GAR

The Lingering Shadow

Ever since the Warren Commission issued its report on the assassination of President Kennedy a violent debate has raged over its findings. Critics of the report have been many and vocal. Their charges have brought uneasiness over a subject that once was thought closed.

For the last six months AP Newsfeatures writers Bernard Gavzer and Sid Moody analyzed the report and its 26 supporting volumes, interviewing the commission staff, reading staff papers in the National Archives. Their conclusions are presented in a five-part series entitled "The Lingering Shadow; The Warren Report and Its Critics."

"The Lingering Shadow" helps separate fact from fable.

Prologue

The one slain has not died. Doubt will not let him.

Doubt asks: "How did you fall? By whose hand?" Doubt has heard an answer — "Lee Harvey Oswald did it" — from doctors, lawyers, government; from police, friends, foe.

But doubt does not believe. Not quite.

Doubt knows the stature of the seven somber men of the Warren Commission, the breadth of their investigation, the depth of their report. But doubt is not appeased. Not quite.

Doubt has heard of the rifle, the shells, the fingerprints, the handwriting, the blunted bullets, the people who said they saw. But doubt is not assured. Not quite.

Why is this so?

Because doubt was denied the certainty of a trial. Because not all is known. Because not all is answered and may never be. And because there have been other seekers than the commission. They have seen what the commission did not see: different shots from different places; plots where the commission saw none; design where the commission saw chance; doubt where the commission saw fact.

Are these seekers scavengers, as Texas Gov. John B. Connally has called them? Or are they impassioned skeptics, refusing to take 'it is most likely" for an answer? Are they creators of doubt? Or are they creatures of it? It is not always clear.

But if the Warren report is now doubted by many, it is because of the books written by these few seekers. If their number is small, their impact is not. The very existence of a printed page has an aura of authenticity above and beyond what it states. As the critics' books are increasingly read, they are increasingly believed. It is far easier to read one book from a shelf by a single critic than a whole shelf of books by a commission. So doubt takes root. The shelf lies fallow.

One could protest the whole argument is macabre-ghoulish. John F. Kennedy is gone. Talk won't bring him home. But this was a President. The people he led have a right — nay, an obligation — to know what struck him down, and why. It was not just a death in the hearts of the nation. It was murder at the heart of the national structure. Assassination unsolved is assassination at large, possibly free to strike again, certainly free to poison and corrode by suspicion, mistrust, fear.

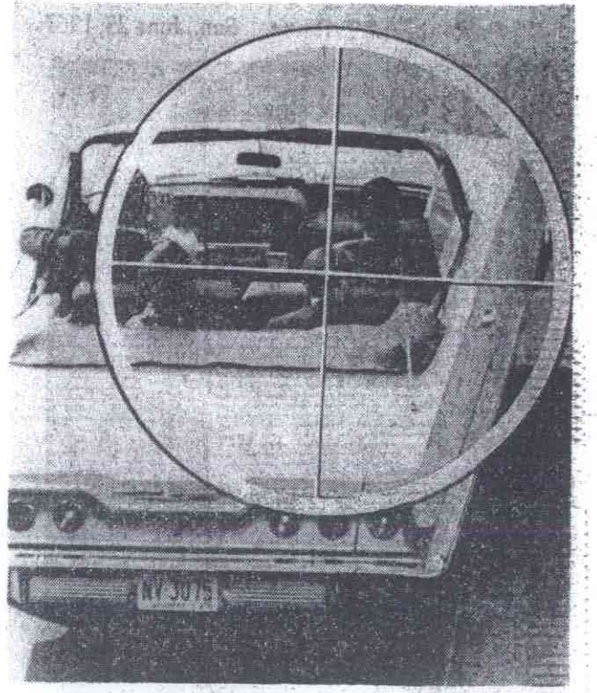
So it is not mere curiosity, not just to add a footnote to history, to ask who killed Kennedy. To preserve the absolutely vital trust of the people in their leaders and institutions, the question must be answered. And stay answered.

