

CHAPTER ONE

A TIP-TOP SCHOLAR AND AN ASSASSINATION EXPERT

Assassination is a political crime. The assassination of President Kennedy is, inevitably, a coup d'etat, whether or not that was the objective of the assassin or assassins. It is the most subversive of crimes in this country. It nullifies our entire system of freedom through self-government. Inevitably, too, it means changed national policies, other than those for which the people voted and expected of the President they elected.

It is, as it should be, a matter of great national concern. The people do care, do express themselves as under our system they should, really must, and if the government that comes in as a result of any assassination does not satisfy popular concern over the assassination, popular desire to be fully and accurately informed about it, that government sacrifices some popular support and that, too, is as it should be.

Traditionally, presidential candidates select their running-mates those who add to the ticket by appealing to voters who are not attracted to the presidential candidate. This means the vice-presidential candidate has policies and holds views that are not those of the presidential candidate.

Whether or not the assassination is the end product of a conspiracy is not a matter of theory but of fact. With the

assassination of President F. Kennedy the official investigation did develop an enormous amount of information , misinformation, and disinformation. But it also developed some absolutely solid fact about the crime. Most of the writing about the assassination and its investigations have not mastered this available official fact. Most of those writings supposedly about the assassination avoid mention of this proven official fact. They do this by ignoring it to begin with and they avoid it, if they learn any of it, in their writing.

If the people are not fully and accurately informed our system cannot work as it should.

If the people are misinformed or misled in any way about such an assassination, and in some ways, more about its official investigation, our system is by that corrupted so it cannot work as intended by our founders.

Other than my books I know of no book supposedly on this assassination that restricts itself entirely to the official evidence, what was proven to be correct, what was not correct, and much too often what was not relevant. The most common method of those who defend the Warren Report is to pretend that any reference to conspiracy is a matter of theory. This is a false pretense. Many of those who make this pretense know it is false. This is particularly true when the false pretense comes from those in official positions.

What is little understood and none of those anti-conspiracy theory writers tell their readers is that the Warren Report itself

is a matter of theory, of only theory at best, and calling it theory may in fact praise it.

In keeping with this posture, this false pretense, that any reference to whether or not there was a conspiracy in the JFK assassination is only an untrue theory, Dr. Kermit Hall says he titles his article in the Maryland Law Review (Vol. 56, No. 1, 1997), after H. L. Mencken, "The Virulence of the National Appetite for Bogus Revelation."

This is a propaganda title. It labels all who do not agree with Hall and all the beliefs other than his as bogus and, of course, it castigates any reference to any conspiracy as "bogus,"too.

What is really bogus in all this is Hall and his writing.

Hall is Dean of Humanities, executive dean of the College of Arts and Sciences and professor of history and law of the Ohio State University. He and other members of the Assassination Records Review Board serve only part time, a couple of a days a month. Given the volume of the information they cannot do much themselves in no more than these few days a month on the job. They begin with little knowledge of the assassination.

After his appointment Hall told a Columbus, Ohio TV station that his ignorance about the assassination was his greatest asset. Serving on this board, which is to see to the disclosure of all official assassination information, Hall's assets are undiminished, as this article of his demonstrates.

That he writes about the assassination and its investigation without any reference to the fact developed and what is surprising for a lawyer and a historian, without any reference to fact that should have been developed and wasn't or to the obvious misrepresentations of what is officially presented as fact, misrepresentations made obvious and without any question at all by the Commission's evidence itself.

Hall circumvents his subject-matter ignorance, as do his favorite sources like Max Holland, by this total ignoring of the established and official fact of the crime. With this he and they assumed all the Commission did, said and wrote is fully correct and not subject to question.

In this way, Hall and his Hollands hide their determined ignorance of the established fact, to which they make no reference at all, and spout their beliefs and theories, their preconceptions and their political views.

