

9/18/67

Dear Dr. Nichols,

Your letter of 9/15 reached me just as I prepare to leave for several days. I answer immediately because there is minor error in your interesting Thermofax and to send you a copy of the appropriate part of my new book, the rough draft of which I have just completed.

With respect to the latter, by error the typist typed in the instruction rather than the excerpt. I include a photocopy of that paragraph of your letter. You will ~~thank me for it~~ see how I have corrected it.

In haste, let me tell you that despite Dr. Bahmer - and he is right - I do have a copy of the autopsy authorization. It is not in any single one of the files in which it is supposed to be, and I cannot regard this as an accident. I use it in this book. However, I found a copy that, by accident, was not removed.

The special language these people used makes error almost inevitable. Let me explain your page 3 quotation from Bouck. It is quite true that Robert Kennedy signed the authorization. It is also true that his is the only signature on it. Not even the "signature" of Captain Canada is on it. However, Kennedy acted for his sister-in-law, whose name is typed in where the blank calls for signature, as is Canada's.

Your language is justified but not precisely accurate. Of course, I recognize this raises problems between us, for I prefer to restrict use of this "find" to my own book. Yet I want you to preserve your own record. I'll be back the end of the week.

With regard to page 4, there is no reservation of any rights in this authorization, another thing I'd like to reserve for the use I intend. Yet I do not want you to be hurt by imputation of error. Not only was specimen permission inherent in this authorization, it was so construed and, although I do not recall it in the testimony, I have private quotations from Boswell attesting to the fact that they were made.

There is, to my mind, great danger in taking the autopsy by itself. I would like to merely caution you about this until such a time as, perhaps, we may meet. If everything is 100% as the doctors said or the Commission interpreted what they said to mean, it does not and cannot authenticate the Report.

Please excuse the haste. Let me know if I can help. I hope to have this book out in not much over a month. It is possible I'll be able to do it sooner. Will this be soon enough for your receipt of copies of the documents? It will save you a young fortune. I do not know what you will consider relevant, but I intend to use about 300 pages of such documents. Many will not relate directly to the autopsy, but all will relate to it or the (mis) use made of it. They are pasted up for the appendix, which is almost completed. You may, of course, see them here if that is essential. But I will send you one of the first copies off the bindery.

Sincerely,

Harold Weisberg



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SCHOOL OF MEDICINE
DEPARTMENT OF PATHOLOGY AND ONCOLOGY

September 15, 1967

Mr. Harold Weisberg
Coq d'Or Press
Hyattstown, Maryland

Dear Mr. Weisberg:

Many thanks for your letter of August 24.

Enclosed is copy of a comment which has been accepted (with some legal prompting) for an early issue of Medical World News. You may quote from it and when the item is printed I will send you a Xerox copy with column and page number.

Suggest you compose what you want to quote from my letters or otherwise and send them to me. I will edit them and return by next air-mail.

Sincerely,


John Nichols, M. D.

JN:mc

Doctor Elstein:-

In your editorial on page 118 of the August 14, 1967 issue of this good journal you refer to an article by Dr. John Marshall Nichols in the July 19 issue of the Journal of the American Medical Association. I presume you refer to the article written by myself as John Nichols, M.D. The "Marshall" apparently was obtained after recourse to a directory.

You state "... Nichols charged that the pathologists who made the post-mortem examination of the body of President John F. Kennedy should have especially recorded and publicized the condition of the adrenal glands ...". This implies ignorance on my part, in relation to disposition of findings acquired at autopsy, and is unfounded. Casual reading and critical re-reading of my article fails to reveal anything to support your allegations. The content of my article does imply, however, that a complete autopsy should have been done.

Next, you quote the world renown forensic pathologist Doctor Milton H. Helpern as saying "any disclosure in the autopsy findings over and above the fatal bullet wounds must be considered a private matter for the family to do with in such way as they personally desire." This citation of the august Doctor Helpern in the context of your editorial, again, implies ignorance on my part. I wholeheartedly agree with Doctor Helpern's statement

Helpern's statement and must presume that the family of the late President did, in fact, agree that all of the details, not relevant to the bullet wounds, which, constituting the major portion of the autopsy protocol, be published in the Warren Report. My preassumptions are supported by Doctor Boswell's admission on page 22 of the July 28 issue of this journal that the family did, indeed, request that details of the adrenal glands be deleted. Throughout this it must be remembered that doing a complete autopsy and compiling a complete protocol of all findings does not constitute a disclosure. The disclosure arises when the protocol or a part of it is revealed to a second person.

