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ALL THE NEWS?--
POLITICAL ASSASSINATIONS AND
THE NEW YORK TIMES

By Jerry Policoff

Since the publication of the Pentagon Papers The New York Times, America's most prestigious newspaper, has been the recipient of what may be an unparalleled stream of tributes and awards for its dedication to the principles of a free press and the peoples's right to know,

Unfortunately the Pentagon Papers, important though they are, represent something of a departure for the newspaper whose image of its role was described by Gay Talese in his critically acclaimed biography of the Times, "The Kingdom and the Power," as the "responsible spokesman for the system."¹ For the Times often places secondary importance upon its responsibility to inform the public when it requires the exposition of the practices of the Government and its agencies, or when disclosure conflicts with the Times' concept of that ominous and all-encompassing enigma known as "the national security."

The example of the Bay of Pigs is well known. The Times had deduced by evaluating various published accounts that a United States trained and financed group of Cuban exiles was about to invade Cuba. The story was to be a major exclusive featured on the front page. Instead the management of the Times decided to play down the story and strip it of its revelations. It appeared inside the paper under the deliberately misleading headline "QUICK ACTION OPPOSED."² Thus a major diplomatic and strategic blunder which might otherwise have been averted was not.

In 1966 when Dean Rusk protested to the Times that an impending news series on the C.I.A. was not in the national interest the Times responded by sending the completed series to John McCone, former head of the C.I.A., for editing. Turner Catledge, then Managing Editor, wrote a placating memo to his concerned boss, Punch Sulzberger, the Publisher of the Times. "I don't know of any other series in my time," wrote Catledge, "which has been prepared with greater care and with such remarkable attention to the views of the agency involved as this one."³

There is little wonder that Talese described the relationship between the highest levels of the United States Government and The New York Times as "a hard alliance" which, in any large showdown, "would undoubtedly close ranks and stand together."⁴

Perhaps the gravest threat that has ever confronted the security of the United States is the questions that have arisen out of

the assassinations of President John F. Kennedy, the Rev. Dr. Martin Luther King, Jr., and Senator Robert F. Kennedy. In all three cases the official government verdict was swift and unequivocal: lone assassin; no conspiracy. In all three cases serious doubts have been raised--doubts that have never received satisfactory answers.

The political assassinations of the 60's seem to have given rise to a most peculiar policy at The New York Times. It is a policy which began immediately following the assassination of the President and which has continued un-abated ever since. It is a policy that maintains that the "official" line is the only line, and in defense of that policy the Times has subjected its readers to distortion, misrepresentation, and outright deception.

Harrison E. Salisbury, Assistant Managing Editor of the Times, described the Times performance in the wake of the President's assassination thusly: "...The Times by principle and by habit considers itself a 'newspaper of record.'" which "consciously seeks to present all of the facts required by a public-spirited citizen to formulate an intellegent opinion. Clearly the shooting of the President would require an extraordinary record--detailed, accurate, clear, complete." "Thus the initial responsibility of the Times is to provide an intimate, detailed, accurate chronology of events...The Times record must be the one that will enable the reader to pick his way, fairly well, through fact, fiction, and rumor."⁵

Salisbury's prose made good reading, but it hardly describes the true nature of the Times coverage which consisted of such headlines as "LEFTIST CHARGED WITH MURDER IN ASSASSINATION OF KENNEDY AND POLICEMAN'S DEATH," EVIDENCE AGAINST OSWALD DESCRIBED AS CONCLUSIVE," DALLAS POLICE DESCRIBE THE EVIDENCE AGAINST OSWALD AS ENOUGH TO 'CINCH' THE CASE," CAREER OF SUSPECT HAS BEEN BIZARRE," PRESIDENT'S ASSASSIN SHOT TO DEATH IN JAIL CORRIDOR BY A DALLAS CITIZEN," LONE ASSASSIN THE RULE IN U.S.: PLOTTING MORE PREVALENT ABROAD," and "DOCTORS QUESTION OSWALD'S SANITY."⁶ In short, the Times coverage consisted of stories designed to forestall conspiracy rumors and of official leaks from the F.B.I. and the Dallas Police--leaks that, had Oswald lived, would have cast great doubt upon the possibility that he could have received a fair trial.

Once the Warren Commission was formed the Times acted as little less than a press agent for it. As early as March 30, 1964 it carried an AP story reporting that the Commission had "found no ev-

idence that the crime was anything but the irrational act of an individual, according to knowledgeable sources,"⁷ although the field investigation in Dallas had not begun until March 18, only twelve days earlier.⁸ On June 1, the Times ran a Page One exclusive by then Supreme Court correspondent, Anthony Lewis, "PANEL TO REJECT THEORIES OF PLOT IN KENNEDY'S DEATH," which amounted to an extensive preview of the Warren Report nearly four months prior to its official release.

Predictably, when the Warren Commission's report was issued on September 27 its most vocal advocate was The New York Times. Anthony Lewis' lead story said that "the commission analysed every issue in exhaustive, almost archeological detail."⁹ A Times editorial said that "the facts--exhaustively gathered, independently checked and cogently set forth--destroy the basis for conspiracy theories that have grown weedlike in this country and abroad."¹⁰ Arthur Crock called the report a "definitive history of the tragedy."¹¹ and C.L. Sulzberger expressed relief at the report's conclusions. "It was essential in these restless days," wrote Sulzberger, "to remove unfounded suspicions that could excite latent jingo spirit. And it was necessary to reassure our allies that ours is a stable, reliable democracy."¹²

Such unequivocal praise of the Warren Report was nothing less than irresponsible journalism. There had been barely enough time for a thorough reading of the report, and moreover the testimony and exhibits upon which it supposedly was based was not yet available. Without the latter no objective appraisal of the report was possible.

The Times also made quite a financial proposition out of the Warren Report. The entire report was printed as a supplement to the September 28 edition, and the Times also collaborated with the Book of the Month Club on a hard cover edition and with Bantam Books on a paperback edition of the report (with a laudatory introduction by Harrison Salisbury in the Bantam edition). By the end of the first week Bantam had printed 1,100,000 copies.¹³ Ironically the Times would later imply that the critics of the report were guilty of exploitation because of the "minor, if lucrative industry" that arose from their challenges to the official version of the assassination.¹⁴

Nor was the Times less effusive when the 26-volumes of exhibits and testimony were released on November 24. The Times instant analysis

of the more than 10 million words contained in the volumes brought the premature observation that their publication by the Warren Commission "brings to a close its inquiry, at once monumental and meticulous."¹⁵

Within a month, again in collaboration with Bantam, the Times published "The Witnesses," consisting of "highlights" of the hearings before the Warren Commission, prepared by "a group of editors and reporters of The New York Times."

Thus, included in "The Witnesses" was the affidavit of Arnold Rowland stating that he had observed a man with a rifle on the sixth floor of the Texas School Book Depository before the assassination, but not his testimony in which he stated that he had actually seen two men, and the F.B.I. had told him to "forget it," and in which he also stated his opinion that the shots had been fired from the railroad yards in front of the President. Also omitted was the portion of amateur photographer Abraham Zapruder's testimony in which he stated that his immediate reaction was that the shots had been fired from behind him (in front of the President). The excerpted testimony of David F. Powers, a special assistant to the President, did not include his testimony that he had "a fleeting impression that the noise appeared to come from the front." The excerpted testimony of Secret Service agent Forest V. Sorrels did not include his first impression that the shots came from "the terrace area" in front of the President. Portions of the testimony of Secret Service agents William Greer, Clinton Hill, and Roy Kellerman left out of "The Witnesses" included the description each gave of a bullet wound in the President's back, below the shoulder ("officially" it was situated above the shoulder in the neck). Also omitted from the excerpted testimony of agent Hill was his statement that he was not certain that all of the shots had come from the rear, and that the shots did not all sound alike. Omitted from the testimony of autopsy surgeon, Commander James J. Humes, was his statement that he had destroyed his original autopsy notes, as well as his verbal gymnastics in reconciling the location of bullet holes six inches below the collar in the President's shirt and jacket with the actual location of the wound in the neck, approximately six inches higher. Both Humes and Colonel Pierre Finck, a second autopsy surgeon, expressed doubt that the pristine bullet found on a stretcher in Parkland Hospital could have hit both Kennedy and Gov. Connally (the Warren Commission concluded that it did).

That part of Humes' and Finck's testimony was also omitted from "The Witnesses," as was the portion of the testimony of Nelson Delgado, a friend of Oswald's from his Marine Corp days, in which he referred to Oswald's extremely poor marksmanship.

