Argument & Welcome

I. Introductory Statement →

Introduction & Explanation

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", and "III. Argument."~~

Because this instant action may have significances not immediately apparent, plaintiff elects, whether or not strictly required of him as a matter of law, to address each and every point, argument, suggestion or innuendo by ~~plaintiff~~ defendants and their counsel. The court is asked ~~xxxx~~ to bear in mind that what is sought in this action is access to the most basic public evidence, official exhibits, in the investigation of the assassination of a President. Despite defendants' elaborate effects to convey a contrary impression, neither here nor on any prior occasion has plaintiff sought more than this simple thing: access to this official, public evidence.

As a matter of fact and reality, although there was ~~XXXXXX~~ a Presidntial Commission appointed to investigate and deliberate, the actual investigation was conducted by the Department of Justice, which is defendants' counsel in this instant action. The Commission never at any time had so much as a single investigator of its own. Of the investigation, 100% was done by the executive branch of the government. This ~~began~~ investigation began a week before the Commission was appointed. Almost all of it was by the Department of Justice.

The Director of the Federal Bureau of Investigation testified to this before the Commission (Hearings, Vol. 5, pp. 98-9):

"When ~~the~~ President Johnson returned to Washington he communicated with me within the first 24 hours, and asked the Bureau to pick up the investigation of the assassination because, as you are aware, there is no federal jurisdiction for such an investigation... I immediately assigned a special force...to initiate the investigation and to get all the details and facts concerning ~~this~~ it...and I would say we had about 150 men at that time working on the report in the field, and at Washington, D.C...."

Here the director refers to the immediate manpower only. A much larger number of FBI agents and technicians ~~were~~ was involved in the investigation.

The director was less than forthright in this testimony, for without awaiting instructions from the President, he launched his agents into the investigation immediately. They participated in the first and all interrogations of the accused, beginning with

his arrest, less than two hours after commission of the crime. The first thing the FBI did was warn or threaten all witnesses to strict silence, which precluded the appearance of knowledge of any versions of what these witnesses said or could have said except as the FBI chose to represent it. As a matter of fact, just this and the fidelity of FBI reporting became so scandalous the Commission could not avoid it, and even such probative professional investigators as the two Secret Service agents driving the President's car, one of whom was ~~in entire~~ in charge of the entire detail that day, not only denied saying what the FBI reported them as saying but went farthur and said it was impossible. Countless FBI interviews were conducted of which no record or report was made to the Commission. And this, too, although little noticed, had to be and was considered by the Commission.

The grim reality of immediate and unending FBI control of the official investigation is that it was so immediate and so thorough that it even foreclosed the Secret Service, which did have jurisdiction, vested as it is with responsibility for the security of the President and his protection. Of the ~~xxxxx~~ officially-unpublished proof of this plaintiff has been able to obtain - and it is repetitious - ~~xxx~~ one that plaintiff has published illustrates this abundantly.

It will be recalled that a certain rifle allegedly was the murder weapon. The day after the assassination, the Secret Service, having traced it to the seller, Klein's Sporting Goods Co., sent agents to ~~his~~ their Chicago office. Until the Secret Service exerted great pressure on Klein's officials, they refused to say anything. ~~[illegible]~~ The modest Secret Service representation of the attitude of the company's vice President, Wilkiam J. ~~Walmna's attitude~~ Waldman's is presented in these words (Secret Service file # CO-2-34030, printed in facsimile on p. 39 of plaintiff's second book, WHITEWASH II: THE FBI-SECRET SERVICE COVERUP):

"It should be noted at this point that Waldman kept reiterating that he had allegedly been instructed by the FBI not to discuss this investigation with anyone." (Emphasis in original)

When Waldman was finally persuaded to talk to the only federal agency with legal jurisdiction, in the words of the same Secret Service report:

"Waldman advised Special Agents Tucker and that the FBI had been to his place of business from approximately 10 p.m. on 11/22/63 until approximately 5 a.m. on 11/23/63..."

It required considerable investigating to trace the rifle to Klein's, then to locate company officials and get them to their place of business and gain access to the records, but all of this was accomplished by the FBI, which is to say a part of the Department of Justice, which is defendants' counsel in this instant case, by 10 p.m. the night of the crime.

Understanding of the fact that the Department of Justice immediately took control of the actual investigation and never relinquished it, in plaintiff's belief, is necessary to an understanding of defendants' refusal to make available to plaintiff that which law and regulation require be made available to him and to an understanding of the character, content and doctrine of defendants' motions.

