

THE CASE AGAINST A CONSPIRACY

This Wednesday, the House Select Committee on Assassinations is scheduled to release its final report. While the contents of the report have not been disclosed, a preliminary Summary of Findings and Recommendations was made public in December 1978, and there have been subsequent leaks indicating the direction of the committee's findings.

Unlike the Warren Commission, which concluded that Lee Harvey Oswald was the lone gunman in the murder of President Kennedy and that no broader conspiracy existed, the House committee has found evidence of both a second gunman and a conspiracy, possibly involving organized-crime figures. The report to be issued on Wednesday is expected to include some 28 volumes, documenting these conclusions.

The author of the following article, who supports the Warren Commission's conclusion that Lee Harvey Oswald was the lone gunman, bases his comments on published reports of the House committee's preliminary findings; he has not had access to the final report.

By David W. Belin

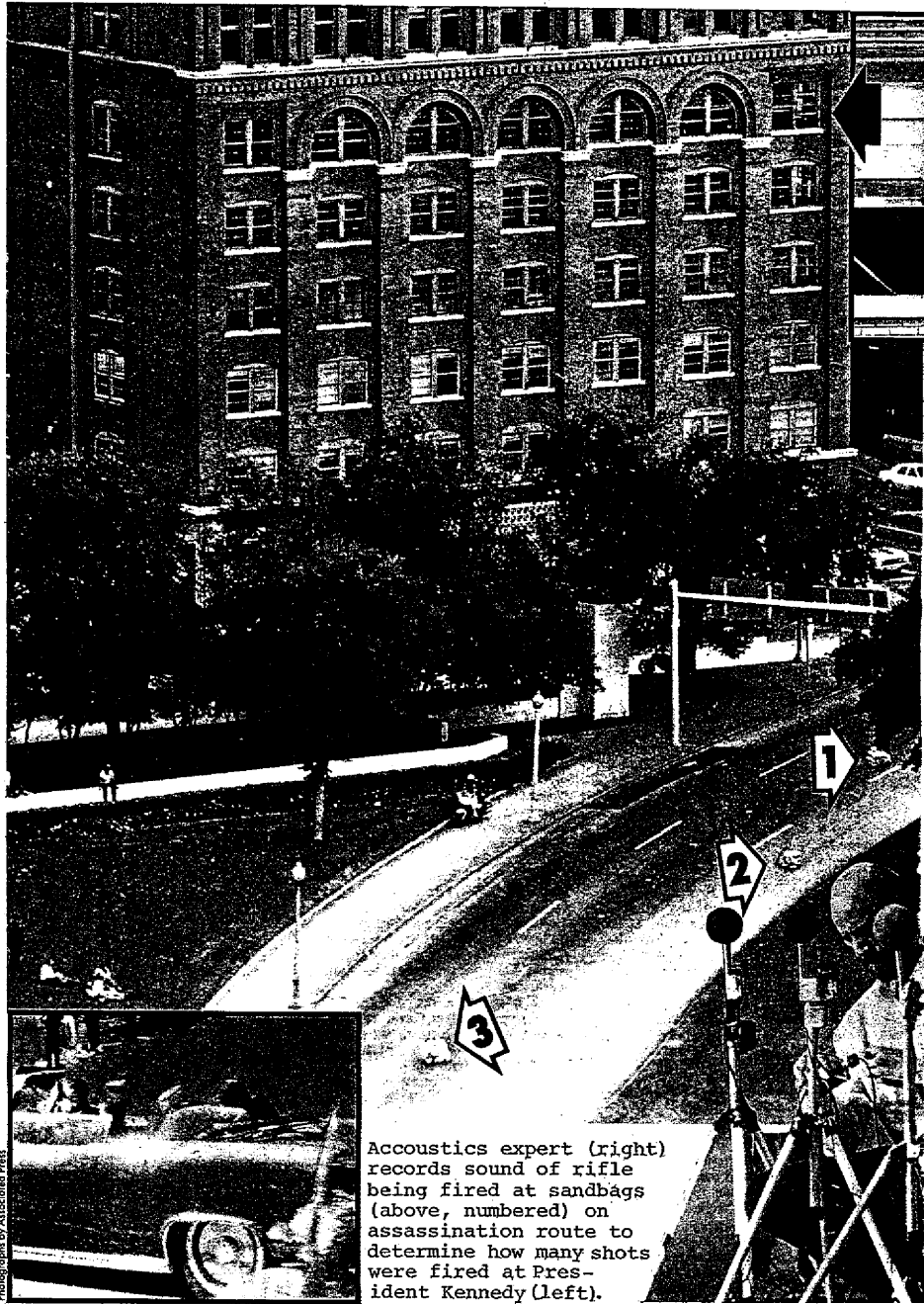
In early December 1978, the members of the House Select Committee on Assassinations were reviewing copies of a preliminary draft final report. After nearly two years of work and the expenditure of \$5.8 million, they had concluded that Lee Harvey Oswald was the lone gunman who had killed President Kennedy,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