Testimony left out of "The Witnesses" altogether included that of James Tague, Billy Lovelady, Roy Truly, Lee Bowers, James Underwood, Frank Reilly, S.M. Holland, and others who reported at least some shots fired from the front; and Jean Hill who reported seeing a man fleeing from the "grassy knoll" area after the shooting; and Wilma Tice and reporter Seth Kantor who reported seeing (the latter conversing with) Jack Ruby at Parkland Hospital; and many others.

In short, "The Witnesses" was a careful selection of only that testimony that tended to support the findings of the Warren Commission. It was a patently biased and dishonest work, shamelessly slanted toward the lone-assassin hypothesis, and capitalizing on the famed objectivity of The New York Times.

But the efforts of the Times could not prevent the Warren Report from becoming a major controversy. In Europe "Who Killed Kennedy," a book claiming conspiracy, by American ^{expatriate} ex-patriot Thomas Buchanan, had already reached best-seller status. In Britain Bertrand Russell formed a "Who Killed Kennedy Committee" in late 1964. Its membership included some of the most influential members of the British intellectual community. In December 1964, Hugh Trevor-Roper, well-known British historian and Regius Professor of Modern History at Oxford University, writing in The Sunday Times of London, accused the Warren Commission of setting up a smokescreen of irrelevant material, while failing to ask elementary and essential questions.

In the United States, too, the report slowly emerged as a major issue--spurred first by a number of critical articles, and later by a series of major books, the principle ones being "Whitewash," by Harold Weisberg; "Inquest," by Edward J. Epstein; "The Oswald Affair," by Leo Sauvage; "Rush to Judgment," by Mark Lane; "Accessories After the Fact," by Sylvia Meagher; and "Six Seconds In Dallas," by Professor Josiah Thompson.

George and Patricia Nash, writing in the October 1964 New Leader documented Commission negligence by finding three easily located witnesses to the Tippit slaying whose accounts differed radically from the Commission's. Vincent Salandria, a Philadelphia attorney, wrote two highly critical articles about the Commission in Liberation mag-

azine in January and March, 1965. An article in the January 1965 American Bar Association Journal by Alfreda Scobey, a lawyer who had served on the staff of the Warren Commission, raised new doubts. Miss Scobey's article acknowledged that much of the evidence against Oswald was circumstantial, and that much of it would have been inadmissible in a trial. She strongly implied that Oswald's conviction would have been less than guaranteed had he gone to trial.

The 48th annual meeting of the American Academy of Forensic Sciences held in February 1966 added new fuel to the fire. It firmly scored the Commission for its failure to hear enough expert testimony, and for failing to corroborate the autopsy report by viewing the photos and x-rays taken of the President's body.

On May 29, 1966 the Warren Report became a national issue overnight when The Washington Post ran an 8-column banner headline on the front page, "AN INQUEST: SKEPTICAL POSTSCRIPT TO WARREN GROUP'S REPORT ON ASSASSINATION," dealing with Harold Weisberg's "Whitewash" and Edward Epstein's "Inquest." In addition to a sizeable portion of page one, the story consumed nearly all of page three, and it concluded that the two books raised "grave doubts about the Commission's work."

"Inquest's" main contribution lay in the fact that Epstein had been successful in interviewing members of the Commission and its staff. and he was given access to a number of internal memorandums (the book was originally intended as Epstein's Master's Thesis). He concentrated mainly upon the internal workings of the Commission, arguing that bureaucratic pressures from within and time pressures imposed from without had severely handicapped the Commission, and that their investigation was superficial rather than exhaustive. Epstein also made much of the discrepancy between the position of a wound in the back in a report of the autopsy made by F.B.I. agents Siebert and O'Neill, and the location in the neck in the official autopsy. The Commission had theorized that the same bullet that hit the President had traversed his body and struck Gov. Connally. This would have been impossible if the bullet that struck Kennedy had hit him in the back as the F.B.I. men said it did, and as seemed to be corroborated by the holes in the clothing and by the testimony of Secret Service agents Greer, Kellerman, and Hill. Epstein suggested that there was a strong possibility that there had been a second assassin, but that the Commission had been more interested in dispelling rumors than in exposing facts. He suggested that there was a strong indication that

the Warren Commission had deliberately altered the autopsy report, and that if this were true the conclusions of the Warren Report would have to be viewed as an expression of "political truth."¹⁶

Weisberg also made much of the discrepancy of the back wound, but his book analysed the Warren Report in far more detail than did Epstein. Thus "Whitewash" went into such matters as Oswald's marksmanship, the tangible evidence linking Oswald with the assassination, or the sixth floor window with the source of the shots, the number of shots, the Tippit slaying, etc. "Whitewash" strongly implied that there had been more than one assassin, and that Oswald had not been one of them.

The major points of contention that arose out of these books and those to follow included:

- THE SINGLE-BULLET THEORY: the commission's re-enactment of the assassination and observation of the Zapruder film of the assassination revealed that from the time Kennedy would first have been visible to a man in the sixth floor TSBD window until the time Connally was shot Oswald's gun was physically capable of firing only one shot. (the film did not show the first Kennedy hit, as there was a sign between Zapruder and the President at that point). The Commission reasoned that a virtually pristine bullet found on a stretcher at Parkland had passed through the President's neck, hit Connally in the back, shattering a rib, emerged from his chest, traversed his wrist, lodged in his thigh, and fell out onto the stretcher. The Commission reasoned that Connally experienced a delayed reaction to his wounds, explaining why the President could be seen reacting to his wounds when the car emerged from behind the sign while Connally did not react until about 12 frames later. Critics argued that one bullet was incapable of creating seven wounds, and even if it could that it would be severely deformed. They also argued that a delayed reaction was not possible in the case of a bullet striking bone--that the laws of transfer of momentum would dictate an immediate reaction.
- THE GRASSY KNOLL: the immediate reaction of most of the witnesses and law-enforcement officers on the scene was to converge on an area to the right front of the President's limousine as the source of the shots.
- THE HEAD-SNAP: the Zapruder film revealed that upon impact of the final and fatal bullet the President's head was thrust violently

to the left and to the rear--a reaction that seemed to indicate that the missile had come from the knoll area.

THE THROAT WOUND: the President had a wound in his throat which the doctors who treated him at Parkland Hospital thought was a wound of entrance. The Warren Commission concluded that it was a wound of exit for the bullet that had traversed the President's neck. The critics contended that it was indeed an entrance wound.

The Warren Commission was soon under attack from all sides. In July 1966 Richard N. Goodwin, a former speech writer, advisor, and trouble shooter for President Kennedy, reviewed "Inquest" for Book Week, finding it "impressive." He called for the convening of a panel to evaluate the findings of the Warren Commission to determine if a completely new investigation was warranted.¹⁷ Goodwin later added that there were other associates of the late President "who feel as I do."¹⁸ A Harris Poll released in September 1966 revealed that less than a third of the American public believed that the Warren Commission had told the full story, while more than half felt that questions remained unanswered.¹⁹ The same month Mark Lane's "Rush to Judgment" made the Best Seller list (within ten weeks it became the Number One Best Seller, remaining in that position for several months). The Times of London called for a new investigation toward the end of September 1966, as did Lord Devlin, one of England's most respected legal figures, writing in the London Observer. On September 28, 1966 Congressman Theodore Kupferman (Rep.-Manhattan) asked Congress to conduct its own investigation into the adequacy of the Warren Report. In the October 1966 Commentary Alexander Bickel, Chancellor Kent of Yale University, called for an immediate new investigation, observing that "the findings of the Warren Commission, and the fatuous praise with which all the voices of the great majority greeted them two years ago, were in some measure a matter of wish fulfillment." The November 25, 1966 cover of Life magazine featured a frame from the Zapruder film with the bold caption: "DID OSWALD ACT ALONE? A MATTER OF REASONABLE DOUBT." Life shed further doubt on the single-bullet theory in that issue, and concluded that "a new investigative body should be set up, perhaps at the initiative of Congress." The January 14, 1967 Saturday Evening Post also carried a cover story challenging the Warren Report, and also editorially called for a new inquiry.

Other calls for a new inquiry came from Arthur Schlesinger, Jr.,

William Buckley, Norman Mailer, Murray Kempton, Max Lerner, Pete Hammill, Senator Russell Long, Congressman Ogden Reid (Rep.-Westchester), Congressman William F. Ryan (Dem.-Manhattan), Congressman John W. Wydler (Rep.-Long Island), Senator Eugene McCarthy, Walter Lippman, Dwight MacDonal, and many others.