Accepting Director Hoover's number of agents immediately assigned to the case for comparison, ignoring the large number of others later involved in it, these 150 investigators number more than a third more than the entire staff of the Warren Commission, including file clerks and typists. And of the 94 who served on the Commission, the 15 who were the general counsel and assistant counsel, those upon whom most of the responsibility fell, are but 10% of these number of FBI agents on the investigation at the outset only.

How understated all of this really is in representing the FBI control over the actual investigation is acknowledged by the Commission in the Foreword to its Report (xii):

"The scope and detail of the investigative effort by the Federal and State agencies are suggested in part by statistics from the Federal Bureau of Investigation and the Secret Service. Immediately after the assassination, more than 80 additional FBI personnel were transferred to the Dallas office. (Emphasis added)...Beginning November 22, 1963, the Federal Bureau of Investigation conducted approximately 25,000 interviews (Emphasis added)

Thus, with the first FBI reports of investigations completed the very day of the assassination, which means in less than half a day from the time of the shooting, the immediacy of EBI control becomes apparent. The magnitude of the number of interviews, 25,000, can perhaps be grasped by comparison with the total number of printed pages produced by the Commission in its Report and 26 appended volumes of testimony from 552 witnesses and more than 5,000 exhibits, by number. All of these total considerably less than 25,000.

Over and above all of this, the FBI also supplied the Commission's technical and laboratory services, including all that is herein most relevant, its photogrpahic services, insert as 4a

and that the other item plaintiff seeks is photographs essential for any study at all, including other views of the damage and alleged damage to the clothing, enlargements that show the nature of this damage (which is completely invisible in every published copy and obscured where it is visible in those provided by the Archives), ~~and~~ views from the other side, the inside, all existing photographs being from the outside only, and from the side, the existing photographs not including any side views,

inadequate, it becomes readily apparent that, aside from any defense of the denominated defendants in this instant action, defense counsel, inevitably, are defending their own agency, the Department of Justice.

Whether or not this is, as generally understood, a conflict of interest, it ~~can~~ provides special motives and interests that can and plaintiff believes ~~has~~ does dominate the form, content, expression, integrity and the very nature ~~and character~~ of motions filed allegedly on behalf of the denominated defendants.

Plaintiff believes and therefore alleges that the real reason for denying him copies of ~~what~~ the official, public evidence he seeks in this instant action is for no other purpose than suppression, to deny access to evidence that can disprove or at the very least cast the most serious doubt on the federal explanation and "solution" of the assassination of President John F. Kennedy.

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Over and above all of this, the FBI also supplied the Commission's technical and laboratory services, including all that is herein most relevant, its photogrpahic services, and the interpretation of the photographs, and the expert testimony about the clothing (Report, pp. 91-2, under "Examination of Clothing").

Thus it can be seen that what plaintiff seeks in this instant action is access to the evidence that will, for the first time, permit impartial study of that evidence and its meaning. In turn, this means the first impartial evaluation of the FBI representation of that evidence. When it is further understood that one of the items of which plaintiff seeks copies is those photographs of the said clothing taken by the Archives because the photographs taken for the Commission by the FBI are that inadequate, it becomes readily apparent that, aside from any defense of the denominated defendants in this instant action, defense counsel, inevitably, are defending their own agency, the Department of Justice.

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In turn, this means a number of other things, that investigation having been by and dominated by the same agency of government that in this action represents the denominated defendants. There is no embarrassment to the denominated defendants that can come from complying with the law and their own regulations and providing the public information in the form of photographs that plaintiff seeks. There can, however, be the greatest embarrassment to the agency suplying denominated defendants' counsel, most of all ~~xxx~~ to the Director of the Federal Bureau of Investigation.

In the passage cited above from the Director's testimony before the Warren Commission, he also testified that he, personally, went over every request from the Commission and every response, over everything sent to the Commission. So this Court can better understand the significances here alleged, plainitff cites but a single of the available cases from the Commission's record.

FBI agents in the field provided reports to Washington saying that a certain thing attributed to Oswald in the Commission's Report was not, in fact, done by Oswald. When these field reports reached FBI headquarters, they were rewritten and the Commission was sent a summary report saying the opposite of what the investigative reports said. The language of the Warren Report is identical with that of the rewritten, erroneous report ~~originating~~ prepared in FBI headquarters in Washington. Because they are not legally essential in this instant case, plaintiff does not attach them, but he has and can produce to this Court both sets of these Reports, the words of the investigators in the field and the opposite version ~~eminating from~~ of FBI headquarters. More, plaintiff ~~then~~ personally interviewed these witnesses, in the presence of a public official in that distant jurisdiction, and with the assent of these witnesses, tape recorded their exact words. There is no doubt, nor was there ever any doubt, that this act, a significant act in any consideration of whether or not there had been a conspiracy to kill the President, was deliberately corrupted in FBI headquarters, a false account was given to the Commission and that false account, word for word, became the Commission's conclusion.

