

The Short Bulky Package

A chapter from a manuscript

on the Warren Report

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In order to sustain the conclusion that Oswald was the lone assassin, the Warren Commission had to establish Oswald's presence at the place it designated as the source of all the shots. In subsequent chapters we shall discuss the Commission's failure to establish Oswald's presence on the sixth floor of the Depository, despite the claim in the Report that he was at that location shortly before the shooting.

But even if there was persuasive evidence that Oswald was on the sixth floor, the Commission had to confront an equally important problem—to prove, beyond a reasonable doubt, that the "assassination weapon" was present too, that it had been introduced into the building by Oswald, and that Oswald had fired it.

Like the question of his foreknowledge of the motorcade route, his introducing the rifle into the building—and therefore his trip to Irving the night before to obtain the rifle, and his alleged construction of the paper bag in which to carry it—have crucial importance to the question of premeditation and the finding of guilt.

The Commission realized the importance of this aspect of the case. Two of its main findings are (a) that the Mannlicher-Carcano 6.5 mm rifle was owned by and in the possession of Oswald, and (b) that Oswald carried that rifle into the Depository on the morning of November 22 (NR 19).

What is astonishing is that if we compare the statements in the Report in defense of those two findings with the actual testimony and evidence, we find that every link in the Commission's chain of reasoning is feeble. Let us retrace the Commission's steps and see if the evidence leads us to the same conclusions, or if at the end of the journey we are not burdened with a heavy weight of reasonable doubt.

The Commission considered the circumstances surrounding Oswald's return to Irving, Texas, on Thursday, November 21, 1963 and concluded that Oswald told the curtain rod story to Frazier to explain both the return to Irving and the obvious bulk of the package which he intended to bring to work the next day. (WR 129 and 137)

There is no reason to doubt Wesley Frazier's story that Oswald asked him for a ride to Irving on Thursday night, saying that he wanted to pick up some curtain rods. According to the reports on Oswald's interrogation by the police, he denied having told Frazier anything about curtain rods (WR 604). There is no transcript of the interrogation but if Oswald actually contradicted Frazier he was almost certainly untruthful. If Captain Fritz, the interrogator, thought Oswald was lying when he denied the curtain rod story, it is a pity that he did not proceed to ask him why he did return to Irving on Thursday; no one seems to have asked that question at any time during Oswald's detention.

In any event, a lie about the purpose of a visit or the contents of a package is a far cry from proof of criminal purpose; and there is some question about whether in fact the Thursday visit was as unusual or unprecedented as the Report suggests. In an FBI report concerning Oswald's income and expenditures there is an interview with the cashier of the A & P store in Irving, Mrs Georgia Tarrants, who told the FBI that Oswald had appeared at the cashier's cage and cashed a \$33.00 unemployment check on Thursday night, October 31, 1963. (WR 1165). The manager of the store, Troy Erwin, told the FBI that the check in question had definitely been cashed at the store sometime after 3 pm on Thursday, October 31, 1963, through close of business on Friday, November 1, 1963. The Commission merely states that Oswald cashed the \$33.00 check on Friday, November 1st (WR 321), although Mrs Tarrants had said that the transaction took place on Thursday night, ~~and~~ without questioning her or making a further attempt to pinpoint the date.

Both Marina Oswald and Ruth Paine believed that Oswald had come to Irving on the night before the assassination to make up his quarrel with his wife. Oswald, in common with most husbands, would have been disinclined to reveal the marital contretemps to Frazier, a casual bachelor acquaintance. No man is eager to eat humble pie in public. It is even conceivable that Oswald, having told an innocent fiction about curtain rods, carried an improvised package in order to sustain it. Moreover, there were curtain rods stored in the Paine garage. Counsel Jenner and Secret Service agent Joe Howlett accompanied Mrs Paine to the garage and found two curtain rods on a shelf (9H 425). The rods were measured and found to be 27 and a half inches long--a figure which should be borne in mind, for reasons to be discussed below.

Mrs. Paine maintained that only those two curtain rods had been stored in the garage and that consequently Oswald did not take curtain rods from the premises on the fatal morning. Her husband, however, was not certain of the number of curtain rods which had been stored in the garage, before or after the assassination (9H 424, 461).

Nevertheless, we acknowledge that the Commission's conclusion that the curtain rod story was an invention to cover Oswald's unscheduled visit to Irving for a different purpose would be reasonable and plausible--if the collateral evidence were established beyond reasonable doubt.

The Commission considered the disappearance of the rifle from its normal place of storage and concluded (1) that Oswald took paper and tape from the wrapping bench of the Depository and fashioned a bag large enough to carry the disassembled rifle, and (2) that he removed the rifle from the blanket in the Paine's garage on Thursday evening. (int 129 and 137)
The period between 8 and 9 p.m. provided ample opportunity for Oswald to prepare the rifle for his departure the next morning. (int 130)

The Commission has not indicated its reasoning as to whom, and where, Oswald fashioned the paper bag from materials taken from the Depository. Presumably he did so only after the motorcade route became known on Tuesday, November 19, 1963, and before departing for Irving after work on Thursday. But there is no evidence that Oswald took wrapping paper and tape from the wrapping bench--on the contrary. Troy West, the mail wrapper, was questioned about that. He testified that to his knowledge Oswald had never borrowed or used those materials, and that he had never seen Oswald around the roll of wrapping paper or the tape dispenser (6H 360-361).^{1/}

The Commission implicitly asks us to assume that Oswald filched the necessary materials and that he made the paper bag secretly, at the Depository or in his rented room in Dallas after working hours, since there was no opportunity to fashion the bag in secret during his overnight visit to Irving. The Commission says blandly that he made the bag to hold the disassembled rifle. Why not the assembled rifle, while he was at it? That would have eliminated unnecessary complications--the disassembling of the rifle, if it was not already disassembled, and certainly the reassembling of the weapon at the Depository, where privacy was almost impossible. Perhaps Oswald did not remember the actual length of the assembled rifle (40.2 inches)? Or perhaps he was under the impression that he had received the rifle he had actually ordered, which was only 36 inches long? If so, it was a fortunate coincidence^{ce} that the bag was long enough to hold the disassembled 40.2-inch rifle.

