

## TIME ESSAY

## AUTOPSY ON THE WARREN COMMISSION

THE fabric of history is rent with unanswered questions and unresolved doubts, and for many men those tears and slashes prove far more intriguing than the whole factual cloth. From the disappearance of the Holy Grail to the attack on Pearl Harbor, many of history's great events have been marked by suspicions of connivance, corruption and conspiracy. Today, 34 months after the tragic event, a new web of doubt is being publicly spun around the assassination of John F. Kennedy in Dallas on Nov. 22, 1963.

The skepticism is ironic, for never before has the investigation of a historic event been launched so promptly for the expressed purpose of dispelling uncertainty. One week after the murder, President Johnson appointed an august group of seven men, headed by U.S. Chief Justice Earl Warren, to "satisfy itself that the truth is known as far as it can be discovered." The Warren Commission had an unlimited budget and access to all the investigative talents and tools of the Federal Government. With the help of a full-time staff of 26—mostly legal experts—it published a lucid, tightly written 888-page report that was a compendium of 26 volumes (17,815 pages) of testimony and evidential exhibits gathered over ten months.

The commission concluded that Lee Harvey Oswald, 24, the Marx-spouting ne'er-do-well, had fired a mail-order rifle from a sixth-floor window of Dallas' Texas School Book Depository, killing John Kennedy and wounding Texas Governor John Connally as they rode by in an open limousine. The report also said that the fleeing Oswald had murdered Dallas Patrolman J. D. Tippit within an hour after he shot Kennedy. And the commission concluded that those crimes, as well as the slaying of Lee Oswald himself by Nightclub Owner Jack Ruby before TV cameras in the Dallas Police and Courts Building, held no hint of conspiracy.

## Provocative Attacks

In the U.S., the report met with widespread and surprisingly uncritical acceptance. But elsewhere, particularly in Europe, many people never doubted that Kennedy's murder was the product of a conspiracy involving either—there is a remarkably wide choice—the right wing, the left wing, the FBI, the CIA or the Dallas police force. When South African Prime Minister Hendrik Verwoerd was assassinated last week in Capetown, officials hurriedly launched a series of anti-plot explanations to cut off the kind of who-killed-Kennedy rumors that have risen abroad.

This summer doubts about what happened in Dallas have been raised with a vengeance in the U.S. by an armful of books that place the commission's painstaking detective work under a savage crossfire of criticism. All of the authors manage to suggest that the commission members and their staff might have been guilty of anything from incompetence to a grotesque plot to conceal the truth.

In *The Oswald Affair*, French Journalist Léo Sauvage concludes that it is "logically untenable, legally indefensible and morally inadmissible" to hold that Oswald killed Kennedy. In *Whitewash*, onetime Senate Investigator Harold Weisberg says that the commission is guilty of the "prostitution of science" as well as of "misrepresentation and perjury." In *The Second Oswald*, Richard H. Popkin, a professor of philosophy at the University of California, suggests a conspiracy in which Oswald and a man identical to Oswald threw red herrings over one another's trails to confuse investigators.

Two of the new books stand out for their provocative attacks. *Inquest*, by Edward Jay Epstein, is a slight (151 pages) text that began as Epstein's master's thesis in government at Cornell University; it accuses the commission of hurrying through the investigation in slipshod fashion, because it wanted to establish a "version of the truth" that would "reassure the nation and protect the national interest." *Rush to Judgment*, now a bestseller, is by New York Attorney Mark Lane, who was retained as counsel for a time by Oswald's mother. Lane's book consists of a minutely detailed recital of what he might have done as adversary for the defense if Oswald had gone on trial. He concludes that "the commission covered itself with shame."

## No Rigid Rules

The authors all brace up their criticisms with an enormous amount of bit-by-bit documentation—nearly all of it gleaned, ironically enough, from the commission's own evidence. They not only criticize the Warren group's procedures but, in most cases, seek to cast doubt on nearly every major conclusion reached in the report. They argue that the commission was determined to prove that Oswald was the lone assassin and that it blandly ignored or distorted any information that differed significantly from that premise. Some of them say that Oswald was not involved at all. Among the facts that they cite to support that contention:

▶ Although the commission said flatly that the President was shot from above and behind and that Oswald fired from the sixth floor after the limousine had passed, no fewer than 58 of the 90 eyewitnesses questioned about the source of the two shots thought that they came from a grassy knoll on the right side of the car.