For the FBI, such considerations exist in plaintiff's access to the official evidence that is denied him. The photographs plaintiff seeks will prove the FBI was again wrong.

There is a difference between proving the FBI wrong, which is not plaintiff's purpose, and learning and establishing the truth ~~of~~ about how and by whom the President was assassinated, which is. Plaintiff assures this Court that as of the moment of this writing, based on the evidence plaintiff has already obtained ~~xxxx~~ from the ~~xxxxxx~~ relevant photographs in plaintiff's possession and on competent, professional examination thereof by a qualified, impartial expert, plaintiff can produce expert testimony establishing the FBI's erroneous interpretation of the sought evidence ~~by the FBI~~.

The law and existing, controlling interpretations do not require that applicants ~~have any~~ need ~~to~~ provide reasons for seeking public information. Plaintiff believes the law and regulations are clear, that he is entitled to the summary judgement he asks. However, should plaintiff be denied, and should it seem necessary that, because of the unusual nature of this case and of that public information sought, the seriousness of plaintiff's purposes be established and the character and meaning of the evidence denied him be ~~xxxxx~~ presented to the Court, plaintiff will undertake to do both and believes that he can, beyond any prospect of refutation.

7 etc

~~Commentary~~ II. Collateral Issues

~~and their counsel~~

Defendants have converted this case into something more than one in which plaintiff has to seek the aid of the district court for relief to which, there being no genuine issue as to any material fact, he is clearly entitled.

This is, in fact, a case that should never ~~had~~ have had to get before a court of law, all the material facts being so clear, all on one side, plaintiff's. What plaintiff seeks is no more than public information to which he is, clearly, entitled, under all applicable law and regulation. What plaintiff seeks is no more than what defendants have already provided another.

And on this point - that defendants would provide what plaintiff seeks to those who would say, ~~exactly~~ what defendants wanted said, and that to a vast audience, ~~with what was asked~~ plaintiff seeks and at the same time refuse identically the same thing to plaintiff, who could not be depended upon to say what defendants wanted said, albeit to what by comparison can only be to an infinitessimally smaller audience - we come to the essence, ~~but what is not before the court in plaintiff's Motion for Summary Judgement~~.

Actually, what plaintiff seeks is less trouble to defendants, infinitely less cost, and is much simpler. Plaintiff asked for copies of existing still pictures of certain official evidence, public records, and that still pictures be made for him of this same evidence showing views not shown in any of the existing pictures. What plaintiff asks is no more than the everyday household chore of defendants. Complying with law and regulation requires no departure from defendants' everyday norm, no intrusion into the work-day of a single employee. And none of it except at plaintiff's cost.

What was done for the Columbia Broadcasting System and with such skill and deceit hidden from this court by the employment of tricky language and selective quotation of the existing, written record, did involve considerable trouble for defendants and did involve the most serious breach of a contract defendants claim is a valid and binding contract, indeed, one they falsely invoke and misuse to pretend it sanctions

defendants' obvious and flagrant violation of law and regulations. Bringing elaborate television camera equipment into the National Archives Building, with the attendant crews, tracking all of this up and down elevators, through corridors and to wherever the photographing was done, intruded into the work of many people. It was a departure from the norm. And it did make possible use of this public evidence in the poorest possible taste, use that could only cause new and needless pain and suffering to those who had already suffered too much and too greatly. The contract between defendants and the family could not have been more explicit in prohibiting this.

Yet defendants did it, because they could depend upon the Columbia Broadcasting System to show and say what the Government wanted said, that the government's investigation of the assassination of the President and its Report thereon were, in essence, correct and dependable. For this profit, defendants were willing to violate their contractual obligation, risk this added pain and suffering to the survivors, cause whatever added public anguish that might have ensued.

Plaintiff, on the other hand, has written critically of the official investigation of this monstrous crime and has exposed and brought to light flaws in the official reporting thereof. Plaintiff has, from the very first of his extensive writing, said that the expected job has not been done and must be, entirely in public and preferably by the Congress. He has since devoted himself, his investigating and research, and his writing, to laying a basis for this, to attempt to right wrong, to effectuate justice- to make society work.