The quest may be long. It is still asked: Who killed Lincoln? John Wilkes Booth is not the answer to all seekers. Nor is Lee Harvey Oswald. Lincoln, however, is for the archivist. The wound from Dallas is still red. It is tender to questions of who, or why. It may ever be.

Or, perhaps, the wound may have been salved all along. Perhaps the first investigation need be the last.

Or, perhaps, the pain of doubt may throb the less if one were to ask the doubters of their proof, ask of the askers: What have you found, what news can you bring us?

The Critics, the Commission: See Page 10.



RECONSTRUCTION OF ASSASSIN'S VIEW
Seen through a rifle telescope.—(AP)

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Critics of Warren Report Criticized

By BERNARD GAVZER AND SID MOODY
AP Newsfeature Writers

The critics of the Warren Commission Report have made grave charges. They have made uncertainty. They have made money.

Have they made a case?

Have they proved that the most extensive murder investigation in the nation's history, directed by some of its foremost citizens, was wrong, dead wrong? Was the commission guilty of haste, of bias, of a coverup? Was Lee Harvey Oswald innocent of murder? Do events such as those recently in New Orleans indicate justice has not been done?

Polls suggest increasing numbers of people think so.

Book after carefully footnoted book say so. The Warren Report was once on the best-seller lists. Now Mark Lane's "Rush to Judgment" is.

Where Is Truth?

Which has spoken truth? The critics say they have. And the commission has stood mute.

Mark Lane has said: "As long as we rely for information upon men blinded by the fear of what they might see, the precedent of the Warren Commission Report will continue to imperil the life of the law and dishonor those who wrote it little more than those who praise it."

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Leo Sauvage, in "The Oswald Affair," has said: "It is logically untenable, legally indefensible and morally inadmissable to declare Lee Harvey Oswald the assassin of President Kennedy."

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It considered its first words, published in 27 volumes in the fall of 1964, to be its last. It has

he had been shot in the back of the neck and the back of the head. An FBI report submitted Dec. 9, 1963, contradicted the doctors in several important areas. Epstein makes much of the difference.

Inquiry by the writers, however, has established that the FBI wrote its original report before getting that of the doctors, which reached the agency Dec. 23, 1963. The FBI nonetheless stuck to its original version in a supplemental report Jan. 13, 1964. The agency felt duty bound not to alter a report by its agents — its customary policy — even though other reports might contain other facts.

It was the commission's task to choose between the FBI agents — laymen who reported what they had overheard the autopsy doctors say — and the doctors themselves who were making the one authorized examination and full report. It chose the doctors.

Shouldn't a critical appraisal of the commission have made such an inquiry? If Epstein did, it is not recorded.

MARK LANE
Hurried judgment

Such lapses of the critics do not prove or disprove that Oswald murdered. But do these lapses, and many others to be cited later, have some bearing on the objectivity the critics claim for themselves and deny the commission?

Did the critics, not the commission, "cite evidence out of context, ignore and reshape evidence?

They did.

They have sat in judgment on the Warren Commission and found it wanting. But they are

commission decided he couldn't drive, the woman in Dallas who said Oswald had been introduced to her as an anti-Castroite who thought Kennedy should be shot, the people who thought they saw Oswald in Jack Ruby's night club.

"We were beneficiaries of fraud," said one of the senior attorneys without mentioning any specific examples. "The thing that shocked was people who wanted to get involved in this great event. I do appreciate this can happen, but I thought people would have too much regard for the nature of what we were trying to do."

They talked of why the commission had not defended itself.

"If we were to answer the Lanes and the Sauvages, who would believe us? We had all kinds of suggestions. One was that Chief Justice Earl Warren, himself, come out in defense of the report.

"I don't think that means anything. If I were in the press, I wouldn't take this. You'd be fools if you did. But the press has an obligation to examine each book as it comes out and present it to the public as a searching for truth. And I think this might go on for 50 or 100 years. As long as people can make a quarter or a half-million dollars, we're going to have these books.

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Looked for Everything

One staff member talked of the charge that the commission entered the investigation with a preconceived belief of Oswald's guilt. "Nonsense. We looked for the incredible as well as the credible. A lot of us were young lawyers. What greater feather could it be in our caps to prove the FBI was wrong?"

