

THE MOTORCADE

Prior Knowledge of the
Motorcade Route

The Warren Report (pages 642-643) disposes of rumors and speculations that Oswald could not have known the motorcade route before he arrived at work on November 22, stating that,

The motorcade route was published in both Dallas papers on November 19 and was therefore available at least 72 hours before Oswald reported for work on November 22.

The motorcade route as published showed the motorcade turning right off Main Street onto Houston, then one block and then left on Elm to the access road to the Stammons Freeway. This route was clearly indicated in published descriptions and maps of the motorcade route. There was no mention of continuing on Main Street through the Triple Underpass.

The motorcade route was decided upon on November 18 and published in the Dallas newspapers on November 19. It was not changed in any way thereafter. The route called for the motorcade to turn off Main Street at Houston, go up to Elm, and then turn left on Elm Street.

Undeniably, the Warren Commission seems to be on solid ground in demonstrating that Oswald could have known the exact motorcade route and the fact that the procession would pass the Depository as early as Tuesday, November 19. Nothing in the testimony suggests that Oswald did know the route; in fact, most of the Depository employees who were questioned by the Commission indicated that they did not learn until Friday morning that the motorcade would pass the building. Obviously, the Commission has inferred that Oswald was aware of the exact route early enough to establish clear premeditation, as manifested by his return to Irving at an unscheduled time on the evening before the assassination.

It does appear from the Report and from the testimony of Marina Oswald, Ruth Paine, and Wesley Frazier that Oswald's visit to Irving on a Thursday after work, without notice or invitation, was extraordinary and even unprecedented. It should therefore be mentioned that in a document on quite another subject (CE 1165 p. 6) investigation strongly suggested that Oswald had cashed a check in a grocery shop in Irving on Thursday evening, October 31, 1963. Neither his wife nor Mrs. Paine, both of whom were questioned closely about the dates and times of Oswald's visits to Irving during October and November, suggested that he had ever come there --with or without prior notice--on any Thursday. It is possible, though implausible,

and Oswald came to Irving on Thursday, October 31, 1963, solely to cash a check and returned to Dallas without contacting his wife or visiting the Paine residence. It seems more likely, however, that Marina and Mrs. Paine forgot the visit or, for reasons of their own, preferred not to mention it. In either case, it is clear that Oswald's visit to Irving on Thursday night, November 21, ^{may not have been} ~~was~~ unprecedented and that he ^{may have been} in Irving on at least one other Thursday evening.

The ^{possible} previous Thursday visit introduces a slight element of doubt about the degree to which the visit on November 21 incriminates Oswald ^{with respect to} the inference that his primary purpose was to obtain the rifle.⁴ But far more serious doubt arises on the issue of Oswald's prior knowledge of the motorcade route when one reads the testimony of James Jarman, Sr., a fellow-employee at the Depository. Jarman testified on March 24, 1964 that he had talked to Oswald about an order between 8 and 9 am on Friday and that "later in the morning" he had encountered Oswald

on the first floor...he was standing up in the window and I went to the window also, and he asked me what were the people gathering around on the corner for, and I told him that the President was supposed to pass that morning, and he asked me did I know which way he was coming, and I told him, yes; he probably come down Main and turn on Houston and then back again on Elm. Then he said, "Oh, I see," and that was all.

(Italics added)

(3H 200-201)

Jarman said that he himself had first learned of the motorcade route at about 9 am on Friday morning, when he overheard a conversation between two people who worked in the building (3H 209). Asked whether he, or Oswald, had initiated the conversation about the expectation that the motorcade would pass the Depository, Jarman replied, "He asked me." (3H 209-210)

This electrifying testimony, we found later, was acknowledged in the Report (page 183) but not in the context of Oswald's access to advance information about the exact motorcade route. It is mentioned without comment or evaluation in the chapter dealing with Oswald's arrest, in a section dealing with his statements during detention.

The startling fact is that Oswald himself did not mention his conversation with Jarman at any time during his interrogation, according to the reports and testimony of those who were present. He did not cite that conversation to support his protestations of innocence, although he did try to substantiate his innocence with other facts or allegations. This, we submit, is a crucial point in evaluating Oswald's questions to Jarman.

See also in the "Anti-Security Package" several pages.

Why did Oswald ask questions which suggested that he did not know that the presidential motorcade would pass the building until spectators began to gather there? There are two possibilities. One is that he really did not know that the motorcade was to pass the Depository. The consequences which flow from that assumption are irrefutable---that he did not plan or execute the assassination.

The other possibility is that Oswald did know that the motorcade would pass the building and that his questions to Jarman were a cynical and crafty "plant" to divert suspicion in the event that such suspicion of him arose after he carried out his monstrous crime. But if that was true, why then did he not use the "plant" for the very purpose that had led him to set it up--as an indication of his innocence--when he was actually arrested and accused of the assassination? Moreover, there is no other sign of methodical advance planning to escape suspicion or create the impression of innocence. On the contrary, Oswald left an abundant trail of incriminating evidence, on his person as well as among his possessions in both Dallas and Irving. An assassin subtle and calculating enough to plant the suggestion that he did not even know the motorcade route until just before the shooting would not be so careless or self-defeating as to carry incriminating documents in his wallet or leave photographs of himself holding the murder rifle where the police could scarcely fail to find them.

