

IV. SEPARATE REMARKS, VIEWS AND DISSENT OF MEMBERS OF THE COMMITTEE

SEPARATE REMARKS OF HON. CHRISTOPHER J. DODD DISSENTING FROM THE FINAL REPORT OF THE SELECT COMMITTEE ON ASSASSINATIONS

I voted against the adoption of the "Summary of Findings and Recommendations" by the Select Committee on Assassinations. I did so because I could not agree with the committee's first finding which reads,

Lee Harvey Oswald fired three shots at President John F. Kennedy. The second and third shots he fired struck the President. The third shot he fired killed the President.

On December 29, 1978, I was called upon to decide whether Oswald fired three shots from the Texas School Book Depository. The acoustical evidence showed that the second shot was fired approximately 1.66 seconds after the first shot.¹ The committee had two pieces of evidence available to it that indicated how fast Oswald might have fired his rifle. First, there was a test conducted by the FBI in 1964, using Oswald's rifle, which was a bolt-action rifle manufactured by Mannlicher-Carcano. The results showed that this rifle could not be aimed and fired using the telescopic sights in less than 2.25-2.3 seconds.² Second, two committee staff members conducted a preliminary test in September, using a Mannlicher-Carcano similar to Oswald's. The results of this test showed that, using the open iron sights, the fastest that the rifle could be fired was somewhere between 1.65 and 1.75 seconds.³

On the basis of these tests, I could not conclude that Oswald fired both the first and second shots. The FBI test did not show that it was possible for Oswald to have aimed and fired in 1.66 seconds, and the committee's test was only preliminary.⁴ I dissented.

It was the committee's original plan to conduct a final test before voting on the report, and in expressing my concern over this issue in the weeks prior to the vote, I repeatedly requested that a final test be done. Unfortunately, it was not possible to bring together all of the elements required for the final test before the December vote.

¹ The fact that the timing was established by acoustical evidence is discussed below. In addition, it should be noted that originally the experts stated that the time between the first two shots was slightly under 1.6 seconds. II JFK 63, 74 (Barger 1.57 or 1.6). This was the timing I understood as agreed upon by the experts when I cast my dissenting vote. Since then, the experts have further refined their figures by adjusting for the speed at which the sounds were recorded. The experts now believe that the time between the first two shots was approximately 1.66 seconds. V JFK 724 (Blakey memorandum). I use the adjusted figures in these separate remarks.

² 3 H. 407 (Frazier 2.3); 5 H. 153 (2.25).

³ There is no direct evidence which would prove how Oswald aimed the rifle. The committee's firearms panel testified that he could have aimed through either the telescopic or open iron sights. I JFK 483 (Lutz).

⁴ Professor G. Robert Blakey, the committee's chief counsel, stated that the test was "preliminary" when he described it to the committee in public session. II JFK 105-106 (Blakey).

On March 29, 1979, a final test was conducted. In this test a Mannlicher-Carcano was repeatedly fired using the open iron sights. This test was conducted by four expert marksmen from the District of Columbia Police Department and two relatively inexperienced committee staff members.⁵ None of the expert marksmen were able to aim and fire two consecutive shots within 1.66 seconds. The committee staff members were able to fire two consecutive shots in less than 1.66 seconds by "point" aiming, that is, not aiming through the telescopic or iron sights. These results have not allayed my concern over this issue. When I consider all the available evidence on this problem, I find myself no more near a solution than I was on December 29.

The available evidence, as I see it, presents three options. If the acoustical evidence on this issue is valid, then two shots were fired within 1.66 seconds of one another.⁶ This leads to the first two options: either one person fired both shots in 1.66 seconds; or one person fired the first shot, and 1.66 seconds later another person fired the second shot. The third option is that the shots were spaced more than 1.66 seconds apart, allowing ample time for one person to have fired both shots. This third option necessitates a conclusion that the acoustical evidence is invalid on this point. I will discuss these three options in turn.

Option one.—Oswald fired the first two shots within 1.66 seconds of one another.—To believe that this option is correct, one must accept that Oswald was more proficient with a rifle than any of the committee's four expert marksmen or that, like the committee staff members who participated in the test, Oswald "point" aimed and did not take the time necessary to line up his target in the iron sights or the telescopic sight on his rifle. Despite the fact that Oswald may have been more familiar with a Mannlicher-Carcano than any of the committee's expert marksmen, his record as a rifleman makes it hard for me to accept that he was able to fire faster than the experts and still hit both President Kennedy and Governor Connally.

It is even more difficult for me to believe that, having missed with his first shot, as the committee finds, he did not take the time necessary to properly aim his second shot. This becomes almost impossible to believe in that Oswald, by merely pointing the rifle from 165 feet, would have had to hit a target that was moving at 11 miles an hour.⁷ It should be noted that the second shot referred to here struck both President Kennedy and Governor Connally. This is the foundation of the single-bullet theory.

There is circumstantial evidence, however, that tends to indicate that Oswald did fire all three shots. Three cartridge cases were found on the sixth floor of the Texas School Book Depository, and ballistics evidence establishes that all three came from Oswald's rifle. In that there is no evidence to suggest that more than three shots came from the

⁵ The two committee staff members who participated in this test were the same two members who conducted the preliminary test, Deputy Chief Counsel Gary Cornwell and Chief Counsel G. Robert Blakey.

⁶ I readily concede that this analysis is "finely tuned." We are considering differences in tenths of a second. We are using data, moreover, that, while it may be subjected to highly scientific analysis, was not initially gathered by precision instruments. Nevertheless, these are the facts we have to work with.

⁷ The test firings in March of this year, as well as the preliminary firings in 1978, were aimed at stationary targets.

Texas School Book Depository, the cartridge cases support the theory that Oswald fired both the first and second shots.

The cartridge cases are not, however, conclusive proof that Oswald fired both of the first two shots. The ballistics evidence merely shows that the cartridge cases were fired in Oswald's rifle at some point in time; there is no way to tell when they were in the rifle or when the bullets that they encased were fired. In other words, one of the cartridge cases could have been from a bullet fired from Oswald's rifle a day, a week or a month earlier. That cartridge case could then have been ejected from the rifle before firing on November 22, 1963, or in some other way dropped on the floor.

At first glance, it seems easier to believe that the three cartridge cases mean that Oswald fired all three shots than to believe the "ejection" theory. Nevertheless, as this requires me to accept that Oswald fired within 1.66 seconds, the "ejection" theory appears more likely than it does at first glance.

Option two.—*An unidentified person fired the first shot, and Oswald fired the second shot 1.66 seconds later.*⁸—There is one major problem with this option; there is no other evidence of a second gunman in the Texas School Book Depository, which, according to the acoustical evidence, was the origin of both of the first two shots. This brings me to the first two of my recommendations for further study.

First, a detailed photographic analysis should be made of the Bronson film to determine whether it shows more than one figure in the sixth floor windows of the Texas School Book Depository.⁹

Second, further mathematical calculations should be performed on the data developed by the acoustical experts to determine more precisely the location from which each of the first two shots was fired. The acoustical experts testified that they were able to pinpoint within a few feet the location of the gunman on the grassy knoll. They did so by a series of geometric computations based on the original data developed in the reenactment of the shooting. This more complete analysis was only undertaken for the third shot in a sequence of four. If a similarly fine-tuned analysis were conducted for the first two shots, it might be determined whether or not they both came from the same window.

Option three.—*Oswald fired both the first two shots and took longer than 1.66 seconds between the shots, giving himself adequate time to properly aim.*—On its face, this option seems very attractive; however, it means that the acoustical evidence is invalid, at least on this issue.

The acoustical testimony before the committee is most renowned for the portion of it that indicates that a second gunman fired at the President from the grassy knoll. The validity of this evidence has been widely debated in the short time since it was first presented to the committee and the public, and I suspect that it will remain the subject of debate for years to come.

The acoustical evidence came in two phases. The first time Dr. Barger testified, he indicated the time sequence between the shots but did not state any firm conclusion about the existence of a shot from the

⁸ I identify Oswald as firing the second shot, rather than the first, because the second shot appears to be the one that hit the President and Governor Connally, and that bullet matches Oswald's gun. Of course, the unidentified person could have been using Oswald's gun and Oswald his, but that is in the realm of pure speculation.

⁹ The committee so recommends. III, IV, A.

grassy knoll.¹⁰ The reaction of the committee and the public was one of frustration with the indefinite conclusions with regard to existence of a shot from the grassy knoll, but the nature of the evidence itself and the expertise of the witness were generally accepted. I do not recall any challenges at that time to an "arcane" science.