▶ The only man who testified that he had actually seen Oswald fire—and subsequently identified him as the assassin—did not at first identify Oswald when he saw him in a Dallas police line-up the night of Nov. 22.

▶ Oswald was not really a very good marksman, yet his shooting on that day would have required remarkable skill: two direct hits on a moving target in less than six seconds with a rifle that had a defective scope. In the Marines, he scored only one point above the lowest ranking in one competition. When expert riflemen test-fired the weapon later, none could match Oswald's speed and accuracy.

▶ In trying to reconstruct Oswald's flight from the sniper's nest in the Book Depository Building, the commission allowed for a near miraculous series of coincidences and split-second timing. In the 46 minutes between the assassination at 12:30 and the first report of Officer Tippit's slaying, Oswald is supposed to have dashed down six flights, slipped out of the building, walked seven blocks, boarded a bus, got off, found a taxicab, returned to his rooming house, donned a jacket, then turned up nearly a mile away and killed Tippit.

▶ Although no record was kept of Oswald's interrogation during the 45½ hours he was in custody, the commission leaned heavily on the word of Dallas police—who had made a horrible botch of the case in almost every respect—that Oswald "repeatedly and blatantly lied."

Such facts do give pause and, considered alone, raise some doubt about Oswald's guilt. But the commission was not trying Oswald in a court of law. It was neither bound by rigid rules of evidence nor, since Oswald was dead, restricted to the judicial pursuit of getting a final verdict. The commission sought only to get the truth, and in so doing borrowed from both the techniques of the trial lawyer's adversary system (cross-examination and critical interrogation) and the historian's approach (applying logic, intuition and intellect to reach deductions from a mass of often uncorrelated facts). In this milieu, the critics' claims of Oswald's innocence are impressive only when they stand apart from the massive structure of other evidence unearthed by the commission.

The commission had more than enough material to overcome all its own doubts. Four people saw from the street below what appeared to be a rifle barrel protruding from the sixth-floor window an instant after the shots. Three em-

ployees watching from a window directly below heard the shots from overhead. Oswald's rifle (traced to him through his writing on the mail-order blank) was found near the sixth-floor window; so were three cartridges that experts proved had been fired by his rifle. Tests proved that cotton fibers snagged on the rifle matched the shirt Oswald was wearing that day. Bullet fragments found in the President's car came from Oswald's rifle. As for the slaying of Tippit, two people saw Oswald shoot the officer, and seven others saw him running in the vicinity with his revolver in his hand. All positively identified him later.

Any total exoneration of Oswald thus fails the test of logic, but that is only half the story. Another, even more pervasive, theory has arisen, holding that there was at least one other assassin. This theory rests on the premises that 1) there may have been a shot fired from in front of the limousine, and 2) such crucial evidence as the autopsy report on Kennedy was altered to conceal the second killer.

Because of the confusion and horror that followed the shooting, no one was quite sure whether there were three or four shots fired at the limousine; the commission held that the "preponderance of the evidence" indicated three, but there was still no real certainty as to which bullets caused which wounds. As reconstructed from a tourist's color movie film of the assassination, the sequence of events went like this: the President was hit once, as was graphically portrayed when his hands clutched his throat. An instant later, Governor Connally, seated on a jump seat in front of Kennedy, began to turn, and slowly slumped back against his wife. Then the President's head jerked; a ghastly pink spray flashed around his head, then disappeared as he fell toward Jackie on his left. The first shot was not fatal; the second was. The time between the two bullets' impact was between 4.8 and 5.6 seconds, said the commission. Connally, too, had been badly hurt: a bullet slammed into his back, tore across a rib and out his chest, shattered his right wrist and entered his left thigh.

### The Impact of Exhibit 399

Since tests proved that it took at least 2.3 seconds to operate the bolt action on Oswald's rifle, Oswald obviously could not have fired three times—hitting Kennedy twice and Connally once—in 5.6 seconds or less. The critics therefore claim that the timing and the wounds suggest another gunman. To solve this puzzle, the commission concluded that one bullet hit Kennedy in the head and shattered, another probably missed the limousine entirely (it was never found), and a third struck Kennedy from the back and passed through his neck, then continued on to wound Connally.

