

OSWALD INNOCENT? A LAWYER'S BRIEF

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A grave doubt plagues U.S.

THIS IS A SPECIAL eight-page, tabloid-size pamphlet published by the NATIONAL GUARDIAN newsweekly as a public service. It is based largely on a five-page brief on the Oswald case, published in the Dec. 19, 1963, issue of the GUARDIAN, written by attorney Mark Lane.

Few issues of the GUARDIAN in recent years—and the GUARDIAN has been involved in many stirring crusades in its 15 years—have created as much comment as the Dec. 19 issue with the Lane brief. An extra press run distributed to newsstands and offered to readers both old and new was quickly sold out. The demand was so heavy that this pamphlet was produced to meet it.

The doubts and confusion in the aftermath of the assassination of President Kennedy have brought to mind the situation that was created by the Sacco-Vanzetti case and the case of Ethel and Julius Rosenberg—and the continuing case of Morton Sobell. Nor will the doubts be set at rest until genuine efforts are made to get to the bottom of the events that took place the tragic weekend of Nov. 22, 1963.

New readers will be interested in the reaction to the publication of the Lane brief.

The biggest publicity breakthrough came in the New York Times Dec. 19, with a full column story under the byline of Peter Kihss, a reporter of the old-fashioned digging school, which sent many New Yorkers to the newsstands for their first copy of the GUARDIAN. By week's end several newsstands had called for additional copies, and phone calls and letters were coming in for bundle orders, single copies from new people and extra copies from regular subscribers.

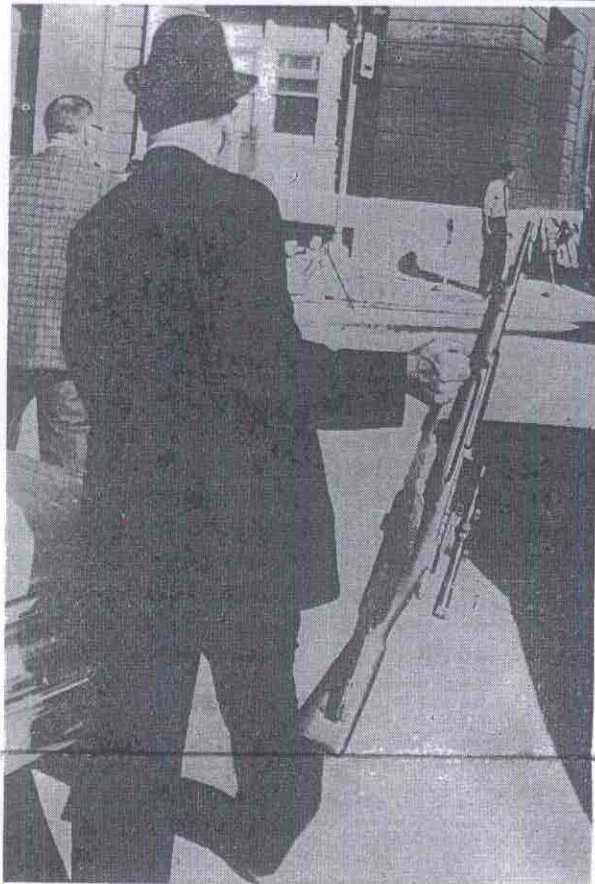
The press reaction was interesting. Except for the Times, no New York newspaper printed a line on the Lane brief. The United Press International got proof sheets in advance and announced it "wouldn't touch it." The Associated Press was offered the proofs, but said it was not interested; after the Times story appeared, AP became interested.

Abroad the reaction was quite different. In Rome the Lane brief was scheduled to be printed in full in *Paese Sera*, the largest in the evening field, and in *Liberation* in Paris. *Oggi*, an Italian magazine with a circulation of one million, sought permission to reprint. The Japanese press and news agencies also were on top of the story. Several Mexican papers picked it up, too.