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

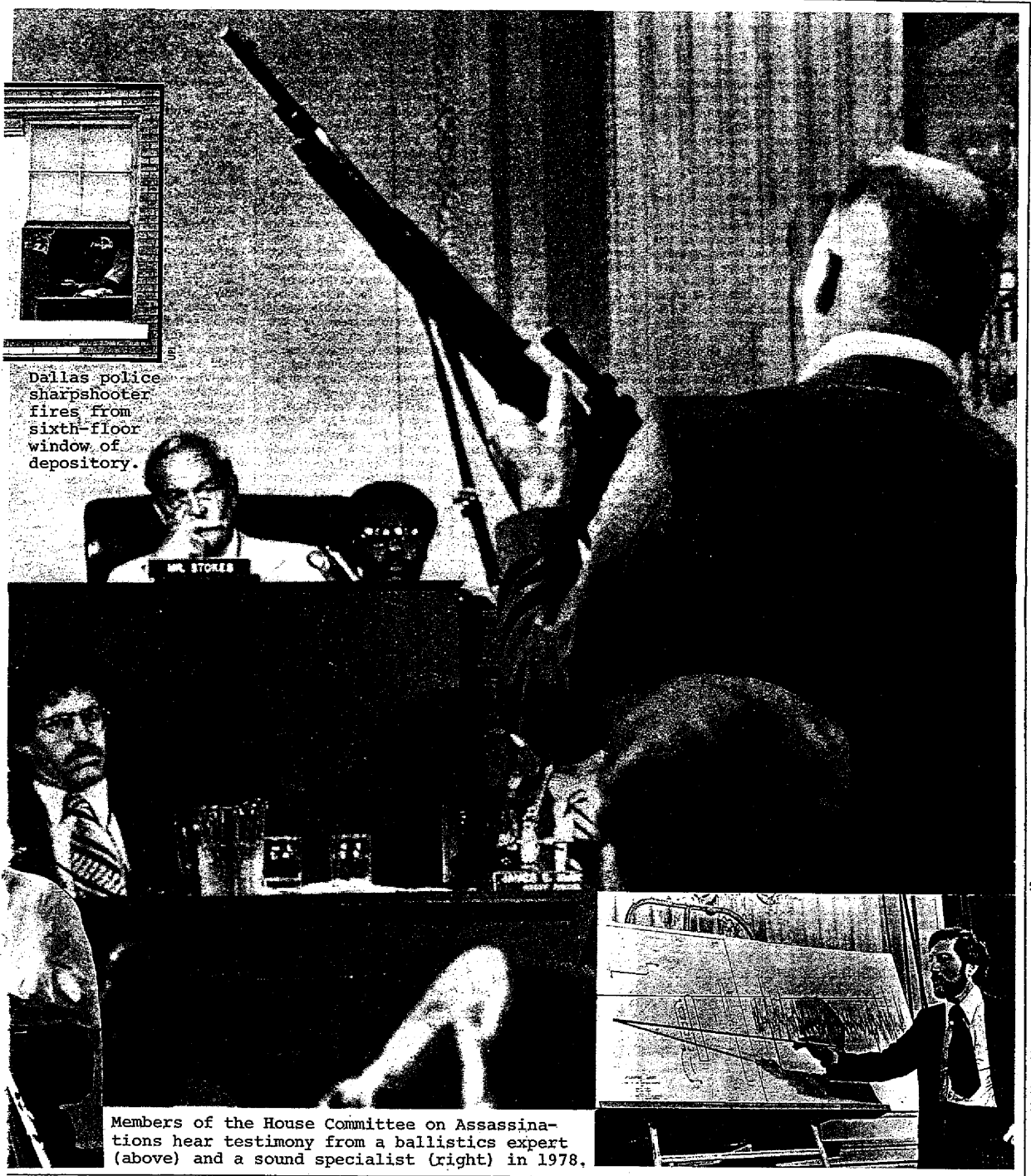
Less than three weeks later, one of the biggest flip-flops in recent Congressional history occurred. The 600-plus-page report was rejected and on Friday, December 29, 1978, the committee approved a nine-page Summary of Findings and Recommendations, which concluded that although Oswald was the assassin, there was a conspiracy involving an unseen second gunman. This invisible person supposedly fired a single shot from an elevated portion of land known as the grassy knoll, located to the right front of the Presidential limousine. According to the committee summary, this shot missed President Kennedy.

