

## Foreword

My first book, Whitewash; The Report on the Warren Report, was the first on that subject. It was completed in mid-February, 1965. When there was reason to believe that <sup>it</sup> there was to be <sup>2ED</sup> a plagiarism in France, I published a limited edition that August. During all that time and for more than a half-year thereafter, I continued to seek normal commercial publication. Before I put the book as ~~the~~ much as I could in general circulation, on May 7, 1966, it had accumulated more than a hundred rejections, without a single <sup>advice</sup> editorial comment and many sales-staff <sup>predictions</sup> opinions ~~on~~ that it would be a success,

As it was when I became the country's smallest publisher.

Not by any means what it could have done with normal <sup>especially in distribution</sup> publishing efforts. But I had not a penny to spend on advertising and promotions. In fact, I could not pay the printer. I offered him a mortgage on the small farm I then <sup>owned</sup> ~~owned~~ but he decided to trust me to pay him back, as I did, in a relatively short time.

It went through five printings with me as the publisher.

Dell, which had turned the book down three times, came to me for it ~~two~~ less than four months after I put in as much as I could into general circulation. The contract called for a first print of a quarter of a million. From inside Dell I was told in February, 1967, that with the accounting that September \$35,000 was already due me. But <sup>not</sup> that September and not at any other time did I get another penny from Dell.

Its first accounting did include that first print of a

the agencies operated illegally. The problem is that in the quest for law and order, case after case after case after case has been thrown out because the law enforcement and intelligence communities acted illegally. So I do not think we obtain any particular status of accomplishment in conquering organized crime, or any crime whatsoever for that matter, with illegal activities resulting in cases being thrown out of court.

I would suggest that the record speaks for itself. Frankly, I never thought the record of former Attorney General Ramsey Clark was that good. But, comparing his record with that achieved by succeeding Attorneys General, he looks like Tom Dewey in his prosecutorial heyday.

Mr. HRUSKA. That record is bad, but do we want to make it worse by adopting this amendment which threatens to tie the hands of the FBI and dry up their sources of information? I say, with that, the soup or the broth is spoiled, and I see no use in adding a few dosages of poison.

The pending amendment should be rejected.

Mr. KENNEDY. Mr. President, I do not recognize the amendment, as it has been described by the Senator from Nebraska, as the amendment we are now considering. I feel there has been a gross misinterpretation of the actual words of the amendment and its intention, as well as what it would actually achieve and accomplish. So I think it is important for the record to be extremely clear about this.

If we accept the amendment of the Senator from Michigan, we will not open up the community to rapists, muggers, and killers, as the Senator from Nebraska has almost suggested by his direct comments and statements on the amendment. What I am trying to do, as I understand the thrust of the amendment, is that it be specific about safeguarding the legitimate investigations that would be conducted by the Federal agencies and also the investigative files of the FBI.

As a matter of fact, looking back over the development of legislation under the 1966 act and looking at the Senate report language from that legislation, it was clearly the interpretation in the Senate's development of that legislation that the "investigatory file" exemption would be extremely narrowly defined. It was so until recent times—really, until about the past few months. It is to remedy that different interpretation that the amendment of the Senator from Michigan which we are now considering was proposed.

I should like to ask the Senator from Michigan a couple of questions.

Does the Senator's amendment in effect override the court decisions in the court of appeals on the Welsberg against United States, Aspin against Department of Defense, Dillow against Bruegar, and National Center against Wehberger?

As I understand it, the holdings in those particular cases are of the greatest concern to the Senator from Michigan. As I interpret it, the impact and effect of his amendment would be to override those particular decisions. Is that not correct?

Mr. HART. The Senator from Michigan is correct. That is its purpose. That was the purpose of Congress in 1966, we thought, when we enacted this. Until about 9 or 12 months ago, the courts consistently had approached it on a balancing basis, which is exactly what this amendment seeks to do.