THIS EXPERIENCE with the Lane brief leads to the conclusion that there is widespread doubt and incredulity in the public mind both at home and abroad over the handling of the assassination of President Kennedy by the police and investigating agencies. Unlike most of the U.S. press, the GUARDIAN shares this feeling and will continue to gather and to present every pertinent piece of information it can. It deplors the fact that not one leading newspaper in the country is alarmed enough by the implication of the double assassination to apply its full resources to a crusading effort to get to the bottom of the case—even if it means a muck-raking job on the FBI, the CIA, the Secret Service and any agency of government—local, state or federal—that needs looking into.

Among the honorable exceptions in the field of journalism, in addition to the Times (which has been following the developments in the Oswald case in its news columns) are the *New Republic*, which in its issue of Dec. 21 carried a most disturbing article on the assassination called "Seeds of Doubt," by Jack Minnis and Staughton Lynd; and the *St. Louis*

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WAS THIS RIFLE THE KENNEDY ASSASSINATION WEAPON?
The Dallas police had a story that raises many doubts

Post-Dispatch, which had given its Washington correspondent, Richard Dudman, a free hand in his coverage of the assassination aftermath.

At this writing, the atmosphere in Washington remains troubled and tense. A reporter who has been particularly zealous in tracking down leads in the Oswald case and asking questions has been called "unpatriotic" for his efforts. In Dallas, Mrs. Marina Oswald, widow of the slain suspect, at this writing was being held incommunicado by the Secret Service and the FBI. All attempts by newspapermen to obtain interviews with her have been thwarted, despite the fact that she is perhaps the only person who can shed light on the nagging questions that will not be downed in the case. A "business representative" was chosen, on the advice of the Secret Service, to act as her spokesman.

The Warren Commission has a formidable task, but one which, if pursued with integrity, could help elevate justice in the United States to a more honorable estate. It goes without saying that the extreme Right in America will attempt by every means to make the job harder for its favorite target, Chief Justice Warren. But there are many elements within the Establishment itself which have a big stake in relegating the assassinations even now to dead history. In this category are the federal agencies previously named and the politics-as-usual crowd both in the Congress and the White House which do not want to disturb the profit-and-plunder pattern of our way of life with any revelations that might disclose the underlying ugliness of the pattern.

THE GUARDIAN'S publication of the Lane brief in the Oswald case—a brief which has been submitted to the Warren Commission—is just the kind of public service for which this newsweekly was founded. On page 8 of this pamphlet persons not familiar with the history of the GUARDIAN can learn more about this publication and can avail themselves of the opportunity to subscribe to it.

The GUARDIAN is published weekly 52 times a year in a 12-page issue. It covers national and foreign news with its own staff—trained journalists of complete integrity. It seeks not to be just another newsweekly, but to serve as an antidote to the regular commercial press by presenting news and interpretations which can be found in few other journals in the U.S.

A full year's subscription is \$7 (special student rate is \$3.50 a year). A trial 10-week sub is \$1. There are coupons on page 8.

—THE EDITORS

Lane's defense brief for Oswald

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

In the public interest the GUARDIAN has devoted one-half of the issue of Dec. 19 to a lawyer's brief in the Oswald case which has been sent by the author to Justice Earl Warren as head of the fact-finding commission inquiring into the circumstances of the assassination of President Kennedy. The author is Mark Lane, a well known New York defense attorney, who has represented almost all the civil rights demonstrators arrested in New York. He has also served as defense counsel in a number of murder cases involving young persons.

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

By Mark Lane

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

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

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

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

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

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

The case against Oswald

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

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

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

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

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

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

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

—THE GUARDIAN



LEE HARVEY OSWALD AND THE DALLAS POLICE
He was questioned, without counsel, for 48 hours

annual budget of almost \$500,000. For more than four years he was an FBI agent before becoming district attorney.

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

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

Here are the 15 assertions:

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

12—Oswald shot and killed a police officer.

13—A witness saw Oswald enter the Texas theater.

14—Oswald drew a pistol and attempted to kill the arresting officer.

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

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

Point One

A number of witnesses saw Oswald at the window of the sixth floor of the Texas School Book Depository.