Although the location of the claimed

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Acoustics expert (right) records sound of rifle being fired at sandbags (above, numbered) on assassination route to determine how many shots were fired at President Kennedy (left).



Dallas police sharpshooter fires from sixth-floor window of depository.

Members of the House Committee on Assassinations hear testimony from a ballistics expert (above) and a sound specialist (right) in 1978.

George Tomar/The New York Times

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

Who was this second gunman? Why would he fire only once? Why were no cartridge cases found? The committee reverted to its cloak of secrecy, merely promising a final report around the first of April. That deadline was not met because Blakey and the remaining members of the staff were having trouble with their second-gunner theory.

Three members of the committee did not agree with the second-gunner theory, which was predicated almost solely on the testimony of acoustical experts. Earlier an expert had asserted a 50 percent degree of certainty in his conclusions. In the middle of December, two new experts came forward and declared, along with the original expert, that they were 95 percent certain. Despite the continuing doubts of three members of the committee, the change in the experts' opinion from 50 percent certainty to 95 percent

was the cause of the flip-flop. Having served as counsel to the Warren Commission, I know that regardless of whether the acoustical experts say they were 50 percent certain or 95 percent certain, they are nevertheless wrong: There was no second gunman.

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

building, and he matched the physical description given by a witness who had seen the gunman take aim and fire the last shot.

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

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

at or near the scene of the assassination?

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

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

In The New York Times of Sunday, June 3, Wendell Rawls Jr. reported that, according to a "committee source," the final report "will contend" that Jack Ruby "stalked" Lee Harvey Oswald from the hours immediately after the assassination until he killed Oswald on the Sunday morning following the assassi-

nation, and that both Ruby and Oswald had contacts among organized crime figures. According to the source, "There is a substantial body of evidence, a web of circumstantial evidence, to connect the death of the President to elements of organized crime" and the efforts of organized crime to retaliate against President Kennedy and his brother Robert Kennedy who was Attorney General and who was undertaking substantial law-enforcement efforts against organized crime.

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

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

If there had been a full series of public hearings, the

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

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

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

□

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

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

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

the claim of the House committee staff that Ruby's story was " concocted " by his lawyer.

There are many other facts which also contradict the conclusions of the House committee. For instance, late on Friday night after the assassination, Ruby went to the Dallas police station and walked into a press conference where Oswald was being interviewed. "Had I intended to kill him," Ruby said, "I could have pulled my trigger on the spot, because the gun was in my pocket."

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

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

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

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

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

It all happened very quickly. Flash bulbs and strobe lights temporarily blinded the police escort. Ruby generally carried

a gun, and when he saw Oswald, he took out his gun and pulled the trigger. The police wrestled Ruby to the floor and he cried out, "I am Jack Ruby."

