

# Legal Battle Due on Oswald Guns

## Government Suing to Retain Weapons Sought by Collector

By GENE ORMSBY

Relics of a tragic moment—relics which have become priceless because they dealt death and grief to a nation—lie in an FBI vault in Downtown Dallas as objects of a legal battle which will be fought in court here Monday.

The case is the United States of America versus one 6.5 Mannlicher-Carcano military rifle, which was used by Lee Harvey Oswald to kill President Kennedy, and a .38 special Smith & Wesson revolver used in slaying police officer J. D. Tippit.

Assistant U.S. Atty. Tim Timmins, who will present the government's arguments for retaining the firearms, has called it a historic case.

FEDERAL JUDGE JOE E. ESTES will conduct a final hearing on the case between the government, which wants to preserve the firearms for historical purposes, and John J. King, Englewood, Colo., gun collector and independent oil operator.

King, who has said he wants the guns for his collection, has already paid Mrs. Marina Oswald Porter \$10,000 for them and has agreed to pay an additional \$35,000 when he gets possession.

He has also reportedly sought to buy the gun Jack Ruby used to kill Oswald.

Some government sources have said King paid \$10,000 to get himself a lawsuit and that the Justice Department, for which Timmins filed the suit, ultimately will get possession of the firearms anyway.

A BILL PASSED BY CONGRESS Nov. 2, 1965, provides a procedure for the government to acquire and preserve evidence pertaining to the assassination, all in the national interest. The bill gives the attorney general authority to determine which items of evidence surrounding the assassination should be acquired and preserved in the national archives.

Then why is the government suing to retain the weapons?

Timmins contends that the government has a legal right to keep the weapons now because the guns were involved in violations of the Federal Firearms Act. He maintains in his brief in support of forfeiture that the guns became forfeited when they

were purchased in March, 1963.

Timmins states that Oswald, by ordering the rifle and revolver under the fictitious name of A. Hidell, caused the sellers of these firearms to reflect this name on their records and thereby violated federal law.

IN PROCEEDINGS FOR Internal Revenue forfeitures, it is the "thing" which has "offended."

One source has said that if the government wins the suit now, it can keep the guns without having to pay King so much as a dime.

In addition, the moment the attorney general lists the guns in the Federal Register by virtue of the new bill, making them government property, King may file action in a federal court for "just compensation" from the government.

And what "just compensation" might be determined brings shudders to people in the Justice Department, who envision the possibility of King declaring in court he was denied a terrific amount of revenue which he might have obtained by displaying the weapons at public exhibitions such as fairs and sideshows.

King's attorney, William C. Garrett of Dallas, states in his brief that, "the fundamental defect in the government's position is that there is simply no law providing for the forfeiture of weapons ordered under an assumed name."

GARRETT CONCLUDES, "The weapons involved in the instant case could have limitless value, and the legal fiction of the guilt of an inanimate object should not be relied upon to extinguish the valuable rights of innocent persons."

The words "limitless value" are the ones which cause hand wringing in the halls of the Justice Department.

Whatever price will have to be paid—if any is paid—the Justice Department believes these and other items of evidence pertaining to the assassination must be acquired.

The attorney general contends that in future years allegations and theories concerning President Kennedy's assassination may abound.

"To eliminate questions and doubts, the physical evidence should be securely preserved," he maintains.

THE HEARING MONDAY WILL, in effect, be a trial on the merits of briefs and oral arguments, and the outcome is expected to be appealed regardless of who prevails.

King filed suit against the attorney general May 24 to obtain the guns, and an order has been entered by the district judge in Denver withholding ruling pending outcome of Monday's action.

Some sources predict, that no matter which side wins Monday's hearing, the matter will be taken to the Supreme Court in what probably has become one of the bitterest fights ever to face the courts over items with so little face value.

Both the rifle and the pistol are worth less than \$50.