The reaction of The New York Times to the emergence of the Warren controversy was less than enthusiastic. Following the May 29, 1966 Washington Post headline the Times assigned a reporter to do a story on "Whitewash," "Inquest," and other books soon to come out. The story appeared on June 5, not on page 1, but on page 42. The author of the piece wrote one of the critics: "With space limitations and national desk instructions, I am sorry that everything but the single-bullet hypothesis got forced out of the story."²⁰

"Whitewash," and "Inquest" were reviewed in the July 3 New York Times Book Review by Fred Graham, the man who had replaced Anthony Lewis as Times Supreme Court correspondent when the latter became London bureau chief in late 1964. The Times apparently saw no conflict in assigning Graham to review two books severely critical, implicitly if not explicitly, of the then Chief Justice of the Supreme Court. The first half of Graham's review consisted of a lengthy defense of the methods utilized by the Warren Commission under the direction of "the nation's most distinguished jurist." Graham called Weisberg a "painstaking investigator," but added that he "questions so many points made by the report that the effect is blunted--it is difficult to believe that any institution could be as inept, careless, wrong, or venal as he implies. Rather, the reader is impressed with the elusiveness of truth..." Graham called "Inquest" "superficial." He criticized Epstein's use of the words "political truth," claiming that Epstein was actually charging deliberate fraud. Graham admitted that the single-bullet theory was "porous," but that no other explanation made sense because if another assassin had fired from the TSBD it would have been unlikely that he and his rifle could disappear without a trace. Graham avoided the alternative that did make sense--namely that an assassin or assassins had been stationed in front of the limousine on the "grassy knoll." Graham's conclusion should have disqualified him from reviewing any future books on the Warren Report: "In fact," he wrote, "a major scholarly study is not feasible now because the crucial papers in the archives... have not yet been de-classified." Thus, not only was

Graham ignoring the fact that the Times had lauded the report before any evidence was available, but in one sentence he was passing judgment on any subsequent critical works.

Thus on August 28, 1966 Mark Lane's "Rush To Judgment," and Leo Sauvage's "The Oswald Affair" were reviewed in The New York Times Book Review by Fred Graham. Graham avoided a discussion of the "hard" evidence in both books, instead concentrating upon their reliance on eyewitness testimony. He noted that "eyewitness testimony is far less reliable than it seems to be." Graham made the incredible observation that the main source of the Warren Commission's dilemma lay in the fact that it had to issue a report. The broad proof against Oswald and the lack of evidence pointing to any other possible assassin, according to Graham, gave the Warren Commission no choice "but to smooth over the inconsistencies to the extent possible and brand Oswald the lone assassin." Graham concluded with the unsubstantiable claim that "it is clear that any jury, faced with the material before the Warren Commission and in these books, would easily convict Oswald of murder."

As the controversy grew the Times greeted the issue with a most astonishing article in the September 11, 1966 New York Times Magazine, entitled "NO CONSPIRACY, BUT -- TWO ASSASSINS, PERHAPS?" by Henry Fairlie, an English political commentator. Fairlie acknowledged it was hard to dispute the contention that the Warren Commission "did a hurried and slovenly job." He conceded that there might well be more than one assassin, "available evidence seems to me confusing." "But even if one makes this supposition," wrote Fairlie, "it still does not justify making the long leap to a conspiracy theory of the assassination." "none of this," he continued, "...is to deny that there may have been two or more people involved in the assassination... I am merely arguing that it is possible to regard such people as fanatics or nuts and nothing more." Fairlie was not bothered, apparently, by the fact that two or more assassins made it by definition a conspiracy. Fairlie concluded that this was not the time for a new investigation. "To set up another independent body with no promise that it would succeed, would be to agitate public doubt without being certain that it could in the end, settle it. Popular fear and hysteria are dangerous wierds to excite..." And none is so blind as he who will not see, an adage to which Fairlie and the Times apparently did not subscribe.

THE TIMES INVESTIGATION

Toward the end of 1966 a degree of dissatisfaction with the conclusions of the Warren Commission began to manifest itself at the Times.

Tom Wicker wrote in his column that a number of impressive books had opened to question the Warren Commission's "procedures, its objectivity and its members diligence." "The damaging suspicion has been planted, here as well as abroad, that the commission--even if subconsciously--was more concerned to quiet public fears of conspiracy and treachery than it was to establish the unvarnished truth, and thus made the facts fit a convenient thesis." Wicker concluded by endorsing Congressman Kupferman's call for a Congressional review.²¹

In the November 1966 issue of The Progressive Harrison E. Salisbury radically revised his early praise of the Commission. He reiterated that he still believed that Oswald had acted alone, but his reading of "Inquest" and "Rush to Judgment" had convinced him that questions of major importance remained unanswered. He called both books "serious, thoughtful examinations." Salisbury also endorsed Congressman Kupferman's resolution, adding that "I would like to see the most painstaking inquiry into each of the principal areas of doubt. The nation no longer lives in the trauma which persisted for months after the President's death. The Warren Commission had good reason to concern itself for the national interest, to worry about national morale, to take upon itself the task of damping down rumors. But today and tomorrow the sole criteria of an inquiry should be the truth--every element of it that can be obtained--and a frank facing of unresolved and unresolvable dilemmas."

This position was far from unanimous. Clifton Daniel, then the Managing Editor of the Times, defended the Warren Report at a public symposium on "The Role of the Mass Media in Achieving and Preserving a Free Society," and he accused its critics of "dragging red herrings all over the place."²²

Under this setting the Times quietly undertook, in early November 1966, a new investigation of the Kennedy assassination under the direction of Harrison Salisbury. "We will go over all the areas of doubt," Salisbury told Newsweek, "and hope to eliminate them."²³

Shortly after the start of the investigation the Times carried a carefully worded editorial, "Unanswered Questions." It said that there were enough solid doubts of thoughtful citizens

to require answers. "Further dignified silence, or merely more denials by the commission or its staff, are no longer enough."²⁴

In December 1966 Salisbury received permission from the government of North Vietnam to visit Hanoi, and he quickly departed for Paris whence preparations for the trip were made. Shortly after his departure the Times investigation came to an end. Gene Roberts, then Atlanta bureau chief and member of the team, now National Editor of the Times, told me that "there was no real connection between Salisbury going to Hanoi and the decision not to publish, or to disband the inquiry. It just kind of happened that way. Presumably if he had been here he might have knocked it off even sooner or he might have continued it a week or two, I just don't know."²⁵ Roberts told me that "the basic conclusion was that we couldn't find that there was supporting evidence to the contentions of the critics," adding that "we found no evidence that the Warren Report was wrong, which is not to say that the Warren Report was right." "We are not in the business of printing opinion, and that is why nothing was printed in the end."²⁶ Roberts' version of events was fairly well confirmed by reporter Peter Kihss who wrote Sylvia Meagher on January 7, 1967, "regrettably the project has broken off without any windup story, at least until Harrison Salisbury, who was in charge, gets back from North Vietnam."

Thus the Times investigation reached no conclusions. If Salisbury's words to Newsweek are to be taken literally the purpose of the investigation to begin with was to shore up the findings of the Commission, and this they certainly did not do. But the most interesting thing about the Times investigation is that there now seem to be several different versions of what occurred.

George Palmer, Assistant to the Managing Editor, contended in writing on March 8, 1971 that nothing had been printed on the Times investigation "for the simple reason that there were no findings."²⁷ But Palmer wrote me that "the discontinuance of our inquiries meant that they had substantially reaffirmed the findings of the Warren Commission."²⁸ Palmer also said in that letter that the determination to discontinue the investigation was made upon the return of Salisbury from Hanoi. Walter Sullivan, New York Times Science Editor, writing on behalf of Salisbury, gave yet another version in a letter to Washington attorney Bernard Fensterwald, Chairman of the "Committee to Investigate Assassinations." "It is true that

an intensive investigation of the J.F. Kennedy assassination was carried out by the Times staff under Mr. Salisbury's supervision. It was set aside when he suddenly received permission to visit Hanoi," wrote Sullivan. "At this stage, Mr. Salisbury tells me, it had become obvious that the President was killed by a single demented man and that no conspiracy was involved. The investigation has therefore not been pursued further."²⁹

The one thing that seems plain is that the Times investigation was inconclusive. Yet following its sudden termination the Times became even more of an advocate of the official line than it had been in 1964. Thus an anonymous review of "The Truth About the Assassination," a book critical of the critics by Charles Roberts, Newsweek's White House correspondent, said: "Publish 10,400,000 words of research and what do you get? In the case of the Warren Commission and the book business, you get a fabulously successful spin-off called the assassination industry, whose products would never stand the scrutiny of Consumers Union. Consumers buy it as they buy most trash: the packaging promises satisfaction but the innards are mostly distortions, unsupported theories and gaping omissions" that are "neatly debunked by Charles Roberts..." "By selecting the incredible and the contradictory, scavengers like Mark Lane sowed confusion. By writing an honest guide for the perplexed, Roberts performs a public service."³⁰ In fact, Roberts' book was extremely superficial, its text taking up a mere 118 pages. It glossed over the crucial evidence, and it was more an exercise in personal invective against the critics than an answer to their criticisms.