1/ Harold Weisberg points out in his book Whitman (privately printed 1965, Hyattstown, Maryland) an extremely significant point which all but violates the Commission's conclusion that Oswald took paper and tape from the wrapping bench and fashioned the paper bag. Troy West testified that it was impossible to pull a length of tape from the dispensing machine without wetting it. But examination had established that the tape on the handmade paper bag had been drawn from the dispensing machine, because the tape had "a series of small markings in the form of half-inch lines...identical to the length of the lines and the number of lines per inch on the tape obtained from the dispenser in the Texas School Book Depository shipping room" (MR 579-580).

The investigators know, therefore, both from the testimony of Troy West and from their own use of the tape dispenser for comparison purposes and in the construction of a replica of the paper bag (MR 136), that the tape used to make the bag was removed in wet condition. It could hardly be concealed and removed in that state for later use. The person who fashioned the paper bag would have had to make it on the spot!

Just as the wetness of the tape limits the space factor, the publication of the motorcade route limits the time factor. The route first became known on Tuesday, November 19, 1963. That would limit Oswald to a three-day period in which to make the bag if, as the Commission claims, he made it for the purpose of carrying the disassembled rifle.

There is absolutely no evidence that Oswald fashioned the paper bag at or near the wrapping counter in the Depository during those three days, during regular working hours or surreptitiously when the building was deserted. On the contrary, the weight of the evidence is that he did not.

The Commission, confronted by the insurmountable obstacle of wet tape, merely suppressed the information from its Report and proceeded to publish conclusions which were seriously undermined by the concealed facts, as it well knew.

According to the Commission's findings, Oswald must have carried the paper bag concealed on his person when he accompanied Frazier to Irving on Thursday. Frazier saw no paper bag nor any sign that Oswald had some six feet of wrapping paper concealed on his person. Neither Marina Oswald (1H 120) nor Ruth Paine (3H 49, 77) noticed anything which provides the smallest corroboration for the Commission's assumption. According to an FBI interview of December 3, 1963,

Marina stated that when Oswald visited the Paine house on Thursday evening, November 21, 1963, he did not bring anything with him when he arrived at the house ...She further advised that she does not know of anything that Oswald took with him from the Paine house to work the next morning, November 22...She examined this sack and said she had never seen anything like it and that she had not seen such a sack or such paper in the possession of Oswald on November 21, 1963, or at any time prior thereto.

(CE 1401, page 272)

To accept the Commission's inferences, then, we must credit Oswald with great adroitness in concealing the paper bag not only from Wesley Frazier and Ruth Paine but also from his wife, in the privacy of their bedroom.

Regrettably, the Commission made no attempt to determine when Oswald made the paper bag, or where. There is no foundation for the conclusion that he made the bag and took it to Irving other than the convenience of that finding to the Commission's fixed theory.

The "disappearance of the rifle" and the finding that Oswald removed it from the blanket in the Paine garage between 8 and 9 pm on Thursday are marked by ambiguities also. Before dealing with the "disappearance" of the rifle, we should examine the question of its appearance in the Paine garage, by reviewing the steps between the shipping of the rifle by Klein's Sporting Goods in Chicago and the dramatic moment in the garage when the blanket was found to be empty.

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Klein's mailed the rifle to "A Hidell" at a Dallas post office box. The Commission asserts that the relevant post office record form had been destroyed and that it is not known whether or not Oswald, in renting the box, had authorized "A Hidell" to receive mail there (WR 121). That statement flatly contradicts an FBI report of June 3, 1964, which states,

Our investigation has revealed that Oswald did not indicate on his application that others, including an "A Hidell," would receive mail through the box in question, which was Post Office Box 2915 in Dallas. This box was obtained by Oswald on October 9, 1962, and relinquished by him on May 14, 1963.

(CE 2505, Question 12)

The Commission has an answer for that problem, too, even though it has suggested that Hidell might have been authorized to receive mail at the box when its own exhibit indicates that he was not. The Commission says that it does not matter, one way or the other, because Oswald would have had no difficulty in obtaining the package from Klein's. He had only to present the notice which would have been placed in his box and he would have received the package without even having to identify himself.

Apparently no inquiry was made at the post office to determine if any employee recalled handling the package from Klein's or handing it over to a person presenting a notice, nor was any attempt made to trace the notice or any other documentary evidence relating to the delivery of the package. We are presented only with assumptions as to the ease with which Oswald might have obtained the package addressed to Hidell, on the basis of testimony from a post-office inspector at a sub-station. There are

no interviews with nor testimony from the employees at the main post office, where box 2915 was actually maintained and where stricter procedures may have been in force. The Commission certainly should have looked for concrete proof rather than accepting a theoretical likelihood as sufficient--especially when the assurance that Oswald would have had no difficulty in obtaining a parcel addressed to Hidell rested on the testimony of a single witness, post office inspector Harry Holmes, who is also an FBI informer (CE 1152).

