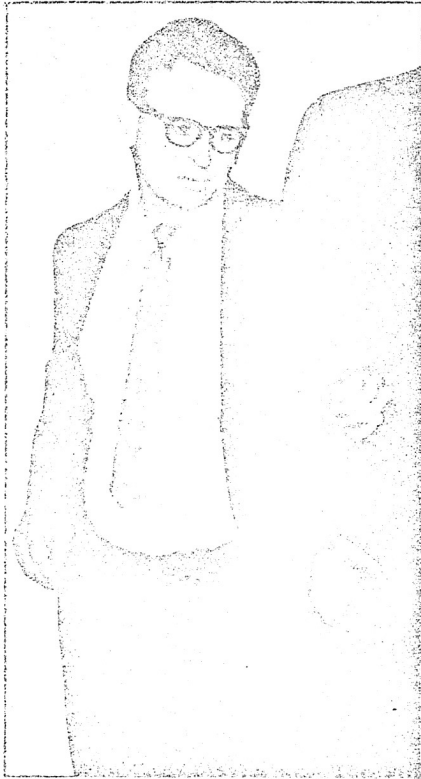


The New York Times

Book Review



James Earl Ray, May, 1969.

Frame-Up

The Martin Luther King/
James Earl Ray Case,
Containing
Suppressed Evidence.
By Harold Weisberg.

536 pp. New York:
Outerbridge & Dienstfrey. \$10.

By JOHN KAPLAN

The silly season apparently is over so far as the critics of the Warren Commission are concerned. The whole business left Mark Lane with a pot of money, Jim Garrison with a badly tarnished reputation and millions of American liberals with a feeling of having been taken.

Now, Harold Weisberg, the author

of no less than six books on the assassination of John F. Kennedy hopes to repeat the triumph of his "Whitewash" series with "Frame-Up," an investigation into the assassination of Martin Luther King and the disposition of the accused assassin, James Earl Ray. Mr. Weisberg's theory is that James Earl Ray was merely a decoy, part of a conspiracy, apparently—while somebody else fired the shot that killed Martin Luther King.

If Mr. Weisberg had meant to prove this, he could have written a far shorter book since, boiled down, his evidence on the issue is exiguous at best.

Mr. Weisberg is, however, determined to do more than this. He wishes to document the amount of inconvenience, bureaucratic bumbling

John Kaplan teaches at Stanford Law School and is the author of "Marijuana: The New Prohibition."

and discrimination he had to put up with while he was investigating the case—and the fact that this is not the first time he has been picked on. For instance, when he mentions The Washington Post coverage of the Ray case, he adds in a footnote, "I know that its book reviewer was ordered not to review 'Whitewash' after he had read it and decided on a favorable review."

Secondly, he spends considerable space denouncing his old and new enemies. William Bradford Huie, Arthur Hanes, Percy Foreman and a host of others are treated savagely, and if there is any issue, no matter how unrelated to his subject, on which the F.B.I. as an institution can be made to look bad, Mr. Weisberg makes the detour with gusto. Third, Mr. Weisberg is pleased at every turn to reflight the battles of the Warren Commission and even some

old scores. A fine example of his style is in his treatment of a ballistics expert, Robert Frazier, "Chief of Firearms Identification Unit of the F.B.I. with 27 years experience... whose testimony before the Warren Commission was so indispensable in framing Oswald and falsifying history."

Discussing Frazier's affidavit that he is not able to state that the bullet which killed Dr. King was fired from Ray's gun, Weisberg writes:

"One item in the affidavit, however, cannot be ignored. It amounts to false swearing. Frazier did not examine what he swore to having examined, 'the submitted bullet.' He could not have examined it. There was no 'submitted bullet.' He might have described the object he studied as a piece of metal or metallic alloy, as a slug, even as a fragment of a bullet. Calling it a 'bullet' which he did, borders on perjury. Frazier being an expert and an expert witness, this is consistent only with the deliberate intent to frame evidence and to frame Ray. This false swearing to false evidence fits perfectly with the..."

Finally, since Mr. Weisberg's grasp of law is, to say the least, somewhat shaky (he is described elsewhere as a chicken farmer) he spends an enormous amount of time and effort misunderstanding the legal principles that the various court officials involved in the Ray case seem to be attempting to apply.

His failure to comprehend the difference between the reasonable doubt standard in criminal trials and the probable cause standard in extradition matters leads him to make the most outlandish attack upon British justice—not only the judge, but the barristers involved in the extradition. And, most important, Weisberg seems unable to accept fully the fact that whether or not Ray fired the fatal bullet or merely acted as a decoy does not influence the propriety of his guilty plea. In either case, he would be a murderer (in every Anglo-American (Continued on Page 10)

Continued from Page 8

jurisdiction whoever aids and abets a crime is as guilty as if he performed the crime himself) and would have a clear interest in compromising the case out to avoid a possible death penalty.

A review such as this in which nothing favorable is said obviously prompts questions as to why one might wish to read or, for that matter, to devote newspaper-review space to the book. Aside of course from its interest to those in the healing professions, "Frame-Up" does stand as a warning as to exactly what can be accomplished if the sole limitation on one's reconstruction of an event is that no statement of fact be flatly refutable. I suppose that there is no publicized case in recent history where one could not find the kind of evidence that Mr. Weisberg relies on.

Newspaper stories describing the same person will often differ in particulars. A Weisberg will usually be able to make a case that therefore one of the stories is a planted lie—for the purpose of concealing a point which becomes clear when one considers other equally probative evidence; and, alternatively, he can assert that both stories are correct and that therefore the descriptions must

be of two different people (shades of Richard Popkin and the Two Oswalds theory), one of whom is merely a decoy.

Finally, one might ask if "Frame-Up" tells us anything significant about the Martin Luther King assassination. Regrettably, the answer is no. Whether James Earl Ray was pressured by others into his plea of guilty as he and Weisberg contend—or whether he simply misestimated the odds when he compromised his case out to avoid a death penalty, we do not know. In any event, his trial would not have been the enlightening event that many had expected.

A trial is a circumscribed adversary inquiry into legal guilt, not an undergraduate paper where one tells all he has learned about a subject in six weeks. In a trial, so far as we can tell, neither Ray nor the prosecution would have any interest in litigating the guilt of other possible co-conspirators unknown to us. In short, despite Weisberg, we simply do not know whether others not yet apprehended had a share in the act or the planning of the assassination. There is no strongly probative evidence, though one may have a suspicion, that they did. And no matter what the evidence, no one can ever be sure that they did not. 21