

Insight and Outlook

Anatomy of a Commission

Post 1/6/67
By Joseph Kraft
NOT ONE WORD ABOUT TRUTH OR EVIDENCE!

IN THINKING ABOUT the Warren Commission it is useful to have in mind a sense of the anatomy of all presidential commissions. For the white wash argument, now freshened by the death of Jack Ruby, is largely the product of naive people



Kraft

ascribing sinister motives to what are only weaknesses inherent in the way presidential commissions are appointed and do their work.

Presidential commissions exist for the purpose of laying before an uninstructed mass audience clear and credible accounts of inordinately complex and controversial matters. Their subject matter is never something easily provable. They deal with things hard to resolve—things like military conscription, or crime, or Pearl Harbor, or the assassination of a President.

Celebrated representatives of important interest groups—what Yeats called "66-year-old, smiling public men"—inevitably find representation on all presidential commissions. It is essential to enlist their participation, for their disavowal would

make the commission report not credible.

Between the public men on the commission proper, and the commission staff, there is inevitably bound to be tension. While the commission members tend to be full of honors, years and other preoccupations, commission staffs tend to be peopled by obscure young men, with the emotional drive and intellectual capacity to become singularly well-versed in the subject at hand.

A commission staff is inevitably far more knowledgeable, far more analytic, far more willing to consider new approaches, in a word,

far more "with it," than any commission.

THE RELATION between the members and their staff provides the key to commissionmanship. The central problem is a problem of engagement. The difficult thing is to mesh the penetrating and often uncomfortable insights of the staff with the genial wisdom, the instinct for preserving sensibilities and keeping conventions that invariably rules among commission members.

The Warren Commission, it is now evident, presented the features of all other presidential commissions in supreme degree. Olympian figures representing the highest interests in the land—its sections, its parties, its branches of Government—were named to the Commission. The staff included some of the most hard-working, brilliant young lawyers ever to come to Washington.

The real trouble with the Warren Report is that the Commission and the staff were so good that they took on the quality of separate beings, divorced and apart. The issues identified and isolated by the staff were not squarely confronted by the Commission. And that explains the one weakness in the Commission Report that has proved central to the case—the failure to come out unambiguously on the issue of whether President Kennedy and Gov. Connally of Texas were hit by a single or separate bullets.

THE STAFF was in no doubt about the need to settle that issue decisively. Its most intelligent members were unanimous in believing that the Governor was struck by a bullet that had first hit the President. But the staff never had a chance to present its views in their full cogency to the commission. EVIDENCE IS

Connally thought, and testified that he had been hit by a separate bullet. Some of the southern members of

the Commission were apparently chary of hurting his feelings. Not knowing the full force of the argument for the one-bullet theory, they leaned toward the two-bullet theory. In the end, the Commission Report straddled the question.

By straddling the issue, by not confronting the hard choice implicit in the work of the staff, the Commission opened the door to most of the troubles that have since dogged its report. For with-

out the one-bullet theory, it is a question whether a single man could have got off the shots within the known time span of the shooting. And that question leads to the idea that there might have been accomplices and then to the suspicion of a conspiracy and a whitewash.

Visions of conspiracy and whitewash, however, are not required to explain the flaws found in the Warren Report by its critics. The major weakness has a natural explanation in the way presidential commissions work. And to me this is one, among many, reasons for being skeptical about the need for an official re-opening of the case.

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ve Kraft/WG/ the measure of the man. Today he says of Nixon's Teutons Macoutes, "Their places
n be filled overnight...by men far more competent in government and much more standing in
e Republican Party", for all the world as though these are Nixon's prerequisites for his
men. Unnamed "loyalists" are quoted as saying because of WG disclosures Nixon "may be un-
ble to govern effectively, particularly in foreign affairs". Of this Kraft says, "that line
argument has been known since classical times as the tyrant's plea". He then says that the
figures of substance; like Kissinger, Schultz and Burns, from this "affair" now have "en-
anced prestige". From merely not being crooks? But in any event, this new prestige for Kis.
reported, with the tyrant's plea tag, in the same paper reporting his making precisely
at plea yesterday to the AD meeting in New York. Fradt is "something else", not Lippmann.
mehow, he finds is odd that the German Mafia are men of no "distinction" in any usual field,
I find it odd that at this late date he has not recognized their special functions, which
quire less orthodox attributes, characters and experiences. HW 4/24/73

cu 3/6/74 memo in Post-CIA
Watergate Indictments of 3/1/74 HW 3/6/74

Dear Jim, Last night's reading of Joe Kraft's column was as much of a shock as watching his messianic appearance as he said the same thing in fewer words on NBC the day before. And I could not but help ask myself how could anyone really know what he said?

