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nts, sometimes erroneous, made to v enforcement officials, during this ler in the police station, would have b the obtaining of a fair trial for the information was erroneous or e doubts, speculations, and fears in a might otherwise not have arisen.

8. The Commission has reached the following conclusions concern- ing the killing of Oswald by Jack Ruby on November 24, 1963:

(a) Ruby entered the basement of the Dallas Police Depart- ment shortly after 11:17 a.m. and killed Lee Harvey Oswald at 11:21 a.m.

(b) Although the evidence on Ruby's means of entry is not conclusive, the weight of the evidence indicates that he walked down the ramp leading from Main Street to the basement of the police department.

(c) There is no evidence to support the rumor that Ruby may have been assisted by any members of the Dallas Police Depart- ment in the killing of Oswald.

(d) The Dallas Police Department's decision to transfer Oswald to the county jail in full public view was unsound. The arrangements made by the police department on Sunday morning, only a few hours before the attempted transfer, were inadequate. Of critical importance was the fact that news media representa- tives and others were not excluded from the basement even after the police were notified of threats to Oswald's life. These de- ficiencies contributed to the death of Lee Harvey Oswald.

9. 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. The reasons for this conclusion are:

(a) The Commission has found no evidence that anyone assisted Oswald in planning or carrying out the assassination. In this connection it has thoroughly investigated, among other factors, the circumstances surrounding the planning of the motorcade route through Dallas, the hiring of Oswald by the Texas School Book Depository Co. on October 15, 1963, the method by which the rifle was brought into the building, the placing of cartons of books at the window, Oswald's escape from the building, and the testimony of eyewitnesses to the shooting.

(b) The Commission has found no evidence that Oswald was involved with any person or group in a conspiracy to assassinate the President, although it has thoroughly investigated, in addition to other possible leads, all facets of Oswald's associations, finances, and personal habits, particularly during the period following his return from the Soviet Union in June 1962.

(c) The Commission has found no evidence to show that Os- wald was employed, persuaded, or encouraged by any foreign government to assassinate President Kennedy or that he was an agent of any foreign government, although the Commission has reviewed the circumstances surrounding Oswald's defection to the Soviet Union, his life there from October of 1959 to June of 1962 so far as it can be reconstructed, his known contacts with the Fair Play for Cuba Committee, and his visits to the Cuban and Soviet Embassies in Mexico City during his trip to Mexico from

DEMON

# MOMENT OF MADNESS

**The People vs. Jack Ruby**

by ELMER GERTZ

with a Preface by

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homage of the holy dust. His brothers each bravely tossed  
common earth upon the coffin. Their eyes brimful of un-  
shed tears, all left the graveside and the cemetery.

At the home of Eileen they foregathered, the mood one  
of reminiscence and, despite all, of relief. The long vigil  
was over. A kind of immortality had come to a little man  
and his little family.

A CONSPIRACY

AFTER THE ASSASSINATION of President Kennedy, public  
shock and confusion were supreme, and increased day by  
day. In the absence of any completely reliable report on  
what had happened, in the face of incompetence by the  
police, and with the death of the one person who might  
have provided an explanation, rumor, gossip, malice, and  
vast publicity, combined with an all-too-understandable  
desire for absolute certainty, led quickly to the evolution  
of theories about a conspiracy. How could three murders  
within forty-eight hours be unconnected? How could single  
individuals, unaided, have wrought such mischief?

It was in an effort to bring order from disordered events  
and to reduce the area of uncertainty that President John-  
son promptly appointed the President's Commission on  
the Assassination of President Kennedy and persuaded  
Chief Justice Earl Warren to head it. The credentials and  
the reputations of the honorable men who served on the  
Commission, the record of their endeavors in public service  
on behalf of the American people, were not sufficient, how-  
ever, to convince all the people that truth would out.

Even as the Commission and its staff were undertaking  
a monumental examination of the events surrounding the  
Dallas tragedy, speculative articles began to appear here  
and abroad. Soon entire books were probing the public  
record and analyzing what was said and done in Dallas, all  
in search of hidden motives. These speculative ventures  
were not halted by the appearance of the Warren Commis-  
sion Report, nor by the publication of the testimony of the

once in the street. Oswald was dragged back into the jail office and the vehicles began to bleed to death. The police started clearing the vehicles from the basement ramp, and when the ramp was clear, an ambulance was permitted to come in, pick Oswald up and leave!

This description seems clear and unexceptionable on its face. In truth, six issues of "fact" are in question.

1. Did Ruby "push" through the crowd?
2. As he moved ("pushed") through the crowd, did Ruby move the pistol in hand?
3. Did Ruby place the muzzle of the pistol "against" Oswald's shoulder? Did Oswald try to protect himself by bringing forward both hands?
4. Was Oswald "dragged" into the jail office?
5. Did Oswald "bleed to death"?

6. Was there an unreasonable delay in the arrival of an ambulance?  
 7. Was there any clear implication of what Lane wrote are destroyed and sources do not support him. Those implications are that Ruby was left on the ground as he came through the crowd, that Oswald recognized he was to be murdered; that the police were derelict in their treatment of the mortally wounded Oswald (rough handling, delay in getting him to the hospital).

8. Did Ruby "push" through the crowd?

Lane's sources are the Warren Commission Report and the Hearings. Neither supports the claim that Ruby "pushed." The Report describes the event in these words:

After Oswald had moved about 10 feet from the door of the jail office, Jack Ruby passed between a newsman and a detective at the edge of the straining crowd on the Main Street ramp. With his right hand extended and holding a .38 caliber revolver, Ruby stepped quickly forward and fired a single fatal bullet into Oswald's abdomen.

The photograph, reprinted by the Commission, give no

indication of any physical contact until Ruby was subdued after the shooting of Oswald.

Lane, as usual, fails to cite the evidence in the Report and Hearings that does not support him.

Kenneth Croy believed that he saw Ruby at the base of the ramp before the attack on Oswald. Croy testified that the man he saw "near the railing" ran past him, but he did not mention any pushing or any collision between the man and any members of the assemblage. When Warren Commission attorney Burt Griffin asked a question concerning Croy's "pushing" the crowd back, Croy replied, "I didn't push them. I asked them to step back over there." Ruby was one of those who complied with this order.

James Turner, the most credible witness to Ruby's entry, testified before Warren Commission attorney Leon Hubert. Turner was certain that he saw Ruby coming down the ramp. His testimony was, in part, as follows:

Hubert: . . . Did he have to go through any great mass of people?

Turner: No . . .

Hubert: Did he have to push, or shoulder his way up there?

Turner: No.

Hubert: He could just walk up and get into position?

Turner: That's right.

2. As he moved through the crowd, did Ruby have the "pistol in hand"?

Lane relies, as before, on the indicated pages of the Report and Hearings. Neither supports his allegations.

Neither Croy nor Turner, not cited by Lane, stated that Ruby displayed a pistol prior to the shooting, and since the best evidence indicates that Ruby was in the basement for a mere twenty-five seconds, their failure to mention a fact so material, which they would surely have noticed, would seem to be conclusive.

There is further evidence. A photograph reprinted in the Report<sup>1</sup> shows Ruby standing in the crowd immediately

before Oswald's appearance. Had his weapon not been concealed, it surely would have been noticed by those near him. Ruby was able to get so close because of his relative inconspicuousness; an unconcealed pistol would have exposed him at once.

83. *Did Ruby place the muzzle of the pistol "against Oswald's stomach"? Did Oswald try to protect himself?*

For his muzzle theory Lane is still content to cite the same passages from the Warren Report and Hearings. Neither of these provides substance for the theory, and the already mentioned photographs disprove it at least in part. For Oswald's alleged defensive reaction, Lane cites only page 216 of the Warren Report. No mention of Oswald's reaction is made there.

Certainly the most graphic, and perhaps the most effective, means of demonstrating the utter absurdity of both theories is to examine the photographs taken at the scene. The famous picture by Jack Beers of the Dallas Morning News, taken immediately before the shot was fired, shows a space of about two feet between the muzzle and Oswald's stomach. In this photograph, it is clear that Oswald has not seen Ruby, and is therefore incapable of any reaction—defensive, recognitional, or otherwise. Indeed, no one in the entire assemblage saw Ruby at the time. As Beers explained to me, he had pointed his camera at the spot where Oswald was to enter the room. He did not know until later that he had actually photographed Ruby as he was about to shoot Oswald.

A second photograph was taken immediately after the shot was fired. The distance between the pistol and Oswald remains. Oswald's face is contorted with pain, his eyes are closed, or nearly so, and his left arm has jerked up over the wound. If his arm movements can be considered defensive, rather than reflexive, they are defending against a second shot, which never came. It should be remembered that Oswald's hands were handcuffed, and another pair of handcuffs linked his right wrist to Officer Leavelle's left wrist.

It is clear that the distance between the pistol and Oswald's stomach was about two feet, and this is substantially corroborated by Detective L. C. Graves, who was holding Oswald's left arm. He stated that the pistol was fifteen inches away from Oswald's.

