



**THE EVIDENCE** reviewed above identifies Lee Harvey Oswald as the assassin of President Kennedy and indicates that he acted alone in that event. There is no evidence that he had accomplices or that he was involved in any conspiracy directed to the assassination of the President.

From the Warren Commission report

## About the Evidence

By John Hart Ely

McLEAN, Va.—I served on the staff of the Warren Commission. And although it is vogueish to say otherwise, I think we wrote a good report. I continue to be amazed at how many "new" discoveries that appear in critical literature were discussed in the report, and at how many people are prepared to dismiss the report without having bothered to read it.

Attention-getting criticism has proved easy; we knew it would be when we published, in 26 volumes, the great variety of testimony, other evidence, speculation and rumor that had come before us.

But devising a coherent and credible theory to explain what happened in Dallas on Nov. 22, 1963—one that isn't forced to hypothesize a number of duplicate Lee Harvey Oswalds or a diabolical command center with absolute control over the thoughts and actions of the thousands of persons involved in the events and their investigation—has proved quite a different matter.

For all its inevitable loose ends, the Commission's account of the evidence in those 26 volumes remains, eleven years later, the only really coherent account that has been put forth.

Recently, however, another set of issues has begun to surface—having to do not with the way the Commission analyzed the information to which it had access but rather with the way the commission obtained, or, more accurately, the way it was provided its information.

The Commission, of course, lacked real investigative resources of its own and was therefore heavily dependent,

at least for leads, on the Government's existing investigative agencies.

To the extent that we could, we checked the information we were furnished against other information we had from the same or other sources, but such cross-checking was obviously of limited value.

Naturally we were troubled by this investigative dependence to an extent, but there did not seem to be any plausible alternative way of proceeding. With a staff comprised almost entirely of lawyers, we were not structured as an investigative agency; analysis, asking the right questions, and evaluating the alternative answers to them was what we were obviously suited to. And that simply seemed to be that.

Eleven years later, it seems that should not simply have been that. Why, then, did we not make an issue of it? How could anyone, no matter how inexperienced in matters of investigative politics, have been so oblivious to the risks of reliance on the existing agencies for information in a matter like this?

The explanation, I think, is that this was 1964, not 1975. We were all more innocent a decade ago. Since that time, to our collective sorrow, we have learned many things. We have learned, contrary to what once seemed common sense, that persons

in high places will, at substantial risk to themselves, cover up for the misdeeds of subordinates who seem of little consequence.

We have learned that investigative agencies are not the monoliths we once thought they were; that schemes of substantial moment are planned and sometimes executed at relatively low levels; that they may be carried out by persons who are in no true sense "members" of those agencies but rather independent contractors with an on-again off-again sort of association, and even that people can be led to think they are working for such agencies when in every official sense they are not.

In 1964, one had to be a genuine radical to take seriously the thought that other Federal agencies were withholding significant information from the Warren Commission. In 1975, it would take a person of unusual naiveté to ignore that possibility.

I confess I personally am only partly reconstructed: I still cannot take seriously the notion that Government agencies were involved in President Kennedy's assassination.

I suspect that the facts, even assuming they could all be learned, would disclose a suppression of nothing more sinister than evidence of inadequate vigilance on the part of the agency or agencies concerned.

But however that may be, it is important to distinguish the issue of how the Warren Commission analyzed the information it had from the issue of what information others decided it was and was not to get. It seems to me unlikely that the data we had before us would be analyzed any better a second time than it was the first. Nor does a second analysis seem likely to attain any broader credibility. (I don't know who there is with credibility to match the late Chief Justice Earl Warren's.) That is why I have always resisted suggestions that the investigation be "reopened."

But an investigation of how the Commission got its information, of what it was and was not provided, would not be a re-examination, for the simple reason that it went unexamined at the time.

Perhaps his is naive in itself. Perhaps there is no realistic possibility that those in possession of the facts bearing on this issue will ever reveal them. But even that is something we are entitled to know.

Certainly I can imagine no reason why those of us who worked on the report should resist efforts to investigate the mechanisms by which the Commission was provided (or not provided) information. Every American is entitled to be angry about the recent disclosures and accusations, but perhaps our entitlement is the greatest of all.

John Hart Ely, who is general counsel of the United States Department of Transportation, wrote this article in his capacity as a private citizen.