And what is more troubling, how could anyone as bright and as well-informed not know that he does not know enough to offer an opinion either way.

So, why did he do it and then repeat it, reaching the largest audience in the country and a maximum in Congress, which has never stopped copping out and covering up?

To one who knows much of the fact, there are two touchstones in the indictment: what is in inadequately and what is not in at all. Both hit directly at Nixon. In this case both are out.

This is a simplification but I think it makes the point.

The charge relating to 3/21/73 on covering up is the weakest of those kinds of allegations that could be included, in part because it was so late, so long after the convictions, when "covering up" is harder to comprehend and more difficult to explain to a jury or to make stick on appeal. (Appeal with Nixon controlling the Supreme Court has yet to be mentioned by anyone, and until after the last appeal nobody goes to jail.) But even with this count, the kicker is not in the indictment. That is the day "Oxford's" letter reached Sirica, which gives all developments of that day special significance, particularly getting together to figure what to do about Watergate.

What is not in entirely had to be in this indictment and had to be known in any investigation because it is public domain, one of the reasons for my not spelling it out entirely in my dealings with Lindsay/Newsweek: What happened 6/20/72 and why 100% of all tapes of all kinds have disappeared.

So, to one who knows the fact there has to be the most serious doubt, from these two illustrations alone. To one who reads the indictment with care, even not a lawyer, there has to be more trouble because so many of the allegations are so hard to get convictions on based on what is in the indictments. His, of course, need not be all, but from the exact language of the indictments it is a fair presumption that, as I think I indicated in my notes on a mere reading, with one man's word against another's and the real problem of meeting the reasonable-doubt standard being key problems in the perjury charges and having that stick is by no means certain.

The whole tone of the Kraft piece is that this is the living end and we can forget about Nixon and leave all the rest to normal processes. Impeachment is a normal process? There is any reason today to believe that the House has the determination, even the will? Or that 2/3 of the Senate will agree? Or even that the whole thing can be over, one way or the other, before the end of his term?

The coincidence of the Kraft appearances and comments and the indictments and their unexposed weaknesses is a bit too much. When this is combined with his not atypical posturing as the one one with true knowledge, the SuperLippmanaz and what can't be attributed to this alone, is too much too much. He can't help but know that he can't know. So, as I hint in the letter to him, somebody told him. In this case I think out him up to it. And I believe it was that old shrewdie Jaworski. Here I refer to my earlier comments on his covering up in this case requiring greater sophistication than he displayed in the Texas Court of Inquiry and that with his staff and the problems he inherited with it would require that he save himself for the crunch.

For evaluation I note something for which I did not have time when it was in the headlines, the indictment of Jake Jacobson and what was and is so unusual about it. He is a Democrat, said to be an LBJ man (A Wonnally man would be better) and definitely part of another series of indictments whose coming has been adequately forecast. Question: why was it necessary to indict him separately? Why not include him in that series? If I can't say this is the only answer, I do say that one is a public-relations need, to convince the press that Jaworski is dispassionate and diligent. Why else indict a fellow Texas Democrat in a prosecution that is essentially of a "Republican administration"?

Of course, the White House's indiscriminate attacks against one and all could make anyone look good and like its enemy to the death. ...and on CIA, where Jaworski has a past, the ~~max~~ intelligent reading of what was published says there is a CIA cover-up.

A Question of Zeal

Nixon partisans who accuse the press of recklessness in its Watergate coverage have been getting reinforcement from unlikely places. Columnist Joseph Kraft, an Administration "enemy" whose home telephone was once tapped, last week wrote of the "spirit of rivalrous competition and self-important narcissism now so rampant in the fourth estate." Managing Editor Howard Simons of the Washington *Post*, the most tenacious newspaper on the Watergate trail, spoke recently about "shark frenzy"—the urge among some newsmen "to rush in to get a bite of that bleeding body in the water."

Kraft was criticizing the coverage of the Watergate grand jury's confidential report to Judge John Sirica, which was handed up along with the indictments. Though his column did not offer examples, he said later that he was thinking of stories by Bob Woodward and Carl Bernstein of the Washington *Post*, James Naughton of the New York *Times*, *Newsweek* and CBS. The network had speculated—erroneously, as it turned out—on the number of people who were about to be named as defendants and co-conspirators. The three publications, and others as well, discussed the grand jury's deliberations over whether Richard Nixon should be indicted.

With few specific exceptions, grand jury proceedings are supposed to be secret. Kraft conceded that in the earlier phases of Watergate, while the cover-up was partly working, journalistic enterprise was necessary to get at the basic facts. Now that the official inquiry is being conducted vigorously, he said, the "traditional inhibitions on reporting" should be applied. Abandoning that restraint, he warned, endangers individuals' rights to due process, threatens to wreck the prosecution's case on procedural grounds and gives journalism a bad name.

