

Excerpts from "Your Right to Say It" as broadcast on WNYC-TV December 23, 1966  
Participants: Albert E. Jenner, Jr. and Baker Marsh, Jim Ruddle, James MacBurnie

Jenner

(Responding to the remark, "As I understand it, these films were never viewed by the Commission"): They were never—I'll put it this way: Some members of the Commission saw both the film—the colored pictures, and the x-rays. We did not, as staff members, introduce those before the Commission at any formal hearing. We of the staff saw them, ourselves. As a litigator, which I am, we determined that the testimony of the autopsy men, the team of three who examined the body of President Kennedy, was what we call basic or fundamental evidence—that is, testimony by the persons who saw and heard is what we call in law "the best evidence"—and they were brought before the Commission and they testified and we were afforded in advance their reports, and we examined the autopsy medical men with their reports before us. In the trial of a case, as a matter of fact, the best evidence is medical men and witnesses who saw and heard. X-rays are secondary evidence, and they tend to support a witness's statement. Frequently we lawyers will try in using an x-ray—and to the untrained you look at an x-ray and it doesn't mean much to you—we will try to undermine the testimony of a witness through an x-ray. The thing that troubled us mostly there, in that area, was those colored photographs. We could not see that anything would be gained by putting into the record these perfectly horrible colored photographs of the late President, taken during the course of this autopsy. We felt that just normal sensitivity for a truly great man and a former President of the United States, that we should not expose to the views of morbid people, viewing by morbid people, these photographs; and they were surrendered to the Kennedy family. And they have now been placed in Archives, under the type of limitation that you've indicated; in any event, after five years, however curious or morbid you may be, you may go and look at them.

Jenner

(Asked if it would not be helpful to reopen the investigation, or start a new investigation, to answer the doubts) My answer to that is no, and my further answer is that you or any other objective people would want a new investigation to go through the same thing we went through. The net result of doing that is that, so far as we can tell from anything these book-sellers and writers have published to date, is, they have turned up nothing that the Commission didn't turn up and report it in this Report. If something new of significant character would arise, of course there should be a further investigation. But there's been nothing. Now what would happen here if you had another investigation? So far as we can tell from anything that's turned up since, you'd have these detractors, these people who want to raise these mythical questions, these new theories, they'd raise new ~~infringements~~ <sup>theories</sup> about the new report.

Question

Mr. Jenner, you've referred to some of these recent books as being deceptive and irresponsible. How are they so?

Jenner

They're irresponsible--to give you a good major example, they're irresponsible in many respects, but they're irresponsible in this way: they will take a tiny segment of something in the Report and will discuss only that part which seems to sustain their theory. They do not call to the attention of the public in the same work, affirmative evidence that substantially destroys what they are urging. I can give you one example very quickly, and that is the claim that the shots may have come--they don't, none of them say that they did come--may have come from the southwest corner over near the railroad

overpass ~~and~~<sup>or</sup> the railroad yards, and so they say that there were some witnesses who didn't testify who said--and some of them testified, we brought them in, we didn't care how they testified, if anyone said they saw or heard something, we brought them in to testify--and naturally, with a great open place like Dealey Plaza with buildings on three sides --the buildings aren't too tall in Dallas, in that area, the buildings run about eight, ten storeys--reverberations from a rifle shot, make it, it's very difficult to determine the place from which it comes. Now keep in mind that also at that time, which they don't say anything about, with which we had to contend, this was a traumatic event. Let's say you were on Dealey Plaza at the time--you heard three shots in a row and you saw the President reach to his neck--he was hit--then you saw his skull burst out --these shots--you'd start to think first about your own safety. What was happening? Then, when you'd recovered enough from that--because your first instinct is your own safety--then you'd look around, you'd see people running everywhere, some of them running to hide, to shelter of one kind or another--and of course you'd find witnesses--some witnesses testified that there were TWELVE shots.

Now what Lane and Epstein and Sauvage do not do when they raise that question--all they say is, there were witnesses who testified they heard the shots come from the southwest corner, up in, on the rise in Dealey Plaza, or from the railroad yard.

They don't recount to the public that Howard Brenman; Euno (sic), 17-year old boy; some of your compatriots (sic) in the press car, the Dallas Morning News and the Dallas Times-Herald, TV men as well, were in that motorcade. That these TV and newspaper--the chief photographer for the Dallas Times-Herald, he heard the shots, he looked up, and he saw a rifle being withdrawn, just the tip end of the rifle being withdrawn from the sixth floor of the TSBD building. One of the photographers <sup>in the car,</sup> when he heard, the chief photographer for the Dallas Times-Herald make this statement, he looked up, and he saw on the Fifth floor, right under the sixth floor window, two men glancing upwardly, and he raised his camera, being alert, apparently, to take pictures; and he snapped ~~that~~<sup>a</sup> picture right at that time. While he didn't catch Oswald in the sixth floor window, he did catch these two men right underneath... (Describes here testimony of Mrs. Cabell and Norman/Jarman/Williams)...All three men testified that...they looked up and they heard the hulls fall on the floor.