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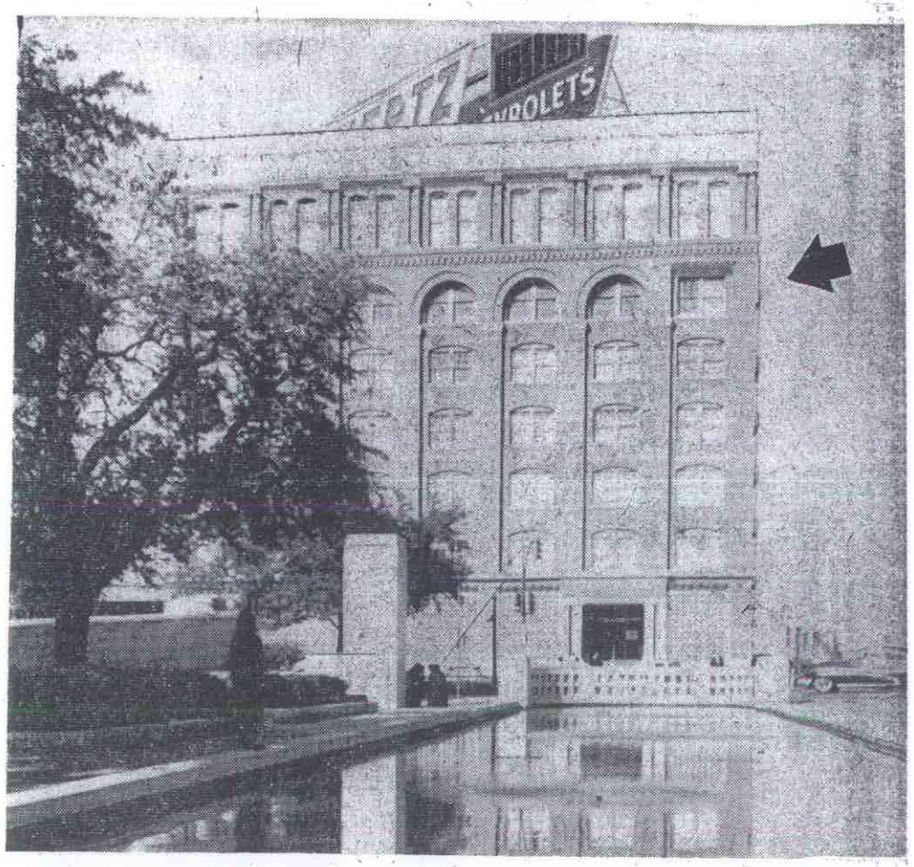

TEXAS BOOK DEPOSITORY BUILDING IN DEALEY SQUARE IN DALLAS
Arrow indicates sixth floor window from which assassin apparently fired—(AP)

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Boone said no such thing. He was shown the rifle and testified: "It looks like the same rifle. I have no way of being positive."

And why wasn't he positive? Because he said he never handled the rifle.

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autopsy conflict. Some were inevitable: no one will ever be able to say with absolute certainty which bullet produced the fragments that were found in Kennedy's car.

But to read the report, all of it, is to appreciate the depth of the investigation. Perhaps the commission should have had its own investigatory staff, regardless of the huge expense.

Some critics suggest that they were not trustworthy: either subconsciously they sought to defend their professionalism by charitably treating evidence and witnesses or, far worse, they were involved in a superplot. If the latter were the case, it would mean, because of the intricacy and range of the investigation, a conspiracy of almost universal dimensions. As yet, there is no such evidence.

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It considered its first words, published in 27 volumes in the fall of 1964, to be its last. It has disbanded.

Mark Lane wrote that the commission "cited evidence out of context, ignored and reshaped evidence and — which is worse — oversimplified evidence."

But Lane and the other critics have produced little in the way of new evidence. What they have done is use what the commission provides in its 26 volumes of testimony and exhibits — but to different conclusions. The critics' case rents on the same bedrock as the commission's — the Warren Report.

How have the critics used, or abused, it?