SINCE IT IS ALLEGED that Oswald fired through that window, that assertion is important. Wade was unequivocal, stating, "First, there was a number of witnesses that saw the person with the gun on the sixth floor of the bookstore building, in the window—detailing the window—where he was looking out." Subsequently, it developed that the "number of witnesses" was in reality one witness, who was quoted as follows: "I can't identify him, but if I see a man who looks like him, I'll point him out." (Newsweek—Dec. 9) Such "identification" is at best speculative and would not be permitted in that form at trial.

Point Two

Oswald's palm print appeared on the rifle.

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

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

Point Three

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

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

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

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

Readers hail the Lane brief

The Lane brief

NEW YORK, N.Y. I congratulate you for publishing and Mark Lane for preparing so clear and convincing an analysis of the mishandling, manhandling and confusion that has attended the tragic Oswald case (Dec. 19). Had those involved been rank amateurs in some new-born state in Asia or Africa their conduct would perhaps be more understandable and believable. But here we had seasoned representatives of law and order.

I hope with you and probably millions of others that the Warren Commission will be able to arrive at the truth and I consider the Lane article a public service.

Louis Sills

BRONX, N.Y.

Mark Lane's long dissertation on the guilt or innocence of Lee Oswald is, of course, an exercise in supposition and editorializing under the guise of seeking legal redress. No one can deny that the Dallas police acted like beetles. But, the same conditions obtaining, would Mark Lane be as vociferous if it had been proved that a Bircher had been involved and not a pro-Castro adherent?

Both the Right and the Left have their demented soliloquies who can be guilty of perpetrating crimes without any centralized body giving the orders. In short, if Oswald thought he was aiding the Left by doing what he did, why immediately try this white-washing technique?

Michael Pomerantz

TREVOSE, PA.

The brief by Mark Lane defending Lee Oswald is a masterpiece. I had strong doubts of his guilt from the very beginning.

What I would like to see is an analysis based on the hypothesis that Jack Ruby was the President's assassin and how that would work out. I believe Ruby killed Oswald to prevent his coming to trial and did so with the connivance of the Dallas police. If this is so, then logic dictates that the police department in Dallas was a silent partner in the assassination—and the political atmosphere in Dallas makes this quite feasible. They simply could not afford to let Oswald be tried, because they knew the real killer and Oswald just might have been acquitted, by some miracle. The wraps they are putting around Ruby now indicate this.

Ruby should be tried away from Dallas. The city officials should not be allowed to handle his trial and it should receive full publicity. If the Justice Department is on the ball, it would see that this was done. What can be done to force them to change the place of his trial?

Where was Ruby when Kennedy was shot? Has the fatal bullet that killed him been traced to Oswald's rifle? Did Ruby have a motive to kill Kennedy? I think a thorough investigation should be made.

(Mrs.) Alice D. Johnson

NEW YORK, N.Y.

Here's a token of my appreciation (\$50) for your public service in the interest of justice in publishing Mark Lane's very competent brief. It certainly raises serious doubts and should be read by everyone who has made up his mind as a result of the headlines.

Please send me 30 copies.

Mildred Kaufman

BLOOMINGDALE, N.J.

Your article on Oswald was magnificent! I've been a subscriber of the GUARDIAN, I think, ever since it was founded, but never have you published an article so wonderful, so powerful,

so sympathetic, so devastating. It sets your paper apart! I'm sure it will make history!

Please find enclosed a check for \$2 for 20 issues and I'll help out a few persons' lopsided mentation. One I shall send to a friend of mine (a Japanese) in Tokyo who is a commentator on N.H.K. Tokyo Station Overseas Broadcasting Dept.

Dr. Herbert N. Smith

BROOKLYN, N.Y.

I have just finished reading "Lane's defense for Oswald." Lane has brought forth evidence which shows that unless some miraculous answers are revealed, the greatest miscarriage of justice has occurred around a shocking American tragedy.

The frame-up of Sacco-Vanzetti was a black event in American history; the Rosenberg-Sobell case reflected a frameup induced by the McCarthy Era. But now in 1963 a brilliant young man was brutally slain much as a Latin American dictator is assassinated. And from all of this we as Americans have turned all our hatred and vengeance toward another young man.