The second phase of the acoustics testimony was received quite differently. This time, Barger, Weiss, and Aschkenasy all testified that there was a 95-percent probability that a shot was fired from the grassy Knoll.¹¹ This time the reaction of the public and committee members was much more skeptical. And rightly so, since this conclusion had much greater significance.

When I first learned of the "new" acoustical evidence and before I heard the testimony, I was very doubtful that it would prove convincing. Nevertheless, after listening to the experts in closed session and going over the data which they presented, I found myself slowly coming to believe that they might be right. Realizing the significance of their conclusion, I determined to withhold belief until I had another chance to question them, this time in open session. I spent a great deal of time preparing myself for the next round of questioning. I decided that the most useful role I could play would be to act as attorney for the opposition. I would look for the weaknesses in their theory so that I could better judge its strengths, its accuracy. I believe that I succeeded in holding to my plan to be as tough with my questions and as difficult to convince as possible. Yet, after listening to the testimony, I was persuaded.¹²

I remain convinced that the preponderance of the evidence supports the finding of the committee that a gunman fired from the grassy knoll. Yet, I believe that further study of the acoustical evidence is necessary. The acoustical evidence of a gunman on the grassy knoll has enormous significance for our Nation. This by itself makes real the idea of a conspiracy to kill the President. The data upon which the experts base their conclusion should, therefore, be reviewed by other noted experts in this field. If further study would resolve any lingering doubts as to the conclusion, failure to pursue the answers would be inexcusable. On the issue of a President's death we should not deal in shadows of suspected truths when we might have light. In its report, the committee criticizes the Government for its failure in 1963-64 to diligently pursue the truth on the question of conspiracy; our Government should not make the same mistake today.

In addition to the need for continued study of the "grassy knoll shot," further study of the acoustical evidence is necessary to answer the questions surrounding the first two shots. As discussed in option 3 above, the answer may be that the time sequence provided by the acoustical evidence is invalid. This possibility should be explored. Another explanation, discussed in option 2 above, is that the acoustics' time sequence is correct, and that some unidentified gunman fired the first shot while Oswald fired the second. Further work on the acoustics data, as described previously, could conceivably prove the

¹⁰ II JFK 94. 101 (95 percent 2 shots; 60-70 percent 3 shots; 50 percent 4 shots).

¹¹ V JFK 556 (Weiss and Aschkenasy): 673-674 (Barger).

¹² I add, too, that I am impressed with the corroboration given to the basic authenticity of the tape and the events it portrays by the other scientific evidence summarized in sec. I B of the committee's report.

existence of a second gunman in the Texas School Book Depository or elsewhere in the plaza.

Therefore, I recommend that a general review of the acoustical evidence and all other scientific evidence bearing on these questions, be conducted by the National Science Foundation or some other appropriate body.¹³ Specifically, I recommend that :

1. A photographic analysis of the Bronson film be conducted.
2. The detailed analysis that was done with regard to the third shot be done with regard to shots one, two, and four.
3. An attempt be made to ascertain the source of the carillon bell which appears on the dictabelt.
4. A thorough review of the tape be conducted in an effort to discover whether shots might have originated from locations other than the grassy knoll and the Texas School Book Depository.
5. An analysis of the various other sounds (for example, the siren) be made to test the tape's authenticity.¹⁴

I agree with paragraph II. B. on its face which reads,

The committee believes, on the basis of the circumstantial evidence available to it, that there is a likelihood that James Earl Ray assassinated Dr. Martin Luther King as a result of a conspiracy.

After analyzing all the evidence, particularly the testimony of James Earl Ray, his demeanor and his actions prior to the crime, I am persuaded that he did not act alone in planning the death of Dr. King. Therefore, I agree with the committee's finding in this paragraph.

I cannot, however, agree to all of the underlying commentary. Specifically, I dissent from any and all parts of the King section of the report which identify particular coconspirators. The evidence which the committee musters may suggest the outlines of a conspiracy, but, in my opinion, it falls short. After reviewing all the evidence, I am unable to say with any degree of certainty who conspired with James Earl Ray or under what plan they were acting.

THE COMMITTEE RECOMMENDATIONS

I offer the following comment on paragraph III. B (1) which reads,

The Judiciary Committee should consider the impact of the provisions of law dealing with third-party records, bail and speedy trial as it applies to both the investigation and prosecution of federally cognizable homicides.

COMMENT

The third-party record statutes were enacted to protect an individual's right to privacy in a society which requires that in a variety

¹³ The committee so recommends. III. IV. B.

¹⁴ After the committee's vote on Dec. 29, 1978, the committee received from Robert J. Groden, a photographic consultant to the committee, a series of photos and film frames that purport to show H. B. McLain, the Dallas motorcycle officer, in the place where the acoustics experts said he would be. I note that after his appearance before the committee, Mr. McLain publicly stated that his motorcycle was not the one with the stuck microphone. The material provided by Mr. Groden should be analyzed as the Zapruder film has been, e.g., the frames numbered, the camera speed timed, et cetera. See V JFK 703-721.

of situations individuals divulge personal information and place that information in the hands of third parties and institutions. Individuals must put aside their interests in privacy in order to share in many of the benefits of modern society, and to comply with Government regulation of certain activities. With increasingly sophisticated means of maintaining records, the threat of misuse has grown, and in the last decade the American public has become more aware of the ease with which individual rights of privacy may be violated by the keepers of the files and the seekers of information.

In a series of statutes Congress has acted to protect the right of privacy from undue infringement. These statutes were not enacted in a void; they were drafted to protect privacy rights, but other societal interests were recognized as well. Chief among these interests was the need for adequate law enforcement. Without exception the privacy acts adopted by Congress provide the means for law enforcement agencies to obtain information needed to conduct lawful prosecutions and investigations of criminal conduct.

It may be true, as the testimony before this committee indicated, that informal access to third-party records has ended, that acquisition of records in the course of an investigation is more difficult than in the past, and that holders of third-party records are more reluctant to grant access because of potential civil liability for invasion of privacy. If these results are in fact present, the privacy acts are working to protect those rights which they were intended to protect. "Informal access" is a dangerous tool, and prior to the enactment of the privacy statutes it was grossly abused. The power to acquire records in the course of an "investigation" was so liberally construed that the requirement that there be an ongoing lawful investigation was for practical purposes nonexistent. And the irresponsible manner in which some third-party recordkeepers shared information with others showed little or no recognition of the rights of the individuals involved. Therefore, this affirmative testimony on the "need" to reconsider the privacy acts is unpersuasive and is the same sort of testimony considered by the committees which recommended the adoption of the privacy acts.

The testimony of the witnesses before this committee is most striking for its failure to identify any unique problems that might arise in an assassination case or other federally cognizable homicide case which would justify a recommendation that the privacy acts be reexamined with a special eye to these crimes.

I have carefully examined the Speedy Trial Act and am convinced that its provisions are drawn with adequate breadth to allow ample time for the prosecution to prepare its case in the event of an assassination or other federally cognizable homicide, as well as to allow ample time for the Federal agencies to investigate any such crime. Under the act, in setting a date for trial, the court may consider the unique factors which might be present in the event of an assassination.

The witnesses who testified before this committee, while voicing some general complaints about the act, agreed that in the event of an assassination the act would provide the Government with adequate time to prepare for trial. Responding to general complaints about the Speedy Trial Act is not properly within the scope of this committee's mandate, nor did this committee attempt to take testimony on whether

the Speedy Trial Act was in general a good thing. I do not believe that such gratuitous complaints are sufficient basis for recommending that the Speedy Trial Act be reevaluated, especially in light of the fact that witnesses, including the representative of the Department of Justice, found the act adequate to deal with an assassination.

The Federal bail statutes were the subject of limited testimony and consideration by this committee. They were considered only in an effort to determine whether the unconstitutionality of the Federal death penalty, 18 U.S.C. 1111 et seq., would in effect classify Federal homicide as a noncapital crime for purposes of bail. I think it is appropriate for this committee to recommend that the Judiciary Committee examine the bail statutes in considering the Federal death penalty. I do not feel any further recommendation on the bail statutes is warranted.

All of the statutes in this section which the committee recommends be reconsidered are designed with a delicate balance in mind, the balance between individual rights and the state's police power. Disturbing that balance can lead to disastrous results. While individual situations must be considered in striking this balance, without clear and compelling justification new exceptions should not be made and the overall balance should not be shifted. Undoubtedly, assassination is a heinous crime and society demands that the perpetrators of such a crime be brought to justice, but we must not lose sight of other societal values in our eagerness to see justice done. Justice is never served when, in moving toward it, we blindly trample on rights which in calmer moments we earnestly fight to preserve.

