

January 9, 1995

To the Editors of the History Book Club:

In the Fall, 1993 edition of the History Book Club Review, reviewer Sanford Levinson described Gerald Posner's Case Closed (Random House, New York, 1993) as a "remarkable job of investigating almost every imaginable issue that could be raised in regard to the (JFK) assassination". Levinson continued that Case Closed is "well written and well argued" and that "Posner has seemingly done all of the required research" and stated that "no credible evidence exists" that Lee Harvey Oswald "was part of a conspiracy." Furthermore, Levinson found that Posner disposes of the "various claims made by opponents of the lone assassin theory" and called his validation of the single bullet theory "most impressive." Levinson went on to criticize books by Warren Commission critics as being "more tendentious than illuminating and not worthy of being offered to the Club's membership." Having read Case Closed I wonder if Mr. Levinson ever read the book.

I do not know Mr. Levinson or what his knowledge of the JFK assassination is (he mentions having read Anthony Summer's Conspiracy), but his review of Case Closed reveals him to be woefully ignorant on the subject as well as biased toward the "lone-gunman-Oswald-was-guilty" theory. His review shows both a lack of imagination and an inability to review critically, as shown by his above cited statements on "every imaginable issue" and that Posner "has seemingly done all of the required

research." In truth, Posner has done little or no research and has misrepresented both evidence and sources, something anyone familiar with the assassination and the research about it cannot fail to notice. I would suggest to Mr. Levinson and the History Book Club that "tenditious" is better than mendacious, which is what an informed reading of Posner's Case Closed reveals it to be.

It was bad enough that the AMA came out in 1992 to support the fictions passed off as fact by the Warren Commission, but it is sad and intolerable that the History Book Club has taken a similar position. In recommending Posner's book, the Book Club and its reviewer have supported a work of poorly researched propoganda, plagiarism and bad history. Posner's "research" makes a mockery of legitimate historical research. It is but special pleading based on highly selective evidence.

In support of my contentions, and in hope of restoring the History Book Club's reputation as a source for history and not fiction I take up Levinson's challenge "to demonstrate. . . the flaws in his argument," including as well criticism of Posner's methodology. It is my hope that the History Book Club will never again descend to recommending as history such blatant disinformation as Posner's book. After all, you have your reputation and that of bona fide historical research at stake. My critique will of necessity be by example, since an entire book could be written in defense of the history and historical research so maligned by Posner.

Unlike the reviewer and much of the mass media, quick to

greet Posner's book with accolades, such as the "definitive work" on the JFK assassination, I have spent the time since the History Book Club's review not only reading Case Closed, but checking its sources and footnotes against the Warren Commission Report (1964), the House Select Committee on Assassinations Report (1979) and the major critical works on the assassination by authors such as Mark Lane, Josiah Thompson, Sylvia Meagher, Harold Weisberg and David Lifton. What emerges from my study is my opinion that Posner must subscribe the Aaron Burr's dictum that truth is "whatever is boldly asserted and plausibly maintained in a court of law." Except, that in Posner's case for the prosecution against Oswald, there is no defense attorney, no judge and no jury to keep him honest (as there were not in the Warren Commission hearings). To make his case, Posner uses selective evidence rather than the total evidence (as did the Warren Commission), misrepresents his "new proof" by Failure Analysis Associates, apologizes for errors by the CIA and FBI, misrepresents eyewitness testimony, and leaves unanswered the problems of the "single bullet" theory he claims to solve. Moreover, like the Warren Commission before him, Posner does not seek to answer to who killed JFK, but presents a prosecutor's brief against Lee Harvey Oswald, who was conveniently murdered before he could have his day in court.

