



The Murder of Robert Kennedy

Suppressed Evidence of More than One Assassin?

by Allard K. Lowenstein

ONE day in the summer of 1973 I agreed to meet in Los Angeles with some people who insisted that Robert F. Kennedy had not been killed by Sirhan Sirhan acting alone. Nothing seemed clearer to me at that time than the absurdity of this notion. Everyone had *seen* Sirhan shooting at Senator Kennedy, and at Sirhan's trial his lawyers had argued only about his mental condition, not the accuracy of his firing.

That I went to any meeting about any assassination was due primarily to the persistence of Robert Vaughn, the star of a popular TV spy series called *The Man from U.N.C.L.E.* But even my esteem for Robert Vaughn couldn't totally wash away a furtive and unworthy suspicion that maybe he had hopes of transporting a successful dramatic role onto the duller stage of real life.

The truth is that I finally went to that first meeting chiefly because in my closed-mindedness I believed that spending half an hour with people who had gone gaga about the

Robert Kennedy case would both prove my open-mindedness and help me persuade a good man to avoid further involvement in such foolishness.

That afternoon at Robert Vaughn's house I saw the autopsy report and discovered that Robert Kennedy had been hit from *behind* by bullets fired at point-blank range—that is, from a distance of several inches or less. I thought I remembered that Sirhan had been *facing* Senator Kennedy and had shot him from a distance of several *feet*, so I assumed that either the autopsy report or my memory was in error. I soon learned that neither was.

The police report agreed with the coroner about the range (point-blank) and direction (from behind) of the bullets that hit Senator Kennedy; so I proceeded through the grand-jury and trial records, searching for testimony that placed Sirhan's gun to the rear and within inches of Kennedy. There was none. The distance mentioned most frequently was two to three feet. Eyewitnesses can be depended on to be unreliable, but this information was un-



Fred Ward/Black Star

settling: it seemed unlikely that everyone could be wrong about something so visible and significant as the difference between inches and feet. I set out to talk to the eyewitnesses in person: maybe, I thought, the transcripts were misleading, or maybe the witnesses were uncertain or confused. Not so. Everything was consistent with the earlier testimony, and people were emphatic about what they had seen. All the eyewitnesses thought it was wacky to doubt that Sirhan had killed Kennedy—until they heard what was in the autopsy report. Few of them thought so afterward.

MY INVOLVEMENT in the RFK case had started late; it now developed slowly, pushed along by discoveries and events that made no sense, things that could not be explained by established facts or old theories. Early skeptics like Lillian Castellano, Ted Charach, John Christian, Gerard Alcan, and Betsy Langman introduced me to an assortment of questions raised by the official version of the case, the most puzzling of which had to do with the physical evidence.

A firearms expert named William Harper had executed an affidavit asserting among other things that the relatively undamaged bullet removed from Senator Kennedy's neck could not be matched to Sirhan's gun (a conclusion to be confirmed four and a half years later by a panel of other experts). That was disturbing enough, but I was most troubled by the question of how many bullets had been fired. Sirhan's gun could fire only eight shots; if there had been more than

Allard K. Lowenstein is a former U. S. representative from the Fifth Congressional District of New York.

eight fired, there had to be more than one gun, and arguments about whether bullets matched or did not match would then become superfluous.

Seven bullets had been recovered during surgery, one from each of the five bystanders who were hit and two from Senator Kennedy. Another bullet had entered Senator Kennedy's back and exited through his chest, and still another had passed through the right shoulder pad of his jacket (the left sleeve of his suit disappeared sometime after the shooting).

In addition, three bullet holes were found by the police in ceiling tiles that had subsequently been removed and booked into evidence, and there were indications of still other bullet holes in doorframes that had also been removed and booked. One thing at least was certain: if all the holes in the tiles were entry holes, at least ten bullets must have been fired. Nobody could add seven to three and get eight.

I did not want to add to the public controversy about the case, so I went to Joe Busch, then the district attorney of Los Angeles County, with a list of questions about specific problems that seemed troublesome. I assumed the DA's office would be able to give satisfactory explanations. In fact, I felt a little as if I were about to discuss unfounded fears about flying saucers with scientists who could lay the fears to rest. It became clear early in that first session, however, that my fears were not about flying saucers, and that they were not being laid to rest.