One may defend or attack either of the two assumptions; certainly there are ample arguments to be made in each case. But the Warren Commission has kept silent--neither taking a position nor defending it. It has merely mentioned Jarman's testimony as though it was of no import. We have no clue to the Commission's reasoning but unquestionably the Commission discounts the possibility that Oswald really did not know the motorcade route and that his questions to Jarman resulted from honest curiosity. It seems reasonable to infer that the Commission, in deciding that Oswald's questions were planted, was not seriously troubled by any inconsistency in relation to its conclusions about Oswald's behavior before or after the assassination.

Others will not be satisfied so easily and will continue to ask why, if the questions were a plant, Oswald himself never confronted the police with the fabrication designed for that very purpose. Without an answer to that puzzle, one may well feel haunted by the thought that the questions, and the questioner, were wholly innocent.

The Chicken Lunch

Students of the events of November 22nd will remember that the remains of a chicken lunch were found on the sixth floor of the Depository, together with a soda pop bottle and an empty cigarette package. It was thought that a sniper had been hiding out, waiting for his victim. A news broadcast on station KRLD on the night of the assassination reported that,

A Dallas police inspector named J.H. Sawyer said the police found the remains of fried chicken and paper on the fifth floor indicating he said that apparently the person had been there for quite a while waiting for this moment in history. (CE 2174.)

The theory went through several transformations in the next days. One version was that the chicken bones were several days old and had no connection with the assassination. It was next said that one of the workers had eaten the chicken during a coffee break that morning. The empty cigarette package was dropped from mention.

The final version of the story is found on page 68 of the Warren Report: Bonnie Ray Williams had gone up to the sixth floor to eat his lunch and had left behind his paper lunch sack, chicken bones, and an empty pop bottle. The Report does not specify just where Williams left this debris, and small wonder. Judging from the testimony of the police officers who searched the sixth floor,

southwest corner, testified that he saw one package of chicken bones on top of the shield of cartons and a small paper bag about a foot away, on the same carton as the chicken bones. Sergeant Gerald Hill saw a chicken leg bone and a paper lunch bag on top of the shield of cartons. (7H 46) But officer Montgomery saw "some piece of chicken on a box and there was a piece on the floor—just kind of scattered around right there;" but he didn't remember if the paper bag was on top of the cartons or on the floor. The soda pop bottle

Officer Boyd, on the other hand, saw chicken bones on top of some boxes about 30 or 40 feet west of the southeast corner window where the shield of cartons stood. (7H 121) Officer Johnson recalled remnants of fried chicken

and a soda bottle "by some other window...toward the west," perhaps at the second pair of windows from the southeast corner. (7H 105)

Studebaker, who photographed the evidence found on the sixth floor, saw chicken bones, a brown paper bag, and a soda bottle in the third aisle from the east wall, near a two-wheel truck, but the chicken bones were inside the paper bag. He did not see chicken bones on the shield of cartons or the floor (where Mooney, Hill, and Montgomery had seen them). (7H146) Bill Shelley, foreman at the Depository, also remembered that the chicken bones were at the third window from the southeast corner, "lying on a sack...with a coke bottle sitting in the window," and while remembering the chicken bones on top of the paper bag instead of inside it, he, like Studebaker, remembered seeing no lunch remains elsewhere on the sixth floor. (6H 330-331)

E.D. Brewer, however, remembered seeing the paper lunch bag and some chicken bones or partially eaten chicken together with a pop bottle at the southeast corner window, near the rifle shells. (6H 307)

It. Day is in the third-aisle faction. He remembered seeing the lunch bag and the pop bottle at the third set of windows, with the two-wheel truck. The bag of chicken bones and the empty bottle had been brought to the police laboratory and might still be there, except for "the chicken bones, I finally threw them away that lay around there." When he heard that one of the workers had eaten his lunch on the sixth floor, Day explained, he realized that they had no connection with Oswald. He had checked the bottle for Oswald's fingerprints, with negative results, and he then put aside the chicken and the paper bag. (4H 266)

It is to be regretted that Day did not check the bottle for Bonnie Ray Williams' fingerprints, as Williams did not mention the chicken lunch story in his affidavit of November 23rd (GE 2003) and it was only some while after the assassination that he was linked to the bones.

Four of the nine witnesses, then, remembered seeing the chicken remains at the southeast corner window on top of the shield of cartons. One of the four remembered chicken on the floor there, as well. One witness saw the chicken remains at the second pair of windows from the east wall; and four witnesses saw them with the soda bottle at the third pair of windows. But none of them saw chicken remains except at the place he specified; and no one admitted having moved the chicken or the lunch bag. Neither the chicken nor the paper bag are visible in any of the photographs taken on the sixth floor but there are photographs showing the empty bottle standing on the floor near the two-wheel truck in the third aisle.

