

Attorneys, Critics

The dispute about the Warren Commission's findings has been mounting steadily. This article is based on excerpts from a panel discussion in which two attorneys who served on the commission's staff met two of the commission's leading critics.

SAN DIEGO, Calif. (AP).—Following are excerpts from the transcript of a panel discussion of the Warren Commission's Report by two of its leading critics and two attorneys who helped in the commission's investigation of President John F. Kennedy's assassination.

The debate was held before the Associated Press Managing Editors convention in San Diego on Nov. 17.

The participants were authors Mark Lane ("Rush to Judgment") and Edward Jay Epstein ("Inquest"), critics of the report, and Joseph A. Ball and J. Wesley Liebler, both of whom served on the commission's staff.

Ball is a California attorney and Liebler is acting professor of law at the University of California.

Epstein

I think I'd rather discuss the new evidence that has come to light and this is of course the X rays and autopsy photographs that were turned over to the National Archives by the Kennedy family.

In fact the absence of the autopsy photographs from the commission's evidence left a very embarrassing link in the Warren Report. The fact that these photographs had to be produced at this late date is, I think, indicative of how embarrassing this gap was for the commission.

The autopsy reports were the only evidence that could clear up a very basic contradiction in the commission's evidence. The contradiction I am referring to is the contradiction between the FBI's report of the autopsy findings and the doctors' reports of the autopsy findings.

THE DOCTORS who conducted the autopsy (at the naval hospital in Bethesda, Md.) made one report of their findings which appears in the final edition of the Warren Report and this says that the bullet which struck the President in the back of the neck passed through his neck and exited through his throat.

During the course of my research, I came across two FBI summary reports which contradicted this. The FBI summary

Debate Warren ^{DMN}

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Report

reports—the last was issued two months after the autopsy—stated that the bullet in question hit the President below the shoulder, penetrated his body only a finger length and fell out of the back of the wound entry.

Both versions are obviously diametrically opposed. If one is true, the other is false . . .

When the commission lawyers arrived in Washington they were confronted by two contradictory reports of the autopsy.

IT WOULD NOT have been especially difficult to clear up the contradiction in these early stages. The FBI agents who wrote the report could have been called as witnesses and then of course the autopsy photographs could have been examined and analyzed by independent forensic pathologists to see if they conformed with either the FBI version of the autopsy doctors' version—but this contradiction was not resolved.

The FBI reports were not entered into the record . . . The two FBI agents were not called as witnesses. The autopsy photographs were never analyzed or seen by anyone that I know of. The report simply glossed over the facts.

To see how the commission handled this problem—or the lawyers who wrote the chapter—it is interesting to note that on Page 88 and 89 of the Warren Report the report states that there was only one autopsy conclusion, it was reached during the autopsy—that is, when the body was in front of the doctors—and that this conclusion said that the bullet passed completely through the neck. This conclusion was confirmed by evidence received from Dallas the next day.

WELL. AFTER publication of the FBI

reports in my book and a good deal of other facts that came to light, one commission lawyer or inspector wrote a definite answer, or what he considered a definite answer, in the U.S. News and World Report.

In this he said that there were actually two autopsy results, one on the night of the autopsy was a tentative theory that the bullet had penetrated only a finger's length and the next day the autopsy doctors changed their conclusion when they received further evidence from Dallas about the throat wound.

This sounds plausible. The problem is that Mr. Specter (Arlen Specter, a commission assistant counsel, now district attorney of Philadelphia) is the man who wrote the chapter that there was only one conclusion and that it was confirmed.

Now he says that there were two conclusions and that it was changed by the evidence from Dallas. Certainly when the basic facts presented in the Warren Report are contradicted by the man who wrote them, I think we have to go to further evidence . . .

SINCE THERE are autopsy photographs available and these autopsy photographs do show the track both inside the body and the photographs and X rays of possibly bones or fragments in the path, I think that these photographs should be examined now by a group of forensic pathologists.

So long as these autopsy photographs remain unanalyzed, the commission has not completed its job . . .

