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JLR:JFM:al
3/6/64

MAR 11 1964

Mr. J. Edgar Hoover
Director, Federal Bureau of Investigation
Department of Justice
Washington, D. C. 20535

Dear Mr. Hoover:

Your letter of February 27, 1964, with attached communication dated February 17, 1964, concerning Mark Lane, and Lane's Defence Brief for Oswald" which appeared in the December 19, 1963, issue of the "National Guardian", has been received.

I greatly appreciate your continued cooperation in the work of this Commission.

Sincerely,

J. Lee Rankin
General Counsel

cc: Mr. Rankin
Mr. Willens - Chrono.

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L.H.



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON 25, D.C.

February 27, 1964

BY COURIER SERVICE

Honorable J. Lee Rankin
General Counsel
The President's Commission
200 Maryland Avenue, Northeast
Washington, D. C.

Dear Mr. Rankin:

Enclosed for your information are two copies of a self-explanatory communication from our Detroit Office dated February 17, 1964, concerning attorney Mark Lane. Also enclosed are two copies of "Lane's Defense Brief for Oswald" which appeared in the December 19, 1963, issue of the "National Guardian."

1 cc
Mr. Craig

The Attorney General is being furnished copies of the above Detroit communication, background data on Mark Lane similar to that information previously furnished you by this Bureau as well as the brief appearing in the "National Guardian."

The House Committee on Un-American Activities has stated the "National Guardian" has manifested itself from the beginning as a virtual official propaganda arm of Soviet Russia, although the publication denies having any affiliation with the Communist Party.

Sincerely yours,

J. Edgar Hoover

Enclosures (4)



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

*In Reply, Please Refer to
File No.*

Detroit, Michigan
February 17, 1964

Re: Assassination of President
John F. Kennedy, 11/22/63,
Dallas, Texas

On February 14, 1964, Mark Lane, who described himself as a New York Attorney and the attorney for Mrs. Marguerite Oswald, mother of Lee Harvey Oswald, made a speech at the Central Methodist Church, Woodward and Adams Streets, Detroit, Michigan.

During this speech, Lane said that he had prepared a brief concerning the Oswald case and that in about two weeks he was going to seek to obtain an appointment with United States Attorney General Robert Kennedy in order to present this brief, as well as other evidence he had developed in this matter, to the Attorney General.

for a trial that can't be held

"All the News That's Fit to Print"

The New York Times

LATE CITY EDITION

PRESIDENT'S ASSASSIN SHOT TO DEATH IN JAIL CORRIDOR BY A DALLAS CITIZEN; GRIEVING THROUGHS VIEW KENNEDY BEER

A SWIFT VERDICT OF GUILTY — N.Y. TIMES HEADLINE NOV. 25 The Times later 'regretted' its failure to qualify the word assassin

that her husband owned a rifle, buried in the 14th paragraph of a story appearing on page 63 of the New York Times, is a total repudiation of that fabrication.

It may be said that when Marina Oswald is released from "protective custody" she will be able to discuss the truth of the statements attributed to her by the FBI, the Secret Service and Wade. The Secret Service has "suggested" to her (Marina Oswald) that it might be safer and easier for her to return to the Soviet Union than to try to live in the United States (Times, Dec. 8). Perhaps the Secret Service intended to indicate that it would be safer and easier for the Secret Service, the FBI and Wade and the case against Oswald if Mrs. Oswald quietly left the country.

Meanwhile, back to Wade's "climaxed case." Even if Mrs. Oswald did state that her husband owned a rifle and that it was missing Friday morning, such "evidence" would not be admissible under the laws of Texas. The Dallas law enforcement officials, nevertheless, released that "evidence" to the public and, therefore, to all potential jurors in Dallas, while Oswald was alive and facing the possibility of trial. Such conduct did violence both to the spirit and letter of law and ethics and to the rights of the defendant.

In view of Marina Oswald's lack of knowledge regarding the rifle, and in view of the statement made by her, at whose home the rifle was alleged to have been stored, one questions whether Oswald ever actually possessed the rifle. Mrs. Paine, a Quaker, said she had no idea what was in the blanket. She said that because of her personal beliefs she would not allow a

went to his home in Oak Creek, changed his clothes hurriedly, and left."

On Nov. 27, it was conceded that "Darryl Click" did not drive a taxicab in which Oswald was a passenger. When "Darryl Click" disappeared from the case, William Whaley appeared as the man who drove Oswald, not home, but at least in that general direction.

Oswald, it is alleged, fired the shots that killed Kennedy from the sixth floor of the building. Oswald, it is alleged, then walked down four flights of stairs, pursued a soft drink and was slipping it while a police officer approached him on the second floor.

Oswald, it is alleged, later left the building, slipping through the police cordon and proceeded through the panicked street crowds until he found a bus. Oswald got a transfer (that he never used) and spoke to the driver about the assassination.

The driver referred a woman to Oswald. It is alleged, and Oswald spoke with her about the shooting. Oswald, it is alleged, eventually left the bus after riding about six blocks and was walking "from Commerce Street" when the taxicab driver, now named "William Whaley" saw him. Oswald, it is alleged, halted the taxi, and entered it. "William Whaley's" log shows that Oswald entered the taxi, after having completed this entire trip, at exactly 12:30 p.m. The shots that killed Kennedy, were fired at 12:31 p.m.

Point Twelve

Oswald shot and killed a police officer. Officer Thompson SAID "He walked up to the car."

to Oswald that he had committed the perfect crime, had escaped the police at the Texas Book Depository and was now far removed from the scene. Frantic actions by Oswald, so obvious as to attract the attention of a passerby, in these circumstances, also seem inconsistent with Oswald's reported demeanor moments after the President had been shot. At this time a policeman charged up the stairs of the book depository, pointed a gun at him and sought to arrest him for shooting the President.

Oswald's employer described Oswald's condition at that time as "cool as a cucumber—although he seemed a little bothered by the gun." (Washington Post, Dec. 1)

Point Fourteen

Oswald drew a pistol and attempted to kill the arresting officer. The firing pin struck and marked the bullet but it did not explode.

WADE SAID, "He (Oswald) struck at the officer, put the gun against his head and snapped it, but did not—the bullet did not go off. We have the snapped bullet there. Officers apprehended him at that time... It misfired being on the—the shell didn't explode. We have where it hit it, but it didn't explode."

Wade was attempting to indicate that when Oswald was arrested in the theater he tried to shoot the arresting officer and did in fact pull the trigger of the pistol. There can be no question that the trigger was pulled since Wade assured us, in his fashion, that the firing pin struck the bullet and marked the bullet. He further assured us his office has the "snapped bullet" in its possession. The arresting officer, however, policeman MacDonald, told the story differently: "I got my hand on the butt of his gun," said MacDonald, "I could feel Oswald's hand on the trigger. I jerked my hand and was able to slow down the trigger movement. He didn't have enough force to fire it. (Washington Post, Dec. 1)

Confronted with a resume of that report, Wade quickly adjusted to it. Reporter: There was one officer who said that he pulled the trigger, but he managed to put his thumb in the part before the firing pin. It didn't strike the—the bullet didn't explode. Is that...?

Wade: I don't know whether it's that or not. I know he didn't snap the gun is all I know about it. (New York Times, Nov. 26.)

We leave this incident bearing in mind one remarkable fact. Physical evidence introduced by Wade—a bullet marked by a firing pin in an attempt to kill a police officer—now was repudiated by the officer who was in evidence and by Wade himself.