CONCLUDING REMARKS

I would like to make some general comments regarding my service on this committee, and in doing so discuss an issue which deserves particular attention.

My service on the House Select Committee on Assassinations was a painful experience. For 2 years my colleagues and I listened to the circumstances surrounding the death of two men: One, an inspired individual who gave this Nation a special understanding of the meaning and importance of freedom; the other, a President who transferred his hope, his ideals, and his youth to a Nation growing old before its time. While they lived the shoulders of a Nation were sturdier, its back was stronger, and its heart a little greater. And although what they gave will remain with this country for all time, with their death we lost forever the glowing promise of their tomorrow.

Thus, my service on the committee was a painful one. But hearing of the conduct that was engaged in by various agencies of our Government in the name of security, in the name of law enforcement, not only added to that pain, but caused me to feel shame and anger in a way in which I can only hope I will never feel again.

The evidence before this committee on some of the activities of the Federal Bureau of Investigation and the Central Intelligence Agency consisted of story after story of abusive practices. The FBI, an arm of our Government, engaged in what was tantamount to a private war against one individual—not a criminal, just a man who spoke out

against injustice. The FBI's conduct toward Dr. King not only dishonors that agency, but dishonors each and every one of us.

The CIA, an arm of our Government, locked Mr. Nosenko in a cell, a "vault" for 3 years. For 3 years this agency kept a man in solitary confinement without resort to legal process and under conditions designed to break his mind and his spirit. In addition, the CIA made a number of efforts to kill the leader of a foreign nation and joined forces with organized crime so that they might better accomplish their goal. We must never permit these agencies to dishonor us in like manner again.

This committee heard over and over again from both these agencies that the abuses of the past would never be repeated. Heartening as these assurances are, they are not enough. Now that these abuses have been publicly aired, we have a responsibility to do everything we can to see to it that they are not repeated. Ignorance of the danger can never again be an excuse.

The only means of fulfilling our responsibility to insure that the abuses which occurred in the 1960's do not occur again is to pass legislation restricting the activities in which these agencies may lawfully engage. I, however, am not confident that charter legislation is enough. In addition, I think Congress should consider imposing criminal liability on officers and employees of these agencies who engage in wrongful activities which may now be technically outside the reach of criminal statutes.

These two agencies need the rule of law. The attitude that they were free to function outside or above the law allowed these abuses to occur. There must be no question that Congress intends for these agencies to operate within the law and that the American public demand that they do so. I believe that even today the attitude of being in some way above the law lingers in these agencies. It was apparent in the CIA's choice of a witness to appear before this committee in a public hearing. The CIA sent someone who had an agreement with that agency not to speak about the primary subject of this committee's work, Lee Harvey Oswald.

Upon what meat doth this, our Caesar, feed,
That he is grown so great?

"Julius Caesar." *William Shakespeare.*

Perhaps it is the meat of our indifference. If so, we can afford to be indifferent no longer.

SEPARATE VIEWS OF HONS. SAMUEL L. DEVINE AND ROBERT W. EDGAR

Although seldom achieved, unanimity is often sought in reaching decisions in matters of controversy. Such is the case with the final report of the Select Committee on Assassinations.

Members present in a rather hasty session on December 29, 1978, discussed a draft summary of findings and recommendations. Wording was changed and revised in some portions, and although most members were in agreement with most of the provisions, not all members present totally agreed with all of the findings and/or recommendations.

It is the opinion of the undersigned that Chairman Louis Stokes, members of the select committee, Chief Counsel Robert Blakey and his staff did an outstanding job in an extremely difficult situation. Professionalism dominated the performance of the investigation and hearings, and the congressional mandate has been met with dignity and efficiency, free of political manipulation or personal grandstanding.

The fact all members of the select committee do not totally agree with all of the conclusions should not be construed as any suggestion of dissent or conflict, but merely an indication of a respected legal maxim: "Reasonable minds can reach different conclusions from the same set of facts."

Was there really a conspiracy to assassinate President John F. Kennedy in Dallas? This is the question that many people ask since the U.S. House Select Committee on Assassinations released its preliminary report stating the President "was probably assassinated as a result of a conspiracy."

The report raised nearly as many questions as it answered, and the public understandably wants to know what was the basis for the startling conclusion. The release of the full report offers information on this important point.

How did the committee arrive at its conclusion pointing to a conspiracy? A premature leak of technical evidence from acoustics experts was overemphasized in the national media, although this evidence was only one facet of a very comprehensive investigation.

As a result, the committee arranged a previously unscheduled public hearing at the 11th hour to clarify the acoustical evidence.

The testimony of acoustical experts was given such weight that most committee members were persuaded that a fourth shot was fired at Kennedy. This shot, actually the third in a sequence of four, apparently came from a "shooter" on the grassy knoll.

Was there actually another "shooter" at another location, and did this person conspire with Lee Harvey Oswald?

Evidence for this view rests on a tape recording made in the dispatcher's radio room of the Dallas Police Department.

An open microphone on a police radio inadvertently recorded the events during the time period immediately before, during, and after the assassination. Experiments with this tape have produced varying conclusions.

Although acoustical study techniques are not new or novel, and were available at the time of the Warren Commission investigation, scientific advances permitted experts to separate noises, distinguishing the sound of a motorcycle from street noises. The acoustical experts believed they could identify gunfire.

The experts concluded there were four shots fired, and one of those did not come from the Texas School Book Depository where Lee Harvey Oswald was.

The experts told the committee they were 95 percent certain—beyond reasonable doubt—there was a second “shooter.”

Based on this evidence and testimony, a majority of the select committee concluded there was a “high probability of a conspiracy.” This is a conclusion that must be rejected.

First, standing alone, the opinion of acoustics experts that a third shot came from the grassy knoll is simply their opinion. Unless supported by other evidence, it is not sufficient to establish conclusively there was indeed another shot, another shooter, or a conspiracy.

Committee Chairman Louis Stokes, Democrat of Ohio, has said he felt this conclusion was supported by “eye and ear witnesses.” Some do not share this view.

The ear witnesses were people in the area to watch the Kennedy motorcade—and they disagreed about what they heard.

Less than 12 percent said they heard shots from the grassy knoll. But over 27 percent said the shots came from the Texas School Book Depository.

Another group (17 percent) of ear witnesses believed the shots came from still another building to the rear of the President’s limousine.

And nearly 49 percent simply did not know or could not tell.

In short, the ear witnesses disagreed among themselves.

Among the eyewitnesses, there was one who thought he saw a “puff of smoke” in the grassy knoll area. But, a “puff of smoke” is not necessarily evidence there was another shooter, particularly with smokeless powder generally used, or indeed a conspiracy.

The acoustics experts are top men in their special field and there is no question as to their integrity or credibility. However, any experienced trial lawyer would apply the same basic legal maxim: “Reasonable minds can reach different conclusions from the same set of facts.”

Assuming for the sake of argument there was actually another “shooter,” this would simply be circumstantial, not conclusive, evidence of a possible conspiracy.

Apparently, the majority of the select committee dismissed the idea more than one person in the tens of thousands gathered in Dallas that day might have independently desired to kill the President.

There is another reason to doubt the open-microphone evidence. Officer H. B. McLain of the Dallas Police Department was identified by the acoustics experts as being the operator of a motorcycle with an open mike to the left and rear of the President’s limousine.

But, apparently the officer himself rejects the assumption, which led to the test and re-enactments. He asks a very simple, but important, question: "If it was my radio on my motorcycle, why did it not record the revving up at high speed plus my siren when we immediately took off for Parkland Hospital?"

The investigation, testimony, and evidence established the facts that Lee Harvey Oswald fired at least three shots from his rifle, from the sixth-floor window of the book depository.

It established the facts that two of these three shots hit the President, first in the lower neck, upper back, exiting from the front of the throat of the necktie knot.

This bullet, the evidence shows, then struck Gov. John B. Connally, passing through his chest cavity from the rear, then emerging and entering his thigh and right wrist.

Also, the investigation established the fact that the next shot hit the President in the right skull and brain area, resulting in nearly instantaneous death.

There were important results in the investigation of the death of Dr. Martin Luther King, Jr., too.

Here the possibility of a conspiracy is somewhat more plausible because of the direct evidence and testimony involving specific persons with plans or plots to kill King and thousands of dollars being suggested as a payoff.

The committee concluded that James Earl Ray fired the fatal shot, with his rifle, from a roominghouse in Memphis and then escaped.