Then, there was a motorcycle policeman who was just a little

bit back of the press car, as the press car was going on Houston Street, facing the TSBP building. He looked up, and he saw pigeons rising from above the roof --rising from the roof, or the eaves--at the southeast corner of the TSBP building, he revved up his motorcycle and drove, as fast as he could, to the entrance of the TSBP building, he asked who was in charge, and Roy Truly, the superintendent...was in the archway entrance to that building.

And the policeman took him by the arm and they rushed into that building to go where? The policeman wanted to get up to the sixth floor, to that corner, where he had--had reached the conclusion, as a trained man, that these shots, at least, had come from that window.

Oswald, as we subsequently find, had jimmied the elevator door on the sixth floor by sticking a stick in it, to hold it back so as to disengage the electrical impulses, and that held the elevator up there on the sixth floor. Roy Truly...and the policeman with his gun drawn rushed up, they were going to go all, right up those six floors, and they reached the second floor, who was the first man this policeman saw, was Oswald with a bottle of coke. And he rushed over to him with his pistol. And held him. Roy Truly...said that's one of our men, Mr. Oswald, there's nothing wrong with him. But these men, intent on getting to the sixth floor, where they thought the person--whoever he was--who had discharged this rifle--they turned then and rushed up to the sixth floor and Oswald just walked calmly out of the TSBP building.

We found on the sixth floor--well, this man Brennan, who had seen the figure in the window 5 minutes before the President's motorcade had arrived ...the police found the Mannlicher-Carcano right up on the sixth floor, they found the three spent hulls on the sixth floor, found palm prints on the boxes or packages on the sixth floor that Oswald had used to rest the rifle...they found palmprints on the underneath side of the rifle itself. We traced that rifle back to its purchase in March of 1963 by Oswald using his faked A.J. Hidell signature and the shipment of that rifle to the post office box in the Dallas post office. We were able to trace the pistol ~~which~~ which he employed to ~~murder~~ Officer Tippit and the pistol <sup>with</sup> which he attempted also to murder the police who entered the Texas Theater and apprehended him; ~~Its~~ purchase from a California <sup>weapons</sup> mail-order house--of course, that had his fingerprints on it in generous proportions. We found that on the Mannlicher-Carcano rifle were threads from the jacket that he wore that particular day.

Now, none of these affirmative things are called to the attention of the public when they read these books; and that's why I say--I could give you many other examples but time does not permit.

Question

Mr. Jenner, what are the principal claims of those who think the Commission drew wrong conclusions?

Jenner

I suppose the principal claims are that there was more than one assassin; that the bullet that entered President Kennedy's neck was not the same projectile that entered Governor Connally's body; and if that were not so, then necessarily there must have been some second person, whether he was conspiring with Oswald or not, who had attempted to shoot the President. These people who write these articles postulate all the time, isn't it possible there was somebody else? And that was one of my assignments--my assignment was conspiracy, motive, and the complete life and background of Oswald.

Now, when we prepared those chapters, we didn't say in this Report that there's no doubt about the conclusions we reached. We say that on the basis of all of the proof that we adduced, that the preponderance of the evidence reaches to a certain conclusion. The big difference here is that the Commission was enjoined to reach conclusions and to balance this evidence. These people, I say, are irresponsible. They have no official obligation to reach a conclusion after a careful investigation and the searching of all the facts. What they do is to pick out things that tend to support their theory, we've already <sup>reported</sup> ~~mentioned~~ in the Report, they just don't give the contrary ...They've produced no new evidence. And I think the best way for me to say this to you gentlemen is...those of you, and I don't know ~~x~~ if you serve on juries, newspapermen don't serve on juries and neither do lawyers...but for the television audience, the best thing for them to do--those who have served on juries--is sit back and contemplate that when they've been serving on a jury and the plaintiff puts in the plaintiff's proof and the Government puts in its proof, in a criminal case, and then the defense puts in its proof, then the plaintiff or the Government puts in a rebuttal--the jury realizes, life is a conflict, there's conflicting evidence all the time, and it has to be weighed.

Now the Warren Commission and its staff had to weigh and reach a conclusion on all this conflicting proof, just as jurors have to do. So when you read, say, Mark Lane or Epstein or whoever it may be--

Question

These are dissenters from the Report?

Jenner

Well, they're presenting only their point of view.

