Quotes

The genuineness and seriousness of defendants' instant motions, the sincerity and honesty of what was presented to the court, can be addressed in several ways, all consistent with plaintiff's need to bering this cause at action and all proving the validity of plainfiff's motion for a summary judgement.

One of these is through examination of what defendants' instant motion and its addenda as they present what are represented as direct quotations from correspondence, law, regulation and contracts and the fidelity with which these allegedly direct quotations have their real meaning imputed in the said defendants' motion and addenda.

Under what is labelled "STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE", defendants ~~xkee~~ select excerpts from one of plaintiff's many letters (incorrectly identified and incorrectly dated by defendants) and one of defendants' fewer responses. In defendants' Memorandum on Points and Authorities", the is scanty and distorted quotation attributed to a letter from this same letter, still incorrectly identified as one ~~Plaintiffxto~~"plaintiff wrote the Director of Information, GSA" on June 6, 1970, whereas plaintiff did not write the Director of Information, GSA on that date; (which is the misidentified letter) and from direct quotation from Plaintiff's June 20, 1970 letter, from defendants' September 17, 1970 reply.

The extent of plaintiff's correspondence with the government in an effort to obtain public information improperly withheld from him is so great plaintiff cannot assure this court that he has located and itemized all of it. However, he has isolated and copied a total 27 25 letters between him and the govern ment of this subject alone, not counting correspondence with the representative of the executors of the estate of the late President, relevant two letters from whom at attached to the complaint as Exhibit C. Plaintiff's letters to the government on this subject total 16, replies, where made, total nine. Of these, defendants wrote only four prior to the filing of the complaint. The single letter of defendants' quoted was written after filing of the complaint

On the face it it, it would hardly seem that there is or is intended to be fair representation of either plaintiff's requests or defendants' responses in the partial quotation from but two of a total of more than 25 letters, and these two the last one written by plaintiff prior to filing the complaint and the other defendants' reply

of three months later, ~~after~~ dated 21 days after filing of the complaint.

Plaintiff suggests that such inordinate delay in making response ~~in~~ itself violates 5 U.S.C. 552 and clearly ~~frustrates~~ the intent and the purpose of the Congress and the law ((a)(3) stipulates promprness). In any event, it would hardly seem possible that a letter written so long after filing of the complaint "disposed" of it, as claimed on page 6 of the Memo defendants' "Memorandum on Points and Authorities", especially where defendants go to such length to misinform the court at that point, misrepresenting this letter as having been written before filing of the complaint in this fashion:

"Notwithstanding the response of the Archives to plaintiff's requests, he alleges in the complaint:"

To this, with the questions being those of fidelity to fact, fairness and honesty of quotation, should be added the fact that the letter thus misrepresented was not "the response of the Archives to plaintiff's requests" at all, but was that of the Durector of Public Affiars of GSA.

With this background, the court can better appraise the faithfulness of what is quoted and presented by defendants to the court as a fair representation of plaintiff's requests and defendants responses.

~~Because all of these are~~

So that the court can determine for itself whether or not plaintiff correctly and honestly and fairly quotes that which plaintiff alleges defendants do not, plaintiff attaches hereto full copies of every letter or page quoted. Because defendants already have copies of each of these things and because, being without regular income, even such slight costs are burdensome to plaintiff, he attaches these to the original only.

Here what is relevant and was withheld from the court, with ... being substituted, will be added by plaintiff and marked by underlining.

The first quotation is from plaintiff's letter, misdated as by defendants June 6, 1970, whereas it was actually dated June 20, 1970 appears on page 1 of the "Statement of Material Facts" as follows:

"Over the months, I have made requests for documents in the National Archives

files relating to the assassination of President John Kennedy. . . . "

Ather this there is a line of asterisks, as there should be, for aside from omitted three-quartersofnthe first paragraph, the entire second paragraph is omitted.

Plaintiff believes the court can better understand why those things that are here omitted from plaintiff's required appeal are omitted by defendants if the court consider them in the context of defendants' "A "III. Argument", Subsection A, (pp. 4-6) , which makes the claim that "Plaintiff Has Failed to Exhaust the Available Administrative Remedies."

What follows in plaintiff's letter of appeal and is carefully omitted in defendants' selective quotation therefore directly relates to plaintiff's endless efforts to exhaust his administrative remedies even prior to writing the letter of appeal. The omitted part of plaintiff's opening paragraph is here quoted in full:

"anticipating these requests would be rejected. I asked that if rejected, to save time, which your agency wastes for me as a routibe matter, the request be forwarded to you as my appeal under your regulations, as a necessary prerequisite to invocation of 5 U.S.C.552. in Addition, I addressed a letter drawing together some of these requests, with the understanding that if the decision was not changed following review, it would be forwarded to you as my appeal."

Because months-long delays were the rule rather than the exception in plaintiff's requests for public information at the of the National Archives, ~~six months has delay in responding~~ and because some were never answered bybtthe Archives and other federal agencies with public information relating to the assassination of the President, Plaintiff included the paragraph here omitted by defendants, again bearing on whether or not plaintiff had conscientiously tried to exhaust his administrative remedies prior to filing suit. The record shows that plaintiff waited more than two months after filing this appeal before he did file his complaint in the instant action:

"I shall interpret failure to respond as waiver of the requirement, unless there is immediate response, now that there is no doubt you have been informed. I believe the long delays are in themselves waiver of the requirement, when considered with the language of the law, its legislative history, and ~~the~~ clear Congressional intent."

~~Not Only~~

In an effort to make it appear like what is other than the truth, a point actually argued in this instant motion by defendants, that defendants had, in fact, complied with the law and provided the requested photographs to plaintiff, the third

paragroah of plaintiff's ~~xxxxxx~~ appeal was similarly edited to omit what disproves the false claim of defendants:

"Herewith I appeal a subsequent decision, to refuse me photographic copies of photographs in these files. I have been provided . . . copies of some of the photographs of the President's garments . . . the magnification of which . . . is automatically prevented by their having been made from photoengraved copies, the screen of which appears as dots upon magnification."

The two deletions in this selective quotation from plaintiff's ~~xxxxx~~ appeal are pretty clearly designed to lay a basis for defendants' invalid arguments that defendants have complied with the law and regulations, have given the plaintiff the pictures to which he is entitled under the law, and that "there are nl genuine issues", wherefore defendants "are entitled to have this action dismissed or, in the laternative, to have judgement entered in their favor". What is here edited out by defendants also refutes the only basis upon which defendants can, under the GSA-family contract, refuse to provide plaintiff with copies or pictures ofnthe clothing or to make pictures therefor for plaintiff: "any other use which would tend ~~xx~~ in any way to dishonor the memory of the late President or couse unnecessary grief or suffering to the members of his family"..."

"The family desires to prevent the undignified or sensational use of these materials (such as public display) or

The words deleted in the first instance are "with utterly meaningless", in the seconf instance, ",those showing no detail, nothing but gore or those".

In combination, these deletions both change the sense of what plaintiff wrote and corrupt it to make it seem to say that the requirements of the law were met by defendants, argued further, from this false basis, under "Argument" on page 5.

What plaintiff actually said is that the picture with which he was provided are only those published, not those withheld; that thay had no more evidentiary or research use or value than a plain piece of paper; that they were not, in fact, genuine photographic photographs but were offset pictures that inevitably are thereby made unclear; and above all, that they were exactly what he, in common with the family, did not want, pictures ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ suitable only for "sensational or undignified use".

Making this omission even more pertinent is the false and deceptive emphasis added to precisely this point in the GSA-family contract, which also happenes to be one of the five additions of emphasis not disclosed to the court (p.7). Without this deletion, defendants could hardly argue that plaintiff's proper requests were denied because the used intended was "undignified and sensational" and violated the contract. Plaintiff will dwell on this at greater length in responding to that part of defendants' "Argument A".

The next paragrpah is edited to hide violation of regulations and to make it appear that, falsely, regulations and the contract were complied with. As defendants represented it to this court, what plaintiff wrote is:

"The National Archives has mde its own photographs of these garments for the alleged purpose of making them available for study rather than permitting study of the garments... "

In considering the germaneness of what was deleted, this court might also consider that only after four years of plaintiff's requests was the existence of these denied photographs disclosed to plaintiff: What is deleted reads:

"When I sought permission to examine the garments, under a precedent whereby it was petmitted to examine Lee Harvey Oswald's shirt, I was refused. I was shown photographs of which I was denied copies." (Emphasis added.) There is further point in this deletion in that it is required that photographs be provided where the conditions were met, as plaintiff did meet them.

The last quotation from plaintiff's letter is so deceitfully excised that it has him in the position of telling a lie. It reads:

"One of these was the front of the President's shirt. It is the only such photograph in the Archives of which I have knowledge . . . I aske for it or an enlargement of the area showing the damage to the shirt."

This is not the only photograph in the Archives of which plaintiff had knowledge. This and what is consistent with the ulterior purposes of the earlier excisions is obvious upon reading what was sliced out of ~~this xxxxxxx~~ what was presented to this court:

"...that can serve research purposes and can be used for other than undignified or sensational purposes."

So that the court can better understand the non-accidental character of this editing that in plaintiff's belief is designed to mininform and mislead this court and to falsely

make it appear that defendants had complied with the law and regulation while plaintiff had made inadequate and improper requests, plaintiff informs the court that he has reapeatedly challenged the defendants and the representative of the familt to show how a) any other than "undignified or sensational use" could possible be made of the pictures made availbable and given the widest possible dissemination by the government or b) the converse, how it was conceiveably possible for such use to be made of the pictures requested by the plaintiff or those in the possession of the Archives and denied him. Plaintiff went further and sent the representative of the family those pictures showing nothing but the gore plaintiff didn't, the pictures made available by the defendants, with this challenge. That the family representative did not dispute plaintiff's representation of the character of the xxxxx pictures made available is clear in the said representatives response, Exhibit C of the complaint.

