

# Post Daily Magazine

## The Warren Report And Its Critics

ARTICLE V: The Dissenters (Contd.)

By MICHAEL J. BERLIN

MARK LANE came upon the scene on Dec. 17, 1963, when he submitted a 10,000-word brief to the Warren Commission, urging the appointment of a defense counsel for Lee Harvey Oswald.

Lane said he would be willing to take the job although he forebore from offering his services, and then promptly ended any chance of getting it by publishing his brief in the left-wing National Guardian.

After that, he issued a statement asking Marguerite Oswald to sue the city of Dallas for the death of her son. He said he couldn't ethically take the case but suggested a law firm that would.

Instead, two weeks later, Marguerite Oswald announced that she had retained Lane, without fee, to represent her son "in the investigation of President Kennedy's murder," because Lane was "the only one I had faith in."

Mark Lane, 39, professional outsider, was back in the dissenting business.

Lane used to say that he gave up a Wall Street practice for a law office in East Harlem ("because that's where the problems were"), but he now says he started with a labor lawyer, then set up his own practice and took a part-time job with the National Lawyers Guild, (which had been labeled a Communist Front at that time).

He opened in East Harlem in 1952, and was highly publicized as a lawyer for the underdog—which is what he was paid to be for a time, as the community representative for Congressman Santangelo.

Years later, an ex-law partner and four others active in East Harlem affairs attacked Lane's early career, during a political showdown, by saying that



MARK LANE

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"he left a trail of angry Negro and Puerto Rican people who complained of his indifference, especially after he exploited the newsworthiness of a case."

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Lane was elected to the Legislature in 1960, as a revealing that Assembly Speaker Carlino was a director of a fallout shelter company at the time he helped steer a \$100,000,000 fallout shelter program through the Legislature. But Lane went further.

He implied that Carlino had deliberately put one over on the state. Lane said Carlino had told the shelter company, long before the bill was proposed, that it would be getting a state contract.

Lane was asked to reveal his sources of information, and refused. He organized a march on Albany to protest the shelter program itself, and told the crowd: "They are going to call us Communists and Communist dupes." (And they did.)

Finally, early in 1962, the Assembly cleared Carlino, with one dissenting vote—Lane's. Whatever the case against Carlino—he did, after all, serve as a company director at an inopportune moment—Lane's blunt

attacks had given the Assembly no alternative.

Despite this humiliating defeat, and despite a \$415 scowflaw fine for 19 unpaid traffic summonses, Lane was still riding high. He campaigned that year for the Reform designation to run in the primary against Rep. Farbstein, and came within an ace of getting it. (Farbstein beat the reformer anyway).

Then, out of the blue, in May of 1962, Lane announced that "with some reluctance," he would step out of active politics. He stated reason: "I think we all need a re-evaluation of goals, ambitions, and commitments."

Earlier that year, during his fight against the legislative establishment, Lane had warned that a personal attack was being prepared "to destroy my future." A spokesman for Queens DA Frank O'Connor had said a case in which Lane might possibly be a witness was under investigation.

Reports circulated that Lane had been set up—framed—and that he was being blackmailed into leaving politics. Those reports are still circulating; the case out in Queens never did come up.

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WHEN HE APPEARED AS A WITNESS BEFORE the Warren Commission, Lane again made several significant charges, then refused to reveal his sources.

Eventually, Marguerite Oswald dismissed Lane. He continued his private investigation into the assassination through his "Citizens Committee of Inquiry," a collection of amateur sleuths, assassination buffs, and campus groups. He booked numerous lecture dates here and abroad in a sort of "Mark Lane Tonight" road show.

To skeptics, it might seem that Lane was living well, basking in the limelight that he had sought so long, in the monies collected by his committee, in the swimming pools of his wealthy converts—but Lane denies this.

"I never received a fee in that whole time," he says, "except for a brief period when I was drawing \$60 a week for expenses. There were times in London, when I was working on the book, when my wife and I didn't have enough money to buy dinner."

The book is "Rush to Judgment," a long-term resident atop the non-fiction best-seller lists. "Yes, I think we're going to have some money now," Lane says. "I'm not against it."

Along with most other Commission critics, Lane had publisher troubles. There are reports that his manuscript was edited drastically, both to improve the quality of writing and to tone down the invective that characterizes Lane's personal appearances.

The intent of Lane's investigations is to support the charge that the Commission didn't do a thorough job. Lane claims his "Citizens Committee" agents turned up new evidence, new witnesses and new testimony from Commission witnesses.