Basic in this permeating ignorance of the actual and established fact of the assassination, which is not limited to Hall among the board's members and staff, is their need to identify what is and is not an assassination record when their ignorance denied them this knowledge.

They thus have no choice, they must assume that no matter how wrong it was the Warren Commission was absolutley right.

This is perforce true of all the board. Hall is merely the most slack-jawed of them, witness his boast that his subject-matter ignorance was his greatest asset when he has to decide what is and is not an assassination record based on that ignorance.

What is particularly surprising for a professional historian who is also a dean of his college is his misrepresentation of history he lived through and that when the truth is well known.

Whether or not the "national appetite for bogus revelation" Mencken saw and wrote about exists so long after Mencken, with what came to be known as The Watergate long after Mencken's death, in the Hall treatment of it he limits it to his representation of the JFK assassination and to his selection of some of the literature on it. Hall credits a number of others for their research support and sources used. It is obvious that Hall could not have done all the research, as it also is obvious that those who did the research were indulging in preconceptions, a point of view, and even then were selective in the bias sources and in what they used and did not use of those sources.

Not one of these assistants addressed the official fact of the assassination in order to be in a position to know and understand whether what they evolved was fair, reasonable or even rational. Their work is, in Hall's rendition of it, biased and in pursuit of the preconception all seem to share.

For either a lawyer or a historian to write about whether or not there was a conspiracy, for either to write in any way critically of those they say theorize that there had been a

conspiracy, those making the criticism must have a firm grasp of the established official fact and use it to address whether there had or had not been a conspiracy and whether those of whom they are critical know or use or misuse that established official fact, without this they are no more than--no better than--propagandists.

Whether or not there had been a conspiracy is not a matter of opinion, as Hall has it; it is a matter of fact. This established official fact of the JFK assassination makes fairies and needles stuff of the pseudo-scholarship of Hall and his brigade of assistants. Their reasoning, their approach, is a modern equivalent of the medieval conjecture of how many fairies could dance on the point of a needle or perhaps go through the eye.

It is entirely unreal and it simply is not honest.

Conspiracy under the law is a combination to do wrong.

In its simplest formulation, if the crime was beyond the capability of any one person, on that basis alone it was a conspiracy.

The crime outlined by the Warren Commission was, by the Commission's own evidence, impossible for any one person. This is beyond any question at all, whether or not reasonable. It is also the Commission's unrefuted best evidence--in fact, the only actual evidence it had on whether any one person could do the shooting to which its Report and conclusions are limited.

Before Hall's article I had published nine books on the JFK assassination and its investigations and had filed and fought a dozen Freedom of Information lawsuits to obtain withheld official

assassination information. As it relates to the JFK assassination, the volume or records yielded by that litigation is about a quarter of a million pages. Some of these lawsuits were precedential. One is credited in the legislative history of the 1974 amending of the Act as requiring the amending of its investigatory files exemption. Hall refers to only two of these books, all of which come from the official evidence and none of which theorizes any conspiracy. His reference to those books are simply not honest.

However, for him to have referred to them at all as he does, he is required to have read and understood them. If he did not he either accepted the prejudice, if not also the ignorance of another, or he was a propagandist, not either a scholar or a lawyer.

The most recent of my books to which he refers was published in 1966. That was thirty years before his speech and article. How he and those on whom he depended could have missed or ignored the other seven books cannot be explained; if not his board some of its staff does have them all. He did dredge from the literary swamps to be able to impressively argue a point of view but even the most casual consultation with such standard sources as Books in Print disclose the existence of those seven later books, and of others that are relevant. (see Exhibit 2).

It is thirty-two years since the first of my books was published. They are all critical of the Commission, of its staff of lawyers, of the FBI and many of its agents and the medical staff of the autopsy, and in all those years not a single one of those whose

work these books criticized has written or phoned me after reading what my books say of him to complain of either unfairness or inaccuracy.

The Department of Justice and its FBI have bestowed unique credentials on me. They did that under conditions that are in themselves rare and in the assassination are unique.