His apprehension in London and apparent admissions to Inspector Eist of Scotland Yard, together with his decision to plead guilty, assisted the committee to draw this conclusion.

However, evidence of a successful conspiracy to murder King is not conclusive. Plots, plans, and designs to commit murder, separate and apart from the actual murder, do not necessarily amount to a murder conspiracy.

Although some members of the select committee felt a climate was created where the natural consequence of a U.S. Government agency's conduct may ultimately have resulted in the murder of King, the committee found no evidence, direct or indirect, that the FBI had any part in, or engineered, this assassination.

All members did not agree with all findings, conclusions, and recommendations, but they did conscientiously seek answers to murders 10 and 15 years old.

Any further action in these matters should be pursued in the Justice Department, since the select committee has concluded its work.

SAMUEL L. DEVINE.
ROBERT W. EDGAR.

DISSENTING VIEWS BY HON. ROBERT W. EDGAR TO THE FINAL REPORT

An Introduction

It was 10:30 p.m. on Friday, December 29, 1978, when I was faced with one of the most difficult decisions of my congressional career. Chairman Louis Stokes of Ohio challenged those of us on the Select Committee on Assassinations to come to grips with over 2 years of investigative evidence and to decide on what we had found. The mood was somber and sobering, each member weighing months of deliberations. There were a number of important questions to be answered: Did Lee Harvey Oswald act alone? Was it possible for the second shot fired from the Texas Book Depository to pass cleanly through President Kennedy and Governor Connally in near perfect condition? Were there signs of involvement by the Russians, the Cubans, the underworld? What happened in the King case? Did James Earl Ray have help? Who is the mysterious Raoul? How did Ray finance himself during the period from April 23, 1967, when he escaped from the Missouri State Penitentiary until June 8, 1968, when he was captured in England? These and thousands of other important questions had been the subject matter of our committee's efforts.

The select committee came into being in September 1976, in response to a perceived need in the Nation to look again into the deaths of Dr. Martin Luther King and President John F. Kennedy. At that time, it was clear that many people were dissatisfied with the investigations conducted by the Warren Commission and the FBI. The Gallup Poll revealed that over 80 percent of the American people believed that, despite the findings to the contrary, some kind of conspiracy lurked behind both deaths. A host of speculative and often bizarre theories had been promulgated in book and article form, and people calling themselves "assassinologists" had diligently kept alive their pet theories. Thus Congress, responding to continued interest and pressure from the American people for further investigation, established our controversial committee.

Almost immediately, we fell into disfavor. Part of the problem was uncertainty about the leadership of the committee and our task. Congressman Tom Downing from Virginia, the first chairman, served only from October 1976 to early January 1977, when he retired. Then Representative Henry Gonzalez, an outspoken Congressman from Texas, became the chairman, and immediately came into conflict with the equally outspoken new chief counsel, Richard Sprague, from Philadelphia. Congressman Gonzalez and Richard Sprague spent a good deal of time from January through March struggling over budgets and funding measures. Little time was spent in actual investigations. In March 1977 Representative Gonzalez resigned his chairmanship of the committee; Richard Sprague left shortly thereafter. I took Henry Gonzalez' place as a member of the committee.

Our first priority was to find a new chief counsel. We were able to secure the services, by June 1977, of Professor Robert Blakey of Cornell University, who had extensive experience in the Justice Department as well as some Capitol Hill experience working with the Senate. As a result of these early problems, the actual investigations did not start until July 1977. Mr. Blakey began work by reviewing the staff and making some immediate changes, and by trying to put together a complete investigative plan. We divided our staff into two separate groups: one focused primarily on the death of Dr. King, the other primarily on the death of President Kennedy.

The 12 Members of the House who served on the committee separated into two task forces. The Dr. King task force was led by the Delegate from the District of Columbia, Walter Fauntroy. The task force looking into the death of President Kennedy was led by Congressman Richardson Preyer from North Carolina. In the fall of 1977 we began months of executive session hearings, receiving testimony privately in order to protect the rights of the individuals from whom we heard.

In August 1978, after completing almost a year of executive session testimony, we opened the hearings to public scrutiny. James Earl Ray was brought in for a week of testimony. He and others were cross-examined regarding their involvement in Dr. King's death. In September we had 27 days of hearings into all phases of the death of President Kennedy. In November, 2 days after the congressional elections, the committee reviewed during 17 days of public sessions the events surrounding the death of Dr. Martin Luther King. Finally in December, a month before the committee was scheduled to go out of existence, we began considering in great detail what we had discovered.

The vote that was to be taken on the evening of December 29 followed 2 weeks of extensive review by the committee of some last-minute information that was troubling to all of us. I voted "No" on the committee findings. I voted "No" on that evening after reviewing the evidence and the material very carefully. I voted "No" because I could not accept such a rapid change from the finding that Lee Harvey Oswald acted alone to the new finding that there were two gunmen involved in a conspiracy. The following is a discussion of my reasons for this dissent.

A. Was there a conspiracy?

I agree with the December 13, 1978, first draft of our final report which states on page 64:

The committee finds that the available scientific evidence is insufficient to find that there was a conspiracy to assassinate President Kennedy.

Up to that moment in the life of the committee, we were prepared to go to the American people with this conclusion. Only after the report of Mark R. Weiss and Ernest Aschkenasy, in the 11th hour of our investigation, was the majority persuaded to vote for two gunmen and a conspiracy. I respectfully dissented.

The use of the term conspiracy does a disservice to the understanding of the American public. As was again noted in our draft report on page 51:

Supreme Court Justice Oliver Wendell Holmes defined conspiracy as "a partnership in criminal purposes." A conspiracy

cannot be said to exist unless evidence is found from which such a partnership may be inferred.

We found no evidence to suggest a conspiracy. We found no gunmen or evidence of a gunman. We found no gun, no shells, no impact of shots from the grassy knoll. We found no entry wounds from the front into any person, including President John Kennedy and Gov. John Connally. We found no bullets or fragments of bullets that did not belong to the Oswald weapon. And we found little, if any, evidence of partnership with Lee Harvey Oswald. Few credible ear-witness accounts back up the marginal findings of our acoustics experts.

According to the committee's own investigation of the statements taken from 178 persons in Dealey Plaza that were available to the Warren Commission, we found the following:

Forty-nine of them (27.5 percent) believed the shots had come from the Texas School Book Depository; 21 (11.8 percent) believed the shots had come from the grassy knoll; 30 (16.9 percent) believed the shots had originated elsewhere; and 78 (43.8 percent) were unable to tell which direction the shots were fired from. Only four individuals believed shots had originated from both the grassy knoll and the Texas School Book Depository. (P. 32, draft final report of the House Select Committee on Assassinations.)

One of the eyewitnesses referred to in the committee's final report as illustrative of those present in Dealey Plaza on November 22, 1963, who believed a shot came from the grassy knoll was the late S. M. Holland, a signal supervisor for the Union Terminal Railroad. Holland was standing on top of the overpass above Elm Street, looking down on Elm Street. The committee will quote from a deposition by Mr. Holland given to the Warren Commission on April 8, 1964, to substantiate its theory of a fourth shot. For the record, let me share part of S. M. Holland's affidavit taken shortly after the assassination:

I am signal supervisor for the Union Terminal and I was inspecting signal and switches and stopped to watch the parade. I was standing on top of the triple underpass and the President's car was coming down Elm Street and when they got just about to the arcade I heard what I thought for the moment was a firecracker and he slumped over and I looked over toward the arcade and trees and saw a puff of smoke come from the trees and I heard three more shots after the first shot but that was the only puff of smoke I saw. I immediately ran around to where I could see behind the arcade and did not see anyone running from there. But the puff of smoke I saw definitely came from behind the arcade through the trees. After the first shot the Secret Service man raised up in the seat with a machinegun and then dropped back down in the seat. And they immediately sped off. Everything is spinning in my head and if I remember anything else later I will come back and tell Bill. (P. 387, "November 22, 1963: You Are the Jury," by David W. Belin, Esquire, affidavit by S. M. Holland.)

Notice the confusion of his account. First, he hears what he believes is a firecracker, then sees a "puff of smoke" coming from the trees, then three more shots. But he sees only one "puff of smoke" after the first shot, not the third. He runs around behind the arcade and sees no one. Notice also the reference to the Secret Service man rising up within the car itself with a machinegun. I doubt that we should place much accuracy on this witness.¹

I saw little evidence of a conspiracy. I saw little evidence of a second shooter. And until further study of the acoustics work is undertaken, I will stand by my belief that Lee Harvey Oswald acted as the lone assassin.

