

THE ASSASSINATION



OF MALCOLM X

1. UNANSWERED QUESTIONS

By George Breitman

2. THE TRIAL

By Herman Porter

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INTRODUCTORY NOTE

This pamphlet reprints twelve articles about the assassination of Malcolm X on February 21, 1965, and the trial, from January 21 to March 11, 1966, of three men charged with the assassination. The three defendants were sentenced to life imprisonment.

The articles were written for *The Militant*, weekly socialist newspaper. The three by George Breitman, written from Detroit, appeared during July and August 1965. The nine articles by Herman Porter, who reported the trial in New York for *The Militant*, appeared in its issues from January to March 1966.

George Breitman has requested that the following be added: "The questions I asked about the role of the police in the assassination of Malcolm X were transmitted to the defense attorneys in the hope that they would raise them during the trial. As Herman Porter's reports indicate, they deliberately avoided doing so. Readers should also understand that if the New York police were involved in the assassination (and nothing said or done at the trial, or in the four years since the crime, has absolved them of this charge), that involvement could not have been on their own initiative, but must have resulted from the decision and direction of the government in Washington, that is, the CIA."

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CONTENTS

Part I. UNANSWERED QUESTIONS by George Breitman	
The Missing 'Second' Man	3
The Role of the Police	5
Were Butler and Johnson There?	8

Part II. THE TRIAL by Herman Porter	
Selection of the Jury	11
The First Witness	12
Unreliable Observers	14
Conflicting Testimony	17
Technical Evidence	21
Defense Opens Case	22
Talmadge Hayer Confesses	24
Summary of the Testimony	26
Mystery Not Solved by Verdict	30

I. Unanswered Questions

By GEORGE BREITMAN

The Missing 'Second' Man

DETROIT, July 4 — Some mysterious questions about the assassination of Malcolm X arise if you carefully read the New York newspaper reports printed right after the assassination, as I have just done. Some of them concern the role of the police.

I should explain, at the beginning, that I have no fixed theory about the killing. I don't know if agents of the Black Muslims did it; or if agents of white racists did it; or if agents of the government or the police did it; or if agents of a combination of these forces, who all hated Malcolm, did it. I am, at this point, only asking some questions provoked by studying different editions of the six New York daily papers after the killing.

Certain things seem agreed upon by everybody:

The Organization of Afro-American Unity had scheduled a rally on Sunday afternoon, Feb. 21, at the Audubon Ballroom in Harlem. This was one week after Malcolm's home was fire-bombed and he and his family narrowly escaped injury or death. People entering the rally were not searched. On the other hand, they were all scrutinized by OAAU aides as they entered the hall.

Malcolm had just begun to speak when two men began a scuffle deliberately designed to distract the attention of Malcolm's guards. Three men rushed toward Malcolm, opening fire and wounding him mortally; they then ran out of the ballroom, pursued by several of Malcolm's supporters.

Police said that one of the three, identified later as Talmadge Hay-

er, 22, of Paterson, N.J., had received a bullet in the leg by the time he got to the exit of the building. The police also alleged that he had been wounded by Reuben Francis, a Malcolm guard. Hayer was seized outside the building by the people pursuing him. So was another man. The people began to beat and kick Hayer and the second man. Police arrived and rescued the two being beaten, taking them away from the crowd.

The third man got away. He got away because the crowd did not catch him. Hayer and the second man also would have got away if the crowd hadn't caught and held them until the police showed up.

Now let us turn to the New York Herald Tribune dated Monday, Feb. 22. This is a morning paper, which means that the first edition of the paper dated Monday actually appeared Sunday evening, a few hours after the killing. The top headline in the first (city) edition reads: "Malcolm X Slain by Gunmen as 400 in Ballroom Watch." The subhead, over the lead article by Jimmy Breslin, reads: "Police Rescue Two Suspects."

Breslin's story in this edition reports that Hayer was "taken to Bellevue Prison Ward and was sealed off by a dozen policemen. The other suspect was taken to the Wadsworth Avenue precinct, where the city's top policemen immediately converged and began one of the heaviest homicide investigations this city has ever seen."

Next we turn to a later (late city) edition of the same paper for the same day. The top headline is unchanged. But the sub-head is different. This time it reads, "Police Rescue One Suspect."

The "second" suspect has dropped not only out of the headline, but out of Breslin's story too. Nothing about his being caught and beaten by the crowd, nothing about his being rescued by the police, nothing about his being taken to the Wadsworth station, nothing about the city's top police converging on that station.

Not only does he disappear from Breslin's story in the late city edition, but he disappears from the *Herald Tribune* altogether from that date to this.

Perhaps the whole thing never happened? Perhaps Breslin, in the heat of the moment, had in his first story reported a mere rumor as a fact, and, being unable to verify it, decided not to repeat it in later editions?

But there are three morning papers in New York, and in their first editions they all said it happened.

For example, let us examine the first (city) edition of the *New York Times* for Feb. 22. The sub-head is very clear: "Police Hold Two for Questioning."

From the *Times*' city edition, we even learn the name of the cop who captured the "second" man. It is Patrolman Thomas Hoy, who is quoted as saying he had "grabbed a suspect" being chased by some people.

But when we turn to the late city edition of the same *Times*, printed only a few hours later, we find that its subhead too has changed. It now reads: "One Is Held in Killing."

But the story hasn't yet been changed altogether. Patrolman Hoy still remains in the late city story, and so does the "second" man who has dropped out of the

subhead. In fact, the story has more about Hoy than it had in the city edition.

This time the *Times* reports: "As I brought him to the front of the ballroom, the crowd began beating me and the suspect," Patrolman Hoy said. He said he put this man — not otherwise identified later for newsmen — into a police car to be taken to the Wadsworth Avenue station."

Then Hoy's captive disappears from the *Times* as completely and as permanently as he did from the *Herald Tribune*, and from all the other daily papers.

But there cannot be any doubt in the mind of anyone reading the accounts I have cited that a second man was captured and taken away by the police.

Who was he?

Why did the press lose interest in him so suddenly, at a time that it was filling its pages with all kinds of material about the murderer, including the silliest trivialities and wildest rumors? Was it because the police "advised" them to?

Why did Patrolman Hoy deem the "second" man to be a suspect? What was he doing at the time Hoy grabbed him?

Why did the crowd deem him to be a suspect? What had they seen him doing before Hoy grabbed him?

Why did the city's "top policemen" surround him with a wall of silence that has not been pierced for 4½ months?

If they decided he was innocent, why didn't they say so publicly? That is the usual practice.

Why didn't they at least announce his name? That is also usually done.

What did the "second" man know about the murder plot and the identity of the killers?

It is extremely difficult to figure out why the police (and the press) behaved in this way. It leads to another question:

Could the "second" man have been a police agent?

Fantastic? Only if you don't know anything about the police, FBI, CIA, etc.

It is standard procedure for them to infiltrate radical, black nationalist and just militant organizations. Sometimes, as the recent "Statue of Liberty" case showed, these police agents worm their way into positions where they can carry out provocations or cause other damage, in addition to merely "reporting" what happens inside the organizations infiltrated.

We do not have to speculate about whether or not the police infiltrated the Organization of Afro-American Unity and whether or not such police agents were present at the Audubon Ballroom at the time of the assassination. The answer is yes, without any speculation.

A "high police official" said, as reported in the *Herald Tribune* Feb. 23, that "several" members of the highly secretive Bureau of Special Services (BOSS) were

present in the audience at the time of the killing. (BOSS is the police agency involved in the Statue of Liberty provocation.) After talking to this high police official, *Herald Tribune* staff member Milton Lewis wrote:

"It is no secret that BOSS police — who never wear uniforms — have credentials to cover almost any situation, so that if they were required to have a card or emblem of the Black Nationalist sect it is a safe bet that they had them."

So perhaps the "second" man was a police agent, and perhaps the strange behavior of the top police results from their desire to protect one of their own "several" men present at the Audubon.

But in that case, the question must be asked again, and such questions will keep on being asked until the whole story is told: Why was the crowd convinced that the "second" man was one of the killers?

The Role of the Police

DETROIT, July 18 — "Why don't you admit that the Black Muslims killed Malcolm X, instead of trying to cast suspicion on the police? Malcolm himself said the Black Muslims were trying to kill him, and he was going to reveal the names of the would-be assassins at the meeting on Feb. 21 where he was murdered."

The above is one response to my article in the July 12 *Militant*, where I took note of certain things printed in the *New York News-Papers* after the assassination that raised questions about the conduct of the police.

The reason I don't "admit" the Black Muslims killed Malcolm is that I don't know that to be a fact. It may be so, but until it is

proved it remains only a possibility — one among others. Even if Black Muslims or their agents were out to kill him, they may not have been the only ones.

What Malcolm thought about it is important, but not conclusive; he did not have all the facts either.

When his home was bombed on Feb. 14, a week before his assassination, he definitely accused the Black Muslims of the murder attempt. He believed it was a continuation of their bitter attacks and harassments.

Once he had made this accusation, it was a perfect setup for other forces to kill him and have it assumed that the Black Muslims were guilty. I do not say it hap-

pened that way. I say it could have happened that way if other forces were out to get him.

The police and the press publicized Malcolm's first opinion, but not his later doubts about that opinion. Yet it is a fact that in the last two or three days of his life Malcolm began to have second thoughts about the question. He told associates he was "not all that sure it's the Muslims" and that he was going to quit saying it was.

And in the last hour of his life, as he sat in the small anteroom of the Audubon Ballroom waiting for his turn to speak, he told members of his organization there that he was going to state that he had been hasty to accuse the Black Muslims of bombing his home, because things that had happened after the bombing had convinced him of the existence of a plot bigger and beyond the capabilities of the Black Muslims.

Again, he might have been right or he might have been wrong. The point is that he did not know for sure, and therefore his opinion one way or the other is not conclusive.