MARK LANE
He'd uncover the facts

Within 48 hours after the assassination of the President, most Americans were sure that the murderer was in custody. Even at this point questions were not being asked such as: Whom had the police chased across the railroad tracks near the book depository building? Who were the couple that CBS's Walter Cronkite reported were surrounded by a crowd of people? Why for some time after the assassination did the Dallas police state a policeman (Tippitt) had been killed while arresting Oswald? These are only the start of a long list of puzzling questions.

Americans have written off the assassination as a closed case. The few questions raised doubting Oswald's guilt are passed off lightly. But I am not willing to accept the FBI's reports. I can't just sit back patiently awaiting the outcome of the Warren Commission. I want to help bring these many questions to light.

The tragedy of JFK's death is compounded by the case of Lee Harvey Oswald. And every day that goes by gives the individual who put the bullet through the front of JFK's neck a greater chance of never being brought to justice.

These are some of the reasons why I ask you to please send me copies of Lane's brief in defense of Oswald.

Michael Sals

NEW YORK, N.Y.

I want to thank Mark Lane for the great effort he has made to bring to light the real truth about President Kennedy's murder. I believe a national committee should be formed of lawyers, educators and labor leaders to go to Dallas to investigate the

circumstances of the murder of President Kennedy, and to interview Lee Oswald's mother, brother, and his wife and his foreman and co-workers at the Texas Book Depository.

The Dallas police version of Kennedy's murder is untruthful. I don't trust them. Their past record is one of racial, political, and trade union intolerance. Nowhere in the public press has it ever been mentioned that Oswald's foreman or his co-workers had seen him bring into the Texas Book Depository a rifle wrapped in a sheet of paper. If Oswald had a rifle in his place of work, it would have been easily detected.

Oswald, according to the general press, had never threatened anyone. He was interested in supporting Cuban democracy and said so openly in Dallas. He was hated and threatened too, by the same group that threatened President Kennedy. This is why, I believe, Oswald was framed in this despicable murder of President Kennedy.

One thing more, Ruby should be investigated to find out what connection he has with the Dallas police, and this vicious group of white segregationists who use violence against the people they don't agree with.

Maxwell Stone

NEW YORK, N.Y.

It was a great relief to read Mark Lane's excellent analysis of the discrepancies in the Oswald case and their implications.

There is one additional assumption that was lost sight of very early in the feverish haste of the Dallas authorities to implicate Oswald. In the first version of the assassination which I heard a half-hour after it occurred, it was presumed that the assassin was a man who was someone stationed on the overpass which he was approaching, according to the radio announcement. Once the window in the depository had been made the central issue, no further mention of this possibility was heard of.

In the light of Lane's clarifying assertion that the President was shot "in the front" from "the back," this early assumption of the position of the assassin—or one of the assassins—regains its initial significance.

Dorothy Bloch

YONKERS, N.Y.

If there is the slightest doubt about Oswald's guilt, he must not be permitted to go down in history as even the "alleged" assassin. I should like to distribute as many copies of this brief as you can spare.

M. G. Ryerfort

On the assassinations

WASHINGTON, D.C.

Two points about the assassination of President Kennedy and the slaying of Lee Oswald seem to me to merit more attention than has been given them:

1) All the photographs of Oswald, in the moments before he was shot down, show the detectives guarding and holding him were looking away from Jack Ruby as he was advancing through the crowd while in the same photos Oswald was looking at him. CBS network announcers in Dallas and New York on Nov. 24 stated that in slow motion their TV cameras proved that, while everyone else in the crowd including police and detectives were looking in every direction, Oswald had his eyes fixed on Ruby practically every moment from the time the latter entered the area. These facts are certainly strong evidence a) that the local police department was purposely lax . . . and b) that Oswald knew Ruby, whether or not he suspected what this petty gangster was intending to do.

2) On Nov. 25, CBS announcers engaged in a colloquy on

guns, analyzing in some detail for nearly an hour. One fact they stated was that the rifle used to assassinate the President was of the same type (the only difference being that one was manufactured in Italy, the other in Japan, but of same design) as the one used to assassinate Medgar Evers, the Negro leader—and that the telescopic sights on both guns was of exactly the same manufacture. True, this could be mere coincidences. In forensic statistics, though, coincidence is all but ruled out when such phenomena are rare; and is considered accessory when other evidence points in the same direction. And both these political murders may turn out to be similarly motivated, if not also connected.