B. How accurate is the 95 percent or better probability of the alleged grassy knoll shot?

I agree with the words of Dr. Marvin E. Wolfgang, professor of sociology and law, University of Pennsylvania, in his letter dated January 2, 1979:

I think the works of Barger and of Weiss and Aschkenasy have been exciting from a scientific perspective. I hope their studies will be published in traditional scientific journals where they will receive the usual form of scrutiny. However, I think it is premature and inappropriate for a Federal group, like your committee, to make a major policy decision on the basis of their findings.

I also agree with the words of Dr. Francis K. Davis, dean of science, Drexel University, in his letter dated January 8, 1979:

Lacking something like that [a scientific report] to look at critically, I certainly think that the 95 percent confidence claim is grossly exaggerated, and it would take considerably more scientific evidence to convince me and most other scientists that their conclusions were valid. As it is, I believe that their chi-square probability test indicates a 95 percent probability that certain events on the tape could not occur by chance, but not that there is a 95 percent probability that a shot came from the grassy knoll.

Probabilities are based on history. While the acoustics study is a scientifically derived body of data, there is little precedence as to how to contextualize the acoustics study. Further, the test firings in Dallas, which are the basis for the comparison study, failed to fully utilize all possible shot directions and/or locations. Many, many questions remain, such as:

- (1) On what universe of data are the 95 percent probabilities based?
- (2) How adequate were their consideration of temperature and temperature gradients in their findings?
- (3) Could strong thermal gradients in Dealey Plaza markedly change the direction of sound waves? Even to the point of producing an acoustical mirage?
- (4) Was the same analysis done on shots 1, 2 and 4, that was done on apparent shot 3?

¹ For the comment of the committee on this observation, see IB reference No. 155.

(5) Should an echo pattern history be developed by looking at other locales and other positions in Dealey Plaza to establish the uniqueness of the pattern or apparent shot number 3?

(6) How certain are we of the identity of the other sounds on the tape? The bell sound? The sirens?

(7) Are we 95 percent confident that we have the right motorcycle in the right location at the right time?

(8) Could there have been more than one motorcycle police microphone receiving sounds at the same time and making an acoustical collage?

(9) Was the December 13, 1978, report of Anthony J. Pellicano carefully reviewed prior to our December 29, 1978, finding?

(10) Do we know enough to make our judgment on conspiracy accurate?

To the last question, I say no. I call upon the Congress of the United States to immediately request a full and proper restudy of the acoustics project. I suggest that this be the first step toward completing our investigation. This restudy must involve a full review of the work of James E. Barger, Mark R. Weiss, and Ernest Aschkenasy. After more analysis, we may be able to better judge what level of merit we should place on this piece of evidence. As indicated by Dr. Wolfgang:

That a shot was made from the grassy knoll is not ruled out by any of the acoustical testimony. But neither is it confirmed by the testimony I have read or heard. (Letter to Congressman Edgar, dated January 2, 1979.)

C. Did we rush to a conspiratorial conclusion?

I believe that exhibit "A" will clearly demonstrate a rush to conspiratorial conclusions. You will note three sets of black letter findings. The first in column 1, was presented to the committee for its consideration on Monday, December 18, 1978 (the date of the draft was December 13, 1978). It was on that Monday that we met in executive session to discuss our findings and come to our final conclusions. It was also that Monday when Weiss and Aschkenasy interrupted our session to share their final report. Less than 2 weeks later, on December 29, 1978, we met in public session to review the report finding. That evening at approximately 6 p.m., we began to consider draft No. 2, dated December 29, 1978, and found in column 2 of exhibit "A." The final released document appears in column 3. Note the changes within such a short span of time.

I believe the Members of Congress did not have sufficient time or expertise to ask the tough questions. I believe the committee failed to properly consider how much weight to assign this evidence due to our own limitations of time and familiarity with the science. I believe we rushed to our conclusions and in doing so, overshadowed many important contributions which other aspects of our investigation will have on history. We did a great job up to the last moment, when in our focus on the acoustics, we failed to give proper weight to other findings of the investigation.

In the King case :

D. Should James Earl Ray have been brought back before the committee for questioning in the area of conspiracy?

Yes. One of the major holes left open in the final days of our investigation into the death of Dr. Martin Luther King was our failure to bring James Earl Ray back before our panel in the November public session. Our final report will be filled with important information taken from hours of extensive private sessions with Mr. Ray at Brushy Mountain State Penitentiary in Tennessee. But, in August when he first appeared in public, we had implied strongly to him and his attorney, Mark Lane, that he would be given an additional opportunity to appear in public session to respond to questions in areas such as conspiracy and his activities after the assassination and before his capture in London.

While I believe that James Earl Ray was the assassin of Dr. King, and while I agree that our committee did an extensive investigation into all aspects of the crime, and while I believe that our conclusions would not have been altered by whatever Mr. Ray would have shared in additional public session, I think we failed to give the American public full access to the key actor in what I believe was an assisted effort to kill Dr. King.

E. Where do we go from here?

1. I recommend that the Congress immediately order a full and detailed restudy of the acoustics work, perhaps through the National Science Foundation. Included in this restudy, a panel of scientific experts with knowledge of acoustics should be employed to monitor the methodology used in the study to insure accuracy and determine the level of weight which should be given to this evidence.

2. I recommend an immediate meeting with the President and the Attorney General by all members of our committee to outline in detail our findings.

3. If after restudy, the science of acoustics is confirmed along the lines of Barger, Weiss, and Aschkenasy's report, I recommend the appointment of a special investigator to pursue the leads developed by our committee in the Kennedy case.

4. I recommend that the Justice Department immediately reopen its investigation into the death of Dr. Martin Luther King and focus on the possible St. Louis conspiracy and the possible involvement of others in this death.

5. I recommend that the appropriate committees of Congress which have jurisdiction over science and criminal justice, immediately begin to explore the value of acoustics as a forensic science and possible new tool in the criminal investigation field.

6. I recommend that the Congress weigh carefully the experience of the House Select Committee on Assassinations in order to evaluate the pros and cons of the use of special committees for the purpose of criminal justice investigations. Do we have the tools to fully handle all legal rights?

ACKNOWLEDGMENTS

I would like to acknowledge my appreciation to the following individuals whose sacrifice of time and energies made a significant contribution to this report:

Dr. Francis K. Davis, Dean of Science, Drexel University, College of Science, Philadelphia, Pa. 19104 (215-895-2620).

Dr. Arthur E. Lord, Jr., Professor of Physics, Drexel University, Philadelphia, Pa. 19104.

Dr. Marvin E. Wolfgang, Professor of Sociology and Law, University of Pennsylvania, Center for Studies in Criminology and Criminal Law, 3718 Locust Walk CR, Philadelphia, Pa. 19104.

Mr. Shanin Specter, 3417 Warden Drive, Philadelphia, Pa. 19129 (student at Haverford College in Haverford, Pa.).

David W. Belin, Esquire, Belin, Harris, Helmick & Lovrien, 2000 Financial Center, Des Moines, Iowa 50309 (515-243-7100).

EXHIBIT A—(BLACK LETTER FINDINGS)

Draft, Dec. 13, 1978, final report of the Select Committee on Assassinations, U.S. House of Representatives, 95th Cong., 2d sess., vol. 1, findings and recommendations

Draft findings, Dec. 29, 1978, 6 p.m.

