

# The Creation of the "Warren Commission"

by Donald Gibson

**M**ost of the people who have done research on or are knowledgeable about the performance of the so-called Warren Commission are convinced that a number of its members and counsel played an important role in the post-assassination cover-up. Those seriously interested in its work, including the author, are convinced that the commission's oversights, distortions, and other shortcomings represent something that is explainable only in terms of the intentions of people such as Allen Dulles, John J. McCloy, J. Lee Rankin, and Gerald Ford.

Although a massive amount of work has been done on the Commission's *performance*, the story of how the Commission was *created* has remained incomplete. This story needs to be completed because both reason and the facts indicate that the formation of the Commission, like the performance of elements of the FBI and the media, was as much a part of the cover-up process as was its *Report*.

We can get closer to that complete story now because of the release in 1993 of the White House telephone transcripts for the period immediately following the assassination. In combination with material already in the public domain, those transcripts allow us to clearly identify the people who were directly responsible for the establishment of the President's Commission on the Assassination of President Kennedy, later dubbed the "Warren Commission."

These transcripts demonstrate that the people who have been "credited" with the creation of the Commission had little to do with it—like LBJ's longtime friend and advisor Abe Fortas—or were following the lead of others, as with President Johnson and Deputy Attorney General Nicholas Katzenbach. The transcripts show that the idea of a commission was pushed on LBJ by people who were outside of the government at that time and that this effort began within minutes of Lee Harvey Oswald's death. Until Oswald was dead, there was no way that such an effort could be undertaken.

## Blakey's Version

The first extensive and official description of the events leading to the creation of the Warren Commission appears in the 1979 account from the Select Committee on Assassinations of the House of Representatives. Two stories emerge from their hearings. One is the Committee's description of the events; the other is in the testimony of Nicholas Katzenbach, Deputy Attorney General at the time of the assassination. The two accounts are not identical even though the first is ostensibly dependent on the second.

The Select Committee's *Report* contains a section entitled "Creation of the Warren Commission." It begins by saying that on November 22nd, "President Johnson was immediately faced with the problem of investigating the assassination." This is misleading. As long as Oswald was alive, there wasn't any real question about the investigation; it would be conducted in Dallas during a trial of Oswald. Second, as the evidence will show, President Johnson "was faced" with a problem after Oswald was killed, not "immediately" after the assassination. The problem for LBJ was not just one of investigating the assassination. There was also a problem presented to him by people trying to shape the investigatory process.

The Committee's rendition of events goes on to say that on November 23, 1963, J. Edgar Hoover "forwarded the results of the FBI's preliminary investigation to him [LBJ]. This report detailed the evidence that indicated Lee Harvey Oswald's guilt." In fact, Hoover told LBJ on the morning of the 23rd that the case against Oswald was not then very good. The Committee's account goes on to say that on the 24th, Hoover called LBJ aide Walter Jenkins and said that Katzenbach had told him that the President might appoint a commission. (As the record will show, Katzenbach was not speaking for the President, who on the 24th opposed the idea of a commission.) Hoover expressed his opposition to the creation of a commission, suggesting that the FBI handle the investigation and submit a report to the Attorney General. Hoover

makes a vague reference to problems a commission might cause for U.S. foreign relations. He also mentions that he and Katzenbach are anxious to have "something issued so we can convince the public that Oswald is the real assassin."

The Committee's report then summarizes parts of Katzenbach's testimony to the Committee, stating that Katzenbach was very concerned about the multitude of conspiracy theories which had already emerged. Consequently, he wrote a memo on November 25th to LBJ aide Bill Moyers which emphasized the need to quiet these rumors. The Katzenbach memo recommends that a statement be issued immediately indicating that the evidence shows Oswald did it and that there were no conspirators. The memo suggests furthermore that the FBI would be the primary investigating body and that a Presidential commission would "review and examine the evidence and announce its conclusions." The memo went on to say that there is a need for "something to head off public speculations or congressional hearings of the wrong sort." Katzenbach did also say in his testimony that he always wanted to know the truth, including the facts concerning possible conspiracy.

The HSCA continues, stating that on November 25th President Johnson ordered the FBI and the Department of Justice (run at this time by Katzenbach instead of the distraught RFK) to investigate the assassination and the murder of Oswald. By November 27th, Senator Everett M. Dirksen had proposed a Senate Judiciary Committee investigation and Representative Charles E. Goodell had proposed a joint Senate-House investigation. Also, Texas Attorney General Waggoner Carr had announced that a state court of inquiry would be established. The Committee cited a statement by Leon Jaworski, who worked for the offices of both the Texas Attorney General and the U.S. Attorney General, indicating that LBJ told him on November 25th that he (LBJ) was encouraging Carr to proceed with the Texas Court of Inquiry.

