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GEORGIAN REVIEWS WARREN COMMISSION ROLE

Russell Begged Off Panel—LBJ Insisted

By MARGARET SHANNON

Three years after President Kennedy's assassination, with criticism of the Warren Commission at a new high, one of its members, U.S. Sen. Richard B. Russell, harbors a lingering dissatisfaction with its work himself.

But the Georgia Democrat, actually its earliest critic, insists now that any commission of honorable men, given the same evidence, would come to the same conclusions.

President Kennedy was assassinated in Dallas Nov. 22, 1963. Eight days later, President Johnson named a seven-man commission to investigate the assassination and the subsequent killing of the accused assassin.

The commission's report, sent to the White House Sept. 24, 1964, concluded that Lee Harvey Oswald fired the shots which killed President Kennedy and that there was no evidence of an assassination conspiracy.

NOW, TWO-PLUS years later, at least six books are on the market tearing the report apart — and the commission's methods with it.

Sen. Russell, though obviously miffed at critics' implications that he neglected his duties as a commission member, continues to feel a certain discontent with some aspects of the investigation — and of his own role.

But he is not on the side of present critics. He says: "You can raise questions, yes. The test is — can you answer them?"

Edward Jay Epstein says in "Inquest" that Sen. Russell attended only 6 per cent of the hearings, the fewest of any commission member.

"I knew that wasn't so," Sen. Russell said in an interview in Winder several days ago, "so I called up Lee Rankin and asked him where that information came from." (J. Lee Rankin, U.S. solicitor general in the Eisenhower administration, was general counsel for the commission.)

SEN. RUSSELL
Great Dissenter

Mr. Rankin told the senator that the Epstein figures were based on the hearing transcripts, which noted only members present as each session opened. If a member arrived late, he wasn't listed.

"I got there late nearly every day," Sen. Russell commented.

BY NO MEANS does he claim regular and full attendance, however. During much of the period of the hearings, the Senate was embroiled in debate over the 1964 civil rights bill and Sen. Russell was directing the opposition.

"I've never been so hell - hacked and harassed," he said. And he readily concedes: "I was not there (at the hearings) as much as several members were."

Sen. Russell said he would be "less than frank" if he did not admit to regretting that he was unable to devote more time to the commission.

He kept up to date by reading transcripts of the hearings as fast as they became available to members and by exhausting study of documents, reports and other evidence.

Plainly, he often became disgusted at what he read in the transcripts — and irked even as he listened in person to questioning of witnesses.

The reason: The interrogation of witnesses seemed to him to be frequently unsatisfactory.

PRESIDENT JOHNSON
He Telephoned Again

It has been over 35 years since he was a young attorney in Winder, but "if I do say so myself, I was a pretty good trial lawyer."

SEN. RUSSELL had reservations about the choice of J. Lee Rankin as general counsel for the commission. Mr. Rankin's credentials as an attorney were first-rate, but the senator apparently would have preferred someone with more experience in criminal law, trial work and investigation.

"We agreed for Warren to choose the general counsel," Sen. Russell said, "and that was only right since he was chairman. I didn't register any objections."

Chief Justice Earl Warren was

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Russell Objected, But

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President Johnson's choice to head the commission — against the advice o. Sen. Rus-ell.

Shortly before naming the commission, Pre-ident Johnson called Sen. Russell, "ho was in Winder at the t me. The President asked his opinion on which member of the U.S. Supreme Court should be appointed to head it.

Sen. Russell replied that none of them should be because the case of Jack Ruby, the killer of Lee Harvey Oswald, was bound to reach the Supreme Court later and any justice who served on the commission would then have to disqualify himself.

President Johnson argued that he must have an outstanding judge as chairman to bolster public confidence in the commission. Sen. Russell did not dispute this, but stuck to his stand against a member of the Supreme Court.

The senator suggested, instead, Judge Harold R. Medina of New York, the retired federal jurist who won wide acclaim when he presided over the 10-month-long conspiracy trial of 11 U.S. Communist leaders in 1949.

AS FOR HIMSELF, Sen. Russell begged Mr. Johnson not to be appointed to the commission. "I appeal to you as a friend not to put me on it," he told the President.

The conversation lasted an hour or so. Sen. Russell hung up thinking he had persuaded Mr. Johnson, the great persuader, not to name him.

Two and a half hours later, the White House called again. "Let me read you the list of the commission," the President said. He started: "Chief Justice Warren, chairman. . . ."

"I told him, 'You can stop right there,'" Sen. Russell said. But the next name was his own, and Mr. Johnson had already released the list to the press.

There was no backing down or getting out. "You just can't turn around in a situation like that and say, 'Mr. President, I'm not going to do it,'" Sen. Russell explained.

SO HE SERVED — and ended up as the great dissenter within the commission itself.

In September two years ago, when he read what was supposed to be the final version of the report, he prepared dissents on three points.

"I'm the only man that bucked the report," he said. "I told them, 'I'm not going to sign it as long as it's this way.'"

