

our experts re-evaluated the 1964 test and found that it was not only invalidly administered, but invalidly interpreted. In fact, it showed deception.

In November 1966, Ruby granted a filmed interview to the press; he was scheduled for retrial in February. He said: "Everything pertaining to what's happened has never come to the surface. The world will never know the true facts of what occurred: My motive. . . ." He added, ". . . [T]he people who [have] . . . so much to gain . . . [will] never let the true facts . . . come . . . to the world." Unless the Kennedy investigation is pursued further, Ruby may turn out to be right; he was for 18 years.

Belin's individual errors could be documented further, but his major charges also require response. Belin complains that the Warren Commission did not have its day in Court; he was not permitted to testify in public session in the Commission's defense. Belin was given an opportunity to appear in executive session or by deposition; he could have made his deposition public. Other Warren Commission lawyers, including its general counsel, followed this procedure. All members of the Commission and the general counsel, in fact, appeared before the Committee in public session, something Belin knows, since he appeared with former President Ford, a member of the Commission. Belin was not called as a witness in a public session because a review of his work showed that he had little to offer. He did not play a key role in the work of the Commission. His testimony about the facts of the assassination was secondhand. The Committee preferred its facts firsthand.

Next, Belin offers a theory as to why the Committee went wrong; he blames it on the staff and that the Committee's work was conducted in secret.

I have been associated with the work of Congressional Committees for almost twenty years. No Committee that I have ever worked with was more democratic, knowledgeable, or more in control of its own processes than the Select Committee. Indeed, the Select Committee was probably more democratic, knowledgeable, and more in control of its processes than was the Warren Commission. Witness the dissents to the work of the Committee, but not the Commission. I make that judgment based on a two-year study of the Warren Commission and personal experience with the Select Committee. When did Belin conduct a similar study of the Committee? He has not even read our report.

Belin's secrecy comment is ironic. The Warren Commission held one day of public hearings. Belin, who was Executive Director of the Rockefeller Commission, was not able to persuade his own Commission to do better. The Select Committee held almost forty days of public hearings on the evidence gathered in its two-year investigation of the Kennedy and King cases, where the Committee's work was open to public scrutiny. Each of the issues he criticizes were, in fact, raised in public hearings.

The Committee's investigation was not held entirely in public for obvious reasons. Classified information was involved. Reputations were at stake. The Committee had a duty, under House Rules, to evaluate its evidence before it was made public. Belin knows the character of the allegations in the Kennedy case. Even though many of the allegations have proven to be irresponsible, they had to be checked out, first confidentially. Would he have had the Committee do otherwise?

Last, Belin grumbles that the Committee made up its mind at the last minute. The Committee had the basic acoustical evidence in July. It knew then what it portended. It all depended on what the final verdict of the scientists was. That came in November. When should the Committee have made up

its mind, except at the end when all the evidence was in?

When President Ford appeared before the Committee he was asked why the work of the Warren Commission had fallen on such hard times. First, the former President said that its critics had "deliberately or negligently misled the American people by misstating facts and omitting crucial facts. . . ." Second, he suggested that many people were cynical. Third, he observed that people had not read the report.

The Select Committee should be accorded, at least from former Warren Commission staff members, the same they themselves would have wished to have received. I suggest that Mr. Belin should heed the advice of his client.

Sincerely,

G. ROBERT BLAKLEY,

Professor of Law, Cornell Law School.  
(Former Chief Counsel and Staff Director, Select Committee on Assassinations.)

#### THE JFK CONSPIRACY THEORY DOESN'T HOLD UP

(By Shankin Specter)

The House Assassinations Committee was charged with informing the American public, once and for all, of the facts of the murders of John Kennedy and Martin Luther King. Yet, it appears their report will only exacerbate the very problems the committee sought to eradicate: lingering public concern and doubt over these watershed events of the troubling 1960s and mistrust in the ability of the government to find an answer to the argument over who killed John Kennedy.

The big story of the House report is the conclusion that President Kennedy was "probably assassinated as a result of a conspiracy." What is the evidence for this conclusion? The only hard evidence of a second gunman is the results of a complex acoustics study.

The study was conducted on a scratchy recording that was made when a police motorcycle whose microphone was stuck open transmitted the sounds of the assassination to the police radio tape at the Dallas police headquarters. The study concluded that of the dozens of impulses on the tape, four of these impulses represent shots fired at the presidential limousine: the first, second and fourth from Oswald's lair and the third from the grassy knoll. From this, the conspiracy conclusion was born.

Although the acoustics study is a scientifically-derived body of data, there is little precedence indicating how to contextualize this arcane evidence in light of the other evidence. That is, without the benefit of the application of similar studies in the past, how do we evaluate its possible defects and judge its relative weight among all the evidence?

The other evidence is sharply inconsistent with the acoustics study. Neither a second gunman nor his gun was seen by the more than 100 persons in position to see. His identity or possible involvement with Oswald has never been discovered.

No known impact was made by the bullet upon the presidential limousine, its occupants or anyone or anything else, even though its target was only about 25 yards away. Although this series of non-evidences does not prove there was no second gunman, it does put into perspective the quantity of evidence of a conspiracy.

It is interesting to note that the evidence that Oswald acted alone is so strong that the House Committee's draft final report, written before the testimony of the acoustics experts, stated that "there is insufficient evidence to find there was a conspiracy."

While the evidence of a conspiracy is tenuous, the evidence that Oswald was the assassin is irrefutable. To the committee's

credit, they conducted a series of ballistic, photographic, forensic and trajectory studies that prove that President Kennedy and Governor Connally were struck by exactly two bullets, both fired by Oswald.

It should be noted that these studies were precisely those sought by critics of the lone assassin viewpoint. Thus, though the committee's conclusion was "conspiracy," the preponderance of its findings, including affirmation of the single-bullet theory, are consistent with the Warren Commission's findings.

Furthermore, the term "conspiracy" has unwarranted ominous implications. The term conspiracy has widely varying meanings, most of which connote an institutionally based effort. For this, there is no evidence. While collusion to break the law is, in legal terms, a conspiracy, the purpose of the House Assassinations Committee was to inform us on the facts of the assassination. By the use of the term conspiracy, the committee does a disservice to the understanding of the American public.

Beyond the need to place the acoustics evidence in proper perspective, there is a real question as to whether the evidence is dependable. While the acoustics experts were asked only to isolate which impulses on the tape were shots and whether their origin was the grassy knoll or the Texas School Book Depository, their conclusions imply a scenario of the assassination. That is, the tape provides a timespiece for the assassination.

The acoustics analysis holds that the second shot occurred 1.66 seconds after the first, the third 5.83 seconds after the second and fourth .82 seconds after the third.

Because of the Zapruder film, a motion picture of the assassination, was running at 18.3 frames per second and because President Kennedy was struck in the head by the fourth shot in frame 313, one can count backward and closely approximate the moments in the film when the other shots were fired.

If the acoustics experts were wrong about which impulses were shots, they stand a good chance of being wrong in stating which impulses were shots and from where they originated. Thus, if we are to accept this study—and with it, the conspiracy conclusion—then we must accept the scenario of the assassination it necessarily implies. There are three major problems with this scenario.

First, the committee has concluded that the second shot was the one that passed through both President Kennedy and Governor Connally. Although the evidence is irrefutable that one bullet did do this, it could not have been fired at this time. According to the acoustics study, the second shot occurred 6.65 seconds before the fourth.

A little multiplication and subtraction yields the conclusion that the second shot should have impacted at or near frame 191. A look at frame 191 and those surrounding it shows that Governor Connally's wrist was well above his chest, almost to his neckline, at this moment. But, the bullet exited approximately 4 inches below his right nipple and entered his wrist travelling downward. Fifteen or so frame later, Connally's wrist is substantially lower. It is at this point, or somewhat later, when Connally is obliterated from view by a sign, that it is likely he was shot.

Second, the acoustics study concludes that two shots were fired from the area of Oswald's perch within 1.66 seconds of each other. Unless there were two gunmen firing from the window (a frighteningly complicating concept for which there is no evidence), we must conclude that Oswald fired those two shots.

FBI expert testimony to the Warren Commission indicated that Oswald rifle could not be reaimed and refired in less than 2.8 seconds. Speaking before the House Assass-



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inations Committee on Dec. 20, 1972, Chief Counsel Blakey said: "Preliminary tests are sufficient to cast into serious doubt the previously established time and intervals." That evening the committee reached its conclusion. Blakey believed that tests not yet conducted would demonstrate that Oswald could have fired twice with a hit on the second shot within 1.66 seconds.

However, in an internal memorandum to committee members dated March 22, 1973, Blakey stated that of six test shooters, including "four expert marksmen," firing a total of 35 shells, "no one achieved this degree of proficiency." Thus, not only does it appear unlikely that Oswald fired twice with a hit on the second shot within 1.66 seconds, it may be humanly impossible to do so. If Oswald did not fire those shots, then the impulses thought to be shots were not shots. This simply negates the credibility of the acoustics study and its conclusions.

Third, a reconstruction in 1964 by the Warren Commission showed that between frames 166 and 210 there was an oak tree whose branches and leaves obscured Oswald's view of his target, except for a brief opening at frames 185-186. As was noted above, the acoustics study places the second shot at frame 191.

Thus, the acoustics study necessarily implies that Oswald fired blindly and hit his target. This illogical behavior is magnified when one considers that Oswald had an unimpeded stretch of approximately 100 yards and several seconds in which to kill the President, beginning a mere second later.

It seems clear that the necessary implications of the acoustics study are not consistent with a reasonable scenario of the assassination of President Kennedy. Thus, it appears doubtful that the acoustics experts were correct in concluding that a shot originated from the grassy knoll.

Why did the committee conclude there was a conspiracy? Congressman Robert Edgar, a dissenter from the conclusion, may have put it best when he said: "We did a great job up to the last moment, when in our focus on the acoustics we failed to give proper weight to other findings of the investigation."

(Shanin Spector assisted Congressman Robert Edgar in his work on the House Assassinations Committee. He is the son of Arlen Spector, the former Philadelphia District Attorney and counsel to the Warren Commission, which investigated the Kennedy assassination.)

CORNELL LAW SCHOOL,  
Ithaca, N.Y., July 30, 1979.

Mr. EDWIN GUTEMAN,  
Editor, *The Philadelphia Inquirer*,  
Philadelphia, Pa.