The Select Committee account then skips to a November 29th memo from Walter Jenkins to LBJ which stated that:

Abe [Fortas] has talked with Katzenbach and Katzenbach has talked with the Attorney General. They recommend a seven man commission—two Senators, two Congressmen, the Chief Justice, Allen Dulles, and a retired military man (general or admiral). Katzenbach is preparing a

description of how the Commission would function.

This memo and some of Katzenbach's statements before the committee imply that Katzenbach and perhaps Abe Fortas, and even Robert Kennedy, were the source of the idea for the Commission. Also, there is an implication the memo of the 29th was critical in LBJ's decision making. It was not. LBJ had agreed to the Commission idea not later than November 28th.

The 1979 Robert Blakey-HSCA version is certainly more elaborate than the official story circulated in 1964. The problem is that it substitutes one misleading story for another. The original suggested that LBJ initiated the process. The latter implies that Katzenbach is the most important figure.

### Katzenbach's Incomplete Tale

Katzenbach's own 1978 testimony before the Select Committee was part of the basis for the Committee's account of the creation of the Warren Commission. Much of his testimony and deposition is consistent with that account. But some of it is not. And there were times when Katzenbach hinted at important undisclosed facts that the Committee staff did not bother to pursue. Katzenbach did imply that there was more to the story. The 1993 release of the White House telephone transcripts makes clear what Katzenbach hinted at.

The HSCA first asked Katzenbach to explain why he was "exerting tremendous pressure right after the assassination to get the FBI report out and to get a report in front of the American people." A November 25, 1963, memo from Katzenbach to Bill Moyers is referenced as evidence of Katzenbach's activities. Katzenbach explains that his concern was to quiet rumors and speculation about conspiracy. Katzenbach then added that his activities were related to the idea of creating a commission "such as the Warren Commission" and that he did not view the FBI investigation as the final or only investigation.

In his testimony Katzenbach represents the commission idea as his own several times. He also says, "I was never opposed to it." This, of course, suggests that it was not his idea.

Later in the questioning, Katzenbach mentions that by November 25th he was

aware of Oswald's stay in Russia and his visit to Mexico. He says he was also then aware that the FBI had concluded that there was no conspiracy. It is beyond any doubt that such a conclusion was completely unfounded just three days after the assassination and one day after the murder of Oswald. There is no possibility that the FBI could have eliminated the possibility that Oswald, even if guilty, could have had assistance or direction



from others.

A memo from Alan Belmont, an assistant director and number three man in the FBI, to Hoover's assistant, William Sullivan, dated November 25th, refers to conversations between Katzenbach and Hoover about the assassination. The memo emphasizes that the FBI's report should cover all the areas that might cause concern with the press and the public. Belmont wrote:

In other words, this report is to settle the dust, in so far as Oswald and his activities are concerned, both from the standpoint that he is the man who assassinated the President, and relative to Oswald himself and his activities and background, et cetera.

This and other information provided

here establish Belmont as one of the primary forces in the FBI pressing for an immediate conclusion about the assassination.

The intertwining of Katzenbach's actions and those of Belmont is indicated in a comment by Katzenbach in his oral deposition. A 12/9/63 letter to Chief Justice Warren suggested that either the Commission or the Justice Department release a statement saying that the FBI had established "beyond a reasonable doubt" that Oswald killed Kennedy and that the investigation had so far uncovered no information suggesting a conspiracy. Katzenbach had signed this letter, but in his deposition he said that this letter was probably drafted by the FBI. The fact that the Deputy Attorney General is signing his name to something this important that he didn't write suggests how closely interconnected his actions were with those of Belmont and, perhaps, others in the Bureau. In this oral deposition Katzenbach also reveals, in contradiction to his testimony, that he was *not* acting on his own when he proposed a commission to investigate the assassination.

Katzenbach told the Committee that Hoover opposed the creation of a Commission and that President Johnson "neither rejected nor accepted the idea. He did not embrace it. I thought there was a period of time when he thought that it might be unnecessary." As we shall see, this understates Johnson's initial opposition.

We come now to what was an important set of statements which *should* have been followed by specific questions from the House staff. Katzenbach was asked who else (presumably beyond the President and Hoover) he talked to during the time he was arriving at the idea of a commission. Katzenbach said that he believed he "recommended it to Bill Moyers" and raised the issue with Walter Jenkins and President Johnson. Katzenbach was then asked about "people outside the President's immediate circle" and he responded that he *did* talk to such people. He mentioned Dean Rusk and Alexis Johnson as two people he may have talked to. Katzenbach then said:

I am sure I talked about it with people outside the government entirely who called me and suggested old friends or former colleagues.