Mr. President, while several Senators are in the Chamber, I should like to ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. KENNEDY. Furthermore, Mr. President, the Senate report language that refers to exemption 7 in the 1966 report on the Freedom of Information Act—and that seventh exemption is the target of the Senator from Michigan's amendment—reads as follows:

Exemption No. 7 deals with "investigatory files compiled for law enforcement purposes." These are the files prepared by Government agencies to prosecute law violators. Their disclosure of such files, except to the extent they are available by law to a private party, could harm the Government's case in court.

It seems to me that the interpretation, the definition, in that report language is much more restrictive than the kind of amendment the Senator from Michigan at this time is attempting to achieve. Of course, that interpretation in the 1966 report was embraced by a unanimous Senate back then.

Mr. HART. I think the Senator from Massachusetts is correct. One could argue that the amendment we are now considering, if adopted, would leave the Freedom of Information Act less available to a concerned citizen that was the case with the 1966 language initially.

Again, however, the development in recent cases requires that we respond in some fashion, even though we may not achieve the same breadth of opportunity for the availability of documents that may arguably be said to apply under the original 1967 act.

Mr. KENNEDY. That would certainly be my understanding. Furthermore, it seems to me that the amendment itself has considerable sensitivity built in to protect against the invasion of privacy, and to protect the identities of informants, and most generally to protect the legitimate interests of a law enforcement agency to conduct an investigation into any one of these crimes which have been outlined in such wonderful verbiage here this afternoon—treason, espionage, or what have you.

So I just want to express that on these points the amendment is precise and clear and is an extremely positive and constructive development to meet legitimate law enforcement concerns. These are some of the reasons why I will support the amendment, and I urge my colleagues to do so.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator from Nebraska has 6 minutes remaining.

Mr. HRUSKA. Mr. President, I should like to point out that the amendment proposed by the Senator from Michigan, preserves the right of people to a fair trial or impartial adjudication. It is careful to preserve the identity of an in-

former. It is careful to preserve the idea of protecting the investigative techniques and procedures, and so forth. But what about the names of those persons that are contained in the file who are not informers and who are not accused of crime and who will not be tried? What about the protection of those people whose names will be in there, together with information having to do with them? Will they be protected? It is a real question, and it would be of great interest to people who will be named by informers somewhere along the line of the investigation and whose name presumably would stay in the file.

Mr. President, by way of summary, I would like to say that it would distort the purposes of the FBI, imposing on them the added burden, in addition to investigating cases and getting evidence, of serving as a research source for every writer or curious person, or for those who may wish to find a basis for suit either against the Government or against someone else who might be mentioned in the file.

Second, it would impose upon the FBI the tremendous task of reviewing each page and each document contained in many of their investigatory files to make an independent judgment as to whether or not any part thereof should be released. Some of these files are very extensive, particularly in organized crime cases that are sometimes under consideration for a year, a year and a half, or 2 years.

Mr. HART. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time of the Senator has expired.

Mr. KENNEDY. I yield the Senator 5 minutes on the bill.

Mr. HART. Mr. President, I ask unanimous consent that a memorandum letter, reference to which has been made in the debate and which has been distributed to each Senator, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

#### MEMORANDUM LETTER

A question has been raised as to whether my amendment might hinder the Federal Bureau of Investigation in the performance of its investigatory duties. The Bureau stresses the need for confidentiality in its investigations. I agree completely. All of us recognize the crucial law enforcement role of the Bureau's unparalleled investigating capabilities.

However, my amendment would not hinder the Bureau's performance in any way. The Administrative Law Section of the American Bar Association language, which my amendment adopts verbatim, was carefully drawn to preserve every conceivable reason the Bureau might have for resisting disclosure of material in an investigative file:

If informants' anonymity—whether paid informers or citizen volunteers—would be threatened, there would be no disclosure;

If the Bureau's confidential techniques and procedures would be threatened, there would be no disclosure;

If disclosure is an unwarranted invasion of privacy, there would be no disclosure (contrary to the Bureau's letter, this is a determination courts make all the time; in-

Full text of Congressional Record of which this is part in top drawer of JFK appeals file cabinet.