DEAR MR. GUTEMAN: Shanin Spector's piece ("The JFK Conspiracy Theory Does Not Hold Up," (7/23/79)) does an injustice to the work of the Select Committee on Assassinations; it also raises questions about his objectivity and competence.

The continued, almost exclusive concentration by Spector and others on the conspiracy conclusions of the Select Committee ignores other important findings and recommendations. The Committee also concluded, for example, that no governmental agency, foreign or domestic, was involved in either the President's or Dr. King's murder; and it made a variety of valuable recommendations, including the preparation of a "White Paper" by the Department of Justice to settle doubts about the study, and the enactment of charters by the Congress to prevent harassment campaign by the F.B.I. to that conducted against Dr. K.

Spector's piece also misstates the Kennedy conspiracy conclusion: It did not, in fact, rest on the acoustical study alone. The Final Report explicitly precludes the conclusion on four factors: 1) an inadequate 1964 conspiracy investigation that precludes reliance today on its no conspiracy finding; 2) a finding of associates, who had the motive to murder the President, of Oswald and Ruby who were unknown or unappreciated by the Warren Commission; 3) the inability of the Committee to rule out the complicity of certain individuals; and 4) the scientific fact of two shooters. Reading Spector's piece, I wonder if he read the Final Report, an indispensable prerequisite to discussing it, much less criticizing it.

Contrary to Spector's assertion, no evidence is "sharply inconsistent" with the acoustical study. Proving that Oswald shot the President, does not prove that another was not also involved. In addition, it is a half-truth to say that no one "saw" the second gunman. In fact, a policeman, a Secret Service Agent, and a Korean veteran (over whose head the third shot was fired)—among others—said they "heard" the shot from the knoll as well as the shots from the Depository. Others "saw" smoke on the knoll. (Modern guns do emit white gases.) Finally, footprints were found behind the knoll fence, and a policeman accosted a suspicious person behind the fence, who identified himself as a Secret Service agent, even though no agent acknowledges being in that area. As Spector does not note, these facts, too, put the Kennedy conspiracy finding "in perspective."

The Committee itself acknowledged that the term "conspiracy" had varying meanings and might be misunderstood, as Spector comments. Yet it also observed, rightly I believe, that it had a duty to be candid. If two persons acted in concert to assassinate the President, that was a "conspiracy," no matter how unpleasant the word sounds. To have used some euphemistic variation would have been an unfortunate attempt to sugarcoat the truth. (We have enough of sugarcoating by government now. That—and not the truth—is the cause of mistrust of government.) No one who reads the Final Report—something I recommend to Spector as well as others who seek the truth—will fail to understand the proper sense in which the term was used.

Spector is right in saying that acceptance of the acoustical study implies the acceptance of its assassination scenario. But he is egregiously wrong in describing it. Spector's calculations are, for example, imprecise; they apparently do not reflect such distinctions as average running time of the camera, corrected time of the tape, and time of trigger pull as opposed to time of impact. According to the acoustical study, the first shot, not noted by Spector, occurred around Zapruder frame 156-161. It is, as such, consistent with Governor Connally's testimony, rejected by the Warren Commission, that he heard the first shot, reacted to it, but was not hit by it. Connally can, in fact, be seen in the film to turn to his right at 162-167. (The startled reaction of a little girl can also be seen in the background.)

The second shot occurred around 188-191. Contrary to Spector, Connally's wrist is not in sight during these frames, much less high on his chest; from the configuration of his wrist appears to be on

Expert F.B.I. testing in 1964 indicated a rifle could be repeatedly shot at between 1 and 2.26 seconds, using the telescopic sight. Using the open iron sights, however, it is possible, though difficult, to shoot the weapon at a much faster pace. (I did it myself 1.5) With familiarity with the weapon, while Oswald had, accuracy can be added to speed. It is hardly "humanly impossible" to shoot the weapon as the acoustical study indicates it was shot.

Spector also misleads his readers in discussing the tree. Apparently, he has never seen a child run behind a picket fence. While the child is "obscured," he can be clearly seen as he runs; the child's eye fills in the details. In any event, the trigger pull was probably 187, not 191, which is near to if not right at the break in the foliage. The acoustical study, therefore, hardly implies "blind firing," as Spector suggests.

When former President Ford appeared before the Committee, he was asked why the work of the Warren Commission had failed on such hard times. (80% of the American people do not believe Oswald acted alone. The former President said its critics had "deliberately or negligently misled the American people by misstating facts and omitting crucial facts . . .") He also noted that people had not read the Warren Commission's Report. Mr. Spector's piece seems to be following in that tradition. It also seems to be less an objective study of the work of the Committee than an effort to vindicate a father; it also calls into question the quality of the staff work that supported Congressman Edgar's dissent to the Committee's conspiracy conclusions.

Sincerely yours,  
G. ROBERT BLAKEY,  
Professor of Law,  
(Former Chief Counsel and Staff Director, HSCA.)

#### □ 1910 GENERAL LEAVE

Mr. MAVROULES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of the special order speech today by the gentleman from New York (Mr. MURPHY).

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

#### CONFERENCE REPORT ON S. 737

Mr. BINGHAM submitted the following conference report and statement on the bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce.

#### CONFERENCE REPORT (H. REPT. NO. 96-482)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagree-

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Canada with dangerous nuclear radiation.

They will honor those who riot in New York but shed not a tear or care a bit for the fireman or policeman's wife who mourns her husband, lost in a riot. They care not a bit for the pilot's wife and family when he is shot by the terrorist but let the terrorist die and they will march in mourning. The left is the same all over the world and the American left identifies with other leftists time after time, issue after issue, and technique after technique. Let the Soviet Union call for a ban on testing in the atmosphere and the American leftists march to the same tune. Now their tune is antinuclear and watch them toe that line.

An Anti-Israel and pro-PLO stance is the Communist line now. Watch the American left line up for Arafat. Of course, there will always be some distinguished and fine Americans who are pro-PLO and pro-Arafat or antinuclear. I am not speaking of them. I am referring to that gaggle of anti-American leftist minority groups which has consistently marched to the distant drummer from Moscow.

Note how all of these minority groups adhere to those who propose violence as a solution to problems they perceive to confront us. Violence is being made credible by the left. Conservatives have always opposed it and we continue to oppose it. Beware of the traveling minorities in and out of our country who advance the cause of terrorism and violence. Be even more careful of those who do it under the guise of civil rights or humanitarian concerns.®

#### PERSONAL EXPLANATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record.)

® Mr. HANLEY. Mr. Speaker, I was unavoidably detained from Washington yesterday afternoon, September 26, on official Post Office and Civil Service Committee business. I returned to the Chamber too late to cast my vote on rollcall No. 509, agreeing to the conference report on H.R. 111, the Panama Canal Act of 1979. Had I been present I would have voted "aye."

I would have voted "no" on rollcall No. 510, the Rousselot amendment to the temporary public debt limit bill and "aye" on rollcall No. 511, final passage of that measure.

The House voted last week on both the Panama Canal bill and the public debt ceiling bill. At that time I was present in the Chamber and voted for both measures. I also served as a conferee on the Panama Canal bill.®

#### REPORT OF THE SELECT COMMITTEE ON ASSASSINATIONS

(Mr. STOKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

® Mr. STOKES. Mr. Speaker, as the former chairman of the Select Committee on Assassinations, I rise to bring

to the attention of my colleagues information that they might find of interest. The final report of the committee as well as its hearings with appendices are available from the Government Printing Office. I have received a number of inquiries about them. I include in the Record at the conclusion of my remarks the address that interested persons should write and the stock numbers and prices for the various volumes.

Mr. Speaker, I also want to report to the House on another matter relating to the work of the committee. I have been in touch with the Attorney General's office and have arranged to meet with him to discuss what actions the Department of Justice will take in response to the recommendations of the committee. That meeting will take place after the various divisions of the Department have had the opportunity to analyze our work. I will report to the House the results of our meeting.

Mr. Speaker, turning again to another subject, the work of the committee has not been received without controversy. That is to be expected in a free society. I regret to inform the House, however, that I see a pattern developing of uninformed criticism. It is to be particularly regretted that some of this criticism stems from individuals associated with the Warren Commission. The committee did not reach a harsh judgment on the work of the Commission, even though the committee concluded that the Commission was in error on the question of conspiracy in the President's death. The committee concluded:

[C]riticism leveled at the Commission had often been biased, unfair, and inaccurate... [T]he Committee believed that the prevailing opinion of the Commission's performance was undeserved. (Final Report, p. 257)

The committee also observed:

Contrary to the allegations of some critics, the Commission was not part of a sinister Government cover-up of the truth. The Committee found that the Commission acted in good faith, and the mistakes it made were those of men doing the best under difficult circumstances. (Final Report, p. 258)

Nevertheless, public criticism has been made of the committee's report that reflects such a profound lack of understanding of the report and its underlying evidence that I am moved to say to our critics the obvious: First read, then criticize.

In this connection, I would like to draw to the attention of my colleagues three recent attacks on the report and replies made to them by the committee's former chief counsel.

I include the following in the Record: A list of the volumes of the committee's report; and a series of articles and letters dealing with the report.

SUPERINTENDENT OF DOCUMENTS, U.S. GOVERNMENT PRINTING OFFICE, WASHINGTON, D.C.

Title	Stock No.	Price
Investigation of the Assassination of Martin Luther King, Jr., hearings:		
Vol. 1.....	052-070-04768-2	\$4.25
Vol. 2.....	052-070-04769-1	4.75
Vol. 3.....	052-070-04770-4	5.00
Vol. 4.....	052-070-04844-1	4.00

Title	Stock No.	Price
Vol. 5.....	052-070-04875-1	5.75
Vol. 6.....	052-070-04876-0	5.00
Vol. 7.....	052-070-04877-8	5.00
Vol. 8.....	052-070-04878-6	5.75
Vol. 9.....	052-070-04888-1	4.75
Vol. 10.....	052-070-04889-8	5.50
Vol. 11.....	052-070-04900-5	4.50
Vol. 12.....	052-070-04897-2	3.25
Vol. 13.....	052-070-04897-6	5.50
Investigation of Assassination of John F. Kennedy, hearings:		
Vol. 1.....	052-070-04903-1	5.25
Vol. 2.....	052-070-04904-9	4.75
Vol. 3.....	052-070-04905-7	5.00
Vol. 4.....	052-070-04906-5	5.00
Vol. 5.....	052-070-04907-3	5.00
Vol. 6.....	052-070-04977-4	5.50
Vol. 7.....	052-070-04978-2	7.50
Vol. 8.....	052-070-04979-1	7.50
Vol. 9.....	052-070-04980-9	14.00
Vol. 10.....	052-070-04981-2	5.50
Vol. 11.....	052-070-04982-1	5.00
Vol. 12.....	052-070-04983-9	11.00
Legislation and Administrative Reform, hearings:		
Vol. 1.....	052-070-04908-1	5.25
Vol. 2.....	052-070-04944-8	7.00
Findings and Recommendations of House Assassinations Committee (final report; H. Rept. 95-1823, pt. 2).....	052-071-00530-1	6.50
Total.....		172.15

#### [The Kennedy Assassination] THE SECOND-GUNMAN SYNDROME (By David W. Belin)

On Friday December 29, 1978 the House Select Committee on Assassinations published its "Summary of Findings and Recommendations." The orchestration was perfect. The release was embargoed "until 12:00 midnight, Saturday December 30, 1978 or for publication in A.M. editions of newspapers dated Sunday December 31, 1978."