He recalled that Allen Dulles, former director of the Central Intelligence Agency, looked over the dissent on the conspiracy angle and said: "I'd like to go on that with you."

CHIEF JUSTICE WARREN
Chose General Counsel

J. LEE RANKIN
Got Call From Russell

REP. GERALD FORD
'Compelling' Emphasized

There was, by then, great pressure to release the report so that it would not come out too close to the November 1964 presidential election.

"Warren was determined he was going to have a unanimous report," the senator said. "I said it wouldn't be any trouble just to put a little asterisk up here"—in the text—"and then down at the bottom of the page saying, 'Sen. Russell dissents to this finding as follows . . .'

"But Warren wouldn't hear of it. He finally took that part and rewrote it himself."

THE VERSION objected to so firmly by Sen. Russell stated categorically that there had been no conspiracy to assassinate President Kennedy. He said it gave the impression that "no other living person had any knowledge" of Oswald's plan.

In fact, the senator argued the report should go no further than saying Oswald fired the shots that killed President Kennedy and wounded Texas Gov. John Connally.

Apparently this would have meant exclusion of any findings on the conspiracy angle.

The compromise version in the report said: "The commission has found no evidence that either Lee Harvey Oswald or Jack Ruby was part of any conspiracy, domestic or foreign, to assassinate President Kennedy."

Also included was this paragraph: "Because of the difficulty of proving negatives to a certainty, the possibility of others being involved with either Oswald or Ruby cannot be established categorically, but if there is any such evidence, it has been beyond the reach of all the investigative agencies and resources of the United States and has not come to the attention of this commission."

REP. HALE BOGGS
Didn't Care for Idea

Sen. Russell has never contended that a conspiracy did exist. But — especially because of his longtime experience as chairman of the Senate's CIA oversight committee — he was particularly worried on two scores:

(1) He did not feel assured that the government of the Soviet Union had supplied all information available to its intelligence apparatus about Oswald's 1959-62 stay in Russia.

(2) Because of Oswald's defection and his residence in Minsk, educational center for Cuban students sent to Russia, the senator was not satisfied that everything was known about Oswald's Cuba-related activities. Oswald had dealings with the Fair Play for Cuba Committee and in a visit to Mexico City about eight weeks before the assassination told Cuban consular officials he wanted permission to go to Cuba en route to Russia.

ANOTHER Russell dissent concerned the theory, included in the report, that the first bullet to wound President Kennedy went on to wound Gov. Connally, who was seated in a jump seat in front of the President in the topless limousine.

This theory is one of the major points seized on by critics of the commission report. They use it in various ways, mainly to try to shoot holes in the commission's statement that all the shots accounted for came from the southeast sixth floor window of the Texas School Book Depository, the building where Oswald worked.

Richard H. Rovere, the New Yorker magazine's Washington correspondent, writes erroneously in the introduction to "Inquest" that author Epstein brings to light "for the first time" that the Warren Commission was divided on the theory that one bullet wounded both men.

As a matter of fact, this is one point on which Sen. Russell has been publicly outspoken from the time of the report's release. In an interview in Washington with this reporter and others on Sept. 28, 1964, he expressed his disagreement. The lead — the first sentence — of The Atlanta Journal story that day said Sen. Russell "disagrees with the commission findings that the first bullet that struck President Kennedy also wounded Texas Gov. John Connally."

Mr. Epstein interviewed five of the seven members of the commission and some members of the staff in preparing his book. He did not interview Sen. Russell.

THE AUTHOR expresses the opinion in "Inquest" that without the finding that one bullet hit both men, "the single-assassin theory would be untenable in terms of the established evidence and assumptions."

Sen. Russell, not being committed categorically to the single-assassin theory, had no vested interest, so to speak, in the one-bullet finding. He could disagree to it with comparative impunity.

There were other skeptics about the one-bullet idea on the commission, including Sen. John Sherman Cooper, R-Ky., and Rep. Hale Boggs, D-La., according to "Inquest."

Rep. Gerald R. Ford, R-Mich., wanted the report to state there was "compelling" evidence that the same bullet hit the President and the governor, while Sen. Russell wanted it to state there was only "credible" evidence, the book says.

Member John J. McCloy in an interview with the author took credit for suggesting use of the adjective "persuasive," which appears in the report.

While Sen. Russell may have suggested "credible" in a spirit of compromise, the evidence was not credible to him. He did not then and does not now believe that one bullet struck both.

THE SENATOR does not rely on any complicated, convoluted reasoning — a favored technique of some of the critics. He thinks Gov. Connally, who does not hold to the one-bullet theory, either, knows what he was talking about.

"Connally is a hunter and a

LBJ Didn't Listen

ALLEN DULLES
Former CIA Head

HAROLD R. MEDINA
Retired Federal Jurist

JOHN J. McCLOY
Took Credit for Word

hunter," Sen. Russell said. "He knows rifles. To me, his testimony is convincing."

Arlen Specter, a commission assistant counsel and a former assistant district attorney in Philadelphia, is credited with developing the theory that one bullet struck both President Kennedy and Gov. Connally.