Faced with official mendacity in the efforts to use the law to bring withheld information to light I eschewed the usual practice of having allegations made in lawyers' pleadings. Instead, I made myself subject to the penalties of perjury by stating under oath that the FBI agent who filed an affidavit was a perjurer.

If I were not truthful, when I made this charge, my opposing counsel being those who place criminal charges against others, I deliberately made myself subject to a perjury charge and indictment if I were not truthful and accurate.

That first time was in C.A. 5-226, it was the first case filed under the Act as amended in 1974. As stated above, the legislative history affirms that the earlier version of that lawsuit was responsible for the amending of the Act to make the FBI and the CIA and similar records accessible under it.

The FBI's response, in its Opposition filed by its counsel, the Department of Justice, is what has to be the most unusual and unprecedented defense against a proven charge of perjury, proven under oath itself. I am the plaintiff in what is quoted from the Opposition: (see Exhibit 3).

In a sense, the plaintiff could make such claims (sic.) ad infinitum since he is perhaps

more familiar with events surrounding the investigation of President Kennedy's assassination than anyone now employed by the FBI.

I knew more about the crime and its investigation than anyone in the FBI and for that reason and for that reason alone the FBI is licensed to file perjury with the federal courts--and that with immunity!

(In fact that court threatened my lawyer and me instead of acting on undenied proof that was before it).

The FBI did the Commission's investigations for it and provided the Commission with its scientific testing. The nature of some of this "science" follows below.

None of this and none of the actual contents of any of my nine books was relevant to Hall but he did find relevance in the denial of the holocaust.

He found relevance in the career of Joe McCarthy, too.

Hall insults me and my writing. That, I believe, gives me a right to respond in kind--with one difference: I will be factual and correct and will not lie.

It is as wrong and ignorant as any writing about the assassination literature can be to give my Whitewash (which he here spells correctly as he did not in writing the newsletter of the Organization of American Historians) as one of those "propagating theories of conspiracy."

That in fact is a lie. There is no theorizing in any of my books, of which Hall's scholarship included but three and one of them is not on the JFK assassination. Whitewash is what its

subtitle says it is, "The Report on the Warren Report." It comes entirely from the Report which it analyzes, and from related testimony and documents the Commission published in its twenty-six volumes.

It was the first book on the subject by far. It remains the basic book on the subject. In all the years since its publication in 1965, I repeat not a single one of those who are criticized in it has written or phoned to complain that I was unfair to him or inaccurate of what I said about him. (This is also true of all my books in not one of which has any major error been alleged not even by the government agencies that went over them seeking just that).

Hall is further critical of Whitewash in quoting out of context two sentences of its conclusion: "In writing this book, the author has had but one purpose. That was to show that the job assigned to and expected of the President's Commission on the Assassination of President John F. Kennedy has not been done."

He also states falsely at this point that I was "propagating theories of conspiracy" in that same first book on the subject, Whitewash, "stating that the Warren Commission did not consider any alternative to Oswald as the lone assassin."

The Commission's own records prove this beyond any question. How the man could be dean of his college and a professor of history and law and can have served on this board to see to the disclosure of assassination records and flaunt this kind of ignorance is staggering. So also is what is inherent in this continued criticism, that we are all to Seig Heil! when the government states

what on its face simply cannot be believed.

It is not the function of historians to ask questions?

Is it not the function of lawyers to see to it that there is justice?

Are not both to see to it that truth reaches the people so representative society can work as intended by our founders?

What is wrong with a journalist undertaking to "show that the job assigned to and expected of" the Presidential Commission on the assassination of the President "has not been done"?

This is not the function of journalists in a free society?

Hall does not state that Whitewash failed to do precisely this. It did that.

He criticizes me for undertaking to meet the responsibilities of a citizen, of a writer, the responsibilities no historian undertook to meet, and who can name a lawyer who did?