There is no proof that the rifle addressed to Hidell was handed over to Lee Harvey Oswald by the postal authorities, and Marina Oswald's testimony is the only basis ^{aside from the report} for the conclusion that Oswald came into possession of a rifle shortly before the attack on General Walker. ^{attack on Walker in the} (The photograph of Oswald holding a rifle is discussed in a later chapter.) Marina Oswald is also the sole authority for the conclusion that the rifle was carted from Dallas to New Orleans, and from New Orleans to Irving, where it remained on the floor of the garage wrapped in a blanket. She testified that soon after returning from New Orleans she had gone to the garage to search for parts to the baby's crib and that she had lifted a corner of the blanket and seen part of the stock of a rifle.

Against that testimony, we must weigh the fact that all the information carefully obtained by the Commission about the Oswalds' luggage indicates that their suitcases and other baggage were too small to hold the Carcano rifle. There was a large soft-sided canvas zipper suitcase, 15 inches high and 25 to 30 inches wide (2H 463); a rectangular suitcase 21-1/2 inches by 14 inches (2H 264); a small blue zipper canvas bag (1H 50 and 115; 6H 436; 11H 462); a small cloth bag, about 14 inches (8H 134); an inexpensive canvas bag, about 26 inches long (6H 415); some regular suitcases about 28 inches long; and two Marine Corps duffelbags.

Jenner Now, Mrs. Paine, the staff is interested in Lee Harvey Oswald's luggage...Would you please, to the best of your recollection, tell us what pieces of luggage he had...what they looked like, their shape and form?

R Paine Yes. He had two large marine duffelbags with his name on them, and probably his Marine serial number. It was marked with a good deal of white paint. It stood quite high.

Jenner Were they up-ended when you say high? You mean standing on end, they were high?

R Paine Standing on their end they would come well above this table.

Jenner I see. About 40 inches?

R Paine Something like that; I would guess so.

Jenner Excuse me, I am interested in just that. Would you go over to the drawing board and move your hand, judge from the floor, and stop right there?...That is just about 45 inches ...Was there any appearance as to either duffelbag, which, to you, would indicate some long, slim, hard--

R Paine I assume them both to be full of clothes, very rounded.

Jenner I don't wish to be persistent, but was there anything that you saw about the duffelbags that lead you at that time to even think for an instant that there was anything long, slim and hard like a pole?

R Paine No.

Jenner Or a gun, a rifle?

R Paine No.

Jenner No? Nothing?

R Paine Nothing.

(2H 462-463)

Jenner Now would you please tell us what there was in the way of luggage placed in the station wagon?

R Paine There again the two large duffels which were heavier than I could move, he put those in.

Jenner Describe their appearance, please.

R Paine Again stuffed full, a rumply outside.

Jenner...Rumply? No appearance of any hard object pushing outwards?

R Paine No.

Jenner Against the sides or ends of the duffel bags?

R Paine No.

Jenner You saw nothing with respect to those duffel bags which might ~~have~~ have led you to believe--

R Paine A board in it, no.

Jenner A tent pole, a long object, hard?

R Paine No.

Jenner Nothing at all?

R Paine No.

(3H 19)

Jenner's ~~rising~~ crescendo of desperation is an index to the importance which attached to showing that the rifle could have been carted in Oswald's luggage. Counsel was persistent, but frustrated. Some weeks later, Jenner put the same kinds of questions to Lillian Murret, Oswald's aunt in New Orleans, and got the same kinds of answers from her as from Ruth Paine (8H 135 and 140). The tone and substance of the dialogue indicates such an anxiety to determine how the

rifle was transported from city to city that one must express surprise that the Commission in its Report maintained silence about the futility of its inquiry.

The attempt to establish the packing or the unloading of a parcel that could have held the rifle was equally futile.

Jenner Was there a separate package of any character wrapped in a blanket?

R Paine No. There was a basket such as you use for hanging your clothes. It carried exactly that, clothes and diapers, and they weren't as neat as being in suitcases and duffels would imply. There was leftovers stuffed in the corner, clothes and things, but rather open.

Jenner So you saw no long rectangular package of any kind or character loaded in or placed in your station wagon?

R Paine No, it doesn't mean it wasn't there, but I saw nothing of that nature.

Jenner You saw nothing?

R Paine I saw nothing...

Jenner Now, in the process of removing everything other than the two duffel bags on the occasion on the 24th of September 1963 when you reached Irving, Texas, did you find or see any long rectangular package?

R Paine I recall no such package.

Jenner Did you see any kind of a package wrapped in the blanket?

R Paine Not to my recollection...I don't recall seeing the blanket either...not until later...

Representative Ford Did you see the blanket in New Orleans?

R Paine On the bed or something. I am asking myself. I don't recall it specifically...My best recollection is that I saw it (for the first time) on the floor of my garage sometime in late October...

(3H 20-21)

Mrs. Paine repeated, in response to further questions, that she did not see the blanket in the Oswald apartment in New Orleans in the spring or in the fall and that she did not see it in her station wagon. She also reiterated that she did not see the blanket in her garage until October sometime, no earlier than October 7th, she was sure (3H 42).

Michael Paine was no more helpful than his wife had been. He testified,

...I do remember that my wife asked me to unpack some of their heavy things from their car. I only recall unpacking duffelbags but any other package, that was the heaviest thing there and they were easy also...I unpacked whatever was remaining in the station wagon into the garage. So sometime later, I do remember moving about this package which, let's say, was a rifle, anyway it was a package wrapped in a blanket.