In my previous article I called attention to some things that the New York papers reported right after the assassination and then dropped like a hot potato: That the crowd had seized and was beating two men whom they accused of having killed Malcolm; that the police came and rescued these two men; that they later indicted one of them, Talmadge Hayer of Paterson, N. J., for the murder; but that they never have said anything about the second man, who has simply disappeared without explanation.

Trying to figure out why the police behaved so strangely in regard to this second man, I noted that they admitted "several" police agents were in the hall pretending to be ordinary members of the audience when the killing took place, and I speculated that the second man might have been one

of these police agents. I said that this might account for the way the top police dealt with him, and then I asked again: If he was a police agent, what was he doing that convinced a part of the audience that he was one of the killers?

In the recent Statue of Liberty case in New York, it turned out that the chief initiator of whatever was plotted, was an agent-provocateur planted there by the city police. When a Ku Klux Klan gang murdered Mrs. Viola Liuzzo in Alabama, it turned out that one member of the gang was an agent planted there by the FBI. It is well known, and Malcolm pointed this out several times, that the police and the FBI have infiltrated the Black Muslims.

These are reasons why I cannot rule out the possibility that a police agent might have been part of the murder gang, even encouraging the plot. It doesn't at all dispel the police that Malcolm is dead and his movement headed, under circumstances that favor blaming the Black Muslims and possibly wiping out their movement, too.

If such speculation is without basis, if the police did not have an agent in the murder gang, if the police were in no way implicated in the murder, then they should easily be able to clear up the puzzling questions about the second man, whose identity and role they know.

While they are at it, perhaps they will clear up some other matters about their conduct.

Malcolm's body was hardly cold before top police officials began bombarding the public with statements about how often they had offered him protection. Every official had a different figure for the number of offers, but all of them said Malcolm refused protection.

Betty Shabazz, Malcolm's widow, had another story. Ted Poston, writing in the Feb. 23 *New York Post*, told of her reaction, the

might after the killing, as she was watching TV and heard Deputy Police Commissioner Walter Arm say, "Of course we offered Malcolm X police protection many times — as late as the day his house was bombed." "That's a lie," Mrs. Shabazz said.

Either way, the police are not absolved of the responsibility for preventing murder. They are supposed to protect people, they are supposed to prevent murder, even of people who don't want special protection. And in this case they knew, more than a month before Feb. 21, that Malcolm's murder was being planned.

That isn't what I say — that's what they say. "According to the police spokesman, the department knew in mid-January that an attempt was to be made on Malcolm's life," the *New York Journal-American* reported on Feb. 22.

The police spokesman did not say how they knew. This would be interesting, but here let us confine ourselves to the question of what the police, knowing about the murder plot, did in and around the Audubon Ballroom on Feb. 21.

We already know that there were "several" undercover police agents in the audience. What about outside?

"According to police officials, a patrolman was stationed outside the ballroom," the *New York World-Telegram* reported Feb. 22.

A high police official, after confirming that police agents were planted inside the meeting, added, "And there were a couple of uniformed men outside," the *Herald Tribune* reported Feb. 23.

"Deputy Police Commissioner Walter Arm said yesterday [Feb. 22] that a special detail had been assigned outside the ballroom. . . . Assistant Chief Inspector Harry Taylor, in charge of Manhattan North uniformed police said Sunday [Feb. 21] that two sergeants and 18 patrolmen had been sta-

tioned in the area," the *New York Times* reported on Feb. 23.

Which was it — "a" patrolman, "a couple" or a "special detail" of 20? Why such discrepancies about a relatively simple question? What does it denote — ineptness, indifference, or a sense of guilt?

Let us, for the moment, give the police department the benefit of the doubt and assume that they did assign 20 cops outside the Audubon. The sight of them might have had some effect on the killers. Where were the 20 cops between the time people began to arrive for the rally and the time of the killing? Many witnesses saw few or no cops as they reached the Audubon.

Mrs. Patricia M. Russell, a psychiatric social worker of New Rochelle, who wrote an eyewitness description of the murder in the Feb. 27 *Baltimore Afro-American*, said, "When we drove past the Audubon Ballroom . . . there were two police cars and eight policemen — two in front and six standing across the street at various corners. We had to look for a parking space and did not get back to the ballroom for 10 minutes. The area in front of the ballroom was clear of policemen. There was not one officer in sight." This was 10 or 15 minutes before the murder.

Where was the special detail of 20 police at this time?

If it had depended on the cops alone, nobody would have been captured at the scene of the crime.

The "several" police agents didn't do anything to catch the men who shot Malcolm down right in front of them.

Talmadge Hayer, the only person captured by the Audubon who was indicted by the police for the murder, would have got away if it had depended solely on the cops, inside or outside. Someone shot him in the leg as he fled, and the crowd chasing him caught him outside the ballroom. If it had not been for the shot and the

crowd, Hayer would have got away before police showed up.

When the police finally did appear, Hayer was seized from the crowd by Sgt. Alvin Aronoff and Patrolman Louis Angelos. The Feb. 22 *Times* said they "were cruising in their patrol car on upper Broadway shortly after 3 P.M. when they heard shots in the Audubon Ballroom." The Feb. 22 *Daily News* said they "were driving by."

There was no claim by anybody that Aronoff and Angelos belonged to any special detail. They apparently were on regular cruising duty out of their precinct station, and happened to be passing by as

Were Butler and Johnson There?

DETROIT, Aug. 14 — In two previous articles I raised questions about the role of the New York police in the assassination of Malcolm X last Feb. 21, and about the indifference of the New York daily press. I am glad to see that I'm not the only one raising questions.

Nat Hentoff, who reviews the press for the *New York Village Voice*, notes in its July 15 issue that "there has been a curious lack of curiosity among the press as to the progress the police have made in investigating the murder and those who hired the guns."

Hentoff reports that a number of questions about the police handling of the case are asked by Alex Haley in his epilogue to *The Autobiography of Malcolm X*, which is soon to be published by Grove Press. He also refers to Malcolm's "increasing doubts in the days before the assassination that if he were to be murdered, the (Black) Muslims would be responsible."

"Consider the huge press play

Hayer and the people chasing him spilled out into the street.

It is not necessary for me to charge the police with ineptness or indifference — the facts speak for themselves. The question is why they acted this way. And related to that question are two others:

Did the killers act as boldly as they did because they had reason to believe that none of them would be caught by the police at the Audubon — which (leaving the second man aside) is exactly how it would have turned out if someone (not a cop) hadn't shot Hayer in the leg?

And if they had reason to believe this, what was that reason?

the assassination received," Hentoff says. "Consider the total silence in recent months. Isn't any editor or reporter at least mildly interested in pursuing the story?"

Apparently not, so far as the New York dailies go. Their curious lack of curiosity and total silence have remained unchanged since Hentoff tried to prod them.

The only response I have seen came from the Harlem weekly, *Amsterdam News*, which printed an article by Les Matthews on July 31 under the title of "Malcolm X Murder Is Unsolved." Matthews recounts some well-known facts about the three men indicted for the murder, and offers the opinion that "it is doubtful if the court has a case against the three suspects."

But Matthews, unlike the reporters on the big daily papers, at least made inquiries at the office of the District Attorney, who is supposed to prosecute murderers. And he got some statements from the wives of two Black Muslims being held for the

murder, Norman 3X Butler and Thomas 15X Johnson.

Matthews was told that the grand jury indicted them, along with Talmadge Hayer, "after an investigation by Assistant D.A. Herbert Stein." A spokesman for District Attorney Frank Hogan told the *Amsterdam News* "that Stein is no longer connected with the case and that no Assistant D.A. is currently assigned to it. No date has been set for the trial."

The impression left by Matthews' article is that the D.A.'s office no longer seems much concerned about solving the Malcolm X case, if it ever was. Which puts it in the same category as the police department.

Let us return to the role of the police.

Less than two hours after Malcolm was shot down on Feb. 21, top police officials handed down the line that the killing was the result of a feud between the Black Muslims and Malcolm's movement; that is, the killers were Black Muslims or their agents.

How could they have decided this so fast? How could they be so sure of it that they made no efforts to seek the killers in other quarters?

At the moment of their announcement, they had two men in custody as suspects. One was Talmadge Hayer and the other was an unidentified "second" man — both of whom had been rescued by the police from members of the crowd who thought they were part of the murder gang.

At that moment, the police said they had no evidence that Hayer was a Black Muslim or connected with them, and they have not produced any such evidence since that time. The police have never said the "second" man was a Black Muslim; in fact, they have never said anything about him; with their arrangement, he just disappeared from sight.

So what evidence did they have for pointing to the Black Muslims

so conclusively that they never bothered to investigate any other possibilities?

Malcolm had many enemies besides the Black Muslim leadership. An unbiased investigation would consider all the possibilities. To have made that kind of investigation, the police would have had to probe the activities of the FBI, the CIA and themselves — all of whom were hostile to Malcolm and not at all unhappy about his murder.

Could this be the reason why they chose to concentrate their investigation on the Black Muslims, and why after a few days they picked up two well-known Black Muslims and indicted them, along with Hayer, for the murder?

Butler and Johnson are well-known Black Muslims, I repeat. In January they and a third man were arrested after an argument with an ex-Muslim, Benjamin Brown, that ended in the shooting of Brown. Butler and Johnson were out on bail on first-degree assault charges in that case at the time of the Malcolm murder.

Neither was arrested at the scene or the time of the Malcolm killing. Butler was arrested at his home five days later, on Feb. 26. Johnson was arrested at his home five days after that, on March 3.

The detective's affidavit on which Butler was arrested charged that he, "acting in concert with another previously arrested . . . did assault one Malcolm X Little with guns." The detective's affidavit against Johnson charged that he, "acting in concert with two other males previously arrested . . . did assault one Malcolm X Little with lethal weapons." The grand jury indictment on March 10 charged them and Hayer with willfully killing Malcolm "with a shotgun and pistols."

Now I don't know if Butler or Johnson had any connection with the murder of Malcolm. I don't know if they had anything to do with its planning. But the charges

against them are not that they were connected, etc. The charges are quite specific — that they assaulted Malcolm with weapons, which would mean they had to be in the Audubon Ballroom. Those charges I can only greet with considerable skepticism.