That plaintiff seeks only pictures not subject to sensational or undignified use and this challenged to defendants is, side from verbal communication, recorded in what this instant motion by defendants ignores and would have this court thereby believe does not exist, plaintiff's letter to defendants dated Dedember 1, 1969 and in 1970 on January 27 (where plaintiff also pointed out that the only available photographs "do not disclose, to careful examination, that is testified to"); March 14 (wherein plaintiff point out with respect to the Archives refusal to copy the existing negatives for plaintiff and to rpove views of the damage that do not exist in the pictures available "how inconsistent this is with your claims, especially that it is your intent to prevent 'morbid' use of this most basic research material. The only use to which the pictures you have can be used precludes scholarship...constitute and unseemly and unnecessary display of the late President's blood. It is gorey. That is not what I want"-emphasis in original); March 19 (wherein plaintiff reported that the pictures provided "are a complete waste, for they disclose nothing but gore and, as I tried to tell you, gore is something in which I have no interest".); June 20, the appeal ((where this is repeated on the second page, to which Plaintiff added that with the voluntary supplying of its pictures by the Department of Justice the defendants' reasons for withholding were"spurious"

voluntary supplying of its pictures by the Department of Justice ~~shows~~ proves how "obvious" the "spurious pretense has been ~~that~~ that not to withhold such pictures would permit undignified or sensational use. To this I add that Mr. Burke Marshall has informed me of no other g ound for withholding under the provisions of the alleged agreement."); September 15, which is in response to a September 11 letter from the Archivist, long after filing of the compliant (T "The print you sent is valueless on several counts. Despote your contrary pretenses, you persist in making available for use only pictures that can be used for nothing but undignified or sensational purposes, pictures that show nothing but gore. This, I repet, is not my interest..."); and October 12, in response to a self-serving letter of Octover 9, where plaintiff's earlier correspondence is quoted ("My exclusive interest is in evidence. This picture is totally valueless as evidence, for it makes impossible even the certainty of the outline of the hole. Were I to try and trace this hole, even that would be impossible. ...you do not dispute my characterization...").

Now ~~this~~ plaintiff's citation of the gross misrepresentation of his requests abd and correspkndence is not without point, for under the law - and in a passage cited by defendants under "II. Pertinent Statutes and Regulations" with these words carefully omitted (p.2) "the burden is on the agency to sustain its action". Similar language is in H. Rept 9, reflecting the intent of the Congress, "The burden of proof is placed upon the agency..."And defendants ard here seeking to lead the court to believe that contrary to the facts, ~~xplaintiffy~~ in defendants language at "~~III~~ Argument A." (pp. 4-6) "Plaintiff Has Fairle Failed to Exhaust the Available Administrative Remedies". Defendants also seek to misinform the court as to the nature of what plaintiff asked and was, improperly, illegally, and contrary to regulations, denied. Thus it is necessary for defednants to so grossly misrepresent this correspondence, the extent of which defendants carefully withhold from the court.

So, presented as the last "STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE" is "5. On September 17, 1970, the Director of Public AFfairs, by letter, advised plaintiff:" followed by further selective quotation. Now September 17, 1970,

three months after plaintiff's appeal under the regulations, ~~which shows~~ almost a month after filing of the complaint. As previously cited among those relevant facts so carefully edited out of this court's attention in defendant's misrepresentationss of plaintiff's effort to obtain the public information he seeks and the diligent efforts plaintiff made to comply with the regulations, plaintiff had informed the person to whom, under the regulations, he was required to appeal, that he would wait a reasonable time before filing the complaint. Two months is more than a reasonable time. The language of H. Rept 9/ is unequivocal:

"...if a request for information is denied by an agency subordinate the person making the request is entitled to prompt review."

Three months delay, waiting until about a month after filing a complaint, is hardly "prompt". The Attorney General's Memorandum" on this law addresses this in several ways, once at almost the exact point cited in another context and out of that context by defendants (p/9), saying (on p. 24) that "Every effort should be made to avoid encumbering the applicant's path with procedural obstacles..." and (on p. 28) by emphasizing the above-cited language from the House Report, saying that "the person making the request is entitled to prompt review".

In this case, by the selective quotation that amounts to misquotation, and by withholding the significance of the dates, defendants hide from the court the fact that under the law there was no review and that even self-serving response on any nature was delayed for three months.

At this point in the "Statement of Materia; Facts" and where defendant falsely calim claims "Plaintiff Has Failed to Exhaust the Available Administrative Remedies," defendants' already-moot, three-months-late letter is quoted, in the second instance with further reference to plaintiff's misdated letter of June 20, misdated by defendants at June 6, 1970. The court is not informed of the extensive preceeding correspondence in which plaintiff made his requests nor of plaintiff's response, by return mail.

Undoubtedly prepared with the deceptive use here made in mind, having been prepared long after filing of the instant complaint, this letter, as quoted, has the appearance of reasonableness and responsviveness, whereas it is neither, and

is couched to make it appear that defendants have provided that which they denied plaintiff for more than four years. The court cannot read this quotation from the defendants' "response" and have the slightest idea of what is referred to. There is reference to "Items" by numbers though five, as though such itemization appeared in plaintiff's appeal, which is contrary to fact. There is no such itemization in plaintiff's appeal. What is designated as items 2,3 and 4 are not described in any way. So far as the information provided the court is concerned, these could be paper-clips, toilet paper and the original of the Declaration of Independence. Item 1 is identified merely as a "photograph", with no more identification given the court. Item 5 is identified as "photographs". No more. Defendants have seen to it that the court is not and from its pleadings cannot be informed of what plaintiff seeks and sought or what this "response" really says.

However, despite the fact that this letter of defendants seems to have been designed for just the misue of it here made, having been written so long after filing of the complaint and being in no sense a genuine response to plaintiff's appeal, it nonetheless cannot avoid confession of denial of plaintiff's rights to public information and violation of both law and regulations in two instances to which plaintiff will return, but here notes. In saying that "item 1 has been denied to you only in terms of furnishing you a personal copy of the photograph", defendants are really saying that this photographs has been denied, the furnishing of copies being required, as will be seen. In saying that defendants, so belatedly, are willing "to furnish you with prints of the item 5 photographs", defendants admit what plaintiff alleged in the complaint, that defendants have permitted others with a known predisposition to support the official explanation of the assassination of President Kennedy to examine and photograph these garments that are official evidence, whereas they refuse the same right to plaintiff. all here from top 10

It is this that is covered in plaintiff's supplement to his Motion for a Summary Judgement.

quotes-10x

9a add an end line three up,

, thus, if with opposite intent, admitting fully the correctnes of plaintiff's statements and claims in plaintiff's Motion for a Summary Judgement.

quotes-10

However, so carried away with the cuteness of defendants' trickery was defendants' counsel that in the course of flasely arguing that plaintiff had not exhausted his administrative remedies, counsel said that the most casual examination of plaintiff's June 20, 1970 appeal will establish to be utterly and completely false:

"The preceeding portion of plaintiff's letter was designated the first of five requests by encircled Arabic figure 1 in the right margin."

The attached ~~mark~~ copy of plaintiff's appeal shows that plaintiff neither used any "Arabic figure" nor encircled the non-existent figures.

No purpose is served by this incredible misrepresentation to the court, to make it appear that in his appeal plaintiff for the first time set forth that which he seeks, that he did it with enumarated requests, and that (again, the court is asked to note, after the complaint was filed), defendants made what is further misrepresented as proper and meaningful response.

The fact is that plaintiff's appeal began with reference to the preceeding lengthy correspondence described above and to verbal requests for that which he was denied and incorporated them by reference.This appeal began with the words, "Over the mont months I have made requests for documents in the National Archives" and, as cited above is showing that in their selective quotation defendants omitted what is pertinent, continued by saying, "anticipating that these requests would be rejected, I asked that if rejected, ...the request be forwarded to you as my appeak under the ~~regulatiox~~ your regulations, as a necessary prerequisite in invocation of 5 U.S.C. 552 ..."

In the absence of the alleged Arabic numerals in plaintiff's appeal, it is not possible, with complete certainty, to determine in all cases what the nineesitence "Items" ate in defendants ex post facto, self-serving letter of September 17, 1970.

It seems as though the so-called"Item 1" refers to the third paragraph of plaintiff's appeal, selectively quotes, as detailed above, out of context and with false emphasis. Adding the correct emphasis, following the reference to his earlier requests extending over a period of four years, plaint said, "Hereiwth I appeal a subsequent decision. "taht decision is adequately described as "to refuse me photographic copies of photographs in these files." This is to say that what in this case plaintiff was repeating and appealing is the refusal, in violation of regulations and the family contract, as will be seen, a normal, ordinary request for copies of public information in the Warren-Commission archive at the National Archives.

Defendant actually affirms plaintiff's point in Plaintiff's Motion for a Summary Judgement in obfuscatory language in that part of defendants' September 17 letter quoted as the fifth item under "Statement of Material Facts". In saying that what defendants designate as "Item 1" "has been denied to you only in terms of" providing a copy a plaintiff's expense plaintiff is refusing plaintiff's appeal and requests, which were, as clearly stated and as required by law, regulation and the family contract, as will be shown, for "photographic copies of photographs in these files."

The fourth paragprah of plaitiff's appeal, inadequately quoted by defendants and completely quoted above by plaintiff, again is clear in specifying what plaintiff seeks. It says two things, both og which are correct, as defadants' argument leaves beyond doubt. The first is:

"I sought permission to examine the garments, under precedent whereby I was permitted to examine Lee Harvey Oswald's shirt, I was refused."

The second is:

"I was shown photographs of which I was denied copies."

However defendants designate these two proper requests, wtether as Items 2, 3 or 4, what defendants' letter of September 17,1970 is false as is the representation thereof under defendant's "Statement of Material Facts." Defendants claim "that items 2,3 and 4 above have never been denied to you by the Archives."

No more total proof of the deliberate falsity of this claim is possible than defendants' own under "III. Argument B", the subjead of which is a complete admission that plaintiff was refused permission to examine the garments and for the Archives to photograph them for him:

"Defendants' Refusla to Permit Examination and Photographing of the Arcicles is a Discretionary Act Created by Statute and the Agreement with the Dinors" (Emphasis in original).