The staggering ignorance and the no less startling insensitivity of the man when he does not know that the expected job was not done, when he does not know that the government immediately, with the decision on the highest levels, eliminated all other possible assassins. (We come to and document this).

This man does not know what an assassination record is yet he sits on a board that is to see to their fullest possible disclosure.

I return to these statements with documentation, not his distorted footnotes that are a Hall specialty. As in his criticism of my second book. His text on this also is false:

Because of the enormous Cold War paranoia, as well as the requirement to maintain tight security around the sources and methods used to collect this information, the Commission could not argue its case fully to the American people. When the research community [which is nothing at all like a community so this is contrived to make all appear to be alike, to write and think alike] asserted that the government itself had been implicated in the assassination.

The actuality is that with regard to information about the assassination itself there was no real "sources and methods" problem. That is and has been the stock dodge of the agencies like the FBI and the CIA. There likewise was no real "national security" problem with information that relates to the assassination itself. This and Hall's line about cold war paranoia, which he takes from Max Holland and not from fact, could be true only if there had been an international conspiracy to kill the President, or a legitimate basis for suspecting this.

All of that relates and related to official distractions from the Commission's own and irrefutable facts of the crime itself, some of which follows.

Hall's note on this quotation from his flaunting of both prejudice and ignorance reads: "see, e.g., Harold Weisberg, Whitewash II: The FBI-Secret Service Coverup, 125 (1966) concluding that the FBI and Secret Service are not innocent in the Warren Commission investigation."

It can perhaps help understand Hall and what he is up to-- either his subject-matter ignorance or intended dishonesty or both-- to continue with this corruption of his of what I said that the point he quotes. Remember, he has accused me in what is quoted of

"asserting that the government itself had been implicated in the assassination."

This is neither stated nor even suggested in what I wrote and this eminent historian/lawyer says I did to this particular captive audience of his.

It is from my chapter titled "Strange Inquest." Reference is to the apology for an autopsy performed on the President at the Navy hospital at Bethesda, Maryland. Calling it a "strange inquest" is to praise it. It has been and it forever will be the subject of the most legitimate criticism. I note again in this connection that while I have published more extensive criticism of those pathologists, their autopsy and the glorification of it and of them in the Journal of Medical Association in 1992, I have not had a word of complaint from any of them or from the journal or from the medical association itself.

My book NEVER AGAIN! is based on that series quoting those pathologists.

It is not possible to be more explicit than this writing was in stating what it was about which "The FBI and the Secret Service are not innocent." Consideration of this should begin--and again we are addressing Hall's honesty, his competence or both--with the book's subtitle, something Hall did get straight: "The FBI and the Secret Service Coverup."

The book addresses what the agencies covered up, as without any question they did. Hall says nothing about that because it is not possible to deny that there is much they did cover up, some

included herein.

What at that point was referred to was not the assassination itself. This could not be more obvious, regardless of what Hall states and published. What is referred to could not be stated more explicitly. To leave this without question, rather than using footnotes to which Hall has just given a bad name I include that page and the preceding page. What we referred to of which the FBI and the Secret Service were aware is perjury by the chief prosector. (see Exhibit 4).

There was the material question the Commission had asked him, when did the chief prosector learn of a tracheostomy on the President's neck. Under oath Commander James J. Humes swore that it was not until some time the day after the assassination, that being the one time, well after daylight, that he spoke to the Dallas doctor, Malcolm Perry.

On the preceding page I quote other Commission testimony stating that Humes had phoned Perry more than once and had told him what he denied to the Commission that he had mentioned.

It was because of their knowledge of this and their silence about it that "The FBI and the Secret Service are not innocent."

Subsequently I learned and published more about this, without mention of it by this eminent historian and all those who did his research for him although it was published several years earlier and I had given the board a manuscript copy of it long before it was published.

Two FBI agents and two Secret Service agents were present

throughout the entire autopsy except for the short period one of the FBI agents phoned the FBI's laboratory.