The Committee wanted to make sure every Sunday morning paper in the United States carried a front-page story on the dramatic conclusion it had reached: There was an unseen second gunman standing in an area known as the grassy knoll who according to the Committee, fired a single shot at President Kennedy. Although the shot was from close range it missed President Kennedy; it missed Governor Connally and everyone else in the presidential limousine; it even missed the limousine. Nevertheless, a second gunman automatically meant that there was a conspiracy in the assassination of President Kennedy.

To be sure the Committee was forced to conclude, as did the Warren Commission, that it was Lee Harvey Oswald who fired the shots that struck President Kennedy and Governor Connally. This was confirmed in the first section of the findings of the House Select Committee on Assassinations:

I. Findings of the Select Committee on Assassinations in the Assassination of President John F. Kennedy in Dallas, Texas, November 22, 1963.

A. Lee Harvey Oswald fired three shots at President John F. Kennedy. The second and third shots he fired struck the President. The third shot he fired killed the President.

1. President Kennedy was struck by two rifle shots fired from behind him.

2. The shots that struck President Kennedy from behind were fired from the sixth-floor window of the southeast corner of the Texas School Book Depository Building.

3. Lee Harvey Oswald owned the rifle that was used to fire the shots from the sixth-floor window of the southeast corner of the Texas School Book Depository Building.

4. Lee Harvey Oswald, shortly before the assassination had access to and was present on the sixth floor of the Texas School Book Depository Building.

5. Lee Harvey Oswald's other actions tend to support the conclusion that he assassinated President Kennedy.

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But then the Committee went on to state, in the next division of its summary:

B. Scientific acoustical evidence establishes a high probability that two gunmen fired at President John F. Kennedy. . . .

When I first read the newspaper reports of the conclusions of the Select Committee, I was shocked at how readily the Committee had swallowed hook, line, and sinker, the erroneous testimony of the so-called acoustical experts. They initially claimed there was a 50 per cent possibility that a second gunman fired at President Kennedy. Later, this was changed to a 95 per cent possibility. But regardless of whether they say it was a 50 per cent possibility or a 95 per cent possibility, the truth is to the contrary. There was no second gunman.

The only gunman seen at the time of the assassination was the gunman whom witnesses saw fire from an upper-story window of the Texas School Book Depository (TSBD) Building. When the police went inside to search the building and came to that window, which was located on the southeast corner of the sixth floor, they found three cartridge cases. As the police continued their search in the TSBD Building, they found a rifle, stuck between cartons of books near the back stairway on the sixth floor. Irrefutable ballistic evidence proved that the cartridge cases found by the assassination window came from that rifle, to the exclusion of all other weapons in the world.

Similarly, inside the presidential limousine there were two ballistically identifiable fragments of the bullet that struck President Kennedy's head. These bullet fragments came from that rifle. At Parkland Memorial Hospital there was a nearly whole bullet that dropped off Governor Connally's stretcher. This bullet came from that rifle.

Who owned the rifle? Lee Harvey Oswald. It was relatively easy to trace the ownership of the rifle through the serial number. The Warren Commission obtained copies of the order blank used to purchase the rifle through the mail. It was in Oswald's writing. We had copies of the postal money order used to pay for the rifle. This was in Oswald's writing. The rifle was shipped to Oswald's post office box.

There was another weapon shipped to that same post office box. This was the pistol used in the murder of Dallas Police Officer J. D. Tippit, which occurred approximately 45 minutes after the assassination of President Kennedy. I have called the Tippit murder the "Rosetta Stone" to the solution of President Kennedy's murder."

A Dallas citizen, Johnny Calvin Brewer, who worked in a shoestore near the scene of the Tippit murder, was the key witness in the apprehension of Oswald. He heard about the murder on the radio, then heard police sirens coming down the street and a suspicious-looking person duck into his store-front area and stay there until the police sirens ebbed. Then the person, who turned out to be Oswald, left the shoestore and sneaked into the Texas Theater, a few doors away. Brewer followed Oswald into the theater and had the cashier call the police.

When the police arrived, the house lights were turned on, and Brewer pointed out Oswald. As policemen approached, Oswald pulled out a revolver. Carrying a concealed gun is a crime. The fact that Oswald had such a weapon on his person and drew it in those circumstances is, in itself, highly suspicious.

Irrefutable scientific evidence proved that this revolver, to the exclusion of all other weapons in the world, was the weapon that discharged the cartridge cases that witnesses saw the murderer of Officer Tippit toes away as he left the scene of the murder. In addition there were six eyewitnesses who saw Oswald either at the Tippit murder scene or running away from it, gun in hand, and who

conclusively identified Oswald as the gunman.

The combination of Oswald's actions at Brewer's shoestore and in the theater, coupled with the scientific ballistics testimony linking this gun with the murder of Tippit, coupled with the positive identification by six independent eyewitnesses, makes the solution to the Tippit murder an open-and-shut case. There can be no doubt that Lee Harvey Oswald killed Officer Tippit.

After Oswald was apprehended at the Texas Theater, he was taken to the Dallas police station and interrogated. Of the School Book Depository employees who were inside the building at the time of the assassination, Oswald was the only one who fled the building after the assassination.

During the course of his interrogation, Oswald claimed that he did not own the rifle found on the sixth floor of the TSBD Building. As a matter of fact, he claimed he did not own any rifle at all. The Warren Commission, in searching Oswald's possessions in a garage in the Dallas suburb of Irving, where Marina Oswald was staying with the Paine family, found a picture of Oswald with a pistol and a rifle and also found a negative of the picture, as well as Oswald's camera. When Oswald was confronted with the picture showing him holding a rifle, he claimed that it was not a genuine photo, but rather was a composite with his head on someone else's body.

Oswald lied, as he lied about other key matters in the course of his interrogation. When one has a photographic negative and a camera, it can be determined whether or not that particular negative came from that camera. Incontrovertible scientific evidence confirmed the fact that this picture of Oswald holding the rifle was taken with Oswald's camera, to the exclusion of all other cameras in the world. (Marina Oswald admitted in testimony before the Warren Commission that she took the picture.)

Meanwhile, no one saw a gunman firing from the grassy knoll area—although people were in a position to see the grassy knoll area at the time of the assassination. The area was searched and no cartridge cases were found. Finally, there was the overwhelming medical evidence that all the wounds to Governor Connally and President Kennedy came from bullets fired from behind—not from the right front, where the grassy knoll area was located. Governor Connally's physicians unanimously agreed. The physicians performing the autopsy on President Kennedy unanimously agreed.

Assassination sensationalists were not satisfied with these conclusions. As a result, in 1968 Attorney General Ramsey Clark appointed a panel of physicians to re-examine the autopsy photographs, X-rays of President Kennedy, various moving pictures and other pictures taken at the time of the assassination, and other evidence pertaining to the death of President Kennedy. This panel unanimously confirmed the findings of the Warren Commission that all the shots that struck President Kennedy came from behind.

Assassination sensationalists still were not satisfied, and at the time of the Rockefeller Commission's investigation they asserted that there were CIA agents conspiratorially involved in the assassination of President Kennedy. In support of this claim, these people asserted that a gunman had fired at President Kennedy from the front and that at least one shot struck Kennedy from the front. An independent panel of physicians selected by the Rockefeller Commission reviewed the evidence once again. They unanimously reached the same conclusion: All the shots that struck President Kennedy and Governor Connally came from behind.

The first chairman of the House Select Committee on Assassinations—Congressman Henry Gonzalez—fell victim to the misrepresentations of assassination sensationalists,

asserting, at the outset, that a second gunman had fired at President Kennedy. The House Select Committee obtained yet another set of experts to re-examine all the evidence. After months of investigation, the House Committee was forced to conclude that the Warren Commission was right: all the shots that struck President Kennedy and Governor Connally came from behind and were fired by Lee Harvey Oswald's rifle from the sixth-floor southeast-corner window of the TSBD Building.

In the face of this overwhelming array of evidence, one wonders why it was that at the very end of a multi-million-dollar investigation the House Select Committee suddenly adopted the testimony of purported acoustical experts to reach the erroneous conclusion that a second gunman had fired at President Kennedy.

Even if there were not overwhelming evidence to the contrary, common sense would question this testimony. It is based on the single assumption that there was a police motorcycle at Dealey Plaza whose microphone was stuck open and acted as a transmitter to the police radio tape at the Dallas police headquarters.

Now, if the microphone had in fact been stuck open, and if the motorcycle had in fact been located at Dealey Plaza—i.e., at the scene of the assassination—not only would the microphone have recorded the shots, but it would have recorded other loud noises as well. Immediately after the shots the motorcade accelerated sharply, and police sirens started blaring as it sped toward Parkland Memorial Hospital. Yet, on the recorded tape there is no sudden sound of motorcycle revving up shortly after the so-called shots. There is no sudden sound of police siren screeching as the motorcade started to race toward Parkland Memorial Hospital. According to Harold S. Sawyer, a member of the House Assassinations Committee, police sirens are not heard on the tape until approximately two minutes after the sound which the acoustical experts claim are the shots. Furthermore, when the police siren are heard, they appear to be approaching, cresting, and then receding.