Despite their misrepresentation to this court, the claim under "Dtatement of Material Facts", here defendants not only admit they did refuse what plaintiff asked but further claim the sanction of law for so doing. Yet in the S "Statement of Material Fact" is is of this request alleged that precisely these things had "never been denied to" plaintiff.

In defendants' "Memorandum of Points and Authorities", under "I. Preliminary Statement", defendants say exactly the same thing, that they did refuse plaintiff's request:

"2)the refusal of defendants to permit plaintiff to do what he desires regarding these articles is an exercise of discretion committed to the defendants by statute and an agreement between defendants... and the donors of the articles and 3)the articles which"plaintiff seeks are not 'records' ...."

Aside from the interpretations of statute and agreement, which will be addressed below, it should be noted that there is a further misrepresentation here, namely that asked "to do what he desires regarding these articles". Plaintiff has never asked that he be permitted to "do" anything "regarding these garments". The intent of this misrepresentation is deception of the court to lend an air of authenticity to later misquotation and misinterpretaions of statute, regulation and the said agreement.

Further, under "C" (p.9) defendants alleged that what plaitiff seeks "...is not a 'record' within 5 U.S.C. 522." (Emaphsis in original).

No less explicit a refutation of defendants' quoted claim not to have denied plaintiff's request is this quotation (from p.8), enphasized by defendants, that the Srchivist himself "has 'determined that serious scholars or investigators...(in original)may view photographs of the said articles of clothing, but may not inspect or examine

beginning cont. insert on 12
or examine the articles of clothing themselves."

A more completely false claim is impossible to imagine, nor a grosser attempt to deceive a federal court. Yet the reality is even worse than this. Aside from earlier and verbal refusals to plaintiff going back to early November 1966, here are a few of the refusals by the Archivist, in writing and in the first half of 1970, prior to the filing of the complaint and all in the file of requests to which defendants September 17, 1970 was in purported response:

January 22:"We do not prepare photographs of ~~the~~ President Kennedy's clothing for researchers.".

March 12: "We have two photographs of CE394 that we prepared that we can show you. We do not furnish copies of these two photographs."

April 16: "We prepared photographs of the shirt and the coat to show researchers instead of the clothing itself. we do not furnish copies or enlargements of these photographs..."(What follows is particularly noteworthy in view of the waiver by the representative of the donors, Exhibit C ~~to~~ attached to plaintiff's complaint, "...gave the Archivist full authority to handle requests...included authority to use photographs as he saw fit...; " and "...this is a matter on which the Archivist is not required to consult me...")

"...-to avoid any possible violation of the agreement with the Kennedy family."

August 19 (belatedly, two months after plaitiff appealed and a mont prior to the "response"):"...we will also prepare photographs of the damaged area of the know of the necktie in CE 895 which we will show you in the National Archives Building without furnishing prints to you."

(Exhibit 895 is entirely unrelated to the necktie, being unclear photogrpahs of the official re-enactment of the crime, but plaintiff asks the court to consider the meaningless of this request in one of its many special aspects: suppose plaintiff were an American from Alaska or Hawaii, on one living in the high Himalayas? This is a further meaningless offer designed, self-servingly, in anticipation of this instant action preparatory to which plaintiff had exhausted his administrative remedies.)

Returning to the pretended answer to plaintiff's appeal, as selective quoted in what defendants describe as "State of Material Facts", it is said with respect to undientified and unidentifiable, non-existent "Item 4", that "the Archives had indicated a willingness... to supply you the photograph in item 4".

If this does not refer to one of the foregoing quotations from plaintiff's appeal, all of which were explicitly and repeated rejected, despite the instant and deliberate misrepresentation thereof, it must be what is asked for in the

fifth paragrpah of Plaintiff's appeal. This paragraph is one here quoted selectively, as already shown, and also, still selectively, but differently, with different exclusions and inclusions, on page 5. Referring to one of the photographs shown plaintiff but of which copies had been refused, has ahd had enlargement of the most minute areas of the existing pictures, plaintiff had actually said:

"One of these is of the front of the President's shirt. It is the only such photograph in the Archives of which I have knowledge that can serve research purposes and be used for other than undignified and sensational purposes. I ask for it or an enlargement of the area showing damage to the shirt."

This purported "indicated..willingnness... to supply you the photograph in item 4" is the repeated, strai ghtforward and entirely unequivacal refuslas by the Archivist, more than adequatelt quoted above from his letters of January 22, March 12 and April 16, 1970.

It is difficult, if not entirely impossible, to conceive a more complete or deliberate misrepresentation, a more callous disregard for truth, that here alleged to be a "Statement of Material Fact" and that beyond dispute!

However, should this non-existent "Item 4" refer to the sixth paragrpah of plaintiff's appeal, not anywhere quoted, even deceptively, by defendants, the imposition upon the court and the plaintiff is undiminished. That paragraph reads,

"There is no existing photograph of the side of the knot of the tie. (An eloquent commentary on the character of the investigation, with the entire solution depending upon its having a bullet-hole in it.) I have asked that it be made for me and have been refused. I ask you for this. For purposes or my research and, I believe, any genuine research, such a side view of the damage to the know it essential."

Quite contrary to the alleged "willingness...to supply the photograph in item 4" here alleged, what the Archivist actually said, as quoted above from his August 19 letter, is "without furnishing prints to you." This is exactly opposite the non-existing "willingness...to supply the photograph..."

The next and last statement is, when understood, as plaintiff set forth in the Supplement to his complaint, total disproof of all the contrivances and deceptions, selective quotations and misquotations all the false claims to plaintiff and to the court, all the tortured interpretations of the selectively and inaccurately quoted law, regulation and agreement. And it is innocuously phrased so that this will be

knowledged denied the court. It reads:

"...to allow you to examine item 5 phootgraphs innthe Srchives Building and to furnish you prints of the item 5 photographs."

This was preceed, in the same sentence, with the wuoted alleged "willingness" of the Archives.

First, plaintiff asks the court to take note of the fact that this non-existent promise is not supported with any quotation of this alleged offer by the Archives in any verbal or written communication to the plaintiff. The reason is not only because no such offer was ever made but more, because even the existence of these studiously-unidentified photographs had never been disclosed to plaintiff.

So, with the complaint having been filed three months earlier, this is false as a representation of a willingness to comply with plaintiff's requests and with the law, and regukations and contract, or meaningless and a still further deception if it means what it does not say, that as a consequence of the fiking ofnthis instant action, defendants, dbelatedly, made this slight concession.

~~There are 12 paragrpahs, each containing citations of the requests~~

There are 12 paragrpahs in plaintiff's appeal. All but the second and last two refer to requests he had made and been refused. All of these, obviouslt, are not quoted by defendants for to do so would be to acknowledge still other denied requests. Plaintiff does not here burden the court needlessly with qutiationm of them. However, it must be obvious that calling the last "Item 5" and not quoting the others is still another deliberate misrepresentation and deception.

What appears to be "Item 5" is the opening sentence of the penultimate paragraph of the appeal:

"It is my understanding that the Co,umbia Broadcasting System was permitted to make its own photographs of this clothing and I know for a fact they were permitted to make their own photographs of CE399."

Defendants' response, so neatly designed to make no record of it, actually constitutes an admission of everything denied in this and all other papers filed by defendants in this instant action. It acknolwledges that a commercial interest, for commercial purposes, was permitted to examine and to photograph the President's clothing,

and that with its own equipment (plaintiff had asked only that photogrpahs be made for him by Archives personnel with Archives equipment, without plaintiff touching the said clothing!

Yet defendants have the temerity to inform this court that this is among the things precluded by law, regulation and the family contract!

What makes even more sinister this disguised admission is that on TV, before the largest audience in the history of TV, what could be presented was only that which is precluded by the contract, the most "undignified" and "sensational" display of the late President's blood, what could be only in the worst possible taste and what only, as defendants on page 7 quote the contract, adding emphasis without so indicating, "cause unnecessary grief or suffering to the members of his family and those closely associated woth him."

This single if obfuscated and deceptively-phrased admission makes a mockery of this court and the processes of justices. It is proof of a cruel imposition on the "members of his family" and of their "grief and suffering", which in "III. Argument", under "B." and "C" is with mendacity blamed for suppression of this official evidence of that horrible crime.

What makes this all the more ghoulish and ghastly is that it was done by the administration which came into power only because of that assassination.

If these seem like excessively st ront representation, the court's attention is respectfully directed to plaintiff's respons to the pertinent parts of defendants' "Memorandum of Points and Authorities."

~~In summary,~~

For the rest of it, what is labelled a " Statement of Material Facts as to which there is no Genuine Issue" (Use caps) in equally deceptive in that it in every other point equally false and deceptive, in that it studiously omits most of plaintiff's rejected requests, enough being cited above to eliminate the need of further burdening the court with additional citations of them; deliberately misrepresents the request to which reference is made, saying what is false, that plaintiff, who has neither the necessary equipment nor the required skill, personally seeks to make the photographs himself ("Plaintiff desires to inspect and photograph" under "1." and "The arct articles sought to be insoected and photographed by plaintiff", under "2." ;

Alleges ("3.") that "The articles are on deposit by virtue of an agreement dated October 29, 1966," which is false, this deposit having been effectuated by another document also denied plaintiff, a "Memorandum of Transfer" of more than a year earlier, title alone being transferred on October 29, 1966;

And the existing pictures plaintiff seeks are not these "artciles" that are "on deposit" but are other public property and public information, existing because of the normal functioning of that agency, the National Archives.

In summary, it seems fair to say that this entire "Statement of material facts" is anything but that and is rather a concoction of selective, deceptive, misrepresentative, presentation that cannot be of this character though accident and, in actuality, supports and proves each and every allegation in plaintiff's complaint, Motion for a Summary Judgement and Supplement thereto. Thisnis in no sense an hinest presentation to a court of law and is in every sense an effort to misinform and deceive the court so that it may be converted into an instfument for sanctifying and perpetuating defendants' violations of law and regulations and the wihholding from plaintiff of that public information to which he is clearly entitled.