Lane

I flew back from Paris to be here because I would like to discuss with you the role played by the press in the development of the false report submitted to the

American people by the Warren Commission.

Our moderator said quite correctly the public was in the mood to accept the Warren Report. Now why do you suppose that was? Who put the public in the mood to accept the report of the Warren Commission?

When the evidence was first presented by the Dallas district attorney in the opening hours, the press played a very responsible and important position.

This is a picture of the Dealey Plaza area. The presidential limousine of course came across Main Street, up Houston and down Elm.

The commission said all the shots were fired from here, from the 6th-floor window of the (Texas) Book Depository Build-

The Dallas Morning News

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Showcase

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ing as the limousine moved in this direction and said further that there is no credible evidence which even suggests that any shots were fired from elsewhere. No credible evidence!

ON NOV. 22 the press found Charles Brehm. He was standing right there. He was very likely the closest witness, closest spectator—to the assassination.

He was on radio and television. He was interviewed by newspapers and his name appeared in almost every newspaper in America on Nov. 23.

It's unfortunate that the Warren Commission never found Mr. Brehm, and never questioned Mr. Brehm. It's unfortunate our distinguished colleagues, lawyers for the commission, never questioned Mr. Brehm.

Because Mr. Brehm said, and it is not, unfortunately, on record anywhere, except in a filmed interview which we conducted which will be shown all over Western Europe in the next two or three months and hopefully in the United States as well, Mr. Brehm said:

"I SAW THE EFFECT of the bullet upon the President's head. As the bullet struck his head, a portion of the president's skull was driven backward and to the left over the rear and left of the car, indicating that the fatal shot came from a right front area, not from the rear, not from behind the limousine."

The press found Mr. Brehm on that day. Unfortunately the commission never could,

or never tried, or never did, in any event.

The press found Mary Woodward over there. In fact she works for the press—The Dallas Morning News—and she wrote her own article, published in The Dallas Morning News on Nov. 23, and she said, "I heard the shots. It was a horrible ear-shattering sound coming from directly behind me, from behind the wooden fence on the top of the grassy hill."

It shouldn't have been difficult to find her. Her name appeared in The Dallas Morning News the next day. The Warren Commission never found her. She never testified as a witness.

AND THEN we have Mary Moorman standing over there, who took a picture of the limousine as it moved down Elm Street and in the background of that picture was shown the Book Depository Building.

According to the Dallas sheriff, who took the photograph from her, it showed the 6th-floor window, from which the gunman purportedly fired. According to Miss Moorman it was taken when the shots were fired.

What a valuable picture! A picture of the window with Oswald with his Italian Mannlicher or German Mauser or a cannon rifle of some kind, firing out of the window.

Did the commission ever publish the picture? No. Did the commission ever call Miss Moorman as a witness? No, although her name appeared in newspaper articles all over the country and she was on radio and television as well that day.

THE LAST ONE I make reference to is Warren Reynolds, a witness to an aspect of the (police officer J.D.) Tippitt killing. He heard the shot. He was called out where he works, about one block from the office where Tippitt was killed.

Shortly after he heard the shots he saw a man run by with a gun in his hand and Mr. Reynolds was questioned by the press on that day—his name appeared in newspapers, on radio and television as well—Nov. 22.

Never questioned by the FBI or by the Secret Service or any of the federal police during November or December until January 21 when he was shown photographs of Lee Harvey Oswald and he said that he could not say that was the man fleeing from the Tippitt scene with a pistol in his hand and two days later he was shot through the head and finally the commission called him after he had been reduced to a quivering mass of terror after the attempt on his life and then he was able to say then he believed it was Oswald for the first time and the commission indicated that he had changed his mind during the period and was now a witness against Lee Harvey Oswald after his death . . .

I THINK we have the right to know who

killed our president in Dallas that day and why he died. I think if we read with intelligence we know we can never get the answers to these questions from the Warren Commission Report . . .

I think that what is required now is a new investigation, and a new commission, but one in which the American people will have some trust and have some confidence . . .