On page 199 of the hardcover edition of "Rush to Judgment" Lane mentions an Illinois ballistics ex-

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Did the critics, not the commission, "cite evidence out of context, ignore and reshape evidence?

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They have sat in judgment on the Warren Commission and found it wanting. But they are not judges. They have been prosecutors, making a case. Where fact has served, they have used it. Where it has not, they have not.

If they have read all the evidence, they have not quoted it all. They have taken evidence to form theories, to launch speculation. But they have not taken all the evidence.

They have said "perhaps" and "it seems" and "it is likely." But they must say more. They must say here is the evidence. And as yet, such evidence has not been forthcoming. The irony of the Warren report is that it is based on the same evidence as the books that attack it. The commission provided in the 26 volumes of testimony and exhibits and additional matter in the National Archives the results of its investigation. And this is the heart of the critics' case. Their witnesses were the commission's. Their evidence was the commission's.

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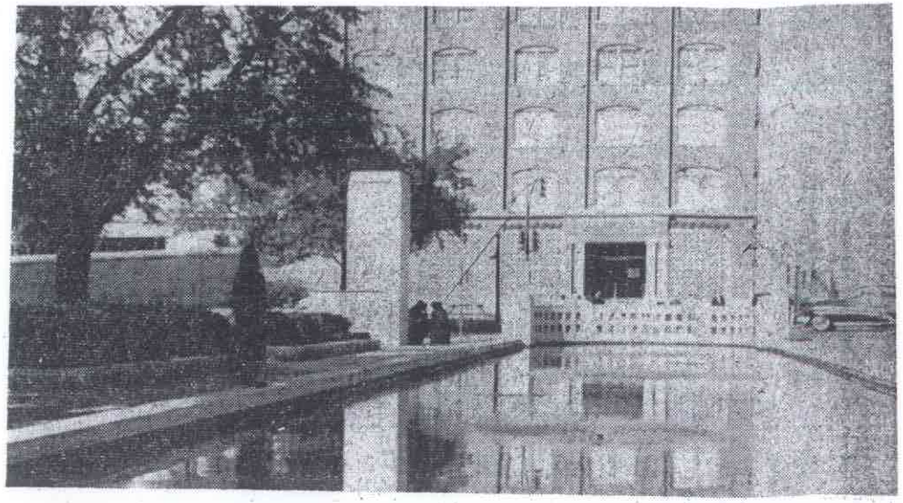
A senior counsel discussed the wisdom of using an adversary system in the investigation, with a prosecution against and a defense for Oswald. "It would have been most unequal; the government all on one side. The report would have sounded like a brief for the prosecution.

"The staff was instructed to proceed in each instance on the possibility that Oswald was not involved. If they didn't want to proceed on that basis, the commission didn't want them to continue."

One lawyer, Wesley J. Liebeler, talked of Oswald as a marksman. "I took the position that you couldn't tell. The evidence that Oswald was able to shoot the President was that he did. He was lucky. Oswald had something in his sights that he knew he was never going to have again. I suspect he was up for it."

Liebeler talked of the "grassy knoll" where Lane and others think shots came from, in part because people ran in that direction after the gunfire.



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"His statement that the lawyers worked as part-time consultants is a lie. I made my residence in Washington, D.C., permanently from January to July 1964. I was allowed to come to my home in Long Beach, Calif., once a month, and I did. Epstein quotes me 39 times and I didn't talk to that man for over half an hour and that was in a New York hotel lobby."

Misstatements

Nine of the 10 staff members quoted by Epstein that these writers interviewed charge him with misstatements. Several of them wrote letters of protest to his professor for whom he wrote what became "Inquest" as a master's thesis. The professor replied to one that "experience has shown that all too often when a person is shown his own words on paper he is inclined to state that he did not make those remarks."

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The report volumes themselves are an irritating thing. The first 15 are testimony, most of it taken by the commission staff. The remaining 11, which lamentably have no central index, are as tidily packed as a beatnik's duffle bag. There is little or no order. A search for a specific statement or affidavit can take hours.