All the witnesses remember seeing the chicken leg or bones unwrapped, except Stutzmaker—who insisted that the bones were inside the paper bag, "wrapped up and put right back in" together with "a little piece of Fritos in the sack, too."

Finally, we have an opinion from Captain Fritz: "I will tell you where that story comes from. At the other window above there, where people in days past, you know, had eaten their lunches, they left chicken bones and pieces of bread, all kinds of things up and down there. That isn't where he [Oswald] was at all. He was in a different window, so I don't think those things have anything to do with it." (AM 239) Well, everything is clear at last.

But it is not quite so simple as Fritz suggests. It is a matter for concern that the stalwart men of the Dallas police department have such faulty visual perception, or faulty recall—if in fact the conflicts in their stories really result from impaired faculties. It is even more disquieting if the contradictions arose because they had tailored their stories to theories in vogue at particular times.

The predisposition of the Dallas police is apparent from their concentration on evidence identifiable with Oswald. Lt. Day saw no need to check the empty bottle for fingerprints other than his. Suppose, for the sake of argument, that Jack Ruby's fingerprints were on that bottle—we will never know.

The confused and contradictory testimony on the chicken remains, whether sincere or calculated, permits little trust in a case that rests largely on evidence gathered by investigators of such dubious competence. The Warren Commission has nevertheless seen to it that this chicken will not come home to roost in the quarters of the Dallas police: there is no sign that the Commission was perturbed by the mad variety of the testimony.

The Shield of Cartons

According to the Warren Report, police officers arrived at the Depository shortly after the assassination and began a search for the assassin and the evidence. Around 1 p.m. Deputy Sheriff Luke Mooney noticed a pile of cartons in front of the window in the southeast corner of the sixth floor. Searching that area he found at approximately 1:12 p.m. three empty cartridge cases on the floor near the window. (Page 79)

Exhibit 723 is a photograph captioned "shield of cartons around sixth floor southeast corner window" (page 80). It shows eight stacks of cartons arranged in a rough semicircle so as to conceal the window area from the floor to the top half of the window.

A number of perplexing questions arise about this shield and about the selection of this location as a "sniper's nest"---questions which have not occurred to the Warren Commission, it would seem, nor been resolved.

An immediate question which arises from the statements on page 79 of the Report is why it should have taken Mooney twelve minutes to find the three cartridges, once having discovered the shield of cartons. Still more baffling is the fact that Mooney stumbled into his discoveries almost half an hour after three employees had reported hearing shells being ejected overhead while they watched the motorcade from the southeast corner window of the fifth floor. During the same half hour, a number of spectators near the Depository had told the police that they had seen a man with a rifle in that sixth floor window. Logically, the police should have rushed to that location. Instead, as Mooney testified on March 24, 1964, the southeast window was discovered by accident during a general search. Mooney testified that after the shots were heard he and other officers ran and jumped over a fence into the railroad yards, because

from the echo of the shots, we thought they came from that direction...We were there only a few seconds until we had orders to cover the Texas Depository Building...I noticed there was a big elevator there. So I jumped on it...And how come I got off the sixth floor, I don't know yet. But, anyway, I stopped on six, and I didn't even know what floor I was on...I was alone at the time...I assume there had been other officers up there. But I didn't see them. And I

begin criss-crossing it, young and round, through boxes, looking at open windows--some of them were open over on the south side...then I realized--I saw there was another floor...so I went on up to the seventh floor...we looked around up there for a short time. And then I says I am going back down on six...I went back down...I went straight across to the southeast corner of the building, and I saw all these high boxes. Of course they were stacked all the way around over to me. And I squeezed between 'em, and the minute I squeezed between these two stacks of boxes, I had to turn myself sideways to get in there--that is when I saw the expanded shells and the boxes that were stacked up looked to be a nest for the assassin.

(Kuller added)

(3H 283-284)

It is apparent from Mooney's testimony that very soon after the shooting orders were given the aides to cover the Depository but not any particular floor of the building, and certainly no particular window. Mooney first went to the sixth floor, without even knowing it was the sixth, and although he criss-crossed through boxes and looked at open windows on the south side he did not then see the shield of cartons or anything else to arouse suspicion. There was no one else on the sixth floor. It was only after Mooney went to the seventh floor and spent some time there that he returned to the sixth floor and discovered the shield of cartons and the shells. According to his testimony, he found the shells at once and not after twelve minutes, as the Report suggests.

How is it that Mooney did not notice the shield of cartons on his first inspection of the sixth floor, when he was looking at open windows on the south side? Is it possible that the shield of cartons was not there, and was only constructed while Mooney was on the seventh floor? These questions must be asked now, as they should have been asked but were not when Mooney was testifying.

Were the cartons hastily assembled into a "shield" by someone wishing to draw attention to the southeast window by setting a scene to suggest that an assassin had concealed himself there? Let us consider the reasons why an assassin, if he was an "inside" man, would have selected that window from which to fire in safety at the motorcade.