Congressman Sawyer, who has filed a dissent to the Committee's "Summary of Findings and Recommendations," also points out that the tape (which is really a "Dictabelt") also contains the faint sound of chimes. No chimes have been found that were in use at or near the scene of the assassination on November 22, 1963. On the other hand, there was one set of chimes which was regularly used at the time of the assassination in an area between Dealey Plaza and Parkland Memorial Hospital. When this is coupled with the sequence of the sirens' noise and the lack of the sound of revving-up motorcycle engines on the tape, it is consistent with the possibility that if there was a motorcycle with a stuck microphone, it was located far away from the assassination scene. This possibility is enhanced because the police recording of channel 1 shows that there was indeed a motorcycle with a stuck microphone located far away from Dealey Plaza.

However, let us assume that the tape was made from the stuck microphone of a motorcycle at Dealey Plaza. Before jumping to the conclusion that there was a second gunman, one must first examine the assumptions upon which the acoustical experts predicated their conclusions. If those assumptions were wrong, as they were, then the whole acoustical house of cards collapses.

For instance, in order for the acoustical experts' basic assumptions to be correct, you have to assume that not only was there a motorcycle in the motorcade whose microphone was stuck open, but that the policeman used the other channel, channel 1, instead of channel 2, the channel designated for use by the motorcade. Furthermore, acoustical experts, in performing their tes-



had to assume that the motorcycle was at a certain location at the time of the shots, and there is no positive corroborating physical evidence for this assumption.

Moreover there is a fundamental error underlying the entire reconstruction by the acoustical experts. It is demonstrated by the moving-picture film of the assassination taken by amateur photographer Abraham Zapruder. Each frame of this film was numbered. A reconstruction of the assassination by the Warren Commission moved the presidential limousine down the street frame by frame. Not only were pictures retaken of this movement from the Zapruder location, but pictures were also taken through the telescopic sight of the assassination weapon from the southeast-corner window of the sixth floor of the Texas School Book Depository Building.

This reconstruction showed that between Zapruder frames 186 and 210 there was a tree whose branches and foliage almost entirely obscured the gunman's view of the target, except for a brief opening at frame 186. Other evidence showed that the foliage was virtually the same at the time of the reconstruction as it had been at the time of the assassination. After frame 210, there was a clear shot. The camera speed was 18.3 frames per second.

Despite the fact that it was virtually impossible for Oswald to see his target between frames 186 and 210, the acoustical tests were done on the basic assumption that the shot that passed through President Kennedy's neck and then struck Governor Connally was fired from the sixth floor of the TSBDB Building between frames 190 and 200 on the Zapruder film. (Eventually frame 195 was used as a benchmark.) In making this assumption, the Committee staff ignored the common sense practicality that the gunman would not fire when his view was almost entirely obstructed by a large oak tree, and when less than one second later there would be a clear view of the target—a view that would continue without any further obstruction. Furthermore, the motorcade was moving relatively slowly—only 11 miles an hour—and the presidential limousine was less than two hundred feet away from the assassination window.

In essence, then, the acoustical tests were thus constructed to try to force a square peg into a round hole by means of highly implausible assumptions.

House Committee members Samuel Devine and Bob Edgar have, like Congressman Sawyer, indicated that they have great reservations about the second-gunman theory. In particular, Congressman Edgar has consulted outside acoustical experts and has raised serious questions concerning the conspiracy conclusions of the majority of the Committee and its staff.

There is yet additional evidence which refutes the second-gunman fiction of the House Committee. For instance, as I summarized during a February 4, 1979, appearance on Meet the Press, there were two impulses on the tape, approximately a second apart, which the acoustical experts say represented the shot that first struck President Kennedy through the back of the neck and then passed through to hit Governor Connally. The impulse on the tape that is attributed to the so-called second gunman—assuming that the tape was made in Dealey Plaza—is less than a second from the fatal shot that struck President Kennedy's head. When one takes into consideration the reverberations of sound bouncing off the high buildings surrounding Dealey Plaza, the so-called third and fourth shots were really the impulse from the fatal shot that struck the President and a second impulse from the reverberations, similar to the two impulses from the first shot that struck the President.

Since the beginning of the Committee's

investigation, I have repeatedly offered to come to Washington to testify before that Committee in an open public hearing. As recently as January 19, I offered to go to Washington at my own expense to testify and stated that I could show that the acoustical experts' testimony was wrong. But the Committee never saw fit to call either one of the two Warren Commission counsel assigned to what we called Area II: the determination of who killed President Kennedy and who killed Dallas Police Officer J. D. Tippit. In the course of my work with the Warren Commission, I had more first-hand contact with the key witnesses and the physical evidence than anyone else in the world. Moreover, I had served in 1975 as Executive Director of the Rockefeller Commission investigating the CIA, where one of the issues was whether the CIA was conspiratorially involved in the assassination of President Kennedy.

I wanted to testify before the Committee in an open public hearing for several reasons. First, I believed I could make a major contribution because of my background and experience. Also, I am very much concerned about the credibility of government in general, including the credibility and standing of Congress in the minds of the American people. I believed I could help to ensure that the investigation and final report of the House Select Committee on Assassinations would stand the test of history.

To be sure, some of the conclusions of the House Committee are accurate: Lee Harvey Oswald was the lone gunman who fired the shots that struck President Kennedy and Governor Connally. He also killed Dallas Police officer J. D. Tippit. Neither the CIA, the Secret Service, nor the Federal Bureau of Investigation was in any way conspiratorially involved in the assassination.

However, some of the Committee's conclusions are inaccurate—and particularly the conclusion that there was a second gunman firing from the grassy knoll. I am confident that examination of the entire record of the House Committee will not substantiate the theory of a second gunman. Nonetheless, when this inaccuracy is ultimately recognized, as I am certain it will be, in no way should the issue be forgotten, because the real import of the hasty adoption of the second-gunman theory is not just that the Committee was wrong. Rather, the crucial issue is why the Committee was so wrong.

I believe there are two major reasons:

1. Almost all the investigation and hearings of the Committee were conducted behind closed doors. The press did not have an opportunity to review and report to the American people what was taking place over the twenty-month multi-million-dollar investigation, except for some orchestrated public hearings in the fall of 1978.

2. The House Select Committee on Assassinations, like virtually all congressional committees, relied too heavily on its staff. It was the staff that basically led the Committee to reach its erroneous second-gunman conclusion.

One may ask why the staff was so intent on finding a second gunman when the record as a whole did not sustain such a conclusion. One possible hypothesis is that this enabled it to kill three birds with one stone. From a financial standpoint, this conclusion justified the expenditure of millions of dollars by the Committee. From a psychological standpoint, it enabled the staff, consciously or subconsciously, to justify its own two years of work. From a political standpoint, it took the heat off the Committee and its staff, because even though they said the FBI and the CIA were not involved, they did find a conspiracy, and they stated that their alleged second gunman was unknown. This statement left the door open for continued

attacks on the CIA and the FBI. In essence, the finding of a second gunman was a sop to the group of assassination sensationalists led by Mark Lane and Robert Groden, who for years have been proclaiming Oswald's innocence in books, radio and television programs, and lectures on college campuses across the country.

There is some corroboration for this hypothesis as to why the Committee came to the second-gunman conclusion. For instance, there was great deference paid to assassination sensationalists during the course of the entire investigation. There have been suggestions that some of these people may have been paid as consultants to the Committee, although I do not know this to be the fact. However, I do know that one of the leading Warren Commission critics, Robert Groden, was given the opportunity to testify in an open public hearing, and that I was denied that same opportunity even though in recent years I have been called the leading defender of the Warren Commission report.

In addition, we know that in its findings of conspiracy the Committee and its staff made a very important distinction between possible pro-Castro and anti-Castro involvement. With reference to the anti-Castro Cuban groups, the Committee's December 29, 1978 "Summary of Findings and Recommendations" states:

"The Committee believes, on the basis of the evidence available to it, that anti-Castro Cuban groups, as groups, were not involved in the assassination of President Kennedy, but the available evidence does not preclude the possibility that individual members may have been involved." [Emphasis supplied.]

On the other hand, with reference to involvement of the Cuban government or pro-Castro groups, the conclusion of the Committee was merely that:

"The Committee believes, on the basis of the evidence available to it, that the Cuban government was not involved in the assassination of President Kennedy."

In other words, despite the fact that Oswald was an avowed Marxist and for years had professed great admiration for Castro both orally and in writing, the Committee made no reference to the possibility of pro-Castro groups being involved, nor did it even state that "the available evidence does not preclude the possibility that individual members may have been involved," as it did with anti-Castro groups. The difference is particularly important in light of the determination by the Committee that it "is unable to identify the second gunman or the extent of the conspiracy."

However, although some people have expressed to me their belief that all or some portions of this hypothesis may be true, it is purely a matter of conjecture, and I would not adopt it as my own personal view. Rather I believe that the staff was just plain wrong, and that in its haste to meet various deadlines it failed to take into consideration the overall record.

When, on November 22, 1975, I called upon Congress to reopen the Warren Commission investigation, I stated that there were two major reasons underlying my request:

1. I was confident then, as I am now, that a thorough independent investigation would reach exactly the same conclusion reached by the Warren Commission: the conclusion that, beyond a reasonable doubt, Lee Harvey Oswald killed both President John F. Kennedy and Dallas Police Officer J. D. Tippit. I believed that a confirmation of this correct conclusion of the Warren Commission would greatly contribute to a rebirth of confidence and trust in government.

2. I knew that a thorough and objective reopening of the Warren Commission investigation by Congress would vividly illustrate the processes by which the American public

at times can be misled by sensationalism, demagoguery, and deliberate misrepresentation of the overall record—techniques that have been used by virtually all of the most vocal Warren Commission critics. I thought that the exposure of these techniques to the public could be one of the most important results of the Congressional reopening of the Warren Commission investigation.

Now I must conclude that perhaps an even more important problem has been exposed—the dangers of secret proceedings coupled with excessive reliance on committee staffs by the Senate and the House.

In a recent column James Reston wrote that congressional staffs are like an "unelected hidden legislature":

Over the years these staff members have taken on more and more responsibility—so much so that in some cases they not only seem to assist their masters but to replace them. Staff members not only write speeches but conduct hearings, draft legislation, write committee reports, negotiate conference compromises between the House, mobilize public opinion, and advise lawmakers on how to vote.

In recent years, they have even been conducting investigations at home and abroad, sometimes on their own, without the presence of their chiefs. And with the rise of subcommittees, each with its own staff, the congressional staff bureaucracy has grown even faster than the Civil Services in many of the Executive departments.