Katzenbach does not identify—and is

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not asked to identify—those people “outside the government entirely.” There is no naming of the “old friends” and “former colleagues.” Instead, the questioning shifted to the views of Rusk and others already mentioned by Katzenbach. Given an opportunity to actually find out how the Warren Commission came into being, the HSCA’s staff decided to go on to other things. Because of the release of the White House telephone transcripts, we will now be able to identify some or most of those people who were “outside the government entirely.”

### Present at the Creation

It appears that the idea of a Presidential commission to report on the assassination of President Kennedy was first suggested by Eugene Rostow, Dean of the Yale Law School, in a telephone call to LBJ aide Bill Moyers during the afternoon of November 24th. Although the time of this call is missing from the White House daily diary, it is possible to identify the period during which the call was made. Rostow refers to the killing of Oswald, so the call had to be after 2:07 P.M. EST, the time Oswald was pronounced dead. The call appears in the White House daily diary prior to a conversation at 4:40 P.M. between President Johnson and Governor Pat Brown of California. Rostow tells Moyers that he is calling to make a suggestion that a “Presidential commission be appointed of very distinguished citizens in the very near future.” Rostow recommends that such a commission be:

*Bipartisan and above politics—no Supreme Court justices but people like Tom Dewey and Bill Story from Texas and so on. A commission of seven or nine people, maybe Nixon, I don't know, to look into the whole affair of the murder of the President because world opinion and American opinion is just now so shaken by the behavior of the Dallas Police that they're not believing anything.*

Rostow does not explain how he has determined the nature of world or American opinion within minutes of after the murder of Oswald. Rostow also says that he had already spoken “about three times” that day to Nick Katzenbach but he was making his suggestion directly to Moyers because of his uncertainty that Katzenbach would pass it on. Rostow ex-

plains that Katzenbach “sounded too groggy so I thought I’d pass this thought along to you.”

As noted above, this call took place before 4:40 P.M. Rostow indicates that he had already talked to Katzenbach about a commission. He says that he discussed this with him probably three times. Whether it is once or three times, it is clear that Rostow became active very soon after Oswald’s death. It is highly probable that it was Rostow’s call(s) that Katzenbach was referring to in his 1978 testimony when he said that he was “sure” that he had talked to “people outside the government entirely who called me.” Apparently Rostow was making his suggestion in the context of discussions with at least one other person. He said to Moyers:

*Now, I've got a party here. I've [or We've] been pursuing the policy, you know, that people need to come together at this time.*

Rostow does not identify the individual or individuals with whom he has been talking.

Moyers briefly interrupts this line of discussion by stating his concern that recent events are undermining the credibility of U.S. institutions. He then returns to Rostow’s suggestion, saying:

*All right. Now, your suggestion is that he [President Johnson] appoint a Special Commission of distinguished Americans, primarily in the field of law, I presume to look into the whole question of the assassination.*

Rostow says, “That’s right and a report on it”—and then the conversation ends with Moyers assuring Rostow that he will discuss this with President Johnson.

Some questions need to be raised about this phone call. Why is Eugene Rostow injecting himself into this situation? He is not a government official nor is he a close associate of or advisor to Lyndon Johnson. Why is he doing it so quickly? The statements made by Rostow and the time frame that can be established indicates that in less than two and a half hours following Oswald’s death Rostow has thought about and discussed with at least one other person the idea of a commission and has had one or more phone conversations with Katzenbach about this. Didn’t Rostow want to reflect

on this for a day or two? Didn’t he want to discuss the idea with others and give some consideration to the pros and cons of a commission? Didn’t he want to see if other people would support such a proposal before he went directly to the White House with it?

But the time frame for all this ratiocination was apparently even quicker than the two and a half hours we have been using as a frame up to this point. For in Volume III of the *Hearings of the House Select*

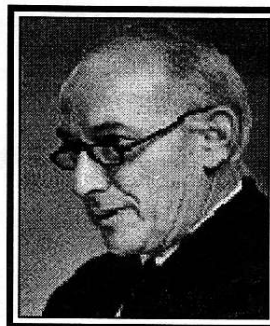
*Committee on Assassinations*, there is a copy of a memo written by LBJ aide Walter Jenkins to the President which reports on a phone conversation that Jenkins apparently had with J. Edgar Hoover. According to the memo, Hoover said over the phone that:

*The thing I am concerned about, and so is Mr. Katzenbach, is having something issued so we can convince the public that Oswald is the real assassin. Mr. Katzenbach thinks that the President might appoint a Presidential Commission of three outstanding citizens to make a determination.*