A bullet from Oswald's rifle was found on a stretcher at the hospital where Kennedy and Connally were taken; the commission decided that it had fallen out of Connally's superficial thigh wound onto his stretcher. The bullet offered sufficient grounds to make the single-bullet theory suspect. Experts reported that a 6.5-mm. slug such as Oswald used would normally weigh 160 or 161 grains when fired. Doctors had found roughly three grains of metal in Connally's wrist and thigh. But the spent bullet (labeled Exhibit 399) weighed a hefty 158.6 grains when examined—more than it should have, considering the amount of metal left in Connally's body. The nose of the spent bullet was not blunted, and several medical men testified that it could not have done so much damage to Connally and emerged in such good shape.

Nonetheless, ballistic-wound experts testified that it was "probable" that Exhibit 399 had hit both men. One reason: the wound in Connally's back was oddly large, suggesting that the bullet had begun to wobble and slow down before it struck—presumably because it had just passed through the President's neck. Also, the injury in Connally's wrist was such, said the doctor who treated him, that Exhibit 399 had apparently begun to tumble end over end when it emerged from his chest and that it crashed blunt-end first into his wrist. There was some damage on the bullet's flat end.

The controversy over the autopsy centers on the report issued by a three-man team of surgeons after an autopsy performed on Kennedy's body at Bethesda Naval Hospital. The

doctors found an opening in the right rear of the President's skull, which they diagnosed as an entrance wound. The exit point was a gaping hole where the side of the skull had been blown out. That accounted for one shot, which the surgeons decided had come from above and behind.

There was another wound in the back of the President's neck, approximately 5½ in. below the right mastoid process. The doctors immediately saw that it was a wound of entrance, but they became puzzled when they could find neither a bullet, an extended bullet path, nor an exit wound in the throat. Later they testified that they had cleared up the mystery, after surgical examination of the body was completed, by calling the Dallas doctors who had attended the President. They then learned that the incision for an emergency-room tracheotomy had been made over a bullet wound in the front of Kennedy's neck. Since they also had found suspicious bruises on the top of the right lung and neck muscles, the autopsy team concluded that the bullet had gone through.

While doing his thesis research, Author Epstein turned up a "supplemental" FBI report dated Jan. 13, 1964 that threw some doubt on all this. The report said that the bullet that struck Kennedy's neck had penetrated "less than a finger-length"—a conclusion that, if true, meant it could not have gone through and hit Connally. This report is the basis for the belief that after Jan. 13 the autopsy report was changed for some devious reason, most likely to rule out the existence of a second assassin. The facts, however, are much simpler: FBI reports are dated when they are submitted, not when the information is gathered. Two FBI agents present at the autopsy in November had overheard and recorded the doctors' puzzled comments about the neck wound during the surgical examination; the clarifying Dallas call was not made until later, thus was not included in the report.

The critics have whipped up a bewildering barrage of other doubts—the location of the bullet hole in Kennedy's clothes, Oswald's relations with Cuban Communists, the fact that the autopsy X rays and photographs were not released (in the case of the photos, at the Kennedy family's request), Jack Ruby's friendship with the Dallas cops. There are plenty of explanations available to clear up any significant suspicions, but the most compelling refutation of most of the critics' charges is that any evidence-tampering of the sort they suspect would have required a conspiratorial web so vast and complex as to be unbelievable. A subversive plot to conceal significant information would almost certainly have had to include the commission and its staff, several FBI agents and Secret Service men, the hospital doctors and nurses in Dallas, some Dallas policemen, the autopsy surgeons, the lab men who developed the X rays and photos and, of course, the Kennedy family.

### Some Confusion & Forgetfulness

For all that, the Warren Commission was neither perfect in its procedure nor airtight in its presentation of evidence. There is some justice to the critics' contentions that staff lawyers felt rushed, that there were intense deadline pressures and that every loose-end lead was not neatly tied up. The commission might have prevented some of the current criticism if it had appointed a kind of devil's advocate to challenge evidence aggressively on behalf of the assassin. Many of the complaints against it, of course, concern the inevitable flaws that accompany any juridical proceeding: contradictions, loopholes, gaps of fact and, especially in the case of such a shattering episode as an assassination, some confusion and forgetfulness on the part of shocked witnesses.

Yet, for the time it took and the methods it used, the commission did an extraordinary job. Its use of trial-lawyer techniques in tandem with a historian's speculative interpretation of facts worked better than either method would have worked alone, even if it did not completely please the backers of either. Although its conclusions are being assailed, they have not yet been successfully contradicted by anyone. Despite all the critics' agonizing hours of research, not one has produced a single significant bit of evidence to show that anyone but Lee Harvey Oswald was the killer, or that he was involved in any way in a conspiracy with anyone else.