Range of Character

Yet the volumes, particularly the testimony, have a certain fascination. The range of characters is Tolstoyan. There is the President of the United States, the secretary of state. And a prostitute. There is a dashing, Russian-born oil man who knew both Oswald and Jacqueline Kennedy and whose amatory troubles with a Latin beauty are truly comic. And there is a laborer who told the august members of the commission in blunt terms what he thought when he heard a rifle go off above his head in the depository building.

The critics are usually divergent

ics used, or abused, it?

On page 199 of the hardcover edition of "Rush to Judgment" Lane mentions an Illinois ballistics expert, Joseph D. Nicol. Nicol testified before the commission on Oswald's pistol, the shells found at the scene of the slaying of officer J. D. Tippitt and bullets recovered from Tippit's body.

LEO SAUVAGE
A critic

Lane says Nicol "appeared less than certain" the shells came from Oswald's gun. There is a footnote in the passage referring to Volume III of the hearings, Page 511. Few readers have the volumes, much less the time to check Lane's thousands of citations. A pity.

On Page 511, Volume III Nicol is asked by commission counsel Melvin Eisenberg if he was "certain in your own mind of the identification" of the shells.

He Seems Certain

Nicol replied: "Yes; the marks on the firing pin particularly were very definitive. Apparently this firing pin had been subjected to some rather severe abuse, and there were numerous small and large striations which could be matched up very easily."

Yet Lane says Joseph D. Nicol appeared "less than certain."

In his book Epstein questions the commission's conclusion that Oswald was a good shot. He mentions the shot at Maj. Gen. Edwin A. Walker which missed. He mentions the testimony of Nelson Delgado, a fellow Marine who had watched Oswald on the firing line. Oswald, Delgado testified, got a lot of "Maggie's drawers" — complete misses.

Delgado said something else.

On the rifle range he said Oswald "didn't give a darn. He just qualfied. He wasn't hardly going to exert himself."

And Walker himself testified that his assailant "could have been a very good shot and just by chance the bullet hit the woodwork of a window. There was enough deflection in it to miss me."

Don't these passages have some bearing on Oswald's marksmanship? Epstein evidently didn't think so. They don't appear in his book.

Lane devotes several pages to the testimony of a former Dallas patrolman, Napoleon J. Daniels, who said he saw a man resembling Jack Ruby enter police headquarters just before he shot Oswald. Lane takes issue with the commission for deciding Daniels' testimony

attack it. The commission provided in the 26 volumes of testimony and exhibits and additional matter in the National Archives the results of its investigation. And this is the heart of the critics' case. Their witnesses were the commission's. Their evidence was the commission's.

But, again, not all of it.

A doctor said Kennedy was shot from the front. A man saw a puff of smoke from some trees ahead of the motorcade. The man, and others who saw smoke, were commission witnesses. The doctor, and others who thought Kennedy's throat wound was one of entrance, were commission witnesses. And they appear for the critics.

What One Misses

But not always in the critics' books does one read of the people who saw a rifle in the window of the Texas School Book Depository. Not always does one read the doctors' testimony that their first interpretation of Kennedy's wounds were not their final one.

The commission presented all the evidence it could find. The critics did not. As a group they have found the commission wrong on almost anything but the fact of assassination itself.

One critic, George C. Thomson, doesn't even agree on that day in Dallas. None of them was John F. Kennedy, who Thomson says is alive and last winter attended Truman Capote's famous masked ball.

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The intention, rather, is to focus on several key issues in contention and compare what the commission volumes said with what the critics said they said. Such comparison is often illuminating

But, at the least, it may serve to have asked of the critics what they have asked of the commission — the facts. All of them.

Surely, one can fault the commission. Why didn't it call this witness, investigate more deeply in that area? When there was doubt, too often the commission spoke, needlessly, in more positive language than the facts allowed.

Maybe it would have been better for Oswald to have been represented posthumously by counsel. Maybe the commission did have an eye on the political clock in turning in its report while some investigation was still under way. Maybe. Maybe. Maybe.

Without question the commission was not infallible. But it has too long been the target of critics who have not received the same scrutiny they gave the Warren report. This does credit to no one.