More plainly put, it is an effort to convert the court into an instrument for the suppression of the basic, public evidence of the assassination of a President.

Defendants' "Memorandum of Points and Authorities"

This part of defendants' motion is divided into three parts, titled, "I. Preliminary Statement", "II. Pertinent Statute and Regulations"m and "III. Argument." Argument, however, and with consummate subtlety not recognizable by anyone not intimately familiar with all the facts, dominates and permeates.

The two paragraphs titled "Argument" are neither faithful to the fact nor a fair representation of the fact; do note state what is sued for while pretending to, and do this with prejudicial and inaccurate language that cannot have been selected by accident; and otherwise misrepresent the real situation and situation.

The opening words are, "Plaintiff an author..."

Yet when plaintiff made this simple statement of fact, well known to defendants and their counsel, in what was titled an "answer" the plaintiff's complaint, the false, whether or not necessary, response by defendants and their counsel was:

"2. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragroah 2 of the complaint."

What purpose was served or intended to be served by this apparently unnecessary false statement plaintiff does not know. However, when in an affidavit appended in his Motion for a Summary Judgement plaintiff set forthin lengthy detail that and how defendants and their counsel knew and at the time of making the untruthful statement then knew plaintiff is and long has been an author, it is now (where not essential) conceded that plaintiff is "an author", This seeming triviality has significance in that it address the motives, methods and integity of defendants and their counsel and establishes their willingness to tell this court what is not the turh and what they know is not the truth, even when it is trivial and unessential. In turn, this raises questions as to the dependability and truthfulness of statements, claims, allegations and interpretations that are relevant.

Next the "Preliminary represents that for which plaintiff sues as:

"alleges, inter alia, he is entitled, pursuant to the provisions of the to examine and photograph, at his expense, certain articles of clothing worn by the late President..."

"Inter alia", or among other things, is correct, but the omission of these other things amounts to a misprepresentation by false emphasis. The very first thing plaintiff sought and seeks is not mentioned here or in any other words in the Motion or its addenda. This is copies of those pictures on file in the National Archives of this said clothing and specified in the complaint. These are the only pictures of which the Archives refuses to provide copies.

"Examine", as used here, may be taken to mean "handle". While it is the otherwise undeviating practise of defendants to permit such handling and have permitted it to plaintiff with respect to other three-dimensional evidence, in this case plaintiff has not asked to handle the clothing, which is in evidence, nor does he so intend. The purpose of"exmaination" is to direct the taking of pictures. As has been set forth previously, this is not an exceptional request with respect to this clothing and was permitted by defendants where the purposes were commercial rather than scholarly, for use in violation of the family contract rather than in accord with it.

It is at least imprescise to say that plaintiff has asked that he be permitted to make the photographs. His request is specific and to the contrary and is in accord with regular Archives practises and proceedures, that the Archives take these pictures for him.

This formulation is prejudicial and inaccurate, and, when taken together with the inuendo of "examine" with which it is bracketed in the phrase, "to examine and photograph", seems designed to suggest thatwhat plaintiff seeks presents some kind of danger to the safe preservation of the evidence in question, which is not at all the case.

Next it is alleged that "plaintiff is not entitled to the relief he seeks because 1) he has failed to exhaust those administrative remedies available to him which are matters of public knowledge." Two other conentions are amde and will be dealt with separately.

It is simple not in accord to the fact to claim that plaintiff has not exhausted all available administrative remedies, even seeking them through another agency, the Department of Justice, as set forth in the complaint. To this, it is clear from the

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Plaintiff notes the apparent inconsistency between the claim of the Motion, "that the fails to state a clim upon which relief can be granted," and the admission here, that relief can be granted but "The defendants contend the plaintiff is not entitled to the relief he seeks". Here defednats acknowledge the invalidity of the first of the three grounds upon which their Motion is based.

foregoing comment, analysis and comparisons of the representations of plaintiff's appeal and defendants' response that plaintiff has fully complied with the applicable law and regulations by a) making formal appeal, which he did in his aforequoted letter of June 20, 1970 and b) with its rejections by defendants under date of September 17, 1970. Aside from the fact that plaintiff's appeal was rejected, rejection itself was, in violation of the law, which requires promptness, so long delayed that it was not made until quite some time after filing of the complaint and therefore is further withour standing or meaning.

Plaintiff has fully complied with law and regulation. At no point does defendants ever allege to the contrary. INSERT

The second contention claims "administrative discretion committed to the defendants by statute and an agreement between defendants, on behalf of the general public, and the donors ofnthe articles." This and the third contention will be dealt with where they later recur in defendants addenda.

With respect to the second contention, plaintiff notes and protest the prejudicial unwarranted and inaccurate allegation, sonsistent with a like prejudicial and warrnelt warrentless inuendo above, that what plaintiff seeks presents some kind of jeopardy to the safety of the evidence. The words, What he desires to do regarding these articles", have no basis except prejudice, a subtlty intended to influence the court, for defendant neither asks nor want to "do" anything to "these articles". This unjustified, prejudicial language is also designed to divert the courts attention away from what is here ignored by defendants, that plaintiff's first request was for copies of existing pictures, which requires nothing further of plaintiff than that he pay the cost of making the copies, for which purpose he has a deposit account with the defendants.

A similar diversion and misrepresentation exists in the third contention, which, with complete consistence, avoids mention of plaintiff's first request, for copies of the existing pictures. of which it cannot be alleged that they are not 'records'. In fact, defendants do not allege it, here or elsewhere and thereby concede that plaintiff is entitled to copies of them.

Thus it can be seen that defendants' "Preliminary statement is not accurate, faithful or in any way representative of the real situation and is designed as a vehicle for prejudicing the court. It is wothout merit or meaning and does not address the fact or law in any substantial or genuine manner.

Defednants' "II. Pertinent Statutes and Regulations"

Despite the title of this section, defendants also quote regulations in "III. Argument", in subsections A, B and C.; and the GSA-family agreement is quoted in subsection B as having the effect of both law and regulation.

Plaintiff addresses defendants' citations in their order of appearance. Where quoted selectively, with what is uncongenial to Defendants' position and argument omitted, plaintiff will provide and full text and assign the significance required to the excisions and the reasons for the excisions. In some case, of which the first serves as an admirable example, defendants add emphasis. Plaintiff begs this court to note with care what has been omitted and what has been added by the emphasis that is not in the law.

The first is what the Public Information is alleged to "provide":

"(a)(3).. . . each agency on request for identifiable records made in accordance with published rules . . . shall make the records promptly available to any person. On complaint, the district court . . . has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld. . . "

There then appears a row os asterisks, followed by:

(3) specifically exempted from disclosure by statute . . ." 5 U.S.C. 552, Pub. L. 90-23 (Emphasis added)."

Just exactly what is claimed to be "specifically exempted from disclosure by statute is nowhere stated. By means of this ireelevancy added to the partial quotation of the law, it is sought to infer that the exemptions of 5 U.S.C. 552 are applicable in this instant case.

However, in neither this instant defendants' motion nor in defendants "Answer" do defendants claims applicability of any of the said exemptions.

Before presenting to the court that which defendants omitted in citing the law, plaintiff asks the court to note the vital discrepancy, what would appear to be an irreconcileable conflict, between the concession in even the partial citation of the law, "On complaint, the district court" and "Second Defense" in defendants' "Answer", which reads, "The Court lacks jurisdiction of the subject matter."

While plaintiff, who represents himself in this action, being without means for hiring experienced counsel, cannot and does not pretend expertise in the law and its

technicalities, customs and practises, it would seem that defendants and their counsel are toying with the court and the law in arguing simultaneously, albeit in papers the filing of which is separated by some time, that this court does and does not have jurisdiction. Defendants appear as the devil with scripture, improvising interpretations that appear, at the moment of improvisation, to serve defendants' purposes, whether or not factual or even truthful.

The very first words of (a) of the law are relevant and controlling, which, no doubt, accounts for their absence in defendants' representation of this provision. These words are, "(a) Each agency shall make available to the public information as follows:"

Beginning with the first words quotated by defendants, the rest of this provision actually reads, "...each agency, on request for identifiable records made in accordance with published rules stating the time place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district where the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case, the court shall determine the matter de novo, and the burden is on the agency to sustain its action..."

The remainder of this paragrpah deals with punishment for noncompliance.

What is also not cited and what appears to be relevant is:

"(c) This section does notmauthorize withholding of information of information or limit the availability of records to the public, except as specifically stated in this section..."

In this connection, plaintiff here notes that in the absence of defendants' claim that what plaintiff seeks is sheltered by the 9 listed exemptions, plaintiff is entitled to the summary judgement for which plaintiff has earlier moved.

Now, what have defendants omitted in their selective quotation of the law?

First, that "Each agency, in accordance with published rules, shall make available, for public inspection and copying-" which is what plaintiff seeks and has sought.

Next, the applicability of rules and procedures, to which plaintiff has adhered faithfully and fully, witnes absence of contrary complaint from defendants.

Next, tnat thisparticular court does have jurisdiction, which defendants denied

in their "Answer", because it is the court "in the district...in which the agency records are situated."

Next, that this court does have authority "to order the production of any agency records imporperly withheld from the complainant." Moreover, there is great and pertinence in what immediately follows but was omitted by defendants, a) that this court shall determine the matter de novo and"

b)"the burden is on the agency to sustain its action."

In short, what defendants omitted in their pretended citation of the applicable provisions, is that under the law they must "make available for public inspection" and for copying " that which defendant asks except they claim one of the nine specified exemptions, which, plaintiff repeats, is claimed in enither this instant motion or in defendants"Answer".

And over and above all this, the burden of proof lies not with the plaintiff but with the defendants.

That the emphasis added by defendants is misrepresentative, misleading, prejudicial and inconsistent with all authority will be shown as each authority claimed is considered.