The official response to my questions was as peculiar as the contradictions in the evidence. As I remarked later on, every official I saw at the DA's office was polite and talked about cooperation, but nobody did anything much with my list except periodically to request another copy.

When a question was answered at all, the answer often turned out to be untrue—not marginally untrue, but enthusiastically, aggressively, and sometimes quite imaginatively untrue. I was not prepared for that, and I was to waste a lot of time before I realized that Ron Ziegler himself might have gawked at some of the statements that officials were making about the case—not just to me, but to the public as well.

As events moved on, I found that propaganda campaigns were being concocted that peddled the precise reverse of the facts. Two of these were especially daring and effective: it was repeated constantly that "every eyewitness" had seen Sirhan kill Kennedy (so how could any rational person doubt that he had done it?); and it was said almost as frequently that there was "only one gun" in the hotel pantry where Kennedy was shot (so how could anyone have fired a second?)—this despite the fact that everyone connected with the case, if very few other people, knew that there was at least one other gun in the precise area from which the bullets that hit Kennedy were fired.

Joe Busch simply took to announcing the opposite of whatever facts didn't fit. In this spirit he said on the *Tomorrow* show: "Every eyewitness that you talk to, every eyewitness . . . there is nobody that disputes that he [Sirhan] put that gun up to the Senator's ear and he fired in there." I then asked him to name one such witness, and he replied: "Would you like Mr. Uecker, the man that grabbed his arm? Would you like any of the fifty-five witnesses?"

When John Howard, a less flamboyant personality, became acting district attorney, he claimed only "twenty to twenty-five" corroborating witnesses. Pressed to name one of this formidable collection, he also cited Uecker.

Continued on next page



Wide World

Final moments: (left) Robert F. Kennedy speaking moments before his assassination; (center) author George Plimpton

I could not imagine why Busch had selected Karl Uecker as what he called his "star witness," since Uecker's testimony about the matters in dispute not only contradicted the official position but had been repeated several times. Could he have changed his mind since 1968 about what he had seen then? And if he had changed his mind, why had he?

Karl Uecker was indeed a key witness, perhaps *the* key, the only person who was standing between Kennedy and Sirhan when the shooting began, the man who, as Busch put it, "grabbed his arm"—the imprecise "his" being applicable both to Kennedy (before the shooting started) and Sirhan (after).

Uecker had gone back to Germany some years before, and perhaps it was assumed that would put him out of reach. When I located him and was en route to see him for the first time I found myself hoping he would uphold the official story and thus confirm what Busch and Howard were saying about him. If he did that without apparent duress, what a great relief it would be—a kind of justification for accepting other official explanations; furthermore, the implications of the alternative were particularly unpleasant to me.

Karl Uecker turned out to be a solid, intelligent man. His recollections were unwavering, consistent with his grand-jury and trial testimony, and explicit: "I told the authorities that Sirhan never got close enough for a point-blank shot, never." It irritated him that he was being misquoted, but he felt that nothing could come of my efforts: "It was decided long ago," Uecker said, "that it was to stop with Sirhan, and that is what will happen." He reconstructed the sequence of events in the pantry for myself and two reporters from the West German magazine *Stern*, and it emerged that he is utterly certain that Sirhan had fired only two shots when he, Uecker, pushed Sirhan down onto a steam table.

And that, for Karl Uecker, is that. At least four bullets hit Kennedy; if Sirhan was on the steam table after firing two shots, he could not have fired all four of these shots, since that would have required him to put the other two bullets into Kennedy from behind, at point-blank range,

while struggling on a steam table several feet in front of the Senator and with a distraught crowd flailing around between them.

The Uecker statements went virtually unreported except in *Stern* magazine. They had, therefore, limited impact on public opinion in the United States. They had no impact whatever on officials in Los Angeles, who still quote Karl Uecker as their star witness. But then, they have been unable to find another credible witness to quote, and it is unlikely that anyone will go to Germany to check with Uecker again.

THE Uecker flimflam was modest compared to the official handling of the eight-bullets problem.