Point Fifteen

A map was found in Oswald's possession showing the scene of the assassination and the bullet's trajectory.

alive and during the possession of that. Shey contacted did violence both to the spirit and letter of law and ethics and to the rights of the defendant.

In view of Marina Oswald's lack of knowledge regarding the rifle, and in view of the rifle was alleged to have been stored, one questions whether Oswald ever actually possessed the rifle. Mrs. Paine, a Quaker, said she had no idea what was in the binocular. She said that because of her personal beliefs she would not allow a weapon of any sort in her home. (New York World Telegram and Sun, Nov. 25).

Point Nine

Oswald had a package under his arm Friday.

THE PROSECUTOR said, "This day he went home one day earlier on Thursday night, and came back to—with this fellow—and when he came back he had a package under his arm that he said was window curtains, I believe, or window shades."

If Oswald were alive, we would proceed to ask him whether he carried a package to work Friday morning, and if so, what was in the package and what happened to the contents. If Mrs. Oswald were not locked up in a secret location we might ask her about the package. Wade has not indicated what evidence regarding the package led him to the conclusion that he offered (that it contained the murder weapon).

Point Ten

Oswald, while taking a bus from the scene, laughed loudly as he told a woman passenger that the President had been shot.

WADE SAID, "The next we hear of him is on a bus where he got on at Lamar Street, told the bus driver the President had been shot, the President. (He told the lady—all this was verified by statements—told the lady on the bus that the President had been shot. He said, 'How did he know?' He said a man back there told him. The defendant said, 'Yes, he's been shot' and laughed very loud."

Wade, in telling his story, made no attempt to explain how Oswald escaped from the building sealed off by scores of Dallas police. We leave that mystery to enter a new one. Why did Oswald, fleeing the scene of a murder, joke publicly about the murder? Why did he laugh very loud? Such behavior is hardly consistent with 48 hours of consistent denial of guilt when in custody of the Dallas authorities. The laughter in the bus story seemed so unlikely that the FBI, in off-the-record briefing sessions for the press, conceded that it was untrue. In considering that the bus laughter story is false, we consider also the statement by Wade in the telling of that story. . . . all this was verified by statements."

Point Eleven

A taxi driver Darryl Chick, took Oswald home, where he changed his address.

WADE SAID, "He then—the bus, he asked the bus driver to stop, got off at a stop, caught a taxicab driver, Darryl Chick—I don't have his exact place—and

When the taxicab driver, now named "William Whaley" saw him, Oswald, it is alleged, hailed the taxi, and entered it. "William Whaley's" log shows that Oswald entered the taxi, after having completed his entire trip, at exactly 12:30 p.m. The shots that killed Kennedy were fired at 12:31 p.m.

Point Twelve

Oswald shot and killed a police officer.

WADE SAID, "He walked up to the car. Officer Tippit stepped out of the car and started around it. He shot him three times and killed him."

This allegation isn't directly related to the murder of the President but it raised interesting points.

The Dallas authorities first said Tippit was shot in a movie theater. Later, it was reported that he was shot on one street and, still later, on another street. The first charge against Oswald was not for the murder of the President but for the murder of Tippit. That charge was made while the investigation of the Kennedy shooting was still going on. Wade announced that the Tippit case was absolutely set and that all the evidence proved Oswald shot the officer.

In view of the certainty of the prosecutor as to a case that had been entirely locked up two days before, the following dialogue (at the press conference) is rather curious.

Reporter: Was this (where Oswald shot Tippit) in front of the boarding house?

Wade: No, it's not in front of the boarding house. Reporter: Where was it?

Wade: I don't have it exact.

Point Thirteen

A witness saw Oswald enter the Texas Theater.

WADE SAID, "Someone saw him go in the Texas Theater."

"There has been little conflict about that assertion. The first statement by Dallas authorities indicated that the theater cashier was so suspicious when she saw Oswald change from seat to seat nervously that she telephoned the police.

It soon became obvious that a cashier at a post outside of the theater might have difficulty watching the customers once they entered. So the authorities then indicated that an usher saw Oswald changing seats. The last version has a person outside the theater noticing Oswald's suspicious action, following him into the theater, sealing off the doors with the assistance of the usher, and then notifying the police through a telephone call made by the cashier.

Some questions peripheral to the arrest in the theater persist. What did Oswald do before entering the theater to attract attention? In what manner were his actions "suspicious"? We have been told by the newly emerging firearm-psychologist experts that although Oswald was not particularly talented with a rifle, his "psychotic condition" may have given him "nerveless coordination" so that he might fire accurately. Evidently that "nerveless coordination" was not present outside the theater, although it could have appeared

It, New York Times, Nov. 26.

We leave this incident bearing in mind one remarkable fact. Physical evidence, introduced by Wade—a bullet marked by a firing pin in an attempt to kill a police officer—now was repudiated by the officer who was the eyewitness and by Wade himself.

Point Fifteen

A map was found in Oswald's possession showing the scene of the assassination and the bullet's trajectory.

Oswald the Man, Dallas Cops Sure

By HENRY MACHIRELLA

THE DALLAS COPS CERTAINLY MADE THE NEWS

This appeared in the N.Y. News, Nov. 24

THE DAY AFTER, Wade's historic press conference, and three days after the Oswald arrest, a new discovery was made.

"Today Mr. Wade announced that authorities had also found a marked map, showing the course of the President's motorcade, in Oswald's rented room. It was a map tracing the location of the parade route, the district attorney said, and this place (the Texas School Book Depository, a warehouse from which the fatal shots were fired) was marked with a straight line." Mr. Wade said Oswald had marked the map at two other places, "apparently places which he considered a possibility for an assassination." (New York Times, Nov. 25.)

A document written by the defendant showing his intention to commit a crime is important evidence. It seems incredible, were such a map in the hands of the Dallas authorities on the previous day when Wade presented the evidence, "piece by piece," that he would have neglected to mention it.

Oswald was arrested three days prior to the map announcement. On the day of his arrest, police removed all of his belongings from his room, telling the lady that Oswald "would not return." One wonders where the map came from three days later. The same newspapers that hailed the discovery of the map Nov. 25, without a single question as to its legitimacy, origin, or previous whereabouts, totally ignored or buried the last comment regarding this important document. "Dallas officials yesterday denied that such a map exists." (Washington Post, Nov. 27.)

The people vs. Oswald

WHEN A CRIMINAL CASE is brought in federal court against an individual, it is entitled, "The People of the United States against," the named defendant. No federal charge was lodged against Oswald. (Continued on Page 8)

Flaws in the 'airtight' case

(Continued from Page 7)

however, in the most significant sense the case became the entire country and its institutions against one man. Very likely no prospective defendant in the history of civilization has been tried and condemned through the utilization of the media as thoroughly as was Oswald. The American Civil Liberties Union commented on Dec. 6:

"It is our opinion that Lee Harvey Oswald, had he lived, would have been deprived of all opportunity to receive a fair trial by the conduct of the police and prosecuting officials in Dallas, under pressure from the public and the news media.

"From the moment of his arrest until his murder two days later, Oswald was tried and convicted many times over in the newspapers, on the radio, and over television by the public statements of the Dallas law enforcement officials. Time and again high-ranking police and prosecution officials state their complete satisfaction that Oswald was the assassin. As their investigation uncovered one piece of evidence after another, the results were broadcast to the public.

"... Oswald's trial would ... have been nothing but a hollow formality."