My skepticism is not based on the fact that their wives and friends testify they were both at home at the time of the murder. I have no way of judging the validity of the testimony of the wives and friends. My skepticism is based on something else.

As I said in my first article, people entering the Audubon on the afternoon of Feb. 21 were not searched, but they were closely scrutinized by Malcolm's assistants and guards.

I find it incredible that Butler and Johnson could have gotten into that meeting.

They were well-known and leading figures in the New York mosque of the Black Muslims. This means that they were well-known to Malcolm's assistants, who had worked side by side with Butler and Johnson less than one year before the assassination.

If Hubert Humphrey was standing at the door to a Cabinet meeting and watching who entered, would Dean Rusk and Robert McNamara be able to walk past him without his knowing they were going in?

It is just as unlikely that Butler and Johnson could have got into the Audubon meeting without being recognized by Malcolm's assistants, and stopped.

Is it any wonder that half a year after the assassination the District Attorney's office considers the case against Butler and Johnson so weak that it doesn't even have an Assistant D.A. assigned to it any more?

There is another aspect of the case that cries out for investigation.

On Feb. 9, or 12 days before he

was killed, Malcolm arrived in France to speak at a meeting to which he had been invited. He had spoken in Paris the previous November without incident. But this time he was banned as "undesirable."

Malcolm assumed, and said, that the French authorities had excluded him because they feared and disliked his role in organizing Afro-Americans and African groups in Paris.

But I have heard — third-hand — that after the assassination Malcolm's associates expressed the belief that the reason for his being excluded was that the French government thought he might be assassinated on French soil, and did not want to bear the onus for such a scandal.

I stress this is "third-hand", it is unverified, a rumor. But it seems to me the kind of rumor that deserves serious follow-up. France does not often bar American citizens whose papers are in order, and it tolerates a considerable variety of political activity up to a certain point. Malcolm's assumption about the reason for his being banned could be wrong.

On the other hand, if the rumor is true, then further light might be cast on the identity of the killers by discovering why the French authorities believed Malcolm might be killed while in Paris; who gave them reason to believe it; if they were actually told that the Black Muslims have the resources to organize a murder in France, etc.

The French government might not cooperate with an investigation of such questions, and if it did cooperate its answers might not add anything to present knowledge about the murder. But as Nat Hentoff asked, "Isn't any editor or reporter at least mildly interested in pursuing the story?" And if not, why not?

II. The Trial

By HERMAN PORTER

Selection of the Jury

NEW YORK, Jan. 18 — Nine jurors have been selected thus far during the five days that the Supreme Court has actually been proceeding with the trial of the three men accused of murdering Malcolm X.

The indictment was read by Assistant District Attorney Vincent J. Dermody at the start of the selection on Jan. 12. It charges the defendants with murder in the first degree, and alleges that the defendants, Thomas Hagan, also known as Talmadge Hayer, 22; Norman Butler, 26; and Thomas Johnson, 30 "willfully, feloniously, and with malice aforethought" shot and killed Malcolm X with a shotgun and pistols at the Audubon Ballroom on Feb. 21, 1965.

In questioning prospective jurors, Dermody repeatedly asked whether testimony that any or each of the defendants was a member of the Black Muslims would prejudice the juror. William C. Chance, one of the two court-appointed attorneys for Butler, objected to these references to the Black Muslims.

He said that no group was on trial, only the three defendants.

Several prospective jurors were asked by defense attorneys whether they would give any more credence to the testimony of a member of the FBI or the CIA than to other witnesses.

Each of the defendants has two lawyers. Those representing Butler, Chance and Joseph B. Williams, and those representing Johnson, Joseph Pinckney and

Charles T. Beavers, are court appointed. All four are Negroes. Hagan has retained his own lawyers, Peter L. F. Sabbatino and Peter Yellin, both white.

The press has generally reported that all three defendants have been identified as Black Muslims. Hagan, however, was not known as a Black Muslim and was not reported to be a member at the time of his arrest. His attorney reportedly denies Hagan was ever a member of the Muslims. Hagan was shot in the leg and apprehended at the Audubon Ballroom at the time of the assassination. Butler and Johnson were arrested some days later.

Spectators have been barred from the court during the selection of the jurors. The reason given is that there is no room for spectators because of the large panel of prospective jurors waiting to be called. However, barring of spectators is said to be an unusual practice.

The trial was originally to have begun Dec. 6 but was adjourned by Judge Charles Marks because of the Christmas holiday until Jan. 3. The transit strike caused a further postponement.

Although there were only about a dozen Negroes in a panel of approximately 100 in the courtroom the first two jurors selected are Negroes. George S. Carter, a chemist, automatically became foreman of the jury when he was chosen as the first juror. Reginald H. Brent, the second juror, is a subway motorman.

The other jurors are: Mrs. Soph-

le Belenky, retired from the jewelry business; Robert P. Hixon, a signal maintenance man with the transit authority; Fredrick R. Carruso, linotype operator for the *Journal American*; Gerald M. Sullivan, on the staff of a sales department; Mrs. Veronica L. Camilli

letti, a housewife; Vincent T. LaPlano, a sanitation worker in Harlem; and Thomas Makwewicz, a draftsman.

The defendants face a possible sentence of life in prison if convicted. New York State eliminated the death penalty in 1965.

The First Witness

NEW YORK, Jan. 25 — The trial of the three men accused of murdering Malcolm X began with the opening statement by the prosecution, presented to the jury on Jan. 21. Vincent J. Dermody, the assistant district attorney in charge of the prosecution, explained that an opening statement in which the prosecutor states what he expects to prove in the case is required by law. A summary of Dermody's statement follows:

In 1952 Malcolm X became a member of the Black Muslims, which was under the leadership of Elijah Muhammad. Malcolm X became a minister and established Mosque No. 7 in Harlem. On Nov. 23, 1963 Malcolm X was suspended from his duties as a minister and remained suspended thereafter.

In March 1964 Malcolm X broke away from the Black Muslims and formed his own organization. It was known as the Organization of Afro-American Unity and also as the Muslim Mosque Incorporated, and had its headquarters at the Hotel Theresa. He attracted many people including Black Muslims. He held weekly rallies, invariably at the Audubon Ballroom.

On Feb. 21, 1965 at about 3 p.m., Malcolm X started to address an audience of about 200 people at the Audubon. The three defendants, all active members of the Black Muslims, were in the auditorium. Talmadge Hayer (also known as Thomas Hagan) and Norman (3X) Butler were seated

together, each with an automatic pistol. Thomas (15X) Johnson was seated alone, with a shotgun.

By a prearranged plan, Hayer and Butler created a disturbance. Hayer shouted about Butler trying to pick his pocket. At this point Johnson approached the stage and fired point blank at Malcolm X. In the confusion, Hayer and Butler rushed toward the stage and each fired shots into the prone body of Malcolm X.

Johnson dropped the shotgun on the floor and slipped away. Hayer and Butler were pursued by several people but Butler managed to escape. Hayer was shot in the leg; he was caught and beaten. Police rescued him.

An autopsy showed that Malcolm X died of pellets from a shotgun, and bullets from a .45 caliber automatic and a 9 mm automatic. Police recovered the weapons and ballistics experts will testify that they were the ones used to kill Malcolm X.

Butler was arrested Feb. 25, 1965, and Johnson was arrested March 3.

The defense attorneys have the option of also making an opening statement. Only Peter L. F. Sabatino, Hayer's lawyer, chose to do so. In brief, Sabatino said that he would show the following:

Hayer was arrested on Feb. 21 and held incommunicado for almost three weeks. He was not arraigned or brought into a court of law for several weeks. He was

not allowed to see an attorney or any member of his family during that time.

Hayer denies categorically that he was a member of the Muslim movement, said Sabatino. He went to the Audubon Ballroom alone and out of curiosity. The person who shot him, Sabatino said, had a criminal record and would naturally seek to claim in self-defense that Hayer shot Malcolm X. The identification of Hayer as one of the assassins was by a mob, he concluded.

Testimony of the first important eyewitness, Cary Thomas, began the same day, after a presentation of diagrams of the building and auditorium in which the shooting took place. Cross-examination of Thomas is not yet completed after his third day on the witness stand.

In response to Dermody's questions, Thomas testified that he had witnessed the murder and seen it unfold just as Dermody's opening statement said it had. Thomas said he knew the three defendants to be Muslims and had seen each of them several times in Harlem's Mosque No. 7.

Thomas told the following story: he had seen Johnson sitting at the back of the ballroom when he arrived at about 2:20 p.m. on Feb. 21. He went over to Reuben Francis after he saw Johnson. When Malcolm X began to address the audience Thomas was seated in a booth on the left side of the chairs which faced the stage. Hayer rose from his chair directly in front of where Thomas was sitting. Hayer said: "Man what are you doing with your hands in my pocket," to Butler who was seated next to Hayer. Hayer had an automatic pistol in his hand. He turned and faced Thomas directly.

Then there was a gunshot and Thomas saw a man standing near Malcolm X facing the stage. The man turned around and Thomas saw it was Johnson holding a sawed-off shotgun.

After that, Hayer and Butler

ran toward the stage. Thomas saw them both at the stage with their backs toward him. Each was making the same pumping motion with his hand, as if firing a gun. Though he had never actually seen a gun in Butler's hand, he saw "shells being ejected from the pistol falling on the floor."

* * *

Cary Thomas has stuck to this story through all the cross-examination so far. Though he is doggedly certain about his observation of these events and his memory of them, his knowledge of the other circumstances surrounding the assassination is extremely faulty and his memory of almost everything else connected with the case about which he was questioned is outrageously bad.

Thomas described his background under questioning by the defense: He has also been known as Abdul Malik and Cary 2X. He is 35, married, with four children, but had not seen his wife during the two years before the assassination.

He has owned at least one gun ever since he was 15 and usually carried one on his person. He had one with him at the Audubon but did not use it then. He was in the army from 1947 to 1953 and was court-martialed some 10 times, sometimes for serious crimes like possession of a pistol with intent to do bodily harm. He was given an administrative discharge for bad conduct.