Final report of the Select Committee on Assassinations, U.S. House of Representatives, 95th Cong., 2d sess., summary of findings and recommendations, Dec. 29, 1978 (but released on Dec. 30, 1978)

(1)

(2)

(3)

FINDINGS AND RECOMMENDATIONS OF THE SELECT COMMITTEE ON ASSASSINATIONS—TABLE OF FINDINGS

FINDINGS

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| <p>I. Nature and scope of the investigation.</p> <p>II. Findings of the Select Committee on Assassinations in the Assassination of President John F. Kennedy.</p> <p style="padding-left: 20px;">A. Lee Harvey Oswald was the assassin of President Kennedy.</p> <ol style="list-style-type: none"> 1. President Kennedy was struck by 2 shots fired from behind the President. 2. The shots which struck President Kennedy were fired from the 6th floor window of the Texas School Book Depository Building. 3. Lee Harvey Oswald, on Nov. 22, 1963, shortly before the assassination, had access to and was present on the 6th floor of the Texas School Book Depository Building. 4. Lee Harvey Oswald owned the rifle from which the shots that killed President Kennedy were fired. 5. Lee Harvey Oswald's other actions are more consistent with a finding that he shot President Kennedy than a finding that he did not shoot the President. <p style="padding-left: 20px;">B. There is insufficient evidence to find that there was a conspiracy to assassinate President Kennedy.</p> | <p>I. Findings of the Select Committee on Assassinations in the Assassination of President John F. Kennedy.</p> <p style="padding-left: 20px;">A. Lee Harvey Oswald fired 3 shots at President John F. Kennedy. The 2d and 3d shots struck the President. The 3d shot killed the President.</p> <ol style="list-style-type: none"> 1. President Kennedy was struck by 2 rifle shots fired from his rear. 2. The shots that struck President Kennedy from his rear were fired from the 6th floor window of the Texas School Book Depository Building. 3. Lee Harvey Oswald owned the rifle that was used to fire the shots from the 6th floor window of the Texas School Book Depository Building. 4. Lee Harvey Oswald, on Nov. 22, 1963, shortly before the assassination, had access to and was present on the 6th floor of the Texas School Book Depository Building. 5. Lee Harvey Oswald's other actions tend to support the conclusion that he killed President Kennedy. <p style="padding-left: 20px;">B. Acoustical evidence establishes a high probability that 2 gunmen, acting as part of a conspiracy, fired at President John F. Kennedy; other scientific evidence does not preclude the possibility of 2 gunmen firing at the President, but does negate some specific conspiracy allegations.</p> | <p>I. Findings of the Select Committee on Assassinations in the Assassination of President John F. Kennedy in Dallas, Tex., Nov. 22, 1963.</p> <p style="padding-left: 20px;">A. Lee Harvey Oswald fired 3 shots at President John F. Kennedy. The 2d and 3d shots he fired struck the President. The 3d shot he fired killed the President.</p> <ol style="list-style-type: none"> 1. President Kennedy was struck by 2 rifle shots fired from behind him. 2. The shots that struck President Kennedy from behind him were fired from the 6th floor window of the southeast corner of the Texas School Book Depository Building. 3. Lee Harvey Oswald owned the rifle that was used to fire the shots from the 6th floor window of the southeast corner of the Texas School Book Depository Building. 4. Lee Harvey Oswald, shortly before the assassination, had access to and was present on the 6th floor of the Texas School Book Depository Building. 5. Lee Harvey Oswald's other actions tend to support the conclusion that he assassinated President Kennedy. <p style="padding-left: 20px;">B. Scientific acoustical evidence establishes a high probability that 2 gunmen fired at President John F. Kennedy. Other scientific evidence does not preclude the possibility of 2 gunmen firing at the President. Scientific evidence negates some specific conspiracy allegations.</p> |
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EXHIBIT A—(BLACK LETTER FINDINGS)—Continued

Draft, Dec. 13, 1978, final report of the Select Committee on Assassinations, U.S. House of Representatives, 95th Cong., 2d sess., vol. 1, findings and recommendations

Draft findings, Dec. 29, 1978, 6 p.m.

Final report of the Select Committee on Assassinations, U.S. House of Representatives, 95th Cong., 2d sess., summary of findings and recommendations, Dec. 29, 1978 (but released on Dec. 30, 1978)

(1)	(2)	(3)
	C. The committee is unable, on the basis of the available evidence, to identify the other gunman or the extent of the conspiracy.	C. The committee believes, on the basis of the evidence available to it, that President John F. Kennedy was probably assassinated as a result of a conspiracy. The committee is unable to identify the other gunman or the extent of the conspiracy.
2. The committee believes, on the basis of the evidence available to it, that the Soviet Government was not involved in the assassination of President Kennedy.	1. The committee believes, on the basis of the available evidence, that the Soviet Government was not involved in the assassination of President Kennedy.	1. The committee believes, on the basis of the evidence available to it, that the Soviet Government was not involved in the assassination of President Kennedy.
3. The committee believes, on the basis of the evidence available to it, that the Cuban Government was not involved in the assassination of President Kennedy.	2. The committee believes, on the basis of the available evidence, that the Cuban Government was not involved in the assassination of President Kennedy.	2. The committee believes, on the basis of the evidence available to it, that the Cuban Government was not involved in the assassination of President Kennedy.
4. The committee believes, on the basis of the evidence available to it, that anti-Castro Cuban organizations were not involved in the assassination of President Kennedy.	3. The committee believes, on the basis of the available evidence, that anti-Castro Cuban groups were not involved in the assassination of President Kennedy.	3. The committee believes, on the basis of the evidence available to it, that anti-Castro Cuban groups, as groups, were not involved in the assassination of President Kennedy, but the available evidence does not preclude the possibility that individual members may have been involved.
5. Organized crime as an institution was not involved in the assassination of President Kennedy. On the basis of the evidence available to it, the committee is not able to determine if individual members of it were involved in the assassination.	4. The committee believes, on the basis of the available evidence, that the national syndicate of organized crime was not involved in the assassination of President Kennedy.	4. The committee believes, on the basis of the evidence available to it, that the national syndicate of organized crime, as a group, was not involved in the assassination of President Kennedy, but the available evidence does not preclude the possibility that individual members may have been included.
6. The Secret Service, Federal Bureau of Investigation and Central Intelligence Agency were not involved in the assassination of President Kennedy.	5. The Secret Service, Federal Bureau of Investigation and Central Intelligence Agency were not involved in the assassination of President Kennedy.	5. The Secret Service, Federal Bureau of Investigation and Central Intelligence Agency were not involved in the assassination of President Kennedy.

DISSENT AND ADDITIONAL REMARKS OF HON. HAROLD S. SAWYER TO
THE FINAL REPORT OF THE SELECT COMMITTEE ON ASSASSINATIONS

SUMMARY OF FINDINGS AND RECOMMENDATIONS

As filed December 29, 1978

The summary of findings and recommendations of the Select Committee on Assassinations having been set forth in summary outline form, this dissent follows the same form adopting the numerical and alphabetical paragraph designations of the report, to which a dissent and disagreement is intended to apply.

I disagree with the following designated sections of the summary report:

Kennedy

- (1) Paragraph IB.
- (2) Paragraph IC.
- (3) That portion of subparagraph IC3 which reads "but that the available evidence does not preclude the possibility that individual members may have been involved."
- (4) That portion of IC4 where it is stated on the fifth line "as a group" and its concluding clause "but that the available evidence does not preclude the possibility that individual members may have been involved."
- (5) That portion of subparagraph ID wherein said subparagraph states (a) "varying degrees of," (b) "President John F. Kennedy did not receive adequate protection." and (c) "The investigation into the possibility of conspiracy in the assassination was inadequate. The conclusions of the investigations were arrived at in good faith, but presented in a fashion that was too definitive."
- (6) That portion of subparagraph ID1 wherein it states "The Secret Service was deficient in the performance of its duties."
- (7) Subparagraph ID1(a).
- (8) Subparagraph ID2.
- (9) Subparagraph ID3(c).
- (10) That portion of subparagraph ID5 in that it uses the phrase "varying degrees of."
- (11) Paragraph ID5(b). I agree, however, that information relating to the attempted assassination of Premier Castro which could have been a relevant consideration was withheld from the Warren Commission by the Central Intelligence Agency.
- (12) Paragraph ID5(d).

King

- (1) Paragraph IIB.
- (2) Paragraph IIE2 insofar as it states "but failed to investigate adequately the possibility of conspiracy in the assassination. The Fed-

eral Bureau of Investigation manifested a lack of concern for constitutional rights in the manner in which it conducted parts of the investigation."

RECOMMENDATIONS OF THE SELECT COMMITTEE ON ASSASSINATIONS

(1) Section IV in its entirety.

Attached hereto are additional remarks together with my originally submitted proposed findings and recommendations which I continue to urge.

ADDITIONAL REMARKS

Having dissented from the committee's apparent acceptance of the validity and reliability of the expert acoustical testimony presented to the committee and essentially those other portions of the findings and recommendations flowing directly from such acceptance, I find it incumbent to explain (or perhaps in this context "amplify" would be a more appropriate word) the reasons for my disagreement.

As a threshold premise, it should be noted that I believe it is important that despite the lapse of 15 years and at least two independent investigations, one by the Warren Commission and the other by this committee, which by any investigatory standards were exhaustive, no other evidence or even what might be termed a "scintilla" of evidence has been uncovered which would substantiate a conspiracy or which tends to negate the fact that Oswald operated alone. Those facts, which have been highly exploited by the cult of assassinologists and writers, namely errors and inadequacies in original autopsy testimony, the alleged invalidity of the "single-bullet" theory, the alleged "cropping" of the so-called backyard pictures, and the apparent backward motion of the President's head as shown in the Zapruder film, have been, in my opinion, totally discredited or explained beyond any reasonable doubt by evidence developed by this committee.