Commission Backed

his sights that he knew he was never going to have again. I suspect he was up for it."

Liebeler talked of the "grassy knoll" where Lane and others think shots came from, in part because people ran in that direction after the gunfire.

"Would people do this? Would you if you knew or thought someone was firing from there? It depends upon instantaneous reaction. I might run after the motorcade. I might run for cover. But I'm sure most people would run to get out of the way."

EDWARD EPSTEIN
Never any trial

Joe Ball, another member of the staff, talked of the rifle found on the sixth floor of the depository building which police first identified as a Mauser. Later it was determined to be a Mannlicher - Carcano, an Italian weapon. Critics have implied this switch suggests the weapon was planted.

"Evidence shows that Seymour Weitzman, who found the rifle, never handled it and saw it from five feet away. Weitzman and Deputy Sheriff Eugene Boone both testified it seemed to them to be a Mauser.

"Let's make it clear. It is a Mauser. It is built on German patents and the Mauser refers to the bolt action. But Lane never dares to go so far as to say that Weitzman or Boone in any way suggest this is not the gun which was found beyond all doubt to have fired the bullets."

This is not quite accurate. Lane, on Page 120 of the hard-cover edition of "Rush to Judg-

thesis. The professor replied to one that "experience has shown that all too often when a person is shown his own words on paper he is inclined to state that he did not make those remarks."

Liebeler talked of finger and palm prints.

Oswald's palm print found on the rifle had little probative value, said Lane, "especially since local and federal police officials who issued inacurrate statements. . .were alone with Oswald and the weapon." The implication seems obvious.

"Well," said Liebeler, "we had to consider that in view of the performance of the Dallas Police Department, God rest their souls, were they so devilishly clever that they could have taken Oswald's print and planted it on the rifle and then taken it off again, or that they could have handed the rifle to Oswald to get the print? Of course, that would involve the judgment of Oswald, and do you think any one could have gotten Oswald to touch that rifle with a 10-foot pole? Of course not."

Lane also suggests it is "curious" that a Dallas police officer found a print on the rifle and "lifted" it off the weapon and that an FBI expert was unable to find any trace of the print on the gun several days later. The reader might also find it curious that Lane does not mention that subsequent FBI photographs of the lifted print showed minute gaps.

Another staff member talked of Lane's book.

"He attempts to discredit the commission on hundreds of counts and to suggest such an enormous level of incompetence or dishonesty as to make his entire argument ridiculous. Had someone set out to design a commission of the incompetence Lane attributes to it, I doubt very seriously that it could ever have been done. Had he focused upon some weaknesses of the commission or the report, he might of had an area of argument."

And the staff agrees there were weaknesses. Some were of omission: the commission most certainly could have called to testify witnesses who had only given statements to law officials. Some weaknesses were of commission: the report could easily have been more explicit about

man who knew both Oswald and Jacqueline Kennedy and whose amatory troubles with a Latin beauty are truly comic. And there is a laborer who told the august members of the commission in blunt terms what he thought when he heard a rifle go off above his head in the depository building.

The critics are equally diverse. There is Harold Weisberg, a Maryland poultryman who was once National Barbecue King and claims his "Geese for Peace" campaign got the Peace Corps its first good publicity break.

Sauvage, a French journalist, argues with Gallic logic, no index and membership in the "perhaps" and "it seems" school. He raises some pointed questions in areas where uncertainty is and may remain forever.

Epstein makes much of the doctor-FBI autopsy discrepancy. It is answerable. He makes a criticism of many of the commission's methods. This is arguable. Both ways. But he raises his questions from facts in the commission volumes. Sometimes not all the facts. And sometimes not facts at all.

Lane Predominates

Lane's name predominates. He has made a movie based on his book and given numerous lectures here and abroad. At the very end of his book he files a disclaimer explaining why he accepted material contrary to the commission's conclusions and rejected material that supports the commission.

So, on almost his last page, Lane identifies himself; he is a prosecutor, using the defendant commission's own witnesses and testimony. But not all of it.

"I haven't found anything of theirs that even makes a positive contribution," said one of the senior commission counsels of the critics.

