

Two Authors Critical Of Warren Commission

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By Christopher Lehmann-Haupt

RUSH TO JUDGMENT: A Critique of the Warren Commission's Inquiry Into the Murders of President John F. Kennedy, Officer J. D. Tippit and Lee Harvey Oswald. By Mark Lane. 478 pages. New York; Holt, Rinehart & Winston. \$5.95.

THE OSWALD AFFAIR: An Examination of the Contradictions and Omissions of the Warren Report. By Leo Sauvage. 418 pages. World. \$6.95.

Because of the extraordinary legal circumstances attending the assassination of President John F. Kennedy, an extraordinary legal body, the Warren Commission, was created to perform in effect all the functions of establishing legal truth. Normally in the American judicial system these functions include investigation, indictment, prosecution, defense, and judgment.

There is a growing body of opinion that the Warren Commission was handicapped by its uniqueness and homogeneity, and therefore did not perform all its functions.

Mark Lane, one of the most strident of the voices critical of the commission, contends in his book, "Rush to Judgment," that the commission skipped the fundamental question raised the moment shots rang out in Dallas, which was "What happened?" and leaped by questionable logic to subsidiary ones.

THE COMMISSION thereby abdicated its function to defend and, since advocacy is integral to the process of establishing legal truth, its claim to the truth.

To document his arguments Lane reviews and attacks the commission's proceedings as contained in its report and the 26 volumes of testimony and exhibits. In addition, he presents evidence based on his own investigations, which were carried on since he accepted, in December, 1963, the invitation of Marguerite Oswald to represent her son's interests before the Warren Commission.

To read "Rush to Judgment" without the commission's 27 volumes at hand is a staggering experience.

Most disturbing, according to Lane, the commission conducted its interviews in a highly unorthodox manner, drawing out information that supported conclusions already reached and discouraging witnesses from presenting material that might cast doubts.

BUT WHILE "Rush to Judgment" is an eloquent summary of the defense, it cannot be read as a logically airtight critique. Like any summary, it is filled with stresses and biases. For example, in challenging the commission's

conclusion that the ammunition Oswald allegedly used was sufficiently reliable, Lane quotes from the "speculations and rumors" section of the report as follows: "Speculation — ammunition for the rifle found on the sixth floor of the Texas School Book Depository had not been manufactured since the end of World War II. The ammunition used by Oswald must, therefore, have been at least 20 years old, making it extremely unreliable. Commission finding—the ammunition used in the rifle was recently made by the Western Cartridge Co. (East Alton, Ill.,) which manufactures such ammunition currently."

False, says Lane, presenting a letter from the manufacturer stating that 6.5 millimeter Mannlicher-Carcano ammunition has not been made by them since 1944, and concluding therefore that the commission was wrong about the ammunition's reliability. What Lane neglects to include are, first, the commission's conclusion that the ammunition, whenever it was manufactured, is in plentiful supply and, second, the final sentence in the "Commission Finding": "In tests with the same kind of ammunition, experts fired Oswald's Mannlicher-Carcano rifle more than 100 times without misfire." A half-dozen random checks of such relatively minor points in Lane's arguments yields as many distortions.

THIS DOES NOT necessarily dispel the disturbing questions he raises concerning the number of bullets fired, the direction of their flight, the weapon which fired them, the whereabouts of Oswald—and for that matter Jack Ruby—before, during, and immediately after the assassination, and the selection and interviewing of witnesses.

These questions have been raised by others, among them Leo Sauvage, the American correspondent of *Le Figaro*, in his more dispassionate but equally critical book, "The Oswald Affair."

But it is the very bias and shrillness of "Rush to Judgment," its power to send one scrambling through the 27 volumes for protection, that comprises its effectiveness. For it presents Mark Lane as Lee Harvey Oswald's advocate, crying to be let in to defend his underdog and thereby join a not altogether disreputable tradition in American history. And it makes one suspect that had the membership of the commission allowed Lane — or someone as single-mindedly committed to Oswald's defense — to function in the hearings, its proceedings would have more completely reflected the American judicial system, and thereby reached, if not a different conclusion, one that would not have inspired such books as "Rush to Judgment."

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