Burt Griffin, a member of the Warren Commission staff charged with investigating Ruby's actions, replied to my inquiry on this point:

You asked if we attempted to obtain any and all photographs of every kind, character, and description relating in any way to the actual shooting of Oswald. The answer is a most emphatic yes. To my knowledge we obtained all newspaper photographs and T.V. shots.

I must have watched the T.V. film of the shooting at least a dozen times. If Ruby "placed the muzzle against Oswald's stomach" I never noticed it in all those viewings. Nor did I ever remember that Oswald tried to ward off the gun "by bringing forward both hands."

I myself viewed the television pictures over and over again—at their regular speed, then frame by frame, then backward—and it is my firm conviction that they utterly disprove Lane's assertions about the shooting of Oswald.

#### 4. Was Oswald "dragged" into the jail office?

Lane cites the report of J. R. Leavelle, to whom Oswald was handcuffed. The pertinent section states: "I turned my attention to Oswald, and with the help of Detective Combest, we took Oswald back into the jail office and laid him down. Handcuffs were removed and the city hall doctor, Dr. Bieberdorf, was summoned. We also called O'Neal ambulance. Oswald was placed in the ambulance and rushed to Parkland Hospital." Even Lane's own source does not justify his use of the word "dragged" to imply rough treatment or anything similar.

Again, Lane fails to mention other Warren Commission sources. Exhibit 2163 is an interview with Officer Leavelle, who states that he picked up Oswald "and carried him

back inside the jail office to get him away from the area."

4. According to the testimony before the Warren Commission, Detective Billy Combest assisted Leavelle in transporting Oswald to the jail office.\* The word he used was "took him."

5. No support can be found for the implication that Oswald was handled roughly by the police after the shooting.

5. Did Oswald "bleed to death"?

Reference is made by Lane to Oswald's autopsy, which lists the cause of death as "Hemorrhage, secondary to gunshot wound of the chest." Lane also cites the report of Dr. Bieberdorf. His report contains no mention of Oswald's bleeding.

"Hemorrhage, secondary to gunshot wound of the chest" may, or may not, mean that Oswald bled to death. The implication that Oswald bled to death because he was unhandled after he was shot has no support.

6. Was there an unreasonable delay in the arrival of an ambulance?

The inference to be drawn from the Lane sentence, "The police started clearing vehicles from the basement ramp, and when the ramp was clear, an ambulance was permitted to come in, pick Oswald up and leave," is that a waiting ambulance was irresponsibly delayed while policemen moved several vehicles. In fact, only two cars had to be moved to clear the ramp and they were moved well before the arrival of the ambulance.

7. Lane refers to Officer Brown's report, which states: "By this time, other officers had removed Lee Harvey Oswald and Jack Ruby into the jail office. I went back to my car and moved it back into the parking area, so the ambulance could get through." Also cited is Officer Dohrty's report: "I heard Officer Fritz' car out of the driveway where the ambulance could get to the jail office." Nothing in these reports would indicate delay, since the cars were moved as soon as Ruby and Oswald were taken into the jail office. The other citation which, to Lane, supports the inference is Dr. Bieberdorf's report. The doctor explains his

treatment of Oswald and describes the arrival of the ambulance and its attendants while he was so occupied. While the doctor is Lane's own "witness" on this point, Bieberdorf actually stated that the arrival of the ambulance was "approximately five minutes after he had heard the gunshot."

The conclusion is inescapable: Ruby walked, unpulsed and unpushing, to the periphery of the crowd. At the critical moment he took several quick steps, drew the pistol, and fired the fatal shot before Oswald or his bodyguards or anyone else saw him. The shot was fired at close range, estimated at fifteen inches from its resting place in Oswald's stomach. Oswald reacted immediately to the shot by a contortion of his face and an upward jerk of his left arm. Officers Leavelle and Combest transported Oswald to the jail office, perhaps by darrying him, to protect him from the commotion in the basement. A doctor and an ambulance were summoned. The doctor arrived quickly and was in the process of treating Oswald when the ambulance arrived. The ambulance arrived within approximately five minutes of the time of the shot. Oswald died of "Hemorrhage, secondary to gunshot wound of the chest."

MARK LANE'S JACK RUBY

Most of Mark Lane's comments on Jack Ruby are found in Chapters 16 through 24 of *Rush to Judgment*. Lane does not assume there the burden of demonstrating any positive theory concerning the murder of Oswald. He is content to point out what he considers to be flaws in the Commission's procedures and conclusions. Reasoning from his belief that those involved in the investigation performed their duties incompetently, he assembles a body of testimony that, standing alone, raises questions about certain findings of the Commission. (Only later did Lane begin to direct accusations against the CIA and other federal officials. When he became a part of the Garrison investigation in New Orleans, he became as vituperative as the district attorney himself.) Since the material is not tightly structured, no chapter-

by chapter rebuttal can be attempted here. Nevertheless, the following examination of Lane's account will show that he is far from free of the faults he imputes to others.

#### RUBY'S ALLEGED IMMUNITY FROM ARREST

Implicitly informing all the pages dealing with Jack Ruby is a theory that he used his police contacts to avoid civil and criminal prosecution. In particular, one should note Lane's statement: "Ruby was arrested eight times in ten years for violations of the nightclub regulations and other criminal acts including acts of violence. According to Commission Exhibit 1528, he was not convicted once."<sup>10</sup> The attached excerpt from the Commission's biography of Ruby takes a more comprehensive view.<sup>11</sup> It covers fourteen years and discloses five suspensions of Ruby's liquor license for violations of the nightclub regulations, the most recent in 1961, less than two years before the President's assassination. The record reveals twenty traffic tickets in thirteen years, with seven convictions and two six-month suspensions of his driver's license. Also noted are eight arrests for various alleged criminal and quasi-criminal matters, in three of which Ruby posted a bond. In another of the eight arrests, Ruby was adjudicated not guilty. ~~Some of the arrests were for~~

Certain observations can be made concerning this record. Most obvious is that Lane has substantially misstated the facts and their implication. Ruby was immune from neither arrest nor conviction.

Another observation might be drawn from ordinary experience. Police forces, composed as they are of fallible and susceptible human beings, are capable of minor acts of favoritism. Minor favoritism most commonly is manifested in the issuance of traffic tickets. Normally, a policeman is allowed a certain discretion over whether a summons will be given for a particular infraction. But Ruby, whom Lane would have us believe had the Dallas Police

#### A Conspiracy?

Department in his hip pocket, could not even escape receiving twenty tickets in thirteen years, resulting in two long suspensions of his driving privileges and seven convictions.

Similarly, the five suspensions of his liquor license indicate that his commercial activities were receiving at least token scrutiny, and would appear to rebut Lane's allegations that Ruby was flagrantly violating the law with impunity.

The remaining blemishes on Ruby's record also seem to show a consistent pattern of prosecution, rather than the contrary. Ruby was certainly arrested. He may have been a law-breaking citizen. Nevertheless, that he was not convicted in every case cannot be used to support an allegation that he was guaranteed freedom from police restraints.

#### POLICE ASSISTANCE?

Because Lane feels that the police did not prosecute Ruby with full vigor for his previous infractions, he reasons that the latter's presence in the basement may have resulted from the acquiescence or assistance of the Dallas police. He largely ignores the police testimony at the trial, which was responsible for the death sentence. He ignores the implications of Ruby's failure to accuse the police after the imposition of the death sentence. Why would Ruby remain silent if the police had aided and then double-crossed him?

**A Tip-off?** Because of the news media, the proposed time of Oswald's transfer (about 10:00 A.M.) was known to the public.<sup>12</sup> Ruby's testimony indicates that he had actual notice of this time.<sup>13</sup> No telephone calls from a policeman to Ruby's apartment could have informed Ruby of the later time, because Ruby was not at home after about 10:45, and no one (including Captain Fritz) could have known the precise time of the transfer until approximately 11:35.<sup>14</sup> Since news of the impending transfer was

being broadcast contemporaneously, Ruby had no need to obtain information surreptitiously. (As a matter of fact, there is good reason to believe that when Ruby arrived in the area of the police station, he thought the transfer had already been made.)

*Police Acquiescence?* Lane relies exclusively on the testimony of one N. J. Daniels to show that Ruby's unauthorized presence in the basement was a result of police acquiescence.<sup>14</sup> Daniels stated that a man, whom he described, walked directly in front of Patrolman Vaughn, down the Main Street ramp, and into the basement. Daniels stated that Vaughn was looking in the man's direction at the time.<sup>15</sup>

Daniels' testimony contains some substantial, perhaps fatal, discrepancies. For example, his affidavit stated that the man was neither wearing nor carrying a hat,<sup>16</sup> but it is common knowledge, as evidenced by photographs, that Ruby wore a hat at the time of the shooting. Daniels thought that there were four policemen in Lieutenant Pierce's car when it ascended the ramp.<sup>17</sup> In reality, there were only three.<sup>18</sup>

Even more substantial is Daniels's vacillation over the chronological sequence of the car's appearance and the man's entry. The affidavits indicate that the man entered a few minutes after the car had exited.<sup>19</sup> In his testimony he originally said, with respect to this sequence, "I'm not sure," but stated that entry took place before the car came up.<sup>21</sup> Later in his appearance he again altered his story to conclude that he saw the man enter after the car had left.<sup>22</sup> Daniels never stated in his testimony or in the affidavits that the man whom he saw was Jack Ruby.