Your last sentence reads "With respect to the right to publicize, the observations of the pathologist may be considered -- both ethically and legally -- to be as confidential as any other information obtained by the physician before or after his patient's death." This sentence, together with your earlier erroneous allegations, again, implies ignorance on my part. Your statement is, I agree, entirely correct and I must again remind you that I have not stated otherwise as you so imply.

It must be remembered that the instant when the President was pronounced dead by a "duly licensed" physician of Texas he ceased to be President of these United States and his body passed into the custody of Doctor Earl Kees, Coroner of Dallas County. The body did not pass into the custody of
the

of the next of kin or family. Doctor Rose is charged, under Texas law, with the duty of investigating murders. The results of his autopsy examinations would have been used to assist in the apprehension and conviction of the guilty and acquittal of the innocent. In such cases the interests of society take paramount importance over possible desires of the family, the attending physicians, and personal desires of any involved pathologists with relation to their autopsy findings.

However, after the body had been forcefully removed from the jurisdiction of Doctor Rose, over his protests, and Texas law thwarted, the autopsy apparently was performed in a non-legal sense at request of, or with permission of, the next of kin, or family, without purpose of obtaining evidence to convict the guilty or acquit the innocent.

Commission document number 371 is a receipt from Mr. Robert I. Bouck to Admiral Burkley for, among other things, "Authorization for postmortem examination signed by the Attorney General, Robert F. Kennedy, dated November 22, 1963". It is to be noted that in most states, including Maryland, that custodial rights of the deceased pass to the next of kin, i. e., the surviving spouse, and not to a sibling.

Despite the fact that the late President's brother, Robert F. Kennedy, at that time was Attorney General of these United States his signature
on

signature
on any such document was personal and carried no authority of his office which was, at that time, without jurisdiction in such a situation. Performance of an autopsy by naval personnel in a federal enclave (naval) on a civilian murdered in a distant state is unusual and without precedent. There was, at that time, no provision for this in U.S. criminal, civil, military, or administrative codes.

Light on the question of omission of data about the adrenals might be obtained if the "autopsy permission" could be inspected and found to be unlimited or one forbidding examination of specified parts. It would also be of interest to learn if permission was given for removal and retention of the necessary specimens for subsequent scientific study. If not, then microscopic examination is precluded. The autopsy protocol on Navy SF 503 indicates permission as unrestricted. Was permission on Navy SF 523? Mr. Robert Bahmer, Archivist of these United States, advised me under date of March 10, 1967 that this "autopsy permission" cannot now be found in the archives.

After completion of the autopsy, a full complete protocol, with autopsy permit, should have been attached to the late President's clinical case record, a copy delivered to the person authorizing the autopsy, if so requested, and possibly a courtesy copy sent to Doctor Rose. If anything is omitted in the protocol the reason must be stated. Since the autopsy was a

Nichols to Fishbein, August 17, 1967 page -5-
(revised August 26, 1967)

autopsy
was a non-legal one the pathologist are, of course, bound to secrecy as
are the clinical attendants. You erroneously quote me as saying the
pathologists should have publicized their findings. Anything
released to the public, including that published by the Warren Commission,
must have the sanction of the person authorizing the autopsy.

Only when the pathologist is simultaneously a civil officer, such as that
of coroner, does he have the duty and authority to release data, to the
police, prosecution, and defense for the accused, about his findings in
an autopsy without sanction and/or over protests of the next of kin. Of
course such a case must be one of unnatural death and not one of natural
death where he does not have this authority. It is to be noted that the
autopsy report, with supplement, as published by the Warren Commission
is devoid of signals indicating data having been deleted and therefore it
must be presumed as purporting to be complete.