The important question related to the incision or the tracheostomy in the front of the President's throat that bisected a bullet wound. Humes had sworn he had no knowledge of that until on Saturday he spoke to Perry for the one and only time and for that reason did not know that there was a bullet hole when the incision was.

The importance related to the number of shots fired and their point or points of origin and to Humes' knowledge of this when he wrote the autopsy report.

As we see--and this is another reason why the Halls and Hollands, if they know the proven official fact of the assassination avoid it like the plague--because it was a physical impossibility for Oswald to have fired three shots in the time the investigation permitted, he could not have fired any more than three shots.

Along with the rest of the medical staff and these federal agents the radiologist, Dr. John Ebersole was in the autopsy room. He was questioned under oath by the medical panel of the House Select Committee on Assassinations of the 1970s. For its own reason, and perish the thought that it also was a "cover up," that committee suppressed this Ebersole testimony. It was disclosed under the provisions of the 1992 Act which created the board on which Hall sits, if decorates is not more precise. Ebersole testified repeatedly that from the autopsy room, during the

autopsy, Humes phoned Perry. Originally Ebersole placed the time at between 10:00 and 10:30 p.m. When those experts in covering up, most of the members of the panel, undertook to press Ebersole on this, he insisted, under oath, that it could not have been after 11:00 p.m. the night of the assassination and from the assassination autopsy room and in his presence--along with that of the federal agents--Humes did phone Perry. (See NEVER AGAIN!, pp 476-77). (see Exhibit 5).

The historian in Hall can accept this perjury about what was so important in the autopsy performed on a President of the United States?

The Professor of Law (and indeed, the dean of the College of Humanities) is content, finds the law satisfied, finds the country protected by the laws intended to protect our country, when there is repetitious proof (not all of which is cited here) that the chief autopsy prosector was a perjurer?

Again, instead of a note with the value of notes degraded as Hall has just degraded them, I attach two pages, 466 and 467, of NEVER AGAIN! that includes verbatim quotations of the suppressed Ebersole testimony.

It is obvious that in their silence over this felony of perjury in the autopsy of the assassination of the President "The FBI and Secret Service are not innocent."

It is also obvious that in this I did not, as Hall states "assert" or even suggest, his words, "that the government itself had been implicated in the assassination."

With this insight into Hall's speech and this published amplification of it we return to two previous criticism of me. Again, rather than using notes the dependability of which has rarely been undermined more than by this eminent professor of both history and law, I used documents that have been available to anyone after they were first disclosed to me the end of 1977 or in early 1978 and of which I gave copies to some of Hall's staff several years ago. I also cite them in the beginning of NEVER AGAIN!

Hall's criticism of me and of my writing and that in the sense of my being a theorizer of conspiracy when I am alone among those writing on the subject who is not, as is known to all who have any knowledge of the subject, is based on what was obvious in 1964 with the first materials the Commission published and I stated in my 1965 book, that the Commission began with the belief ("considered") that only Oswald was the assassin.

There was a de facto conspiracy on precisely this that was engaged in as soon as Oswald was dead and it was known there would be no trial at which evidence would be examined and cross examined. I go into this in further detail at the very beginning of NEVER AGAIN! It was out two years before Hall's article. I have the documentation the publisher elected not to include.

I do not name who may have been part of this de facto conspiracy because with some of them I lacked absolute proof. There is in the records referred to above, particularly in disclosed official transcripts of President Johnson's and other phone conversations the day Oswald was killed, which was the first day

they were taped, indication of the possible involvement of others, particularly the hawkish, Dean Eugene Debs Rostow. There is, however, no question about the involvement of those I do name.

Nicholas Katzenbach was the deputy attorney general. In the absence of Robert Kennedy for the funeral arrangements, Katzenbach ran the Department of Justice. When he returned Kennedy did what is proper, because of his personal involvement, he separated himself from the assassination investigation. Records I published in 1975, in Post Mortem, established that even when the Commission undertook to involve him he refused and remained properly detached. (See my chapter "Hades, Not Camelot").