There was a period of confusion after I asked how so few bullets had caused so much damage, but eventually I was informed that a bullet had penetrated a ceiling tile, bounced off the floor above, ricocheted back down through a second tile, and ended up in Elizabeth Evans Young's head. What complicates this proposition is that Mrs. Young, who was some 20 feet down the pantry from the shooting, had lost her shoe at about the time the shooting began. She had stooped over to put it on when the bullet entered her forehead, traveling *upward* into her scalp, where some of it remained even after surgery.

But even if the Young bullet had achieved everything ascribed to it, there remained the shot that went through Senator Kennedy's shoulder pad, the shot that exited through his chest, and the third bullet hole in a ceiling tile, a hole that meant the eighth and unrecovered bullet had to be "lost in the ceiling interspace" (as the official summary put it), unless, as I commented at the time, a bullet went up through one tile, bounced off the floor above, came back down through a second tile, and then decided in midair to go back up and make a third hole.

And if Sirhan's eighth bullet was "lost in the ceiling interspace," there were no bullets left to be found anywhere else. Which brings us to the problem of the doorframes.

On June 5, 1968, the Associated Press sent out a photo



Wide World

UPI

and Kennedy aide J. W. Gallivan, Jr., struggling with Sirhan Sirhan; (right) Senator Kennedy lies dying.

of two policemen pointing to a door "near Kennedy shooting scene." According to the caption on the picture, a "bullet is still in the wood."

Few people could have known at that time the potential import of that photo. It was ignored in the turbulence of events and might have gone unnoticed if it had not been for a remarkable Los Angeles institution named Lillian Castellano. From the moment Mrs. Castellano read the wirephoto caption she began telling everyone who would listen that if a bullet had been found in a doorframe, there had to be at least nine bullets. She and an associate named Floyd Nelson wrote an article pressing this point, and it appeared in the May 23, 1969, *Los Angeles Free Press*. Two weeks later, a local reporter asked Evelle Younger, then district attorney of Los Angeles and now attorney general of California, about the photo and its implications. Younger promised that "tons of information over at the LAPD [Los Angeles Police Department]" were going to be "made available."

But nothing relevant had been "made available" to anyone four years after that, and I therefore attached a copy of the wirephoto to the list of questions I submitted to the authorities. Question II-3 read: "Who are the police in the AP wirephoto examining bullet in 'doorframe'? Why did they say there was a bullet there if there wasn't one?" It tells a lot about my state of mind at the time that I accepted the official assurance that the policemen had been misquoted in the photo caption. When repeated requests for a study of the doorframes ran into unpersuasive evasions, I was irritated at what I took to be bureaucratic delays rather than suspicious motives. And that is where the matter rested for almost two years.

Then, in the summer of 1975, Paul Schrade, a close friend of Senator Kennedy and one of the bystanders who had been shot on the night of June 4, 1968, brought an action for damages against Sirhan and anyone else who might have been involved in the shooting in the hotel's pantry area ("Does 1-50," as California legal terminology puts it). Schrade was represented in this action by former assistant

district attorney Vincent Bugliosi and myself. This procedure was designed to get the investigation of the RFK case "out of politics and into the courtroom"—a step long advocated by officials who refused to do anything to reopen the case through more accessible channels.

The county board of supervisors, prodded by a feisty, public-spirited member named Baxter Ward, joined in the effort to get a court to accept jurisdiction, and eventually seven experts impaneled by Judge Robert Wenke of the Los Angeles superior court conducted a series of tests on firearms involved in the case. The experts then answered some questions, added mystery to others, and concluded that on the basis of tests conducted to date they could neither support nor preclude the presence of a second gun. Beyond that, their opinions varied widely. They disagreed among themselves about two thirds of their findings and tended to disagree as well on how to interpret what they did find.

But they unanimously reached one conclusion that must have rattled the authorities, at least until it was clear that almost nobody had noticed it: the panel agreed that there was no possible way to determine whether the bullets recovered from the victims had or had not been fired from Sirhan's gun. What this meant in plain English was that DeWayne Wolfer, the LAPD criminalist, had sworn to an impossibility when he had testified under oath at Sirhan's trial that the bullets had to have been fired by Sirhan's gun.