In a section headed "Police Responsibility for Oswald's killing," the ACLU stated that the concessions to the media "resulted in Oswald being deprived not only of his day in court, but of his life as well."

On Dec. 4 the chancellor-elect of the Philadelphia Bar Association stated that Lee Oswald had been "lynched" and that this was an "indictment" of the legal profession for its failure to protect Oswald (New York Times, Dec. 5). These two comments, made after the death of Oswald and buried by the news media under the avalanche of news attacks against Oswald (including the FBI leaks of other crimes alleged to have been committed by him), constitute to date almost the only indication of sanity in the country.

After Oswald's death, the FBI acted to prevent certain information from reaching the public. "Most private citizens who cooperated with newsmen reporting the crime have refused to give further help after being interviewed by agents of the Federal Bureau of Investigation." (New York Times, Dec. 6). The FBI acted, not to protect the rights of a defendant, but after he was murdered, to protect the inconsistent evidence from further scrutiny. Mrs. Oswald, still in Secret Service custody, hidden in an unknown location, was quoted on the front pages of papers throughout the country Dec. 6 and 7 as implicating Oswald in another crime. Such a quotation could have come only from a

revelation against the ancient trial by ordeal or trial by fire which forced a person accused of a crime to cooperate in the prosecution of his own case. Great constitutional protections, including the Fifth Amendment to the U.S. Constitution, were developed. It was found that not only would guilty persons confess when sufficient pressure was placed against them, but innocent persons also were likely to succumb.

Great pressure was placed against Oswald. He stood all alone condemned as the slayer of a popular leader. "Oswald was plumed by the arresting officers until his face was muffed and battered. 'Kill the President will you?' one officer shouted in a choked voice." (Washington Post, Dec. 1.)

In addition "Oswald received a black eye and a cut on his forehead." (New York Times, Nov. 24.)

When a reporter asked Oswald in a televised interview how he received the bruises and cuts on his face, he answered calmly: "A policeman hit me."

For 48 hours, Oswald was denied the elementary right to counsel of his choice. The Dallas police falsely told the attorneys for the ACLU that Oswald "did not want counsel." Despite physical abuse and absolute isolation, Oswald continued to state that he was innocent. Each previous assassin of an American president immediately and boastfully declared that the act was his.

Character witnesses

The press has been glutted with attacks upon Oswald since his death, with each informant issuing self-serving declarations as to his own ability to detect incipient mental problems or character weaknesses, when Oswald was much younger.

A former probation officer in New York City permitted an interview which violated principles of a privileged and protected relationship between himself and a young boy. A Justice of the Family Court released records to the FBI, and the information was carried in the press.

Nevertheless, those who knew Oswald a little better had some rather kind things to say about him. At a trial, their testimony could have been decisive. The associate pastor of First Unitarian Church, Dallas, Rev. Byrd Helligas, described Lee Oswald as "erudite." "He had a good vocabulary. No dangling participles or split infinitives. In the dictionary definition of the word 'intellectual' he was an intellectual." Helligas added that he sensed "no frustration through erudition. He was calm." (Washington Post, Dec. 1.)

Samuel Ballen, described in the press as a "Republican petroleum economist in Dallas," said he found Lee Oswald to be "an independent, thinking, inquiring young man ... He was a rather frail person physically. At least to me, he was the kind of person I could like. I kind of took a liking to him." (New York Times, Nov. 24.)



OSWALD'S FAMILY AT THE POLICE STATION. Mother, Marguerite, with wife, Marina, and baby months ... I'm convinced that anyone else would be worse." (New York Times, Dec. 11)

The press made much of the fact that Oswald had been seen with a copy of the Worker, a Communist publication, and that he had received at least two letters from the Communist Party. A New York newspaper referred to him editorially as a "Communist murderer." Did Oswald know that the U.S. Communist Party supported Kennedy when he ran for the presidency in 1960

vate citizens who had cooperated with newsmen reporting the crime have refused to give further help after being interviewed by agents of the Federal Bureau of Investigation." (New York Times, Dec. 6). The FBI acted not to protect the rights of a defendant, but after he was murdered, to protect the inconsistent evidence from further scrutiny. Mrs. Oswald, still in Secret Service custody, hidden in an unknown location, was quoted on the front pages of papers throughout the country Dec. 6 and 7 as implicating Oswald in another crime. Such a quotation could have come only from a Secret Service or FBI leak. No one else had access to her. And so the insanity accelerates until the few remaining vestiges of doubt as to Oswald's guilt are obliterated from the American scene.

However, let it not be said that the lawyers are not aroused by an attorney's giving statements to the public in relation to a pending case. "A Dallas Bar Association grievance committee met three hours last night on charges that Tom Howard, attorney for Jack Ruby, had violated legal ethics by discussing Ruby's case with the press. . . . No charges had been placed against District Attorney Henry Wade." (New York Post, Dec. 6)

When an entire society moves in for the kill, logic is a weapon of doubtful value. Were logic to prevail, a number of questions might be raised for rational deliberation. For example, one might inquire why the FBI, having questioned Oswald just a week before the assassination and having discovered that he worked in a building directly on the President's line of march, and knowing that Oswald had purchased a rifle, did not watch him on the day of assassination. Certainly, a small portion of the millions of dollars bestowed upon the FBI each year and utilized for following persons of unorthodox political views and tapping their telephones might have been made available under these circumstances, as part of what the FBI and Secret Service referred to as the "greatest security provisions ever taken to protect an American President."

The question of motive

WHETHER THE DALLAS POLICE through complicity or complacency permitted the murder of the defendant by a police department friend after two warnings through the FBI that such an attempt would be made should be a matter for press discussion. Whether or not the FBI showed Mrs. Oswald, the defendant's mother, a picture of Ruby before Ruby murdered Oswald would ordinarily demand media debate.

There are two matters not even commented upon by the press to date—Oswald's motive and Oswald's plan for escape. Oswald seemed to respect President Kennedy. If Oswald were a leftist, pro-Soviet and pro-Cuban, did he not know that during the last year, with the assistance of President Kennedy, a better relationship was in the process of developing between the U.S. and the Soviet Union? Even the relations between the U.S. and Cuba, while still extremely unfriendly, have progressed past the stage of military intervention. Fidel Castro himself stated just before the President's death, "He (Kennedy) has the possibility of becoming the greatest President of the United States. . . . He has

come to understand many things over the last few months. . . . I'm convinced that anyone else would be worse." (New York Times, Dec. 11)

The press made much of the fact that Oswald had been seen with a copy of the Worker, a Communist publication, and that he had received at least two letters from the Communist Party. A New York newspaper referred to him editorially as a "Communist murderer." Did Oswald know that the U.S. Communist Party supported Kennedy when he ran for the presidency in 1960 and that within the last six months Gus Hall urged the Communist Party, which he leads, to endorse and support Kennedy again?

Why should Oswald wish to assassinate the President, and after firing at the President, how did he plan to escape? Did he wish to flee from the building? If so, why did he remain in the lunchroom sipping a soda? Was he in a hurry? If so, why did he take a ride on a bus? It was a very warm day in Dallas. Mrs. Kennedy, sweating in the open moving car, later said that she was looking forward to the cool relief of riding through the underpass just ahead. Why then, did Oswald, seeking to escape the police, go home to pick up his jacket? If he was planning to leave the city, why did he then go to a movie just as the city-wide search was gaining intensity?