The day Oswald was killed was a Sunday, November 24, 1963. Katzenbach had no secretarial service available to him at his office after he had engaged in all those phone calls and decided to put what needed to be done on paper. I have and attach what I have obtained from the files of the Department's Criminal Division after years of stalling, the handwritten draft of what Katzenbach proposed. This and the Department's file copy are from its file 129-11. (see Exhibit 6) Although it is dated the day after Katzenbach wrote it and discussed it with others, November 24, 1963, it was not sent to the files for the use of others in the Department for a year and a half from the stamp quite visible on it. The additional stamp indicates that the department lawyer who held it up was Howard P. Willins, the "HPW" on the file notation. It was Willens who sent to work for the Commission and be its liaison with the Department after Katzenbach stated, and I have

that record, too, that he would send someone to be his "eyes and ears" on the Commission.

What Katzenbach wrote as soon as Oswald was killed and he knew there would be no trial, nobody other than Oswald by then being a suspect, begins:

The public must be satisfied that Oswald was the assassin; that he did not have confederates who are still at large; and that the evidence was such that he would have been convicted at trial.

There was no way in the world for anyone to have known this the day before the first working day after the assassination with investigation barely begun, with the official results of the misrepresented official investigations it simply is not true, it is the exact opposite of the sorely misrepresented actual official evidence.

Katzenbach's memo's last recommendation became the Warren Commission: He recommends "the appointment of a Presidential Commission of unimpeachable personnel to review and examine the evidence and announce its conclusions." This, as we see in the attached official transcript of a November 24, 1963, phone conversation between Rostow and Bill Moyers was Rostow's idea, not Katzenbach's. (see Exhibit 7).

Also attached and bearing on this in the memo by assistant FBI director Courtney A. Evans to the man above him, that being the way inside the FBI memos were sent to Hoover without being addressed to him. It forwarded the FBI's file copy of the Katzenbach memo and states that on Sunday Katzenbach and Hoover had discussed it. (see Exhibit 8).

That Moyers got through to Johnson the first moment Johnson was free is established by Secret Service phone records made before Johnson was in his White House office where the phone calls could be recorded. Moyers phoned Johnson just before 9:00 p.m. Sunday night. Immediately after that Johnson phoned first Hoover and then Katzenbach, each call lasting less than five minutes. (see Exhibit 9).

Among the records stating that this was agreed to is the disclosed and attached transcript of one of the conversations between Johnson and Hoover at 10:30 a.m. Monday, November 25, 1963. In its second paragraph Johnson states, "We believe the way to handle this as we said yesterday" (see Exhibit 10).

There are several other disclosed transcripts in which this is explicit. It is the official record, and it is without possibility of question, that is precisely what was done.

These calls include the stated agreement of Hoover and Katzenbach that they are doing as agreed Sunday, November 24.

It is not possible to read the Warren Report without knowing that the Commission never ever considered any other assassin possible.

The night of the assassination, when Johnson was President, he directed Hoover to have the FBI made a definitive investigation. We come to a bit of that. It could not be more obvious that then, before Katzenbach recommended it as policy, whether or not that was Rostow's idea, Hoover decided that Oswald was the lone assassin and

a "red" one at that.

And so we can see, if not as completely as would be possible were my health and physical limitations not what they are, what it is that makes an eminent scholar of the "Dean of Humanities; Executive Dean, College of Arts and Sciences; Professor of History and the Law" at the Ohio State University, as well as a suitable member of the board that is to see to the disclosure of all assassination records possible.

It is, as it should be, a matter of great national concern. The people do care, do express themselves as under our system they should, really must, and if the government that comes in as a result of any assassination does not satisfy popular concern over the assassination, popular desire to be fully and accurately informed about it, that government sacrifices some popular support and that, too, is as it should be.