(2H 414)

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I have read since that Marina looked in the end of this package and saw the butt end of a rifle. Now I didn't remember that it was something easy to look into like that. I thought it was well wrapped up. (2H 440)

Still seeking to corroborate that the blanket in the garage had held a rifle, the Commission tried an experiment, with Ruth Paine.

Jenner For the record, I am placing the rifle in the folded blanket as Mrs Paine folded it. This is being done without the rifle being dismantled. May the record show, Mr Chairman, that the rifle fits well in the package from end to end, and it does not--

R Paine Can you make it flatter?

Jenner No; because the rifle is now in there.

R Paine I just mean that--

Jenner Was that about the appearance of the blanket-wrapped package that you saw on your garage floor?

R Paine Yes; although I recall it as quite flat.

Jenner Flatter than it now appears to be?

R Paine Yes. But it is not a clear recollection.

Jenner You have a firm recollection that the package you saw was of the length?

R Paine Yes, definitely.

Jenner That is 45 inches, approximately.

(3H 23)

Now, Mr Chairman, may I reinsert the rifle in the package, on the opposite side from what it was before, and have the witness look at it...Mr Chairman, I have now placed the opposite side of the rifle to the floor, and may the record show that the package is much flatter...does the package look more familiar to you, Mrs Paine?

R Paine I recall it as being more like this, not as lumpy as the other had been.

(3H 25)

With Michael Paine, there was also an experiment. He was given the blanket and the Carcano rifle and asked to construct a package that resembled or duplicated the one in the garage.

M Paine It seemed to me this end up here was not as bulky as the whole...

Liebeler...You are having difficulty in making it as small as when you remember it in the garage?

M Paine Yes...I should say this end was a little bit too big here and it is not quite big enough here...I thought of the package pretty much as all of the same thickness...

Liebler Are we saying now that its thickness is not as you remember the package in your garage or the same width?

M Paine Well, most likely this end down here is perhaps, the butt end of the rifle...As I have it wrapped is a little bit too full...

Liebler And as far as the middle is concerned, you say that is what, not as thick nor not as wide?

M Paine Yes; somehow it should be a little wider, or a little fuller.

Liebler It was a package which wasn't quite so tapered?

M Paine Quite so tapered...

(98 442-443)

Liebler Would you measure the length of that package and tell us what it is?

M Paine That is 41 inches.

Liebler Now, after going through the process that we have gone through here, of trying to wrap this rifle in this blanket, do you think that the package that you saw in your garage could have been a package containing a rifle similar to the one we have here?

M Paine Yes; I think so, this has the right weight and softness.

(98 443)

Although both Ruth and Michael Paine ultimately agreed that the reconstructed package containing the Carcano rifle was similar to the blanket-wrapped package in the garage, FBI hair and fiber expert Paul Stombaugh introduced a new problem when he testified that, in examining the blanket, he had found

...a hump approximately 10 inches long, located approximately midway...it would have had to have been a hard object, approximately 10 inches in length, which protruded upward, causing the yarn in the blanket to stretch in this area, and it would have had to have been tightly placed in the blanket to cause these yarns to stretch.

Eisenberg Now, when you say the object was 10 inches long, do you mean that the object itself was 10 inches long or that there was an object 10 inches--an object protruding at a point 10 inches from the place you have marked "A"?

Stombaugh No, sir; the object itself would have had

to have been approximately 10 inches long to have caused this hump.

Eisenberg It couldn't have been any longer than 10 inches?

Stombaugh Not at this point; no, sir. (4H 58)

Eisenberg clearly had in mind the telescopic sight on the rifle--but that was at least 11 inches long (CE 139). The Commission disposed of the problem with the bland statement that the bulge

could have been caused by the telescopic sight of the rifle, which was approximately 11 inches long. (WR 129)

Since when is a finite, material object in the possession of the experts approximately this or that many inches long? The Commission had no reason not to give the precise measurements of the scope--no reason other than to divert attention from still another weakness in its so-called chain of evidence.

How strong are the Commission's grounds for the conclusion that Oswald visited the garage on Thursday evening between 8 and 9 o'clock? That finding rests solely on Ruth Paine's testimony that she found a light burning in the garage at 9 o'clock and her assumption that Oswald must have been there and neglected to close the light switch when he left. Neither she nor Marina Oswald could provide any positive evidence that Oswald had entered the garage at all at any time during the overnight visit.

Jenner You say your home is small and you can hear even the front door opening. Does the raising of the garage door cause some clatter?

R. Paine Yes; it does.

Jenner And had the garage door been raised, even though you were giving attention to your children, would you have heard it?

R. Paine If it was raised slow and carefully; no, I would not have heard it.

Jenner But if it were raised normally?

R. Paine Yes.

Jenner You would have heard it. And it is your recollection that at no time that evening were you conscious of that garage door having been raised.

R. Paine That is correct. (3H 64)

Jenner You did not see Lee Oswald in the garage at anytime that evening?

R. Paine Did not see him in the garage; no. (3H 67)

Marina Oswald, for her part, acknowledged that she had had no reason to think that Oswald had been in the garage until Ruth Paine told her that she had found a light burning there (1H 66-67).

