

BOOKS

No One Else But Him

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These two books* are widely different in scope, in tone and in the nature of some critical underlying assumptions. Mr Lane, as the advocate retained by Marguerite Oswald in an effort to protect the interests of her dead son, Lee Harvey Oswald, before the Warren Commission, has been concerned with this inquiry from the beginning, and from very early on saw cause to challenge the Commission's methods. In *Rush to Judgment* he sets himself, with formidable talent and industry, to tear to shreds the whole fabric of the Warren Commission Report. He shows serious reason to doubt all the principal elements of the Commission's case: that all the shots were fired from the Book Depository; that the President's wounds were of a nature to fit that theory; that a connection between Oswald and the Mannlicher-Carcano rifle, or between that rifle and the assassination, was established; that Oswald alone shot both President Kennedy and Officer Tippit, and that Ruby had no assistance from within the Dallas police force in entering the police station and killing Oswald. The authors of the Report assumed, or wrote as if they assumed, that evidence presented by the Dallas police was reliable, however improbable some of it might seem; that reports, even unsigned, on FBI stationery can be relied on as evidence of what witnesses, unheard and unseen by the Commission or its counsel, said; that, in considering Marina Oswald's evolving evidence, at a time when she was under the close and continuous surveillance of Federal investigative officers, no allowance need be made for possible pressures on her; and that Dallas residents, who changed their testimony in the course of the investigation from something which did not fit the theory of 'Oswald alone' to something which did fit it, were the beneficiaries of a spontaneous return of mnemonic accuracy, and were not affected by a wish to survive in an environment hostile to the implications of their original testimony.

Mr Lane implicitly rejects all these assumptions. He scrutinises with suspicion all evidence emanating from the Dallas police; shows a lesser but considerable degree of scepticism about FBI reports and casts doubt on a large part of the testimony accepted by the Commission as liable to be vitiated by pressure, reward or terror. While he carefully refrains from formulating any explicit general hypothesis of his own, the trend of his critique and of the evidence he cites suggests the following:

that there was a conspiracy to assassinate the President, using Oswald as the 'fall guy'; that some Dallas police officers may have collaborated in this conspiracy; that the FBI was not anxious to pursue leads which seemed to point in the direction of such a conspiracy; and that the Warren Commission was content to rely on the FBI and the Dallas police and on witnesses brought forward and perhaps influenced by them in

* *Rush to Judgment* by MARK LANE Bodley Head 42s

Inquest by EDWARD EPSTEIN Hutchinson 30s

order to produce a report impressively validating the sedative hypothesis which was proclaimed on television as fact by Henry Wade, District Attorney of Dallas, as early as the night of the assassination:

Q: Was this, was there any indication that this was an organised plot or was there just one man?

WADE: We - here's no one else but him.

Mr Lane's tone is appropriate to the task he has set himself. It is not at all 'shrill' or 'strident' - although some American reviewers have called it so at the top of their voices. It is grim, lacking in veneration, and touched by a cold, understated irony:

Not long after Oswald's arrest, Chief Curry was asked by a reporter if the ballistics report proved his guilt.

Q: What about the ballistics test, Chief?

CURRY: The ballistics test - we haven't had a final report, but it is - I understand will be favourable.

The use of the term 'favourable', meaning consistent with Oswald's guilt, betrays a certain bias, and the fact that Curry presumably understood what the results would be prior to the completion of the test stands in need of further illumination.

Mr Epstein's *Inquest*, on the other hand, is relatively detached and respectful in tone and is the work of a student, not of an advocate. He deprecates the 'demonology' of earlier writers on this subject and does not include Mr Lane among those he would exempt from this charge, although his own thesis owes more to Mr Lane than he acknowledges. As befits a graduate student, Mr Epstein is careful not to suggest anything he cannot prove, and he nowhere implies that evidence may be faked or witnesses intimidated or suborned. For these reasons he has in America found an audience among people who at an earlier period

spoke with irritation and contempt of those who refused to accept the Warren Commission's Report as closing the matter. This is a significant change, because in essentials - in its finding that the Commission's version of the 'single assassin' theory is so improbable as to verge on impossibility - *Inquest* points in the same direction as *Rush to Judgment* - that is to say in the direction of conspiracy. Like Mr Lane - but devoting more of his time to this particular matter - Mr Epstein shows that - contrary to the Commission's own contention - the Commission's version of the assassination logically and necessarily requires one bullet to have passed through President Kennedy and Governor Connally, and that the bullet which is indicated as having done this could not have done it. On this analysis, it seems almost impossible for Oswald alone to have fired the three shots: the likelihood of more than one assassin forces itself through.