The second citation of law is 44 U.S.C. 3301. Again, there ar e omissions and added emphasis. Defendants acknowledge adding the emphasis:

"In connection with the treatment of materials reposing in the Archives, Congress has indicated:

> "As used in this chapter, "records" includes all books, papers, maps, photographs, or other documentary materials . . . Library and museum material made or acquired and preserved solely for reference or exhibition purposes . . . are not included."

St the outset, this proves without peradventure of doubt that plaintiff is entitled, by defendants' own argument, to at the very least the existing photographs, his first request so carefully hidden from all defendants' papers before this court.

Now, what does defendants omit in their citation of 44 U.S.C. 3301?

The first omission, which could not possible be more relevant and in the light of what defendants later allege, amounts to a deliberate deception of the court, is longer than all of the section that is quoted. The carefully-omitted words are:

"regardleww of physical form or characteristics, made or received by ahy agency of the United States Government under Federal law or in ~~the~~ connection with the transaction of public business and preserved or appropriate for preservation ~~of~~ by that agency or any of its legitimate successors as evidence of the orgabization, functions, policies, decisions, procedures or other activities of the government or because of the informational value ~~of~~ of data in them."

A more perfect description of the clothing and pictures thereof, what plaintiff has been denied and seeks in this action, is ~~idffxdixxi~~ not easily found in the law. If the Congress had had plaintiff's instant action in mind, it could not better have written a law to complete encompass it, to more completely given the sanction of the law to that which plaintiff seeks.

This, apparently, and the complete refutation in it alone of what defendants later allege, arrarently wqs sufficient warrant for them to withhold this from their citation of the law to the poJnt where their citation is given a meaning diametrically opposite that which the Congress intended and which it has.

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The dishonesty and deceit here apparent is so overwhelming little point is served in adding to it that added by the injudicious added emphasis. The full magnitude of this attempt to subvert and corrupt the law by what amounts to a deliberate misrepresentation will become even more~~xpppx~~ apparent in consideration of defendants' further exploitation of it and similar legal torturings.

The remainder of the quotation that is included by pl defendants, especially with the added emphasis is irrelevantm despite the adding of emphasis to lead the court to believe otherwise, as will be seen in what comes later. What plaintiff seeks is not of this character or description.

Because no violation of the retsrictions imposed by the donor is involved, as will be seen and emphasized, deppite defendants cont ary pretense, the two quoted exceppts from 44 U.S.C., ## 2107 qbd 2108 are included for purposes consistent with all the other attempts to impose upon thebtrust of this court and plaintiff's lack of professional counsel. However, it sho should be noted that what these sections cover, fits neither the pictures sought nor the clothing, the language of the statute being "the papers and other historical materials" (defendants, consistently, underlined "other historical materials), which

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Nor is this all that defendants omit, while adding false emphasis that is contrary to the meaning of the law. That defendants are aware of what plaintiff is about to quote need not be assumed, as would seem to be safe, for plaintiff's telegraph it in language appearing on the next page,"Although the Public Information Act does not specifically define the word 'records', predecessor legislation, within the ken of the Con Congress, did. Section 1 of the Act of July 7, 1943, 57 Stat 380, providing for the disposition of records, states:" There follows a fuller quotation from this statute.

Addressing exactly this point is the language of the Attorney General's Memorandum on the Freedom of Information law (p.23). The only changes made by defendants was required by the intended deception for the applicability in this instant case is made specific by specific reference to "the National Archives". That Memorandum says:

"The term 'records' is not defined in the act. However, in connection with the treatment of official records by the National Archives, Congress defines the term in the Act of July 7, 1943, sec. 1, 57 Stat 380, 44 U.S.C. (1964 Ed.) 366 as follows:" What follows is what defendants culled and added false emphasis to.

It would seem that the true meaning of the law was Wwithin the ken of the" defendants, for there follows in the Attorney General's Memorandum a paragraph that of which defendants did not desire this court to be aware, that "availability shall include the right to a copy " and that "it is equally clear" that both "contemporaneous" and "historical" documents are included.

It is apparent that under the law and the official interpretation of the law there is no genuine issue as to any material fact. There is only misrepresentation and deception.

cannot cover the pictures sought, those never having been the property of the late President, and hardly covers his clothing, which prior to this donation was the most basic official evidence of am official investigation which in any event, is described in the agreement covering the gift in an entirely different manner than here represented and deceptively emphasized with the underscoring not in the statute.

The foregoing items are disccused in full detail in consideration of Section "B".

Apparently crediting the court with little perception or undertsnading, defendants, still again mith emphasis designed to mislead, cited "Section 1 of the Act of Jult 7, 1943, 57 Stat 380", to argue that "Although the Public Information Acts does not specifically define the word 'records', predecessor legislation, within the ken of the 90th Congress, did". Ignoring the permeating adding of emphasis, defendants quoye sufficient of this law to establish plaintiff's case beyong peradventure in the definition of "records":

". . . 'records includes all books, papers, maps, photographs, or other documentary materials regardless of physical form or characteriztics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successo as evidence of the organization of the orgabization, functions, policies, decisions, procedures, operations or other activities of the Government or because of the informational value in them..."

This is the identical language excised from the earlier citation of the law and here is included only in an effort to misuse the law, by means of corrupting added emphasis, to redefine records other than as the Congress did. This not only perfectly fits that which plaintiff seeks in this instant action but adds to plaintiff's case by ekiminating any doubt as to whether what he seeks is encompassed by the designation "records". Without question, bot the photographs and access to the clothing, official evidence, exactly the word used in this statute, and, agaib a perfect description of the reason for keeping the clothing, as will be seen in discussion of the contract, "because of the informational value.

Even ifdefendants were to pretend, as they do not, that the clothing is no more than "library or museum material", addressed in the next sentence of the statute, for that to apply such library or museum material wouldhave to meet two added tests for exemption, and both are here lacking. They would have to be "solely" for either a)

"reference" or b)"exhibition" purposes. Defendants, in this instant actiona and in every other way and on every other occasion establish neither sould possible apply, aside for from the added qualification of the statute, "solely".

Nor is there any doubt that the National Archives is the "legitimate successor" to the Warren Commission, perhaps the most readily-available spurce of the many proofs that exist being the final paragraph of the Foreword to the Commission's report (p. xv), which says that all of its records, testimony, exhibits, files "and other investigative materials which are relied upon in this report" are committed to the National Archives for permanent deposit "under the rules and regulations of the National Archives and applicable Federal law." The Commission's own definition admirably encompasses that which plaint seeks in this instant action, it being the most basic evidence, "investigative material" of prime nature, and very heavily "relied upon" in that Report.

What next follows in defendants' Memorandum give no more comfort to the pretense that the evidence of the Warren Commission, the Presidential clothing bearing the damage from the bullet or bullets and locating and defining this damage, is not "records" as defined separately by GSA, even were one to assume that GSA could, by regulation, nullify federal law, and that official evidence can possibly be defined otherwise.

In an excerpt from "GSA regulations", otherwise undescribed and undefined, called "Definitions"/are three numbered sentences, not quoted in full. Not one is pertinent of what "'records . . . does not include". or even relevant. Not one makes any reference to photographs, which is what plaintiff seeks, no more. Nor, naturally, is there "exhibits" or "clothing". In any event, the previously-quoted language of 44U.S.C, clearly requires the availability of plaintiff seeks.

"Appeals within GSA" is next quoted from these regulations, why not being clear, for there is no allegation plaintiff did not comply with them and the uncintested evidence is that plaintiff did. What is interesting is that these regulations also require that appeals be handled "promptly", which is hardly so long a period as three months.

"Donated Historical Gifts", a definition not suited to the photographs plaintiff seeks, is also quoted from these regulations, redundantly and irrelevantly, to say that ~~specific~~ conditions specified by the donor must be met. This is not an issue, except to the extent that defendants refuse to abide by their own regulations, as will be seen when subsection B of "Argument" is considered.

From the foregoing, it can be seen that the cited "pertinent Statutes and Regulations" cited with what is seems not unfair to designate as deceptiveness, incompleteness and something less than the ultimate devotion to scrupulousness do not supprt defendants contentions in any way and in every case require that plaintiff be provided with what he seeks.

Of this there can be, as plaintiff stated in his Motion for a Summary Judgement, no genuine issue as to any material fact.

Defendants' "III. Argument".

The first section is headed "Plaintiff has Failed to Exhaust the available Administrative Remedies." As seen in the plaintiff's analysis of defendants "Statement of Material Facts", this contention is contrary to fact and the very clear written evidence. Plaintiff filed the required appeal, it was not acted upon "promptly" as reguried by law and regulation, plaintiff filed this instant complaint, and three months after the appeal, the proper and designed officer of Defendants rejected plaintiff's appeal, completing all that is required for plaintiff to have exhausted the available administrative remedies. In an excess of caution, plaintiff also appealed to the Attorney General, by whom his appeal was likewise rejected.

Nevertheless, because one of the issues is whether or not there is a "genuine issue as to any material fact," assessment of defendants' claims, allegations and contentions is in order.

First there is another reference to the content of GSA regulations under the Act. What is not found is any allegation that plaintiff did not comply with them and that in full.

There then follows the previously-dealt-with partial quotation of plaintiff's appeal, handled with such fidelity that even the wrong date is attributed to it. This, in turn, is followed by what can be regarded as no less than a deliberate effort to deceive the court, to say that because some of the pictures in the filds were provided plaintiff, all were, and to say that if some of the picture of some of the garments were provided, all pictures of all garments were. This, in turn, is followed by the typical and out-of-context selective quotation from plaintiff's appeal, and that by deliberate misinterpretation of the law and regulations, glazed with a touch of the ridiculous that by this point cannot be regarded as out of keeping.

There is accurate quotation of plaintiff's appeal, which quite accurately says if is "because" of the decision "to refuse me photographic opies of photographs in these files," earlier identified. Defendants than say of plaintiff's appeal, "Yet

the succeeding sentence establishes: 'I have been provided with utterly meaningless copies (emphasis added without so indicating by defendants) of photographs of some of the President's garment...'(id.)"