A finding by these nationally recognized firearms experts that a critical part of the testimony of the LAPD firearms expert could not have been true has implications that go far beyond the RFK case. But its significance in the RFK case is not obscure either.

Most of the panel said or implied that, on balance, the absence of specific evidence of a second gun decreased the likelihood of two people having fired in the pantry. On the other hand, the expert selected by CBS, which was one of the parties to the litigation, was perhaps the best-known member of the panel. He testified under oath that the question of a second gun was "more open" now than it had been before

the tests, a conclusion that, for whatever reason, not even his employer saw fit to report. And all the experts agreed that if there were evidence of *more than eight bullets*, matching or failing to match bullets could not reduce below two the number of guns involved. But the panel was not allowed to hear about, let alone study, material dealing with the number of bullets fired.

It was after this standoff and while the Schrade matter was still in court that Bugliosi located the policemen in the wire-photo. It turned out that neither of the officers knew he was supposed to have been misquoted by the AP photographer, and both still believed they had been pointing at a bullet in the doorframe. This bullet, they thought, had been "removed" soon after the photo was taken.

The official reaction to these developments may seem a bit odd for men who kept announcing their determination to do everything possible to resolve doubts about Senator Kennedy's murder. The LAPD suddenly leaped into action and caught one of the policemen in time to dissuade him from executing an affidavit; and the next day the repre-

"All the eyewitnesses thought it was wacky to doubt that Sirhan had killed Kennedy—until they heard what was in the autopsy report."

sentatives of the district attorney and the state attorney general cooked up such a procedural storm in the courtroom that the policemen could not be subpoenaed to testify under oath.

All this activity generated some publicity about the question of bullets in doorframes, and soon four more reputable individuals materialized who had seen, or thought they had seen, bullets or bullet holes in doorframes shortly after the assassination. One of these was the *maître d'* of the Ambassador Hotel, a man with substantial military experience. Presently, a fifth witness came up with the news that he had heard police officers discussing the removal of a bullet from a doorframe.

Apparently none of this aroused the curiosity of those charged with law enforcement in Los Angeles, despite the fact that the doorframes had been booked into evidence, presumably for some *reason*. I finally inquired if someone in the LAPD had taken to collecting doorframes as a hobby.

And then, as new information stretched the dimensions of possible useful inquiry, the new district attorney and the former district attorney of Los Angeles moved together to extinguish the judicial proceeding that for years their office had insisted was the only legitimate way to inquire into the case. "We shouldn't bury any kinds of questions that are raised," proclaimed the new district attorney, John Van de Kamp, as he sought to dismiss the matter from court. "There are plenty of bodies that can continue to follow that inquiry."

AS PART of the effort to quash the court proceedings, Attorney General Younger's office had objected to proposals of some of the firearms experts that further tests be conducted at the scene of the crime. Use of the Ambassador Hotel pantry for any investigation, the attorney general's

office warned Judge Wenke, would constitute "an egregious invasion of the rights of private property," one that should not and legally could not be permitted.

Seven days later, on December 10, 1975, several assistant district attorneys and a score of police officers, accompanied by much of the LA press corps and a search warrant, arrived at the Ambassador "to search the pantry area for bullets or bullet holes which might be evidence in the murder of Robert Kennedy." To this end, it was announced that the search would concentrate on doorframes, key parts of which had been replaced more than seven years before, after the originals had been removed by officers of the LAPD!

"The significance of the examination, as far as I am concerned," Deputy District Attorney Stephen Trott said of the pantry raid, "is the fact that it again shows that we are taking every step to unturn, as Mr. Van de Kamp said, every stone in this case to get to whatever bottom there may be in this continuing matter."

"No other bullets were found last night," an official spokesman announced the next day and was quoted deadpan in the media. It was nowhere commented that to locate "other" bullets or bullet holes at that time in that place would have been remarkable indeed.

Of course a more sensible way to settle these questions might have been to conduct the standard scientific tests customarily used in such situations on the doorframes and tiles then presumably in police custody. The requests for such tests that had been addressed to the police, the district attorney, and the Los Angeles police commission for several years got nowhere until August 1975, when a number of public officials began to wonder out loud why the bullet-holes issue could not be resolved by suitable tests. It was then revealed that the frames and tiles could not be tested because *they no longer existed*. There were a variety of explanations for the fact that they had been destroyed (one official said they couldn't fit in the filing cabinets available), but the date of the destruction was set as June 30, 1969—a date shortly after Lillian Castellano's article had appeared and Evelle Younger had promised that "tons" of material would be "made available."