These are genuine areas for speculation by the press now that the defendant is dead. These are, nevertheless, almost the only areas left unexamined by the media. Perhaps some day, when America is ready for the sunlight of reason to penetrate the national mind, now frozen to a false and unfair conclusion, this article and others far more comprehensive may be read.

An affirmative case

UNDER OUR SYSTEM of justice a defendant need not prove he is innocent. It is the obligation of the prosecutor to attempt to prove the defendant guilty beyond a reasonable doubt. Should the prosecutor fail to sustain that burden, the defendant must be declared not guilty.

In the case of Oswald, hysteria and intolerance have so swept our country that the protections guaranteed by our Constitution and by our traditions have failed to operate. Since irrationality is the implacable foe of justice and due process, we are compelled to depart from ordinary legal procedure. At this point we shall submit an affirmative case. We shall attempt to present facts that tend to prove that Oswald did not shoot President Kennedy.

A denial by a defendant that he committed a crime when supported by testimony as to his good character is sufficient in and of itself to cause a reasonable doubt which, even in the face of evidence to the contrary, may result in acquittal.

Oswald denied he shot anyone. He stated that the charges against him were "ridiculous." He persisted in his denial despite the fact that he was questioned for 48 hours without the benefit of counsel.

Denial of counsel, when coupled with extensive questioning, is improper and contrary to long-established principles of law. This principle was developed out of

had a good vocabulary. No daunting participles or split infinitives. In the dictionary definition of the word 'intellectual' he was an intellectual." Helligas added that he sensed "no frustration through erudition. He was calm." (Washington Post, Dec. 1)

Samuel Bailely, described in the press as a "Republican petroleum economist in Dallas," said he found Lee Oswald to be "an independent, thinking, inquiring young man. . . . He was a rather frail person physically. At least to me, he was the kind of person I could like. I kind of took a liking to him. I wanted to help him a little bit. . . . He had a kind of Ghandi, far-off look about him." (Washington Post, Dec. 1)

Roy Truly, the director of the depository where Oswald was employed, said of Oswald, "He seemed just a normal, quiet young fellow."

Mrs. Pahne, with whom his wife and children lived and where he stayed on weekends, said, "Marina (Lee Oswald's wife) felt very favorably toward the President and his family. Most of what she learned of American news was provided by Lee, who translated from newspapers and news magazines. Marina said he never transferred any negative feelings toward President Kennedy." (Washington Post, Nov. 28)

Mrs. Pahne also stated that, "As far as I know Oswald had never been critical of Kennedy. He had been critical of General (Edwin) Walker, but I never heard him say anything against the President. In fact, it was my impression that he respected him." (New York World Telegram and Sun, Nov. 25)

In 1959, Oswald was interviewed by Priscilla Johnson, an American correspondent while in Moscow. She reported, "I found him rather likable. He was quiet and didn't have a vehement manner. He was so very young. He was someone you would try to help."

Mrs. Laetia Merrett, principal of West Riggles Elementary School which Oswald attended, said, "If he had problems, we did not recognize them. . . . He was interested in things."

Were the case to be tried, persons ordinarily selected as character witnesses would include his employer, a minister, his landlady, a respected businessman, a correspondent who knew him around, the Quaker family with whom his wife resided and his school teachers. Judging by the initial response, one could conclude that character testimony for Lee Oswald would be compelling.

Time, place and Oswald

IN ADDITION to consistent denial of guilt by the defendant and statements of character witnesses that seem to indicate a person different from the disturbed, hostile character usually associated with the particular crime, a defendant may offer testimony indicating that he was somewhere other than at the scene of the crime when it was committed. We, of course, can't get such information from this defendant.

However, a valid defense could result in showing that even if the defendant were at the scene he could not have committed the crime. Such a defense is available. If Oswald was on the sixth floor of the book depository armed with the alleged murder weapon, a 6.5mm Italian

(Continued on Page 9)

Conviction by press vs. presumption of innocence

(Continued from Page 8)

carbine, he could not have fired three shots that struck President Kennedy and Gov. Connally.

The official homicide report filed by the Dallas Police Department, attested to by two police officers, states under the section "Place of Occurrence": "Elm Street (approximately 150 feet west of Houston)." The report also states under the section "Probnounced dead by Physician," the name "Dr. Kemp Clark, 1 p.m., Parkland Hospital."

A motion picture taken of the President just before, during and after the shooting, and demonstrated on television showed that the President was looking directly ahead when the first shot, which entered his throat, was fired. A series of still pictures taken from the motion picture and published in Life magazine on Nov. 29 show exactly the same situation. The Life pictures also reveal that the car carrying the President was well past the turn from Houston St. and a considerable distance past the depository building. The Life estimate in an accompanying caption states that the car with the President was 75 yards past the sixth-floor window when the first shot was fired.

The New York Times (Nov. 27) reported: "Dr. Kemp Clark, who pronounced Mr. Kennedy dead, said one (bullet) struck him at about the necktie knot. 'It ranged downward in his chest and did not exit,' the surgeon said. The second he called a 'tangential wound', caused by a bullet that struck the right back of his head."

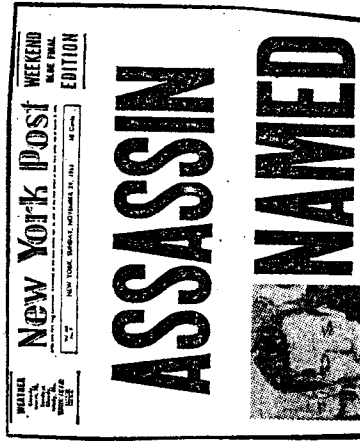
The New York Herald Tribune (Nov. 27) said: "On the basis of accumulated data, investigators have concluded that the first shot, fired as the Presidential car was approaching, struck the President in the neck just above the knot of his necktie, then ranged downward into his body."

Surgeons who attended the President at the Parkland Memorial Hospital described the throat wound as "an entrance wound." (St. Louis Post-Dispatch, Dec. 1). "They said it was in the center of the front, just below the Adam's apple, at about the necktie knot." (Ibid.) Dr. Malcolm Perry began to cut an air passage in the President's throat in an effort to restore an air passage and start his breathing. The incision was made through the bullet wound, since it was in the normal place for the operation. "Dr. Perry described the bullet hole as an entrance wound." (Ibid.) Dr. Robert N. McClelland, one of three surgeons who participated in the operation, said "It certainly did look like an entrance wound." (Ibid.) Dr. McClelland said he saw bullet wounds every day, "sometimes several a day. This did appear to be an entrance wound." (Ibid.)

could be done with the weapon allegedly used. The Dallas sheriff, Bill Decker, said he believed three shots "could be fired in less than 20 seconds." (Washington Post, Nov. 27.) The FBI and the witnesses agree the elapsed period was five seconds, possibly five and one-half seconds.

Life magazine (Dec. 8) hired a skilled marksman, the director of the National Rifle Association, to fire a similar rifle. The best he could do was "three hits in 6.2 seconds." The New York Times, Nov. 23 reported: "As matters go, Lee Harvey Oswald was not highly regarded as a rifleman."

Debate will continue whether the rifle in question was capable, in the hands of an expert, of the performance the prosecution insists it gave. All agree, however, that such a remarkable display of shooting would be



beyond the ability of any person less qualified. To maintain the ability to fire a rifle accurately, one must practice continually. Oswald's wife and the Paine family, all of whom lived in the house where the rifle was allegedly stored, did not even know Oswald owned a rifle. This would seem to indicate an extremely limited usage of the rifle at the very most. Oswald did not have the requisite skill to fire three accurate shots within 5½ seconds at a moving target.