It can be readily appreciated that Daniels's testimony, even as briefly described, appears to be dubious. Two more factors must be considered in assessing the import of his revelations: first, the fact that the affidavits were prepared by investigators, by examining videotapes, determined that only fifty-five seconds elapsed between the

car's appearance at the top of the ramp and the time of the fatal shot.<sup>23</sup> Twenty to twenty-five seconds are required for a person to descend the ramp at a walk. Therefore Daniels's testimony is not merely unsure; insofar as he concluded that the man entered a few minutes after the car's exit, it is false, because events could not physically have taken place in the manner which he describes.

Second, Daniels was not the only person to testify concerning Ruby's entry. Ruby himself told Special Agent C. Ray Hall, in an interview, that he started down the ramp while Vaughn was watching for auto traffic and directing Pierce's car.<sup>24</sup> Kenneth Croy partially corroborates Ruby's story, because he claims to have seen Ruby at the base of the Main Street ramp before the shooting.<sup>25</sup> William Newman claimed that he saw a man, whom he could not identify, walking down the ramp about one minute before the shot was fired.<sup>26</sup> James Turner saw a man, whom he later discovered was Jack Ruby, descending the ramp immediately after the car left the jail basement.<sup>27</sup> He was positive in his identification.<sup>28</sup>

Standing alone, Daniels' testimony is vacillating and uncertain. Fortunately, it does not stand alone, but is effectively refuted by more reliable witnesses, accepted by the Commission.

#### THE TESTIMONY OF NANCY RICH

Lane claims that the Commission minimized the close relationship between Ruby and many members of the Dallas police force.<sup>29</sup> He considers Chief Curry's statement that "no more than 25 to 50 of Dallas' almost 1200 policemen were acquainted with Ruby" to be the "germane" portion of the Report's section on "Police Associations."<sup>30</sup>

That the Chief's estimate was not taken at face value by the Commission is indicated, first, by the sentence following it: "However, the reports of Ruby's employees and



acquaintances indicate that Ruby's police friendships were far more widespread than those of the average citizen.<sup>31</sup> The Chief's speculation is given similarly short shrift elsewhere in the Report: "Although Chief Curry's estimate that approximately 25 to 50 of the 1175 men in the Dallas Police Department knew Ruby may be too conservative."<sup>32</sup> The Chief's estimate is also given short shrift for the statement: "His bartender had standing orders for a hard liquor to all police officers who came into the nightclub."<sup>33</sup> Since Lane has written an entire chapter concerning Mrs. Rich's testimony, her background will be examined in detail.

Early in her testimony,<sup>34</sup> Mrs. Rich gave Commission attorney Hubert a letter from Oscar A. Kistler, Chief Deputy District Attorney of Sacramento. She also described what she claimed to be her extensive career in police investigation work.<sup>35</sup> The Commission Exhibit 3058<sup>36</sup> yields the information that Mrs. Rich would more precisely be termed an occasional "informant" than an investigator. She volunteered her services and provided information leading to the conviction of an abortionist. The Department had no interest in hiring her.

She also assisted the police in Oakland, California, by securing a nightclub job for the purpose of informing on its owner. She was unsuccessful in this endeavor. While Mrs. Rich claimed that the Oakland Police Department had furnished her with a false police record,<sup>37</sup> Lieutenant Parker of the Department denied this.<sup>38</sup> After her failure at the nightclub Mrs. Rich had had no official dealings with the Department, and was known there as "a screwball and nutty as a fruitcake."<sup>39</sup>

An FBI report noted that Sergeant Dahl of the Oakland Police force remembered Mrs. Rich's offering of "fanciful information." He advised that he would place "little creases" in her statements and that, "in retrospect," she was emotionally unstable.<sup>40</sup>

### A Conspiracy

Attorney Cy Victorson described Mrs. Rich, a former client, as a "habitual liar." Her husband was no more complimentary.

Mrs. Rich implicated Ruby in a plot whereby a group of conspirators planned to sell guns to a group in Cuba and evacuate refugees on the return trip (by boat).<sup>41</sup>

The impact of this testimony is weakened by the persuasive evidence on Mrs. Rich's lack of credibility. It is further debilitated by an FBI report on Dave Cherry, who was identified by Mrs. Rich as another of the conspirators. Cherry disclaimed any knowledge of the gun-running and described Mrs. Rich as "mentally deranged."<sup>42</sup>

A polygraph examination given to Mrs. Rich on December 5, 1963, was generally inconclusive because of her use of drugs, but the examiner felt able to state that he believed the Cuban arms story was untrue.<sup>43</sup> The examiner also offered his opinion that the lady in question was suffering from "delusions of grandeur."

Lane states: "When the Commission found material disconcerting, it often handled it in one of two ways. It either minimized the importance of the evidence . . . or it challenged the probity of the witness."<sup>44</sup> Concerning the first part of this statement, Mrs. Rich's material was truly disconcerting; it bordered on the ludicrous.

The Commission was entirely justified in omitting Mrs. Rich's testimony from the Report, especially since the testimony of other and superior witnesses was used on the nature of Ruby's favors to policemen.

The Report mentions those favors in two places. It notes: "According to testimony from many sources, he [Ruby] gave free coffee at his clubs to many policemen while they were off duty."<sup>45</sup> The Report also says, "Although there is considerable evidence that Ruby gave policemen reduced rates, declined to exact any cover charge from them, and gave them free coffee and soft drinks, this hospitality was not unusual for a Dallas nightclub operator."<sup>46</sup> Nor would it have been unusual anywhere in this country.

Andy Armstrong, the porter at the Carousel Club, testified that policemen in uniform stopped for coffee and that members of the vice squad were present regularly. He mentioned that police were among those who received a cut rate on beer.<sup>47</sup> Armstrong also revealed Ruby's "fear" of Officer Gilmore, a "strict" vice squad member.<sup>48</sup>

George Senator, Ruby's roommate and occasional employer, said that when police came to inspect, "Jack always offered them a coffee, asked them if they wanted coffee; a Seven-Up or a coke."<sup>49</sup> Senator testified that policemen who visited the club socially did not have to pay the entrance fee, and he corroborated Armstrong's testimony concerning the cut rate price of forty cents on beer for policemen and other privileged persons.<sup>50</sup> Ruby himself admitted his waiver of cover charges and the lower drink price.<sup>51</sup> Curtis Laverna Crawford, a handyman employee of Ruby's, confirmed this, and added that the usual price of beer was sixty cents. He also mentioned that the policeman drank alcoholic beverages when they were on duty. Sergeant Jerry Hill,<sup>52</sup> Edward Pullman,<sup>53</sup> and Jean Flynn<sup>54</sup> each confirmed this testimony.

The Commission wisely decided to rely on the internally consistent testimony of several relatively reliable witnesses rather than upon that of one witness with a deserved reputation for unbridled prevarication. She is Lane's only source for the "hard liquor" theory and the "gun-running" theory. (Although Hugh Smith, a Dallas policeman, told of gifts of hard liquor,<sup>55</sup> he said nothing about the serving of any hard liquor at the club.)

#### Jack Ruby's Testimony

Chapter 19 of *Rush to Judgment* deals with Jack Ruby's testimony before the Warren Commission. The selected portions of the record that Lane quotes are accurate, if out of context, and a reading of the testimony in its entirety is necessary for an evaluation of its content.

#### A Conspiracy?

Given a full reading, and with proper perspective, a prima facie case develops for a theory that Ruby was mentally incompetent when he testified. He himself seemed to be aware that the natural import of his vocalizing would permit such an inference: "Do I sound dramatic? Off the beam?" . . . and I am not a crackpot. . . ." "Do I sound sober enough to you as I say this?"<sup>57</sup> In this light, it would seem that one could readily discount Ruby's expressed fears for his safety and his hints at a conspiracy endangering the lives of the members of his family.<sup>58</sup> In addition, the Commission was in the most favorable position to assess Ruby's credibility, for it alone had the opportunity to observe his demeanor and hear his voice. In such circumstances it is usual for the reviewer to give some deference to the opinion of the fact-finder.

An examination of other testimony, given chronologically before Ruby's, indicates a substantial quantum of evidence showing not only that he was incompetent, but that his delusions were similar in quality to those that can be observed from the record.