Did Rostow discuss this with the “groggy” and insufficiently active Katzenbach? The timing of this memo is of immediate interest. The time on the memo is 4:00 P.M., November 24. Hoover has already spoken with Katzenbach and received from him information concerning the idea of a commission. Apparently, Hoover spoke with Katzenbach prior to 4:00 P.M. We now have a considerably shorter time frame. Oswald died at 2:07 P.M. Eastern Standard Time. Before 4:00 P.M., Katzenbach had spoken with Hoover about a commission. Katzenbach was acting as a result of his conversation(s) with Rostow. We are now down to something well under one hour and fifty-three minutes for Rostow to hear of Oswald’s death, consider all the factors, discuss it with at least one other person, and begin to act. The entire time span for Rostow’s actions is almost certainly less than ninety minutes, allowing only twenty or so minutes for him to talk to Katzenbach and for Katzenbach to talk to Hoover.

There is one last question. We don’t know who Rostow was with at the time of Oswald’s death. Did Rostow act as an

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individual or was he representing a collective decision when he moved so rapidly to have a Presidential commission established? This probably cannot be answered in a definite way without a candid statement from Rostow and, perhaps, others. There are, however, indications in the events of November 25th to 29th that Rostow and then Katzenbach were acting on behalf of a group of people.

### Piecing in the Puzzle

As we have seen, the idea of a commission was suggested to at least two people close to LBJ, Bill Moyers and Walter Jenkins, on the afternoon of the 24th. The suggestion was relayed to LBJ by someone before 10:30 A.M. the next day, November 25th. This is clear from the transcript of Johnson's phone conversation with J. Edgar Hoover at 10:30. Johnson immediately mentions the idea of a commission and states his opposition to it:

Two things. Apparently some lawyer in Justice is lobbying with the *Post* because that's where the suggestion came from for this Presidential Commission which we think would be very bad and put it right in the White House. Now we can't be checking up on every shooting scrape in the country, but they've gone to the *Post* now to get them an editorial, and the *Post* is calling up and saying they're going to run an editorial if we don't do things.

Johnson's account is a little vague. When he refers to "some lawyer in Justice," does he mean Deputy AG Katzenbach? Perhaps he is poorly informed and the reference is to Rostow. Whatever the case may be, it is clear that LBJ is against the creation of a Presidential commission. LBJ goes on to say that he favors an FBI report which would be provided to the Attorney General of the United States. And he expresses support for a Texas court of inquiry, suggesting to Hoover that the FBI and Texas inquiries be coordinated.

Immediately after LBJ's conversation with Hoover, wherein LBJ expressed definite opposition to a Presidential commission, the President received a phone call from Joseph Alsop. This call is made at 10:40 A.M. on the 25th, still less than 24 hours since Oswald was killed. Alsop was one of the country's best known colum-

nists and one of the most important promoters of Establishment policies.

After opening pleasantries, LBJ immediately informs Alsop that there is going to be a state court of inquiry in Texas headed by the Attorney General and also including one or two outstanding jurists, naming Leon Jaworski and Dean Storey as possible participants. Alsop asks if there will be "somebody from outside Texas." The following exchange then transpires [the grammar and ellipses are as in the original]:

LBJ: No, they're going to have FBI from outside Texas, but this is under Texas law and they take all the involvement's and we don't send in a bunch of carpet-baggers ... that's the worse thing he could do right now ...

JA: You think so ...

LBJ: I know ... well, we've got the FBI doing anything that ... if there's any question about Texas operations they've got an FBI that's going to the bottom of it and direct with the Attorney General ... but paralleling that is the blue ribbon state board of inquiry headed by the brilliant Attorney General and associated with him somebody like John Garwood, Will Clayton's son-in-law, who was a brilliant Supreme Court Justice that's retired ... somebody like Roberts did at Pearl Harbor ... and that's what the Attorney General is doing ... now, if we have another Commission, hell, you're gonna have people running over each other and everybody agreed ... now I know that some of the lawyers ... they thought of the blue ribbon commission first, the Justice, and we just can't have them lobbying them against the President, when he makes these decisions. We decided that the best thing to do, number one to put the FBI in full force, number two to put the State in full force ...

JA: Nobody ... nobody ... Mr. President, is lobbying me, I lay awake all night ...

