

Photo Taken When Kennedy Was Assassinated Sets Off a Controversy

By PETER KIHSS

A controversy over whether a photograph showed a man aiming a rifle in front of President Kennedy the day he was killed in Dallas was stirred up yesterday by Esquire magazine.

The magazine's report brought quick dissent from United Press International, from whose files the picture came. The news service quoted Jack V. Fox, a staff correspondent, as having said that "if the picture is studied long enough one can believe that he sees a rifleman with sunglasses leaning on top of a station wagon—" "but one can also imagine a white - faced steer staring down."

The news agency added that Mr. Fox, after an investigation of various challenges of the Warren Commission report and talking with eyewitnesses, reported on June 27 that "he personally was satisfied" with the commission's findings. The commission, headed by Chief Justice Earl Warren, held that Lee Harvey Oswald was the lone assassin of the President on Nov. 22, 1963, firing from the sixth floor of a building behind the Kennedy car.

In a press release concerning its December issue, out today, Esquire said the picture "appears to confirm the existence of an assassin now at large."

But late yesterday, John Berntson, an associate editor, said the press release was "perhaps a bit too positive." The magazine, he said, was standing in partial article that offered the photograph as part of a "second-assassin theory" in the eighth of 35 detailed "assassination theories."

The controversy arose over one frame of an eight-millimeter color film by Otville O. Nix, a Dallas employee of the Federal General Services Ad-



Picture at left, from files of United Press International, is said by Esquire magazine article to show (upper left corner) a vehicle with a man leaning on its roof at moment President Kennedy, in car in foreground, is being shot. Picture at right is a blowup from the section in question



ministration. This showed a fence along a grassy knoll and, when enlarged, behind it what the article said was "in fact a vehicle" with a man leaning on its roof.

The Esquire article said S. M. Holland, a railroad signal supervisor, had told Mr. Fox he had heard a shot from behind the fence as well as three shots from the Texas Book Depository, where Oswald was employed, Mr. Holland said he had found a station wagon behind the fence, with two muddy marks on its bumper as if someone had stood on it.

United Press International, in a statement, said the Esquire article "states erroneously that three U.P.I. editors are proponents of a theory that the pic-

ture indicated a second slayer." Mr. Berntson said the word "prominent" was meant to refer to persons who worked on "tracking down" a theory, even if "right now they may feel differently."

Back Up Report

Meanwhile, WNBC-TV made available a text of a 55-minute "Open Mind" panel program taped late last month and scheduled for broadcast at noon next Sunday, after having been displaced by a news program last Sunday.

On this, two assistant counsels for the Warren commission reported they stood by its findings after having examined challenges in books by two other panelists, Mark Lane and Ed-

ward Jay Epstein, authors respectively of "Rush to Judgment" and "Inquest."

One of the Commission aides was Burt W. Griffin, now director of the Legal Aid Society of Cleveland, who said the two authors had pointed out "loose ends, which I don't think are central or germane."

The other was Wesley J. Liebeler, now professor of law at the University of California in Los Angeles who said the Warren inquiry had been "thorough" and some-times the report "didn't reflect" all the evidence in the record.

Mr. Griffin said "the medical evidence does establish that all the shots came from above

and behind." He said Federal Bureau of Investigation reports differing from an autopsy report were by agents who never saw X-rays or photographs of the President's body, "only overheard some conversations."

Mr. Liebeler said evidence from a hole in the President's shirt was consistent with the autopsy report of a wound 14 centimeters—about 5½ inches—below the tip of the right mastoid process, the bony point just behind the ear.

Mr. Griffin said "Mr. Liebeler and I provided a very adversary system for the other side."

Mr. Lane asserted, "I've never said that I believe Oswald did it or did not do it, but 'I've had Oswald faced trial, would not have been convicted."

His book, he said, was "not an objective analysis" but "a biographical study of the man."

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