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NATIONAL REVIEW

Kennedy's "Second Assassin":

THE \$6-MILLION MYTH

DAVID W. BELIN

Two
Voices
from the
Gulag

RICHARD BROOKHISER

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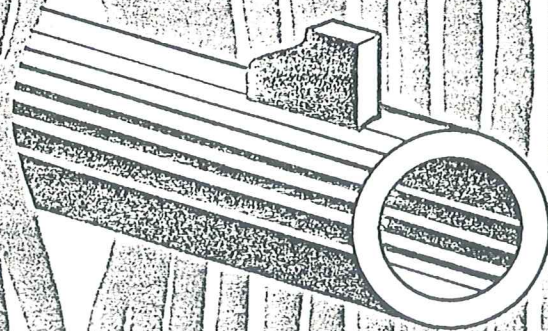
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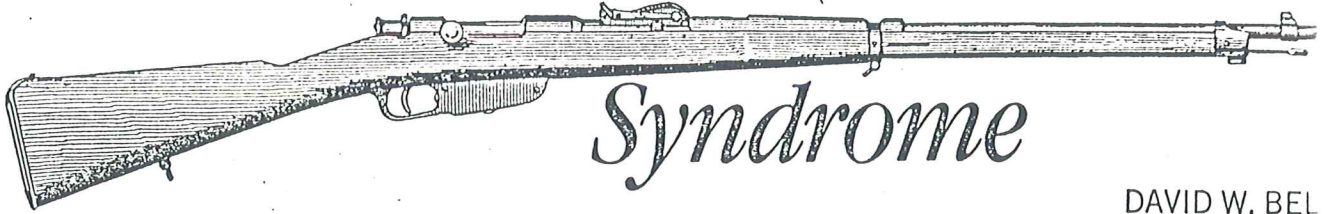
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THE KENNEDY ASSASSINATION

The
Second-Gunman
Syndrome



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.

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 conclusion of the Select Committee, I was shocked at how readily the Committee had swallowed, hook, line, and sinker, the roneous 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, they came to that window, which was located on the southeast corner of the sixth floor, they found three cartridge cases. The police continued their search in the TSBD Building, they found a rifle, stuck between cartons of books near the back staircase on the sixth floor. Irrefutable ballistic evidence proved that the cartridge cases found by the assassinate 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 newly 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

Mr. Belin, a senior partner in the Des Moines, Iowa law firm of Belin, Harris, Helmick & Lovrien, was counsel to the Warren Commission and was executive director of the Rockefeller Commission reporting on CIA activities within the United States.

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 saw 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 toss 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.

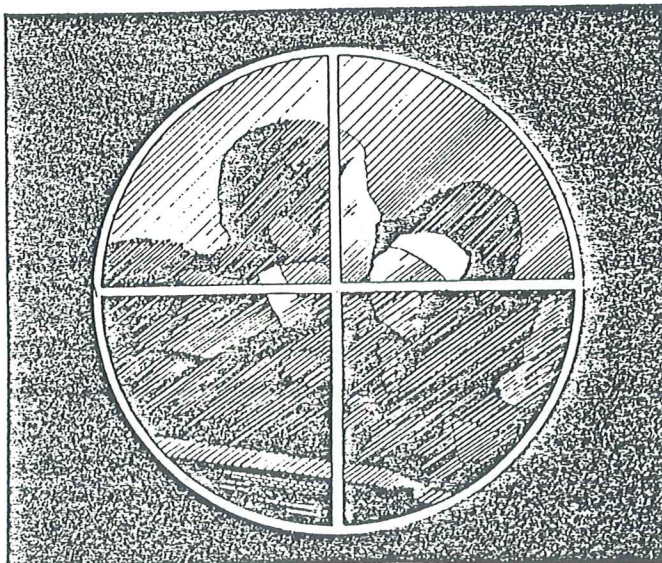
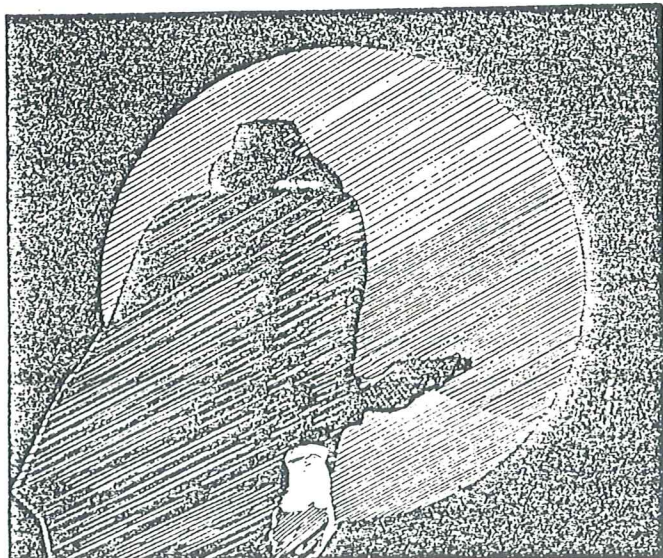
After Oswald was apprehended at the Texas Theater, he was taken to the Dallas police station and interrogated. Of the School Book Depository employees who were inside the building at the time of the assassination, Oswald was the only one who fled the building after the assassination.