Posner's misrepresentations of evidence could fill a book. I shall point out but three which will suffice as examples. First, to discredit the eyewitness testimony of Jean Hill, Posner denies that Jackie Kennedy said, as Hill testified, "My God, he

(JFK) has been shot." Posner dismisses Hill's testimony to this effect in a single sentence: "Jackie and the car's four other occupants deny she said anything." (Case Closed, p. 251). On the contrary, as pointed out by the Warren Commission Report, (Longmeadow Press edition, pp. 49, 50) and the Warren Commission Hearings (The Witnesses: The Highlights of Hearings Before The Warren Commission On The Assassination Of President Kennedy; Selected and Edited by The New York Times, Bantam Books, 1964 pp. 98-101) not only did Jackie testify to having said "My God, they have shot my husband," but three of the four other occupants (Governor John B. Connally, his wife Nellie, and Secret Service agent Roy Kellerman) corroborated her testimony. Posner's denial of Hill's account cannot be a mistake on his part since he claims not only to have read the Warren Commission Report, but also the entire 27 volumes of witness testimony evidence.

Second, in a footnote (pp. 395-396, Case Closed), Posner states that Dallas Police Sergeant Patrick T. Dean's statement that Jack Ruby admitted to having used the car ramp to gain entrance to the Dallas Police station in order to kill Oswald was corroborated by Secret Service agent Forrest Sorrells. The truth is the exact opposite, as Posner should well know. Sorrells contested Dean's statement (which was not found even in Dean's own original police report). Warren Commission counsel Burt W. Griffin also disbelieved Dean, whom he called a liar after Dean failed a Commission polygraph test on this very point (cf. The Ruby Cover-Up, Seth Kantor, Zebra Books, New York 1992, pp. 19-20, 222-223, 242-243; The Assassination of John F. Kennedy:

Dates - Places - People, James P. Duffy & Vincent L. Ricci, eds., Thunder's Mouth Press, New York, 1992, p. 154; Contract on America: The Mafia Murder of President John F. Kennedy, David Scheiw, Zebra Books, New York 1988, p. 184; Who's Who In The JFK Assassination: An A-To-Z Encyclopedia, Michael Benson, A Citadel Press Book, Carol Publishing Group, New York 1993, p. 106).

Third, Posner implies that George de Mohrenschildt, a Russian emigre member of the Dallas-Fort Worth "White Russian" community, lied when he told the Warren Commission that he had checked out Oswald with the CIA's Domestic Contact Division agent in Dallas, J. Walton Moore, receiving assurances that Oswald was only a "harmless lunatic" because Moore left Dallas in 1961 "more than a year before Oswald even returned to the U.S." (Case Closed, pp. 86-87). Once again, the truth of the matter is the exact opposite as is pointed out by former House Select Committee on Assassinations investigator Gaeton Fonzi in his book, The Last Investigation (Thunder's Mouth Press, New York 1993, pp. 417-418). De Mohrenschildt stated in his Warren Commission testimony that he had checked on Oswald with agent Moore in late 1961, before Oswald's return to the U.S. in June, 1962, to be informed that the CIA had "an interest" in the ex-Marine "defector." Rather than dismissing de Mohrenschildt's account, as Posner does, this information is evidence that the CIA did use de Mohrenschildt as Oswald's "handler" or case officer (as long suspected by Warren Commission critics) to the extent that they set up their contact well in advance of Oswald's repatriotization.

The supposed high-point of Posner's Case Closed is his use of Failure Analysis Associates' computer "proof" of the Warren Commission's "single bullet" theory (cf. Case Closed pp. 317n.-318n., 330, 334, 339, 478, 482). Posner insinuates that this study was prepared for his book, but in reality it was part of an American Bar Association mock trial held in San Francisco in the summer of 1992 and broadcast by Court TV. The purpose of the ABA's mock trial was not to prove or disprove the Warren Commission findings in the Kennedy assassination, nor the validity of the "single bullet" theory, but by using the JFK case as an example, to show how evidence can be used to support both prosecution and defense court presentations. In his mock trial, Failure Analysis Associates presented computer studies for both the prosecution and the defense. They not only "proved" the "single bullet" theory as cited (without permission or correct attribution) by Posner, they also "proved" Oswald was innocent in "proving" that the fatal head shot could not have been fired by an assassin from the sixth floor of the Texas School Book Depository, but was fired from the "grassy knoll." (cf. Killing The Truth: Deceit And Deception In The JFK Case, Harrison Edward Livingstone, Carroll & Graf, Publishers, New York, 1993, pp. 206-243, esp. pp. 228-230, n.p.243). Obviously, since Posner's "dramatic new evidence" tells but half the story developed by Failure Analysis Associates, his use of their study is not only rank plagiarism, but misrepresentation brazenly, deliberately and shamelessly conceived. This brings to mind Mark Twain's sage observation that there are three kinds of lies: "lies, damn lies,

and statistics." The Failure Analysis Associates material is, to say the least, cancelled out by being on both sides of the question. Posner should be roundly condemned for presenting partial evidence as if it is the total evidence and misrepresenting the use for which it was designed.

