

WHO KILLED MARTIN LUTHER KING?

On April 4, 1968 an assassin's bullet struck down the Rev. Dr. Martin Luther King, Jr. as he stood on the balcony of the Lorraine Motel in Memphis, Tennessee.

The working press conscientiously and diligently pursued the facts of the case, and evidence of conspiracy mounted. The reporting of Martin Waldron of The New York Times was particularly outstanding and perceptive and was in the finest traditions of investigative journalism.¹

Anticipation grew as the public^{awaited} the trial of the suspected assassin, James Earl Ray, who had been apprehended 5 months after the slaying in London's Heathrow Airport. But there was to be no trial. Instead there was a deal, and on March 10, 1969 Ray pleaded guilty and received a 99-year sentence.

The next day an editorial, "Tongue-Tied Justice," appeared in the Times: "The aborted trial of James Earl Ray... is a shocking breach of faith with the American people... by no means... should the doors of the courtroom and the jail be slammed shut on the facts, the motives and the doubts of this horrible murder... Nothing but outrage and suspicion can follow the handling of this long-delayed and instantly snuffed-out trial. Percy Foreman, the defense lawyer, tells the public that it took him months 'to prove to myself' that Ray was not part of a murder conspiracy. Ray himself acquiesces in the bargain made on the guilty plea -- then says publicly that he refuses to go along with the statement that there was no conspiracy. Why should this assassination be tried by statements instead of formal legal procedures...? What in either sense or jurisprudence does it mean that the defense attorney convinced himself? ...the question still cries for answer: Was there a conspiracy to kill Dr. King and who was in it?... No one was demanding blood; everyone is demanding facts... Unless proceedings are convened in court -- Federal if not state -- we shall never know the adjudicated truth. There should be no Warren Commission necessary -- a month or a year from now -- to still our doubts and do what a Tennessee court has failed to do."

It seems abundantly clear that the Times' eloquent editorial was intended for little more than public consumption, for Ray's claims that he had been railroaded and his efforts to obtain the new trial for which the Times had called were reported in the back pages when they were reported at all. From reading the Times it appeared that the case was closed and consigned to history.

The official version of the assassination -- lone assassin, no conspiracy although widely doubted, remained factually unchallenged until March, 1971 when "Frame-Up: The Martin Luther King/James Earl Ray Case," by Harold Weisberg was published (Outerbridge & Dienstfrey - 1971). Weisberg has dedicated the past eight years to the investigation of political assassinations that

have plagued our era,--- a vocation that is far from financially lucrative despite the inferences of some. "Frame-Up" was the culmination of more than two years of investigation and research.

At Ray's extradition hearing the government relied almost entirely upon affidavit testimony which could not be cross-examined. Following the extradition the Bow Street Magistrate's Court turned the entire court record over to the U.S. State Dept. at the latter's request, inexplicably retaining no copies. The file, part of the record of a public trial which should have been public domain, was classified by the Justice Department as "part of an investigative file compiled for law enforcement purposes."² Weisberg obtained the file by suit.³ Predictably, it contained much which was contradictory of the official representation presented in the Ray "mini-trial."

The legal contracts between Ray and his attorney, Percy Foreman, called for Foreman to receive Ray's entire share of royalties to be derived from the writings of William Bradford Huie, the author who had bought the rights to Ray's story.⁴ Foreman estimated the total at \$400,000. The arrangement made it in Foreman's interest to avoid a trial, for anything said in open court is public domain, and Huie could derive no royalties from its use.⁵

Foreman never asked Ray if he had killed King,⁶ later saying "I don't give a damn if there was a conspiracy."⁷ Instead of preparing a defense he convinced Ray that the FBI had built an overwhelming case against him, and the only alternative to a deal was the electric chair. He did not tell Ray that there had not been an execution in the U.S. in nearly two years and none in Shelby County (Memphis) since 1948.⁸ When Ray again balked at the deal at the last minute Foreman agreed to a reduced fee of \$165,000 contingent upon the plea being "entered and the sentence accepted and no embarrassing circumstances take place in the courtroom," thus providing Ray with the only means available to him to provide for his family which had gone to great expense in his behalf. Foreman also agreed to advance \$500 to Ray's brother, also "contingent upon the plea of guilty and sentence going through on March 10, 1969, without any unseemly conduct on your part in court."⁹ On March 10, Ray did plea guilty to a technical charge that he was legally guilty under Tennessee law. This was not an admission that he had killed King which he continues to deny, but an admission of involvement.