Other uncertainties
IF OSWALD WAS WHERE the FBI and the Dallas

voted to a particular conclusion at the outset.

The investigation

The FBI, having completed its investigation, has submitted what amounts to its findings and conclusions as well. The verdict, deftly and covertly divulged to the press, and then blared forth throughout the world, is impressively simple: "Oswald is the assassin. He acted alone." This remarkable law enforcement and investigatory agency, unable to solve a single one of the more than 40 Birmingham bombings, is now able to function as investigator, prosecutor, judge and jury. No other American agency has presumed to occupy so many positions of trust at one time.

The essential problem is that no investigating agency can fairly evaluate the fruits of its own work. Were the FBI certain of its conclusions it seems likely it would not be so reluctant to permit witnesses to talk with the press. It might not feel the need continually to leak information favorable to its verdict to the press. Most disquieting of all, however, is that the FBI, once wedded to a conclusion conceived before investigation, might be motivated to discover evidence which supports that conclusion. Within a few hours after Oswald was arrested the Dallas police, with the FBI at its side, announced the very same verdict now reinforced by the latest FBI discoveries. Under such circumstances, we fear that evidence tending to prove Oswald innocent might be discarded and evidence proving him guilty might be developed out of proportion or even created.

The Justice Department has already privately expressed "disappointment" with the FBI report, fearing that it "has left too many questions unanswered."

The stakes are big

The FBI investment in a Warren Commission finding identical, with its own cannot be emphasized too boldly. Should the Warren Commission reach and publish a conclusion substantially different from the one submitted so publicly by the FBI, public confidence in the FBI would be so shaken as, in all likelihood, to render the FBI as it is now constituted, almost absolutely useless. One can assume that the FBI wishes to avoid that result.

It may be argued on many different levels of governmental life that a finding by the commission that an American lynched in a Dallas courthouse might be innocent, would result in the further destruction of the American image abroad.

It will be extremely difficult for any commission, in these circumstances, to bear the responsibility imposed

Dr. Maclellan Perry began to cut an air passage in the President's throat in an effort to restore an air passage and start his breathing. The incision was made through the bullet wound, since it was in the normal place for the operation. Dr. Perry described the bullet hole as an entrance wound." (Ibid.) Dr. Robert N. McClelland, one of three surgeons who participated in the operation, said "It certainly did look like an entrance wound." (Ibid.) Dr. McClelland said he saw bullet wounds every day, "sometimes several a day. This did appear to be an entrance wound." (Ibid.)

On Nov. 27, the Secret Service re-enacted the assassination of the President. "The purpose was to test whether it could be done the way we believe it was done" an official source said. (New York Times, Nov. 28.) The consensus was "that the shooting began after the President's car had made the turn from Houston Street into Elm Street." (New York Times, Nov. 28.) In an interview broadcast from Dallas Nov. 27, Gov. Connally told Martin Agronsky that the shooting began after the car had turned the corner. (New York Times, Nov. 28.)

If the throat wound resulted from a shot fired from the book depository the President would have had to turn around with his throat facing almost directly to the rear. Dr. McClelland stated that the doctors postulated that "he (the President) would have had to be looking almost completely to the rear." (St. Louis Post-Dispatch, Dec. 1.) The Washington correspondent for the Post-Dispatch stated that, "The motion pictures, however, showed the President looking forward." (Dec. 1.) "Mrs. John Connally, the wife of the Texas Governor, has said that she had just told Mr. Kennedy, 'You can't say Dallas isn't friendly to you today.' Presumably he was about to reply when he was hit." (Ibid.) Mrs. Connally was seated in front of the President.

Relying, therefore, upon the Homicide Report filed with the Dallas Police by two officers who were eyewitnesses, the motion pictures taken of the shooting, still shots taken from the motion pictures, the statement of Gov. Connally, the consensus of those who re-enacted the scene under supervision of the Secret Service, and the report of the attending physicians, we may conclude that the shot was fired while the back of the President was to the sixth-floor window and many yards removed from that window and that the bullet entered the front of the President's throat. If Oswald was at the sixth-floor window, as alleged, when the President was shot it would have been physically impossible for him to have fired the first shot that struck the President. In the words of Richard Dudgeon, the correspondent for the Post-Dispatch (Dec. 1), "The question that suggests itself is: How could the President have been shot in the front from the back?"

The gun and the experts

THE QUESTION now arises as to whether any one man, even a skilled expert, could have fired three shots within a period of five seconds. An Olympic rifle champion, Hubert Hammerer, said he doubted it

maintain the ability to fire a rifle accurately, one must practice continually. Oswald's wife and the Fairlie family, all of whom lived in the house where the rifle was allegedly stored, did not even know Oswald owned a rifle. This would seem to indicate an extremely limited usage of the rifle at the very most. Oswald did not have the requisite skill to fire three accurate shots within 5½ seconds at a moving target.

Other uncertainties

IF OSWALD WAS WHERE the FBI and the Dallas District Attorney said he was when the shots were fired and if the President was assassinated by one person as charged—Lee Harvey Oswald is demonstrably not guilty; Oswald was in the wrong place and did not have sufficient time to shoot President Kennedy as charged.

The facts as presented to date by the FBI and the Dallas district attorney soon to be rewritten (no doubt) have overcome the presumption of guilt manufactured when the case was initiated.

Dudgeon wrote in the St. Louis Post-Dispatch (Dec. 1): "Another unexplained circumstance is a small hole in the windshield of the presidential limousine. This correspondent and one other man saw the hole, which resembled a bullet hole, as the automobile stood at the hospital emergency entrance while the President was being treated inside the building. "The Secret Service kept possession of the automobile and flew it back to Washington. A spokesman for the agency rejected a request to inspect the vehicle here [Washington]. He declined to discuss any hole there might be in the windshield."

Undoubtedly the Secret Service has placed the auto in protective custody, "in a secret place for its own protection."

Dudgeon continued to present startling information. "Uncertainty surrounds the number of shots fired." (Ibid.) Although most witnesses heard three shots fired within a period of five seconds it seems that five bullets have been discovered.

"The first bullet is said by the doctors to have entered the throat, cussed downward and remained in the President's body. The second was extracted from Gov. Connally's thigh. It had lodged there after entering the right side of his back, passing through his body and through his wrist. A third, which may be the one that struck the back of Mr. Kennedy's head, was re-covered from the stretcher on which he was carried into the hospital. A fourth was found in fragments in the car. Still another bullet was found by Dallas police officers after the shooting. It was in the grass opposite the point where the President was hit. They did not know whether it had anything to do with the shooting of the President and the Governor." (Ibid.)

One point does emerge with absolute clarity. The theory held by the Dallas police and supported repeatedly by the FBI that "there is an airtight case against Oswald as the sole killer" is based upon an investigation so poor as to be incredible or an investigation de-

lately useless. One can assume that the FBI wishes to avoid that result.

It may be argued on many different levels of government—life—that a finding by the commission that an American lynched in a Dallas courthouse might be innocent, would result in the further destruction of the American image abroad.

It will be extremely difficult for any commission, in these circumstances, to bear the responsibility imposed upon it. For the sake of our country let us hope that Justice Earl Warren, a fair and great American, may successfully guide his commission through the sea of hatred and malice surrounding this case in its search for the truth.