Five printings in six months, without a penny spent on  
advertising and promotions and not a penny from it for me  
over the advance, which was for about half the sale of the  
first printing!

There was no Dell embarrassment in telling me that  
with a hundred ~~thousand~~ and twenty-five thousand books allegedly  
on hand they printed an additional <sup>four</sup> ~~two~~ hundred copies none  
of which were needed and none of which were sold!

quarter of a million. It also included three additional printings. As ~~Best~~ I can now remember, each was for a hundred thousand copies but with Dell ~~also~~ <sup>owning</sup> the printer, there was no way of knowing. When ~~in~~ <sup>in</sup> June, 1967 I was invited to address the Ohion Associated Press editors ~~convention~~, <sup>H/</sup> and I asked Dell for copies to give out there, I was sent a box each book of which was labelled <sup>the Dell re</sup> fourth printing. 2 B here

Dell's explanation for all those reprints, ~~and~~ and I have no way of knowing if the fourth was the last, was that all Dell had sold was half of that first printing! 2 C here

Yet Whitewash was the only Dell nonfiction best seller for ~~the~~ <sup>to</sup> first ~~three~~ <sup>six</sup> months, according to ~~its~~ <sup>Dell's</sup> then monthly ad of ~~its~~ best sellers. 2 A here

I printed ~~the~~ <sup>official</sup> ~~height~~ books on the JFK assassination and its official ~~invest~~ investigations and sought to force the disclosure of withheld assassination records under that most American of laws, the Freedom of Information ~~Act~~ <sup>law</sup> Act (FOIA). In all there were about a dozen of those suits, <sup>Some were</sup> ~~Some were~~ <sup>1974</sup> ~~precedental~~ and one was stated in the Senate debates on the ~~(amendment)~~ <sup>the first</sup> FBI ~~corruption in the first of those suits,~~ to be a cause of those amendments ~~(Congressional Record S9336, May 30, 1974).~~

My lawyer, Jim Lesar, filed the first suit under the amended Act, CA 75-~~0~~226. We were denied compliance with the Act by persistent FBI perjury. I decided to go head-to-head with the ~~FBI~~ FBI over its ~~and~~ felonies that were denying not only me but all the people their rights under FOIA. Congress, in passing that Act, ~~stated~~ <sup>stated</sup> that the ~~the~~ people have the right to know what their government does. There would have been <sup>in a lawyer's pleading</sup> no hazard if Lesar had ~~attributed~~ <sup>attributed</sup> perjury to the FBI but I put

Hundreds did come, including reporters from some of the major papers. Those who came were ~~from~~ from all over this country plus some from abroad. One foreign TV team was of four members and one <sup>foreign</sup> writing ~~team~~ team was of three members.

It was well known that anyone had access to everything here.

myself under oath to state it. That made me subject to a perjury indictment if I lied, as I did not. When the Department of Justice, which was the FBI's lawyer, could not charge me with perjury and knew very well that I had proved that the FBI practiced perjury in FOIA cases, ~~it~~ <sup>it</sup> reported to what was in fact an admission of wholesale perjury, with an explanation that explained nothing relevant but, as it figured correctly, enabled the judge to evade charging the FBI with anything-and-avoided opening the massive FBI files <sup>for</sup> to leaks ~~that~~ that <sup>could have been</sup> ~~can be~~ embarrassing to him.

valent  
Dwyer  
Spencer

Without using the word "perjury" <sup>the FBI</sup> ~~it~~ told that court that I could make such claims ad infinitum since he is perhaps more familiar with events surrounding the investigation of President ~~the~~ Kennedy's assassination than anyone now employed by the FBI.

I went eye-to-eye with the FBI and the FBI blinked:!  
And <sup>it</sup> continued with its perjuries in which it was immune.

Despite that, I obtained about a third of a million <sup>with hell</sup> pages in all, with all those pages <sup>then</sup> made public and available to all the people. There <sup>were</sup> ~~was~~ also all available <sup>to anyone</sup> at my home, with <sup>access</sup> ~~access~~ unsupervised and with the use of our copies for any copies

Q # wanted my  
# However my

~~But~~ first venous ~~with~~ thrombosis and than any other medical problems soon made it unwise for me to go down to our cellar where all those <sup>near</sup> records were filed.