LBJ: They're not lobbying you, they're lobbying me ... last night. I spent the day on it ... I had to leave Mrs. Kennedy's side at the White House and call and ask the Secret Service and FBI to proceed immediately ... I spent most of my day on this thing, yesterday. I had the Attorney General from Texas fly in here ... I spent an hour and a half with him yesterday evening ... I talked to the Justice Department lawyers and to the FBI and the FBI is of the



Joe Alsop

opinion that the wisest, quickest, ablest, most effective way to go about it is for them to thoroughly study it and bring in a written report to the Attorney General at the earliest possible date which they've been working on since 12:30 yesterday. Number one ... and they have information that is available to no one ... that has not been presented thus far and so forth ... Number two ... to parallel that,

we're having a blue ribbon court of inquiry ...

JA: In Texas?

LBJ: In Texas ... where this thing occurred.

JA: Mr. President, just let me give you my political judgment on the thing. I think you've done everything that could probably be done ...

LBJ: We just don't want to be in a position ... I'll make this one more statement and then I'm through ... I want to hear

you ... we don't want to be in the position of saying that we have come into a state other than the FBI ... that they pretty well accept ... but some outsiders have told them that their integrity is no good and that we're going to have some carpetbag trials ... we can't haul off people from New York and try them in Jackson, Mississippi ... and we can't haul off people from Dallas and try them in New York.

JA: I see that, Mr. President ... but let me ...

LBJ: It is their constitutional right ... go ahead ... now ...

JA: Let me make one suggestion because I think this covers ... I think this bridges the gap which I believe and Dean Acheson believes still exists ... being ... and Bill Moyers is the only person I've talked to about it ... and Friendly is going to come out tomorrow morning with a big thing about a ... a blue ribbon commission which he thought of independently ... it isn't Justice Department lawyers who are carrying on this ... it's just things happened thought of by a lot people and you thought of more than ... more details than anyone else ... and I'm sure you're right except there's one missing piece ... I suggest that you announce that as you do not want the Attorney General to have the clean, full, responsibility of reporting on his own brother's assassination, that you have authorized the three jurists and I would suggest the Texas jurists and two non-Texas jurists to review all the evidence by the FBI and produce a report to the nation for the nation ... and after the investigation is completed ... so that the country will have the story judicially

reviewed, outside Texas and if you tell Bill Moyers to call up Friendly and if you'll get out a special announcement this afternoon, you're going to make a marvelous ... well, you've already made a marvelous start ... you haven't put a damned foot one-quarter of an inch wrong—and I've never seen anything like it, you've been simply marvelous in the most painful circumstances but I do feel that there is that much of a gap and I'm sure that if Moyers calls Friendly, you have a terrific support from the *Washington Post* and from the whole of the rest of the press instantly ...

LBJ: I'll ruin both procedures we've got, though ...

JA: No you won't ... no you won't ... just use the procedures you've got and add to those procedures a statement saying that when the FBI has completed its work, when it has completed its work ... as you do not wish to inflict on the Attorney General, the painful task of reviewing the evidence concerning his own brother's assassination ... you have asked two or three, including I would include the best judge on the Texas bench ... American jurists beyond, or individuals, Dean Acheson, for example, two or three individuals beyond any possible suspicion as to their independence and impartiality, to draw up a written report giving to the public everything of the FBI that is relevant and then you will have this written report ... not Texas, which tells the whole story which is based on the FBI evidence ... it doesn't need to use the things that the FBI says can't be used ... and yet will carry absolute conviction and will just be that little extra added to the admirable machinery that you've already got that will carry complete conviction ...

LBJ: My lawyers, though, Joe, tell me that the White House must not ... the President ... must not inject himself into local killings ... and ...

JA: I agree with that ... but in this case it does happen to be the killing of the President ... and the thing is ... I am not suggesting issue ...

LBJ: I know that ...

JA: Mind you, mind you, Mr. President, I'm not talking about an investigative body, I am talking about a body which will take all the evidence the FBI has amassed when they have completed their inquiry and produce a public report on the death of the President. That, I think, you see, that is not an interference in Texas ...

LBJ: No, but it's ...

JA: Wait a second, now ... that is a way to transmit to the public, without breach of confi-

dence ... and in a way that will carry absolute conviction of what the FBI has turned up ...

LBJ: Why can't the FBI transmit it?

JA: Because no one ... again ... on the left they won't believe the FBI ... and the FBI doesn't write well ...

LBJ: You mean Nick Katzenbach?

JA: Well, I just wouldn't put it on Bobby and Nick Katzenbach ... I'd have it outside ... I think it's unfair to put it on Bobby ... it is his own brother's death ...

LBJ: Not going to touch it on Bobby ... we're putting it on the finest jurists in the land ... former head of the American Bar Association ... that's number one that we're putting it on ... then we're putting it on the top investigative agency and asking them to write a report ...