The inference h re intended to be foisted off on the court is that if plaintiff has been supplied with photographs of cabbages he was not entitled to photographs of kings.

Alsom plaintiff did say only "some", as defendants acknolwedge.

By misquotation that again cannot be accidental, what plaintiff said and what is uncontested fact is that when he applied for "photographic copies of photographs in these files" he had, instead, been provided with those "made from photoengraved copies" (emphasis added), that is those designed for reproduction and thereby, on that count alone, totally unsuited for scholarship or research, particularly when the evidence to be studies was in some cases about a quarter of an inch in size on the garment and in no case larger than a half-inch. It must be obvious and in fact it is the case that the data plaintiff sought is totally invisible on those picture provided, which is the only reason they were provided. Plaintiff carefully explained that the picture provided, which has nothing, in any event, to do with plaintiff's request for other and different pictures, were for these reason not inly "utterly meaningless" but more, provided in opne violation of the family agreement, under which no undignified or sensation pictures were to be made available, and those provided were, as plaintiff accurately said, of this character,"those showing no detail, nothing but gore."

The reidculousness of this spurious argument is limned when it is considered that after providing plaintiff with one or several xeroxes of documents from these same files, defendants did not refuse to provide plaintiff with other copies. In fact, defendants have supplied plaintiff with thousands of such copies.

And what the court should also understand is that defendants argue that, having provided pictures plaintiff does not want, they do not have to comply with law and regulation and provide those plaintiff does want and does request.

It is not only ridiculous, it is also irrelevant, for it to be argued that "Defendants submit there is no responsibility upon them to produce documents subject to

ibdividual determinations as to 'meaningfulness.' The Act requires production of "identifiable records' and not'meaningful records!"

Now, what in this contrivance defendants do without so intending is to admit that the Act does require them to produce "Identifiable records". Nowhere is there any claim that plaintiff did not ask for "identifiable records", which is to admit ~~the motion~~ exactly as Plaintiff set forth in his Motion for a Summary Judgement, plaintiffs have not complied with the law and there is, as stated in plaintiff's motion, no genuine issue as to any material fact.

The facts are simple; if with some care here hidden by defendants: plaintiff made proper request for carefully-identified records, was refused these records, appealed, and was refused again on appeal, nothwithstanding the admission here by defendants, that "The Act requires production of 'identifiable records.'"

However, and in part because this instant action is part of the official record of this great tragedy in American history and how society and government functioned with respect to it, plaintiff addresses directly defendants trickery with words. There is not now and never was any question of "individual determinations as to 'meaninglessness'", as defeddants and their counsel are well aware. Plainfiff used this description in his appeal only in an effort to assist the undertsnading of the official who would have to make the decision and so that the difference between "photogrpahic copies of photographs" and "photoengraved copies", which is an enormous difference, might be comprehended.

Nonetheleds, as will be seen in consideration of the actual provisions of the GSA- family contract, defendants are wrong even in their frivolities with so serious a thing as the law and so somber a file as that of the evidence of the assassination of an American President.

For this childish argument to be valid, defendants could provide a blank piece of paper in response to an "identifiable" (and it should be noted, identified) record and claim to have with complied with all law and regulations.

Defendants' concluding sentence in this part begs the question and is calculated to deceive the court. It reads, "Nonetheless, it is obvious from plaintiff's language

that he was (emphasis in original) provided copies of photographs of the President's garments." That plaintiff was provided photographs other than those sought in his requests, appeal and in this instant action in no way addresses the obligation, under law, regulation and, as will be seen, the family agreement, that plaintiff be provided copies of those photographs he does want and seeks.

In the absence of any representation that plaintiff's erquests were not fulfilled, together with any allegation that the requests were not adequate or proper under law and regulations, there is and can be no genuine question as to any material fact, as plaintiff stated in his Motion for a Summary Judgement.

The partial quotation of other paragrpahs of plaintiff's appeal and the response that is in actuality an outright refusal, further establish that there is no question ofgenuine issue as to any material fact.

Quite accurately (and the accuracy is neither here not elsewhere contested), plaintiff described in his appeal that among the public information he seeks:"The National Archives has made its own photographs of these garments, for the alleged purpose of making them available for study rather than permitting study ofnthe garmnets. (What defendants edited out here is dealt with under consideration of defendants Statement of Material Facts).) I was show (sic) copies of photographs of which I was denied copies." There follows a description of suchphotograph in this quotation from plaintiff's appeal.

The selection from the rejection of plaintiff's appeal, made threemonths after it was filed, it is admitted, was denied plaintiff:"In terms of furnishing you a personal copy of the photograph." Insertion of the word "personal is false and prejudicial, for under Archives practise, there is no such thing as a "personal" copy and, in fact, the Archives has furnished copies of other photographs it has made for plaintiff to others.

Refusing plaintiff a copy is violation of law and regulations and, as will be seen, also ofnthe family contract onto which defendants seek to unload responsibility

for the suppressions. As quoted above, in exposing plaintiff's omissions and selective quotations from P.L. 90-23 it is required that that:

"(2)Each agency, in accordance with published rules, shall make available for public inspection and copying -"

The Department of Justice's own interpretation of the law, as embodied in the Attorney General's published memorandum on it (p.23) says:

"It is evident...that availability shall include the right to a copy..."

Even the defendants' own special and applicable regulations (notably, not quoted herein by defendants), entitled "Regulations for Refernce Services on Warren Commission Evidence", in the paragrpah numbered "2", contains this unequivocal language dealing with "Still photographs": "Copies will be furnished on request for the usual fees."

So it is obvoous that defendants violated law and regulation in refusing copies of those photographs he requested, that this refusal was repeated in denial of plaintiff's appeal, and that on this score, too, there is no genuine issue as to any material fact.

Flagrant as this is, defendants have the temerity to follow it with what was explored at elngth in considering this appeal and its rejection, in consideration of defendants' "Statement of Material Fact." Adding insult to injury, defendants allege that their rejection, after the complaint was filed, not handled promptly as required, "disposed" of plaintiff's requests, following this with the equally false assertion that this letter (whose author is incorrectly identified at this point) rejecting plaintiff's appeal "completely refutes plaintiff's assertion that he "has consistently been denied". That very letter, in fact. so establishes. Until plaintiff has been provided with those copies of theose identified records he has requested, there is absolutely no doubt that he has "been denied". To date, no single picture of anyt of those requested and identified by plaintiff has been provided him. Again, on this additional questionm it is beyond any doubt that there is no genuine issue as to any material fact.

The oncredible conclusion to all of this is that "there has been no denial of

plaintiff's requests", which assuredly is the most exotic ~~description~~ interpretayion of the words "no denial" ever made, no single request having been honored or complied with and no copies having been supplied. To this is added "there has b been no ruling by the Assistant Administrator." Aside from the fact that plaintiff req requested and it was agreed that were his requests rejected they would be worwarded through the channels of appeals, There is this regukation, here actually quoted, 41 CFR §105-60.404(c):

"If the denial is sustained the matter will be submitted. . . (in original) to the Assistant Administrator for Administration whose ruling thereon will be furnished in writing to the person requesting the records."

Unembarrassed by the said Assistant Administrator's five months of silence, defendants plead, "There has been no denial of plaintiff's requests...."

With the explicit language of the Attorney General's Memorandum (p. 24) ordering: "Every effort should be made to avoid encumbering the applicant's path with procedural obstacles when these essentially internal Government problems arise", and with the words of the House report on this law, as quoted by the same source, being:

"...the person making the request is entitled to prompt review by the head of the agency",

there would seem to be no legal sanction for defendants' position, that plaintiff await the freezing-over of hell.

Defednants can not ignore and violate the law and regulations and ~~then~~ not provide the "prompt" review and then, eight month after plaintiff's appeal, plead that thereby "There has been no denial of plaintiff's requests" because "there has been no ruling by the Assistant Administrator."

Here, once again, there is no genuine issue as to any material fact. And, as has been shown, in all of this section of defendant's "Argument" entitled "Plaintiff Has Failed to Exhaust the Available Administrative Remedies", defednants claims is, without exception, false, plaintiff has more than "exhausted" his available administrative remedies, and on all of this there is also no genuine issue as to any material fact.

Defendants' " B.Defendants' Refusal to Permit Examination and Photographing of the Aryicles is a Discretionary Act Created by Statute and Agreement with the Donors"

At the outset, it should be noted that here also the ~~first~~ plaintiff's first request, for copies of the existing photographs, that he has been denied, is not addressed, and with regard to that there is no genuine issue as to any material fact.

It is in this section of defendants' "Argument" that the intent to blame the family of the late President for the suppression of evidence by defendants and their counsel becomes apparent. Defendants' counsel is the Department of Justice. Far and away the overwhelming proportion of what is withheld in the Warren Commission files at the National Archives is withheld by order of the Department of Justice. And so anxious was the Department of Justice to withhold, in this case really meaning suppress, public information that it actually ordered the Archives to withhold several hundreds of pages of such public information that had actually been published by the Warren Commission! For more than six years, the Depar ment of Justice attempted to suppress what the Warren Commission had, in fact, published. These several hundred pages were not made available by the Department at the Archives until January 1971!

When it was first claimed that there was error in the Report of t e President's Commission, those who pretended to be its defenders pretended to be defending the former Chief Justice who was its titular head. Actually, as plaintiff first writing in his first book made clear, most of the owrk was by the staff, the members of the Commission having been selected from among the busiest men in the nation. It was even alleged by the Commission counsel in charge of that part of the work and that part of the writing of the Report that is at issue in this instant case that if there were error, the then Chief Justice was a perjurer. Said counsel actually used this very word in his spurious argument, for he well knew that what the Chief Justice and the other members of the Commission signed was his own work, his own beliefs, his own theories pretended to be and presented as though they were fact. The real reason the government seeks to deny the pictures plaintiff seeks is because, with plaintiff's knowledge of the fact, the said pictures have the capability of proving beyond doubt that the official explanation of this assassination is erroneous.

That, however, the government will not admit, and the foregoing is a fair sample of the extent towhich the government will go in an effort to prevent any effort to establish truth and rectify error.