Though Simons was commenting earlier and more generally about the mood of the Washington press corps, he raises what amounts to the same com-

plex question. When does reportorial zeal violate the canons of fair play? Journalism's first mission, to publish all important information that can be learned, occasionally conflicts with other imperatives that must be considered. The press is universally barred from grand jury proceedings, for instance, partly to guard the reputations of people who may never be indicted. Secrecy also protects the prosecution's case from premature disclosure.

It is true that there have been leaks from all sides in Watergate, that the news profession dearly loves exposés and scoops, and that the heat of competition sometimes melts good judgment. Last week, for instance, the Washington *Star-News* disclosed a private communication from Sirica to his fellow judges in which he mentioned Pros-

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COLUMNIST JOSEPH KRAFT
Shark frenzy.

ecutor Leon Jaworski's confidential estimate of the number of indictments to come. Though newsworthy, the story also intruded on grand jury privacy while adding nothing substantive to the public's knowledge of Watergate.

Yet Kraft's demand for restraint, which would be unexceptionable in most cases, raises its own problem in the very special circumstance of Watergate. This unique scandal is far more than a criminal proceeding. It has involved not powerless defendants but some of the nation's most influential officials. There have been repeated attempts to suppress evidence, minimize the case's importance, deflect guilt and hide behind the shibboleth of national security. These factors at first inhibited the press. Now the urge is to print everything obtainable in the belief that self-censorship would be itself a kind of cover-up. In this atmosphere, there will doubtless be some excesses. Though Kraft is right in warning against abuses, the entire history of the Watergate mess is an argument for the fullest possible disclosure.

Joseph Kraft

The Triumph of Trivia

Like not a few other good things, the test of relevance was marked lousy when appropriated by the radicals of the last decade. But a turn-about is on the way.

For the country is being confused, and the public dialogue debased, by phony issues that sound fascinating but have no connection with serious practical problems. Because the test of relevance is being ignored, in other words the country now systematically avoids the truly hard and important central questions of managing the economy.

The most glaring case of bogus fuss is the recent blather over the investigation by the Warren Commission into the assassination of President Kennedy. Here I find myself in the painful position of having to take issue with a journalist of high ability whom I like and admire.

Tad Szulc has gone through the minutes, now made public, of 13 previously secret sessions of the Warren Commission. Mr. Szulc's analysis shows what many of us long ago suspected about the members of the Warren Commission.

The late Chief Justice Warren was self-centered to a degree and had only the dimmest idea of how to run a criminal investigation. The eminent lawyer John McCloy was equally vain and seemed preoccupied about making other appointments. The late Sen. Richard Russell seemed to be mainly concerned with "defending" the honor of the South, such.

"The country is being confused, and the public dialogue debased, by phony issues that sound fascinating but have no connection with serious practical problems."

All of the commission members were worried by wholly unexamined notions of public opinion. They had no good way of testing the reports and views of the Federal Bureau of Investigation, and they were scared to cross J. Edgar Hoover. They recoiled at analyzing anything that seemed mixed up with national security. They behaved in the way Yeats meant when he spoke so contemptuously of "a 60-year-old smiling public man."

But in fact the investigation was run by the commission staff and the FBI. It produced overwhelming evidence that Lee Oswald, acting on his own, assassinated President Kennedy. That evidence is in no way shaken by the new material. There is no hint that somebody else pulled the trigger or that Oswald had an accomplice. Thus there is no reason for reopening the hearing or even disturbing the public. The whole issue fails the test of relevancy.

Somewhat in the same vein, I am afraid, is the recent foray against the CIA by a special investigating committee of the House. Without any serious background or original research, the committee headed by Otis Pike, a New York Democrat, is going after what it has decided are intelligence failures in Vietnam, Cyprus and the last Middle East war. Headlines are being produced, and maybe even a new test in Congress of the President's executive privilege. It is apt to seem that, once again, the White House is using phony reasons for withholding information from the Congress and the public. But in fact Mr. Pike and his committee have not begun to do the kind of work that would make an investigation of this country's intelligence operations dependable.

The point of all this is not that the Warren Commission or the Kennedy administration or the CIA is beyond suspicion and investigation, but if there are to be inquiries, they ought to be relevant to serious practical problems—not just dimly connected to lurid words and celebrated names. As of now, the country is wasting its energy and attention.

Trivia is triumphant. In the process it is avoiding the truly difficult problem central to us all, the problem of running the economy in a way that does not make us accept either recession or inflation as a way of life.