JA: I'm not ... I'm not suggesting that you appoint an additional investigating commission ... I'm just suggesting that if you want to carry absolute convictions ... this very small addition to the admirable machinery that you've already have ... will help you and I believe that it will ... the imagination of the country and be a very useful, happy thing ... and the man asks if you have two seconds ... this afternoon for example ... ask Dean Acheson ... he's the man to ask ... I see all the arguments you make and you're dead right and I'm not ... my conception is completely wrong ... but I do think that this additional feature is needed ...

LBJ: I talked to ... I guess, after midnight last night ...

JA: Well, I know how you must have been concerned ...

LBJ: ... the ablest, the truest civil liberties lawyer in this town in my judgment ... the man that's made the best arguments before the Supreme Court and it was his judgment the worst mistake we could make ... getting trapped ...

JA: And, I now see exactly how right you are and how wrong I was about this idea of a blue ribbon commission ...

LBJ: Now, you see, Katzenbach suggested that and that provoked it ... the lawyers and the council just hit the ceiling ... said, my God almighty ...

JA: I see ... I see ... I see that you're right and he was wrong ... what I do.

LBJ: Then I called back to Katzenbach and I thought he accepted ...

JA: Well, I don't know anything about Katzenbach ... I haven't talked to him for

three weeks ... but what I am suggesting is not at all what Katzenbach suggested ... I am suggesting simply a device ...

LBJ: Well, let me talk to Acheson and ...

JA: ... for summing up the result of the FBI inquiry in a way that will be completely coherent, detailed, and will carry unchallengeable convictions and this carrying conviction is just as important as carrying on the investigation ... in the right way ... and I worry about this *Post* editorial ... I'd like you to get ahead of them ...

LBJ: And I worry about the *Post*, period, ... but ...

JA: Well, I do too ... but I'd like you to get ahead of them and if you have ... if you make this decision and have Moyers call Friendly or Kay instead of being ... well, you know ... this is what we ought to do ... this is what ought to be done and then what you do being denounced as inadequate, they'll be put so hard and will do you a tremendous piece and I'm sure you will have the strongest possible support ... it will be thought that everything has been done that needs doing and ... but I do think ... my own judgment is that there is that little missing piece ... and, Dean, may disagree and you talk to him ...

LBJ: I'll talk to him and ...

JA: And, I hate to interfere, sir ... I only dare to do so because I care so much about you ...

LBJ: I know that, Joe ...

JA: And I have the deepest faith in you and I think you've been right and I've been wrong ... as to the general conception ...

LBJ: It's not a question ... it's not really my thinking ... I'm not enough experienced ...

JA: I'm really ... what I'm really honestly giving you is public relation advice and not legal advice ...

LBJ: Well ... I'm not bounded ... I don't have a definite civil liberties picture that some of the folks that have worked on this with me ... I had a lawyer left my house around midnight ... and spent, I guess, three or four hours going over this thing from A to Z ... after the Attorney General was called in here yesterday afternoon ... and after the FBI was put on it ... after we told Secret Service to make available everything they had ... and, we thought, that this was the best way to handle it ...

JA: Well, Mr. President ... I repeat ... I must not keep you because you'll be late getting into your trousers ... but I repeat ... I think your decisions have been 200% right and I was wrong ... from the public relations standpoint

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and from the standpoint of carrying conviction ... there is that missing key which is easy to supply without infringing upon Texas feelings or sovereignty ...

LBJ: Thank you, my friend, Bye ...

JA: Goodbye ...

At the outset of this conversation, LBJ emphatically asserts that the investigation will be the responsibility of Texas authorities, but with a significant role played by the FBI. LBJ refers to efforts of unidentified lawyers, implying they are in the Justice Department, to get a commission established and he states that this will not happen. He is probably referring here to Katzenbach, perhaps only Katzenbach. The investigation, he says, will be handled by the FBI and the state of Texas.

Alsop then launches an effort to change LBJ's mind, employing a mixture of tactics, including self-deprecation, praise for LBJ, giving advice, argumentation, and manipulation. He also employs the names of other people to buttress his position and to convince Johnson that the commission idea is going to have support from significant people. Along the way he tells Johnson that "it isn't Justice Department lawyers who are carrying on this." That observation is consistent with Katzenbach's 1978 testimony that the idea for a commission came from people outside the government. Alsop's assertion also fits with what we have already seen in the intercession by Eugene Rostow.

Alsop indicates that one of the people he has discussed this with is former Secretary of State Dean Acheson. He does not say when he talked with Acheson. It had to be less than 22 hours after Oswald's death. Was Acheson's involvement independent of Rostow's? Alsop's use of Acheson's name seems to be a way of impressing upon Johnson that this idea comes from or with the endorsement of heavy-hitters. Alsop also tells LBJ that Alfred Friendly of the *Washington Post* has come to the same idea on his own and that the *Post* will promote the idea.