He was a user of heroin for three years, and a pusher. He was convicted of possession of narcotics in 1961 in Boston. The two year sentence was suspended and he was placed on probation.

Thomas said that he joined the Black Muslims. He testified first that he joined officially and received his X from Chicago in December 1963, and left in November 1964. Later he said he didn't recall the date he joined. At another time he testified that he had never been in Mosque No. 7,

where he was a member, after November 1963.

He testified that he couldn't remember whether Malcolm X was the minister when he joined. There were several ministers he said, but he couldn't remember the names of any of them. One time he said he attended meetings for about one year before he joined. Another time he stated that he'd been going for two years.

Thomas declared that he left the Black Muslims when Malcolm X did. He said he was a member of Malcolm's organization for about a year. (Malcolm X was killed not quite one year after he broke with Elijah Muhammad.) But Thomas never discovered that Malcolm formed two organizations — one religious, the Muslim Mosque Inc., and one non-religious but dedicated to winning "freedom, justice and equality" for black people in America, the Organization of Afro-American Unity. He still thinks they are the same organization — that the OAAU was partly religious — even though Malcolm X made the distinction repeatedly. The OAAU was not formed until many months after the Muslim Mosque, which was an orthodox Islamic organization.

Though Thomas claimed to be a member of the Black Muslims, his testimony showed he didn't act like one. He remained separated from his wife and children during the entire period, even though the Muslims place stress on the importance of family life. He testified he was sent to Bellevue

Hospital (which is often used for psychiatric observation) because he was drunk. This incident occurred in 1963 after he supposedly joined the Muslims. Muslims have a strict taboo against alcohol.

The most important contradiction in Thomas' testimony revealed so far involves a reversal of the role of the defendants in his story. According to records read at the trial, Thomas testified before the grand jury on March 3, 1965, that Johnson and Butler, not Hayer and Butler, rushed toward the stage after the shotgun blast. Thomas claims that this was a slip made because he was nervous and in fear of his life. At the time of the assassination, the police told the press that Hayer was the one who had fired the shotgun. When they changed their minds is not clear.

In his testimony before the grand jury, Thomas identified Hayer as a member of the Jersey City mosque. Under cross-examination he revealed that the only basis for this was that he had seen Hayer with members of the Jersey City mosque several times. He could not recall the dates, even approximately, when he had seen any of the three defendants in the Harlem mosque, though he claimed to have seen each of them several times.

Thomas was picked up on March 2, 1965, and held by police as a material witness in a civil jail. While in the civil jail he was indicted for arson and transferred on June 4 to a regular prison in Queens.

Unreliable Observers

NEW YORK, Feb. 1 — Five eyewitnesses have testified so far in the trial of three men accused of murdering Malcolm X, but not much light has been shed on some

of the questions surrounding the case. The prosecution alleges that Malcolm X was shot by three active members of the Black Mus-

lims on Feb. 21 at the Audubon Ballroom, presumably because of his split from and differences with Elijah Muhammad. Two of the defendants, Norman (3X) Butler and Thomas (15X) Johnson, are well-known Muslims — according to the press, "enforcers." How could they have even been in the ballroom when Malcolm's followers, who knew them, observed each person entering and checked the auditorium for possible attackers?

Talmage Hayer, also known as Thomas Hagan, the only defendant caught at the scene of the assassination, denies he was ever a Muslim. And he was not publicly known to be a Muslim. He was shot at the scene, allegedly by Reuben Francis, one of Malcolm X's guards. If he was one of the attackers but not a Black Muslim, that opens the question of who organized the assassination. There are other powerful groups besides the Black Muslims who were very anxious to be rid of Malcolm X — including the U. S. ruling class.

Cary Thomas, the first witness, who testified for three and one-half days, was the only one to identify all the defendants in the ballroom and to say he knew them all to be members of the Black Muslims. On Jan. 27 the transcript of the testimony he gave to the grand jury on March 3, 1965 was read into the record. The account of the attack he gave the grand jury was quite different from the one he gave at the trial (see *The Militant* of Jan. 31).

The difference between his two stories, as well as many other discrepancies, throw doubts on the truth of his testimony. He said, for example, that after the shooting started he got up from the booth he was sitting in some 45 feet from the stage and walked forward to within 15 feet, or possibly 7 or 8 feet or even less, from the stage where Butler and Hagan were standing pumping bullets into Malcolm X. He never drew

his gun, even though the assassins had their backs toward him, because he was afraid he might hit other people running around. Instead he got down on the floor in one of the booths.

Thomas claimed to see Johnson when he first entered the ballroom, and to recognize him as a Black Muslim. But he did nothing to prevent this presumed enemy from attacking Malcolm X.

The scrutiny the audience was subjected to by Malcolm's followers was reflected in the testimony of George Whitney, the fourth witness. A police report of their questioning of him on March 2, 1965, was read into the record. Whitney told the police that when he noticed a member of the Muslims from Paterson, N. J. in the audience he went and spoke with him. The man said he was there because he was dissatisfied with the Black Muslims. Two guards then went over to him. They had him remove his Black Muslim pin and allowed him to return to his seat, Whitney said. The question of how Muslims in the audience were treated was not probed by any of the attorneys, however.

Whitney testified that he had been a member of Mosque No. 7 for two and one-half years and had known Butler for three years. He said he did not see Butler in the Audubon on Feb. 21 and that he would have recognized him if he had.

Whitney, who lives in the same apartment building as Cary Thomas and had known him for 15 years, testified that he had joined both of Malcolm's organizations, the Organization for Afro-American Unity and the Muslim Mosque Incorporated. He seemed to have a much better grasp of what they were about than Cary Thomas. When asked whether Malcolm X had ever said who was interested in gunning him down, Whitney testified that Malcolm said that the power structure and the Black Muslims were both interested in his death.

Hayer was the only one of the defendants Whitney identified. He said, in fact, that he was the first one to catch hold of Hayer as he was fleeing the ballroom. Whitney was walking up the center aisle away from the stage when the shooting started. He saw two figures running back toward him—jumping over chairs and telling people to get out of the way. He got a look at only one of them, and saw him fire twice with a large gun that looked like a .45. Whitney moved toward the man but jumped out of his way when the man fired in his direction. The man passed within only two feet and Whitney pursued him out the entrance and down the stairs. He caught Hayer five or six feet outside the entrance of the building. Others also grabbed him.

Assistant District Attorney Dermody produced an automatic pistol which Whitney said looked like the one he'd seen in Hayer's hand. Whitney testified that he didn't realize Hayer had been shot when he caught him, and that he never saw anyone fire at Hayer. Hayer's attorney has alleged repeatedly that Reuben Francis shot Hayer, and he suggested in a question that Whitney's testimony was motivated by his desire to protect Francis.

Whitney was incarcerated on March 10, 1965 and accused of shooting a man on March 9. He was held in \$50,000 bail, then in no bail, then in \$10,000 bail, and was finally released Nov. 23. He was also accused of shooting a woman, on the same day as the other shooting, it seems, but that charge has been dismissed, he said.

Whitney was not due to appear as a witness, and he never testified before the grand jury. He appeared in court as a spectator on Jan. 24 after Cary Thomas had mentioned his name. Someone informed Peter Sabbatino, Hayer's lawyer, that Whitney was in the courtroom and Sabbatino asked to have him put on the witness

stand. The prosecution called him as a witness a few days later.

Two other eyewitnesses who testified proved themselves to be very unreliable observers in the course of cross-examination: Vernal Temple, 23 years old, had difficulty in hearing and understanding many of the questions. He testified that he knew Johnson as "15X" and had seen him sitting near the back of the Audubon Ballroom on Feb. 21. The only other time he had seen 15X was at a big Muslim rally he had attended in Chicago—but could not recall anything else about the trip, the name of the bus line he used, the fare, or the time it took.

Most of his testimony concerned Hayer. He said that he was seated on the right side of the auditorium when a man stood up and said: "Nigger, get out of my pocket." He recognized him to be Hayer, though he pronounced his name as "Hanggan" meaning to say "Hagan." Temple said he had seen Hayer on three previous occasions: first, selling *Muhammad Speaks* at Lenox Ave. and 116th St., near Mosque No. 7; second, in the mosque acting as a guard; third, in the Muslim restaurant.

Temple's reliability as a witness was shaken by a question put to him by Dermody after the defense cross-examination was over. Dermody asked Temple for the date on which President Kennedy was assassinated. Temple responded that he wasn't sure of the exact date but he knew it was in 1965.

The fourth eyewitness, Edward DiPina, was a man of 70, black but of Portuguese birth. A very likable old man, he tried to please his questioner and tended to answer "yes" when he was unsure. He had difficulty in understanding many questions and in answering them directly.

He identified Butler and Hayer as being involved in the disturbance, but the rest of the story he told was different from that of the others: Butler and Hayer were in the third row from the

front. Butler stood up and fired five shots at Malcolm X on the stage. Then he and Hayer turned around and ran toward the rear of the auditorium, firing behind them.

In DiPina's version, they never ran forward to the stage as the other witnesses testified.

Though there were many things DiPina said which showed his confusion in spite of very positive assertions, one stood out: William Chance, Butler's attorney, asked him about the detective who drove DiPina to Bellevue hospital where he first identified Hayer. Then he

pointed to Charles Beavers, one of Johnson's attorneys, requested him to stand up, and asked DiPina if that was the man who took him to the hospital. "Yes, that's the man," responded DiPina.

The fifth eyewitness, who has not yet been cross-examined, is Jasper Davis, a 54-year-old superintendent of an apartment building. He said he was not a member of any of the organizations involved. He identified only Butler, as one of the two involved in the diversion, but he did not see who fired any of the shots.