An era of understanding

There are those who have said much good may come from this assassination, that a new era of understanding and unity may result. I doubt this. From hate comes hate. From murder—as we have already seen—murder. And from hysteria—rejection of the great Anglo-Saxon tradition of justice. But if it is possible to leave behind us the America of violence and malice, our national renaissance must begin with a respect for law and disdain for the hysteria that has thus far made fair consideration of this case impossible.

Our national conscience must reject the massive media conviction of Oswald—presumed to be innocent—and begin to examine and to analyze the evidence. We must recognize that the same reckless disregard for human life and decency that resulted in the death of President Kennedy also in the death of Oswald while in police custody. And, before that, it resulted in the destruction of every right belonging to an American accused of a crime. The press, the radio and the television stations share that guilt.

The law enforcement officials, however, beginning with District Attorney Wade, who falsely stated evidence to the entire world repeatedly and who gave leadership to the development of a carnival atmosphere, must bear history's harshest judgment.

You are the jury. You are the only jury that Lee Harvey Oswald will ever have.

A terrible crime has been committed. A young, vital and energetic leader of perhaps the world's most powerful nation has been killed by the cowardly act of a hidden assassin. The murderer or murderers were motivated by diseased minds or by such depths of malice as to approach that state. We will perhaps never know their motives. We must, however, know and approve of our own conduct and our own motives.

We begin with a return to an old American tradition—the presumption of innocence. We begin with you. Let those who would deny a fair consideration of the evidence to Oswald because of a rage inspired, they say, by their devotion to the late President, ponder this thought: If Oswald is innocent—and that is a possibility that cannot now be denied—then the assassination of President Kennedy remains at large.

An examination of the evidence against Oswald-

(Continued from Page 5)
 trict attorney who states falsely that a palm print is present on the murder weapon might make a similar statement in reference to a cardboard carton.

Point Four

Paraffin tests on both hands showed that Oswald had fired a gun recently.
PARAFFIN IS APPLIED to that portion of the human body which might come in close contact with the gas (released by a weapon's firing) containing solid particles of burned nitrates in suspension. To determine whether a pistol (i.e., a gun) has been fired, tests are made of both hands. To determine whether a rifle has been fired, tests are made of both hands and the area on both sides of the face near the cheekbone, the cheek remaining in immediate contact with a rifle when the trigger is pulled.

In the service, as any veteran, including Wade, well knows, a rifle is always referred to as a rifle. It is never, under fear of company punishment, called a gun (pistol). At Wade's press conference, this dialogue took place:
 Reporter: What about the paraffin tests?
 Wade: Yes, I've got paraffin tests that showed he



examination Wade said without hesitation, that "the murder weapon was a German Mauser."

The next day it was reported that FBI files showed that Oswald purchased an Italian carbine through the mail. It was sent to a post-office box maintained by Oswald in his own name and also A. Hidell. (Clearly no serious effort to escape detection as the purchaser of the rifle was made by Oswald, if he did purchase it.)

Armed with the knowledge that Oswald could be connected with an Italian carbine (it then not being known that the Italian rifle in question might not be able to fire three times in five seconds), Wade made a new announcement. The murder weapon was not a German Mauser, it was an Italian carbine. This prosecution reversal established a high point in vulnerability for the trial—the trial that was never to take place.

Point Six

Oswald had in his possession an identification card with the name Hidell.

WADE SAID, "On his (Oswald's) person was a pocketbook. In his pocketbook was an identification card with the same name (Hidell) as the post-office box on it."

Almost immediately after Oswald was arrested the police asserted that he was guilty of assassination, was a Communist was the head of the New Orleans Fair Play for Cuba Committee, and had used an alias, "Lee," the name under which he had rented his \$8-a-week room. The following day, after the FBI had revealed that Oswald had purchased a rifle under the assumed name Hidell, the Dallas DA announced for the first time that Oswald had carried an identification card under the assumed name Hidell on his person when he was arrested the previous day.

One wonders why the police and the DA, in announcing Oswald's political background, failed to mention another alias readily available to them. Clearly, the suspect was immediately searched when arrested. Clearly, an identification card made out to another person fitting Oswald's description exactly was proof of another assumed name. Why did the Dallas authorities publicly "discover" the ID card for Hidell when the FBI said that Oswald purchased a rifle under the name Hidell?

Point Seven

Oswald was seen in the building by a police officer just after the President had been shot.

(New York Times, Nov. 24). The deployment of 500 officers from his 1,400-man force made fast action possible in the manhunt, he said.

The scene painted for us by Wade and Curry finds officers immediately rushing to the building to seal it off and search it. This is the building from which the fatal shots allegedly were fired.

In these circumstances, is it likely that Oswald was permitted to leave the premises after the police had arrived? Is it likely that Oswald, after killing the President, and deciding to leave the premises, decided first to stop off for a soda, and had then—only after the building was surrounded, sealed off and the search begun—made an effort to leave? Is it likely that each of the almost 90 employees, most of whom were outside of the building, engulfed in the panic and confusion attendant upon the assassination, could easily and quickly return to his place of employment through the police line, while still on his lunch hour, so that "every other employee was located but this defendant . . ." and the description of the one missing employee radioed at once?

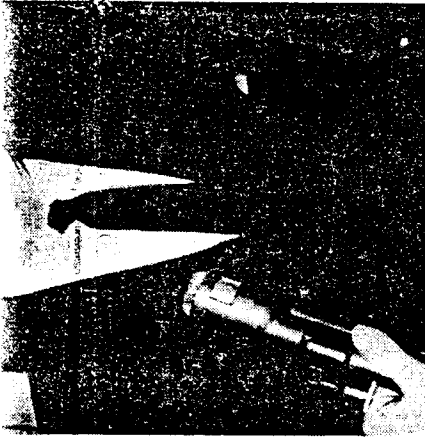
Point Eight

Oswald's wife said that the rifle was missing Friday morning.

WADE SAID, "The wife had said he had the gun the night before, and it was missing that morning after he left." All indications are from statements made by other law officials and from FBI private briefings that Mrs. Oswald had never been quoted as saying anything remotely similar to Wade's assertion.

Mrs. Oswald was alleged to have said, at the very most, that she saw something in a blanket that could have been a rifle. However, it soon became plain that the Secret Service "leak" was itself absolutely inaccurate. Later we discovered that Mrs. Oswald stated that she never knew that her husband owned a rifle nor did she know he owned a pistol (New York Times, Dec. 8).

Perhaps Wade and the Secret Service felt confident that, just as Oswald never got the opportunity to tell his side of the story, Mrs. Oswald might also have difficulty in being heard. Immediately after the assassination Marina Oswald, Oswald's wife, was incarcerated by the Secret Service. "The widow and relatives of Lee Harvey Oswald are being sequestered here (Dallas) by the Secret Service. A spokesman for the Secret Service said the family was being kept in a secret place . . . its own protection . . . A Secret Service spokesman said he did not know when they would be released." (New York Times, Nov. 27)



DALLAS DISTRICT ATTORNEY HENRY WADE
He presents the 'evidence'—to the press

had recently fired a gun—it was on both hands.

Wade: Both hands.

Reporter: Recently fired a rifle?

Wade: A gun.

Wade's answers, while truthful, were a study in indifference. The district attorney neglected to state the additional facts that tests had been conducted on Oswald's face and that the tests revealed that there were no traces of gunpowder on Oswald's face (Washington Star, Nov. 24). One fact emerges here with clarity. The paraffin test did not prove Oswald fired a rifle recently. The test tended to prove Oswald had not fired a rifle recently. This fact alone raises that reasonable doubt that a jury might utilize in finding the defendant not guilty.