The prosecution case narrated at the "mini-trial" could hardly have stood up to strong cross-examination.

There was only one alleged eye-witness placing Ray at the scene, and earlier contradictory statements by him along with the contention of his common-law wife and a friend that he had been too drunk to witness anything cast serious doubt upon his credibility.

A bundle containing the alleged murder weapon, and other items easily traceable to Ray showed all the signs of having been deliberately planted. The rifle (which Ray definitely had purchased) contained but one print and another on the scope -- but none on the clip, the casing, or any part of the rifle Ray would have had to handle in order to load and fire it. It seems extremely unlikely that Ray could have returned to his room, replaced the rifle in its box, carefully wrapped it and the other items in a blanket, proceeded the length of the hallway and down a flight of stairs, run in a direction away from his car to where the bundle was found, placed it neatly in an open doorway, then proceeded back to his car before being spotted by police who were on the scene literally within seconds.

The prosecution claimed that the "death slug" was "consistent" with having been fired from Ray's rifle. Consistent is a meaningless word in ballistics terminology since a bullet can either be traced to one weapon to the exclusion of all others or it cannot. The affidavit of FBI firearms expert Robert Frazier, contained in the suppressed extradition file stated that "due to mutilation and insufficient marks of value, I could draw no conclusion as to whether the submitted bullet was fired from the submitted rifle."¹⁰

The prosecution alleged that the shot had been fired from a bathtub in a second-floor bathroom of the rooming house, but Paris-Match, in attempting to re-enact the crime found that it required a contortionist.¹¹

There were no Ray prints in the room where he was alleged to have re-arranged furniture or in the bathroom from which he was alleged to have fired the shot. Nor were there prints in the white Mustang in which he was alleged to have driven nearly 400 miles to Atlanta after the slaying.

There was no mention of the fictitious chase of a white Mustang relayed to police radio -- leading police away from the most likely escape routes out of Memphis, or of the physical resemblance Ray bore to the men whose names he assumed as aliases. Nor was there mention of any other evidence leading to the inescapable conclusion that there had been a conspiracy.

"Frame-Up" was enthusiastically received at first. Publishers' Weekly said "This review can barely suggest the detailed number of Weisberg's charges, speculations, freshly documented evidence and revelations about the King murder. In two areas he is pure TNT: his attack on... Percy Foreman and Bradford Huie... and his sensational ~~head-on~~ head-on assault on J. Edgar Hoover, the FBI and the government itself for what he claims was the suppressing of official evidence indicating Ray was not alone in the King assassination... Weisberg has brought forth a blistering book."¹² Saturday Review concurred: "Evidence that Ray fired the fatal shot. There is none... The reek of conspiracy is on everything. Weisberg is an indefatigable research

er... He has pursued the facts... And they are facts that lay claim to the conscience of America."¹³ The Chicago Sun Times said: "Weisberg has dug up much material, some of it properly designated as suppressed, that must give any reasonable and unprejudiced person pause."¹⁴ The London Times in a news story on "Frame-Up" called Weisberg "one of that small but impassioned group of authorities on recent American political assassinations... 'Frame-Up' is a detailed analysis of the whole process of Mr. Ray's arrest and trial... There is remarkably little evidence to connect Ray with the shot that killed Dr. King."¹⁵