3 A here

Others did. <sup>me</sup> ~~It~~ <sup>Next to me</sup> last to make extensive use of that archive <sup>was</sup> (Gerold Posner. He and his wife spent three days there, he selecting what he wanted and his wife <sup>doing</sup> the copying.

4X follows



With additional illnesses / things changed, and not for  
th e better.

5 follows

It was the really stupid Journal of the American Medical Association (JAMA), ~~series~~ series of false and ignorant defenses of the official pathologists and the official "solution," that *let me* ~~showed me~~ <sup>see</sup> how I could still be useful, could still use that knowledge the FBI said I had, more than it did, whether or not that was also another of the ~~dr. saying that was another of the~~ FBI's <sup>strange</sup> ~~criminal~~ utterances.

With no prospect of ~~commercial~~ commercial publication, I could ~~not~~ <sup>(the extremes of</sup> ~~write~~ write book-length commentaries on the <sup>if I was the</sup> ~~out~~ put/of both sides. *lonely man in the middle, where I wanted to be. There I* ~~Doing that~~ <sup>those books</sup> that could make a record for history. If ~~they~~ <sup>But</sup> were used. Unless available they could not be used.

It happened that the first ~~if~~ <sup>two</sup> of those book records for history were published, by accident. Without a cent spent on sales efforts. <sup>was given out,</sup> Not a single review copy, for example. Not a single ad or promotion. ~~In~~ Case Open I referred to Posner as a ~~plagiarist~~ <sup>plagiarist</sup> and a shyster, among other things. But not a word from Posner or any lawyer speaking for him. In NEVER AGAIN!

I ~~had~~ brought much factual evidence that had been suppressed, <sup>and more than that,</sup> to light. It was the answer to the JAMA ~~propaganda,~~ <sup>(and</sup> ~~Not~~ a word of complaint ~~or~~ <sup>denial</sup> from JAMA or its hired-hand ~~writer~~ <sup>or the crooked Navy autopsy pathologists</sup> JAMA ~~sought to defend.~~

Only <sup>0/</sup> about a quarter of Case Open was used by that publisher and when it sold out he did not <sup>reprint</sup> ~~reprint~~ it, but ~~the~~ the manuscript of more than seven hundred pages remains as a record for our precious history which, as I said, had been whored by those pimping writers who, from the depths of their profound subject-matter ignorance, <sup>were</sup> with whoring for the government.

That van was so large ~~with~~ that it broke branches off ~~of~~ of the pines that line our lane, pines that for more than thirty years other large vans and trucks of all varieties had been braking them off. I'd thought the last to be broken had been broken off.

When I got pneumonia, which was when my wife was hospitalized with a broken <sup>o</sup> hip, I was first put in kidney dialysis <sup>i</sup>s prematurely and <sup>N</sup> then <sup>n</sup> placed in a nursing home from which I could not obtain a discharge. After checking on the actualities <sup>6</sup> of my medical situation out of town I discharged myself.

My wife, meanwhile, had been dropped by the hospital, rebreaking that hip and placing blood clots on her brain. They changed her permanently. And the kidney dialysis, which is permanent, has me leaving home about 5:30 a.m. Monday, Wednesday and Friday mornings and getting home about 11 a.m. It ~~has~~ <sup>also</sup> has me ~~the~~ exhausted the rest of ~~that~~ <sup>(each dialysis)</sup> day and sometimes for the next day.

Or, I have <sup>much</sup> less ~~energy~~ <sup>energy</sup> and ever so much less time for writing. In addition, when my wife and I were away from home we were robbed <sup>of documents.</sup> More than once. So, I asked Hood College, a fine small college here in Frederick, to please take what I ~~had~~ <sup>had</sup> ~~decided~~ to it years ago, my stock of the books I printed and what it could of my files. What <sup>documents</sup> it did take, most but not all, required two trips by a large moving van <sup>5A here</sup> and ~~two trips for the~~ <sup>co</sup> mover's staff.