Conflicting Testimony

NEW YORK, Feb. 8 — During 13 days of testimony in the Malcolm X murder trial, nine eyewitnesses to the assassination of Malcolm X have taken the stand and been cross-examined at length. But little progress has been made toward discovering the truth about what happened on Feb. 21, 1965 in the Audubon Ballroom where Malcolm X was shot, and the motive behind the assassination.

A complicating factor in the trial is the crucial role in the proceedings played by the police and district attorney's office. Though they are the ones who represent "the people," they can hardly be considered impartial, and some people suspect agents of the police were implicated in the murder.

The most powerful people who run this country had a motive for having Malcolm X murdered at least as strong as that of the hierarchy of the Black Muslims. And they were in a much better position to get away with it. Right-wing and racist groups had motives as well.

In the last speech he delivered at the Audubon Ballroom on Monday, Feb. 15, the day after his house had been bombed, Malcolm

X accused Elijah Muhammad of ordering the bombing of his home, but he went on to say that a situation had been created in which anyone could murder him and the Black Muslims would be blamed.

Alex Haley reports in the epilogue to *The Autobiography of Malcolm X* that Malcolm told him in a phone conversation on Feb. 20 that he was going to state he had been hasty to accuse the Black Muslims of bombing his home. "Things have happened since that are bigger than what they can do. I know what they can do. Things have gone beyond that," Haley quotes Malcolm.

More than any other individual, Malcolm X was a threat to those who wish to maintain the status quo in this country. Peter Sabbatino, one of the defense attorneys for Talmadge Hayer, asked George Whitney, one of Malcolm's followers, during cross-examination, whether he ever heard Malcolm say that people interested in narcotics might gun him down. "He said that people who were interested in keeping the status quo might gun him down," Whitney responded.

Malcolm X made an enormous impression in Africa during the last year of his life. Once he split from the Muslims, only 11 months before his death, the goal he set was to link the struggle of Afro-Americans to the freedom struggles of the colored peoples all over the world. His immediate aim was to get the U. S. government condemned as racist in the United Nations, just as South Africa had been condemned.

He spent five of those 11 months traveling in Africa and the Middle East, meeting heads of state and high government officials and speaking before student groups. A "truth squad" from the U. S. Information Agency accompanied him wherever he went — slandering him and trying to undo what he was accomplishing. But they didn't succeed. John Lewis and Donald Harris, leaders of the Student Nonviolent Coordinating Committee, toured several African countries just after Malcolm had visited them and reported: "Malcolm's impact on Africa was just fantastic. In every country he was known and served as the main criteria for categorizing other Afro-Americans and their political views."

Malcolm X was poisoned while he was in Cairo. His stomach was pumped very soon after he awoke one night in enormous pain. No one else who ate with him was poisoned. He mentioned the incident during the question period at one of the public meetings of the Organization of Afro-American Unity at the Audubon Ballroom in an off-hand way. He was probably embarrassed to speak of his own problems, especially when he was so widely accused by the press of being just a publicity hound.

Just 12 days before his assassination, Malcolm X was barred from France. He was to address a meeting of Afro-Americans and Africans in Paris and flew there, but was kept from leaving the airport

and forced to fly directly back to Britain by French officials. The reason for this highly unusual act by the French government was never stated, but one rumor was that they feared they would be embarrassed by having him assassinated on French soil.

One other rumor that should be taken note of in another connection is the rumor that was spread among some New York policemen that Malcolm X's group had become an organized criminal gang. I don't know who started to spread this lie or how long before the assassination it was told to police, but it certainly must have "justified" any attacks on Malcolm or his followers to those police who believed the story.

For all of these reasons, there are grounds for suspicion that some agency of the government was involved in one way or another in the assassination, and that those charged with finding the killers may indeed be covering up for them.

The police must have interviewed a great many of the estimated 400 people who were at the Audubon when Malcolm was shot. Did they select the witnesses who could be fitted into the prosecution's story? Some had seen a small part of what happened and couldn't contradict the rest of the prosecution's version. Were others subjected to pressure by the police to learn to remember what the police wanted? Other witnesses were confused but open to suggestion by the authorities.

Newspaper accounts of the killing at the time said at least five men were involved in the attack — two in a diversion and three doing the shooting. The police said they were looking for five men. The prosecution now claims only three men were involved, and none of the witnesses has contradicted that in court.

Two of them, however, testified before the grand jury last spring to a course of events involving

more than three assassins. The last witness to testify, Charles Blackwell, is one of them. Blackwell was a guard standing in front of the stage, on the left side from the point of view of the audience, at the time of the shooting. He seemed like a very sober, serious, reliable witness as he testified in court to seeing most of the action unfold; and he told it in court just as Assistant District Attorney Dermody said it had happened:

When a scuffle between two men started, Blackwell moved toward the middle aisle, he said. When he reached the first row he heard a blast behind him and saw Malcolm X fall. Then he heard shots, turned and saw the two men who had been scuffling running down the aisle toward him shooting at Malcolm X.

Blackwell identified the two as the defendants Norman (3X) Butler and Talmadge Hayer, also known as Thomas Hagan. Butler pointed his gun at Blackwell and Blackwell ducked to the floor. They both ran past him toward the rostrum, then turned and ran up the aisle, Blackwell testified. He "gave chase" and then he noticed a man standing four or five rows back who turned and ran into the ladies' lounge. Blackwell identified that man as Thomas (15X) Johnson, the third defendant.

Blackwell's account of the events before the grand jury some time on March 9, 1965, however, was very different, although he identified the same three men. According to this story: Two men started to scuffle. Then something went "pop." It seemed to come from the back of the auditorium. This was followed by a volley of shots, but Blackwell did not see where they came from. Then Butler and Hayer, who were not involved in the scuffle but had been sitting in the first and second seat of the first row, ran up the aisle toward the back where the

exit was, shooting over people's heads. He testified that he saw Johnson run into the ladies' room. He could not identify the two men in the scuffle. But it was clear from this testimony before the grand jury that there were two others besides the three defendants he identified.

When he was questioned about the discrepancies Blackwell testified that he had lied before the grand jury, because he was ashamed he had left his post, and did not want anyone to know he had ducked down when one of the assassins pointed his gun at him.

Blackwell said that after the shooting Fred Williams, the previous witness to take the stand and testify against Butler and Johnson, pointed out a sawed off shotgun and a German Luger lying on the floor. Blackwell wrapped the shotgun in his brown suit jacket and gave it to Reuben Francis who was standing on the stage at the time, he explained. Then he picked up a jacket he found on the floor, wrapped the Luger in it and gave this to Francis as well. According to his grand jury testimony Blackwell gave the Luger to a Brother Gene who was also on the stage. Blackwell claimed he was in error when he said this before the grand jury.

The witness testified that he left the auditorium along with Francis and a third man whose car they drove around in for several hours. Francis told him he had left the shotgun in the ballroom behind the stage.

The shotgun he identified in the courtroom is double barreled, but in his grand jury testimony Blackwell described the weapon as single barreled with one trigger but said he had not examined it closely. It looked like an old-fashioned dueling pistol he said. He was not sure it was a sawed-off shotgun because he'd never seen one before.

The other witness whose grand jury testimony involved more than

three attackers is Cary Thomas. The story he told on March 3 before the grand jury is in brief as follows: Hayer and Butler created a disturbance, Hayer became involved in a fight with some of Malcolm X's followers, while Butler and Johnson rushed to the stage and fired guns at Malcolm Johnson's gun was identified as a hand gun and Thomas did not mention seeing anyone fire a shotgun. Presumably that was fired by a fourth assailant.

The story the prosecution said it would prove involving only three assailants is extremely dubious on the face of it. Why would two of the three killers deliberately attract attention to themselves before they ran down to the stage with guns firing? This would hardly serve as a diversion if they themselves were the gunmen.

Did they have sufficient time after the two shotgun blasts to run down to the stage? The defense attorneys have not probed this question.

Another important part of the prosecution's case which rings false to those familiar with the situation is the claim that the three men were active members of the Black Muslims, and that their motive for killing Malcolm X was his defection from the Muslims. If the Black Muslims decided to kill Malcolm X would they send Johnson and Butler, two well-known local "enforcers" who had associated with Malcolm X and his followers for years?

The defense attorneys have not fully utilized the opportunities they had thus far to make the situation clear to the jury. John Davis, who testified to seeing Hayer run toward the exit firing a pistol, was in charge of posing the guards at the stage. None of the lawyers for Butler or Johnson cross-examined him about the precautions taken to prevent known Muslims from entering the ballroom to attack Malcolm, though they must realize such precautions were taken.

Hayer's attorney failed to bring out the fact that Blackwell would have known Hayer if Hayer had been a member of the Black Muslims. Blackwell testified he was a member of the Black Muslims from 1959 to 1964 and a lieutenant at the Jersey City mosque. He did not know Hayer, however, when he saw him at the Audubon Ballroom. Cary Thomas testified Hayer was a member of the Jersey City mosque. Hayer denies he was ever a Muslim.

The question of whether or not Hayer is a Muslim is important in finding out the truth about the assassination. Hayer was not publicly known as a Muslim in Paterson, N. J. where he lived. At the time of Malcolm's death, Hayer had been out on bail for about a year on the charge of having robbed a gun store of some 40 weapons. He was shot and captured by the crowd at the scene of the killing. Six witnesses so far, among them George Whitney and John Davis who were closely associated with Malcolm X and had no inconsistencies in their testimony, identified him firing a gun. The weight of evidence thus far indicates that he is a gunman, hired or forced to participate in the murder, but not a member of the Black Muslims.

If that is true, it raises the next question: Who hired him or pressured him to commit murder?

The defense attorneys have also failed to raise any question about the second suspect who was rescued from the audience and taken into custody by Patrolman Thomas Hoy in the Audubon Ballroom. This suspect was released without his name ever being made public.

*One of the witnesses to testify on Feb. 4 was Alvin Aronoff, the policeman who was on radio patrol and happened by the Audubon at the time of the murder. He testified that he rescued Hayer from the crowd outside the Audubon and then arrested him. He said he didn't see the crowd attacking any other suspect.