Some of those associated with the Commission's work seem to have had considerable doubts about the single assassin theory from the beginning. Mr Lane cites a preliminary report by two lawyers for the Commission raising a number of issues suggestive of conspiracy, in which the Commission showed little subsequent interest except for the purpose of dismissing them. That serious

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doubts still linger among these people. Mr Epstein's book makes clear. The 'most important source' acknowledged in his preface consists of a series of interviews with members of the Commission, and counsel and assistant counsel to the Commission. The value of these interviews, at this late stage, is perhaps not so great as Mr Epstein appears to assume, but it is at least interesting to note that several of those intimately concerned with the preparation of the Report now seem to be more concerned to dissociate themselves from it than to go down to posterity identified with a document whose conclusive character and impressive quality were being so frequently hailed, even in this journal, only a short time ago.

The interested reader who holds to the view that the Warren Report, while apparently rather shakier in its details than one was given to understand at the time of its publication, is still probable in its general lines would do well to read *Inquest* - 154 pages, plus appendices. Anyone who does so will, I believe, have his mind opened to the likelihood of what Mr Epstein prudently calls 'a second assassin' and be prepared for Mr Lane's more radical approach. Confidence in the Warren Commission Report, undermined by Mr Epstein, is likely to be swept away by Mr Lane. It must be said - contrary to the impression which might be produced by a good deal of the comment on the two books - that Mr Lane's book is much the solidier, in that it quite clearly rests on deeper study of the 26 volumes of hearings and on independent research in the

field, or jungle, of Dallas. I cannot claim to have followed up all of Mr Lane's references or to have read all the 26 volumes of the hearings (not that that is quite so formidable a task as it sounds, since the volumes are not free from padding). Like the Commission itself, I was working to a deadline. I have, however, followed up some 1,500 of such references, including all which appeared to me to be crucial; and on these latter I also followed up the parallel references from the Report itself to the *Hearings* and exhibits; I have also read, *in extenso*, the testimony of a number of key witnesses. This procedure is a rather rough and ready one and can, I admit, lead only to provisional conclusions. At the same time, since many writers, even eminent jurists, proclaimed the Warren Report to be utterly and overwhelmingly conclusive before the evidence on which it was supposedly based was published at all, one need not perhaps be too diffident about expressing an opinion.

The worst that can be said against Mr Lane is that he writes as an advocate, not as an impartial assessor. This characteristic he shares with the authors of the Commission's Report. The important differentiating circumstance is that, while Mr Lane enters the inquiry frankly as an advocate, denied the effective opportunity to act as such before the Commission, the authors of the Report are understood to be acting in a quasi-judicial capacity. If a witness says, or is alleged on FBI notepaper to have said, that he thought the person he saw looked like X but he couldn't be quite sure, the Commission's Report and Mr Lane are both capable of interpreting this either as simply 'failed to identify X' or 'noted a resemblance but fell short of complete identification' according as the trend of their argument requires. The procedure is, I think, regrettable in both cases but much more regrettable on the Commission's part. It should surely have examined with especial care evidence

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running counter to the hypothesis favoured, and in some cases robustly favoured, by the investigative agencies. By, instead, handling such evidence as a prosecution counsel might have been expected to do, it imparted an additional and consistently grooved twist to material which there is reason to believe, was subjected to a similar twist before it reached them at all.