Washingtonian

LA HABRA, CALIF.

The medical report which was first broadcast over TV interviewing Dr. Clark of Parklane Hospital, Dallas, stated that a bullet entered President Kennedy's throat and emerged through the back of the head.

In the New York Times (Western Edition, Nov. 23) Dr. Clark is quoted as follows: "Mr. Kennedy was hit by a bullet in the throat just below the Adam's apple." In the Times (Western Edition, Nov. 27), Dr. Clark stated that Mr. Kennedy was struck by a bullet at the necktie knot. "It ranged downward in his throat and did not exit."

According to the pictures printed in Life, Nov. 29, showing the sequence of the shooting, and the photo on p. 32E from the window where the alleged shots were fired, it is quite evident that it was indeed, as Life says, "remarkably effective" shooting for a sniper, especially when one considers that the alleged sniper fired from in back of the target and hit it in the front! It would also appear from the photos that Mr. Kennedy was looking to his left or away from the building.

Would not these facts indicate the likelihood of the bullet having come from a more northerly direction?

One should also note the angle of Gov. Connally's body at the time when he was hit. Did he turn toward the President before or after being hit?

I feel Justice Warren is a competent and judicial minded person who will make sure that any alleged facts are for a certainty facts. We must remember Lee Harvey Oswald has no defense.

Robert Longbotham

SEATTLE, WASH.

Lee Harvey Oswald did not assassinate President Kennedy. A newspaper photograph taken at almost the exact moment the first bullet struck the President—before Governor Connally was hit, even before the Secret Service men had time to react to the shooting—clearly shows Oswald then emerging from the doorway of the Texas Book Depository in which he worked.

This photograph, credited to Wide World, was one of the first wirephotos of the assassination shown in the Seattle area. It is reprinted on pages 24 and 25 of the Dec. 14 Saturday Evening Post. Secret Service outriders on the right of the car immediately following the presidential limousine are looking directly at him, at the moment Kennedy grasps at his throat. Compare the man in the doorway with photograph of Oswald just after his arrest, for example the one on page 38 of the Nov. 29 Life.

Louise Crowley

ALPINE, N.Y.

President Kennedy was killed by a bullet from in front of his car from near street level. If, as reported, there were two wounds, both were fired from street level and fired simultaneously. At the same instant a shot from a height struck Gov. Connally.

There was no recovery of the bullet or bullets which killed the



CAPTAIN WILL FRITZ
The face of Dallas Law

President. The one which wounded the Governor was apparently fired from the rifle found in the textbook warehouse, a gun which may have belonged to Lee Oswald.

If Oswald was a member of the conspiracy, it is probable that he shot Connally. That may have been his intention, or he may have shot at the President and missed. It is by no means impossible that he was brought in as a decoy and sacrificed.

The ground has been badly trampled by the officious Dallas authorities and the radio and television experts, but there are two factors which should give anyone willing to look a clue to what happened—simply space and time.

Space: For a bullet fired from that window to have wounded the President as he was wounded, he would have had to lie on his back with his head lower than

have been embedded in the auto or in Mrs. Kennedy. The shot which struck the Governor proceeded as one fired from that height would have to do.

Time: The maker of the sixth-floor weapon was doubtful that it could have been fired three times in five seconds, and the newscasters promptly spread the time to five and one-half seconds, allowing two and three-quarters seconds between each shot. What can one do in that time? A sprinter can run almost 30 yards, anyone can dive to the floor of a car, a guard on the running board can throw himself atop a man in the car. A good auto cruising slowly can speed to well over 60 miles an hour and be more than 200 yards from the scene in five seconds. A Governor would certainly have time to move his arm if he were not shot first.

There is a motion picture sequence of the crime, but as it was published it is much too vague to be seen clearly. Do those pictures show two seconds between the shooting of the President and the Governor? As published, the whole sequence, including before and after, is less than two seconds.