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

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

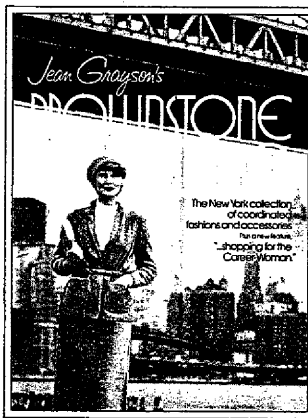
Therefore, on one of my first trips to Dallas, I visited Rabbi Silverman on an informal basis. We had become friends the previous summer on a study mission to Israel. As one friend to another, I told Rabbi Silverman that I recognized that what was said in the intimacy of his conversations with his congregant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

I asked Rabbi Silverman if he was certain of this. "Without a doubt," he replied. "Without the tone of his voice was most convincing, and although I realized that Rabbi Silverman had probably become closer to Jack Ruby than any other person in the world, I nevertheless wanted some additional corroboration beyond the investigation by the Warren Commission. The most obvious possibility was a polygraph, or lie-detector, examination.

Inside the Warren Commission, we had already had a major debate about the use of a polygraph. I had expressed to my colleagues my own suspicions that there might

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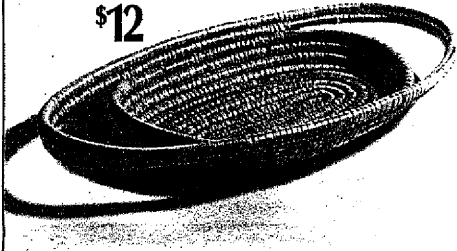
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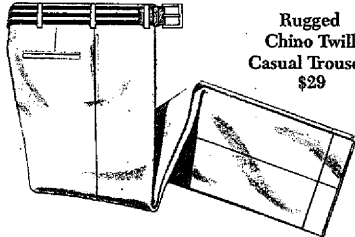
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have been a conspiracy. For instance, the "single-bullet theory" — which has been corroborated by the House Assassination Committee — grew out of an attempt on my part to prove that there was more than one gunman. Eventually, after analyzing all of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

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

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

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

Once the commission had decided against using a

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

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

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

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

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

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

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

detector test and the truth serum and so on."

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

And Ruby replied, "I do want it."

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

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

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

Ruby then went into some detail about how he happened to be at the scene. After telling about how he had gone down the ramp into the police-station basement, Ruby said, "You wouldn't have enough
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ASSASSINATION

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time to have any conspiracy. . . I realize it is a terrible thing I have done, and it was a stupid thing, but I just was carried away emotionally, do you follow that?"

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

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

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

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

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

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

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

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

Ruby was asked whether or not he knew Dallas Police Officer J. D. Tippit, who was

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

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

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

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

Q. Did you know Oswald before Nov. 22, 1963?
A. No.

Q. Did you assist Oswald in the assassination?
A. No.

Q. Between the assassination and the shooting, did anybody you know tell you they knew Oswald?
A. No.

Q. Did you shoot Oswald in order to silence him?
A. No.

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

Q. Did any foreign influence cause you to shoot Oswald?
A. No.

Q. Did you shoot Oswald because of any influence of the underworld?
A. No.

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

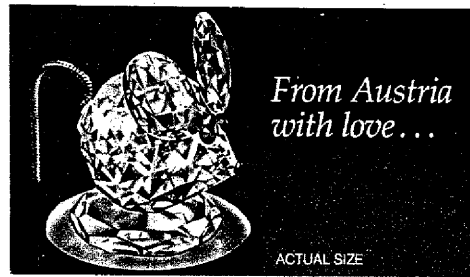
Q. Did you know the Tippit that was killed?
A. No.

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

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

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

If no one else had joined the group, Oswald would have been transferred on schedule, long before Jack Ruby ever got downtown. However, another person entered the interrogation room Sunday morning. He was Postal Inspector Harry D. Holmes,



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Oswald was scheduled to be transferred at 10 A.M. If Postal Inspector Holmes had not been asked to interrogate him at the last minute, thus delaying Oswald's transfer, Jack Ruby would not have arrived at the jail in time to kill him.

and he had helped the F.B.I. trace the money order that Oswald used to purchase the rifle with which he killed President Kennedy. Holmes had also helped the F.B.I. trace the ownership of the post-office box that the rifle (and the pistol that Oswald used to kill Officer Tippit) was shipped to.