There were a number of witnesses present in Dealey Plaza who believed that they heard one or more shots from the direction of the grassy knoll. There were a larger number who believed that all of the shots came from this School Book Depository, and there were others who just did not have an opinion as to the point of origin of the shots. One witness believed he saw a puff of smoke in the area of the grassy knoll. If it is borne in mind that none of these listeners were anticipating a shot and in fact, few if any recognized the initial shot or shots as such, small weight can be given to those beliefs. This weight is further diminished by the echo potentials of Dealey Plaza, being ringed on three sides by tall buildings, and the wide divergence of beliefs expressed by those present. The so-called puff of smoke is in my opinion of little or no evidentiary value in that rifles using modern smokeless powder do not under normal conditions emit visible smoke puffs when fired.

The committee is therefore in a position of being asked on the sole basis of the opinion of three experts, all of whom are presently of the same view and persuasion, to make the momentous decision to disregard everything else and conclude that a second gunman was situated on and fired at the President from the grassy knoll. This I do not find it possible to do.

The tape, or more properly, the dictabelt which is the basis of the expert acoustical testimony is now 15 years old, its chain of custody is less than certain and it has been played a wholly indeterminate number of times. To the unaided ear, the dictabelt appears to contain only the noise of a motorcycle, at one point the faint noise of sirens and at another the faint ringing of chimes. Nowhere on it is there any noise or series of noises even suggesting gunfire. No acoustical expert has testified that even his trained ear had detected such. All of the acoustical expert opinions are based upon the tape or print-out of a computer showing three groupings of oscilloscope-like stylus amplitude markings which remain after the filtering out of the motorcycle noise from the dictabelt. The acoustical experts acknowledged that because of the "cutoff point" of a radio transmitter, the full amplitude of loud sounds would not have been transmitted to and recorded on the dictabelt. For this reason, Dr. James E. Barger, the committee's initial acoustical expert was unable to say with either certainty or any degree of conviction whatever, that the bursts of amplitude shown on the computer tape were in fact, either gunshots or even sounds similar to gunshots.

Other difficulties also exist. The transmitter which was stuck on "open" position, the transmissions of which are recorded on the dictabelt, were on Dallas police channel 1, whereas the entire motorcade, including of course all of its escorting police, were guarding and transmitting on the specially assigned Dallas police channel 2, so we must make the initial assumption in accepting the validity of the acoustical testimony, that the officer on whose motorcycle the transmitter was located was tuned to the wrong channel. In light of the known possibilities of human error, this would perhaps be acceptable if the transmission in question had occurred in the early stages of the motorcade. The transmission with which we are concerned, however, occurred virtually at its end and therefore one is required not only to accept the occurrence of such human error, but also its tenacious persistence throughout the entire motorcade during which time the officer on whose motorcycle it was located would for some reason have to remain oblivious to the fact that he was not receiving the rather continuous talk on the motorcade channel and also remain oblivious to the fact that he was receiving constant and totally extraneous communications which were continuously being sent over channel 1, the regular Dallas police channel.

The officer who has been identified by the committee staff as the rider of the motorcycle on which the stuck transmitter was located has testified that he was in fact guarding the correct channel, namely channel 2, and denies that he was equipped with the stuck transmitter.

The same officer, together with other police officials located near the Presidential limousine at the time the shots were fired in Dealey Plaza all agree that sirens were activated, and motorcycles and other vehicles were subjected to emergency acceleration within not more than a few seconds following the shots having been fired. No change in the rhythm or intensity of the motorcycle noise appears anywhere on the relevant dictabelt. There is no audible sound even resembling sirens until a full 2 minutes following the last of what is interpreted by the acoustical experts as the shots. When this faint noise of sirens first be-

comes audible, approximately 2 full minutes following the so-called shots, they seem to be approaching, cresting, and then receding. These several facts would, therefore, be more consistent with the transmitter being situated on a motorcycle located somewhere between Dealey Plaza and Parkland Hospital, which motorcycle would incidently have been properly guarding channel 1.

As stated earlier, the dictabelt also contains the faint sound of chimes. Despite a search by our staff and despite a wide ranging check with others who were familiar with the Dealey Plaza area and environs 15 years ago, no chimes have been discovered or were found to have existed 15 years ago which were audible in Dealey Plaza. On the other hand, they located one set of known chimes which were regularly used and did exist 15 years ago and do now exist in the area between Dealey Plaza and Parkland Hospital.

It is also worthy of note that the police radio monitor or dispatcher within minutes following the shots having been fired in Dealey Plaza, called a squad car on police channel 1 and requested that the car go to an area lying between Dealey Plaza and Parkland Hospital and have a motorcycle officer in that vicinity turn off his transmitter which was stuck in the transmit position on channel 1 and was interfering with central police communications on that channel.

Laying aside the physical and circumstantial items of evidence alluded to above, the testimony of the experts themselves is somewhat disturbing. When Dr. Barger first presented to the committee, in executive session, the computer tape purporting to show three spaced amplitude bursts or groupings, he stated that he did not know whether or not these groupings represented gunshots and explained the problems of the volume cutoff point or limitations of transmitters. He observed that the third or last amplitude grouping on the tape sequence consumed approximately one and one-half again the time span of each of the earlier two which puzzled him, but on which he could not express an opinion whatever as to whether or not it represented the noise of two partially overlapping shots. He stated that to answer this question it would be necessary to locate the position of the motorcycle with the offending transmitter at the time of the shots. He stated that if this could be accomplished, he could then specifically answer the question as to whether this third burst represented one or two shots.

On this basis, the committee authorized Dr. Barger to conduct live firing tests in Dealey Plaza. To accomplish this, live ammunition was fired from a Mannlicher-Carcano rifle from the sixth floor window of the Texas School Depository aimed at sandbags which approximated the position of the President at each of the three known shots. A series of microphones with recorders were spaced at intervals along the parade route as it entered and traversed Dealey Plaza.

My next information on the results of these tests was when Dr. Barger, some months later, appeared before the committee in public testimony. He stated then that he thought the amplitude bursts shown on the tape were gunshots (but could not be certain), and he thought there was a "50-50 chance" that the third and last burst was either one or two shots. Dr. Barger testified that through his firing tests he had satisfied himself that he had located the approximate position of the motorcycle; namely, 120 feet behind the President's limousine. I found

the uncertainty of his public testimony very disappointing and at variance with what I had understood to be the assurance given by him in executive session. I felt impelled at that time to comment on the record at that time that as a lawyer, I could not even commence a civil suit based on such vague testimony, let alone institute criminal proceedings.

The committee, to my knowledge, received no further information on the acoustical evidence until during the closing weeks of the committee's existence, Dr. Barger reappeared in conjunction with two colleagues from the faculty of Queens College, N.Y.; Dr. Mark Weiss and Dr. Ernest Aschkenasy. Dr. Weiss acted as spokesman for the two and testified that he and his colleagues had accepted as a "given" the motorcycle's location as established by Dr. Barger in his Dealey Plaza test. That such data taken together with the other raw data earlier developed by Dr. Barger was further developed with the use of simple mathematics; namely, algebra and geometry. This exercise evolved from this same data, predicated on which Dr. Barger had been unable to arrive at any firm conclusion, a 95 percent or greater degree of certainty not only that the third amplitude burst constituted two separate noises but that they were in fact two shots, each from a high-power supersonic rifle, and that the first of the two was fired from a point on the grassy knoll from a point determined within plus or minus 10 feet. Dr. Barger then, without reservation, endorsed these conclusions and stated that he concurred in them. All three experts appearing en banc stated in response to a question I asked that we would not be able to find a qualified acoustics expert who would disagree with either their conclusions or the degree of certainty of these conclusions.

In weighing this testimony, laying aside questions of physical or circumstantial evidence alluded to earlier in these remarks, I find it very difficult to accept the fact that a gentleman of Dr. Barger's scientific qualifications would have appeared for public testimony with ample time to review and study the results of his tests in Dealey Plaza without having applied all of the techniques that a qualified acoustics expert would or could apply to all of the various data in his possession; after all, at that time he was under oath giving what was then his final expert opinion on the matter.

In his testimony, Dr. Weiss said that all of his mathematical computations which resulted in his positive conclusions were predicated upon the position of the motorcycle with the stuck transmitter as determined by Dr. Barger in his tests in Dealey Plaza.