Point Five

The rifle, an Italian carbine, had been purchased by Oswald through the mail and under an assumed name. **WADE SAID:** "If (the rifle), as I think you know, has been identified as having been purchased last March by Oswald, from a mail-order house, through an assumed name named Hidell, mailed to a post office box here in Dallas," Wade said this was the weapon that killed the President.

Wade had made a very different statement in reference to the murder weapon just a short while before. Just after the arrest of Oswald, Dallas law enforcement officials announced that they had found the murder weapon. Wade and his associates studied the rifle. It was shown to the television audience repeatedly as some enforcement official carried it high in the air, with his bare hands on the rifle. After hours of

fitting Oswald's description exactly was proof of another assumed name. Why did the Dallas authorities publicly "discover" the ID card for Hidell after the FBI said that Oswald purchased a rifle under the name Hidell?

Point Seven

Oswald was seen in the building by a police officer just after the President had been shot.

WADE SAID: "A police officer, immediately after the assassination, ran in the building and saw this man in a corner and tried to arrest him; but the manager of the building said he was an employe and it was all right. Every other employe was located but this defendant of the company. A description and name of him went out by police to look for him." (At this point it might be in order to state that all of the Wade quotations are reproduced unedited, and in their entirety. The text of the Wade remarks appeared in the New York Times, Nov. 26.)

Unexplained by Wade is why the officer was going to arrest Oswald, who was sipping a soft drink in the lunchroom along with others. If the officer had reason to single out Oswald for arrest for the assassination at that time, it seems unlikely that the mere statement that Oswald was an employe might result in immunity from arrest.

Wade does explain, however, how the almost immediate description of Oswald was radioed to the police and to the citizens of Dallas. The explanation: "Every other employe was located but this defendant of the company." The New York Times (Nov. 23) reported: "About 90 persons were employed in the Texas School Book Depository and most of them were out watching the President's motorcade when the shots were fired." Police Chief Curry, who was riding in a car just 40 feet ahead of the limousine carrying the President, said he could tell from the sound of the three shots that they had come from the book company's building. Moments after the shots were fired, Curry said, he radioed instructions that the building be surrounded and searched

licity in being heard immediately after the assassination of Marina Oswald, Oswald's wife, was incarcerated by the Secret Service. "The widow and relatives of Lee Harvey Oswald are being sequestered here (Dallas) by the Secret Service. A spokesman for the Secret Service said the family was being kept in a secret place for its own protection." A Secret Service spokesman said he did not know when they would be released." (New York Times, Nov. 27.)

Inasmuch as there will be no trial, Marina Oswald clearly is not being held as a material witness. Since the federal government has no jurisdiction in any event, there seems to be no legal basis for her incarceration. Lee Oswald's mother, jeopardized by the existing hysteria as much as his widow, after being released from Secret Service "protective custody," requested that a guard be stationed at the door of her home. The Secret Service rejected that request, stating that she was not in danger. One wonders then why Marina Oswald, widely and inaccurately quoted by the Secret Service and FBI, has remained in custody and practically incommunicado as well. The same issue of the New York Times that correctly stated Marina Oswald's view of the rifle said, "Mrs. Oswald has been moved from the motel where she was taken with Mrs. Marguerite Oswald, her brother-in-law and his wife, after her husband was killed. She is now excluded from Oswald's relatives as well as from the public." Several days after the "protective custody" began a reporter sought an interview with Marina Oswald. She indicated a desire to meet the reporter. The FBI then intervened and prevented the interview.

It would seem that the Secret Service move was dictated by a desire to prevent any truthful leaks from Mrs. Oswald's family or friends or through the press in reference to her views. At about the same time more Secret Service and FBI "leaks" regarding Marina Oswald's recollection of her late husband's "attempt to shoot Gen. Walker with the same assassination rifle" flooded the front pages of every daily in America. Marina Oswald's assertion that she never even knew



Lee Harvey Oswald: A Face Former Infamous?

A SAMPLE HEADLINE—THIS ONE IN THE N.Y. HERALD TRIBUNE NOV. 24
The question mark hardly erases the sensationalism of treatment

December 19, 1963

NATIONAL GUARDIAN 5

Lane's defense brief for Oswald

In an analysis of the civil liberties aspects of the assassination of Lee Harvey Oswald, the American Civil Liberties Union said the "public interest" would be served if the commission named by President Johnson were to make "a thorough examination of the treatment accorded Oswald, including his right to counsel, the nature of the interrogation, his physical security while under arrest, and the effect of pretrial publicity on Oswald's right to a fair trial."

In the public interest the GUARDIAN is devoting one-half of its issue this week to a lawyer's brief in the Oswald case which has been sent by the author to Justice Earl Warren as head of the fact-finding commission inquiring into the circumstances of the assassination of President Kennedy. The author is Mark Lane, a well known New York defense attorney, who has represented almost all the civil rights demonstrators arrested in New York. He has also served as defense counsel in a number of murder cases involving young persons.

In 1959, he helped organize the Reform Democrats in New York, an insurgent movement within the Democratic Party, was the first candidate of the movement to be nominated to the New York State Legislature and was elected in 1960.

By Mark Lane

IN ALL LIKELIHOOD there does not exist a single American community where reside 12 men or women, good and true, who presume that Lee Harvey Oswald did not assassinate President Kennedy. No more savage comment can be made in reference to the breakdown of the Anglo-Saxon system of jurisprudence. At the very foundation of our judicial operation lies a cornerstone which shelters the innocent and guilty alike against group hysteria, manufactured evidence, overzealous law enforcement officials, in short, against those factors which militate for an automated, prejudged, neatly packaged verdict of guilty. It is the sacred right of every citizen accused of committing a crime to the presumption of innocence.

This presumption, it has been written, is a cloak donned by the accused when the initial charge is made, and worn by him continuously. It is worn throughout the entire case presented against him, and not taken from the defendant until after he has had an opportunity to cross-examine hostile witnesses, present his own witnesses, and to testify himself.

Oswald did not testify. Indeed, there will be no case, no trial, and Oswald, murdered while in police custody, still has no lawyer. Under such circumstances the de-

In his letter to Justice Warren accompanying the brief, Lane urged that defense counsel be named for Oswald so that all aspects of the case might be vigorously pursued, particularly since Oswald was denied a trial during his lifetime. It is an ironic note, as the ACLU statement said, that "if Oswald had lived to stand trial and were convicted, the courts would very likely have reversed the conviction because of the prejudicial pretrial publicity."

The GUARDIAN's publication of Lane's brief presumes only one thing: a man's innocence, under U.S. law, unless or until proved guilty. It is the right of any accused, whether his name is Oswald, Ruby or Byron de la Beckwith, the man charged with the murder of Medgar Evers in Mississippi. A presumption of innocence is the rock upon which American jurisprudence rests. Surely it ought to apply in the "crime of the century" as in the meanest back-alley felony.

We ask all our readers to study this document, show it to as many persons as you can (extra copies are available on request) and send us your comment. Any information or analysis based on fact that can assist the Warren Commission is in the public interest—an interest which demands that everything possible be done to establish the facts in this case.

—THE GUARDIAN



- 12—Oswald shot and killed a police officer.
- 13—A witness saw Oswald enter the Texas theater.
- 14—Oswald drew a pistol and attempted to kill the arresting officer.
- 15—A map was found in Oswald's possession showing the scene of the assassination and the bullet's proposed trajectory.