He has, as a consequence, been the recipient of rather unusual attentions many, if not all, of which can be of only an official nature. Some, without doubt, are, and plaintiff has the irrefutable proof in his possession. Some of the intelligence by the federal government against plaintiff was subcontracted. And some of the subcontractor's employees, being devoted to a genuinely free and democratic society, being opposed to Orwellian official intrusions into private lives and especially into the rights and freedoms of writers in a society such as ours, have provided this proof - quite voluntarily. These persons were total strangers to plaintiff.

Insert 3a

Entirely aside from the foregoing, plaintiff, having had improper interest in him and libels attributed to FBI agents (something plaintiff is unwilling to believe and cannot prove), reported this to the Department of Justice and asked at least pro forma denial, if only for the record. In two years, and after renewal of the request, no such denial has been forthcoming. Having reason to believe that Army intelligence spied upon him on at least one occasion, and in addition, intercepted, pilfered and damaged plaintiff's luggage, records, ~~and~~ tape-recorder and typewriter, broke his ruined his the interception and damage being a matter of record with the air line involved, has had no response to repeated letters to the Army. Two requests for instructions, regulations and any forms required by the Army under 5 U. S.C. 552 are unanswered, after two months. Failure to respond to requests for knowledge required for use of 5 U.S.C. 552 are not the exception but the rule with Government agencies, at least where the requests come from plaintiff. The last time plaintiff was in the Department of Justice building, he sought copies of their regulations from the designated office and from the offices of the lawyers involved and could not get them from either.

By the most remarkable coincidence, all three aspects - Government suppression of public information, eavesdropping and surveillance, and improper interest in plaintiff are encapsulated in a Herblock cartoon published in the Washington Post of Sunday, February 7, 1971, while these papers were being prepared for the Court. (Copy attached)

For such improper and illegal violations of the rights and freedoms of Americans, our government has established "fronts". Paintiff, whose belief ~~and~~ interest and hope do not call for scandalous treatment of such serious topics as the assassination of a President and study of it and its official investigation, has eschewed scandal and, although he is a writer, has ~~never~~ not exploited this ready-made scandal delivered to him. But plaintiff does have not electrostatic but actual carbon copies of those reports made to the federal government, records of communication between the front established by the government, ~~paid~~ funded and maintained by it, records of communication between this front and subcontractor, ~~the~~ envelopes in which payments to the subcontractor ~~was~~ were made and even copies of ~~the~~ checks made in payment for such nefarious and improper services.

There have been more such untoward things. There have been intrusions into plaintiff's use of the mails, with both his letters and manuscripts intercepted, in one case certainly and in another possibly preventing publication of plaintiff's manuscripts. And of this also plaintiff has proof in his possession.

There have been shadowings, agents planted in audiences. And ~~ex~~ to this plaintiff has credible witnesses to support his own ~~their~~ observations.

There is substantial reason to believe there also has been ~~telephone~~ electronic eavesdropping.

insert 3A

So, this, what seems like a simple case in which bureaucracy just arbitrarily denies plaintiff that public information which without doubt is both public information and the right of plaintiff, is much more than that.

Nor is it a simple matter of bureaucratic arbitrariness, or of ~~perx~~ official, personal dislike of plaintiff, vented in this improper manner.

What we have here is a symptom of a dangerous national illness, of an officially-suffered malignancy that presents a great hazard to our society. It is, in plaintiff's believe, a ~~great~~ subversion of any free society.

The Congress passed a law to assure all Americans certain rights. Ours is the kind of society in which precisely these rights are essential, the kind of society that cannot survive in this form without the full enjoyment of just these rights.

There is no wealth or power than can match that of the federal government, if that

government is determined to prevail, to have its way. How much less, then, is it possible for a lone man, with neither means nor ~~connection of~~ influence, to enjoy his rights, faced with the determination of government to deny them?

And if any one man is denied ~~wh~~ his rights, who can depend upon the enjoyment of his own?

Is there then freedom? Is there then a government of laws?

The Congress enacted a law, the one plaintiff invokes, to guarantee and assure public access to public information. Congress had to enact this seemingly superfluous law ~~b~~ because ~~the~~ Government power and abuse of ~~bureaucracy~~ power had grown to the point where the public was regularly and systematically denied access to public information. That same bureaucracy now has ~~sized~~ seized upon this law as a mean of subverting it to further deny the public that public information the law requires be made freely available under careful safeguards to protect the rights of individuals ~~that~~ who might otherwise be hurt, and now argues that Congress ~~created~~ "created a right without a remedy" in the words of the Court of Appeals in American Mail Line v. Gulick.