We have not said enough, however, when we say that the authors of the Report and Mr Lane both function as advocates. The more one studies the Report, the *Hearings* and Mr Lane's book, the more one feels the Report is the work of advocates working in a desperate hurry, under fearful pressure, and relying in great part on prestige and public sympathy to carry them through. The interviews which Mr Epstein records show that the conditions under which the authors of the Report worked were such as to make this outcome almost inevitable. Mr Lane, on the other hand, being unable to count on

public sympathy, or the prestige of a Chief Justice, and not being burdened by the quasi-diplomatic concerns which seem to have affected the Commission's work, has had to count on familiarity with the evidence alone for his sole strength. If he occasionally sinks to the level normally trodden by the authors of the Commission's Report, he normally works above that level and never sinks to that flagrant disregard for the evidence of which the Commission, at its worst, was capable. Those who doubt that last statement about the Commission can find copious corroboration for it in Mr Lane's book. I have space here to cite only one example: the Commission's treatment of Mr Lane's own evidence. Lane told the Commission, *inter alia*, that he had been

informed that a meeting had taken place at Jack Ruby's Carousel Club on 14 November - about a week before President Kennedy's assassination - between Jack Ruby, Officer Tippit (murdered, allegedly by Oswald, on the day of the President's assassination) and Bernard Weissman, the person who caused the black-bordered Rightist advertisement attacking Kennedy to be inserted in a Dallas paper for his arrival. The following is the manner in which the Commission discussed Lane's allegation with one of the two surviving persons alleged to have participated:

MR RANKIN: There was a story that you were seen sitting in your Carousel Club with Mr Weissman, Officer Tippit, and another who has been called a rich oil man, at one time shortly before the assassination. Can you tell us anything about that?

MR RUBY: Who was the rich oil man?

MR RANKIN: Can you remember? We haven't been told. We are just trying to find out anything that you know about him . . .

MR RANKIN: This Weissman and the rich oil man, did you ever have a conversation with them?

MR RUBY: There was only a few. Bill Rudman from the YMCA, and I haven't seen him in years.

And there is a Bill Howard, but he is not a rich oil man. He owns the Stork Club now. He used to dabble in oil.

CHIEF JUSTICE WARREN: This story was given by a lawyer by the name of Mark Lane, who is representing Mrs Marguerite Oswald, the mother of Lee Harvey Oswald, and it was in the paper, so we subpoenaed him, and he testified that someone had given him information to the effect that a week or two before President Kennedy was assassinated, that in your Carousel Club you and Weissman and Tippit, Officer Tippit, the one who was killed, and a rich oil man had an interview or conversation for an hour or two.

The Commission turned Lane's three-man meeting into a four-man one, introducing 'a rich oil man' whom Lane had never mentioned. Lane's actual testimony is, of course, on record in the *Hearings*, as is the Chief Justice's distorted presentation of it. It should be noted also that the witness who was being questioned in this rather casual way was in Dallas jail, where he felt himself to be in danger, and that he had asked to be taken to some other place, so that he

might testify freely. The request was refused. The Commission, in its Report, stated that it had 'investigated the allegation of a Weissman-Ruby-Tippit meeting and . . . found no evidence that such a meeting took place anywhere at any time.' It remains quite possible that no such meeting ever did take place, but considering the manner in which the Commission investigated the allegation it is not surprising that it found no evidence.

It is true that in substantiation of its finding that Ruby denied that the Tippit-Ruby-Weissman meeting took place, the Commission relies not on this passage but on later testimony. In that testimony the question was put to Ruby in this form:

MR HERNDEN (FBI): Did you ever meet with Oswald and Officer Tippit at your club?

RUBY: No.

The Report transmutes this testimony into a denial by Ruby that he met Tippit and Weissman at his club. Mr Lane, who is here being rebutted, had never mentioned Oswald in this connection, any more than he had mentioned the 'rich oil man'. Mr Lane shows that the Commission consistently - though only in a few instances as flagrantly as on this occasion - sought not to investigate but to invalidate all testimony tending to discredit its 'single assassin' hypothesis.

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Why? Mr Epstein's answer is essentially that, while the Commission's sole ostensible purpose was to establish the truth, in reality it had another purpose which predetermined the result of its inquiry.

Why did the Commission fail to take cognizance in its conclusions of this evidence of a second assassin? Quite clearly, a serious discussion of this problem would in itself have undermined the dominant purpose of the Commission, namely, the settling of doubts and suspicions. Indeed, if the Commission had made it clear that very substantial evidence indicated the presence of a second assassin, it would have opened a Pandora's box of doubts and suspicions. In establishing its version of the truth, the Warren Commission acted to reassure the nation and protect the national interest.