The Commission considered Oswald's arrival at the Depository Building on November 22, carrying a long and bulky brown paper package, and concluded that Oswald carried the rifle into the building, concealed in the bag (WA 129 and 137)

The Commission weighed the visual recollection of Frazier and Mrs Randle against the evidence that the bag Oswald carried contained the assassination weapon and concluded that Frazier and Randle are mistaken as to the length of the bag. (WR 134)

Here we encounter the central weakness of the Commission's thesis--the consistent, disinterested, and persuasive testimony from the only two witnesses who saw Oswald's package that the package was too short to hold the Carcano rifle, even in disassembled form. Had Oswald come to trial, his defense might have leaned heavily on the testimony of Wesley Frazier and his sister, which the Commission has arbitrarily dismissed as "mistaken." (If he had come to trial, we should of course have heard his explanation of the contents of the package and perhaps proof that the mysterious parcel was innocent.)

The transcript of the testimony provided by Frazier and Mrs Randle provides a good basis for assessing their credibility.

Duell Wesley Frazier and his sister, Linnie Mae Randle, were the only two people who saw Oswald with the "long and bulky package." Both appeared before the Warren Commission on March 11, 1964.

Ball What did the package look like?

Frazier Well, I will be frank with you, I would just, it is right as you got out of the grocery store, just more or less out of a package, you have seen some of these brown paper sacks you can obtain from any, most of the stores, some varieties, but it was a package just roughly about two feet long.

Ball It was, what part of the back seat was it in?

Frazier It was in his side over on his side in the far back.

Ball How much of that back seat, how much space did it take up?

Frazier I would say roughly around 2 feet of the seat...around 2 feet, give and take a few inches.

Ball How wide was the package?

Frazier...say, around 5 inches, something like that. Five, 6 inches or there...
(2H 226)

Ball Did it look to you as if there was something heavy in the package?

Frazier Well, I will be frank with you. I didn't pay much attention to the package because like I say before and after he told me that it was curtain rods and I didn't pay any attention to it, and he never had lied to me before so I never did have any reason to doubt his word. 1/

(2H 228)

Ball Now we have over here this exhibit for identification which is 364 which is a paper sack made out of tape, sort of a home made affair. Will you take a look at this...Does it appear to be about the same length?

Frazier No, sir.

Ball...Was one end of the sack turned over, folded over? Do you remember that?

Frazier Well, you know, like I was saying, when I glanced at it, but I say from what I saw I didn't see very much of it, I say the bag wasn't open or anything like it where you can see the contents. If you was going to say putting--to more or less a person putting in carefully he would throw it in carefully, you put it more toward the back. If he had anything folded up in it I didn't see that.

Ball When you saw him get out of the car, when you first saw him when he was out of the car before he started to walk, you noticed he had the package under the arm?

1/ (see next page)

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When Frazier was asked if Oswald's package appeared to contain "some kind of weight," he replied that it did, that he had worked in a department store and had uncrated curtain rods when they had come from the factory, bundled up "pretty compact," so that when Oswald had told him that his package held curtain rods Frazier "didn't think any more about the package whatsoever" (2H 228-229). Frazier, had he been more articulate, might have said what he appeared to mean--that on the basis of his own experience in a department store, he had found the appearance of Oswald's package entirely consistent with the appearance of a wrapped bundle of curtain rods.

It is the Commission's peculiar misfortune that witnesses whom it chose to regard as "mistaken" were particularly qualified by training or experience to make the "mistaken" judgment. Frazier had handled shipments of curtain rods; and Seymour Weitzman, whom the Commission holds responsible for the erroneous identification of the rifle as a Mauser, ironically enough had acquired familiarity with rifles because he was "in the sporting goods business awhile" (7H 108).

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Frazier Yes, sir.

Ball One end of it was under the armpit and the other he had to hold in his right hand. Did the package extend beyond the right hand?

Frazier No, sir. Like I say if you put it under your armpits and put it down normal to the side.

Ball But the right hand on, was it on the end or the side of the package?

Frazier No; he had it cupped in his hand.

(2H 239)

Ball You will notice that this bag which is the colored bag, FBI Exhibit No. 10, is folded over. Was it folded over when you saw it the first time, folded over to the end?

Frazier I will say I am not sure about that...

Ball...When you were shown this bag, do you recall whether or not you told the officers who showed you the bag—did you tell them whether you thought it was or was not about the same length as the bag you saw on the back seat?

Frazier I told them that as far as the length there, I told them that it was entirely too long.

(2H 240)

Ball It has been suggested that you take this bag, which is the colored bag...and put it under your arm just as a sample, or just to show about how he carried the bag...Put it under your armpit...are you sure that his hand was at the end of the package or at the side of the package?

Frazier Like I said, I remember I didn't look at the package very much, paying much attention, but when I did look at it he did have his hands on the package like that.

Ball But you said a moment ago you weren't sure whether the package was longer or shorter.

Frazier...What I was talking about, I said I didn't know where it extended. It could have or couldn't have, out this way, widthwise not lengthwise.

Ball In other words, you say it could have been wider than your original estimate?

Frazier Right.

Ball But you don't think it was longer than his hands?

Frazier Right.

(2H 241)

Warren Could he have had the top of it behind his shoulder, or are you sure it was cupped under his shoulder there?

Frazier Yes; because the way it looked, you know, like I say, he had it cupped in his hand...And I don't see how you could have it anywhere other than under your armpit because if you had it cupped in your hand it would stick over it.

Ball Could he have carried it this way?

65

Frazier No, sir. Never in front here. Like that. Now, that is what I was talking to you about. No, I say he couldn't because if he had you would have seen the package sticking up like that. From what I seen walking behind, he had it under his arm and you couldn't tell that he had a package, from the back.

