appear in the Warren Commission's Hearings and Exhibits.

The same Rankin letter to Curry refers also to Curry's testimony regarding the lineups and in particular to the identification of Oswald by Mrs. Helen Markham:

"It would appear from your statement on page 175 that Mrs. Markham was unable to identify Oswald whereas your statement on page 176 indicates that she did make such an identification. We would appreciate receiving an affidavit from you clarifying this discrepancy in your testimony so that this affidavit can be printed as part of our published record."

Curry's affidavit of August 1964 states:

"The answer shown to the question posed by Representative Ford - that Mrs. Markham did not identify Oswald - is in error. The first time Mrs. Markham was shown Oswald, she positively identified him as the slayer of the officer."

One needs only to read Mrs. Markham's own testimony (3H 310-311) to judge whether, in fact, "the first time Mrs. Markham was shown Oswald, she positively identified him as the slayer."

With this affidavit, the Texas Attorney General's correspondence file ends. What is to be learned from this hitherto-unpublished material?

Recapitulation

The White House first encouraged, if it did not actually initiate, the holding of a Texas Court of Inquiry. Almost at once, however, a Presidential Commission was appointed. This placed the focus and control of the investigation into federal hands, out of the jurisdiction in which the assassination and the attendant murders were committed. Texas was persuaded to "postpone" the Court of Inquiry. In actuality, it was cancelled. Washington appears to have felt apprehensive about the discretion and decorum of Texas officials if they conducted the main investigation. There was explicit anxiety about a witch-hunt, and an implicit fear of headline-hunting in the Henry Wade style.

Texas, for its part, manifested keen concern that criticism of its officials and citizenry in Dallas might be voiced by the Presidential Commission. Its Attorney-General agreed to postpone the Court of Inquiry only on condition that he and his aides would participate closely in the Commission's work, as watchdogs of the interests and reputation of Texas and of Dallas.

On several occasions, the agreed arrangements were violated. Texas officials were not invited to the Commission's first hearing, at which Marina Oswald testified. Later, there was apparent reluctance to allow the Texas Attorney-General review the final draft of the Commission's report. These incidents provoked strong protests and open threats of initiating the Court of Inquiry, as well as recourse to the White House. The Commission backed down, in each case, and its published report glossed over--some would say, whitewashed--the performance of the Dallas authorities and the political climate of the city as a factor in the murder of the President and of the accused assassin. That a Texan succeeded to the presidency upon the assassination may not be wholly unrelated to the exoneration of Dallas by the Warren Report. The Report was also soft on the FBI and the Secret Service. The Commission was animated--some would say, dominated--by anxiety to place the whole apparatus of Government, and not merely Dallas and Texas, in the best possible light --"in the national interest."

Nothing is clearer than the fact that political considerations and the self-interest of involved parties took precedence, at every point, over the imperative of discovering "the truth, so far as it could be known." Waggoner Carr reserved for the privacy of his personal notes his conclusion that the assassin "had to be a crack shot," which Oswald indisputably was not. Carr did not challenge the Commission's specious argument that the shots were easy, or that Oswald had the necessary skill as a rifleman, at least not publicly; and if he did so privately, his correspondence file does not so indicate.

Carr did show zeal on the issue of allegations that Oswald was on the FBI payroll, traveling to Washington together with other Texas officials expressly to place this information before the Commission. He may have been motivated by the hope of getting the heat off Dallas and under a federal agency, rather than by passion for the truth for its own sake. Nevertheless, he made excellent suggestions to the Commission for the method by which it should attempt to determine the facts, only to have them politely praised and wholly ignored.

The correspondence file indicates that Waggoner Carr and his two aides, Leon Jaworski and Robert Storey, maintained cordial relations with the Commission's lawyers. They were on a first-name basis with them and they hosted luncheons and informal dinners in their honor. Their vigilance on behalf of Dallas, and the Commission's protectiveness toward the responsible federal and local agencies, left only the so-called "lone assassin," Lee Harvey Oswald, without protection of his interests by anyone.

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