The fifth, sixth, and seventh floors of the Depository were storage areas where order-fillers came to obtain books as they were needed but where people were not normally at work throughout the day. During the week of the assassination, however, there was a crew working full-time on the sixth floor. It was therefore the least "safe" of the three floors for an assassin to make his preparations without unexpected intrusions. An "inside" man had to expect that a worker might return unexpectedly to retrieve cigarettes--as Glavin said he did--or that some of the floor-laying crew might decide to watch the motorcade from that floor--as Williams said ("everybody was talking like they was going to watch from the sixth floor"). Far less risk would

... on the seventh floor, which was deserted and...
... viewing the motorcade. But if the assassin nevertheless chose the sixth floor
... and went there as soon as the crew departed for lunch, he was interrupted almost at
... once by the return of Lonnie Ray Williams with his lunch. The assassin, if he remained
... concealed somewhere on the floor, had no way of knowing how long Williams might linger
... or if he might not decide to stay there to watch the motorcade. At that point, if not
... originally, the assassin should have gone to the seventh floor. If it was too late
... to leave unobserved, he had to wait motionless and silent for twenty harrowing minutes.

Williams finally departed at 12:20 p.m. The motorcade was due to pass at 12:25 p.m.
—the assassin could not bank on a five-minute delay, which in fact occurred. He had
only a few minutes, then, to reassemble the rifle and set up the three cartons at the
window for a gun-rest. Did he also have time to assemble a "shield of cartons," and
did he even need such a shield?

According to the Report (page 248), "cartons had been stacked on the floor, a
few feet behind the windows, thus shielding Oswald from the view of anyone on the
sixth floor who did not attempt to go behind them." Again, the Warren Commission
seems to have overlooked the dictates of common sense and the salient facts—in
this case, the fact that there was a natural shield on the sixth floor. There
are six rows of columns running across the floor from north to south, with five
columns in each row. There are seven double windows on the south side of the
building. In the southeast corner window where the "shield" was found is numbered
1, the elevators on the north wall would face windows No. 57; the staircase would
face window 7. No one arriving on the sixth floor would have a view of the south-
east corner if he stepped out, because of the columns and the stacks of cartons
standing all over the floor. An intruder would have to walk east along the north
wall to the corner before he had an unobstructed view of the southeast window. While
the intruder walked, the assassin would have ample time to assume the pose of a mere
spectator. The assassin was far more vulnerable to spectators on the street than
to intruders inside, and in fact a man was seen at the window by several such witnesses.
The Warren Commission has blandly ignored the contradiction in the assassin's actions
—inferring that he assembled a shield of cartons against witnesses inside the
depository, although it served little purpose other than calling attention to the
window afterward, even though he took no precautions against being seen from outside.

Even if these objections are put aside, it is still necessary to explain the
fact that during the ten minutes when the assassin presumably was hastily preparing
for his loathsome deed, he was observed standing idly at the window. As the Report
states (page 146), he was observed by one witness, motionless,

like he was looking down toward the...Triple Underpass down at the end
—toward the end of Elm Street...all the time I watched him, he never
moved his head...he never moved anything. Just was there transfixed.

The Commission has not suggested when, in its view, Oswald constructed the shield of cartons, consisting of eight stacks of three boxes each, requiring the lifting or shoving of some twenty-four cartons weighing about fifty pounds each. Even if the cartons did not have to be carried any distance, the construction of the stacks must still have required considerable physical exertion and some ten minutes or more. If Bonnie Ray Williams did not leave the sixth floor until 12.15 or 12.20 pm, very little time remained for Oswald or any other sniper to set the scene (assemble the rifle, arrange the boxes at the window, and construct the shield of cartons). Surely there was not sufficient margin for him to stand motionless and idle, staring into space.

One wonders how seriously the Commission itself believed in its own suggestion that Oswald constructed the shield of cartons, in view of the fact that the Report maintains silence about the presence--or absence--of his fingerprints on the boxes stacked up to form a protective wall around the window. It is inconceivable that Oswald handled those heavy cartons without leaving his prints, as he had thoughtfully left them on other cartons near the window and on the rifle barrel and the paper bag. Yet neither the Report nor the Hearings reflect any inquiry into the number and identity of the prints found on the "shield" cartons--an incomprehensible omission, since the presence of Oswald's prints on those boxes would have strengthened the evidence against him and given satisfaction to those who were already convinced of his guilt. Nevertheless, the available records suggest that no inquiry was made.

Moving to the moment when the last shot was fired, and the assassin began his urgent escape from the scene, rifle in hand, we must wonder why he apparently took precious time to re-seal the shield of cartons. As the cartons stood when they were discovered (CE 723), the space between the stacks was too narrow to permit passage. Mooney testified that he had to squeeze through (it is possible, of course, that he was very corpulent in comparison to Oswald, but that is not suggested in the Report or the testimony). Apparently the assassin, too, must have squeezed through, losing time, or reclosed the shield after first making a passageway, again losing time. Nevertheless, according to the official findings, he accomplished his exit through the cartons, concealed the rifle, and ran down the stairs to the second floor and into the lunchroom, all in less than 90 seconds.