When the staff of so important a committee as the House Select Assassinations Committee can allow an investigation of nearly two years to culminate in a hasty and erroneous conclusion, backed up by badly tilted evidence, one wonders what are the unseen consequences for the American people if the dozens of other committee and subcommittee staffs, preparing studies on national defense, taxes, inflation, education, health, agriculture, business, foreign policy, etc., are similarly failing to apply high standards of objectivity and thoroughness in their investigations and reports.

I would suggest that the issue of the "hidden legislature" is one which must be given high priority as we head into the last twenty years of this century. The need for examination is particularly great when the staffs operate behind closed doors—without the check and balance of a free press.

In reflecting upon my service as counsel to the Warren Commission and Executive Director of the Rockefeller Commission, I have developed a deep conviction that there is far too much secrecy in government. It was a mistake for the Warren Commission to hold all of its hearings in secret. When I served as Executive Director of the Rockefeller Commission, I requested that the Commission hold open meetings whenever classified matters were not subject to discussion. Unfortunately, my request was turned down by a majority of the members of the Commission.

Our Constitution provides for a checks-and-balances system of government. We all know of the inter-relationships among the Executive, Legislative, and Judicial Branches. However, during the past two hundred years of our history, there has developed as an essential part of our free society a fourth check and balance, which interlaces with and reinforces the traditional Legislative-Executive-Judicial inter-relationships. This fourth check is a free press and the ability of that press to report to the American people the basic facts about the operations of their government.

Toward the end of its investigation, the House Committee staff finally contacted me and asked that I testify in a nonpublic hearing when neither members of the Committee nor members of the press were present. I refused to appear behind closed doors and explained my position in a letter to

the Committee and its staff. I concluded my letter with the following statement:

"... Because I believe so strongly in the need for this fourth check and balance, I frankly do not want to participate in any secret hearing where members of the press are not allowed. I do not necessarily believe that every single one of your hearings should have been open to the public, but I believe there is much over the past year and a half that could have been open to the public, that was not. For me to now appear in a secret hearing would be to give support to a course of action that I believe to be unsound and against the best interests of the people in a free society."

The second-gunner syndrome of the staff of the House Select Committee on Assassinations is demonstrative evidence of how a congressional staff can go wrong. Let us hope that even if the final report of the House Committee is modified, we will have learnt a lesson from the initial "Summary of Findings and Recommendations." That lesson is that we should curb the continued growth of power of congressional staffs, and we should do everything we can to prevent excessive secrecy in the operation of our government.

SELECT COMMITTEE ON  
ASSASSINATIONS,  
U.S. HOUSE OF REPRESENTATIVES,  
Washington, D.C., May 6, 1979.

EDITOR,  
*National Review*,  
New York, N.Y.

DEAR SIR: David Belin's piece, "Kennedy Second Assassin, The \$6 Million Myth," (*National Review* 27 April 1979) is right out of Lewis Carroll. Like the Red Queen, he apparently believes in verdict before evidence. When he read a newspaper report on 29 December 1978 that the House Select Committee on Assassinations had concluded that there was a second gunman in Dealey Plaza shooting at the President, he knew "the truth (was) to the contrary. There was no second gunman."

I find it difficult to understand how Mr. Belin could be so certain of his facts if he had not reviewed the evidence on which the Committee based its judgment. And he could not have so reviewed it by then, or since, for it will not be finally published until the latter part of June, 1979. An unbiased verdict on the work of the Committee, therefore, is not yet possible.

When I accepted the position of Chief Counsel to the Select Committee in June of 1977, I restudied the 1964 Warren Commission Report and closely examined its 28 volumes of supporting documents (the Select Committee will publish, along with its final report, approximately 80 volumes of materials on Kennedy and King cases), and I did not reach a personal judgment about the validity of the Warren Commission's work until the Committee had completed its investigation.

It is useful to review the irresponsibility of Belin's piece. First, Belin suggests the acoustical experts hired by the Committee are "so-called" or "purported" experts. Had he reviewed the Committee's record he would have found that the expertise of our acoustical witnesses had been repeatedly accepted in court, including in the Kent State prosecutions and the analysis of the Watergate tapes.

Second, Belin suggests only one gunman was "seen." Here he misleads his readers with a half truth. A variety of witnesses "heard" the sound of shots from the grassy knoll, including a Dallas Police Department officer and a Secret Service agent in the motorcade. In addition, a young couple on the knoll dropped to the ground at the time of the third shot from behind them, since they knew they were in the second gunman's line of fire. Other witnesses saw traces of smoke

rise from the treed area, where the acoustical experts say the third shot was fired from behind a wooden fence.

The Warren Commission was unwilling to credit this testimony in 1964, since it could not then be corroborated. The Acoustical evidence developed by the Committee in 1978 provides that corroboration; it now calls for a new evaluation of the 1964 evidence.

Third, Belin points out that no cartridge case was found behind the fence. Why should it be when only one shot was fired?

When Oswald fired one shot at General Walker on 10 April, 1963, no cartridge case was found, yet the Warren Commission did not use that fact to doubt the reality of the Walker shooting.

Fourth, Belin questions if the tape recording records sounds from Dealey Plaza. Why are crowd noises not audible? The microphone was mechanically insensitive to them. Why are not sirens heard immediately after the assassination? H.B. McLain, the officer with the stuck mike, did not leave the Plaza with the motorcade, and the sirens do not appear on the tape until he catches up with it on the Freeway on the way to the hospital. Why are chimes heard on the tape? The officer's mike did not have exclusive control over the police receiver at headquarters. Other mikes, if they had stronger signals, could also record sounds on the tape.

Having asked questions about the other sounds on the tape, Belin leaves his readers with the suggestion that the stuck mike may have been elsewhere, but he does not offer an explanation of how four shots were recorded over the mike. No one has suggested that someone was shooting somewhere else in Dallas that day. Moreover, the acoustical "fingerprint" (the echo structure of the supersonic bullet and the muzzle blast of the gun in the urban environment of the Plaza) of the four shots is unique, as "scientifically irrefutable" as handwriting analysis and the ballistics evidence he relies on in incriminating Oswald. For the sound recorded on the tape to have been recorded from somewhere other than Dealey Plaza, the other place would have to have looked exactly like Dealey Plaza. Two people don't have the same handwriting; two guns don't have the same ballistic characteristics. Two places do not have the same echo structure.

Fifth, Belin says there is no "positive corroborating physical evidence" that the motorcycle was in the right place at the right time. Wrong. Photographs of McLain in the right place at the right time appear in our hearings (Vol. V, pp. 704-20).

Sixth, Belin suggests that Oswald would not have fired, as he must have according to the acoustical evidence, at Kennedy at Z frame 195, since a large oak tree would have obstructed his view.

Several points need to be made. He misleads his readers when he speaks of a "tree." (Apparently, also, he has never seen a child run behind a picket fence. While the child is "obstructed", he can be clearly seen as he runs; the mind's eye fills in the details. Still pictures taken through the scope of a rifle mislead.) In addition, the Committee's ballistics experts suggest the shot would probably have been easy to pull off using the open iron sight, a possibility not considered in 1964. In any event, the acoustical evidence, in fact, points to the area around Z frame 185-88, not 195, as the time of the trigger pull of the second shot. The Warren Commission Report (p. 101) prints a photo of a break in the foliage at Z frame 186. Belin is wrong again.

Seventh, Belin suggests that the two shots (numbers three and four) are really one shot and its echo. Here the question of expertise is relevant. When Belin qualifies in court as an acoustical expert, I will pay attention to his expert opinion. Common sense, however, provides an easy answer to

his suggestion. What he is really saying is that the experts confused an echo with the primary sound. The only trouble with that suggestion is that shot number three from the grassy knoll can not be an echo of shot number four from the Depository, since even a four-year-old child (including my own) knows that primary sounds precede, not follow, their echoes.

Eighth, Belin complains that he was not permitted to testify before the Committee in public session. Several points need to be made. Belin was given an opportunity to appear in executive session or by deposition. If he had chosen to do so, he could have made his deposition public. Other Warren Commission counsel, including the general counsel and his principal assistant, saw nothing wrong with this procedure. In addition, all members of the Commission and the general counsel, in fact, appeared before the Committee in public session, something Belin knows full well, since he appeared with former President Ford, who was a member of the Commission. The Committee decided not to call Belin as a witness in a public session because it felt that he offered little to the Committee. He had already written a book, which he had forwarded to the Committee and the staff. (I read it). He had nothing new to say. He did not play a particularly key role in the work of the Warren Commission.

His testimony about the workings of the Commission would have been cumulative. The Committee had already heard from most of his fellow staff counsel. In addition, his testimony about the basic facts of the Kennedy assassination was second hand. The Committee preferred to get its facts first hand.

Ninth, Belin offers a theory as to why the Committee went wrong; he blames it on the staff, and says that the Committee's work was conducted in secret. Several points need to be made.

I have been associated with the work of Congressional Committees for almost twenty years. No Committee that I have ever worked with was more democratic, knowledgeable, or more in control of its own processes than the Select Committee on Assassinations. Belin likes able men like Stokes and Devine of Ohio, Freyer of North Carolina, Dodd and McKinney of Connecticut, Fithian of Indiana, Sawyer of Michigan and Fauntroy of the District of Columbia, who labored hard on both cases. Indeed, the Select Committee was more democratic, knowledgeable, and more in control of its processes than was the Warren Commission. I make that judgment based on a two year study of the Warren Commission and personal experience with the Select Committee. Belin's suggestions to the contrary cannot be similarly rooted in fact, since he has not made any study of the processes of the Select Committee. His theory is like so much of what he complains about on the part of Warren Commission critics; it is not based on fact.

Belin's secrecy comment is ironic. The Warren Commission held one day of public hearings. Belin, who was Executive Director of the Rockefeller Commission, was not able to persuade his own Commission to do much better. In fact, the Select Committee held almost forty days of public hearings on the evidence gathered in its two year investigation of the Kennedy and King cases, where the Committee's work was open to public scrutiny.

The Committee's investigation was not held in public for reasons that are only too obvious. The reputations of living and dead men were at stake. The Committee had a duty to evaluate its evidence before it was made public. Belin knows the character of many of the allegations in the Kennedy case. Even though they are irresponsible, they had to be checked out, at least confidentially.

Would he have had the Committee do otherwise?

Finally, it is ironic that the area that Belin complains about most was, in fact, largely conducted in public. The tape and its preliminary evaluation became public in July 1978 at the time of the Committee's refunding. The acoustical reconstruction in Dallas in August 1978 was done with the media held back, but none the less present. The September public hearing that produced the 50-50 testimony was the first cut at analysis of the August acoustical evidence. The work was finished in October and November and the 95% plus data developed; it was made public in December. The Committee's processes were deliberate and largely public in the crucial area. What else could the Committee have done?