The case, and the foregoing record, ~~is a sample~~ are samples of the ends to which that bureaucracy is willing to go and does go to suppress public information. In this case it is information that is not congenial to official postures.

Here we have a bureaucracy that first exhausts a private citizen with one device of harassment and suppression after another, literally runs him ragged in the hope that his determination will weaken and die, to the end that public information be suppressed. In order to accomplish this illicit ~~purpure~~ purpose when that determination persists, the same bureaucracy is willing to and does impose upon the trust of a Court, in effect lying to that Court, distorting and adding false emphasis to quotation of the law, regulations and relevant other records. It eliminates what is germane from the consideration of the court and represents as true to that Court that which it knows to be false.

So, what we have here is an entension of the truly subversive, an attempt to convert the Courts into an instrument of suppression.

If justice and legal rights have become no more than a game to be practised between adversaries, with anything either adversary thinks he can get away with or in fact does get away with, no matter how dishonest, how knowingly unfaithful to the law and applicable regulations, can with impunity misinform or underinform a court, and can do this deliberately, and all this can be done in an effort to deny another his rights, ~~wig~~ what has the law become, what does justice come to mean, how can it be dispensed by judges, and is there any meaning to laws ~~bestowing~~ creating and sanctifying people's rights?

In this case we deal with what should be close to sacred in a country such as ours: the assassination of a beloved President; the government's investigation and account of that ~~serious~~ awful crime; and the availability, really meaning the suppression, of public information about both the crime and its official investigation. Here the suppression is by the investigator, the ~~same~~ executive branch of government.

We also deal with a first-amendment right, for by subterfuge, various demeaning and delaying tricks, and violation of law and regulations, that same government makes a writer's first-amendment rights meaningless. There is and can be no genuine freedom of speech and of the press without ~~the~~ unimpeded access to public information.

And now the same powerful forces ~~twist~~ the law to perpetuate ~~the~~ this suppression and the denial of rights under the law.

Motive may be no more sinister than the predictable desire of bureaucracy to protect itself. But more than that is at stake. And free society cannot survive the hiding of some bureaucratic errors, certainly not those that vitiate basic rights.

Even more than the foregoing is inherent in this simple case, made complicated only by the obfuscations undertaken by the government and the requirement imposed upon the plaintiff that he respond to them in an effort to obtain what he regards as his rights and to prevent the making and preservation of a false record on a subject of such contemporaneous and historical import.

There are the reputations of those eminent men called upon to undertake so unpleasant a task as that of this Presidential Commission. Most, if not all, have

~~indicate~~ said they did so reluctantly. Several have said they refused the appointment. One of these has explained his reasons to plaintiff. None served with expectation or possibility of personal gain. Because of the magnitude of the investigation and all the things that had to be covered, to which a considerable volume of the utterly irrelevant was added by the Department of Justice but had to be considered by the staff, if not the members, of the Commission; and because almost without exception the members of the Commission were already over-committed to the public service and already carried responsibilities too great for the average man, most of the work necessarily fell to the staff. Yet the responsibility was that of the members. One cannot read the transcripts of the executive sessions of the Members without realizing that from the first it was impossible for them to keep up with what was happening and that they were acutely ~~and~~ aware of this and deeply troubled by it.

Despite the wealth and power of the government, this Commission and its members were severely limited. They were limited by pressing political considerations, which is not exceptional in out society. They were limited by the information that reached them, and by what did not, by the volume of the irrelevant heaped upon them and by the lack of the relevant. They were further limited by the expert interpretations and opinions that were made for them - and here plaintiff repeats that almost all were made by the Department of Justice, which is defendants' counsel in this instant case and is saddled with a conflict because it was the source of the expert opinions and interpretations of precisely what the House Report properly termed the "critical" and "vital" evidence.

Under the best and normal conditions, men err. Even Jesus trusted Judas. Those men and institutions we have come to regard as ~~the~~ capable of rendering good and faithful judgements, the judges and the courts, we assume can and will err, and our system of justice has built into it the mechanism for the correction of errors by the most eminent, trusted and respected.

Under what certainly were less than the best conditions, surely abnormal conditions, beyond question ~~great~~ great pressures, the possibility of error by a body such as this President's Commission were greater than average.

~~insert on com~~ 67

When we consider that the Supreme Court has reversed itself, we know that when men in high ~~pl~~ place do err, ~~the~~ the world does not shake, our government is not cast into crisis, the populace does not take to the streets with forebrands. We expect error, recognize it as a natural, human flaw. But we also expect the possibility of its rectification. We have come to assume this. It is a basis of our social and political structure and faith.

