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In Boston Massachusetts, rumors are ~~ripe~~ that a man presently detained in a mental institution will be put on trial as the Boston Strangler, at a propitious moment, so that an attorney-general may become a U. S. Senator. In DuPage County, Illinois, the A.C.L.U., has complained that a 27 year old teacher cannot get a fair trial because of publicity surrounding the alleged murder of a 10 year old school girl. In Miami, Florida, Candice Mossler and Melvin Powers have already been tried and found wanting by Joyce Brothers, Jimmy Bishop and the Chicago Daily News, and it is assumed that a jury of their peers may do the same thing. It is against this backdrop that one must evaluate "the president's commission on the assassination of President Kennedy." It is a peculiar institution, which has tried and convicted a man in absentia, in answer to a political need of the populace. The commission was designed to allay fears rampant in the body politic that the late President was the victim of an international plot, or an organized assassination. The commission report quelled those fears and convicted Lee Harvey Oswald with these words:

"The shots which killed President Kennedy and wounded Governor Connolly were fired by Lee Harvey Oswald." * conclusions P. 19.

From a legal point of view, then, the commission arose in a society which does not adhere to its articulated disdain for political trials.

It has been said that the publicity surrounding the Oswald case, would have barred any judicial trial in any event. Nevertheless, under the same circumstances, Jack Ruby was not only tried, he was convicted! The findings with reference to Oswald are anathema to the written jurisprudence of this country but constitute an extreme typification of a society which suffers men like Judge Brown to try criminal cases on the theory that:

"It's a long way from here to the Supreme Court."

The first pragmatic consideration of an expert in compiling evidence is who will decide what evidence will be allowed and what will not. In the trial of the admitted leftist, Lee Harvey Oswald, we find a prosecutor's dream, that is; a blue ribbon panel not a jury of one's peers. Of that panel, three members were truly representative of the Southern aristocracy and totally dependant on Southern voters for continuation of their careers. They were Senator Russell and Cooper and Congressman Boggs. Of the others, one was the Republican Minority Leader, one the former head of C.I.A., all of whom had, in their careers, made capital of expressing a conservative view. Mr. Mcloy and the Chief Justice completed the panel. All seven had found high success in espousing a conformity to a system which Oswald (whether guilty or innocent of the crimes charged) had reviled. It is, therefore, exceptionally doubtful that this panel could evaluate Oswald psychiatrically to legitimately conclude:

"Out of these and many other factors which may have molded the character of Lee Harvey Oswald there emerged a man capable of assassinating President Kennedy."

This conclusion was based on:

1. Psychological examinations of Lee Harvey Oswald made at the age of 13.
2. The gossip of Margerite Oswald, and others who had passed through Oswald's life.

All of which would probably be held inadmissible in a court of law.

The commission came into being for the purpose of performing those tasks normally reserved to law enforcement.

Executive order 11130 established a commission to

"ascertain, evaluate and report upon the facts relating to the assassination of the late President John F. Kennedy and the subsequent violent death of the man charged with the assassination. Executive order 11130"

This was, of course, the primary job of the Dallas Police Department but no informed person could have faith in such a report, after the breakdown of law enforcement in that city.

Clearly the F.B.I. is charged with such an investigation where a Federal crime may be involved. The F.B.I. in fact prepared a report which was to have been published, but announcement of the existence of the report created such a hue and cry of cynicism, that the commission was created to erase the doubts expressed by the populace in the F.B.I. The public doubt may well have been justified in that, as the commission found:

1. The commission believes, however, that the F.B.I. took an unduly restrictive view of its responsibilities in preventive intelligence work prior to the assassination, (Ch. 8, P. 443)

And in light of the charge made by members of the Dallas Police Department, the agent James P. Hosty of the Dallas Office of the F.B.I. had told officer Revill of the Dallas Police Department that the F.B.I. knew of Oswald and that he was "capable of committing the assassination." P. 441.

The information had not been passed on to any person or agency other than the F.B.I. prior to the assassination.

The commission, then, was called into being because of a necessity to provide a cloak of dignity for the agencies normally responsible for such an investigation and found that;

Because of the diligence, co-operation and facilities of Federal investigative agencies, it was unnecessary for the commission to employ investigators other than the members of the commission's legal staff. (X111) It found: "of principal importance . . . the five volume report of the F.B.I. which summarized the results of the investigation conducted by the Bureau immediately after the assassination." XI

Clearly, if a plot was behind the assassination, the F.B.I. and the Secret Service must be considered suspect. The dependence placed upon these agencies from the commission's inception placed them in the position of having potential suspects preparing the case against another suspect. In short, the F.B.I. report cloaked

with respectability of the commission was after all the last word.

What did they find: At approximately 12:30 P.M. on November 22, 1963, President Kennedy was assassinated. At approximately 2:45 p.m., Air Force One, the Presidential plane, took off for Washington, taking illegally from Dallas County, the evidence, to wit: The body, the limousine, some of the bullets and the key witnesses. Behind in Dallas remained open contradiction.