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

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

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

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

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

Ruby shot Oswald approximately five minutes after he, Ruby, left the Western Union office. Had Inspector Holmes continued on to church with his wife that morning and not at the last minute joined the interrogation session with Oswald, the length of interrogation would have been shortened by more than half an hour. Jack Ruby would

never have had the opportunity to kill Oswald.

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

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

I reviewed this by telephone

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

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

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

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

Assassination sensationalists were permitted to testify before the committee and were included in the limited public hearings, where they made their many false claims. But the committee never gave

me a corresponding opportunity, although in recent years I have been called the leading defender of the Warren Commission Report. I know that there were many areas where I could have made a major contribution to the committee, if I had had the opportunity to appear, particularly because of my unique position as the only person in the world who served with the Warren Commission who also served with the Rockefeller Commission and saw everything in the files of the C.I.A. concerning the assassination of President Kennedy.

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

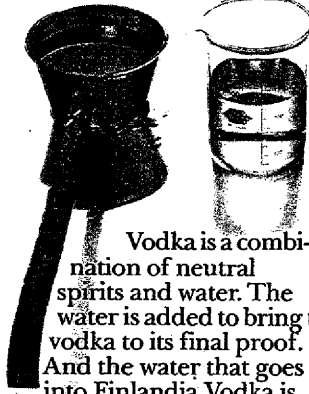
The House Select Committee on Assassinations is a microcosm of Capitol Hill. I know that the report of the House Select Committee on Assassinations will not stand the test of history. When people examine such failures as the absence of any testimony from Rabbi Silverman, the failure to consider the happenstance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

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

Only through a vibrant free press can these dangers be overcome. And they must be overcome if this country is to be able to deal effectively with the national problems facing our society over the next 20 years and beyond. ■

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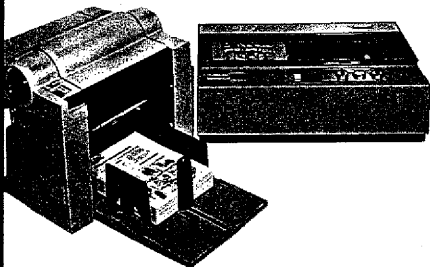
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The New York Times Magazine

July 15, 1979

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Continued from Page 7

of atrocities at Dachau and Hadamar, however, Mr. Jaworski's book is entirely lacking in passion or profundity. On the heels of his highly successful account of the Watergate days, "The Right and the Power," he seems to have decided to use a second book to give himself and some friends a few last pats on the back and take a few shots at some old enemies. For example:

"At a 1961 White House meeting of lawyers called together to push for civil rights, Lyndon Johnson captivated everyone while John and Robert Kennedy were 'all but' ignored."

"Mr. Jaworski's law firm took 'the lead' in changing policies that excluded blacks and other minorities. (Today none of the 122 partners at Fulbright & Jaworski is non-white.)"

"Although 'It no longer matters whether Johnson went to offer me a seat on the high court or to appoint me to the job of Attorney General, as some [who?] have suggested,' Mr. Jaworski tells us anyway. Sure, he could have had either job, but when offered he tells President Johnson, 'I don't want anything, no job, no favors, nothing.' This from a man who later interrupted his law practice to work for a House committee investigating Koreans."

"Critics of the Warren Commission, for which Mr. Jaworski served as a kind of Texas liaison, are 'obvious in their distortions' and 'wildly off the mark.'"

"William Safire, who pilloried Mr. Jaworski for his handling of the Watergate and Koreagate investigations, chickened out and backed off 'second-guessing the Special Prosecutor' when Mr. Jaworski threatened to subpoena him."

And so it goes. If these points seem to wander all over the place, you've got the picture. Under the guise of autobiography, Leon Jaworski's book meanders along with a string of gratuitous asides.

I wish that Mr. Jaworski could take another try at it, beginning with a thoughtful, more passionate (one way or the other) rewrite of his first chapter, in which as a young lawyer he defends a murderer in Waco, Tex. The man ends up

being executed, with Mr. Jaworski telling us that over the years "I have changed my mind half a dozen times on the issue of capital punishment." He does not tell us where he stands now.