To consider the possibility that such eminent men as those who were the members of this Commission could have made a mistake is to consider them no more and no less than human beings. It is no secret some of them had the most serious doubts about the ~~conclusi~~ conclusions they signed. They did not write their Report. Some expressed the most troubled disagreement with it. One member has shared some of this with the plaintiff.

To consider that they could have made a mistake is not to consider, as some of those who posed as defenders, men who had access to the public media and were able to reach the largest audiences, have said in what is anything but a defense; ~~that~~ to consider that the conclusions and Report of this Commission were in any way wrong is to say there was a conspiracy extending downward from the Attorney General to the lowliest charmaid in the Department of Justice. Such comment was not defense but indictment, and when it is recalled who was then the Attorney General (and the line taken by his successors in this present case inherently is a parallel if not an identical one), the motive of such "defenders" becomes suspect.

If there was error, that should be known. If there was no error, that, too, should be known, Neither can be established without free access by everyone interested, especially those in the best position to understand and evaluate, to every scintilla of evidence that remains. ("Remains" is not a figure ~~of~~ of speech; some does not.)

Public confidence in either the Commission or the Government is not fostered by ~~needless~~ suppression, no matter how it is dignified by calling it "withholding". Making what is now denied available to the public 70 years hence does no good today. (Assuming that more of it ~~has~~ does not disappeared or become tainted.)

This is not to say that what can injure the innocent should be publicly available. It should not be. Where it has been and plaintiff has been provided with it, as has happened often, plaintiff has applied strictures not applied by government and has removed the defamations from his writing. While the government has refused copies of official evidence to the plaintiff and has gone to court to continue to deny it to him- evidence as completely innocent as still pictures of clothing -it simultaneously has made available hundreds of pages of material that can be seriously injurious to the innocent. Simultaneously, while refusing plaintiff certain identified items of public information and claiming providing it is precluded by the law under which this action is brought, it (voluntarily) made it available to him. Now it cannot be both ways at one and the same time. Here plaintiff means literally one and the same time. Plaintiff's official application for certain data was rejected by the Department of Justice. His appeal was likewise rejected by the Attorney General. The Attorney General holds, in writing, that while the exemptions of the law are not mandatory and he can find they need not be applied, in this case he did not waive them several months ago, when plaintiff appealed. But while plaintiff's application was rejected and his appeal turned down, at that very time the same Department of Justice declassified a large percentage of this identical material, and plaintiff now has it. Surely this is not action under the law, serious judgements, anything better than what, on signing the law, President Johnson said should never be controlling, the whim of some official. If these papers could not be released to plaintiff on his proper and formal request, they could not have been, as they at that time were, declassified, but not made available to plaintiff until several months later (and then, deceptively, only in part, hiding the fact that others also were declassified and available -at least as much or more involume.).

Such toying with the law does not build public confidence in the law or in government. But these are only a few of the contemporaneous examples of precisely this and under this law, by this government. Another is the release of several hundreds of pages of documents that had been classified and withheld at the National Archives by order of the Department of Justice. These many withheld pages, ordered withheld by the

Department of Justice, had already been published by the Commission! More than seven years earlier and prior to their being ordered withheld! If the Court doubts this for one moment, the Archivist, if he knows what goes on in his agency, can enlighten the Court. If the Archivist has no personal knowledge, the men in immediate charge of this particular archive can be reached by phone at 943-6982. And, should it interest the Court, if they do not so inform the Court, plaintiff will deliver copies of the printed pages, printed by the Warren Commission, and copies of what, at about the time the motion to which this responds was filed, was released by the Archives.

What this also addresses is the dependability of the government's word when it says that certain evidence must be withheld. What is withheld too often is not withheld because law and regulation require it and is withheld to suppression, contrary to law and regulation, as in this instant case. And what is released, again too often, is what should not be, under any circumstances.

Plaintiff is not suggesting for a minute that those who have released that which should not be are unaware that it should not be. Rather does he believe that they have selected a variety of ~~nobies~~ nobodies and the ill, people without influence or power, to make what can hurt them freely available, hoping thereby to create a demand for further suppression of that genuine and meaningful evidence still withheld and desired to be withheld by the government. But it is not those who, like plaintiff, regard this subject matter with utmost seriousness, who have any interest in or any intention of using such freely-available defamatory material.