And, despite all that interferes with my writing and ~~in~~ <sup>feebleness</sup> despite my weakness only some of which can be attributed ~~to my~~ <sup>age,</sup> This is the third or the fourth <sup>my</sup> book since that pneumonia and Medicare fraud <sup>also</sup> that my wife and I were ~~v~~ <sup>v</sup>istimized ~~by~~.

And, as I write this, it is two weeks before my eighty-  
eighth birthday.

There are more than ~~two~~ <sup>written</sup> twenty of these book ~~manuscripts~~ / as a record for our history, <sup>They are</sup> the only one <sup>go</sup> that ~~goes~~ <sup>d</sup> down the middle and the only ones that <sup>are</sup> ~~is~~ based entirely on the official record. There have been many books intended to defend the govern-

ment and more intended to criticize it but strange as it may seem and certain as it will offend Fetzer and his associates when ~~he~~ he and some of them consider themselves the subject-matter experts and authorities <sup>they are not</sup> on, both side<sup>s</sup> are made up of subject-matter <sup>a</sup>ignoramuses.

As this will illustrate

I do not know how many of these books <sup>written as a record for history</sup> manuscripts there are because some were stolen along with many files and documents on my desk and in my office. By checking with those to whom <sup>m</sup>copies were were given, <sup>we</sup> was are now trying to make as good a list as is possible for me.

These are all retyped rough drafts. Instead of editing and ~~re~~rewriting, I have used the time that would take to get more on paper and strive to have it as accurate as <sup>it</sup> can be.

Scholars of the future will have more use for added corrections of the corrupted record than from polished writing. But it should be understood that while I would like more of this to be printed and available to the people, with the ~~mono,istic~~ monolithic commercial-publisher boycott of an assassination book not in support of the official assassination mythology, there seems <sup>to be little</sup> little prospect of commercial-<sup>p/</sup>ublisher interest. But should <sup>t</sup> there be <sup>h</sup>the publisher ~~can~~ have the checking and editing done

In time, all those books and a great quantity of the other documents will be available ~~to~~ on CDRoms.

Extra space.

As ~~it~~ is indicated above, the hardships under which I do this writing preclude what I <sup>could</sup> prefer not be precluded. In particular, the kinds of citations I prefer. For a decade the great volume of records I obtained ~~were~~ <sup>have been</sup> not accessible to me. As a result, when I could cite those records by citing them in ~~what~~ the books I had written, I ~~did~~ <sup>have done</sup> that. I ~~do~~ continue doing that because I have no alternative. On some occasions ~~that~~ <sup>this</sup> results in an added benefit for the reader because usually there is additional informaion on the same subject that becomes accessible that way.

I have had no adverse comment on this because people realize that I have no alternative.

There has been adverse comment on the emotions I do not hide with the language I use. It is not generally done ~~and~~ and that seems to be the basis of some of ~~that~~ <sup>this</sup> critical comment. My own ~~thinking~~ thinking is different.

I believe that, especially on what is of such extreme importance to the people and to their country, not hiding justified emotion is required by honesty and in providing the ~~full~~ <sup>fullest</sup> information possible. Thus the writer is, by honesty, required to disclose <sup>it</sup> to his reader that <sup>if</sup> he does have emotion<sup>a</sup> involvement in what he is writing about. That can enable the reader to form an impression of the writer. He may regard what the writer discloses about ~~himself~~ himself as reflecting what might be prejudice in the writer.

This is ~~more~~ <sup>more</sup> than calling a spade a spade. It gives the reader a basis for ~~jud~~ judging the writer, ~~perhaps~~ perhaps a basis for deciding whether or not to trust ~~the~~ the writer -

to believe him, not to believe him or whether or not to have questions <sup>a</sup> about the writer and his writing.