The written record indicates that the treating physicians at Parkland Memorial Hospital felt the President had been shot once through the head from the rear and once through the neck from the front. Law enforcement logs show that Dallas Police Chief Curry sent his men to the rear to the Texas School Book depository upon hearing the shots, while Sheriff Decker of Dallas County sent his men forward to the Railroad underpass.

Some two thousand miles from Dallas in Washington, D.C. at Bethesda Naval Hospital, an autopsy was performed. X-rays were taken as were photographs. The theory that Oswald fired all the shots rests solely and exclusively on the Pathologists at Bethesda, and primarily on Commander J. J. Hume. While the commission took Dr. Hume at his word, it is apparent that the important corroboration provided by the pictures and X-rays given to the White House physician and Secret Service, many of them undeveloped, were never seen by the Commission.

The case made by the Commission rests quite frailly on the testimony concerning the autopsy. The boiler plate of support provided by the objective evidence was ignored, and for this reason, a frail case must now be considered suspect.

It is worth mentioning that the Parkland Hospital notes are probably the only original notes still in existence. Commander Hume burned his original notes, Police Captain Fritz, who interrogated Oswald didn't "keep his" and agent's Hosty and Bookhout as well as Secret Service men who were present didn't make any notes during Oswald's twelve hours of interrogation. One might have expected a stenographic report or tape recording in such a situation, but there were none.

Let us pass over the unfortunate conduct of the President of the Dallas Bar, in pronouncing Oswald rational to the world press. It must be understood that as many Lawyers believe themselves to be psychiatrists as there are Doctors who believe themselves Lawyers. Let us also pass over the antics of my brother Wade, who felt the obligation to begin the prosecution before the mass media while he still had a live defendant, and see what the Commission found with reference to the number of shots.

The Commission found that there were between two and six shots fired, the best guess of the Commission is three shots based upon the proposition that there were three spent cartridges found

at the Depository. It claims that one shot missed and one shot ran from the President's shoulder, through his neck, through Governor Connolly's back, chest, wrist and thigh. No witness including Dr. Hume nor Governor Connolly believes that.

Circularly then the number of shots is determined by belief that all the shots were fired by Oswald. This in turn is based on the uncorroborated autopsy which set forth the wounds of entrance and exit.

If, in fact, there were four shots, Oswald could not have fired all of them. It is doubtful that he could have hit two out of three as the Commission contends he did. Three master marksmen had difficulty in so doing, and there is no credible evidence that Oswald, who had missed a set-up on General Walker (if that testimony is believed) could compare with them.

It is, however, apparent that the Commission has succeeded in its political purpose, in that the public is not aroused, but it has done so by choosing to believe, rather than eliciting evidence. The Commission says there is no credible evidence to support a theory of shots coming from any site other than the Texas School Book Depository. Reporter Mary Woodward wrote for her paper, The Dallas Morning News, that the shots came from behind her and to the right. She was with three companions, sitting on the knoll alongside the overpass, others corroborate her testimony.

The Commission chooses to believe that the weapon found was in fact the Manlicher-Carrano, while the Dallas authorities who found the weapon, including District Attorney Wade, told the public for at least a full day that the weapon was a mauser.

If it was in fact a Mauser, the Commission cannot tie Oswald to the shooting.

There are other weaknesses in the report. The ones noted here go only to major issues. But there is a lesson to be derived from all this.

The government is weak because it cannot establish a decent chain of evidence. It is weak because it spoke before it was ready. It is weak because it failed to maintain original notes. It is weak because all of the volumes of the report are based on assumption which must be taken on faith rather than fact. The Commission inherited all of these weaknesses.

If District Attorneys were not used to trying their cases to the press, there would be no doubt that it was not a Mauser, but since the doubt exists, all the ballistics, handwriting, and fiber tests have doubtful probative weight.

If proper interrogation procedures were employed, we would not have the problem of believing Captain Fritz's recap after the destruction of his notes. The interrogation would have been recorded. It is embarrassing for the Commission to be so dependant on a police force proven to be inept.

If the body and limousine had remained in Dallas, in accordance with law, Dr. Hume, the F.B.I., and the Secret Service need not bear the responsibility they bear.

If the X-rays and photographs were studied, the problems relative to the number and direction of the bullets would not be doubted.

If, in short, those accused of crime were treated normally, in accordance with the precepts of law, the Warren Commission might have been able to properly assess the events of November 22-24, 1963. In this instance, the typical lack of restraint evidenced by law enforcement and countenanced by trial courts and the public, deprives all of us of the intellectually sound determinations to which we are entitled. The non-existent chain of evidence, the pre-trial prosecution statements, the atmosphere of judicial laxity would not have existed in Dallas, if we could abolish the fact that the presumption of innocence has given way to a theory that prosecutors need not be held to the high standards of criminal justice because most defendants are irritants to the establishment.