

PROBE

Magazine. The truth is in here.

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Zapruder Film Suit Filed

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One of the achievements of the Assassination Records Review Board was to arrange to have the Zapruder film made available to the public by purchasing the rights to it from the Zapruder family. The negotiations for this transaction, to our knowledge, have yet to be finalized. But in the latter part of 1998, a group of Washington lawyers, Jim Lesar, Dan Alcorn, and Mark Zaid discussed filing a suit against the government because of the special arrangements contained in the proposed purchase agreement. That special arrangement includes leaving out the purchase of the copyright from any arrangement finalized with the family. As Zaid said in comments accompanying the lawsuit, "The current negotiations give the public no benefit because the copyright is not part of the package that the American people will own. The taxpayers are going to spend millions to gain possession of the film, but it's not going to give the public any greater use or control over it. It's ridiculous. It's just plain ridiculous."

In reality what this means is that even though the government will have shelled out an enormous amount of money to purchase the actual film for private use, if any film company or book publisher wants to use the film for public consumption, a fee will have to be paid for the copyright. In other words, there will be almost no difference in the actual circumstances of licensing copyright for the film after the government purchase. Why this particular arrangement was made in this way is a true Washington mystery. It makes us believe that the Zapruders' Washington superlawyer, Robert Bennett, may be manipulating things behind the scenes. Since the Zapruder family charges quite a sum for use of the film—Oliver Stone paid \$85,000 for it—they stand to

make both a big payoff and substantial royalties at irregular intervals.

Zaid's lawsuit challenges the validity of the copyright protection claimed by the Zapruder family on two grounds. The first is by selective enforcement i.e. the Zapruders have not challenged each and every duplication of the film that was done without permission. For instance, when Geraldo Rivera showed the film on ABC in March of 1975, Time-Life—which owned the copyright at the time—did not sue ABC. Henry Zapruder, however, contacted Time-Life and requested them to sue the broadcast company, as the family stood to receive 50% of all royalties generated by the film. Robert Groden and Peter Model used 22 frames from the movie in their 1976 book, *JFK: The Case for Conspiracy*, and no action was ever brought against them either, even though the book was on the bestseller list for a time.

The second ground for action to negate the copyright issue concerns the ARRB. The lawsuit comments at length on this point:

On April 24, 1997, the ARRB announced a 'Statement of Policy and Intent with Regard to the Zapruder Film.' The ARRB re-affirmed that the Zapruder Film is an "assassination record" within

the meaning of the JFK Act and directed it to be transferred on August 1, 1998 from its present location in NARA's film collection to the John F. Kennedy Assassination Records Collection maintained by NARA. Upon information and belief, this 'Statement of Policy and Intent' did not constitute a taking of the Zapruder Film but merely a re-affirmation of the taking that occurred with the passage of the JFK Act in 1992. As the Zapruder Film was not subject to a deed of gift or affected by the Internal Revenue Code, any copyright still existing in the film in 1992 was thrown into the public domain by the enactment of the JFK Act. The DOJ has no legal right or authority to modify the statutory effects or requirements of Congress as set forth in the JFK Act thereby rendering the exclusion of the copyright from the Agreement as null and void.

What Zaid is arguing for here is a broader interpretation of the JFK Act than the ARRB decided upon. The ARRB, after listening to several experts on this point felt that the mere existence of the JFK Act was not enough for the film to be taken by the government. Therefore they decided to recommend that Congress buy the film. Zaid is going to argue that this

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Zapruder Film

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was not necessary on the grounds stated above. He is also going to argue that the:

... statute of limitations to bring an action against the United States Government for the condemnation (or taking) of private property is six years. As the taking of the Zapruder Film occurred on or about October 26, 1992, and no civil action was ever filed by LMH and/or the Zapruder family, the statute of limitations expired on or about October 26, 1998. Therefore, the United States Government is under no lawful obligation to compensate LMH and/or the Zapruder family for the taking of the Zapruder film.

Zaid is particularly harsh on the action of the Department of Justice in this whole affair. He characterizes their actions as "arbitrary, capricious, and/or an abuse of discretion pertaining to the compensation to be offered" to the Zapruder family. This, of course, relates to the idea of leaving the copyright out of the deal.