Such whimsical application of law and regulation is not in the interest of the family of the assassinated President. It is not in the interest of and certainly does not tend to defend or ~~prtce~~ protect the reputations of the eminment men who were the mebers of this Commission. It is, in fact, in plaintiff's view, a great tragedy that one of the members of this Commission died harboring the most serious doubts about the most basic conclusions of the Commission on which he served. That member shared these doubts with plaintiff. Better by far, especially for the members of the Commission, that if their work was in any way or manner flawed, it be known while they live, that they

may, if they desire, say whatever they may feel they should and so that, if they are so disposed, they may do whatever they might feel impelled to do to rectify any such error. It certainly is no kindness to the now-dead member for his defense and justification, history of the country to have to be vested in so weak and uninfluential a defender as the plaintiff in this instant action.

Only truth is ever a defense of any action or decision. Only truth can rectify error. Truth can be established only by fact, in this case public information. It can be first understood and then presented only by those with the requisite knowledge. On this question, that can come with only an unbelievable amount of time and work, none of it agreeable or in any manner remunerative. There can be no profit in it.

Unless, of course, the applicant is a rich and powerful television network whose primary dedication is to interests other than unalloyed truth. For such an applicant there is one interpretation of law, regulation and contract. For those without means and influence, for those who do not blindly agree with the ordained truth, these same laws, regulations and contracts have different applications and meanings.

No genuine, honest, public interest is served by suppressing any information on these subjects save that which is, without possibility of reasonable doubt, clearly covered by the proper and specific exemptions provided by the law. The interests and reputations of the members of the Commission are neither served nor defended by suppression. Suppression, in fact, is exactly opposite the expressed will of the former Chief Justice who headed the Commission and of the then attorney general since dead assassinated. Both were consulted and both said that everything that could possibly be made available to the public should be. But the government fostered no headlines on this. Instead, it arranged for the widest possible attention to what made it appear that the family of the victim was responsible for the suppression of evidence and this was arranged first by denying plaintiff access to the same public information and later making it available to one who could be depended upon to look for sensation and not to have the knowledge required for correct analysis and understanding of what he was given, the contradt in this case. (Complaint paragraphs 44-48 and Exhibit F)

The reasons given plaintiff for refusing his request in that ~~case were~~ instance were spurious, or if true they were not subject to change. But over and above that, they were legally invalid under the American Mail Lines v Gulick decision.

Still again, there is the question of the seriousness with which law and regulation are regarded and obeyed by the government, including defendants in this instant case and their counsel above all.

A proper and reasonable standard was given by the President upon his signing of the law under which this action is brought:

> I have always believed that freedom of information is so vital that only the national security, not the desire of public officials or private citizens, should determine when it must be restricted.

Surely there is no question of "national security" in pictures of official evidence, pictures of garments!

Most reprehensible of all is the effort, elsewhere and in the motion to which this responds, to make it appear that the suppression is the doing of those who have already suffered irreparably and most of all, the survivors of the victim. That is despicable beyond adequate description because it is contrary to their interest and to the conditions of their donation to the National Archives. It is a particularly insidious and evil trickery because under IV (2) of that contract the person upon whom this can be blamed is one prominent in political life. He is not of the party now in control of the executive branch and he is widely and popularly regarded as one who may at some day present a challenge to the present administration.

11 A-C here

So, while the narrow question before this Court is simple, except for the extensive efforts of defendants, meaning, really, the executive branch of the government, to complicate them, and there is no genuine issue as to any material fact, the overtones and portents are broad and serious. They include the reputations of prominent men, living and dead, the right of powerful government to abuse the powerless individual and deny him his rights by assorted improprieties, ranging from delaying tactics through distortions of law and regulations to flagrant imposition upon the trust of the Courts and violations of the law and regulations it is the duty and obligation of the government to uphold.

Saying that the suppression of this evidence was caused by the family of the later President is implicit and explicit in "III. Argument", sections B amd C. In these sections, the thrust of defendants' argument is that suppression is required by the terms of the GSA-family contract. (Complaint Exhibits A and F) This argument is furthered by the addition of false and misleading emphasis in quotation (~~in some cases,~~ the adding of emphasis is not always indicated). As examination of this argument and of the specific and relevant provisions of the contract itself ~~xxix~~ in other addenda will show, exactly the opposite is the case. Furthermore, as Complaint Exhibit C shows, the representative of the executors of the estate has written plaintiff expressing no objection ~~to~~ to the providing of photographs to plaintiff. These letters were entirely without influence upon defendants or their counsel.