A chapter on the politicking that goes into being elected president of the American Bar Association, and what happens once you get there, would also be terrific, as would one on the economics and politics of one of the nation's richest and most powerful law firms. Instead of the pieties he's included about a lawyer's obligation to do public-service work, he could also take a few pages to suggest something specific and constructive. Moving on, he could give us a candid account of Lyndon Johnson, the Johnson-Kennedy tension, the Warren Commission and President Johnson's feelings about it and Koreagate.

Most important, as someone who's worked every side of the law business, Leon Jaworski certainly could tell us much more about the role of law and lawyers than he does in his half-mistitled "Confession and Avoidance": "Most of my friends are lawyers. I admire them. Lawyers... are bound by a code of respect and courtesy not found in most other professions." ■

Delight

Continued from Page 9

similarities between situations and concepts that to ordinary people might appear wildly different." Nicely put. But because of the way the essays in "As Her Whimsey Took Her" are structured and organized—"Detection," "Drama," "Translation" and "Aesthetics"—they tend, though not so egregiously as does Mr. Hone, to compartmentalize her.

The essays in "Detection" tell us a great deal about the moral concerns that underlay Sayers' characters as agents of justice or evil. They fail only to convey adequately Sayers' sense of fun and the reasoned feminism that informs the Wimsey-Harriet Vane romance. The "Drama" essays dwell lovingly on Sayers' treatment of Judas, that incongruously sympathetic character. (Wise Sayers: She knew that it was impossible to put the Devil in a play or a book without

like chessmen upon their allotted squares.") "Translation" demonstrates the tension between Sayers' zest for her subject and her scholarly detachment. In an exalted mood, for example, she referred to the Middle Ages as a "new washed world of clear sun and glittering colour... naked brutality... innocent simplicities"; and she sighed for its "shattered structure," "the most grandiose, the most universal, and the most exact ever planned since the beginning of history." Whether Sayers' affection perverted her judgment can perhaps best be understood by reading the essay on her translation of Dante by Barbara Reynolds, who provides an intimate picture of her friend and colleague as a craftsman wrestling with particular problems of allegory and myth.

The section on esthetics seems to me gratuitous. Yes, Sayers drew an analogy between the Trinity and human artistic creation (Father—Idea; Son—Energy; Holy Ghost—Power); and, yes, she loved the written word because she loved the Word made flesh. But we hardly need scholars to tell us so—over and over again, and convolutedly—when we can read Sayers' own eloquent and lucid works on Christian esthetics. Of far greater value is the bibliography, parts of which deserve to be read as text. It is here, for example, that I came across the intriguing statement that Sayers, who advocated the establishment of a Jewish state in Palestine, "does find the pro-Semitic stance of some liberals and nominal Christians distasteful, but her point is that it is insulting to Jews as well as Christians." What can she have meant? Because Jews in Sayers' fiction are—and this is a flaw her critics do not allude to—disturbingly stereotypical, it is important for us to know.

In fact, neither Miss Hannay nor Mr. Hone presents us with a coherent view of Sayers' politics. Mr. Hone informs us that Sayers told Ezra Pound there was not "enough element of mystery" in his proposal that she turn her attention to crimes in the world of economics and government, and that she rose to the defense of P.G. Wodehouse when he was attacked in the press for treason. Her views on social issues can be extrapolated from her theological essays and from her fiction, in which it is clear that she valued an ordered society in which people of all classes "moved

like chessmen upon their allotted squares." But surely Mr. Hone's 10 years of research might have yielded more specific information. In fairness, I suppose we ought to keep in mind editor Hannay's modest introductory statement that hers "is not the definitive study of Sayers, but rather... a catalyst to further work on this remarkable critical mind."

Sayers never finished her final Wimsey novel, "Thrones, Dominations," in which, according to Miss Hannay, Lord Peter gives way to "his pride of ancestry and tradition; he capitulates to the ancient ritual which requires husband and wife to sit ten feet apart at a solitary meal." Dear me. Perhaps Sayers could have contrived to make even this absurdity lovable. Our loss. No doubt there is laughter in heaven. ■

Author's Query

For a biography of Alma Mahler Werfel, I would appreciate hearing from anyone with pertinent letters or reminiscences.

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