There are so many implausibilities in that reconstruction of the assassin's actions that the alternative hypothesis--that the shield was fabricated while Mooney was on the seventh floor--comes as a relief to one's sense of logic. It taxes credibility that an assassin should have taken enormous pains to barricade himself from observation from within, only a remote danger, while flaunting himself before witnesses on the street with utmost nonchalance at least seven minutes before the shooting, when there was every reason to stay out of sight and no reason to

display himself for potential identification by bystanders.

The Warren Report does not confront these problems nor attempt to answer necessary questions--where was Oswald while Williams was lunching on chicken on the sixth floor; when did he construct the shield of cartons; were his fingerprints found on the boxes; why did he re-seal the barricade after he emerged; and why did Mooney fail to see the shield on his first inspection of the sixth floor? Without sensible answers to these questions, the assumptions put forward in the Report as to the origin and purpose of the shield of cartons remain unconvincing and entirely too glib to ~~survive~~ survive serious examination.

Oswald at the Depository:

The Sixth Floor at Noon

Ordinary to the
Report

The Report links Oswald with "the point from which the shots were fired" by a number of means, including the assertion that he was present on the sixth floor about 35 minutes before the assassination. That assertion rests on the testimony of Charles Givens, "the only known employee to see Oswald inside the building prior to the assassination," and on the discovery of Oswald's clipboard on the sixth floor on December 2, 1963. According to the Report,

- (1) At about 11:45 a.m. the floor-laying crew used both elevators to come down from the sixth floor. The employees raced the elevators to the first floor. Givens saw Oswald standing at the gate on the fifth floor as the elevator went by.
- (2) Givens testified that after reaching the first floor, "I discovered I left my cigarettes in my jacket pocket upstairs, and I took the elevator back upstairs to get my jacket with my cigarettes in it." He saw Oswald, a clipboard in hand, walking from the southeast corner of the sixth floor toward the elevator.
- (3) Givens said to Oswald, "Boy, are you going downstairs?**** it's near lunch time." Oswald said, "No, sir. When you get downstairs, close the gate to the elevator." Oswald was referring to the west elevator which operates by push-button and only with the gate closed. Givens said, "Okay," and rode down in the east elevator. When he reached the first floor, the west elevator--the one with the gate--was not there.
- (4) Givens thought this was about 11:55 a.m. None of the Depository employees is known to have seen Oswald again until after the shooting.
- (5) The significance of Givens' observation that Oswald was carrying his clipboard became apparent on December 2, 1963, when an employee, Frankie Kaiser, found a clipboard hidden by book cartons in the northwest corner of the sixth floor at the west wall a few feet from where the rifle had been found. This clipboard had been made by Kaiser and had his name on it. Kaiser identified it as the clipboard which Oswald had appropriated from him when Oswald came to work at the Depository.

According to the
Testimony & Exhibits

Study of the testimony and documentary evidence demonstrates that the assertions in each of the five paragraphs are characterized by omission of relevant facts, failure by the Warren Commission to note logical and logistical defects, misrepresentation, or uncritical gullibility. We analyze the paragraphs seriatim.

Paragraph (1) suffers from the omission of relevant facts. Two witnesses other than Givens saw Oswald standing at the elevator gate on the fifth floor. One of them was Bonnie Ray Williams, who testified on March 24, 1964 that,

on the way down I heard Oswald...on the way down Oswald hollered "Guys, how about an elevator?" I don't know whether those are his exact words. But he said something about the elevator ...I think he asked Charles Givens--I think he said, "Close the gate on the elevator, or send one of the elevators back up."

(BH 168)

Billy Lovelady gave a similar version of the encounter with Oswald, from which it is apparent that Oswald was waiting impatiently to board an elevator as the employees were racing each other to the first floor and that he asked them to send one of the elevators back up for him. This took place at about 11.45 am. It should have been made clear in the Report that Oswald was not merely standing at the gate but was waiting to get on an elevator and descend.

Paragraph (2) suffers from logistical defects. Givens had left his cigarettes in his jacket near the southwest corner of the sixth floor, where he and the other members of the floor-laying crew had been at work. He testified that he returned to get his cigarettes, using the east elevator which he left waiting for his return trip down. As he was "fixing to get on" again, he saw Oswald walking straight down the aisle along the east wall. But the east elevator is some fifty feet from the east wall and some eighty feet diagonally from the point at which Givens said that he saw Oswald, according to the floor plan (OE 483). More graphically, the elevators oppose the fifth of seven sets of windows, counting from the southeast window from which it is claimed that the shots were fired. The intervening space is cluttered with columns (there are 36 columns on the floor in rows of six) and stacks of cartons, some as high as a man's shoulders and some even higher, as can be seen in a photograph of the southeast window taken from the northeast corner (OE 725). It appears that it would have been physically impossible for Givens to see Oswald, as he testified he did (6H 353), unless without any reason...

Paragraph (3) suffers from illogic. According to Williams and Lovelady, Oswald had tried at 11.45 am to board the elevator and has addressed to Givens a request to send the elevator back up. Why, then, should he decline to accompany Givens down at 11.55, and ask him again to send the elevator up as if he had not already asked the same thing ten minutes before? The first request is corroborated by a number of witnesses, but we have only Givens' unsupported account of the second request.