Hyman Rubenstein, Jack's brother, discussed a December, 1963, visit with Jack: "Jack looked good, but he didn't act right. He looked disturbed to me." "He was worried more about the dogs than he was about anybody else." "You know, there was no logic there."<sup>59</sup>

Eva Grant stated in response to a question asking her opinion of Jack's condition: "I think he is mentally deranged."<sup>60</sup>

Sam Ruby's contacts with Jack in December, 1963, led him to a conclusion similar to those of his brother and sister.<sup>61</sup>

Even more corroborative evidence exists to indicate that Ruby was suffering from delusions, and it goes beyond any judgment derived from merely reading Ruby's entire testimony or even an opinion formed in deference to the superior position of the trier of fact. Those furnishing the evidence are members of a class that would be most sensi-

live to any major personality changes in Jack Ruby, since as a group and individually they had known him well for his entire life.

Lane complains that the presence of Sheriff Decker, District Attorney Bowie, and Deputy Storey might have inhibited Ruby in fully disclosing the truth.<sup>68</sup> If such were the case, Ruby did not object. Indeed, when Sheriff Decker offered to withdraw his men, Ruby declined the offer.<sup>69</sup> One can only contemplate Lane's reaction, and that of the public generally, had Ruby, left unguarded, attacked Chief Justice Warren or anyone else.

"There can be no sound defense of the Commission's refusal to bring Jack Ruby to Washington," Lane says.<sup>70</sup> Neither can it be shown that any conceivable utility would thereby have been derived. With hindsight, we may wish that had been done—~~if only to prove the futility.~~ When, once asked, Ruby what he thought of Chief Justice Warren, he replied: "A very nice man, but so naive." Warren had loaned Ruby his glasses during the interrogation. Unlike others, the Chief Justice had Ruby's full confidence.

#### THE ALLEGED MEETING

Lane claims that a meeting took place between Ruby, Bernard Weissman (who placed the advertisement derogatory to President Kennedy in the *Dallas Morning News*), and Officer J. D. Tippit in Ruby's club on November 4, 1963.<sup>71</sup> Then he compares the available testimony and the Commission's conclusion.<sup>72</sup>

Concerning Weissman's presence at the Carousel Club, Lane cites the testimony of Bruce Carlin.<sup>73</sup> After being shown a picture of Weissman, Carlin replied that he was uncertain whether he had ever seen him before.<sup>74</sup> Lane also cites Crafard's affidavit, which states only that the latter had a vague recollection of a person named Weissman having been in the Carousel, but that he could have

confused Weissman with someone else.<sup>75</sup> Karen Carlin ("Little Lynn") indicated that she had never seen either Tippit or Weissman talking to Ruby before the assassination. She further stated that a person vaguely resembling Weissman had worked at the Carousel after November 24, 1963 (when Ruby was already in custody).<sup>76</sup>

Bruce Carlin, Karen Carlin, and Larry Crafard are the only witnesses that Lane can muster to prove Weissman's presence at such a meeting. Their recollections are dubious at best and contrary at worst.

Weissman himself testified that he had never met Ruby and that he had never been in the Carousel.<sup>77</sup> Ruby testified that he knew an Officer Tippit, but not the one who was killed.<sup>78</sup> There were several Tippits on the police force. Lane himself was the Commission's source for the rumor concerning the alleged meeting.<sup>79</sup> Despite the most urgent request of the Chief Justice and the tremendous importance of the matter, he would reveal neither his source nor the ultimate source. In the absence of corroborative testimony, and in the presence of some that conflicted, the Commission could not rely on Lane's professed beliefs.

The strongest witness that Lane offers to indicate that Ruby and Tippit were acquainted is Harold Williams.<sup>80</sup> It is impossible to assess his credibility because no mention of him is made by the Commission in its Report or in the supplementary volumes. Nevertheless, even if Ruby was in fact acquainted with the Tippit who was slain, the question of the meeting remains a matter of speculation, with little if anything to support it. And it would not prove, or tend to prove, that Ruby had anything to do with his slaying.

#### RUBY'S ACTIVITIES BEFORE THE SHOOTING

The Warren Report undertakes to catalogue Ruby's activities from November 21 to November 24, 1963.<sup>81</sup> Lane

tries to read a conspiratorial import into these activities.<sup>76</sup> The finding that Ruby, on November 21, "had visited with a young lady who was job hunting in Dallas"<sup>77</sup> is attacked by Lane as an over-simplification.<sup>78</sup> He correctly points out that Miss Connie Trammel was driven by Ruby to the office of Lamar Hunt. Miss Trammel also stated, however, that Ruby did not know Hunt.<sup>79</sup>

An attempt to place Ruby at the scene of the assassinations made by Lane when he notes that Don Campbell<sup>80</sup> last saw Ruby at the newspaper office at 12:25 (where, beyond doubt, he was at the moment of the President's fatal injury) and John Newman<sup>81</sup> did not subsequently see Ruby until 12:45.<sup>82</sup> Whether it would be possible for a person to be at the newspaper office at 12:25 and 12:40 and still be observed at the scene of the assassination is highly problematical, if not impossible. It is understandable that the Commission did not mention the theoretical possibility.<sup>83</sup>

Victoria Adams is cited by Lane as a witness to Ruby's presence at the scene of the assassination.<sup>84</sup> Her only comment was that the man she saw looked "very similar" to Ruby.<sup>85</sup> Her testimony indicated that the man she saw was probably on the corner for more than fifteen minutes, which exceeded the maximum time that Ruby could have spent there in order to return to the newspaper office on time.<sup>86</sup>

Jean Hill testified that a man whom she saw near the scene "looked a lot like" Ruby.<sup>87</sup> She admitted, however, that the man she observed "could have been smaller" than Ruby, and when asked whether she felt the man was Ruby, she replied, "That, I don't know."<sup>88</sup>

Lane attacks the Commission's finding that Ruby was not at Parkland Memorial Hospital.<sup>89</sup> The Report shows that Ruby was at the newspaper office until after one o'clock and that he had returned to the Carousel Club by 1:45. The period in which Ruby could have been at the hospital was thus slight, but it is a bare possibility, and

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there is one perhaps credible witness, newspaper reporter Seth Kantor,<sup>91</sup> whom the Report discounts.<sup>92</sup> Another witness, Mrs. Wilma Tice, testified that she saw Ruby at the hospital, but her credibility was not so strong as that of Kantor.<sup>93</sup>

Lane's suggestion<sup>94</sup> that mysterious reasons lie behind Larry Craftard's disappearance on the morning of Oswald's slaying is rebutted by the Commission:

After Oswald was shot, FBI agents obtained from the Carousel Club an unmailed letter drafted by Craftard to a relative in Michigan at least a week before the assassination. The letter revealed that he was considering leaving Dallas at that time. On November 17, Craftard, who had been receiving only room, board, and incidental expenses, told Ruby that he wanted to stop working for him; however, Craftard agreed to remain when Ruby promised a salary.<sup>95</sup>

A bit of Wanda Helmick's testimony is accurately reproduced by Lane,<sup>96</sup> describing a phone call from Ruby to his friend, and financier, and associate Paul, which Mrs. Helmick overheard in her capacity as carhop in Paul's restaurant.<sup>97</sup> Lane neglects to mention, however, that Paul, while conceding that Ruby called him, flatly denied the substance of her allegations about the gun and his appraisal of Ruby's mental state.<sup>98</sup> Lane's technique, as we have observed, is to accept the less reliable witnesses if what they say can be distorted into an attack upon the Warren Report. He then rejects even the best Commission witnesses.

### DALLAS AFTERMATH

Witnesses whose testimony seems to Lane to contain a mysterious content are given the highest degree of consideration by him. Wilma Tice is no exception. The thought that she may have been threatened causes him to become quite solicitous.<sup>99</sup> Contrary to his assertions that the Com-

mission was "indifferent" to stories that Mrs. Tice had been threatened; Counsel expressly asked Mrs. Tice about threats and received a disclaimer from her.<sup>100</sup>

Lane mentions four witnesses who, to him, cast doubt on the finding that Oswald murdered Tippit.<sup>101</sup>

Warren Reynolds, however, positively identified the man he saw on Jefferson Boulevard as Oswald.<sup>102</sup>

L. J. Lewis stated in his affidavit that he would hesitate to identify the man he saw as Oswald,<sup>103</sup> but he did note that the man was about thirty years old.<sup>104</sup> At the time, Oswald was 24 and Ruby 52. Even if Lewis could not state positively that he saw Oswald, he stated with implied certainty that he did not see Ruby, contrary to what Lane hints.

R. M. Patterson positively identified the man he had seen as Oswald, based upon photographs shown him by FBI agents on August 26, 1964.<sup>105</sup>

Harold Russell also positively identified the man he saw as Oswald.<sup>106</sup>

Warren Reynolds was shot on January 23, 1964.<sup>107</sup> A potential defendant was released because of an alibi furnished by one Betty MacDonald (Nancy Jane Mooney).<sup>108</sup> Lane claims that Miss Mooney worked as a stripper in Ruby's club and, hints, as does Penn Jones, Jr., that her subsequent self-hanging and Reynolds's shooting may have been related to the assassination.<sup>109</sup> One affiant, Patsy Swope, stated that Miss Mooney had told her she had worked at the Gayousel.<sup>110</sup> That is the only evidence that we found, but the Commission stated that it had no evidence that Mooney had worked for Ruby.<sup>111</sup>

We are unable to evaluate Lane's allegations concerning Mr. Clemens, a supposed eyewitness to the Tippit slaying, because Lane relies on his personal interview of her.<sup>112</sup>

Lane is correct in his assessment that Amos Ewins<sup>113</sup> was unable to testify with certainty about the race of the man whom he saw, and he is correct in stating that Ewins

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altered his views on this point from what had appeared in his affidavit.<sup>114</sup> We cannot evaluate the truth of the allegation that Ewins had been threatened because the report of the threats appears in an unsupported newspaper account.<sup>115</sup>

In any event, none of these things even begins to prove any connection between Ruby and the slaying of Tippit.