Lastly, Belin grumbles that the Committee "suddenly" made up its mind at the last minute. The Committee had the basic acoustical evidence in July. It knew then what it portended. It all depended on what the final verdict of the scientists was. That came in November. When should the Committee have made up its mind, except at the end when all the evidence was in?

When President Ford appeared before the Committee on 21 September, 1978, accompanied by Mr. Belin, he was asked by Congressman Devine why the work of the Warren Commission had fallen on such hard times. The President identified three reasons. First, he said that its critics had "deliberately or negligently misled the American people by misstating facts and omitting crucial facts. . . ." Second, he suggested that many people were cynical. Third, he observed that people had not read the report.

I suggest that Mr. Belin should take the advice of his client. The Select Committee should be accorded, at least from former Warren Commission staff members, better treatment than they themselves received. Mr. Belin ought to do better in the future.

Sincerely,

G. ROBERT BLAKEY,  
Chief Counsel and Staff Director.

#### THE CASE AGAINST A CONSPIRACY (By David W. Belin)

In early December 1978, the members of the House Select Committee on Assassinations were reviewing copies of a preliminary draft final report. After nearly two years of work and the expenditure of \$5.8 million, they had concluded that Lee Harvey Oswald was the lone gunman who had killed President Kennedy, wounded Texas Governor John Connally and killed Dallas Police Officer J. D. Tippit. There was no conspiracy.

It was a report based on an investigation conducted in almost total secrecy, except for a few weeks of public hearings carefully orchestrated by G. Robert Blakey, chief counsel of the committee staff.

Less than three weeks later, one of the biggest flip-flops in recent Congressional history occurred. The 800-plus-page report was rejected and on Friday, December 29, 1978, the committee approved a nine-page Summary of Findings and Recommendations, which concluded that although Oswald was the assassin, there was a conspiracy involving an unseen second gunman. This invisible person supposedly fired a single shot from an elevated portion of land known as the grassy knoll, located to the right front of the Presidential limousine. According to the committee summary, this shot missed President Kennedy.

Although the location of the claimed second gunman was barely 100 feet from the Presidential limousine, the invisible shot also missed Governor Connally and everyone else in the Presidential limousine; it even missed the limousine.

Who was this second gunman? Why would he fire only once? Why were no cartridge

cases found? The committee reverted to its cloak of secrecy, merely promising a final report around the first of April. That deadline was not met because Blakey and the remaining members of the staff were having trouble with their second-gunner theory.

Three members of the committee did not agree with the second-gunner theory, which was predicated almost solely on the testimony of acoustical experts. Earlier an expert had asserted a 50 percent degree of certainty in his conclusions. In the middle of December, two new experts came forward and declared, along with the original expert, that they were 95 percent certain. Despite the continuing doubts of three members of the committee, the change in the experts' opinion from 50 percent certainty to 95 percent was the cause of the flip-flop. Having served as counsel to the Warren Commission, I know that regardless of whether the acoustical experts say they were 50 percent certain or 95 percent certain, they are nevertheless wrong: There was no second gunman.

In the first place, all of the physical evidence points to a single gunman. Only one gunman was seen at the time of the assassination, and witnesses saw him fire from the sixth-floor window of the Texas School Book Depository. Three cartridge cases were found by that window; a nearly whole bullet was found at Parkland Memorial Hospital on Governor Connally's stretcher; and two ballistically identifiable portions of the bullet that struck President Kennedy's head were found inside the Presidential limousine. Ballistic evidence proved those cartridge cases, the bullet and the bullet fragments all came from Oswald's rifle, which was found by the back stairway of the sixth floor of the Book Depository. His palmprint was on the rifle, his fingerprints were on the paper bag used to carry the rifle into the building, and he matched the physical description given by a witness who had seen the gunman take aim and fire the last shot.

Oswald had ordered the rifle through the mail and had had it shipped to his post-office box in Dallas—the same place his pistol had been shipped to. He was apprehended with the pistol in his possession. This was the weapon he used to kill Dallas Police Officer J. D. Tippit on November 22, 1963, approximately 45 minutes after the assassination of President Kennedy. Six eye witnesses conclusively identified Oswald as the gunman at the Tippit murder scene, or the man running away from the Tippit murder scene with gun in hand.

In contrast, the acoustical evidence rests on a number of implausible assumptions. For instance, if the Dallas police tape is a genuine tape of the assassination, why did it not pick up the sound of motorcycle engines revving up as the motorcade sped toward Parkland Hospital? Why are police sirens not immediately heard? Why does one hear the faint sound of chimes, although no chimes were found to be in use at or near the scene of the assassination?

But even assuming the tape is genuine, the theory of the acoustical experts rests upon false assumptions made when the initial acoustical data were taken, including the location of the motorcycle at the time the first shot was fired.

However, I believe there is an issue of far greater importance than the technicalities of the acoustical evidence. That issue concerns the ramifications of a secret Congressional investigation coupled with excessive delegation of powers to the committee staff. The House Select Committee on Assassinations is a microcosm of this compound problem. The committee's erroneous conclusion concerning Jack Ruby is the most vivid example of the pitfalls of this process.

In The New York Times of Sunday, June 3, Wendell Rawls Jr. reported that, according to a "committee source," the final report "will contend" that Jack Ruby "stalked"

Lee Harvey Oswald from the hours immediately after the assassination until he killed Oswald on the Sunday morning following the assassination, and that both Ruby and Oswald had contacts among organized crime figures. According to the source, "There is a substantial body of evidence, a web of circumstantial evidence, to connect the death of the President to elements of organized crime" and the efforts of organized crime to retaliate against President Kennedy and his brother Robert Kennedy who was Attorney General and who was undertaking substantial law-enforcement efforts against organized crime.

Rawls also reported that "the committee discounts Ruby's statement before his own death that he had killed Oswald so that the President's widow would be spared a return to Dallas, where she might be forced to relive the shattering moments of the assassination as a witness at Oswald's trial." The committee asserts that the story was " concocted by his lawyer."

It seemed the perfect end for the investigation. Who would defend organized crime? And, more particularly, who would defend Jack Ruby, now that he is dead?

If there had been a full series of public hearings, the allegations of Ruby's involvement in a conspiracy could never have been seriously sustained because of the testimony of one person—a rabbi who was living in Dallas at the time of the assassination and who is the most important living witness on the issue of possible involvement of Jack Ruby in a conspiracy.

His name is Rabbi Hillel Silverman. Rabbi Silverman did not know Jack Ruby very well before the assassination, but after Ruby shot Oswald he visited Ruby in the Dallas County Jail on an average of once or twice a week and became extremely close to him.

During the investigation of the Warren Commission, while Ruby was alive, Rabbi Silverman could not be called upon to testify because the intimate conversations between a minister, priest or rabbi and his congregant are privileged. However, that prohibition did not necessarily bind the House Select Committee on Assassinations, now that Ruby is dead. Yet—and this is hard to believe, but it is nevertheless true—the committee staff, during the entire multimillion-dollar, two-year investigation, did not even try to take Rabbi Silverman's testimony. He would have testified had he been called.

Let us go back to Monday, Nov. 25, 1963, after a weekend of national bereavement following the assassination of President Kennedy. The place was the Dallas County Jail, a relatively unfamiliar location for Rabbi Hillel Silverman to be called upon a member of his Conservative congregation. The bronzed, handsome rabbi of Congregation Shearith Israel in Dallas did not relish the task. Nevertheless, he felt an obligation to call upon Jack Ruby, who, the day before, had committed a murder witnessed by millions of Americans on their television screens.

The name of Jack Ruby's victim, of course, was Lee Harvey Oswald, who on the previous Friday, Nov. 22, had murdered both President John F. Kennedy and Dallas Police Officer J. D. Tippit.

Police had started to grill Ruby before he was able to reach a lawyer. Ruby told Rabbi Silverman that he remembered telling one of the policemen on Sunday, "I was afraid that Mrs. Kennedy would be asked to return to Dallas for the trial." That single statement contradicts the claim of the House committee staff that Ruby's story was "concocted" by his lawyer.

There are many other facts which also contradict the conclusions of the House committee. For instance, late on Friday night after the assassination, Ruby went to the Dallas police station and walked into a press

conference where Oswald was being interviewed. "Had I intended to kill him," Ruby said, "I could have pulled my trigger on the spot, because the gun was in my pocket."

The next day, Ruby viewed a telecast from New York City on which a Rabbi Bellinson was preaching on Kennedy and the assassination. Ruby found this very moving—so much so that he dressed, went to his car, and drove to the site of the assassination, where he walked by the wreaths that had already been placed there.

Ruby told Rabbi Silverman about reading in the Sunday newspaper that Jacqueline Kennedy might have to come back for the trial of Lee Harvey Oswald.

Shortly before 11 a.m. on that Sunday morning, Jack Ruby left his apartment building to go to the downtown Western Union office to wire some money to one of his employees, "Little Lynn," who lived in Fort Worth. According to Rabbi Silverman, Ruby was under the impression that Oswald had already been transferred from the city jail to the county jail, but when he saw people and policemen standing around the police station he decided to return after he wired the money at Western Union.

The time stamp at the Western Union office was 11:17 a.m. The ramp from the street leading down to the basement where Oswald was to get into a vehicle for transfer was barely a half block away.

Ruby left the Western Union office, was able to gain access to the ramp when a policeman's back was turned, and walked down the ramp into the basement area where members of the press were congregated waiting to see Oswald appear. Within a minute or two—at 11:21 A.M.—Oswald, flanked by police officers, stepped out of the basement elevator and walked through the dark corridor toward the area where Ruby and members of the press were standing.

It all happened very quickly. Flash bulbs and strobe lights temporarily blinded the police escort. Ruby generally carried a gun, and when he saw Oswald, he took out his gun and pulled the trigger. The police wrestled Ruby to the floor and he cried out, "I am Jack Ruby."

From that first visit on Nov. 25, Rabbi Silverman tried to see Ruby once or twice a week, until Silverman left Dallas to accept a pulpit in Los Angeles in July 1964. Whenever Rabbi Silverman discussed with Jack Ruby why he had shot Oswald, the answer in essence was the same: in order to save Mrs. Kennedy from having to come back for the trial of Lee Harvey Oswald.