I recognize that ordinarily this just is not done and on that basis alone often is not approved ~~or~~ or is used to discount the writing. However, I believe that, ~~apart~~ particularly on a ~~serious~~ subject like this, so ~~rare~~ rare in our national life, the writer should <sup>o</sup> hold nothing back from ~~the~~ the reader and from ~~the~~ the record his writing can make. If that leads some to downgrading what I write, so be it, but I feel that, particularly on this subject, honesty requires it of me.

There is more that is unique about this subject than that we had a President assassinated.

That assassination was a coup d'etat and that is a rarity in this country, to this nation, and no other writer <sup>w</sup> of whom I know tells ~~that~~ <sup>this</sup> to the people and provides official and once-secret proofs of it.

It ~~also~~ <sup>s</sup> is a fact, an officially-~~est~~ established fact, that there was an official decision, on the highest level, ~~to~~ not to investigate the crime itself. That will be hard for most Americans to believe. But it is a fact. I ~~had~~ assembled official records ~~from~~ <sup>h</sup> various official sources that hold the ~~proof~~ <sup>h</sup> of ~~this~~ <sup>h</sup>. I had discussed them with two other people in my office. <sup>h</sup> Those records were not in files, as most are. They were <sup>at</sup> ~~on~~ four or five different places and in boxes atop file cabinets. I was quite surprise <sup>d</sup> to find all of them stolen when not one was in any place any stranger had any reason to be able to obtain any of them. This leads to the believe that I am bugged, under electronic surveillance.

I can think of no other way in which anyone could know that I had those records or could have any knowledge of where and how they were scattered.

I have obtained copies, not nearly as clear as what I'd had, from those to whom I'd given copies and I include copies of the <sup>m/</sup>with further explanation in this book

The decision not to investigate the crime itself and to designate Oswald the lone and unassisted assassin was made as soon as it was known that Oswald was dead and that there would be no trial.

Which means there would be no examination and cross-examination of <sup>Do-C</sup>many of the alleged evidence against him.

Which, in fact did not exist then and has not existed since then.

Very few people have this knowledge and fewer still have the evidence of it. But it, too, may -at least let us hope- <sup>be</sup> ~~is~~ unique, unheard-of about any of our governments.

That evidence, too, I believe, the people should have.

But all of it was withheld from the people until, under FOIA in and by means of a dozen lawsuits, I was able to obtain it, some from secret ~~official~~ hiding places where what by law was required not to be secret was more than secret- there was no normal way of obtaining it from <sup>M</sup> where it was hidden officially.

Even the official hiding of required evidence of the murder is something the people should know that their government did.

If a democratic society is to continue to be a democratic society, there should be no secrets about it, especially



not when it relates to a change in government by force, by murder, and to how ~~the~~ government then did and did not function. Particularly ~~if there is~~ other criminal activity <sup>is</sup> involved, as there was when John Kennedy was assassinated and there was ~~of~~ this immediate decision, on the highest level, not to tell ~~of~~ the people the truth by not investigating the crime itself.

Among other things that, again let us hope, are without *precedent* in our country, this also meant seeing to it that <sup>g</sup> the assassins, the ~~murderers~~ <sup>o</sup> would be forever free and that people who care and wanted the record of their governments to be better, would have no leads to follow in any private effort to see to it that their presidents <sup>o</sup> could not be assassinated with the assassins guaranteed their freedom.

When the Warren Commission filed its report and ended its official life ~~in that~~ and thereafter, when various government agencies also tried to see to it that the people could know no more than the Warren Commission told them - most of which the people had no practical way of knowing - and tried to keep their records secret, the only means ~~by~~ which the people could learn more, which means be better informed so that our political system might <sup>work</sup> words as intended, was through the limited efforts private ~~people~~ citizens could make ~~also~~ and very, very few did.

This is, in many ways, like nothing else in our history. It is my belief that those who try to do what government should have done and decided not to do, owe honesty to their readers and to their work and should not hide any strong feeling they may have from what they write.

Passion can influence judgement and if that is possible

then the reader as well as history's judgement should know