(2H 243)

Frazier was given a dismantled gun in a paper bag and asked to hold it in the same position as he had seen Oswald hold his package. As the Report indicates, the package extended almost to the level of Frazier's ear when the bottom was cupped in his hand; when he placed the top of the package under his armpit, the bottom extended 8 to 10 inches below his hand. At this point, counsel Ball gave up. But before we leave Wesley Frazier we should take note that he is just over six feet tall, while Oswald was 5 feet 9 inches. His inability to contain the package containing the dismantled rifle between his armpit and his palm would be even more marked in Oswald's case, if the difference in height applied proportionately to the length of the arm.

Mrs. Randle testified next, giving the following description.

He was carrying a package in a sort of a heavy brown bag^{1/} heavier than a grocery bag it looked to me. It was about, if I might measure, about this long, I suppose, and he carried it in his right hand, had the top sort of folded down and had a grip like this, and the bottom, he carried it this way, you know, and it almost touched the ground as he carried it.

Ball...And where was his hand gripping, the middle of the package?

Randle No, sir; the top with just a little bit sticking up...

(2H 246)

Ball We have got a package here...You have seen this before, I guess, haven't you, I think the FBI showed it to you...Now, was the length of it any similar, anywhere near similar?

Randle Well, it wasn't that long, I mean it was folded down at the top as I told you. It definitely wasn't that long...

Ball...This looks too long?

Randle Yes, sir...

Ball...You figure about 2 feet long, is that right?

Randle A little bit more.

Ball...There is another package here. You remember this was shown you. It is a discolored bag...What about length?

Randle...There again you have the problem of all this down here. It was folded down, of course...

Ball Fold it to about the size that you think it might be.

^{1/}The Warren Report (page 131) states that Oswald was carrying a "heavy brown bag," according to Mrs. Randle's testimony, giving the impression that the package rather than the paper was "heavy."

Randle This is the bottom here, right? This is the bottom, this part down here.

Ball I believe so, but I am not sure. But let's say it is.

Randle...Do you want me to hold it?

Ball Yes...Is that about right? That is 28 and 1/2 inches.

Randle I measured 27 last time.

Ball You measured 27 once before?

Randle Yes, sir.

(2N 249-250)

Raymond F. Krystinik, a friend of Michael Paine, testified on March 24, 1964, and contributed a singular piece of information, in the following excerpt from his testimony. Speaking of Michael Paine, Krystinik said,

I don't feel that he had anything to do with it. I think if he had been of a more suspicious nature, he could possibly have avoided the President being shot. He told me after the President was killed and after it had come out that the rifle had possibly been stored at his home, that he had moved in his garage some sort of heavy object about this long wrapped up in a blanket, and he had the impression when he moved it this was some sort of camping equipment, and that it was considerably heavier than camping equipment he had been dealing with, and it never occurred to him it might be a gun or rifle that had broken down.

Liebeler Would you indicate approximately how long the package was?

Krystinik He said something about like that [indicating].

Liebeler How long would you say that was?

Krystinik Looking at it, I would say 26 or 28 inches. Maybe 30 inches.

Liebeler [Measuring] The witness indicates a length of approximately 27 inches.

Krystinik Michael might have had his hands up 2 or 3 inches different from that.

Liebeler To the best of your recollection, Michael indicated the length of about 27 inches?

Krystinik Yes.

(9N 475-476)

63.04

The figure of about 27 inches crops up persistently. As mentioned already, the curtain rods stored in the Padua garage measured about 27 inches. If the paper bag actually held a 35-inch object, it is an extraordinary coincidence that all the estimated and actual measurements in the relevant testimony invariably gravitate around the number 27.

Another puzzle is the fate of the package after Oswald entered the back door of the Depository. The Warren Report states that Jack Dougherty saw Oswald enter the building,

but he does not remember that Oswald had anything in his hands as he entered the door. (WR 133)

That is a subtle and disingenuous transformation of what Dougherty really said.

Dougherty I'll put it this way; I didn't see anything in his hands at the time.

Ball In other words, your memory is definitely on that, is it?

Dougherty Yes, sir.

Ball In other words, you would say positively he had nothing in his hands?

Dougherty I would say that--yes, sir. (6H 377)

Dougherty was quite explicit. Had the Commission reflected faithfully what he actually said, we might have found the usual rejoinder that the witness was probably mistaken. In this instance, however, the Report merely replaces Dougherty's positive statement with a negative, of quite a different value. Anyone who searches the Report for an analogous editorial liberty, but one that works to Oswald's advantage, is doomed to frustration.

The paper bag, whatever it contained, disappears from view once Oswald moves out of Frasier's sight. No attempt has been made to determine where Oswald concealed the package all night or how he managed to take it to the sixth floor unseen. The Commission believes that he did so, for stated reasons which we now examine.