Significantly, Alsop assures LBJ that such a commission would cooperate with the FBI in not using "the things that the FBI says can't be used." This is being said less than 72 hours after the assassina-

tion, less than 24 hours after the killing of Oswald. What is Alsop referring to here? How does he know at this time that there are things the FBI will prefer to keep out of the record? LBJ, for whatever reason, does not even ask Alsop what he is talking about. Perhaps LBJ does not really hear this. Perhaps he already is getting the feeling that he should not ask.

Alsop suggests that the FBI will gather information and the commission will then produce the report. This is close to what will eventually occur. When LBJ asks why the FBI can't issue the report, Alsop tells him that people on the left won't believe the FBI and that the FBI doesn't write well. The first will be an effect of the Commission on more than just the left. The second is beneath comment and suggests that Alsop has an agenda.

Alsop engages in some double talk to the effect that he is and is not proposing something new. He again introduces Acheson's name, saying "ask Dean Acheson ... he's the man to ask." He also tries to distance himself from the Katzenbach proposal, but does not specify any differences between his proposal and the one made by Katzenbach.

Alsop recommends that LBJ get out in front of the *Washington Post* and have Moyers discuss things with Friendly or Kay [Katherine Meyer Graham]. For the fourth time, Acheson is mentioned as Alsop again pressures LBJ to talk to him. LBJ says that he will do so.

The columnist ends by saying that LBJ's decisions are 200 percent correct, but that LBJ still needs to change his mind on the commission. LBJ seems unconvinced, but no longer as certain about his own judgment. Alsop has been partially successful.

### Alsop's Effect: Reversal

Within three days, LBJ will reverse himself and support a commission, legally becoming its creator. It is clear that a number of people acted to bring about this change. Eugene Rostow brought up the idea initially, to both Bill Moyers and Katzenbach. Rostow discussed this with at least one unidentified person in the minutes immedi-

ately following Oswald's death. Joseph Alsop applied pressure to LBJ less than 24 hours later. If Alsop is to be believed, and there is no reason to doubt this, Dean Acheson was also involved in developing and promoting the idea. Other immediate supporters appear to include Alfred Friendly, Katherine Graham, and, based on other sources, James Wiggins of the *Washington Post*. By the 29th, Secretary of State Dean Rusk was also a supporter.

During the afternoon of the 28th, at 3:21 P.M., LBJ called Senator James O. Eastland, a Mississippi Democrat, to get his cooperation in shutting down a proposal for a Senate committee hearing

which would produce a record of the facts surrounding the assassination. LBJ, now an active proponent of a commission, would succeed, perhaps with assistance from others, in shutting down all of the initiatives in the House and Senate.

The idea of a presidential commission did not come from President Johnson or from Abe Fortas. Katzenbach was involved in this in a sig-

nificant way, but at the behest of others and not always with enthusiasm. Eugene Rostow is either the originator of the idea, the first active promoter, or both. We don't know the identity of the individual or individuals with whom he was discussing this on the afternoon of the 24th. Joseph Alsop is an important figure in these developments. This judgment is based on both his extensive jaw-boning with LBJ and the fact that he is one of the few people informed ahead of time by LBJ about the President's announcement that a Commission is being created. Dean Acheson almost certainly played a significant but undefined role in this.

### ARRB: Depose Brinkley!

Some potentially important gaps remain. Perhaps most important is the identification of the person or persons with whom Rostow was conversing on the 24th. Relative to Acheson's role, Alsop appears to have been acting on behalf of Acheson just as Katzenbach acted at the behest of Rostow. Douglas Brinkley, author of *Dean Acheson* and the Director of the Eisenhower Center at the University of New Orleans, has addi-

*Alsop assures LBJ that such a commission would cooperate with the FBI in not using "the things that the FBI says can't be used."*

tional information concerning Acheson's involvement. This information is apparently based on interviews with William Bundy. In telephone conversations with this author, Brinkley initially offered to provide copies of this interview. He subsequently changed his mind. This material may be of great significance.

