

Assassination Inquiry Stumbling

By Bill Choyke

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The two-week-old House investigation into the assassinations of former President John F. Kennedy and civil rights leader Dr. Martin Luther King Jr. has already run into major difficulties.

The problems in the fledgling inquiry stem from the selection of a staff director and the role a well-known Warren Commission critic has played in the investigation so far.

The controversy has focused on Washington attorney Bernard Fensterwald, who for more than a year has closely advised probe chairman Rep. Thomas Downing, D-Va., on the political assassinations. Fensterwald, said one source, has been "fairly close to him (Downing) every step of the way."

Committee members involved in the House investigation report that Downing had tentatively selected Fensterwald as the committee's staff director, only to back away from the choice after two congressmen and others keenly interested in the assassinations raised a fuss.

Committee Vice Chairman Rep. Henry Gonzalez, the Texas Democrat who introduced the first House resolution calling for an assassination inquiry, has privately voiced his strong opposition to Fensterwald having any role on the committee, even as an unofficial adviser.

IN AN INTERVIEW, Downing merely acknowledged that Fensterwald was one of a dozen persons considered to head the panel's staff. However, the Virginia lawmaker, who is retiring after 18 years in the House, said Fensterwald has asked that his name be withdrawn from consideration.

Opposition to Fensterwald is based partly on his affiliation with convicted King assassin James Earl Ray, whom Fensterwald defended, and the belief that any committee role would be in conflict with the privileged lawyer-client relationship. Moreover, Fensterwald has — as another Warren Commission critic termed it — some serious "image problems" dealing with his assassination-related activities.

Fensterwald heads a citizen's group called the Committee to Investigate Assassinations. The Tennessee native was also the attorney for Watergate burglar James McCord.

Additionally, observers close to the Kennedy-King House probe are concerned with circumstantial evidence on the public record that raises questions about connections between Fensterwald and the CIA.

FENSTERWALD is a law partner with Robert McCandless, whose former law firm even Fensterwald concedes represented

not know of CIA involvement with the firms.

The questions surrounding Fensterwald are intensified by little-noticed Senate Watergate committee testimony in May 1973, when McCord's first attorney, Gerald Alch, raised the possibility of previous ties between McCord, a former CIA agent, and Fensterwald.

Alch, a former associate of Boston attorney F. Lee Bailey, told the Senate committee that the first time he ever heard of Fensterwald was when McCord, his client, told him to "call a man by the name of Bernard Fensterwald, whom he said might be very helpful in raising bail."

Alch, who was subsequently fired and replaced by Fensterwald, said the Washington attorney had told him that he could probably meet the \$100,000 bail in a few days. Then about two weeks later, when Alch conveyed to Fensterwald his client's thanks for the effort on his behalf, Fensterwald replied, according to Alch: "I don't see how he can send his thanks to me because I never met the man."

Testifying under oath, Alch then told the Senate committee that he never was certain whether McCord and Fensterwald knew each other prior to his making the initial phone call.

In telephone interviews, the versions of the two attorneys today recalling those Watergate conversations three years ago sharply clash.

FENSTERWALD SAYS that Alch called him to ask for assistance because "I knew Jerry Alch." The Boston attorney, meanwhile, still maintains that he had never heard of Fensterwald until the day McCord directed him to call for bail.

Fensterwald's committee on investigations is one of a number of independent groups which have sprung up around the country in recent years but is set apart from the others because of fears that it is a CIA front.

In a telephone interview, Fensterwald first acknowledged that he had connections with the CIA and then scoffed at the suggestion.

"I am on the payroll," he said. However, when pressed, he said he had "nothing to do with the CIA."

"There is absolutely no reason to think I am a member of the CIA," he emphasized, adding that there was "absolutely no vestige of evidence of any kind."

Downing, who called Fensterwald a "good source of information . . . extremely knowledgeable," said he was aware of vague accusations of the link between Fensterwald and others having CIA connections. But the congressman has discounted these claims.

While Fensterwald and fellow Warren Commission critic Mark Lane were both at one time considered for the top staff position, current speculation about the job is centering around Philadelphia attorney Richard A. Sprague. As a special prosecutor, Sprague helped convict former United Mine Workers President Tony Boyle for the 1969 murder of Joseph Yablonski and his family.

(Sprague is not to be confused with another Richard Sprague, a former colleague of Fensterwald on his assassination committee.)

Besides advising Downing on the assassinations, Fensterwald has also served as an intermediary between the Virginia congressman and other lawmakers.

He met, for example, with Gonzalez on Sept. 4, 1975, in the House restaurant in an attempt to reconcile differences between the two congressmen.

Gonzalez, who had introduced his original House resolution in February 1975, calling for an investigation of political assassinations, had wanted the probe to cover the deaths of President Kennedy, Robert F. Kennedy and King, as well as the shooting of Alabama Gov. George Wallace.

But some months later, Downing introduced his resolution, which called for an investigation of the presidential assassination only.

The final resolution included both the Kennedy and King assassinations.