It is also a fact that when questions about it were raised after appearance of the Report, official spokesmen said that there cou,d not possibly be abything wrong with the Report because the late brother of the late President, both now assassination victims, as Attorney General, had been in charge of the investigation. The fact is that the then Attorney General was completely disassociated from the investigation. Prior to appearance of the Report, the staff of the Commission actually tried to persuade the then Attorney General to make public his approval of the Report he had never seen! His proper reply, to its credit published by the Commission, if buried in the appended enormity of that organized chaos in those 26 volumes, was that to the Commission's knowledge the late Attorney General knew of the case only that which he had been told and he therefore could not properly or honestly make any comment.

But the effort to make to seem that the family of the late President was somehow the cause of withholding that which was and is withheld never ceased. It is here that the wolf of suppression seeks to adorn itself in the clothing of the vistim sheep.

It is here that by, with the most deliberate and premeditated misrepresentation, the government says it must deny plaintiff because of a certain "letter agreement dated October 29, 1966." The wording is not inaccurate. It was "dated" that day. But it was prepared earlier, at a time when the representative of the executors of the estate of the late President was not yet known. A blank was left for this name and that of a former Assistant Attorney General of the United States, Mr. Burke Marshall, was written in.

A little background is required for proper understanding of this contract.

And, it, too, was improperly withheld from plaintiff when he requested it, as the complaint sets forth. Prior to this contract, there was a certain "Memorandum of Transfer" executed by the Secret Service, in April of 1965. What is covered by this letter

agreement was first covered by that memorandum of transfer. When plaintiff sought that of defendants, carefully awaiting public use of it by the Department of Justice in order for the provisions of 5 U.D.C. to be pertinent and pllicable, for months defednants ignored plaintiff's request, then, by a series of contrived and evasive devices extending over a long period of time, denying it to him. When the Secret Service gave the Archives a copy for it to give to plaintiff, the Archives refused to do so, failing even to inform plaintiff and then, after repeated inquiries from plaintiff, after a long lapse of time, refusing to give plaintiff the copy of this said memorandum of transfer that had been given him by the Secret Service, attributing a different reason in this case.

The letter agreement or the GSA-family omtract is Exhibit A attached to the complaint in this instant case. It neither says nor means that which defendants claim in Section B of their "Argument". Stripped of all defendants' verbiage, misplaced emphasis, wiahful thinking and straightfowward misrepresentation, this contract neither suppresses nor authorized the suppression of the evidence and it does, in fact, direct that what plaintiff asks be done.

However, this "Argument" errs in a manner that is deception in falsely alleging that it was under this "letter agreement dated October 29, 1966" that "the clothering and personal effects...were transferred" to the National Archives. This was accomplished with the aforesaid suppressed Memorandum of Transfer. It is only title that was formally vested in the said agreement. That agreement even as quoted by defendants (p.7) says that what is in it transferred is "all of their right, title and interest in all the personal clothing of the late President now in the possession of the United States Government and identified in Appendix A..."(Emphasis added.

First of all, there is the identification, again with care, deleted from defendants' "Argument". By this omission defendants eek to hide their misrepresentation of the clothing as no more than an historical curiosity. This is one of the repeated ways in which this clothing is identified as official evidence, public information, in the said agreement (p.7).

"APPENDIX A Clothing and personal effects of the late President identified by the following exhibit numbers relating to the President's Commission on the Assassination of President Kennedy: Commission Exhibits Nos. 393,394,395. FBI Exhibit Nos. C26,C27, C 28, C30, C33, C34, C35, C36."

So clear is this agreement on the public-information character that even the transfer of title does not identify what has its title trasferred by description, as one shirt, one jacket, one tie of described stylep, patter, colors or other description. The exclusive identification is only in terms of identification by means of the official exhibit identifications.

One of the family's desires is explicit: "to prevent the undignified or sensational use of these materials (such as public display) or any other use which would tend in any way to dishonor the memory of the late President to dishonor the memory of the late President. or "cause unnecessary grief and suffering" to family and friends.

Defendants' adding of emphasis here without so indicating is tantamount, with defendants' history set forth above, to asserting that display before the largest audience in the history of commercial TV is not (public display), not undignified or sensational, not of a nature to cause grief of suffering to family to friends, but that photographs for purposes of scholarship and research, and those of the tiniest parts of this evidence, would be. This pretense is unworthy of government as it is unworthy of further comment.

False emphasis is added to the quotation of of (2) (2)(b), making it read, "...The Administrator shall have full authority to deny requests for access, or to impose conditions he deems appropriate, in order to prevent undignified or sensational reproduction..." However, what this really says, once the misleading added emphasis is removed, is that the only basis for discretion by defendants in denying access to those who qualify for access is, "in order to prevent undignified or sensational" use. Despite all defendants' contrary pretenses, representations and misrepresentations, this is the sole basis possibke for denying access.

Those who in this part of the contract qualify are also defined with care:

"(2) Access to the Appendix A material shall be permitted only to:" followed by "(b) Any seriois scholar or investigator of matters relating to the death of the late President for purposes relevant to his study thereof."

Now if, as plaintiff neither believes nor suggests, the family had had plaintiff in mind, they could not more closely described his uncontested qualifications. Plaintiff has written at least 500% more serious writing on this subject than anyone else in the entire world, and this estimate is probably conservative. He has devoted his life to just this study since the tragic event. For most of these seven years, he was work worked an average of more than 18 hours a day, seven days a week, often longer.

Although neither law nor regulation nor this agreement require it of him, plaintiff nonetheless, in the language so shamefully twisted by defendants, went far out of his way to explain in detail both how his "purposes" were "relevant to his study" and even what he desired to be able to study.

There is no test that plaintiff does not meet, in plaintiff's belief more than anyone else. Plaintiff suggest that the Columbia Broadcasting System, which was permitted to take photographs of the same garments, does not meet these tests if at all, as well as plaintiff. And there was no doubt of the violation of the "public display" provision of this same agreement with the intent use on TV and that before the world's largest commercially-scheduled audience.

Defendants' next quote the provisions of III, again adding emphasis, again without somindicating. Avoid that sanre, what this provision says is that "the Administrator is authorized to photograph" the clothing evidence "for purposes of examination in lieu of the originals by persons authorized tto have access," this being restricted to one purpose, to "preserve" them and to prevent "possible damage". Nothing p,aintiff has requested or even suggested presents anysuch hazard.At no point, in no way, do defendants allege that the access plaintiff seeks presents any jeopardy to this evidence (which is a lot more than plaintiff can say and prove about the Archives' custody of other vital evidence, which has been both damaged in that custody and disappeared entirely from it!). Nor do defednants allege or even so much as suggest that, conceding for the sake of argument that this agreement is in all repsect valid, plaintiff does not meet all requirements in every way or fail to meet a single requi

requirement in any way.

Defendants fails to make any such argument not from ignorance but simple because no such argument is possible. But even were such an invalid argument made, it would fall before the law, for as set forth in American Mail Lines v. _____ _____, even reference to that which is withheld constitutes a waiver lf the right to righthold. And, as set forth above, defendants acknowledge their own precedent in having allowed a commercial enterprize, the Columbia Broadcasting stsyem, to make their own photographs of this identical clothing evidence.

Am relevant provisions of Section VI escaped defendants' attention in their selective quotation from this agreement. that provision charges the Administrator "...to Ppovide for the preservation, arrangement and use of the materials..." "Use" and "denial of access to those qualified are mutually exclusive.

Nor is the opening sentence of the letter agreement quoted. Its description of the clothing is also relevant: "...the personal effects of the latex President which were gathered as evidence by the President's Commission..." Furthermore, and another omission by defendants, is I. (2)(a), which contemplates the possibility of further investigation ofnthe assassination.

Defendants next describe what they have elected to select from this family contract as "proscriptions", which in actuality is exactly the opposite of what they are as relevant in this action, and alude again to 44 U.S.C. 2107 and 2108(c) and the regulations of the Archives. As we have already seen, 44 U.S.C. does encompass such evidence, does, quite specifically, include in the word "records" both the "photographs" plaintiff seeks and access to the clohting, which is included in the language "or other documentary materials, regardless of physical form or characteristics". In this connection, plaintiff repeats the language of the Attorney General's Memorandum immediately following upon its citation of the provision for which the words quoted above come. It says that under P.L.89-487, "availability shall include the right to a copy." The language of the second paragraph

paragrapph of the Archives' own"Regulations for Refernce Service on Warren Commission Items of Evidence" reads, "Still ~~pictures~~ photographs ....Copies will be furnished on request for the usual fees."

Defendants enjoy no right to violate the law or their own regulations, nor have they the right to apply either selectively, granting to a commercial interest what it denies a qualified researcher and an acknolwedged expert the seriousness of whose study and purposes has never been challenged.

Herefollowing defendants make references to other statutes relating to "the acceptance of gifts subject to conditions and restrictions", the alleged confidentiality of some donations and such things, none of which is relevant, for these things are not in any sense at issue, the law, regulations and contract, as quoted in the foregoing having specific applicability whereas these generalities have none.

And from the foregoing it is apparent that there is no genuine issue as to any material fact in defendants' "Argument B", in each and every ase the laws and regulations cited as well as the family contract supporting plaintiff's Motion for Summary Judgement".

Defendants "Argument C. The Kennedy Clothing is not a 'records' within 5 U.S.C 552".

Herein defendants argue differently from the other side of the mouth, Having asserted under "II. Pertinent Statutes and Regulations", that "Although the Public Information Act does not specifically define the word 'records', predecessor legislation, within the ken of the 90th Congress did", and there (p.3) citing "Section 1 of the Act of July 7, 1943, 57 Stat. 380", alebit incompletely and selectively, as noted above, they here (p.9) claim that under 44 U.S.C. 3301 is controlling and thus argue that the clothing evidence under 5 U.S.C. 552.