This second suspect disappeared from the pages of the press. The first accounts mentioned him, but later stories dropped any mention of his being taken into custody. Surely the defense must be interested in who he is. They might have begun to find out by questioning Aronoff about the policeman who was reported to have taken the suspect into custody. But they haven't questioned the witnesses about a second man being caught by the crowd.

William Chance, attorney for Butler, has taken a different approach entirely. Some of his questions have been aimed at showing that there was dissension in Malcolm's organization between those who wanted to stress religious activities and those who were interested in politics. He has suggested that some of Malcolm

X's own followers were interested in doing away with their leader because of these differences.

One of the witnesses at the trial was allowed by the judge to testify in secret. All spectators, including the press, were excluded from the court.

So far testimony has been taken from eight eye-witnesses who testified in open court, one who testified secretly, one policeman who arrived at the entrance to the building after the shooting, and a civil engineer who constructed a diagram of the auditorium and one of the building. Apparently there are many more prosecution witnesses to come, and the defense may have a number of witnesses as well. It remains to be seen if the questions raised in this article will be answered as the trial progresses.

Technical Evidence

NEW YORK, Feb. 15 — A series of detectives and technical witnesses have testified during the past week in the trial of the three men accused of murdering Malcolm X. The most important piece of evidence to emerge from all this testimony is the identification of a fingerprint of Talmadge Hayer, also known as Thomas Hagan, one of the defendants, on a crude device set afire in the Audubon Ballroom at the time of the shooting.

Roland B. Wallace, a 38-year-old member of the Organization of Afro-American Unity, testified on Feb. 10 that he had just re-entered the ballroom at the rear when shots rang out. Then his attention was attracted to a burning "smoke bomb." It was near a window at the rear on the right side facing the stage. Someone poured water on it and put it out. Detective John J. Keeley testified that he found the wet device,

a man's sock stuffed with matches and other material, later in the afternoon of Feb. 21, 1965 near where Wallace had seen it. He turned it over to Detective Edward Meagher who examined it for finger prints and other evidence.

Meagher took the witness stand next and said he found a usable fingerprint on a piece of unravelled film that was in the sock. He found no usable fingerprints on the shotgun or 45 caliber automatic that have been entered into evidence thus far in the trial.

Detective Robert Meyer testified on Feb. 11 that the finger print on the film and one taken from the left thumb of Hayer were "one and the same."

Dr. Milton Helfern, the city's chief medical examiner, took the stand the same day and described the results of the autopsy he had performed on the body of Mal-

coln X. The cause of death was multiple gunshot and bullet wounds in the chest, heart and aorta, he said. Malcolm X was hit by eight shotgun slugs and nine bullets from .45 caliber and 9 mm guns. The evidence indicated he was hit by the shotgun slugs while standing and by bullets from the other weapons while prone.

On Feb. 14 Detective James A. Searinge, a ballistics expert, described a great many slugs and shells found at the scene of the assassination. Aside from the three types mentioned above, three .32 caliber bullets were found near the ballroom office door.

On the morning of Feb. 9 the second "secret" witness of the trial gave his testimony. The court was cleared of spectators and reporters before he appeared. Reportedly this witness is an FBI agent who was given the .45 caliber automatic that Hayer is alleged to have used by the first "secret" witness.

According to reliable sources the first "secret" witness testified on Feb. 3 that he picked up the .45 at the Audubon ballroom and

turned it over to the FBI. He identified Norman (3X) Butler and at least one of the two other defendants.

Detective Ferdinand Cavallaro, who was originally in charge of the investigation, was questioned at length about a list of 119 names of the people questioned concerning the case when he testified on Feb. 9.

During his cross-examination by Hayer's attorney, Cavallaro mentioned that Reuben Francis, who was indicted for shooting Hayer but later disappeared, had been rearrested on Feb. 2, 1966 in Assistant District Attorney Dermody's office.

A spokesman for the district attorney's office said that Francis had been picked up by the FBI. He had forfeited \$10,000 bail, and was now being held on \$25,000 bail. A spokesman for the FBI denied any knowledge of Francis.

The number of spectators at the trial has dwindled over the weeks. Spectators are still being subjected to the practice of being frisked each time they enter the courtroom.

Defense Opens Case

NEW YORK, Feb. 22 — After 20 days of testimony, the prosecution finished the presentation of its case Feb. 18 against the three men accused of assassinating Malcolm X. Yesterday, the defense began with opening statements on behalf of two of the defendants, Norman (3X) Butler and Thomas (15X) Johnson.

William Chance, Butler's attorney, said that they will prove that Butler was not at the Audubon Ballroom on Feb. 21, 1965 when Malcolm X was gunned down. Butler does not know Talmadge Hayer (also known as Thomas Hagan), the defendant who was

shot and caught at the scene, Chance asserted. The defense will show that the circumstances of the killing made it impossible or improbable for Butler to have participated. Lastly, they will show that Butler had no motive for killing Malcolm X, Chance concluded.

Charles Beavers, one of Johnson's attorneys, said they would show that Johnson was in another county at the time Malcolm X was shot, and that Johnson had no reason whatsoever to participate in the murder.

The presentation of defense witnesses for Hayer began after the

opening statements. Three of Hayer's relatives — LeRoi A. Moseley, his brother-in-law; Mrs. Cathleen Moseley, his step-sister; and Horace E. Hayer, his brother — testified briefly. Each of them said that Hayer had never shown any interest in the Muslims or black nationalism.

Hayer has maintained that he was never a member of the Muslims. Though the first two eye-witnesses to testify, Cary Thomas and Vernal Temple, claimed to know that Hayer was a Muslim, their generally unreliable testimony was especially weak on this point.

The question of what protection the police provided for Malcolm X has never been raised at the trial, but considerable light was shed on this by the testimony of Patrolman Gilbert Henry, one of the last prosecution witnesses, on Feb. 17. Henry, a Negro, and his partner, Patrolman John Carroll were assigned to the Audubon Ballroom on the day Malcolm X was murdered. At almost all previous meetings held by Malcolm X at the Audubon, uniformed policemen were stationed at the entrance to the building — usually about a half dozen of them. But on this occasion — just a week after Malcolm's home had been fire-bombed and burned to the ground in such a way that Malcolm and his family were nearly trapped inside — the two policemen were told to conceal themselves.

They were stationed in the Rose Room — not the main auditorium where the meeting was held. They were instructed to remain where they could not be seen, and if anything happened to summon help with a walkie-talkie they had with them. The other walkie-talkie was in the hands of police stationed in Presbyterian Medical Center, a complex of buildings on the other side of a broad avenue.

When Patrolman Henry heard shots he called on the walkie-talkie but got no answer. He ran

23

into the main auditorium, he said, but saw no one with a gun. There were no other uniformed policemen in the ballroom nor did he recognize any detectives, Henry testified.

When asked about what efforts he had made to get the names of witnesses, Henry said he had asked about two people for their names but had been unable to get the name of anyone.

Mrs. Betty Shabazz, Malcolm X's widow, testified earlier that day. She had been occupied with her children during the shooting and was unable to identify any of the assassins. She left the witness stand after answering a few routine questions. Obviously upset, she paused near the three defendants. When a guard urged her on out of the courtroom she said: "They killed my husband. They killed him."

Charles Moore, who said he was self-employed and did public relations work, testified on Feb. 18. He said he was sitting in a booth at the right-hand side of the auditorium facing the stage near the rear when a commotion began. He got up and when the shooting started saw a man standing with an automatic weapon in his hand pointed at the stage.

Moore said he then walked to a telephone booth located in a lounge area between the entrance and the auditorium itself, to phone in a story to ABC Radio for which he was a free-lance reporter. While in the phone booth he saw a man with a .45 caliber automatic in his hand run from the auditorium through the lounge and past him out the door. He identified the man as the defendant Hayer and said he was the same man he had seen with a gun in the auditorium.

Moore testified that he saw Reuben Francis chasing Hayer, with a revolver in his hand. Francis fired three times, hitting Hayer with the second shot when Hayer was a few feet from the door, Moore claims. Hayer was

through the door and out of his line of sight when he heard the third shot, Moore said.

Moore joined the Organization of Afro-American Unity after Malcolm X's death and was appointed chairman in April 1965. He left the organization a few months later, he said.

Detective Joseph Reich, the last of the technical witnesses, testified on Feb. 16 about the results of the ballistics tests he made involving a variety of bullets, pellets and shells found at the scene. Reich testified that the four cartridges found in Hayer's pocket when he was arrested had each been in the chamber of the .45 caliber automatic that the prosecution has presented in evidence. This can be determined by "ejector" and "extractor" marks on the shell made when it is removed from the chamber.

Reich testified that he had examined the five .32 caliber bullets recovered but could not tell whether they had been fired from a single gun or as many as five dif-

ferent guns. Three of these bullets were found in the area of the lounge.

One of the .32 caliber bullets was recovered from Hayer's leg March 8, 1965 when he was operated on. No one has testified as to why the bullet was left in Hayer's leg for more than two weeks.

The last of these bullets was removed from the liver of William Harris on Feb. 22, 1965. According to a police interview with him Feb. 22, 1965, read at the trial, Harris was shot in the right side from behind when he was running out of the ballroom. He told a policeman outside that he had been shot and he was taken to a hospital. The report identified Harris as 51 years old and a member of the Organization of Afro-American Unity.

According to another report read at the trial, William Parker, 36, who was seated in the third row on the left side of the auditorium, was hit in the foot by a pellet, presumably from a shotgun, when the shooting started.

Talmadge Hayer Confesses

NEW YORK, March 1 — The prosecution's case against two of the three men accused of assassinating Malcolm X was severely shaken Feb. 28 when Talmadge Hayer (also known as Thomas Hagan), the only defendant to have been caught at the scene of the crime, confessed. Hayer not only exonerated Norman (3X) Butler and Thomas (15X) Johnson, but he described how the crime was committed and in doing so threw grave doubt on the testimony of most of the prosecution's eyewitnesses.

Vincent Dermody, the assistant district attorney in charge of the case, tried to show that Hayer was

lying to save the other two defendants.