The New York Times, although it had taken Weisberg seriously enough in the past to print lengthy articles on two of his previous books,¹⁶ found no "news fit to print" in "Frame-Up." On May 2, 1971 it was reviewed in The New York Times Book Review by John Kaplan. Excerpts follow:

"The silly season apparently is over so far as the critics of the Warren Commission are concerned... Now, Harold Weisberg... hopes to repeat the triumph of his 'Whitewash' series with 'Frame-Up,'... Mr. Weisberg's theory is that James Earl Ray was merely a decoy, part of a conspiracy, apparently... his evidence is exiguous at best... Percy Foreman and a host of others are treated savagely... Mr. Weisberg's grasp of law is, to say the least, somewhat shaky (he is described elsewhere as a chicken farmer) ... whether or not Ray fired the fatal bullet or merely acted as a decoy does not influence the propriety of his guilty plea. In either case, he would be a murderer... A review such as this in which nothing favorable is said obviously prompts questions as to why one might wish to read or, for that matter, to devote newspaper-review space to the book... Newspaper stories describing the same person will often differ in particulars. A Weisberg will usually be able to make a case that therefore one of the stories is a planted lie... Finally, one might ask if 'Frame-Up' tells us anything significant about the Martin Luther King assassination. Regrettably, the answer is no..."

The New York Times Book Review wields the awesome power to make or break a book. There were no further reviews after this one, and for all practical purposes the book was soon dead.

The Times' capsule biography of the reviewer said that "John Kaplan teaches at Stanford Law School and is author of 'Marijuana: The New Prohibition.'" It was inadequate at best.

From 1957 to 1961 John Kaplan served the Justice Dept. in three capacities first as a lawyer with the Criminal Division (from which Weisberg had obtained by suit the suppressed extradition file -- not mentioned in the review); then as a special prosecutor in Chicago; and finally as an Assistant U.S.

Attorney in San Francisco. He authored a lengthy article entitled "The Assassins" which appeared in the Spring, 1967 American Scholar. The assassins Kaplan was talking about were the critics of the Warren Report whom he characterized as "revisionists," "perverse," and "silly." He was also critical of Life magazine for editorially calling for a new investigation of the Presidential assassination and of The New York Times for editorially calling for official answers to "the many puzzling questions."¹⁷ These, according to Kaplan, "contributed relatively little in the way of enlightenment."¹⁸ Like Epstein, Kaplan contended that the criticism had political overtones: "The attacks on the Warren Commission serve the purpose of blaming one more thing on Lyndon Johnson."¹⁹ In its original form "The Assassins" was so libelous of the critics that the American Scholar, on the advice of its legal counsel, refused to publish it until Kaplan reluctantly agreed to make the desired revisions.²⁰

John Kaplan's most recent venture before reviewing "Frame-Up" was a two-part article for the U.S. Information Agency for distribution in Europe and Africa entitled "The Case of Angela Davis: The Processes of American Justice."²¹

Kaplan's biography would be irrelevant if his had been a serious review. Instead it was little more than a personal attack on Harold Weisberg, and in no way did it address the contents of the book or attempt to refute Weisberg's "exiguous" evidence.

On May 5, John Leonard, now editor of the Times Book Review, told the author that he had been completely unaware of Kaplan's background. He had just received a letter from Mr. Weisberg, and the contents distressed him. The book had been assigned by "another editor," he said. Leonard gave assurances that justice would be done in the letters section of the Book Review and that "we" have to do something with the author's letter."²² It was John Leonard, then a daily book reviewer, whose review of "Heritage of Stone" had been edited because it was "excessively editorial."

Despite Leonard's statements protesting innocence Weisberg did not hear from anyone at the Times, even to acknowledge receipt of his letter. Many others who wrote in, sending Weisberg copies of their letters, also reported no response or acknowledgment. Perplexed at the Times' silence Weisberg wrote again on May 25 seeking some acknowledgment of his earlier letter, "if only to record that you did not consciously assign this review to a man so ridden with irreconcilable conflicts."²³ There was no response from the Times.