So contrary is this representation of that contract to its actual provisions that the contract does not even permit the Government to decide what a researcher's needs are, ~~provided that~~ if, as is not and cannot be challenged in this instant case, the researcher is ~~a~~ accredited as a "serious scholar or investigator of matters relating to the death of the late President". The same provision (I. (1)(b)) goes much further and limits the right and power of the Administrator "to deny requests for access" ~~only~~ exclusively "in order to prevent undignified or sensational reproduction". (~~which~~ This happens to be the only use thus far permitted by the Government, undenied in response to plaintiff's challenges). (Emphasis added)

To this misrepresentation of the contract by counsel for defendants, the Department of Justice, ~~to make~~ making it appear that the family is the cause of the suppression, other facts ought to added for understanding of the strange situation that is thus brought about:

This clothing was first ~~xxxxxxxxxxxxxxxx~~ covered in a certain "Memorandum of Transfer" of April, 1965. By different subterfuges, that was ~~been~~ denied plaintiff by the National Archives. Later, when the Secret Service, which executed this said memorandum, gave a copy thereof to the National Archives, ~~xxxxxxxxxx~~ to be given to plaintiff, the National Archives first "neglected" to so inform plaintiff, then delayed a long time

after plaintiff indicated knowledge thereof before making forecal acknowledgement and then refusing ed this copy to plaintiff. When defendants' "Answer" was filed in this instant case, plaintiff, believing it required him to have knowledge of the exact provisions of this "Memorandum of Transfer", again asked the Secret Service for a copy, explaining that the copy given him by way of the National Archives had been intercepted and not delivered by the National Archives. The response of the Secret Service was that the Department of Justice would be consulted. Following this consultation, the Secret Service declined to directly provide plaintiff with a copy of this "Memorandum of Transfer", which is also public information, having been used by the Government in public and in court. and published document. (American Mail Lines v Gulick is in point.)

The Department of Justice, as counsel for defendants in this instant action, alleges plaintiff is not entitled to what he seeks, contending it is precluded by law, regulation and this said USSA-family contract, and that the relief plaintiff seeks cannot be granted, thus counselling defendants not to provide plaintiff with copies of the pictures he seeks.

The Department of Justice, as counsel to the Secret Service, counsels the Secret Service not to provide plaintiff with that public information it has that is relevant to the photographs plaintiff seeks, photographs of evidence covered by a Secret Service document and formerly in Secret Service possession.

Having counselled everyone else to give plaintiff nothing, the same Department of Justice promptly and without any question or dispute gives plaintiff everything relevant it has for which plaintiff asks, four such photographs. So anxious was the Department to provide these photographs to plaintiff that with respect to the last three it did not require either the execution of the prescribed forms or even payment of the cost of copying.

While neither the execution of the forms nor payment by the press for copies of photographs is required by law or practise, plaintiff asks this Court to take note that in no other case would the Department respond to any of plaintiff's requests without insisting upon the execution of the forms, accompanied by prescribed advance payment,

and that in another case before this Court, C.A. 718-70, when the Department belatedly complied as an alternative to trial, it would not provide any copies until payment was made in advance and even after later issuance of a Summary Judgement never did fully comply.

To consideration of these unusual events should be added still another.

~~The filing of a motion as that to which this Motion for Summary~~

The filing of a Motion to Dismiss or, in the Alternative, for Summary Judgement, to the best of plaintiff's knowledge, is the closest thing to a completely automatic act in cases brought under this law. Yet in this instant case, and especially knowing that plaintiff was without professional counsel, the Department, acting as counsel for defendants, failed to file such a motion. Instead it filed an "Answer," which is an invitation for a full hearing. Not until long after plaintiff filed his ~~similar~~ Motion for ~~for~~ Summary Judgement did defendants' instant motion get filed. That was about five months after filing of the complaint.

Had this case gone to trial - and from the various motions and addenda prepared and filed by the Department of Justice - it would have been made to appear and is made to appear that everyone besides the Department of Justice is suppressing evidence, that the Department alone freely made its copies available to plaintiff, and that the family (which would be widely interpreted as meaning the senior male member surviving) and the former chairman of the President's Commission above all were responsible for the suppression of this evidence.

If all of this is subject to sinister interpretation and suggests an irreconcilable conflict of interest and ~~possible~~ possible ulterior purposes, two other factors should be considered: that most of the ~~suppression~~ withholding was and is by and at the direct order of the Department of Justice; and that neither the senior surviving male mamber of the family nor the former Chief Justice ~~are~~ is a political friends of ~~the~~ either the Administration or ~~the~~ its Attorney General or his Deputy.

They include the sufferring of the long-suffering innocent and they can influence the futures of important personages.

Above all, they involve the most basic rights of all Americans and the intergity of government, the law, and in plaintiff's belief, that of society and possibly its future.