Ball

I've read Mr. Lane's book and I've read Mr. Epstein's book and I'll tell you frankly, if we had followed the same evasiveness and distortion of evidence that Mr. Lane, particularly, followed, you'd have some reason to criticize . . .

Let's talk about facts. This investigation was the most extensive investigation ever conducted in American history. The staff and the commission had at their disposal the entire investigative facilities of this great nation.

Do you know that over 25,000 people were interviewed . . . and 552 of those people either came before the commission, their depositions taken or their affidavits taken.

Many of these people Mr. Lane mentioned in his book, we have their evidence

and we considered their evidence. It came in by way of affidavit and in accordance with the procedures which we adopted.

NOW WE AS LAWYERS took the evidence and we analyzed the evidence. Many of these things that Mr. Epstein and Mr. Lane now come up with wide eyes of amazement and say, "Why didn't you consider?" — of course we knew they were there.

But as lawyers we had to weigh evidence and analyze evidence and come to conclusions and say that this evidence does not fit into the pattern, this is not credible evidence . . .

There's the question of the gun. The commission established, by documentary evidence, which you can read, beyond any question that Oswald ordered that gun and paid for it.

THE REVOLVER—there's no question he ordered that revolver from a Los Angeles sporting goods store and paid for it.

And there's no question from the documents that these two—gun and revolver—were delivered to a post office box in Dallas—to a box owned by Oswald.

Now when Mr. Lane presents this to his readers, does he present this documented evidence to them? Does he tell them where the weight of evidence lies? Oh, of course not . . .

The readers never hear of the sound evidence upon which the commission based

its conclusion that Oswald bought the gun.

Now let's take another one—the identification of the gun . . . I don't think any sensible person in this nation doesn't believe that the Italian Carcano rifle was not found on the sixth floor of the Texas School Book Depository.

Seymour Weitzman, a deputy constable of Dallas, and Deputy Sheriff (Eugene) Boone were looking for something and they saw over a pile of boxes about five feet high a gun, and like good police officers, they called for identification and a picture was taken of it, which you can see—anybody can see. Mr. Lane has seen it.

AND LATER ON that day they both said it was a Mauser—a German Mauser.

Now Mr. Lane sarcastically says: "Well, overnight this gun changes its nationality from a German Mauser to an Italian Mannlicher Carcano."

He wants you to believe that identification was by men who never handled a gun, that therefore it's probable . . . the Italian Carcano was substituted for a Mauser. I gather that's what he says, or he wouldn't put it in his book.

Now he does not show the evidence that is almost conclusive that this gun fired without question three shells that were found on that floor, that two bullet fragments found in the front seat of the Lincoln were fired to the exclusion of all other weapons by that gun and the bullet found at Parkland Hospital was fired to the ex-

clusion of all other weapons by that gun . . .

Seymour Weitzman is an expert on guns, and that's just the reason he made the mistake he made, because of what Mr. Lane doesn't tell you, but he knows as well as I do and Seymour Weitzman knows, is that this is a bolt-action rifle.

THE BASIC PATENT on bolt-action rifles is Mauser. This is an Italian rifle built on the Mauser patent. It's an Italian Mauser and of course, because he was an expert, Weitzman made the mistake.

Now weigh evidence as scholars. Ask us to weigh evidence as lawyers.

Put Seymour Weitzman's faulty identification against the overwhelming evidence that the Mannlicher Carcano was found on the sixth floor and see where the weight of evidence lies . . .

Let's go to the grassy knoll evidence. Now what is this "compelling" evidence that Mr. Lane tells us about? . . . The evidence is compelling that the shots were fired from the Texas School Book Depository.

Here is his "compelling" evidence that they were fired from the grassy knoll area. First of all the earshot testimony, such as



—Associated Press Wirephoto.

Warren Commission attorney J. Wesley Liebeler speaks before the Associated Press Managing Editors convention. Authors Mark Lane, center, and Edward Jay Epstein, two of the leading critics, listen.

Mary Woodward he mentioned.

There were hundreds of people there in Dealey Plaza. Some thought it came from the overpass. Some thought it came from the grassy knoll.