The Commission considered the presence of a long handmade brown paper bag near the point from which the shots were fired, and the palmprint, fiber, and paper analyses linking Oswald and the assassination weapon to this bag, and concluded that Oswald left the bag alongside the window from which the shots were fired. (WR 129 and 137)

The presence of the bag in the southeast corner is cogent evidence that it was used as the container for the rifle. (WR 135)

Oswald's palmprint on the bottom of the paper bag indicated, of course, that he had handled the bag...The palmprint was found on the closed end of the bag. It was from Oswald's right hand in which he carried the long package as he walked from Frazier's car to the building. (WR 135)

Stombaugh was unable to render an opinion that the fibers which he found in the bag had probably come from the blanket...In light of the other evidence linking Oswald, the blanket, and the rifle to the paper bag found on the sixth floor, the Commission considered Stombaugh's testimony of probative value in deciding whether Oswald carried the rifle into the building in the paper bag. (WR 137)

Still another set of ambiguities marks the discovery of the long paper bag on the sixth floor of the Depository. The Report states that it was found alongside the southeast window but does not specify when, or by whom, it was found. The testimony surprisingly reveals that Deputy sheriff Edna Hootney, who discovered the shield of cartons and the shells that focused suspicion on the southeast corner window, did not see the homemade paper bag which was lying right near the shells (3H 288). Deputy sheriff Roger Craig remembered the small paper lunchbag but not the long paper bag (6H 268). Sergeant Gerald Hill remembered the lunchbag but said, "that was the only sack I saw...if it (the long paper bag) was found up there on the sixth floor, if it was there, I didn't see it" (7H 65). J B Hicks of the police crime laboratory testified that he had not seen a long paper sack among the items taken from the Depository (7H 289).

Other police officers testified that they saw the paper bag but they did not make it clear who first saw the bag or why it was not photographed before the scene was disturbed. Detective Richard Sims said,

...we saw some wrappings--a brown wrapping there...by the hulls...it was right near the stack of boxes there. I know there was some loose paper there...when the wrapper was found Captain Fritz stationed Johnson and Montgomery to observe the scene there where the hulls were found...I was going back and forth, from the wrapper to the hulls.

(7H 288)

That was a neat trick of Sims', since the wrapper and the hulls were separated by a distance of perhaps two feet.

Montgomery and Johnson, said by Sims to have been stationed at the window to preserve the scene, gave somewhat differing accounts. Montgomery testified that he had arrived on the sixth floor after the shells were found but before the rifle was discovered. Asked what he had seen in the southeast corner, he replied that he had seen boxes and a sack and pieces of chicken.

Ball Where was the paper sack?

Montgomery Let's see--the paper sack--I don't recall for sure if it was on the floor or on the box, but I know it was just there--one of the pictures might show exactly where it was.

Ball I don't have a picture of the paper sack.

Montgomery You don't? Well, it was there--I can't recall for sure if it was on one of the boxes or on the floor there... the southeast corner of the building there where the shooting was.

Ball Did you turn the sack over to anybody or did you pick it up?

Montgomery Yes--let's see--Lt Day and Detective Studebaker came up and took pictures and everything, and then we took a Dr Pepper bottle and that sack that we found that looked like the rifle was wrapped in...

Ball...Did you pick the sack up?

Montgomery...Yes...Wait just a minute--no, I didn't pick it up. I believe Mr Studebaker did. We left it laying right there so they could check it for prints.

(7H 97-98)

Johnson, after describing the discovery of the rifle, the shells, the chicken bones, the lunchsack, and the pop bottle, was asked if there had been anything else.

Johnson Yes, sir. We found this brown paper sack or case. It was made out of heavy wrapping paper...right in the corner ...southeast corner.

Belin Do you know who found it?

Johnson I know that the first I saw of it, L D Montgomery, my partner, picked it up off the floor, and it was folded up, and he unfolded it.

Belin When it was folded up, was it folded once or refolded?

Johnson It was folded and then refolded. It was a fairly small package...it was east of the pipes in the corner. To the best of my memory, that is where my partner picked it up. I was standing there when he picked it up...the Crime Lab was already finished where I was, and I had already walked off to where he was...Just from memory, I would say that that sack would be a little longer than those book cartons...Like I said, my partner picked it up and we unfolded it and it appeared to be about the same shape as a rifle case would be. In other words, we made the remark that that is what he probably brought it in. That is why, the reason we saved it.

(7H 103-104)

E D Brewer said that he had seen a "relatively long paper sack there" and that it was "assumed at the time that it was the sack that the rifle was wrapped up in when it was brought into the building..."

Belin Well, you mean you assumed that before you found the rifle?

Brewer Yes, sir; I suppose. That was discussed.

(6H 307)

Although the police officers, with unaccustomed deductive brilliance, speculated before the rifle had been found that the paper bag had been used to bring it into the building, no one took the trouble to photograph it where it lay. Johnson reiterated that his partner Montgomery had picked up and unfolded the bag and although Montgomery said that he did not lift it from the floor he seemed uncertain. If Montgomery did pick up the bag--which might explain why it was not photographed at the scene--he should have left his fingerprints on it.

But Lt Day testified that he had examined the outside of the paper bag and found no prints at all. The bag had gone to the FBI Laboratory that same night. When it was returned two days later, there was a legible print on it, apparently raised by the application of silver nitrate (4H 266-268).

Day's assistant, R L Studebaker, gave a different account. When he was asked if at any time he had seen a paper sack around the southeast window, he replied,

Yes, in the southeast corner of the building--folded...It was a paper--I don't know what it was...I drew a diagram in there for the FBI, somebody from the FBI called me down--I can't think of his name, and he wanted an approximate location of where the paper was found...

Ball Was it folded over?

Studebaker It was doubled--it was a piece of paper about this long; and it was doubled over.

Ball How long was it, approximately?

Studebaker I don't know--I picked it up and dusted it and they took it down there and sent it to Washington and that's the last I have seen of it, and I don't know.

Ball Did you take a picture of it before you picked it up?

Studebaker No...no; it doesn't show in any of the pictures...

Ball You say you dusted it?...Did you lift any prints?