By doing an Internet search one can come up with a pretty good idea of whose idea it was to leave the copyright out of the negotiations. Last summer, George Lardner wrote an article in the *Washington Post* naming a man named Frank Hunger as the point man at DOJ on this. In another piece Hunger is described as Al Gore's "closest friend." So, if this information is accurate, we have the spectacle of Bill Clinton's lawyer Bennett, negotiating with Al Gore's best friend Hunger over paying millions to the Zapruders for only the actual film and not the copyright.

A little digging on Hunger reveals more of his interesting background. Hunger is in the Civil Division of the DOJ. The reason he is tight with Gore is because he was married to his deceased sister. So, in actuality, he is Gore's brother-in-law. Hunger hails from Greenville, Mississippi and then moved to Tennessee to help on Gore's senatorial campaigns. Evidently, the payoff was the plumb

DOJ job. Hunger is an "old boy" type southern Democrat. This may explain Gore's relative silence on the Martin Luther King case which took place in his home state. But Hunger's actions also bring into question Gore's true commitment to the JFK case as well. It is common knowledge that Gore had a special, long-time interest in the Kennedy assassination. His family was friends with the late Bernard Fensterwald who founded the Assassination Archives and Research Center in Washington, now run by Lesar. Reportedly, Gore spent many hours there as a young congressman going through the documents and picking Fensterwald's brain on the issue. In the 1992 campaign, Gore was more outspoken on the Kennedy assassination than Clinton was. When I talked to former House Select Committee staffer Patricia Orr, who is friends with the Gores, she told me that the Vice President is still quite interested in the case. Hunger's actions, however, seem to reveal that Gore is all too ready to play politics with the issue. In other words, by averting to Hunger, and presumably Bennett, Gore is content to tolerate this ridiculous arrangement, one that is truly unexplainable in non-Washington terms. So, for those truly interested in the JFK case, Gore appears to be one more politician who is willing to pay lip service to the issue, but when push comes to shove, place it on the back burner. ♦

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Roosevelt

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12. This was before the Committee was taken over by Martin Dies, a right-wing Southern Democrat who used the committee to label all political enemies "communists". This was to reach its apogee in the McCarthy years when the committee was using the red scare to purge all New Dealers from government and cultural life. See Archer, p. 136; also Miles, p. 36. For an account of Martin Dies' committee suppressing investigation of fascist activities, and his association with Harry Jung, a later associate of Guy Bannister, see John L. Spivak, *Secret Armies: The New Techniques of Nazi Warfare* (New York: Modern Age Books, Inc., 1939) pp. 136-154.

13. U.S. House of Representatives, *Public Statement of Special Committee on Un-American Activities*, Seventy-Third Congress, Second Session, November 24, 1934. pp. 5-10.

14. U.S. House of Representatives, *Investigation of Un-American Activities*, Seventy-Third Congress, Second Session, November 20, 1934. Testimony of Col. Butler. pp. 17-19; testimony of Paul Comly French pp. 20-23.

15. Ibid., Testimony of Paul Cornley French. Initially this testimony concerning Remington and the Duponts was censored, see Archer, p. 161. Also Colby, p. 291.

16. Archer, pp. 209-210.

17. *Time*, December 3, 1934.

18. *New York Times*, March 26, 1935.

19. Cartoon reprinted in Archer, *The Plot to Seize the White House*.

20. Ibid., pp. 197-198. See also Cramer, "An American Coup d'Etat?" in *History Today*, November 1995.

21. Archer, p. 228. Arnold Forster and Benjamin R. Epstein, *Danger on the Right* (New York: Random House, 1964) p. 189.

22. Archer, p. 201. See also Spivak for a full description of American fascist organizations.

23. Boyer and Morais, pp. 280-281; Colby, pp. 327-331.

24. Spivak, pp. 81-83.

25. Colby, pp. 302-315. See also Christopher Simpson, *The Splendid Blond Beast* (New York: Grove Press, 1993) pp. 43-57 for a detailed account of the Dulles brothers' dealings on behalf of the German armament industry.

26. Ibid., pp. 364-365.

27. Miles, p. ix.

28. Beschloss, pp. 68-95, 173-174, 256.

29. A good description of the Kennedy-Roosevelt controversy is in Nigel Hamilton, *JFK: Reckless Youth* (New York: Random House, 1992) pp. 368-376.

30. Beschloss, p. 276.

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