There were many in Dallas—undoubtedly a majority—who believed that the murder of Oswald was part of an overall conspiracy to assassinate President Kennedy. Frankly, when I first came to Washington in early January 1964 to serve as assistant counsel to the Warren Commission, I was anxious to investigate such a possibility. It was not very farfetched to assume that Ruby had killed Oswald in order to silence him, particularly since Ruby was a person who had contacts with organized crime. The possibility was advanced because Robert Kennedy as Attorney General had declared war on the underworld.

Therefore, on one of my first trips to Dallas, I visited Rabbi Silverman on an informal basis. We had become friends the previous summer on a study mission to Israel. As one friend to another, I told Rabbi Silverman that I recognized that what was said in the intimacy of his conversations with his congregant was privileged, but I wondered whether or not he had any question about the existence of a possible conspiracy. Silverman was unequivocal in his response: "Jack Ruby is absolutely innocent of any conspiracy."

I asked Rabbi Silverman if he was certain of this. "Without a doubt," he replied. Al-

though the tone of his voice was most convincing, and although I realized that Rabbi Silverman had probably become closer to Jack Ruby than any other person in the world, I nevertheless wanted some additional corroboration beyond the investigation by the Warren Commission. The most obvious possibility was a polygraph, or lie-detector, examination.

Inside the Warren Commission, we had already had a major debate about the use of a polygraph. I had expressed to my colleagues my own suspicions that there might have been a conspiracy. For instance, the "single-bullet theory"—which has been corroborated by the House Assassination Committee—grew out of an attempt on my part to prove that there was more than one gunman. Eventually, after analyzing all of the evidence, I determined that indeed there was only one gunman and that that gunman was Lee Harvey Oswald. The medical experts of the House Assassination Committee, as well as an independent panel of medical experts selected by Attorney General Ramsey Clark in 1968 and an independent panel selected by the Rockefeller Commission in 1975, corroborated the fact that all of the shots that struck President Kennedy and Governor Connally came from behind. The House committee corroborated the conclusion of the Warren Commission that the bullet that struck Governor Connally first passed through President Kennedy's neck.

Another area I was concerned about was possible knowledge of conspiracy or involvement in a conspiracy of Marina Oswald, the assassin's widow, and Jack Ruby. I wanted both to undergo polygraph tests, and I started with Marina.

In a written memorandum, I pointed out some inconsistencies in interviews with Marina with the F.B.I. and I also stated that a substantial portion of her testimony was not subject to ordinary tests of credibility because it concerned their life together in Russia. I also said that if under a polygraph examination it was to be shown that "Marina had not been truthful in her testimony, it could throw an entirely new light on aspects of the investigation."

A majority of the staff lined up against me. One member undertook research to prove the limitations of the test and to prove that one could not blindly rely upon test results. In rebuttal, I admitted that the polygraph test had limitations, but I argued that in large part those depended upon the qualifications and competency of the polygraph examiner. Although a lie-detector test may not be admissible in a court of law, we were not in a legal proceeding but rather we were undertaking an investigation, and I urged that we use the polygraph as an investigative aid. Chief Justice Warren sided with the majority of the staff, and my request was denied.

Once the commission had decided against using a polygraph for Marina Oswald, I knew there was no possibility that the commission would consider asking that Jack Ruby undergo a lie-detector test. Therefore, I decided to take matters into my own hands.

Without the knowledge of Chief Justice Warren or anyone else connected with the Warren Commission, I approached Rabbi Silverman directly. I told him that even though he was convinced that Ruby was not involved in a conspiracy in the assassination, the world would never be convinced unless Ruby took a polygraph examination. I also told him that the Warren Commission would never ask Ruby to submit to one and that the only way this could be accomplished would be to have Ruby himself make that request of the Warren Commission.

Rabbi Silverman, of course, had a major dilemma. On the one hand, Ruby was represented by legal counsel and it was up to



the lawyers to decide whether or not Jack Ruby would submit to the test. The test could undermine the legal defense of temporary insanity. On the other hand, Rabbi Silverman was absolutely convinced that Ruby was innocent of any conspiracy, and he recognized that a polygraph examination would be a major step in convincing the people of Dallas.

In April 1964, Rabbi Silverman discussed his dilemma with me. My position was very simple: Ruby had already been convicted of murder. The situation could not be much worse. Surely, if he was innocent of any conspiracy, he should come forward and volunteer to take the test.

Finally, Rabbi Silverman agreed to try to persuade Jack Ruby to ask for the test to coincide with his testimony before the Warren Commission.

On June 7, 1964, Earl Warren and Gerald Ford went to the Dallas County Jail to interrogate Jack Ruby. At the beginning of Ruby's testimony, he said, "Without a lie-detector test on my testimony, my verbal statements to you, how do you know if I am telling the truth?"

His attorney interrupted him and said, "Don't worry about that, Jack." But Ruby was not to be denied, and he continued, "I would like to be able to get a lie-detector test or truth serum of what motivated me to do what I did at that particular time. . . . Now, Mr. Warren, I don't know if you got any confidence in the lie-detector test and the truth serum and so on."

Chief Justice Warren replied, "I can't tell you just how much confidence I have in it, because it depends so much on who is taking it, and so forth. But I will say this to you, that if you and your counsel want any kind of test, I will arrange it for you, I would be glad to do that, if you want it. I wouldn't suggest a lie-detector test to testify the truth. We will treat you just the same as we do any other witness, but if you want such a test, I will arrange for it."

And Ruby replied, "I do want it."

Ruby then described to Chief Justice Warren his actions during the weekend of the assassination, which culminated in his killing Lee Harvey Oswald. Just as he had told Rabbi Hillel Silverman about watching the eulogy by a rabbi on television on Saturday morning, Nov. 23, Ruby told Chief Justice Warren:

"He went ahead and eulogized that here is a man that fought in every battle, went to every country, and had to come back to his own country to be shot in the back," and Ruby started crying. After regaining his composure, he continued and told about reading a letter to Caroline on Sunday morning in the newspaper. "And alongside that letter on the same sheet of paper was a small comment in the newspaper that, I don't know how it was stated, that Mrs. Kennedy may have to come back for the trial of Lee Harvey Oswald. That caused me to go like I did. I don't know, Chief Justice, but I got so carried away. And I remember prior to that thought that there has never been another thought in my mind: I was never malicious toward this person. No one else requested me to do anything. I never spoke to anyone about attempting to do anything. No subversive organization gave me any idea. No underworld person made any effort to contact me. It all happened that Sunday morning."

"The last thing I read was that Mrs. Kennedy may have to come back to Dallas for trial for Lee Harvey Oswald, and I don't know what bug got ahold of me. I don't know what it is, but I'm going to tell the truth word for word."

Ruby then went into some detail about how he happened to be at the scene. After telling about how he had gone down the ramp into the police station basement, Ruby

said, "You wouldn't have enough time to have any conspiracy. . . . I realize it is a terrible thing I have done, and it was a stupid thing, but I just was carried away emotionally, do you follow that?"

Chief Justice Warren replied, "Yes; I do indeed, every word."

Ruby then continued, "I had the gun in my right hip pocket, and impulsively, if that is a correct word here. I saw him, and that is all I can say. I didn't care what happened to me. I think I used the words, 'You killed my President, you rat.' The next thing, I was down on the floor."

In the words of Ruby, "I wanted to show my love for our faith, being of Jewish faith, and I never used the term, and I don't want to go into that—suddenly the feeling, the emotional feeling came within me that someone owed this debt to our beloved President to save her the ordeal of coming back. I don't know why that came through my mind."

As a matter of fact, although Ruby told Chief Justice Warren that he didn't "want to go into that," and although Ruby was not particularly religious, Rabbi Silverman in a conversation with me recently said that when he first asked Ruby to tell him what happened, Ruby replied, "I did it for the Jews of America."

In his testimony before Chief Justice Warren and Gerald Ford, Ruby added one more facet to his story: "A fellow whom I sort of idolized is of the Catholic faith and a gambler. Naturally, in my business you meet people of various backgrounds."

"And the thought came, we were very close, and I always thought a lot of him, and I knew that Kennedy, being Catholic, I knew how heartbroken he was, and even his picture—of this Mr. McWillie—flashed across me, because I have a great fondness for him."

"All that blended into the thing that, like a screwball, the way it turned out, that I thought I would sacrifice myself for the few moments of saving Mrs. Kennedy the discomfort of coming back to trial."

Warren asked Ruby whether or not he knew Oswald. Ruby replied, "No."

Ruby was asked whether or not he knew Dallas Police Officer J. D. Tippit, who was murdered 45 minutes after the assassination by Oswald. Ruby said there were three Tippits on the force, but the one he knew was not the one who was murdered on Nov. 22. Ruby maintained, "I am as innocent regarding any conspiracy as any of you gentlemen in the room, and I don't want anything to be run over lightly."

Six weeks later, on July 18, 1964, the Warren Commission made arrangements to have Ruby's testimony taken before a court reporter while Ruby was undergoing a lie-detector test. The man administering the test was one of the best in the field, F.B.I. polygraph operator Bell P. Herndon.

At the very last minute, Ruby's chief counsel, Clayton Fowler, tried to stop the test. He told Arlen Specter, the representative from the Warren Commission, that Ruby had changed his mind. But Specter was not to be denied and had the court reporter start transcribing what was taking place. Reluctantly, Fowler admitted, "He says he's going to take this test regardless of this lawyers, and he says, 'By God, I'm going to take the test.'"

What did the test show? According to the test results, Ruby's testimony before the Warren Commission was the truth. Also, according to the test results, Ruby answered the following questions truthfully:

Q. Did you know Oswald before Nov. 22, 1963?

A. No.

Q. Did you assist Oswald in the assassination?

A. No.

Q. Between the assassination and the shooting, did anybody you know tell you they knew Oswald?

A. No.

Q. Did you shoot Oswald in order to silence him?

A. No.

Q. Is everything you told the Warren Commission the entire truth?

A. Yes.

Q. Did any foreign influence cause you to shoot Oswald?

A. No.

Q. Did you shoot Oswald because of any influence of the underworld?

A. No.

Q. Did you shoot Oswald in order to save Mrs. Kennedy the ordeal of a trial?

A. Yes.

Q. Did you know the Tippit that was killed?

A. No.

In 1975 there was a rebirth of interest in the whole question of President Kennedy's assassination. A majority of the American people, it appeared, did not believe in the conclusions of the Warren Commission, and in November of that year I called for Congress to reopen the investigation of the assassination. I said that any thorough, objective investigation would reach the same conclusion as the Warren Commission, that Lee Harvey Oswald was the lone gunman who killed President Kennedy and Officer Tippit. I believe that a confirmation of this finding would contribute to renewed confidence and trust in government, and I also believed that it would illustrate the processes by which the American public at times can be misled by sensationalism, demagoguery and deliberate misrepresentation of the overall record. Virtually all of the Warren Commission critics have used such techniques, and I thought exposing them to the public could be one of the most important results of the Congressional reopening of the Warren Commission investigation.