George Senator's testimony shows that he did call attorney Martin before he learned that it was Ruby who did the shooting of Oswald,<sup>116</sup> as Lane says.<sup>117</sup> Senator said that he called Martin "as a friend."<sup>118</sup> This would seem reasonable, Lane's insinuations notwithstanding.<sup>119</sup> Insinuation is no substitute for facts.

#### CUBAN OVERTONES

Ruby, in an interview on December 21, 1963, told Special Agent Alfred Neely that he attempted to contact a man concerning the sale of jeeps to Castro. Police determined that the man was probably Robert McKeown.<sup>120</sup> The attempted communication took place in the late fifties, and apparently nothing resulted from it.<sup>121</sup>

The other principal whom Lane names as one of Ruby's "international connections" is Lewis J. McWille.<sup>122</sup> The Report's summation of the Ruby-McWille relationship is:

In September, 1959, Ruby traveled to Havana as a guest of a close friend and known gambler, Lewis J. McWille. Both Ruby and McWille state the trip was purely social. In January, 1961, McWille left Cuba with strong feelings of hostility toward the Castro regime. In early 1963, Ruby purchased a pistol which he shipped to McWille in Nevada, but McWille did not accept the package. The Commission has found no evidence that McWille has engaged in any activities since leaving Cuba that are related to pro- or anti-Castro political movements or that he was involved in Ruby's abortive jeep transaction.<sup>123</sup>

Lane tries to link Ruby, McKeown, and McWille in

nefarious activity.<sup>124</sup> McWille told an FBI agent that Ruby was "apolitical" and had no connection with political figures in Cuba.<sup>125</sup> Thus Ruby's unsuccessful attempt to do business with McKeown in the late fifties and his social visit to Havana with McWille are unrelated, one to the other, and to the assassination of Oswald. There is no persuasive evidence to the contrary.

The whole situation troubled Ruby himself, who did not conceal the associations. He constantly referred to it in conversation, for it feared the wrong inferences might be drawn by the uninformed or malicious.

#### THE "PRELIMINARY REPORT"

Lane quotes <sup>126</sup> a memorandum from the Commission to the CIA: "It is possible that Ruby could have been utilized by a politically motivated group either upon the promise of money or because of the influential character of the individual approaching Ruby."<sup>127</sup> He refers to this memorandum as a "preliminary report";<sup>128</sup> however, the document does not describe itself in that manner.<sup>129</sup> It is labeled only as a "memorandum" of "pertinent information."

An analysis of this memorandum reveals that it is essentially an outline for investigation, rather than the result of one.<sup>130</sup> The memorandum lists possible avenues for investigation, some of which were subsequently closed by the Commission's witnesses. (For example, a suggestion that Ruby might be linked to the "Las Vegas gambling community" proved to be unfounded.<sup>131</sup>)

Lane alleges that the CIA never grappled with the many serious questions posed in the preliminary report and answered, instead, quite gratuitously, that a search of its own files revealed no evidence that Ruby and Oswald were associated.<sup>132</sup> To the contrary, the CIA was not requested to investigate anything except its own files. Chief Counsel Rankin's letter, which requested information, merely asked the CIA to "submit to the Commission any

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information contained in your files regarding the matters covered in the memorandum, as well as any other analyses by your representatives which you believe might be useful to the Commission."<sup>133</sup>

As one looks into the progression of critics of the Warren Report, one finds that first they seize upon those areas in which questions may be asked. Propounding these questions with a solemn wink, they then proceed to make certainties of uncertainties. They no longer ask questions; they make charges—the less provable the charge, the more assured the manner of charging. Such judgments we are asked to accept in place of those pronounced, in measured terms, by the Warren Commission. What, then, are we to make of Lane's performance? Is it so free of fault or so full of error that one must wholly agree or disagree with the conclusions?

Judging solely by the correctness of his quotations or the accuracy of the citations of sources, Lane does not always meet respectable standards. Sometimes he quotes accurately; sometimes he omits highly pertinent language; often his citations are not to the point or persuasive. The vast number of references are the façade, not the reality, of scholarship. In many respects, he falls short of what might be considered the ideal, an ideal moreover that he explicitly demands of others. He is highly selective in choosing his sources and in crediting those whom he will believe, to the exclusion of others. Men will disagree, not only about the interpretation of data, but also about the data itself, and if reasonable men may differ, it is unfair—if not entirely outrageous—to look always behind the differences to find dastardly motivations. For all Lane's implications of conspiracy, criminal activity on the part of Jack Ruby, and profound secrets that could have been uncovered had it not been for the perverse blindness and incompetence of the Warren Commission and its staff, Lane has produced—nothing substantial.

Laine has not shown that there was a conspiracy in which Ruby participated, or discovered any member of it, in nearly five years of personal investigation. Although he continues to pursue the theory, he has got less near the truth than the Warren Commission.

The pursuit of "the truth" by Laine and others is but a manifestation of a bent of mind, an inclination that is both desirable and regrettable. The quest for truth has been the life's work of investigators who have contributed most to mankind, but it has also been the motivating force of those who have acted to frustrate diversity of opinion and belief. For Laine and the rest, the quest is not for truth in the human experience, but truth absolute and unchangeable, certainly now and forever.

Surely, in dealing with the problems arising from the assassination of President Kennedy and its aftermath, one must constantly ask, Is this true? But as Pilate knew, the truth is not easy to detect or to accept, because the very meaning of the word is not as clear as one might assume. Truth may be simply defined as "evidence sufficient to establish a thing as true, or to produce belief in its truth."<sup>14</sup> Of course, such a definition does not include certainty, for the very good reason that few things are certain. As a standard casebook on evidence suggests in discussing the problem of proof:

Evidence is produced at a trial so that an impartial trier can decide how an event occurred. Time is irreversible, events unique, and any reconstruction of the past at best an approximation. As a result of this lack of certainty about what happened, it is inescapable that the trier's conclusions be based on probabilities. . . . Fundamental, then, is acceptance of the fact that the results of adjudication are imperfect, that the rules represent a pragmatic attempt to come as reasonably close to the truth as the law's resources permit.<sup>15</sup>

In a criminal case, where theoretically the verdict is weighted in favor of the accused, what is true is only what

a jury concludes; and the jury's verdict may be set aside through the protracted and complex processes of the law.

If we speculate about police involvement with Ruby, for example, and the speculation shows no reasonable suggestions of conspiracy, there is greater probability about the truth than would be present in a formal adjudication by a court of lack of guilt. What we call moral certainty means more than any verdict.

What we are dealing with should be called a question of "probable opinion." Bertrand Russell deals with it in this fashion:

In regard to probable opinion, we can derive great assistance from coherence, which we rejected as the definition of truth, but may often use as a criterion. A body of individually probable opinions, if they are mutually coherent, become more probable than any one of them would be individually. It is in this way that many scientific hypotheses acquire their probability. They fit into a coherent system of probable opinions, and thus become more probable than they would be in isolation. . . . But this test, though it increases probability where it is successful, never gives absolute certainty, unless there is certainty already at some point in the coherent system. Thus the mere organization of probable opinion will, never, by itself, transform it into indubitable knowledge.<sup>16</sup>

Thus the coherence of all facets of the accepted view of what happened in Dallas during the tragic week-end of November 22, 1963, particularly Ruby's activities strengthens the probability of truth. In applying this passage from Russell to the entire assassination, it might be said that the coherency of the Warren Report suggests truth, that it may not be indubitable knowledge, but that the probable lack of coherency of "conspiracy" views suggests the lack of truth in such alternatives.

I have intentionally selected Bertrand Russell as a prime source for my hypothesis because Russell is one of the most vigorous critics of the Warren Report and, indeed,

of all views and personalities of the American Establishment. When the Warren Report was first released, Russell instantly poured vitriol on it, before he could have read it. This proves again the subjective nature of truth. "I believe, therefore it is true." Was it not St. Paul who said that "faith is the evidence for things not seen?"

The assassination of a political leader, whatever the intention of the assassin, is a political act, for the consequences are political. As events have shown, no citizen can remain unaffected. It is natural, then that people should look behind the act of assassination to motive and intent and make the mental leap, in the absence of absolute truth, to certainty in things unseen, to conspiracies and plots. An earlier episode in American history, of might-have-been's and likely-was-so's, is instructive.