Curiously enough, in view of Sen. Russell's complete disagreement with the theory, Mr. Specter appears to be about the only commission lawyer to satisfy the senator with his interrogation of a witness.

The senator was highly critical in the recent interview of the bulk of the questioning of witnesses by staff lawyers. "They'd come in there with this list of written questions and go along reading those ponderous questions," he said.

"I remember one fellow did a good job, though — the one who conducted the examination about the autopsy. I don't recall his name right now, but he knew his business. He'd prepared for the hearing and he'd had some experience in that type of thing."

The hearing records show that Mr. Specter, the onetime assistant district attorney, handled the questioning of Cmdr. James J. Humes, senior pathologist at the Bethesda Naval Medical Center, who conducted the autopsy of President Kennedy's body.

EVIDENTLY Sen. Russell was irritated at the handling of the witnesses from the very outset of the hearings.

It is told that he arrived late for Marina Oswald's appearance before the commission in Washington and then left in disgust at what he considered to be an insipid interrogation of the witness, the widow of the accused assassin.

He also has been heard to speak with distaste at what he described as "the way Warren fawned over her" (Marina Oswald).

Sen. Russell, of course, was no Warren ian. He does not approve of many of his judicial views and did not approve of his serving on the commission. It has been reported, however, that he felt better about the chief justice after learning that Justice Warren strongly resisted appointment to the commission.

Hearing records show that members of the commission did no extensive questioning of witnesses. Interrogation was handled by staff counsel, principally Mr. Rankin.

One point that present and future critics of the Warren Commission report might speculate on is whether or how it might have been different if Sen. Russell had personally questioned more witnesses.

In his one big venture into the role of interrogator, the Georgian went to Dallas, along with Sen. Cooper and Rep. Boggs. He viewed the assassination scene — and put Marina Oswald on the witness stand. This was on Sept. 7, 1964.

Mr. Epstein writes in "Inquest": "Under Sen. Russell's rigorous questioning, she changed major aspects of her story and altered her previous testimony. More rewriting (of the report) was thus necessitated."

SEN. J. S. COOPER
Was Skeptic

Mark Lane, the lawyer retained by Marguerite Oswald, the accused assassin's mother, writes in "Rush to Judgment": "Russell's limited but probing examination was almost unique. Marina Oswald's statements, no matter how contradictory, were usually accepted without comment."

Under Sen. Russell's questioning, Marina Oswald contradicted her earlier insistence that Lee Harvey Oswald was "a good husband."

In the same session, she also abandoned her earlier theory that Oswald killed President Kennedy because he wanted to go down, somehow, in history.

SHE VOLUNTEERED: "I feel in my own mind that Lee did not have President Kennedy as a prime target when he assassinated him."

Rep. Boggs: "Well, who was it?"

Marina Oswald: "I think it was Connally. That's my personal opinion that he perhaps was shooting at Gov. Connally, the governor of Texas."

Sen. Russell: "You testified before us before that Lee told you he was coming back to Texas — if he was back in Texas, he would vote for Connally for governor. Why do you think he would shoot him."

Marina: "I feel that the reason that he had Connally in his mind was on account of his discharge from the Marines . . ."

(Oswald left the Marine Corps in 1959 and was placed in the Marine Corps Reserve. He was given an "undesirable" discharge after his defection to the Soviet Union. In trying to get his discharge changed in 1962, he wrote then Secretary of the Navy Connally, but Mr. Connally had just resigned and wrote Oswald that his request had been forwarded to his successor.)

At the Dallas session, Sen. Russell questioned Marina more about her new theory and then asked: "Do you have any facts on which you base your opinion now that Lee Oswald was shooting and was intending to kill Connally rather than President Kennedy?"

Marina: "I have no facts whatsoever. I simply express an opinion which perhaps is not logical at all, but I am sorry if I mixed everybody up."

Sen. Russell: "You haven't mixed anybody up, except I think that you have your evidence terribly confused."

The senator later expressed to reporters a very dubious attitude about the value of Marina Oswald's testimony on just about anything.

He seemed convinced that she conveniently did not remember details of their life in Minsk, Oswald's associations with Cuban students there, the ease with which she obtained permission to leave Russia and her uncle, a colonel in the MVD.

AT THE OUTSET of the commission investigation, Sen. Russell predicted that no matter what the outcome, dispute about the assassination would go on for a hundred years.

In a way, he probably contributed to the present outbreak of criticism — or at least to the availability of source material for critics.

Mr. Epstein relates in "Inquest" that in May, 1964, Chief Justice Warren announced that supporting testimony and evidence would not be published along with the report.

Some of the staff lawyers protested the decision to Mr. Rankin, the general counsel. Relates Mr. Epstein: "Rankin then called Sen. Russell, who apparently did not know of Warren's decision. The congressional members of the commission reportedly considered the expense justified, and the commission agreed to publish what was to become 26 volumes of hearings and exhibits."

Thus, thanks to Sen. Russell, all once and future critics had their work made easier.