In late 1967 two books signaled the start of a new round against the Warren Commission. They were "Six Seconds In Dallas," by Professor Josiah Thompson, and "Accessories After the Fact," by Sylvia Meagher. The latter had earlier distinguished herself by putting together a subject index to the 26-volumes -- a service the Warren Commission had neglected to provide. "Six Seconds In Dallas" was previewed by The Saturday Evening Post, which featured the book's jacket on its December 2, 1967 cover along with the headline "MAJOR NEW STUDY SHOWS THREE ASSASSINS KILLED KENNEDY." Once again The Saturday Evening Post called for a new investigation in its editorial, stating that it had now been "demonstrated fairly conclusively that the Warren Commission was wrong." Thompson's book contained a comprehensive study of the

Zapruder film, graphs of the reaction of Connally, tables summarizing the impressions of eyewitnesses, interviews with crucial witnesses, mathematical calculations of the acceleration of the President's head in relation to the movement of the car, etc. The book was profusely illustrated with photographs, drawings, and charts.

"Accessories After the Fact" was an exhaustive analysis of the 26-volumes and related material from the National Archives not contained in the volumes. Playboy called it "the best of the new crop of books--and the most chilling in its implications." It said that the most unsettling aspect of both books "is the failure of the Warren Commission to investigate, evaluate--or often even acknowledge--the huge body of evidence in its possession indicating the possible presence of more than one gunman...these new books lend weight to widening appeals by Congressmen and the press for an independent new investigation..."³¹ Congressman Theodore Kupferman said "on the subject of the Warren Report Sylvia Meagher could replace a computer," calling "Accessories After the Fact" "overwhelming."³² Congressman William F. Ryan said "Sylvia Meagher raises a number of disturbing questions." He added that it pointed out the need for a Congressional review of the findings of the Warren Commission."³³

"Six Seconds In Dallas" and "Accessories After the Fact" were reviewed in The New York Times Book Review on February 28, 1968-- by Fred Graham, of course. Graham found it astonishing that there was such a degree of disbelief "in a document that has the endorsement of some of the highest officials in the Government." Graham contended that "despite the fact that embarrassing gaffes by the Commission and inconsistencies in the evidence have been pointed out, none of the critics have been able to suggest any other explanation that fits the known facts better than the Warren Commission's." Graham found Mrs. Meagher's book "a bore," and he found that Thompson's scientific approach ignored "the larger logic of the Warren Report." "Although it has seemed that the flow of anti-Warren Report books would never end," continued Graham, "these two may represent a sweet climax."

THE NEW ORLEANS AFTERMATH

On March 1, 1969 District Attorney Jim Garrison's New Orleans extravaganza came to an end with the acquittal of Clay L. Shaw on charges that he had conspired to assassinate President Kennedy.

The New York Times wasted no time in using the opportunity to further discredit previous criticism of the Warren Report. A Times editorial on March 2 referred to Garrison's "obsessional conviction about the fraudulent character of the Warren Commission" as a "fantasy." The March 2 "News of the Week in Review" carried an article by Sidney Zion, "GARRISON FLOPS ON THE CONSPIRACY THEORY," which maintained, in essence that Garrison had "restored the credibility of the Warren Report." Thus the Times totally ignored the fact that in no way could the acquittal of Shaw be interpreted as exoneration of the Warren Report.

But the Times was determined. The April 20, 1969 New York Times Magazine carried an article, "THE FINAL CHAPTER IN THE ASSASSINATION CONTROVERSY?" by Edward Jay Epstein, Warren Commission critic turned sycophant.

Epstein argued that the "validity of the various charges which have been leveled against the commission" must now be evaluated in the context of "the extent to which those who made the charges aligned themselves with Garrison." It is indeed unfortunate that many sincere Warren Commission critics showed much the same blind faith in Garrison that The New York Times, for example, had shown in the Warren Commission. But the critics (including Epstein) had documented serious flaws in the Warren Report, and to frivolously discount their research merely on the basis of their support for Garrison was unwarranted.

Epstein's article impugned the motives and integrity of the critics, implying that much of the criticism was politically motivated, and suggesting that many of the critics had been "demonologists" with "books as well as conspiracies to advertise," doubtless excluding his own "Inquest" from this category. He neglected to add that only "Inquest" had accused the Commission of seeking "political truth."

There were those critics who had disassociated themselves from Garrison and his investigation. They included Professor Thompson and Mrs. Meagher. Epstein generously conceded that their books "must be considered on their own merits," but he contended that they contained "as far as I can see, only two substantial arguments that, if true, would preclude the possibility that Oswald fired all the shots." The arguments were the unlikelihood of the single-bullet theory and the violent backward acceleration of the President's head upon impact with the fatal bullet.

Epstein disposed of the single-bullet theory by citing a CBS inquiry which had theorized that 3 jiggles in the Zapruder film represented reactions to the sound of shots by Zapruder, and that these jiggles made it possible to determine when the shots were fired. CBS had thereby hypothesized that the first shot had been fired earlier than the Commission had reasoned likely--at a point when the car would have been visible from the sixth floor window through a break of about 1/10th of a second in the foliage of a large Oak tree which otherwise obstructed the view until a later point. "In other words," wrote Epstein, "the President and the Governor could have been hit by separate bullets by a single assassin. The CBS analysis, which persuasively argues that this was the case, renders the single-bullet hypothesis irrelevant." However CBS had left out of its analysis the fact that there were several jiggles in the Zapruder film, and five, not three, in the frame sequence in question. Life magazine, which owns the original Zapruder film, rejected the "jiggle theory" in November 1966, attributing all but the most violent one which coincided with the head shot to imperfections in the camera mechanism.³⁴ The CBS analysis was a skillful deception which has been thoroughly discredited (e.g. see Appendix F of "Six Seconds In Dallas"--a critique of the CBS documentary "The Warren Report").** But moreover, CBS did not allege an earlier hit, but an earlier miss, and Epstein deliberately misrepresented its conclusions. For CBS recognized that an earlier hit meant a steeper trajectory which precluded the throat wound being one of exit, and which again implied a fraudulent autopsy report. CBS had reluctantly endorsed the single-bullet theory, saying that it was "essential" to the lone-assassin findings of the Warren Commission.³⁵ Epstein, too, recognized this when he wrote in "Inquest": "either both men were hit by the same bullet, or there were two assassins."³⁶ His misrepresentation of the CBS study alleviated him of the problem of credibly defending the single-bullet theory--an undertaking he obviously did not relish.

Epstein dismissed the head movement by citing a report released by the Justice Department in January 1969 in which a panel of for-

** A.M. Rosenthal, Managing Editor of the Times said on NET's "Behind the Lines" on October 8, 1971: "...I've seen some things on television that were better than anything I've seen in the newspapers. I think that CBS' documentary on the Kennedy assassination, for instance, was a magnificent piece of investigative journalism."

ensic pathologists who had studied the sequestered autopsy photos and x-rays had concluded that they supported the Warren Report. Epstein had either not read the Panel Report (as it became known) or he chose to ignore its inconsistencies. For even superficial study of the Panel Report revealed glaring differences between it and the original autopsy report to the point where serious doubts had been raised as to whether the Panel had seen the "genuine" material. Thus again Epstein relied upon a study which had raised more questions than it had answered in an effort to explain away irreconcilable deficiencies in the Warren Report. His conclusion was that there is "no substantial evidence that I know of that indicates there was more than one rifleman firing."

If one is somewhat astounded by the Times failure to check Epstein's article for accuracy, the Times subsequent actions are even more astonishing.

Sylvia Meagher and Josiah Thompson wrote letters of almost identical length to the Times, both challenging Epstein's reliance on the CBS study and the Panel Report. But Mrs. Meagher also included two quotes from a letter Epstein had written her more than a year earlier: "I am shocked that 5 not 3 frames were blurred. If this is so, C.B.S. was egregiously dishonest and the tests are meaningless," and "By a common sense standard, which you point out the Warren Report uses, I think your book shows it extremely unlikely, even inconceivable, that a single assassin was responsible."

The reply from the Times thanked Mrs. Meagher for her letter, and added that "We are planning to run a letter along very similar lines from Josiah Thompson and I am sure that you will understand that space limitations will prevent us from using both."