Earshot testimony is something we could not rely upon and neither can Mr. Lane, because when a bullet recedes from the muzzle it sets up shock waves at right angles. So it depends on where you stand, but it's true there's a good many people thought that the sound of the shot came from the grassy knoll area.

Now when I say grassy knoll area, I say what does Mr. Lane mean, because it's three or four hundred feet long, but a good many people ran up there and they found nothing. They found no man with a gun. They found no gun. They found no shells. They found nothing.

So we have the "compelling" testimony that Mr. Lane talks about—their evidence against overwhelming evidence that the shots came from the School Book Depository.

AND, AGAIN, he says, "Well, there are some witnesses that saw a puff of smoke." What does a puff of smoke mean? Does it mean that there's a rifle? Of course not. Since when did rifles give off a puff of smoke? They don't do it.

Now I've had time to give you only a few examples of the complete distortions of the record which appear in this book, but there are many. His footnotes don't follow and more important than that, he

makes up his own record . . .

I have nothing more to say, but I do say this: that it's with a certain amount of pride that I stand before you and defend my name and those of the honorable men on that commission against a man of whom they have said, "Veteran criminal lawyers go for the jugular, Lane goes for the capillaries."

Liebeler

I must say that it is difficult to forgo the challenge, in a sense, that Mr. Lane sets forth by his very presence . . . His book is a tissue of distortion . . . At a press conference at the University of California at Los Angeles, Mr. Lane's response . . . was to threaten to sue me for libel and I've been awaiting anxiously for those papers.

If you have them here this morning I'll be glad to accept service of process, Mr. Lane, because you know very well as soon as you do that you're going to have to deposition under oath and go through discovery proceedings and that day I'll wait for, Sir . . .

Now, I'm not going to be so harsh with Mr. Epstein.

Mr. Epstein makes several points—one of which was that the commission or the lawyers suffered from a time problem, that we didn't have enough time to do our work.

THERE IS NO QUESTION but what the actual writing of the report suffered to some extent because of the deadline that the commission states or imposed on get-

ting the report out . . .

We have to sharply distinguish between the time problem in that regard and the question of whether or not this affected the investigation that was carried out, and I don't think it did. None of us thought it did.

If any of us had had any problems that were unresolved in our minds at that time, you can rest assured that we would have conducted any additional investigation that was necessary to resolve those doubts.

Mr. Epstein indicates that the investigation only lasted 10 weeks. I have never been able to understand how he came to that conclusion because in fact the investigation went on from early January when the commission lawyers started to come to Washington until the very end of the commission's work some time in September.

WHEN YOU GO through his book you find that he emphasizes an alleged contradiction between the autopsy report and between FBI and Secret Service statements about what occurred at the autopsy.

It's not really quite so much of a contradiction as he'd like to have us believe. He's saying there's a contradiction between the statements of two FBI agents and two Secret Service agents who very imprecisely placed the wound in the back of the President's body, and this all relates to whether the bullet came through the President's neck and then went on to strike Gov. Connally, or not.

And they placed it very imprecisely. They said it was below the shoulders.

I always like to compare it with the

statement that the autopsy surgeons made on the face sheet of the autopsy . . . which indicates that that wound was located 14 centimeters, or 5½ inches, below the right mastoid process, or bony tip behind your right ear, which places the wound precisely, right at the base of the neck . . .

MAKE THIS measurement and . . . see whether there is any inconsistency or not, and I think you will find that there is no inconsistency of any kind whatsoever.

At no time prior to the time that Mr. Epstein wrote this book or made these statements did he ever measure 14 centimeters from his own right mastoid process or from the right mastoid process of any other human being on the face of this earth and this is the kind of "scholarship" that we find running through this man's work . . .

We have the right to hear from him whether he really thinks . . . there is any real possibility that one of the murderers of John F. Kennedy are still on the loose.

Mr. Epstein's work has had more effect than that of any other critic of the commission and this results from what I must call a superficial appearance of scholarship.

We are not afraid of having our work for the Warren Commission examined closely, but that task must be approached with an intellectual rigor and honesty which so far is most notable by its absence.