The fact that these items no longer existed and the fact that that fact had been concealed was troublesome at best, but the statement that they had been destroyed *in 1969* raised an additional difficulty: the report of a police board of inquiry in 1971 stated that "an inspection of the ceiling tiles removed from the pantry" had refuted a tangential claim about bullet angles. It has yet to be explained how such an inspection could have refuted anything if the tiles had been destroyed two years before.

In late 1975 one Thomas Kranz, the district attorney's special counsel for the RFK case, wrote a report in which, among other things, he commented on the destruction of the doorframes, ceiling tiles, and various critical documents that had also turned up missing. Special Counsel Kranz, who was paid by public funds, says he submitted his report to the DA more than a year ago. In a lengthy preview that appeared in March 1976 in the *Los Angeles Times* Kranz supported the official conclusions, but proceeded to describe the LAPD's scientific research as "sloppy," denounce the destruction of "potential evidence" as "wrong" and "idiotic," and complain that "a major aspect of the prosecution's case . . . isn't substantially documented."

The Kranz report may have met the same fate as the door-

"I arrived at the melancholy thought that people who have nothing to hide do not lie, cheat, and smear to hide it."

frames and ceiling tiles. In any case, it is still not available. People who ask for it now are told that it is being "revised," and that the new version will be available in "a week or two." It is not clear when the original version will be available, or why it was necessary to spend a year "revising" it after the man who wrote it had retired to private practice.

Meanwhile, the significance of another group of remarkable documents has somehow been lost in the shuffle. Dr. Robert Joling, past president of the American Academy of Forensic Sciences, has released the reports of the FBI agents who examined the pantry area after the assassination. These reports were obtained by Bernard Fensterwald, a Washington attorney, under the provisions of the Freedom of Information Act and include photographs of doorframes with what the FBI agents describe at least twice as "bullet holes."

Perhaps these photographs did not startle law-enforcement officials in Los Angeles, who tended to boast about exchanging information "freely" with the FBI during the investigation. But if they knew about the FBI reports all along, the concealing of that knowledge is not reassuring.

So we have reached a stalemate. It has been very hard to get information against the wishes of a wily, uncompromising, and entrenched law-enforcement establishment supported by the only newspaper of general influence in the community. But no reasonable person who knows the facts can now profess to believe that the question of who murdered Robert Kennedy has been resolved. There are too many gaps and inconsistencies in the evidence, too much covered up for too long by those who should have been most eager to pursue leads instead of ignoring or concealing them.

Despite all the obstacles, new facts have come out about what FBI agents, policemen, and other reputable persons said about the matter of bullets in doorframes, and it seems fair in view of these facts to say that there is now a rebuttable presumption that more than one assassin was involved. But what is even clearer than that is that nobody is making a serious effort to rebut that presumption. The notion seems to be that the presumption can be waited out, that unanswered questions will fade, given time, and that the best way to deal with awkward new facts is to ignore them until they can be denounced as "nothing new" and then dismissed; as if awkward facts somehow become less awkward or less pertinent with age.

THERE were people who kept advising Richard Nixon during Watergate that if he would just tell everything, everything would be all right. By the time he left office, presumably everyone except Rabbi Korff and Julie Eisenhower understood that this was not exactly so.

I do not know why those responsible for law enforcement in Los Angeles decided to stonewall the RFK case. But once they had made that decision, the rest followed: facts had to be concealed or distorted and inconvenient evidence done away with; inoperative statements had to be replaced by new

statements, until they in turn became inoperative; people raising awkward questions had to be discredited, preferably as self-seeking or flaky.

"If you listen to these idiots long enough," Joe Busch once announced, "they'll convince you that John Wilkes Booth didn't really kill Abraham Lincoln." An LAPD spokesman with a gift for simplicity tried to dismiss questions with the explanation that the "TV footage" of the shooting resolved any honest doubts, apparently assuming that nobody else would realize that no such footage exists.