#### THE ASSASSINATION OF LINCOLN

On the evening of April 14, 1865, General and Mrs. Ulysses S. Grant were to have accompanied President and Mrs. Lincoln to Ford's Theatre in Washington, D.C., for a performance of *Our American Cousin*. The President himself had urged the great military hero to attend, and the invitation had been qualifiedly accepted. The newspapers were notified, and advertisements announced an event that was certain to augment theatre attendance on what was normally a bad night, Good Friday.

Quite suddenly, the Grants begged off attending the theatre, excusing themselves by saying that it was necessary for them to return to their home in Burlington, New Jersey, to see their children. Had the Grants remained in Washington and gone to the theatre with the President and his lady, the General's armed orderly and perhaps others would have been on guard outside the presidential box, and possibly inside it, as well. Neither John Wilkes Booth nor any other unauthorized or dangerous person could then have got within range of the President. With so many

eyes on the hero of the day, it was unlikely that anyone would attempt the life of the President or get away with it. With the Grants elsewhere, the Lincolns had to make last-minute, less satisfactory arrangements for the evening. The result was disaster and martyrdom.

Students generally pass by this great "if" of history. In every event there are imponderables, and it sometimes seems the game of a child, not that of a scholar, to speculate over them. Dr. Otto Eisenschiml was the great exception. This enormously interesting man of the widest interests—chemist, businessman, historian, musician, baseball fan, and intellectual adventurer—was deeply absorbed in all aspects of the Civil War, initially because his father had been a captain at the battle of Shiloh. Dr. Eisenschiml probed deeply into the discourtesy of the Grants and found that their withdrawal was not as simple as had been assumed. With his usual thoroughness and imaginative resourcefulness, he determined the manner in which the Grants would have journeyed to Burlington. To do this, he dug up old railroad timetables and found, to his bewilderment, that the Grants had gained only discomfort by going at night. They had to travel in an ordinary coach and to transfer twice at very bad hours. If they had taken the morning train, they could have gone with the Lincolns to the theatre and still have seen the children at Burlington in the early afternoon. Surely the General, with all the available information at his disposal, knew this. What was the meaning of it?

Dr. Eisenschiml asked other questions as he delved further. Who, during that night of April 14, 1865, had tampered with the telegraph lines leading out of Washington, impeding communication when it was most necessary? Why did Secretary of War Stanton, on the flimsiest of excuses, refuse his Commander in Chief the company of the extraordinarily strong and alert Major Eckert? Why, instead, was an utterly incompetent and scatterbrained bodyguard placed at the presidential box, a man who went



to a nearby saloon, leaving the box unguarded? Why was this man not punished, or even closely questioned, for his gross negligence?

"Perhaps the most serious reproach against historical writers," Dr. Eisenschiml concluded, "is not that they have left such questions unanswered, but [that] they failed to ask them."

Dr. Eisenschiml did ask these and many other questions. He devoted many years and much money to amazing research and provocative writing on the subject. He did not rush into print to capture headlines or catch pennies. He was patient, scholarly, objective, nonaccusatory, even when he appeared to have the most damaging evidence against persons in both high and low places. Ultimately, he published one historical classic, *Why Was Lincoln Murdered?*, two lesser books on the theme, *In the Shadow of Lincoln's Death* and *The Case of A. L.—, Aged 59*, and several articles.

Anyone who wants to consider, in perspective, the severely critical contributions of Mark Lane and others to the study of the latest presidential assassination should peruse Dr. Eisenschiml's writings. I do not want to labor the matter, but it is appropriate to highlight, briefly, a few of the points made by the great student of the Lincoln assassination and to supplement them by other material.

Take again the matter of the criminally negligent presidential guard, John F. Parker. He was a veteran member of the Metropolitan Police Force of Washington, detailed for such duty. He was to be armed with a Colt revolver and to stand at the entrance to the box at Ford's Theatre, permitting no unauthorized person to enter it and protecting the President through all hazards.

The stationing of Parker at the presidential box was strange, indeed. True, until that time no President of the United States had ever been assassinated, but threats had been made against Lincoln from the moment of his election—he had had to sneak through nearby Baltimore in un-

seemly fashion on his way to his inauguration—and there had been information leading to the belief that there were abduction plots and even plans to kill him. He, like Kennedy almost a century later, dwelt upon the death of Presidents. Washington was filled with dissidents of all kinds, from disappointed job-seekers to outraged secessionists. Common sense should have dictated the best possible protection for the President. Parker had earlier been charged with conduct unbecoming an officer; the use of violent, coarse, and insolent language; loafing and sleeping while on duty; insubordination; willful violation of the rules and regulations; intoxication; visiting a house of prostitution for as long as five weeks at one stretch; firing a pistol through a window while there; refusal to restrain some disorderly Negroes; and the like. Yet, on April 3, 1865, only eleven days before the assassination, a request was made on his behalf that he be excused from the wartime draft, taken off his usual beat, and detailed for presidential duty at the Executive Mansion. This request was made by Mrs. Lincoln, for reasons that have never been determined. The documentation, in her own handwriting, was found by Dr. Eisenschiml many years later, when he purchased the papers of the Civil War provost marshal of the District of Columbia. Parker went out for a drink or two at the very time when he was supposed to be at the presidential box, so that Booth was able to enter it, unmolested, and to shoot Lincoln. Mark Lane and others would have made much of any similar episode in connection with President Kennedy's assassination and its aftermath; they have made even more of lesser incidents. The Dallas police certainly took infinitely more precautions than did the District of Columbia authorities, and yet there was a similar series of disasters. Destiny does not respect blue coats in the plans of men.

Did the disgraceful Parker business indicate that there was a conspiracy to kill Lincoln and others? Parker remained on the police force, seemingly protected, as long

as Secretary of War Stanton was in office. When Stanton was at last ousted by Lincoln's long-suffering successor (whom Stanton had despised upon and betrayed), short shrift was given to Parker. He was fled for less cause than had existed. Until rediscovered by Dr. Eiseenschiml, he passed into oblivion.

There are conspiracies and conspiracies. Lincoln's slayer, John Wilkes Booth, was part of a conspiracy, we know. It included an assortment of odd human beings, none of them, so far as is known with any certainty, in high public position, although Stanton charged the Confederate leaders, from President Jefferson Davis down, with complicity. In a very real sense, Booth acted alone in concocting and carrying out his murderous act. The others were onlookers and supernumeraries, in effect. These witless men to whom he assigned other tasks, such as holding a horse for him or slaying Secretary of State Seward and possibly Vice-President Andrew Johnson, fumbled and failed (except for Lewis Paine), but they paid with their necks, just as did a possibly innocent person, Mary Surratt. Dr. Eiseenschiml deals, in his writings, with all the facts and inferences that might cause the Mark Lanes of history to conclude that Lincoln was the victim of a dire plot as unfolded in *MacBird*, that unreal play in which a Johnson-like character kills his predecessor, just as Macbeth killed King Duncan, to succeed him in office. Dr. Eiseenschiml proves that Stanton knew that Booth had killed Lincoln shortly after the event, but did not make his name public until 3:00 a.m. the next day; that while it was virtually certain that Booth was to attempt escape in the direction of Richmond, Virginia, news of the assassination, and of Booth's role, was not published there until April 17, three days later; that every road out of Washington had been barred except the very road the assassin was likely to take; that no troops were sent in immediate pursuit for Booth and Herold, his young associate, even though the War Department knew they had crossed the Annapolis

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Bridge and were racing away; that, in fact, when an officer asked for cavalry horses so that he might pursue them, he was refused; that news of the assassination was published in widely separated places before it had occurred; that it appeared—to go to an even more basic fact—that the war was not permitted to be won by Stanton until it was certain that slavery would be abolished and the Black Republicans could take over. There was much more besides. Yet Dr. Eiseenschiml, not being a Mark Lane, very carefully pointed out that the logical inference that Stanton and his Black Republican associates were responsible for Lincoln's death has not a scrap of positive evidence to support it. This dark conjecture still haunts American history and holds lessons for those who speculate wildly over the Kennedy assassination.

It would seem that there is no mystery about the actual shooting of Lincoln by Booth, regardless of any other aspect of the case. True, nobody actually saw Booth discharge the gun; but he was seen in the presidential box at the theatre that night. He had jumped from the box to the stage, proclaiming "*Sic semper tyrannis!*" He had fled from the theatre and from Washington. He had proclaimed and believed himself the assassin. Why, then, should there be any question about the matter?

The direction of the shot, as observed by those who first saw the dying President, seemed to make it impossible that the fatal injury could have been inflicted by someone inside the theatre box. Booth, standing at the door to the box, saw only the right profile of Lincoln. But the bullet had entered the left side, not the right side, of Lincoln's head, the side that Booth could not have seen! And the bullet, entering below the ear, had coursed upward in the head. This would indicate, almost conclusively, that Lincoln must have been shot by someone in the audience, and not by Booth. But no such person had been seen, and it was inconceivable that he would have been unobserved by the throng.