This, first of all, begs the point. Plaintiff has not asked for the clothing or duplicates of the clothing, he asks for no more than photographs, which eliminates any point that might have existed in defendants' argument. Photographs, as the laws previously-cited show, including that here cited by defendants in including photographs within the definition of "records". The very first words of the section of the Attorney General's Memorandum here cited and misused by defendants are:

" * * *the words 'records' includes all books, papers, maps photpgraphs or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government in pursuances of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency of its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Government or because of the informational value of data contained therein."

It is this definition that covers the clothing that is evidence, the language being "regardless of physical form or characteristics. It "was received...in connection with the transaction of public business", namely by the Presidential Commission that conducted an official, governmental investigation sanctioned by the President and the Congress, with rights and powers duly delegated to it.

It is both "preserved" and "suitable for preservation" by the "legitimate successor", namely the National Archives. It is "evidence of the... decisions or other activities of the Government", including the conclusions or decisions of the said Commission and in its investigation abd deliberations. And preservation is "because of the informational data contrained therein", of which more will soon be said.

What does not fit is what defendants' skip to, the exclsuoon of "library and museum material made or acquired solely for reference or exhibition purposes" (emphasis added), which are precluded by everything defendants cite elsewhere, most of all by the family contract, which could not be more specific in eliminating such definition, its very opening precluding any "public display".

Having with care and foresight not presented the court with what this page of the Memorandum says that is really relevant, with no inhibition at all defendants proceed to present a deliberate misinterprepation of what follows, this the more easily accomplished by the omission of the relevant. The first part of what defendants cite from the text of the Memorandum at this point does establish the validity of plaintiff's case, the second relates to other matters, which plaintiff will mark by adding emphasis:

"It is evident from the emphasis on the legislative history of Public Law 89-487 upon the concept that availability shall include the right to copy", 'records' in subsection (c)

(which proves plaintiff's case)

"that the term 'records' in subsection (c) does not include objects or artciles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, etc., whatever their historical value as evidence. . . . "

Here, as noted above, defendants again omitted what follows and what is relevant, that the definition includes both "historical" abd "contemporaneous documents".

Now if anything in this world is obvious, it is that plaintiff has not asked for

"objects"
""or artciles such as structures,
furniture,
paintings,
sculpture,
three-dimensional models,
vehicles,
equipment, etc."

It is obvious that in this law Congress didx not visualize requiring the giving of the White House, the flag or Iwo Jime, Heneral Pershing's auto, the paints and scultures that adorn the halls of the Congress and other public buoldings, or even an Apollo rocket to applicants, and it is to such things as these that the misquited language refers. Plaintiff neither now nor ever sought any kind of duplication of the Presidents clothing. All he seeks and has ever sought is photogrpahs of this official evidence. The intent to deceive and mislead the court here could not be more transparent.

Thus the argument that "itxis obvious from the above", namely the recitation of the assorted objects that are as completely irrelevant as possible, all those sculptures, vehciles, furniture and assorted equipment, #that the above materials spught to be examined and photographed are not 'records' within the contemplation of the language of the public Information Act and, therefore, are not records which this court has jurisdiction to compel the defendants to produce or not withhold" is entirely and knowingly spurious.

Plaintiff is neither blessed nor, what his recent experiences might make seem more appropriate, cursed with knowledge of the practise of the law. He is and has been, however, the victim of much official abuse, the net result of which has been to frustrate his work that he considers proper and in the public interest, and to drain his already-limited resources. Responding to such a detailed concatination of misrepresentations, deceptions, misquotations and outright falsifications as is reprewented by defendants instant motions and addenda, particularly at a time when he is unwell and handicapped by ebing unwell, is a considerable and added drain upon him and his resources and a major intrusion into his capacity for constructive work. Jaundiced a view as plaintiff believes he is entitled to hold of such official conduct, (and hoping the expression is no transgression against the norms of the calling of the law), he nonetheless expresses the opinion that so deliberate and conscious a misrepresentation as all of the foregoing, but most particularly the immediate foregoing, so gross an attempt to practise a deception upon a court, is as genuinely a subversive effort as government can attempt.

To cite a provision of a law that relates to objects such as vehciles and equipment,

like bulldozers or ~~rockets~~ inter-planetary rockets, pretending they are applicable when to the knowledge of ~~plaintf~~ defendants and defendants' counsel they are not, as relevant to what is at issue, and at the same time and at the same point withholding from the court the applicable provisions of the same law that are relevant, namely, that the relevant and pllicable word of the law "photographs" is inc,ude included in the definition, ought be punishable, wh ether or not, as a matter of law, it is.

Especially so on so vital a subject as the assassination of an American President, its official invesgigation, and the suppression of the most essential evidence.

Whether or not this is true, it is again true of "Argument C." that it is apparent that there isnl gebuine issue as to any material fact, once again, as stated by plaintiff in his Motion for Summary Judgement.

However, the issue, whether or not honestly raised, should not be avoided, if only in the interest of the completeness of the court record and for whatever value it might in the future have. Although it is, in plaintiff's belief, here immaterial, the official evidence in the form of the clothing of the late President and in the form of pictures thereof do constitute "records", within the meaning of pertinent and applicable law. Aside from the previously-cited provisions of the family-GSA agreement which are in point and say this, there is more.

As previously noted, the GSA-family contract identifies the clothing of which pictures is sought not as clothing, such as shirt, jacket and tie, but by its official exhibit number in the official record of the Warren Commission and in the similar investigative exhibit designations of the FBI. The President's underclothing, his socks and shoes are not in the Archives, nor are any of the other items in his extensive wardrobe. Not even his trousers, his tie-clip or other jewelry, the contents of his pockets. Not the ill-fated Presidential limousine.

What is in the Archives is not there because it is a memento of a President. What is there in not there for museum purposes, not, certainly, for "public exhibition". What is there is there fore one reason only: because it is evidence of this monstrous crime, the official evidence of the official investigatio, and of that among its most

significcant and fundamental evidence.

Not alone in the family contract is this explicit. There is not and never was any doubt in the minds of the defendants on this score.

While the Archivist was continuing to reject the proper requests by plainting in this instant action by ignoring them or by subterfuges, he simultaneously executed an affidavit for another action in another court (C.A. T-4761 in the Federal District Court for the Federal District of Kansas). This was on July 29, 1970, ~~39~~ 39 days after plaintiff filed his appeal in this instant action. In that sworn statement, contrary to the representation in this instant action that the Archives is not suable, he declared that "oursuant to authority granted to me by the Administrator of General Services, my responsibilities include th preservation of the documents and other artciles on deposit in the Archives of the United States, including the clothing of former President John F. Kennedy, consisting of a coat (CE 393), shirt (CE394), and a necktie (CE 395)..."

There is here no allegation that the ~~Archivist presides over~~ some kind of museam, nor is there any ~~representation of the tragic garments~~, any description of them at all, other than by their ~~official exhibit~~ identifications.

Nor was there ever any doubt in the minds of either defendants or their counsel in that same Kansas action, for in their Memorandum in Support of Motion to Dismiss in that action (where it was not claimed, in the presence of competent professional counsel for plaintiff, ~~that the Archives is not a suable agency~~), defendants and their counsel, finding it served their purposes in that action, referred to Congressional intent that all the evidence, especially what it termed the "critical exhibits", be available for the establishment of truth and to discourage "irresponsible rumors", as set forth in H. Rept. 813, ~~88th Congress, 1st Session~~ 89th Cong. 1st Session, filed August 19, 1965, (but rather asked dismissal because the ~~Archives~~ was not denominated a defendant) (here quoted from p. 12 of the said Memorandum in Support):

"The commitee is persuaded that the national interest requires that the Attorney General shall be in a position to determine that any of these critical exhibits, which were considered by the President's Commission, shall be permanently retained by the United States. The Committee concurs in the view expressed by the Attorney General, that in years ahead, allegations and theories concerning President Kennedy's assassination may abound. To eliminate questions and doubts, the physical evidence should be preserved. A failure to do so could lead to loss, destruction, or alteration of vital evidence and in time might serve to encourage irresponsible rumors ; undermining public confidene in the work of the President's Commission." (Emphasis added in Memorandum)

Thus it is clear that the Congress did not regard this evidence as curiosities for a museaum but as, in its words, "the critical evidence" and "vital evidence", displaying and expressing an attitude and an intent entirely inconsistent with that alleged by ~~pl~~ defendants.

The then-acting Attorney General adopted this expression of the Congress and, in parallelling language, issued an executive order under date of October 31, 1966. It should be noted that this was two days after title to the garment-exhibits was given to the United States. That executive order includes these words:

"I have determined that the national interests requires the entire body of evidence considered by the ~~Warren Commission~~ President's Commission on the Assassination of President Kennedy and now in the possession of the government be preserved intact.

There are no ifs or buts. The items in question were, without doubt, then "in the possession of the government and with no question at all are part of the entire body of evidence considered by the Commission.

Under this order, all this evidence, whether or not official exhibits, was to be "preserved together" and available under applicable law, regulation and practise.

Thus, on the questions of whether or not what plaintiff seeks is "evidence", the reason for its preservation as evidence and on whether or not a "record", there is no genuine issue of material fact, which is exactly what plaintiff stated in his Motion for Summary Judgement.

Conclusion- Denendants' and Plaintiff's

There are nine truthful words in defendants' conclusion, "there are no genuine issues as to any material facts", but the rest is untruthful.

"Based upon the foregoing", defendants' words that preceed" defendants have no case, no single correct or valid argument, no single pertinent citation of law or regulation - not even a truthful, accurate or in any sense faithful representation of the correspondence and appeals requisite to the filing of the instant complaint.

Based upon the foregoing, defendants have actually proved the truth and legal correctness of plaintiff's Motion For Summary Judgement.

When defendants' own citations are read in full, when what defendants have kept out of the consideration of this court in only those things defendants have cited are considered, these prove the opposite of defendants' claim. These citations establish that as a matter of law and regulation there is, indeed, no genuine issue as to any material fact about plaintiff's complaint and Motion for Summary Judgement.

Wherefore plaintiff respectfully urges this court to enter this judgement in planitiff's favor.