There are additional reasons for suspecting that Givens' story of the encounter with Oswald at 11.55 am is a complete invention, originating in complicity between this witness and Dallas police officers. Curious and disturbing questions arise from the testimony of Lt. Jack Revill. Revill told the Warren Commission that he and Lt. Dyaon, accompanied by three detectives, were conducting a systematic search of the Depository and that as he was about to leave, shortly after 2 o'clock, he encountered and recognized Charles Givens, who was known to the police on narcotics charges. Revill said,

...I asked him if he had been on the sixth floor and...he said, yes, that he had observed Mr. Lee, over by this window...So I turned this Givens individual over to one of our Negro detectives and told him to take him to Captain Fritz for interrogation... (5H 35-36)

When Revill gave this testimony in May 1965, Givens had already provided a different version of the incident in which there was no mention of Revill or of seeing "Mr. Lee" on the sixth floor. Givens testified on April 8, 1964 that,

Officer Dawson (sic) saw me and he called me and asked me what was my name Charles Givens, and I said "Yes." And he said, "We want you to go downtown and make a statement." And he puts me in the car and takes me down to the city hall and I made a statement to Will Fritz down there. (6H 355)

Givens' statement, in an affidavit dated November 22, 1963, does not contain a word about his alleged return to the sixth floor at 11.55 am. or about "Lee" or Oswald. The affidavit says,

I worked up on the sixth floor until about 11.30 am. Then I went downstairs and into the bathroom. At 12 o'clock I took my lunch period. I went to the parking lot at Record and Elm... (CE 2003 page 27)

When Givens reached city hall and gave his statement, Oswald was already under interrogation by Captain Fritz. It is immensely implausible if not inconceivable that no mention should have been made of Givens' encounter with Oswald at 11.55 am if that encounter had actually taken place and had already been discussed with Revill.

It is apropos to remember that Givens, like Oswald, was missing from the depository after the assassination. According to the verbatim transcript of the police radio log (CE 1974 page 83), Inspector J. Herbert Sawyer called the dispatcher a few seconds after 1.46 pm and said,

We have a man that we would like to have you pass this on to CID (Criminal Investigation Division) to see if we can pick this man up. CHARLES DOUGLAS GIVENS, C-I-V-E-N-S. He is a colored male...a porter that worked on this floor up here. He has a police record and he left.

This entry was not included in the December transcript of the police radio log, for reasons which are not clear. Inspector Sawyer testified about the alert for Givens on April 8, 1964.

I put out another description on the colored boy that worked in that department.

Bolin What do you mean, the colored boy that worked in that depository?

Sawyer He is the one that had a previous record in the narcotics, and he was supposed to have been a witness to the man being on that floor. He was supposed to have been a witness to Oswald being there.

Bolin Would Charles Givens have been that boy?

Sawyer Yes, I think that is the name, and I put out a description on him.

Bolin How do you know he was supposed to be a witness on that?

Sawyer Somebody told me that. Somebody came to me with the information. And again, that particular party, whoever it was, I don't know. I remember that a deputy sheriff came up to me who had been over taking these affidavits, that I sent them over there, and he came over from the sheriff's office with a picture and a description of this colored boy and he said that he was supposed to have worked at the Texas Book Depository, and he was the one employee who was missing, or that he was missing from the building. He wasn't accounted for, and that he was supposed to have some information about the man that did the shooting...I think we caught the man in the crowd later and sent him...directly down to Captain Fritz's office...

(6H 321-322)

Sawyer's testimony is in conflict with Givens'. It is also in conflict with Revill's. No corroboration for his story is found in the reports of personnel in the Sheriff's Office on their activities after the shooting. Most significant is that Sawyer's story suffers from an anachronism, since Givens had no knowledge that the shots were thought to have come from the Depository until he returned to the building, well after the alert by Sawyer at 1.46 pm! No wonder Sawyer could not identify the "particular party" who told him that Givens had information about the man who

the shooting, when Givens himself did not yet realize that he was the custodian of such information---assuming for the sake of argument that the 11.55 am encounter in fact occurred. But if by some miracle of intuition he nevertheless volunteered information to anyone about the 11.55 incident, he would have been estranged right then and there and there would have been no later alert for him on the police radio.

Because of all of the defects which attach to paragraphs (1), (2), and (3), we reject as false the story that Givens returned to the sixth floor at 11.55 am and that he met and spoke to Oswald at that time. The circumstances suggest that Givens, a Dallas negro with a police record and vulnerable to intimidation, was persuaded to fabricate this story and that at least two Dallas police officials attempted to authenticate the invention by testifying that Givens acknowledged verbally the meeting with Oswald on November 22, shortly after the assassination, even though the meeting is not reflected in Givens' affidavit of the same date but subsequent to the verbal report.