Perhaps the D.A. of Dallas can be pardoned; he certainly had a case that would have convicted a sharecropper of killing his boss. The Dallas police wanted a man fast and got one. The FBI would doubtless push the thing through if they could see a conclusion, but they don't want to stir up trouble without knowing where it will lead. But the newsmen of America have no excuse. They know that Oswald could not have fired those three shots, yet they dilly-dally with each new story of a photograph, a street map, a target range.

Two men, probably three, killed the President. At least one man, possibly three, got away. The conspiracy must have been even larger. Is there a newsmen with the ability and the guts to look into it?

George Cook

An examination of the evidence against Oswald

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

Point Four

Paraffin tests on both hands showed that Oswald had fired a gun recently.

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

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



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

had recently fired a gun—it was on both hands.
Reporter: On both hands?
Wade: Both hands.
Reporter: Recently fired a rifle?
Reporter: A gun.
Wade: A gun.

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

Point Five

The rifle, an Italian carbine, had been purchased by Oswald through the mail and under an assumed name.

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

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

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

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

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

Point Six

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

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

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

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

Point Seven

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

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

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

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

(New York Times, Nov. 24). The deployment of 100 officers from his 1,100-man force made fast action possible in the manhunt, he said.

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

In these circumstances, is it likely that Oswald permitted to leave the premises after the police arrived? Is it likely that Oswald, after killing the president, and deciding to leave the premises, decide to stop off for a soda, and had then—only after building was surrounded, sealed off, and the seal gun—made an effort to leave? Is it likely that the almost 90 employes, most of whom were out the building, engulfed in the panic and confusion attendant upon the assassination, could easily and by return to his place of employment through the line, while still on his lunch hour, so that "every employe was located but this defendant . . ." A description of the one missing employe radioed at

Point Eight

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

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

Mrs. Oswald was alleged to have said, at the most, that she saw something in a blanket that had been a rifle. However, it soon became plain that Secret Service "leak" was itself absolutely inaccurate. Later we discovered that Mrs. Oswald stated it never knew that her husband owned a rifle nor did she know he owned a pistol (New York Times, Dec. 1, 1963).

Perhaps Wade and the Secret Service felt that, just as Oswald never got the opportunity to give his side of the story, Mrs. Oswald might also have difficulty in being heard. Immediately after the assassination Marina Oswald, Oswald's wife, was in custody by the Secret Service. "The widow and relatives of Harvey Oswald are being sequestered here (Dallas) by the Secret Service. A spokesman for the Secret Service said the family was being kept in a secret place for its own protection . . . A Secret Service spokesman did not know when they would be released." (New York Times, Nov. 27, 1963)

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

It would seem that the Secret Service motivated by a desire to prevent any truthful leakage of Mrs. Oswald's family or friends or through it in reference to her views. At about the same time the Secret Service and FBI "leaks" regarding Marina Oswald's recollection of her late husband's "attest" to Gen. Walker with the same assassination flooded the front pages of every daily in Dallas. Marina Oswald's assertion that she never ev



A SAMPLE HEADLINE—THIS ONE IN THE N.Y. HERALD TRIBUNE NOV. 24
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Wanted Oswald—for a trial that can't be held

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Infamous
TRIBUNE NOV. 24
of treatment

"All the News
That's Fit to Print"

The New York Times.

LATE CITY EDITION
A Guide Book for the Reader
Buyer and Seller. See under
"LATE CITY EDITION" in
New York Daily Edition, 20-21.

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

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

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

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

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

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

Point Nine

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

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

Point Ten

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

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

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

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A taxi driver Darryl Click, took Oswald home, where he changed his clothes.

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

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

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

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

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

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

Reporter: Was this [where Oswald shot Tippit] in front of the boarding house?

Wade: No, it's not in front of the boarding house.

Reporter: Where was it?

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

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

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

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

Point Fourteen

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

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

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

Confronted with a resume of that report, Wade quickly adjusted to it:

Reporter: There was one officer who said that he pulled the trigger, but he managed to put his thumb in the part before the firing pin. It didn't strike the—the bullet didn't explode. Is that...?
Wade: I don't know whether it's that or not. I know he didn't snap the gun is all I know about it. (New York Times, Nov. 25.)