Mrs. Meagher wrote again asking that the Times reconsider and print at least her second paragraph in view of its revelations that Epstein knew in advance that the C.B.S. claims were specious, and that his private admissions in writing were the exact opposite of his representations in the Times. "One understands the Times unwillingness to acknowledge to its readers that it has given Epstein a platform from which to disseminate not mere error, but deliberate falsehood," wrote Mrs. Meagher. "However," she continued, "I would like to request you to reconsider your decision... in the interests of fair play and of undoing a disservice to your readers that was surely unintended." She received no reply, and her letter was not

published.

Harold Weisberg also wrote the Times asking that they correct certain statements which, according to Weisberg, were libelous, and asking that he be permitted to write an article rebutting Epstein. The reply stated that "we feel that there was no libel in the article, and quite apart from that matter the article itself was sound." "If however you want to write us a short letter of not more than 250 or 300 words challenging Epstein's interpretation of the assassination, we'd be glad to consider it for publication. But I'd like to caution you to avoid difficult, arcane details that would simply baffle our readers."

The concern of the Times for its readers is touching, but if it was unwilling to print both sides of this issue it should have printed neither.

A HERITAGE OF STONE

On Tuesday, December 1, 1970 The New York Times carried a dual review of two books on the Jim Garrison affair. The first, "American Grotesque," by James Kirkwood, was critical of Garrison and the methods he utilized in prosecuting Clay Shaw. The second, "A Heritage of Stone," was Jim Garrison's account of the Kennedy assassination.

The review by John Leonard, a Times staff reviewer, was entitled "Who Killed John F. Kennedy?" The portion dealing with "Heritage of Stone" follows:

Which brings us to Jim Garrison's "A Heritage of Stone." The District Attorney of Orleans Parish argues that Kennedy's assassination can only be explained by a "model" that pins the murder on the Central Intelligence Agency. The C.I.A. could have engineered Dallas in behalf of the military - intelligence - industrial complex that feared the President's disposition toward a detente with the Russians. Mr. Garrison nowhere in his book mentions Clay Shaw, or the botch his office made of Shaw's prosecution; he is, however, heavy on all the other characters who have become familiar to us, via late-night talk shows on television. And he insists that the Warren Commission, the executive branch of the government, some members of the Dallas Police Department, the pathologists at Bethesda who performed

the second Kennedy autopsy and many, many others must have known they were lying to the American public.

Mysteries Persist

Frankly, I prefer to believe that the Warren Commission did a poor job, rather than a dishonest one. I like to think that Mr. Garrison invents monsters to explain incompetence. But until somebody explains why two autopsies came to two different conclusions about the President's wounds, why the limousine was washed out and rebuilt without investigation, why certain witnesses near the "grassy knoll" were never asked to testify before the Commission, why we were all so eager to buy Oswald's brilliant marksmanship in split seconds, why no one inquired into Jack Ruby's relations with a staggering variety

of strange people, why a "loner" like Oswald always had friends and could always get a passport—who can blame the Garrison guerrillas for fantasizing?

Something stinks about this whole affair. "A Heritage of Stone" rehashes the smelliness; the recipe is as unappetizing as our doubts about the official version of what happened. (Would then-Attorney General Robert F. Kennedy have endured his brother's murder in silence? Was John Kennedy quite so liberated from cold war clichés as Mr. Garrison maintains?) But the stench is there, and clings to each of us. Why were Kennedy's neck organs not examined at Bethesda for evidence of a frontal shot? Why was his body whisked away to Washington before the legally required Texas inquest? Why?

John Leonard's review was certainly not an unfair one, and it raised some searching questions--questions one rarely saw asked in the Times. But this review appeared only in the early edition. Before the second edition could reach the stands it underwent a strange metamorphosis. The title was changed from "Who Killed John F. Kennedy?" to "The Shaw-Garrison Affair," and the review now read as follows:

Which brings us to Jim Garrison's "A Heritage of Stone." The District Attorney of Orleans Parish argues that Kennedy's assassination can only be explained by a "model" that pins the murder on the Central Intelligence Agency. The C.I.A. could have engineered Dallas in behalf of the military - intelligence - industrial complex that feared the President's disposition toward a détente with the Russians. Mr. Garrison nowhere in his book mentions Clay Shaw, or the botch his office made of Shaw's prosecution; he is, however, heavy on all the other characters who have be-

come familiar to us via late-night talk shows on television. And he insists that the Warren Commission, the executive branch of the government, some members of the Dallas Police Department, the pathologists at Bethesda who performed the second Kennedy autopsy and many, many others must have known they were lying to the American public.

Frankly, I prefer to believe that the Warren Commission did a poor job, rather than a dishonest one. I like to think that Mr. Garrison invents monsters to explain incompetence.

Thus the paragraph heading "Mysteries Persist" had mysteriously vanished, and the last thirty lines of the review had been whisked away--into some subterannean Times "memory hole" no doubt. The meaning of the review was completely altered, and the questions which the Times apparently feels are unaskable remained unasked.

A letter to the Times inquiring as to the reason for the alteration of the original review brought a response from George Palmer, Assistant to the Managing Editor: "Deleting that material...involved routine editing in line with a long-standing policy of our paper." "Our book reviewers are granted full freedom to write whatever they wish about the books and authors they are dealing with, but we do not permit personalized editorials in the book columns." "The same reviewer would be free to write the same thing for the editorial page, the op-ed page or the Sunday Magazine, but the book columns are not intended for that kind of editorializing."³⁷

This was a form letter which the Times sent out, with minor variations, to everyone who questioned the two reviews. The recipient of one such letter observed that the line "frankly I prefer to believe (emphasis added) that the Warren Commission did a poor job rather than a dishonest one," clearly was an editorial comment, surely much more so than the material that was deleted. To this Palmer replied: "I don't believe these comments represented the type of excessive editorializing our editors had in mind when they made

the deletions." 38

The Times seems to have clarified just what it considers "excessive editorializing" when on September 29, 1971 Christopher Lehmann-Haupt, in reviewing "The Magician," by Sol Stein, described the protagonist as "a random case; he is one of those 'types,' like Lee Harvey Oswald and James Earl Ray, who are born to lead, but lacking the equipment to do so, must assassinate the true leaders." The Times saw nothing "excessive" or "editorial" in this review, and it appeared in the second edition exactly as it had appeared in the first.

It is interesting to note that then Managing Editor, Turner Catledge, observed after Oswald's death that under the American system of justice he is innocent until proven guilty. Catledge pledged that future articles and headlines would refer to Oswald not as the assassin, but as the alleged assassin--a pledge that has been consistently and systematically disregarded. 39

THE EIGHTH ANNIVERSARY

One of the chief witnesses for the Warren Commission was a porter in the Book Depository named Charles Givens. In a deposition taken by Commission lawyer David W. Belin, Givens testified that he had left the sixth floor (where he worked) at about 11:30 A.M. on the morning of the assassination, but that he had forgotten his cigarettes, and when he returned to retrieve them around noon he encountered Oswald lurking near the Southeast corner window. Givens testimony received much weight in the Warren Report, for it was instrumental in placing Oswald near the alleged sniper's nest just prior to the assassination.

Writing in the August 13, 1971 Texas Observer, Sylvia Meagher cast great doubt not only upon the veracity of Givens, but upon the methods of the Warren Commission. Her article, "THE CURIOUS TESTIMONY OF MR. GIVENS," revealed that material in the National Archives relating to Givens (most of which was omitted from the 26-volumes) gave an entirely different account. On the day of the assassination Givens had told authorities that he had last seen Oswald at 11:50 A.M. reading a newspaper on the first floor of the Depository. Neither at that time nor in two subsequent affidavits filed before his appearance before the Commission did he ever mention having returned to the sixth floor. However an F.B.I. agent's report noted a statement by Lt. Jack Revill of the Dallas Police that Givens had pre-

viously had difficulties with the Dallas Police and that he probably "would change his testimony for money." Moreover, David Belin, the lawyer who took Givens deposition for the Warren Commission, was aware of Givens earlier statements, for he had referred to them in a memo dated six weeks earlier, and he had noted at the time that three other Depository employees had also observed Oswald on the first floor.

Invited to reply to Mrs. Meagher's article, David Belin decried the "assassination sensationalists," assured the reader that he was an honorable man, and insisted that the Warren Commission had done a thorough and competent job. The Texas Observer noted that Belin's reply was no reply, adding that "Mr. Belin's article is the slick irrelevant reply of a lawyer who doesn't have much of a defense to present."