Perused lightly, the list seems impressive. But in capital cases evidence is not perused lightly. It is subject to probing cross-examination, study and analysis. The most effective tool available to any defendant, cross-examination, is not available in this case. We rely instead, solely upon press reports of statements made, not by witnesses for the defense, not by the defendant, but by the district attorney, police officers or FBI agents. With this oppressive restriction in mind, we move on to an analysis of the evidence.

Point One

A number of witnesses saw Oswald at the window of the Texas Theater on the night of the assassination. SINCE IT IS ALLEGED that Oswald fired through the window, that assertion is important. Wade was unequivocal, stating, "First, there was a number of witnesses that saw the person with the gun on the sixth floor of the theater."

This presumption, it has been written, is a cloak donned by the accused when the initial charge is made, and worn by him continuously. It is worn throughout the entire case presented against him, and not taken from the defendant until after he has had an opportunity to examine hostile witnesses, present his own witnesses and to testify himself.

Oswald did not testify. Indeed, there will be no case, no trial, and Oswald, murdered while in police custody, still has no lawyer. Under such circumstances the development of a possible defense is difficult, almost impossible. Under such circumstances, the development of such a defense is obligatory.

There will be an investigation. No investigation, however soundly motivated, can serve as an adequate substitute for trial. Law enforcement officials investigate every criminal case before it is presented to a jury. The investigation in almost all such cases results in the firm conviction by the investigator that the accused is guilty. A jury often finds the defendant innocent, notwithstanding.

That which intervenes between the zealous investigator and the jury is due process of law, developed at great cost in human life and liberty over the years. It is the right to have irrelevant testimony barred. It is the right to have facts, not hopes or thoughts or wishes or prejudicial opinions, presented. It is the right to test by cross-examination the veracity of every witness and the value of his testimony. It is, perhaps above all, the right to counsel of one's own choice, so that all the other rights may be protected. In this defense, Oswald has forfeited all rights along with his life.

The reader, inundated at the outset with 48 solid television, radio and newspaper hours devoted to proving the guilt of the accused and much additional "evidence" since then, cannot now examine this case without bringing to it certain preconceived ideas. We ask, instead, only for a temporary suspension of certainty.

The case against Oswald

LONG BEFORE OSWALD was shot to death in the basement of the Dallas courthouse, the Dallas officials had concluded that Oswald was "without any doubt the killer." On Saturday, the press was informed that "absolute confirmation as to Oswald's guilt" had just arrived but that the "startling evidence" could not then be released to the press.

Immediately after Oswald was slain, the Dallas district attorney, Henry Wade, announced that the "Oswald case was closed." Despite the deep belief that prevailed throughout the U.S. as to Oswald's guilt, doubts raised throughout Europe escalated with Oswald's murder into almost absolute rejection of the prosecution case.

The Justice Department then announced that the case was not closed. Wade called a press conference to "reopen" the case. In a radio and television statement, publicized throughout the world, Wade presented, "the evidence, piece by piece, for you."

Wade is not new to the ways of law enforcement and prosecution. He has held the post of district attorney in Dallas 13 years. He has a staff of 80, and an



LEE HARVEY OSWALD AND THE DALLAS POLICE He was questioned, without counsel, for 48 hours annual budget of almost \$500,000. For more than four years he was an FBI agent before becoming district attorney.

He boasts of obtaining the death sentence in 23 of the 24 capital cases he has prosecuted. It can be assumed that the Oswald case was by far the most important matter that he ever handled, and that his appearances on Sunday to present the evidence was the high point of his career. This was an appearance for which he had abundantly prepared himself.

In that light, we now examine the "airtight case," the "absolute confirmation of Oswald's guilt." Wade presented 15 assertions, some mere conclusions, some with a source not revealed, some documented.

- 1—A number of witnesses saw Oswald at the window of the sixth floor of the Texas School Book Depository.
- 2—Oswald's palm print appeared on the rifle.
- 3—Oswald's palm print appeared on a cardboard box found at the window.
- 4—Paraffin tests on both hands showed that Oswald had fired a gun recently.
- 5—The rifle, an Italian carbine, had been purchased by Oswald, through the mail, under an assumed name.
- 6—Oswald had in his possession an identification card with the name Hiddell.
- 7—Oswald was seen in the building by a police officer just after the President had been shot.
- 8—Oswald's wife said that his rifle was missing Friday morning.
- 9—Oswald had a package under his arm Friday.
- 10—Oswald, while taking a bus from the scene, laughed loudly as he told a woman passenger that the President had been shot.
- 11—A taxi driver, Darryl Click, took Oswald home, where he changed his clothes.

... out of the district attorney, police officers or FBI agents. With this oppressive restriction in mind, we move on to an analysis of the evidence.

Point One

A number of witnesses saw Oswald at the window of the sixth floor of the book store building, in the window detailing the window—where he was looking out. Subsequently, it developed that the "number of witnesses" was in reality one witness, who was quoted as follows: "I can't identify him, but if I see a man who looks like him, I'll point him out." (Newark—Dec. 9) Such "identification" is at best speculative and would not be permitted in that form at trial.

Point Two

Oswald's palm print appeared on the rifle.

A PALM PRINT, unlike a fingerprint, is not always uniquely identifiable. Nevertheless, palm prints possibly belonging to the suspect and present on a murder weapon must be considered important evidence. If the rifle did belong to Oswald, the presence of palm prints there might be normal and need not lead to the inevitable conclusion that Oswald fired the fatal shots. However, speculation in this area is not now required to rebut Wade's second point. The FBI now states that "no palm prints were found on the rifle."

This conclusion, first carried in the Fort Worth press, was later leaked to reporters by the FBI in off-the-record briefing sessions. The FBI at that time took the position that "we don't have to worry about prints in this case." The FBI indicated anger with Wade for stating that a palm print was present when in fact it was not.

Point Three

Oswald's palm print appeared on a cardboard box found at the window.

WADE STATED, "On this box that the defendant was sitting on, his palm print was found and was identified as his." Inasmuch as a palm print is not always uniquely identifiable, depending on the number of characteristics that are readable, the palm print very likely was not definitely "identified as his."

It had been alleged earlier that the defendant ate greasy, fried chicken at the window. The presence of a palm print indicates that he wore no gloves and took no precautions to prevent a trail of fingerprints and palm prints. Nevertheless, no prints of the defendant were found on the floors, walls, window ledge, window frame or window. Only a movable cardboard carton, subsequently present at the police station while the defendant was also there, is now alleged to have his print.

An over-zealous investigatory staff might arrange to secure such a print after the fact. Certainly the handling of this case by the Dallas authorities was marked by over-zealous desire to convict the defendant. A dis-

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

*In Reply, Please Refer to
File No.*

Detroit, Michigan
February 17, 1964

Re: Assassination of President
John F. Kennedy, 11/22/63,
Dallas, Texas

On February 14, 1964, Mark Lane, who described himself as a New York Attorney and the attorney for Mrs. Marguerite Oswald, mother of Lee Harvey Oswald, made a speech at the Central Methodist Church, Woodward and Adams Streets, Detroit, Michigan.

During this speech, Lane said that he had prepared a brief concerning the Oswald case and that in about two weeks he was going to seek to obtain an appointment with United States Attorney General Robert Kennedy in order to present this brief, as well as other evidence he had developed in this matter, to the Attorney General.