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

Point Fifteen

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



THE DALLAS COPS CERTAINLY MADE THE NEWS
This appeared in the N.Y. News, Nov. 24

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

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

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

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

The people vs. Oswald

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

Flaws in the 'airtight' case

however, in the most significant sense the case became the entire country and its institutions against one man. Very likely no prospective defendant in the history of civilization has been tried and condemned through the utilization of the media as thoroughly as was Oswald.

The American Civil Liberties Union commented on Dec. 5:

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

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

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

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

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

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

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

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

The question of motive

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

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



OSWALD'S FAMILY AT THE POLICE STATION
Mother, Marguerite, with wife, Marina, and baby

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

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

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

These are genuine areas for speculation by the press now that the defendant is dead. These are, nevertheless, almost the only areas left unexamined by the media.

Perhaps some day, when America is ready for the sunlight of reason to penetrate the national mind, now frozen to a false and unfair conclusion, this article and others far more comprehensive may be read.

An affirmative case

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

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

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

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

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

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

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

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

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

Character witnesses

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

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

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

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Conviction by press vs. presumption of innocence

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

A motion picture taken of the President just before, during and after the shooting, and demonstrated on television showed that the President was looking direct-ahead when the first shot, which entered his throat, was fired. A series of still pictures taken from the motion picture and published in Life magazine on Nov. 23 show exactly the same situation. The Life pictures do reveal that the car carrying the President was moving past the turn from Houston St. and a considerable distance past the depository building. The Life magazine in an accompanying caption states that the car with the President was 75 yards past the sixth-floor window when the first shot was fired.

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

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

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

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

In an interview broadcast from Dallas Nov. 27, Gov. Connally told Martin Agronsky that the shooting began after the car had turned the corner. (New York Times, Nov. 28.)

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

Relying, therefore, upon the Homicide Report filed with the Dallas Police by two officers who were eyewitnesses, the motion pictures taken of the shooting, all shots taken from the motion pictures, the statement of Gov. Connally, the consensus of those who re-enacted the scene under supervision of the Secret Service, and the report of the attending physicians, we may conclude that the shot was fired while the back of the President was to the sixth-floor window and many yards removed from that window and that the bullet entered the front of the President's throat.

If Oswald was at the sixth-floor window, as alleged, when the President was shot it would have been physically impossible for him to have fired the first shot that struck the President. In the words of Richard Dudman, a correspondent for the Post-Dispatch (Dec. 1), "The question that suggests itself is: How could the President have been shot in the front from the back?"

The gun and the experts

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

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

Life magazine (Dec. 6) hired a skilled marksman, the director of the National Rifle Association, to fire a similar rifle. The best he could do was "three hits in 6.2 seconds." The New York Times, Nov. 23 reported: "As marines go, Lee Harvey Oswald was not highly regarded as a rifleman."

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



A PRESUMPTION OF GUILT IN THE PUBLIC PRESS
The way the N.Y. Post expressed it Nov. 24

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

Other uncertainties

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

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

Dudman wrote in the St. Louis Post-Dispatch (Dec. 1): "Another unexplained circumstance is a small hole in the windshield of the presidential limousine. This correspondent and one other man saw the hole, which resembled a bullet hole, as the automobile stood at the hospital emergency entrance while the President was being treated inside the building."

"The Secret Service kept possession of the automobile and flew it back to Washington. A spokesman for the agency rejected a request to inspect the vehicle here (Washington). He declined to discuss any hole there might be in the windshield."

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

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

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

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

voted to a particular conclusion at the outset.

The investigation

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

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

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

The stakes are big

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

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

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

An era of understanding

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

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

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

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

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

We begin with a return to an old American tradition—the presumption of innocence. We begin with you.

Let those who would deny a fair consideration of the evidence to Oswald because of a rage inspired, they say, by their devotion to the late President, ponder this thought: If Oswald is innocent—and that is a possibility that cannot now be denied—then the assassin of President Kennedy remains at large.

This is the National Guardian



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