On May 30 the reason for the silence became apparent. Kaplan in his review had alluded to Weisberg's successful suit against the Justice Dept. with

out mentioning it: "Mr. Weisberg is... determined... to document the amount of inconvenience, bureaucratic bumbling and discrimination he had to put up with while he was investigating the case -- and the fact that this is not the first time he has been picked on. For instance, when he mentions The Washington Post coverage of the Ray case, he adds on a footnote, 'I know that its book reviewer was ordered not to review 'Whitewash' after he had read it and decided on a favorable review.' "

In context that footnote was merely used to emphasise the unfortunate attitude that prevails in much of the press on the subject of political assassinations. One could easily read "Frame-Up" without ever noticing that inconspicuous footnote, but Kaplan chose to cite it rather than Weisberg's evidence, thus casting Weisberg as a phantom-chasing paranoid in the eye of the unknowing reader. But one must question whether this was Kaplan's only motive, for whether that footnote was true or false, its publication in The New York Times Book Review, which is read throughout the country could have no other effect than to seriously embarrass the book reviewer in question, for though he was anonymous to most readers of "Frame-Up," he would not be to some readers of the Times.

Indeed on May 30 the Times Book Review printed but one letter dealing with Kaplan's review. The letter, from Geoffrey Wolff who in 1966 had been Book Review Editor of The Washington Post, was a denial of the footnote. Wolff said that he had never been ordered not to review "Whitewash," nor had he read it, and that he had told Weisberg at the time that "I decided, in agreement with my editors, to leave consideration of books about the Kennedy assassination to reviewers better qualified to judge their merits. I disqualified myself because I am ignorant of the fine points of criminal law."

Weisberg's account of this affair was that Wolff had told him that he was impressed with "Whitewash" and that he had indicated he would review it. According to Weisberg, Wolff, in ultimately explaining to him that he would not review the book, told him that he could not because a policy decision had been made to review no books on the subject.

Wolff reiterated to the author that he had never read "Whitewash" and that he had not felt qualified to assess the merits of books critical of the Warren Report. But he acknowledged that the ultimate decision not to review these books was made by his editors at an editorial meeting.²⁴ He also said that he had treated Weisberg "fairly... and with good manners."²⁵ There is but a subjective difference between the two descriptions of events. It does not seem unlikely that Wolff, in an effort not to overly disappoint Weisberg, may have indicated to him that under other circumstances "Whitewash" might have received a favorable review as notes in Mr. Weisberg's files suggest he

did. And if he did indicate such it is understandable that five years and several hundreds of book reviews later he would have no recollection of it.

Weisberg displayed less than perfect judgment in utilizing the Washington Post footnote, but the Times in leaving it in Kaplan's review, and in printing Wolff's letter without allowing Weisberg to reply to it, converted an extraneous incident which occurred in 1966 into an indictment of Weisberg's integrity and credibility. That the Times could have done this innocently defies belief.

The day after the appearance of Wolff's letter John Leonard contended that it alone had been published merely because it had been previously set in type while others had not yet been. He did not explain why no copy had been sent Weisberg prior to its publication. Leonard said that Wolff's letter would not be the final word on the Kaplan review -- that "a full-page round-up of letters" on the review was being prepared and would run in "probably about three weeks."²⁶

As before, Mr. Weisberg's letter to the Times on Wolff's letter was neither replied to or acknowledged and the "full-page round-up" of letters never appeared. Instead, on August 29, 17 weeks after Kaplan's review and 12 weeks after the publication of Wolff's letter the Times published Weisberg's original letter which had been mailed on May 2, along with a self-serving reply by Kaplan.