It is true that very few people were aware of these strange facts at the time. One Washington newspaper reporter explained the matter in a way that did not truly explain. He thought that Booth had contorted his body before shooting the President, as if to create a mystery where none was necessary. He said that Booth had leaned over the railing of the box, "with the elbow of his right arm out of the box, his left hand on the balustrade," and in that unnatural position had used his gun with deadly effect. But this explanation did not satisfy even the reporter. Most people including those in the audience, simply assumed that the bullet had penetrated the right side and did not credit any report that it was on the left. Dr. Eisenschiml presented the answer to this riddle, as to many others. It was supplied through James P. Ferguson, a restaurant keeper, a boyhood friend of Grant's, who had gone to the theatre to see the great general, not the President. He had never let the presidential box out of view. He saw Booth enter the box; he saw the flash of the pistol; and he, alone it seemed, observed Lincoln every moment. As Ferguson told it to the police that night, Lincoln's attention was attracted by some disturbance in the theatre. Pulling the curtain of the box aside, Lincoln turned his head toward the center of the theatre and looked down, in a rather comfortable manner. It was at this moment that Booth fired. Thus the bullet struck Lincoln's head on the left side while it was twisted sharply to one side, and the course of the bullet was upward in Lincoln's head. Had Ferguson not observed these things, there would have remained a mystery to plague serious students and crackpots as well.

One must remember that mysteries often have ordinary explanations and are not necessarily conspiratorial in nature. Some would believe, as Hugh Kingsmill, an English writer, once observed, it is as much a form of gullibility to believe nothing as to believe everything. And here were other questions arising from Lincoln's autopsy. What course did the bullet take? Was it straight forward, or did it plow diagonally through the President's

head? The doctors disagreed, but that was not the reason the patient died. The best modern medical opinion, as Dr. Eisenschiml has pointed out, and it is only an opinion, inclines toward the conclusion that the bullet took a diagonal course and stopped behind the right eye.

The autopsy showed that the upper bones of both eye-sockets of the slain President had been completely demolished; the plates were splintered in numerous places. These broken fragments pointed toward the inside of Lincoln's head, the opposite direction to that in which the Booth bullet had traveled. Examination showed that the bullet, arrested in its course, did not cause the destruction; it had not pierced the membrane separating the brain from the eye sockets. The bullet was unlike modern bullets. One could only seek expert testimony for tentative explanation; one could not be sure. The best opinion is that the low velocity of Booth's bullet, its relatively heavy weight, its having been fired at close range, these tended to produce a sudden highly forceful impact, as a result of which the eye sockets were shattered and the orbital plates broken down. Similar explanations may someday be found for the so-called mysteries of the Kennedy autopsy.

At exactly what time did the Lincoln shooting take place? The newspapers printed widely conflicting accounts. The many persons present at Ford's Theatre were apparently too shocked, or too careless, to look at their watches. Did Booth really shout "*Sic semper tyrannis*" as he jumped to the stage from the presidential box? Did he then explain, "The South is avenged"? How long was the jump to the stage? Did he walk erect or did he limp as rushed to the rear door of the stage? No two persons seemed to have the same answers to these and other questions. Some of the questions remain unanswered to this day, despite the best efforts of Dr. Eisenschiml and others. Some of these are important, others less so. Was Booth killed by Boston Corbett, or did he escape? In any event, Booth's associates, actual and alleged, eight of them, were tried by a military tribunal. All eight were convicted, and

four of them hanged, including Mrs. Surratt, about whose participation doubt rages to this day. The lady was hanged despite the tribunal's recommendation of mercy. The accused were clothed in hooded and heavy garments that made life almost unbearable for them even before they were tried and condemned; they were manacled and kept in the hold of an inaccessible ship; they could not speak for themselves or to their counsel. They did not have the benefit of a civil trial. There was no Warren Commission, no Congressional Committee of Inquiry, to examine into the facts while they were still available. This was a blind and furious inquisition in the cruel style of Oriental Presidents of an enlightened land. It is a blot upon our national reputation, recalled by few. How furious our latter-day critics could well be, but Dr. Eysenschiml is almost alone in his condemnation of what occurred. More important, he sought for answers to questions, and he forewent dogmatic answers. He was a man of the century.

Those who pursued Booth, a detachment of twenty-five army men, were instructed to capture him and bring him back alive to Washington. He was cornered, with David Harold, in the tobacco shed at Carrett's farm. Young Carrett was sent into the barn to disarm the two men and to persuade them to surrender. They would not do so. Harold shortly afterwards left the barn and surrendered. Then the shed was set on fire, so that the other occupant would be compelled to leave. This man, presumably Booth, could be seen through cracks in the wall of the shed. He seemed to be moving towards the door when suddenly there was a shot and he fell to the ground; a bullet in his neck paralyzing his spinal cord. He died at sunrise the next day, April 27, 1865. So far as we know, he had been shot by Boston Corbett, a sergeant in Lieutenant Doherty's detachment, a religious fanatic who claimed that God had directed him to countermand his military superior's order and to shoot Booth. Later he said that Booth had been aiming at him with a carbine, so he shot him. No other soldier in the

detachment, apparently, had seen Corbett shoot Booth; only one person, Carrett's twelve-year-old son, claimed, twenty-two years later, that he saw Corbett fire. The chairman of the congressional committee charged with determining who was to get the proffered reward for the capture of the conspirators said that Corbett was "an insane man" who "forsook his place, thrust a pistol through a crack and fired without knowing where the ball was going." It is possible that someone other than Corbett actually killed Booth, perhaps Colonel Conger, as Lieutenant Baker later claimed. But Corbett received the popular acclaim for the act and was feted throughout the country and treated as a hero. Audiences flocked to hear him speak, until they became bored by his Biblical bombast. His picture sold like the proverbial hot cakes; not even Phil Sheridan's heroic likeness sold better. Corbett was often interviewed, invariably giving God credit for his good aim. He was given only a small share of the reward and in time wandered off and was involved in various scrapes, including another divinely inspired shooting—an unsuccessful attempt to kill the members of the Kansas legislature. He was placed in an insane asylum, in time escaped, and was lost to history. Without laboring the matter, there are various respects in which he resembled Jack Ruby, who slew another President's assassin almost a century later.

He who would make much of a conspiracy in the death of President Kennedy would do well to reflect on this brief recital of the all-too-similar circumstances of the death of Abraham Lincoln. Events are not well ordered, the truth is not always knowable. And what is known is known provisionally, with some quantum of doubt appearing inconspicuously in the next phrasing. John F. Kennedy is dead, Lee Harvey Oswald is dead, and Jack L. Ruby is dead. These are certainties. That there is tragedy here is well established, but that there was or is a conspiracy is and ever will be in my opinion, beyond proof, for there are and ever will be in our midst individuals who disarrange history by their actions in a moment of madness.

77. WCR, 333  
 78. RTJ, 261  
 79. XXV, 194  
 80. Id. at 205  
 81. XX, 654  
 82. RTJ, 261-62  
 83. WCR, 334-35  
 84. RTJ, 262  
 85. VI, 193  
 86. *Ibid.*  
 87. Id. at 212  
 88. Id. at 215  
 89. RTJ, 263  
 90. WCR, 335-37  
 91. XV, 80  
 92. WCR, 336  
 93. XV, 392  
 94. RTJ, 270  
 95. WCR, 337-38  
 96. RTJ, 271  
 97. XV, 399  
 98. Id. at 671-72, 675  
 99. RTJ, 273-74  
 100. XV, 396  
 101. RTJ, 276  
 102. XI, 435  
 103. XX, 534  
 104. *Ibid.*  
 105. XXI, 27  
 106. Id. at 384  
 107. RTJ, 278  
 108. *Ibid.*  
 109. *Ibid.*  
 110. XXV, 872  
 111. WCR, 663  
 112. RTJ, 280  
 113. II, 207-209  
 114. RTJ, 281  
 115. Id. at 280  
 116. XIV, 245-46  
 117. RTJ, 282  
 118. XIV, 246  
 119. RTJ, 282-84  
 120. XXIII, 157  
 121. Id. at 160  
 122. RTJ, 301  
 123. WCR, 370  
 124. RTJ, 301  
 125. XXIII, 170-71  
 126. RTJ, 302  
 127. XXVI, 470  
 128. RTJ, 302 ff.  
 129. XXVI, 467  
 130. Id. at 468-73  
 131. Id. at 471  
 132. RTJ, 304  
 133. XXVI, 469  
 134. American College Dictionary  
 135. *Evidence-Cases and Materials*, Maguire, Weinstein, Chadborn and Mansfield, 1  
 136. *The Problems of Philosophy*,  
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## END NOTE

OF THE PERSONS involved in the Ruby case, a few last words must be said. Judge Joe B. Brown, the focus of much of the activity in the case, died in March, 1968, to little notice and no acclaim. He had outlived his role. The book he intended to complete was abandoned by his publishers and never appeared in print. No one much cared about Judge Brown after his actions were held up to careful public scrutiny, and he was happy to dissociate himself from the proceedings. The opposite was true of his able successor, Judge Louis B. Holland. Still presiding over his old district, Judge Holland remembers his association with this famous case with pride.