The public may know of the single bullet theory. It is a chain of circumstance, linked by assumptions. It is a chain that leads to Lee Harvey Oswald as the assassin. But it is vulnerable, as all chains. If one of its links breaks, it does not hold. . . .

Tomorrow: A single bullet, a singular theory.

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Lane devotes several pages to the testimony of a former Dallas patrolman, Napoleon J. Daniels, who said he saw a man resembling Jack Ruby enter police headquarters just before he shot Oswald. Lane takes issue with the commission for deciding Daniels' testimony "merits little credence."

But nowhere does Lane mention that Daniels was given a lie detector test. Daniels was asked if he had told the complete truth. He said yes. He was asked if he had deliberately made up any of his story. He answered no. The lie detector indicated both responses were "false." He was asked if he thought the person he saw enter the building was Jack Ruby. He said no. The test indicated this response was "true."

Is such evidence relevant to why the commission felt Daniels merited little credence? Lane evidently thought not.

One of Epstein's major points concerns the report of the autopsy on Kennedy. It concluded that their first interpretation of Kennedy's wounds were not their final one.

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The intention, rather, is to focus on several key issues in contention and compare what the commission volumes said with what the critics said they said. Such comparison is often illuminating

But, at the least, it may serve to have asked of the critics what they have asked of the commission — the facts. All of them.

Surely, one can fault the commission. Why didn't it call this witness, investigate more deeply in that area? When there was doubt, too often the commission spoke, needlessly, in more positive language than the facts allowed.

Maybe it would have been better for Oswald to have been represented posthumously by counsel. Maybe the commission did have an eye on the political clock in turning in its report while some investigation was still under way. Maybe. Maybe. Maybe.

Without question the commission was not infallible. But it has too long been the target of critics who have not received the same scrutiny they gave the Warren report. This does credit to no one.

Commission Backed

But recently books have begun to appear attacking the critics, one by Charles Roberts of Newsweek magazine and another by Richard Warren Lewis, a magazine writer, and Lawrence Schiller, a photo-journalist.

And while the commission, disbanded, has not spoken as an organization in its defense, many of its staff lawyers are now willing to do so. The writers interviewed 11 of the commission's 15 senior counsel.

The staff lawyers talked of some of the puzzling testimony that may never be resolved; the gunsmith who said he fixed a gun for someone named Oswald, the men who saw someone who looked like Oswald at a firing range, the persons who saw Oswald driving a car the talked of the rifle found on the sixth floor of the depository building which police first identified as a Mauser. Later it was determined to be a Mannlicher - Carcano, an Italian weapon. Critics have implied this switch suggests the weapon was planted.

EDWARD EPSTEIN
Never any trial

"Evidence shows that Seymour Weitzman, who found the rifle, never handled it and saw it from five feet away. Weitzman and Deputy Sheriff Eugene Boone both testified it seemed to them to be a Mauser.

"Let's make it clear. It is a Mauser. It is built on German patents and the Mauser refers to the bolt action. But Lane never dares to go so far as to say that Weitzman or Boone in any way suggest this is not the gun which was found beyond all doubt to have fired the bullets."

This is not quite accurate. Lane, on Page 120 of the hard-cover edition of "Rush to Judg-

Lane also suggests it is "curious" that a Dallas police officer found a print on the rifle and "lifted" it off the weapon and that an FBI expert was unable to find any trace of the print on the gun several days later. The reader might also find it curious that Lane does not mention that subsequent FBI photographs of the lifted print showed minute gaps.

Another staff member talked of Lane's book.

"He attempts to discredit the commission on hundreds of counts and to suggest such an enormous level of incompetence or dishonesty as to make his entire argument ridiculous. Had someone set out to design a commission of the incompetence Lane attributes to it, I doubt very seriously that it could ever have been done. Had he focused upon some weaknesses of the commission or the report, he might of had an area of argument."

And the staff agrees there were weaknesses. Some were of omission: the commission most certainly could have called to testify witnesses who had only given statements to law officials. Some weaknesses were of commission: the report could easily have been more explicit about times not facts at all.