Hayer said he had come forward to testify as a witness for the defense and to confess because he wanted the truth to be known: that Butler and Johnson did not have anything to do with the crime. He had not come forward sooner because he didn't want to confess and had waited until it was clear he needed to in order to prevent the conviction of the two innocent men.

Hayer maintained that he was not and had never been a member of Elijah Muhammad's followers—nor were his accomplices, to his knowledge. None of them had any

personal motive for killing Malcolm X, but they had been hired to carry out the assassination. He refused to say how much money he had been offered. He said that the man who hired him was not a Muslim either.

Hayer refused to identify his accomplices or the one who hired them. He did drop one hint about who the latter was. In response to a question by Dermody about the identity of the man who offered him money, he said it probably would have been revealed if Williams had been successful in "continuing his interrogation." Williams is one of Butler's lawyers who has cross-examined only a few of the prosecution witnesses. Dermody asked no questions to try to find out from whom Williams could have gotten this information.

Hayer's description of how the assassination took place is much more credible than the story the prosecution said it would prove. It contradicts the prosecution's version in ways from which neither Hayer nor the other defendants benefit, and in ways which make much more sense than the prosecution's version. When Dermody asked Hayer if the witnesses told the truth about him, he responded at one point: "It's quite impossible for the crime to have been committed the way they said it had." (See the article on the case in the Feb. 14 *Militant* for some of the reasons the prosecution's story is dubious.)

Hayer said that only one man, not two, had been involved in a diversion just before the shooting, and that it had not been himself, as the prosecution alleged. He and another accomplice had taken seats together in the front row on the left side of the auditorium. A man with a shotgun sat in the fourth row. Hayer admitted he had come armed with a .45 caliber automatic and had shot about four times at the prone body of Malcolm X, after Malcolm had been

telled by the shotgun blast. His companion had fired at Malcolm with a Luger.

Hayer testified he knew the man with the shotgun for about one year at the time they participated in the assassination Feb. 21, 1965. He said the man was dark skinned, very husky, and had a beard. Johnson, who has been accused of firing the shotgun, has a very light complexion. Hayer explained he was willing to describe the man because he had already been described by an earlier defense witness.

Ernest Greene, a 21-year-old former Muslim, had appeared as Butler's eyewitness on Feb. 24, and testified to seeing a stout, dark, bearded man shoot Malcolm X with a shotgun.

Dermody recalled the testimony of the first "secret witness" from whose testimony reporters had been barred. The secret witness had testified that Butler had been involved in a scuffle near the stairway that leads from the entrance of the ballroom down to the witness claimed to have knocked Butler down the stairs and that Hayer had jumped over Butler on the way out.

Hayer denied seeing any scuffling near the stairs or seeing anyone knocked down the stairs. "I was shot. I didn't do any jumping," he said. When asked about it again, he said: "I couldn't jump over anybody." Hayer was shot in the leg.

In his cross-examination of Hayer, Dermody harped on the fact that Hayer had lied when he testified in his own behalf on Feb. 23 and denied having any part in the crime. He also tried to show that Hayer was a Muslim. This is an important point in the case, for if Hayer is not a Muslim there is every reason to believe he told the truth in his confession, and that the Muslims were not involved in the assassination.

The question raised by Hayer's confession is who paid for the

murder of Malcolm X? While it is generally assumed that Elijah Muhammad's organization wanted Malcolm out of the way it should be borne in mind that those who profited the most from his revolutionary voice being silenced was the ruling class of this country.

Dermody has not proved so far that Hayer was a Muslim. Cary Thomas, the first eyewitness, claimed to know that Hayer was a member of the Jersey City mosque, though he testified he'd never been to that mosque. Vernal Temple, the second eyewitness, claimed to have seen Hayer function as a guard in the Harlem mosque and strike someone, who was causing a disturbance, a karate blow on that occasion. Now, Dermody is trying to show that Hayer was a member of the Newark mosque.

Dermody has produced two photographs of groups in karate garb, apparently including Hayer. Franklin (X) Durant testified Feb. 24 that he, a member of

Mosque 25 in Newark, had taken the photos at a bazaar held in the mosque during the spring of 1963. He identified Hayer in the photos and said Hayer introduced himself as Talmadge, but went on to testify that Hayer was not a member of the mosque. He said most of the others in the photos were not Muslims to his knowledge. Durant said he never saw Hayer in the mosque on any occasion after that. Reportedly, the karate exhibition was put on by a karate school in Newark, but this was never brought out in the testimony.

A number of other witnesses have testified for Butler including: Gloria (11X) Willis and Juanita (8X) Gibbs who said they spoke to Butler at his home on the telephone just after the assassination, between 3:05 and 3:30 p.m. Dr. Kenneth Seslowe testified to treating Butler for an infection of the veins in his right leg on the morning of the assassination.

Summary of the Testimony

NEW YORK, March 8 — Testimony in the trial of the three men accused of assassinating Malcolm X ended March 4. On March 7 the defense attorneys summed up the case for each of their clients.

Assistant District Attorney Vincent Dermody took all of today's court session to argue the case of the prosecution. All that remains before the jury is sent out tomorrow is Judge Charles Marks' charge to the jury.

At the opening of the prosecution's case on Jan. 21 Dermody summarized what he expected to prove in the trial. He has stuck to that story through thick and thin — despite the fact that one

of the defendants made a surprise confession but gave a very different account of what happened. Dermody has tried to prove the following:

On Feb. 21, 1965 at about 3 p.m. Malcolm X started to address an audience of about 200 to 400 people in the Audubon Ballroom. The three defendants, all active members of the Black Muslims (Nation of Islam), were in the audience. Talmadge Hayer, also known as Thomas Hagan, and Norman (3X) Butler were seated together — Hayer with a .45 caliber automatic and Butler with a German Luger. They were seated in a middle row on the left facing the stage. Thomas (15X) Johnson was seated alone on the left side near the front with a

sawed off shotgun, Dermody asserted.

By a prearranged plan, Hayer and Butler created a disturbance. Hayer stood up and shouted about Butler trying to pick his pocket. At this point Johnson approached the stage and fired point blank at Malcolm X. Hayer and Butler rushed to the stage and fired bullets into the prone body of Malcolm X, Dermody claimed.

Johnson dropped the shotgun and slipped away. Hayer and Butler were pursued out of the entrance at the rear of the auditorium, down a flight of stairs and on to the street. Hayer was shot in his leg on the way out and caught on the street. Butler managed to escape, Dermody said.

The evidence that Hayer was one of the assassins is overwhelming. Not only was he shot and caught at the scene of the assassination and identified by many, but before the end of the defense presentation he withdrew his claim of innocence and took the stand to confess.

Even without his confession, the evidence against him was strong. The fact that police testified that he had a clip of .45 caliber bullets in his pocket when he was arrested, and that his thumb print was found on a crude smoke device set off at the rear of the Audubon Ballroom at the time of the shooting would have dispelled any lingering doubts in the minds of the jurors.

The prosecution presented 10 eyewitnesses altogether who claimed to have seen at least one of the defendants at the scene of the crime. Three of them identified only Hayer, and five others identified Hayer and at least one other defendant. Altogether, four identified Johnson, and two of them claimed to see a shotgun in his hand. Six identified Butler; and three of them said he had a pistol.

No material evidence was presented linking Butler or Johnson

to the crime or even demonstrating that they were present at the Audubon Ballroom on Feb. 21, 1965 when Malcolm X was gunned down. The evidence against them was the testimony of the eyewitnesses.

Both Butler and Johnson were and are active Muslims who were well known to a number of Malcolm X's followers and guards. Malcolm X had charged that followers of Elijah Muhammad had tried to attack him several times. His followers were watching for and would most likely have noticed Muslims like Butler and Johnson. On the face of it, it is unlikely that Butler and Johnson would have entered the ballroom where Malcolm X was holding a meeting and not have been noticed, and eyewitness testimony against them would have to be solid and reliable to be believed.

Cary Thomas, the first eyewitness, claimed to see all three participating in the assassination or holding a gun, but the inconsistencies in his story were so great as to call his testimony into question. His testimony before the grand jury last March was very different from the story he told in court.

Though he claimed to have been a follower of Elijah Muhammad and then of Malcolm X, by his own testimony, Thomas didn't behave like a Muslim or understand anything about what Malcolm X stood for. He was placed in Bellevue Hospital for psychiatric examination in 1963, screaming, "I did not kill Jesus Christ." The evaluation was psychoneurosis.

Thomas was picked up by the police for questioning on March 2, 1965 and held in jail as a material witness from then on. While he was in civic jail he was charged with burning a mattress and indicted for arson. He was transferred from civic jail to a regular prison and has been held prisoner on this charge since then.

Charles Blackwell, the ninth eyewitness, was the only other

one to identify all three defendants. He too told a completely different story to the grand jury, but he testified that he lied before the grand jury rather than in the court. His courtroom story corresponded with what the prosecution said it would prove, as did Cary Thomas' courtroom version.

Blackwell was the guard at the front of the stage on the left side, where the shooting took place. According to his courtroom testimony, Butler and Hayer ran by Malcolm X. After they turned around and began running out, he "gave chase." It was at this point, incredibly enough, that he noticed a man "standing four or five rows back" who looked "startled" or "scared." Blackwell identified this man as Johnson, but he said he saw no gun in his hand. He claimed to have seen Johnson then run into the ladies' lounge.

The two other witnesses who identified Johnson are Vernal Temple, the second eyewitness, and Fred Williams, the eighth. Temple claimed to have recognized Johnson, whom he knew only as "15X," sitting at the back of the auditorium when he entered. He said the only time he had ever seen Johnson before that was at a Muslim convention in Chicago in 1962. He had a notoriously bad memory about everything else connected with that convention, and contradicted himself a number of times.

Williams, the eighth eyewitness, said he saw Johnson holding a shotgun. He also claimed to recognize Butler as one of the two men involved in a scuffle which preceded the shooting and served as a diversion. He saw no gun in Butler's hand, he said.