At that time, I also said that an objective, thorough investigation would disclose that Jack Ruby was innocent of any conspiracy. I believed that because of my discussions with Rabbi Silverman, coupled with Ruby's testimony, the absence of any direct evidence linking Ruby with a conspiracy, the results of the polygraph examination, and because of one other factor, a happenstance, that changed the course of history.

Oswald was scheduled to be transferred from the city jail at the police station to the county jail several blocks down the street at approximately 10 a.m. on Sunday, Nov. 24. Before the scheduled transfer, he was to undergo the third of a series of interrogations by Capt. Will Fritz, the head of the homicide section of the Dallas Police Department, and representatives of the Secret Service and the F.B.I.

If no one else had joined the group, Oswald would have been transferred on schedule, long before Jack Ruby ever got downtown. However, another person entered the interrogation room Sunday morning. He was Postal Inspector Harry D. Holmes, and he had helped the F.B.I. trace the money order that Oswald used to purchase the rifle with which he killed President Kennedy. Holmes had also helped the F.B.I. trace the ownership of the post-office box that the rifle (and the pistol that Oswald used to kill Officer Tippit) was shipped to.

When I took Inspector Holmes's testimony, I asked him: "Just what was the occasion of your joining this interrogation? How did you happen to be there?"

Holmes replied: "I had been in and out of Captain Fritz's office on numerous occasions during this two-and-a-half-day period."

"On this morning I had no appointment. I actually started to church with my wife. I got to church and I said, 'You get out. I am going down and see if I can do something for Captain Fritz. I imagine he is as sleepy as I am.'"

"So I drove directly on down to the police station and walked in, and as I did, Captain Fritz motioned to me and said, 'We are getting ready to have a last interrogation with Oswald before we transfer him to the county jail. Would you like to join us?'"

"I said, 'I would.'"

After Captain Fritz, the representative of the Secret Service, and also an F.B.I. agent who was present, finished their interrogation of Oswald, Captain Fritz turned to his friend, Postal Inspector Holmes and asked whether or not Holmes wanted to interrogate Oswald. While the invitation from Captain Fritz was highly unusual, Holmes jumped at the opportunity, and the interrogation continued for another half hour or more.

Ruby shot Oswald approximately five minutes after he, Ruby, left the Western Union office. Had Inspector Holmes continued on to church with his wife that morning and not at the last minute joined the interrogation session with Oswald, the length of interrogation would have been shortened by more than half an hour. Jack Ruby would never have had the opportunity to kill Oswald.

In early June 1979, when I read for the first time that the House Committee staff was asserting that Ruby may have been involved in a conspiracy and that Ruby's lawyers "concocted" his claim that he shot Oswald in order to save Mrs. Kennedy the ordeal of coming back to Dallas, I immediately wrote Chairman Louis Stokes of the House Select Committee on Assassinations. As I had done on previous occasions going back to March 9, 1977, I asked for an opportunity to appear before the House Select Committee in a public session. Chairman Stokes never replied to my initial letter. I wrote him and the other members of the committee on Nov. 22, 1977, and I received a reply from Representative Richardson Preyer, chairman of the subcommittee dealing with the assassination of President Kennedy. Congressman Preyer wrote: "Bob Blakey and I have discussed your appearance before the committee and he assures me that he plans to invite you."

Finally, in July 1978, a committee staff member requested that I come to Washington to appear, not before the committee but before members of the staff in a closed hearing. I have had long experience with closed hearings, going back to my service as counsel to the Warren Commission in 1964 and in 1975 as executive director of the Rockefeller Commission investigating the C.I.A. I felt it was a mistake for the Warren Commission to hold all of its hearings in secret, and I specifically requested that the Rockefeller Commission hold open meetings when classified matters were not under discussion. Unfortunately, my request was turned down by a majority of the members of that commission. Like the members of the Warren Commission, they wanted everything to be contained in one final report rather than released piecemeal.

I reviewed this by telephone with the staff of the House committee and then wrote a letter, with copies to each member of the committee, in which I declined to appear in a secret session. In that letter, I concluded: "I happen to have a deep philosophical conviction of the need for more openness in government and particularly the opportunity for a free press to report on the activities of government wherever possible."

"I do not necessarily believe that every single one of your hearings should have been open to the public, but I believe there is much over the past year and a half that could have been. For me now to appear in a secret hearing would be to give support to a course of action that I believe to be unsound and against the best interests of the people in a free society."

"Therefore, I must respectfully decline

your request to appear at a secret meeting where neither the press nor members of the committee are present. However, I would be very happy to come to Washington to appear in an open public hearing before your entire committee. I believe that there is a major contribution that I can make because of my background and experience (although I am naturally disappointed that I was not called earlier when I believe I could have made an even greater impact before your investigation was substantially completed)."

The committee staff was adamant in its position. They said there was not enough time for me to appear before the committee, and they also refused to have any public hearings other than those that were personally orchestrated by the staff. Finally, in an effort to break the logjam, I agreed to appear before the staff, rather than the committee itself, as long as it was an open hearing. However, from firsthand experience with the Warren Commission and Rockefeller Commission, I know (and advised the members of the committee) that the depictions or testimony of witnesses where committee members are not present does not have nearly the impact that testimony before the committee itself does. Blakey refused to allow members of the press to be present at a staff meeting; therefore, I did not appear.

Assassination sensationalists were permitted to testify before the committee and were included in the limited public hearings, where they made their many false claims. But the committee never gave me a corresponding opportunity, although in recent years I have been called the leading defender of the Warren Commission Report. I know that there were many areas where I could have made a major contribution to the committee if I had had the opportunity to appear, particularly because of my unique position as the only person in the world who served with the Warren Commission who also served with the Rockefeller Commission and saw everything in the files of the C.I.A. concerning the assassination of President Kennedy.

Based upon my experience in two of the most widely publicized commissions of this century, it is my firm conviction that one of the greatest dangers to our freedom is excessive secrecy and the harm it does to the vital check-and-balance system of a democratic society. The way Congressional staffs work today compounds the problem. These staffs, in the words of James Reston, have become like "hidden legislatures," operating beneath the surface, conducting investigations in the name of, and on behalf of, elected representatives who themselves do not have enough time to perform the work. The staff members feed questions to the representatives, write reports in the name of the representatives, and lead the elected representatives of the people down a primrose path until it is too late for the representatives to do anything.

The House-Select Committee on Assassinations is a microcosm of Capitol Hill. I know that the report of the House Select Committee on Assassinations will not stand the test of history. When people examine such failures as the absence of any testimony from Rabbi Silverman, the failure to consider the happenstance of Postal Inspector Holmes' missing church that fateful Sunday morning, and all of the other inadequacies that will come to light, the folly of the multimillion-dollar supersecret investigation will become clear to all.

This report should stand as a perpetual monument to the tinderbox combination of excessive powers of Congressional staffs, combined with the excessive dangers of ultrasecret investigations.

Only through a vibrant free press can these dangers be overcome. And they must

be overcome if this country is to be able to deal effectively with the national problems facing our society over the next 50 years and beyond.

Oswald Law School,  
Rheba, N.Y., July 25, 1979.

Borras,  
New York Times Magazine,  
New York, N.Y.

DEAR SIR: David Belin's piece ("The Case Against Conspiracy," 7/15/79) is out of Carroll's Alice in Wonderland. As the Red Queen, he believes in verdict before evidence; he "knew" the Select Committee on Assassinations was wrong about a second gunman shooting at President Kennedy before he read the Committee's Final Report. Those interested in the truth should read the Report. Mr. Belin's piece reflects prejudice and seriously misleads through half-truths and false statements.

First, Mr. Belin suggests that the Committee's finding was based "almost solely" on acoustic testing, yet he does not review the additional evidence. On the other hand, when he observes that the physical evidence (other than the acoustical) points to a single gunman—it does not negate a second gunman—he sets out additional testimony. Mr. Belin, therefore, presents a distorted picture. In fact, a policeman, a Secret Service agent, a Korean War veteran (over whose head the third shot was fired), among others, said they heard the knoll shot. Others saw smoke. (Modern guns do emit white gases.) Footprints were also found behind the knoll fence, and a policeman accosted, but released an individual behind the fence, who identified himself as a Secret Service agent, even though no agents acknowledged having been there.

Second, Mr. Belin initially questions: why no cartridge case? If only one shot is fired, no case need be ejected. Why only one shot? Oswald's third shot hit the President's head .7 of a second after the second gunman fired. Obviously, the knoll gunman thought he had killed Kennedy. Why fire again? Why no motorcycle sounds on the tape of the race to Parkland? They are, in fact, present. Why no police sirens heard immediately? The officer remained in the Plaza for a time. Why a chime? The police headquarters receiver could record sounds from more than one mile. The chime was elsewhere. Mr. Belin then suggests the motorcycle itself was elsewhere, even though the Committee published photos of the officer in the Plaza in the right place at the right time, and the authenticity of the tape is established by other scientific evidence, as noted fully in the Report.

Third, questioning the Committee's rejection of Ruby's supposed motive: to save Mrs. Kennedy from having to return for a trial, Mr. Belin suggests Ruby was not part of a conspiracy. Rabbi Silverman's testimony that Ruby told him he had told a policeman of the motive before he saw his lawyer may be accepted without question. (Special Agent Sorrels so told the Warren Commission.) In fact, Ruby probably lied to his Rabbi and Agent Sorrels about his true motive. But Silverman's or Sorrels' testimony is not determinative of the ultimate issue. The Committee only found that Ruby's 1967 note to his second lawyer suggests that the motive was false, not that it was wholly fabricated by the first lawyer.

Fourth, to underwrite the motive story, Belin points to a 1964 polygraph, given by one of the FBI's "ablest". He does not note that Ruby was diagnosed as a "psychotic depressive" and that the FBI, in fact, recommended that the Commission not rely on the test, a recommendation the Warren Commission followed. Did Belin fail to read the Warren Report, too? Since Belin did not read our Report, he also did not know that