Dr. Weiss when asked, however, as to whether all of his conclusions were then dependent upon the accuracy of this given location, stated that unless he were shown an exact replica of Dealey Plaza elsewhere in Dallas that his computations had confirmed or independently verified the correctness of Dr. Barger's motorcycle location.

While I am acquainted with "bootstrap" scientific analytical procedure, it would appear to me that there are far too few, if any, established or verifiable facts in this entire acoustical scenario to permit the use of bootstrap analysis to determine or sufficiently verify a given predicate to permit even reasonable reliability of the conclusions.

As a committee, we were presented with the expert acoustical testimony which I have described by three experts who were all in agreement with each other, one of whom had somewhat inexplicably drastically modified his earlier testimony to conform with that of the other two on the basis of merely an exercise in simple mathematics.

The committee did not have the benefit of either a wholly independent consultant knowledgeable in the science of acoustics or the testimony of a qualified acoustics expert who disagreed with the expert testimony and conclusions which were presented (which despite the statement of the acoustics witness that did appear, I cannot, from long experience, believe are not available or could not easily be found).

Under the foregoing circumstances and giving due weight to both items of physical and circumstantial evidence which I deem to be contradictory to the expert opinions, and what I find to be a less than satisfactory series of presentations by Dr. Barger, and the unper-
satisfactory conclusions of Dr. Weiss and his colleague from Queens College, I do not accept the acoustical testimony and the conclusions flowing from it. Instead, I remain persuaded of the accuracy of my earlier submitted proposed findings of facts and recommendations, a copy of which for reference I attach hereto.

HAROLD S. SAWYER.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 6, 1978.

To: Hon. Louis Stokes, Chairman, Select Committee on Assassinations.
From: Hon. Harold Sawyer.

I am prepared to vote for the following findings of fact:

Kennedy

1. Lee Harvey Oswald was the lone assassin of President Kennedy, firing three shots from the sixth story window of the School Book Depository. The first shot missed completely. The second shot (the media dubbed "pristine bullet") entered the President's back to the right of his spine and below the shoulder line and emerged at the center base of the neck, the same bullet continued to enter the right back of Governor Connally traversing his chest, shattering one rib and emerging approximately one inch below the right nipple, then shattering his right wrist and coming to rest beneath the skin of his right thigh. This was the bullet found on the stretcher used to transport Governor Connally at the hospital. This so-called single bullet theory has been conclusively established in my opinion by the testimony using still photographs taken at the scene showing the lateral positions and vertical elevation differential of the President and Governor Connally in the limousine.

It also was established by the neutron analysis of the bullet fragments and the estimates of the velocity of the bullet at various points, including its estimated velocity when it struck Governor Connally's wrist, such velocity being substantially below its impact distortion level and very substantially above the velocity impact required to shatter bone.

The third bullet entered the rear top of the President's head and shattered the entire right hemisphere of the brain and skull and the several pieces of it were found in the limousine. No other shots were fired from any other place. The origin of the shots that struck the President were established conclusively by the reverse projection from the wounds developed by the NASA expert and the characteristics of the wounds, including the beveling in the skull wound, definitely established that both bullets struck from the upper right rear of the President. The Army film taken in 1948 of the goat shooting episodes convincingly explained the rearward reaction of the President's head as seen in the Zapruder film and very convincingly demonstrates that it could not have been caused by the frontal impact of a bullet, and equally convincingly demonstrates that it was caused by the convulsion of upper dorsal musculature receiving false signals from an exploding brain.

2. Oswald acted alone. There is no evidence of any coconspirators. His trip to Mexico and visit to the Cuban and/or Soviet Embassies were not shown to have any significance vis-a-vis the assassination and the so-called "mystery man" photograph was merely the product of compounded mistakes.

3. Oswald was probably stopped by Officer Tippit because of suspicious demeanor and behavior to which an officer such as Tippit would be extremely sensitive. The probabilities are that at the time of his apprehension by Tippit, Oswald was en route to the home of the person identified by the Dallas press as being the Communist defector or informant who through information provided by the FBI, had destroyed the Communist Party in Texas, which story appeared on the same page as the story making reference to the New York lawyer who was defending Communists in New York and who Oswald requested be retained as his attorney immediately following his arrest, and which page also contained the announcement and description of the President's projected visit to Dallas. The home of this informant was only two short blocks further up the street on which Oswald was proceeding when apprehended by Tippit. The fact that Oswald left his wedding ring in a teacup at the Payne home when he left on the morning of the assassination would be indicative of a total and determined suicidal effort.

4. Oswald's motive was a psychotically proportioned egomania and drive for recognition and importance.

5. As to agency performance, Oswald's presence in Dallas should have been made known to the Secret Service and more effective use should have been made of local police and/or screened volunteers in being present on the floors of such buildings as the School Book Depository and particularly in such areas as the so-called grassy knoll which was a perfect sniper location with ready escape routes.

A further comment on agency performance is in order on the Yuri Nosenko (the KGB defector) episode. The taking into custody of Mr. Nosenko within the State of Virginia without resort to a court and only under the most tenuous color of authority was itself surprising. The then building of a special cell described as a "vault" by the CIA themselves and holding him there in solitary confinement subjected to

continuous mental, psychological, and actual physical torture for a period of over 3 years would have been absolutely unbelievable had not the CIA themselves together with its then Director, Richard Helms, fully and in horrible detail admitted it. Mr. Nosenko was paid off with a six-figure cash settlement and apparently a lifetime "consulting" stipend of about \$35,000 per year all surreptitiously with taxpayers' funds, as opposed to either killing him or destroying his brain with a drug ministrations which were alternatives that were considered. I believe there is a need for the availability of criminal prosecution to prevent this intolerable type conduct by agencies of the U.S. Government.

King

1. James Earl Ray was the lone assassin of Martin Luther King, Jr. He stalked King for a number of days prior to the assassination.

2. James Earl Ray obtained his financing through participation by him in a series of bank robberies, the modus operandi of which and his presence at the times and places, are quite circumstantially persuasive. Raoul was a fictitious character, and based on the sequence of numerous meetings, was used as a substitute identity to some degree for one or both of James' two brothers.

3. I do not accept as reliable the testimony of Byers with respect to the \$50,000 offer for the killing of King. I feel this story was totally fabricated by Byers and when first used by him, some years after the assassination, was used to "smoke out" the identity of one of his associates as an FBI informant. It had nothing to do with the assassination.

4. The motivation of James Earl Ray for the assassination was racial hatred and bias reinforced and made respectable in his mind in part by the COINTEL program waged publicly (but covertly as to source) by the FBI against King. This, I believe, reinforced his perception that he would become a national hero with much of the power structure of the country and particularly the South, would serve a nominal length of time, if at all, and could reasonably expect handsome rewards of various kinds and from various sources in the future for his deed.

5. I believe that consciously or subconsciously, Ray deliberately dropped the plastic bag of evidence adjacent to the scene for the purpose of assuring his identification with the commission of the crime.

6. Ray's trips into Mexico involved smuggling and were unrelated to the assassination and he had no other assistance in the planning, execution, or escape from the assassination.

7. The testimony of the young man in executive session who claimed he had been hired to kill James Earl Ray is totally without credibility.

8. Ray's escape from prison was not planned or executed with the assassination of King in mind.

9. Ray obtained his Canadian passport by stealing the identification of Canadian citizens through a methodology he had probably heard described in prison and with the exercise of no more cunning and ability than the ordinary criminal would be capable of.

10. The failure of the Memphis police to institute roadblocks and other shortcomings of which they have been accused were merely the probable foreseeable fallout of the much greater concern of destructive rioting and general civil disobedience that they were immediately faced with upon news of King's assassination in the city.

11. The behavior of the FBI throughout the extended preassassination period vis-a-vis King was shocking and unbelievable for an agency of the U.S. Government, and I believe it lent its contribution to the twisted perception of James Earl Ray that he would become something of a national or at least a regional hero if he carried out the dictate or inclinations of his racial hatred of King by an assassination.

LEGISLATIVE RECOMMENDATIONS

1. I think any employee of any agency of the United States should be subject to conviction of a felony carrying a maximum term of 5 years and \$10,000 fine if acting under the color of the authority of his position, he either orders, carries out, or participates in the carrying out of depriving any person within the United States of their freedom without due process of law.

2. I believe it should be made a Federal crime carrying a 5 year maximum sentence and a \$10,000 fine for any member of an agency of the Federal Government to either order, carry out, or participate in the carrying out of any program designed to discredit, humiliate, or harass any person in the United States who is not a fugitive from justice.