But Lane tends to quote only those portions of testimony that fit in with his "brief for the defense."

In the book, for example, Lane casts doubt on a Dallas report that Oswald's palmprint was found on the murder weapon. In taking an impression of the print, the Dallas fingerprint expert said he had inadvertently removed the print from the rifle barrel, but the Commission was able to match the irregularities on the barrel with those on the police impression and show that Oswald's print had been on the barrel.

"Lane was told of this before his book came out," says one of the Commission staffers. "And still he told only half the story."

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EDWARD JAY EPSTEIN, THE 31-YEAR-OLD graduate student who made doubting the Warren Commission respectable, throws up his hands and says:

"My intuition tells me now that Oswald did it alone. Today I think this. Tomorrow I might think different. Now I realize that evidence is only the way you look at it. There's no such thing as an unambiguous fact."

Epstein made his name and money with "Inquest," a Cornell master's thesis purportedly aimed at the methods of the Warren Commission rather than the evidence. He's now in the process of attempting to return to the repose of academe—this time at Harvard. Who can blame him? His attitude toward the other

critics of the Report is: "They are all honest. Crackpots, yes, but honest. Except Lane." And the Warren Commission staffers, he says, "are mad at me. They have honest gripes." Then he told his story.

"This is what I do—it's called organization theory, how the government goes about its business."

"It's not true, as Lane says, that I was supposed to work on the Warren Report and then give Lane the information for his book. He did suggest to my Cornell adviser, Prof. Andrew Hacker, that Hacker do an article on the Commission's methods. But there was a more important reason for me to pick the Warren Report as my thesis topic: Here I am about to study if



EDWARD JAY EPSTEIN

"... Oswald did it alone."

government investigation, and 26 volumes come into the Cornell library—material that no one else has touched.

"I read the 26 volumes at the start of 1965, and wrote to the Commission lawyers, assuring them that I wasn't interested in who killed Kennedy, just how they did their job."

"Then the light began to dawn that the Commission did an inadequate job. There was one point when I believed the worst of everyone."

"But now, he says, he has "less reason . . . to believe in the dishonesty of the Commission or its counsel. I do have the feeling that the autopsy report was changed, and it so screwed up the Commission that the facts are absolutely impossible to work out. Unless everybody was conspiring. Who knows?"

When Epstein's book came out, the Commission counsel did have its own cause for complaint. It is hard to believe, from the way the "thesis" is written, that Epstein didn't know he had a sensational money-maker on his hands. Beneath the scholarly coating of the Commission's methodology, Epstein concentrated on attacking the evidence itself—not just the manner in which it was gathered.

One of the staff members, Wesley Liebeler, gave Epstein access to many Commission papers.

Liebeler says Epstein conned him into thinking that these files had already been opened to the Cornell student by other staff members. Epstein admits only to an error of omission: "If he wanted to give me all this original material, who was I to warn him about it?"

But the major complaint by Commission staffers is notes, and in trying to reconstruct conversations from memory, distorted the words of Commission members, giving the false impression that the staffers were biased from the start.

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THE DEBATE CONTINUES, AND BOTH SIDES ARE feverishly composing still more books.

Among the Commission's defenders, historian Jacob Cohen (who has participated in televised debates on the Report) is planning a book. Legal experts Alexander Bickel and Louis Nizer have spoken out, in print and over the airwaves, on behalf of the Commission's honor. Others have tried to defend the Commission by attacking the inaccuracies of its critics. In January, Oxford Prof. Arthur L. Goodhart published a long attack on Lane and Epstein in the British law review he edits. He charged Epstein with misrepresentation and dismissed Lane as a purveyor of vague "hints and innuendoes."

Wesley Liebeler, too, is planning a book on all the points in dispute, and is at the UCLA law school, working up the answers to the Commission's critics with the help of a squad of law students. Liebeler has become the unofficial Defender of the Faith, and has entered into a personal vendetta with Lane.

Whatever the idiosyncrasies of the critics, they make some valid questions to challenge the Warren Report and its conclusions. To the claims that the critics have not offered alternate solutions, they answer that no one can find the right answer without the power of subpoena. It is enough, they say, to have demonstrated that the Commission's solution has discrepancies.

In response, the cries for a new, impartial investigation have grown louder.

IN THE WEEKEND MAGAZINE:  
What a new investigation could turn up.