Posner is, as should now be clearly evident, an unscrupulous and mendacious apologist for the special pleadings of the Warren Commission. He is also a blatant apologist for the sorry record of the FBI and the CIA in the Kennedy "investigation". For example, Posner attempts to explain away the belief of critics that an Oswald imposter rather than Oswald himself visited the Cuban and Soviet Embassies in Mexico City in September, 1963. Both Posner and The Warren Commission state that the real Oswald made these visits. Posner ascribing any doubts about this as a "significant CIA blunder that the Agency has never completely clarified" (cf Case Closed, pp. 186-187). As if the CIA's transmission of a non-lookalike "Oswald" photo to the Warren Commission as proof of Oswald's presence in Mexico City could be clarified! The truth is that not even FBI Director J. Edgar Hoover himself believed the CIA's "Oswald Mexico City" trip story, as is revealed by a top-secret five page memo Hoover sent to Secret Service Chief James J. Rowley on November 24, 1963 stating that this Mexico City "Oswald" was an imposter. Hoover's own belief that Oswald was impersonated in Mexico City has been available since 1975 when attorney and Warren Commission critic Mark Lane won this memo's release in a Freedom of Information suit (cf. The Kennedy Contract, John H. Davis, Harper Paperbacks,

New York, 1993, pp. 127-128). Hoover's initial position was corroborated by the House Select Committee On Assassinations Lopez Report, but that report was withheld and classified by the CIA on "grounds of national security", none of which is revealed by Posner.

As for the FBI, Posner attempts to excuse the fact that not only did the Bureau give the Warren Commission copies of Oswald's address book with Dallas FBI agent James P. Hosty, Jr's name, address, telephone number and license-plate number deleted, but omitted any reference at all to agent Hosty as an FBI typist's "error". He also excuses Hosty's destruction of a November 13, 1963 note from Oswald to Hosty as "not evidence of a conspiracy or a coverup" but merely as FBI "negligence" (Case Closed, cf. pp. 210, 210n, 214-216). It strains belief that the coincidences of "typist error" and FBI "negligence" about the Hosty-Oswald relationship (which was not revealed until 1975) does not conceal something which would, at the very least "embarrass the Bureau".

Posner, though he continuously misrepresents eye-witness testimony to bolster his "case" against Oswald, makes a great pretense to objectivity. He writes that "testimony closer to the event must be given greater weight than changes or additions made years later, when the witnesses own memory is often muddied or influenced by television programs, films, books and discussions with others". (Case Closed, p. 235). This is a position with which almost everyone would agree, yet in a footnote on the very same page, Posner seeks to discredit those witnesses whose initial beliefs were that the fatal shot (or shots) came from the

grassy knoll, stating that "human observation can be notoriously unreliable." He then introduces "several people", otherwise unidentified, who claimed to have seen the assassination yet who never testified or told their stories until he interviewed them. Guess what? They support his theory that all the shots came from the Texas Book Depository, none from the grassy knoll (Case Closed, pp. 261-262). Posner's position is clearly that anything that discredits his theory can be dismissed. Anything that supports his beliefs is to be included, despite his pretense to objectivity. Despite Posner's transparent attempts to fit the witnesses' observations into support for the "lone assassin theory", Josiah Thompson's observation that "not one of those several hundred witnesses (in Dealey Plaza) saw the assassination as the Warren Commission believed it happened; not one believed that a single bullet wounded both the President and the Governor. . . ." (Six Seconds In Dallas, Berkeley Publishing Corporation, New York, 1976, p. 73) is supported by the evidence given by the majority of the witnesses at the time (of ibid, pp. 318-346, 27-30).