Mrs. Meagher sent copies of her article, Belin's reply, and the Observer editorial to several individuals at the Times including Harrison Salisbury, whose responsibilities include editing the "op-ed page." Salisbury's position seemed ambiguous, for since his writings in the Progressive in late 1966 he had again implied acceptance of the official versions of the assassinations of the Kennedys and Dr. King in his introduction to the Times/Bantam edition of the "Report of the National Commission on the Causes and Prevention of Violence."

His position was not to remain ambiguous for long, however. On November 22, 1971--the eighth anniversary of the President's death--the headline "THE WARREN REPORT WAS RIGHT" appeared emblazoned across the top of the "op-ed page." The article decried the "assassination sensationalists" and its author was none other than David W. Belin.

Mrs. Meagher sent a second copy of the Observer material to Salisbury, and it was returned with a polite form letter thanking her for her manuscript which the Times regretted it could not use. She replied that the form letter did not surprise her, but that she had not sent a manuscript, but rather documented material which demonstrated irrefutably deliberate misrepresentation of evidence by the Warren Commission, and which "clearly implicated David W. Belin in serious impropriety and misfeasance." Mrs. Meagher noted that "you have not questioned, much less challenged, the documentary evidence I made available to you twice in two months. Instead you provided a forum for Belin to influence your readers, without even caution-

ing them that serious charges had been published elsewhere on his conduct as an assistant counsel for the Warren Commission."

Salisbury replied on December 3, 1971. The entire text of his letter read: "Do forgive the form card which went back to you. That is a product of our bureaucracy, I'm afraid. I hadn't seen your letter, alas, having been out of the office for a few days."

THE KENNEDY PHOTOS AND X-RAYS

Possibly the **single** most crucial evidence in the assassination of President Kennedy consists of the photos and x-rays taken of his body during the autopsy. They were allegedly never even viewed by the Warren Commission, nor have they since been released for study, though they could resolve once and for all the location of the wound in the neck or in the back, and though they could resolve considerable doubt as to the direction from which the various missiles that struck the President came. In late 1966 this material was deposited in the National Archives under the proviso that it would be viewed only by Government agencies for five years at which time "recognized experts in the field of pathology or related areas of science or technology" might be given access.

Toward the end of 1968 District Attorney Garrison of New Orleans took legal steps to obtain this material. In an effort to block access the Justice Department released a report by a panel of forensic pathologists who had been given access and had reported that the photos and x-rays confirmed the **medical** findings that all the shots came from the rear. The story on the Panel Report which was written by Fred Graham ran on the front page and consumed eight additional columns on page 17.⁴⁰ However, far from resolving the controversy the Panel Report only fanned the flames for even a perfunctory examination of it revealed radical differences from the original autopsy report and the Warren Commission testimony of the autopsy surgeons. Some of these discrepancies were brought to the attention of Graham by Sylvia Meagher. He replied "I wish I had known this at the time, but perhaps it is not too late to backtrack a bit and see if anybody can come up with explanations... I'll see what can be turned up, and if anything can, I trust you'll be reading about it."⁴¹ There was no follow-up story.

The next month Dr. Cyril H. Wecht, one of the most eminently qualified forensic pathologists in the United States, testified in

the District of Columbia Court of General Sessions to the glaring inconsistencies between the report of the Panel and the autopsy report. Judge Charles Halleck was so impressed by Dr. Wecht's presentation that he ordered that Wecht be permitted to examine the autopsy material as the basis for his testimony on the medical evidence (this was later rendered ^{in 1967} ~~mute~~ when the Justice Department made known its intention to appeal Judge Halleck's decision. This would have resulted in an indefinite delay, and Garrison withdrew his suit). Graham did not cover Wecht's testimony. Instead the Times buried a four-paragraph UPI dispatch on page 17. The UPI story made no mention of Wecht's testimony regarding the Panel Report, 42

Thus it is not surprising that when the first person "not under Government auspices" was permitted to see the photos and x-rays this year, the "exclusive" was obtained by Fred Graham of The New York Times. On January 9, 1972 the Times announced on the front page that Dr. John K. Lattimer, chairman of the department of urology at Columbia University's College of Physicians and Surgeons, had viewed the photos and x-rays and found that they "eliminate any doubt completely" about the validity of the Warren Commission's conclusion that Lee Harvey Oswald fired all the shots that struck the President. Lattimer's only disagreement with the Commission was that the wound in the neck was actually higher than the Commission had believed. He stated that the throat wound could not possibly be one of entrance because the front hole was so far below the back one that "if anyone were to have shot him from the front, they would have to be squatting on the floor in front of him."

Graham noted that "some skeptics" of the Warren Report had referred to Dr. Lattimer as a long-time "apologist for the Warren Commission." He did not give examples of why they referred to him this way, although he could have given many. For example, Dr. Lattimer wrote in Medical World News on March 13, 1970 (p.6): "Oswald showed what the educated, modern-day, traitorous guerilla can do among his own people--working with religious-type conviction, willing to lay down his life, but proposing to kill as many anti-communists as possible. Oswald was devious, skilled at his business, and amazingly cool."

But more importantly, the Lattimer episode raised some interesting questions. Fred Graham in addition to being Supreme Court correspondent is also a lawyer--trained to cross-examine in an

effort to resolve conflicts. Yet he did not ask how a urologist who, by his own admission,⁴³ knows virtually nothing about forensic pathology (the branch of forensic medicine specializing in the determination of the cause and manner of death in cases where it is sudden, suspicious, unexpected, unexplained, traumatic, medically undetected, or violent) qualified as an "expert in the field of pathology or related areas of science or technology" to see the autopsy material. Nor did Graham ask why Dr. Lattimer, a urologist, was chosen when three doctors with experience in forensic pathology, including Dr. Wecht, an eminently qualified forensic pathologist, were not. Dr. Wecht is Chief Medical Examiner of Allegheny County (Pittsburgh) as well as Research Professor of Law and Director of the Institute of Forensic Sciences at Duquesne University School of Law, and President of the American Academy of Forensic Sciences. Coincidentally, among the three with experience in pathology and the urologist who requested access to the photos and x-rays, only the urologist had spoken or written in a positive fashion about the Warren Report. In addition, despite the inconsistencies of the Panel Report, it did not report that the "neck wound" was higher. Thus the autopsy said one thing, the Panel said something else, and Lattimer said something still different. Moreover, if a shot from the front would have had to come from the floor of the President's car as Dr. Lattimer suggests, a shot coming from the rear and following the same trajectory would have ended up in the floor. Dr. Lattimer did not explain, and Graham did not inquire, how a bullet following this path could have struck Governor Connally at a slightly downward angle as the Warren Commission alleged.

Thus the Times revelations that the Warren Report has finally been proven right would logically seem to imply the opposite. One can only wonder what they will come up with next.

THE TIMES AND THE KING CASE

On March 10, 1969 the official curtain closed in the Dr. Martin Luther King case. James Earl Ray received a 99-year sentence when he pleaded "technically guilty" (meaning he was involved) to the charge of murder. Thus the State of Tennessee, by an arrangement that had received advance blessings of the Federal Government, dispensed with the formality of a trial for the accused assassin of

Dr. King.

On March 11 the Times ran a scathing editorial, "TONGUE-TIED JUSTICE," denouncing "the aborted trial of James Earl Ray, "calling it "a mockery of justice" and "a shocking breach of faith with the American people." The Times demanded that "formal legal proceedings" be convened--Federal if not state.

For all its editorial eloquence the Times record on the King case once the "official" verdict was in would be no better than it had been in the John F. Kennedy case (prior to the Ray trial the Times reporting, particularly that of Martin Waldron, was excellent). Ray's protestations that he had been pressured into his plea and his efforts to obtain a new trial were (and continue to be) almost totally blacked-out by the Times.

March 1971 brought a startling challenge to the official contention that Ray had assassinated Dr. King and that there had been no conspiracy, in the form of a new book, "Frame-Up: The Martin Luther King/James Earl Ray Case," by Harold Weisberg. Weisberg has dedicated the past eight years to the investigation of political assassinations that plagued the 60's--a vocation that is far from lucrative despite the inferences of some. "Frame-Up" was the culmination of more than two years of investigation, legal action, and research. Much of his evidence he obtained when he successfully sued the Justice Department for access to the suppressed extradition file on James Earl Ray. Weisberg's suit resulted in a rare Summary Judgment against the Justice Department (not "news fit to print" to the Times when it happened), and release of official documents which were exculpatory of Ray.