Returning to paragraph (4) of the Warren Commission's assertions about the 11.55 encounter, we must challenge the statement that none of the Depository employees was known to have seen Oswald again until after the shooting. Eddie Piper testified in his affidavit of November 22, 1963 and in his appearance before counsel of the Warren Commission on April 8, 1964, that he saw and spoke to Oswald "just at 12 o'clock, down on the first floor" (6H 383). William Shelley testified on April 7, 1964 that he saw Oswald when he (Shelley) "came down to eat lunch about ten to twelve" (6H 328). And Givens himself was asked during his testimony if he had ever told anyone that he had seen Oswald in the domino room (on the first floor) at about ten minutes of noon, (6H 354).

The person who should have seen Oswald after 11.55 am, if Givens' story was true, is Bonnie Ray Williams. Williams returned to the sixth floor at 12 o'clock to eat the famous chicken lunch; but he saw neither Oswald nor Givens there (3H 169-170).

Finally, how does paragraph (5) on the discovery of the clipboard fare when subjected to critical examination? Not very well. The clipboard was discovered among cartons on the sixth floor near where the rifle had been found, on or about December 2, 1963, something like ten days after the assassination.

The Short Bulky Package

Far from establishing beyond a reasonable doubt that Oswald was on the sixth floor of the Depository on the morning of the assassination, the testimony serves to cast doubt on that assumption or directly contradicts it; and the contradictions are particularly striking for the ~~main~~ crucial period between the departure of the floor-laying crew and the moment of the shots, as discussed in detail elsewhere.

But even if Oswald's presence on the sixth floor was not highly dubious, the Commission had to confront another equally important problem: to prove, also 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 knowledge of the motorcade route, his bringing the rifle into the building--and therefore his trip to Irving the night before to get the rifle, and his alleged construction of the paper bag in which to carry it--have crucial importance to the question of premeditation.

The Commission realized the importance of this aspect of the case. Two of its main findings are (a) that the Mannlicher-Carcano 6.5-millimeter rifle was owned by and in the possession of Oswald, and (b) that Oswald carried this rifle into the Depository building on the morning of November 22, 1963 (WR 19).

What is astonishing is that if we compare the statements in the Report in defense of these two findings with the actual testimony and evidence in the Hearings and Exhibits, we find that every link in the Commission's chain of reasoning is feeble. Let us retrace the Commission's footsteps 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.

Wie Kaiser, who found the clipboard, testified on April 8, 1964.

Ball How did you happen to find the clipboard?

Kaiser I was over there looking for the Catholic edition--teacher's edition.

Ball Where did you see the clipboard?

Kaiser It was just laying there in the plain open--and just the plain open boxes--you see, we've got a pretty good space back there and I just noticed it laying over there.

Ball Laying on the floor?

Kaiser Yes, it was laying on the floor.

(6H 343)

It is hard to understand how even the Dallas police and their counterparts from the Sheriff's office, much less the FBI and Secret Service agents subsequently, could have managed to overlook a clipboard "laying there in the plain open." There had been an intensive search of the sixth floor after the rifle shells were found. According to Deputy Sheriff Luke Mooney, "the floor was covered with officers...we were searching...we was just looking everywhere" (3H 289).

Nevertheless, the clipboard did not enter the picture until about ten days elapsed, and the Warren Commission, in its anxiety to place Oswald on the sixth floor, saw only that it was "significant" in that respect, without any apparent uneasiness about the invisibility of the clipboard for a prolonged period--after which it was found because it was so conspicuous!

Appraisal of the Known Facts

The testimony and exhibits fail to sustain the assertions and conclusions related to the five paragraphs in the Report and in several fundamental respects contradict the official version of events. The testimony contains flagrant conflicts among the witnesses, of a nature which compels strong suspicion of perjury and collusion. Oswald's presence on the sixth floor has not been established; and there is evidence that he was actually on the first floor during the crucial period of time. Ignoring the glaring and the subtle contradictions, the Warren Commission again has loaded the dice against the accused.

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. (CB 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 331), 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.

* One may wonder if the "close of business" is not a euphemism for 3 pm in this context. It is improbable that the A & P did not deposit receipts for the period 3 pm Thursday - 3 pm Friday until the following Monday.

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

Nevertheless, it must be acknowledged that the Commission's conclusion about the curtain rod story and Oswald's visit to Irving ^{would be} reasonable and plausible ^{were} 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. (WR 129 and 137)

The period between 8 and 9 pm provided ample opportunity for Oswald to prepare the rifle for his departure the next morning. (WR 130)

The Commission has not indicated its reasoning with respect to when 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 1963. However, there is no evidence that Oswald took wrapping paper or tape from the wrapping bench. Troy West, the mail wrapper, was questioned about this. He testified that to his knowledge Oswald had never borrowed or used those materials and that he had never seen him around the wrapping roll or the tape machine. (6H 360-361). 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 manufacture the bag during the overnight visit to Irving. One wonders why he fashioned the bag to hold the disassembled rifle. Why not the assembled rifle, while he was at it? That would have eliminated one or two unnecessary complications (the disassembling of the rifle or at the least the reassembling of the weapon at the Depository, where there was little opportunity for privacy). Perhaps he did not remember the length of the assembled rifle? If so, it was a fortunate coincidence that the bag was long enough to hold the separate parts.