Lane Predominates

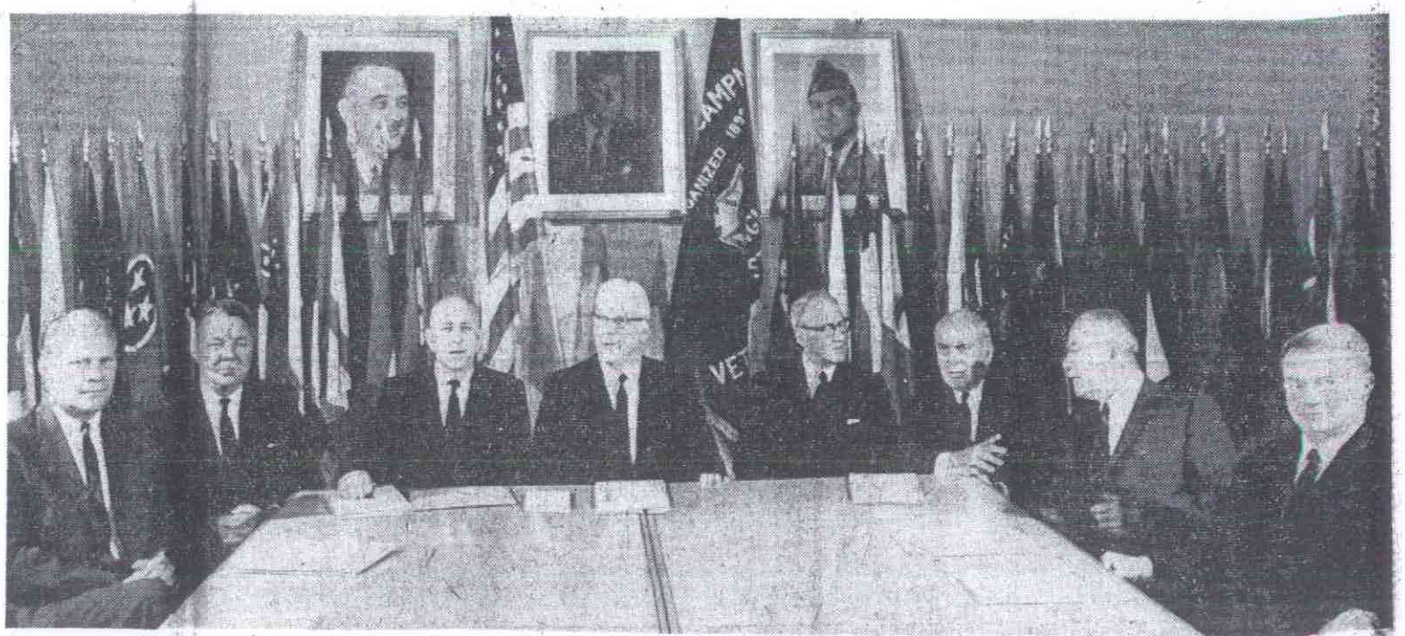
Lane's name predominates. He has made a movie based on his book and given numerous lectures here and abroad. At the very end of his book he files a disclaimer explaining why he accepted material contrary to the commission's conclusions and rejected material that supports the commission.

So, on almost his last page, Lane identifies himself; he is a prosecutor, using the defendant commission's own witnesses and testimony. But not all of it.

"I haven't found anything of theirs that even makes a positive contribution," said one of the senior commission counsels of the critics.

The public may know of the single bullet theory. It is a chain of circumstance, linked by assumptions. It is a chain that leads to Lee Harvey Oswald as the assassin. But it is vulnerable, as all chains. If one of its links breaks, it does not hold. . . .

Tomorrow: A single bullet, a singular theory.



WARREN COMMISSION: From left, Rep. Gerald Ford, R-Mich.; Rep. Hale Boggs, D-La.; Sen Richard Russell, D-Ga.; Chief Justice Earl Warren; Sen. John Sherman Cooper, R-Ky.; John J. McCloy, New York banker; Allen Dulles, former CIA chief, and J. Leo Rankin, New York, chief commission counsel. It considered its first words to be its last. — (AP)