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

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

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 motor cycles revving up shortly after the so-called shots. There is no sudden sound of police sirens 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 sounds which the acoustical experts claim are the shots. Furthermore, when the police sirens 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, the acoustical experts, in performing their tests, 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 frame 166 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 re-

(Continues on page 553)

construction 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 TSBD 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

PHOTOGRAPH THROUGH RIFLE SCOPE

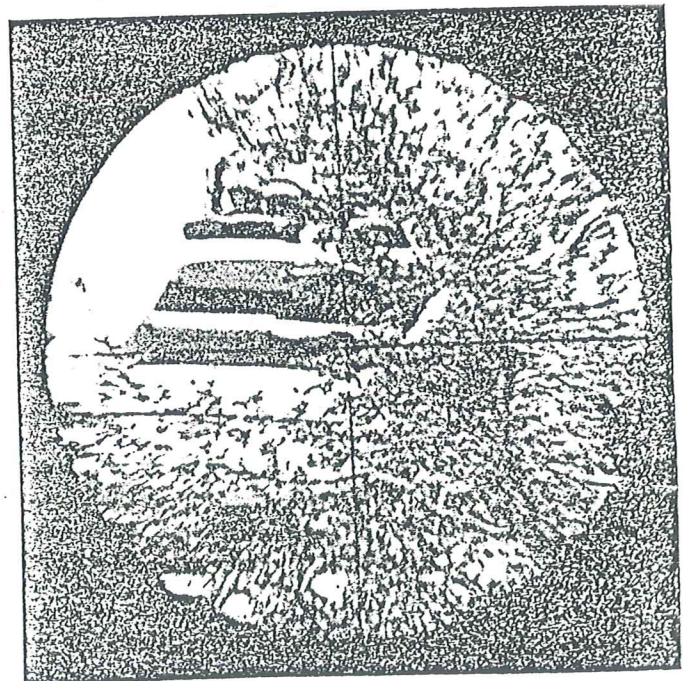
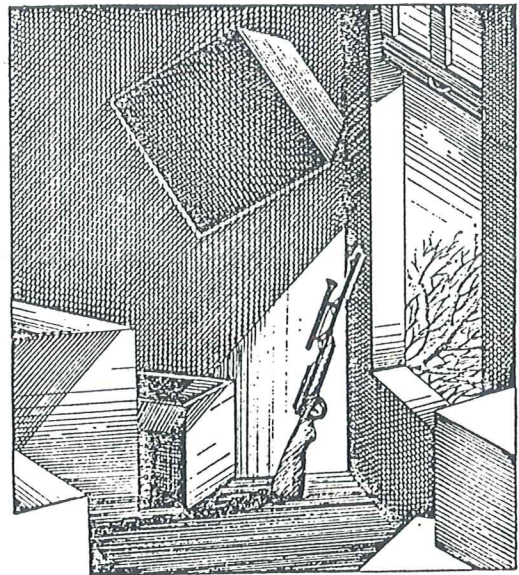
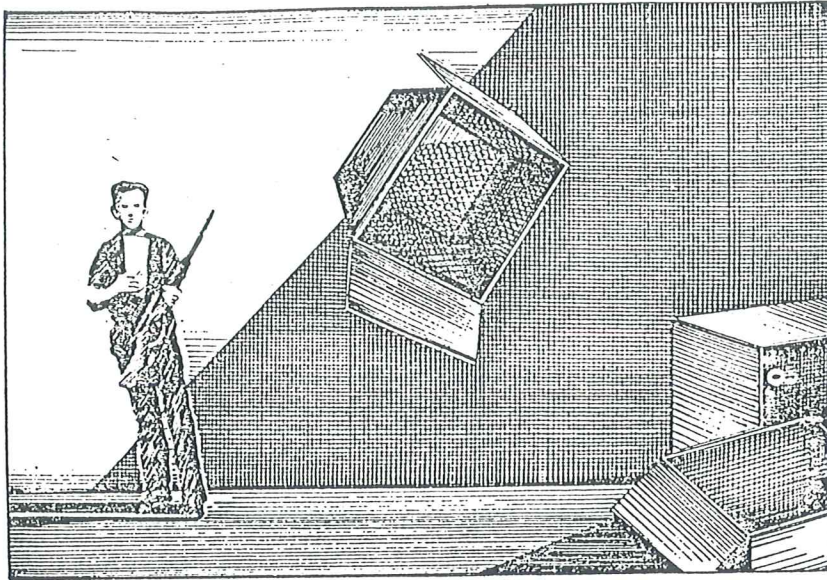


Photo courtesy of the National Archives, Washington, D.C.



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

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 House

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 Houses, 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 Service 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

Toward the end of its investigation the Committee staff finally contacted me and asked that I testify in a non-public hearing when neither members of the Committee nor members of the press were present

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 non-public 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-gunman 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. □