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 does not suggest that Oswald carried the bag openly nor that anything in his appearance or demeanor suggested that some six feet of wrapping paper and tape were concealed under his clothes. Neither Marina Oswald (1H 120) nor Ruth Paine (3H 49 and 77) noticed anything nor were able to offer any corroboration of the Commission's assumption.^{1/} To accept the Commission's inferences, we must credit Oswald with great adroitness in concealing the paper bag not only from Frazier and Ruth Paine but also from his wife, in the privacy of their bedroom.

It is regrettable that the Commission did not attempt to establish when Oswald made the paper bag, and where, so as to provide a better foundation for its conclusion that he made the bag and took it to Irving.

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

^{1/} 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 (the replica of the paper bag found at the Depository window) 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" (GE 1401 page 272).

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 2585, 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 ^{Cited in the Report} for the conclusion that Oswald came into possession of a rifle shortly before the attack on General Walker. ^{attack on Walker and 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 led 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 rumple outside.

Jenner...Rumple? 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 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 ~~single~~ crescent 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)

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. (9H 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 disassembled. 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...

Liebeler 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...

Liebeler 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.

Liebeler It was a package which wasn't quite so tapering?

M Paine Quite so tapered...

(PH 442-443)

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

M Paine That is 41 inches.

Liebeler 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 solidity.

(PH 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.

Lisenberg It couldn't have been longer than 10 inches?

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

It is clear from the testimony and the drawings (CE 663) that the bulge or hump in the blanket was thought to be made by the telescopic sight on the Carcano rifle. The difficulty is that Stambaugh said that it could not have been longer than 10 inches; but the scope measures at least 11 inches (CE 139). We do not know how the Commission overcame this problem, for the Report is silent about the reasoning and says merely that the bulge "could have been caused by the telescopic sight of the rifle which was approximately 11 inches long" (RH 129), despite Stambaugh's testimony that the object could not have been longer than 10 inches.

How strong is the evidence for the conclusion that Oswald visited the garage on Thursday evening between 8 and 9 p.m.? The finding rests solely on Ruth Paine's testimony that she found a light burning in the garage at 9 o'clock and assumed that Oswald must have been there and neglected to turn off the light. Neither she nor Marina Oswald could provide any positive indication that Oswald had gone to the garage.

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 (1H 66-67) had no reason to think that Oswald had been in the garage until Ruth Paine told her, after the police found the blanket empty on Friday afternoon, that she had found a light burning in the garage.

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 (WR 129 and 137)

The Commission watched 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.

Duall 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 get 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)

1/

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 218-229). 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).

Frazier Yes, sir.

Ball One end of it was under the armpit and the other he had to hold it 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...that 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?

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 248)

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.

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

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

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

Randle I measured 27 last time.

Hall You measured 27 once before?

Randle Yes, sir. (2H 249-250)

Raymond P. 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. (9H 1175-1176)

The figure of about 27 inches crops up persistently. As has been mentioned already, the curtain rods stored in the Faine garage measured about 27 inches. If the paper bag actually hold a 35-inch object it is an extraordinary coincidence that all the estimated and actual measurements in the relevant testimony consistently 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 (page 133) 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." That subtly transforms 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 definite 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)

It would have been more seemly if the Commission had reported the testimony accurately, but ^{in that event, it may be assumed it would have} concluded that the witness was mistaken; as it concluded with respect to so many other witnesses.

The paper bag, whatever its contents, disappears from view once Oswald moves out of Frazier's field of vision. No attempt has been made to determine where Oswald concealed the package all morning or how he took 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 Luke Rooney, 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 266). 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 162)

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..."

Ballin 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 J 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.

Dall 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.

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

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

Dall 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.

Dall The print of a finger or palm or what?

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

Dall 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 3-8) 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. Duke 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 in 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 (QE 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.

9-71-8

(1) The curtain rod story is a definite embarrassment to Oswald's case but is conceivably susceptible to interpretations other than that made by the Commission.

(2) The conclusion that Oswald took materials from the Depository and fashioned the paper bag is purely conjectural, unsupported by concrete evidence, and insufficiently investigated.

(3) The conclusion that Oswald removed the rifle from the Market in the Robert garage rests on assumptions and on testimony from Marina Oswald, whose credibility is open to question on many points of evidence. It is not certain when, how, or if the rifle appeared in the garage; the evidence for Oswald's visit to the garage is flimsy; and a number of areas for inquiry have been ignored.

(4) The evidence against the conclusion that Oswald carried the rifle into the Depository has not been overcome; the Commission has merely made an arbitrary decision that two persuasive, disinterested witnesses were mistaken—insofar as their testimony came into conflict with the lone-assassin-theory.

(5) The evidence that the bag was found alongside the window is confused and contradictory. The palmprint alone is not conclusive as a link between Oswald and the bag, especially in the light of unresolved conflicts about the examination of the paper bag for prints at different stages. Finally, there is no firm evidence linking the paper bag to the rifle; and the Commission's finding after long investigation is little more compelling than the inferences drawn by Dallas police officers before the rifle was discovered—less than one hour after the President was cut down by assassins' bullets.