On the prosecutor's staff, much has changed. Henry Menasco Wade, who had expected to be named to the bench but was disappointed, continues successfully as the criminal district attorney of Dallas County, Texas. A. D. Jim Bowie, who left Wade's office in 1965 to serve on the bench, died in 1968. As should have been expected, his judicial record, during his short career as judge, was one of distinction. Bill Alexander went his vthperative way, contributing to Henry Wade's remarkable record of criminal convictions—until one day he declared that impeachment was too good for Chief Justice Earl Warren: the Chief Justice should hang. That was going too far, and after sixteen years as Wade's assistant, Alexander was eased out of office.

The attorneys who served Jack Ruby have gone their various ways. Joe Tonahill and Melvin Belli are still practicing personal injury law, less clamorously perhaps, but no less successfully. Belli has found a new legal partner—F. Lee Bailey, the hero of the Shepard case, which so inspired us in the arguments before the Texas courts.

## End Note

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Sol Dann, before his heart attack, ran for judge in Detroit and lost. Now, with seeming unconcern for the risk he runs, he works as hard as ever at the law.

William Kunstler and Sam Houston Clinton, Jr., have continued to defend difficult clients in difficult cases, following the paths to which they have long been committed philosophically and emotionally.

Phil Burleson, who grew in stature as the Ruby case went on, quietly practices law in Dallas. The qualities he demonstrated in the case give promise that some day this young man may reach a position as a prominent national practitioner.

With the death of Ruby the murder indictment and the petition for certiorari in the Supreme Court were left in mid-air. It was far easier to terminate these proceedings than to commence or carry them through. The indictment was dismissed—not without a last effort by the unforgiving Bill Alexander to cast Ruby in a bad light. On our motion the Supreme Court dismissed the petition for certiorari. Thus did years of complicated litigation come to an end.

Of the Ruby case itself, and of its meaning, a few words are in order. The proceedings are at an end, but, unhappily, it is likely that there will be similar events in the future. Even as this record was being completed, other assassinations took place. To the extent that there is meaning in the Jack Ruby situation, a warning of the dangers to avoid in the handling of sensational cases, the story will have no end.

Chapter 32 The Secret Tape 479-497

1.	XIII, 211	8.	Id. at 385
2.	WCR, 357	6.	XIV, 134, 141
3.	<i>Ibid.</i>	7.	XV, 275
4.	Id. at 219, 221	8.	CE 1697

Chapter 35 A Conspiracy? 507-543

1.	RTJ, 209	39.	<i>Ibid.</i>
2.	WCR, 216	40.	Id. at 617
3.	XXI, 19-20	41.	XIX, 347-49
4.	XIII, 132	42.	XXVI, 618
5.	WCR, 220	43.	Id. at 632
6.	XX, 23	44.	RTJ, 231
7.	XXIV, 312	45.	WCR, 224
8.	XX, 350	46.	Id. at 801
9.	XXIV, 164	47.	XIII, 324-25
10.	RTJ, 226	48.	<i>Ibid.</i>
11.	WCR, 800	49.	XIV, 312
12.	Id. at 224-25	50.	Id. at 214
13.	V, 189	51.	XX, 68
14.	WCR, 224	52.	XIII, 434
15.	RTJ, 219-24	53.	XXII, 920-21
16.	XIX, 420	54.	XXI, 272-73
17.	Id. at 419-27	55.	XXIII, 139-37
18.	XII, 230	56.	RTJ, 233-34
19.	Id. at 339	57.	V, 191, 196
20.	XIX, 419-27	58.	Id. at 197
21.	XII, 232	59.	XV, 37, 198
22.	Id. at 233	60.	XIV, 471
23.	WCR, 219	61.	Id. at 500-501
24.	XX, 66	62.	RTJ, 243
25.	XII, 192-93	63.	V, 193
26.	Id. at 31	64.	RTJ, 245
27.	XIII, 136-37	65.	Id. at 249
28.	Id. at 137	66.	Id. at 250
29.	RTJ, 229-40	67.	XV, 635
30.	Id. at 230	68.	<i>Ibid.</i>
31.	WCR, 801	69.	XXV, 830-31
32.	Id. at 224	70.	XXVI, 482
33.	RTJ, 230	71.	V, 814
34.	XIV, 330	72.	XIV, 859-60; V, 203
35.	Id. at 337-38	73.	II, 89-91
36.	XXVI, 615-17	74.	RTJ, 253-54
37.	XIV, 345	75.	WCR, 333-88
38.	XXVI, 616	76.	RTJ, 260-72

NOTES

Throughout the book the sources of specific quotations, whether documents from the proceedings, personal correspondence, or newspaper reports, are cited in the text. In three chapters such textual citation was avoided, and it is assembled here. In the following notes abbreviated citations are used.

References to the *Report of the President's Commission on the Assassination of President John F. Kennedy* (U.S. Government Printing Office, 1964) are indicated by the capitals WCR followed by the page number.

References to the *Hearings Before the President's Commission on the Assassination of President Kennedy* (U.S. Government Printing Office, 1964) are indicated by volume numbers in roman numerals and the page number in arabic.

References to *Psycho Judgment* (Holt, Rinehart & Winston, 1966) are indicated by the capitals RTJ followed by the page number.

Chapter 4 The Testimony of the Dallas Police Officers 68-102

1.	XII, 415-45	9.	XII, 395-402
2.	Dean Exhibit 5009	10.	XIII, 1-12
3.	Dean Exhibit 5010	11.	VII, 251-60
4.	XIII, 56-83	12.	XII, 14-20
5.	General Exhibit 1	13.	VII, 260-68
6.	XX, 856-70	14.	XX, 808-9
7.	XIII, 57-58	15.	Id. at 507
8.	XIX, 20-21	16.	XIII, 19

witnesses and the documentary evidence upon which the Report was based. The controversy continued. It may go on forever. For some critics would not be convinced by the evidence before them. And they would not heed the logic of the arguments of those who desired only to learn the truth, who had worked closely over the evidence.

Of the earliest works to appear, some shoddy beyond belief, nothing needs to be said. The writers were compelled to rely upon hearsay, journalistic accounts, personal visits to Dallas, (in some cases), and (often) all too fertile imaginations. With the appearance of the Report and the volumes of evidence (twenty-seven fat volumes in all), the attacks on the Commission, the Establishment, and American society as a whole, did not halt. The focus was merely shifted, for now the critics had available new weapons, the evidence assembled by the Commission itself. (What a joy to be able to condemn others by their own utterances!) Thus the writings that appeared after the Report fall into a distinct category, a category of criticism of the Commission. Foremost among the critics has been New York attorney Marks Lane, Lane, who has practically made a new and profitable career through his lecturing and writing about the events surrounding the assassination, began from what must be considered a legitimate (if in this instance misplaced) concern. Like many other attorneys, he was aroused by the violation of Oswald's rights while he was in the custody of the Dallas police. Lane, however, could not defend those rights while Oswald was alive, and the efforts of others were belated. Nevertheless, after Oswald was dead, Lane made the attempt. (He was encouraged by the invitation of Oswald's mother.) That in doing this, he would have to impugn the integrity of many living people, in much the same way Oswald had been mistreated by exposure to the communications media, seems not to have concerned him at all. He may even have welcomed it. To Lane it has seemed right that, to defend Oswald, much of the society should be accused.

### A Conspiracy?

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In and of itself, of course, the provoking of questions about the conduct, integrity, or ability of a public figure, whether the President, the Chief Justice, or even a low-ranking local official, is legitimate, so long as it is not malicious. But the assembling of many insidious questions and the insinuating of doubt have the effect of sowing discord and suspicion everywhere. The consequence, and it is a most serious consequence, is that the whole structure of the society is undermined. If the society is corrupt, then it calls for exposure. But the critic should not react irresponsibly.

Lane, of course, has not been solely responsible for the devastating result, but he has been most active and most prominent. Many people have praised his work, and more have attacked it. Some have been knowledgeable, some ignorant; some cool, some passionate. Writers have come forward to support Lane's arguments about the events surrounding the killing of the young President. My concern here is not with whether Oswald did or did not kill the President, did or did not kill Tippit. My concern is Ruby, and since Lane has implied that Ruby was the "silencer," was in effect a part of a conspiracy, it is fair to consider Lane's presentation of the issue. An examination of what he has written, in *Rush to Judgment*, will go far to illuminate his methods in criticism of the methods of the Warren Commission. Is his work as free from question as he would obviously like theirs to be?

### THE SHOOTING OF OSWALD

Lane's description of the death of Oswald, admirably succinct, is a minor example worth examining in this light: Ruby pushed through the crowd, pistol in hand, and placed the muzzle against Oswald's stomach. Oswald tried to protect himself by bringing forward both hands, but even so inadequate a defense was prevented by the handcuffs, and Ruby shot him