There is nothing in the Commission's conduct of the inquiry which is inconsistent with this view of its 'dominant purpose'. Established by a politician, and largely political in composition, it acted as if it were dealing with a political problem, to which Burke's dictum could be applied: 'Political problems do not primarily concern truth or falsehood; they relate to good or evil. What in the result is likely to produce evil is politically false; that which is productive of good, politically true.'

Many thoughtful Americans, by no means exclusively of the Right or Centre, were pleased by the Commission's findings and are not disposed to judge it harshly in retrospect, even if it now appears that it was deliberately myopic on conspiracy possibilities. Politically speaking, the findings pleased many political groupings, including all the most important ones, and annoyed

almost nobody. For both Republicans and Democrats, an inquiry into conspiracy, just before the 1964 election, presented incalculable dangers. The Democrats, headed by a Texan, could have but little taste for a prolonged discussion of the possibilities of conspiracy, involving an examination into connections between politics, law enforcement and crime in Texas. The Republicans, headed by Goldwater, had reason to be apprehensive in view of the activities of the extreme Right, including Birchite elements, in Texas both before, on and after the day of the assassination. In these circumstances it is not surprising that counsel for the Commission showed more spontaneous interest in Jack Ruby's psychology, in his relations with his dogs and in his mother's 'fishbone delusion' than in his relations with the police and with organised crime, which were closer than the Report suggests and fishier than Ruby's mother's delusion. ('Virtually all of Ruby's Chicago friends,' says the Commission, 'stated he had no close connection with organised crime.' Virtually all of Al Capone's Chicago friends said the same of him.) The solid and decisive centre of American politics was attached both by temperament and by calculation to the 'no conspiracy' theory. Neither the Right nor the Left seriously objected. The Right was glad that Kennedy was dead - as they showed with champagne in Dallas that night - and that a 'Marxist' had been identified as the sole killer. The Left feared that investigation of conspiracy might lead to an anti-communist witch-hunt in a 'McCarthy rides again' spirit and were only too happy to settle for 'Oswald and no one else'. Besides, as a Leftist student said to me, 'Kennedy wasn't all that progressive anyway.'

The fact remains that the Commission's principal findings, while, apparently, 'politically true', are probably not true in a merely

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factual sense. It can no longer be held to be probable that both Oswald and Ruby acted alone. If they did not, then members of a successful conspiracy to assassinate a President of the United States are likely to be still at large.

Americans regard conspiracy as a European idea and consider that Europeans who believe that President Kennedy was probably the victim of a conspiracy are merely projecting onto the American screen the image of their own low habits and practices. This is a curious delusion in a country in which organised crime - which is by definition a conspiracy - exerts power and penetrates law enforcement agencies on a scale unmatched anywhere else on earth. It is true that the conspiracy of crime is not ideological, though it may have its preferences: one of Jack Ruby's friends, denying that he had any communist sympathies, said that he was more of a 'capitolist' (*sic*), being chiefly interested 'in financial gain'. The existence of such criminal combinations, mercenary by definition, together with groups of very rich men strongly animated by political hatred - as their subsidised publications prove - will not necessarily convince outside observers that conspiracy for political assassination is an American impossibility.

The Warren Commission Report is undoubtedly directed - as members of the Commission have made clear - to international opinion as well as to opinion in the United States itself. This is reasonable, since the whole world is powerfully affected by the assassination of an American President and by the possible assassination of others. Perhaps we can say at this stage that, in view of the cogent criticisms of Messrs Epstein, Lane and others, we require for our reassurance no longer a political answer to a political problem but an actual investigation of the facts. The present administration in the United States is unlikely to reopen the inquiry in any serious way; a subsequent administration might do so. In the meantime, it might be useful if, say, a group of British and American historians were to examine the Report, the *Hearings* and the criticisms of the Report and pronounce on such questions as whether the Commission's findings can be regarded as satisfactory in the light of the evidence before it, what are the merits of such hypotheses as that advanced in Professor Popkin's *The Second Oswald*, to the effect that someone had impersonated Oswald, and what other lines of inquiry might still be pursued. Such a committee might request access to the considerable amount of Commission material which remains classified for reasons of 'good taste' and, it seems, other reasons also.

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