Thus Weisberg revealed that ballistics tests which had failed to link Ray's rifle with the crime were misrepresented by the prosecution in the formal narration, implying the opposite by substituting the word "consistent," a meaningless word in ballistics terminology. The alleged shot from the bathroom window would have required a contortionist, and there was tangible evidence that the shot had been fired from elsewhere. The contentions of the only alleged witness placing Ray at the scene was impeached by his own contradictions and by conflicting testimony of two other witnesses including the alleged witness' wife. Ray left no prints in the bathroom, or in another room where it was alleged he had re-arranged furniture, or in the car in which he allegedly drove 400 miles

after the slaying. Nor were his prints on the clip, the casing, or any other part of the rifle he would have had to handle in order to fire it. There was persuasive evidence that a bundle containing the alleged assassination rifle and various personal effects belonging to Ray--conveniently left behind in a doorway near the rooming house--had actually been planted on the scene by someone other than Ray. And there was a great deal more in "Frame-Up," pointing toward an elaborate conspiracy in which Ray had served the role of "patsy."

The Times found no "news fit to print" in "Frame-Up," though even Fred Graham had called Weisberg a "painstaking investigator," and Times reporter Peter Kihss had written lengthy and favorable articles about two of his previous books.⁴⁴

Nevertheless "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 Ray's lawyer, Percy Foreman... and his sensational 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."⁴⁵ Saturday Review said: "Evidence that Ray fired the fatal shot. There is none... The reek of conspiracy is on everything. Weisberg is an indefatigable researcher... he has pursued the facts... And they are facts that lay claim to the conscience of America."⁴⁶ 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."⁴⁷ The Times of London, 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 entire process of Mr. Ray's arrest and trial... There is remarkably little evidence to connect Ray with the shot that killed Dr. King."⁴⁸

"Frame-Up" was reviewed in The New York Times Book Review on May 2, 1971 by John Kaplan. The review began, "The silly season apparently is over so far as 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." The review continued: "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... Finally, one might ask if 'Frame-Up' tells us anything significant about the Martin Luther King assassination. Regrettably, the answer is no..."

An article on the front page of The Wall Street Journal, "HOW BOOK REVIEWS MAKE OR BREAK BOOKS--OR HAVE NO IMPACT" described The New York Times Book Review as "generally considered the most prestigious and influential review medium."⁴⁹ The article described how a particularly poor review there can discourage further bookstore orders and discourage further reviews. "Frame-Up" received no further reviews after this one, and for all practical purposes it 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, to say the least.

From 1957 to 1961 Kaplan served the Justice Department in three capacities--first as a lawyer with the Criminal Division (against which Weisberg obtained the Summary Judgment); 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 John Kaplan was referring to were the critics of the Warren Report whom he characterized as "revisionists," "perverse," and "silly." He was also critical of Life magazine for calling for a new investigation and of The New York Times for calling for official answers to the unanswered questions. These, according to Kaplan, "contributed relatively little in the way of enlightenment."⁵⁰ In its original form "The Assassins" was considered so libelous by the legal counsel of The American Scholar that the latter refused to publish it until Kaplan reluctantly agreed to

**In addition to having been a newspaper reporter, an intelligence analyst for the Office of Strategic Services, and a Senate investigator, Weisberg had also once owned a poultry farm.

make certain changes.⁵¹ Kaplan's most recent venture before re-viewing "Frame-Up" was an article written for the U.S. Information Agency (the "official" propaganda arm of the Government) entitled "THE CASE OF ANGELA DAVIS: THE PROCESSES OF AMERICAN JUSTICE."⁵²

John Leonard, now editor of the Times Book Review told me after Kaplan's review that he had been totally unaware of Kaplan's background. He had just received a letter from Mr. Weisberg, and its contents had distressed him. He told me that the book had been assigned by "another editor," but he implied that the matter would be rectified in the letters section.⁵³ It was Leonard, then a daily reviewer, whose review of "Heritage of Stone" had been edited because it was "excessively editorial." Weisberg's letter to Leonard received no reply, nor did a subsequent one seeking some acknowledgment to the first "if only to record that you did not consciously assign this review to a man so saddled with irreconcilable conflicts." The reason for silence would soon become clear.

"Frame-Up," in discussing The Washington Post's poor coverage in the Ray case included an inconspicuous footnote alleging that its book reviewer had been ordered not to review "Whitewash." Kaplan cited it in his review as an example of how Weisberg felt he was being picked on, 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 true or false, the publication of that footnote in The New York Times Book Review, which is read throughout the country, could have no other effect but to seriously embarrass the reviewer in question. Though he might be anonymous to readers of "Frame-Up," he would not be to some readers of the Times.

Thus on May 30, 1971 the Times Book Review printed but one letter--that a strongly worded denial of the footnote by Geoffrey Wolff, who in 1966 had been the book review editor of The Washington Post. He said that he had never been ordered not to review "Whitewash," or any other book, nor had he read it. He said 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 insists that Wolff had told him he had been impressed with "Whitewash" and that he had indicated he would review it, but that Wolff ultimately explained to him that he could not because a

policy decision had been made to review no books on the subject.

Wolff reiterated to me 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 arrived at in an editorial meeting with his editor.⁵⁴ He also insisted that he had treated Weisberg "fairly... and with good manners."⁵⁵

The story each man tells is essentially the same, with but a subjective difference. 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 and carbons of a letter in Mr. Weisberg's files indicate he did. It is also understandable that five years and several hundred book reviews later he would have no recollection of it.

One might question Weisberg's judgment in retaining the Washington Post footnote in "Frame-Up," but the Times showed a total breach of ethics in publishing the Wolff letter without first sending Weisberg a copy of it so that he could reply. It suggests deliberate malicious intent on the part of the Times to discredit Weisberg's past and future writing by casting grave doubt upon his credibility and integrity.

Following the appearance of Wolff's letter, John Leonard could give me no explanation as to why Weisberg had not been sent a copy of it to reply to, weakly implying that he thought Weisberg had been sent a copy. He insisted that Wolff's letter would not be the final word--that "a full page round-up" of letters would be published "in about three weeks."⁵⁶

Weisberg's letters responding to Wolff received no reply from the Times, and the promised round-up never appeared. Instead, on August 29, seventeen weeks after the publication of Kaplan's review and twelve weeks after the publication of the Wolff letter, Weisberg's original letter (which Leonard told me he had just received when I spoke to him on May 5) was published in the Book Review along with a self-serving reply by Kaplan.

Weisberg wrote John Leonard: "...I think you owe me... more than this too late, too little, too dishonest feebleness... 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?"

For the first time Weisberg received a reply. Leonard's response read in full: "Apparently everyone in the country is without honor except you. I don't think we have anything useful to say to one another."⁵⁷

THE TIMES AND THE RFK CASE

If many were unsatisfied with the "official" facts about the assassinations of President Kennedy and Dr. King, there seemed little reason to doubt that Senator Robert F. Kennedy had fallen victim to the deranged act of a single sick individual--until the publication of Robert Blair Kaiser's "R.F.K. Must Die!" Kaiser is an established and respected reporter and a former correspondent for Time magazine. His previous reporting had won him a Pulitzer Prize nomination and an Overseas Press Club Award for the best magazine reporting in foreign affairs.

Kaiser signed on with the Sirhan defense team as an investigator. In the course of his studies and investigations he became the chief repository of knowledge in the case and the bridge between the defense attorneys and the psychiatrists probing the motivations of Sirhan Bishira Sirhan. Kaiser was to spend close to 200 hours with Sirhan, and that exposure together with his researches were to convince him that there had been a conspiracy.

Kaiser was unimpressed with the investigations turned in by the Los Angeles Police Department and the F.B.I. He felt that they were pre-disposed to the conclusion that no conspiracy existed, and they were consequently unwillingly to pursue leads that might possibly lead in that direction. Thus when the "girl in the polka-dot dress" seen with Sirhan just before the assassination was not turned up, the authorities concluded that she did not exist despite overwhelming evidence to the contrary. Nor was a zealous effort made to locate or thoroughly investigate certain acquaintances of Sirhan who could not be regarded as above suspicion.

Kaiser became perplexed by Sirhan's notebooks in which he had often repeatedly written his name, and in which several pages bore the similarly repeated inscription "RFK must die," always accompanied

by the phrase "please pay to the order of Sirhan." Sirhan had no recollection of these writings, nor did he recall firing eight bullets at Senator Kennedy.

On the night of the assassination Sirhan had behaved oddly. He was observed staring fixedly at a teletype machine two hours before the assassination, and he did not respond when addressed by the teletype operator. Several bystanders could not loosen the vice-like grip or sway the seemingly frozen arm of Sirhan when he began firing. After the shooting it was reported that his eyes were dilated, and he was described as extremely detached during the all-night police interrogation. In the morning he was found shivering in his cell.