The behavior of the police commission may be even less excusable than that of the LAPD and the office of the district attorney. The police commissioners are estimable and independent people, appointed by the mayor, who have no vested interest in the original investigation. They do, however, have jurisdiction over much of the critical material, as well as specific responsibility for the integrity and competence of overall police operations. And they have the stature and authority to act on their own initiative.

Even the Warren Commission published most of the exhibits on which its conclusions about the assassination of President Kennedy were based. The police commission, on the other hand, has refused access to anything in the ten volumes collected in the RFK case, despite the flow of pronouncements by high officials that all relevant information, including the "work product" of the investigation, would be made public.

The commission invoked high principles about civil liberties in detecting a threat to the "right of privacy" in proposals for testing physical objects within its jurisdiction, but the discovery that these same objects had been illicitly destroyed aroused no discernible interest. At one point, in a flurry of responsiveness to public pressures, the commission announced that it would accept and reply to written questions, but that announcement stands as the only reply that has been given to any question. Whatever its motives, the commission has lent a kind of respectability to the cover-up, and it has done so with a clumsy arrogance that leads one to wonder if it took lessons from the Hapsburgs, who are said to have ruled Austria by tyranny tempered only by incompetence.

I began my activities in this case with no doubt at all that the authorities would be as eager as anyone else to investigate any legitimate questions that might arise. I persisted in that belief, and kept acting on it, long after there was any basis for it. But there comes a time when official dissembling should impel everyone else to pursue the unanswered questions with more vigor than ever. The American people should have learned that from the events of the past four years.

I do not know whether Sirhan acting alone murdered Robert Kennedy. I do know what happened when we tried to find out. Eventually, reluctantly, against all my instincts and wishes, I arrived at the melancholy thought that people who have nothing to hide do not lie, cheat, and smear to hide it.

It is possible that the small numbers of people in key places who have worked to head off inquiries and cover up facts have done so simply because their reputations or careers are at stake; but the fact that this is a possibility does not make it acceptable to allow the situation to rest as it is, for there are other possibilities, too.

For a long time now, we have been trying to explain that what commands the reexamination of the Kennedy and

King murders is not ghoulish curiosity, or vengefulness about dishonesty or incompetence, or devotion to abstract concepts of justice, or sentimentalism about the men who died, but simply the urgent question of whether disasters may loom ahead that could be averted if we found out more about disasters past.