Question

But there is, I think, a natural kind of thing, isn't there, that one would expect that you're going to be handed a Government report, and it says this is the way it is, and then you come up with pictures which were not published in the Report, such as the Epstein photographs of the jacket and shirt, showing the entrance paths, apparently, of the projectile which --according to the Report--entered the back of the neck of the President, and obviously ~~infrayzantura~~ looking at this thing as just an average, common <sup>garden</sup> / run of the mill individual who wears a coat, I realize that if the bullet went in there it would have extreme difficulty coming out the front of my neck. Now I realize that there has been an explanation for this.

Jenner

A very good one. The question was asked of me that these people are irresponsible. May I take that example to just raise. The President was in the process--you know, this was a political tour of his, and he was greeting the people in Dallas--he was waving, and he was holding his hands up. Now if you'll hold your hands up, your coat'll go up. At the time the President was shot he wore a brace, and he was way over to the right-hand corner. His coat had inched up from raising his hand and waving to everybody; and it is true that the entry hole in the President's jacket--if you hang the jacket afterward on a model so that it hangs straight, it would appear that if the bullet entered the President's back at the point at which that hole appears after you hang it nice and neatly on a model would be several inches below the point at which we said the bullet entered.

Mr. Epstein raises that point. He's now retreated from it, by the way, because being just a young <sup>college</sup> / student who was writing a master's thesis it didn't enter his mind that when the coat is up, you have to reposition the coat when you determine where the entry is, if you're only going to depend

on the coat, so it's inched up, and when you let the coat down, that hole's going to be below where it entered.

Question

Granting all this, what I was getting at, though, isn't it natural that this sort of thing is going to be taken up--people are going to ask questions forever--they're still asking them about Lincoln.

Jenner

That's right.

Question

Let me add to Jim's question if I may. If you were going to start the Commission all over again...if you were really going to start from scratch, what *f* would you do differently in a new investigation so that these questions wouldn't arise?

Jenner

You know, I can't think of a single thing I can do. I had a responsibility for three major segments of this investigation, and I had a fine staff of very able lawyers. I had available to me any FBI agent in the entire United States, the CIA, the intelligence services of the Army, Air Corps, Marines, and the Navy, and I used them, the State Department, the Secret Service, the Immigration and Naturalization Service--any request we made, never did we have a single demur. As a result of reading all these books, there may have been an occasional refinement, because of a theory that we would, in drafting a chapter or paragraph, revise it so that it would meet that particular theory, that--it would be so far out that we didn't think of it at the time...I don't know what we would do.

Question

You don't think there's a credibility-gap in this Report?

Jenner

I don't think there's a credibility gap of the ~~kind you mean~~ character I think you mean when you ask that particular question. There are credibility gaps throughout this report, in the sense that there's a credibility gap in any investigation where there's a conflict of fact. You weren't there--I wasn't there--the people that were there, none of them have quite the same story...You sift, you get all these conflicts together, and then you resolve them.

Question

Did you have the kind of devil's advocacy that these people are presenting, within the Commission itself--Was there anyone who was charged with the responsibility for tearing your theories apart?

Jenner

I'm pleased you asked that, I'd forgotten about that sort of thing --the answer is yes. We had the ex-United States Attorney of the District of Columbia, who was given absolute carte-blanche. The Chief Justice and the Commission said to the staff, whatever this man wants to see, at any time of day or night --if he wants to sit around while you're talking, if he wants to go with you to Dallas or Fort Worth--whatever he wants, is open to him. He sat through every session of the Commission, and he was the devil's advocate as the representative of the President of the American Bar Association. He would come to me, for example, knowing some theories we were pursuing, and he would question me--he would act as a devil's advocate against conclusions we'd reached, say, after several weeks of study; and as a result of his criticisms or his suggestions, we frequently started over again or made additional investigations. So we did have a devil's advocate.

Question

Is any part of his work in the Report...Does it reflect his work?

Jenner

It reflects his work in the sense that he had an effect on us. Now, he --I recall him in most Commission hearings, he took copious notes, and his notes are in National Archives.

Question

Did you achieve unanimity in the Commission in the final Report--no minority report? No dissenters?

Jenner

No minority report, no dissenters. There were dissents--there was very heated discussion in the Commission itself, with respect to the drafts of the various chapters. Some of these were drafted and redrafted as many as 16 times. And, by the way, all 16 drafts of that chapter are in the Archives, including pencil notations, anything else on them. The evolution of each chapter, and sometimes each segment of each chapter, is all lodged. Eventually, the Commission was unanimous. Now--

Question

I'll have to interrupt with that, Mr. Jenner, our time is up. Many thanks to all of you.



Albert E. Jenner, Jr. questioned by

Baker Marsh (Chicago Daily News)

Jim Ruddle (WGN News)

Moderator, James MacBurnie (Northwestern University)

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