Dr. Bernard L. Diamond, the chief psychiatrist for the defense decided upon the use of hypnosis on Sirhan. His subject proved so susceptible that Diamond concluded that Sirhan had probably been hypnotized frequently before. Under hypnosis Sirhan proved adept at the same type of automatic writing that appeared in his notebooks. Given a pen and paper he filled an entire page with his name, continuing to write even when he reached the end of the page. Instructed to write about Robert Kennedy he wrote "RFK must die" repeatedly until told to stop. Under hypnosis Sirhan recalled his previous notebook entries which he had made while in a trance-like state induced by mirrors in his bedroom. The hallways of the Ambassador Hotel were also lined with mirrors. Dr. Diamond programmed Sirhan to climb the bars of his cell like a monkey, but to retain no memory of the instructions. Upon awakening Sirhan climbed the bars of his cell "for exercise." Hypnosis produced an interesting side-effect upon Sirhan. Upon emerging from a hypnotic state he would suffer chills--just as he had the morning after the assassination in his cell.

Dr. Diamond became convinced that Sirhan had acted in a dissociated state--unaware of what he was doing--the night he killed Senator Kennedy. He concluded that Sirhan had programmed himself like a robot. Kaiser reached a slightly different conclusion. If Sirhan had programmed himself, he reasoned, why did he retain no recollection of either the programming or of the shooting. Furthermore, when asked under hypnosis if others had been involved, Sirhan would either go into a deeper sleep in which he was incapable of answering, or he would block--hesitating for a long period before giving a negative answer.

Kaiser's research turned up several case-histories in which a suggestible individual had actually been programmed by a skilled hypnotist to perform illegal acts with no recollection of either the deed or the programming, including a relatively recent case in Europe in which a man convicted of murder was later acquitted when a suspicious psychiatrist succeeded in de-programming him with the result that the programmer was apprehended and convicted in his stead. Kaiser felt that Sirhan, too, had been programmed and his memory blocked by some kind of blocking mechanism.

"R.F.K. Must Die!" was reviewed in The New York Times Book Review on November 15, 1970 by Dr. Thomas S. Szasz. Szasz described Kaiser as "a conscientious and competent reporter," but his review, for the most part, totally ignored the contents of the book, expounding instead upon the reviewer's philosophy that it was "absurd" to judge Sirhan's act in any context other than the physical fact that Sirhan had fired the shots because "facts are constructed to fit theories" in courtroom psychiatry. Dr. Szasz also expounded upon his belief that capital punishment is a powerful deterrent to crime, and he expressed the hope that authorities would not be tempted to commute Sirhan's death sentence. Only one sentence of the review addressed the contents of "R.F.K. Must Die!": "And Kaiser uncritically accepts Diamond's theory of the assassination '...that Sirhan had -- by his automatic writing -- programmed himself exactly like a computer is programmed by its magnetic tape... for the coming assassination.' "

Thus Dr. Szasz completely misrepresented the thesis of the book he was reviewing, for Kaiser explicitly disagreed with Dr. Diamond. Dr. Szasz' review gave no hint whatsoever that Kaiser had postulated a conspiracy. Robert Kaiser wrote me: "My narrative of the facts, most of which have been hidden from the public, cried out for a re-opening of the case by the authorities. That was news and Dr. Szasz ignored it,"⁵⁸

In fact, assigning Dr. Thomas Szasz to review "R.F.K. Must Die!" was like assigning Martha Mitchell to review Senator Fullbright's "The Arrogance of Power." Kaiser's book was very much a psychiatric study of Sirhan, and a narrative of the psychiatric nature of the defense strategy (Sirhan had definite paranoid-schizophrenic tendencies). Dr. Szasz is generally regarded as the most controversial figure in the psychiatric profession, for he contends that mental

illness is a myth, and he is irrevocably opposed to the use of psychiatry in the courtroom. His views are so controversial that The New York Times Magazine devoted an entire article to them.⁵⁹ Dr. Szasz philosophy regarding courtroom psychiatry and mental illness precluded in advance an objective review of "R.F.K. Must Die!"

The relationship existing between Dr. Szasz and Dr. Diamond (who Kaiser describes as "the only hero in my book"⁶⁰), moreover, should have further disqualified Dr. Szasz for they are diametrically opposed to one another's views and have confronted each other in public debate. Dr. Diamond is a leading protagonist for and expert on the legal concept of "diminished capacity," a psychiatric defense. In October, 1964 Dr. Diamond reviewed one of Dr. Szasz' books for The California Law Review. A quote of the opening lines illustrates sufficiently well the enmity existing between the two: "Law, Liberty and Psychiatry is an irresponsible, reprehensible, and dangerous book. It is irresponsible and reprehensible because the author must surely know better. It is dangerous because its author is clever, brilliant and articulate -- the book reads well and could be most convincing to the intelligent, but uncritical reader."

Robert Kaiser cogently summed up the Szasz review: "An honest review of my book, pro or con, one that would have dealt with the facts I revealed and the issues I raised, could have been a valuable service to the large reading public that depends on the Times Book Review. From a purely personal viewpoint, it made the difference for me; instead of being a bestseller, my book was only a modest success -- not because the reviewer made a successful attack on my thesis, but because he simply ignored it."⁶¹

One of the confusing points in the Robert Kennedy assassination is the fact that the fatal bullet entered behind his left ear and was fired from about an inch away, leaving massive powder burns because of the close proximity of the weapon. Sirhan was positioned several feet in front of Senator Kennedy. It was generally assumed until recently that Kennedy must have fallen in Sirhan's direction and received the wound as he fell. Events of the past Summer have challenged this thesis.

On May 28, 1971, Los Angeles attorney Barbara Warner Blehr challenged the qualifications of DeWayne Wolfer, acting head of the LAPD Crime Lab, in an effort to block his permanent appoint-

ment. Mrs. Blehr's challenge included declarations by three recognized ballistics experts that alleged that Wolfer had violated the four precepts of firearms identification when he testified at Sirhan's trial that Sirhan's gun and no other was involved in the shooting of Kennedy and two other persons on the scene. Mrs. Blehr charged that: "The physical evidence, however, upon which his (Wolfer's) testimony was based established that the three above mentioned evidence bullets removed from victims were fired, not from the defendant's gun but in fact from a second similar gun with a Serial No, H18602. (Sirhan's gun bore the serial number H53735). The only possible conclusion that must be reached is that two similar guns were being fired at the scene of the crime." Exhibits attached to the Blehr letter showed that although gun No. H18602--the one used to test fire the bullets-- was physical evidence in the case on June 6, 1968, "the gun was reportedly destroyed by the Los Angeles Police Department roughly one month later in July, 1968."

Largely as a result of Mrs. Blehr's charges District Attorney Busch launched an investigation, and simultaneously a grand jury was formed to look into mishandling of evidence charges. Busch charged serious errors in Mrs. Blehr's charges, and he maintained that a clerical error had been made in the labeling of an envelope containing three bullets test fired from Sirhan's gun by Wolfer. The grand jury found that serious questions concerning the present integrity of exhibits in the Sirhan case were raised because of the handling of the evidence by unauthorized persons while it was in the custody of the Los Angeles County Clerk's office.

District Attorney Busch has not provided specifics to back up claims that Mrs. Blehr's charges are erroneous, and there still seems to be a strong question as to whether the ballistics markings on all three bullets match up. Retired criminologist William Harper viewed two of the bullets, one taken from a second victim and the one removed from Kennedy's neck. He stated that he could find "no individual characteristics in common between these two bullets."

Thus, whether these charges turn out to have a reasonable basis or prove specious, a genuine controversy has arisen as to the possibility that Sirhan's was not the only gun fired. The Los Angeles Times has given each development large play, and a summary article by L.A. Times staff writer, Dave Smith, began on page one and continued onto pages eight, nine, and ten, taking up approximately 125 column inches

on August 8, 1971. By the same token, these developments have been almost totally blacked-out by The New York Times. I wrote to Steven V. Roberts, Los Angeles bureau chief for The New York Times, suggesting that the Times black-out seemed to be the result of a policy decision. He replied that "we have to set priorities here. We can report only a small percentage of the many stories that come our way every day. I have decided that the controversy over the Sirhan bullets is not substantial enough to warrant my time, when there are so many other things to worry about."⁶²

One must wonder, should the charges of Mrs. Blehr, Mr. Harper, and others prove valid, how the Times will explain to its readers how other priorities demanded that developments in this area were not "news fit to print."

To surmise a reason for Times suppression of news serves no useful purpose. However it appears that the Times adheres to the unfettered right to a free press only so far as it applies to the Times' freedom to print what it wishes its readers to know. This makes a mockery of the famous Times motto: ALL THE NEWS THAT'S FIT TO PRINT. And it makes of the Times a stirring example of institutionalized hypocrisy.

FOOTNOTES

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