Studebaker There wasn't but just smudges on it--is all it was. There was one little ole piece of a print and I'm sure I put a piece of tape on it to preserve it...just a partial print.

Ball The print of a finger or palm or what?

Studebaker You couldn't tell, it was so small...

Ball When you say you taped it, what did you do, cover it with some paper?

Studebaker We have--it's like a Magic Mending Tape, only we use it just strictly for fingerprinting...I put a piece of one-inch tape over it--I'm sure I did.

(7H 143-144)

But strangely enough there was no tape and no "little ole piece of a print" on the bag when it arrived in Washington and was examined by FBI fingerprint expert Sebastian Latona. He testified that when he received the bag, there was "nothing visible in the way of any latent prints;" nor, needless to say, of the tape placed on the bag by Studebaker. ^(4H 2-9) The Commission made no attempt to reconcile these contradictions, if it even noticed them.

In sum, the testimony about the discovery of the paper bag is vague and contradictory. Luke Mooney, who stumbled on the "sniper's nest" first and might have been expected to see the long paper bag in his inventory of the scene, did not see it. The bag was not photographed. There is a strong suggestion that Montgomery picked it up prematurely; but while that might explain the lack of a photograph, it raises the new problem of the absence of Montgomery's fingerprints--and the presence of Oswald's palmprint.

The Commission, as we have seen, interprets the palmprint as evidence that Oswald handled the bag but does not acknowledge that it also serves to corroborate Frazier's story that Oswald carried his package between his armpit and his right palm, which would have been impossible if the package had contained the rifle.

As for the fibers, the experts were unable to say that they had come from the blanket, even "probably." That the material of the bag matched the supplies at the Depository is interesting but not very significant, since any employee might have made it for wholly innocent reasons.

The Commission has offered no firm physical evidence of a link between the paper bag and the rifle. The Report does not mention the negative examination made by FBI expert James Cadigan. Cadigan said explicitly that he had been unable to find any marks, scratches, abrasions, or other indications that would tie the bag to the rifle. Those negative findings assume greater significance in the light of an FBI report (CE 2974) which states that the rifle found on the sixth floor of the Depository was in a well-oiled condition. It is difficult to understand why a well-oiled rifle carried in separate parts would not have left distinct traces of oil on the paper bag, easily detected in laboratory tests if not with the naked eye. The expert testimony includes no mention of oil traces, a fact which in itself is cogent evidence against the Commission's conclusions.

Equally significantly, there were no oil stains or traces on the blanket in which a well-oiled rifle ostensibly had been stored, not for hours but for months. That serves further to weaken, if not to destroy, the Commission's arbitrary finding that the Carcano rifle had been wrapped in that blanket until the night before the assassination.

Appraisal of the
Known Facts

Many other questions must be asked about the assassination weapon (see chapter titled "The Rifle"); the preceding pages have dealt only with matters pertaining to Oswald's ownership of the rifle and with the manner of its arrival at the Depository. The defects of the Commission's assumptions, reasoning, and conclusions can be summarized as follows.

(1) The rifle was shipped by Klein's to "A Hiddell"; the Commission did not try to establish that it was delivered to Lee Harvey Oswald.

(2) Despite the Commission's reliance on the testimony of Marina Oswald, there is compelling evidence which virtually excludes the use of the Carcano rifle in the attempt on General Walker. This will be discussed in detail in a later chapter.

(3) Repeated attempts by the Commission to prove that the rifle was carried in Oswald's luggage on the trips to and from New Orleans failed completely.

(4) It is not certain when, how, or if the rifle appeared in the Paine garage.

(5) There is no ^{serious} evidence that Oswald entered the garage on Thursday night or at any other time before his departure for Dallas on Friday.

(6) The Commission's claim that Oswald returned to Irving on Thursday in order to pick up the rifle is questionable. His visit is susceptible of other interpretations; and there is evidence that a Thursday visit to the Paine home was not unprecedented.

(7) Evidence is entirely lacking that Oswald made the paper bag at the Depository between November 19 and 21, or at any other time.

(8) The bag that Oswald carried on the morning of November 22 was entirely too short to hold the disassembled rifle.

(9) There were no oil stains on the blanket or the paper bag, nor any other objective signs that the bag had been used to carry the Carcano rifle.

(10) The blanket evidence is, at the least, ambiguous and there is serious ground to question that it ever served to hold the Carcano rifle with its 11-inch telescopic sight.

(11) The testimony on the discovery of the paper bag at the Depository is highly confused and contradictory.

(12) We do not know what Oswald actually said about the paper bag during the interrogations; his reported explanation, insofar as it comes into conflict with Wesley Brazier's testimony, is not credible. But, as discussed in another section of this study, those present at the interrogations gave incomplete and contradictory accounts of the questioning, and a number of Oswald's assertions which were assumed to be false later proved to be truthful.

In short, the entire history of Oswald's supposed connection with the alleged assassination rifle is defective at every point. Any competent defense attorney, if Oswald had lived to stand trial, would have demanded that the prosecution prove each of the contentions made in the Warren Report with that immunity from official challenge which the authors enjoyed by virtue of arrogating unto themselves the functions of the prosecution, the judge, and the jury. In an adversary proceeding, the prosecution would have been hard put to sustain the validity of any of the arguments posed in the Warren Report; and defense counsel would have had a picnic demolishing the so-called evidence, point by point.

And herein lies the terrible and bitter irony of Oswald's cold-blooded execution by the hand of Jack Ruby, before Oswald had even acquired legal counsel--the irony and, as many are convinced, the reason.