Weisberg wrote to John Leonard on August 26, after receiving an advance copy of the August 29 Times Book Review: "...I think you owe me... more than this too-late, too-little, too dishonest reebleness... You have my work, which stands, as it must, alone. You have my detailed and lengthy letters, which remain undenied by anyone, unanswered by you. You have enough to show that the Times and John Leonard will at least make an effort to be decent and honorable. Will you?"²⁷

For the first time Weisberg received a reply. Leonard responded in full on September 9: "Apparently everyone in the country is without honor except you. I don't think we have anything useful to say to one another."²⁸

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1. e.g. see N.Y. Times 6/19/68 "Evidence Hints A Conspiracy in Slaying of Dr. King" p.35
2. Harold Weisberg, Frame-Up: The Martin Luther King/James Earl Ray Case (New York: Outerbridge & Dienstfrey, 1971) p.402
3. Nearly a year of Justice Dept. stalling prompted a Federal judge to issue a Summary Judgment against that agency -- an action which, if not un-

- precedented, is certainly exceedingly rare.-- Harold Weisberg vs. U.S. Dept. Of Justice et al - U.S. District Court for the District of Columbia: CA# 718-70 August 19, 1970
4. Weisberg, op. cit., p. 305
 5. A Federal judge recently contended that these contracts "were pregnant with a potential conflict of interest...between attorney and client," and "create incentives to undermine the judicial process." -- James Earl Ray vs. Percy Foreman et al - #20694 6th Circuit, U.S. Court of Appeals April 29, 1971
 6. Weisberg, op. cit., p. 85
 7. Ibid., p. 96
 8. Presiding judge Preston Battle had maintained that he had made a good deal "because "had there been a trial, there could always have been the possibility, in such an emotionally charged case, of a hung jury. Or though it may appear far-fetched now, he could have perhaps been acquitted by a jury. -- Weisberg, op. cit., p.91
District Attorney Canale also "did not see how the state could have fare better than the guilty plea and sentence." -- Weisberg, op. cit., p. 119
 9. Letters from Percy Foreman to James Earl Ray dated March 9, 1971 -- printed in facsimile in Appendix of "Frame-Up," op. cit.
 10. Frazier affidavit -- printed in facsimile in Appendix of "Frame-Up," op. c
 11. Weisberg, op. cit., p. 168
 12. Publishers' Weekly - February 1, 1971
 13. Saturday Review - April 10, 1971
 14. Chicago Sun-Times - April 4, 1971
 15. London Times - June 5, 1971 p. 4
 16. Peter Kihss, an excellent Times reporter who had written many fine stories on the Kennedy assassination controversy wrote an in depth story on Weisberg's third book "Photographic Whitewash." It appeared 13 inches deep and 4 columns wide in the Times on July 9, 1967 "Warren Commission Challenged on Photos" p. 51. The New York Times Book Review in response to an inquiry asking why the book was not reviewed replied "We have no record here of a book by Harold Weisberg called "Photographic Whitewash. letter from Pamela Marke of Book Review to Mr. Greg Puce - September 18 1967.
 17. See Life magazine #1/25/66 "Did Oswald Act Alone? A Matter of Reasonable Doubt"; and New York Times editorial 11/25/66 "Unanswered Questions."
 18. American Scholar - Spring, 1967 p. 302
 19. Ibid p. 300

20. Telephone conversation between the author and Mary Moore Malony, Managing Editor, American Scholar - August 18, 1971
21. U.S.I.A. Byliner -- L-5/71-F-111 May 1971 IPS/PO/Oiseth - transmitted via Wireless File to selected posts in Europe and Africa on May 5 and 6
22. Telephone conversation between the author and John Leonard, Editor, The New York Times Book Review - May 5, 1971
23. Letter from Harold Weisberg to John Leonard, op. cit., dated May 25, 1971
24. Letter from Geoffrey Wolff to the author dated October 30, 1971
25. Letter from Geoffrey Wolff to the author dated August 23, 1971
26. Telephone conversation between the author and John Leonard, op. cit., - June 1, 1971
27. Letter from Harold Weisberg to John Leonard, op. cit., dated August 26, 1971
28. Letter from John Leonard, op. cit., to Harold Weisberg, dated September 9, 1971