Williams was a friend of Blackwells at the time and drove Blackwell to the Audubon Ballroom that day. His memory was very foggy about nearly everything but the events in the Audubon.

The fifth witness, Jasper Davis, identified only Butler. He said that

Butler sat down next to him and they struck up a conversation. Then another man walked down the aisle and Butler called to him. That man sat next to Butler. The disturbance that preceded the shooting was created by these two men, Davis testified, though he was not sure which one of them did the shouting. Davis didn't notice either of them fire a gun, he said.

Davis picked Butler out of a police line-up of eight men. None of the others in the line-up fitted the description he had given the police of the man involved, Davis testified — though the description he gave was very general. Much of the identification of Butler centered around a gray tweed coat he was allegedly wearing. Only one other man in the line-up wore a gray coat, said Davis, and it was not similar to the one Butler was wearing.

Edward DiPina, the third eyewitness, said he saw both Butler and Hayer shoot at the stage from where they stood up in the third row in the audience, and then turn around and run out. Cross-examination proved DiPina to be a very confused — if not senile — old man. For example, DiPina identified one of the defense attorneys as the detective who drove him to Bellevue Hospital to identify Hayer.

The seventh eyewitness, Ronald Timberlake, testified in secret — reporters and spectators were barred from the courtroom. But much of his testimony has since been made known. The secret witness told this story: He claimed to have knocked Butler down the stairs that lead from the auditorium to the entrance of the building. The crowd then held and pummeled Butler but he managed to get away. The witness claimed that Hayer, who had been shot in the leg by this time, jumped over Butler on his way down the stairs.

The secret witness also testified that he retrieved a .45 caliber au-

tomatic on the stairs which he turned over to an FBI agent. That agent also testified secretly. This is the .45 that has been placed in evidence, and is allegedly the weapon that Hayer used.

The reason for this dubious tale about knocking Butler down the stairs became clear when the prosecution introduced in evidence a photo of Butler taken on Feb. 26, 1965, soon after he was arrested. It showed that Butler had a swollen ankle and both legs were discolored.

This photo was introduced during the cross-examination of one of Butler's defense witnesses, Dr. Kenneth Soslowe of Jacobi Hospital. Dr. Soslowe testified that Butler had been treated at the hospital by another doctor on Jan. 22, 1965 for infected wounds of both shins. He himself had treated Butler on the morning of Feb. 21, 1965, the day of the assassination. Butler complained of pain in the right leg, and the illness was diagnosed as superficial thrombophlebitis. Butler's leg was bandaged; he was given oral medication; and he was told to stay off his feet, keep his leg elevated and apply hot soaks to it.

Butler also had three witnesses who testified he was at home at the time of or shortly after the shooting. Butler's wife Theresa said he returned home about 12:55 p.m. and never left the house that day. Two sisters of Mosque No. 7, to which the Butlers belong, testified they telephoned and spoke with Butler between 3:05 and 3:30 p.m. shortly after hearing of the shooting on the radio.

Johnson's wife testified he was home all day on Feb. 21, 1965. One of his neighbors, Edward Long, a Muslim, testified he visited Johnson at his home between 3:30 and 4:30 that day. Malcolm X is said to have been shot at about 3:05 or 3:10.

Two eyewitnesses testified for the defense. Ernest Greene, 21, a former Muslim, testified he saw

the man who shot Malcolm X with a shotgun and described him as very stout, very dark and wearing a heavy beard. He said it was not Johnson, who is very light-skinned and wore no beard.

The most spectacular eyewitness was Talmadge Hayer, who confessed in order to testify that Butler and Johnson had nothing to do with the crime. He maintained that he and his accomplices were not Muslims but were hired killers. Hayer's confession was quite convincing, but the prosecution refused to believe him.

One of the most convincing things about Hayer's confession is that his account of how the crime was committed is plausible and corresponds to eyewitness accounts of the events that were never brought out in the trial.

For example, Hayer testified that he and his accomplice who both had pistols sat in the first row, the man with the shotgun sat in the fourth row, and the accomplice who created the diversion by standing and yelling sat somewhere behind the man with the shotgun.

According to an eyewitness account in the Baltimore Afro-American of Feb. 27, 1965 two or three men with guns rose from the first row while those that created the disturbance took no part in the shooting.

It is unlikely that the same men who were going to shoot Malcolm X first stood up and yelled to call attention to themselves.

Dermody still insists that Hayer is a Muslim trying to protect his alleged accomplices. But Dermody has not come close to proving that Hayer is a Muslim. Vernal Temple claimed to have seen Hayer in Mosque No. 7 in Harlem once in the summer of 1964 functioning as a guard and wearing a white armband with red letters "Muhammad." But he also testified that he stopped attending meetings in the mosque after Malcolm X was suspended — which was in late

November 1963. Besides, according to testimony at the trial arm-bands are never worn in the mosque but were worn at a convention in Chicago.

It is hard to believe that the prosecution would be reduced to such flimsy testimony as the major evidence of Hayer's being a Muslim if he really were.

Mystery Not Solved by Verdict

NEW YORK — On March 11, after 20 hours of deliberation, the jury in the Malcolm X murder trial returned a verdict of guilty against all three defendants: Talmadge Hayer (also known as Thomas Hagan), Norman (3X) Butler and Thomas (15X) Johnson. Sentencing will take place on April 14.

The jury was presented with two accounts of the assassination. Assistant District Attorney Dermody claimed that the three defendants, all active members of the Nation of Islam, did the shooting according to a prearranged plan: Butler and Hayer created a diversion in a middle row of the auditorium, whereupon Johnson ran to the stage and shot Malcolm X with a sawed-off shotgun. Then Hayer and Butler ran to the stage and fired pistol shots into the prone body.

The New York police decided that the Muslims had committed the crime right after the assassination. Hayer was shot and caught by the crowd at the scene of the assassination, the Audubon Ballroom.

The police made statements to the press that Hayer was a Muslim and they sought his accomplices among the Muslims. The police and district attorney's office stuck to that story and avoided looking elsewhere for the killers.

The other version of the assassination was given by Hayer when he took the stand for a second time and confessed to being one

In my opinion the weight of evidence points to the conclusion that Johnson and Butler had nothing to do with the assassination and were not even at the Audubon Ballroom that day. It would be a monstrous miscarriage of justice if they are found "guilty beyond a reasonable doubt."

of the assassins. He said he had been hired to do the killing, as had his three accomplices, but that none of the gunmen nor the man who hired them was a Muslim. Butler and Johnson were in no way involved, he said. Hayer's account of what happened in the ballroom was much more convincing than Dermody's, and squared with eyewitness accounts in the press at the time: Hayer and an accomplice sat in the first row with pistols. Another man sat in the fourth row with a sawed-off shotgun. A fourth man sat further back and created the disturbance, but he was not involved in the shooting.

The outcome of the trial depended on which of these two stories the jury thought was essentially correct. Dermody stuck to this issue — hammering away at Hayer's confession, insisting that it was a lie and that Hayer was a Muslim out to save his fellow Muslims.

The defense attorneys largely ignored the real issue and concocted instead a fantastic theory that Malcolm was assassinated by a conspiracy of his more politically oriented followers who framed the defendants. Dermody had no difficulty in smashing this theory.

I have no special knowledge as to whether or not Hayer was a Muslim. But it is clear that the prosecution never established that he was. Yet the defense did not hammer at that fact sufficiently

to make it clear in the minds of the jurors. If Hayer was not a Muslim, there was no reason to believe Dermody's contention that Hayer's confession was a trick to save his Muslim brothers.

The defense was inadequate in other ways as well. All four of the lawyers for Butler and Johnson were court appointed. Though they are all Negroes, and apparently sympathetic to the defendants, they were unwilling or unable to do a thorough job.

The defense attorneys always look for granted the integrity of the police and prosecution. They didn't point out to the jury how the police operate in selecting out malleable witnesses and rehearsing their testimony until they remember what they're supposed to. The defense attorneys were willing to rock the boat just a little but not enough to even raise the possibility of turning it over. They mentioned some of the contradictions in the testimony of the prosecution witnesses, but omitted most of them and never hammered at the pattern of contradictions enough to ensure that the jurors understood that the witnesses were lying or unreliable.

In a French film about a murder trial I once saw, besides the prosecutor who represents the state and the attorney who represented the defendant, there was a third attorney who represented the slain man. That third point of view was what was lacking at this trial. For neither the prosecution nor the defense attorneys were interested in finding the truth about the assassination.

For example, Reuben Francis is a key person whose testimony was necessary in order to find out what happened that day. Witnesses claimed that he had shot Hayer, that he was in charge of organizing protection for Malcolm X, and that he had been given two of the murder weapons found in the ballroom — one of which disappeared. Francis is in prison on the charge of shooting Hayer, and available to both sides, yet he was

not called to testify.

A great many other people who could have helped establish the truth about the assassination never were called. A number of eyewitness accounts of the assassination appeared in the press, but the reporters were not subpoenaed to testify.

The only major fact established at the trial is that Hayer was one of the assassins. Most probably he and his accomplices were hired killers.

All the important questions surrounding the assassination still remain to be answered:

Who ordered the assassination? Those who had a motive include Elijah Muhammad and his followers, right-wing and racist organizations, the U.S. government and private agencies of the American ruling class.

What role did the New York police play in the assassination? Why didn't they provide at least their usual protection accorded Malcolm X's meetings regularly? Just a week before an attempt had been made on Malcolm's life in which his home was burned down.

Did the police knowingly protect one of the people involved in the killing who was caught by the crowd? Reliable press reports stated that the police rescued two suspects from the audience and the matter has still not been clarified. Was the man a police agent?

Were any of the witnesses at the trial police agents or police informers? It is very likely that such agents were present at the assassination, but none came forward to testify.

All these questions remain but the police have no desire to pursue them. It is quite possible that the final responsibility for the assassination rests with those who run this country, and that the police were involved at least to the extent of being kept from interfering with the crime and from hunting for the real killers.

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28-9

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