In 1971 Lyndon Johnson himself provided important parts of the truth. His statement was closer to an accurate account than what was provided by the HSCA six years later. The Committee totally ignored LBJ's account and, as far as the author is aware, so did everyone else

for over twenty years. In his book, *The Vantage Point*, Johnson said that Eugene Rostow called the White House on November 24th and suggested a commission, and that Joe Alsop and Dean Rusk also recommended a commission. This account, although brief and incomplete, was closer to the truth than anything said about this between 1963 and 1993. Perhaps it is a tribute to LBJ's lack of credibility that no one paid any attention to this for over twenty years (including the author). The commission idea comes from Rostow, Alsop, and Acheson. It has immediate support from individuals at

the *Washington Post* (James Wiggins) and the *New York Times* (James Reston). It will be supported by Secretary of State Dean Rusk. Who or what do these people represent? Are these people connected to each other? Is this group in any way associated with those who would direct the Commission once it was established? Some answers to these questions will be provided in the next issue of *Probe*. ♦

You can now order Professor Gibson's wonderful analysis of the Kennedy Presidency, entitled *Battling Wall Street*, from the CTKA catalog on page 35.

## Indonesia

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matter, according to Robert Bryce in a recent issue of the *Texas Observer*, say Freeport hired former CIA director James Woolsey in the fight against OPIC.

Freeport, now headquartered in New Orleans, manages to keep friends in high places. In 1993, the head of the pro-Suharto congressional lobby was the Senator from Louisiana, Bennett Johnson. Representative Robert Livingston, of Louisiana, invested in Freeport Copper and Gold while the House debated and voted on H.R. 322—the Mineral Exploration and Development Act. And when Jeffery Shafer, one of the directors of OPIC, recently was nominated for an appointment to Undersecretary of National Affairs, it was another Louisiana pol, this time Senator John Breaux, who voted to block the appointment until Shafer provided an explanation of OPIC's cancellation of Freeport's insurance. Jim Bob Moffett, head of Freeport McMoRan, is listed in *Mother Jones'* online "MoJo Wire Coin-Op Congress" survey of the top 400 people who gave the most money in campaign contributions.

Freeport's actions abroad are not the only one's worth tracking. In Louisiana itself, Freeport and three other companies (two of which Freeport later acquired) petitioned for a special exemption to the Clean Water Act in order to legally dump 25 billion pounds of toxic waste into the Mississippi river. Citizens protested, and Freeport's petition was denied. Freeport then lobbied for the weakening of Clean Water Act restrictions.

The citizens of Austin, Texas, have fought to block a Freeport plan for a real

estate development that will foul Barton Springs, a popular outdoor water park there.

According to a recent article in *The Nation* (July 31/August 7, 1995), Freeport is part of the National Wetlands Coalition, a group which wrote much of the language of a bill designed to eliminate E.P.A. oversight of wetlands areas, freeing them for exploitation. The same coalition has also lobbied to weaken the Endangered Species Act. *The Nation* revealed that Freeport's political action committee since 1983 has paid members of congress over \$730,000.

### Scandal at UT

Freeport's record caused an uproar at the University of Texas at Austin recently. The University's Geology Department, which has done research under contract for Freeport, was recently given \$2 million dollars by Jim Bob Moffett for a new building. The school's Chancellor, William Cunningham, wanted to name the building after his friend and co-worker (Cunningham is also a Freeport Director) Moffett. Many on campus protested this development. Anthropology professor Stephen Feld resigned his position with the university over this issue, saying UT was "no longer a morally acceptable place of employment." The protests about Cunningham's conflict of interest—serving UT and Freeport—led to Cunningham's resignation last December. He resigned a day after Freeport threatened to sue three professors at the University who had been loudest in protest.

### Poised on the Brink

While moral victories are lauded in Texas, the real terror continues at Freeport's plant in Indonesia.

In March of 1996, just as our last issue went to press, riots broke out at the Freeport plant in Irian Jaya (the current name for West Irian). Thousands were marching in the streets around the Freeport plant, where the military had as recently as December held and tortured in Freeport mining containers the people who lived and protested in that region. The protests are deeply rooted in the desire for the independence of the Papuans, the Amungme, and the many native inhabitants of Irian Jaya who were never Dutch, and never really Indonesian.

As we go to print, Indonesian sources report that the military has taken over the numerous Freeport Security stations around the mine. "Military Exercises" are intimidating the people who in March rioted at Freeport, causing the plant to lose two days of work and millions of dollars. Although no curfew has been called, people report a fear of being out at night.

The native Amungme tribes, the Papuans, and others are still hoping to retain independence from what they see as only the latest form of colonialism: subservience to Freeport's interests. According to a *New York Times* article (4/4/96), Freeport is the largest single investor in Indonesia.

With Kennedy's support, Indonesia had a chance for real economic independence. The peoples of Irian were promised a real vote for self-government. But when Kennedy was killed, a military dictatorship was installed and paid off so that the interests of businesses like Freeport have been given higher priority than any demands of the natives whose resources are still being pillaged.

Sometimes, what we don't understand about today's news is what we don't know about the Kennedy assassination. ♦