In support of the "single bullet" theory, Posner tacitly credits the Warren Commission's "explanation" for the discrepancy between bullet holes in JFK's clothing (5-3/8 below the top of his suit collar) and what it describes as a rear neck wound. The Commission held that Kennedy's clothing "bunched up" while he was waving, and Posner states that JFK's back wound was "actually higher" than "four inches down from the right shoulder" (Case Closed, p. 321). It is essential to the Commission's (and

Posner's) case that JFK was hit in the back of his neck rather than in his back for the alignment of a rifle shot from the sixth floor of the Texas School Book Depository to exit from his throat and go on to cause all the non-fatal wounds to Gov. Connally. This contention was decisively disproven as early as 1967 in the first printing of Josiah Thompson's Six Seconds In Dallas Thompson used a slide taken by eye-witness Phil Willis (Willis slide #5), a rear view of JFK waving, which shows incontestably that the President's form-fitting suit did not crease, much less "bunch up" as he waved. (Thompson, op.cit., pp. 54n., 99n. #1, 280-281). It is clear that the bullet holes in JFK's clothing did correspond to his actual wounds, and that the Warren Commission and Posner are wrong to describe his rear wound as a neck rather than a back wound. If Posner did the research he claims to have done, he knows this.

The other major contention about the "single bullet" theory is the Warren Commission's acceptance of the bullet found at Parkland Hospital Commission Exhibit No. 399) as being that single bullet which caused all seven non-fatal wounds to JFK and Gov. Connally, despite gaps in the chain of possession of this vital piece of evidence (Darrel Tomlinson, the Parkland employee who found the bullet at the hospital was unable to identify Commission Exhibit No. 399 as being the bullet he found).(cf. Duffy & Ricci, op cit., pp. 465-466, 294-295.) Various critics have made quite a convincing case that this bullet is too "pristine" or undamaged to have caused so many wounds, especially the one that broke Connally's right wrist, and that more grains

of lead remained in Connally's thigh alone than are missing from the so-called "magic" bullet. While I tend to agree with the critic's position, for sake of argument I am willing to concede that Commission Exhibit No. 399 is the "single bullet", remaining virtually intact, despite a slight flattening of its base. If this be true, and all the shots were fired by "Oswald's" 6.5 caliber Mannlicher-Carcano rifle, why did the fatal bullet that hit JFK in the head killing him fragment? Surely skull bone is not as hard as rib, wrist and thigh bone! I've read that JFK could be "hard-headed", but this defies credibility. The three shells and one live round "found" at the sixth floor of the Texas School Book Depository were all military-jacketed, if these were the only shots fired, all the bullets should have behaved similarly. But, if Commission Exhibit No. 399 is the "single bullet", it then seems impossible that a similar such durable bullet would fragment merely upon hitting the President's head. True to form, Posner does not even consider this problem, which should be self-evident to anyone bent on a definitive solution.

Case Closed does not live up to its name. It is a shoddy work, rife with error, misrepresentation and relies upon evidence selected to make its case, ignoring the total evidence. Its computer evidence is both plagiarized and misrepresented. How any knowledgeable reviewer could find it "definitive" is beyond me. It is obvious that anyone who does so has read it without any background on the JFK assassination as well as without a critical eye, and has been overwhelmed with its footnotes, failing to check their sources. In truth, far from closing the

case, it raises more questions about it. Hopefully, some of the same "investigative" journalists and tv reporters who excoriated Oliver Stone's "JFK" (it was just a movie folks!) will save some of their ire for those, who like Posner, attempt to rehabilitate the fiction of the Warren Commission Report. The media moguls should use some of their "investigative journalism" expertise to relegate such pap to the fairy tale sections of their libraries, where it belongs, and instead demand real answers to the still unsolved questions of who killed JFK and why. Mr. Posner may have won some court cases as a "Wall Street lawyer", but his book is poorly researched and poorer history, never rising above special pleading and descending to a total disregard for the standards of historical research and the truth. The JFK case is not closed.

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