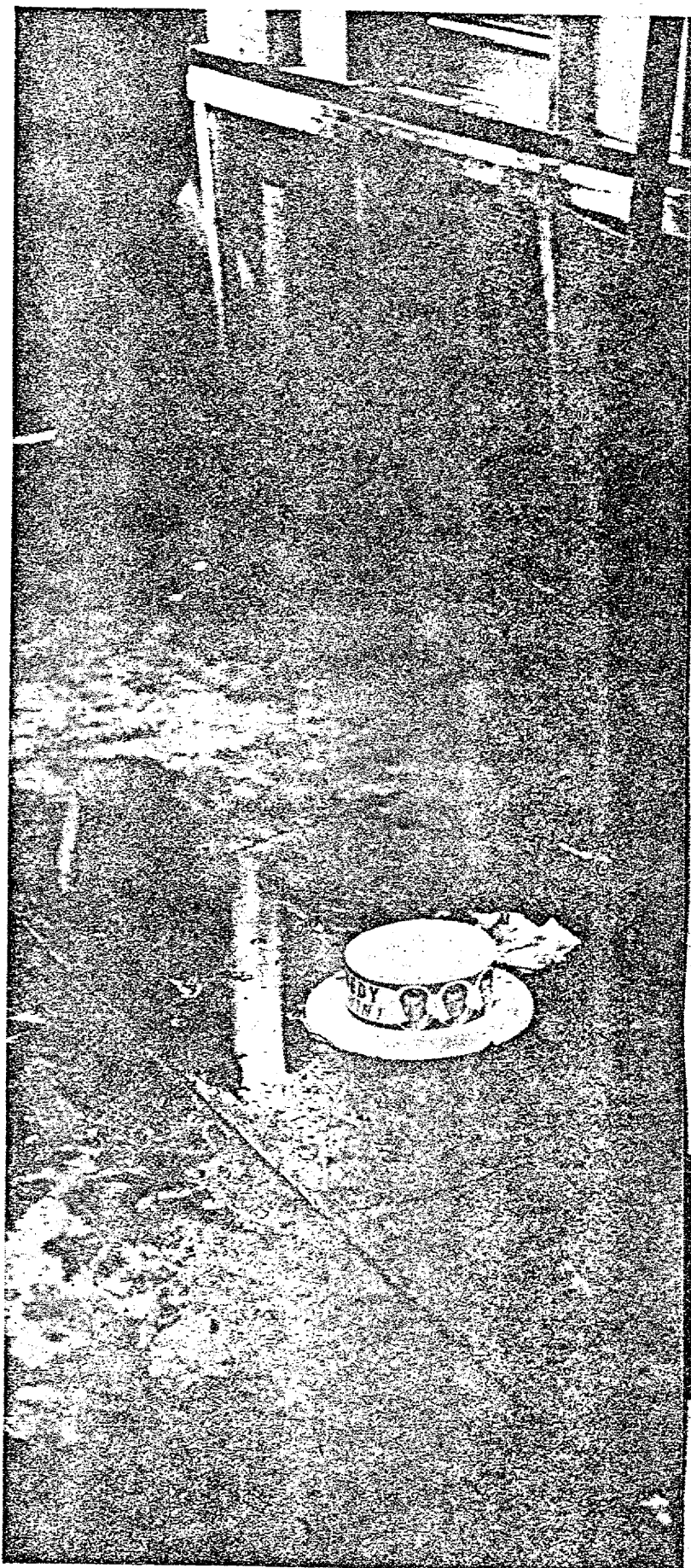
Years have been squandered in ugly, stupid brawling about whether to face legitimate questions about seminal events. One result is that some people have come to see conspiracies everywhere, and some invent them where they can't see them. Some who have poked around these skeletons for a long time have capsized somewhere along the way into a kind of permanent overwroughtness that makes them easy to ridicule. Matters that require dispassion and open minds have become polarized, while everything hangs in limbo and suspicions keep oozing around that things are more sinister than may actually be the case. It may turn out that the hardest part of dealing with the new realities of the arrangement and use of power in America is to modify our sense of what America is without modifying the sense of what it can and should be.

Sensible people keep asking if it is really worth the time and effort to dig into the difficult past in this difficult way. Some time ago, near the beginning of this long journey, I tried to explain my own reason for pressing ahead. "Assassinations of national figures are not ordinary murders," I wrote. "When bullets distort or nullify the national will, democracy itself has been attacked. When a series of such events changes the direction of the nation and occurs under suspicious circumstances, institutions seem compromised or corrupted and democratic process itself undermined." It was Robert Kennedy's special gift that he understood the new realities of power in this country and could make people believe that if they roused themselves to the effort they could, as he liked to put it, "reclaim America." Perhaps that helps explain why the pain of his loss remains so great after so long a time.

We have made a good start toward preventing the repetition of some past abuses of power, especially government abuses, because we have learned about those abuses and have set out to guard against them. But there are other abuses we cannot yet guard against because we do not yet know enough about them to know *how* to guard against them. It seems elementary, for example, that if groups do exist that can eliminate national figures and get away with it, they are unlikely to spring into existence only on occasions of state murders: How are they occupied between-times?

James R. Hoffa did not vanish after a rendezvous with a James Earl Ray "acting alone," loose nuts did not do in the Yablonskis, new editions of Lee Harvey Oswald or Sirhan Sirhan did not murder Sam Giancana in the basement of his home while he was under twenty-four-hour guard by the FBI. It is time to accept the fact that the question is not whether groups with such power exist, but how these groups use their power, who their allies are—in and out of government—and what if anything can be done to protect democratic process against forces and alliances that operate out of sight and often beyond the limits set by the law.

That is a fitting question for the elected representatives of the people to deal with, since nothing less than the strength of government of, by, and for the people rides on the answer. And finding out all we can about the assassinations is an important part of trying to answer that question. ©



Harry Benson